Shining a Light on the "S" Visa:

A Long History of Unfulfilled Promises and Bureaucratic Red Tape

SUBSTANTIAL ASSISTANCE

Brad Gershel Report Author

NATIONAL ASSOCIATION OF CRIMINAL DEFENSE LAWYERS



NACDL FOUNDATION FOR CRIMINAL JUSTICE



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NATIONAL ASSOCIATION OF CRIMINAL DEFENSE LAWYERS



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CONTENTS

About the National Association of Criminal Defense Lawyers and the NACDL Foundation for Criminal Justice
Preface
Foreword
Acknowledgements
Executive Summary
Overview of the S Visa
Historical Background
Statutory Regime
Leveraging Immigration Status
Findings
Recommendations
Simplify the application process by shifting the focus away from layered oversight
Amend the application procedure to provide for simultaneous review by the OEO and USCIS
Improve inter-agency coordination and tracking by establishing a centralized case management system
Conclusion
Endnotes
Appendix A
Appendix B
Appendix C
Appendix D

ABOUT THE NATIONAL ASSOCIATION OF CRIMINAL DEFENSE LAWYERS AND THE NACDL FOUNDATION FOR CRIMINAL JUSTICE

The National Association of Criminal Defense Lawyers (NACDL) is the preeminent organization in the United States advancing the goal of the criminal defense bar to ensure justice and due process for persons charged with a crime or wrongdoing. NACDL envisions a society where all individuals receive fair, rational, and humane treatment within the criminal legal system.

NACDL's mission is to serve as a leader, alongside diverse coalitions, in identifying and reforming flaws and inequities in the criminal justice system, and redressing systemic racism, and ensuring that its members and others in the criminal defense bar are fully equipped to serve all accused persons at the highest level.

NACDL members — and its 90 state, local and international affiliates — include private criminal defense lawyers, public defenders, active U.S. military defense counsel, and law professors committed to promoting fairness in America's criminal legal system. Representing thousands of criminal defense attorneys who know firsthand the inadequacies of the current system, NACDL is recognized domestically and internationally for its expertise on criminal justice policies and practices.

The NACDL Foundation for Criminal Justice (NFCJ) is a 501(c)(3) charitable non-profit organized to preserve and promote the core values of the American criminal legal system guaranteed by the Constitution — among them access to effective counsel, due process, freedom from unreasonable search and seizure, the right to a jury trial, and fair sentencing. The NFCJ supports NACDL's efforts to promote its mission through resources education, training and advocacy tools for the public, the nation's criminal defense bar, and the clients they serve.

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PREFACE

Sometimes when one embarks on a journey, one ends up diverting from the anticipated destination. NACDL set out to study a problem identified by defense counsel representing non-citizens who provide cooperation to the government in exchange for the ability to remain in the United States through an S visa. All too often, the promise that the cooperating defendant will earn the special status is not fulfilled by the government. At the outset, when the study began, there was an expectation that this nonperformance was likely the result of bad faith on the part of government personnel. But, when the study was completed, it was clear that the flaws in the S visa program are far less attributable to bad faith than to bad government. The failure to provide the critical relief, even when it is clearly earned, is a consequence of the program's outdated legal and procedural architecture which has frustrated the basic intent of the program. As Andrew Weissmann notes in the foreword, the infrequency and uncertainty of ever getting an S visa presents enormous practical and ethical dilemmas for defense attorneys and unacceptable uncertainty for clients. One can agree or disagree with the role that cooperation plays in the American legal system, but when the promised reward is unjustifiably withheld, even if the denial arises without government malfeasance, it is nothing less than a bureaucratic bait and switch. With the publication of this report, NACDL seeks to rectify this intolerable injustice and ensure that the S visa program fulfills its intended purpose.

Norman L. Reimer Executive Director

FOREWORD

In order to make most any sophisticated criminal case, the government needs the assistance of witnesses and even participants in the very crimes under investigation. Obtaining the assistance of victims and insiders is indispensable to cracking gang and organized crime cases, human tracking cases, large scale economic crimes, and public corruption matters, to name just a few. Whether one is considering the Enron corporation's demise, or the Special Counsel public corruption investigation, gathering the information and evidence from insiders is indispensable. And as defense counsel know well, prosecutors have numerous tools they can use to encourage the cooperation of witnesses and criminals.

But one tool, which is increasingly vital, is in need of reform, for the reasons so clearly articulated in this report. The tool at issue is the S visa. These special visas are designed to be granted by DHS to people who are cooperating with investigations and prosecutions in the United States. In theory, the S visas work to forestall deportation while an investigation is ongoing and while a prosecution and trial are pending. And after the conclusion of a trial, permanent residence status may be granted to the cooperating witness.

The S visa program was prescient, seeking to mitigate these immigration issues in an increasingly global world. Our planet and its most significant problems are global and that goes for crime as well. Foreign witnesses and cooperators are increasingly common. For the United States to enforce its laws, to protect its citizens and residents, our government must increasingly solicit the assistance of those who are not citizens or permanent residents of the United States. That becomes increasingly difficult if one consequence of cooperating with the government is deportation from the United States, either during or after a criminal investigation and prosecution. Any agent or prosecutor worth her salt is going to want to assure the would-be cooperator that deportation can be dealt with through the S visa program. And any competent defense counsel is going to seek such assurances: the absence of them will weigh against defense counsel advising her client to cooperate and risk deportation.

But the problem is that the administration of the S visa program has run into Washington, D.C. bureaucracy with a vengeance. Too many players have roles to play, and too much is done seriatim, not in parallel, resulting in a lack of certainty and a timeframe that is entirely counterproductive if the S visa program is going to work as intended. In order for the S visa program to provide the designed incentive to cooperate, the decision about the S visa has to be made quickly — it hardly benefits the government to have to stop an investigation in its tracks waiting for a decision. And a defense counsel will be far less willing to let her client cooperate until there is a clear sign that the S visa will be forthcoming.

In short, the report below — with its diagnosis of the problems and specific practical recommendations — is both timely and shines a light on "good government" solutions that are a win-win for all concerned. In a time of fractured government and political fissures, it is encouraging to read a report that all can and should get behind.

Andrew Weissmann

Partner, Jenner & Block LLP Former FBI General Counsel

ACKNOWLEDGEMENTS

NACDL extends its deep appreciation to Brad Gershel, without whom this report would not have materialized. An associate at Ballard Spahr and rising star of the white collar bar, Brad Gershel approached NACDL with the idea of a report on the S visa program, undertook extensive record gathering and research, and prepared a report that NACDL is proud to issue.

The NACDL Foundation for Criminal Justice wishes to thank its donors, whose generosity makes reports such as this one possible.

Thanks also to the various individuals at NACDL who provided feedback and guidance, including Norman L. Reimer, Executive Director of NACDL; Kyle O'Dowd, Associate Executive Director for Policy; and Ivan J. Dominguez, Senior Director of Public Affairs & Communications. NACDL and the author would also like to thank Cathy Zlomek, NACDL Art Director, and her department for the design of the report.

EXECUTIVE SUMMARY

As changes in sentencing patterns over the past thirty years include dramatic increases in the length of sentences, the institution of cooperation has become pervasive in the practice of federal criminal law.



Anyone familiar with federal criminal defense can attest to the significance of "substantial assistance." This term refers to the primary mechanism by which criminal defendants who provide valuable information to federal prosecutors are compensated for their cooperation. This compensation occurs when a United States Attorney makes a motion on behalf of a defendant pursuant to particular statutory provisions, thereby giving the sentencing judge explicit authority to impose a sentence either below the calculated United States Sentencing Guidelines sentencing range or — more significantly — below any statutorily imposed mandatory minimum sentence. It is thus no surprise that, as changes in sentencing patterns over the past thirty years include dramatic increases in the length of sentences, the institution of "cooperation" has become pervasive in the practice of federal criminal law. As observed by one Assistant United States Attorney, "[i]t is a rare federal case that does not require the use of criminal witnesses-those who have pleaded guilty to an offense and are testifying under a plea agreement, or those who are testifying under a grant of immunity."¹

Notwithstanding the inherent investigative value, informant recruitment occurs generally in the shadows; the secrecy surrounding the practice enables the government to use almost any information it wants to induce a deal. When it comes to the cultivation of informants, negotiations between the government and the individual are not only unmediated by the usual constraints of arms-length negotiations; they can get deeply personal. Indeed, individuals become informants for a variety of reasons: money, fear of punishment for a crime, fear of criminal associates or revenge, civic duty, and repentance for past crimes, to list a few. To be sure, the majority of informants have some nexus with criminal activity, and have been subsequently recruited in exchange for leniency. As a result, most legal scholarship addressing informant recruitment has focused on informers who have broken the law: some scholars have raised concerns about the inherently coercive aspects of recruitment in the criminal context, while most are concerned with the challenges inherent to working with informants who might have themselves committed crimes.

Less attention has been paid, however, to the *means* of encouraging cooperation, including the dangle of immigration relief for foreign citizens. Here, one's incentive to cooperate is palpable: for some, the prospect of being removed from the U.S. (and as a corollary, leaving his or her family or community behind) — an otherwise unavoidable consequence of myriad criminal offenses — is even more devastating than serving a term of incarceration. U.S. law enforcement agencies ("LEAs") have explicit authority to sponsor special visas to these prospective informants; one such visa is the "S" visa (named after the statutory section of the Immigration and Nationality Act giving rise to the admission category). Established as part of the Violent Crime Control and Law Enforcement Act of 1994, the S visa — in theory — involves a two-part process whereby nonimmigrant (temporary) status of up to three years is first granted to an informant while an investigation or prosecution is ongoing. If the investigation, or prosecution, or both are successfully completed partly because of the involvement of the informant, permanent resident status may be granted.

Despite the government having historically touted this visa as "crucial" to its prosecution of "heinous acts," in reality, the S visa is an exceptionally rare benefit.² Not only have the annual numerical limitations set by Congress never been reached — they have never come close. As this Report explains, the problem is not lazy or incompetent people; nor is it a pattern of LEAs making assurances to cooperating witness in bad faith (as some might suspect). To the contrary, the problem is bureaucratic red tape; administrative chaos; a flawed application process that is mysteriously guarded from public scrutiny; and a lack of sufficient government incentives to undertake the daunting and drawn out process. There is, quite simply, a systemic unwillingness to issue these visas.

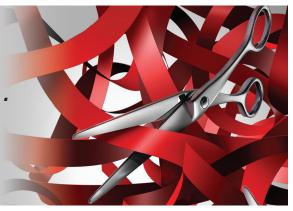
From the outside looking in, it is almost as if the administration of the S visa was designed not to work. Indeed, the application process resembles a theater of the absurd. The thicket of rules and procedures has layer upon layer of additional oversight; each new procedure necessitates someone's approval in either the Department of Justice ("DOJ"), Department of State ("DOS"), or Department of Homeland Security ("DHS"). LEAs induce informants with the offer of sponsorship to encourage cooperation, only to later abandon their efforts to follow through. Meanwhile, even when an agent or prosecutor is committed to the process, anyone at any stage along the way can deny an application with little explanation as to why. Hamstrung by rules and regulations, LEAs simply do not have the capacity to follow through on assurances to informants deserving of S status. The result is fewer visas for LEAs and the informants they sponsor.

For some, the prospect of being removed from the U.S. is even more devastating than serving a term of incarceration.



If the goal of the S visa is truly to entice noncitizen cooperators with the opportunity to stay in the U.S. in exchange for their assistance in the investigation and prosecution of criminal activity, then the program should be reformed to accomplish that specific goal. The emphasis on "process" diverts resources from the real job of the S visa: providing concrete immigration benefits in exchange for vital information. As this Report explains, the stakes could not be higher: since the rush to recruit informants in the aftermath of the September 11 attacks, the immigration system has been among the most prominent pressure points for LEAs seeking to recruit foreign nationals. Meanwhile, because of the harsh immigration consequences flowing from most criminal convictions, non-U.S. citizens (including long-standing legal permanent residents, or "LPRs") who are threatened with indictment are susceptible to prosecutorial pressure to cooperate. With fewer bargaining options, less protection, and potentially more to lose than informants recruited through monetary incentives or promises of sentence reductions, law enforcement's immigration relief dangle is indeed a compelling one. And as long as immigration law provides for extreme sanctions (detention and deportation), while at the same time holding great promise (the right to live and work in the United States legally), the dangers of abuse and coercion are magnified in a visa program that mandates only limited protections for the individual.

Because of the harsh immigration consequences flowing from most criminal convictions, non-U.S. citizens ... who are threatened with indictment are susceptible to prosecutorial pressure to cooperate.



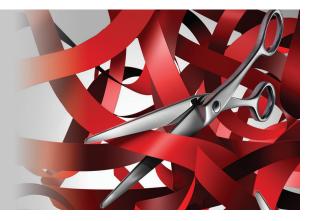
The aim of this Report is thus to shed light on a law enforcement tool that is little understood. To that end, it will share data obtained from years of Freedom of Information Act requests, together with data obtained from other sources about the administration of the S visa — data that until now was not known to the public. This Report will next attempt to explain how the data reinforces the fear among scholars and practitioners alike that the visa largely represents an empty promise of immigration relief. Finally, to address these varied and significant concerns, this Report will offer a series of measures the government can adopt to cut through the S visa program's suffocating red tape and move it closer to Congress's intent in establishing it.

OVERVIEW OF THE S VISA

Historical Background

Following the 1993 bombing of the World Trade Center in New York City, Congress amended the Immigration and Nationality Act to provide a "new mechanism" of immigration relief to foreign nationals who serve as government witnesses and informants.³ Chief among the goals of Congress in establishing the visa was to regularize the exchange of legal residency for information of particular value to law enforcement. More specifically, prior to passage, LEAs were able to incentivize foreign nationals to cooperate only through either the Federal Witness Protection Program ("Witsec") or discretionary Immigration and Naturalization Service ("INS")⁴ action (which postponed deportation indefinitely). A principal problem with these processes was that most witnesses remained in a tenuous immigration status. In short, immigration law at the time required anyone who wished to obtain permanent residency — including foreign cooperators whose identity the government had gone to great lengths to protect — to publicly disclose their real names and backgrounds. Insofar as revealing one's identity would pose untenable safety concerns, these witnesses were "exiled to an eternal limbo."⁵ By formally amending the immigration law to establish the S visa, Congress thus sought to standardize a procedure that would allow foreign nationals to apply for immigration relief as a reward for their cooperation while, at the same time, ensure that they (and members of their families) were adequately protected.⁶

While the S visa is available to informants concerning a wide range of criminal offenses, Congress's intent to connect it to terrorism is unmistakable.



While the S visa is available to informants concerning a wide range of criminal offenses, Congress's intent to connect it to terrorism is unmistakable. The most obvious proof is the legislative history, which is replete with references to and anecdotes concerning the nation's war on terror. One notable example is a 1992 Senate hearing entitled *Terrorist Defectors: Are We Ready*?, which recounts the story of Adnan Awad, once labeled the "highest-ranking Iraqi terrorist ever to defect to the West" and still considered "one of the true heroes in the international battle against terrorism."⁷ Backing out of a terrorist mission, Awad turned himself in at an American embassy, joined Witsec, and assisted U.S. officials in thwarting terrorist plots, identifying terrorists, and securing a verdict against the terrorist responsible for the bombing of Pan Am Flight 830. Through this process, U.S. officials provided assurances that Awad would be given U.S. citizenship — these assurances did not materialize until 2000, sixteen years after U.S. attorneys had

promised. As Awad's attorney would later recall, "[t]he problem with Awad was the whole process. ... There was no one person trying to jerk him around. There was just a complete bureaucratic breakdown."⁸

After hearing Awad's testimony, Sen. Joseph Lieberman acknowledged that gaps in U.S. immigration law for such witnesses could be costly:

[I]t seems to me that the ability to break through the normal immigration bureaucracy in order to give appropriate status in this country to a defector, an informant or their family members, is critical to people's lives. It seems like a small bureaucratic matter but... it may be just enough to entice a would-be terrorist to defect and come to this country as opposed to killing people.⁹

At the same hearing, the Federal Bureau of Investigation ("FBI") also emphasized the need to create immigration incentives for potential witnesses. One high-ranking FBI official stated:

The ability to issue a permanent resident alien card in a timely fashion would significantly enhance the FBI's counterterrorism mission. In some instances it would be a critical advantage to be able to offer permanent residency in the [U.S.] to aliens who provide extraordinary service to the [U.S.] in an investigation of a terrorist incident involving U.S. citizens. It would be most unfortunate and unacceptable to have key witnesses lost and as a result, critical evidence and information withheld, due simply to the time it takes to procure permanent resident alien status for these individuals.¹⁰

Despite the visa's existence for a number of years, the DOJ began to advertise the availability of S visas widely in the immediate aftermath of the September 11 attacks.



Additional evidence of Congress's intent to connect the S visa to terrorism can be gleaned from votes in 1999 and 2001 to extend the governing statute. For example, during the 1999 vote to reauthorize the visa program (the original legislation contained a five year sunset provision), Rep. Sheila Jackson Lee shared an anecdote of a flight attendant aboard a plane on which a bomb had been placed and whose testimony led to the conviction of a major terrorist.¹¹ On September 12, 2001, the day before the S visa program was set to lapse and while the nation was reeling from the terrorist attacks in New York and Washington, D.C., Sen. Edward Kennedy introduced legislation providing permanent authority for the program.¹² During the Senate hearing on the bill, Sen. Patrick Leahy stated:

[I]n this time of tragedy, there are a few things Congress can do to provide immediate assistance. Passage of this legislation is one of them. ... The visa allows foreign nationals

with critical information about criminal cases, especially events of terrorism, to remain in the United States legally for the purpose of cooperating with law enforcement. ... Our law enforcement officials face a terrible responsibility in seeking out the perpetrators of these evil acts. I am pleased to cosponsor this legislation, and hope that it helps in this search.¹³

The Senate passed the bill by unanimous consent that same day; the House similarly passed the bill by unanimous consent. Before the House vote, Rep. George Gekas stated:

Mr. Speaker, this issue comes before us at a very appropriate time. It was about 2 days ago, maybe 3 days ago now considering the time is after midnight, authority ran out for our government, through the Attorney General, to be able to bring in alien witnesses for cases involving terrorists, of all things... That authority has run out, and it ran out almost immediately after the events took place in the Pentagon and in New York. So we have to reinstate it as fast as possible. That is why we are here tonight, because now it becomes even more urgent that we be in a position to be able to authorize the Attorney General to continue building the cases against these new terrorists.¹⁴

Indeed, the link between the S visa and the nation's war on terror stretches beyond speeches and bills at the Capitol. Despite the visa's existence for a number of years, the DOJ began to advertise the availability of S visas widely in the immediate aftermath of the September 11 attacks. For example, in November 2001, Attorney General John Ashcroft asked "freedom-loving people of all nations" "to come forward to the FBI with any valuable information they have to aid in the war on terrorism," in return for an "opportunity to be a participant in a visa which could lead to citizenship.¹⁵ Later, during an appearance on ABC's *Good Morning, America*, Ashcroft said this "new initiative" was "designed to say to people that if you'd like to have an improved visa status for your own presence in the [U.S.] and a pathway to citizenship, one of the ways you can do that is by providing reliable and useful information about terrorism."¹⁶ During a Senate hearing on DOJ's response to the September 11 attacks, one senior official emphasized that the "war on terrorism will be fought not just by our soldiers abroad, but also by civilians here at home," and touted the availability of S visas to "our nation's guests" who come forward with useful and reliable information about persons who have committed, or who are about to commit, terrorist attacks.¹⁷

Statutory Regime

The S visa is codified at 8 U.S.C. § 1101(a)(15)(S), which includes within the definition of nonimmigrant:

(S) subject to section 1184(k), an alien —

- i. who the Attorney General determines
 - (I) is in possession of critical reliable information concerning a criminal organization or enterprise;
 - (II) is willing to supply or has supplied such information to Federal or State law enforcement authorities or a Federal or State court; and

- (III) whose presence in the United States the Attorney General determines is essential to the success of an authorized criminal investigation or the successful prosecution of an individual involved in the criminal organization or enterprise; or
- **ii.** who the Secretary of State and the Attorney General jointly determine
 - (I) is in possession of critical reliable information concerning a terrorist organization, enterprise, or operation;
 - (II) is willing to supply or has supplied such information to Federal law enforcement authorities or a Federal court;
 - (III) will be or has been placed in danger as a result of providing such information; and
 - (IV) is eligible to receive a reward under section 36(a) of the State Department Basic Authorities Act of 1956, and, if the Attorney General (or with respect to clause (ii), the Secretary of State and the Attorney General jointly) considers it to be appropriate, the spouse, married and unmarried sons and daughters, and parents of an alien described in clause (i) or (ii) if accompanying, or following to join, the alien.

An S visa application and award carry onerous requirements for both the non-U.S. citizen and the sponsoring LEA.



Thus, the S visa is available to witnesses in both criminal and terrorist-related investigations and prosecutions (referred to in the Code of Federal Regulations ("CFR") as "S-5" and "S-6" status, respectively). It is also available to a witness's spouse, children, and parents (set forth in the CFR as "S-7" status). S-5 or S-6 recipients, also known as "principal" recipients, must supply "reliable" and "critical" information to an investigation involving a criminal organization or enterprise, and their presence in the U.S. must be "essential to the success of the investigation or prosecution."¹⁸ Regarding terrorist investigations or prosecutions, the statute requires an additional showing that the foreign national "has been placed in danger as a result of the cooperation."¹⁹ In exchange, principals and their qualifying family members may be awarded with nonimmigrant (temporary) status of up to three years.²⁰ By law, the government may not issue more than 200 S-5 visas and 50 S-6 visas.²¹ S-7 grants do not count toward these numerical limits.

An S visa application and award carry onerous requirements for both the non–U.S. citizen and the sponsoring LEA. For example, as part of the application process, witnesses (and any family members also seeking S status) must waive their right to a removal hearing and the right to contest a removal action (other than on the basis of an application for withholding of deportation).²² In other words, if an application is mishandled or forgotten and the witness (or a member of his or her family) subsequently faces deportation, there is no access to judicial review. Even after being awarded S status, visa holders must report quarterly to the sponsoring LEA and, as to the S–5 or S–6 recipient, fulfill all terms of cooperation. The LEA, for its part, must submit quarterly and annual reports to the DOJ that include documenting S visa holders' degree of compliance with the terms of their stay.²³ Certain LEAs impose still stricter requirements. The Bureau of Alcohol, Tobacco, Firearms and Explosives ("ATF"), for example, designates two agents to supervise each sponsored foreign national; these agents must submit a summary of the supervision to ATF headquarters every 30 days.²⁴

Foreign nationals also may not seek to obtain S status on their own. Instead, the decision to apply rests solely with the LEA for whose investigation the witness or informant provides assistance. This process provides for the use of Form 1–854, *Inter–Agency Alien Witness and Informant Record*²⁵ to, in part, record the nature of the informant's cooperation and the basis for the LEA's position that sponsorship is warranted, articulate why the continued presence of the witness is needed, and furnish "complete information" as to each applicable ground of inadmissibility (*i.e.*, grounds that ordinarily may bar a foreign national's admission to the U.S., including prior criminal activity or unlawful presence within its borders).²⁶ Form I–854 additionally requires certifications from both the LEA's highest–ranking official and the U.S. Attorney with jurisdiction over the investigation that (1) the witness or informant is essential to an investigation or prosecution, (2) his or her continued presence in the U.S. is in the national interest, and (3) no promises regarding immigration benefits have been or will be made in exchange.²⁷

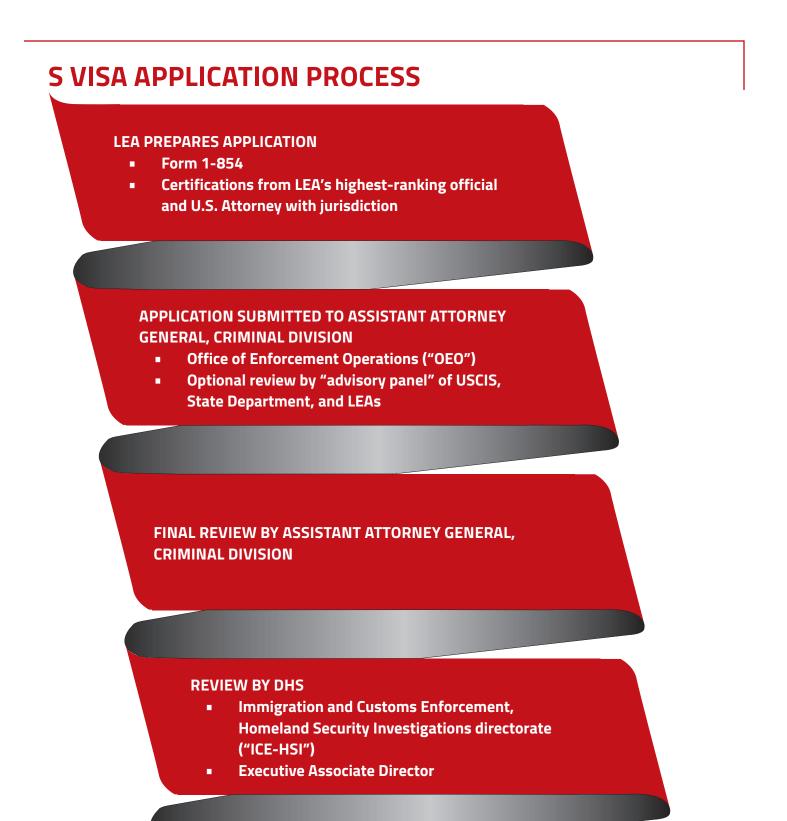
The sponsoring LEA must then file this information with the Assistant Attorney General of the Criminal Division, where it undergoes an additional layer of scrutiny. There, the Office of Enforcement Operations ("OEO"), and more specifically, its Policy and Statutory Enforcement Unit ("PSEU"), will "balance the value of an alien's cooperation against the factors making an alien inadmissible."²⁸ In other words, the PSEU will determine the "merits" of the witness or informant's application, evidently taking into account such factors as whether he or she is employed, pays taxes, or has family members who are U.S. citizens."²⁹ Where necessary, the OEO may put an application before an "advisory panel" composed of representatives of the USCIS, U.S. Marshals Service ("USMS"), FBI, Drug Enforcement Administration ("DEA"), State Department, and other LEAs to determine which cases should receive priority.³⁰

Upon the PSEU's recommendation to the Assistant Attorney General that a witness or informant's circumstances merit certification, and in the event the Assistant Attorney General concurs, the application next proceeds to DHS.³¹ There, the application undergoes yet another layer of scrutiny by the Immigration and Customs Enforcement, Homeland Security Investigations directorate ("ICE-HSI").³² Specifically, the directorate's Parole and Law Enforcement Programs Unit will review the witness or informant's Alien File³³ to identify any grounds for inadmissibility that have not already been addressed in Form I-854 (because DHS is the only agency with access to an informant's Alien File, it may contain information not otherwise known to the LEA, such as attempts to illegally enter the U.S.).

