

**OVERSTAYING THEIR WELCOME: NATIONAL
SECURITY RISKS POSED BY VISA OVERSTAYS**

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BEFORE THE
SUBCOMMITTEE ON
BORDER AND
MARITIME SECURITY
OF THE
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OVERSTAYING THEIR WELCOME: NATIONAL SECURITY RISKS POSED BY VISA OVERSTAYS

Tuesday, June 14, 2016

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

The subcommittee met, pursuant to call, at 10:04 a.m., in Room 311, Cannon House Office Building, Hon. Martha McSally [Chairwoman of the subcommittee] presiding.

Present: Representatives McSally, Smith, Duncan, Barletta, Hurd, Vela, Jackson Lee, and Torres.

Ms. MCSALLY. The Committee on Homeland Security, Subcommittee on Border and Maritime Security will come to order. The subcommittee is meeting today to examine DHS's entry-exit and visa overstay efforts.

Before we begin today, I would ask that we observe a moment of silence to honor those killed and wounded in the terror attack in Orlando.

Thank you. Our thoughts and prayers go out to the victims' families of this terrible tragedy.

I now recognize myself for an opening statement.

Border security naturally evokes images of the hot Arizona desert, dusty border roads, agents, and green fencing and camera towers. But a broader view of border security recognizes that there is more than just security along the Southwest Border to consider. Time and time again terrorists have exploited the visa system by legally entering America.

The 9/11 Commission put it this way: "For a terrorist, travel documents are as important as weapons." The commission's focus on travel documents is not surprising. Since the 1993 World Trade Center bombing, terrorists have abused the hospitality of the American people to conduct attacks here at home.

Mahmud Abouhalima, an Egyptian convicted of the 1993 World Trade Center bombing, worked illegally in the United States as a cab driver after his tourist visa had expired. At least 4 of the 9/11 hijackers overstayed their visas or were out of status, a missed opportunity to disrupt the attacks that killed nearly 3,000 of our fellow Americans.

Among the most important weaknesses the attackers exploited was the porous outer ring of border security. The hijackers passed through the U.S. border security a combined total of 68 times without arousing any suspicion. More recently, Amine El Khalifi attempted to conduct a suicide attack on the U.S. Capitol in 2012.

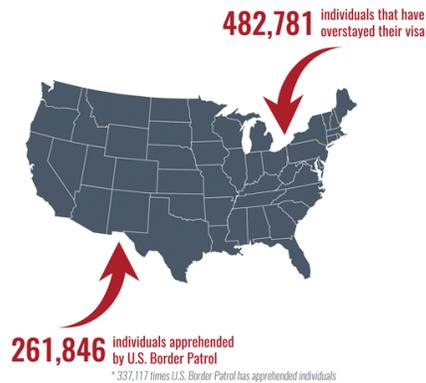
He had been in the country since 1999 on a tourist visa but never left.

Another man, arrested in the aftermath in the Boston Marathon bombing, who helped destroy evidence, was able to return to the United States despite being out of status on his student visa.

Clearly visa security is an important element of keeping the homeland secure. To put the National security risks in perspective, a widely cited 2006 Pew Hispanic Center Study indicated that as many as 40 percent of all illegal aliens who come into our country do not cross the desert in Arizona, California, or Texas, but come through the front door at our land, sea, and air ports of entry with permission and then overstay their welcome.

Earlier this year the Department of Homeland Security released a visa overstay report demonstrating the visa overstay problem may be much worse than previously thought. In fiscal year 2015 fewer people were apprehended by the U.S. Border Patrol than overstayed their visas and are suspected of still being in the country, making the estimate closer to 68 percent of those illegally in the United States.

In 2015, more individuals overstayed their visas than were apprehended at the U.S. border.



If Border Patrol is **54% effective** that makes the total flow 484,900 people (261,846 / .54) who crossed the border illegally in 2015.

Estimated Got Aways
(484,900 - 261,846) = 223,054

Visa Overstays in U.S. = 482,781

Total Illicit Flow
(223,054 + 482,781) = 705,835

(482,781 / 705,835) = at least **68%** of illicit flow in 2015 into U.S. were visa overstays



Ms. MCSALLY. We have a graphic up there, a little bit of math to—where did it go? It was up there—to show what we are talking about here. If you think about, again, we have a 54 percent effective rate, you have got to do a little math—for those who are apprehended, therefore those we think were got-aways. Then if you look at that, so that is 223,000 got-aways, but visa overstays in 2015: 482,000.

So the unlawful presence is up to 705,000 just based on these 2 numbers. So that actually calculates a 68 percent unlawful presence rate that are visa overstays versus coming over the border. Again, these are estimates based on got-aways, so, you know, it is only as good as those assumptions.

But still, the point is we spend a lot of time focusing on the Southern Border, as we should, but there is also another problem here. We have unlawful presence in our United States from the visa overstays, and that is what we are focusing on today.

I am concerned that there are unidentified National security and public safety risks in a population that large, which has historically been the primary means for terrorist entry to the United States. In order to tackle the challenge, the Department has to first identify those who overstay their visa in the first place.

A mandate to electronically track entries and exits from the country has been in place for more than 20 years, and a mandate for a biometrically-based entry-exit system has been a requirement for 12 years. Since 2003, we made substantial progress adding biometrics to the entry process, and we now take fingerprints and photographs of most visitors entering on a visa.

But CBP has made, in fits and starts, only marginal progress when it comes to biometric exit. There have been a series of exit pilot projects at Nation's air, land, and sea ports over the last 10 years, but no plan has ever been implemented for a biometric exit capability. None of it was seriously considered by CBP and the Department.

CBP is now engaged in a series of operational experiments, such as the use of mobile devices with biometric readers designed to support a future biometric exit system. In fact, until very recently the political will to make biometric exit a priority was really missing from the Department and CBP. Thankfully, it appears the Department has finally turned this corner.

Secretary Johnson has now committed to a 2018 rollout of an operational biometric exit system at the Nation's highest-volume airports, an ambitious time line, but long overdue. Congress has recently provided a steady funding stream in the form of new fees that will enable CBP to make investments to bring this system on-line.

Putting a biometric exit system in place, as the 9/11 Commission noted: "An essential investment in our National security," because without a viable biometric exit system, visa holders can overstay their visa and disappear into the United States, just as 4 of the 9/11 hijackers were able to do.

Once we identify overstays, especially those who present National security and public safety threats, we must dedicate resources necessary to properly remove those in the country illegally; otherwise we put our citizens at risk unnecessarily. Yet even as we dedicate scarce resources to pursue this small subset of overstays, up to 25 percent of this group was found to have already departed the United States after ICE special agents conducted full field investigations. We are spending too much time chasing our tails.

Adding a reliable exit system will be an immediate force multiplier, allows our National security professionals to focus their efforts on preventing terrorist attacks. Doing so mitigates the chance that visitors can stay in the country beyond their period of admission and reduces the terrorist threat in the process.

The American people need to know answers to these simple questions. How many more overstays are out there who pose a serious threat to the security of our homeland? Can Immigrations and Customs Enforcement quickly identify and remove these overstays to mitigate substantial National security risks?

I look forward to receiving answers to these important questions and to discuss the witnesses' efforts to address the challenges of visa overstays.

[The statement of Chairwoman McSally follows:]

STATEMENT OF CHAIRWOMAN MARTHA MCSALLY

JUNE 14, 2016

Border security naturally evokes images of the hot Arizona desert, dusty border roads, agents in green, fencing and camera towers. But a broader view of border security recognizes that there is more than just security along the Southwest Border to consider.

Time and time again, terrorists have exploited the visa system by legally entering America. The 9/11 Commission put it this way: "For terrorists, travel documents are as important as weapons."

The Commission's focus on travel documents is not surprising. Since the 1993 World Trade Center bombing, terrorists have abused the hospitality of the American people to conduct attacks here at home.

Mahmud Abouhalima, an Egyptian convicted of the 1993 World Trade Center bombing, worked illegally in the United States as a cab driver after his tourist visa had expired.

At least 4 of the 9/11 hijackers overstayed their visas, or were out of status—a missed opportunity to disrupt the attacks that killed nearly 3,000 of our fellow Americans.

And 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 arousing suspicion.

More recently, Amine el-Khalifi attempted to conduct a suicide attack on the U.S. Capitol in 2012. He had been in the country since 1999 on a tourist visa, but never left.

Another man, arrested in the aftermath of Boston Marathon bombing who helped destroy evidence, was able to return to the United States despite being out of status on his student visa.

Clearly, visa security is an important element of keeping the homeland secure.

To put the National security risks in perspective, a widely-cited 2006 Pew Hispanic Center Study, indicated as many as 40% of all illegal aliens who come into our country do not cross the desert in Arizona, but come in through the "front door" at our land, sea, and air ports of entry, with permission, and then overstay their welcome.

Earlier this year, the Department of Homeland Security released a visa overstay report demonstrating the visa overstay problem may be much worse than previously thought. In fiscal year 2015, fewer people were apprehended by the U.S. Border Patrol, than overstayed their visas and are suspected of still being in the country, making the estimate closer to 60% of those illegally in the United States.

I am concerned that there are unidentified National security and public safety risks in a population that large, which has historically been the primary means for terrorist entry into the United States.

In order to tackle the challenge, the Department has to first identify those who overstay their visa in the first place. A mandate to electronically track entries and exits from the country has been in place for more than 20 years, and a mandate for a biometrically-based entry-exit system has been a requirement for 12 years.

Since 2003, we made substantial progress adding biometrics to the entry process and we now take fingerprints and photographs of most visitors entering on a visa.

But CBP has made, in fits and starts, only marginal progress when it comes to biometric exit. There have been a series of exit pilot projects at the Nation's air, land, and sea ports over the last 10 years, but no plan to ever implement a biometric exit capability was seriously considered by CBP and the Department.

CBP is now engaged in a series of operational experiments, such as the use of mobile devices with biometric readers, designed to support a future biometric exit system. In fact, until very recently, the political will to make biometric exit a priority was missing from Department and CBP leadership. Thankfully, it appears that the Department has finally turned a corner.

Secretary Johnson has now committed to a 2018 roll-out of an operational biometric exit system at the Nation's highest volume airports—an ambitious time line, but long overdue. And Congress has recently provided a steady funding stream, in the

form of new fees that will enable CBP to make investments to bring the system online.

Putting a biometric exit system in place is, as the 9/11 Commission noted, “an essential investment in our National security,” because without a viable biometric exit system, visa holders can overstay their visa, and disappear into the United States; just as 4 of the 9/11 hijackers were able to do.

And once we identify overstays, especially those who present National security and public safety threats, we must dedicate the resources necessary to promptly remove those in the country illegally—otherwise we put our citizens at risk unnecessarily.

Yet, even as we dedicate scarce resources to pursue this small sub-set of overstays, up to 25% of this group was found to have already departed the United States after ICE Special Agents conducted full field investigations. We are spending too much time chasing our tails.

Adding a reliable exit system will be an immediate force multiplier that allows National security professionals to focus their efforts on preventing terrorist attacks. Doing so mitigates the chance that visitors can stay in the country beyond their period of admission—and reduces the terrorist threat in the process.

The American people need to know answers to these simple questions:

- How many more overstays are out there who pose a serious threat to the security of the homeland?
- Can Immigration and Customs Enforcement quickly identify and remove visa overstays to mitigate the substantial National security risks?

I look forward receiving answers to these important questions, and to discuss their efforts to address of the challenge of visa overstays.

Ms. MCSALLY. The Chair now recognizes the Ranking Member of the subcommittee, the gentleman from Texas, Mr. Vela, for an opening statement.

Mr. VELA. I thank Chairman McSally for holding today’s hearing on the National security risks posed by visa overstays.

Before we begin, I want to express my sympathies to the families of those lost in the attack in Orlando this weekend, and my prayers are with those injured in the tragedy.

I expect to learn more about the National security implications of this attack at a House-wide briefing with Secretary Jeh Johnson later today, but hope that the witnesses before us can touch briefly on the role of the Department and its components related to this terrible incident.

With respect to the topic before the subcommittee today, I am pleased we are addressing the overstay issue. While Congress has in recent years paid a great deal of attention to securing our Southern Border, and rightfully so, less attention has been focused on successfully addressing visa overstays. The approximately 527,000 individuals who overstayed in fiscal year 2015 is a far greater number than the 331,000 individuals who were apprehended along the U.S.-Mexico border that year, illustrating the scope of the overstay problem.

