

**VISA SECURITY AND OVERSTAYS:  
HOW SECURE IS AMERICA?**

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**HEARING**

BEFORE THE

**SUBCOMMITTEE ON BORDER  
AND MARITIME SECURITY**

OF THE

**COMMITTEE ON HOMELAND SECURITY  
HOUSE OF REPRESENTATIVES**

ONE HUNDRED THIRTEENTH CONGRESS

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## VISA SECURITY AND OVERSTAYS: HOW SECURE IS AMERICA?

Tuesday, May 21, 2013

U.S. HOUSE OF REPRESENTATIVES,  
SUBCOMMITTEE ON BORDER AND MARITIME SECURITY,  
COMMITTEE ON HOMELAND SECURITY,  
*Washington, DC.*

The subcommittee met, pursuant to call, at 10:05 a.m., in Room 311, Cannon House Office Building, Hon. Candice S. Miller [Chairwoman of the subcommittee] presiding.

Present: Representatives Miller, Duncan, Palazzo, Barletta, Stewart, Jackson Lee, O'Rourke, and Gabbard.

Also present: Representative Bilirakis.

Mrs. MILLER. The Committee on Homeland Security the Subcommittee on Border and Maritime Security will come to order. The subcommittee is meeting today to examine our Nation's visa security efforts.

Our witnesses today are John Wagner, who is acting deputy assistant commissioner from Customs and Border Protection; James Dinkins, who is the executive associate director of Homeland Security Investigations; Shonnie Lyon, who is the acting director of the National Protection and Programs Directorate Office of Biometric Identity Management; and Rebecca Gambler, director of Homeland Security and Justice Section for the Government Accountability Office. I will make a more formal introduction after the opening statements.

Our Nation is in the midst of a debate on how to best reform our broken immigration system. As we explore potential changes to our immigration processes, we must also strengthen our border security efforts. A key part of both of those efforts must be serious reforms to our visa process. According to a widely-circulated 2006 Pew Hispanic Center study, as much as 40 percent of all illegal aliens who come into our country do not cross the desert. They actually come in through the front door.

They come in through our land, our sea, and air ports of entry, with permission, and then they overstay their visas. If we are serious about border security, the Congress needs to look beyond just the traditional borders—the Northern, the Southern maritime borders—and must reduce the ability of people to overstay their visas. Visa security is by no means a new challenge. We have known for some time that our visa process is vulnerable to exploitation by terrorists and others who seek to do us harm.

We all recall that at least four of the 9/11 hijackers were here on visa overstays or were out of status. Among the most important

weaknesses the attackers exploited was the porous outer ring of border security. The hijackers passed through U.S. border security a combined total of 68 times without being detected. The man who attempted to conduct a suicide attack on the Capitol just last year had been in the country since 1999; was here on a tourist visa overstay.

Another individual arrested in the aftermath of the Boston Marathon bombings, who may have helped destroy evidence, was able to return to the United States despite being out of status on his student visa. These events highlight the fact that vulnerabilities in our visa processing system can have catastrophic consequences. The American people need to know how many more visa overstayers are out there who pose a serious threat to the security of our homeland.

Clearly, more must be done to ensure the integrity of the visa system, including enhancements to Immigration and Customs Enforcement's ability to identify and to promptly remove those who overstay their visa. Pushing out the border and conducting more vigorous, more rigorous vetting of VISIT applicants overseas thru the Visa Security Program, which stations ICE agents overseas, as well as the inclusion of fingerprints into the visa application process, have made the visa process more secure than it was, certainly, before 9/11.

But as well, we are also very concerned with our ability to track and to promptly remove overstays who remain in our country. ICE does not have a way to identify and track down overstays who entered the country prior to 2003, before US-VISIT was created, and we are concerned that we do not even have a good handle on the total number of overstayers in the country right now. I understand that the Department has plans to release some of the overstay data by the end of the year.

However, we are debating these issues right now, and I would like to see the data while we are discussing immigration reform, not after. I look forward to hearing from our witnesses today on progress made since the creation of US-VISIT, now called the Office of Biometric Identity Management, identifying overstays, especially those that pose National security and public safety threats. I think that Members will be most interested in how the Department of Homeland Security plans to implement a comprehensive exit system that will prevent terrorists from successfully exploiting the visa system; a requirement, I might add, that was first mandated in 1996.

If we are serious about controlling who comes into the Nation and preventing another attack we need to get serious about an exit program, a robust exit program. Biometric might not be the right solution until the technology is mature enough to not interfere with passenger flow. But we certainly want to be interested—we will be interested in hearing from the witnesses on how we can move forward with a workable plan in the interim.

I certainly don't want to discount the progress that has been made especially over the last 2 years in connecting many of the DHS's databases to the arrival and departure information system, which has helped to narrow down the number of people we are concerned about. But we cannot have vulnerabilities that we have

known about for some time remedied only after a high-profile incident like that that happened, that tragedy in Boston. Last Congress, this subcommittee held several hearings on the backlog of unvetted records that numbered more than 1.6 million.

Those have been screened for terrorism and public safety concerns, but a persistent backlog of unmatched records remains. According to the preliminary findings of the GAO report, there are more than 1 million of these records; a million people that we cannot confirm whether or not they have left the country. ICE's prioritization scheme virtually ensures that a large backlog will continue to exist well into the future. Visa security is a critical component of our border security efforts, and we really cannot reform our immigration system without taking a hard look at the Department's efforts to develop a robust exit system.

The American people need to be confident that all of the holes in the border are as secure as possible. So we will be very interested in hearing from the witnesses on that point.

With that, I would like to yield to the Ranking Member, the gentlelady from Texas, for her opening statement.

Ms. JACKSON LEE. Thank you, Madam Chairwoman, and thank you for having—holding this hearing. I am glad to join you in holding this hearing today to examine the issue of visa overstays—those who enter this country through the proverbial front door, but fail to depart in a timely way—and their effect on our Nation's security. I know it goes without saying, and it has been said over and over again, and it is a reminder that I think—however, that is very important.

That those who were engaged in the 9/11 horrific and heinous terrorist act were, in fact, some of them, visa overstays. We have had that scar for, now, 12 years going on 13 years. It should be a very important reminder. However, we know that people who are visa overstays are, by and large, individuals who seek an opportunity in this country, are students, family members. But even beyond that, knowing that most of these are innocent and desirous of good things, this is an important process.

So I want to thank the gentlelady from California and the gentleman from Pennsylvania in their discussion of the mark-up, who mentioned the idea of a concept to deal with visa overstays, which I asked to join them. I look forward to my staff working with them so that we can present an idea that will be constructive. I think this hearing, overall, will be enormously constructive as we move the Homeland Security border bill, border security bill, to the floor.

We had a very active bipartisan discussion about visa overstays, as I have just said, in our recent subcommittee mark-up H.R. 1417, the Border Security Results Act of 2013. Last week, I was pleased to support an amendment at the full committee mark-up of the bill to require the Department of Homeland Security to develop an implementation plan for a biometric exit capability at ports of entry, which is an essential part of our effort to address overstays.

I am committed to working with my colleagues on this very important issue. So far, this Congress' subcommittee has focused much of its oversight in legislative efforts on what DHS must do better—to better secure our land borders, and the Southern Border in particular. While this is a critically important matter, it rep-

resents only one part of broader border security and immigration enforcement issue. Addressing visa overstays is certainly equally important.

Indeed, finding a way to deal with the overstay issue will likely be essential to any immigration reform and border security package considered in Congress. It is my hope that as the great work of this subcommittee, Madam Chairwoman, continues, and the moving of the border security bill, that we will be in front of any question to be able to answer such so that no obstacles stop us from doing what really will make this country safer. That is, comprehensive immigration reform.

I want all the questions answered, and I want us to have solutions. Yes, I think it would be very important to put in new processes for this effort of visa overstays. Finding a way to deal with the overstay issue will be very important. Just this week, an amendment to address this issue was accepted at the mark-up of the Senate immigration bill. We have examined this issue regularly in Judiciary Committee, where I am also a member.

It is important to note that overstays are one of the reasons for many questions on the immigration control system. A small handful of those who overstay their visas may also pose a threat, as I mentioned earlier, as it relates to the 9/11 hijackers. There are many important questions to be answered regarding visa overstays, and I hope we can have a productive dialogue about some of those questions here today.

For example, what security issues do individuals who overstay their visas pose to the United States? Frankly, I believe that an inventory of these overstays is important, even as we try to craft our legislative fix. Is there an ability for DHS to know, by having a list and date of entry and date of departure? Is that inventory, is that digitized, is it on a computer, can it be pulled up by birth date? So what is DHS doing to identify and locate individuals who are visa overstays, but also may pose a threat?

What are the indicia that are used to be able to track individuals, even now, without a better construct? What can be done to prioritize enforcement resources and enhance efforts to address overstays? I will say that I am encouraged by the recent shift of overstay analysis and exit operation responsibilities from US-VISIT to ICE and CBP. I am hopeful that this new configuration of responsibilities will help ICE and its DHS partners address potential overstays in a more efficient way.

I want to qualify and say that I am mindful that these individuals are mostly harmless and that they are here because our immigration system does not provide them a pathway. That is why we must match these two processes together. I know that we have a very active business community on the Southern Border, active business community on the Northern Border. I know that business is done. I know that people come over with visas.

Who knows what part of businesses, what part of families, what part of tourists, what part of students? We know that DHS currently has over a million unmatched records representing potential overstays. While these individuals have been, and continue to be, vetted against National security and criminal database, we hope, we have no record of them exiting the country. DHS has reduced



the number of unmatched records significantly from just a couple of years ago, but the problem persists.

I do want to take note of the work that DHS has done. I want to hear from ICE and GAO today about what more can be done to reduce the number of unmatched records allowing DHS to focus on locating individuals who we have confidence are still in the country. I am curiously optimistic—cautiously optimistic that, given CBP responsibility for developing and deploying, a biometric exit system will help DHS make progress on this long overdue mandate.

I know as CBP and ICE come before these committees, sometimes they ask the question: What are we expected to do? I want to qualify, for the last time, as I close my remarks, to indicate that we know that there are provisions such as prosecutorial discretion that ICE uses. I want to make sure that my comments do not in any way undermine my enthusiasm about that process when it is needed, when it is necessary, and when it is warranted.

I also want to make note that we are running into, Madam Chairwoman, some difficulties in a badging issue in my very large airport, in Houston, Texas. I am thinking that that is an issue of sequestration and the lack of dollars. I hope that we will have that matter resolved. So when CBP comes and ICE comes, I hope they know that we respect what they do. We want to hear about the concerns that they have. We want to make sure that the laws that they have to be merciful are not countered because we want them to be efficient and right.

Congress first mandated an entry-exit system for visitors to the United States in 1996. While DHS has made significant progress by implementing biometric entry system, a solution for biometric exit has been far more difficult. Let me just close by indicating that there has been a troubled history with the system of kiosks. We need to find a clear path forward on the biometric exit system. I want to hear more today. I want to know what we can—how do we work with the biometric system.

I am pleased to see the improvements, but I believe it is very important for this discussion today to ensure that we have a very secure border and that we work hand-in-hand with the idea of comprehensive immigration reform. I thank the gentlelady for her yielding, and I yield back my time.

[The statement of Ranking Member Jackson Lee follows:]

STATEMENT OF RANKING MEMBER SHEILA JACKSON LEE

MAY 21, 2013

I thank Chairman Miller for holding this hearing today to examine the issue of visa overstays—those who enter this country through the proverbial front door but fail to depart in a timely way—and their effect on our Nation's security.

We had a very active, bi-partisan discussion about this issue during our recent subcommittee mark-up of H.R. 1417, the Border Security Results Act of 2013.

Last week, I was pleased to support an amendment at the full committee mark-up of the bill to require the Department of Homeland Security to develop an implementation plan for a biometric exit capability at ports of entry, which is an essential part of our effort to address overstays.

I am committed to working with my colleagues on this very important issue.

So far this Congress, the subcommittee has focused much of its oversight and legislative efforts on what DHS must do to better secure our land borders, and the Southern Border in particular.

While this is a critically important matter, it represents only one part of the broader border security and immigration enforcement issue.

Addressing visa overstays is certainly equally important.

Indeed, finding a way to deal with the overstay issue will likely be essential to any immigration reform and border security package considered in Congress.

Just this week, an amendment to address this issue was accepted at the markup of the Senate immigration bill.

We have examined this issue regularly in the Judiciary Committee, where I am also a Member.

It is important to note that overstays are more than an immigration control concern.

A small handful of those who overstay their visas may also pose a threat to our homeland security, like several of the 9/11 hijackers.

There are many important questions to be answered regarding visa overstays, and I hope we can have a productive dialogue about some of those questions here today.

For example, what security issues do individuals who overstay their visas pose to the United States? What is DHS doing to identify and locate individuals who may pose such a threat?

What can be done to prioritize enforcement resources and enhance efforts to address overstays?

I will say that I am encouraged by the recent shift of overstay analysis and exit operations responsibilities from US-VISIT to ICE and CBP.

I am hopeful that this new configuration of responsibilities will help ICE and its DHS partners address potential overstays in a more efficient way.

We know that DHS currently has over a million “unmatched records” representing potential overstays.

While these individuals have been and continue to be vetted against National security and criminal databases, we have no record of them exiting the country. DHS has reduced the number of unmatched records significantly from just a couple of years ago, but the problem persists.

I want to hear from ICE and GAO today about what more can be done to reduce the number of unmatched records, allowing DHS to focus on locating individuals who we have confidence are still in the country.

I am cautiously optimistic that giving CBP responsibility for developing and deploying a biometric exit system will help DHS make progress on this long-overdue mandate.

Congress first mandated an entry-exit system for visitors to the United States in 1996.

While DHS has made significant progress by implementing a biometric entry system, a solution for biometric exit has been far more difficult to come by.

We have seen the troubled history of this effort, from a system of kiosks located in inconvenient and inconsistent locations in airports, to two pilots involving CBP and TSA, each of which had advantages and disadvantages.

What is needed now is a clear path forward on biometric exit, and I hope to hear more from our witnesses today on what that path will be.

While not a substitute for biometric exit, I am pleased to see recent efforts to enhance biographic exit, particularly for individuals crossing the Northern Border.

However, addressing biographic exit at the Southern Border is more problematic and will take more resources and ingenuity to develop a workable solution.

America’s borders will only be secure when we address not only those who walk through the desert to come here, but also those who arrived in this country through our front door.

Mrs. MILLER. I thank the gentlelady for her comments. Other Members of the committee are reminded that opening statements might be submitted for the record. I would just say, before I introduce the witnesses, that immigration reform is of interest, as our country debates this, by other countries as they are watching what we are doing in relation to border security. It is interesting to note that that is particularly so with visa securities, as evidenced by the presence of a media outlet here today from Russia, who is covering these proceedings.

I just point that out for the Members. We have four distinguished witnesses before us today for this important topic. First of all, Dr.—or, excuse me, Mr. John Wagner—you could be a doctor—

is the acting deputy assistant commissioner from the U.S. Customs and Border Protection. Mr. Wagner formerly served as the executive director of admissions and passenger programs, with responsibility for all traveler-related policies and programs, including the Trusted Traveler Program, the electronic system for travel authorization, and the Immigration Advisory Program. And the Fraudulent Document Analysis unit.

Mr. James Dinkins, who has been here on other occasions—we welcome you back, sir, as well—is the executive associate director of Homeland Security Investigations. Prior to assuming his current position, Mr. Dinkins held a number of key leadership positions within ICE, including acting director for the Office of Professional Responsibility, chief of ICE's Financial Investigation Programs, and assistant special agent in charge for HSI Michigan.

Mr. Shonnie Lyon is the acting director of the National Protection and Programs Directorate Office of Biometric Identity Management, OBIM, formerly known as the US-VISIT program. It is the lead entity in the Department of Homeland Security for Biometric Identity Management Services across the Government. Mr. Lyon is also responsible for overseeing the day-to-day operations of that program.

Ms. Rebecca Gambler, again, has been before our committee on a number of occasions in this Congress and the last Congress, is the acting director in the U.S. Government Accountability Office's Homeland Security and Justice Team. Ms. Gambler leads the GAO's work on border security and immigration issues.

The witnesses' full written statements will appear in the record. The Chairwoman now recognizes Mr. Wagner for his opening comments for 5 minutes.

**STATEMENT OF JOHN WAGNER, ACTING DEPUTY ASSISTANT COMMISSIONER, OFFICE OF FIELD OPERATIONS, CUSTOMS AND BORDER PROTECTION, U.S. DEPARTMENT OF HOMELAND SECURITY**

Mr. WAGNER. Good morning, Chairwoman Miller, Ranking Member Jackson Lee, and distinguished Members of the subcommittee. Thank you for the opportunity to appear before you on behalf of the dedicated men and women of U.S. Customs and Border Protection to discuss our role in addressing visa overstays.

CBP is responsible for securing our Nation's borders while facilitating the flow of legitimate international trade and travel that is so vital to our Nation's economy and prosperity. Within this broad responsibility, our priority mission remains to prevent terrorists and terrorist weapons from entering the United States. We recognize that those who pose a National security or public safety threat may seek to commit immigration fraud by way of overstaying a visa in order to remain in the United States.

CBP operates at more than 320 ports of entry and processes nearly 1 million travelers each day as they enter the United States. About 30 percent of those, about 100 million people a year, and travelers who arrive via commercial aviation. DHS and CBP have developed and strategically deployed resources to detect, assess, and, when necessary, mitigate risks, including potential overstays at the earliest possible point and throughout the travel continuum.