Upon ICE-HSI's review of the Alien File, the application next is sent to the agency's Executive Associate Director who, upon his or her recommendation, will submit the application to USCIS for final adjudication. There, USCIS may choose, in its sole discretion, to waive any ground of inadmissibility applicable to the informant (except for those regarding Nazi persecution, genocide, torture and extra-judicial killings).³⁴ In the event USCIS denies the application, the Assistant Attorney General, Criminal Division, may object within seven days, in which case the application "will be expeditiously referred to the Deputy Attorney General for a final resolution."³⁵ However, neither the applicant nor the LEA that sponsored him or her has a right to appeal the decision.³⁶

While an S visa is valid for only three years (it cannot be extended), in cases where the witness or informant has "substantially contributed" to either the success of a criminal investigation or prosecution (*i.e.*, the case has ended successfully for the government), or has contributed to the "frustration of an act of terrorism against a [U.S.] person or [U.S.] property," he or she may be eligible for permanent residency.³⁷ Should a witness or informant wish to apply for such status, it is incumbent upon the LEA that initially sponsored the application(s) to do so. The decision whether to grant such a request rests first with the Assistant Attorney General; should he or she decide to certify the request, the application will next proceed to the USCIS for a final determination.³⁸

Importantly, while a LEA may seek adjustment of status regardless of the availability of immigrant visa numbers, permanent residency for S visa holders is contingent upon the availability of a visa number under the worldwide allocation for employment-based immigrants (U.S. immigration law creates preference categories for family-sponsored, employment-based, and diversity immigrants).³⁹ In short, each employment-based preference has an annual allocation for approximately 40,000 individuals, and the remaining preferences allow 10,000 for each preference, not to exceed 140,000 individuals annually.⁴⁰ The preference categories are for (a) priority workers, who are noncitizens with extraordinary ability, outstanding professors, and multinational executives; (b) professionals with advanced degrees or noncitizens with exceptional ability in the sciences, arts, or business; (c) skilled workers, unskilled workers, or professionals with baccalaureate degrees; (d) other special immigrants, a group comprised primarily of religious workers; and (e) entrepreneurs investing a certain amount of capital to start up a new business.⁴¹ Because holders of S visas who seek permanent resident status are primarily unskilled workers, these individuals typically will belong to the third preference group.⁴² In other words, those who seek adjustment of status will often be placed near the back of the line.



REVIEW BY USCIS

- Approved (FINAL)
- Denied
- Assistant Attorney General, Criminal Division
 >> Deputy Attorney General

14 Shining a Light on the "S" Visa: A Long History of Unfulfilled Promises and Bureaucratic Red Tape

LEVERAGING IMMIGRATION STATUS

Enlisting immigration vulnerabilities by dangling the possibility of relief for a non-U.S. citizen whose center of life is in the U.S., or when there is a fear of retribution if they were to be forced to return to their country of citizenship, is inherently coercive.



While all rewards predicated on cooperation carry difficulties, the use of immigration law for this purpose is particularly troublesome. Simply stated, immigration rewards entail many of the same concerns that have been voiced in the criminal context: just as prosecutors may determine, in their sole discretion, whether to move the trial court to impose sentences below the advisory guidelines (or any mandatory minimum sentence) as a reward for cooperation, the determination of whether a witness or informant's cooperation is "deserving" of immigration relief rests solely with the unreviewable discretion of LEAs. Thus, while the S visa may have been codified to bring "uniformity and consistency to the process,"⁴³ that process excludes the courts from independently assessing the value of the cooperation provided, and whether an agency's exercise of discretion was in good faith.

Moreover, because of the harsh immigration consequences flowing from most criminal convictions, foreign nationals threatened by a criminal prosecution are susceptible to prosecutorial pressure to cooperate. Indeed, immigration relief as a reward tool has only grown in importance as other immigration benefits have been restricted or eliminated. As criminal and immigration law scholar Nora Demleitner notes, "[such] immigration benefits in exchange for cooperation have become increasingly more valuable as the number of deportable offenses has risen dramatically, and immigration judges have been deprived of much of their discretion to avert [deportation]."⁴⁴ Demleitner questions the wisdom of using immigration benefits in this manner: "[T]he harshness [of immigration law] and the limited venues for averting deportation make the only alternative provided — cooperation — even more rife with abuse."⁴⁵ In other words, enlisting immigration vulnerabilities by dangling the possibility of relief for a non-U.S. citizen whose center of life is in the U.S., or when there is a fear of retribution if they were to be forced to return to their country of citizenship, is inherently coercive. Insofar as immigration law, by definition, applies only to a vulnerable population group (non-U.S. citizens), the harshness and the limited venues for averting deportation make cooperation make cooperation (often the only alternative provided) ripe for potential abuse.

Indeed, the fact that the underlying assumption behind the S visa is that the informant is interested in residing in the U.S. only heightens this concern. That is, an inherent problem with the use of immigration relief as an incentive or a reward for cooperation is that it is viewed through the false premise of an everyday market transaction, whereby the government and non–U.S. citizens are parties to a transaction and "bargain" toward resolution. This view, even if correct, is severely undermined when one party may exact tremendous leverage over the other while, at the same time, remain free to break its promises or assurances of good faith without recourse. For example, even when a LEA promises to submit an application on the informant's behalf, due to the requirement that the informant waive his or her recourses in S visa agreements, a LEA suffers no legal backlash when it fails to fulfill its side of the bargain.

When viewed through this lens, it is not surprising that LEAs have, in fact, leveraged immigration vulnerabilities to recruit informants. While on paper LEAs are prohibited from promising immigration relief, it has not stopped the FBI, for example, from promoting the "immigration relief dangle," presumably referring to the practice (widely reported but officially denied) of offering immigrants assistance with their legal status in exchange for information.⁴⁶ While there are no statistics available for how often law enforcement has retreated on assurances to informants, a few stories have received media attention due to the work of investigative journalists and community advocates. In 2010, *NPR* published a story on Ernesto Gamboa, an El Salvadoran man who worked with federal agents for 14 years and, despite having provided a "significant public benefit" through his help with state and federal drug investigations (through which he reportedly assisted in obtaining nearly 100 convictions), had not been sponsored for an S visa.⁴⁷ Feeling trapped, Gamboa quit working for the government. Weeks later, ICE revoked his parole and arrested him.

Even when a LEA promised to submit an application on the informant's behalf, due to the requirement that the informant waive his or her recourses in S visa agreements, a LEA suffers no legal backlash when it fails to fulfill its side of the bargain.



During a Senate committee hearing in 2009, Senator Maria Cantwell confronted then-DHS Secretary Janet Napolitano with Gamboa's case.⁴⁸ Senator Cantwell stated, in part:

[Gamboa] was an individual who served as a confidential informant, and, for the past 14 years, assisted law enforcement in the dismantling of large and dangerous drug operations. He frequently put himself at risk. He worked with the Washington State Patrol, the [FBI], the DEA, and INS, and with [ICE,] ... [and] his cooperation was critical to the success of Federal prosecutors in seizing hundreds of pounds of cocaine and methamphetamine, as well as large seizures of money and weapons.

During all the time that he was cooperating with law enforcement over that time period, he was promised that he would get help with his immigration status; but, instead, in July he was detained by ICE and placed on removal, despite all of the good work that he had been doing previously for these various agencies. And so, I'm expressing concern over this case, because he's kind of in limbo; he can't work, because he doesn't have paperwork, and he can't get — if he is returned to El Salvador, I'm sure he will likely be killed. And so, if we don't help the Gamboas, who have been the informants for us, how are we going to recruit other people to helping us with finding drug traffickers and criminals?

In response, then-Secretary Napolitano stated:

Be happy to look into it. This goes to the intersection between [DOJ] and [DHS], where [DEA] doesn't have authority to make immigration representations. Sometimes that gets lost in the shuffle. DEA needs to bring ICE in, or vice versa sometimes. So, I think that illustrates, perhaps, what is happening with Mr. Gamboa. I'll be happy to look into the situation.⁴⁹

Foreign informants have put everything on the line for an S visa, only for the government to turn around and initiate removal proceedings against them.



Gamboa is not alone. In any number of cases, foreign informants have put everything on the line for an S visa, only for the government to turn around and initiate removal proceedings against them. In 2017, *The Washington Post* reported the arrest of a former lieutenant in a Somali national-security agency.⁵⁰ The man prevented a "major terrorist attack" on a U.S. embassy in Africa, uncovered support networks for some of the September 11 hijackers, and probed the killings of U.S. servicemen in Somalia. An FBI agent swore in an affidavit that it is "very likely that many, many people would have been killed" if the man had not cooperated. The man became an informant to avoid deportation in 1998, after being arrested for criminal immigration fraud. He continued that work off and on for nearly two decades, even as he accumulated minor criminal charges. Meanwhile, the agent who submitted a "thick packet" in support of the man's S visa application told the newspaper that he fears that the visa request "fell through the cracks."⁵¹ The man reportedly told his latest FBI handlers early in 2017 that he would not work for them anymore. Shortly afterward, ICE arrested him. As a result, the man faced deportation to a country where his history of cooperation with the U.S. government may well have cost his life.

The government's treatment of Nervin Coronado, another cooperator who sought an S visa, warrants attention as well.⁵² Prior to his deportation in 2019, Coronado had lived in the U.S. since he was twelve years old. His parents are U.S. citizens and his spouse, with whom he was raising three children in the U.S., is also a U.S. citizen. In 2009, Coronado was charged with participating in a mortgage fraud scheme. Shortly after his arrest, he agreed to meet with the government and provide information regarding his own misconduct and that of his coconspirators, pursuant to proffer agreements. In 2010, Coronado pleaded guilty and agreed to cooperate. As to the possibility of an S visa, his cooperation agreement contained the following provision:

If the defendant requests, and in the Office's judgment the request is reasonable, the Office will recommend to [DOJ] that the defendant and, if appropriate, other individuals, be issued an S Visa Classification, it being understood that the Office has authority only to recommend and that the final decision whether to grant such relief rests with [DOJ], which will make its decision in accordance with applicable law.⁵³

During his period of cooperation, Coronado provided the government with information that, according to the government, helped lead to the arrest and conviction of nine individuals involved in various mortgage fraud schemes, including a former New York State Senate candidate.⁵⁴ Coronado also provided information that facilitated the arrest of two attorneys, and later testified as a witness at the trial of those individuals.⁵⁵ During and after this time, Coronado's counsel made multiple requests to the U.S. Attorney's Office ("USAO") to sponsor Coronado for an S visa. The government repeatedly declined, citing the absence of "verifiable safety concerns" posed by Coronado's deportation, based on the fact that "[m]ost, if not all, of the defendants implicated by Coronado's country of origin."⁵⁶

But the government's rationale did not square with the applicable statute (nor does it at present) or, at the time, even its own policies. As discussed at p. 11, *supra*, only a terrorism-related informant is required to demonstrate safety concerns as a condition precedent of an award of an S visa. It goes without saying that Coronado's cooperation had nothing to do with terrorism — to the contrary, the information he provided to the government related to mortgage fraud and bank fraud. Tellingly, the U.S. Attorney's Manual (at the time) reinforced Coronado's argument that there was no need to demonstrate safety concerns:

The S nonimmigrant classification is generally available to aliens who would otherwise be inadmissible to or deportable from the United States (for example, due to criminal convictions or certain problems with immigration status). The statute authorizes the [DHS Secretary] to waive most grounds of inadmissibility. The program is *particularly useful* for witnesses or informants who would otherwise be in danger in their home countries. It is also a substantial benefit for many other witnesses and informants who might not otherwise be able legally to enter or remain in the United States.⁵⁷ (emphasis added)

In other words, while the visa may be "particularly useful" for those likely to be placed in danger in their home country, the DOJ plainly recognized that this was not a prerequisite to sponsorship altogether.

It is worth noting that at the time of this Report, both the standard language in cooperation agreements pertaining to the S visa, and the DOJ's internal policies relating to the S visa, have changed to reflect the rationale expressed by the government in refusing Coronado's requests. Specifically, the standard language of its cooperation agreements now provides that any decision to sponsor an informant will be based upon a demonstrable safety need:

If the defendant requests, and in the Office's judgment the defendant's deportation to [home country] at the conclusion of sentence in connection with this case would pose a significant threat to the defendant's safety, and S Visa relief is warranted, the Office will recommend to [DOJ] that the defendant and, if appropriate, other individuals, be issued an S Visa Classification...

Ultimately, an immigration judge ordered Coronado's removal from the U.S. in June 2016. After a series of administrative appeals and appeals to the federal courts, Coronado became subject to a final order of removal and in 2019, he was deported.

FINDINGS

While the prospect of an S visa may be tempting bait for potential informants, in reality, the chances of securing one are slim to none.



While the prospect of an S visa may be tempting bait for potential informants, in reality, the chances of securing one are slim to none. As Table 1 indicates, the annual numerical limitations set by Congress have never been reached; with respect to the S-6 (terrorism) visa, only six have been issued in the program's 25-year history, five of which were awarded in 1995, the time the visa first became available.

Table 1.Foreign Citizens Admitted Under S Visa Category, FY1995 — FY2018 58

Fiscal Year	S-5 Visas Issued	S-6 Visas Issued	S-7 Visas Issued
1995	54	5	77
1996	1996 98		21
1997	35	0	19
1998	56	0	36
1999	50	0	33
2000	21	0	17
2001	105	0	122
2002	43	0	40
2003	30	0	28
2004	44	0	37
2005	53	0	74
2006	91	0	80
2007	44	0	0
2008	12	n/a	6
2009	5	n/a	10
2010	3	n/a	3
2011	57	n/a	61
2012	60	0	71
2013	27	0	20

	1	1	1
2014	28	0	19
2015	26	0	15
2016	45	0	40
2017	25	0	15
2018	16	1	16
Total	1028	6	860

One might be surprised by the rarity of S-6 visas; as explained above, the war on terror was at the forefront of Congress's mind in establishing, extending, and later making permanent the S visa program. But as some scholars and practitioners have noted, the lack of incentives for LEAs to apply for S-6 visas, coupled with the bureaucratic process involved in obtaining an S-6 visa, are likely to blame.⁵⁹ For these observers, the potential benefits LEAs stand to gain from making use of the visa's availability are outweighed by the lengthy process involved, especially if an LEA is free to circumvent the process or break its promises without recourse.⁶⁰ Data obtained by NACDL supports these arguments.

The potential benefits LEAs stand to gain from making use of the visa's availability are outweighed by the lengthy process involved, especially if an LEA is free to circumvent the process or break its promises without recourse.



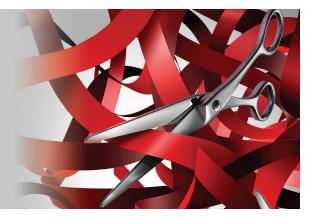
The data also makes plain that certain LEAs have been more willing than others to undertake sponsorship for its informants. As Table 2 indicates, from 2005 through 2018, about 93 percent of all applications that made it to USCIS were submitted by either the DEA, FBI or ICE (including the former INS). In that same period, applications submitted by any of the 94 USAOs account for only seven applications.

Table 2.S Visa Applications Received and Approved by USCIS, FY2005 — FY2018

LEA	Received (S-5 or S-6)	Received (S-7)	Approved (S-5 or S-6)	Approved (S-7)
ATF	12	7	10	6
СВР	1	1		
DEA	135	109	103	82
FBI	156	163	114	104
FDIC	1	0	0	0
ICE-HSI	130	124	110	117
IRS	4	6	2	3
DOJ-OIG	0	0	4	0
STATE/LOCAL	4	1	8	5
USAOs	7	8	0	0
U.S. Postal Inspection Service	2	1	0	0
U.S. Secret Service	1	2	1	2
TOTAL	453	422	352	319

That the various USAOs have sponsored so few applications for S status is notable in several respects. First, as described above, the DOJ has in the past emphasized the visa as an important tool in the nation's war on terror. Indeed, when the bill providing permanent authority for the program was sent to President Bush for his signature, the DOJ sent a letter to the White House expressing its strong support for the measure.⁶¹ Meanwhile, it appears that no S visas were issued to cooperators assisting the investigation of the September 11 attacks (according to the data, USCIS did not receive an application from *any* of the USAOs until 2014, long after that investigation had concluded). If, as the data suggests, the DOJ was once ambivalent about sponsoring foreign nationals, it is now openly opposed to the practice: in 2017, the U.S. Attorney's Manual was amended to provide that sponsorship for S visas should be undertaken *only* by LEAs, not by federal prosecutors.⁶² Evidently, this policy change is due to "logistical concerns" associated with the various monitoring and reporting requirements that would apply in cases where sponsorship is granted.⁶³

If, as the data suggests, the DOJ was once ambivalent about sponsoring foreign nationals, it is now openly opposed to the practice.



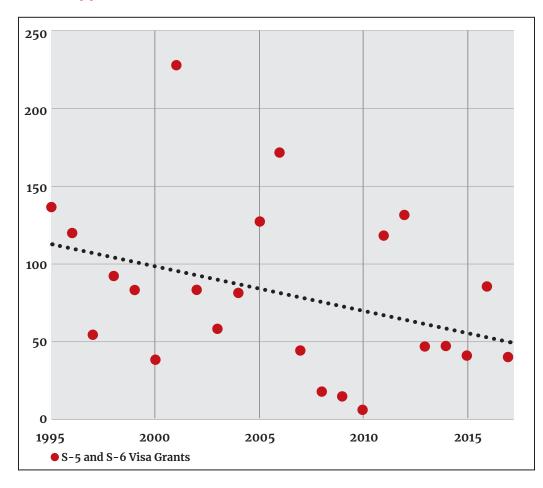
In all, despite the wide definitional scope of "law enforcement agency" under the S visa statute, the LEA with whom a foreign informant decides to cooperate appears to be a critical variable in the pursuit of an S visa.

Another important observation is the clear downward trend in the number of S visas issued annually. As Chart 1 illustrates, this trend appears to have sprung up almost immediately after the program's establishment.

The LEA with whom a foreign informant decides to cooperate appears to be a critical variable in the pursuit of an S visa.



Chart 1. S Visa Application Grants, FY1998 — FY2018



While describing the reasons for this trend is a bit like the blind men describing an elephant, a 2019 audit by the DOJ's Inspector General's Office ("Audit Report") suggests the main culprit is processing delays.⁶⁴ According to the Audit Report, staffing shortages; errors or omissions; requests for additional information;

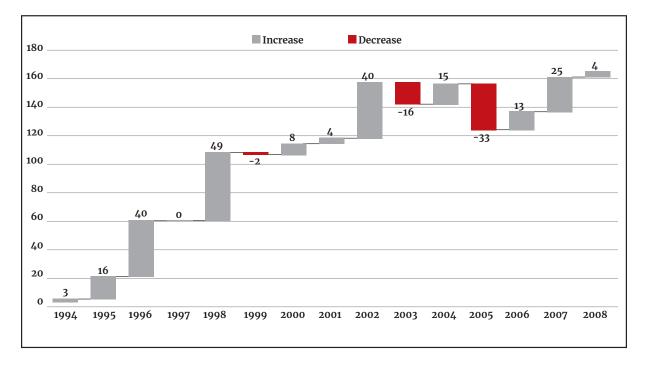
time spent translating documents; obtaining waivers of inadmissibility; and pending approvals from the requisite USAO are chiefly to blame.⁶⁵ Indeed, even small problems can lead an application to languish for years. One sponsoring agent reported having waited eight years for an application to be approved; another sponsoring agent reported that the approval time had "gone down" to seven years from ten; and a third sponsoring agent reported the quickest approval he had seen was five years. Consistent with these anecdotes, the Audit Report describes a general perception among LEAs that pursuing an S visa "was too difficult and lengthy, and not worth the effort."⁶⁶ In one case, an agent bucked the entreaties of his colleagues and decided to sponsor an informant — that application has been pending for so long that the informant seems "less cooperative" in providing assistance with the investigation.⁶⁷

One sponsoring agent reported having waited eight years for an application to be approved.



The data reinforces the Audit Report's findings. As Chart 2 illustrates, the OEO has experienced a backlog dating back to the beginning of the S visa program; this backlog continued to grow even as the number of applications the OEO received diminished.

Chart 2. OEO Backlog, FY1994 — FY2008



The USCIS has similarly been plagued by processing delays. As Chart 3 indicates, the agency appears to have processed an equal number of applications it received for FYs 2005-2010. Standing alone this might suggest that there is no backlog, but data obtained for FYs 2011-2013 militates against that possibility,

as the USCIS reportedly processed more applications than it received. To explain this discrepancy, one might argue that the data is inaccurate (as this Report explains, such inaccuracies are a systemic issue); another explanation — though not necessarily exclusive of the former one — is that the USCIS did, in fact, have a backlog of applications that was addressed in those years.

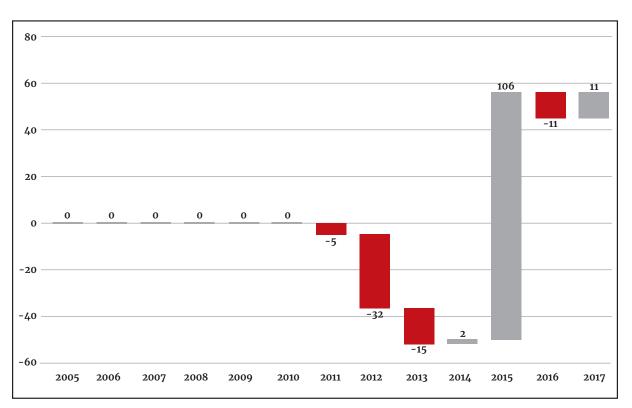


Chart 3. Annual Backlog of S Visa Applications, USCIS, FY2005 — FY2018

In any case, the data suggests that the USCIS backlog is more likely due to temporary staffing shortages or long-standing (and uncorrected) deficiencies in a subset of applications, as opposed to what evidently appears to be more systemic deficiencies at the OEO. That said, the USCIS should not take more credit than is due: between FYs 2011 and 2017, 82 applications were withdrawn from consideration (see Appendix B).

So long as a foreign informant is willing (and able) to wait for years as their application makes its way through the bureaucratic morass, the toughest hurdle may be convincing a LEA to sponsor the application in the first instance. While processing delays appear to be a hallmark feature of the S visa program, the data suggests that nearly all applications are eventually approved. For FYs 1994-2009, the OEO approved 1,012 of the 1,174 applications it received — an approval rate of approximately 86 percent (see Appendix D). Meanwhile, for FYs 2005-2018, the USCIS denied only two applications. Thus, so long as a foreign informant is willing (and able) to wait for years as their application makes its way through the bureaucratic morass, the toughest hurdle may be convincing a LEA to sponsor the application in the first instance.

Finally, the data indicates that S visa recipients are by and large highly productive cooperators.⁶⁸ For FYs for which data is available, their cooperation led, on average, to the convictions of 211 defendants during the FY their visa was issued. One explanation is that the grant of S visas are tied to large-scale investigations involving many potential defendants at multiple levels of an organization.

Table 4.Figures by Close of Fiscal Year, FY1995 — FY2004 and FY2012 — FY2018

FY	S-5 and S-6 Visas Issued	Successful Prosecutions	Defendants Convicted	Successful Investigations	Targets of Successful Investigations
1995	59	217	359	15	91
1996	98	62	214	58	173
1997	35	36	72	3	20
1998	56	153	240	48	124
1999	50	124	181	50	121
2000	21	89	132	46	186
2001	105	n/a	n/a	n/a	n/a
2002	43	191	225	84	263
2003	30	114	200	71	159
2004	44	340	272	n/a	n/a
2012	60	417	n/a	294	n/a
2013	27	148	n/a	74	n/a
2014	28	78	n/a	57	n/a
2015	26	92	n/a	96	n/a
2016	45	124	n/a	127	n/a
2018	17	39	n/a	45	n/a

S visa recipients similarly provide substantial "continued benefits" to LEAs in the years after being awarded their visa. As shown in Table 5, from the inception of the S visa program through 2004, the cooperation of S visa holders resulted in 1,237 additional convictions (*i.e.*, convictions obtained subsequent to being awarded an S visa).

Table 5.S Visa Continued Benefits, FY1996 — FY2004

FY	Successful Prosecutions	Defendants Convicted	Successful Investigations	Targets of Successful Investigations
1996	217	359	15	91
1997	340	628	81	350
1998	n/a	n/a	n/a	n/a
1999	32	20	32	103
2000	89	185	61	40
2001	2	3	14	50
2002	12	10	7	78
2003	33	28	8	67
2004	7	4	n/a	n/a
TOTAL	732	1237	218	779

RECOMMENDATIONS

NACDL proposes that certain changes to the S visa program will reduce unnecessary and harmful roadblocks, and more closely align the program's outcomes with Congress's intent in establishing it.

Simplify the application process by shifting the focus away from layered oversight.

Streamlining the application process is essential to curing the S visa program's defects. To achieve this goal, a sensible place to start is by rewriting the rules and regulations to reflect the establishment of the DHS and its responsibility to confer immigration statuses, and clearly set forth the agency's authority throughout the application process.

The present system attempts to fit a square peg in a round hole. Prior to establishment of the DHS, the authority to interpret, implement, enforce, and adjudicate immigration law lay almost exclusively with the INS, then a component agency of the DOJ. This top-to-bottom approach, combined with the fact that LEAs such as the FBI, DEA, ATF and USMS operate under the jurisdiction of the DOJ, provided for strict control over the administration of the S visa. That changed when, upon passage of the Homeland Security Act of 2002, the INS was abolished, and its functions were transferred to the newly established DHS. But while significant discretionary authority over the nation's immigration laws was ceded to the DHS (a sprawling bureaucracy with a mission and policy objectives distinct from those of the DOJ), the rules that govern the S visa program were never changed to reflect the establishment of this entirely new agency. Meanwhile, the DOJ retains significant involvement in the S visa approval process for various reasons, including the fact that most applications are submitted by LEAs that fall under the purview of the DOJ. As such, the rules do not address, much less contemplate, the administrative burdens and difficulties inherent in needed inter-agency coordination, including coordination among the DHS and DOJ. Worse still, the advent of inter-agency red tape is precisely what the rules intended to avoid — that is, the rules clearly seek to *limit* INS's discretionary authority in the decision-making process.⁶⁹

The rules do not address, much less contemplate, the administrative burdens and difficulties inherent in needed inter-agency coordination, including coordination among the DHS and DOJ.



