

Transcript of House Judiciary Subcommittee on Immigration Policy and Enforcement Hearing on the Diversity Immigrant Program Elimination

Hearing Held on Tuesday, April 4, 2011

GALLEGLY:

Good afternoon.

The issues raised by H.R. 704, the SAFE for America Act, go to the core of any immigration debate. That is the integrity of the U.S. immigration policy. H.R. 704 eliminates a visa lottery program under which 50,000 individuals are chosen completely at random each year to receive immigrant visas.

The visa lottery, first implemented in fiscal year 1995, has long been a subject of concern for those of us who believe it's important to have a credible immigration system.

The program is rife with fraud. That was the case in 2003 when the State Department inspector general found that the D.V. program is subject to widespread abuse.

That was the case in 2004 and 2005, when two different State Department inspector general -- inspectors general testified in front of this subcommittee about the fraud in the program.

That was the case in 2007 when the Government Accountability Office issued a report stating that the D.V. program is vulnerable to fraud committed by and against applicants.

And it is still the case today, when will we hear -- when we will hear testimony about high levels of fraud in the program today. Even the State Department acknowledges the high rate of deception throughout the visa lottery. In fact the websites for many of the U.S. embassies around the world include diversity visa program fraud alerts, like you can see we have on the two screens up here as we speak.

This particular alert is on the website of the London Embassy, but there are similar alerts on other U.S. embassies' websites.

And why is fraud such a concern? Because terrorists use our generous immigration to harm us. And terrorists have already used the visa lottery as a means of entering the country.

The Egyptian terrorist who murdered two Americans at LAX in 2002 was a diversity visa recipient when his wife was selected for the lottery. And a Pakistani national who received a diversity visa when his parents were selected for the lottery pleaded guilty in 2002 to conspiring to wage jihad by plotting to destroy electrical power stations, the Israeli consulate, and other South Florida targets. We had reportedly told his -- he had reportedly told his friends he wanted to wage war against the United States.

But terrorists are not the only people who abuse the visa lottery. We will hear testimony today about foreign organized crime groups who try their own luck at the lottery. And the visa lottery applicants and third-party brokers all try to and do game the system. The visa lottery gives them a great shot at winning.

U.S. immigration policies should be based on something more than just the luck of the draw. It should be secure, and it should be a beneficial -- it should be beneficial to Americans. The visa lottery program is neither.

I'm glad to be an original co-sponsor of the gentlemen from Virginia's bill, Mr. Goodlatte, and I look forward to moving H.R. 704 toward enactment.

At this time I would yield to my good friend from California, the ranking member, Ms. Lofgren.

LOFGREN:

Thank you very much, Mr. Chairman.

And thanks to their witnesses for their patience, first for our votes, and then the delay in getting back. There was a suspicious package down in the basement, and everybody had to snake their way back. So, glad that we are finally here on this hearing.

As the chairman has said the diversity visa program was established by the Immigration Act of 1990, and the goal was to encourage greater diversity in the pool of immigrants that we accept each year. The program now provides up to 50,000 visas annually to natives of countries from which immigrant admissions were lower than 50,000 over the preceding five years.

Applicants for diversity visas are chosen by a computer-generated random lottery drawing. Each winner is permitted to apply for an immigrant visa, and can gain lawful permanent resident status in the United States, provided that they pass through the screening, because diversity visa winners are subject to all of the bars of inadmissibility in the Immigration and Nationality Act, and must undergo background and security checks that are more rigorous than those required for persons entering the country by other means, such as through the visa waiver program.

Diversity visa winners must provide biographic and biometric information, including fingerprints and a digital photograph, pass comprehensive background checks, submit to physical and mental examinations, and undergo interviews with consular offices abroad before entering the U.S.

The program represents a small part of our immigration system. In fiscal year 2010, only 4.8 percent of the total number of persons who obtained lawful permanent resident status came through this program.

But it also represents an important effort that has been largely successful in increasing the diversity of legal residents to the United States. I recall that this program was originally proposed by then Chairman Peter Rodino. He observed that because we have a strong family-based immigration system, this reduces the opportunity for immigrants to come to this country if they're from places that have historically not sent immigrants to the United States, and over time this limits the ability to grow and to stay in a diverse nation.

In creating the diversity program, Mr. Rodino and many others wanted to encourage continued immigration opportunities for people from Italy or Ireland, but today, as we see, the program continues to help in a small way to balance the immigration system.

In fiscal year of 2006, for instance, 40 percent of diversity immigrants were from Africa, and 34 percent were from Europe. Compare this to the fact that only 3 percent of family and employment-based visas went to persons from Africa, and only 8 percent went to persons from Europe.

One frequent criticism about the diversity visa program is that it's random, that we bring people to the country through the program, and that they may not have skills or education they need to succeed. We know that the program requires applicants to have a high school diploma equivalent, or at least two years of work experience in an occupation requiring training, but we actually get more than that.

In 2003 the State Department described a typical diversity visa recipient as a male professional age 26 to 30 holding a university degree. Just yesterday the Congressional Research Service released a report finding that diversity

immigrants were two and a half times more likely to report managerial or professional occupations than other lawful permanent residents in fiscal year 2009, and I would ask unanimous consent that the CRS report be entered into the record.

GALLEGLY:

Without objection.

LOFGREN:

This is of course not the first time the subcommittee has considered the bill introduced by my friend and colleague, representative Goodlatte. I opposed that bill in the 108th Congress, and I continue to oppose his measure, although I do not dislike him.

