



FOR IMMEDIATE RELEASE

Hearing Statement of Border Security, Facilitation, & Operations Subcommittee Chairwoman Kathleen Rice (D-NY)

Examining DHS' Management of Trusted Traveler Programs September 30, 2020

We are convening today in our continued effort to understand why this Committee received inaccurate and misleading testimony from DHS regarding its decision to ban residents of New York State from Trusted Traveler programs, like Global Entry.

On February 5th, senior DHS official Chad Wolf wrote to New York officials to inform them of the ban, without notifying Congress and the members of the New York State delegation who sit on this authorizing committee. Mr. Wolf cited New York's Green Light Law as justification for the ban, stating that the law quote: "compromises CBP's ability to confirm whether an individual applying for TTP membership meets program eligibility requirements."

Mr. Wolf then stated, quote: "Because the Act prevents DHS from accessing New York DMV records in order to determine whether a TTP applicant or re-applicant meets program eligibility requirements, New York residents will no longer be eligible to enroll or re-enroll in CBP's Trusted Traveler Programs."

After that announcement, this Committee continued to receive inaccurate and misleading testimony that repeated the central claims made in Mr. Wolf's letter – that New York State was unique in denying this access to DMV records. At a minimum, the testimony gave a false impression about both the uniqueness of New York State's "Green Light Law", and the supposed ramifications of CBP's inability to access New York State DMV information.

In March, for example, Mr. Wolf told the Committee, quote: "New York law specifically prohibits CBP from going into that DMV database. They need information contained there that they can only get there to vet trusted travelers. They've done that above and beyond any other state, there is no other state that prohibits that information so, that[s] specifically why we took that action with New York and for that action alone."

In summary, the Committee was led to believe that (1) New York was the only state that didn't provide DMV information to CBP, and (2) such information was so critical to vetting applicants to the Trusted Traveler program that because New York didn't provide it, CBP had to ban all New York State residents from applying or re-applying for the program.

While the ban was in place for New York state residents – including for residents who already participated in the program and who were pre-screened and deemed trustful – it had a detrimental, chilling effect at our Northern border. Then all of a sudden, over the summer, the ban was lifted, and we learned that other U.S. jurisdictions provide the same access to their DMV records to CBP as New York did. Yet residents of these jurisdictions were not banned from participating in the Trusted Traveler programs. In fact, today's witness, Mr. Robert Perez, made this clear in the supplemental declaration he submitted on the matter to the District Court.

We also learned information that raises questions about whether DMV data is actually used to vet every Trusted Traveler program applicant. Unfortunately, we learned this information ONLY from the court filings on this issue. DHS did not proactively reach out to the Committee or correct the Committee's understanding until the Committee wrote to DHS, after reading the filings. And we're here today because we still don't have the necessary information from CBP on their decision.

There appears to be only two explanations for the inaccurate and misleading testimony the Committee received from DHS. Either senior DHS officials had a shared and profoundly inaccurate understanding of how the programs they manage actually work, which would be extremely troubling in its own right. Or, option two, senior officials intentionally obfuscated key details about the applicant vetting process in order to justify a completely political decision to declare all New York resident's ineligible for participation in the program.

The President wanted to punish New York for its "Green Light Law." And this was the retribution. Plain and simple. In a transcribed interview with the Committee, Mr. John Wagner, CBP's former Deputy Executive Assistant Commissioner, informed us that he, quote, "should've been aware" that two territories gave CBP no DMV information. He also said he, quote, "should've known" that several states and other jurisdictions did not share driver histories. So why didn't he and other senior officials know this? We still don't know. And DHS has refused to cooperate with the Committee's investigation.

DHS has not provided the documents we requested. DHS has not made available for transcribed interviews the employees we requested.

During the course of an entirely voluntary interview with Mr. Wagner, DHS attorneys repeatedly halted straight-forward lines of questioning, effectively undermining the purpose of the interview. And today, DHS provided only one of the four witnesses this Committee has requested. We hope that Mr. Perez can tell us which explanation is correct, but we will continue our investigation until we know for sure.

Further, given that the Department stated that DMV data is so critical to assessing the eligibility of applicants to the Trusted Traveler programs, we would also like to know whether the enrollment of applicants from other states or territories that provide only some or no DMV data has created risks.

Similarly, we would like to know exactly what DMV data CBP receives regarding applicants from foreign nations, including whether that data is reliably accurate. Obviously, we also want to know why DHS officials do not understand the programs they manage, and whether this is creating security risks.

I therefore call on DHS to immediately provide all of the documents we have requested and to provide complete answers to our questions. This information is essential for our nation's security.

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