It is for this same reason that NACDL proposes to eliminate ICE-HSI's discretionary authority in the application process. While the directorate's mission may advance an important and legitimate interest, its role in adjudicating S visa requests is at best duplicative. For example, in cases where ICE-HSI is the sponsoring LEA, why is it necessary to obtain the same certifications once again? In cases where ICE-HSI is not the sponsoring agency, it will invariably have little or no knowledge of the underlying investigation and, as a corollary, will have less insight into an informant's "value" as a cooperator. Potential drawbacks abound, including the risk of deprioritization in favor of informants the LEA *itself* has decided to sponsor. Eliminating a layer of bureaucratic oversight would serve the interests of both the federal government and potential informants: the more quickly applicants secure S status, the less likely they are to become jaded by the process and less willing to cooperate. In all, because ICE-HSI adds little value and more delay to the application process, it undermines the S visa program's efforts to incentivize cooperation with a powerful, tangible immigration benefit.

Eliminating a layer of bureaucratic oversight would serve the interests of both the federal government and potential informants.



Amend the application procedure to provide for simultaneous review by the OEO and USCIS.

Although NACDL understands the need for complete and coordinated review by all agencies concerned, the current application process requires far too much time before a "yes" or "no" answer can be provided. Some method should be developed, or existing methods should be refined, to allow for the OEO and USCIS to conduct their respective reviews simultaneously. Importantly, the factors that inform the OEO and USCIS's review are mutually exclusive. The OEO must consider the negative and favorable factors warranting an exercise of discretion on the individual's behalf.⁷⁰ The USCIS, for its part, is charged with evaluating the grounds of inadmissibility that apply to the witness and whether a waiver of inadmissibility should be granted.⁷¹ Indeed, the USCIS is expressly prohibited from inquiring about the foreign national's "role" in cooperating with the sponsoring LEA, including "the type of criminal activity" for which the foreign national is an informant or witness and "any specific information about the case" in which the foreign national may be involved.⁷²

To be sure, a determination by the USCIS to grant a waiver of inadmissibility is based, in part, on a recommendation of the Assistant Attorney General, Criminal Division, to grant such a waiver. But because the USCIS has exclusive authority to access a foreign national's A-file (which likely contains more factors of inadmissibility not known to the DOJ or sponsoring LEA), the Assistant Attorney General's recommendation will at times be informed by incomplete information. This change should not be controversial, as even the DOJ acknowledges that simultaneous review would likely reduce administrative delays.⁷³

Improve inter-agency coordination and tracking by establishing a centralized case management system.

If processing delays are due to a lack of coordination between agencies with a stake in the process, a sensible measure is to focus on developing a centralized information and communication technology system. The reasons for systemic delay in the S visa program are manifold. But many causes of such delays could be lessened or eliminated altogether through better use of technology. For instance, the DOJ's Inspector General describes a "troubling lack of transparency" in the application process due to the absence of any formal mechanism for tracking, making consistent, or ensuring the quality of interagency communications.⁷⁴ In fact, the present means of coordination between agencies and the systems used to track S visa information are so poor that, during the preparation of the Audit Report, the Inspector General was unable to conduct a "reliable analysis" of the program as a whole.⁷⁵ With respect to the government's ability to monitor S visa recipients' whereabouts and activities, its systems were so poor that the Inspector General was unable even to "identify the complete universe" of foreign nationals who federal LEAs were obligated to monitor.⁷⁶ Aside from making it easier to track applications and resolve issues with sponsorship as they arise, a centralized system of information sharing and coordination across the various agencies would provide a basic, but critical, means to monitor S visa recipients.

Many causes of such delays could be lessened or eliminated altogether through better use of technology.



CONCLUSION

Congress created the S visa with two important goals in mind: to incentivize and sufficiently protect foreign informants and to strengthen law enforcement, particularly in its fight against terrorism. But the government's administration of this visa has utterly failed to accomplish its aims. It has ignored the line between extensive, but sufficient rules and regulations and needless red tape. Not surprisingly, LEAs are reluctant to sponsor its foreign informants. Meanwhile, these same LEAs continue to dangle the possibility that foreign informants may one day receive an S visa, and due to the harsh immigration consequences flowing from most criminal convictions, the prospect of obtaining one will continue to be a key incentive for foreign nationals to cooperate. S visas thus give LEAs the opportunity to exploit this desire in exchange for nothing but empty promises.

NACDL submits that a more efficient approach would aid LEAs in administering the visa closer to the program's legislative intent. Rather than merely serve as tempting bait to recruit foreign informants, the S visa presents an opportunity to assist LEAs while *also* protecting foreign nationals (including longstanding LPRs), ultimately developing a more flexible and nuanced understanding of immigration and citizenship. Congress and the various agencies involved in the decision-making process must act to conform the administration of the S visa program with its stated intent.

ENDNOTES

- 1. Ann C. Rowland, Effective Use of Informants and Accomplice Witnesses, 50 S.C. L. REV. 679, 697 (1999).
- 2. 147 Cong. Rec. H5699 (Sept. 14, 2001)(statement of Rep. Lee).
- 3. 61 Fed. Reg. 1837 (Jan. 24, 1996).
- 4. The Immigration and Naturalization Service ("INS") was the DOJ agency that, prior to 2003, served as the primary agency responsible for overseeing the immigration and naturalization processes. As a result of the Homeland Security Act of 2002 (Pub. L. No. 107–296, 116 Stat. 213), INS was disbanded in 2003, and its functions were delegated to three newly established agencies: the United States Citizenship and Immigration Services ("USCIS"), Immigration and Customs Enforcement ("ICE"), and Customs and Border Patrol.
- 5. Federal Witness Security Program and Protection of Foreign Nationals: Hearing Before the House Subcomm. on Government Information, Justice, and Agriculture, 101st Cong. 1, 49 (1990) (statement of Donald Bierman) (describing hardships endured by foreign nationals as a result of their lack of immigrant status).
- 6. 145 CONG. REC. H10776 (Oct. 26, 1999) (statement of Rep. Lee) (noting that the S visa is "necessary because many of these people are in danger in their home countries after they have cooperated").
- 7. See Terrorist Defectors: Are We Ready?: Hearing Before the Comm. on Governmental Affairs, 102d Cong. 7 (1992) [hereinafter "Terrorist Defectors"] (statement of Sen. Lieberman).
- 8. Douglas Pasternak, Squeezing Them, Leaving Them; Some Defectors Say Washington Isn't Always Good About Keeping Its Word, U.S. News & WORLD REPORT, July 8, 2002.
- 9. Terrorist Defectors, supra n.7, at 33.
- 10. Id. at 28-29 (statement of FBI Chief of Counter-Terrorism Neil J. Gallagher).
- 11. 145 CONG. REC. H10775-76 (daily ed. Oct. 26, 1999) (statement of Rep. Lee).
- 12. See S. 1424, 107th Cong. (2001) (enacted).
- 13. 147 CONG. REC. S9406 (daily ed. Sept. 13, 2001) (statement of Sen. Leahy).
- 14. 147 CONG. REC. H5698 (daily ed. Sept. 14, 2001) (statement of Rep. Gekas).
- 15. Press Release, U.S. Dep't of Justice, Attorney General Ashcroft Announces Responsible Cooperators Program (Nov. 29, 2001), https://www.justice.gov/archive/ag/speeches/2001/agcrisisremarks11_29.htm.
- 16. David Stout, U.S. Citizenship May Be Reward in Terror War, Ashcroft Says, N.Y. TIMES, Nov. 29, 2001, at https://www.nytimes.com/2001/11/29/politics/us-citizenship-may-be-reward-in-terror-war-ashcroft-says.html.
- 17. DOJ Oversight: Preserving Our Freedoms While Defending Against Terrorism: Hearing Before the S. Comm. on the Judiciary, 107th Cong. (2001) (statement of Viet D. Dinh).
- 18. 8 C.F.R. § 214.2(t)(1).
- 19. *Id.* § 214.2(t)(2). Only a federal LEA may request S-6 nonimmigrant classification, although either a state or federal LEA may request S-5 nonimmigrant classification.
- 20. See 8 U.S.C. § 1184(k)(3).
- 21. See id. §1184(k)(1).

- 22. Withholding of removal provides that a deportable noncitizen may avoid removal if she can show that it is more likely than not that her life or freedom will be threatened if she is removed to a particular country. *See id.* § 1231(b)(3)(A).
- 23. 8 C.F.R. § 2142(t)(7).
- 24. OFFICE OF INSPECTOR GENERAL, U.S. DEP'T OF JUST., AUDIT OF THE DEPARTMENT OF JUSTICE'S USE OF IMMIGRATION SPONSORSHIP PROGRAMS (JUNE 2019).
- 25. Form I-854A is used to apply for nonimmigrant status; Form I-854B is used to apply for adjustment to permanent status. These forms, together with the accompanying instructions, provide an overview of the application process and are available as an appendix to this Report.
- 26. 8 U.S.C. § 212(a).
- 27. 8 C.F.R. § 214.2(t)(4)(i)(B).
- 28. Mary Healy, Office of Enforcement Operations' Policy and Statutory Enforcement Unit, 55 U.S. Att'ys Bull. 15, 21 (2007).
- 29. Audit Report at 22; see also 8 CFR § 214.2(t)(4)(ii)(A).
- 30. Id. § 214.2(t)(4)(ii)(B).
- 31. See id. § 214.2(t)(4)(ii)(D).
- 32. Audit Report at 22; DHS, Privacy Impact Assessment for the ICE Parole and Law Enforcement Programs Unit Case Management Systems (2018).
- 33. An Alien File, or "A-File," are records maintained by USCIS of a foreign national as he or she passes through the immigration and inspection process, or is the subject of a law enforcement action against or involving him or her.
- 34. Although the ground referring to Nazis is dated in its scope (and genocide is also rare in the context of S applications), the exclusion of persons who have participated in extra-judicial killing or any act of torture actually has potentially broad effect over possible S applicants. Healy, *supra n.1*, *at n.26*.
- 35. 8 U.S.C. § 214.2(t)(5)(iii).
- 36. Id.
- 37. 8 U.S.C. § 12550.
- 38. See 8 C.F.R. §§ 245.11(a)(2)-(4). This same process applies to cases where a sponsoring LEA seeks adjustment of status for an informant's family members.
- 39. See id. § 245.11(f).
- 40. See 8 U.S.C. § 1151.
- 41. 8 U.S.C. § 1153(b).
- 42. Christina M. Ceballos, Comment, Adjustment of Status for Alien Material Witnesses: Is It Coming Three Years Too Late?, 54 U. MIAMI L. REV. 75, 84–85 (1999).
- 43. 60 Fed. Reg. 44,261 (1995).
- 44. Nora V. Demleitner, Immigration Threats and Rewards: Effective Law Enforcement Tools in the "War" on Terrorism, 51 EMORY L.J. 1059, 1074 (2002).
- 45. Id. at 1060.

- 46. Cora Currier, *Revealed: The FBI's Secret Methods for Recruiting Informants at the Border*, The INTERCEPT (Oct. 5, 2016) (describing internal FBI documents instructing agents to use an "immigration relief dangle" when attempting to recruit informants).
- 47 Andrew Becker, Retired Drug Informant Says He Was Burned, NPR (Feb. 13, 2010).
- 48. Transportation Security Challenges Post-9/11 Before the S. Comm. on Commerce, Science and Transportation, 111th Cong. (2009).

49. Id.

- 50. Maria Sacchetti, ICE says they arrested a human-rights violator. Retired federal agents call him a hero., WASH. POST (May 31, 2017).
- 51. Demleitner, Immigration Threats and Rewards: Effective Law Enforcement Tools in the "War" on Terrorism, supra n.42, at 1060.
- 52. The author of this Report was retained by Mr. Coronado pro bono beginning in 2017.
- 53. Nervin Coronado v. United States, No. 17-CV-02579 (ARR), Gov't Resp. to Pet's Mtn., ECF No. 5, at 9 (E.D.N.Y. Jun. 28, 2017).
- 54. See id.
- 55. See id.
- 56. *Id.* The court went on to deny Coronado's motion as beyond the scope of a Motion for Reconsideration under Fed. R. Civ. P. 60(b). *See id.* ECF No. 20.
- 57. Office of the U.S. Att'ys, U.S. Dep't of Justice, U.S. Attorneys' Manual § 1862 (2011).
- 58. All data used in the Charts and Tables contained in this Report are drawn from one or more of the following sources: (i) data obtained from the U.S. Citizenship and Immigration Services in response to Freedom of Information Act requests; and (ii) data contained in annual reports transmitted to Congress by the DOJ, as required by 8 U.S.C. § 1184 (j)(5) ("DOJ Reports"). "N/a" indicates data that was unavailable at the time of publication but may have since become available. It is important to note that there are discrepancies in the S visa data between sources within the DOJ and at DHS. As discussed in this Report, these discrepancies are largely due to the fact that the various DOJ component agencies, in addition to DHS, are responsible for tracking the data to the best of their abilities. But because no single agency or sub-agency has a complete window into the data, and because there is no centralized tracking system that reaches across all relevant agencies and sub-agencies, any attempt to reconcile the data will result in some degree of incongruity. Thus, the source of the data corresponding to each chart and table is reflected in the corresponding endnote, and where the data among the DOJ and DHS are in conflict, this Report has chosen to include the data reported in the DOJ Reports. The source of the data contained in Chart 1 are the DOJ Reports, with the exception of the data for Fiscal Years 2005-2011 and 2017. The source of the data for those years is USCIS.
- 59. Emily Stabile, Recruiting Terrorism Informants: The Problems with Immigration Incentives and the S-6 Visa, 102 CALIF. L. Rev. 235, 270 (2014).

60. Id.

- 61. Letter from the U.S. Dep't of Justice to President George W. Bush (Sept. 20, 2001), *at* https://www.georgewbushlibrary.smu.edu/en/Digital-Library---2/~/-/media/DB5A2E9BD3D04C9B94A9AF1188D4551E.ashx
- 62. Office of the U.S. Att'ys, U.S. Dep't of Justice, Justice Manual § 9-72.110.

63. See Audit Report at 18.

64. Id.

65. Id.

66. Id.

67. Id. at 25.

- 68. 8 U.S.C. § 1184(k)(4). These reports require, in part, that DOJ provide information relating to (a) the number of successful criminal prosecutions or investigations resulting from the cooperation of such noncitizens; (b) the number of terrorist acts prevented or frustrated resulting from the cooperation of such noncitizens; and (c) the number of such nonimmigrants whose admission or cooperation has not resulted in a successful criminal prosecution or investigation or the prevention or frustration of a terrorist act.
- 69. See 60 Fed. Reg. 44,260 (1995) ("A central concern of the comments offered by interested LEAs during the Service's drafting process was, given the limited number of available S nonimmigrant visas specified under the statute, how requests for this classification will be evaluated. The regulation provides that the Criminal Division of the [DOJ] will establish appropriate procedures for receiving and reviewing Form I-854 and determining which applications will be forwarded to the Commissioner with a recommendation for approval.").
- 70. 8 C.F.R. § 214.2(t)(4)(ii)(A).

71. See U.S. Citizenship & Immigration Servs., Policy Manual, S Nonimmigrant Visa Category, U. (Apr. 24, 2020).

72. Id.

- 73. Audit Report at 38.
- 74. Id. at 24 (internal quotations omitted).
- 75. Id. at 23.
- 76. Id. at 26.

APPENDIX A

Reports prepared by the Department of Justice for the Committees on the Judiciary of the House of Representatives and the Senate, as required by 8 USC 1184 (k)(4).

CONTENTS
FY 1995 1 (page 37)
FY 1996 6 (page 38)
FY 199714 (page 40)
FY 1998 21 (page 42)
FY 199929 (page 44)
FY 2000
FY 200144 (page 47)
FY 200252 (page 49)
FY 200357 (page 51)
FY 200462 (page 52)
FY 201266 (page 53)
FY 2013
FY 2014
FY 2015
FY 201680 (page 56)
FY 2018

For original size page pdf of Appendix A, visit www.NACDL.org/SVisaReport

		1995	U. S. Department of Justice Criminal Division		
					The Honorable Henry J. Hyde Page 2
-	Office of the Assistant Auo	mey General	Washingson, D.C. 2030 1995		United States is essential to the success of an authorized criminal investigation or the successful prosecution of an individual involved in a criminal organization or enterprise. Id. The number of witnesses or informants who may be granted (S) (i) nonimmigrant classification in any fiscal year may not exceed 100. 8 U.S.C. \$ 1184(j) (1).
	Chairman Committee on United State: Washington, I Dear Mr. Cha This le of the House \$ 1184(j)(5) been admitte 101(a)(15)(S 8 U.S.C. § 1 report submi prepared in Service. The Vio Inmigration nonimmigrant witnesses an chasificati Attorney Gen reliable inf enterprise, to Federal co General must ¹ The S as S-5 under as Witnesses 60 Fed. Reg. § 212.14(t)	<pre>irman: ttter is to report of Representative, concerning alien d to nonimmigrant) of the Immigrati 101(a)(15)(S)(1995 tted under the ter consultation with lent Crime Control and Nationality Ac visa classificati d informants. The on, (S)(i), may be eral has determine thas determine control on concerning which the alien is r state law enforce rt. 8 U.S.C. \$ 11 . also determine th . also determine the . the implementing i and Informants; N 44260 (1995) (to 1)).</pre>	ntatives to the Committee on the Judiciary s, as required by 8 U.S.C. witnesses or informants who have status pursuant to Section on and Nationality Act (the Act),). This is the first such annual ns of the Act. It has been the Immigration and Naturalization kground Act of 1994 amended the t to establish a new "S" on for two categories of alien first category of nonimmigrant granted to an alien who the d is in possession of critical g a criminal organization or willing to supply or has supplie ement authorities or to a Federal O(a) (15) (5) (1). The Attorney at the alien's presence in the lassification has been designated onimmigrant S Classification, be codified at 8 C.F.R.		The second category of nonimmigrant classification, (S) (ii) may be granted to an allen who the Secretary of State and the Attorney General jointly determine is in possession of critical reliable information concerning a terrorist organization, enter- prise, or operation, which the alien is willing to supply or has supplied to Federal law enforcement authorities or to a Federal court. 8 U.S.C. \$ 1101(a) (15)(S)(ii) ² . The Secretary of State and the Attorney General must also determine that the alien will be or has been placed in danger as a result of providing such information, and is eligible to receive a reward under Section 36(a) of the State Department Basic Authorities Act of 1956. If The number of witnesses or informants who may be granted (S)(ii) visas in any fiscal year may not exceed 25. 8 U.S.C. § 1184(j)(1). The Act also provides for nonimmigrant visas for immediate family members of (S)(i) and (S)(ii) category alien witnesses on informants, including spouses, married and unmarried sons and daughters, and parents. 8 U.S.C. § 1101(a)(15)(5). ³ The Act requires that the Attorney General determine wheth a ground for exclusion exists with respect to any S category via applicant. The Attorney General has discretion to waive most grounds for exclusion if the Attorney General considers that it is in the national interest to do so. 8 U.S.C. § 1182(d)(1). The Attorney General may adjust the status of an S(i) nonimmigrant to that of an alien lawfully admitted for permanent residence, 1 <i>f</i> , in the opinion of the Attorney General, the alien has subplied information as agreed, and the information has substantially contributed to a successful criminal investigation or prosecution. 8 U.S.C. § 1255(i)(1). Similarly, the Attorney * The nonimmigrant classification S(ii) has been designated as S-6 under the implementing regulation. 60 Fed. Reg. 44260 (to be codified at 8 C.F.R. § 214.2(t)(2)).
V 400		CRM Exec Sec/Hess/T'Ka	ch/Weintraub/Voreas/S-Visa Files	/ FY 19	
-Y 199	<u> </u>				
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	The Honorable Page 3	e Henry J. Hyde			The Honorable Henry J. Hyde Page 4
	an alien law has, in the s information a contributed t terrorism, or individual in nonimmigrant	fully admitted for sole discretion of as agreed, the info to the prevention of r to a successful i nvolved in such an has received a rem ment Basic Authori	of an S(ii) nonimmigrant to that a permanent residence, if the alier the Attorney General, supplied ormation has substantially or frustration of an act of investigation or prosecution of an act of terrorism, and the vard under Section 36(a) of the ies Act of 1956. 8 U.S.C.		 (E) the number of such nonimmigrants who have failed to report quarterly (as required under the Act) or who have been convicted of crimes in the United States after the date of their admission as such a nonimmigrant. 18 U.S.C. § 1184(j)(5). Responsibility for compiling this report has been delegated to the Assistant Attorney General, criminal Division, in consultation
	An alie: or S(ii) cat Attorney Gen one year or n must waive th application deportation resident sta	n witness or inform egory nonimmigrant ral, may not be ci- more of imprisonme he right to contes: for withholding of instituted before tus, and must abid r restriction impor	aant admitted as either an S(i) must report quarterly to the onvicted of any crime punishable l t after the date of admission, c, other than on the basis of an deportation, any action of the alien obtains lawful permanent a by any other condition, sed by the Attorney General.	y	In construction with the commissioner of the immigration and Naturalization Service. 60 Fed. Reg. 44260, 44268 (to be codified at 8 C.F.R. § 214.2(t)(8)). <u>Annual Report for Fiscal Year 1995</u> In accordance with these statutory reporting requirements, the following information is submitted regarding the issuance of S visa classifications during fiscal year 1995: (A) In fiscal year 1995, 59 witnesses or informants and
	to make an a	nnual report to Co	equired by 8 U.S.C. § 1184(j)(5) agress regarding the granting of fically, the Act requires that:		and informatic were granted S classification nonimmigrant status. Of these, 54 alien witnesses and informants were classified as S(i) nonimmigrants, along with 71 family members the other indication.
	(5) (t an th)he Attorney Gener nually to the Comm e House of Represe	al shall submit a report littee on the Judiciary of itatives and the Committee the Senate concerning -		 S status. Additionally, five alien witnesses and informants were classified as S(i) category non- immigrants, together with six family members who obtained derivative S status.⁴ (B) The cooperation of 36 such aliens resulted in
	(A (B) the number of so or investigation	ich nonimmigrants admitted; accessful criminal prosecutions is resulting from cooperation of		successful criminal prosecutions. The cooperation of the remaining 23 aliens contributed to successful investigations.
	(C) the number of the frustrated resu	errorist acts prevented or lting from cooperation of such		 (C) No terrorist acts are known to have been prevented or frustrated by the cooperation of the above noted aliens. (D) No withorcos an information of the second seco
	(D	aliens;) the number of s or cooperation i criminal prosec	ich nonimmigrants whose admission nas not resulted in successful ution or investigation or the rustration of a terrorist act; and		(D) No witnesses or informants were admitted whose cooperation failed to result in a successful oriminal prosecution or investigation or the prevention or frustration of a terrorist act.
					⁴ The time available for processing applications for S visa classification in fiscal year 1995 was limited to the period between the promulgation of implementing regulations (August 25, 1995) and the end of the fiscal year (September 30, 1995).

FY 1995 | p. 3

FY 1995 | p. 4

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				1996	//	996.
1	The Honorable Henry J. Hyde Page 5)		U. S. Department of Justice Criminal Division	
	(E) None of the above-noted S classification nonimmigrants				Oriminal Division	
	failed to report quarterly, as required under the Act, or were convicted of crimes in the United States		JCK:FDH:MHK: Typed: 8/14/	SJT:BW:SV:bjp 97	CTS: 970007455	
	between the date of their admission as such a non- immigrant and the end of the fiscal year. ⁵	· · ·	Office of the Assistant Auc	omey General	Washington, D.C. 20530	
	Please do not hesitate to contact me if I can be of further assistance with regard to this or any other matter.					
	Sincerely,					
			The Hoporable	e Orrin G. Hatch		
	John C. Keeney		Chairman Committee on	the Judiciary		
	Acting Assistant Attorney General		United States Washington, I		•	
			Dear Mr. Chai			
					the Committee on the Judician equired by 8 U.S.C.	
			been admitted 101(a)(15)(S)	to nonimmigrant sta	tnesses or informants who have tus pursuant to Section	
			report submit	ted under the terms	This is the second such annu	lal
			Service.	consultation with the	Immigration and Naturalizati	lon
				Backgr		
			nonimmigrant	wice clocation Act to	t of 1994 amended the o establish a new "S" for two categories of alien	
			classificatio	(S)(i) may be created as $(S)(i)$	rst category of nonimmigrant	
			reliable info	rmation concerning a	s in possession of critical criminal organization or	
			or state cour		authorities or to a Federa	led
		ECORD		also determine that t	the alien's presence in the	
		HRON EENEY IESS				
	⁵ The aliens approved for S visa classification in fiscal year 1995 were all approved during the last week of the fiscal year.	ILLIO		i) nonimmigrant class the implementing reg	ification has been designate ulation. Nonimmigrant Class C.F.R. § 214.2(t)(1)(1997).	- d es;
				ob and informants, o	C.F.R. § 214.2(t)(1) (1997).	•
FY 199	95 p. 5	FY 1	996 p. 6			2
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	.e Honorable Orrin G. Hatch		Honorabi	le Orrin G. Hatch		
	Page 2		_age 3			
	United States is essential to the success of an authorized criminal investigation or the successful prosecution of an individual involved in a criminal organization or enterprise. Id. The number of the criminal organization or enterprise.		General may an alien law has, in the	adjust the status of fully admitted for p	an S(ii) nonimmigrant to tha ermanent residence, if the al he Attorney General, supplied	t of ien
	13. The number of witnesses or information or enterprise. (S)(1) nonimigrant classification in any fiscal year may not exceed 200. 8 U.S.C. \$ 1184(k)(1).		contributed	to the provention	mation has substantially	
	The second esterant of main in the second esterant		individual i	nvolved in such an ac	vestigation or prosecution of ct of terrorism, and the	an
	Attorney General jointly determine is in program and the		State Depart § 1255(i)(2)		es Act of 1956. 8 U.S.C.	
	prise, or operation, which the alien is willing to supply or has		An alie or S(ii) cat	n witness or informar	nt admitted as either an S(i) ist report quarterly to the	
	and the attorney (energy and an all and an all and the secretary of State		one year or	more of imprisonment	ficted of any crime punishabl	e by
	information, and is eligible to receive a reward under Section		application	for withholding of de	portation, any action of	n
	The number of witnesses or informants who may be granted (S) (ii) visas in any fiscal year may not exceed 50. 8 U.S.C. $$1184(K)(1)$.		limitation o	r restriction imposed	y any other condition, by the Attorney General.	ent
	The Act also provides for must be		8 U.S.C. § 1	104(R/(4).		
	informants, including sponses partial category alien witnesses or		The Att	<u>Reporting F</u> orney General is requ		. ·
	The lot remine that (1 a) (3).				ered by 8 U.S.C. § 1184(k) (5) ress regarding the granting of ally, the Act requires that:	
	Category wise applicant the sists with respect to any S				shall submit a report annual Judiciary of the House of	
	waive most grounds for inadmissibility if the Attorney General considers that it is in the national interest to do so. 8 U.S.C. \$ 1182(d)(1).			presentatives and the e Senate concerning -		of
	The Attorney General may adjust the status of an S(i)				nonimmigrants admitted;	
	residence, if, in the opinion of the Attorney General, the alien		(B)	the number of succ or investigations of such aliens;	essful criminal prosecutions resulting from the cooperation	on
	substantially contributed to a successful criminal investigation or prosecution. 8 U.S.C. § 1255(i)(1). Similarly, the Attorney		(C)	the number of terr	origt acts	
				frustrated resulti aliens;	ng from the cooperation of su	uch
	² The nonimmigrant classification S(ii) has been designated as S-6 under the implementing regulation. 8 C.F.R.		(D)	or cooperation has	nonimmigrants whose admission not resulted in a successful	on
	³ The nonimmigrant close first in the state				on or investigation or the tration of a terrorist act;	
	³ The nonimmigrant classification for eligible family members of S(i) and S(i) category nonimmigrants has been designated 8-7 under the implementing regulation. & C.F.R. \$ 214,2(1/3).		(E)	the number of such to report guarter!	nonimmigrants who have faile	ed .
	§ 214.2(t)(3).			or who have been c	y (as required under the Act onvicted of crimes in the Un	, ited
FY 199	96 p. 7	FY 19	996 p. 8			

. Honorable Orrin G. Hatch

States after the date of their admission as such a nonimmigrant.