The name of the bill suggests that it increases security and fairness, but I don't think it does either. Nothing in the bill increases fairness for Americans or for persons who seek to immigrate to this country to achieve the American dream. I think it does the opposite. The bill just eliminates a small immigration program that allows a small percentage of new immigrants for underrepresented nations to come and become Americans.

The bill -- the program adds to our ethnic and racial diversity which enriches our society and provides the only hope some people have to immigrate to the United States lawfully. The bill also would not make us any more secure than it would if it were -- if it eliminated any other visa program. Diversity visa winners are carefully screened for criminal history or ties to terrorism like any other immigrant.

In fact, there's no evidence that a terrorist is more likely to enter the U.S. under this program than any other U.S. immigration category. Given that tens of millions of applications that are submitted each year for only 50,000 slots, which includes the spouses and minor children of lottery winners, this visa program would be an incredibly inefficient means of entry for a person who seeks to do harm to the United States.

That's not to say the program is perfect. Both the State Department's inspector general and the GAO issued reports, some years ago I might add, highlighting the risk of fraud and abuse in the program, and the practical resources that -- resource challenges that consular post faces.

The State Department has made significant efforts to reduce that risk of fraud. That doesn't mean we shouldn't do more. Several years ago, the State Department converted the application process from paper to electronic and requires all applicants to submit digital photos. Recently the State Department ended the practice of notifying lottery winners by mail, and now relies entirely on its Web-based system. Consular posts provide outreach and education to the community about the process, and work to combat fraud through the visa adjudication process.

In closing, as I prepared for today's hearings, I was reminded that Freddy Adu, the young soccer phenom from Ghana, entered the U.S. through the diversity visa program. So did Seth Donkor, another native of Ghana, who enlisted as a private in the U.S. Army shortly after entering the country on a diversity visa. Private Donkor's service was featured in the film "New American Soldier," which highlights the courageous work that many immigrants now do in our armed services.

If there are concerns about this program, we should focus on ways to improve it. One idea that was recommended by the State Department's OIG is that we charge a small application fee in order to reduce the prevalence of duplicative applications. Now that the system has moved from paper-based applications to electronic ones, the cost effectiveness of this anti-abuse measure may need to be reassessed.

I look forward to hearing from our witnesses, and working with you, Mr. Chairman, to improve this program, and I yield back the balance of my time.

GALLEGLY:

Thank the gentlelady.

The ranking member of the full committee, Mr. Conyers.

CONYERS:

Thank you, Chairman Gallegly.

Like Zoe Lofgren, I like Mr. Goodlatte, but I don't like his bill. And the question here might be in this hearing, is that do we want to have another way for people that don't qualify under the kind of three-part system of immigration that we have to come into this country or do we not?

What we're faced with is a rather continued attempt to eliminate the people most -- least likely to be able to come to this country.

And so this part three of the program is designed to create diversity in our immigration population. And so the question is, from my point of view, maybe the opponents of this program don't want diversity in the first place, and - - which is perfectly valid position to take is. It's not a very -- it's not a very nice position to take.

But if we eliminate this system -- and by the way, the hearings -- what have there been, three of them so far? They're never about how to improve the system; it's how to eliminate the system. And that is not escaping my attention at this hearing either.

The whole idea is let's get rid of the diversity program that is the way more African immigrants get into this country than any other way.

And that's -- you're entitled to that view, but I don't think that this is the way we want to think about our country or its policy on immigration.

That's why I support the comments made by Ranking Member Lofgren. We've got to look at how we improve it. And it's very interesting to me that we have -- our examples are real great. Somebody, I can wager, is going to mention Hedayet. How can you have a terrorist that has to win the lottery first to implement his program?

The other part of this that's very important is that the General Accounting Office has found no documented evidence that the diversity visa immigrants program posed a terrorist or other threat. So don't let me hear anybody talking about terrorism.

And I'll revise the rest of my statement, Mr. Chairman, and yield back my time. Thank you.

GALLEGLY:

I thank the gentlemen, and just will take the privilege of the chair just for a second to -- if I can engage both my colleague, Ms. Lofgren and Mr. Conyers, John, my neighbor, my friend.

How you would respond to the arguments that many make about since this program started there have been approximately 800,000 people who have come here under the diversity program. Many would argue that that 800,000 that have come here would ensure diversity forever through chain migration. What would your response to that be, Mr. Conyers?

CONYERS:

That it isn't happening. That hasn't happened. Well, here's -- you're just giving me back the question that I -- the challenge I posed.

If you -- if you really want to cut the numbers down in the program, you're saying the program is a success so that leads to the same conclusion, we don't need it anymore. I reject that out of hand.

LOFGREN:

If I -- in answer to your question, Mr. Chairman, I would note from the report we received from the Congressional Research Service just yesterday that the predominant immigrant through this is a managerial single male professional, and -- who's not bringing in a spouse and children.

So also I would note that the brother-sister backlog, as you know, is very regressed. I mean it's decades in some cases for people to bring in siblings. So although theoretically one could talk about that, in fact it's not a practical measure.

We can argue whether or not our immigration system should seek to have diversity. I recall it was Senator Kennedy and Chairman Rodino who were concerned that the Irish and Italians would not be present in our immigrant pool, and they thought that was a problem, and that really was the origin of this.

And it's interesting that it's now the diversity that we're seeing is from Africa, primarily, not completely, because there's -- of the way patterns of immigration have developed.

And absence this visa, aside from the refugee program, and I guess some of our students coming in who are -- I've met some who are highly educated -- we wouldn't see much immigration from Africa. And I think, you know, diversity has always made our country richer and it's why we're a proud immigrant nation. So that would be my answer, Mr. Chairman.