Prior to a foreign national traveling to the United States, they must either obtain a visa from the Department of State or an Electronic System for Travel Authorization, also known as an ESTA, if they are traveling under the visa waiver program by air or sea. When applying for a visa, travelers must submit an application and provide fingerprints for enforcement screening. These fingerprints are submitted to IDENT, maintained by the Office of Biometric Identity Management, OBIM, to determine if there is any adverse action, and adverse information, available.

VWP travelers apply for an ESTA on-line prior to travel, and the biographical application data is correlated against and maintained in CBP's text database. CBP utilizes the visa and the ESTA information, as well as passenger name record data and Advance Passenger Information Manifests, also known as APIS, to assess the risks of all passengers, regardless of citizenship, on all inbound and outbound international flights before they depart. CBP's National Targeting Center, or the NTC, analyzes traveler data through the advantaged targeting system and uses advanced software to apply intelligent-driven targeting rules to conduct a risk assessment.

For air travelers, some persons of interest are referred for further questioning prior to boarding the plane. CBP has officers located in 11 airports in 9 foreign locations as part of the Immigration Advisory Program to identify and address passengers of concern long before they reach the physical border of the United States. These CBP officers work in partnership with foreign law enforcement officials to evaluate potential risks, including potential possible overstays, and then work in coordination with commercial airlines to issue no-board recommendations to the airline to keep the suspected high-risk or inadmissible passengers from traveling to the United States.

In locations where we do not have immigration advisory officers stationed, we also work through our National Targeting Center and our regional carrier liaison groups to contact airlines directly in order to advise of no-board recommendations. The NTC vetting process for international passengers continues while the flight is en route to the United States in order to identify any travelers who, although not necessarily National security risks, may need a more thorough inspection on the first port of entry upon arrival in the United States.

At the land border ports, advanced information is generally not available unless the passengers are enrolled in a Trusted Traveler Program, like NEXUS or SENTRI, or if they are arriving by rail or chartered bus and that company is voluntarily submitting APIS data to CBP. On the land border, we are well-positioned to address admissibility and overstay risk. The Western Hemisphere Travel Initiative reduced the number of acceptable documents from more than 8,000 to a core set of six, allowing CBP—through the application of RFID technology—to increase the percentage of documents verified and queried from CBP from 5 percent in 2005 to over 97 percent today.

The ability for CBP officers to access real-time and reliable information about non-immigrants seeking administration to the United States is critical to our anti-terrorism and anti-fraud efforts. Upon arrival in the United States, all persons are inspected by CBP offi-

cers. This inspection begins with the officers scanning the traveler's entry document and performing a query of several databases. Most foreign nationals arriving at U.S. airports, CBP officers will capture their fingerprints and photographs, which is used to verify identity against the information provided by the Department of State at the time of visa application.

In addition, each traveler is interviewed by a CBP officer to determine the purpose and their intent to travel, and whether any further inspection is necessary. Outbound inspection, namely the collection of exit data for persons departing the United States, is crucial in order to match entry records and, therefore, determine who is lawfully abiding by the terms of their administration and to sanction those who are not. The exit system in the air environment is similar to inbound targeting, in that CBP obtains advanced outbound manifest information through the APIS system from air and sea carriers prior to departure.

As soon as APIS indoor becomes available, CBP immediately begins the screening and vetting process of the outbound flight for possible matches to the terrorist screening database as well as other law enforcement records. At the land border, the standard mechanism for gathering departure information is the collection of the form I-94 or I-94W on the traveler's exit. CBP is working with the Canadian government under the Beyond the Border Plan also to facilitate the exchange of entry information so that the entry into one country is considered an exit from the other in the land border environment.

A pilot of this exchange was completed in January of this year, and phase two will commence at the end of next month, where both countries will exchange data on third-country nationals. All arrival and departure information collected by CBP is submitted to the Arrival and Departure Information System, also known as ADIS, which is available to ICE and Department of State and other agencies to assist with the determination and enforcement of overstays.

DHS has made significant progress in preventing terrorists from exploiting the visa process, and further technological investments will enhance DHS and CBP's ability to address threats in a more effective and efficient manner than before. We will continue to work closely with our partners to combat visa fraud and identify potential travelers to the United States who may pose a threat.

Thank you for allowing me the opportunity to testify today, and I look forward to answering any of your questions.

[The joint statement of Mr. Wagner, Mr. Dinkins, and Mr. Lyon follows:]

JOINT PREPARED STATEMENT OF JAMES A. DINKINS, JOHN WAGNER, AND SHONNIE LYON

MAY 21, 2013

INTRODUCTION

Chairman Miller, Ranking Member Jackson Lee, and distinguished Members of the subcommittee. Thank you for the opportunity to discuss the efforts of the U.S. Department of Homeland Security (DHS) to prevent the exploitation of our non-immigrant visa system by terrorists and criminals. Every day, Federal, State, local, and Tribal government officials verify the identities of individuals for a variety of purposes to determine whether they pose a risk to the United States and whether they meet the requirements for a specific Government benefit or credential. Aliens

who violate their immigration status and overstay their authorized periods of admission implicate critical areas of DHS's mission to protect National security and promoting the integrity of our immigration system.

DHS OVERSEAS PRESENCE AND COORDINATION WITH THE U.S. DEPARTMENT OF STATE  
(DOS)

Stopping threats before they reach our shores is one of DHS's most important priorities. The U.S. Immigration and Customs Enforcement (ICE) Office of International Affairs has personnel in 75 offices in 48 countries who collaborate with international counterparts and Federal partner agencies in joint efforts to disrupt and dismantle transnational criminal organizations engaged in money laundering, contraband smuggling, weapons proliferation, forced child labor, human rights violations, intellectual property rights violations, child exploitation, human smuggling and trafficking, and many other violations. Additionally, ICE facilitates the repatriation of individuals with final orders of removal, returning violators and those unlawfully present to their home countries.

Effective border security requires broad information sharing and cooperation among U.S. agencies. In October 2006, ICE entered into a memorandum of understanding (MOU) with the DOS Bureau of Consular Affairs in order to exchange visa and immigration data. The agreement has allowed ICE and DOS to exchange information contained in each other's electronic databases pertaining to foreign persons seeking entry into the United States. This exchange of information allows DOS Consular Affairs personnel to query and access ICE and U.S. Customs and Border Protection (CBP) immigration violator records contained in ICE's Enforcement Integrated Database. DOS Consular Affairs personnel can then take into consideration prior immigration violations when adjudicating visa applications for foreign persons who have applied to enter the United States. The exchange of information between DOS and ICE also allows ICE enforcement personnel to query the DOS Consular Consolidated Database and access visa application information for foreign persons who are being investigated by ICE.

In January 2011, ICE signed an MOU outlining roles, responsibilities, and collaboration between ICE and the DOS Bureaus of Consular Affairs and Diplomatic Security. The MOU governs the day-to-day operations of ICE agents conducting visa security operations at U.S. embassies and consulates abroad. To facilitate information sharing and reduce duplication of efforts, ICE and DOS conduct collaborative training and orientation prior to overseas deployments. Once they are deployed to overseas posts, ICE and DOS personnel work closely together in working groups, meetings, training, and briefings, and engage in regular and timely information sharing. ICE continues to evaluate the need to screen and investigate additional visa applicants at high-risk visa-issuing posts beyond the 19 such posts at which the agency currently operates. ICE will continue to conduct joint site visits with DOS to identify locations for deployment based on emerging threats. We look forward to continuing to report back to you with updates on this process.

In addition, CBP uses advance information and a select overseas footprint to address concerns long before they reach the physical border of the United States. Using its Automated Targeting System, CBP leverages all available advance passenger data, including the Passenger Name Record (PNR) and Advance Passenger Information System data, United States-bound travel reservations, Electronic System for Travel Authorization applications, visa applications, passenger manifests, previous crossing information, intelligence, and law enforcement information, as well as open-source information in its anti-fraud and anti-terrorism efforts at the National Targeting Center (NTC). Immigration Advisory Program officers work in partnership with foreign law enforcement officials to evaluate potential risks, including possible overstays, and then work in coordination with commercial air carriers to issue no-board recommendations to the airline to keep suspected high-risk or inadmissible passengers from traveling to the United States. In fiscal year 2012, CBP made more than 9,500 no-board recommendations to carriers.

The NTC vetting process for international passengers continues while the flight is en route to the United States in order to identify any travelers who, although not necessarily National security risks, may need a more thorough inspection at the first port of entry upon arrival in the United States.

DHS VISA SECURITY PROGRAM

The Homeland Security Act directs DHS to assist in the identification of visa applicants who seek to enter the United States for illegitimate purposes, including criminal offenses and terrorism-related activities. The visa adjudication process often presents the first opportunity to assess whether a potential non-immigrant

visitor or immigrant poses a threat to the United States. The Visa Security Program (VSP) represents ICE's front line in protecting the United States against terrorists and criminal organizations by preventing foreign nationals who pose as a threat to National security from entering the United States.

ICE deploys trained special agents overseas to high-risk visa adjudicating posts in order to identify potential terrorist and criminal threats before they reach the United States by conducting targeted, in-depth reviews of individual visa applications and applicants prior to visa issuance, and making recommendations to consular officers to refuse or revoke visas when warranted. DHS actions complement the consular officers' screening, applicant interviews, and reviews of applications and supporting documentation.

In March 2010, the NTC implemented a program to conduct continuous vetting of valid U.S. nonimmigrant visas. Recurrent vetting ensures that changes in a traveler's visa status are identified in near real-time, allowing CBP to timely determine whether to provide a "no-board recommendation" to a carrier, to recommend that DOS revoke the visa, or to notify the appropriate domestic ICE office regarding individuals determined to be within the United States. Since the program's inception, DOS has revoked more than 4,852 visas based on requests from CBP on information uncovered after a visa was issued.

In support of the VSP, ICE, and CBP, in collaboration with DOS, have initiated an automated pilot program to enhance on-going visa security efforts. The Pre-Adjudicated Threat Recognition Intelligence Operations Team (PATRIOT) initiative is the automated screening of visa application information against DHS holdings prior to interview. The process includes in-depth vetting of applicants identified as having potential derogatory information, who may be of investigative interest, or ineligible to receive U.S. visas. The PATRIOT initiative takes a risk-based approach and uses interagency resources from ICE, CBP, DOS, and the intelligence community to identify National security, public safety and other visa concerns. In 2012, Visa Security Program special agents screened more than 1.3 million visa applicants in collaboration with the DOS. In 2014, VSP will enhance visa vetting by increasing automated data exchange with DOS and CBP's NTC so that the flow of on-line visa information to DHS systems will be automated and information will be sent back to DOS also using an automated interface. ICE will leverage modernization efforts to increase investigations of visa applicants who pose the greatest threats to National security such as terrorism, counter-proliferation and export violations, and human rights and war crime violations.

#### STUDENT AND EXCHANGE VISITOR PROGRAM

The Student and Exchange Visitor Program (SEVP) is funded by fees collected from non-immigrant students, exchange visitors, and participating schools. It manages information on non-immigrants whose primary reason for coming to the United States is to study at U.S. institutions certified for inclusion in the Student and Exchange Visitor Information System (SEVIS) database. SEVIS tracks non-immigrant students, exchange visitors, and their dependents during their authorized stays in the United States.

Over the past several months, DHS has taken steps to upgrade SEVIS. Earlier this month, DHS implemented a technological solution that ensures that CBP inspectors at our ports of entry have the most current information regarding a student visa holder's status at the time of their entry and exit from the United States. On a daily basis CBP's TECS database will be updated with a record of individual status changes to an individual's I-20. Thus, if that individual presents himself for inspection before a CBP Officer, the officer would see that there was a status indication change and the I-20 should be checked/validated via SEVIS to assist in a proper admissibility decision. These improvements will be supplemented later this month through a system upgrade that improves SEVIS's interface with the Arrival Departure Information System (ADIS), which displays critical travel data such as those found on the form I-94 (admission number, passport expiration date, and visa expiration date). This upgrade will automate the lookout for SEVIS violators and improve communication between the two systems in order to better identify overstays using internal reporting capabilities and security control remediation for authorized users including CBP Officers. An additional upgrade allows DOS to also access and record information in SEVIS records, which further enhances our situational awareness of foreign students.

SEVIS contains the records of more than 1.1 million active non-immigrant students, exchange visitors, and their dependents, as well as information on approximately 10,000 SEVP-certified institutions. SEVP regulates schools' eligibility to enroll non-immigrant students for academic and vocational training purposes, and

manages participating schools as well as students in the F (academic) and M (vocational) visa classifications and their dependents. DOS manages the Exchange Visitor Program for non-immigrants in the J visa classification, which enables foreign nationals to come to the United States to teach, study, conduct research, demonstrate special skills, or receive on-the-job training for periods ranging from a few weeks to several years.

SEVP is responsible both for certifying schools and for withdrawing certification from non-compliant schools. The certification process supports the law enforcement functions of furthering National security and protecting the integrity of our Nation's borders by providing consistent, comprehensive oversight while preserving the Nation's tradition of welcoming non-immigrant students and exchange visitors. SEVP collects, maintains, and provides information to interagency partners so that only legitimate non-immigrant students and exchange visitors gain entry to, and remain in, the United States. The SEVP program provides timely information to support the Department's mission and facilitates the sharing of data with our Federal partners. Additionally, the data maintained by SEVP in SEVIS supports the DOS's Bureau of Consular Affairs visa process by providing advanced electronic data on non-immigrant visa applicants prior to visa issuance.

The non-immigrant student and exchange visitor programs that bring F, J, and M visa holders to the United States are of immense value to all countries involved, as they serve to strengthen relations between our Nation and others while fostering intercultural understanding. These programs produce economic benefits as well with the U.S. Department of Commerce estimating that non-immigrant students, exchange visitors, and their dependents contributed more than \$21 billion to the U.S. economy through their expenditures on tuition and living expenses during the 2011–2012 academic year.

SEVP has been working diligently to address the Government Accountability Office (GAO) recommendations contained in a report issued last fall entitled "Student and Exchange Visitor Program: DHS Needs to Assess Risks and Strengthen Oversight Functions." As part of this effort, SEVP has partnered with the Federal Aviation Administration (FAA) to ensure proper certification for flight schools. As a result of this collaboration, SEVP has issued new guidance clarifying that all flight schools must have final FAA Part 141 certification and has completed identifying and notifying all flight schools that do not meet this standard that they will be withdrawn. Additionally, even prior to the GAO recommendation to focus more on risk, SEVP has also taken on several risk-management initiatives to identify and analyze programmatic risk over the past 2 years. This includes the development of a school risk scorecard, a risk-informed compliance methodology, and an analysis of characteristics associated with high-risk schools.

#### THE COUNTERTERRORISM AND CRIMINAL EXPLOITATION UNIT

The Counterterrorism and Criminal Exploitation Unit (CTCEU) is the first National program dedicated to the enforcement of non-immigrant visa violations. Each year, the CTCEU analyzes records of hundreds of thousands of potential status violators after preliminary analysis of data from SEVIS and the Overstay Analysis Unit (OAU) along with other information. After this analysis, CTCEU determines potential violations that warrant field investigations and/or establishes compliance or departure dates from the United States. Between 15,000 and 20,000 of these records are analyzed each month and, since the creation of the CTCEU in 2003, over 2 million such records have been analyzed using automated and manual review techniques.

Today, through the CTCEU, we proactively develop cases for investigation in cooperation with SEVP and OAU. These programs enable special agents to access information about the millions of students, tourists, and temporary workers present in the United States at any given time, and to identify those who have overstayed or otherwise violated the terms and conditions of their admission. ICE special agents and analysts monitor the latest threat reports and proactively address emergent issues. This practice, which is designed to detect and identify individuals exhibiting specific risk factors based on intelligence reporting, including travel patterns, and in-depth criminal research and analysis, has contributed to DHS's counterterrorism mission by initiating or supporting high-priority National security initiatives based on specific intelligence.

In order to ensure that the potential violators who pose the greatest threats to National security are given priority, ICE uses intelligence-based criteria, developed in close consultation with the intelligence and law enforcement communities. ICE assembles the Compliance Enforcement Advisory Panel (CEAP), which is comprised of subject matter experts from other law enforcement agencies and members of the



intelligence community, who assist the CTCEU in keeping targeting methods in line with the most current threat information. The CEAP is convened on a tri-annual basis to discuss recent intelligence developments and update the CTCEU's targeting framework, in order to ensure that the non-immigrant overstays and status violators who pose the greatest threats to National security are targeted.

To further strengthen the Nation's enforcement efforts concerning overstays and other status violations, DHS is currently assessing various approaches to sharpen the focus of programs that address vulnerabilities exploited by visa violators.

#### OVERSTAY ANALYSIS UNIT

DHS is focused on enhancing its vetting initiatives across the full mission space of homeland security by providing real-time biometric functions to its front line operational components while continuing to set Government-leading biometric policies and standards. To this end, the OAU analyzes biographical entry and exit records stored in the National Protection and Programs Directorate's (NPPD) Office of Biometric Identity Management (OBIM) Arrival and Departure Information System (ADIS) to further support DHS's ability to identify international travelers who have remained in the United States beyond their authorized periods of admission. DHS's Automated Biometric Identification System (IDENT) and ADIS provide person-centric information by searching biometric and biographic data against Government databases to establish and confirm the identities of individuals that DHS has already encountered. OBIM supports DHS components by providing matching services against its databases and returning any linked information when a match is made as they vet those identities of individuals already encountered by DHS to identify known or suspected terrorists, National security threats, criminals, and those who have previously violated U.S. immigration laws.