8 U.S.C. § 1184(k)(5).

Responsibility for compiling this report has been delegated to the Assistant Attorney General, Criminal Division, in consultation with the Commissioner of the Immigration and Naturalization Service. 8 C.F.R. \$ 214.2(t)(8).

Annual Report for Fiscal Year 1996

In accordance with the statutory reporting requirements, this report addresses the issuance of S visa classifications during fiscal year 1996. Information is also provided for individuals issued S visa classifications during fiscal year 1995 because all S category nonimigrants remain under Law Enforcement Agency (LEA) supervision and, thus, continue to be subject to statutory reporting requirements for the entire period that they remain in nonimigrant status. The following results are derived from data submitted to the Criminal Division in the form of annual reports from the supervising LEAs for each alien in S category nonimigrant status.⁴

Reporting Results

(A) (1) In fiscal year 1996, 98 witnesses or informants and 21 family members were granted S classification nonimmigrant status. All of these individuals were classified as S(i) nonimmigrants.⁵

(2) In fiscal year 1995, 59 witnesses or informants and 77 family members were granted S nonimmigrant classification. Of these, 54 alien witnesses and informants were classified as S(1) nonimmigrants, along with 71 family members who obtained derivative S status. Additionally, five alien witnesses and informants

⁴Fiscal year 1995 was unique in that all S classifications awarded for that year were based on applications submitted within six weeks of the end of the fiscal year. The fiscal year 1995 annual report was, therefore, based on conclusions which were drawn from information provided in each alien's initial S visa application.

⁵ One additional family member of an individual granted S(i) nonimmigrant status in fiscal year 1995 was granted derivative S status in fiscal year 1996.

FY 1996 | p. 9

The Honorable Orrin G. Hatch Page 6

- (2) No terrorist acts are known to have been prevented or frustrated by the cooperation of aliens granted S nonimmigrant classification in fiscal year 1995.⁸
- (D) (1) No witnesses or informants granted S nonimmigrant classification in fiscal year 1996 were admitted whose cooperation failed to result in a successful criminal prosecution or investigation. The annual reports submitted for two allens indicate that in 1996 the allens' cooperation did not result in a successful procecution or investigation. However, our records indicate that in a successful information in a leading to one conviction and a successful investigation in Clombia and a successful investigation in Clombia and a successful investigation in Clombia and successful investigation in Clombia and successful investigation in Clombia and a successful and a successful investigation in clombia and a successful investigation in clombia and a successful and a successful investigation in clombia and a successful and a successful investigation in clombia and a successful and a successful investigation in clombia and a successful and a successful investigation in clombia and a successful and a successful investigation in clombia and a successful and a successful investigation in clombia and a
 - convictions and one state conviction.
 (2) One LEA reported that a witness, currently incarcerated, who was granted S nonimmigrant classification in fiscal year 1955 failed to provide the cooperation which was the basis of his being granted S nonimmigrant status. No other witnesses or informants granted S nonimmigrant classification in fiscal year 1955 were admitted whose cooperation failed to result in a successful prosecution or aliens granted S nonimmigrant classification in fiscal year 1955 in a successful prosecution or aliens granted S nonimmigrant classification in fiscal year 1955 in a successful prosecution or investigation. The annual reports submitted for two aliens granted S nonimmigrant classification in fiscal year 1955 indicate that the aliens' cooperation did not result in a successful prosecution or investigation. However, one of these aliens had provided information contributing to the convolved in a successful prosecution in the Other of 29 defendants. Information provided by the other of 29 defendants in a successful prosecution in the Other and a successful investigation involving United States law enforcement and leading to eight convictions in Germany.

⁴Supervising LEAs reported that two terrorist acts had been prevented or frustrated, however, further analysis revealed that while in both cases the alien provided significant testimony, neither incident actually involved the prevention or frustration of a terrorist act. In both instances, the alien's cooperation was one of the grounds upon which the alien was awarded S classification.

FY 1996 | p.11

1996	
The Honorable Orrin G. Hatch Page 5	
were classified as S(ii) category nonimmigrants, together with six family members who obtained derivative S status.	
(B) (1) The cooperation of 83 aliens granted S nonimulgrant classification in fiscal year 1996 resulted in 62 prosecutions and the conviction of 214 difendants. In addition, the cooperation of 12 of these aliens contributed to 58 shocessful investigations involving (123 targets. ⁶ Six of these cooperating individuals provided information which resulted in both successful prosecutions and successful investigations.	
(2) The cooperation of 45 aliens granted S nonimmigrant classification in fiscal year 1995 regulted in 217 prosecutions and the conviction of (359) defendants. In addition, the cooperation of 20 of these aliens contributed to (S) elucessful investigations involving 91 targets. Thirteen of these cooperating individuals provided information which resulted in both successful prosecutions and successful investigations.'	
(C) (1) No terrorist acts are known to have been prevented or frustrated by the cooperation of aliens granted S nonnmigrant classification in fiscal year 1996.	-
⁴ The total number of successful prosecutions and investigations reported by LEAs was higher than indicated herein because LEAs reported the number of successful results from each witness or informant. This resulted in numerous instances of "double counting" of successful prosecutions and investigations, as well as defendants and targets. To correct for this, an alien's cooperation was only counted as having led to a successful prosecution or investigation in the event that no other alien's cooperation had yet caused that case or investigation to be counted. The same approach was used for counting defendants and targets.	1/5
⁷ In the fiscal year 1995 Annual Report to Congress, 36 aliens were reported as having provided information which led to successful prosecutions, and 23 aliens were reported as having provided information which led to successful investigations. That information is correct. However, the number of successful prosecutions or investigations for each alien was not determined in that report. In this year's report, the LEAs were able to provide more accurate data from which to compile responses to these questions.	
FY 1995 L p. 10	

The Honor Page 7	able Orrin G. Hatch	
(E) (1)	Two witnesses or informants granted S nonimmigrant classification in fiscal year 1996 failed to report quarterly as required during fiscal year 1996 because the aliens had not been informed of their S nonimmigrant classification in a sufficiently timely manner to enable reporting prior to the end of the fiscal year."	
(2)	One witness or informant granted S nonimmigrant classification in fiscal year 1995 failed to report quarterly as required during fiscal year 1996 because the alien was not informed of his S nonimmigrant classification until the second quarter of this fiscal year. Also, one alien and his family members returned to their home country prior to being informed that they happen is awared S nonimmigrant classification. The sequence of the sequence of the sequence of the start of the sequence of the sequence of the sequence to their the sequence of the sequence of the sequence and planned lears this alien to be in good of an upcoming trial, at which the the into the U.S. for an upcoming trial, at which the the sequence of the sequence failed to make any of the required quarterly reports. These six aliens are believed to have left the United States and the supervising LEAs are in the process of seeking termination of the S nonimmigrant classification for each of these individuals.	
(F) (1)	Of the aliens granted S nonimmigrant classification in fiscal year 1996, no nonimmigrants were convicted of crimes in the United States between the date of their admission as such a nonimmigrant and the end of the fiscal year.	
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nonimmigr whether t	their Annual Reports concerning each alien in S ant classification, the supervising LEAs indicated he alien had made all of the required quarterly reports. ponses were verified by a careful review of all S-Visa	

	U.S. Department of Justice
	Criminal Division
The Honorable Orrin G. Hatch Page 8	
(F) (2) Of the aliens granted S nonimmigrant classification in fiscal year 1995, no nonimmigrants were convicted of crimes in the United States during fiscal year 1996.	Assistant Atturney General Washington, DC 20530-0001
year 1996. Please do not hesitate to contact me if I can be of further assistance with regard to this or any other matter.	
Sincerely,	The Honorable Henry J. Hyde
	Chairman Committee on the Judiciary
John C. Keeney Acting Assistant Attorney General	U.S. House of Representatives Washington, D.C. 20515
	Dear Mr. Chairman:
	This letter is to report to the Committee on the Judiciary of the House of Representatives, as required by 8 U.S.C.
	§ 1184(k) (5), concerning alien witnesses or informants who have been granted nonimmigrant status pursuant to §101(a) (15) (S) of
	the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(S)(1995). This report is for fiscal year 1997 and
	is the third such annual report submitted under the terms of the Act. It has been prepared in consultation with the Immigration
	and Naturalization Service.
	<u>Background</u> The Violent Crime Control Act of 1994 amended the
	Immigration and Nationality Act to establish a new "standard the Immigration and Nationality Act to establish a new "standard the witnesses and informatis. The first category of nonimmigrant classification, (S) (i), may be granted to an alien who the Attorney General has determined is in possession of critical reliable information concerning a criminal organization or enterprise, which the alien is willing to supply or has supplied to federal or state law enforcement authorities or to a Federal or state court. 8 U.S.C. \$ 1101(a) (15) (S) (i) ¹ . The Attorney General must also determine that the alien's presence in the United States is essential to the success of an authorized
	criminal investigation or the successful prosecution of an individual involved in a criminal organization or
	¹ The S(i) nonimmigrant classification has been designated as S-5 under the implementing regulation. Nonimmigrant Classes; Alien
	Witnesses and Informants, 8 C.F.R. § 214.2(t)(1)(1997).
The Honorable Henry J. Hyde Page 2	The Honorable Henry J. Hyde Page 3
enterprise. Id. The number of witnesses or informants who may be granted (S)(i) nonimmigrant classification in any fiscal year may not exceed 200. 8 U.S.C. § 1184(k)(1). The second category of nonimmigrant classification, (S)(ii), my be granted to an alien who the Secretary of State and the	an alien lawfully admitted for permanent residence, if the alien has, in the sole discretion of the Attorney General, supplied information as agreed, the information has substantially contributed to the prevention or frustration of an act of
Attorney General jointly determine is in possession of critical reliable information concerning a terrorist organization, enterprise, or operation, which the alien is willing to supply or has supplied to Federal law enforcement authorities or to a Pederal court. 8 U.S.C. \$ 1101(a)(15)(5)(ii) ² . The Secretary of State and the Attorney General must also determine that the alien will be or has been placed in danger as a result of providing such information, and is eligible to receive a reward under Section 36(a) of the State Department Basic Authorities Act of 1956. Id. The number of witnesses or informants who may be granted (S)(ii) visas in any fiscal year may not exceed 50. 8 U.S.C. \$ 1184(k)(1). The Act also provides for nonimmigrant visas for immediate family members of (S)(i) and (S)(ii) category alien witnesses or informants, including spouses, married and unmarried children and parents. 8 U.S.C. \$ 1101(a)(15)(S). ³ The Act requires that the Attorney General determine whether a ground for inadmissibility exists with respect to any S category visa applicant. The Attorney General ad sizertion to waive most grounds for inadmissibility if the Attorney General considers that it is in the national interest to do so. 8 U.S.C. \$ 1182(d)(1). The Attorney General may adjust the status of an S(i) nonimmigrant to that of an alien lawfully admitted for permanent residence, if, in the opinion of the Attorney General, the alien has supplied information as agreed, and the information has substantially contributed to a successful criminal investigation or prosecution. 8 U.S.C. \$ 1255(i)(1). Similarly, the Attorney General may adjust the status of an S(i) nonimmigrant to state of an S(ii) nonimmigrant to state of a S(ii) nonimmigrant to state of a successful criminal investigation or prosecution. 8 U.S.C. \$ 1255(i)(1). Similarly, the Attorney General may adjust the status of an S(ii) nonimmigrant to state of a signal substant at of	<pre>terrorism, or to a successful investigation or prosecution of an individual involved in such an act of terrorism, and the nonimmigrant has received a reward under Section 36(a) of the State Department Basic Authorities Act of 1956. 8 U.S.C. \$ 1255(i)(2). An alien witness or informant admitted as either an S(i) or S(ii) category nonimmigrant must report quarterly to the Attorney General, may not be convicted of any crime punishable by one year or more of imprisonment after the date of admission, must waive the right to contest, other than on the basis of an application for withholding of deportation, any action of. deportation instituted before the alien obtains lawful permanent resident status, and must abide by any other condition, limitation or restriction imposed by the Attorney General. 8 U.S.C. \$ 1184(k)(4). By regulation, 8 C.F.R. Part 214, the Assistant Attorney General for the Criminal Division was given the authority to approve applications for S nonimmigrant status. This authority has now been delegated to the Principal Deputy Assistant Attorney General for the Criminal Division. The Act contains a "summet" provision which, in effect, prohibits any alien from being granted S category nonimmigrant status after September 12, 1995. See 8 U.S.C. \$ 1184(k)(2). Unleas this provision is repealed or amended, the S nonimmigrant category will no longer be available to law enforcement agencies to use for those informants and witnesses who have provided substantial assistance to law enforcement Agencies (LEAs) indicates that the availability of S category nonimmigrant status is an important law enforcement community, consideration use have received from the Law Enforcement Agencies (LEAs) indicates that the availability of S category nonimmigrant status is an important law enforcement community, consideration is being given to appropriate legislative initiatives which would serve to repeal this "sumset" provision. Exporting Requirement The Attorney General is required by 8 U.S.C. \$ 1184(k)(5) to make an ann</pre>
Attorney General jointly determine is in possession of critical reliable information concerning a terrorist organization, enterprise, or operation, which the alien is willing to supply or has supplied to Federal law enforcement authorities or to a Pederal court. 8 U.S.C. § 1101(a)(15)(5)(ii) ² . The Secretary of State and the Attorney General must also determine that the alien will be or has been placed in danger as a result of providing such information, and is eligible to receive a reward under Section 36(a) of the State Department Basic Authorities Act of 1956. Id. The number of witnesses or informants who may be granted (S)(ii) visas in any fiscal year may not exceed 50. 8 U.S.C. § 1184(k)(1). The Act also provides for nonimmigrant visas for immediate family members of (S)(i) and (S)(ii) category alien witnesses or informants, including spouses, married and unmarried children and parents. 8 U.S.C. § 1010(a)(15)(S). ³ The Act requires that the Attorney General determine whether a ground for inadmissibility exists with respect to any S category visa applicant. The Attorney General has discretion to waive most grounds for inadmissibility if the Attorney General considers that it is in the national interest to do so. 8 U.S.C. § 1182(d)(1). The Attorney General may adjust the status of an S(i) nonimmigrant to that of an alien lawfully admitted for permanent residence, if, in the opinion of the Attorney General, the alien has supplied information as agreed, and the information has substantially contributed to a successful criminal investigation or prosecution. 8 U.S.C. \$ 1255(i)(1). Similarly, the Attorney General may adjust the status of an S(i) nonimigrant to that of a secretary of the information has substantially contributed to a successful criminal investigation or prosecution. 8 U.S.C. \$ 1255(i)(1). Similarly, the Attorney General may adjust the status of an S(i) nonimigrant to that of the status of an S(i) nonimigrant to that of	<pre>individual involved in such an act of terrorism, and the nonimmigrant has received a reward under Section 36(a) of the State Department Basic Authorities Act of 1956. 8 U.S.C. § 1255(i)(2).</pre> An alien witness or informant admitted as either an S(i) or S(ii) category nonimmigrant must report quarterly to the Attorney General, may not be convicted of any crime punishable by one year or more of imprisonment after the date of admission, must waive the right to contest, other than on the Deais of an application for witcholding of deportation, any action of. deportation instituted before the alien obtains lawful permanent resident status, and must abide by any other condition, limitation or restriction imposed by the Attorney General. 8 U.S.C. 5 1184(k)(4). By regulation, 8 C.F.R. Part 214, the Assistant Attorney General for the Criminal Division was given the authority to approve applications for S nonimmigrant status. This authority has now been delegated to the Principal Deputy Assistant Attorney General for the Criminal Division. The Act contains a "sumeet" provision which, in effect, prohibits any alien from being granted S category nonimmigrant status after September 12, 1999. Sege 8 U.S.C. § 1184(k)(2). Unless this provision is repealed or amended, the S nonimmigrant category will no longer be available to law enforcement agencies to use for those informants and witnesses who have provided substantial assistance to law enforcement Agencies (LEA) indicates that the availability of S category nonimigrant status is an important law enforcement community, consideration is being groven to appropriate legislative initiatives which would serve to repeal this "sunset" provision.

The Honorable Henry J. Hyde

Page 4

- (5) [t]he Attorney General shall submit a report annually to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate concerning
 (A) the number of such nonimmigrants admitted;

 - (B) the number of successful criminal prosecutions of investigations resulting from the cooperation of such aliens;
 - (C) the number of terrorist acts prevented or frustrated resulting from the cooperation of such aliens;
 - (D) the number of such nonimmigrants whose admission or cooperation has not resulted in a successful criminal prosecution or investigation or the prevention or frustration of a terrorist act; and
 - (E) the number of such nonimmigrants who have failed to report quarterly (as required under the Act) or who have been convicted of crimes in the United States after the date of their admission as such a nonimmigrant.
 - 8 U.S.C. § 1184(k)(5).

Responsibility for compiling this report has been delegated to the Assistant Attorney General, Criminal Division, in consultation with the Immigration and Naturalization Service. 8 C.F.R. § 214.2(t)(8).

Annual Report for Fiscal Year 1997

In accordance with the statutory reporting requirements, this report provides information for individuals granted S visa classification for fiscal year 1997. Information is also provided for individuals issued S visa classifications for fiscal years 1995 and 1996 because all S category nonimmigrants remain under LEA supervision and, thus, continue to be subject to statutory reporting requirements for the entire period that they remain in S nonimmigrant status. The following results are derived from data submitted to the Criminal Division in the form of annual reports from the supervising LEAs for each allen in S nonimmigrant status, and is supported by quarterly reports and other information regularly submitted by the supervising LEAs.

FY 1997 | p. 17

The Honorable Henry J. Hyde	Page 6	The Honorable Henry J. Hy	yde	Paç
<pre>defendants.⁵ In addition, the cooperation of these aliens contributed to 69 successful investigations involving 232 targets. As of the end of fiscal year 1997, the cooperation of aliens granted S nonimmigrant classification for fiscal yea resulted in 234 prosecutions and the conviction of 413 defendants. In addition, the cooperation of these aliens contributed to 32 successful investigations involving 118 targets.</pre>	the 1995	fiscal years 1997 and 19 year 1997. Of the alien for fiscal year 1995, on traffic charge, and anot misdemeanor charges duri Please do not hesiti	granted S nonimmigrant classifi 96 was convicted of a crime dur s granted S nonimmigrant classi e was convicted on a misdemeanc her was convicted on two crimin ng fiscal year 1997. ate to contact me if I can be c o this or any other matter. Sincerely,	ring fiscal ification or criminal nal
5			Sincerely,	
(C) The number of terrorist acts prevented or frustrated resulting from the cooperation of such aliens				
No terrorist acts are known to have been prevented or frustrated by the cooperation of aliens granted S nonimmigr classification for fiscal years 1997, 1996 or 1995. Howeve number of the aliens granted S nonimmigrant status were inv in the investigation or prosecution of cases involving terr	er, a volved		James K. Robinson Assistant Attorney General	
(D) The number of alien granted S nonimmigrant status whos admission or cooperation has not resulted in a successful criminal prosecution or investigation or the prevention or frustration of a terrorist act				
There were no aliens granted S nonimmigrant status for whose cooperation did not result in a successful prosecutic investigation.				
E) The number of aliens granted S nonimmigrant status who h failed to report quarterly or who were convicted of orimes	lave			
During fiscal year 1997, of all aliens granted S nonimmigrant status by the end of the period covered by thi report, 12 aliens failed to report every quarter as require				
⁵ The figures we are reporting regarding the results cooperation of aliens granted S nonimmigrant classification fiscal years 1996 and 1995 are higher than the figures we h reported to you in previous annual reports. The figures are because the cooperation of these aliens has continued to co to prosecutions, convictions, investigations and the identi of targets.	n for have re higher putribute			
97 p. 19		FY 1997 p. 20		

The Honorable Henry J. Hyde

(A) The number of aliens granted S nonimmigrant classification

Page 5

For fiscal year 1997, 35 witnesses or informants and 19 family members were granted S classification nonimmigrant status. All of these individuals were classified as S(i) nonimmigrants.

For fiscal year 1996, 98 witnesses or informants and 21 family members were granted S classification nonimmigrant status. All of these individuals were classified as S(i) nonimmigrants.

For fiscal year 1995, 59 witnesses or informants and 77 family members were granted S nonimmigrant classification. Of these, 54 alien witnesses and informants were classified as S(i) nonimmigrants, along with 71 family members who obtained derivative S status. Additionally, five alien witnesses and informants were classified as S(ii) category nonimmigrants, together with six family members who obtained derivative S status. together status.

(B) <u>The number of successful criminal prosecutions or</u> investigations resulting from the cooperation of such aliens

As of the end of fiscal year 1997, the cooperation of the aliens granted S nonimmigrant classification for fiscal year 1997 had resulted in 36 prosecutions and the conviction of 72 defendants.⁴ In addition, the cooperation of these aliens contributed to 3 successful investigations involving 20 targets.

As of the end of fiscal year 1997, the cooperation of the aliens granted S nonimmigrant classification for fiscal year 1996 had resulted in 106 prosecutions and the conviction of 325

⁴ The figures concerning the results of the aliens' cooperation provided in this report for fiscal years 1997, 1996 and 1995 are conservative and lower in many instances than the figures reported by the LEAs for two reasons. First, there were some instances of "double counting" of prosecutions, investigations, defendants and targets because the LEAs reported the number of successful results from each witness or informant. To correct for this, an alien's cooperation was only counted as having led to a successful prosecution or investigation in the event that no other alien's cooperation had yet caused that case or investigation to be counted. Also, the LEAs inadvertently submitted for certain aliens the same results for fiscal year 1997 that had previously been submitted in the annual reports for fiscal year 1996. We have made the appropriate adjustments in those cases.

