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# WHY IS THE BIOMETRIC EXIT TRACKING SYSTEM STILL NOT IN PLACE?

UNITED STATES SENATE, COMMITTEE ON THE JUDICIARY, SUBCOMMITTEE ON IMMIGRATION  
AND THE NATIONAL INTEREST

ONE HUNDRED FOURTEENTH CONGRESS, FIRST SESSION

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**Prepared Statement by Senator Chuck Grassley of Iowa  
Chairman, Senate Judiciary Committee  
Subcommittee on Immigration and the National Interest  
Hearing titled “Why Is the Biometric Exit Tracking System Still Not in Place?”  
January 20, 2016**

Twenty years ago, Congress passed the Illegal Immigration Reform and Immigrant Responsibility Act of 1996. A vital part of this law was the establishment of a comprehensive entry and exit control system that would collect a record of departure for every person departing the United States. Today, there is still no comprehensive exit system at our land, air, or sea ports of entry.

The tragic events of September 11, 2001, should have been strong motivation to implement a full entry and exit system. In fact, in 2004, Congress went further than it had in 1996, urging the administration to develop a plan to rapidly implement a full biometric entry and exit system. The 9/11 Commission Act of 2007 reiterated this call for a biometric exit program, directing that it be in place by August 2008. Unfortunately, deadlines have come and gone.

Congress has been abundantly clear. Yet, the most we have received from the Executive Branch is an insufficient report on overstays for certain travelers who enter the U.S. for business or tourism using biographical data. Late last night, the Department of Homeland Security provided a [report to Congress](#) on overstay rates for B visa holders. This report was issued in an attempt to comply with a congressional mandate in the fiscal year 2015 appropriations bill that requires the department to report on visa overstay data that includes 1) overstays from all nonimmigrant visa categories under the immigration laws, delineated by each of the classes and sub-classes of such categories, and 2) the number as well as rates of overstays for each class and sub-class of such nonimmigrant categories on a per-country basis.

The report issued by the Department of Homeland Security is completely unsatisfactory. It fails to provide data to Congress on all visa classifications, including foreign students, those on employment based visas, fiancé visas, or those who participate in cultural exchange programs. While I appreciate the information the department provided, it only tells part of the story.

According to the report, the department estimates that 482,781 people overstayed their visas in Fiscal Year 2015 alone. The total number of visa overstays across all fiscal years must be in the millions.

The report also uses biographical information, which is information collected by airlines before such foreign nationals board an airplane to the United States. Thus, this data is completely reliant on whether the airlines fully cooperate in providing this information to the government. This report proves why biometric data is so vital. It will ensure that the government truly knows in near real time who is entering, when an individual is departing, and whether such persons have overstayed their visas. An exit program that uses biometrics rather than just biographics is a vital component of national security, ensuring that persons of interest have not falsified their exit record or stolen a person's identity to enter the country.

Congress understands that developing a biometric exit program is a daunting and expensive task. Congress has already appropriated millions of dollars for the cause. And just weeks ago, Congress directed that an additional \$1 billion collected from increased fees imposed on certain H-1B and L-1 petitioners be used for this exclusive purpose. One billion dollars in an account dedicated to biometric exit implementation should help make significant progress. We can't wait any longer. We've provided the funding, but now we need to see results.

It is my hope that this administration will have a plan in place for implementing a biometric exit system. It's time to build on pilot programs, and it's time for airlines to work hand in hand with the government to make the system a reality. Today, we want to hear from the Department and understand the challenges and the obstacles. But we must also remain determined to overcome these challenges and work hard to get it done.



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STATEMENT  
OF

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FOR A HEARING ON  
"Biometric Exit"

BEFORE THE

United States Senate  
Committee on the Judiciary  
Subcommittee on Immigration and the National Interest

January 20, 2016

## Introduction

Chairman Sessions, Ranking Member Schumer, and distinguished Members of the Subcommittee, thank you for the opportunity to appear today to discuss the Department of Homeland Security's (DHS) progress in incorporating biometrics into our comprehensive entry/exit system in support of our border security and immigration enforcement missions.

As recently as 12 years ago, the process of matching entry and exit data was extremely difficult. DHS legacy agencies relied on a mostly paper-based system to track arrivals and departures to and from the United States. There was no biometric collection by the Department of State (DOS) for visa applicants beyond photographs, nor for individuals seeking admission to the United States. Until 2008, myriad documents were accepted at land borders as evidence of identity and citizenship for admission or entry, and passenger information was provided voluntarily by air carriers. There was very limited pre-departure screening of passengers seeking to fly to the United States and interagency sharing of information on terrorist threats was minimal. Overall, these factors provided for only a limited ability to detect violations of immigration law based on overstaying a lawful admission period.

Over the last decade, with the support of Congress and our international partners, DHS — particularly through the combined efforts of the Science and Technology Directorate (S&T), National Protection and Program Directorate's Office of Biometric Identity Management (OBIM), U.S. Customs and Border Protection (CBP), and U.S. Immigration and Customs Enforcement (ICE) — has significantly enhanced its capability to record arrivals and departures from the United States, detect overstays, and interdict threats. DHS has dramatically reduced the number of documents that can be used for entry to the United States, which in turn strengthened DHS's ability to quickly and accurately collect information on all admissions (particularly at the land borders) to the United States and check that data against criminal and terrorist watchlists among others including immigration databases. In the air and sea environments, individuals undergo rigorous vetting before boarding an air or sea carrier for travel to the United States. Since 9/11, agencies have improved information sharing regarding known or suspected terrorists. Most nonimmigrant foreign nationals<sup>1</sup>, passengers' biometrics are collected and checked against terrorist watchlists prior to being issued a visa or being permitted to enter the United States. Furthermore, we have developed new capabilities and enhanced existing systems, such as the Automated Targeting System (ATS), to help identify possible terrorists and others who seek to travel to or within the United States to do harm.

Today, DHS manages an entry/exit system in the air and sea environments using biometric and biographic components that identify overstays. Using a risk-based approach, the Department is

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<sup>1</sup> The following categories of aliens currently are expressly exempt from biometric requirements by DHS regulations: Aliens admitted on an A-1, A-2, C-3 (except for attendants, servants, or personal employees of accredited officials), G-1, G-2, G-3, G-4, NATO-1, NATO-2, NATO-3, NATO-4, NATO-5, or NATO-6 visa; Children under the age of 14; Persons over the age of 79; Taiwan officials admitted on an E-1 visa and members of their immediate families admitted on E-1 visas. 8 CFR 235.1(f)(1)(iv). In addition, the Secretary of State and Secretary of Homeland Security may jointly exempt classes of aliens from US-VISIT. The Secretaries of State and Homeland Security, as well as the Director of the Central Intelligence Agency, also may exempt any individual from US-VISIT. 8 CFR 235.1(f)(1)(iv)(B).

now able, on a daily basis, to identify and target for enforcement action those individuals who represent a public safety and/or national security threat among those who have overstayed. Moreover, with the recent support of Congress in the Consolidated Appropriations Act, 2016<sup>2</sup> DHS is continuing to move forward in further developing a biometric exit system that can be integrated in the current architecture.

### **Existing Entry and Exit Data Collection**

Many countries collect a traveler's biographic data, which is essentially textual data contained in the traveler's passport, including name, date of birth, document information, and country of citizenship. A biographic-based entry/exit system is one that matches the information on an individual's passport or other travel document presented when he or she arrives to and departs from the United States. By comparison, a biometric system matches a biometric attribute unique to an individual (i.e., fingerprints, a facial image, or iris image) collected upon entry and departure.