As a Member of Congress representing a district along our Southern Border, I understand the challenges related to deploying a biometric exit system at ports of entry. Our Nation’s airports and seaports were not built for exit control, nor were our land borders, certainly.

Overcoming these infrastructure and technology challenges is an integral part of DHS’s task. I look forward to hearing from our witnesses about what progress CBP and DHS S&T have made toward addressing these challenges as well as what their plans are for fulfilling the Secretary’s commitment to begin deploying biometric exit at airports by 2018.

I hope to hear about how the Department plans to address biometric exit at our land borders, particularly with Mexico. Unlike Canada, Mexico currently does not have the entry infrastructure, technology, and processes necessary to share traveler information with the United States. Whatever the ultimate solution, DHS must ensure it does not slow the legitimate travel and trade that is so important to communities like those I represent.

I hope to hear from ICE about how it prioritizes individuals who have overstayed and may pose a National security or public safety threat. With limited resources, we must first address those who may do us harm. Deploying biometric exit at ports of entry and addressing overstays is no easy task but it is a necessary part of ensuring meaningful border security.

I thank the witnesses for joining us today and yield back the balance of my time.

Ms. MCSALLY. The gentleman yields back.

Other Members of the committee are reminded that opening statements may be submitted for the record.

We are pleased to be joined by 4 distinguished witnesses to discuss this important topic today. Mr. John Wagner is the deputy assistant commissioner for CBP's Office of Field Operations. Mr. Wagner formerly served as executive director of admissibility and passenger programs, with responsibility for all traveler admissibility-related policies and programs, including the Trusted Traveler Program, the Electronic System for Travel Authorization, the Immigration Advisory Program, and the Fraudulent Document Analysis Unit.

Mr. Craig Healy is the assistant director for National security and investigations at ICE's Homeland Security and Investigations Division. Mr. Healy began his career in public service with the United States Marine Corps and served as a U.S. Customs Officer before joining ICE. In 2003, Mr. Healy served with the first group of U.S. Federal special agents entering Iraq in support of Operation Iraqi Freedom. He has served at ICE Headquarters since 2010.

Ms. Kelli Ann Burriesci is the deputy assistant secretary for screening coordination office at the Department of Homeland Security. In this role, Ms. Burriesci is responsible for developing and coordinating the Department's screening policies, including the Visa Waiver Program in the Real ID Program. Before joining DHS, Ms. Burriesci was working in the private sector focusing on identity management programs and Federal personnel identity verification credentials.

Mr. Bob Burns is the deputy director for Homeland Security Advanced Research Projects Agency for DHS's Science and Technology Directorate. As deputy director, he manages the resources and technical direction of the APEX Technology Engine Program and guides business community outreach initiatives.

Mr. Burns was previously the director for Air Entry-Exit Re-engineering Project from February 2013 until December 2014. He led S&T in a partnership with U.S. Customs and Border Protection to enhance both air entry and exit processes by developing and implementing technologies for use in exiting airport inspecting and examination operations for travelers entering the United States.

The witnesses' full written statements will appear in the record.

The Chair now recognizes Mr. Wagner for 5 minutes.

STATEMENT OF JOHN WAGNER, DEPUTY ASSISTANT COMMISSIONER, U.S. CUSTOMS AND BORDER PROTECTION, U.S. DEPARTMENT OF HOMELAND SECURITY

Mr. WAGNER. Morning.

Chairwoman McSally, Ranking Member Vela, distinguished Members of the subcommittee, thank you for the opportunity to appear today to discuss Customs and Border Protection's progress in incorporating biometrics into our exit operations, especially as it pertains to identifying travelers who may have overstayed their authorized period of admission in the United States.

Since assuming the responsibility for the DHS entry-exit policy in 2013, CBP has been actively moving forward on several initiatives I will discuss today.

I would like to begin by briefly discussing how we collect current arrival and departure data from foreign visitors. In the air and sea environments, CBP requires that carriers provide manifests containing biographic information on all passengers, which we run against numerous law enforcement and intelligence databases and automated targeting systems to identify and, if necessary, address and potential risks as far advance of travel as possible.

Now, when that traveler arrives in the United States they present their passport to the CBP Officer, who confirms the validity of the document, the accuracy of the carrier's manifest information, and for foreign nationals fingerprints are collected and a digital photograph is also collected.

If the traveler has a visa we compare those fingerprints against what the State Department collected at the embassy to make sure it is the same person. If they are traveling under the Visa Waiver Program we collect a set of 10 fingerprints, and if we have seen them previously we compare them against the previous visit.

The CPB Officer also reviews all the results of the pre-arrival biographic and biometric vetting to ensure that there are no previous violations, active warrants, or any other risk factors that will determine whether we need a further inspection. Before admitting the person, we interview the traveler to determine the purpose and the intent of travel. We then stamp the passport and write the period of admission into the passport as well as record that in our automated system.

Now, when that same person leaves the United States we again receive a biographic manifest information from the carrier and run this against the same law enforcement and intelligence databases. This allows us to create a departure record from the traveler once the airlines confirm that person has boarded the flight. It is through this exit process that CBP apprehended the Times Square bomber, Faisal Shahzad, who was attempting to depart JFK in 2010.

In fact, last year CBP arrested 379 airport passengers with outstanding NCIC warrants as result of departure manifests provided by the carriers.

Now, we use this arrival and departure information to generate overstay lists on a daily basis. It is important to point out that determining lawful status can be more complicated than simply

matching entry and exit data. For example, a person may receive a 6-month admission period at a time of entry but then apply for and receive an extension, which is relevant to determining if that person is truly an overstay or not. Therefore, overstay lists need to be carefully correlated against other DHS systems and organizations.

The overstay lists are run through our automated targeting system. We apply ICE-defined criteria and prioritize these records. That information is then provided to ICE for appropriate action.

Now, the overstay report, along with the comprehensive entry-exit plan we provided to Congress in April, articulates the foundation for incorporating biometrics into the exit aspect of our system. The biographic information we are using today is actionable, but it can certainly be enhanced with the addition of a biometric upon departure in order to validate and confirm the information we are acting upon.

Now, unlike past attempts to deploy a biometric exit system, the challenge that remains is not so much the technology as it is the infrastructure, as Mr. Vela pointed out. Our ports of entry were not designed to have departure-control processing. Unlike for arrivals, there is no exclusive and designated space for departure controls. International departures share gates with domestic traffic.

So where the biometric collection takes place is critical. Placing the technology too far in advance of the departure process, such as at a TSA checkpoint or the airline check-in counter, would not provide assurances that the person who provided the data actually boarded the plane and left. In this case, we would end up nearly defaulting to the biographic manifest data, which is exactly the same system that we have in place today.

So in preparing for deploying biometric exit we have launched several pilots, which were mentioned earlier: Did the facial comparison at JFK and Dulles, and we did a pedestrian pilot at Otay Mesa in California, and we did the handheld pilot at 10 airports across the country.

Now, starting yesterday we commenced a pilot in Atlanta, Georgia at the airport in testing the ability of our information systems to compare facial images of travelers departing the United States against previously provided images by those travelers. This is done in an automated fashion without impacting airport operations.

This is our logical next step in building on our previous pilots that focused on the collection in matching front-end efforts. This pilot is now integrating this data into our back-end systems. It is not another layered-on process, and it is critical to getting the airlines' and airports' cooperation, as we can incorporate this into their existing business processes.

The analysis of this test will provide the final set of specifications and requirements for the biometric exit procurement to be released in early 2017 to provide the best technologies that meet our mission needs for the biometric exit system.

So as law enforcement professionals we see that biometric technology on departure has the potential to provide a critical layer of data verification and security to our existing biographic system. We will continue our close collaboration with the Department and ICE in the development and the implementation of the biometric exit

concepts. We will continue to work closely with our private industry partners, including the airlines and airports who are essential to the successful deployment and development of these solutions.

So thank you again for the opportunity to appear today, and I would be happy to answer any questions.

[The joint prepared statement of Mr. Wagner, Mr. Healy, Ms. Burriesci, and Mr. Burns follows:]

JOINT PREPARED STATEMENT OF JOHN WAGNER, CRAIG C. HEALY, KELLI ANN BURRIESCI, AND ROBERT P. BURNS

JUNE 14, 2016

INTRODUCTION

Chairwoman McSally, Ranking Member Vela, and distinguished Members of the subcommittee, thank you for the opportunity to appear today to discuss the progress the Department of Homeland Security (DHS) is making to incorporate biometrics into our comprehensive entry/exit system and to identify, report, and address overstays in support of our border security and immigration enforcement missions.

As recently as 13 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, beyond photographs, by the Department of State (DOS) for visa applicants, 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. 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 interagency and 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), Office of Policy (PLCY), 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 biographic information on all admissions to the United States and check that data against criminal and terrorist watch lists, and other Government sources, such as immigration databases. This advancement has been particularly significant at land borders through the implementation of the Western Hemisphere Travel Initiative. 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, including creation of the consolidated Terrorist Watch List through the Terrorist Screening Database. We have also worked closely with our foreign partners to deepen bilateral and international information sharing to enhance the depth and quality of our information holdings.

Presently, we collect biometrics for most nonimmigrant foreign nationals¹ and check them against terrorist watch lists prior to the issuance of a visa or lawful entry to the United States. Furthermore, we have developed new capabilities and enhanced existing systems, such as the Automated Targeting System (ATS), to help

¹The 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); and certain Canadian citizens seeking admission as B nonimmigrants per 8 CFR 235.1(f)(1)(ii). 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).

identify possible terrorists and others who seek to travel to the United States to do harm.

Today, DHS manages an entry/exit system in the air and sea environments that incorporates both biometric and biographic components. Applying a risk-based approach, the Department is 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 visitors who have overstayed the validity period of their admission. Moreover, with the recent support of Congress in the Consolidated Appropriations Act, 2016, (Pub. L. No. 114–113), and as described in the *Comprehensive Biometric Entry/Exit Plan* provided to Congress in April 2016, DHS is continuing to move forward in further developing a biometric exit system that can be integrated in the current architecture to enhance this capability.

In the past 4 years, substantial improvements to DHS travel and immigration data systems, coupled with targeted immigration enforcement efforts, have strengthened the security of our borders and enhanced our ability to identify, prioritize, and address foreign nationals who overstay their lawful period of admission. As a result of these improvements, DHS was able for the first time to publish the *Entry/Exit Overstay Report*, for fiscal year 2015, on January 19, 2016. We expect to expand this report in future years as data and analytic capabilities continue to improve. Enhanced data analysis and reporting capabilities, in conjunction with biographic overstay data from CBP, enables ICE to identify and initiate enforcement actions on overstay violators using a prioritization framework focused on individuals who may pose National security or public safety concerns. Both ICE and CBP are taking steps to further enhance visa overstay enforcement efforts.

EXISTING DHS ENTRY AND EXIT DATA COLLECTION

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

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. For certain visa categories, the individual will have already provided biographic information via a petition filed with U.S. Citizenship and Immigration Services (USCIS) as well. For individuals seeking to travel to the United States under the Visa Waiver Program (VWP), biographic information is captured from an intending traveler when they apply for an Electronic System for Travel Authorization (ESTA).² If the individual is authorized for travel with an ESTA following the required security checks, an individual is able to travel to the United States under the VWP. Biometric information will be captured at the U.S. port of entry (POE), where the traveler will also be interviewed by a CBP Officer.

In the air and sea environment, DHS 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 bound for the United States. 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 vets and analyzes passenger information, including visas and VWP ESTA authorizations. In addition to vetting achieved through DOS's visa application and adjudication processes, the NTC conducts continuous vetting of nonimmigrant U.S. visas and ESTA authorizations that have been issued, revoked, and/or denied. This continuous 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, revoke the ESTA authorization, or, for persons already within the United States, notify law enforce-

²ESTA collects biographic data and screens passengers against various law enforcement and intelligence databases. ESTA has digitized the Form I-94 (Arrival/Departure Record) for authorized travelers from participating VWP countries.

ment agencies or other appropriate entities. 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 due to the newness of the derogatory information.