FY 1997 | p.18

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	Criminal Division			
			The Honorable Orrin Hatch	Page 2
	Office of the Deputy Assistant Attorney General Washington, DC 20530-0001			5
			Attorney General jointly determine is in possess reliable information concerning a terrorist orga	nization.
			enterprise, or operation, which the alien is wil has supplied to Federal law enforcement authorit	ling to supply or
	The Honorable Orrin Hatch		Federal court. 8 U.S.C. § 1101(a)(15)(S)(ii).	The Secretary of
	Chairman, Committee on the Judiciary		State and the Attorney General must also determi will be or has been placed in danger as a result	ne that the alien
	United States Senate Washington, D.C. 20510		such information, and is eligible to receive a r	eward under
	Dear Mr. Chairman:		22 U.S.C. § 2708(a). Id. The number of witness who may be granted (S)(ii) visas in any fiscal y	ear may not
			exceed 50. 8 U.S.C. § 1184(k)(1).	
	This letter is to report to the Committee on the Judiciary of the House of Representatives, as required by 8 U.S.C.		The Act also provides for derivative nonimm classification for immediate family members of (igrant
	\$ 1184(k)(5), concerning alien witnesses or informants who have been granted nonimmigrant status pursuant to $$$ 101(a)(15)(S) of		category alien witnesses or informants. This de	rivative status
	the Immigration and Nationality Act (the Act), 8 U.S.C.		is limited to spouses, married and unmarried chi parents. 8 U.S.C. § 1101(a)(15)(S).	ldren, and
	§ 1101(a) (15) (S). This report is for fiscal year 1998 and is the fourth such annual report submitted under the terms of the Act.	e	The Act requires that the Attorney General	determine whether
	It has been prepared in consultation with the Immigration and Naturalization Service (INS).		a ground for inadmissibility exists with respect	to any
			S category visa applicant. The Attorney General to waive most grounds for inadmissibility if the	Attorney General
	Background		considers that it is in the national interest to 8 U.S.C. § 1182(d)(1).	do so.
	The Violent Crime Control Act of 1994 amended the Immigration and Nationality Act to establish a new "S"			
	nonimmigrant visa classification for two categories of alien		The Attorney General may adjust the status nonimmigrant to that of an alien lawfully admitt	ed for permanent
1	witnesses and informants. The first category of nonimmigrant classification, (S)(i), may be granted to an alien who the		residence if, in the opinion of the Attorney Gen has supplied information as agreed, and the info	eral, the alien
1	Attorney General has determined is in possession of critical reliable information concerning a criminal organization or		substantially contributed to a successful crimin	al investigation
1	enterprise, which the alien is willing to supply or has supplied		or prosecution. 8 U.S.C. § 1255(j)(1). Similar General may adjust the status of an S(ii) nonimm	ly, the Attorney igrant to that of
	to Federal or State law enforcement authorities or to a Federal or State court. 8 U.S.C. § 1101(a)(15)(S)(i). The Attorney		an alien lawfully admitted for permanent residen	ce if the alien
	General must also determine that the alien's presence in the United States is essential to the success of an authorized		has, in the sole discretion of the Attorney Gene information as agreed, the information has subst	antially
	criminal investigation or the successful prosecution of an		contributed to the prevention or frustration of terrorism, or to a successful investigation or p	an act of
	individual involved in a criminal organization or enterprise. <u>Id</u> . The number of witnesses or informants who may		individual involved in such an act of terrorism.	and the
	be granted (S)(i) nonimmigrant classification in any fiscal year		nonimmigrant has received a reward under 22 U.S. 8 U.S.C. § 1255(j)(2).	C. § 2708(a).
	may not exceed 200. 8 U.S.C. § 1184(k)(1).		An alien witness or informant admitted as e	ither on C(i)
	The second category of nonimmigrant classification, (S)(ii), may be granted to an alien who the Secretary of State and the		or S(ii) category nonimmigrant must report quart	erly to the
			Attorney General, may not be convicted of any cr	ime punishable by
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FY 19	The Honorable Orrin Hatch provide the state of admission,		The Honorable Orrin Hatch to make an annual report to Congress regarding t	he granting of
FY 19	The Honorable Orrin Hatch provide the state of admission, must waive the right to contest, other than on the basis of an		The Honorable Orrin Hatch	he granting of
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	The Honorable Orrin Hatch one year or more of imprisonment after the date of admission must waive the right to contest, other than on the basis of an application for withholding of removal, any action for removal instituted before the alien obtains lawful permanent resident status, and must abide by any other condition, limitation, or restriction imposed by the Attorney General. & U.S.C. 184(b)(4). We progulation, 8 C.F.R. \$ 214.2(t)(4)(ii), approval of applications for S nonimigrant status is a two-step proceas involving the Criminal Division and the NS. Applications for s nonimigrant status are submitted by law enforcement agencies to the Criminal Division. The Assistant Attorney General of Criminal Division the Assistant Attorney General for home the application wests the requirements for sonimigrant status, recommends approval of the applications, of C.R. \$ 214.2(t)(4)(ii). The Assistant Attorney General's authority has now been delegated to the Principal Deputy assistant Attorney General's authority to waive grounds of invaling the Criminal Division to the Commissioner of the INS. Or hadmissibility of applicants for S nonimigrant status has been deertified application for S nonimigrant status from the Criminal outsion, the Commissioner of the INS. After receiving a certified application for S nonimigrant status from the Crimina outsion, the Commissioner of the INS. After receiving a certified application for S nonimigrant status from the Crimina outsion, the Commissioner approves or denies the application, to 2.2.8 (14.2(t)). The Violent Crime Control Act of 1994 prohibited any alien for being granted S category nonimigrant status after spetned applications to the Immigration and Naturalizy at the spetned scategory nonimigrant status for spetned besene and the universide and Naturalizy at the spetned scategory nonimigrant status for spetned besene to the Congress that S nonimigrant status for being granted S category nonimigrant status for spetned being an and spointing spetned and Naturalizy at the spetne	kge 3	 The Honorable Orrin Hatch to make an annual report to Congress regarding to S nonimmigrant status. Specifically, the Act re (5) The Attorney General shall submit a re the Committee on the Judiciary of the Representatives and the Committee on t the Senate concerning - (A) the number of such nonimmigrants (B) the number of such nonimmigrants investigations resulting from the such aliens; (C) the number of terrorist acts prev frustrated resulting from the coc aliens; (D) the number of such nonimmigrants or cooperation has not resulted i criminal prosecution or investige prevention or frustration of a te (B) the number of such nonimmigrants to report quarterly (as required or who have been convited of cri States after the date of their ad nonimmigrant. 8 U.S.C. \$ 1184(k) (5). Responsibility for compiling this report has been the Assistant Attorney General for the Criminal consultation with the Immigration and Naturaliza 8 C.F.R. § 214.2(t) (8). 	he granting of quires that: port annually to House of he Judiciary of admitted; prosecutions or cooperation of such whose admission n a successful tion or the rrorist act; and who have failed under [the Act]) mes in the United mission as such a n delegated to Division, in tion Service. 28 requirements, granted In addition.
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	The Honorable Orrin Hatch one year or more of imprisonment after the date of admission must waive the right to contest, other than on the basis of an application for withholding of removal, any action for removal instituted before the alien obtains lawful permanent resident status, and must abide by any other condition, limitation, or restriction imposed by the Attorney General. & U.S.C. 184(b)(4). We progulation, 8 C.F.R. \$ 214.2(t)(4)(ii), approval of applications for S nonimigrant status is a two-step proceas involving the Criminal Division and the NS. Applications for s nonimigrant status are submitted by law enforcement agencies to the Criminal Division. The Assistant Attorney General of Criminal Division the Assistant Attorney General for home the application wests the requirements for sonimigrant status, recommends approval of the applications, of C.R. \$ 214.2(t)(4)(ii). The Assistant Attorney General's authority has now been delegated to the Principal Deputy assistant Attorney General's authority to waive grounds of invaling the Criminal Division to the Commissioner of the INS. Or hadmissibility of applicants for S nonimigrant status has been deertified application for S nonimigrant status from the Criminal outsion, the Commissioner of the INS. After receiving a certified application for S nonimigrant status from the Crimina outsion, the Commissioner of the INS. After receiving a certified application for S nonimigrant status from the Crimina outsion, the Commissioner approves or denies the application, to 2.2.3 (2.12.(5)). The Violent Crime Control Act of 1994 prohibited any alien for being granted S category nonimigrant status after spetemental 2. 1992. The Immigration and Naturalizy at the spetements to the Immigration and Naturalizy at the spetements to the Immigration and Naturalizy at the spetements to the Immigration and Naturalizy at the used in more alien sungiling investigations than has been done used in more alien sungiling investigations than has been done use to the assignt by twe approven	ige 3	 The Honorable Orrin Hatch to make an annual report to Congress regarding to S nonimmigrant status. Specifically, the Act rest of S nonimmigrant status. Specifically, the Act rest the Committee on the Judiciary of the Representatives and the Committee on the the Senate concerning - (A) the number of such nonimmigrants (B) the number of such nonimmigrants investigations resulting from the such aliens; (C) the number of terrorist acts prevention and resulting from the conditions; (D) the number of such nonimmigrants or cooperation has not resulted investigations resulting from the conditions; (D) the number of such nonimmigrants to report quarterly (as required or who have been convicted of cristates after the date of their ad nonimmigrant. & U.S.C. \$ 1184(k)(5). Responsibility for compiling this report has been the Assistant Attorney General for the Criminal consultation with the Immigration and Naturaliza 8 C.F.R. \$ 214.2(t)(8). Annual Report for Fiscal Year 199 	he granting of quires that: port annually to House of he Judiciary of admitted; prosecutions or cooperation of such whose admission n a successful tion or the rrorist act; and who have failed under [the Act]) mes in the United mission as such a n delegated to Division, in tion Service. 28 requirements, granted In addition.

The Honorable Orrin Hatch

Page 5

updated, because all S category nonimmigrants remain under law enforcement agency (LEA) supervision and, thus, continue to be subject to statutory reporting requirements for the entire period that they remain in S nonimmigrant status. The following results are derived from data submitted to the Criminal Division in the form of annual reports from the supervising LEAs for each alien in S nonimmigrant status, and are supported by quarterly reports and other information regularly submitted by the supervising LEAs.

Since the inception of the S Visa Program, the majority of the applications for S nonimmigrant status have been sponsored by the Drug Enforcement Administration, the Federal Bureau of Investigation, the Immigration and Naturalization Service, and the United States Marshals Service. Applications have also been sponsored by the United States Customs Service, the United States Secret Service, the Internal Revenue Service, the Bureau of Alcohol, Tobacco and Firearms, the Bureau of Diplomatic Security of the Department of State, the Inspectors General of the Department of Education and the Department of Justice, and by various Task Forces and state law enforcement agencies.

various Task Forces and state law enforcement agencies. In the interest of timely reporting, the method of reporting the number of S nonimigrant visas granuted to principal aliens and derivatives employed in this report, and to be used in future reports, differs from that previously used. The Commissioner of the INS often approves the granting of S nonimmigrant status to aliens in a fiscal year following the one in which the Criminal Division recommended approval. As INS practice is to assign the S nonimmigrant visa to the allocation of the year in which it received the recommendation of the Criminal Division, rather than to the year in which the S visa was granted, the Criminal Division deferred reporting for the fiscal year until it had received grants or denials of all recommendations it had made for that year. In this report, and henceforth, the grant or denial will be reported in the year it has been made so that the report can be made shortly after the end of the fiscal year. When appropriate, future reports will update prior reports to reflect the allocations made to the earlier years.

The information provided below in response to statutory reporting requirements reflects the data on the S visa program as of September 30, 1996, the end of fiscal year 1998.

FY 1998 | p. 25

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The Honorable Orrin Hatch

Page 6

(A) The number of aliens granted S nonimmigrant status

During fiscal year 1998, 56 witnesses or informants and 36 family members were granted S nonimmigrant status. All of these individuals were classified as S(i) nonimmigrants.

During fiscal year 1998, the Assistant Attorney General for the Criminal Division approved applications for an additional 37 witnesses or informants and 19 family members for S nonimmigrant status. These applications were submitted to the INS for the approval of the Commissioner. Aliens granted S nonimmigrant status by the INS pursuant to these applications will be assigned to the 1998 fiscal year allotment in accordance with INS's usual practice.

(B) The number of successful criminal prosecutions or investigations resulting from the cooperation of such aliens

As of the end of fiscal year 1998, the cooperation of the aliens granted S nonimmigrant classification during fiscal year 1998 had resulted in 153 prosecutions and the conviction of 240 defendants. In addition, the cooperation of these aliens contributed to 48 successful investigations involving 124 targets.

C) The number of terrorist acts prevented or frustrated resulting from the cooperation of such aliens

No terrorist acts are known to have been prevented or frustrated by the cooperation of aliens granted S nonimmigrant classification during fiscal year 1998. However, a number of the aliens granted S nonimmigrant status were involved in the investigation or prosecution of cases involving terrorism.

(D) The number of aliens granted S nonimmigrant status whose admission or cooperation has not resulted in a successful criminal prosecution or investigation or the prevention or frustration of a terrorist act

As of the end of fiscal year 1998, the cooperation of four of the aliens granted 9 nonimmigrant status in 1998 had not resulted in a successful prosecution or investigation. The

FY 1998 | p. 26

The Honorable Orrin Hatch	Page 8
cc: The Honorable Patrick Leahy Ranking Minority Member, Committee on the Judiciary	
FY 1998 p. 28	

Criminal Division	The Honorable Patrick Leaby	D 0
Office of the Deputy Assistant Attorney General Washington, DC 20530-6001	The Honorable Patrick Leany	Page 2
The Honorable Patrick Leahy Chairman, Committee on the Judiciary United States Senate Washington, D.C. 20510 Dear Mr. Chairman: This letter is to report to the Committee on the Judiciary of the House of Representatives, as required by 8 U.S.C. \$ 1084(k)(5), concerning alien witnesses or informants who have been granted nonimigrant status purpuent to § 10(a)(15)(s) of the Immigration and Nationality Act (the Act), 8 U.S.C. \$ 100(a)(15)(s). This report is for fiscal year 1999 and is the fifth such annual report sublitted under the terms of the Act. I has been prepared in consultation with the Immigration and Naturalization Service (INS). The Violent Crime Control Act of 1994 amended the Immigration and Nationality Act to establish a new "S" nonimmigrant visa classification for two categories of alien witnesses and informants. The first category of nonimmigrant classification, (S)(i), may be granted to an alien who the Actorney General has determined is in possession of critical reliable information concerning a criminal organization or state court. 8 U.S.C. § 101(a)(15)(S)(i). The Attorney General must also determine the lailen is presence in the United States is essential to the successful prosecution of an individual involved in a criminal organization or enterprise. Al. The number of witnesses or informants who may be granted to is U.S.C. § 1184(k)(1). The second category of nonimmigrant classification, (s)(ii), my be granted to an alien who the Secretary of State and the	Attorney General jointly determine is in possess reliable information concerning a terrorist orga enterprise, or operation, which the alien is will has supplied to Federal law enforcement authoric rederal court. 8 U.S.C. § 1101 (a) (15) (S) (i). State and the Attorney General must also determine while be or has been placed in danger as a result such information, and is eligible to receive a 22 U.S.C. § 2708 (a). <u>12</u> . The number of witness who may be granted (S) (ii) visas in any fiscal y exceed 50. 8 U.S.C. § 114 (k) (1). The Act also provides for derivative nonimu- classification for immediate family members of (category alien witnesses or informants. This de is limited to spouses, married and unmarried son and parents. 8 U.S.C. § 1101 (a) (15) (S). The Act requires that the Attorney General or ground for inadmissibility exists with respect s category visa applicant. The Attorney General to waive most grounds for inadmissibility if the considers that it is in the national interest to 8 U.S.C. § 1162 (d) (1). The Attorney General may adjust the status nonimmigrant to that of an alien lawfully admitt residence if, in the opinion of the Attorney Gen- nas supplied information as agreed, and the info substantially contributed to a successful crimin an alien lawfully admitted for personent residen has, in the sole discretion of the Attorney Gen- ral as upplied information as agreed, and the info- substantially contributed to a successful crimin an alien lawfully admitted for personent residen has, in the sole discretion of the Attorney Gen- formation as agreed, the information has subst contributed to the prevention or frustration or prindividual involved in such an act of terrorism, nonimigrant has received a reward under 22 U.S. 8 U.S.C. § 1255(j)(2).	nization, ling to supply or lies or to a The Secretary of ne that the alien : of providing reward under uses or informants ear may not igrant S(i) and (S)(ii) rivative status is and daughters, determine whether to any has discretion attorney General of an S(i) red for permanent wration has al investigation ly, the Attorney ligrant to that of ce if the alien ormation has antially an act of rosecution of an and the C. § 2708(a).
The second category of nonimmigrant classification, (S)(ii), may be granted to an alien who the Secretary of State and the	An alien witness or informant admitted as e	either an S(i)
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99 p.29 <u>5</u> The Honorable Patrick Leahy Page 3	FY 1999 p. 30	Page 4
The Honorable Patrick Leahy Page 3 or S(ii) category nonimmigrant must report quarterly to the Attorney General, may not be convicted of any crime punishable by one year or more of imprisonment after the date of admission, must waive the right to contest, other than on the basis of an application for withholding of removal, any action for removal instituted before the alien obtains lawful permanent resident status, and must abide by any other condition, limitation, or restriction imposed by the Attorney General. 8 U.S.C. § 1184(k)(4). By regulation, & C.F.R. § 214.2(t)(4)(ii), approval of applications for S nonimmigrant status is a two-step process involving the Criminal Division and the INS. Applications for S nonimmigrant status are submitted by law enforcement agencies to the Criminal Division. The Assistant Attorney General for the Criminal Division has been given the authority to review the	<pre>to make an annual report to Congress regarding t S nonimmigrant status. Specifically, the Act re (5) The Attorney General shall submit a re the Committee on the Judiciary of the Representatives and the Committee on t the Senate concerning - (A) the number of such nonimmigrants (B) the number of successful criminal investigations resulting from the such aliens; (C) the number of terrorist acts prev frustrated resulting from the com </pre>	he granting of quires that: port annually to House of he Judiciary of admitted; prosecutions or cooperation of ented or
The Honorable Patrick Leahy Page 3 or S(ii) category nonimmigrant must report quarterly to the Attorney General, may not be convicted of any orime punishable by one year or more of imprisonment after the date of admission, must waive the right to contest, other than on the basis of an application for withholding of removal, any action for removal instituted before the alien obtains lawful permanent resident status, and must abide by any other condition, limitation, or restriction imposed by the Attorney General. 8 U.S.C. § 1184(k)(4). By regulation, 8 C.F.R. § 214.2(t)(4)(ii), approval of applications for S nonimmigrant status is a two-step process involving the Criminal Division and the INS. Applications for S nonimmigrant status are submitted by law enforcement agencies to the Criminal Division. The Assistant Attorney General for the Criminal Division has been given the autority to review the applications. If appropriate, the Assistant Attorney General certifies that an application meets the requirements for S nonimmigrant status, recommends approval of the application, and forwards the application to the Commissioner of the INS. 8 C.F.R. § 214.2(t)(4)(ii).	<pre>The Honorable Patrick Leahy to make an annual report to Congress regarding t S nonimmigrant status. Specifically, the Act re (5) The Attorney General shall submit a re the Committee on the Judiciary of the Representatives and the Committee on t the Senate concerning - (A) the number of such nonimmigrants (B) the number of successful criminal investigations resulting from the such aliens; (C) the number of terrorist acts prev</pre>	he granting of quires that: port annually to House of he Judiciary of admitted; prosecutions or cooperation of rented or peration of such whose admission n a successful tion or the
The Honorable Patrick Leahy Page 3 or S(ii) category nonimmigrant must report quarterly to the Attorney General, may not be convicted of any crime punishable by one year or more of imprisonment after the date of admission, must waive the right to contest, other than on the basis of an application for withholding of removal, any action for removal instituted before the alien obtains lawful permeant resident status, and must abide by any other condition, limitation, or restriction imposed by the Attorney General. 8 U.S.C. § 1184(k)(4). By regulation, 8 C.F.R. § 214.2(t)(4)(ii), approval of applications for S nonimmigrant status is a two-step process involving the Criminal Division and the INS. Applications for S nonimmigrant status are submitted by law enforcement agencies to the Criminal Division. The Assistant Attorney General for the Criminal Division. If appropriate, the Assistant Attorney General certifies that an application meets the requirements for S nonimmigrant status, recommends approval of the application, and forwards the application to the Commissioner of the INS.	<pre>The Honorable Patrick Leahy to make an annual report to Congress regarding t S nonimmigrant status. Specifically, the Act re (5) The Attorney General shall submit a re the Committee on the Judiciary of the Representatives and the Committee on t the Senate concerning - (A) the number of successful criminal investigations resulting from the such aliens; (C) the number of terrorist acts prev frustrated resulting from the coo aliens; (D) the number of such nonimmigrants (D) the number of suc</pre>	he granting of quires that: port annually to House of he Judiciary of admitted; prosecutions or cooperation of rented or peration of such whose admission n a successful tion or the rerorist act; and who have failed under [the Act]) mes in the United
The Honorable Patrick Leahy Page 3 or S(ii) category nonimmigrant must report quarterly to the Attorney General, may not be convicted of any crime punishable by one year or more of imprisonment after the date of admission, must waive the right to contest, other than on the basis of an application for withholding of removal, any action for removal instituted before the alien obtains lawful permanent resident status, and must abide by any other condition, limitation, or restriction imposed by the Attorney General. 8 U.S.C. § 1184(k)(4). Dry regulation, & C.F.R. § 214.2(t)(4)(ii), approval of applications for S nonimmigrant status is a two-step process involving the Criminal Division and the INS. Applications for S nonimigrant status are submitted by law enforcement agencies to the Criminal Division. The Assistant Attorney General criminal Division has been given the authority to review the applications. If appropriate, the Assistant Attorney General criminal Division, and the Commissioner of the INS. a C.F.R. § 214.2(t)(4)(ii). The Attorney General's authority to waive grounds of inadmissibility of application to the Commissioner of the INS. a C.F.R. § 214.2(t)(4)(ii).	 The Honorable Patrick Leahy to make an annual report to Congress regarding to S nonimmigrant status. Specifically, the Act rest the Committee on the Judiciary of the Representatives and the Committee on to the Senate concerning - (A) the number of such nonimmigrants (B) the number of successful criminal investigations resulting from the such aliens; (C) the number of terrorist acts prev frustrated resulting from the commission or aliens; (D) the number of such nonimmigrants or cooperation has not resulted i criminal prosecution or frustration of a terrorist acts prevention or frustration of a terrorist acts or cooperation and resulted is a such aliens; (D) the number of such nonimmigrants or cooperation or frustration of a terrorist acts or or prot quarterly (as required or who have been convicted of criminal states after the date of their ad 	he granting of quires that: port annually to House of he Judiciary of admitted; prosecutions or cooperation of rented or peration of such whose admission n a successful titon or the provise act; and who have failed mission as such a modelegated to Division, in tion service. 29 requirements, granted

The Honorable Patrick Leahy

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FY 1999 | p. 34

(B) The number of successful criminal prosecutions or investigations resulting from the cooperation of such aliens

As of the end of fiscal year 1999, the cooperation of the aliens granted S nonimmigrant classification during fiscal year 1999 had resulted in 124 prosecutions and the conviction of 181 defendants. In addition, the cooperation of these aliens contributed to 50 successful investigations involving 121

The cooperation of aliens granted S nonimmigrant status in fiscal years prior to 1999 have resulted in continued benefits to law enforcement. During fiscal year 1999, the cooperation of the aliens granted S nonimmigrant classification for fiscal years 1995 through fiscal year 1998 resulted in an additional 32 prosecutions, 20 convictions, 32 investigations, and the pursuit of an additional 103 targets.

C) The number of terrorist acts prevented or frustrated resulting from the cooperation of such aliens

No terrorist acts are known to have been prevented or frustrated by the cooperation of aliens granted S nonimmigrant classification during fiscal year 1999.

(D) <u>The number of aliens granted S nonimmigrant status whose</u> <u>admission or cooperation has not resulted in a successful</u> criminal prosecution or investigation or the prevention or <u>frustration of a terrorist act</u>

As of the end of fiscal year 1999, the cooperation of all of the aliens granted S nonimmigrant status in 1999 had resulted in a successful prosecution or investigation. (E) The number of aliens granted S nonimmigrant status who have failed to report quarterly or who were convicted of crimes

During fiscal year 1999, six principal aliens failed to report every quarter as required. Of these, two principal aliens granted 8 nonimmigrant classification for fiscal years 1996 and 1997 returned to their native countries and no longer have 8 nonimmigrant status, one alien granted 8 nonimmigrant status for fiscal year 1997 married a United States citizen and has

Page 6

The Honorable Patrick Leahy

Page 5

enforcement agency (LER) supervision and, thus, continue to be subject to statutory reporting requirements for the entire period that they remain in S nonimmigrant status. The following results are derived from data submitted to the Criminal Division in the form of annual reports from the supervising LERs for each alien in S nonimmigrant status, and are supported by quarterly reports and other information regularly submitted by the supervising LERs LEAS.

Since the inception of the S Visa Program, the majority of the applications for S nonimmigrant status have been spondored by the Drug Enforcement Administration, the Federal Bureau of Investigation, the Immigration and Naturalization Service, and the United States Marshals Service. Applications have also been sponsored by the United States Customs Service, the United States Secret Service, the Internal Revenue Service, the Bureau of Alcehol, Tobacco and Firearms, the Bureau of Diplomatic Security of the Department of State, the Inspectors General of the Department of Education and the Department of Justice, and by various Task Forces and state law enforcement agencies.

Unless otherwise indicated, the information provided below in response to statutory reporting requirements reflects the data on the S visa program as of September 30, 1999, the end of fiscal year 1999.

(A) The number of aliens granted S nonimmigrant status

During fiscal year 1999, 50 witnesses or informants and 33 family members were granted S nonimmigrant status. Of these, 39 witnesses and 20 derivatives were assigned by the 1NS to the allocation for fiscal year 1998, the year in which these applications were received by the INS from the Criminal Division. All of these individuals were classified as S(i) nonimmigrants.

During fiscal year 1999, the Assistant Attorney General for the Criminal Division approved applications for an additional 53 witnesses or informants and 47 family members for S nonimmigrant status. These applications were submitted to the INS during fiscal year 1999 for the approval of the Commissioner. Aliens granted S nonimmigrant status by the INS pursuant to these applications will be assigned to the 1999 fiscal year allotment, in accordance with the INS's usual practice.