#### *How DHS Collects Arrival Information*

For instances in which an individual requires a visa to enter the United States, biometric and biographic information is captured at the time his or her visa application is filed with DOS, along with supporting information developed during an interview with a consular officer. It is important to note that if an individual is seeking to travel to the United States under the Visa Waiver Program (VWP), he or she must first obtain approval to do so through the Electronic System for Travel Authorization (ESTA).<sup>3</sup>

In the air and sea environment, DHS also receives passenger manifests submitted by commercial and private aircraft operators and commercial sea carriers, which include every individual who actually boarded the plane or ship. This information is collected in DHS's Advance Passenger Information System (APIS) and all non-U.S. citizen data is then sent to the Arrival and Departure Information System (ADIS), where it is stored for matching against departure records.

As part of CBP's pre-departure strategy, and throughout the international travel cycle, CBP's National Targeting Center (NTC) continuously analyzes passenger information, including visas and VWP ESTA authorizations. In addition to DOS's visa application and adjudication processes, the NTC conducts continuous vetting of nonimmigrant U.S. visas that have been recently issued, revoked, and/or denied. This recurrent vetting ensures new information that impacts a traveler's admissibility is identified in near real-time, allowing CBP to immediately determine whether to provide a "no board" recommendation to a carrier, recommend that DOS revoke the visa, or whether additional notification should take place for individuals determined to be within the United States. CBP devotes its resources to identifying the highest threats, including those travelers who may not have been previously identified by law enforcement or the Intelligence Community.

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<sup>2</sup> December 18, 2015

<sup>3</sup> ESTA collects biographic data and screens passengers against various government databases. ESTA has virtually digitized the Form I-94 (Arrival/Departure Record) for authorized travelers from participating VWP countries.

When a nonimmigrant arrives at a U.S. port of entry (POE) by air or sea, and applies for admission to the United States, the traveler is interviewed by a CBP officer regarding the purpose and intent of travel. His or her document is reviewed, law enforcement checks are run, and, if applicable, biometrics (fingerprints and photo) are collected, matched, and stored within OBIM's Automated Biometric Information System (IDENT). If admission is granted, the CBP officer will stamp the traveler's passport with a date indicating his or her authorized period of admission. Based on electronic information already in DHS's systems, a Form I-94, Arrival/Departure Record, is electronically generated for that individual and can be printed remotely by the individual if he or she needs it to provide evidence of legal entry or status in the United States. The form also indicates how long the individual is authorized to stay in the United States.

When an individual bearing a nonimmigrant visa arrives at a land POE, the individual is sent to secondary inspection where biometrics are collected, when appropriate. CBP may issue that individual a Form I-94, Arrival/Departure Record, which records the authorized period of admission.

#### *How DHS Collects Departure Information*

Similar to the way DHS gathers passenger manifests prior to entry through the air and sea environments, DHS also collects this information through APIS passenger manifests submitted by commercial and private aircraft operators and commercial sea carriers departing the United States. Since 2005, collection of this information has been mandatory and compliance is near 100 percent resulting in a fully functioning biographic exit system in the air and sea environments. Carriers are required to report biographic and travel document information to DHS for those individuals who are physically on the aircraft or sea vessel at the time of departure from the United States and not simply on those who have made a reservation or are scheduled to be on board. DHS monitors APIS transmissions to ensure compliance and issues fines for noncompliance on a monthly basis. CBP transfers this data (excluding data for U.S. Citizens) to ADIS, which matches arrival and departure records to and from the United States.<sup>4</sup>

In the land environment, as part of the Beyond the Border Action Plan,<sup>5</sup> the United States and Canada are implementing a land border exit system on our shared border. Today, traveler records for all lawful permanent residents and non-citizens of the United States and Canada who enter through land ports on the Northern border are exchanged in such a manner that land entries into one country serve as exit records from the other. The current match rate of exit records received from Canada against existing U.S. entry records is over 98 percent.

While the Southwest border does not provide the same capabilities and infrastructure as the Northern border, DHS obtains exit data along the Southwest border through "pulse and surge"

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<sup>4</sup> DHS uses this information for a variety of immigration and law enforcement reasons, including to determine which travelers have potentially stayed past their authorized period of admission (i.e., overstayed) in the United States.

<sup>5</sup> United States-Canada Beyond the Border: A Shared Vision for Perimeter Security and Economic Competitiveness, Action Plan, Dec. 2011. Accessible at [http://www.whitehouse.gov/sites/default/files/us-canada\\_bt看\\_action\\_plan3.pdf](http://www.whitehouse.gov/sites/default/files/us-canada_bt看_action_plan3.pdf).

operations,<sup>6</sup> which provide some outbound departure information on travelers departing the United States and entering Mexico. The Department is pursuing every opportunity to leverage DHS's investments and its partnership with Mexico to develop the best methods of obtaining data from travelers departing the United States through the Southwest land border. Preliminary conversations have been promising and pilot programs are anticipated to begin in 2016.

Collecting entry and exit data is a single, but critical, aspect of our comprehensive entry/exit system and our ability to detect and address individuals who overstay their authorized admission period. If we look at the entirety of an entry/exit system, it extends beyond our physical borders to include a number of steps that may occur well before a visitor enters the United States through a land, air, or sea POE and up to the point at which that same visitor departs the United States.

CBP's ADIS identifies and transmits potential overstays to CBP's Automated Targeting System (ATS) on a daily basis, which screens them against derogatory information, prioritizes them, and sends them to ICE's lead management system, LeadTrac,<sup>7</sup> which retains them for review and vetting by analysts.

CBP identifies two types of overstays – those individuals who appear to have remained in the United States beyond their period of admission (Suspected In-Country Overstay), and those individuals whose departure was recorded after their lawful admission period expired (Out-of-Country Overstay). The overstay identification process is conducted by consolidating arrival, departure, and immigration status adjustment information to generate a complete picture of individuals traveling to the United States as described below.

Yesterday, January 19, 2016, DHS released the *Entry/Exit Overstay Report for Fiscal Year 2015* that provides data on departures and overstays, by country, for foreign visitors to the United States who were lawfully admitted for business (i.e., B-1 and WB visas) or pleasure (i.e., B2 and WT visas) through air or sea POEs and who were expected to depart in FY 2015 — a population which represents the vast majority of annual nonimmigrant admissions. In FY 2015, of these nearly 45 million nonimmigrant visitors, DHS calculated a total overstay rate of 1.17 percent, or 527,127 individuals. In other words, 98.83 percent had left the United States on time and abided by the terms of their admission.

This report breaks the overstay rates down further to provide a better picture of those overstays, for whom there is no evidence of a departure or transition to another immigration status. At the end of FY 2015, there were 482,781 Suspected In-Country Overstays. The overall Suspected In-Country Overstay rate for this scope of travelers is 1.07 percent of the expected departures. Due to continuing departures by individuals in this population, by January 4, 2016, the number of Suspected In-Country Overstays for FY 2015 had dropped to 416,500, rendering the Suspected In-Country Overstay rate as 0.9 percent. In other words, as of January 4, 2016, DHS has been

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<sup>6</sup> "Pulse and Surge" operations are strategies whereby CBP officers and agents monitor outbound traffic on the U.S.-Mexico border.

<sup>7</sup> LeadTrac is an ICE system designed to receive overstay leads to compare against other DHS systems and classified datasets to uncover potential national security or public safety concerns for referral to ICE field offices for investigation. The system employs a case management tracking mechanism to assist with analysis, quality control reviews, lead status and field tracking.

able to confirm the departures of more than 99 percent of nonimmigrant visitors scheduled to depart in FY 2015 via air and sea POEs, and that number continues to grow.

For Canada and Mexico the FY 2015 Suspected In-Country Overstay rate is 1.18 percent of the 7,875,054 expected departures and 1.45 percent of the 2,896,130 expected departures respectively. Consistent with the methodology for other countries, this represents only travel through air and sea ports of entry and does not include data on land border crossings.