GALLEGLY:

And again, we shouldn't be debating this. We have witnesses here to listen to. But I can't help but respond.

The only two examples I used in my opening statement about two incidents, one at LAX and one Pakistani national that was advocating jihad here in the U.S., in both of these instances the people that were advocating this were -- one was a son and one was a husband of the applicant. So that does have something to do with that (inaudible).

In any event, we're fortunate today to have four exceptional witnesses. Each of the witnesses' written statements will be made -- entered into the record in its entirety. And I ask each to try to summarize in five minutes if at all possible.

We got a late start. It's not your fault. But in view of that I want to make sure everyone has a chance to be heard. And if you'll -- we'll provide the lights as kind of a guide. But I would appreciate you to try to work as carefully and helpful in that vein as possible.

The first witness today, of course, the sponsor of the legislation, who's obviously a good friend of both of my colleagues here, as evidenced in their opening statements, Bob Goodlatte, currently serving his 10th term representing the 6th congressional district of Virginia. He has been an active member of the House Judiciary Committee since arriving in Congress, and is currently the Chairman of the House Judiciary Subcommittee on Intellectual Property, Competition, and the Internet.

Our second witness today is Stephen Anthony -- known "Tony" -- Edson. Mr. Edson is former deputy assistant secretary of state for visa services. He was the State Department -- he was with the State Department for 28 years, and currently serves as principal of SAEdson law firm.

Our third witness, Ms. Janice Kephart, is the director of national security policy at the Center of Immigration Studies. She previously served as counsel to the 9/11 Commission. Ms. Kephart received her bachelor's degree from Duke, and J.D. from Villanova Law School.

And our last witness is Ambassador Johnny Young. Ambassador Young is executive director of the Migration and Refugee Services of the United States Conference of Catholic Bishops. He was previously a member of the Senior Foreign Service, and the rank of career ambassador, and last served abroad as the U.S. ambassador to the Republic of Slovenia.

So, you can see we have some very good witnesses this afternoon.

We'll start with our colleague from Virginia, Mr. Goodlatte.

GOODLATTE:

Thank you, Mr. Chairman, Ranking Member Lofgren, Ranking Member Conyers. It is a pleasure to be before you today. And I will submit my written statement for the record.

I wanted to respond to some of the comments made by the ranking members, who are indeed my friends as well.

First of all, the United States has the largest and most diverse immigration program in the world, and that is even without consideration of the visa diversity or visa lottery program.

When I practiced immigration law, prior to my election to Congress for more than a decade, I represented individuals from more than 70 countries, none of whom were coming in under the visa lottery program. They were coming in under family-related and primarily work-related visas.

We also admit people to this country based upon refugee status from any country in the world where that is a necessity, and we grant political asylum.

So the opportunity right now for diversity from virtually any country in the world exists even without this program.

Secondly, this program has been rejected by the House of Representatives twice now, once under a Democratic Congress, once under a Republican Congress. The House has voted to eliminate this program. And while there have been claims, as have just been made, that the program could be improved, during the majority in which the gentleman from Michigan was the chairman of the full committee and the gentlewoman from California was the chairman of the subcommittee, no hearings whatsoever were held on this issue to improve it.

I would suggest to you that there are a number of legitimate reasons why the program should be eliminated. One of those is a national security concern. There is no doubt that, given the fact that there is no necessity for a family relationship, no necessity for a particular job skill, that it is easy for an organization like Al Qaida to submit names.

Yes, it's done at random, but you could submit lots of names from individuals who do not have terrorism records, that are young people, whose names could be drawn.

We would be none the wiser that not only were they admitted to the country like the 9/11 hijackers were, but they were admitted to the country on a permanent resident status, green cards, so they're admitted permanently to the country.

Secondly, there is I think a very strong argument to be made that this program is grossly unfair to those people who have met the public policy interests of the United States. Immigration's a two-way street. There's not a person in this room who can't go back a few generations, or several generations, and find somebody in their family who came to the United States to better their lives for themselves and their families. But we do it based upon having a connection, like having a family connection or a job skill that's needed in the country or based upon persecution or a refugee status situation.

And when we do that, it seems to me very important that we recognize that this program allows people to bypass people who are on very long waiting lists from countries, who have family relationships, who have job skills that have been determined to be in need in this country, and they watch somebody who gets an opportunity to get a visa to come here based upon pure luck.

That combination, I think, is not a good one, and that's why I have introduced this legislation in the last few Congresses. It's been bipartisan each time I've done it. And as I say, it has passed both in the 109th Congress as a part of the appropriations process, and in the -- I'm sorry, in the 109th Congress it passed as an amendment to H.R. 4437 on the House floor with a very strong bipartisan vote, and in the 110th Congress, it passed as an amendment to the fiscal year 2008 State foreign operations appropriations bill.

So again, I think there is very strong bipartisan support for this legislation.

I think that the State Department's inspector general testified before the 109th Congress that, "The program contains significant risks to national security from hostile intelligence officers, criminals and terrorists attempting to use the program for entry into the United States as permanent residents," quote/unquote. With the tool of legal permanent resident status in hand, terrorists and spies would have free reign to travel and plan terrorist activities within the borders of the United States.

Our immigration policy should be based upon what the needs are of the United States, because there are people -- millions of people who want to come here for a multitude of different reasons, some good, some bad.

We should identify the good reasons for bringing people here and have an immigration policy that does that, and not rely on pure luck to determine who are the good people that should be coming to this country.

GALLEGLY:

Thank the gentleman.

Mr. Edson?

EDSON:

Chairman Gallegly, Ranking Member Lofgren, Ranking Member Conyers and distinguished members of the committee, good afternoon and thank you for allowing me this opportunity to discuss my experience with the diversity visa lottery program.