FY 1999 | p. 33

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	Criminal Division
The Honorable Patrick Leahy Page 7	$\mathcal{L}(\mathcal{O}(\mathcal{O}))$
The Honorable Patrick Leahy Page 7	
	Office of the Deputy Assistant Attorney General Washington, DC 20530-0001
applied for lawful permanent resident status by virtue thereof,	
and one alien granted S nonimmigrant classification for fiscal year 1998 has died.	
	The Honorable Patrick Leahy
One alien granted S nonimmigrant status for fiscal year 1996 has failed to report every quarter since his arrest for violating	Chairman, Committee on the Judiciary
the terms of his/her parole. One alien granted S nonimmigrant	United States Senate
status for fiscal year 1996 was delayed in reporting during	Washington, D.C. 20510
his/her move from one state to another within the United States.	Dear Mr. Chairman:
During fiscal year 1999, four principal aliens were	This letter is to report to the Committee on the Judiciary
convicted of crimes. One alien granted S nonimmigrant	of the House of Representatives, as required by 8 H S C
classification for fiscal year 1998 was convicted of disorderly conduct, and paid a fine. One alien granted S nonimmigrant	§ 1184(k)(4)(amended October 1, 2001,) concerning alien witnesses
classification for fiscal year 1999 pled quilty to domestic	or informants who have been granted nonimmigrant status pursuant
violence, and was sentenced to one year of probation.	to § 101(a)(15)(S) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(S). This report is for fiscal year
	2000 and is the sixth such annual report submitted under the
One alien granted S nonimmigrant classification for 1997 was convicted of narcotics trafficking, and one alien granted	terms of the Act. It has been prepared in consultation with the
S nonimmigrant status for fiscal year 1998 was convicted of	Immigration and Naturalization Service (INS).
violating the terms of his/her supervised release. These two	Background
aliens no longer have S nonimmigrant status.	
We hope that this information is useful. Please do not	The Violent Crime Control Act of 1994 amended the
hesitate to contact me if I can be of further assistance with	Immigration and Nationality Act to establish a new "S" nonimmigrant visa classification for two categories of alien
regard to this or any other matter.	witnesses and informants. The first category of nonimmigrant
Sincerely,	classification, $(S)(i)$, may be granted to an alien who the
Sincerery,	Attorney General has determined is in possession of critical
	reliable information concerning a criminal organization or enterprise, which the alien is willing to supply or has supplied
	to Federal or State law enforcement authorities or to a Federal
John C. Keeney	or State court. 8 U.S.C. § 1101(a) (15) (S) (i). The Attorney
Deputy Assistant Attorney General	General must also determine that the alien's presence in the United States is essential to the success of an authorized
	criminal investigation or the successful prosecution of an
	individual involved in a criminal organization or
	enterprise Id The number of witnesses or informants the most
	be granted (S) (i) nonimmigrant classification in any fiscal year may not exceed 200. 8 U.S.C. § 1184 (k) (1).
cc: The Honorable Orrin Hatch	
CC: The Honorable Orrin Hatch Ranking Minority Member,	The second category of nonimmigrant classification, (S)(ii),
Committee on the Judiciary	may be granted to an alien who the Secretary of State and the
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Y 1999 p. 35	FY 2000 p. 36

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 Exerction Requirement Exerction Requirements Exerction Requirements	reliable information concerning a terrorist organization enterprise, or operation, which the alion is willing to has supplied to Federal law enforcement authorities or t Federal court. 8 U.S.C. § 101(a) (15) (6) (i). The Secr State and the Attorney General must also determine that will be or has been placed in danger as a result of prov such information, and is eligible to receive a reward un 22 U.S.C. § 2708(a). Id. The number of witnesses or in who may be granted (S) (ii) visas in any fiscal year may exceed 50. 8 U.S.C. § 1184(k) (1). The Act also provides for derivative nonimmigrant classification for immediate family members of (S) (i) an category alien witnesses or informants. This derivative is limited to spouses, married and unmarried sons and da and parents. 8 U.S.C. § 1101(a) (15) (S). The Act requires that the Attorney General determin a ground for inadmissibility exits with respect to any S category visa applicant. The Attorney General has dis to waive most grounds for inadmissibility if the Attorney considers that it is in the national interest to do so. 8 U.S.C. § 182(d) (1). The Attorney General may adjust the status of an S(nonimmigrant to that of an alien lawfully admitted for p residence if, in the opinion of the Attorney General, the has supplied information as agreed, and the information substantially contributed to a successful criminal linves or prosecution. 8 U.S.C. § 1255(j)(1). Similarly, the i General may adjust the status of an S(i) nonimmigrant to thas, in the sole discretion of the Attorney General, sup information as agreed, the information linves or prosecution. 8 ucs.C. § 1255(j)(2).	<pre>, supply or o a etary of the alien iding der formants not d (S)(ii) status ughters, e whether cretion y General i) ermanent e alien has tigation Attorney o that of e that of e alien plied f on of an 8(a).</pre>	Attorney General, may not be convicted of any crime purishable by one year or more of imprisonment after the date of admission, must waive the right to contest, other than on the basis of an application for withholding of removal, any action for removal instituted before the alien obtains lawful permanent resident status, and must abide by any other condition, limitation, or restriction imposed by the Attorney General. & U.S.C. § 1184(k)(3) (amended October 1, 2001). By regulation, approval of applications for S nonimmigrant status is a two-step process involving the Criminal Division and the NNS. Applications for S nonimmigrant statue are submitted by law enforcement agencies (LEAs) to the Criminal Division has been given the authority to review the applications. If appropriate, the Assistant Attorney General for the Criminal Division the basistant Attorney General for the Criminal Division to the Commissioner of the INS. 8 C.F.R. § 214.2(t)(0)(i). The Attorney General's authority to waive grounds of inadmissibility of applications for S nonimmigrant status has been delegated to the Commissioner of the INS. After receiving a certified application for S nonimmigrant status from the Criminal Division, the Commissioner approves or denies the application. 8 C.F.R. § 214.2(t)(5). The Violent Crime Control Act of 1994 prohibited any alien from being granted S category nonimmigrant status after September 12, 1999. The Immigration and Maturalization Act was amended to extend the authorized period for admission of an alien as an S nonimmigrant by two years, to September 12, 2001. The Immigration and Naturalizion Act as subenequently been again amended to scategory nonimmigrant status after September 12, 1999. The Immigration and Maturalization of an alien as an S nonimmigrant by two years, to September 12, 2001. The Immigration and Naturalizion Act was amended to scategory nonimigrant subsequently been again amended to repeal the expiration date and to make the authority to admit S category nonimigrant subsequently
 Exerction Requirement Exerction Requirements Exerction Requirements			
 The Attorney General is required by \$ U.S.C. I 184 (k) (d) (anended October 1, 2001) to make an annual report to Corperse regarding the stratus. General description of a nonimigrant status. Specifically, the Act requires that: (a) The Attorney General hall submit a report annually to the Committee on the Judiciary of the Bones of the Senate concerning - (b) The Antonnov General hall submit a report annually to the Senate concerning - (c) The number of such nonimigrants admitted; (d) the number of successful criminal protecutions or investigations resulting from the cooperation of such aliens; (c) the number of such nonimigrants whose admission or corporation fas not resulted in a successful criminal protecution or luvestigation or the provention or fuverated crimingrant. (e) the number of such nonimigrants whose admission or corporation and state to the order of the State of the States Cancema Service, the United States Cancema Service, the United States affect he State of the Successful criminal protection of the Act) or who have been convicted of crimes in the United State of Marchalla Service, the Successful criminal protection of the Act) or who have been convicted of crimes in the United State of Marchalla Service, the Successful criminal protection of the Act) or who have been convicted of crimes in the United State of Marchalla Service, the United States Cancema Service, the United State Ca	The Honorable Patrick Leahy	Page 4	The Honorable Patrick Leahy Page 5
 s 1144 (k) (4) (amended October 1, 2001) to make an annual report to Congress regarding the granting of \$ nonimigrant status. Specifically, the Act requires that: (4) The Attorney General shall sublif a report annually to the Kouse of the Senate concerning - (a) The Attorney General shall sublif a report annually to the Senate concerning - (b) the number of such nonimigrants admitted; (c) the number of such nonimigrants admitted or fururatiated resulting from the cooperation of such aliens; (c) the number of terrorist acts prevented or fururation or the cooperation of such aliens; (d) the number of such nonimigrants whose admission or cooperation of a terrorist act; and to report quarterly (as required under (the Act)) or who have been convoicted of crimes in the finited States after the date of their admission as such a nonimigrant. § U.S.C. \$ 1144 (k) (4) (amended October 1, 2001). Responsibility for compiling this report has been delegated to the S Vias program as of September 30, 2000, the end of fiscal year 2000. In addition, or the sequence of administration and Naturalization Break. (a) the number of such nonimigrants whose admission or cooperation of a terrorist act; and the sequence of discles. (b) the number of such nonimigrants whose failed to report quarterly (as required under (the Act)) or who have been convoicted of crimes in the failed states after the date of their admission as such a nonimigrant. (c) Lassistant Attorney of the Criminal Division, in consultation with the migration and Naturalization Break. (c) Summingrant. (c) Lassistant Attorney of the failed to report quarterly (c) (as required under (the Act)) or who have been convoicted of the failed to report quarterly (c) (as required under (the Act)). (b) Lassistant Attorney convoiction of the Summingrant status. (c) The number of Such nonimigrant status (c) (the sec (c) (c) (c) (c) (c) (c) (c) (c) (c) (c	Reporting Requirement		Annual Report for Fiscal Year 2000
	 The Attorney General is required by 8 U.S.C. \$ 1184(k) (4) (amended October 1, 2001) to make an annual Congress regarding the granting of 8 nonimmigrant status Specifically, the Act requires that: (4) The Attorney General shall submit a report ann the Committee on the Judiciary of the House of Representatives and the Committee on the Judici the Senate concerning - (A) the number of such nonimmigrants admitted (B) the number of successful criminal prosecu investigations resulting from the coopera such allens; (C) the number of terrorist acts prevented or frustrated resulting from the cooperation aliens; (D) the number of such nonimmigrants whose ad or cooperation has not resulted in a succ criminal prosecution or investigation or prevention of a terrorist. (E) the number of such nonimmigrants who have to report quarterly (as required under It or who have been convicted of crimes in t States after the date of their admission nonimmigrant. & U.S.C. \$ 1184(k) (4) (amended October 1, 2001) Responsibility for compiling this report has been delegat the Assistant Attorney General for the Criminal Division consultation with the summary of the summary o	<pre>ually to iary of ; tion of of such mission essful the act; and failed he Act]) he United as such a ted to , in</pre>	In accordance with the statutory reporting requirements, this report provides information for individuals granted s nonimigrant status during fiscal year 2000. In addition, certain information provided in previous annual reports has been updated, because all S category nonimigrants remain under LEA supervision and, thus, continue to be subject to statutory reporting requirements for the entire period that they remain in S nonimigrant status. The following results are derived from data submitted to the Oriminal Division in the form of annual reports from the supervising LEAs for each alien in S nonimigrant status, and are supported by quarterly reports and other information regularly submitted by the supervising LEAs. Since the inception of the S Visa program, the majority of the applications for S nonimigrant status have been sponsored by the Drug Enforcement Administration, the Federal Bureau of Investigation, the Immigration and Naturalization Service, and the United States Marshals Service. Applications have also been sponsored by the United States Customs Service, the United States Secret Service, the Internal Revenue Service, the Bureau of Alcohol, Tobacco and Firearms, the Bureau of Diplomatic Security of the Department of State, the Environmental Protection Agency, the Inspectors General of the Department of Bducation and the Department of Justice, United States Autorneys Offices, and by various Task Forces and state law enforcement agencies. Unless otherwise indicated, the information provided below in response to statutory reporting requirements reflects the data on the S Visa program as of September 30, 2000, the end of fiscal year 2000. (A) The number of aliens cranted S nonimmigrant status . Of these, 19 witnesses and all 17 derivatives were assigned by the INS to the allocation for fiscal years prior to 2000, in the year in which these applications were received by the INS from the Criminal Division. All of these individuals were classified as S(i)

The Honorable Patrick Leahy Page 6	The Honorable Patrick Leahy Page 7
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The Honorable Patrick Leahy Page 8	Office of the Deputy Assistant Attorney General Washington, DC 20530-4001
<pre>We hope that this information is useful. Please do not hegitate to contact me if I can be of further assistance with sincerely, John C. Keeney Deputy Assistant Attorney General cc: The Honorable Orrin Hatch Ranking Minority Member, Committee on the Judiciary</pre>	<text><text><text><section-header><text><text></text></text></section-header></text></text></text>
FY 2000 p. 43	FY 2001 p. 44

The Honorable Patrick Leahy

Page 2

enterprise. Id. The number of witnesses or informants who may be granted (S)(i) nonimmigrant classification in any fiscal year may not exceed 200. 8 U.S.C. § 1184(k)(1).

The second category of nonimmigrant classification, (5) (ii), may be granted to an alien who the Secretary of State and the Attorney General jointly determine is in possession of critical reliable information concerning a terrorist organization, enterprise, or operation, which the alien is willing to supply or has supplied to Federal law enforcement authorities or to a Federal court. 8 U.S.C. § 1101(a)(15)(5)(ii). The Secretary of State and the Attorney General must aliso determine that the alien will be or has been placed in danger as a result of providing such information, and is eligible to receive a reward under 22 U.S.C. § 2708(a). Id. The number of witnesses or informants who may be granted (5)(ii) viasa in any fiscal year may not exceed 50. 8 U.S.C. § 1184(k)(1).

The Act also provides for derivative nonimmigrant classification for immediate family members of (S) (i) and (S) (ii) category alien witnesses or informants. This derivative status is limited to spouses, married and unmarried sons and daughters, and parents. 8 U.S.C. \$1101(a) (15) (S).

The Act requires that the Attorney General determine whether a ground for inadmissibility exists with respect to any S category visa applicant. The Attorney General has discretion to waive most grounds for inadmissibility if the Attorney General considers that it is in the national interest to do so. 8 U.S.C. § 1182(d)(1).

The Attorney General may adjust the status of an S(i) nonimmigrant to that of an alien lawfully admitted for permanent residence if, in the opinion of the Attorney General, the alien has supplied information as agreed, and the information has substantially contributed to a successful criminal investigation or prosecution. 8 U.S.C. \$ 1255(j)(1). Similarly, the Attorney General may adjust the status of an S(ii) nonimmigrant to that of an alien lawfully admitted for permanent residence if the alien has, in the sole discretion of the Attorney General, supplied information as agreed, the information has substantially contributed to the prevention or frustration of an act of terrorism, or to a successful investigation or prosecution of an

FY 2001 | p. 45

FY 2001 | p. 47

The Honor	rable Patrick Leahy Page	4
	Reporting Requirement	
§ 1184(k) Congress	Attorney General is required by 8 U.S.C.) (4) (amended October 1, 2001) to make an annual report to regarding the granting of S nonimmigrant status. ally, the Act requires that:	
(4)	The Attorney General shall submit a report annually to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate concerning -	
	(A) the number of such nonimmigrants admitted;	
	 (B) the number of successful criminal prosecutions or investigations resulting from the cooperation of such aliens; 	
	(C) the number of terrorist acts prevented or frustrated resulting from the cooperation of such aliens;	
	(D) the number of such nonimmigrants whose admission or cooperation has not resulted in a successful criminal prosecution or investigation or the prevention or frustration of a terrorist act; and	
	(E) the number of such nonimmigrants who have failed to report quarterly (as required under [the Act]) or who have been convicted of crimes in the United States after the date of their admission as such a nonimmigrant.	

Responsibility for compiling this report has been delegated to the Assistant Attorney General for the Criminal Division, in consultation with the Immigration and Naturalization Service. 8 C.F.R. § 214.2(t)(8). The Honorable Patrick Leahy

Page 3

individual involved in such an act of terrorism, and the nonimmigrant has received a reward under 22 U.S.C. § 2708(a). 8 U.S.C. § 1255(j)(2).

An alien witness or informant admitted as either an S(i) or S(ii) category nonimmigrant must report quarterly to the Attorney General, may not be convicted of any crime punishable by one year or more of imprisonment after the date of admission, must waive the right to contest, other than on the basis of an application for withholding of removal, any action for removal instituted before the alien obtains lawful permanent resident status, and must abide by any other condition, limitation, or restriction imposed by the Attorney General. 8 U.S.C. \S 1184(k)(3) (amended October 1, 2001).

By regulation, approval of applications for S nonimmigrant status is a two-step process involving the Criminal Division and the INS. Applications for S nonimmigrant status are submitted by law enforcement agencies (LEMS) to the Criminal Division. The Assistant Attorney General for the Criminal Division has been given the authority to review the applications. If appropriate, the Assistant Attorney General certifies that an application meets the requirements for S nonimmigrant status, recommends approval of the application, and forwards the application to the Commissioner of the INS. & C.F.R. § 214.2(t) (4) (ii).

The Attorney General's authority to waive grounds of inadmissibility of applicants for S nonimmigrant status has been delegated to the Commissioner of the INS. After receiving a certified application for S nonimmigrant status from the Criminal Division, the Commissioner approves or denies the application. 8 C.F.R. § 214.2(t) (5).

The Violent Crime Control Act of 1994 prohibited any alien from being granted S category nonimmigrant status after September 12, 1999. The Immigration and Naturalization Act was amended to extend the authorized period for admission of an alien as an S nonimmigrant by two years, to September 12, 2001. The Immigration and Naturalization Act has subsequently been again amended to repeal the expiration date and to make the authority to admit S category nonimmigrants permanent. 8 U.S.C. § 1184(k) (amended October 1, 2001).

FY 2001 | p. 46

The Honorable Patrick Leahy

Page 5

Annual Report for Fiscal Year 2000

In accordance with the statutory reporting requirements, this report provides information for individuals granted S nonimmigrant status during fiscal year 2000. In addition, certain information provided in previous annual reports has been updated, because all S category nonimmigrants remain under LEA supervision and, thus, continue to be subject to statutory reporting requirements for the entire period that they remain in S nonimmigrant status. The following results are derived from data submitted to the Criminal Division in the form of annual reports from the supervising LEAs for each alien in S nonimmigrant status, and are supported by quarterly reports and other information regularly submitted by the supervising LEAs.

other information regularly submitted by the supervising lines. Since the inception of the S Visa program, the majority of the applications for S nonimmigrant status have been sponsored by the Drug Enforcement Administration, the Federal Bureau of Investigation, the Inmigration and Naturalization Service, and the United States Marshals Service. Applications have also been sponsored by the United States Customs Service, the United States Secret Service, the Internal Revenue Service, the Bureau of Alcohol, Tobacco and Firearms, the Bureau of Diplomatic Security of the Department of State, the Environmental Protection Agency, the Inspectore General of the Department of Education and by various Task Forces and state law enforcement agencies.

Unless otherwise indicated, the information provided below in response to statutory reporting requirements reflects the data on the S Viaa program as of September 30, 2001, the end of fiscal year 2001.

(A) The number of aliens granted S nonimmigrant status

During fiscal year 2001, 105 witnesses or informants and 122 family members were granted S nonimmigrant status. Of these, 79 witnesses and 90 derivatives were assigned by the INS to the allocation for fiscal years prior to 2001, in the year in which these applications were received by the INS from the Criminal Division. All of these individuals were classified as S(i) nonimmigrants.

FY 2001 | p. 48

For original size page pdf of Appendix A, visit www.NACDL.org/SVisaReport The Honorable Patrick Leahy Page 6 The Honorable Patrick Leahy Page 7 During fiscal year 2001, the Assistant Attorney General for the Criminal Division approved applications for an additional 29 witnesses or informants and 29 family members for S nonimmigrant status. These applications were submitted to the INS during fiscal year 2001 for the approval of the Commissioner. Aliens granted S nonimmigrant status by the INS pursuant to these applications will be assigned to the 2001 fiscal year allotment, in accordance with the INS's usual practice. The number of aliens granted S nonimmigrant status who have failed to report quarterly or who were convicted of crimes During fiscal year 2001, four principal aliens failed to report every quarter as required. Of these, one alien granted S nonimmigrant classification for fiscal year 1999 returned to his/her native country and no longer desires S nonimmigrant status. One alien granted S nonimmigrant classification for fiscal year 1998 was delayed in reporting during his/her move from one location to another within the United States. (B) <u>The number of successful criminal prosecutions or</u> investigations resulting from the cooperation of such aliens One alien granted S nonimmigrant status for fiscal year 1998 has failed to report every quarter as required, and no longer has S nonimmigrant status. As of the end of fiscal year 2001, the cooperation of the aliens granted S nonimmigrant classification during fiscal year 2001 had resulted in XX prosecutions and the conviction of XX defendants. In addition, the cooperation of these aliens contributed to XX successful investigations involving XX targets. One alien granted S nonimmigrant classification for fiscal year 1996 has failed to report every quarter as required, and the sponsoring law enforcement agency is investigating why the lapse The cooperation of aliens granted S nonimmigrant status in fiscal years prior to 2001 have resulted in continued benefits to law enforcement. During fiscal year 2001, the cooperation of the aliens granted S nonimmigrant classification for fiscal years 1995 through fiscal year 2000 resulted in an additional 2 prosecutions, 3 convictions, 14 investigations, and the pursuit of an additional 50 targets. occurred. During fiscal year 2001, no principal aliens were convicted of a crimes C) The number of terrorist acts prevented or frustrated resulting from the cooperation of such aliens No terrorist acts are known to have been prevented or frustrated by the cooperation of aliens granted S nonimmigrant classification during fiscal year 2001. (D) The number of aliens granted S nonimmigrant status whose admission or cooperation has not resulted in a successful criminal prosecution or investigation or the prevention or frustration of a terrorist act As of the end of fiscal year 2001, the cooperation of all of the aliens granted S nonimmigrant status in 2001 had resulted in a successful prosecution or investigation. FY 2001 | p. 49 FY 2001 | p. 50 U.S. Department of Justice Criminal Division 2002 The Honorable Patrick Leahy Page 8 We hope that this information is useful. Please do not hesitate to contact me if I can be of further assistance with regard to this or any other matter. The Honorable Orrin G. Hatch Chairman, Committee on the Judiciary Sincerely, United States Senate Washington, D.C. 20510 Dear Mr. Chairman: John C. Keeney Deputy Assistant Attorney General This letter is to report to the Committee on the Judiciary of the Senate, as required by $8 U.S.C. \S 1184(k)(4)$ (amended October 1, 2001), concerning alien witnesses or informants who have been granted nonimmigrant status pursuant to § 101(a)(15)(S) of the Immigration and Nationality Act (the Act), $8 U.S.C. \S 1101(a)(15)(S)$. This report is for fiscal year 2002 and is the eighth such annual report submitted under the terms of the Act. It has been prepared in consultation with the former Immigration and Naturalization Service (INS)¹ and the United States Descent of Immigration and Constraints and Constraints of the Act. It has been prepared in the state of the Act. It has been prepared in the terms of the Act. It has been prepared in the divided States of the Descent of Immigration and Naturalization Service (INS)¹ and the Heired States of the Descent of Immigration and Constraints of the Act. It has been prepared in the Act. It has been prepared to the terms of the Act. It has been prepared in the Act. It has been prepared to the Act. It has been prepared in the Heired States of the Act. It has been prepared in the Act. It has been prepared in the Heired States of the Act. It has been prepared in the Act. It has been prepared in the Heired States of the Act. It has been prepared in the Act. It has been prepared in the Act of the Act. It has been prepared in the Act. It has been prepared in the Heired States of the Act. It has been prepared in the Act. It has been prepared in the Heired States of the Act. It has been prepared in the Act United States Bureau of Immigration and Customs Enforcement (ICE) of the Department of cc: The Honorable Orrin Hatch Homeland Security. Ranking Minority Member, Committee on the Judiciary The Violent Crime Control Act of 1994 created a new "S" nonimmigrant classification under United States immigration law.² This classification may be made available for up to a maximum of 200 aliens per fiscal year who have critical, reliable information which is necessary for the successful investigation and/or prosecution of a criminal organization and for up to 50 aliens who provide information concerning a terrorist organization and qualify for a Department of Status mission and and the successful and the successful and qualify for a Department of State antiterrorism reward. If approved for S classification, such an alien may be admitted to to bin which is a temporary nonimigrant status for up to three years. In approving an application for S classification, grounds of inadmissibility which might otherwise prevent the person from cureing or remaining in the United States, may be waived. If the alien complies with the terms of admission, he or she may become eligible to apply for permanent resident status. 1 The Homeland Security Act of 2002, P.L. 107-296, abolished the INS, formerly part of the Department of Justice, and transferred its immigration enforcement functions to the Department of Homeland Security in March 2003. ² The Homeland Security Act of 2002, P.L. 107-296, is not discussed herein, except as specifically referenced, as it does not affect reporting for Fiscal Year 2002. FY 2001 | p. 51 FY 2002 | p. 52

Page 2

Page 4

The Attorney General is required by 8 U.S.C. § 1184(k)(amended October 1, 2001) to make an annual report to Congress regarding the granting of S nonimmigrant sta Specifically, the Act requires that:

- (4)The Attorney General shall submit a report annually to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate concerning -
 - (A) the number of such nonimmigrants admitted;
 - the number of successful criminal prosecutions or investigations resulting (B) rom the cooperation of such aliens
 - (C) the number of terrorist acts prevented or frustrated resulting from the ooperation of such aliens
 - (D) the number of such nonimmigrants whose admission or cooperation has not resulted in a successful criminal prosecution or investigation or the prevention or frustration of a terrorist act; and
 - (E) the number of such nonimmigrants who have failed to report quarterly (as required under [the Act]) or who have been convicted of crimes in the United States after the date of their admission as such a nonimmigrant.
 - 8 U.S.C. § 1184(k)(4)(amended October 1, 2001).

Responsibility for compiling this report is assigned by regulation to the Assistant Attorney General for the Criminal Division, in consultation with the Immigration and Naturalization Service, 8 C.F.R. § 214.2(t)(8), whose functions with regard to S Visa reporting have now been absorbed by ICE.

Annual Report for Fiscal Year 2002

In accordance with the statutory reporting requirements, this report provides information for individuals granted S nonimmigrant status during fiscal year 2002. In addition, certain information provided in previous annual reports has been updated, because all S category nonimmigrants remain under law enforcement agency (LEA) supervision and, thus, continue to be subject to statutory reporting requirements for the entry bench status, and the status of the subject to statutory reporting requirements for the entry berieved the they remain in S nonimmigrant status. The following results are derived from data submitted to the Criminal Division by the supervising LEAs for each alien in S nonimmigrant status.

FY 2002 | p. 53

cooperation of such aliens

additional 78 targets

aliens

investigations involving 263 targets.

Since the inception of the S Visa program, the majority of the applications for S nonimmigrant status have been sponsored by the Drug Enforcement Administration, the Federal Bureau of Investigation, the Immigration and Naturalization Service, and the United States Marshals Service. Applications have also been sponsored by the United States Customs Service, the United States Secret Service, the Internal Revenue Service, the Bureau of Alcohol, Tobaco, Firearms and Exlosives, the Bureau of Diplomatic Security of the Department of State, the Environmental Protection Agency, the Inspectors General of the Department of Education and the Department of Justice, United States Attorneys Offices, and by various Task Forces and state law enforcement agencies.

Unless otherwise indicated, the information provided below in response to statutory eporting requirements reflects the data on the S Visa program as of September 30, 2002, the end of fiscal year 2002.

(A) The number of aliens granted S nonimmigrant status

During fiscal year 2002, 43 witnesses or informants and 40 family members were granted S nonimmigrant status. Of these, 22 witnesses and 27 derivatives were assigned by the INS to the allocation for fiscal years prior to 2002, in the year in which these applications were received by the INS from the Criminal Division. All of these individuals were classified as S(D)³ nonimmigrants.

During fiscal year 2002, the Assistant Attorney General for the Criminal Division approved applications for an additional 22 witnesses or informants and 25 family members for S nonimmigrant status. These applications were submitted to the INS during fiscal year 2002 for the approval of the Commissioner, but had not yet been approved by the end of FY 2002. Aliens

³ S nonimmigrant visa classification falls into two categories. The first category of ³ S nonimmigrant visa classification falls into two categories. The first category of nonimmigrant classification, (S()), may be granted to an alien who has been determined to be in possession of critical reliable information concerning a criminal organization or enterprise, which the alien is willing to supply or has supplied to Federal or State law enforcement authorities or to a Federal or State court. 8 U.S.C. § 1101(a)(15)(S)(i). The second category of nonimigrant classification, (S)(ii), may be granted to an alien who the Secretary of State and the Attorney General jointly determine is in possession of critical reliable information concerning a terrorist organization, enterprise, or poration, which the alien is willing to supply or has supplied to Federal law enforcement authorities or to a Federal court. 8 U.S.C. § 1101(a)(15)(S)(i).