When a nonimmigrant arrives at a U.S. POE and applies for admission to the United States, a CBP Officer interviews the traveler regarding the purpose and intent of travel, reviews his or her documentation, and runs law enforcement checks. If applicable,³ CBP collects and matches biometrics against previously collected data and stores this data 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 the traveler's authorized period of admission. Based on electronic information already in DHS's systems, CBP electronically generates a Form I-94, Arrival/Departure Record that the traveler can print remotely 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.

How DHS Collects Departure Information

The United States has a fully functioning biographic exit system in the air and sea environments. Similar to the entry process, DHS also collects APIS passenger manifests submitted by commercial and private aircraft operators and commercial sea carriers departing the United States. Carriers and operators are required to report biographic and travel document information to DHS for those individuals who are physically present on the aircraft or sea vessel at the time of departure from the United States and not simply for those who have made a reservation or are scheduled to be on board. Since 2005, collection of this information has been mandatory, and compliance by carriers is near 100 percent. DHS monitors APIS transmissions to ensure compliance and, if needed, 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.⁴

At the Northern land border, as part of the Beyond the Border Action Plan,⁵ the United States and Canada are implementing a biographic exchange of traveler records that constitutes a partial 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 either country through land POEs 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 Canadian records for travelers leaving the United States for Canada against U.S. entry records for nonimmigrants is over 98 percent. In April 2016, Canada reaffirmed its commitment to the United States to complete the program to include all travelers who cross the Northern Border. Canada will need to complete passage of additional legislation to facilitate this, which is expected to happen in late 2016.

Although the Southwest land border does not currently have the same capabilities and infrastructure as the Northern Border, DHS obtains exit data along the Southwest Border through "pulse and surge" operations,⁶ which provide some outbound departure information on some travelers departing the United States and entering Mexico. The Department is seeking to work with Mexico to develop the best methods of obtaining data from travelers departing the United States through the Southwest land border.

ADDRESSING OVERSTAYS

This integrated approach to collecting entry and exit data supports the Nation's ability to identify and address overstays. 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. This process extends beyond

³ See Footnote 1.

⁴ 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.

⁵ 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_btb_action_plan3.pdf.

⁶ "Pulse and Surge" operations are strategies whereby CBP Officers and agents monitor outbound traffic on the U.S.-Mexico border.

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,⁷ which retains them for review and vetting by analysts.

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.

Enhancing Capabilities

In the past 4 years, DHS has made substantial improvements to enhance 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,"⁸ increasing the efficiency of data flow between OBIM⁹ 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 2 systems.
- Improved ability of ADIS to match U.S. Citizenship and Immigration Services' (USCIS) Computer-Linked Adjudication Information Management System (CLAIMS 3) data for aliens who have extended or changed 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 is continuing this progress in fiscal year 2016.

Reporting Overstay Data

On January 19, 2016, DHS released the first Entry/Exit Overstay Report. This report represents a culmination of the aforementioned efforts to enhance data collection and address issues precluding production of the report in prior years. The *Entry/Exit Overstay Report for Fiscal Year 2015* provides data on departures and

⁷LeadTrac 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.

⁸Hot lists are lists of individuals that are prioritized based on their level of risk.

⁹OBIM 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.

overstays, by country, for foreign visitors to the United States who were lawfully admitted for business (i.e., B-1 and WB classifications) or pleasure (i.e., B2 and WT classifications) through air or sea POEs, and who were expected to depart in fiscal year 2015—a population which represents the vast majority of annual non-immigrant admissions. In fiscal year 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 of visitors had left the United States on time and abided by the terms of their admission.

The 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 fiscal year 2015, there were 482,781 Suspected In-Country Overstays, resulting in a Suspected In-Country Overstay rate of 1.07 percent.

Due to continuing departures by individuals in this population, by January 4, 2016, and described in the report, the number of Suspected In-Country Overstays for fiscal year 2015 had dropped to 416,500, reducing the Suspected In-Country Overstay rate to 0.9 percent. In other words, as of January 4, 2016, DHS had been able to confirm the departures of more than 99 percent of nonimmigrant visitors scheduled to depart in fiscal year 2015 via air and sea POEs, and that number continues to grow. Indeed, as of June 6, 2016, the number of Suspected In-Country Overstays for fiscal year 2015 has further dropped to 355,338, further reducing the Suspected In-Country Overstay rate to 0.79 percent.

For Canada and Mexico, the fiscal year 2015 Suspected In-Country Overstay rate as of the end of the fiscal year was 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 VWP country overstay numbers from non-VWP country numbers. For VWP countries, the fiscal year 2015 Suspected In-Country Overstay rate as of the end of the fiscal year was 0.65 percent of the 20,974,390 expected departures. For non-VWP countries, the fiscal year 2015 Suspected In-Country Overstay rate at the end of the fiscal year was 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.

As noted above, these fiscal year 2015 In-Country Overstay rates continue to decline due to continuing departures by individuals in these populations.

In partnership with other DHS components, CBP is continuing to improve ADIS so that additional overstay information can be included in future reports, including additional visa categories such as the foreign student and exchange visitor population (F, M, and J nonimmigrant admission classes) and other nonimmigrant admission classes (such as H, O, P, Q nonimmigrant admission classes), and certain land-related overstay populations as determined by our data exchange with Canada.

Overstay Enforcement in the United States

ICE actively identifies and initiates enforcement action on overstay violators using a prioritization framework focused on individuals who may pose National security or public safety concerns, and consistent with the Department of Homeland Security's November 2014 Civil Enforcement Priorities. ICE's overstay mission is accomplished in close coordination with CBP, and both agencies are taking steps to further enhance the visa overstay enforcement efforts described below.

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 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 and public safety investigations.

ICE analyzes system-generated leads initially created by, or matched against the data feed for biographic 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, changed status or extended a period of stay in the same 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 non-immigrant 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 addresses 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, especially through the VWP, 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 period 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 Prioritization

Every year, the CTCEU receives approximately 1 million leads on nonimmigrants that have potentially violated the terms of their admission, such as overstays and out-of-status non-immigrant students or exchange visitors. 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. As noted above, 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. The CTCEU has also aligned its policy on sending leads to the field with the DHS's civil enforcement priorities, which focus enforcement and removal policies on individuals convicted of significant criminal offenses or who otherwise pose a threat to public safety, border security, or National security.

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 apply 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 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 have been determined to be viable and 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 as appropriate. HSI Special Agents made 1,910 arrests, and secured 86 indictments and 80 convictions in fiscal year 2015 from overstay leads.

ICE is taking steps to further enhance enforcement efforts with respect to non-immigrant visa overstays and violators, in conjunction with CBP.

ENHANCING THE DEPARTMENT'S COMPREHENSIVE ENTRY/EXIT SYSTEM

Since fiscal year 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. As previously described, 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 decisions regarding the admission of individuals into our country. CBP will continue to further these biographic capabilities, while also redoubling efforts to incorporate biometrics into the exit aspect of our system and to develop and deploy a biometric entry/exit system, as mandated by statute. CBP's plan for expanding implementation of a biometric entry/exit system, based on technological and operational lessons derived from past, on-going, and planned pilots, and utilizing currently authorized funding, is described in the Comprehensive Biometric Entry/Exit Plan provided to Congress in April 2016. This plan includes Secretary Johnson's direction to begin implementing biometric exit solutions, starting at the highest volume airports, in 2018.

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 Department of Homeland Security Appropriations Act, 2015 (Pub. L. No. 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 of limitations posed by 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 adding lanes or CBP-manned booths. Furthermore, U.S. airports do not have designated and secure exit areas for out-going 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. This challenge is further compounded at many airports where 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 and effective. Additionally, this solution must address airline carriers' and airports' concerns that a biometric exit process not create an environment in which an airport cannot afford to support an international flight because that space is so highly restricted.

Currently, Federal law requires airports serving flights with arriving foreign nationals to 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.

In meeting these challenges, CBP has concluded that a viable biometric exit solution depends on leveraging emerging technologies to innovate ways of processing passengers biometrically. In reaching this conclusion, CBP considered and rejected broad non-cost effective options involving recapitalizing the infrastructure at land borders and airports, or the hiring of additional officers to manually verify all departing travelers. Recapitalization of all U.S. international airports and land borders would allow CBP to establish sterile physical areas, which, once entered, a foreign national cannot leave without inspection by an immigration officer. This recapitalization

talization would require significant limitations in the number of gates that airlines could use for international departures, and result in overall direct and indirect costs of billions of dollars. CBP does not consider this option viable.

Alternatively, CBP could pursue a solution within the constraints of existing infrastructure through the hiring of 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 estimates that it would need 7–9 officers to collect biometrics on departing foreign visitors for 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, independent of any other costs, including considerable infrastructure costs, and cause significant delays.

For the land environment, such an 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 CBP to dramatically increase the current Office of Field Operations workforce and budget, and those costs would recur annually.

Instead, DHS believes the most efficient and cost-effective solution to a viable biometric exit program is to leverage emerging technology, in addition to process transformation. CBP is collaborating with S&T and is also partnering 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, provide input to the cost-benefit analysis of a comprehensive biometric exit solution, and to inform decisions regarding the next steps in deploying a biometric exit program. These 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 in January and back to Dulles in February 2016. Lessons learned from this deployment are informing 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 10 U.S. international airports. BE-Mobile confirms traveler departures with certainty and identifies threats in real time using biometric technology. This test has provided a small amount of biometric departure data, supported on-going 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. While evaluating the data collected, CBP will continue to operate BE-Mobile at these airports and expand BE-Mobile to a number of small airports to see if BE-Mobile can fully support the biometric exit requirements of small ports.
- *Pedestrian Field Test.*—From early December 2015 through early May 2016, CBP deployed a Pedestrian Field Test at the Otay Mesa POE in California, which involved the collection of biographic and biometric data from pedestrian travelers departing the United States. Biographic data was collected on all outbound travelers, including U.S. citizens, and biometric data (face and iris image capture) was collected on all inbound and outbound non-exempt, non-U.S. citizens. The field test explored the viability of this technology in an outdoor land environment. While the evaluation of this test is on-going, this initiative enhanced CBP’s ability to identify departures and successfully match biometric entry and exit records at the land border for the first time.
- *Departure Information System Test.*—Starting June 13, 2016, CBP has begun to implement a test of how the integration of data sources and re-architecture of information systems can process new departure data at Hartsfield-Jackson

Atlanta International Airport. CBP is testing the ability of its information systems to compare images of travelers departing the United States in real time against images previously provided to determine if they are in scope for biometric collection in an automated fashion. This effort builds upon previous CBP biometric efforts at Dulles International Airport and John F. Kennedy International Airport and will advance the innovation and transformation of the entry and exit process. This test has been designed to conform with airlines' existing standard operating procedures such that the incorporation of biometrics is agnostic to current boarding processes and will have minimal impact on airlines, airports, and the traveling public.

The results from these pilots will inform the future biometric exit solution by identifying how best to leverage our existing biographic capabilities, determining the overall accuracy of the biographic exit data that CBP receives today, and testing new business processes and emerging technologies. The Department and CBP will continue to apprise Congress of the results of these projects and their implication for the deployment of the biometric entry/exit system.

Fee Collections for Exit Activities

In the Consolidated Appropriations Act, 2016 (Pub. L. No. 114–113), Congress provided CBP with a fee-funded account for biometric entry/exit activities, which may collect up to \$1 billion by fiscal year 2025.

CBP's plan for expanding implementation of a biometric entry/exit system, based on technological and operational lessons derived from past, on-going, and planned pilots, and utilizing these authorized funds, is described in the Comprehensive Biometric Entry/Exit Plan submitted to Congress in April. CBP is further developing its expenditure plan for these funds, which could cover the initial biometric air exit engineering efforts, biometric scanning technology, data system integration, infrastructure upgrades, and CBP officer support that would be necessary to deploy to the top gateway airports. CBP is also preparing an acquisition plan which will address how and when CBP will partner with private industry in order to achieve our goal of development of a biometric exit system. Of note, while the funds provided through the Consolidated Appropriations Act, 2016 will enable CBP to take the next major step in development of a biometric entry/exit system at the highest volume airports, full Nation-wide deployment of a comprehensive entry-exit system at system at all ports of entry will require additional resources not available from the authorized surcharges.

CONCLUSION

While implementation of a robust and efficient biometric exit solution will take time, and significant challenges remain, DHS is aggressively evaluating emerging biometric technologies in existing operational environments and redoubling efforts to incorporate biometric exit capabilities into our comprehensive entry/exit system. 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. Through these and related efforts, we will continue to build on the progress we have made in our ability to identify, report, and take appropriate action against those who overstay or violate the terms of their admission to the United States.