All visa categories are subject to attempted fraud by applicants interested in entering the United States illegally. Applicants misrepresent their identities, their credentials and their intentions every day before consular officers around the world trying to obtain visas that they don't qualify for.

Most visa categories, particularly for immigrants to this country, require -- have very specific requirements that pose barriers for applicants attempting to submit a false application.

Those wishing to obtain a visa fraudulently must first convince DHS through the petition process, and then the consular officer during an interview that the requisite relationship or employment experience or work situation exists.

For someone misrepresenting themselves as a doctor or business executive or a parent of a U.S. citizen, quite a bit of documentation and interview preparation is thus required.

Contrast this to the diversity visa program where the barriers for entry into the program are so low that we ask applicants to prove only that they have the equivalent of a high school education, or two years of some sort of a skill-based employment, some sort of financial support or job lined up in the U.S., and they're otherwise eligible for visas, the standard ineligibilities -- public health, criminal record.

Because almost anyone can qualify for entry into the program, the cost of committing fraud in the category is quite low. The possibility of legal permanent resident status in the U.S. makes it well worth the limited amount of time and money required to enter the program fraudulently.

The diversity visa program is subject to attempted fraud both by applicants themselves, and, worse, by third-party brokers (inaudible) who abuse both the visa system and those applicants. Fraud by applicants includes, among many other things, multiple entries, fraudulent claims to education and work experience, pop-up spouses or family members, relatives added after the application is submitted, and false claims to employment or financial support in the United States.

Fraud and abuse by third parties is just as prevalent and can have tragic consequences. Consular officers have seen cases of collusion with post office officials, thus the change that Ranking Member Lofgren mentioned, so notification to winners of the lottery are either stolen or and used by someone else or held hostage until the applicant pays for the release of their documents. This was quite common.

Just as commonly, unfortunately, the applicant may be extorted throughout the process. In other words, not just forced to pay for the release of their initial documents, but forced to pay criminal gangs in order to be allowed to complete their application.

This problem occurs to a limited extent, a much more limited extent with other visa categories as well, but because these diversity visa applicants don't have relatives and employers in the United States they're particularly vulnerable.

Nor is this sort of abuse limited to applicants who choose to enter the diversity visa lottery. Consular officers have many times seen unscrupulous agents enroll large groups of people, including in Bangladesh the phone book, so that they could then extort money from the legitimate applicants who didn't in fact apply, or from other people that they sell the winning slot to as they apply for the visa.

The State Department's Bureau of Consular Affairs has done outstanding work over the years in fighting this fraud in the D.V. program. I should be clear that just because the program is rife with fraud it does not mean that scores of unqualified applicants are necessarily entering the United States. The refusal rate for the D.V. cases is quite high, and Consular Affairs has done groundbreaking work with facial recognition software, electronic application processes and online data analysis tools to weed out fraudulent lottery entries.

Consular officers in the field are similarly astute in interviewing these cases, probing for relationship fraud, and working hard to validate the few legislative requirements for the program.

Despite the best efforts of consular officers and the State Department, however, the D.V. program will continue to be a special target of attempted fraud.

When anyone can play, and in this program they can because the minimal requirements for entry, then everyone will, and the cost of a fraudulent application is so low that fraud is and will remain prevalent. I believe that the SAFE for America Act will solve the problem of fraud in the D.V. program, and the only way it's likely to work, by eliminating it.

Thank you.

GALLEGLY:

Thank the gentleman.

Ms. Kephart

KEPHART:

Thank you, Chairman Gallegly, and Ranking Member Lofgren, and Ranking Member Conyers for holding this hearing on the D.V. program today. I would also like to acknowledge the leadership of Representative Goodlatte for the introduction of his SAFE for America Act.

My purpose today is to provide my analysis of the D.V. program from my vantage point as a former 9/11 Commission counsel, as well as national security policy director at the Center for Immigration Studies.

My underlying perspective, let me make clear, is to treat our borders as they truly are, as a geographic demarcation of the U.S. sovereign rights, to assure that people who seek to come here are who they say they are and will not pose a public safety or terrorist threat to American citizens.

Unfortunately, the D.V. program is a blind spot in our immigration system that assures none of these elements well. Instead, it can be a terrorist gamble. A successful application means an infiltration tactic with little oversight, a guaranteed visa, and permanent residency to those already in the U.S. or seeking entry from abroad.

Or a terrorist or other criminal can simply wait until lottery announcements, then hire someone to buy that win, change identities and, voila, they're within our immigration system.

Whatever purpose the D.V. program sought to be for diversity in a pre-9/11 environment, it's been outlived. Today it's a national security vulnerability, and let me go over the six main reasons why I believe that is the case.

First, the D.V. program draws from nations that are state sponsors of terror or are known to harbor terrorist organizations with overtly stated terrorist intentions towards the United States. Eligibility will remain for these countries in the 2012 lottery despite 9/11 and despite serious geopolitical shifts in the Mideast today.

The four state sponsors of terror -- Iran, Sudan, Syria and Cuba -- received a total of 2,588 visas or adjustments of status through the D.V. program in 2010. Nations with active terrorist populations, such as Yemen and Somalia, as well as governments known to support terrorist causes and terrorist travel, such as Venezuela, also benefits from the program, as do Afghanistan and Iraq, to name a few.

Again, there are no stopgaps against fraud, as Mr. Edson has pointed out, to determine qualifications or properly vet identity or derogatory intelligence to assure that radicalized individuals applying from these nations are not entering the U.S. on a D.V.