FY 2002 | p. 54

Page 5

Page 3

2002 of narcotics trafficking, and was deported. One alien was convicted of assaulting a brother. The alien's S Visa status was allowed to expire without adjustment. One alien pled guilty to a misdemeanor for having written a bad check, and made immediate restitution. One alien was convicted of driving on a suspended license for the second time, and his S Visa status was terminated.

We hope that this information is useful. Please do not hesitate to contact me if I can be of further assistance with regard to this or any other matter

By

Sincerely,

Christopher A. Wray Assistant Attorney General

John C. Keeney Acting Assistant Attorney General

The Honorable Patrick J. Leahy Ranking Minority Member Committee on the Judiciary

FY 2002 | p. 56

(D) The number of aliens granted S nonimmigrant status whose admission or cooperation has not resulted in a successful criminal prosecution or investigation or the prevention or frustration of a terrorist act

As of the end of fiscal year 2002, the cooperation of all of the aliens granted S nonimmigrant status in 2002, had resulted in a successful prosecution or investigation

subsequently granted S nonimmigrant status by the INS pursuant to these applications were assigned to the 2002 fiscal year allotment, in accordance with the INS's usual practice. (B) The number of successful criminal prosecutions or investigations resulting from the

As of the end of fiscal year 2002, the cooperation of the aliens granted S nonimmigrant classification during fiscal year 2002 had resulted in 191 prosecutions and the conviction of 225

The cooperation of aliens granted S nonimmigrant status in fiscal years prior to 2002 has resulted in continued benefits to law enforcement. During fiscal year 2002, the cooperation of the aliens granted S nonimmigrant classification for fiscal years 1995 through fiscal year 2001 resulted in an additional 12 prosecutions, 10 convictions, 7 investigations, and the pursuit of an

©) The number of terrorist acts prevented or frustrated resulting from the cooperation of such

alien granted S nonimmigrant classification during fiscal year 2002.

No terrorist acts are known to have been prevented or frustrated by the cooperation of an

defendants. In addition, the cooperation of these aliens contributed to 84 successful

(E) The number of aliens granted S nonimmigrant status who have failed to report quarterly or who were convicted of crimes

During fiscal year 2002, three principal aliens, all of whom received S nonimmigrant classification prior to fiscal year 2002, filled to report every quarter as required. One of these aliens returned to his/her native country and no longer desires S noninmigrant status. Two aliens failed to report as required by the regulations because the law enforcement agents responsible for monitoring the aliens were unaware of the monitoring requirements. Both of those situations have since been corrected, and the aliens are reporting as required.

During fiscal year 2002, four principal aliens, all of whom received S nonimmigrant classification prior to fiscal year 2002, were convicted of crimes. One alien was convicted in

FY 2002 | p. 55

50 Shining a Light on the "S" Visa: A Long History of Unfulfilled Promises and Bureaucratic Red Tape

	U.S. Department of Justice	
Assistant Attorney G	ieneral Washington, D.C. 20530	
The Honorabl	e Arlen Specter	
	mmittee on the Judiciary Senate	
Dear Mr. Cha		
	etter is to report to the Committee on the Judiciary of the House of Representatives,	
as required by informants wh Immigration a year 2003 and prepared in co	8 U.S.C. § 1184(k)(4)(amended October 1, 2001), concerning alien witnesses or so have been granted nonimmigrant status pursuant to § 101(a)(15)(S) of the and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(S). This report is for fiscal is the ninth such annual report submitted under the terms of the Act. It has been nsultation with the former Immigration and Naturalization Service (INS) ⁴ and the Bureau of Immigration and Customs Enforcement (ICE) of the Department of	
under United 3 maximum of 2 for the success aliens who pro of State antite: the United Sta application for person from et	iolent Crime Control Act of 1994 created a new "S" nonimmigrant classification States immigration law. This classification may be made available for up to a 200 aliens per fiscal year who have critical, reliable information which is necessary stil investigation and/or prosecution of a criminal organization and for up to 50 svide information concerning a terrorist organization and qualify for a Department rrorism reward. If approved for S classification, such an alien may be admitted to tes in a temporary nonimmigrant status for up to three years. In approving an r S classification, grounds of inadmissibility which might otherwise prevent the ntering or remaining in the United States, may be waived. If the alien complies with Amission, he or she may become cligible to apply for permanent resident status.	
The At to make an an	torney General is required by 8 U.S.C. § 1184(k)(amended October 1, 2001) nual report to Congress regarding the granting of S nonimmigrant status. he Act requires that:	
he Departmer	Homeland Security Act of 2002, P.L. 107-296, abolished the INS, formerly part of	
Department of	nt of Justice, and transferred its immigration enforcement functions to the f Homeland Security in March 2003.	
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3 pepartment of 3 p. 5 States Marshi Security, the Revenue Ser Diplomatic S Inspectors 6 Attorneys Of Unles	Flomeland Security in March 2003. 7 Page 3 als Service. Applications have also been sponsored by the Department of Homeland United States Customs Service, the United States Secret Service, the Internal vice, the Bureau of Alcohol, Tobacco, Firearms and Explosives, the Bureau of ecurity of the Department of State, the Environmental Protection Agency, the eneral of the Department of Fiducation and the Department of Justice, United States lices, and by various Task Forces and state law enforcement agencies. s otherwise indicated, the information provided below in response to statutory uirements reflects the data on the S Visa program as of September 30, 2003, the end	
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organization, enterprise, or operation, which the alien is willing to supply or has supplied to Federal law enforcement authorities or to a Federal court. 8 U.S.C. § 1101(a)(15)(S)(ii).

FY 2003 | p. 59

nonimmigrant. & U.S.C. § 1184(k)(4)(amended October 1, 2001). Although the Homeland Security Act of 2002 transferred many of the Attorney General's immigration-related functions, including the authority to grant S visas, to the Secretary of DHS, responsibility for compiling this report is assigned by regulation to the Assistant Attorney General for the Criminal Division, in consultation with the Immigration and Naturalization service, 8 C.F.R. § 214.2(t)(8), whose functions with regard to S Visa reporting have now been absorbed by ICE. **Data Report for Fiscal Year 2003**. In addition, certain information provided in previous annual reports has been updated, because all S category nonimmigrant status. The following results are derived from data submitted to the Criminal Division by the supervising LEAs for aliens in S nonimmigrant status. Since the inception of the S Visa program, the majority of the applications for S nonimmigrant status have been sponsored by the Drug Enforcement Administration, the Jederal Bureau of Investigation, the Immigration and Naturalization Service, and the United

The Attorney General shall submit a report annually to the Committee on the

(C) the number of terrorist acts prevented or frustrated resulting from the

(A) the number of such nonimmigrants admitted;

from the cooperation of such aliens;

prevention or frustration of a terrorist act; and

United States after the date of their admission as such a

cooperation of such aliens;

Judiciary of the House of Representatives and the Committee on the Judiciary of

the number of successful criminal prosecutions or investigations resulting

the number of such nonimmigrants whose admission or cooperation has not resulted in a successful criminal prosecution or investigation or the

the number of such nonimmigrants who have failed to report quarterly (as required under [the Act]) or who have been convicted of crimes in the

Y 2003 | p. 58

(4)

the Senate concerning -

(B)

(D)

(E)

Page 4

Page 2

classification during fiscal year 2003 had resulted in 114 prosecutions and the conviction of 200 defendants. In addition, the cooperation of these aliens contributed to 71 successful investigations involving 159 targets.

The cooperation of aliens granted S nonimmigrant status in fiscal years prior to 2003 has resulted in continued benefits to law enforcement. During fiscal year 2003, the cooperation of aliens granted S nonimmigrant classification for fiscal years 1995 through fiscal year 2002 resulted in an additional 33 prosecutions, 28 convictions, 8 investigations, and the pursuit of an additional 67 targets.

(C) The number of terrorist acts prevented or frustrated resulting from the cooperation of such alicns

No terrorist acts are known to have been prevented or frustrated by the cooperation of an alien granted S nonimmigrant classification during fiscal year 2003.

(D) The number of aliens granted S nonimmigrant status whose admission or cooperation has not resulted in a successful criminal prosecution or investigation or the prevention or frustration of a terrorist at

As of the end of fiscal year 2003, the cooperation of all of the aliens granted S nonimmigrant status in 2003, had resulted in a successful prosecution or investigation.

(E) <u>The number of aliens granted S nonimmigrant status who have failed to report quarterly or</u> who were convicted of crimes

During fiscal year 2003, two principal alien, who received S nonimmigrant classification prior to fiscal year 2003, failed to root every quarter as required. As a result of these failures to report, the S nonimmigrant status of both of the aliens was terminated.

During fiscal year 2003, two principal aliens, all of whom received S nonimmigrant classification prior to fiscal year 2003, were convicted of crimes. One alien was convicted of credit eard fraud, and one alien was convicted of driving on a suspended license for the second time. The S Visa status of both of these aliens was terminated.



	2004 U.S. Department of Justice Criminal Division
Page 5	
We hope that this information is useful. Please do not hesitate to contact me if I can be of further assistance with regard to this or any other matter.	Assistant Attorney General Washington, D.C. 20530
Sincerely,	
Alice S. Fisher	The Honorable Patrick J. Leahy
Assistant Attorney General	Chairman, Committee on the Judiciary United States Senate
By:	Washington, D.C. 20510
John C. Keeney Acting Assistant Attorney General	Dear Mr. Chairman:
	The purpose of this letter is to report to the Committee on the Judiciary of the Senate, as required by 8 U.S.C. § 1184(k)(4), concerning alien witnesses or informants who have been
cc: The Honorable Patrick Leahy Ranking Minority Member	grated S nonimmigrat classification pursuant to Section 101(a)(15)(S) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(S) (the Act). This report is for fiscal year 2004 and is the
Committee on the Judiciary	tenth such annual report submitted under the requirements of the Act. It has been prepared in
	consultation with the Department of Homeland Security (DHS), United States Immigration and Customs Enforcement.
	Established by the Violent Crime Control Act of 1994, "S" nonimmigrant classification,
	commonly known as an S Visa, is available to aliens who provide information to law enforcemen authorities in an investigation or prosecution of an individual involved in a criminal organization
	or enterprise or, under certain circumstances, to aliens who provide information to Federal law enforcement authorities concerning a terrorist organization, enterprise or operation. Specifically,
	an alien who has been determined to be in possession of critical reliable information concerning a criminal organization or enterprise, which information the alien is willing to supply or has supplic
	to Federal or State law enforcement authorities or to a Federal or State court, is eligible for S(i) nonimmigrant classification. 8 U.S.C. § 1101(a)(15)(S)(i). Alternatively, an alien is eligible for
	S(ii) nonimmigrant classification if the Secretary of State and the Secretary of the Department of
	¹ S nonimmigrant classification may be granted to a maximum of 200 aliens per fiscal year who have assisted law enforcement authorities by providing critical, reliable information
	concerning a criminal organization or enterprise and whose presence is necessary for the successful investigation and/or prosecution of an individual involved in a criminal organization
	or enterprise. S nonimmigrant classification may be granted to a maximum of 50 aliens who assist Federal law enforcement authorities by providing information concerning a terrorist
	organization and qualify for a reward under the State Department's Rewards for Justice Program. The number of applications submitted to the Department's Rewards for Justice Program.
	reached or exceeded these numerical limits.
	FY 2004 p. 62
Page 2 Homeland Security (formerly the Attorney General) jointly determine that the alien is in possession	Page 3
Homeland Security (formerly the Attorney General) jointly determine that the alien is in possession of critical reliable information concerning a terrorist organization, enterprise, or operation, which	Page 3 The following reports the information that is required by the Act:
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For original size page pdf of Appendix A, visit www.NACDL.org/SVisaReport U.S. Department of Justice Office of Legislative Affairs Page 4 The number of aliens granted S noninmigrant status whose admission or cooperation has not resulted in a successful criminal prosecution or investigation or the prevention or frustration of a terrorist act (D) Washington, D.C. 20530 Assistant Attorney Genera June 26, 2014 As of the end of fiscal year 2004, the cooperation of all of the aliens granted S nonimmigrant classification in 2004 had resulted in a successful prosecution or investigation. No aliens were granted S(ii) status during fiscal year 2004, and accordingly, none failed to prevent or The Honorable Robert W. Goodlatte Chairman Committee on the Judiciary frustrate a terrorist act. U.S. House of Representatives Washington, DC 20515 The number of aliens granted S nonimmigrant status who have failed to report quarterly or who were convicted of crimes (E) Dear Mr. Chairman: During fiscal year 2004, no aliens failed to report quarterly or were convicted of crimes. as reported by the LEAs. The Attorney General, in consultation with the Department of Homeland Security (DHS), United States Citizenship and Immigration Services (USCIS), reports the following information relative to the granting of "S" nonimmigrant immigration benefits, commonly known as the S Visa, as established by the Violent Crime Control and Law Enforcement Act of 1994, Pub. L. No. 103-322, 108 Stat. 1796, 2024-26 (1994).¹ We hope that this information is useful. Please do not hesitate to contact me if I can be of further assistance with regard to this or any other matter. Sincerely, In accordance with Title 8, United States Code, Section 1184(k)(4), the information required to be reported is as follow Alice S. Fisher Fiscal Year 2012 Assistant Attorney General Α. The number of aliens granted S nonimmigrant classification during this fiscal year: Bv: John C. Keeney The DHS granted S nonimmigrant classification pursuant to 8 U.S.C. § 1101(a)(15)(S)(i) to sixty (60) aliens and seventy-one (71) family i. Deputy Assistant Attorney General members. The DHS granted S nonimmigrant classification pursuant to 8 U.S.C. §1101(a)(15)(S)(ii) to zero (0) aliens and zero (0) family members. cc: The Honorable Arlen Specter ii. Ranking Minority Member Committee on the Judiciary The S Visa is available to aliens who provide information to law enforcement authorities in an investigation or prosecution of an individual involved in a criminal organization or enterprise (subsection (i)) or, under certain circumstances, to aliens who provide information to redeval law enforcement authorities concerning a terror its call organization, enterprise or operation (subsection (iii)). Styles may be granted to a maximum of 200 aliens per fiscal your offer the S (i) classification, and to 50 under the S (ii) classification. The Department of Justice reviews requests for S Visas, and makes recommandations to DHS Clizen and Immigration Services. The latter has final authority to approve or deny the S Visa applications. FY 2004 | p. 65 FY 2012 | p. 66 The number of successful criminal prosecutions or investigations resulting from В. the cooperation of aliens granted S nonimmigrant classification: U.S. Department of Justice Four hundred and seventeen (417) prosecutions and two hundred and ninety-four (294) investigations resulted from the cooperation of the aliens Office of Legislative Affairs granted S nonimmigrant classification. Washington, D.C. 20536 Office of the Assistant Attorney General C. The number of terrorist acts prevented or frustrated resulting from the cooperation of aliens granted S nonimmigrant classification: June 17, 2015 Ten (10) terrorist acts are known to have been prevented or frustrated as a result of the cooperation of aliens granted S nonimmigrant classification. The Honorable Robert W. Goodlatte D. The number of aliens granted S nonimmigrant classification whose admission or Chairman Committee on the Judiciary U.S. House of Representatives Washington, DC 20515 operation has not resulted in a successful criminal prosecution or investigation or the prevention or frustration of a terrorist act: There were zero (0) aliens granted S nonimmigrant classification whose admission or cooperation did not result in a successful criminal prosecution or investigation, or did not prevent or frustrate a terrorist act. Dear Mr. Chairman The Attorney General, in consultation with the Department of Homeland Security (DHS), United States Citizenship and Immigration Services (USCIS), reports the following information relative to the granting of "S" nonimmigrant immigration benefits, commonly known as the S Visa, as established by the Violent Crime Control and Law Enforcement Act of 1994, Pub. L. No. 103-322, 108 Stat. 1796, 2024-26 (1994).¹ The number of aliens granted S nonimmigrant classifications who have failed to report quarterly or who have been convicted of crimes in the United States after the date of their admission as such a nonimmigrant: E. Two (2) aliens granted S nonimmigrant classification and zero (0) derivative family members failed to report quarterly to the Attorney In accordance with Title 8, United States Code, Section 1184(k)(4), the information required to be reported is as follows Four (4) aliens granted S nonimmigrant classification and zero (0) ii. Fiscal Year 2013 derivative family members were convicted of crimes after the date of their admission as such a nonimmigrant Α. The number of aliens granted S nonimmigrant classification during this fiscal year: se do not hesitate to contact this office if we may provide additional assistance regarding this or any other matter i. The DHS granted S nonimmigrant classification pursuant to 8 U.S.C. § 1101(a)(15)(S)(i) to twenty-seven (27) aliens and twenty (20) family Sincerely, PLIVA The DHS granted S nonimmigrant classification pursuant to 8 U.S.C. § 1101(a)(15)(S)(ii) to zero (0) aliens and zero (0) family members. ii. Peter J. Kadzil nt Attorney General ¹The S Visa is available to aliens who provide information to law enforcement authorities in an investigation or prosecution of an individual involved in a criminal organization or enterprise (subsection (i)) or, under certain circumstances, to aliens who provide information to Federal law enforcement authorities concerning a terrorist organization, enterprise or operation (subsection (i)). S Visas may be granted to a maximum of 200 aliens per fiscal year under the S(i) classification, and to 50 under the S(ii) classification. The Department of Justice reviews requests for S Visas, and makes recommendations to DHS s Citizen and Immigration Services. The latter has final authority to approve or deny the S Visa applications. The Honorable John Conyers, Jr. cc: Ranking Member FY 2012 | p. 67 FY 2013 | p. 68

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		f aliens granted S nonimmigrant classification:	The Honorable John Conyers, Jr.	
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he Hor Tw F	norable J vo B. <u>T</u> <u>t</u> D. <u>T</u> <u>c</u> <u>c</u> <u>t</u>	he number of successful criminal prosecutions or investigations resulting from the cooperation of aliens granted S nonimmigrant classification; Ninety-two (92) prosecutions and ninety-six (96) investigations resulted from the cooperation of the aliens granted S nonimmigrant classification. The number of terrorist acts prevented or frustrated resulting from the cooperation (aliens granted S nonimmigrant classification; Zero (0) terrorist acts are known to have been prevented or frustrated as a result of the cooperation of aliens granted S nonimmigrant classification. The number of aliens granted S nonimmigrant classification whose admission or poperation has not resulted in a successful criminal prosecution or investigation or the prevention or cooperation did not result in a successful criminal presecution	Ciffice of the Assistant Atomney Cancent Ciffice of the Assistant Atomney Cancent The Honorable Robert William Goodlatte Chairman Committee on the Judiciary United States House of Representatives Washington, D.C. 20510 Dear Mr. Chairman: The Department of Justice (the Departm Homeland Security (DHS), United States Citize the following information relative to the grantin commonly known as the S Visa, as established Enforcement Act of 1994, Pub L. No. 103-322, In accordance with Title 8, United States	Office of Legislative Affairs Weakington, D.C. 20330 AUG 08 2017 hent), in consultation with the Department of mship and Immigration Services (USCIS), report gof "S" nonimmigrati mimigration benefits, by the Violent Crime Control and Law
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he Hor age Tw F C T	norable J vo B. <u>T</u> <u>t</u> D. <u>T</u> <u>c</u> <u>c</u> <u>c</u> <u>c</u> <u>c</u> <u>c</u> <u>c</u> <u>c</u> <u>c</u> <u>c</u>	he number of successful criminal prosecutions or investigations resulting from the cooperation of aliens granted S nonimmigrant classification; Ninety-two (92) prosecutions and ninety-six (96) investigations resulted from the cooperation of the aliens granted S nonimmigrant classification. The number of terrorist acts prevented or frustrated resulting from the cooperation of aliens granted S nonimmigrant classification. Tailons granted S nonimmigrant classification is a cooperation of aliens granted S nonimmigrant classification. The number of aliens granted S nonimmigrant classification is negative to the second seco	Clifter of the Assistant Anomey Cannot The Honorable Robert William Goodlatte Chairman Committee on the Judiciary United States House of Representatives Washington, D.C. 20510 Dear Mr. Chairman: The Department of Justice (the Departm Homeland Security (DHS), United States Citizs the following information relative to the grantin commonly known as the S Visa, as established Enforcement Act of 1994, Pub. L. No. 103-322, In accordance with Title 8, United State required to be reported is as follows: Fiscal V A. The number of aliens granted S In year: i. The DHS granted S nonin § 1101(a)(15)(6)(b) to for members. ii. The DHS granted S nonin	Office of Legislative Affairs Washington, D.C. 20330 AUG 0.8 2017 AUG 0.8 2017 hent), in consultation with the Department of enship and Immigration Services (USCIS), report og 0 ⁺ S ⁿ nonimigration Immigration Denefits, by the Violent Crime Control and Law y 108 Stat. 1796, 2024-26 (1994). ¹ s Code, Section 1184(k)(4), the information Year 2016 nonimmigrant classification during this fiscal mmigrant classification pursuant to 8 U.S.C. ty-five (45) aliens and forty (40) family mmigrant classification pursuant to 8 U.S.C.
he Hor age Tw F C T	norable J vo B. <u>T</u> <u>t</u> D. <u>T</u> <u>c</u> <u>c</u> <u>c</u> <u>c</u> <u>c</u> <u>c</u> <u>c</u> <u>c</u> <u>c</u> <u>c</u>	he number of successful criminal prosecutions or investigations resulting from the cooperation of aliens granted S nonimmigrant classification; Ninety-two (92) prosecutions and ninety-six (96) investigations resulted from the cooperation of the aliens granted S nonimmigrant classification. He number of terrorist acts prevented or frustrated resulting from the cooperation of aliens granted S nonimmigrant classification. Zero (0) terrorist acts are known to have been prevented or frustrated as a result of the cooperation of aliens granted S nonimmigrant classification. He number of aliens granted S nonimmigrant classification whose admission or cooperation and the result of the cooperation of a successful criminal prosecution or investigation or the prevented or frustrate at the result of the cooperation of a successful criminal prosecution or investigation or observation of aliens granted S nonimmigrant classification whose admission or cooperation did not prevent or frustrate a terrorist act. There were zero (0) aliens granted S nonimmigrant classification whose failed to port quarterly or who have been convicted of crimes in the United States after the tero of their admission as such a nonimmigrant classification and zero (10) derivative family members granted S nonimmigrant classifications who have failed to report quarterly or who have been convicted of crimes in the United States after the tero (1) aliens granted S nonimmigrant classification and zero (0) derivative family members were convicted of crimes after the date of their admission as such a nonimmigrant classification and zero (0) derivative family members were convicted of crimes after the date of their admission as such a nonimmigrant classification and zero (0) derivative family members were convicted of crimes after the date of their admission as such a nonimmigrant classification failed to report quarterly to the Attorney General.	Clifter of the Assistant Anomey Cannot The Honorable Robert William Goodlatte Chairman Committee on the Judiciary United States House of Representatives Washington, D.C. 20510 Dear Mr. Chairman: The Department of Justice (the Departm Homeland Security (DHS), United States Citizs the following information relative to the grantin commonly known as the S Visa, as established Enforcement Act of 1994, Pub. L. No. 103-322, In accordance with Title 8, United State required to be reported is as follows: Fiscal V A. The number of aliens granted S In year: i. The DHS granted S nonin § 1101(a)(15)(6)(b) to for members. ii. The DHS granted S nonin	Office of Legislative Affairs Weakington, D.C. 20330 AUG 08 2017 AUG 08 2017 Hent), in consultation with the Department of mship and Immigration Services (USCIS), report g of "S" noninmigrant immigration benefits, by the Violent Crime Control and Law , 108 Stat. 1796, 2024-26 (1994). ¹ as Code, Section 1184(k)(4), the information Year 2016 nonimmigrant classification during this fiscal mmigrant classification pursuant to 8 U.S.C. tty-free (45) aliens and forty (40) family