Chairwoman McSally, Ranking Member Vela, 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.

Ms. MCSALLY. Thank you, Mr. Wagner.
The Chairwoman now recognizes Mr. Healy.

STATEMENT OF CRAIG C. HEALY, ASSISTANT DIRECTOR FOR NATIONAL SECURITY INVESTIGATIONS, U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT, U.S. DEPARTMENT OF HOMELAND SECURITY

Mr. HEALY. Good morning Chairwoman McSally, Ranking Member Vela, and distinguished Members. Thank you for the opportunity to discuss ICE's role in overstay enforcement and how we would benefit from the implementation of a biometric exit system.

For nearly 30 years I have spent my career in Federal law enforcement, and I recognize that visa overstay enforcement is an important issue for this subcommittee. I would to briefly outline my agency's involvement as a recipient of information collected by my DHS colleagues represented here today and how we use that information.

ICE Homeland Security Investigations, or HSI, through our Counterterrorism and Criminal Exploitation Unit, is dedicated to identifying and initiating enforcement action on priority overstay violators. Our overstay mission is accomplished in close coordination with CBP, and our primary objective is to vet the system-generated leads we receive in order to identify true overstay violators for appropriate enforcement action.

ICE uses dedicated special agents, analysts, and systems to specifically address nonimmigrant overstays who may pose a National security and public safety concern. In fiscal year 2015 our agents and analysts devoted approximately 650,000 investigative hours on overstay enforcement. In fiscal year 2015 the Counterterrorism and Criminal Exploitation Unit received approximately 971,000 system-generated potential overstay leads received from entry-exit international student databases and other Government systems.

The system-generated leads are created using biographical and travel data stored in CBP's arrival and departure information system. This system allows DHS to identify nonimmigrants who have remained in the United States beyond their authorized periods of admission or have violated their visas.

Once the leads are received, ICE conducts both automated and manual searches against additional Government databases, social media, public records to determine if a potential overstay has departed the United States, has adjusted to a lawful status, or requires further review, in which case a lead will be sent out to a field office.

Additionally, ICE prioritizes nonimmigrant overstay leads through risk-based analysis. A targeting framework consisting of 10 tiers was developed in close consultation with the intelligence and law enforcement communities to ensure that our National security and public safety concerns are prioritized.

To accomplish this, we meet regularly with interagency partners to ensure that our targeting methodologies are aligned with current and existing U.S. Government threat information, trends, and priorities.

To better manage investigative resources, the Counterterrorism and Criminal Exploitation Unit not only relies on the previously-discussed prioritization framework, but also incorporates focused enforcement and removal operations on individuals who are threats to National security, border security, public safety, or who are convicted of significant criminal offenses.

Of the leads analyzed in fiscal year 2015, approximately 1 percent, or roughly 10,000 leads, were determined to potentially pose a National security or public safety concern. Fortunately, with further investigation ICE was able to determine that even many of these leads were not, in fact, high-risk. However, all of these leads were sent to HSI field offices for further-up investigation.

Of the 10,000 field referrals or 10,000 investigations that were sent out to the field, our offices have approximately 3,000 of those investigations that are still on-going, and roughly 4,000 of those investigations have been closed, because even after our initial vetting it was determined that those individuals were, in fact, in compliance.

The remaining leads are in continuous monitoring for further investigation. More importantly, as a result of those 10,000 investigations we made over 1,900 arrests, of which 139 were criminal arrests, and secured 86 indictments and 80 convictions.

In conclusion, ICE will continue to work alongside our partners within DHS in pursuing visa overstays who violate the terms of their admission. The implementation of the biometric exit system will facilitate enhanced information sharing while improving the quality of the data, thereby improving our efficiency and effectiveness in identifying and removing visa overstay violators.

Thank you again for the opportunity to be here today, and I look forward to taking your questions.

Ms. MCSALLY. Thank you, Mr. Healy.

The Chairwoman now recognizes Ms. Burriesci for 5 minutes.

STATEMENT OF KELLI ANN BURRIESCI, DEPUTY ASSISTANT SECRETARY, SCREENING COORDINATION OFFICE, U.S. DEPARTMENT OF HOMELAND SECURITY

Ms. BURRIESCI. Before I begin I would also like to express my sincere condolences for the people of Orlando who lost a family member or a friend this past weekend, and I appreciate the moment of silence earlier.

Thank you, Chairman—Chairwoman McSally, Ranking Member Vela, and distinguished Members of the subcommittee, for the opportunity to appear here today to discuss DHS's progress to support border security and immigration enforcement missions.

I am the deputy assistant secretary of the Screening Coordination Office, part of the DHS Office of Policy. The Screening Coordination Office is charged with developing cross-departmental policy for the screening and vetting of people and with advising the assistant secretary of policy.

The Screening Coordination Office also collaborates with its interagency partners to inform and develop screening policies that involve multiple departments. This whole-of-Government approach to screening involves decisions about how we share information and interact with one another across the Government.

I am here with my DHS colleagues today to discuss overstays and biometric exit.

On January 19, 2016, DHS released the entry-exit overstay report for fiscal year 2015, the first such report in a generation. This report provides information on the number of individuals in this country who have overstayed their period of admission and is presented by country. The report covers 87 percent of all non-immigrant travelers coming to United States by air and sea. It reflects that 99 percent of these travelers, these nonimmigrant travelers, depart within their period of admission.

At the time the report was issued, 416,000 of these individuals were suspected of remaining in the United States as an overstay.

Since the report was issued, the number has dropped to below 355,000 individuals.

While the report represents a tremendous step forward, DHS recognizes that it does not answer all of the questions. As you have heard DHS officials brief in the past, DHS has identified quality errors in historic data that, while now fixed, prevents us from being able to retroactively produce reports for prior fiscal years.

That said, and for transparency, DHS provided fiscal year 2014 numbers in the appendix of the fiscal year 2015 report. As the report states, the ability to accurately and reliably estimate overstay rates is dependent upon the completeness and accuracy of arrival and departure records.

During the generation of the fiscal year 2014 overstay data, DHS identified significant discrepancies regarding the data received from certain air carriers, which resulted in artificially elevated overstay rates. These data quality issues have since been resolved for business and tourism travelers, and the fiscal year 2015 overstay report tables are an accurate depiction of country-by-country overstay numbers for these categories.

Over the past 2 years DHS has made significant progress in terms of its ability to accurately report data on overstays, and we will continue to make progress. DHS anticipates that we will broaden the scope of data for future reports, with a particular emphasis on student visa categories.

Relatedly, DHS recently submitted the comprehensive biometric entry-exit plan to Congress April 20, 2016. Over the last decade, with the support of Congress, DHS, through the combined efforts of DHS S&T, CBP, ICE, and NPPD's Office of Biometric Identity Management, has enhanced its capability to record arrivals and departures within the United States.

CBP is the DHS-designated executive agent for operationalizing a comprehensive entry-exit system with biometrics, building off of our current biographic system that exists today.

Secretary Johnson directed CBP to redouble its efforts to achieve a biometric entry-exit system and to begin implementing biometric exit starting at the highest-volume airports in 2018. While it will take time, effort, and innovation, DHS believes it has put forward a responsible and thoughtful approach to achieve a sustainable solution.

This solution recognizes that one technology may not be suitable for each air, land, and sea environment and that one process may not be appropriate for all environments. Our overarching goal is a fully integrated, scalable, and sustainable entry-exit enterprise that includes biometrics.

With the on-going support of Congress, most recently demonstrated in the Consolidated Appropriations Act of 2016, DHS will continue to advance a biometric exit system that can be integrated into the current traveler screening architecture. We thank you for the support and we will continue to provide updates on our progress to Congress well past this hearing. Thank you.

Ms. MCSALLY. Thank you, Ms. Burriesci.

The Chairwoman now recognizes Mr. Burns for 5 minutes.

STATEMENT OF ROBERT BURNS, DEPUTY DIRECTOR, HOMELAND SECURITY ADVANCED RESEARCH PROJECTS AGENCY, SCIENCE AND TECHNOLOGY DIRECTORATE, U.S. DEPARTMENT OF HOMELAND SECURITY

Mr. BURNS. Good morning, Chairwoman McSally, Ranking Member Vela, and distinguished Members of the committee. Thank you for this opportunity to testify along with my colleagues today from the Office of Policy, Customs and Border Protection, and Immigration and Customs Enforcement, with whom we work closely.

The mission of the Science and Technology Directorate, or S&T, is to deliver effective, innovative insight, methods, and solutions for the critical needs of the homeland security enterprise. We work closely with our operating components, such as ICE, CBP, and our oversight offices, including the Office of Policy, to address the gaps in operational capabilities and invest in efforts that will result in knowledge or products aimed at closing these gaps.

In 2012 CBP asked for our assistance in their efforts to enhance air entry and air exit operations. In response, S&T created the Apex AEER Entry-Exit Re-Engineering Project, known as AEER, or AEER, which is composed of several vital parts: Technology forging and testing, operations and technology cost analysis, and stakeholder engagement.

Apex projects are key S&T activities carried out in close collaboration with operational components to achieve increased or improved capabilities.

With respect to air entry and exit, our goal has been to help CBP evaluate technologies and concepts of operations to biometrically verify the arrival and departure of foreign nationals from U.S. airports.

To determine candidate technologies, AEER conducted a comprehensive market survey of commercially-available, standards-based fingerprint, iris, and facial recognition technologies. We work closely with biometric experts from the National Institutes for Standards and Technology to solicit their assistance and develop robust testing protocols and objectively analyze results.

Additionally, we leveraged headquarters, interagency, and international expertise from the DHS Office of Biometric Identity Management, the Department of Defense, the Federal Bureau of Investigation, the Department of State, and foreign government partners.

We identified over 100 devices and 15 matching algorithms from a wide range of vendors for testing in our Maryland test facility, which many Congressional staff members have visited over the past 2 years. We first evaluated these device performance on factors including accuracy, cost, speed, and operational footprint.

Those that performed well were selected for scenario-based testing of their human interface and suitability in various concept of operations. Since June 2014, AEER has utilized a diverse group of over 1,700 volunteers from 50 countries of origin for our testing and we have simulated actual environmental conditions in which the technology would operate.

To inform concepts of operation and scenario-based testing and to collect data in support of subsequent CBP cost analysis, we sent teams into the field to observe and analyze current airport oper-

ations. This entailed close cooperation with CBP headquarters and field staff, as well as airport and airline stakeholders. AEER facilitated working sessions with front-line CBP Officers to solicit their operational insights and inform their project's technical roadmap.

Externally, we engaged industry groups, including Airlines for America, Airports Council International North America, the International Air Transport Association, or IATA, and the Association of American Airport Executives, to gain an understanding of the direct and indirect economic impacts of various biometric exit concepts of operation in the airport environment.

We proactively and regularly invited airline, airport, and biometric industry groups to the Maryland test facility and hosted webinars to keep stakeholders updated and to solicit their feedback. We even co-chaired IATA biometrics working groups with Lufthansa.

Through the Apex AEER Project, we have gained a robust understanding of the state-of-the-art of biometric technologies and how these technologies interact with passengers and might fit into various concepts of operation. With simulated testing of the biometric exit technology complete, CBP has taken responsibility for the airport-based pilots of biometric air exit. Apex AEER's products will inform CBP's path forward to a Nation-wide deployment for the biometric exit program.

As we move into 2017, S&T will continue to assist CBP in data analysis for the upcoming pilot phases needed, and we stand ready to invest in additional R&D work should the need arise as results of the pilot. With this transition of S&T's air exit work to CBP, the Apex AEER Project will end this year.

We are developing out-briefs to share our high-level results and lessons learned with industry and Government partners, including, most recently, the Transportation Security Administration. S&T will continue to work with CBP's Office of Field Operations to re-engineer the air-entry process. This work is important not only to implementing a full biometric entry-exit process, but to helping CBP manage growth in international travel.

Leveraging emerging biometric and mobile technologies, we will explore innovative ways to build upon and further secure valuable programs like Mobile Passport Control, Global Entry, and Countering and Measuring. Technology is undoubtedly an essential ingredient of effective border security. S&T will continue to collaborate with our components and partners to bring technology to operational use and help enhance border security.

I thank the committee for giving me the opportunity to testify on this very important subject and I look forward to your questions.