The OAU analyzes and validates two types of non-immigrant overstay records: Out-of-country overstays (OCO) and in-country overstays (ICO). OCO records pertain to visitors who stayed beyond their authorized admission period and subsequently departed the country. The OAU validates these violations based on their reported departure dates and creates biometric and biographic lookouts for these subjects. The lookouts are posted in two separate databases: The OBIM Automated Biometric Identification System (IDENT) Secondary Inspection Tool and CBP's TECS, respectively, to alert and notify DOS consular officers and CBP Officers of a subject's violation before he or she is granted a visa or re-entry to the United States. ICO records pertain to visitors with no evidence of departure or adjustment of status upon expiration of the terms of their admission. The OAU reviews and validates these ADIS system identified violations based upon ICE identified categories of interest.

The OAU makes overstay and status violation referrals from three unique sources, which apply respectively to typical overstay violators, admitted watch list subjects, and Visa Waiver Program (VWP) violators. The first source, non-immigrant overstay leads, is used to generate field investigations by identifying foreign visitors who violate the terms of their admission by remaining in the United States past the date of their required departure. The second source, admitted watch list leads, monitors records for individuals who, at the time of admission to the United States, were the subject of a watch list record containing derogatory information that did not render the individual inadmissible to the United States, but did warrant monitoring their visit.

The third source is CTCEU's Visa Waiver Enforcement Program (VWEP). Visa-free travel to the United States builds upon our close bilateral relationships and fosters commercial and personal ties among tourist and business travelers in the United States and abroad. The VWP, the primary source of non-immigrant visitors from countries other than Canada and Mexico, currently allows eligible nationals of 37 countries<sup>1</sup> to travel to the United States without a visa and, if admitted, to remain in the country for a maximum of 90 days for tourist or business purposes. Prior to the implementation of the VWEP in 2008, there was no National program dedicated to addressing overstays within this population. Today, ICE regularly scru-

<sup>1</sup>The list of designated VWP countries can be found at 8 C.F.R. 217.2, with the most recent designation being that of Taiwan in October 2012. The Taiwan Relations Act of 1979, Public Law 96-8, Section 4(b)(1), provides that "[w]henver the laws of the United States refer or relate to foreign countries, nations, states, governments, or similar entities, such terms shall include and such laws shall apply with respect to Taiwan." 22 U.S.C. 3303(b)(1). Accordingly, all references to "country" or "countries" in the Visa Waiver Program authorizing legislation, Section 217 of the Immigration and Nationality Act, 8 U.S.C. 1187, are read to include Taiwan. This is consistent with the United States' one-China policy, under which the United States has maintained unofficial relations with Taiwan since 1979.

tinizes a refined list of individuals who have been identified as potential overstays who entered the United States under the VWP. One of the primary goals of this program is to identify those subjects who attempt to circumvent the U.S. immigration system by obtaining travel documents from VWP countries.

#### CREATION OF THE OFFICE OF BIOMETRIC IDENTITY MANAGEMENT

The *Consolidated and Further Continuing Appropriations Act, 2013* (Public Law 113-6) enacted on March 26, 2013, transferred the core of United States Visitor and Immigrant Status Indicator Technology (US-VISIT) Program staff to stand up OBIM under NPPD. Biometric identity management plays a critical role in supporting the DHS mission to secure the Nation, and this office will leverage its experience and expertise to provide biometric and associated biographic identity verification and analysis services to current and existing customers within DHS, and with our Federal, State, local, the intelligence community, and foreign partners.

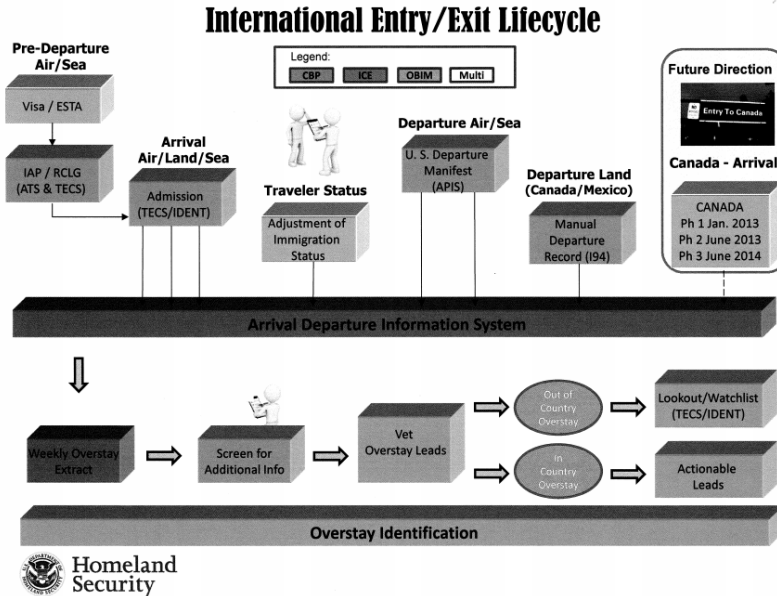
The act also aligns operational capabilities and realizes efficiencies by transferring US-VISIT's overstay analysis functions to ICE and moves entry/exit policy and operations to CBP. As the lead entity within DHS responsible for biometric identity management services, OBIM is focused on improving biometric and associated biographic data sharing through system interoperability with the U.S. Departments of Defense, Justice, and State towards a "whole-of-Government" approach to identity services, and with trusted international partners to increase National and global security. By storing, matching, and analyzing biometric data linked to biographic information, OBIM provides homeland security decision makers with person-centric, actionable information on immigration violators, criminals, and known or suspected terrorists to enhance the Nation's safety and resiliency.

Biometric information sharing between the Federal Bureau of Investigation's Criminal Justice Information Services and OBIM is the foundation of the use of IDENT/Integrated Automated Fingerprint Identification System (IAFIS) interoperability under ICE's Secure Communities. Through the use of IDENT/IAFIS interoperability under Secure Communities, aliens—including those who have overstayed or otherwise violated their immigration status—who are encountered by law enforcement after arrest for the commission of a crime may be identified as immigration violators when fingerprints are submitted to IAFIS. Once individuals are identified, ICE officials determine what enforcement action is appropriate and consistent with ICE's enforcement priorities. Currently, the use of this technology is deployed to 3,181 jurisdictions in 50 States, five Territories, and the District of Columbia.

#### CONCLUSION

DHS has made significant progress in preventing terrorists from exploiting the visa process. Technological advances have created an opportunity for law enforcement to identify and mitigate National security and public safety threats on an efficient basis that otherwise would have required hundreds of employees. These new technologies enable us to address these threats in a more cost-effective and expeditious manner than ever before. We will continue to work closely with our international, Federal, State, local, and Tribal partners to combat visa fraud and protect the integrity of our visa security system.

Thank you again for the opportunity to testify today and for your continued support of DHS and its law enforcement mission. We would be pleased to answer any questions.



Mrs. MILLER. I thank the gentleman for his comments.  
The Chairwoman now recognizes Mr. Dinkins for his 5 minutes.

**STATEMENT OF JAMES DINKINS, EXECUTIVE ASSOCIATE DIRECTOR, HOMELAND SECURITY INVESTIGATIONS, IMMIGRATION AND CUSTOMS ENFORCEMENT, U.S. DEPARTMENT OF HOMELAND SECURITY**

Mr. DINKINS. Good morning, Chairman Miller and Ranking Member Jackson Lee and distinguished Members of the subcommittee. Thank you for the opportunity to discuss our collective efforts to prevent the exploitation of non-immigrant visas by terrorists and other criminal organizations.

We have had great collaboration with our partners at CBP and throughout DHS, as well as the State Department, to effectively combat visa fraud and mitigate National security and public safety threats. ICE and security investigations plays a critical role in the U.S. Government's layered approach to visa security. The process begins overseas with the submission of a non-immigrant visa application, extends throughout multiple layers of vetting and review during the application process, as well as after the visa is actually issued.

Today, I would like to highlight three programs: The HSI Visa Security Program, our Student Exchange Visitors program, and the HSI Counterterrorism and Criminal Exploitation Unit. The HSI Visa Security Program represents DHS's front line in protecting the homeland by preventing foreign nationals who could pose a threat from actually obtaining a visa in the first place. To accomplish this, we rely upon highly-trained HSI special agents deployed to 19 high-risk visa-issuing posts overseas, combined with sophisti-

cated technology developed in partnership with CBP at the National Targeting Center.

As a result of today's increasingly sophisticated technology, we have the ability to vet more visa applicants against more data sets—has grown faster than ever before. Since fiscal year 2011 alone, HSI special agents screened over 3 million visa applications through a manual review that identified over 10,000 individuals who could pose a potential threat to the United States. As a result, we recommended that they not be issued a visa. These are 10,000 individuals who could have posed a threat to our Nation, but were never afforded the opportunity to do so.

With the State Department's transition from a paper visa application system to an on-line entrance process, we began collaborating with CBP to take advantage of this technological milestone. This year, we started piloting an automated vetting program. This program, known as Patriot, is revolutionizing the screening of electronically-submitted visa applications. Patriot automates an in-depth vetting of non-immigrant visa applications, a process that previously was done manually and took weeks to do. But with Patriot, the initial screening can be done electronically in a matter of seconds.

With the help of Patriot, in the near future we will not only be able to screen visa applications filed at the 19 high-risk posts, but virtually every HSI special non-immigrant visa application submitted from around the world within seconds of the person hitting the "submit" button and well in advance of them ever being considered by the State Department for a visa. The security and investigative benefits of this new program are immense, and will have a direct impact on our National security.

I would also like to take the opportunity to discuss international students. While the vast majority of these students came to the United States in search of a quality education, there are those who choose a different path and seek to exploit the system for their nefarious purposes. As you know, HSI manages the Student Exchange Visitor Program as well as the Student Exchange Visitor Information System, known as SEVIS, which is a database that tracks HSI special non-immigrant students, exchange visitors, and their dependents.

Today, SEVIS contains the records related to more than 1 million active students as well as information of approximately 10,000 certified institutions for education. While overseeing this program, the men and women assigned to the Student Exchange Visitor program monitor both the institutions and the students for compliance as well as potential criminal activity, immigration fraud, and status violations. When such activity is detected, the information is referred to the HSI Counterterrorism and Criminal Exploitation Unit.

This unit is a National program dedicated to investigating non-immigrant visa violations, and is responsible for identifying and targeting those HSI special non-immigrant visa holders who could pose a National security or public safety threat to our Nation. Each year, the unit analyzes hundreds of thousands of potential visa status violators. These intelligence-based screening criteria, developed in close consultation with our law enforcement partners as well as

the intelligence community, ensure that the latest information is incorporated into our targeting process.

When potential threats are identified, they refer the cases for investigation to HSI field special agents located throughout the United States. In all, the unit has the support of over 450 men and women dedicated to this important mission. Again, we have collectively made great strides in preventing terrorist and National security threats from exploiting the visa process. Technological advances have created an unprecedented opportunity for law enforcement to identify and mitigate National security and public safety threats in a more efficient and expeditious way.

I appreciate the opportunity to be here today, and I look forward to answering any questions you may have.

Mrs. MILLER. I thank the gentleman.

The Chairwoman now recognizes Mr. Lyon for his 5 minutes of testimony.

**STATEMENT OF SHONNIE LYON, ACTING DIRECTOR, OFFICE OF BIOMETRIC IDENTITY MANAGEMENT, NATIONAL PROTECTION AND PROGRAMS DIRECTORATE, U.S. DEPARTMENT OF HOMELAND SECURITY**

Mr. LYON. Chairman Miller, Ranking Member Jackson Lee, and distinguished Members of the subcommittee, I am pleased to appear before you today with my colleagues to discuss the progress we continue to make to secure the Nation and address the challenge of visa overstays.

Shortly after the Department was created, DHS established the United States Visitor and Immigrant Status Indicator Technology Program, known as US-VISIT, a critical component of the Department's strategy to prevent terrorist attacks on the United States and facilitate the movement of legitimate travel and trade. US-VISIT represented a major achievement in creating an integrated border screening system that enhanced our Nation's security.

Through US-VISIT, DHS increased its ability to manage information collected about foreign nationals during the pre-entry, entry, status management, and departure processes, allowing us to conduct better analysis of that information and thereby strengthen the integrity of our immigration system. In 2007, DHS created NPPD and a realigned US-VISIT under that directorate. Expanding rapidly beyond its original mandate, US-VISIT evolved in its mission space, providing advanced biometric and biographic identification services to front-line decision-makers so that they can accurately identify people and assess whether they pose a risk to the United States.

The Consolidated and Further Continuing Appropriations Act of 2013 transferred the US-VISIT overstay mission to ICE, the US-VISIT entry-exit policy and operations mission to CBP, and the biometric identity functions of US-VISIT to the newly-established Office of Biometric Identity Management. The aforementioned legislation designates the Office of Biometric Identity Management as the lead entity within DHS responsible for biometric identity services and retains responsibility for US-VISIT's identity systems, the Bio-

graphic Space Repository, known as ADIS, and the Biometric Space System, known as IDENT.

Although most people are familiar with the Office of Biometric Identity Management's role in identifying visa applicants and travelers arriving at ports of entry, the behind-the-scenes work to identify visa overstays is less well-known but equally important to the integrity of our immigration system. ADIS is used to biographically match entry information, changes in status and exit data, on foreign nationals to help determine possible overstays. ADIS processes arrival and departure information from CBP, changes in immigration status from USCIS, and changes in student status from ICE.

Additionally, IDENT provides biometric identifiers for identity verification, along with biometric encounters related to apprehensions, visa applicants, and status updates that assist in resolving overstays. The IDENT and ADIS systems provide permit-centric information by searching biometric and biographic data to establish and confirm the identities of individuals that Homeland Security decision-makers encounter and to identify known or suspected terrorists, National security threats, criminals, and those who have previously violated U.S. immigration laws.

The Office of Biometric Identity Management is focused on improving biometric and associated biographic data sharing through system interoperability with the Departments of Defense, Justice, and State towards a whole-of-Government approach to identity services. With trusted international partners to increase National and global security. By storing, matching, and analyzing biometric data linked to biographic information the Office of Biometric Identity Management provides Homeland Security decision-makers with person-centric actionable information on immigration violators, criminals, and known or suspected terrorists to enhance the Nation's security and resiliency.

Thank you again for this opportunity to testify. I look forward to working with this committee as we continue to improve the biometric and biographic identification services our front-line decision-makers rely on to identify and deter human threats. I am pleased to address the committee's questions.

Mrs. MILLER. I thank the gentleman for his testimony.

The Chairwoman now recognizes Ms. Gambler for her 5 minutes of testimony.

**STATEMENT OF REBECCA GAMBLER, DIRECTOR, HOMELAND SECURITY AND JUSTICE, GOVERNMENT ACCOUNTABILITY OFFICE**

Ms. GAMBLER. Good morning, Chairwoman Miller, Ranking Member Jackson Lee, and Members of the subcommittee. I appreciate the opportunity to testify at today's hearing to discuss GAO's work on overstay enforcement issues. My statement is based on GAO's April 2011 report and our on-going work for this subcommittee and others on DHS's programs and efforts to address overstays.

Overstays are generally defined as foreign nationals who were legally admitted to the United States on a temporary basis, but then overstayed their authorized periods of admission. Most overstays are likely motivated by economic reasons to stay in the country.

However, overstays can pose homeland security concerns. Today, I would like to focus my remarks on three key areas. First, I will discuss DHS's efforts to address a prior backlog of potential overstay records and our preliminary observations on the file of unmatched arrival records that DHS continues to maintain.

Second, I will discuss DHS's steps to strengthen its data on potential overstays and report overstay estimates. Finally, I will discuss DHS's planning efforts for a biometric exit capability. First, as of January 2011, DHS had a backlog of potential overstay records that totaled 1.6 million. Since that time, DHS completed a review of those records against various National security and law enforcement databases. Based on that review, DHS closed those records for which information indicated that individuals had departed or changed status.

DHS also identified any National security or public safety threats for possible investigation. DHS has continued to review all potential overstay records against National security and law enforcement databases. However, DHS continues to have more than 1 million unmatched arrival records. Some of these individuals are likely overstays, while others have departed or changed status without a record of them doing so.

Our preliminary analysis of these 1 million records indicates that about 44 percent are for non-immigrants who traveled to the United States on a tourist visa, while about 43 percent are for tourists who were admitted under the visa waiver program. In addition, our preliminary analysis indicates that the average amount of time elapsed since travelers with unmatched arrival records were expected to depart was about 2.7 years. We are continuing to analyze these records for additional categories or trends.

With regard to my second point, DHS has taken steps to enhance the connections among component databases to reduce the need for manual exchanges of data used to help identify overstays. While these changes have resulted in efficiencies, they have not addressed some of the underlying data quality issues we previously identified, such as incomplete data on land-based departures. DHS is implementing the Beyond the Border Initiative with Canada to exchange entry data on travelers crossing the Northern Border at land ports of entry.

This initiative should help address the issue of missing departure data by providing a new source of information on travelers departing at land ports. This new data could also help DHS in determining and reporting overstay estimates, which DHS has announced plans to do by the end of this year. DHS has not reported overstay estimates since 1994 due to concerns about the reliability of its data. DHS initiatives for improving data on potential overstays are in the early stages of implementation. Thus, it is too soon to assess their full effect on helping to strengthen the reliability of DHS's overstay data for reporting purposes.