This report also separates Visa Waiver Program (VWP) country overstay numbers from non-VWP country numbers. For VWP countries, the FY 2015 Suspected In-Country Overstay rate is 0.65 percent of the 20,974,390 expected departures. For non-VWP countries, the FY 2015 Suspected In-Country Overstay rate is 1.60 percent of the 13,182,807 expected departures. DHS is in the process of evaluating whether and to what extent the data presented in this report will be used to make decisions on the VWP country designations.

### **Addressing Overstays**

Through specific intelligence and the use of sophisticated data systems, ICE identifies and tracks available information on millions of international students, tourists, and other nonimmigrant visa holders who are present in the United States at any given time. Visa overstays and other forms of nonimmigrant status violations bring together two critical areas of ICE's mission—national security and immigration enforcement.

In the past four years, DHS has made substantial improvements to maximize our ability to identify, prioritize, and address confirmed overstays. DHS system enhancements that have strengthened our immigration enforcement efforts include:

- Improved ADIS and ATS-Passenger (ATS-P) data flow and processing quality and efficiency, increasing protection of privacy through secure electronic data transfer.
- Extended leverage of existing ATS-P matching algorithms, improving the accuracy of the overstay list. Additional ADIS matching improvements are underway to further improve match confidence.
- Developed an operational dashboard for ICE agents that automatically updates and prioritizes overstay “Hot Lists,”<sup>8</sup> increasing the efficiency of data flow between OBIM<sup>9</sup> and ICE.
- Implemented an ADIS-to-IDENT interface reducing the number of records on the overstay list by providing additional and better quality data to ADIS, closing information gaps between the two systems.
- Improved ability of ADIS to match U.S. Citizenship and Immigration Services' (USCIS) Computer Linked Adjudication Information Management System (CLAIMS 3) data for

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<sup>8</sup> Hot lists are lists of individuals that are prioritized based on their level of risk.

<sup>9</sup> OBIM supports DHS components by providing storage and matching services using its IDENT system and returning any linked information when a match is made already encountered by DHS to identify known or suspected terrorists, national security threats, criminals, and those who have previously violated U.S. immigration laws.

aliens who have extended or change their status lawfully, and therefore have not overstayed even though their initial period of authorized admission has expired.

- Created a Unified Overstay Case Management process establishing a data exchange interface between ADIS, ATS-P, and ICE's LeadTrac system, creating one analyst platform for DHS.
- Enhanced ADIS and Transportation Security Administration (TSA) Alien Flight Student Program (AFSP) data exchange to increase identification, efficiency and prioritization of TSA AFSP overstays within the ADIS overstay population.
- Enhanced Overstay Hot List, consolidating immigration data from multiple systems to enable ICE employees to more quickly and easily identify current and relevant information related to the overstay subject.
- Established User Defined Rules enabling ICE agents to create new or update existing rule sets within ATS-P as threats evolve, so that overstays are prioritized for review and action based on the most up-to-date threat criteria.

These measures and system enhancements have proven to be valuable in identifying and addressing overstays. The DHS steps described above have strengthened data requirements through computer enhancements, identified national security overstays through increased collaboration with the Intelligence Community, and automated manual efforts through additional data exchange interfaces. DHS looks forward to continuing this progress in FY 2016.

#### *Overstay Enforcement in the United States*

ICE actively identifies and initiates enforcement action on priority overstay violators. ICE's overstay mission is accomplished in close coordination with CBP. ICE's primary objective is to vet system-generated leads in order to identify true overstay violators, match any criminal conviction history or other priority basis, and take appropriate enforcement actions. Within ICE, Homeland Security Investigations (HSI) has dedicated units, special agents, analysts, and systems in place to address nonimmigrant overstays. Through investigative efforts, HSI is responsible for analyzing and determining which overstay leads may be suitable for further national security investigation.

From a DHS processing standpoint, ICE analyzes system-generated leads initially created by, or matched against, the data feed for biographical entry and exit records stored in CBP's ADIS. ADIS supports the Department's ability to identify nonimmigrants who have remained in the United States beyond their authorized periods of admission or have violated the terms and conditions of their visas. Once the leads are received, ICE conducts both batch and manual vetting against government databases, social media, and public indices. This vetting helps determine if an individual who overstayed has departed the United States, adjusted to a lawful status, or would be appropriate for an enforcement action.

As part of a tiered review, HSI prioritizes nonimmigrant overstay cases through risk-based analysis. HSI's Counterterrorism and Criminal Exploitation Unit (CTCEU) oversees the national program dedicated to the investigation of nonimmigrant visa violators who may pose a national security risk. Each year, the CTCEU analyzes records of hundreds of thousands of potential

status violators after preliminary analysis of data from the Student and Exchange Visitor Information System (SEVIS) and ADIS, along with other information. After this analysis, CTCEU establishes compliance or departure dates from the United States and/or determines potential violations that warrant field investigations.

The CTCEU proactively develops cases for investigation in furtherance of the overstay mission and monitors 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, travel patterns, and in-depth criminal research and analysis, has contributed to DHS's counterterrorism mission by initiating and supporting high-priority national security initiatives based on specific intelligence.

In order to ensure that those who may pose the greatest threats to national security are given top priority, ICE uses intelligence-based criteria developed in close consultation with the intelligence and law enforcement communities. ICE chairs the Compliance Enforcement Advisory Panel (CEAP), comprising subject matter experts from other law enforcement agencies and members of the Intelligence Community who assist the CTCEU in maintaining targeting methods in line with the most current threat information. The CEAP is convened on a quarterly basis to discuss recent intelligence developments and update the CTCEU's targeting framework in order to ensure that the nonimmigrant overstays and status violators who pose the greatest threats to national security are targeted.

Another source for overstay and status violation referrals 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 individual ties among tourist and business travelers in the United States and abroad. VWP participants, the primary source of nonimmigrant visitors from countries other than Canada and Mexico, currently allows eligible nationals of 38 countries to travel to the United States without a visa and, if admitted, to remain in the country for a maximum of 90 days for tourism 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, CTCEU regularly scrutinizes a refined list of individuals who have been identified as potential overstays who entered the United States under the VWP. A primary goal of this program is to identify those subjects who attempt to circumvent the U.S. immigration system by seeking to exploit VWP travel.

### *Enforcement Priorities*

Every year, the CTCEU receives approximately one million leads on nonimmigrants that have potentially violated the terms of their admission. Over half of these leads are closed due to the vetting conducted by CTCEU analysts, which eliminates false matches and accounts for departures and pending immigration benefits. To better manage investigative resources, the CTCEU relies on a prioritization framework established in consultation with interagency partners within the national intelligence and federal law enforcement communities through CEAP. On November 20, 2014, the Secretary of Homeland Security established priorities to focus enforcement and removal policies on individuals convicted of significant criminal offenses or who otherwise pose a threat to national security, border security, or public safety. To better

manage its investigative resources, the CTCEU has aligned its policy on sending leads to the field with the Secretary's priorities.

The CTCEU's prioritization framework is divided into 10 CTCEU priority levels to identify possible immigration violators who pose the greatest risks to our national security. The CTCEU Priority Level 1 is based on special projects and initiatives to address national security concerns, public safety, and applying certain targeting rules. These projects and initiatives include: the Recurrent Student Vetting Program; DHS's Overstay Projects; Absent Without Leave (AWOL) Program; INTERPOL Leads; and individuals who have been watchlisted.

In Fiscal Year (FY) 2015, CTCEU reviewed 971,305 compliance leads. Numerous leads that were referred to CTCEU were closed through an automated vetting process. The most common reasons for closure were subsequent departure from the United States or pending immigration benefits. A total of 9,968 leads were sent to HSI field offices for investigation – an average of 40 leads per working day. From the 9,968 leads sent to the field, 3,083 are currently under investigation, 4,148 were closed as being in compliance (pending immigration benefit, granted asylum, approved adjustment of status application, or have departed the United States) and the remaining leads were returned to CTCEU for continuous monitoring and further investigation. HSI Special Agents made 1,910 arrests, secured 86 indictments, and 80 convictions in FY 2015.