Second, the program does not include national security standards for, or reviews of participant countries, such as visa waiver countries have to do to maintain their status in that program.

Third, the program is susceptible to serious fraud and malfeasance, admitted by the State Department most recently in a press conference back in 2010 discussing the 2012 lottery, those in and out of the U.S., because of its inability to assure identities or qualifications, a fraud similar but perhaps even worse than that we addressed on the 9/11 Commission regarding the processing of Saudi- visas pre-9/11.

Fourth, the program's low applicant standards, combined with its computer-generated random lottery drawing, creates an invitation to those with nefarious intentions to take advantage of blind picks and negligible standards.

Fifth, the program is known to be exploited for human trafficking and the slave trade by crime syndicates, which I discuss in greater length in my written testimony, and it provides little to promote that straightforward diversity from lower-immigration countries when we have crime syndicates taking advantage of it.

And lastly, sixth -- sixth, the program enables those already here to stay while their change of status is under consideration, as known terrorist Hashem Hadayat did, thus increasing the vulnerabilities inherent in the D.V. program by enabling potential criminals and terrorists to embed longer -- and legally -- in the U.S.

I would like to spend my remaining time focusing on the national security challenges of the D.V. program, particularly Iran. The high numbers of D.V.s issued to Iranians is perhaps the best indication that the D.V. program is operating in a vacuum with little concern for national security. For example, Iran is known for its security forces actively seeking infiltration from abroad, and creates another opportunity for such infiltration. It is hard for us to know who is who when we have such little penetration into Iran with our own intelligence system.

Iran, we know, supported 9/11 hijackers' travels. We know they support Hezbollah and currently harbor Al Qaida. And this is only the tip of the iceberg. Yet, the D.V. program embraces Iran. Looking closely at the 2010 worldwide distribution of visa lottery winners, Iran received 1,854 visas or adjustments of status. Iran ranked ninth in the world of the 173 nations eligible to receive D.V.s, up four places from 2009, where it ranked 13th.

My conclusion is that the D.V. program has, unfortunately, outlived its usefulness in a post-9/11 world. If this nation seeks more diversity in our immigration population, that is for you all to decide, but the D.V. program is not the route to do so.

Thank you, and I look forward to your questions.

GALLEGLY:

I thank the gentlelady.

Ambassador Young?

YOUNG:

Thank you very much, Mr. Chairman. I would like to thank you -- I'd also like to thank subcommittee member Zoe Lofgren, and the ranking committee member, John Conyers, for allowing me to testify today. My testimony is on behalf of the United States Conference of Catholic Bishops.

Chairman Gallegly, the U.S. Bishops believe that the call for the diversity visa program's elimination is misguided. The program is an important facet of not only U.S. immigration policy, but also U.S. foreign policy interests. Indeed, the program benefits the United States interests both domestically and abroad. I will address each of these in turn.

First, U.S. domestic interests are served by the Diversity Immigrant Visa Program. The program provides an avenue for a diverse population of qualified individuals to immigrate to the United States. It reaches beyond those with family or business ties in the United States today, and creates a mechanism for racially, ethnically and culturally diverse populations to lawfully immigrate that would otherwise not exist under other visa programs.

These eligible immigrants, in turn, benefit from U.S. freedom and opportunities, while contributing to the economic and cultural fabric of our great nation. In facilitating this, the diversity visa program promotes respect for U.S. immigration laws, rewarding would-be immigrants who respect our laws and seek a lawful means of entry into the United States.

Second, U.S. foreign policy interests are served by the diversity visa program. Mr. Chairman, I served as U.S. ambassador to countries as varied as Slovenia and Sierra Leone. Today, I am executive director for the largest refugee resettlement agency in the world. From these vantage points, I have witnessed firsthand U.S. diplomacy and direct aid initiatives undertaken to further U.S. national interests abroad.

These important initiatives are undertaken in part to help shape the minds and hearts of those within their borders to regard the United States and the democracy it enjoys as a beacon of hope and opportunity, and therefore, a leader in the world. In 2009 -- in a 2009 report by the independent task force, co-chaired by Jeb Bush and published by the Council on Foreign Relations, the authors underscored the view of the United States as a place of unparalleled openness and opportunity that is crucial to the maintenance of U.S. and American leadership.

The Diversity Immigrant Visa Program helps further these objectives. The Diversity Immigrant Visa Program has promoted a necessary diversification of the immigrant population in the United States. According to the GAO, the data shows that the D.V. program is contributing to the diversification of the U.S. immigrant pool.

Indeed, well over a half-million immigrants from countries with low rates of admission to the United States have become lawful permanent residents through the program. The majority of diversity immigrants are from Africa and Europe, two regions with low levels of admission under family- or employment-based immigrant visas.

Mr. Chairman, the Diversity Immigrant Visa Program generates goodwill and hope among millions across the globe ravaged by war, poverty, undemocratic regimes, and opacity in governments. Through the Diversity Immigrant Visa Program, the United States makes a counterpoint to that reality -- a chance at becoming an integral member of an open, democratic society that places a premium on hard work and opportunity.

In fiscal year 2011 alone, there were 12 million -- 12.1 million qualified applicants to the Diversity Immigrant Visa Program. From a diplomacy standpoint, that is a powerful opportunity. The U.S. Catholic Bishops ask the Congress -- that the Congress maintain lawful avenues for immigration to the United States and continue to prioritize the diversification of our immigrant pool.

The diversity immigrant visa is an important facet of both our domestic and foreign policy objectives. If we are truly concerned about the rule of law, the wholesale elimination of legal avenues for immigration, such as a diversity visa, is not the answer.