Ms. MCSALLY. Thank you, Mr. Burns.

I now recognize myself for 5 minutes for questions.

I want to first make sure we understand the scope of the challenge and the numbers. Your visa overstay report for fiscal year 2015, which we very much appreciate, indicated 482,000 overstays, has since been whittled down over time to, I think to 355,000. But just, I know you all understand this, but for the record, that was just for air and sea arrivers, and also just in B1 and B2 categories. So what we are missing is the rest of the categories arriving by air and sea, and all overland arrivals in departures.

Is that correct, Mr. Wagner?

Mr. WAGNER. Yes, that is correct.

Ms. MCSALLY. So if we were to extrapolate about the 1 percent rate of overstays to those other categories, like what would that number estimate to be if we would say 1 percent of the additional people that were not measured? What are we talking about here?

Mr. WAGNER. We will have the numbers on the Canadian border on the next report. It is kind of tough to estimate because it is a different type of traffic, crossing a land—

Ms. MCSALLY. Well, I am just trying to understand, like, we measured how many visitors total—4 million, or what was the number that we measured?

Mr. WAGNER. Oh, it is 382 million passengers last year total; 250 million came across the land border—

Ms. MCSALLY. Okay.

Mr. WAGNER [CONTINUING]. One hundred twelve million came land and sea, but that is total. That—

Ms. MCSALLY. Okay. I will follow up for the record. I am just saying if we can extrapolate the same rate to total visitors, I am just trying to understand what we think the magnitude of the overstay might be. Does that make sense if we extrapolate a 1 percent rate?

Mr. WAGNER. Yes. Let us get those numbers for you.

Ms. MCSALLY. Okay, great.

Mr. Healy, I am concerned about—these numbers are pretty large. So we have, you know, known, 482,000 but probably more, and you have gone through the process of how you sort of whittle that down with your resources to identify who are high-risk. I have a couple of questions on—you mentioned you test that against several databases.

In your testimony it talks about viewing social media and other means. Are these not tests that are done prior to issuing someone a visa? Are the things that you are finding to identify somebody high-risk—they are here for 90 days, so they have committed a crime just in those 90 days? Like, can you just walk me through that process?

I am particularly interested in social media. This committee has been very concerned about use of social media for vetting people prior to issuing a visa. So I want to know what we are doing with social media after the fact to identify high-risk overstayers.

Mr. HEALY. Well, ma'am, as you are aware, Secretary Johnson did direct that a social media task force be created within the Department. The Department is about to transition into a DHS Social Media Center of Excellence, which will be housed and hosted by CBP, which we will be a part of.

In answer to your question, the first part of the question ma'am, on a limited basis we do utilize social media in a visa security program for individuals coming into the United States. We do not utilize social media to review every application.

Ms. MCSALLY. Yes, I am familiar with that. I am just talking about you whittling down the 480,000—

Mr. HEALY. Okay. Yes, yes ma'am. Now, getting to the overstay population, my numbers are actually a little larger than the 480,000 because my numbers include everything received coming

out of ADIS. So that includes students, and it includes all visa categories.

The first thing that we do, ma'am, is we check to confirm whether or not those individuals have departed again, we will go back to ADIS. We will also check with CIS to see if they have tried to attempt to obtain any benefits.

We will also reach out to the intelligence community. We are more than happy in a detailed briefing, ma'am, in an appropriate setting to give you more background, but we reach out to the intelligence community and they provide information that we make decisions upon.

After those decisions are made, we continue our vetting process by prioritizing the names. We have a criteria that we use in coordination with the intelligence community on law enforcement. We will put those names within certain categories and then we will rely on analysts to manually vet those names. If we are able to establish some type of derogatory information, if we are able to establish the location, then we will continue to prioritize as we go down the line.

When we get to the point, ma'am, where the leads are ready to be sent out to the field, we in turn—sometimes we will use social media. If we haven't had an opportunity to fully locate the individual and we want to enhance our ability to find that person, then those leads will go out to the field.

Once out in the field, again, 40 percent of the leads that we sent out of that 10,000, ma'am, it was determined that individuals were in compliance. They had already either departed or they had applied for and received CIS benefits.

The remaining individuals, we will proceed, whether it be a criminal-type investigation or whether it just be an administrative removal.

Ms. MCSALLY. What is the time frame—the average time frame for this process that you just mentioned? Somebody is here for 90 days, they have overstayed their visa, and now you are whittling down these numbers. What are we talking about? Are we talking about days, weeks, months?

Mr. HEALY. It could be a month, a couple of months, ma'am. Because once the information—I mean, the manual vetting process to go through all of these—forget about the automated batch reviews that we do. Analysts have to go through this information because from our perspective it can't go out into the field unless we know that it is a real individual and we know where that individual is located. So it can take a little bit of time because again, ma'am, these aren't all just B1s, B2s; we got students involved, we have other categories that are involved as well.

Ms. MCSALLY. Great. It was previously reported to me that about 3 percent of your resources are used on these types of investigations on visa overstays. Is that still an accurate image?

Mr. HEALY. I have to get back to you, ma'am, but last year total within the entire program we spent 650,000 hours on visa overstay enforcement. I have a unit, the Counterterrorism and Criminal Exploitation Unit, this is all that they do in coordination with contractors, in coordination with—

Ms. MCSALLY. How many people are in that unit?

Mr. HEALY. I would have to get back to you on the exact, ma'am, but I would probably say well over 100.

Ms. MCSALLY. Okay. Great, thanks.

My time is expired.

The Chairwoman will now recognize Ms. Torres, from California.

Mrs. TORRES. Thank you.

For Commissioner—or Deputy Commissioner Wagner, what are the different challenges of implementing a biometric entry and exit system on our Northern Border versus implementing that similar technology on our Southern Border?

Then a follow-up from that for Ms. Burriesci, can you—once he answers, will you please follow up and discuss the training process of how we intend to bring up-to-date the agents working at both borders?

Mr. WAGNER. Thank you for the question.

At the land borders, unlike on the inbound traffic, we do not have facilities in ports of entry constructed to be able to stop traffic and confirm somebody's departure. That is common on both borders. Places where they collect a toll to cross a bridge, there is some natural stop-and-go, which we can conduct some out-bound operations in, but if it is just a highway that goes across, they don't stop until they hit the Canadian or Mexican in-bound facility.

Now, the big difference with the Northern Border is the Canadian government does record the arrival biographically of everyone into Canada, so we have worked out an arrangement where we exchange the out-bound and in-bound data—our in-bound data and their in-bound data—to service as that out-bound departure record on all non-U.S., non-Canadian citizens.

On the Mexican border, the Mexican government does not collect that type of information. So some of the discussions we have with them is is there a possibility to help them build the infrastructure to be able to do that and have a similar type of exchange.

When we focus on the biometrics, none of the countries have the ability to collect the biometrics from passengers in a vehicle that is moving by or even stopping, so there is the extra challenge of finding technology that can work and look inside of a passenger vehicle or a bus with 50 people aboard to be able to retrieve those biometrics short of getting everyone out and lining up in front of some type of equipment to collect it.

I think looking at the numbers of non-U.S., non-Mexican, non-Canadian citizens crossing the land borders, the numbers are very, very low. If we look at the number of, say, visa waiver travelers, they are very low that are crossing the land borders.

So we are looking at efforts and what programs can we build to start with those populations first and start to move out on being—doing this. But it will be a bit of a manual-type process until the technology really emerges to do that.

Mrs. TORRES. Okay. Can you talk about the training process of bringing the agents up-to-date on training on biometrics—time line, time frame as to what that will take? Can you also touch on this infrastructure that the Canadian has versus what we have and how the two compare?

Ms. BURRIESCI. Well, the Office of Policy does not direct training for officers so I will defer those questions to CBP.

Mr. WAGNER. This was on the training of the biometrics? I am sorry.

So our officers go through a 19-week academy when they get hired, then there is on-going training efforts on current trends with—

Mrs. TORRES. I am not talking about new hires; I am talking about the people that are already there and then we have a new system coming up.

Mr. WAGNER. Right. So we will embark on a training regimen to teach them how to use the new systems, what the policies are, the technical requirements on how to operate the systems, and then what the trends are with what we are seeing and what we are trying to accomplish as far as fraudulent documents, counterfeit documents—

Mrs. TORRES. Is that an 8-hour program? Is that a 2-week program? Is that a 3-week program?

Mr. WAGNER. It all depends—

Mrs. TORRES. Is that a 6-month program? What does that look like?

Mr. WAGNER. It all depends on the type of technology we are delivering and how complicated or complex or new it is to the office. If it is just building on a current capacity, it might be as simple as a 4-hour training. If it is something brand new and a whole different approach with new policy implications it may be a full day, 2 days, or a week. It all depends.

Mrs. TORRES. So what are you looking at planning-wise for personnel that would be taken out of the field to do that type of training?

Mr. WAGNER. For which—

Mrs. TORRES. I mean, we are talking about implementing a biometric program, but you are telling me that we have no answers as to how we plan to implement and train the folks that will be utilizing this program—

Mr. WAGNER. Okay. So—

Mrs. TORRES [continuing]. Budgets that you will need in order to implement it?

Mr. WAGNER. Right. So when we make the final determination on how the technology will operate, there will be a personnel cost on getting officers to work the equipment and then respond to the information that equipment is going to provide. So if we have a mismatch on a biometric on someone departing the United States, an officer has to respond. If we have a case where it is a law enforcement action, an officer will have to respond. But it is too soon to calculate what those personnel costs will be.

Mrs. TORRES. Thank you. I am out of time. I yield back.

Ms. MCSALLY. Thank you.

It is the understanding of the Chair that the gentlemen from Pennsylvania, Mr. Barletta, has a limited amount of time to spend with us this morning. Without objection, Mr. Barletta is recognized out of order for 5 minutes.

Mr. BARLETTA. Thank you.

What happened this weekend in Orlando was tragic. My prayers, as all of ours, are with the victims and their families and with our brave law enforcement officers on the front lines in this fight. This

attack is at the very least inspired by radical Islamic terrorism and once again demonstrates that radical Islam and ISIS are at war with us and want to attack our Western values.

One way that they will do this is through our visas programs, which can be easily exploited. This threat is not new. Congress first mandated the establishment of the fully functional entry-exit system in the Illegal Immigration Reform and Immigration Responsibility Act of 1996.

The 9/11 Commission taught us that to terrorists, travel documents are just as important as weapons. That is the preferred method of entry into our country for terrorists: Come here legally and they just stay, disappear into the heartland.

According to the 9/11 Commission Report, a biometric exit capability could have assisted law enforcement and intelligence officials in August and September 2001 in conducting a search for two of the 9/11 hijackers who were in the United States on expired visas. Mohamed Atta overstayed a tourist visa and Ziad Jarrah violated his student visa.

This is a point that I have consistently raised since joining this committee. For example, one of the terrorists for the 1993 World Trade Center bombings was Mahmud Abouhalima. He overstayed a tourist visa and received amnesty when comprehensive immigration reform passed in 1986. He was a cab driver, but he claimed to be a seasonal agricultural worker. The only thing he planted in America was a bomb.

In 2004 Congress followed the recommendations of the 9/11 Commission and required the use of biometric technology in the entry-exit system by passing the Intelligence Reform and Terrorism Prevention Act. Yet our Government still has not implemented the exit component of this National security system.

I believe it should be a priority for Congress to address this gaping loophole. We should know in real time when a foreign national has left our country.

Why? Because when I first came on this committee we were talking about roughly 40 percent of illegal aliens being present in our country because of their overstayed visas, yet the Department's own incomplete—very incomplete—data shows that in the fiscal year 2015, 483,000 individuals overstayed their visas while 337,000 were caught by the Southern Border.

More people overstayed their visa than were caught illegally crossing the Southern Border.

Mr. Wagner and Mr. Healy, we have always assumed that about 40 percent of the people here in the United States illegally overstayed their visas. Can we now say that is a gross understatement of the visa overstay problem? Mr. Wagner and Mr. Healy, can we follow up here? Were you surprised to find that more individuals overstayed their visas than were apprehended crossing the Southwest Border?