### **Enhancing the Department's Comprehensive Entry/Exit System**

Since FY 2013, CBP has led the entry/exit mission, including research and development of biometric exit programs. A comprehensive entry/exit system that leverages both biographic and biometric data is key to supporting DHS's mission. Biographic information is, and will continue to be, the foundation of our comprehensive entry/exit system, because it constitutes the vast majority of our intelligence, law enforcement, and background information that informs CBP whether or not to admit an individual into our country. DHS is also committed to incorporating biometrics into the exit aspect of our system and has made significant progress in the last few years.

DHS continues to strengthen systems and processes in order to improve the accuracy of data provided to ADIS. These improvements will enable ADIS to more accurately match entry and exit records to determine overstay status, and whether that individual presents a national security or public safety concern. Data that is entered into ADIS comes from a variety of sources in the Department including USCIS, CBP, and ICE. Additionally, DHS has identified mechanisms to ensure ICE investigators receive priority high-risk overstay cases for resolution in a timely fashion and to ensure other ADIS stakeholders (such as CBP, USCIS, and DOS) receive the best possible information with which to make immigration decisions. Furthermore, the DHS Appropriations Act of 2015 (P.L. 114-4) provided \$9 million for a new reporting environment for ADIS, enhancing DHS's ability to record and analyze the entry/exit data.

#### *Incorporating Biometrics into the Exit System*

In pursuing a biometric exit system, DHS is cognizant that it needs to be compatible with existing infrastructure. The United States did not build its land border, aviation, and immigration infrastructure with exit processing in mind. In the land environment, there are often geographical features that prevent expansion of exit lanes to accommodate additional lanes or the

addition of CBP-manned booths. Furthermore, U.S. airports do not have designated and secure exit areas for outgoing passengers to wait prior to departure, nor do they have specific checkpoints for these passengers to go through where their departure is recorded by an immigration officer. Instead, foreign nationals depart the United States without government exit immigration inspection and intermingle with domestic travelers. At many airports, international and domestic flights share gate space for operations. Ultimately, CBP must develop a solution for this environment that ensures a passenger ticketed for a particular flight actually departed the United States in order for a biometric exit program to be credible. Additionally, airline carriers and airports are extremely concerned that a biometric exit process could create an environment in which an airport cannot afford to support an international flight because that space is so highly restricted.

In meeting these challenges, DHS has concluded that a viable biometric exit solution depends on leveraging emerging technologies to innovate ways of processing passengers biometrically. In coming to this conclusion, DHS has considered and rejected broad options involving recapitalizing the infrastructure at land borders and airports or the hiring additional officers to manually verify all departing travelers.

Recapitalization of all U.S. international airports and land borders would allow DHS to establish sterile physical areas, which, once entered, a foreign national cannot leave without inspection by an immigration officer. However, this recapitalization would also require significant limitations in the number of gates that airlines could use for international departures and an overall direct and indirect costs of billions of dollars. DHS does not consider this option as cost effective.

Currently, federal law states that airports serving flights with arriving foreign nationals must provide space, at no cost, to DHS for processing of travelers entering the United States. However, there is no corresponding provision that requires airports to provide space for processing of departing foreign nationals.

Alternatively, CBP could pursue a “brute force” solution within the constraints of existing infrastructure through hiring the thousands of new officers that would be necessary to biometrically verify departing passengers. There are currently thousands of international departure gates at the top 30 airports in the United States, which handle over 97 percent of the departing international passengers. Based on current and previous pilot programs, CBP would need 7-9 officers to handle a large aircraft, which accounts for many international departing flights. CBP estimates that in order to inspect 95 percent of all “in-scope” travelers departing by air, a manual solution at the top 30 airports would require approximately 3,400 more officers at an average annual cost of \$790 million.

For the land environment, a brute force approach to biometric exit would require building and staffing of hundreds of outbound lanes at land ports of entry, many of them operational 24-hours a day. It is estimated that the land solution would require dramatically increasing the current CBP Office of Field Operations work force and budget, and those costs would recur annually.

Instead, DHS believes the most efficient and cost effective solution to a viable biometric program is to leverage emerging technology. CBP is collaborating with S&T and would also partner with private industry to develop the tools needed. CBP has already deployed several

pilot programs in order to operationally test different technologies and operational processes, and determine the next steps in deploying a biometric exit program, to include:

*1-to-1 Facial Comparison Project* – From March to June 2015, CBP conducted a 1-to-1 Facial Comparison project. This biometric experiment at Washington Dulles Airport (Dulles) used facial comparison on some returning U.S. citizens to confirm the identity and determine the viability of using facial recognition technology during entry inspections. Facial images of arriving travelers were compared to images stored in the U.S. ePassport chips. This project tested the viability of the technology in matching a traveler to their travel document and assessed the extent to which it may further strengthen our entry screening abilities.

The success of this program led to deploying the project at JFK airport in New York on January 19, 2016; it will also return to Dulles in February 2016. Lessons learned from this deployment will inform the use of facial biometric matching during departure.

*Biometric Exit Mobile Air Test (BE-Mobile)* – Since July 2015, CBP has been experimenting with the collection of biometric exit data using mobile fingerprint collection devices on a random group of in-scope non-U.S. citizen travelers on selected flights departing from ten U.S. international airports. BE-Mobile confirms traveler departures with certainty; provides input to the cost-benefit analysis of a comprehensive biometric exit solution; and identifies threats in real time using biometric technology. This test has provided a small amount of biometric departure data, supported ongoing auditing of biographic data provided through airline manifests, and provided a significant law enforcement benefit for existing outbound operations. The technology is currently being used in the Top 10 airports: Chicago/O’Hare, Atlanta/Hartsfield, New York/JFK, Newark, Los Angeles/LAX, San Francisco, Miami, Dallas/Ft. Worth, Washington/Dulles, and Houston/George Bush.

*Pedestrian Field Test* – CBP has deployed a Pedestrian Field Test at the Otay Mesa POE in California, which involves the collection of biographic and biometric data from pedestrian travelers departing the United States. Biographic data is collected on all outbound travelers, including U.S. citizens, and biometric data (face and iris image capture) is collected on all inbound and outbound non-exempt, non-U.S. citizens. The field test intends to determine the viability of this technology in an outdoor land environment and assess if this process can be implemented with acceptable impacts. Overall, this initiative is expected to enhance CBP’s ability to identify departures and successfully match biometric entry and exit records at the land border for the first time.

*Biometric Exit Field Trial* – This year, CBP will deploy a biometric exit field trial, which will test new technologies in collecting face and iris images from foreign nationals departing the United States through the air environments. This exciting program will help CBP determine the feasibility of collecting biometrics “on the move,” which will greatly assist in deploying a nationwide program.

The concepts that CBP will be testing are based on the valuable information CBP learned through its partnership with S&T, known as the Apex Air Entry/Exit Re-engineering program. CBP has benefited greatly from S&T’s deliberate process to analyze airport operations, assess cost-drivers, and evaluate biometric technologies through market surveys, industry engagement,

as well as laboratory and operational scenario testing to identify candidate concepts of operation. CBP and S&T look forward to continued collaboration and hope that through this pilot, we can identify a biometric air exit concept that can be deployed nationwide.

These initiatives have positioned DHS to succeed in developing an innovative biometric exit program. We will continue to work closely with our private sector partners as we move forward. Collaboration with private industry will be essential to help successfully create and deliver the technology solutions to meet current and future requirements in support of this homeland security effort.

### **Conclusion**

While implementation of a robust and efficient biometric solution will take time, DHS is aggressively evaluating emerging biometric technologies in existing operational environments. We are working closely with our domestic and international stakeholders to find solutions that protect the integrity of our visa system, minimize disruptions to travel, prove to be cost-effective, and provide sufficient flexibility to address both current and future requirements.