Where fraud is present or security risks a potential, Congress should work with the administration to implement measures to combat that fraud as recorded by the GAO and as it does with other important government benefit programs.

Thank you.

GALLEGLY:

Thank you, Mr. Ambassador.

I would ask unanimous consent to place into the record, without objection, the following items to be made a part of the record of the hearing: the 2003 Department Office of Inspector General Member Annum Inspection Report on the Diversity Visa Program.

Number two, the 2007 GAO report entitled, "Fraud Risk Complicates States' Ability to Manage Diversity Visa Program."

Number three, March 31, 2011, Irish Times article entitled, "U.S. Embassy in Dublin Warns of Widespread Visa Lottery Scam."

Number four, March 30, 2011, Arab News article entitled, "U.S. Visa Scam Gets Personal."

And finally, a copy of the fraud alert on the website of the embassy of the United States in London.

If there's no objection, those will be made a part of the record of the hearing.

First of all, Bob, in your written testimony, you referred to a statement before Congress made by the State Department's inspector general in which he stated that the visa lottery program contains significant risk to the national security of the United States. You also mentioned the case of the Egyptian national who was permitted to enter the U.S. because his wife was a visa lottery winner. Once in the country, the person killed two and injured three at LAX.

Can you elaborate a little bit on your statement?

GOODLATTE:

Well, I think that there have been reports from several sources that have indicated a concern about this.

And I -- I think the nature of the concern is that you have people who want to come here because they have a family reunification issue. They have family that's already here petitioning for them. They have a job skill, they have an employer who's petitioning for them.

It's a lot harder for a criminal organization, a terrorist organization, or somebody who just wants to come to the United States because it's an opportunity for them to engage in some kind of activities we don't want them here for -- it's a lot harder for them to do that if they have to create that connection in the first place.

You know, you have to have a job skill and an employer who wants them, or they have to have a specific family relationship. Then if they simply put their name into a lottery, as you correctly note, millions of people do -- and while I have no doubt that most of those people are wanting to come here for the same reason that other people want to come here, those who want to come here for illegitimate purposes, including terrorism or criminal activity, have an easier time doing that, as Mr. Edson pointed out in his testimony, than they do if they have to have that pre-formed connection in order to get the visa in the first place.

GALLEGLY:

Mr. Edson, in your statement, you mentioned the Bangladesh phone book. Can you elaborate a little bit more on that as an example of concern?

EDSON:

Certainly. What -- we obviously have no way -- or the State Department, have to get rid of the "we" -- the State Department has no way of knowing how -- how often applicants, those 12 million entrants into the -- into the lottery program every year -- didn't actually submit entries on their own behalf. But we know that it is quite common for agents to just take personal data on existing people and submit it into the lottery entry.

Often now, because facial recognition is used and the photos are required, picking photographs that are relatively neutral so that there's greater opportunity for look-alikes in the final win, so that then if one of those real people who didn't really apply wins a slot in the diversity visa lottery, the agent can then sell that slot to somebody who resembles the photograph closely enough that they can then steal the identity of that other person and complete the application process, and there's no preexisting data that's going to rule out that individual.

GALLEGLY:

Thanks.

Mr. -- all right, I beg your pardon -- Miss Kephart, in your testimony on page six, you discussed how organized crime rings exploit the visa lottery program. This is becoming a huge problem in my area -- in the greater Los Angeles area -- having to do with Medicare fraud and health care issues, with setting up phony clinics and so on and so forth.

Does this have any relationship to what you were relating to in your testimony? Or specifically, what did your testimony relate to?

KEPHART:

Well, I think you're referring to the use of fraudulent and counterfeit documents to support applications in general. If that is your reference, yes, this -- this -- we have had federal prosecution have to deal with a number of cases that are extremely serious dealing with fraud on the U.S. side with -- with the diversity visa program.

One case involved a slave trade being created out of Africa where young winners -- female winners between 10 and 19 were brought over. They were forced to give up their identities and passports and brought over here and had to take on new identities.

There are other pieces of this, though, as well. If you are dealing with fraudulent documents, this is something we dealt with extensively on the 9/11 Commission -- the idea of fraud, the idea of looking clean when you're not really clean. And when you're dealing with a program like this that does not require a lot of identity information on the front end, you can switch out identities very easily, as Mr. Edson has done -- based on fraudulent birth certificates, fraudulent driver's license, fraudulent passports on the U.S. side.

Abroad, there's no way for a consular officer to make a determination as to the legitimacy of the high school education, a certificate that you're presenting, the birth certificates, or any other identity information that you're providing. You can easily switch that out.

Once you do that, you're creating -- once you have that in place, you have a huge vulnerability that is much wider than what you even had with the 9/11 situation.

GALLEGLY:

Thanks -- thank you very much, Miss Kephart.

Miss Lofgren?

LOFGREN:

Thank you, Mr. Chairman.

I -- I think it's important to note that nobody on the committee is in favor of fraud or -- but the issue is how to preserve diversity in a way that works for the country. That's the way I see this question, anyhow.

Without this diversity visa, African immigrants would only be 3 percent of the immigrants to the United States statistically, and I -- I don't think that's -- I don't think that's good for the United States.

Bob, I hear what you're saying. You know, I always think about my grandfather, because he came here when he was 16. He didn't have a family tie. He didn't have a job, didn't -- hadn't finished his education, but he wanted to come here. He wanted to be free. And, you know, what a country. His granddaughter is in Congress. So that's part of what this is about, is to not lose that part of our history.

But the question is: How do we avoid the problem?

Mr. Edson, do you know -- I don't know the answer to this -- can the State Department impose a fee on their own? They don't need congressional action to do that, or do they?