Finally, DHS has not yet implemented a biometric exit capability, but has plans underway to assess options for such an exit capability at air and seaports. DHS has faced long-standing challenges in determining how to implement an exit capability, such as identifying efficient mechanisms for collecting biometric data that do not disrupt passenger flow. DHS has plans to finalize goals and

objectives for biometric air exit, and test various scenarios for collecting biometric data in the airport environment going forward.

In closing, since we last reported on overstay issues in April 2011, DHS has made progress in its overstay enforcement effort. However, a number of DHS's changes have been recently implemented or are in the process of being implemented. Further, other efforts are planned for the future. Thus, it is not yet clear what all of DHS's—what impact all of DHS's efforts will have on improving its processes and data for identifying potential overstays.

We are continuing to assess DHS's efforts, and plan to report our final results later this summer. This concludes my oral statement. I am pleased to answer any questions Members may have.

[The prepared statement of Ms. Gambler follows:]

PREPARED STATEMENT OF REBECCA GAMBLER

MAY 21, 2013

IMMIGRATION ENFORCEMENT.—PRELIMINARY OBSERVATIONS ON DHS'S OVERSTAY ENFORCEMENT EFFORTS

GAO-13-602T

Chairman Miller, Ranking Member Jackson Lee, and Members of the subcommittee: I am pleased to be here today to provide our preliminary observations on the actions that the Department of Homeland Security (DHS) has taken since April 2011 to address overstays.<sup>1</sup> Each year, millions of visitors come to the United States legally on a temporary basis either with a visa or, in some cases, as visitors who were allowed to enter without a visa.<sup>2</sup> Overstays are individuals who were admitted into the country legally on a temporary basis but then overstayed their authorized periods of admission.<sup>3</sup> We have reported that most overstays are likely motivated by economic opportunities to stay in the United States beyond their authorized periods of admission.<sup>4</sup> However, overstays could pose homeland security concerns—for example, 5 of the 19 September 11, 2001, hijackers were overstays.

DHS has primary responsibility for identifying and taking enforcement action to address overstays. Within DHS, U.S. Customs and Border Protection (CBP) is tasked with, among other duties, inspecting all people applying for entry to the United States to determine their admissibility to the country and screening Visa Waiver Program applicants to determine their eligibility to travel to the United States under the program. U.S. Immigration and Customs Enforcement (ICE) is the lead agency for enforcing immigration law in the interior of the United States and is primarily responsible for overstay enforcement. Within ICE, the Counterterrorism and Criminal Exploitation Unit (CTCEU) and the Overstay Analysis Unit are primarily responsible for overstay investigations. The Office of Biometric Identity Management (OBIM), within DHS's National Protection and Programs Directorate, supports the identification of overstays by managing the Arrival and Departure Information System (ADIS), which tracks and matches arrival and departure records for the purpose of identifying potential overstays, and the Automated Biometric Identi-

<sup>1</sup> GAO, *Overstay Enforcement: Additional Mechanisms for Collecting, Assessing, and Sharing Data Could Strengthen DHS's Efforts but Would Have Costs*, GAO-11-411 (Washington, DC: Apr. 15, 2011).

<sup>2</sup> Visitors who are allowed to seek admission without a visa include citizens of Canada and the British Overseas Territory of Bermuda (and certain residents of other adjacent islands, such as the Bahamas) under certain circumstances, as well as Visa Waiver Program participants. This program allows nationals from certain countries to apply for admission to the United States as temporary visitors for business or pleasure without first obtaining a visa from a U.S. consulate abroad. Currently, there are 37 participants in the program.

<sup>3</sup> In this statement, we include out-of-status students—student visa holders who fail to meet certain requirements, such as enrolling in a qualified education program—in our definition of overstays. In general, foreign students remain in status and therefore eligible to stay in the United States under their student visas as long as they are enrolled in and attending a qualified education program.

<sup>4</sup> GAO, *Visa Waiver Program: Limitations with Department of Homeland Security's Plan to Verify Departure of Foreign Nationals*, GAO-08-458T (Washington, DC: Feb. 28, 2008).



fication System (IDENT), which maintains biometric information, such as fingerprints, collected from non-immigrants upon their entry into the United States.<sup>5</sup>

In April 2011, we reported on DHS's actions to identify and take actions to address overstays and made recommendations to the Department to strengthen these efforts.<sup>6</sup> DHS concurred with our recommendations and has taken or is taking steps to address them. Further, since April 2011, DHS has reported taking additional actions to strengthen its processes for identifying and taking enforcement action against overstays.

This testimony discusses our preliminary observations on DHS's efforts since April 2011 to: (1) Review potential overstay records for National security and public safety concerns, (2) improve data on potential overstays and report overstay rates, and (3) plan for a biometric exit system. My statement is based on preliminary analyses from our on-going review of overstay enforcement for this subcommittee and other Congressional requesters. We expect to issue a final report on this work in July 2013. To conduct this work, we analyzed DHS documents and data related to overstays and interviewed relevant DHS officials. Specifically, we analyzed DHS planning documents and reports on processes to review potential overstay records and collect additional data to improve overstay identification. We analyzed DHS's unmatched arrival records as of November 2012, the most recent date for which DHS had compiled the records at the time we began our review. We also reviewed statutory requirements and a May 2012 DHS report on the status of efforts to implement biometric exit capabilities at airports. To analyze the reliability of data on previously unreviewed potential overstay records and DHS's current set of unmatched arrival records, we reviewed documentation regarding the databases used to collect these data and interviewed DHS officials familiar with the data. We determined that the data were sufficiently reliable for our purposes. We conducted this work in accordance with generally accepted Government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. We provided a draft of this statement to DHS for review and incorporated its comments where appropriate.

DHS CONTINUALLY REVIEWS POTENTIAL OVERSTAY RECORDS, BUT UNMATCHED ARRIVAL RECORDS REMAIN

*DHS Reviewed a Backlog of 1.6 Million Potential Overstay Records*

DHS has taken action to address a backlog of potential overstay records we previously identified in April 2011. Specifically, in April 2011, we reported that, as of January 2011, ADIS contained a backlog of 1.6 million potential overstay records, which included prior non-priority overstay leads that had not been reviewed, non-priority leads that continued to accrue on a daily basis, and leads generated in error as a result of CBP system changes.<sup>7</sup> DHS uses ADIS to match departure records to arrival records and subsequently close records for individuals with matching arrival and departure records because either: (1) The individual departed prior to the end of his or her authorized period of admission and is therefore not an overstay or (2) the individual departed after the end of his or her authorized period of admission and is therefore an out-of-country overstay. Unmatched arrival records—those

<sup>5</sup>The Automated Biometric Identification System (IDENT) also contains fingerprints collected by the Department of State to establish and verify the identities of visa applicants. Both the Overstay Analysis Unit and OBIM were formerly part of the U.S. Visitor and Immigrant Status Indicator Technology Program (US-VISIT) within DHS's National Protection and Programs Directorate. DHS initiated US-VISIT in 2002 to develop a comprehensive entry and exit system to collect biometric data from aliens traveling through U.S. ports of entry. In 2004, US-VISIT initiated the first step of this program by collecting biometric data on aliens entering the United States. Pursuant to the fiscal year 2013 DHS appropriations act and its accompanying explanatory statement, DHS realigned US-VISIT's overstay analysis function into ICE and created OBIM effective March 27, 2013.

<sup>6</sup>GAO-11-411.

<sup>7</sup>ICE prioritizes potential overstay leads for possible investigation. The specific criteria ICE uses to rank the priority level of overstay leads are determined triannually based on current threat information by the Compliance Enforcement Advisory Panel, an interagency panel of intelligence experts assembled by ICE for the purpose of determining these criteria. CBP system changes had resulted in multiple arrival and departure records being inadvertently created for a single individual.

records in ADIS that do not have corresponding departure records—remain open and indicate that those individuals are potential in-country overstays.<sup>8</sup>

In the summer of 2011, DHS completed a review of the 1.6 million records against various National security and law enforcement databases to determine if the subjects of these records had already left the United States and to help identify if the subjects posed any potential National security or public safety threats.<sup>9</sup> As a result, DHS closed approximately 863,000 records for individuals who had departed, were in status, or had adjusted status, and removed them from the backlog. Second, DHS reviewed the remaining 757,000 records against National security and law enforcement databases to identify potential National security or public safety threats. As part of this National security and public safety review, DHS also reviewed approximately 82,000 additional records identified by CTCEU that were unresolved or had not yet undergone full review because they did not meet ICE's enforcement priorities (a total of approximately 839,000 combined records). As a result of these reviews, DHS reprioritized 1,901 of the 839,000 records because the subjects of the records could pose National security or public safety concerns and provided them to CTCEU for further review and consideration for enforcement action. Table 1 describes how CTCEU resolved these leads.

TABLE 1.—PRELIMINARY ANALYSIS OF RESULTS OF DHS'S 2011 REVIEW OF BACKLOG OF POTENTIAL OVERSTAY RECORDS

Outcome	Number of Records (Percentage of Total)
Individual had departed the United States .....	711 records (37.4 percent).
Records forwarded to ICE's Enforcement and Removal Operations (ERO) as potential public safety threats*.	481 records (25.3 percent).
Individual was in status (e.g., the subject filed a timely application to change his or her status or extend his or her authorized period of admission in the United States).	302 records (15.9 percent).
Individual could not be located** .....	266 records (14.0 percent).
Individual was arrested .....	9 records (0.5 percent).
Other*** .....	132 records (6.9 percent).
<b>Total .....</b>	<b>1,901 records (100 percent).</b>

Source: ICE CTCEU.

\*CTCEU refers information on non-priority potential overstays to ICE's ERO, which is responsible for identifying and apprehending aliens who are subject to removal from the country, detaining these individuals when necessary, and removing aliens subject to removal from the United States. ERO personnel may encounter overstays in the course of their work but they do not directly focus on overstay enforcement.

\*\*An ICE contractor's system automatically queries these records against various databases on a weekly basis for new information relating to the location of the suspected overstay. If such information is identified, CTCEU will reopen the investigation.

\*\*\*Other includes the following outcomes: (1) ICE determined that information indicating a possible National security or public safety threat was false (73 leads, 3.8 percent); (2) the subject of the lead was in removal proceedings, previously arrested, or the subject of an investigation (43 leads, 2.3 percent); (3) the lead is open for continuous review (13 leads, 0.7 percent); and (4) the subject of the lead is the subject of an on-going investigation at an ICE Homeland Security Investigations field office (3 leads, 0.2 percent).

Since completing this review of the backlog of potential overstay records in the summer of 2011, DHS has continued to review all potential overstay records through National security and law enforcement databases to identify potential threats, regardless of whether the subjects of the records meet ICE's priorities for enforcement action. This occurs on an on-going basis such that DHS may identify

<sup>8</sup>Enforcement actions for in-country and out-of-country overstays differ in that the focus of enforcement against in-country overstays is to remove them from the country if they pose a threat, whereas enforcement against out-of-country overstays is to prevent possible readmission to the United States.

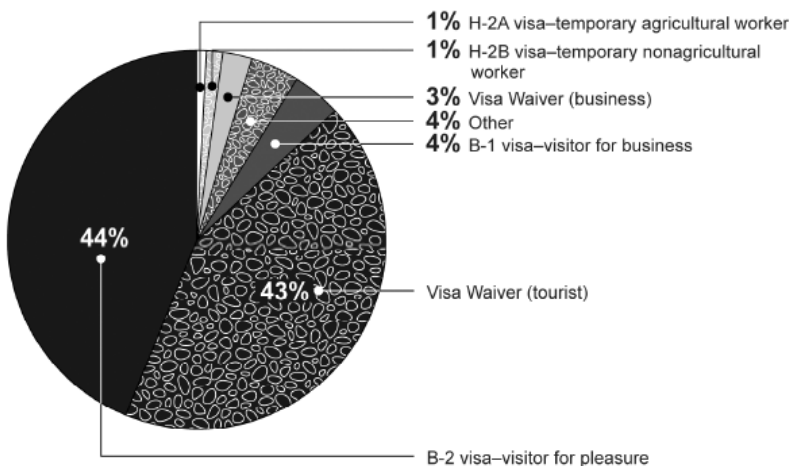
<sup>9</sup>To determine whether an unmatched arrival record is likely to be an in-country overstay, DHS agencies review multiple databases to determine if any information is available to document a departure or a change in immigration status. For example, the review process includes both automated searches, such as searching for immigration benefit application information through a U.S. Citizenship and Immigration Services database, and manual searches, such as determining whether the individual applied for refugee or asylum status.

threats among individuals who were not previously identified as such when new information becomes available in various National security and law enforcement databases.

#### *DHS Has More Than 1 Million Unmatched Arrival Records*

As of April 2013, DHS continues to maintain more than 1 million unmatched arrival records in ADIS (that is, arrival records for which ADIS does not have a record of departure or status change). Some of these individuals are overstays, while others have either departed or changed immigration status without an ADIS record of their departure or status change. For example, the individual may have departed via a land port of entry without providing a record of departure or the individual may have applied for immigration benefits using a different name. In addition, these records include those from the previous backlog of unmatched arrival records that were not prioritized for enforcement in the summer of 2011 and have not subsequently been matched against a departure or change of status record. As part of our on-going work, we are analyzing these data to identify various trends among these unmatched arrival records. For example, our preliminary analysis shows that 44 percent of the unmatched arrival records are non-immigrants traveling to the United States on a tourist visa, while 43 percent are also tourists but were admitted under the Visa Waiver Program. Figure 1 presents our preliminary analysis of the breakdown of unmatched arrival records by admission class.

**Figure 1: Preliminary Analysis of Unmatched Arrival Records by Admission Class, as of November 2012**



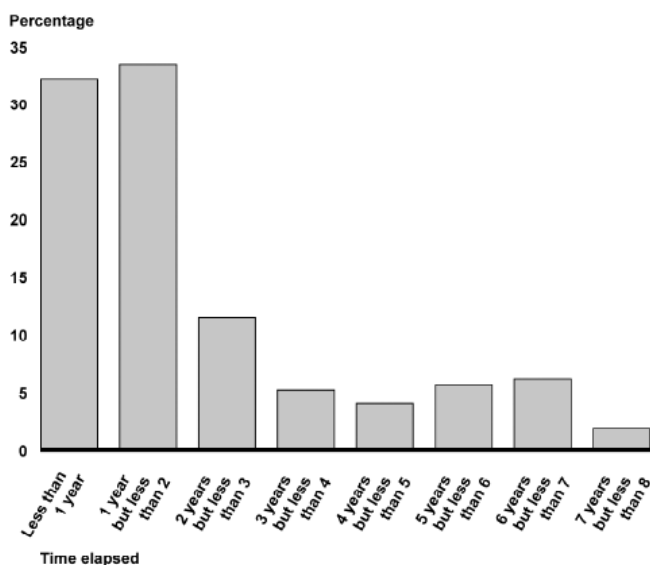
Source: Preliminary GAO analysis of data from the Office of Biometric Identity Management's Arrival and Departure Information System.

Note: Other includes those nonimmigrant visa categories otherwise not listed in the figure, such as temporary workers with specialty occupations and spouses and children of temporary workers. The nonimmigrant classes established by the Immigration and Nationality Act generally refer to aliens with no intention of abandoning their foreign residences, and they are each given specific designations

according to regulation. The B-1 and B-2 designations refer to nonimmigrants who are visiting the United States temporarily for business or pleasure, respectively. See 8 U.S.C. § 1101(a)(15)(B). The H-2B designation refers to nonimmigrants who are coming temporarily to the United States to perform temporary, non-agricultural service or labor if unemployed persons capable of performing such service or labor cannot be found in the United States, and the H-2A designation refers to nonimmigrants who are coming temporarily to the United States to perform agricultural labor or services of a temporary or seasonal nature. See 8 U.S.C. § 1101(a)(15)(H)(ii)(a)-(b). For a listing and descriptions of all nonimmigrant classes, see 8 U.S.C. § 1101(a)(15); see also 8 C.F.R. § 214.1(a)(1)-(2) for the corresponding designations. The Visa Waiver tourist and business categories in the graph include admissions of both visitors from Visa Waiver Program countries and other visitors for whom a tourist or business visa was waived, such as certain citizens of Canada and the British Overseas Territory of Bermuda. See, e.g., 22 C.F.R. § 41.2(a)-(b).

We also analyzed the records to assess the amount of time that has elapsed since travelers were expected to depart the country, based on travelers' "admit until" date. CBP assigns certain nonimmigrants an "admit until" date, by which they must leave the country to avoid overstaying.<sup>10</sup> Figure 2 presents our preliminary analysis of the breakdown of the amount of time elapsed, as of November 2012, since the "admit until" date. The average amount of time elapsed for all unmatched arrival records was 2.7 years.

**Figure 2: Amount of Time Elapsed since Travelers Were Expected to Depart the United States, as of November 2012, Based on Preliminary Analysis of Unmatched Arrival Records**



Source: Preliminary GAO analysis of data from the Office of Biometric Identity Management's Arrival and Departure Information System.

As of April 2013, DHS has not analyzed its unmatched arrival records to identify whether there are any trends in these data that could inform the Department's overstay enforcement efforts. We will continue to evaluate these data as part of our on-going work.