DHS will continue to evaluate the value and deployment costs of biometric technologies as they mature and pursue opportunities to strengthen border security and support our integrated homeland security missions.

Chairman Sessions, Ranking Member Schumer, and distinguished Members of the Subcommittee, thank you for this opportunity to testify today on this important issue. We look forward to answering your questions.



United States Government Accountability Office

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Subcommittee on Immigration and the  
National Interest, Committee on the  
Judiciary, U.S. Senate

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# BORDER SECURITY

## Actions Needed by DHS to Address Long- Standing Challenges in Planning for a Biometric Exit System

# GAO Highlights

Highlights of [GAO-16-358T](#), a testimony before the Subcommittee on Immigration and the National Interest, Committee on the Judiciary, U.S. Senate

## Why GAO Did This Study

Each year, millions of visitors come to the United States legally on a temporary basis. Overstays are individuals who were admitted legally on a temporary basis but then overstayed their authorized periods of admission. The Intelligence Reform and Terrorism Prevention Act of 2004 required the Secretary of Homeland Security to develop a plan to accelerate implementation of a biometric entry and exit data system that matches information provided by foreign nationals upon their arrival and departure. Since 2004, DHS has tracked foreign nationals' entries into the United States, and since December 2006, a biometric entry capability has been fully operational at all ports of entry. However, GAO has identified a range of challenges that DHS has faced in its efforts to deploy a corresponding biometric exit capability. DHS's CBP is primarily responsible for implementing a biometric exit program.

This statement discusses the extent to which DHS has made progress in developing a biometric exit system and reporting overstay estimates. This statement is based on a report GAO issued in July 2013 ([GAO-13-683](#)), with selected updates conducted in January 2016 to obtain information from DHS on actions it has taken to address prior recommendations.

## What GAO Recommends

GAO previously made recommendations to DHS to establish time frames and milestones for a biometric air exit evaluation framework and assess the reliability of its overstay data. DHS concurred with the recommendations, and has actions underway to address them.

View [GAO-16-358T](#). For more information, contact Rebecca Gambler at (202) 512-8777 or [gambler@gao.gov](mailto:gambler@gao.gov)

January 2016

## BORDER SECURITY

### Actions Needed by DHS to Address Long-Standing Challenges in Planning for a Biometric Exit System

## What GAO Found

The Department of Homeland Security (DHS) faces long-standing challenges in developing a biometric exit system and reporting reliable overstay data. In July 2013, GAO reported that DHS had not fulfilled statutory requirements to implement a biometric exit capability and report data on overstays. As of January 2016, DHS has planning efforts underway but has not yet met these statutory requirements. Specifically, in May 2012, DHS internally reported recommendations to support planning for a biometric exit capability at airports. However, as of January 2016, the department has not yet fully addressed those recommendations. For example, DHS has not completed an evaluation framework that, among other things, assesses the value of collecting biometric data in addition to biographic data, as it recommended in May 2012. In July 2013, GAO recommended that DHS establish time frames and milestones for a biometric air exit evaluation framework to help guide its assessment efforts. DHS concurred with the recommendation, and has actions planned or underway to address it. Specifically, in January 2016, U.S. Customs and Border Protection (CBP) officials stated that they were continuing to develop an evaluation framework by developing metrics for measuring the performance and effectiveness of biometric air exit technologies.

Moreover, in July 2013, GAO reported that, according to DHS officials, the department's goal was to develop information about options for biometric air exit and report to Congress in time for the fiscal year 2016 budget cycle regarding the benefits and costs associated with a biometric air exit system. GAO found that, without robust planning that includes time frames and milestones to develop and implement an evaluation framework, DHS lacked reasonable assurance that it would be able to provide an assessment to Congress as planned. As of January 2016, DHS is working to develop this report for Congress, and CBP officials told GAO they were unable to estimate when it would be completed. Since GAO's 2013 report, DHS has also implemented several projects to test and evaluate biometric air exit technologies. For example, in July 2015, CBP began testing a handheld mobile device to collect biographic and biometric exit data from randomly-selected, foreign national travelers at 10 selected airports. Finalizing the evaluation framework consistent with GAO's recommendation would help guide DHS's efforts to assess the benefits and costs of various air exit options.

GAO also reported in July 2013 that challenges in developing a biometric exit system, as well as weaknesses in departure data, have affected the reliability of DHS's data on overstays. Because of concerns about the reliability of the department's overstay data, neither DHS nor its predecessor has regularly reported annual overstay data to Congress since 1994. In July 2013, GAO found that, although DHS had taken action to strengthen its overstay data, DHS had not validated or tested the reliability of those actions and challenges to reporting reliable overstay data remained. GAO recommended that DHS assess and document the reliability of its overstay data, and DHS concurred with the recommendation. However, as of January 2016, DHS has not yet reported overstay data or documented its reliability, and DHS officials could not provide a time frame for when they would address GAO's recommendation.



Chairman Sessions, Ranking Member Schumer, and Members of the Subcommittee:

I am pleased to be here today to discuss the status of the Department of Homeland Security's (DHS) efforts to implement a biometric exit system. Each year, millions of visitors come to the United States legally on a temporary basis either with a nonimmigrant visa or, in some cases, as visitors who were allowed to enter without a visa.<sup>1</sup> Overstays are individuals who were admitted into the country legally on a temporary basis but then unlawfully remained in the country past the conclusion of their authorized periods of admission.<sup>2</sup> We have previously reported that most overstays are likely motivated by economic opportunities to remain in the United States beyond their authorized periods of stay.<sup>3</sup> However, overstays could pose homeland security concerns—for example, 5 of the 19 September 11, 2001, hijackers were overstays.

In 1996, federal law required the development of an automated entry and exit control system to match arrival and departure records for foreign nationals entering and leaving the United States, and to enable

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<sup>1</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. See 8 C.F.R. §§ 212.1, 214.6(d); 22 C.F.R. §§ 41.0 to 41.3. Nonimmigrant foreign nationals are in the United States on a temporary basis pursuant to a specific nonimmigrant category. See 8 U.S.C. § 1101(a)(15); see also 8 C.F.R. § 214.1(a)(1)-(2). Throughout this statement we generally use the term "foreign national" to refer to an "alien," which is defined under U.S. immigration law as any person not a citizen or a national of the United States. See 8 U.S.C. § 1101(a)(3).

<sup>2</sup>With respect to nonimmigrant visa and Visa Waiver Program overstays, see 8 U.S.C. §§ 1202(g), 1187(c)(8)(C)(ii)(I).

<sup>3</sup>GAO, *Visa Waiver Program: Limitations with Department of Homeland Security's Plan to Verify Departure of Foreign Nationals*, [GAO-08-458T](#) (Washington, D.C.: Feb. 28, 2008).

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identification of overstays.<sup>4</sup> The Intelligence Reform and Terrorism Prevention Act of 2004 required the Secretary of Homeland Security to develop a plan to accelerate 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>5</sup> In 2003, DHS initiated the legacy U.S. Visitor and Immigrant Status Indicator Technology (US-VISIT) program to develop a system to collect biographic data (such as name and date of birth) and biometric data (such as fingerprints) from foreign nationals at U.S. ports of entry.<sup>6</sup> Since 2004, DHS has tracked foreign nationals' entries into the United States as part of an effort to comply with legislative requirements, and since December 2006, a biometric entry capability has been fully operational at all air, sea, and land ports of entry.<sup>7</sup> However, in various reports, we have identified a range of long-standing challenges that DHS has faced in its efforts to fully deploy a corresponding biometric exit capability to track foreign nationals when they depart the country and to

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<sup>4</sup>Pub. L. No. 104-208, div. C, tit. I, subtit. A, § 110, 110 Stat. 3009-546, 3009-558 to -559. Subsequently, the Immigration and Naturalization Service Data Management Improvement Act of 2000 amended this section, requiring the implementation of an integrated entry and exit data system: an electronic system for foreign nationals that would, among other things, provide access to and integrate arrival and departure data that are authorized or required to be created or collected under law and are in an electronic format in certain databases, such as those used at ports of entry and consular offices, and assist in identifying nonimmigrant visa overstays. Pub. L. No. 106-215, § 2(a), 114 Stat. 337, 337-39; see 8 U.S.C. § 1365a(b).