Mr. WAGNER. Well, I think if we look at the visa population, it is less than 1—about 1 percent overstay their visa of all the visa travelers that are entering the United States. As you extrapolate over time—

Mr. BARLETTA. But you are counting people who come in multiple times, right? If I am going back and forth, you are counting—

Mr. WAGNER. No, these are individuals that overstayed their period of admission on a visa. We had calculated it at—for the B1, B2s, which is the majority of them, 1.74 overstayed. As you extrapolate that over time of course that number does decrease because people do leave, but later on. But I don't think you can draw a comparison to the people crossing the land border in between the ports of entry.

Mr. BARLETTA. So you disagree that more people overstayed their visa than crossed the—

Mr. WAGNER. No, I didn't say that. I don't understand the comparison that is being made between those 2 numbers. Yes, there is about 1 to 2 percent of people overstay their visas, but I am not sure I understand the correlation with the Southwest Border numbers.

Mr. BARLETTA. Are you surprised that more people overstay their visas than cross the border illegally?

Mr. WAGNER. I was not surprised by these numbers, no.

Mr. BARLETTA. Okay.

Mr. Healy.

Mr. HEALY. I am not surprised by the numbers either, sir. But from my perspective, we receive the information and I just wanted to let you know that we are as committed to trying to track down and trying to vet these numbers for National security and public safety purposes. So the way we would look at it, sir, is numbers come to us, we follow them to where they take us.

Mr. BARLETTA. I have an important—I know my time is running out, but this is an important point I am going to make. I have begun to introduce legislation that makes a simple tweak to our laws.

As we all know, if someone illegally crosses the Southern Border they are unlawfully present in the United States. That is the term you use. If someone crosses—comes in on a visa and overstays their visa, the term is that they are unlawfully present in the United States.

It is the same term for both individuals, yet the penalty is very different even though both people in this situation have the same legal status: Unlawfully present. Their status is the same: Unlawfully present. But unlawful border crossing is a crime while overstaying a visa is a civil offense.

Does it make sense, Mr. Wagner and Mr. Healy, does it makes sense that the penalty is different? Why doesn't it make sense for the same penalty—be the same penalty for both?

Ms. MCSALLY. We can take that for the record since the gentlemen's time has expired.

The Chairwoman now recognizes Mr. Smith, from Texas for 5 minutes.

Mr. SMITH. Thank you, Madam Chairwoman. I didn't know if you were giving him more time or not.

Mr. Healy, let me direct my first questions to you, but on the way to doing so admit that I have a particular interest in the subject of entry-exit and overstayers. In 1996 I introduced a bill that became law that has still not been fully implemented, and if that law had been implemented I think we would have done a lot to address the problem of visa overstayers.

Last year I think the administration deported about 2,500 visa overstayers. Is that accurate?

Is that the fewest number of any year under this administration?

Mr. HEALY. I would have to check and get back to you on that, sir. I am not sure.

Mr. SMITH. Okay. Let me tell you what the figures are and ask you the question again.

This administration removed 12,500 in 2009; 11,200 in 2010; 10,400 in 2011; 6,800 in 2012; 4,200 in 2013; 3,500 in 2014; 2,500 in 2015. This is, in fact, the fewest number ever deported by this administration in 1 year.

I would like to go to the overall figure. We have heard estimates as to the percentage of people in the country who are here illegally being visa overstayers. Percentages range from 40 percent to 68 percent; let's take 58 percent.

So let's take 10 million people in the country illegally. Half are here because they are visa overstayers and are in illegal status.

So you have got 5 million people now in illegal status because they are visa overstayers. The administration deported 2,500 of those. That is 1/20th of 1 percent.

That sounds to me like an extension of the administration's amnesty program. Why are you not prioritizing these individuals? Why are you not sending more home? Two thousand, five hundred, the fewest of any year under this administration, 1/20th of 1 percent.

I know the administration favors amnesty. Is this, like I say, just part of their amnesty efforts?

Mr. HEALY. Sir, from my perspective, when you took a look at the removals process, when we look at the cases that we have worked and individuals who have gone into proceedings and then you look at the actual removals for that year, the removals process can be quite lengthy, as you are aware, sir. If we grab someone today, they are not necessarily going to be removed any time soon because it could take a while for them to go through the process.

Mr. SMITH. But the—

Mr. HEALY. In terms of our prioritization, sir, we utilize our prioritization scheme along with the resources that we have—

Mr. SMITH. I understand that. But the administration remains convicted by their own actions, by the facts. Why haven't they requested more money in their budget if they want to send more individuals home? They have not requested the money sufficiently to do so.

Let me get at this point another way. How many investigations were conducted last year?

Mr. HEALY. Within this area, sir, specific to 2015, we sent out 10,000.

Mr. SMITH. Okay. Those are 10,000 individuals whose identity you knew, whose location you knew, but you did not consider a priority because they had not been convicted of serious crimes. Is that correct?

Mr. HEALY. No, that is not true sir.

Mr. SMITH. Okay.

Mr. HEALY. Those investigations were sent out for the field investigators to locate and to try to remove these individuals. But can I add one other point, sir?

Mr. SMITH. Sure.

Mr. HEALY. If we send a lead out to the field, or if we don't have the location of an individual, or if we have say a teenager who might not necessarily be of age but we are aware they are in our pool, if we have a situation where we know somebody has applied for a benefit, however they have yet to receive the benefit, all of that plus the individuals we cannot locate out in the field get continuously monitored.

Last year, sir, 95,000 people were continuously monitored, and we periodically recheck those against the intelligence community, against CIS, against ADIS, to make a determination as to whether or not we have the information to send them back to the field.

Mr. SMITH. Had you chosen to do so, many thousands of those individuals could have been deported. You picked 2,500 of the many, many thousand. You mentioned if they have applied for a benefit; there is an immense amount of fraud there where individuals know how to game the system, apply for a benefit, then they know they are not going to be deported.

My concern with the administration's actions is that by sending so few home, by deporting such a small percentage of the visa overstayers, the message they are sending wide and far is just get into the country. If you are not convicted of a serious crime, you are going to be allowed to stay. You are going to pass go. You are going to get the money. That is the wrong message to send because it increases more illegal immigration, it sends a message that the administration is just trying to implement amnesty by another means, and, as I say, it is the wrong message to send if you are really serious about trying to address illegal immigration in America.

Thank you, Madam Chair, and I will yield back.

Ms. MCSALLY. Gentleman yields back.

Chair now recognizes Mr. Duncan, from South Carolina.

Mr. DUNCAN. Thank you, Madam Chair, and thanks for this hearing. Thanks for the information provided about visa overstays.

We talk a lot about it back in the district. I talked about visa overstays with some students that were in my office this morning. The number I used then was 49 percent of all visa overstays, of all illegals in this country, were people that overstayed their visa—people that we gave a permission slip to to enter this country. They had a interview or went on-line with a Visa Waiver Program, but the bottom line is they came to this country with a permission slip, known as a visa, and decided to stay, for whatever reasons.

The numbers you have here are 68 percent. It is an alarming number.

We have entrusted these people with access to our country and they chose to violate that trust. Now I think that is low-hanging fruit for enforcement.

We are not chasing a footprint in the desert. We know who these people are. They had an interview. They had a name, probably a correct spelling, some biometrics, according to Mr. Wagner.

We know where a lot of them were headed—either a work visa or a student visa. But too many times they overstay. This student visa, then why not contact the university if their visa has expired and find out what their status is? Are they still enrolled? Maybe they are in a master's program. Maybe they need to have their visa extended. Maybe we get them into legal status and out of illegal status by extending their visa.

Then we start reducing this number from 68 percent to a lower number, and then we can focus on the real problem in this country and that is our porous Southern Border that is being infiltrated by elements that have nefarious ideals, whether that is drug trafficking, human trafficking, or intent on doing harm to this Nation through acts of terror.

ISIS has said they will infiltrate and exploit our porous Southern Border. They will infiltrate the Syrian refugee issue. Take them at their word.

We send a lot of requests to Government agencies. I just sent a letter—actually several letters—to the Department of State asking about a memo, a white paper that was used to justify them circumventing the will of Congress in the Visa Waiver Program that we passed back in December in ways to try to get foreign nationals that have visited Iran or visited Syria or visited Sudan to circumvent our processes and the will of Congress, negotiated with the White House even, to allow those people to travel the United States.

So they wrote a memo to justify that. We have asked for that, and asked for that, and asked for that, and I am asking for it again from the Department of State, to provide what we requested to Congress.

Mr. Wagner, April 20, Chairman Perry asked Mr. Kolowski about the lost body armor and the 150 firearms that were unaccounted for by the CBP. Can you respond to why we haven't gotten a response from CBP on this?

Mr. WAGNER. No, sir. I was unaware you did not receive a response yet.

Mr. DUNCAN. How about Government agencies be responsible to the United States Congress and respect our request for information?

Okay. Entry-exit visas. When I think about—let's go back to just one thing in just a minute on the visa overstay.

I will give you an example. Boston bombing happened. Had original person of interest that was apprehended and taken to the hospital. Turns out he was an F1 student visa overstay.

He actually was supposed to go to Ohio University and was over in Massachusetts as a student at another university. Why didn't Ohio let the Department know, the U.S. Government know, that this gentleman who came to their university on a student visa was no longer enrolled there?

These are common-sense things that American people expect us to do to start dealing with the number of illegals in this country. That gentleman is not in the country any more, by the way.

So talk with me about an exit system. Right now we are checking airline manifest, but if I go to Japan, I am going to scan my thumb when I am leaving. They are going to know I left the country.

What are we doing about that? Because Congress has actually mandated that system. What are we doing?

Mr. WAGNER. I am not aware that Japan is doing biometrics on departure. I know that they are doing it on entry, like several other countries around the world. I am not aware of many countries that do a 100 percent biometric exit on departure.

Some countries have put automated gates in to speed their own citizens and others' departure from that country, so there are some automated gates that they do allow people to use, but they also have officers and departure control systems set up in departure terminals exclusively for that, so it is easy just to put up a gauntlet of machines to help get everybody going through there.

Now, we are working to deploy the biometric capability on departure. We launched a pilot yesterday—

Mr. DUNCAN. We have been working for several years now. When do we expect the Federal Government to finish this project?

Mr. WAGNER. We will have this deployed and operational by fall of—by 2018. The Secretary has committed to 2018 to be doing this and we intend to do this. There are several steps we have to take before we get there, including launching this pilot, which we did yesterday, which will give us really the final requirements for what this solution will look like.

Mr. DUNCAN. I appreciate the pilot and I appreciate you saying 2018. I look forward to you coming back to this committee and telling us, "This is done. We will know when people have exited the country that have entered from a foreign country."

I yield back. Thank you, Madam.

Ms. MCSALLY. Gentleman's time is expired.

Chairwoman now recognizes Ms. Sheila Jackson Lee, from Texas, 5 minutes.

Ms. JACKSON LEE. Let me pass for Mr. Hurd and I will go after him.

Ms. MCSALLY. Chairwoman now recognizes Mr. Hurd, from Texas for 5 minutes.

Mr. HURD. I would like to thank my colleague from the great State of Texas, want to thank the panelists for being here. Y'all have a difficult job, and I recognize that.

Mr. Healy, I have a set of questions for you. It has been argued that an accurate entry-exit system would enhance ISIS enforcement efforts by reducing DHS's need to review potential overstay leads that turn out to be false positives. For example, about one-quarter of the leads HSI investigated between 2004 and 2012 were individuals who had already departed the country.

Could you explain to the committee how leads are generated and sent to the field offices? I know you addressed that a little bit in your answer to my colleague from Texas.

Mr. HEALY. Yes, I can, sir. So the information, the referral, is received from ADIS, Arrival Departure Information System. From there it is plugged into the automated targeting system CBP belongs to.

It starts to work with my organization. This is all basically automated, sir. First thing we are going to do is we are bouncing it up to the intelligence community a batch request. We are going to send it next over to CIS to see how many are basically in compli-

ance or have applied for benefits, and then we are going to send it back, sir, to ADIS to see how many have departed in that window between receipt and when we are processing.

Just that alone out of that 971,000 number that I provided you, we have already eliminated now 141,000 records in that quick exchange between us and CBP.

The next thing, sir, we are going to wait for the response from the intelligence community, and we will take appropriate action depending on how we prioritize something depending on the response.

Now we meet, sir, with the—a group of interagency intelligence community and law enforcement partners. They have given us a tiered system, a way to prioritize individuals in terms of U.S. security interests. I am more than happy, sir, to—in a closed setting to give you much greater detail on how we do that.