DHS HAS ACTIONS COMPLETED AND UNDER WAY TO IMPROVE DATA, BUT THE EFFECT OF THESE CHANGES IS NOT YET KNOWN

*DHS Has Begun Collecting Additional Data and Improved Sharing of Data Among Its Databases to Help Identify Potential Overstays*

Since April 2011, DHS has taken various actions to improve its data on potential overstays. In April 2011, we reported that DHS's efforts to identify and report on overstays were hindered by unreliable data, and we identified various challenges to DHS's efforts to identify potential overstays, including the incomplete collection of departure data from non-immigrants at ports of entry, particularly land ports of entry, and the lack of mechanisms for assessing the quality of leads sent to ICE field offices for investigations.<sup>11</sup> Since that time, DHS has taken action to strengthen its processes for reviewing records to identify potential overstays, including: (1) Streamlining connections among DHS databases used to identify potential

<sup>10</sup>In general, foreign students remain in status and therefore eligible to remain in the United States as long as they are enrolled in and attending a qualified education program. Individuals traveling on student visas are generally not issued a specific date until which they are authorized to remain in the United States, but instead are admitted for what is referred to as duration of status. This means that they may remain in the country until they complete their approved program of study, provided they otherwise maintain their student status.

<sup>11</sup>GAO-11-411.

overstays, and (2) collecting information from the Canadian government about those exiting the United States and entering Canada through northern land ports of entry.

First, DHS has taken steps to enhance connections among its component agencies' databases used to identify potential overstays and reduce the need for manual exchanges of data. For example:

- In August 2012, DHS enhanced data sharing between ADIS and IDENT. This improved connection provides additional data to ADIS to improve the matching process based on fingerprint identification. For example, when an individual provides fingerprints as part of an application for immigration benefits from U.S. Citizenship and Immigration Services or a visa from the State Department, or when apprehended by law enforcement, IDENT now sends identity information, including a fingerprint identification number, for that individual to ADIS. This additional source of data is intended to help allow ADIS to more effectively match the individual's entry record with a change of status, thereby closing out more unmatched arrival records.
- Beginning in April 2013, ICE's Student and Exchange Visitor Information System (SEVIS) began automatically sending data to ADIS on a daily basis, allowing ADIS to review SEVIS records against departure records and determine whether student visa holders who have ended their course of study departed in accordance with the terms of their stay.<sup>12</sup> Prior to this date, DHS manually transferred data from SEVIS to ADIS on a weekly basis. According to DHS officials, these exchanges were unreliable because they did not consistently include all SEVIS data—particularly data on “no show” students who failed to begin their approved course of study within 30 days of being admitted into the United States.
- Also in April 2013, DHS automated the exchange of potential overstay records between ADIS and CBP's Automated Targeting System (ATS), which is intended to allow DHS to more efficiently: (1) Transfer data between the systems for the purpose of identifying National security and public safety concerns, and (2) use matching algorithms in ATS that differ from those in ADIS to close additional records for individuals who departed.

These changes have resulted in efficiencies in reviewing records for determining possible overstay leads; however, they do not address some of the underlying data quality issues we previously identified, such as incomplete data on departures through land ports of entry. Furthermore, because many of these changes were implemented in April 2013, it is too early to assess their effect on the quality of DHS's overstay data.

Second, DHS is implementing the Beyond the Border initiative to collect additional data to strengthen the identification of potential overstays. In October 2012, DHS and the Canada Border Services Agency began exchanging entry data on travelers crossing the border at selected land ports of entry. Because an entry into Canada constitutes a departure from the United States, DHS will be able to use Canadian entry data as proxies for U.S. departure records. We have previously reported that DHS faces challenges in its ability to identify overstays because of unreliable collection of departure data at land ports of entry.<sup>13</sup> This effort would help address that challenge by providing a new source of data on travelers departing the United States at land ports on the Northern Border. In the pilot phase, DHS exchanged data with the Canada Border Services Agency on third-country nationals at four of the five largest ports of entry on the Northern Border.<sup>14</sup> These data covered entries from September 30, 2012, through January 15, 2013. DHS plans to expand this effort to collect data from additional ports of entry and to share data on additional types of travelers. According to DHS officials, after June 30, 2013, DHS plans to exchange data for third-country nationals at all automated ports of entry along the Northern Border.<sup>15</sup> At that time, DHS also plans to begin using these data for oper-

<sup>12</sup>SEVIS contains biographical and immigration status information for nonimmigrant foreign students and exchange visitors.

<sup>13</sup>GAO-11-411.

<sup>14</sup>These ports were Pacific Highway (Blaine, Washington), Peace Arch (Blaine, Washington), Lewiston-Queenston Bridge (Lewiston, New York), and Rainbow Bridge (Niagara Falls, New York). For the purposes of this pilot, third-country nationals are individuals who are not citizens of Canada or citizens or nationals of the United States. The pilot phase included the exchange of biographic data on permanent residents of Canada and lawful permanent residents of the United States.

<sup>15</sup>For the purposes of the Beyond the Border initiative, an automated port of entry refers to a port of entry on the shared Canada-U.S. land border with a primary processing capacity to capture traveler (land, ferry, and pedestrian) passage as an electronic record. This does not in-

ational purposes (e.g., taking enforcement action against overstays, such as revoking visas or imposing bars on readmission to the country based on the length of time they remained in the country unlawfully).<sup>16</sup> After June 30, 2014, DHS plans to exchange data on all travelers, including U.S. and Canadian citizens, at all automated ports of entry along the Northern Border.

*DHS Continues to Face Challenges in Reporting Reliable Overstay Rates, and Recent Changes Have Not Yet Been Fully Implemented*

DHS has not reported overstay rates because of concerns about the reliability of its data on overstays. According to Federal law, DHS is to submit an annual report to Congress providing numerical estimates of the number of aliens from each country in each non-immigrant classification who overstayed an authorized period of admission that expired during the fiscal year prior to the year for which the report is made.<sup>17</sup> Since 1994, DHS or its predecessors have not reported annual overstay rates regularly because of its concerns about the reliability of the Department's overstay data. In September 2008, we reported on limitations in overstay data, such as missing data for land departures, that affect the reliability of overstay rates.<sup>18</sup> In April 2011, we reported that DHS officials stated that the Department had not reported overstay rates because it had not had sufficient confidence in the quality of its overstay data. DHS officials stated at the time that, as a result, the Department could not reliably report overstay estimates in accordance with the statute.<sup>19</sup> Although the new departure data DHS is collecting as part of the Beyond the Border initiative may allow DHS to close out more potential overstay records in the future, these data are limited to land departure at Northern Border ports of entry, and as the initiative has not yet been fully implemented, it is too early to assess its effect on helping strengthen the reliability of DHS's overstay data for reporting purposes. In February 2013, the Secretary of Homeland Security testified that DHS plans to report overstay rates by December 2013.<sup>20</sup> As of April 2013, DHS was working to determine how it plans to calculate and report these overstay rates. As part of our on-going review, we are assessing how the changes DHS has made to its processes for matching records to identify potential overstays may affect the reliability of overstay data and DHS's ability to report reliable overstay rates.

DHS FACES CHALLENGES PLANNING FOR A BIOMETRIC EXIT SYSTEM AT AIR AND SEA PORTS OF ENTRY

Developing a biometric exit capability has been a long-standing challenge for DHS. Beginning in 1996, Federal law has required the implementation of an integrated entry and exit data system for foreign nationals.<sup>21</sup> The Intelligence Reform and Terrorism Prevention Act of 2004 required the Secretary of Homeland Security to develop a plan to accelerate full implementation of an automated biometric entry and exit data system that matches available information provided by foreign nationals upon their arrival in and departure from the United States.<sup>22</sup> Since 2004, we have issued a number of reports on DHS's efforts to implement a biometric entry and exit system. For example, in November 2009, we reported that DHS had not adopted an integrated approach to scheduling, executing, and tracking the work that needed to be accomplished to deliver a comprehensive exit solution. We concluded that without a master schedule that was integrated and derived in accord-

clude large cruise vessels deemed to be sea crossings under the laws of Canada and the United States.

<sup>16</sup>Since these data include only individuals who have departed the United States, all of the overstays identified would be out-of-country overstays. In general, non-immigrants, such as those traveling under temporary visas for business or pleasure, who were unlawfully present in the United States for a period of more than 180 days but less than 1 year and voluntarily departed the United States prior to the commencement of legal proceedings to remove them from the country, are inadmissible for 3 years. In addition, aliens who were unlawfully present in the United States for 1 year or more, and who again seek admission within 10 years of the date of their departure or removal from the United States, are inadmissible. For non-immigrants whose overstay violations fall below 180 days, their visas are void and the State Department has the discretion to determine whether to issue them new visas, and CBP has the discretion whether to readmit them into the country.

<sup>17</sup>8 U.S.C. § 1376(b).

<sup>18</sup>GAO, *Visa Waiver Program: Actions Are Needed to Improve Management of the Expansion Process, and to Assess and Mitigate Program Risks*, GAO-08-967 (Washington, DC: Sept. 15, 2008).

<sup>19</sup>GAO-11-411.

<sup>20</sup>See statement of Janet Napolitano, Secretary, Department of Homeland Security, before the Committee on the Judiciary, United States Senate, Washington, DC: February 13, 2013.

<sup>21</sup>Pub. L. No. 104-208, div. C, § 110, 110 Stat. 3009-546, 3009-558 to 59.

<sup>22</sup>8 U.S.C. § 1365b.

ance with relevant guidance, DHS could not reliably commit to when and how it would deliver a comprehensive exit solution or adequately monitor and manage its progress toward this end.<sup>23</sup> We have made recommendations to address these issues, including that DHS ensure that an integrated master schedule be developed and maintained.<sup>24</sup> DHS has generally concurred with our recommendations and has reported taking action to address them. For example, in March 2012, DHS reported that the US-VISIT office was adopting procedures to comply with the nine scheduling practices we recommended in our November 2009 report and has conducted training on our scheduling methodology.

DHS has not yet implemented a biometric exit capability, but has planning efforts under way to assess options for such a capability at airports and seaports. In 2009, DHS conducted pilots for biometric exit capabilities in airport scenarios, as called for in the Consolidated Security, Disaster Assistance, and Continuing Appropriations Act, 2009.<sup>25</sup> In August 2010, we reported on the results of our review of DHS's evaluation of these pilot programs. Specifically, we reported that there were limitations with the pilot programs—for example, the pilot programs did not operationally test about 30 percent of the air exit requirements identified in the evaluation plan for the pilot programs—which hindered DHS's ability to inform decision making for a long-term air exit solution and pointed to the need for additional sources of information on air exit's operational impacts.<sup>26</sup> According to DHS officials, the Department's approach to planning for biometric air exit has been partly in response to our recommendation that DHS identify additional sources for the operational impacts of air exit not addressed in the pilot programs' evaluation and to incorporate these sources into its air exit decision making and planning. As of April 2013, the Department's planning efforts are focused on developing a biometric exit system for airports, with the potential for a similar solution to be rolled out at seaports, according to DHS officials. However, in October 2010, DHS identified three primary reasons why it has been unable to determine how and when to implement a biometric air exit solution: (1) The methods of collecting biometric data could disrupt the flow of travelers through air terminals; (2) air carriers and airport authorities had not allowed DHS to examine mechanisms through which DHS could incorporate biometric data collection into passenger processing at the departure gate; and (3) challenges existed in capturing biometric data at the point of departure, including determining what personnel should be responsible for the capture of biometric information at airports.

According to DHS officials, these challenges have affected the Department's planning efforts. In 2011, DHS directed its Science and Technology Directorate (S&T), in coordination with other DHS component agencies, to research "long-term options" for biometric exit.<sup>27</sup> In May 2012, DHS reported internally on the results of S&T's analysis of previous air exit pilot programs and assessment of available technologies, and the report made recommendations to support the planning and development of a biometric air exit capability.<sup>28</sup> In that report, DHS concluded that the building blocks to implement an effective biometric air exit system were available. However, DHS reported that significant questions remained regarding: (1) The effectiveness of current biographic air exit processes and the error rates in collecting or matching data, (2) methods of cost-effectively integrating biometrics into the air departure processes (e.g., matching arrival and departure records based on biometric information like fingerprints rather than based on biographic information, such as names and dates of birth), (3) the additional value biometric air exit would provide compared with the current biographic air exit process, and (4) the overall value and cost of a biometric air exit capability. The report included nine recommendations to help inform DHS's planning for biometric air exit, such as directing DHS to develop

<sup>23</sup> GAO, *Homeland Security: Key US-VISIT Components at Varying Stages of Completion, but Integrated and Reliable Schedule Needed*, GAO-10-13 (Washington, DC: Nov. 19, 2009).

<sup>24</sup> GAO-10-13; GAO, *Homeland Security: U.S. Visitor and Immigrant Status Program's Long-standing Lack of Strategic Direction and Management Controls Needs to Be Addressed*, GAO-07-1065 (Washington, DC: Aug. 31, 2007); and *Homeland Security: First Phase of Visitor and Immigration Status Program Operating, but Improvements Needed*, GAO-04-586 (Washington, DC: May 11, 2004).

<sup>25</sup> Pub. L. No. 110-329, 122 Stat. 3574, 3668-70 (2008).

<sup>26</sup> GAO, *Homeland Security: US-VISIT Pilot Evaluations Offer Limited Understanding of Air Exit Options*, GAO-10-860 (Washington, DC: Aug. 10, 2010).

<sup>27</sup> In our previous reviews of DHS's efforts to pursue biometric exit capabilities, DHS's plans have approached development of a biometric exit system through a phased approach that involved conducting pilots to inform eventual planning for long-term solutions. Different pilots were created to inform solutions at air/seaports and land ports. See GAO-10-13.

<sup>28</sup> DHS, *DHS Biometric Air Exit: Analysis, Recommendations, and Next Steps*, draft final report (Washington, DC: May 2012).

explicit goals and objectives for biometric air exit and an evaluation framework that would, among other things, assess the value of collecting biometric data in addition to biographic data and determine whether biometric air exit is economically justified.<sup>29</sup>

DHS reported that, by May 2014, it planned to take steps to address the recommendations in its report; however, according to DHS Office of Policy and S&T officials, the Department has not yet completed actions in response to these recommendations, although DHS officials reported that DHS has plans to do so to help support development of a biometric air exit concept of operations. For example, DHS's report recommended that DHS develop explicit goals and objectives for biometric air exit and use scenario-based testing rather than operational pilot programs to inform the concept of operations for biometric air exit. As of April 2013, DHS officials stated that they expect to finalize goals and objectives in the near future and are making plans for future scenario-based testing. In addition, DHS's report stated that new traveler facilitation tools and technologies—for example, on-line check-in, self-service, and paperless technology—could support more cost-effective ways to screen travelers, and that these improvements should be leveraged when developing plans for biometric air exit. However, DHS officials stated that there may be challenges to leveraging new technologies to the extent that U.S. airports and airlines rely on older, proprietary systems that may be difficult to update to incorporate new technologies. Furthermore, DHS officials stated they face challenges in coordinating with airlines and airports, which have expressed significant reluctance about biometric exit because of concerns over its effect on operations and potential costs. To address these concerns, DHS is conducting outreach and soliciting information from airlines and airports regarding their operations.

DHS officials stated that the goal of its current efforts is to develop information about options for biometric exit and to report to Congress in time for the fiscal year 2016 budget cycle regarding: (1) The additional benefits that biometric exit provides beyond enhanced biographic exit, and (2) costs associated with biometric exit. As part of our on-going work, we are assessing DHS's progress in meeting its goals for addressing the recommendations in its biometric exit report by May 2014. We plan to report on the results of our analysis in July 2013.

Chairman Miller, Ranking Member Jackson Lee, and Members of the subcommittee, this completes my prepared statement. I would be pleased to respond to any questions that you may have at this time.

Mrs. MILLER. Thank you very much, Ms. Gambler. Thanks to all the witnesses. Excellent testimony by all of you.

I will now recognize myself for my 5 minutes of questioning. I think I will start with Mr. Wagner, who talked about how DHS is collecting all this information—the number of visa overstays from each country—but couldn't share the information until the end of this year. I am just wondering whether or not DHS—why we can't have that information before the end of the year, understanding that you are going through your processes now.

But as we have talked on this committee, we think we have sort of a moment in time, politically perhaps, where the Congress is willing to have a—and is having, currently engaged in a very intensive debate about comprehensive immigration reform. In fact, this subcommittee passed our border security bill out of our subcommittee just last week, then passed a border security bill out of full committee. We will see if it goes to the floor, hopefully.

But a big concern that was raised by many Members here was this whole visa overstay and what we are gonna do with the visa

<sup>29</sup>The report recommended that DHS take the following actions: (1) Develop explicit goals and objectives for biometric air exit, (2) leverage improvements in passenger facilitation and biometric technology to support a concept of operations, (3) use developmental scenario testing instead of pilot programs to validate a concept of operations, (4) establish collaborative relationships with airports and airlines, (5) use operational tests to validate performance and cost estimates, (6) develop an evaluation framework for biometric air exit, (7) employ a holistic approach to assess the costs and benefits of comprehensive biometric entry and exit processes, (8) determine whether biometric air exit is economically justified, and (9) incrementally deploy biometric air exit to airports where it is cost-effective to do so.



issue? You know, that—in the 40 percentile of everybody who was here illegally is here on some sort of visa overstay. I am just wondering: How can the DHS help us better go through our debate by giving us all of the pertinent information as the debate is occurring? By the end of the year, we may not need that information quite as badly.

Mr. WAGNER. Thank you for the question. So CBP collects the arrival and the departure data. You know, we are validating the inbound data with our inspection process at the port of entry. We are working with the carriers to—a similar process we call document validation. Where, when they send us the advanced information pre-departure, we are looking into our system to make sure it is actually correct and complete data and sending them a confirmation message back.