<sup>5</sup>Pub. L. No. 108-458, tit. VII, subtit. B, § 7208, 118 Stat. 3638, 3817-23; see 8 U.S.C. § 1365b.

<sup>6</sup>See 8 U.S.C. § 1365b(d). A port of entry is any officially designated location (seaport, airport, or land border location) where DHS officers or employees are assigned to clear passengers and merchandise, collect duties, and enforce customs laws, and where a person may apply for admission into the United States.

<sup>7</sup>See, e.g., 8 U.S.C. §§ 1365a, 1365b.

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use entry and exit data to identify potential overstays.<sup>8</sup> For example, in November 2009, we found that DHS had not adopted an integrated approach to scheduling, executing, and tracking the work that needed to be accomplished to deliver a biometric exit system.<sup>9</sup> In April 2011, we found 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 nonimmigrants at ports of entry.<sup>10</sup> Most recently, in July 2013, we reported on DHS's progress in developing and implementing a biometric exit system, as well as DHS's efforts to identify and address potential overstays.<sup>11</sup> In these reports, we made recommendations intended to help ensure that a biometric exit capability was planned, designed, developed, and implemented in an effective and efficient manner and to strengthen DHS's efforts to identify and report on overstays. DHS generally agreed with our recommendations and has implemented actions or has actions underway to address them.

DHS has primary responsibility for implementing an entry and exit data system and using those data to identify and 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. CBP collects biographic

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<sup>8</sup>See GAO, *Overstay Enforcement: Additional Actions Needed to Assess DHS's Data and Improve Planning for a Biometric Air Exit Program*, [GAO-13-683](#) (Washington, D.C.: July 30, 2013); *Homeland Security: US-VISIT Pilot Evaluations Offer Limited Understanding of Air Exit Options*, [GAO-10-860](#) (Washington, D.C.: Aug. 10, 2010); *Homeland Security: Key US-VISIT Components at Varying Stages of Completion, but Integrated and Reliable Schedule Needed*, [GAO-10-13](#) (Washington, D.C.: Nov. 19, 2009); *Visa Waiver Program: Actions Are Needed to Improve Management of the Expansion Process, and to Assess and Mitigate Program Risks*, [GAO-08-967](#) (Washington, D.C.: Sept. 15, 2008); *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, D.C.: Aug. 31, 2007); *Homeland Security: Planned Expenditures for U.S. Visitor and Immigrant Status Program Need to Be Adequately Defined and Justified*, [GAO-07-278](#) (Washington, D.C.: Feb. 14, 2007); and *Homeland Security: Some Progress Made, but Many Challenges Remain on U.S. Visitor and Immigrant Status Indicator Technology Program*, [GAO-05-202](#) (Washington, D.C.: Feb. 23, 2005).

<sup>9</sup> [GAO-10-13](#).

<sup>10</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, D.C.: Apr. 15, 2011).

<sup>11</sup>[GAO-13-683](#).

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and biometric information to document nonimmigrants' entry into the country and biographic information to document their exit. CBP is also responsible for implementing a biometric exit program, and since fiscal year 2014, has partnered with DHS's Science and Technology Directorate (S&T) in a joint S&T-CBP Air Entry/Exit Re-Engineering Apex project intended to develop tools to model and simulate entry and exit operational processes that could be used at airports.<sup>12</sup> Within DHS's National Protection and Programs Directorate, the Office of Biometric Identity Management (OBIM) manages the Automated Biometric Identification System, which maintains biometric information that DHS collects from nonimmigrants upon their entry into the United States.<sup>13</sup> OBIM also manages the Arrival and Departure Information System (ADIS), which tracks and matches arrival and departure records for the purpose of identifying potential overstays. DHS's 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. To identify potential overstays, ICE primarily analyzes biographic entry and exit data collected at land, air, and sea ports of entry. Specifically, ICE analysts use ADIS to identify arrival records for which the subject's authorized period of admission has ended and for whom DHS does not have a corresponding departure record, which may indicate that the subject of the record is an overstay. ICE analysts also determine whether the subject of the record meets ICE's overstay enforcement priorities based on national security and public safety criteria. Most records of potential overstays do not result in

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<sup>12</sup>Apex projects are crosscutting, multidisciplinary efforts requested by DHS components that are high-priority projects intended to solve problems of strategic operational importance.

<sup>13</sup>Pursuant to the DHS Appropriations Act, 2013, enacted on March 26, 2013, and its accompanying explanatory statement, legacy US-VISIT's biometric identity management functions were transferred to the newly created Office of Biometric Identity Management (OBIM) which manages the Arrival and Departure Information System and the Automated Biometric Identification System, and its overstay data analysis function and entry-exit policy and operations (including implementation of a biometric exit system) were realigned into U.S. Immigration and Customs Enforcement (ICE) and U.S. Customs and Border Protection (CBP), respectively. See Consolidated and Further Continuing Appropriations Act, 2013, Pub. L. No. 113-6, div. D, 127 Stat. 198, 342, 344-47, 356; Explanatory Statement, Consolidated and Further Continuing Appropriations Act, 2013, 159 Cong. Rec. S1287, S1550-51, S1557-58 (daily ed. Mar. 11, 2013); see also S. Rep. No. 114-68, at 42 (June 18, 2015) (noting that "[i]n 2013,... the responsibility for entry-exit policy and operations [was moved] from OBIM to CBP."); H.R. Rep. No. 114-215, at 43-44 (July 21, 2015) ("direct[ing] ICE to submit this [visa overstay] report... not later than 30 days after... enactment.").

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enforcement action because they do not meet ICE's overstay enforcement priorities.

My statement today is based on our July 2013 report on DHS's overstay enforcement and biometric exit planning efforts, with selected updates conducted in January 2016.<sup>14</sup> Like that report, my statement discusses the extent to which DHS has made progress in developing and implementing a biometric exit system at air ports of entry—which is DHS's priority area of focus for a biometric exit capability—and reporting overstay estimates. For our report, we reviewed statutory requirements for a biometric exit system and analyzed DHS documents, including a May 2012 report on the status of efforts to implement a biometric exit capability at airports that was based on analysis that DHS's S&T conducted. We compared the status of DHS's efforts against statutory requirements and standard practices for project management. We interviewed DHS Office of Policy and S&T officials regarding DHS's plans for addressing recommendations in the department's May 2012 report and other ongoing efforts to develop a biometric exit system. We also 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. For the updates, we reviewed DHS documents and interviewed officials regarding the status of actions taken in response to the recommendations made in our 2013 report. Our July 2013 report provides further details on our scope and methodology. We conducted the work on which this statement is based 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.

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<sup>14</sup>[GAO-13-683](#).

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## DHS Faces Long-Standing Challenges in Planning for and Developing a Biometric Exit System and Reporting Overstay Estimates

As we reported in July 2013, DHS had not yet fulfilled the 2004 statutory requirement to implement a biometric exit capability or the statutory requirement to report overstay estimates, and as of January 2016, DHS has planning efforts underway but has not yet met these requirements.<sup>15</sup> Various planning, evaluation, and data reliability challenges have affected DHS's efforts to meet these requirements.