Once that information comes to us and it is bucketed and prioritized, now I have to have analysts who have to manually vet all of that information. When they vet it, sir, we are looking for any type of derogatory information across 22 Government systems that will enable us to turn around and validate what we are doing and locate the individual.

It will continue to work its way through the chain, sir. Once we get to that determination, now it is going to be sent out to the field office.

The referral goes out as a collateral lead investigation. The field office is provided with a jacket, all the information that we have, and the field office is requested to go proceed.

It can go down a criminal road; it can go down an administrative road. But that, in a nutshell, sir, gives you an overview of the process.

Mr. HURD. That is helpful, and that is helpful for the American people to understand the process and what you all go through to identify these leads that you have to follow. So would a biometric exit capability reduce that amount of time because it allows you to focus on people that are actually still in the country?

Mr. HEALY. Well, the example I would use, sir, and the Chairwoman cited it before, as those investigations get sent out to the field, out of that 10,000, 40 percent of those, they are deemed to be in compliance. So it is not an efficient use of resources.

If we have the appropriate system as it evolves and gets to it, we will be able to better apply those resources toward a legitimate enforcement use instead of somebody who has already left the country or has accrued CIS benefits and we can't take action on them.

So, yes, sir. The answer is yes.

Mr. HURD. Good copy.

Is there currently a backlog of unmatched overstay records for terrorism and public safety threats?

Mr. HEALY. In what way, sir?

Mr. HURD. As you have vetted the potential leads through the intelligence community, those 22 agencies that you said you are reviewing, and there was derogatory information, is there a number that you all haven't been able to begin investigation on?

Mr. HEALY. Well, some of it, sir, would be the information that is received. We might have a name; we might have a name and a

date of birth; we might have John Smith who is staying down at a hotel in Disney World.

Depends on the individual. Depends on the information. But I can tell you that this group—we call it the Compliance Enforcement Advisory Panel, and they are very supportive of assisting us to get the information that we need quickly so that we are able to follow up on these leads. I hope that answers your question.

Mr. HURD. Yes. Do you have a percentage of those folks that have been identified by one way or another as having an overstay—that have derogatory, whether it is an SAO advisory or—they have derogatory information and you have a limited amount of information to conduct an investigation?

Mr. HEALY. Yes, sir. What we will do is, as I referenced the continuous monitoring process before, if—even if a lead goes out to the field and it is exhausted, meaning that the agents can't locate the individual, it circles right back around and it goes back into our tank. That would be inclusive of our intelligence community engagements as well.

If we can't identify and we don't have enough to move forward, we will hold it in our tank. If ADIS provides information or CIS or the I.C., we will repeatedly batch those requests and bounce them on a quarterly basis off other systems to kind-of update and refresh the record. Does that make sense, sir?

Mr. HURD. It does. Thank you.

Mr. HEALY. Okay.

Ms. MCSALLY. Gentleman yields back.

Chair now recognizes Ms. Jackson Lee, from Texas for 5 minutes.

Ms. JACKSON LEE. I thank the gentlelady and I thank the Chairwoman. I thank the Ranking Member as well.

Let me acknowledge the representatives here from the Department of Homeland Security and add my personal appreciation to your service. We are having this hearing and it was scheduled before the heinous and horrific terrorist act of this past weekend.

We know every day that you are on the front lines and many of you I have engaged with on a number of issues. We recognize that we also live in a Nation that deals with the issues of civil liberties and civil rights, and we understand that security has to be responsive to that.

Let me before I ask my question, make a few comments. Madam Chairwoman, just to set the record straight, as I look at the Pew Research Center we note that there are about 93,000 overstays coming out of Canada, 123,000 out of Europe, and about 42,000 out of Mexico. There have arrived Central America, 17,000, and then we go down further with South America that has 93,000.

So this overstay issue is not predominant to any one area. I think that is very important. I believe that the President's approach of focusing on those who would do us harm is the most important approach.

Let me also add to the record that this is, the DHS found that there were a total of 44.9 million nonimmigrant visitor admissions in the United States, air or sea, who were expected to depart fiscal year 2015. Of this number, an estimated 527,127 individuals overstayed. That is 1.17 percent.

So today I am really going to say that the Congress has some higher responsibilities right now. I think we need to pass a no-fly, no-buy; that if you are a terrorist on a terrorist list most Americans will not realize that the Department of Homeland Security can only abide by the law. The FBI can only abide by the law. Frankly, they cannot stop terrorists or individuals who have been investigated from buying for terrorism activities a gun. I hope we can pass that today or this week in regular order, that we can have that legislation passed.

The banning of the assault weapons is something that the Secretary of Homeland Security has offered to provide security to the American people. That bill is ready to be passed right now.

So I believe we will find that the alleged perpetrator, now dead, that did the heinous attack on the gay community, heinous attack on Americans, heinous attack on Latinos—dominant numbers of these individuals were from the Hispanic community—he was not an overstayer.

Why don't I just ask the question? Mr. Wagner, was—to your knowledge, was the individual that perpetrated the heinous act, do you have any facts that he was an overstayer?

Mr. WAGNER. I believe he was a U.S. citizen born in New York.

Ms. JACKSON LEE. Thank you, sir. I wanted to clarify that from the record from Mr. Wagner. He was a U.S. citizen born in New York.

So, we are here confronting an issue that is important. The American people believe that there should be regular order in the immigration process.

I believe in comprehensive immigration reform, which would allow Department of Homeland Security to see more people, vet more people, and reject more people, because in fact you would have a process for admission, or you would have a process for the overstays to engage in regular order. I think that is important.

I do want to raise one question about technology. I have supported pilot programs, Mr. Burns, dealing with the technology, the biometric technology of overstays. That is what you need. You are much better at overstay situations in the airports or aviation than you are at the land areas, as I understand it.

But would you share with me what you are doing in Science and Technology—if you do it quickly; I have one last question—on dealing with this technology that you need to better refine the issues of overstays? For all overstays, of course, you have a visa or you come in legally, and then it expires and you don't leave. Thank you.

Mr. BURNS. Thank you for the question. To follow up, it is—as Mr. Wagner said, it is an application issue. Biometric technology and the field of biometrics is rapidly evolving. It is, how do we take the actual pieces of technology and build them in to the operational process?

The border situation, as Mr. Wagner stated, looking at people in vehicles, buses, is very different than the operations of an airport. So we are continuing to evolve and support looking at all biometric technology, actively working with the biometric industry, both large and small business, to make sure that we can bring the proper technology to the table, linking it to the operational process.

In deference, I will stop. You said you wanted more time.

Ms. JACKSON LEE. I do. Thank you very much. I am gratified for that.

Let me ask—

Ms. MCSALLY. The gentelady's time is expired.

We are going to do another round, though, if you wouldn't mind deferring.

Ms. JACKSON LEE. Could I just get this last question out on the record?

Ms. MCSALLY. I cut everybody off at a little after 5, so if you want to submit it for the record or wait for a second round?

Ms. JACKSON LEE. I will do that for the record, then.

Mr. Craig Healy—and I may be able to stay—and Ms. Kelli Ann Burriesci, if you would, I would be interested particularly in student overstays, which is somewhat difficult, and whether or not we include—incorporate the institution that they are supposed to be going to as an assist or a partner in determining. Is there a reporting feature that students—that universities have to utilize with respect to students?

I would add employment, as well, because a lot of those visas, those H-1B visas, individuals have their families here, they have rooted here, and then they are without employment, looking for employment, and they may be considered an overstay.

Ms. MCSALLY. Okay. The gentelady's time is expired.

Actually, I was going to ask about student visas in my next round, so I will ask the panelists to answer concerns about the student visa process. Those are not in this report, just so we know.

Also I want to note, Mr. Healy, in the testimony you said for CTCEU's priority No. 1 list you listed a series of projects and initiatives, and one of them is called the Recurrent Student Vetting Program. So let's talk about the student visa process and compliance with universities, information flow, and how this all works.

Mr. HEALY. Yes. Yes, ma'am.

So in terms of the SEVP program, the Student Exchange and Visitors Program, we do have on several fronts in terms of overstays. We would not treat them any differently than we would any other overstay category.

So in the numbers that I referenced earlier, ma'am, those are not only being fed into terms of SEVP submissions coming in from SEVIS. In other words, if a school determines that a student is no longer within a program and they terminate the student, the school will report that to SEVIS. That will come in to us.

There is also—

Ms. MCSALLY. Could you talk about the compliance rate? I noticed you talk about the airlines—there are fines and nearly 100 percent compliance rate for passing information to you. What about educational institutions' compliance rate, and are there any fines for noncompliance?

Mr. HEALY. Well, there could be, ma'am. I will speak a little bit in generalities about it. I will have to get you specifics in terms of the actual program.

But from our perspective, yes, we do have a robust compliance program. We do site visits—unannounced site visits. We are able to turn around and do out-of-cycle reviews. As you are aware, every school is mandated that they be certified every 2 years.

So we have a robust engagement with the schools through SEVP. It is required that the schools—their designated school officials report the information. If an individual stop attending class or if there is a problem with the student, they are required to report that within I believe a 30-day period.

We have also started a new program, ma'am, in terms of our field representatives. We now have 60 individuals that are geographically placed around the country. Their job is to be that in-between. They visit schools daily to make sure that the information flow is continuing.

In terms of your question about recurrent vetting, what that basically means for us, as a part of our prioritization process every student that is legitimately in the United States attending school, when derogatory information comes in it is vetted against every individual student. So it is just another opportunity to make sure that we are being as expansive as we can be in our vetting processes.

In terms of specific compliance rates, ma'am, I would have to get back to you on that.

Ms. MCSALLY. Okay. Great. Thank you.

Will next year's report include visa overstay information on students as well?

Mr. WAGNER. Yes. We plan to include the student visas, some of the worker visas, as well as the U.S.-Canada land border non-U.S., non-Canadian travelers.

Ms. MCSALLY. Okay. Great, thanks.

I want to follow up on the report. This is the entry-exit overstay report, and I ask unanimous consent that it be entered into the record for fiscal year 2015, the one that has been referenced several times today.*

Ms. MCSALLY. Table one gives a review of Visa Waiver Program countries. Several of them are over 2 percent: Chile, Greece, Hungary, Lithuania, Portugal, and Slovakia.

In your testimony you indicated that there is consideration to potentially using these overstay numbers to impact future inclusion in the Visa Waiver Program. Ms. Burriesci, can you clarify what is being looked at related to that?

Ms. BURRIESCI. Overstay rates is part of something larger called the disqualification rate, and that is one of the requirements for a potential country to become a member country. So we do look at those overstay rates.

Ms. MCSALLY. Okay. It is just in the testimony it says we are looking at future—I can find the exact page that that is on—looking at future use of this information related to visa waiver countries, so I was just wondering what that meant in the testimony.

Ms. BURRIESCI. Oh. Yes, ma'am. Thank you for that question.

As we have testified, we have been working on the reliability and accuracy of that data. So as that data improves, we would use that information for making determinations on whether a country's status remains and whether their designation in the program remains or we need to take an additional action.

*The information has been retained in committee files and is available at <https://www.dhs.gov/sites/default/files/publications/FY%2015%20DHS%20Entry%20and%20Exit%20Overstay%20Report.pdf>.

Ms. MCSALLY. So is that currently being utilized to make a determination? It is on page 7 in the top paragraph.

Ms. BURRIESCI. There is not a Visa Waiver Program country that is currently over the 3 percent requirement.

Ms. MCSALLY. Okay.

Then for the non-visa waiver countries we have got Afghanistan at 10 percent; Burkina Faso, 18 percent; Bhutan, 24.89 percent; Chad, 17 percent; Djibouti, 27 percent; Eritrea, 19 percent. I mean, these are huge numbers.

So what is the information in this now? What is going on with this? Are you using it to decide whether countries should continue to have a certain number of visas or trying to address the issues of noncompliance with that country?

Ms. BURRIESCI. The Department of Homeland Security assists in the vetting of the visas and the State Department issues the visas. So I am not sure if that answered your question or not.

Ms. MCSALLY. So is there any feedback loop from this report to DHS and the State Department? I mean, are we just continuing to issue visas to these countries that have 20 to 30 percent overstay rates, or is there any sort of punishment or accountability?

Ms. BURRIESCI. That might be a question better referred to the Department of State.