We're in the initial phases of starting to roll that out. Then on the departure, you know, for commercial air and sea we do get the APIS data. You know, we are relying on to airlines to transmit accurate and complete data to us. Of course, they are subject to fines if that is not the case. We take that information and then we provide it into the ADIS system, the Arrival and Departure Information System, so the other agencies can take and then start to match up the arrival and the departure records and look for exactly what those gaps are.

There are a lot of reasons as to why it is just not so easy to match the departure with the arrival. People can enter and depart using different documents for very valid reasons. If they, you know—maintain they come in as a permanent resident, using the permanent resident card, and then they depart using a foreign passport because they are still a citizen of that country. It is a little challenging sometimes to match up those records.

People come in on commercial air and will drive across the land border when they depart so it is tough for us to—not having the departure data from the land to match up those biographical records, as well. Or people come in, and then get into our immigrations benefits system and either extend their stay or apply for benefits or adjust their status. It is a matter of having our systems go through and pull all those different records, and then linking them up so we can close out those arrival records and not report as an overstay or someone that hasn't left.

So we are making progress at the land border, at least on the Northern Border. We ran a successful pilot with the Canadian government, exchanging data on third-country nationals, meaning non-U.S. or non-Canadian citizens, whereas the entry into one country would serve as the exit and close out that arrival record from that other country. We exchanged, during a pilot phase, about 400,000 records. We were able to close out about 97.5 percent of those.

Mrs. MILLER. If I could, where was that pilot program?

Mr. WAGNER. That was along the U.S.-Canada land border.

Mrs. MILLER. Where?

Mr. WAGNER. I will have to look up the exact sites, but it was a handful of locations where we did that exchange.

Mrs. MILLER. So based on that pilot program, do you expect—what is your anticipated—I mean, are you looking to roll that out, then, along the entire border at all the POEs, or—

Mr. WAGNER. Yes. At the end of June we will expand that across just almost the entire Northern Border, where we will exchange data with—on third-country nationals between the United States and Canada. Then about a year later, so thinking June 2014, we will also look to start to include U.S. and Canadian citizen records, as well, into that. So the sort of strategic plan is it will be on the border if it is good.

So it is a matter of us collecting and validating the accurate data, putting it into ADIS, and then allowing the systems to link it up to provide those types of overstay numbers that we all have confidence in. Trying to do that in a timely basis, but understanding that the challenge is before you, too.

Mrs. MILLER. Okay, thank you.

Mr. Dinkins, I know you had previously testified that you were using about 3 percent of your resources to look at some of these visa overstays. I don't know if that statistic is still current, or what. I understand you have a lot of other things going on. But, you know, we—again, it is obviously a critical component, we think about 40 percent, of some of the situation that we have here. Then only 3 percent of your resources.

I understand the financial constraints that we find ourselves in. I guess I would just ask you: Do you think that that is an adequate amount of your resources? Sort of in a perfect world, by your standards where you would have adequate resources, what would you really be—I mean, the Congress, we are really relying on all of you to tell us what you really need. Then we will have to decide within the confines of our existing fiscal constraints of where we want to prioritize our appropriations process.

But it is a big part of what these hearings are about, as we try to get our arms around how we prioritize, as I say, within the existing revenues, of what we think we can do. But, obviously, this whole immigration reform is a huge debate right now. We want to make sure we try to get it right here. What is your thought about the amount of resources, if it is only 3 percent? If that is correct?

Mr. DINKINS. Yes, ma'am. That is about correct. This is the challenge. So right now, as you had mentioned, is we do prioritize our leads. So we get tens of thousands of potential overstays and—each week, and we vet them out. We look for anybody that is gonna pose that National security or public safety threat. Those are the ones that we specifically send out and target.

The ones that do not pose any threat that we do not actually actively go out and pursue those individuals. If we did, and this is the thing—so it is not just like ICE resources. It is actually the entire immigration system resources. So the system is equipped to remove so many people from the country as it is. If we were to go out and get more than the system can put in, it just—you know, it wouldn't be an effective use of resources at all.

Because there is only so many immigration courts, only so many judges and so forth. So I think—you know, going back to your question is, that would depend on what the immigration reform actually does. Because then, it would—you know, you would not necessarily

end up with the same number of visa overstays, as you both had mentioned in your opening remarks. Because there would be other paths for people to come here and want to stay in the country.

So I would presume that those numbers would drop down. So you would have to look at the bill to see. But right now, if we go out and we were to target every single one of those—and we do, do—we look for the public safety. They are continuously being monitored through secured communities. So if the visa overstay were to get arrested they would be prioritized, and then sought after.

But for using more resources right now, it would end up just clogging the system up of—that would not be able to handle it. Then criminals would be the ones left behind not being dealt with.

Mrs. MILLER. The Chairwoman now recognizes the gentlelady from Texas for her questions.

Ms. JACKSON LEE. Thank you very much. Let me thank the witnesses very much. I have a number of questions, so you can help me by giving brief, or yes-or-no, answers. Before I even start, I wanted to just publicly acknowledge the horrific tragedy that occurred yesterday in Oklahoma and to offer our collective sympathy and concern for those who have lost their lives and those who are facing devastation now.

Mrs. MILLER. We all join with that, and certainly for the unbelievable devastation.

Ms. JACKSON LEE. Unbelievable.

Mrs. MILLER. It is difficult to even understand it as you are watching it, but a time when all Americans come together for our fellow Americans.

Ms. JACKSON LEE. Thank you, Chairwoman. As we have homeland security before it, I know that—hopefully that we will be having some briefing for the entire committee to make sure that we can be as helpful as we possibly can. So I thank the Chairwoman for allowing me to say that, and to the Members, as well.

Let me start off by just a quick question as to whether reduced resources—I think DHS's facing sequestration and reduced resources are impacting your work. Mr. Wagner.

Mr. WAGNER. Yes, the reduced resources impact us. But we are also—have a very concerted effort to look at our operations and ensuring they are as critical as they can be. Changing things and procedures in places where we are getting the most efficient and secure—

Ms. JACKSON LEE. But you are responding to the lack of resources. Is that what you are saying? You are being creative and efficient, but you are responding to the lack of resources.

Mr. WAGNER. Yes.

Ms. JACKSON LEE. You are doing things differently.

Mr. Dinkins.

Mr. DINKINS. Absolutely, ma'am, it has definitely had a major impact on our operations.

Ms. JACKSON LEE. Let me go directly to the matter in Boston, the Boston Marathon. As you well know, the younger bomber had three of his friends arrested. One of the students, one of his friends, was a student from Kazakhstan and had had an expired I-20 certificate of eligibility. And came back into the country, and had a student visa but did not have the current I-20. However, the CBP Officer

was unaware his I-20 was terminated and admitted him into the country in error.

I guess we have established that he admitted him in error. I understand that there is a lack of interoperability between the tech and SEVIS, and that we have known about this vulnerability since 2007. First, I would like—I am just gonna go to Mr. Wagner and Mr. Dinkins. Be as brief as you can. Why do you think this happened? I mean, I articulated that the I-20 was not in place, but my understanding that they carry that around and he did not have it, or it was expired.

What are our CBP trained to do? Then if this was a known vulnerability since 2007, why hasn't it been fixed? Mr. Wagner and Mr. Dinkins.

Mr. DINKINS. Yes, ma'am. In fact, we have known about this vulnerability. This is kind of what—I will give you in a nutshell real quick on how that happens. So he had actually left the country. So you get—your visa is good for up to 5 years, but it requires you to have an I-20 to actually attend school. It is a two-piece type of verification process.

Ms. JACKSON LEE. Correct.

Mr. DINKINS. So he had—was out of status, left school. But he actually left the country. So when we got the records indicating that he was out of status and left the country we did not send out a lead or put out any type of alert for him because he had left the country. The vulnerability there, as you had mentioned, is that it is a paper form. The I-20 is a paper form. So it is never canceled as a hard form.

So actually, starting in April of this year we had actually made the progress to start piloting a fix for that. We ran it through April, to where even if those records were closed out we were using a batch input of anybody that had that—

Ms. JACKSON LEE. Do you have any other database inoperabilities that you are trying to deal with, and have you dealt with them?

Mr. DINKINS. We are dealing with them—either electronically solutions or through an export and import, you know, mass.

Ms. JACKSON LEE. What—from 2007, really from 2001, what took so long? We are now 2013.

Mr. DINKINS. It is—the technology, ma'am, is so old—is very old, and—

Ms. JACKSON LEE. So are we going away from the paper I-20, or we are still—and when will we hit the non-paper I-20?

Mr. DINKINS. That is a good question. I am not for sure exactly when. But we have worked around that to make sure that—right now is, if you were to come back in and you had been out of status on an I-20, and now you will have to go to—Customs and Border Protection will validate that when you come in that you have a good I-20, and—

Ms. JACKSON LEE. Okay, this is as of today, May 21, 2013? This is since the Boston tragedy.

Mr. DINKINS. Yes, we had started doing that in April. Started running a pilot program, where we were doing the checks and balances of those, yes.

Ms. JACKSON LEE. Let me just—the GAO just stated that you have gone down from 1.6 to 1 million overstays, 44 percent are non-tourists. The others are under visa waiver. What are you doing to get down past the 1 million, and how fast can we get down past the 1 million?

Mr. DINKINS. We had originally been referred to—and there are two things here. There is the original, the IG report, which indicated there was about 1.6 million. Which we whittled down to about 800,000.

Ms. JACKSON LEE. Okay, your number is 800,000?

Mr. DINKINS. Yes. But there is—but that is in this one particular instance. So there is a—I guess, as Ms. Gambler had mentioned, about a million in the system that are unmatched. Those are coming through different ways. As we go under the Canadian system and doing that checks and balances, those could whittle out some of those, as well. But it is an incremental process, so each type of advance that we get can actually whittle those down.

Ms. JACKSON LEE. Let me just put something on the record, Madam Chairwoman, and I will yield back to Mr.—thank you—to Mr. Wagner of a problem of badging at the IAH Airport. I think I mentioned that in my testimony. So do you have a quick answer of your fixing it, or—

Mr. WAGNER. Yes, we would be happy to discuss afterwards some of the details. We did review it.

Ms. JACKSON LEE. I will put my complaint on the record, which is that my legitimate workers are being prevented from getting to their job because of the badging problem.

With that, Madam Chairwoman, I will yield back. I thank you for your courtesy.

Mrs. MILLER. I thank the gentlelady. I would ask unanimous consent, as well, if the gentleman from Florida, Mr. Bilirakis would—a former Member of the committee—be allowed to sit in our hearing and participate. Without objection, so ordered.

The Chairwoman now recognizes the gentleman from South Carolina, Mr. Duncan.

Mr. DUNCAN. Thank you, Madam Chairwoman, and thanks for having this hearing. I think it is timely, with the immigration debate that is raging on the Hill and with the Senate taking up the immigration reform legislation. We do have an illegal immigration problem in this country.

I will note for the record that 40 to—roughly 40 to 50 percent, almost half, of all the illegal aliens in this country came here legally. They came through an airport or a port through a visa system. They were students, they were tourists, and they were here on a work visa. Decided they loved America as much as I do, and decided to stay. We know who these people are.

They have had an interview at a consulate, they filled out an application. We probably have a last known address, we probably know where they were going to school, where they were working or the hotel they were staying at. So that is low-hanging fruit as far as I am concerned with regard to immigration enforcement. Because these aren't chasing footprints in the desert. These are people that we know about.

It is a little different when you talk about an illegal alien that just walked across our Southern Border or across our Northern Border, or got off a merchant ship and decided to enter this country illegally. These are folks that willfully came to this country, and we gave them permission. By issuing that visa, America is saying come on in to our country, experience what we have in—here in America. Work for an employer, go to school, or enjoy our country as a tourist.

I was doing some research about student visas. I understand that they have got to go through an application process and they have to have an interview at the consulate. In fact, everyone that comes for a visa has to have an interview unless you are of certain ages. If you are 13 or younger you generally don't require an interview. If you are 80 and older an interview is generally not required. But if you are 14 to 79 you went to a consulate or you went to an embassy in your home country, and you sat down in front of a customs enforcement officer or a CBP Officer or somebody from the Department of State and y'all had an interview.

It says here, on student visas, we gave a thumbprint. You are gonna give—an ink or non-ink digital fingerprint scan will be taken as part of your application process. I think that is vital, as we talk about an exit system, that we do have that information. But as we look back at what happened in Boston, with the bombing there, according to reports one of the individuals arrested in connection with the aftermath of the Boston Marathon bombing was able to return to the United States despite the fact that he lacked proper documentation associated with his student visa.

So I have got to ask myself, when he came into this country and he walked in front of that customs enforcement officer at that airport—which I have done at Dulles and Atlanta and other places—that little interview, when they ask you that question that, as Americans coming into our own country, I am intimidated, I am nervous. This guy was coming into our country without the proper documentation. Yet we stamped his documents and let him come into the country.

That alarms me as a United States citizen. According to the reports, the lapse occurred in part because the Customs or Border Protection Officers at primary inspection currently do not have access to ICE's Student Exchange Visitor Information System, SEVIS, database to verify whether a student has an active I-20 and is eligible to be admitted to the United States. So we are granting the visa over, but we are not telling the proper authorities that are doing that interview in that line at Dulles International Airport or at Boston airport or in Atlanta, Georgia.

They are not having access to the information they need to determine the eligibility of that guy's status coming into this country. Wow. We have had numerous hearings in this committee in the last Congress, and already one in this Congress, where we have talked about this failure to communicate between systems, across agency lines. We had the 9/11 Commission report, talked about security information being stovepiped.

But we are talking about folks that we allow to come in this country, visas that we issue, and we are not allowing the guys that are the front line defense of our country that are standing in that

booth or sitting in that booth, interviewing those folks coming into this country, they don't have access to the information that they need to determine the status of that individual coming in. It is no wonder we don't have more people like the gentleman that came in from Boston, that went to Russia and came back.

It is no wonder we don't have more of that if y'all aren't allowing those computer systems to talk to one another, if the information isn't being shared with the vital front line components in this Nation. So I am alarmed about that. America is alarmed about that, and they are looking to us as Members of Congress to ask the hard questions about why. Why aren't those computer systems talking? Why doesn't his personnel that are standing in those booths have the information that they need to determine whether that person can or cannot come into this country?

Those are the questions that we need to ask. Those are the questions America is asking. When we look that we have spent hundreds of billions of dollars, established DHS and 225,000 employees. We have spent a lot of money in this country to try to make this country safe, and these seem like simple components that have been either overlooked or neglected. I think about the first suspect or person of interest, the Saudi national that was in the hospital.

He was supposed to be going to college in Ohio. A text file was created on that individual because they couldn't determine that he was ever enrolled in college in Ohio. But yet he had sent his paperwork in to go to a college in Massachusetts and so he was original suspect because there was a failure of communication there. Guys, we have got to get it right. We have got to address this, and we have got to address it fairly rapidly to get it right to secure this country.

That is what this committee is charged with, that is what you guys are charged with. Madam Chairwoman, I hope we have another round of questions. Because on my rant I didn't get to my question. So I yield back.

Mrs. MILLER. We are gonna try to have another round of questions, depending on our time. I thank the gentleman.

The Chairwoman now recognizes the gentleman from Texas, Mr. O'Rourke.

Mr. O'ROURKE. Thank you, Madam Chairwoman. Thank you for holding this hearing and assembling this panel. I want to actually follow up on the comments made by the gentleman from South Carolina about the need to share information, and the interoperability of systems between CBP and ICE. To illustrate the problem a different way, in El Paso, the community I represent, the University of Texas at El Paso treats its students from Ciudad Juárez as though they are in-State tuition students.

So it is as though they are in El Paso living in our community because, in many ways, we are one community. Thousands of those University of Texas at El Paso students start their day, every day, in Juárez and cross our ports of entry to come into El Paso to attend classes. Following the Boston bombing, these students were sent into a primary and secondary inspection process that, at times, lasted up to 8 hours for these students to cross.

I want to say that both CBP and ICE were very responsive to our office when we brought this issue to their attention. But our

understanding was, there was a lack of communication between the computer systems at ICE and CBP. So with that being the case, and the facts that Mr. Duncan just laid out, before we invest in new systems, new biometric systems, how do we get the systems we already have working the way they should be?

I will address that to Mr. Wagner and Mr. Dinkins.

Mr. DINKINS. Yes. The situation you mentioned was—while we were piloting the program to validate this process in the interim we started doing—you know, CBP started doing a hard inspection, basically, of the I-20s going back into secondary, and then querying the system to make sure that it was valid, and SEVIS and directly into the system. Since that time, though, however the only people that would have to go back to secondary are people who had been—an I-20 canceled.

So they are attending school and had it canceled for some reason. They were still on their original visa. Then now they are coming back in, when they actually should have already left and not returning. So those are the only ones that are gonna be returning. Now, they could be coming back in because they have a new I-20. But our systems are actually now communicating. So that is what we had started in April.

So now we have—you know, we are doing batch runs for exporting that data and importing it in. A record will only be created for the people that we actually want to talk to, rather than having to look at the whole pool and narrowing it down, actually, on the front lines.

Mr. O'ROURKE. It seems like there was some fundamental breakdown in the week following Boston. I can't tell you how many phone calls our office received. And a breakdown that your Department has fixed subsequently. So it does seem like there are still some problems within the system.