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### Planning for and Developing a Biometric Exit System

Development and implementation of a biometric exit capability has been a long-standing challenge for DHS. Since 2004, we have issued a number of reports on DHS's efforts to implement a biometric entry and exit system. For example, with regard to an exit capability at land ports of entry, in 2006, we reported that according to DHS officials, for various reasons, a biometric exit capability could not be implemented without incurring a major impact on land facilities.<sup>16</sup> For example, at the time of our 2006 report, DHS officials stated that implementing a biometric exit system at land ports of entry would require new infrastructure and would produce major traffic congestion because travelers would have to stop their vehicles upon exit to be processed. With regard to an air exit capability, in February and August 2007, we found that DHS had not adequately defined and justified its proposed expenditures for exit pilots and demonstration projects and that it had not developed a complete schedule for biometric exit implementation.<sup>17</sup> Further, in September 2008, we reported that DHS was unlikely to meet its timeline for implementing an air exit system with biometric indicators, such as fingerprints, by July 1, 2009, because of several unresolved issues, such as opposition to the department's published plan by the airline industry.<sup>18</sup> In 2009, DHS conducted pilot programs for biometric air exit capabilities in airport

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<sup>15</sup>See 8 U.S.C. §§ 1365b (Biometric entry and exit data system), 1376(b) (annual report to Congress on nonimmigrant overstay rates by country).

<sup>16</sup>GAO, *Border Security: US-VISIT Program Faces Strategic, Operational, and Technological Challenges at Land Ports of Entry*, [GAO-07-248](#) (Washington, D.C.: Dec. 6, 2006).

<sup>17</sup>[GAO-07-1065](#) and [GAO-07-278](#).

<sup>18</sup>[GAO-08-967](#).

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scenarios, and in August 2010 we found 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>19</sup>

In October 2010, DHS issued a memo, in which it identified three primary reasons why it has been unable to determine how and when to implement a biometric exit capability at airports: (1) the methods of collecting biometric data could disrupt the flow of travelers through airport 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, the challenges DHS identified in October 2010 continue to affect the department's ability to implement a biometric air exit system as of January 2016.<sup>20</sup>

As discussed in our July 2013 report, following this memo, DHS took additional steps to plan and test options for a biometric exit capability at airports. Specifically, in 2011, DHS directed S&T, in coordination with

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<sup>19</sup>[GAO-10-860](#).

<sup>20</sup>At the time of our July 2013 report, DHS's planning efforts were focused on developing a biometric exit capability for airports, with potential for that capability to be implemented at seaports. DHS's plans did not address a biometric exit capability at land ports of entry. In December 2015, DHS began a field test that is collecting biometric data from certain alien pedestrian travelers entering and departing through the Otay Mesa, California land border crossing, and biographic data from all travelers (including U.S. citizens) departing through Otay Mesa port of entry. Specifically, CBP plans to collect iris and facial biometric data from certain foreign national travelers using collection lanes equipped with cameras. CBP plans to conduct the field test for a period of six months. All aliens are to provide specified biometric information at the time of arrival to and departure from the United States through the Otay Mesa land port of entry, except for those who are exempt pursuant to 8 C.F.R. §§ 235.1(f)(1)(iv), 215.8(a)(2) (e.g., Canadian citizens who under 8 U.S.C. § 1101(a)(15)(B) are not otherwise required to present a visa or have been issued Form I-94 or Form I-95 upon arrival at the United States, those under the age of 14 and over the age of 79, and aliens admitted under certain listed visa categories, among others). See Test to Collect Biometric Information at the Otay Mesa Port-of-Entry, 80 Fed. Reg. 70,241, 70,242 (Nov. 13, 2015).

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other DHS component agencies, to research long-term options for biometric air exit.<sup>21</sup> S&T conducted analysis of previous air exit pilot programs and assessment of available technologies, and in May 2012, the department reported internally on the results of S&T's analysis.<sup>22</sup> In that report, DHS concluded that the building blocks to implement an effective biometric air exit system were available. In addition, DHS's report stated that new traveler facilitation tools and technologies—for example, online 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 reported in May 2012 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., collecting biometric scans as passengers enter the jetway to board a plane), (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 also included nine recommendations to help inform DHS's planning for biometric air exit, such as directing DHS to develop explicit goals and objectives for biometric air exit and an evaluation framework that would, among other things, assess the value of collecting

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<sup>21</sup>In our previous reviews of DHS's efforts to pursue a biometric exit capability, 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, sea, and land ports. See [GAO-10-13](#). As of April 2013, the department's planning efforts were 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.

<sup>22</sup>DHS, DHS Biometric Air Exit: Analysis, Recommendations and Next Steps (Washington, D.C.: May 2012).

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biometric data in addition to biographic data and determine whether biometric air exit is economically justified.<sup>23</sup>

DHS reported in May 2012 that it planned to take steps to address these recommendations by May 2014, and DHS has begun some implementation steps. For example, in March 2014, DHS took initial steps by finalizing goals and objectives for a biometric system, which CBP plans to use to evaluate system performance. However, as of January 2016, the department has not yet fully addressed the May 2012 report recommendations. For example, as discussed in more detail below, DHS has not completed an evaluation framework to guide its assessment efforts. In fall 2012, DHS developed a high-level plan for its biometric air exit efforts, which it updated in May 2013, but we reported in July 2013 that this plan did not clearly identify the tasks needed to develop and implement an evaluation framework. For example, the plan did not include a step for developing the methodology for comparing the costs and benefits of biometric data against those for collecting biographic data, as recommended in DHS's May 2012 report. Furthermore, the time frames in this plan were not accurate as of June 2013 because DHS was behind schedule on some of the tasks and had not updated the time frames in the plan accordingly. For example, DHS had planned to begin scenario-based testing for biometric air exit options in August 2013; however, DHS did not open the facility used to conduct this testing until June 2014. A senior official from DHS's Office of Policy told us that DHS had not kept the plan up-to-date because of the transition of responsibilities within DHS; specifically, in March 2013, pursuant to the explanatory statement for DHS's fiscal year 2013 appropriation, CBP was named the lead agency for coordinating DHS's entry and exit policies and operations, with responsibility for implementing a biometric exit program.<sup>24</sup>

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<sup>23</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.

<sup>24</sup>See 159 Cong. Rec. at S1550.

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Various challenges have affected DHS's efforts to develop and implement a biometric exit system. For example, in July 2013, we reported DHS officials stated it had been difficult coordinating with airlines and airports, which have expressed reluctance about biometric air exit because of concerns over its effect on operations and potential costs. To address these concerns, DHS was conducting outreach and soliciting information from airlines and airports regarding their operations. In addition, in July 2013 we reported that DHS officials stated that the department's efforts to date had been hindered by insufficient funding. The Consolidated Appropriations Act, 2016 (Public Law 114-113), provides a mechanism for additional funding to implement a biometric entry and exit system of up to \$1 billion through temporary fee increases for certain visa applicants.<sup>25</sup> Moreover, in July 2013, we reported that DHS officials told us the department's goal was to develop information about options for biometric air exit and to report to Congress in time for the fiscal year 2016 budget cycle regarding (1) the additional benefits that a biometric air exit system provides beyond an enhanced biographic exit system and (2) costs associated with biometric air exit. However, as of January 2016, DHS is working to develop such a report, and CBP officials told us they were unable to estimate when the report would be completed. According to DHS officials, implementation of a biometric air exit system will depend on the results of discussions between the department and Congress after the department provides its assessment of options for biometric air exit.

We concluded in our July 2013 report that, without robust planning that includes time frames and milestones to develop and implement an evaluation framework, DHS lacked reasonable assurance that it would be able to provide an assessment to Congress for the fiscal year 2016 budget cycle as planned. Furthermore, because any delays in providing this information to Congress could further affect possible implementation of a biometric exit system to address statutory requirements, we

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<sup>25</sup>Pub. L. No. 114-113, div. O, tit. IV, § 402(g), 129 Stat. 2242 (2015). The Consolidated Appropriations Act, 2016, provided for temporary fee increases through September 30, 2025, of \$4,500 and \$4,000 for L-1 and H-1B visa applications, respectively, for applicants that employ 50 or more employees in the United States if more than 50 percent of such employees are nonimmigrants admitted under 8 U.S.C. § 1101(a)(15)(H)(i)(b), (L). Fifty percent of the amounts collected pursuant to these fee increases are to be deposited as offsetting receipts into the newly established 9-11 Response and Biometric Exit Account up to \$1 billion, to be available until expended. For fiscal year 2017 and each fiscal year thereafter, amounts in the account shall be available to the Secretary of Homeland Security without further appropriation to implement the biometric entry and exit data system under 8 U.S.C. § 1365b.