EDSON:

I'm probably not in the best position to answer, but it's my understanding that they do need congressional action.

LOFGREN:

Well, that's something, then, that maybe we ought to look at because certainly if there were -- if there were a fee, that would be a deterrent. I mean, if you're talking about entering the phone book, that would be a very different issue. I think the facial recognition and the web-based stuff is going to help, and maybe there are some other ideas to make this work better.

You know, I think it's always dangerous to -- to legislate by anecdote. Certainly, the fellow in Los Angeles who engaged in violence was awful. But there was an Egyptian man named Abdul Rahman Mustafa (ph) who came as a diversity visa immigrant and he uncovered a planned terrorist attack on the New York City subway system. He reported it to the New York City police department, and they went in, and they -- they arrested the guys, and they stopped the plot.

So I don't think you say, "Well, that's the reason for the diversity visa program," any more than the reverse. And I think it's worth noting that the GAO's report that's now been entered into the record -- and this is a quote -- "found no documented evidence that diversity visa immigrants from state sponsors of terrorism or other countries posed a terrorist or other threat." So we need to, I think -- to make improvements if we can.

Ambassador Young, I found your testimony actually pretty moving, because the diplomatic value of being a beacon of hope for the world really is important to the United States. You -- you served as ambassador to a number of nations. Were you able to use this as a tool of diplomacy? And can you expand on your experience with those who applied for the lottery program and what it means to us in the diplomatic sense, or who they are, in your experience?

YOUNG:

Certainly. I -- I found it particularly useful when I was in Africa -- in Togo, in particular. I served in Sierra Leone also, but that was prior to the program. In countries that are under, you know, oppressive governance and rule, that are very impoverished, that have very little to offer its people -- although I didn't go around peddling or advertising for the diversity visa, in my interactions with young people, with young professionals and what-have-you, they would ask me, you know, "What can I do? I'm a university graduate, I'm a professional," or what-have-you. "There's nothing for me to do here. What can I do?" You know, "You come from a great country, is there anything you can do for me?"

I said, "Well, I can't meddle in the visa business as the ambassador, but we do have something called the diversity visa program that you can apply for, and you may win, you may not. You keep trying until you do." I can cite the case of a woman that I knew in Togo. She was educated. She had a sister in the United States who was a U.S. citizen. The sister had petitioned for her. She believed that the wait would have been about 25 years.

And while waiting, she applied for the lottery. She didn't win the first few times, but she won I think it was about the fourth time around. She came to the United States. She brought her teenage son. He finished school here in the United States and last year got his MBA at Harvard.

LOFGREN:

Wow, quite a story.

YOUNG:

Yeah, that -- that was a good one.

GALLEGLY:

Mr. Conyers?

CONYERS:

Thank you very much.

And Mr. Ambassador, what's the impact of 12 million people all thinking about trying to get over here?

YOUNG:

Well, they're -- they're anxious to do that, because they look to us as their one opportunity for hope and for getting out of the situation that they're in. So they think of -- think of the United States in a very positive way, and I think

that's a very good thing for our image, and I think that helps us. And as I said, the most important thing is that we offer -- this is an -- this is an opportunity for hope.

CONYERS:

And Mr. Edson, your work with State Department gave you an opportunity to make a number of improvements, and we're grateful to you for that. I wanted to thank you. Could you discuss some of things you got in place while you were there?

EDSON:

Certainly, thank you.

The -- the program when it began was a mail-based program, and the amount of mail received was so high that the envelopes were actually barcoded on the outside without being enveloped. Winners were selected sight unseen. There was no -- in the early years there was no way to tell how many entries were being submitted by applicant.

And in fact, we knew through sampling that large -- in those first couple of years, there were large numbers of duplicate entries -- I mean, thousands of duplicate entries -- from people who were just using -- using technology and law firms and agents and things to help them out.

The State Department was able to move to an electronic application process at a time when people thought that Internet penetration wasn't enough (inaudible). That helped. The facial recognition has helped. It was, I think, one of the earliest uses of facial recognition technology in the government to look for duplicate entries in the application process.

And then some changes in rules, like the requirement to submit photographs with the -- with the -- not the application, but the lottery entry, the first stage -- the requirement to submit a photograph with that limits some identity fraud opportunities.

It's telling, though -- if I can get off the track just slightly -- the bulk of the money spent on this program is to fight fraud in this way instead of to administer the program, which is -- and that's unlike any other visa work that we -- we do or we did at State, where the bulk of the resources were spent helping applicants get through the process. And in this case, it's almost all fraud-related, but it has been done.

CONYERS:

Well, we want to thank you for your helpfulness.

And I -- I want to turn to Attorney Kephart because, you know, we -- immigration as a field is a big problem in all of its branches, don't you think? I mean, there's -- there's a lot of work to be done in all the areas and there continues to be more work done in this area.

KEPHART:

Yes, Ranking Member Conyers. Yes, absolutely. You're right.

Cross-border security, apparatuses -- Mr. Edson was one of the people I interviewed when I was on the 9/11 commission, and we went across the board, as you know, making lots of recommendations and criticisms on border security. Our staff monograph, "9/11 and Terrorist Travel," is a long history of problems with the immigration system. And there have been improvements in some areas, for sure.

It is unusual for me, I have to say, to actually be in agreement on eliminating something completely. And in this particular case, when you run it through the rubric of our sort of tiered analysis on the 9/11 commission, we said two things that people up here know very well: to terrorists, travel is as important -- travel documents are as important as their weapons are; and that we must assure that people are who they say they are.