Related to that, I want to ask Mr. Lyon, my understanding is that we began in earnest on this biometric entry-exit system in 1996. Since then, how much have we spent on this system?

Mr. LYON. We actually really started in—even though the first law was passed for an integrated entry-exit system in 1996. It wasn't until 2003 that we actually built the biometric entry system. Then we—that was at the air and seaports. Then we rolled it out to the land border ports on the Northern Border and the Southern Border in 2004–2005.

Since that date, when you talk about the—to maintain and operate both the IDENT biometric system and ADIS, Arrival and Departure Information System, I believe since 2003 the number through fiscal year 2012 is about \$3 billion. But I can get you that exact number. But you have to remember, IDENT supports more than just entry.

It supports ICE Investigation, it supports the Department of State overseas. It supports CIS, when someone applies for legal permanent residence or to become a U.S. citizen we house those prints in our system. The IDENT system houses about 154 million unique individuals in that system of foreign nationals.

Mr. O'ROURKE. Mr. Lyon, how much more do we need to spend to fully complete this system?



Mr. LYON. There was an estimate. DHS did a proposed rule back in 2008 to implement a biometric exit system. The cost ranged, over a 10-year period, anywhere from \$3 billion to \$9 billion depending on what you wanted to do. But right now, what the Department is doing, CBP—I don't want to speak for them, but they are working very closely with S&T looking at a biometric exit solution.

They are putting a lab together, and actually are going to be looking to build a cost-effective biometric system. I think the challenge that we have is—and having worked in this field for over 12 years now, looking at entry and exit, exit is a huge challenge because of the infrastructure problem. For arriving in the United States, obviously we have done—over the years, we have, you know, great facilities to actually be able to inspect everyone.

But we have an open society, as we all know. So the issue is, we have never built any exit infrastructure, whether that is at an airport, whether that is at a seaport or a land border. So that is why that cost is so expensive.

Mr. O'ROURKE. My time is up. If there is a second round of questions I would like to know, from Ms. Gambler, if there is a way to do a cost-benefit assessment on programs like these.

So I yield back. Thank you.

Mrs. MILLER. I thank the gentleman.

The Chairwoman now recognizes the gentleman from Pennsylvania, Mr. Barletta.

Mr. BARLETTA. Thank you, Madam Chairwoman, and I want to personally thank you for this hearing today. These overstays—has been my main focus since I got on this committee. I believe it is very important. Because there is so much focus on the Southern Border, when we talk about border security. I believe that these overstays are a much, much more serious National threat.

Furthermore, I don't even believe we should be talking about any type of immigration reform for a claim—or make a claim that our borders are secure, 90 percent secure or 100 percent secure unless we fix this visa overstay problem. Until we understand that this is just as serious as someone crossing one of our borders and include that in whether or not our borders are secure, then we are creating an illusion to the American people that we can now move forward with immigration reform until that is done.

As I said many times, any State that has an international airport, being that 40 percent of the people enter the country legally, with a visa, any State that has an international airport is a border State. One of the 9/11 hijackers, as you on the panel know, entered the country on a student visa. Two other of the 9/11 hijackers had their student visas approved years after they were dead. Student visas are one of the most preferred methods for terrorists to gain entry into our country.

Now, within the United States ICE's Student and Exchange visa—Visitor Program, SEVP, certifies universities that wish to admit foreign students; once a university has been enrolled in SEVP they can offer a student admission. Now, Congress has required that SEVP schools be recertified every 2 years. But as of last year, ICE has recertified only 19 percent of more than 10,000 schools that participate in this program.

Mr. Dinkins, can you describe the process for recertifying universities in an SEVP program? Given the power that these universities have to bring foreign students to our country, why has ICE been so lax in recertifying universities? Also, why does ICE not conduct background checks on school officials who participate in this program?

Mr. DINKINS. Sir, great question. Historically, we did not have the resources, or a unit set up, to go and validate each university every 2 years. Now we do do that. We have built a unit. I don't have the exact month, but I believe it is by the end of the year, we will have completed the first go-round of reviews of the—each university or institution that has foreign students.

Mr. BARLETTA. If I could just jump in there a second.

Mr. DINKINS. Yes, sir.

Mr. BARLETTA. Being the fact that is the most preferred way for terrorists to enter the country, wouldn't it make sense to reallocate funds within the Department?

Mr. DINKINS. Yes, and now it is not a funds issue anymore, sir. We have built this program, and we have that capability to do it. We are on-going through it. Now, what we are finding, too, is that before, you might have 10,000 universities that would be willing to do it because it was a paper exercise. But now that they know that they have to go through this process and be reviewed, some of those are dropping out.

So we have had a few hundred actually, I believe, that is dropped out of the process. But it is now a rigorous process, that they go in. We need to make sure that they are allowing—that they are capable of handling the number of students that they are actually allowing and enrolling. Because you can have fraud, institutional fraud, as well as just the threat of the individual students themselves.

Mr. BARLETTA. According to your testimony, DHS responded to a recent GAO report by partnering with the FAA to ensure proper certification for flight schools. Why is this happening 11 years after 9/11, when we know several of the hijackers exploited the flight school loophole?

Mr. DINKINS. Historically, sir, I can't answer—have not been here, knowing that for sure. I am sorry, I can't answer that. However, now we do—we built that in there, and we are using our system to actually compliment FAA, who didn't—rather than them try to build an entire SEVIS type of structure, as well, for the flight schools.

Mr. BARLETTA. I also understand that beginning last month, DHS began updating its arrival-departure database with SEVIS on a daily basis. Why did it take the Boston tragedy to make this happen?

Mr. DINKINS. Sir, we actually had known, and been working for, that technological solution for quite some time. It was prior to the Boston situation that we actually had done that. The individual that Boston highlighted actually was in January. We rolled this out in April. But we had been working on that technological solution for some time.

Mr. BARLETTA. Thank you, Mr. Dinkins. Hopefully, we will have a second round.

Mrs. MILLER. I thank the gentleman.

The Chairwoman now recognizes the gentlelady from Hawaii, Ms. Gabbard.

Ms. GABBARD. Thank you, Madam Chairwoman. I have some questions for Mr. Dinkins with regard to the estimated 40 percent of people who are here unlawfully who came on valid visas, that many of my colleagues have already touched on. You spoke briefly about prioritizing resources based on security threat. Would like you to speak to how you—basic—what is the criteria, and what is your process for identifying these security threats?

Mr. DINKINS. So there is two-fold. So overall, in general, we have the prioritization for all immigration violations. But specifically related to the students program and the visa overstays, we work with the intelligence community and law enforcement. We come up with a criteria, and I don't want to talk about the criteria in open forum. Because then next thing you know, somebody is adopting the new criteria and trying to work around our system.

But we vet that information against virtually every type of intelligence community or law enforcement database; from criminal, to intelligence, to National survey, public safety, or border security threats. Based on that, we screen out the number of hits. Then we actively go after those. As well as—so that leaves the population that would actually not be known to us, pose any threat to the country, specific threat to the country. However, it is a continuous process.

So that gets re-done all the time. I think it is daily that those—anybody with a visa gets re-ran through the system each day. So if that were to change, and now we have new intelligence or new information, they would be captured in that and prioritized out.

Ms. GABBARD. How effective is the interoperability in sharing that information, the analysis, between not only Federal agencies, but also the State and local law enforcement?

Mr. DINKINS. Very good. Because if you become out of status, and you are a priority, we put you on a list of—basically a hot list, right? It is getting ran every day. So we may not know where you are at today, and maybe not be able to find you, but if you do any type of—register a new car or get a phone account in your name, we are gonna get an alert and we are gonna to be able to now know where you are at.

Also, it gets put into the databases for NCIC for—State and locals would actually know that this person is subject out of status.

Ms. GABBARD. What about with regards to no-fly lists? You talk about prioritizing those who have overstayed. You know, we have heard reports of how many—the large number of people who are on no-fly lists and how many of those people actually present a security threat, or those who should be on the list who have a security threat and are not, and how many—whether they are U.S. citizens or otherwise, people who are on the list who don't pose a security threat, and basically taking up valuable—limited resources that should be addressed to those who actually pose a threat.

Mr. DINKINS. Yes. I mean, you are bringing up a good point. Many times, we will have intelligence on a name-specific—you know, Jim Dinkins could be attending a camp, for example, in Afghanistan for a terrorism camp, but that is all we have. So when

that person comes in—now I am traveling and my name is a match—you know, it can be distracting. Now, we go through and try to add that information in, and we—and the nominating agency is asked, whoever nominates, that they be on a no-fly list specifically in your situation that your brought up—would be asked to come back with more information on that.

Also, Jim Dinkins—you know, the head of HSI, would eventually—may be stopped once or twice, but eventually be able to work out of that system once they were able to come up and validate that information. But it is a continuous process. So as we validate, for example, on our side, the F-1 students or the visas that come in from the State Department for visa applications, if we come up with data on that, or CBP or ICE or whoever has that data, we can—that we think somebody should be on the no-fly list, then we can actually nominate that person for the no-fly list.

Ms. GABBARD. Thank you. Just one follow-up for Mr. Lyon with regards to the biometric exit program. Ms. Gambler mentioned in her testimony the necessity for a master schedule. It is mind-boggling that we have put so much money towards this effort already, and still don't appear to be making very much progress, and still a long road ahead of us. What is the status of creating a master schedule and a time line for actually implementing a biometric exit program that will allow us to track how many people actually are overstaying their visas?

Mr. LYON. Thank you for that question. The Department, last May, submitted a report to Congress about the status of biometric exit. In that report, it lays out the schedule that we have. A lot of the steps that we have taken over the last 18 months are in that plan. So the idea of making the—some of our systems more interoperable as we enhance the biographic exit system we have, those are steps that we are actively working right now.

I believe we are on—there were three phases set up for the enhanced biographic exit. We have finished phase two and we are actually working on phase three. On the biometric exit piece, one of the things that is in the report, it talks about, really, a cost-benefit analysis and the idea of having a system that would be cost-effective. That is one thing that our science and technology director, working with CBP, is actually looking at. I believe, right now, if I remember the schedule correctly, that they are planning to actually do some lab tests.

This year, they are setting up the lab, and then they are going to be starting some further tests in the future. But I believe fiscal year 2016 was in the schedule for actually doing operational tests. I will refer to Mr. Wagner, if he has any more information on that one.

Mr. WAGNER. Thank you. So we have been working closely with the science and technology branch in DHS. So we are out currently, right now actually, doing some of the baseline logistics and measurements of the outbound process at the major airports to look at, you know, what is the process, what are the logistics, what is the infrastructure, how does the passenger flow work, and getting a lot of those baseline measurements.

Now, we are also looking at setting up a test lab with the science and technology branch. I believe we are scheduled for early next

calendar year to have that operational, to start to test the current biometric capabilities against what some of those sort-of real-life situations are and what those real logistics are. Looking at the impacts to introducing, you know, the current biometric capability into the existing logistics of how travelers exit the United States either at—land or air.

Because, again, like Mr. Lyon had mentioned earlier, you know, a lot of our transportation infrastructure was not set up to handle any outbound or exit-type processing. You know, it is like at airports—you know, airlines you don't come to one area just to depart the United States like they do on the inbound. They leave from any type of multiple gates or terminals.

Ms. GABBARD. Thank you.

Mr. WAGNER. So it just adds to the complexity of it.

Ms. GABBARD. Thank you. Thank you very much.

Mrs. MILLER. The Chairwoman now recognizes the gentleman from Utah, Mr. Stewart, for his questions.

Mr. STEWART. Thank you, Madam Chairwoman. Like all of us, we thank the panel for your service, for your expertise, for being with us today. The other Members of the committee, Madam Chairwoman, we all believe that this is an important issue. It has some urgency to many of us.

As has been said here over and over today, 40 percent is not an insignificant figure. We are not talking about a small problem. We are really talking about a significant problem. The importance in this committee and being able to help to address that, I appreciate. I think I share some of the frustrations that have been expressed today with the pace of our progress in that. Again, to the witnesses, thank you for your expertise.

But I think we all agree that we can do better, and that we probably have to do better, on this. I would like to address quickly, if I could, some of the lim-facs, some of the limiting factors, that you are encountering. One of is, I suppose, with airlines. Airlines would like passengers to show up, very quickly move through security, get their tickets, be on board the aircraft without a lot of delay. It seems that that is where you are getting some pushback is the airlines helping to implement your being a partner with you.

Is that true? If that is true, can you shed some light on maybe how we could incentivize them or prod them along, or how we could help with that process? Mr. Wagner, would you mind?

Mr. WAGNER. Sure, thank you. Thank you for the question. Yes, the airlines have been pretty vocal in what they see, really, as a Government responsibility being placed on them and their business to collect biometrics for exiting travelers. They do, however, provide the biographic information a number of years now on all inbounds and all outbound passengers. It is looking at the logistics and the impact to how airports are designed and how the airline business practices operate, and not being a big roadblock in travelers' navigating through the different components of leaving the United States.

As the airlines, you know, look to move away from checking in at an airline counter or checking in at a kiosk, and removing some of the stops of that currently take place at an airport to board a

flight, they look to automate that. I think they are very concerned about us injecting a new process into that.

Mr. STEWART. Are we making progress towards that, though? Are we breaking down some of their concerns and actually moving forward in implementing some of the—you know, these things that you would like to do, from your end?

Mr. WAGNER. Well, we continue to work with them. We are enhancing the biographical collection of the data. We are starting to validate when they transmit the manifest data to us in advance. We are validating that that document is on record and that it is accurate. They have been very good partners in working with us on that. But also, it is where do we put the technology collection in that process to ensure the person really left, and got on a plane and boarded and left?

You know, if we put it at a place in the airport where someone can go check out, and then turn around and walk right out of the airport, it kind of defeated the purpose of what we set out to do. So it is do you put it on the jetway, do you put it on the plane? At what point in the process are we gonna capture people that actually are leaving in a place where we are not really gonna shut down air travel for people leaving.

Mr. STEWART. Yes. It would seem to me that putting it on the jetways, is probably your only viable option, wouldn't you agree?

Mr. WAGNER. It is looking like that. That is why we are working with our science and technology branch about building a jetway and looking at the capacities and the infrastructure. What would the best biometric be to support that in, I will say, the less-intrusive manner to not slow down or shut down air travel.

Mr. STEWART. Okay. Let me address, if I could, one more concern that I have as far as the limiting factor. That was perhaps some of the training or the vetting with the school officials who are responsible for updating these student visas, or the SEVPs. Is that a concern of only mine, or do some of you share that concern, as well? Because clearly, there have been some breakdowns in that area.

Mr. DINKINS. It definitely, sir, has been an on-going process. But now, we have actually increased the number of designated school officials, as well. I believe that they are carrying that responsibility, the legitimate ones. Because there are some institutions that are created just literally—legitimately for fraud purposes. You know—but those reputable ones that we are not criminally investigating actually, I think, do take that responsibility very seriously. We have a very continuous dialogue with them, on-going, each day.

Mr. STEWART. So you are comfortable that if someone were here on a student visa, and they were expelled from school or withdrew from school for some reason, that that information would be passed on and that would be noticed now? Is that your testimony? That we have made progress in that?

Mr. DINKINS. Absolutely, sir.

Mr. STEWART. Okay. All right, thank you again. Madam Chairwoman, I yield back.

Mrs. MILLER. I thank the gentleman.

The Chairwoman now recognizes the gentleman from Florida, Mr. Bilirakis.

Mr. BILIRAKIS. Thank you, Madam Chairwoman. Thank you for allowing me to participate again today. I have been focusing on this student visa issue, closing these loopholes, since I have been in Congress. I have some questions for the panel, if I may.

What can we do to ensure that foreign students abide by the terms of their student visas? That if foreign students leave school for any particular reason, they are not followed? Again, not—there is no oversight. We want to make sure that they do not remain in the country. Because I understand there are over 7,300, at least, overstays per year. I also want to focus on the interview process.

My good friend talked about that. How many—what percentage of these applicants are interviewed as far as the screening process over there? I would like to know that. How comprehensive are the interviews?

Mr. DINKINS. So I will work backwards in your question. So the interviews—so right now, and this is—I mean, this is great progress, and I am very excited about it. Is the fact that as when the State Department went to electronic visa, and with Patriot what we will be able to do with the new automated system, so they apply. They are sitting on their couch or in a cave in Afghanistan or wherever they may be. They hit “submit” on a visa application, that is gonna be transmitted through the system over CBP’s National targeting center, where ICE and CBP sits.

That information is gonna be churned way before—months, in some cases—before the State Department even sets up that interview. So we will have that lead time well in advance so if there—you know, if there is a red light because they are a known suspect, and there is no sense of doing an interview unless maybe for law enforcement purposes to gather some intelligence. But if it is a green light, they still have to sit down—every single one of those students sit down—someplace, except for, as was mentioned, if they are young—you know, children or very senior individuals.

They are gonna sit with an interviewer, and it is a pretty in-depth process. So that is the process as far as validating that they are coming here for legitimate purposes. Now, I do want to point out, as the economy and, you know, it is probably one of the factors. But I also do believe that some aggressive enforcement has played a role in this. Is that what we are seeing is that the number of out-of-country—so those people who may have not left exactly on time, but they have still departed when we start screening it—that number of folks has started increasing, that percentage is increasing.

So we definitely have de incentivized, short of using, you know, the stick and going out and putting cuffs on them, them remaining in the country. So the numbers of people that we are getting that may stay over when they are supposed to, but ultimately do leave, is a growing number of population.