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recommended that the Secretary of Homeland Security establish time frames and milestones for developing and implementing an evaluation framework to be used in conducting the department's assessment of biometric exit options. DHS concurred with this recommendation and indicated that its component agencies planned to finalize the goals and objectives for biometric air exit and use those goals and objectives in the development of an evaluation framework. CBP has finalized goals and objectives for a biometric system and, in November 2014, provided us with a copy of its draft evaluation framework. The draft evaluation framework included preliminary information about how DHS will evaluate different biometric air exit options, but had limited information regarding time frames and milestones for assessing the options. In January 2016, CBP officials stated that they were continuing to refine metrics for measuring performance and effectiveness, which they planned to incorporate into the evaluation framework. In addition, officials stated that CBP was conducting additional planning and analysis to ensure that proposed biometric solutions could integrate with existing CBP data systems. CBP officials stated that they plan to address our recommendation by June 30, 2016. To fully address our recommendation, DHS should finalize its evaluation framework, including time frames and milestones for assessing biometric air exit options.

DHS has implemented several projects to test and evaluate biometric air exit technologies since our July 2013 report. For example, in June 2014, S&T and CBP opened a test facility to evaluate biometric technologies and operational processes under simulated airport entry and exit conditions. In July 2015, CBP began testing a handheld mobile device to collect biographic and biometric exit data from randomly-selected, foreign national travelers at 10 selected airports.<sup>26</sup> According to CBP, during testing, CBP officers stationed at the passenger loading bridge of selected flights are to use the device to scan travelers' fingerprints and passports. CBP then plans to match the travelers' data to the data collected when they entered the United States. CBP plans to conduct this test for approximately 1 year. Finalizing the evaluation framework

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<sup>26</sup>These tests began in July 2015 at Hartfield-Jackson Atlanta International Airport. In November 2015, CBP completed deployment of the test at nine additional airports: San Francisco International Airport, Miami International Airport, Chicago O'Hare International Airport, Newark Liberty International Airport, John F. Kennedy International Airport, Dallas Fort Worth International Airport, George Bush Intercontinental Airport, and Washington Dulles International Airport. For overall test parameters, and a list of exemptions, see Test to Collect Biometric Information at Up to Ten U.S. Airports ("Be-Mobile Air Test"), 80 Fed. Reg. 44,983 (July 28, 2015).

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consistent with our recommendation would help guide DHS's efforts to assess the benefits and costs of various air exit options.

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## Reporting Reliable Overstay Data

As we have previously reported, challenges in developing and implementing a biometric exit system, as well as weaknesses in departure data, have affected the reliability of DHS's data on overstays. Specifically, in April 2011, we found 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 nonimmigrants 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 investigation.<sup>27</sup>

Because of concerns about the reliability of the department's overstay data, neither DHS nor its predecessor has regularly reported annual overstay rates to Congress since 1994. According to statute, DHS is to implement a program to collect data, for each fiscal year, regarding the total number of nonimmigrant foreign nationals who overstayed their authorized periods of admission in the United States; and submit an annual report to Congress providing numerical estimates of the number of aliens from each country in each nonimmigrant 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>28</sup> In April 2011, we reported that DHS officials stated that the department had not reported overstay estimates 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>29</sup> In February 2013, the Secretary of Homeland Security testified that DHS planned to report overstay estimates by December 2013.<sup>30</sup> We reported in July 2013 that, according to DHS Office of Policy officials, the department was better positioned

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<sup>27</sup> [GAO-11-411](#).

<sup>28</sup> 8 U.S.C. § 1376.

<sup>29</sup> [GAO-11-411](#).

<sup>30</sup> See testimony of Janet Napolitano, Secretary, Department of Homeland Security, before the Committee on the Judiciary, United States Senate, Washington, D.C.: February 13, 2013.

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than in the past to describe the limitations in the overstay data. As of January 2016, DHS has not reported overstay estimates. The Consolidated Appropriations Act, 2016, directed DHS to provide to Congress within 30 days of enactment a report on nonimmigrant overstay data by country, and a comprehensive plan for implementation of the biometric entry and exit data system, both of which are required by law.<sup>31</sup> In addition, the Act withheld \$13 million from the Office of the Secretary and Executive Management until DHS provides the overstay report and comprehensive plan.<sup>32</sup>

Our July 2013 report found that, although DHS had taken action to strengthen its overstay data, DHS had not yet validated or tested the reliability of those actions and challenges to reporting reliable overstay data remained. We reported that DHS had taken action to strengthen its processes for reviewing records to identify potential overstays, including (1) streamlining connections among DHS databases used to identify potential overstays and (2) implementing the Beyond the Border initiative, which collects information from the Canadian government about those exiting the United States and entering Canada through northern land ports of entry.<sup>33</sup> However, our July 2013 report also found that DHS had not assessed or documented how its changes to database connections had improved the reliability of its data for the purposes of reporting overstay rate calculations and had not analyzed the incremental improvements that database changes made in data quality. Furthermore, although DHS had improved connections among its various databases used to help identify potential overstays, the improvements did not address some of the underlying data quality and reliability issues we previously identified, such as incomplete information on nonimmigrants departing the United States through land ports of entry. The Beyond the Border initiative is intended to help address this issue by collecting proxy data on individuals exiting from the United States at northern border ports

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<sup>31</sup>Pub. L. No. 114-113, div. F, tit. I; see 8 U.S.C. § 1376(b) (annual report to Congress on nonimmigrant overstay rates by country); DHS Appropriations Act, 2015, Pub. L. No. 114-4, tit. I, 129 Stat. 39 (comprehensive plan for implementation of the biometric entry-exit system required under section 7208 of the Intelligence Reform and Terrorism Prevention Act of 2004 (8 U.S.C. § 1365b), including the estimated costs for implementation).

<sup>32</sup>Pub. L. No. 114-113, div. F, tit. I.

<sup>33</sup>In October 2012, DHS and the Canada Border Services Agency began exchanging entry data on travelers crossing the border into Canada 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.

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of entry, but as of January 2016, DHS has not yet identified mechanisms for collecting data on individuals exiting through southern border ports of entry.

In our July 2013 report, we concluded that without an assessment and documentation of improvements in the reliability of the data used to develop overstay estimates and any remaining limitations in how the data can be used, decision makers would not have the information needed to use these data for policy-making purposes. Therefore, we recommended that DHS assess and document the reliability of its overstay data. DHS concurred with the recommendation and stated that it was establishing a working group that would include representation from DHS component agencies with responsibility for collecting, recording, and analyzing entry and exit data. In November 2015, CBP officials told us that CBP submitted a draft overstays report for fiscal year 2014 to DHS for review in December 2014. However, as of January 2016, DHS could not provide a timeframe for when they would report overstay data or address our recommendation. To address our recommendation, DHS should assess and document the extent to which the reliability of the data used to develop any overstay estimates has improved and any remaining limitations in how the data can be used.

Chairman Sessions, Ranking Member Schumer, and members of the subcommittee, this completes my prepared statement. I would be happy to respond to any questions you may have at this time.

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## GAO Contact and Staff Acknowledgments

For information about this statement, please contact Rebecca Gambler, Director, Homeland Security and Justice, at (202) 512-8777 or [gablerr@gao.gov](mailto:gablerr@gao.gov). Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this statement. Other individuals making key contributions include Adam Hoffman, Assistant Director; Ashley Vaughan Davis; Jon Najmi; and Robin Nye.

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