When you look at this, this is not just a non-immigrant visa. This is an immigrant visa. This allows permanent residency. This allows you to go freely in and out of the United States. And so the vulnerability here is high. So for me, the security aspect of it, on the front end, has to be very high. Because that's not there, I think that's a vulnerability.

And because we really can't -- there are improvements in the system for sure -- in the D.V. program. However, it is not enough to really assure that people are who they say they are. And when we're embracing state sponsors of terror, when we're embracing those nations where we know there are radicalized populations, that puts, I think, this on a cusp of -- an unfortunate cusp of not being a program that assures our national security and really gets at the issue that this program is supposed to, which is diversity and a welcome mat to those who otherwise would not have the opportunity to come here.

CONYERS:

Mr. Chairman, could I get one additional...

GALLEGLY:

With the help of you and Mr. Pierluisi, I made a commitment we'd finish by 3:30, so I'll be happy to do that.

Maybe you can help me, Mr. Pierluisi, yield to Mr. Conyers.

PIERLUISI:

I'll yield a minute to the ranking member.

CONYERS:

Thank you.

On a personal -- I know you're representing here today, but personally, has your vast experience with immigration issues led you to be skeptical, if not negative, about the whole immigration system itself?

KEPHART:

Actually, no. I think that the immigration system, as problematic as it is, has a lot of potential for improvement. And that's how I look at it, you know. I look at the southwest border and I see potential that we can actually secure that

border now. And I look at all the work that has been done since 9/11 and the seriousness with which you all took our recommendations. And that gives me a lot of hope. I think if I had thrown in the towel, I wouldn't be sitting here right now.

CONYERS:

But you've given up on this one.

KEPHART:

On this particular one, yes, because I think that the...

CONYERS:

We want to give you...

KEPHART:

... the lack of security is outweighed by the fraud.

CONYERS:

We want to encourage you. We want to give you hope and encouragement. We want to keep hope alive.

KEPHART:

I understand, sir.

CONYERS:

Thank you, sir.

GALLEGLY:

Mr. Pierluisi?

PIERLUISI:

Thank you, Mr. Chairman.

I'll just make a comment and then wait for your reactions.

I -- I just believe that messages -- messages we send to the rest of the world are very important, and by having this program, we're sending a message that we continue to welcome immigrants from a diversity of backgrounds and nations of origin. And that's an important message. We've always been viewed as the land of opportunity, and lots of people would like to join us. And what's wrong with that?

I do agree that we have to make every effort to make sure no terrorists take advantage of a program like this. We don't want any of them here. But I see -- and the stats do not support this issue we're raising -- because when I see the stats, close to 800,000 people have come in using this program to our country. And I can only see four cases of actual terrorists we have been -- we've spotted. Wow, four cases out of 800,000 people. That's the first thing that comes to my mind.

Another thing -- GAO, which was the last entity -- objective entity looking at this said there's no evidence of the program being abused for purposes of terrorism. So I see that, too. And then I see all this enhancement, so my reaction, my gut feeling is let's keep improving it, but let's not send the message that we're basically closing this -- or, you know, shutting this door on so many people that dream about joining us and making this country even better.

So now I'd like to hear your reactions. I guess I'll start with Mr. Young, but obviously, my fellow member here, I would like to hear from you, too, Congressman Goodlatte.

(CROSSTALK)

PIERLUISI:

I like you, too.

(LAUGHTER)

YOUNG:

Shall I begin, or...

PIERLUISI:

Yes, I guess I said it in that order.

YOUNG:

I'm with you. I'm with you 100 percent. I believe that the program is important to what we try to do worldwide in terms of who we are, what we represent, that we do offer hope. We give people an opportunity to -- those who are successful through this program -- to live with dignity and to realize their potential. We think the program is good. It's valid. It serves our purpose. We say, "Do not eliminate it, but let's work and find ways to improve its imperfections."

GALLEGLY:

Mr. Goodlatte, did you want to respond?

GOODLATTE:

Yes, I definitely do.

Well, let me just say that as -- as I indicated earlier, I have practiced immigration law before this program existed, and at that time, helped people to obtain permanent resident status from more than 70 countries. So I think that we already are, regardless of this program's existence, the most diverse nation on earth and it's in part because of our immigration policies.

But if those policies are designed to make this country better, we ought to take into account who it is that wants to come here, based upon needs that we have in the United States, including needs to have people with particular job skills and including the important need to reunify people who have family members who are already here.

Those should be our priorities. And given the high, high, high level of immigration that we have, and given the problem that we have with the levels of -- of unemployment and so on, we should not pick people to come here based on pure luck.

And I respect the millions of people who want to come here. My concern is that basing your future upon whether or not you have a one in 200 or one in 300 -- whatever the odds are -- chance of having your name picked out is like saying, "I'm going to, you know, I'm going to save for the future by buying a lottery ticket every week."

That's not the best way to enhance your own life, and this is not -- you know, the program should be based up on people who have something that the United States needs and wants to come here. We want them here, and they want to be here, not based simply on pure luck, chosen at random.

GALLEGLY:

The time of the gentleman has expired.

I want to thank all of members for being here today, particularly when everyone likes everyone. That always makes it a lot easier for the chair.

(CROSSTALK)

GALLEGLY:

And I would -- I would -- oh, good, I've been exempted, but I still like you, John.

In any event, thank you to all of our witnesses.

And without objection, all members will have five legislative days to submit to the chair additional written questions for the witnesses, which we will forward and ask the witnesses to respond as promptly as they can so the answers can be made a part of the record of the hearing.

And without objection, all members will have five legislative days to submit any additional materials for inclusion into the record.

Again, thank you all for attending today.