Mr. BILIRAKIS. Could I ask you for maybe the contents—you are at liberty to give us the contents—of maybe an example interview? Tell me how long are those interviews, time-wise, in the average, would you say?

Mr. DINKINS. I couldn’t say how long exactly, on the average. But they are several minutes, at least, and longer. Because they sit down, they have to go through and validate the stuff on there that

they have the economical—and it is with a consulate officer that they do the interviews with. So they have to validate that they have the economic means to actually sustain their—themselves at school and in the United States and so forth.

So it is—I don't want to say it is a full-fledged background investigation, but it is definitely an in-depth interview that they go through with a consular office, who is trained to identify potential fraud.

Mr. BILIRAKIS. Okay. You say that all applicants are interviewed, with the exception of the younger children. Is that correct?

Mr. DINKINS. Yes, sir.

Mr. BILIRAKIS. Okay. Let me ask you, with regard to the visa security units, I understand that there are nine. However, the State Department and Homeland Security have identified 50 high-risk areas in the world. I believe we have, currently, 19 in 15 countries. But I understand 11 of the top 20 posts are not covered. What is—why are they not covered? Why haven't we made more progress with regard to visa security units? How many have we put in place in the last couple of years?

Mr. DINKINS. That is another good questions, is some of the highest-ranking threat locations that are identified between ICE and on the State Department for visa-issuing posts are in parts of the world where they are very geographically-challenged because of space, because of the security conditions. They are not building new embassies, and so forth. So in many of those cases, there is simply no space for us to actually get into to do it.

With that said—as we are continuously going and chipping away at those top priorities as we have gotten new money. I believe that we opened up three this year, and we have plans to open up another one. So we will have 20 soon. But with Patriot, we are gonna be able to do with what we are doing with those pre-deployed people and actually expand that out. So I have, right now, 75 international offices, I believe it is, in 48 different countries.

With Patriot, no matter where you are applying it—right now, our visa security, our special agents, are running those names manually. We are still doing the background and running it in the back, through the automated Patriot system for validation. But they are sitting down and bringing those people's names in. Soon, no matter in the entire world where you are at and you submit that application, we basically have the first line of visa security defense.

Then the reason we will need people overseas will be to coordinate doing those interviews. Because now that we know that Jim Dinkins, a suspected terrorist, has applied to come into the United States for a visa the question shouldn't end there. The question should be, well, what is the plans for Jim Dinkins coming to the country. We need boots on the ground to be able to help turn that. Because if we just say no to Jim, no to Mr. Wagner—and they will eventually find somebody that we don't know about if we don't actively look at the reason why they are actually trying to get to the country in the first place.

What type of plot, what type of criminal scheme they are doing. So we are covering the blanket much broader with a computer solution which will be able to give a red light, green light right off the



bat. Then the yellow lights are the ones that we are gonna actually have to have boots on the ground to deal with.

Mr. BILIRAKIS. Madam Chairwoman, thank you very much. I want to yield back. Can somebody, maybe someone else on the panel, address these issues? Or maybe we can wait until the second round of questions.

Mrs. MILLER [continuing]. So got to go.

Mr. BILIRAKIS. All right, and—

Mrs. MILLER. Yes, we are gonna go to a second round here.

Mr. BILIRAKIS. Okay. Thank you so much. I yield back.

Mrs. MILLER. Thank you. Thank you.

Mr. BILIRAKIS. Thanks for allowing—

Mrs. MILLER. We are gonna obviously go to a second round of questions here. We appreciate the witnesses being here. Obviously, there is a huge amount of interest in this.

I have to ask a—perhaps a naive question. But I am listening to all of this, and just trying to understand. When people actually get a visa—and somebody talked about the electronic visas, what is going on with that. So your visa is expiring. How do we notify, or do we even notify, people that their visa is expiring? Or we just leave it up to them to notify us? I mean, and if that is so, it would seem to me that everybody that gets a visa we would require them to have an e-mail address, for instance.

Or we would just e-mail them, and say, look, your visa is about to expire. Tell us, you know, how—when do you expect to be leaving here? Are you gonna be leaving on time? Or if not, recognize we are watching you. I know it sounds ridiculously simple, but how do we tell people, if we do at all?

Mr. DINKINS. Ma'am, I am not aware if the State Department has any type of communication with them on that, on the issuing date. Other than when they get it issued and they know that they have X amount of time in the country. Then when they get admitted, then they know that is reinforced at the port of entry upon admittance. But I am not for sure if the State Department has any type of communication with them as far as that it is a—I don't know of any.

Mrs. MILLER. I am not aware of any either. So it just would—I mean, it seems, like I say, ridiculously simple. But wouldn't it seem that we would at least e-mail them and say: Hey, time is up, and apparently you are gonna be leaving. Or if not, you better let us know, or, we are watching you. Anybody else have a comment on that?

Mr. WAGNER. So as part of the administration process at the port of entry, I mean, the visa has a date on it. We will grant them administration for a prescribed period of time, depending on the type of visa. A visa waiver traveler is gonna get 90 days. A person with a visa, depending on the type of visa and the purpose and their intent, or their visit here, we are gonna stamp the passport and write down the admit-until-date.

Some of those admit-until-dates are the duration of status, like in the case of, you know, certain visa types: While they are in school, they are in status, and it gets a little more complex. But, you know, we are generally going to look at, and make our decision based, at the port of entry. Do we feel this traveler is going to com-

ply with the terms of their admission and what they are saying they are doing, and what that visa is.

But we are gonna grant their administration date until the date that we think they are gonna take care of what their purpose of their intent here. But there is a date on that visa.

Mrs. MILLER. Okay. I guess I am just throwing this out here. There seems to be such an easy, at least first step of trying to fix some of this. There has got to be communication on both sides. Just requiring anybody to get the visa, to have an e-mail address so that we can keep in constant contact with them without chasing them down if they move post offices, what have you.

I would like to ask a question of Ms. Gambler, who has been sitting there. We think about a million visa overstays that are here currently, with the backlog, approximately, the number, 1 million unmatched records, as we call it. From the Government Accountability Office, what is your observation on the accountability of that kind of a number?

Ms. GAMBLER. As we reported in our statement, DHS has not yet assessed that set of unmatched arrival records to look for trends in those records. We are continuing to analyze that set of records to identify additional trends, or categories. But it certainly might make sense for DHS to have a look at the different categories of populations that make up those records. Because that kind of information could help them better target their efforts to identify overstays and take enforcement action.

Mrs. MILLER. Thank you.

In the interest of time, I will now recognize the gentlelady from Texas.

Ms. JACKSON LEE. Madam Chairwoman, I thank you. As indicated to the witnesses, I appreciate you. I may be stepping away. I am right in the middle of a mark-up in the Judiciary Committee, and being called for my amendments. But both of us, the Chairwoman and myself, agree that this is an enormously vital hearing and will generate, I think, a positive response for what our tasks are before us.

I want to be very clear on the record that I do not see, or foresee, this being an obstacle to comprehensive immigration reform. But I do see the urgency of picking this up and quickly moving to give comfort to the American people, to give a framework, and to give an answer to this committee about how we tackle this now and ongoing. I want to ask Mr. Dinkins, we say about 40 percent of the persons that are unlawfully present have overstayed their visa.

About—and that these are millions of individuals. What would you estimate are the numbers that would likely pose a security threat?

Mr. DINKINS. Very small, ma'am. We get those numbers—those in. So, for example, we vetted so far this year about 480,000 names of potential new visa overstays. Of that 480,000 names, about 3,000 of them actually hit a potential National security or public safety threat. So—

Ms. JACKSON LEE. You have the—of those 3,000, do they get in a separate area? Do they get sent out to local law enforcement, fusion centers, joint terrorism task force, et cetera?

Mr. DINKINS. Yes, those actually get criminal cases opened up on each and every one of those in our field offices to go track them down and arrest them.

Ms. JACKSON LEE. All right. Let me—thank you very much. On CBP, you—will CBP be working with DHS and S&T to evaluate technology as efficiently as possible in order to expedite the eventual deployment of a biometric exit? This is for you, Mr. Wagner. Are you all in the midst of really getting to the nuts and bolts to get the kind of technology that is necessary?

Mr. WAGNER. Yes, we are out there currently baselining the existing operations and looking at the existing exit, or outbound, processes at the airports with S&T and looking at what are those logistics and what are those operational capacities and constraints on how we would do it. Then we will set up a demo lab to look at the current states of biometric technology and how we can fit that into the existing logistics or right existing constraints to find out: What is the best biometric to deploy out there to capture the exiting biometrics?

Ms. JACKSON LEE. Mr. Evans—I am sorry, Mr. Lyons, how fast can this pace go?

Mr. LYON. Ma'am, it is—I think it is going at the pace that was in our plan that was released last year. Then—

Ms. JACKSON LEE. What is your plan—when do we think we are gonna be there?

Mr. LYON. As in the plan, I believe that we are looking at fiscal year 2016. Like Mr. Wagner said, they are setting up the lab to allow them to do lab tests. Then from there, they can actually then start doing some operational pilots.

Ms. JACKSON LEE. Is there a resource question impacting your time frame? Money question impacting how fast you can move?

Mr. LYON. I would have to defer that to—

Ms. JACKSON LEE. Mr. Wagner?

Mr. LYON [continuing]. To Mr. Wagner.

Mr. WAGNER. Yes, because it will be expensive to deploy—

Ms. JACKSON LEE. All right, so let me—I am going to do, in the interest of time, too. Let me conclude. Gentlemen, I got your answers. I am not cutting you off. I just thank you very much for your answers. What I see here is that you have laid out the problem and the answer, or the answer and the problem. You have laid out that you are working—and I would say this, Madam Chairwoman. First of all, I think we should have some on-going briefings, continued hearings. Probably briefings may be faster.

I would like to get an updated time line on what you think can be expedited that would move you further in from 2016; further going this way. Meaning 2014, 2014-½, et cetera. The other thing that I think is very important, I am gonna put on the record. Our airlines have to be part of this effort. This is a business, I understand it, they make profits. But the United States Government is providing them with their infrastructure of security.

I do believe, with all of our Constitutional protections, we should look at a framework that would fit the United States, Madam Chairwoman that would be an exit infrastructure that would not infringe upon our Constitutional values and principles. I believe a briefing with the airlines would be very helpful, try and under-

stand what their issue is. I would also ask for any of you to provide me with any work that you have done with Israel in looking at Israel's system of exit visas.

I would like an answer in writing on that, Madam Chairwoman. I yield back.

Mrs. MILLER. I thank the gentlelady.

The Chairwoman recognizes the gentleman from South Carolina, Mr. Duncan.

Mr. DUNCAN. Thank you, Madam Chairwoman. Thank you guys for your service. But I must say I am alarmed by something I just heard when the Chairwoman was asking you a question. We are relying on the honesty of visa holders to look at that date and say, "Oh, no. I got to get out of here by March 31." We are not notifying them? We don't—you know, after, say, June 31 go, "We gave him a little bit of a grace period. Let's go knock on their door."

We are relying on them to understand—I mean, my license expires on my birthday, and I still let it go beyond the expiration date before I go get it renewed. Wow. Did I understand you right, that we are relying on them to look at that date?

Mr. WAGNER. It is an assessment of the traveler to make a determination are they going to comply with what their exit date is intended. It may be a question of looking at their airline ticket and their return ticket for when they intend to leave. It may be a case of, you know, visa waiver travelers restricted to 90 days here. We ask them where they are going, why they are going, what they are gonna be doing. We make that assessment and we make that call.

If we feel they are not going to comply with the terms of that administration or that visa we are not going to admit them to the United States. We are going to restrict them in how long they can be here. But by and large, yes, you are correct. It is up to that traveler, once they are released from that port of entry and admitted, if their plans change there are mechanisms where they can go and engage with citizenship and immigration services to extend the terms of their administration or they can change status.

But by and large, we are not following each one of these people around to ensure that they do actually comply with it. We—a lot of it is left up to them. We do stamp their passport and tell them which date they are admitted until. But you are correct, in that by and large it is up to them.

Mr. DUNCAN. Let me ask you this, then. How do we know when they leave the country?

Mr. WAGNER. So if they fly out by commercial air—

Mr. DUNCAN. You are looking at manifests—

Mr. WAGNER. We will get the manifest.

Mr. DUNCAN [continuing]. For either travel by boat, or manifest. In Canada, we have got some data-sharing. I read about that, but—

Mr. WAGNER. Correct. So that information will feed into the arrival-departure information system. If it is then matched up, and we find that the person did overstay and the person is out of the country, an alert will be placed in our database. So either the Department of State, when the person applies for a visa again—

Mr. DUNCAN. What if the name is put in differently?

Mr. WAGNER. If it—well, if it—

Mr. DUNCAN. What if they leave out a middle initial or the name is spelled differently?

Mr. WAGNER. It depends on the variations and how wide our algorithms are casting a search to find up those names. When they apply for ESTA, when we get the APIS manifest from the airline that this person's intending to travel, if we see they are a prior overstay they are going to be inadmissible to the United States. We are going to call that airline and recommend they don't board that person because they are gonna have to fly him right back.

If we have our immigration advisory on-site at those 11 locations overseas, working at the gate with the airline personnel as people board, they are going to wait for that person to check in, and interview them, and march them over to the airline desk and tell them we do not recommend this person flies because they are more than likely inadmissible to the United States because they overstayed previously, or we don't feel this person is going to comply with the terms of the admission. But it is a matter of collecting that exit information, piecing it back together, placing an alert in our system so our various stages we can catch these people and prevent them from coming back.

Mr. DUNCAN. I appreciate what you are trying to do there. The Department of State is involved in this. So the gentleman said a minute ago—Mr. Lyon said about the Department of State not communicating with you guys as well with—and notification of visa overstay. So I think we got some issues here. I want to shift gears.

Ms. Gambler, do you agree with the assessment of the Pew Institute? I think in 2006 they said there were about 4½ million overstays here. Do you think that number is accurate?

Ms. GAMBLER. Congressman, we have not specifically assessed the reliability of that estimate. I think what will be telling is when DHS reports overstay estimates at the end of this year, which they have announced plans to do so. I think then we will need to look at the methodology that DHS is using to report those overstay estimates and what, if any, limitations they identify with that methodology.

Mr. DUNCAN. What do you project the number to be, today, 2013?

Ms. GAMBLER. Congressman, GAO is not in a position to make an estimate because DHS does not have—or DHS itself has not reported estimates of overstay rates. We previously identified challenges the reliability of the data that they used to identify potential overstays. That data would feed into their estimating of overstay rates.

Mr. DUNCAN. Right. Mr. Wagner, you are—DHS currently collects the information regarding the number of visa overstays from each country. However, to date it has refused to share such information with Congress. They say they are gonna share this by the end of the year. Why hadn't they released the information? What are we waiting on here?

Mr. WAGNER. I believe the offices that are working on that information are still validating the accuracy of it and piecing together people that might not have just arrived and departed via commercial air. But some of the more complexities I discussed earlier about why someone might not have a readily apparent departure from the United States, and going through those different systems

and finding if there is a departure record. Or if there is a legal way that they adjusted their status and they are still here legally.

Or, in the case if they are not here, you know, if they are here but they are in overstay, in fact. So it is a matter of verifying the accuracy of that information and making sure it is complete and accurate before it is released.

Mr. DUNCAN. Thank you. Madam Chairwoman, when you fly to Mexico they give you a little card that you have to keep with your passport. When you leave the country, you turn that back in and they keep that. It seems like a fairly simple system to me.

I yield back.

Mrs. MILLER. I thank the gentleman.

For the last questions, for Mr. Barletta, from Pennsylvania.

Mr. BARLETTA. Thank you, Madam Chairwoman. According to the Department of Justice, 10 percent of individuals who have been convicted of terrorism, terrorism-related charges, have entered the United States legally and overstayed their visas. Unless this is addressed, I see this as a major stumbling block to immigration reform. We are talking about giving amnesty to 11 million people in the country illegally, and 40 percent of them overstayed their visas and are a possible threat to our National security.

Now, ICE devotes approximately 3 percent of its resources to investigating visa overstays. Federal law requires that DHS report overstay estimates, but DHS has not done this since 1994. Mr. Dinkins, being the fact that 40 percent of illegal immigrants are visa overstays, and the Morton memorandum only prioritizes criminal aliens for deportation, so how can this administration claim that they are serious about securing our borders?

Mr. DINKINS. So we have—there are multiple areas that we prioritize our work. As you mentioned, criminal aliens is definitely our priority to remove. But we are dealing with the confines of funding. But not just for ICE and not for special agents and deportation officers and so forth. We are dealing with a system. The system can only handle about 400,000 that we put into a year.

We are trying to make sure that those 400,000 make up the greatest threat for public safety and National security and border security that we can, to make sure that we are not collapsing the system to make it even, you know, less efficient than what it is designed to do.

Mr. BARLETTA. You know, without enforcement, our laws mean nothing. I am very concerned that what we are doing is really just creating a paper tiger. I will give the definition of a paper tiger. It is something that gives the appearance of strength, but is actually weak and ineffective. Thank you.

I yield back.

Mrs. MILLER. I thank the gentleman. Again, I want to thank the witnesses. It has been an excellent hearing, I think. We have got a lot of good information and have a lot of ideas from a Congressional standpoint of things that we may want to be legislating to improve our visa system. I appreciate all of your service to the country as we work toward our common goal of securing the homeland.

Pursuant to committee rule 7(e), the hearing record will be held open for 10 days. Without objection, the committee stands adjourned.

[Whereupon, at 11:53 a.m., the subcommittee was adjourned.]