Ц С. <u>1</u> D. <u>1</u> <u>9</u> <u>9</u> <u>9</u> <u>9</u> <u>9</u> <u>9</u> <u>9</u> <u>9</u> <u>9</u> <u>9</u>	The number of successful criminal prosecutions or investigations resulting from the cooperation of aliens granted S nonimmigrant classification; One hundred twenty-four (124) prosecutions and one hundred twenty- seven (127) investigations resulted from the cooperation of the aliens who were granted S nonimmigrant classification in FV2016. The number of terrorist acts prevented or frustrated resulting from the cooperation of aliens granted S nonimmigrant classification; Two (2) terrorist acts are known to have been prevented or frustrated as a result of the cooperation of aliens who were granted S nonimmigrant classification in FV2016.	Office of Legislative Affairs (affine of the Austrone Manney General Washington, D.C. 2039 AUG 08 2017 The Honorable John Conyers, Jr., Ranking Minority Member
D. 1 2 E. 1 5	seven (127) investigations resulted from the cooperation of the aliens who were granted S nonimmigrant classification in FY2016. The number of terrorist acts prevented or frustrated resulting from the cooperation of aliens granted S nonimmigrant classification: Two (2) terrorist acts are known to have been prevented or frustrated as a result of the cooperation of aliens who were granted S nonimmigrant classification in FY2016.	AUG 08 2017 The Honorable John Conyers, Jr.,
D. 1 2 E. 1 5	The number of terrorist acts prevented or frustrated resulting from the cooperation of aliens granted S nonimmigrant classification: Two (2) terrorist acts are known to have been prevented or frustrated as a result of the cooperation of aliens who were granted S nonimmigrant classification in FY2016.	The Honorable John Conyers, Jr.,
<u>е</u> <u>0</u> Е. <u>1</u> <u><u></u><u></u> <u><u></u><u></u> <u></u><u></u> <u><u></u></u> <u><u></u></u> <u></u><u></u> <u></u><u></u></u></u>	result of the cooperation of aliens who were granted S nonimmigrant classification in FY2016.	
<u>е</u> <u>0</u> Е. <u>1</u> <u><u></u><u></u> <u><u></u><u></u> <u></u><u></u> <u></u><u></u> <u></u><u></u> <u></u><u></u> <u></u><u></u></u></u>		Committee on the Judiciary United States House of Representatives
E. <u>1</u> <u>h</u> S	The number of aliens granted S nonimmigrant classification whose admission or cooperation has not resulted in a successful criminal prosecution or investigation	Under States Flobe of Representatives Washington, D.C. 20510 Dear Representative Convers:
	or the prevention or frustration of a terrorist act: There were zero (0) aliens granted S nonimmigrant classification whose admission or cooperation did not result in a successful criminal prosecution or investigation, or did not prevent or frustrate a terrorist act.	The Department of Justice (the Department), in consultation with the Department of Homeland Security (DHS), United States Citizenship and Immigration Services (USCIS), reports the following information relative to the granular of "8" nonimmigrant immigration benefits, commonly known as the S Visia, as established by the Violant Crime Cantol and Law
	The number of aliens granted S noniminigrant classifications in FY2016 who have failed to report quarterly or who have been convicted of crimes in the United States after the date of their admission as such a nonimuligrant:	 Enforcement Act of 1994, Pub. L. No. 103-322, 108 Stat. 1796, 2024-26 (1994).¹ In accordance with Title 8, United States Code, Section 1184(k)(4), the information required to be reported is as follows:
1.	 Two (2) aliens and one (1) derivative family member granted S nonimmigrant elassification failed to report quarterly to the Attorney General. 	Fiscal Year 2016
ŕ	ii. Zero (0) aliens granted S nonimmigrant classification and zero (0)	A. <u>The number of aliens granted S nonimmigrant classification during this fiscal year:</u>
Wahan	derivative family members were convicted of crimes after the date of their admission as such a nonimmigrant. e this information is helpful. Please do not hesitate to contact this office if we can	 The DHS granted S nonimmigrant classification pursuant to 8 U.S.C. § 1101(a)(15)(S)(1) to forty-five (45) aliens and forty (40) family members.
	sistance with regard to this or any other matter.	 The DHS granted S nonimmigrant classification pursuant to 8 U.S.C. §1101(a)(15)(S)(ii) to zero (0) aliens and zero (0) family members.
	Samuel R. Ramor Acting Assistant Attorney General	¹ The S Vian is available to allens who provide information to have enforcement authorities in an investigation or prosecution of an individual involved in a criminal organization or enterprise (subsection (f)) or, under certan circumstances, to allens who provide information to federal law enforcement authorities concerning a terrorist organization, enterprise or control (n). Sv bias may be granted to a maximum of 200 allens per fixed year under the S(f) classification, and to 50 under the S(f) classification. The Department of Justice provises requests for S Vias, and makes recommendations to DHSY LSCIS. The latter has final authority to approve or requests for S Vias, and makes the sourcement of DHSY classification.
		U.S. Department of Justice
B.	The number of successful criminal prosecutions or investigations resulting from the cooperation of aliens granted S nonimmigrant classification:	Office of Legislative Affairs
	One hundred twenty-four (124) prosecutions and one hundred twenty- seven (127) investigations resulted from the cooperation of the aliens who were granted 8 nonimmigrant elassification in PY2016.	Office of the Assistant Attorney General Washington, D.C. 20530
C.	The number of terrorist acts prevented or frustrated resulting from the cooperation of aliens granted S nonimmigrant classification;	JUL 3 1 2019 The Honorable Jerrold Nadler
	Two (2) terrorist acts are known to have been prevented or frustrated as a result of the cooperation of aliens who were granted S noninmigrant classification in FY2016.	Chairman Chairman U.S. House of Representatives Washington, DC 20515
D.	The number of aliens granted S nonimmigrant classification whose admission or cooperation has not resulted in a successful criminal prosecution or investigation	Dear Mr. Chairman:
	or the prevention or frustration of a terrorist act: There were zero (0) aliens granted S nonimmigrant classification whose admission or cooperation did not result in a successful criminal prosecution or investigation, or did not prevent or frustrate a terrorist act.	The Department of Justice (the Department), in consultation with the Department of Homeland Security (DHS) United States Citizenship and Immigration Services (USCIS), report the following information regarding the granting of "S" nonimmigrant immigration benefits, commonly known as the S visa, as established by the Violent Crime Control and Law Enforcement Act of 1994, Pub. L. No. 103-322, 108 Stat. 1796, 2024.26 (1994). ³
E.	The number of aliens granted S nonimmigrant classifications in FY2016 who have failed to report quarterly or who have been convicted of crimes in the United States after the date of their admission as such a nonimmigrant;	In accordance with Title 8, United States Code, Section 1184(k)(4), the information required to be reported is as follows:
	 Two (2) aliens and one (1) derivative family member granted S nonimmigrant classification failed to report quarterly to the Attorney 	Fiscal Year 2018 A. The number of aliens granted S nonimmigrant classification during this fiscal
	 General. Zero (0) aliens granted S nonimmigrant classification and zero (0) derivative family members were convicted of crimes after the date of their 	ycar: iii. The DHS granted S nonimmigrant classification pursuant to 8 U.S.C.
	admission as such a nonimmigrant. hope this information is helpful. Please do not hesitate to contact this office if we can r assistance with regard to this or any other matter.	 § 1101(a)(15)(S)(i) to sixteen (16) aliens and fourteen (14) family members. ii. The DHS granted S nonimmigrant classification pursuant to 8 U.S.C.
oo or rurmer	a assume what regard to this of any other manue.	§1101(a)(15)(S)(ii) to one (1) alien and two (2) family members.
	Samuel R. Ramer <i>fast</i> Acting Assistant Attorney General	³ The S visa is available to aliens who provide information to law enforcement authorities in an investigation or prosecution of an individual involved in a criminal organization or enterprise (subsection (i)) or, under certain circumstances, to aliens who provide information to Federal law enforcement authorities concenting a terrorist organization, enterprise or operation (a)userstion (ii). S visas may be granted to a maximum of 200 aliens per fiscal year under the S(i) classification, and to 50 under the S(ii) classification. The Department of Justice reviews requests for S visas, and makes recommendations to DBR's USCIS. The latter thas final authority to approve or deny the S visa applications.

ige Two	able Jerrold Nadler	U.S. Department of Justice
В.	The number of successful criminal prosecutions or investigations resulting from	Office of Legislative Affairs
	the cooperation of aliens granted S nonimmigrant classification: Thirty-nine (39) prosecutions and forty-five (45) investigations resulted	Office of the Assistant Attorney General Washington, D.C. 20530
	from the cooperation of the aliens who were granted S nonimmigrant classification in FY2018.	JUL 3 1 2019
C.	The number of terrorist acts prevented or frustrated resulting from the cooperation of aliens granted S nonimmigrant classification:	The Honorable Doug Collins Ranking Member
	Two (2) terrorist acts are known to have been prevented or frustrated as a	Committee on the Judiciary U.S. House of Representatives Washington, DC 20515
	result of the cooperation of aliens who were granted S nonimmigrant classification in FY2018.	Dear Congressman Collins:
D.	The number of aliens granted S nonimmigrant classification whose admission or cooperation has not resulted in a successful criminal prosecution or investigation or the prevention or frustration of a terrorist act:	The Department of Justice (the Department), in consultation with the Department of Homeland Security (DHS) United States Citizenship and Immigration Services (USCIS), repe the following information regarding the granting of "S" nonimmigrant immigration benefits, commonly known as the S visa, as established by the Violent Crime Control and Law
	Zero (0) altens were granted S nonimnigrant classification whose admission or cooperation did not result in a successful criminal prosecution or investigation, or did not prevent or frustrate a terrorist act.	Euminoury known at of 1994, Publ. 1. No. 103-322, 108 Shat. 1796, 2024-26 (1994). ⁴ Enforcement Act of 1994, Publ. 1. No. 103-322, 108 Shat. 1796, 2024-26 (1994). ⁴ In accordance with Title 8, United States Code, Section 1184(k)(4), the information
E.	The number of aliens granted S nonimmigrant classifications in FY2018 who have failed to report quarterly or who have been convicted of erimes in the United States after the date of their admission as such a nonimmirgrant:	required to be reported is as follows: Fiscal Year 2018
	 One (1) alien and zero (0) derivative family members granted S nonimmigrant classification failed to report every quarter to the Attorney 	 The number of allens granted S nonimmigrant classification during this fiscal year;
	General since his/her admission as a nonimmigrant. vi. Zero (0) aliens and zero (0) derivative family members who were granted S nonimmigrant classification were convicted of crimes after the date of	iv. The DHS granted S nonimmigrant classification pursuant to 8 U.S.C. § 1101(a)(15)(S)(i) to sixteen (16) aliens and fourteen (14) family members.
	their admission as a nonimmigrant. hope this information is helpful. Please do not hesitate to contact this office if we	The DHS granted S nonimmigrant classification pursuant to 8 U.S.C. §1101(a)(15)(S)(ii) to one (1) alien and two (2) family members.
provid	le additional assistance regarding this or any other matter. Sincerely,	⁴ The S visa is available to aliens who provide information to law enforcement authorities in an
	Prim Jacabna /for Stephen E. Boyd	investigation or prosecution of an individual involved in a criminal organization or enterprise (subsect (i)) or, under certain circumstances, to aliens who provide information to Federal law enforcement authorities concerning a terrorist organization, enterprise or operation (subsection (ii)). S visas may b granted to a maximum of 200 aliens per fiscal year under the S(i) classification, and to 50 under the S)
		classification. The Department of Justice reviews requests for S visas, and makes recommendations to DHS's USCIS. The latter has final authority to approve or deny the S visa applications.
P. Honora: Two		DHS's USCIS. The latter has final authority to approve or deny the S visa applications.
Honor	85	DHS's USCIS. The latter has final authority to approve or deny the S visa applications.
Ionor: Two	85 able Doug Collins The number of successful criminal prosecutions or investigations resulting from	DHS's USCIS. The latter has final authority to approve or deny the S visa applications.
Ionor: Two	able Doug Collins The number of successful criminal prosecutions or investigations resulting from. the cooperation of allens granted S nonimmigrant classification: Thirty-nine (39) prosecutions and forty-five (45) investigations resulted from the cooperation of the allens who were granted S nonimmigrant	DHS's USCIS. The latter has final authority to approve or deny the S visa applications.
ionor Γwο Β.	able Doug Collins The number of successful criminal prosecutions or investigations resulting from the cooperation of aliens granted S noninmigrant classification: Thirty-nine (30) prosecutions and forty-five (45) investigations resulted from the cooperation of the aliens who were granted S nonimmigrant classification in FY2018. The number of terrorist acts prevented or frustrated resulting from the cooperation	DHS's USCIS. The latter has final authority to approve or deny the S visa applications.
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onor Iwo B. C.	able Doug Collins The number of successful criminal prosecutions or investigations resulting from the cooperation of aliens granted S nonimmigrant classification: Thirty-nine (39) prosecutions and forty-five (45) investigations resulted from the cooperation of the aliens who were granted S nonimmigrant classification in FY2018. The number of terrorist acts prevented or flustrated resulting from the cooperation of aliens granted S nonimmigrant classification: Two (2) terrorist acts are known to have been prevented or flustrated as a result of the cooperation of aliens who were granted S nonimmigrant classification: Two (2) terrorist acts are known to have been prevented or flustrated as a result of the cooperation of aliens who were granted S nonimmigrant classification in FY2018. The number of silens granted in a successful criminal prosecution or investigation or cooperation in FY2018.	DHS's USCIS. The latter has final authority to approve or deny the S visa applications.
onor `wo B. C.	able Doug Collins The number of successful criminal prosecutions or investigations resulting from the cooperation of aliens granted S nonimmigrant classification: Thirty-nine (30) prosecutions and forty-five (45) investigations resulted from the cooperation of the aliens who were granted S nonimmigrant classification: The number of terrorist acts prevented or frustrated resulting from the cooperation of aliens granted S nonimmigrant classification: The number of terrorist acts are known to have been prevented or frustrated as a result of the cooperation of aliens who were granted S nonimmigrant classification in FY2018. The number of aliens premieted S nonimmigrant classification whose admission or cooperation has not resulted in a successful criminal prosecution or investigation are the prevention of fustrated S nonimmigrant classification whose admission or cooperation has not resulted S nonimmigrant classification whose admission or cooperation of successful criminal prosecution or investigation Zero (0) aliens were granted S nonimmigrant classification whose	DHS's USCIS. The latter has final authority to approve or deny the S visa applications.
D.	85 able Doug Collins The number of successful criminal prosecutions or investigations resulting from the cooperation of allens granted S noninmigrant classification: Thirty-nine (39) prosecutions and forty-five (45) investigations resulted from the cooperation of the allens who were granted S noninmigrant classifications in FY2018. The number of terrorist acts prevented or frustrated resulting from the cooperation of the allens who were granted S noninmigrant classifications in FY2018. The number of terrorist acts are known to have been prevented or frustrated as a result of the cooperation of allens who were granted S noninmigrant classification in FY2018. The number of allens granted S noninmigrant classification whose admission or cooperation di not result in a successful criminal prosecution or investigation or the prevention of allens the successful criminal prosecution or investigation, or did not result in a successful criminal prosecution or investigation, or did not result as successful criminal prosecution or investigation, or did not prevent or frustrate a terrorist act. The number of aliens granted S nonimmigrant classification in FY2018 who have figure to a further of aliens the competition of a terrorist act.	DHS's USCIS. The latter has final authority to approve or deny the S visa applications.
Ionors Fwo B. C.	 able Doug Collins The number of successful criminal prosecutions or investigations resulting from the cooperation of allens granted S nonimmigrant classifications: Thirty-nine (39) prosecutions and forty-five (45) investigations resulted from the cooperation of the allens who were granted S nonimmigrant classifications in FY2018. The number of terrorist acts prevented or flustrated resulting from the cooperation of allens granted S nonimmigrant classifications: Two (2) terrorist acts prevented or flustrated resulting from the cooperation of allens who were granted S nonimmigrant classifications: Two (2) terrorist acts are known to have been prevented or flustrated as a result of the cooperation of allens who were granted S nonimmigrant classification or investigation or cooperation and infinite in a successful criminal prosecution or investigation or the prevention or flustrated in a successful criminal prosecution or investigation or did not result in a successful criminal prosecution or investigation, or did not result in resuccessful criminal prosecution or investigation, or did not prevent or flustrate atterorist act. The number of aliens wanted S nonimmigrant classifications in the Valles who have been convicted of crimes in the United States after the date of their admission as such a numinmigrant. vi. One (1) alien and zero (0) derivative family members granted S nonimmigrant States after the date of their admission as such a numinmigrant. 	DHS's USCIS. The latter has final authority to approve or deny the S visa applications.
Ionor Two B. C. D.	 able Dong Collins able Dong Collins The number of successful criminal prosecutions or investigations resulting from the cooperation of aliens granted S nonimmigrant classification: Thirty-nine (39) prosecutions and forty-five (45) investigations resulted from the cooperation of the aliens who were granted S nonimmigrant classification: Thirty-nine (39) prosecutions and forty-five (45) investigations resulted from the cooperation of the aliens who were granted S nonimmigrant classification in FY2018. The number of terrorist acts prevented or fustrated resulting from the cooperation of aliens granted S nonimmigrant classification in FY2018. The number of successful criminal prosecution or investigation or cassification in FY2018. The number of aliens granted S nonimmigrant classification whose admission or cooperation of a terrorist act. Zero (9) aliens were granted S nonimmigrant classification mytose admission or successful or investigation, or investigation, or investigation, or did not revent or frustrate a terrorist act. The number of aliens granted S nonimmigrant classification whose admission or cooperation did not revent in a successful criminal prosecution or investigation, or the prevention of a terrorist act. The number of aliens granted S nonimmigrant classifications in FY2018 who have been convicted of crimes in the United States after the date of their admission as a nonimmigrant. (4). One (1) alien and zero (0) derivative family members granted S nonimmigrant classification were granted S nonimmigrant classification were granted S nonimmigrant classification failed to report (0) alien at a successful a riminal prosecution or investigation as a nonimmigrant. (5) A core (0) alien and zero (0) derivative family members who were granted S nonimmigrant classification were convicted of the date of the function of a successful a rime successful a rime successful a successful a successful a	DHS's USCIS. The latter has final authority to approve or deny the S visa applications.
Honor Two B. C. D.	 Babe Doug Collins Also Doug Collins The number of successful criminal prosecutions or investigations resulting from the cooperation of allens granted S nonimmigrant classifications: Thirty-nine (39) prosecutions and forty-five (45) investigations resulted from the cooperation of the allens who were granted S nonimmigrant classification in FY2018. The number of terrorist arcs prevented or frustrated resulting from the cooperation of allens granted S nonimmigrant classification: Two (2) terrorist arcs prevented or frustrated resulting from the cooperation of allens who were granted S nonimmigrant classification in FY2018. Two (2) terrorist arcs are known to have been prevented or frustrated as a resource of allens granted S nonimmigrant classification whose admission or the prevention of a litern who were granted S nonimmigrant classification or investigation or investigation of a terrorist act. The number of aliens granted S nonimmigrant classification whose admission or cooperation for a terrorist act. The number of aliens granted S nonimmigrant classification in results and in a successful criminal prosecution or investigation or investigation, or did not result in a successful criminal prosecution or investigation, or did not prevent or frustrate a terrorist act. The number of aliens are aread S nonimmigrant classifications in the United States after the date of their admission as a nonimmigrant. (ii) One (1) alien and zero (0) derivative family members granted S nonimmigrant classification is a successful criminal prosecution of the Attorney (terrent since his/her admission as a nonimmigrant. (iv) one (1) alien and zero (0) derivative family members who were granted S nonimmigrant classification is a nonimmigrant. (iv) one (1) alien and zero (0) derivative family members who were granted S nonimmigrant classification as a nonimmigrant. 	DHS's USCIS. The latter has final authority to approve or deny the S visa applications.

58 Shining a Light on the "S" Visa: A Long History of Unfulfilled Promises and Bureaucratic Red Tape

APPENDIX B

Response to Freedom of Information Act Request No. NRC2018060058 to the U.S. Citizenship and Immigration Services, *inter alia*, for copies of any statistical summaries that identify the approval and/or denial of Forms I-854A within one or more of the years 2012-2017.

FY	Received	Approved	Withdrawn	Denials
FY2017	64	42	11	0
FY2016	77	77	11	0
FY2015	132	18	6	2
FY2014	68	48	18	0
FY2013	36	45	6	0
FY2012	126	134	24	0
FY2011	118	118	5	0
FY2010	6	6	0	0
FY2009	21	15	6	0
FY2008	18	18	0	0
FY2007	44	44	0	0
FY2006	171	171	0	0
FY2005	127	127	0	0

S Visas

FY2017 — S Visas

LEA	S Visas F	Received	Аррі	roved	With	drawn	De	nials
	Principal	Derivatives	Principal	Derivatives	Principal	Derivatives	Principal	Derivatives
ATF	1		2	1	1			
DEA	9	16	5	3	1	4		
FBI	10	14	7	3	2	1		
ICE-HSI	5	2	8	7				
OIG			2	0				
STATE/LOCAL			1	1				
USAO-CA	1	1						
USAO-CT	1	2						
USAO-WMDO	2				2			
TOTALS	29	35	27	15	6	5		

FY2016 — S Visas

LEA	S Visas I	Received	Арр	roved	With	drawn	De	nials
	Principal	Derivatives	Principal	Derivatives	Principal	Derivatives	Principal	Derivatives
ATF	1		1	1				
DEA	10	5	16	13				
FBI	24	32	9	8	5	5		
ICE-HSI	4		12	7				
STATE/LOCAL	1		6	4				
USAO-CA					1			
TOTALS	40	37	44	33	6	5		

FY2015 — S Visas

LEA	S Visas F	Received	Арр	roved	With	drawn	De	nials
	Principal	Derivatives	Principal	Derivatives	Principal	Derivatives	Principal	Derivatives
ATF	3	1	2					
DEA	29	19	6	3	4			
FBI	19	16	1	4	1		1	1
FDIC	1							
ICE-HSI	22	15						
OIG			2					
STATE/LOCAL	1				1			
USAO-CGOS	1							
USAO-WMDO	1	4						
TOTALS	77	55	11	7	6	0	1	1

FY2014 — S Visas

LEA	S Visas F	Received	Арр	roved	With	drawn	Dei	nials
	Principal	Derivatives	Principal	Derivatives	Principal	Derivatives	Principal	Derivatives
ATF	3	2	1		2			
DEA	11	4	8	5	6	9		
FBI	9	16	10	8	2			
ICE-HSI	10	5	6	6	2	1		
IRS	2	3	1	3				
USAO-WMDO	1	1						
USPIS	1							
TOTALS	37	31	26	22	8	10		

FY2013 — S Visas

LEA	S Visas	Received	Appr	oved	With	Withdrawn D		ials
	Principal	Derivatives	Principal	Derivatives	Principal	Derivatives	Principal	Derivatives
ATF								
DEA	5	3	12	6	1	2		
FBI	8	7	5	4	1			
ICE-HSI	8	5	11	7	2			
TOTALS	21	15	28	17	4	2		

FY2012 — S Visas

LEA	S Visas	Received	Appr	oved	With	drawn	De	nials
	Principal	Derivatives	Principal	Derivatives	Principal	Derivatives	Principal	Derivatives
ATF	3	2	1	2	1			
DEA	25	15	22	15	10	7		
FBI	36	20	34	26	3			
ICE-HSI	11	9	16	17				
IRS	1	3	0	0				
STATE/ LOCAL	1		1	0				
TOTALS	77	49	74	60	14	7		

FY2011 — S Visas

LEA	S Visas	Received	Appr	oved	With	drawn	Dei	nials
	Principal	Derivatives	Principal	Derivatives	Principal	Derivatives	Principal	Derivatives
ATF	1	2	1	2				
DEA	12	7	12	7				
FBI	25	23	25	23	1	4		
ICE-HSI	17	27	17	27				
IRS	1	0	1	0				
USSS	1	2	1	2				
TOTALS	57	61	57	61	1	4		

FY2010 — S Visas

LEA	S Visas	Received	Appr	oved	Withdrawn		Denials	
	Principal	Derivatives	Principal	Derivatives	Principal	Derivatives	Principal	Derivatives
ATF								
DEA	1	1	1	1				
FBI	1	2	1	2				
ICE-HSI	1		1					
TOTALS	3	3	3	3				

FY2009 — S Visas

LEA	S Visas	Received	Appr	oved	Withd	lrawn	Der	ials
	Principal	Derivatives	Principal	Derivatives	Principal	Derivatives	Principal	Derivatives
ATF								
DEA	2	7	2	7				
FBI	2	4			2	4		
ICE-HSI	3	3	3	3				
IRS								
STATE/ LOCAL								
TOTALS	7	14	5	10	2	4		

FY2008 — S Visas

LEA	S Visas	Received	Appr	oved	Witho	drawn	De	nials
	Principal	Derivatives	Principal	Derivatives	Principal	Derivatives	Principal	Derivatives
ATF								
DEA	4	2	4	2				
FBI	6	2	6	2				
ICE-HSI	2	2	2	2				
TOTALS	12	6	12	6				

FY2007 — S Visas

LEA	S Visas Received		Appr	Approved		Withdrawn		Denials	
	Principal	Derivatives	Principal	Derivatives	Principal	Derivatives	Principal	Derivatives	
All LEAs	44		44						
TOTALS	44		44						

FY2006 — S Visas

LEA	S Visas Received		Appr	Approved		Withdrawn		Denials	
	Principal	Derivatives	Principal	Derivatives	Principal	Derivatives	Principal	Derivatives	
ALL LEAs	91	80	91	80					
TOTALS	91	80	81	80					

FY2005 — S Visas

LEA	S Visas Received		Approved		Withdrawn		Denials	
	Principal	Derivatives	Principal	Derivatives	Principal	Derivatives	Principal	Derivatives
ATF								
DEA	13	20	13	20				
FBI	9	18	9	18				
ICE-HSI	31	36	31	36				
TOTALS	53	74	53	74				

APPENDIX C

Response to Freedom of Information Act Request No. COW2019500510 to the U.S. Citizenship and Immigration Services, for a statistical summary of the approval and/or denial of Forms I-854A for the year 2018.

LEA	S Visas I	Received	Аррі	Approved		Withdrawn		Denials	
	Principal	Derivatives	Principal	Derivatives	Principal	Derivatives	Principal	Derivatives	
ATF			2						
СВР	1	1							
DEA	14	10	2						
FBI	7	9	7	6	1				
ICE-HSI	16	20	3	5					
OIG									
STATE/LOCAL	1	1							
USAO-CA									
USAO-CT									
USAO-WMDO									
USPIS	1	1							
TOTALS	40	42	14	11	1	0	0	0	

FY2018 — S Visas

APPENDIX D

Response to Freedom of Information Act Request No. CRM-200900394F to the Department of Justice. Special thanks to Andrew Becker for providing this material to NACDL during its preparation of this Report.

FISCAL YEAR 2009 (October 1, 2009 - approx. January 2010) S Visa Applications Received by OEO
FISCAL YEAR 2008 (October 1, 2008 - September 30, 2009)
S Visa Applications Received by OEO
S Visas Approved by DOJ
FISCAL YEAR 2007 (October 1, 2007 - September 30, 2008)
S Visa Applications Received by OEO 82
S Visas Approved by DOJ
FISCAL YEAR 2006 (October 1, 2006 - September 30, 2007)
S Visa Applications Received by OEO 66
S Visas Approved by DOJ
FISCAL YEAR 2005 (October 1, 2005 - September 30, 2006)
S Visa Applications Received by OEO
S Visas Approved by DOJ
FISCAL YEAR 2004 (October 1, 2004 - September 30, 2005)
S Visa Applications Received by OEO
S Visas Approved by DOJ
FISCAL YEAR 2003 (October 1, 2003 - September 30, 2004) S Visa Applications Received by OEO

FISCAL YEAR 2002 (October 1, 2002 - September 30, 2003)
S Visa Applications Received by OEO
S Visas Approved by DOJ
FISCAL YEAR 2001 (October 1, 2001 - September 30, 2002)
S Visa Applications Received by OEO
S Visas Approved by DOJ
FISCAL YEAR 2000 (October 1, 2000 - September 30, 2001)
S Visa Applications Received by OEO66
S Visas Approved by DOJ
FISCAL YEAR 1999 (October 1, 1999 - September 30, 2000)
S Visa Applications Received by OEO
S Visas Approved by DOJ
FISCAL YEAR 1998 (October 1, 1998 - September 30, 1999)
S Visa Applications Received by OEO
S Visas Approved by DOJ
FISCAL YEAR 1997 (October 1, 1997 - September 30, 1998)
S Visa Applications Received by OEO
S Visas Approved by DOJ
FISCAL YEAR 1996 (October 1, 1996 - September 30, 1997)
S Visa Applications Received by OEO
S Visas Approved by DOJ
FISCAL YEAR 1995 (October 1, 1995 - September 30, 1996)
S Visa Applications Received by OEO
S Visas Approved by DOJ
FISCAL YEAR 1994 (October 1, 1994 - September 30, 1995)
S Visa Applications Received by OEO
S Visas Approved by DOJ

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