Ms. MCSALLY. Okay. Is there any coordination that any of you can speak about from this information to the Department of State? Are they aware of it?

Ms. BURRIESCI. The Department of State has the numbers that you have referenced, has the report information, yes.

Ms. MCSALLY. Okay. We will follow up on that.

I will now recognize Ms. Sheila Jackson Lee for another 5 minutes.

Ms. JACKSON LEE. Thank you, Madam Chairwoman, very much.

I want to pursue my line of questioning, but I am going to pointedly ask for a more explicit response from Mr. Wagner, Mr. Healy on the job-related visas, the H-1Bs in particular, if there are others, in terms of any precise numbers that you may have of those.

The numbers that we have—and I just want to recite these numbers again because I think it is worthy of including in the record—44.9 million nonimmigrant visitor admissions, and the record shows a estimated 527,127 individuals overstayed their visas, 1.17 percent. The report goes on to say, in other words, 98.8 percent of nonimmigrant visas complied with their terms of admission and departed on time in fiscal year 2015.

But do we have any sort of isolation of the numbers dealing with those who are overstays that relates to work? To Mr. Wagner and Mr. Healy.

Mr. WAGNER. No, we have not broken those out yet, but we will include those in next year's report. Now, this year's report included about 85 percent of all travelers, so all the other visa classifications covers about 15 percent of commercial air passengers.

Ms. JACKSON LEE. So you will do that for us next year? I think that will be very helpful.

Mr. WAGNER. Yes.

Ms. JACKSON LEE. But let me get to the bottom line of what my concern is. This should all be about, as we look at how we help you

do your job, and I have already said a metric of new laws under the title that we have been speaking about, many of us for a very long period of time, comprehensive immigration reform, which again refines and defines probably even in a more detailed manner what happens to overstays, maybe based on the level of threat.

I am not arguing for overstays. They are persons who are in the United States unauthorized. But I think the question for the American people is the issue of security and the level of threat that these individuals represent.

Mr. Wagner has reinforced the public information that the deceased actor and terrorist for the event in Orlando was not an overstay, was not an immigrant. The individual was a citizen of the United States born in New York. So I am concerned that Department of Homeland Security, which last part of its name is security, is taken away from major responsibilities dealing with the level of threat.

So to Mr. Wagner, Mr. Healy, you are in Homeland Security Investigations. Have you all been able to assess overall, say, the 500,000 individuals that have overstayed? Can we include in the report an assessment of the threat that they represent, which I believe is what the American people would be concerned with? Mr. Wagner, Mr. Healy.

Mr. WAGNER. Let us take that back and look at that for inclusion in next year's report, some analysis of what the overstay population encompasses.

Ms. JACKSON LEE. I think that would be extremely important.

Mr. Healy.

Mr. HEALY. No, I would agree, ma'am. That is something that we are going to have to take back and consider and provide you that information at a future date.

Ms. JACKSON LEE. Let me continue that line of questioning.

In your recollection—and help me. Obviously, I have served on Homeland Security. I am trying to just monitor mass shootings. San Bernardino. Maybe you can recollect because it would have come to your attention, were any of those individuals—the—as I remember, the Virginia Tech was an individual from the Asian community. The Connecticut and Newtown, Auburn—excuse me—Colorado, in the theater—you can just—does any overstays come to mind in any of those mass shootings? I may not have calculated all of them.

Mr. WAGNER. I can't think of any off-hand, no.

Ms. JACKSON LEE. So, we all want to do our research, make sure we are giving accurate questions, but to your—coming to your mind at this time—and I believe that if one was it would probably remain very viable, enough for you to remember an individual because it would have come to your attention as to what kind of person perpetrated those particular incidences or mass incidences.

Mother Emmanuel was not; Colorado was not, to my recollection; Columbine was not; Virginia Tech was not; Newtown was not; San Bernardino were individuals who were stasured, though they were immigrants, if I recall. Certainly going back to as far as 9/11, let me say that I am not ignoring that. That is 9/11—I used the term mass shootings—9/11 did have overstays.

So my question would be, after 9/11 the Department of Homeland Security was created. Do you feel that you have enough structure in place that you would have caught or would have been drawn to the attention of the overstays that were part of the acts of 9/11 where there were overstays that were engaged in that?

Mr. WAGNER. I believe we would have identified them, yes. With the systems that are in place now and the measures that are in place now, I believe so.

Ms. JACKSON LEE. All right. Can you just expand on those systems without breaching confidentially?

Mr. WAGNER. I think, you know, well, one of the things we do is we take the visa database that State Department provides us and we run recurrent checks every day on that information, and if someone appears on a watch list that has a current visa, one of the things we do is look to say are they in the country or have they left the country. Regardless of whether they are an overstay or not, are they still here?

We will provide that information to ICE, we will provide that information to the FBI, we will provide that to the intelligence community. But we have ways to identify those in real time when those things happen.

Ms. JACKSON LEE. Well, let me thank you, Madam Chairwoman. I am going to yield back.

Mr. Healy, did you want to comment on the investigation part of it?

Mr. HEALY. I was just going to add, ma'am, that we rely heavily upon the intelligence community and our law enforcement partners to help us prioritize. So I am comfortable that they are providing us with good guidance for the individuals that we should be targeting and focusing on for National security purposes.

Ms. JACKSON LEE. That are coming into the United States.

Let me thank you, Madam Chairwoman. I think I want to leave my time at the microphone with the ultimate question of the threat to the people of the United States and our responsibility of securing them. I think any hearing that we have here in this committee needs to be in that context, and thank the men and women who are on the front lines for doing so.

I end by saying I know, Madam Chairwoman, this is not your jurisdiction, but I cannot help saying that this week we must pass no-fly no-buy. If you are in any way had discussions about terrorist activities or threatening comments toward the American people you cannot buy an assault weapon or any guns of any kind.

I thank the gentlelady for being kind enough, and I yield back.

Ms. MCSALLY. Gentlelady's time is expired.

I am going to go through another round. Again, I appreciate the patience of our panelists here.

Mr. Healy, you mentioned in your testimony you had 10,000 leads last year, 1,910 arrests, 86 indictments, and 80 convictions. Is that number of arrests to convictions—that seems like a small percentage of arrests. Is that pretty typical or could you kind of speak about those that were arrested who, for whatever reason, have not been convicted?

Mr. HEALY. The arrests, ma'am, include not only criminal arrests but also administrative arrests. So in a situation where there

might be a criminal prosecution following as part of an investigation, or there might be nothing much—might just be virtue of the fact of an administrative arrest because an individual is an overstay.

Ms. MCSALLY. So of the 1,910, do you know how many were criminal arrests and how many were administrative arrests?

Mr. HEALY. I believe—

Ms. MCSALLY. Can you just walk me through the process of an administrative arrest? Like what does that mean, and what happens after the arrest?

Mr. HEALY. What will happen is an individual will be encountered and they will be issued a notice to appear. It could be broken down into a couple different categories. If there is derogatory information, then it may be a custodial-type detention or the individual might just receive the notice to appear and then they are required to appear before an immigration judge.

If it is a Visa Waiver Program they are not required to appear before an immigration judge because that is waived by virtue of the fact that a person came in through the Visa Waiver Program. But it would basically not go down the criminal route, would not go through the U.S. attorney's office; it would be an internal administrative protocol that is run by ICE and enforcement and removal operations.

Ms. MCSALLY. Okay. So of the 1,910, do you know how many were administrative? If you don't we can—

Mr. HEALY. I have it, ma'am. I will get it for you.

Ms. MCSALLY. Okay. Do you also know—and this may be just for the record, and I wasn't planning on going down this road, but since you brought it up—of those that have been given notices to appear, are you tracking those that do not appear and do they kind of go back into the system here?

Mr. HEALY. That is correct, ma'am, yes. Yes. We can get you those numbers and break them down for you.

Ms. MCSALLY. So are they then included in the, you know, 355,000 remaining, because they maybe sort-of left your numbers and came back to the numbers?

Mr. HEALY. Well, they would come back to us, ma'am, and they would actually wind back up in our continuous monitoring.

Ms. MCSALLY. Yes, okay. Okay. Great.

Mr. Burns, can you talk about the Apex program and what we learned from the program and how that is going to inform our implementation of, you know, future—the future biometric exit program?

Mr. BURNS. Certainly. Thank you.

The Apex AEER program I think was indicative of the Department's commitment to try and answer the question. So instead of it being the typical "let's go develop something," it was really a collaboration between CBP and S&T to look at the biometric entry and exit issue.

In addition, we brought in all of the stakeholders that would have to deal or be impacted by what we were doing. So it was very important to bring in the biometric industry, the airline industry, and everybody that would be part.

So the first couple of months was actually getting everybody to identify the problem, both from a DHS operational perspective but also from an airline and an operation perspective as well. So the team was broad. The team was inclusive.

Then we went and worked with industry, both small and large business, to identify the technologies—finger, face, and iris—which were the 3 that we deemed would fit in this operational construct, to bring them across the border and start the process.

Biometric technology is evolving. Biometric technology is here to stay and I think will help answer the question. The issue is its application within the environment.

Fingerprint technology that works well in one location does not work in another; the same with facial and same with iris. The simple thing is lighting or the environmental conditions of humidity will impact how we work it.

So we ran a series of operational simulations within the Maryland test facility to see how well all those pieces would come together. All of that information has been provided to CBP so they can build into their longer acquisition program.

We started from the get-go knowing that whatever the technical solution or products that we were going to bring out had to fit into their acquisition program. So operational requirements, cost-benefit analysis, all those things that would help them make a successful decision as they moved forward was provided to them.

We also made sure that we looked at it from an entry and an exit holistic perspective. So whatever you do, as Mr. Wagner has said, on the exit side impacts entry. So we worked to see what could we do to speed up entry as we brought things forward for exit.

We knew we had to deal with seconds. Five seconds added to an entry process is a huge amount of time. So we were down to looking at technology and operational processes that were 3 seconds differential from something else, and we brought all of that together.

Working with the general public was also incredibly important. As I stated, we had 1,700 people from 18 to 81. We looked at all ethnicities, 50 different countries of origin. Because once again, it has to work for everyone that is in the traveling public.

Ms. MCSALLY. Great. My understanding is there is an AEER report that you have that is going to be delivered to us, or can you give us a time frame of when we might—

Mr. BURNS. We are in the process of completing the high-level report of our findings. It is not as detailed as we would like because many of the companies that brought their technology did it under the agreement that their intellectual property and some other aspects would be protected. But the high-level report is in process, should be ready this summer. I can get back to you with a specific date.

Ms. MCSALLY. Okay. Great. Thank you.

Mr. Wagner, in the testimony—your joint testimony that already put together, said the compliance for—I know whether you guys call it APIS or A-P-I-S—is near 100 percent. I think in 2015 the number was 92 percent. Can we talk about what steps are being

made to bring that to as close to 100 percent as possible? What are the reasons why it is not 100 percent?

Mr. WAGNER. Correct. So when the airline transmits the information to us we do all of our pre-arrival vetting and database checks on that. So when the person actually arrives and we read the document that is presented now, we compare it in the data fields against what the airline transmitted, and then we keep a log of any type of discrepancies.

If there is data missing or inaccurate, the airlines are subject to a fine for that. We issue very few fines these days. I think we issued maybe about a dozen last year total.

Generally I think they are for like missing crew data or a late transmission of the information. But we can certainly get you a breakdown of that.

Where we see some of just the technical issues of a date of birth where they put the month and the day instead of the day and the month, some formatting issues like that, especially when it is keystroked in overseas by airline personnel and not through the machine-readable zone of the document, which is what we try to encourage.

But by and large, the data is accurate both inbound—and what we have found with outbounds, even though on the departure manifest we are not there to validate each and every single transmission, what we are finding with the mobile technology that we deployed—one of the things we did is let's confirm the accuracy of what the airlines are providing.

We are finding that it also was in the high-90 percentile of accuracy. When we conclude our report on the mobile technology, we will include those figures in there.

Ms. MCSALLY. Great. Thanks.

I want to follow up, Mr. Wagner, on—I understand the differences between what we can do with Canada with information exchange and the challenge that we don't have a similar exchange with Mexico. Is there anything we can do with Mexico to address providing some better information for land ports of entry on the Mexican border in the short term? What are the ideas for the longer term?

Mr. WAGNER. Well, we continue to hold discussions with them about the databases that they do have and what types of information are potentially to share, what kind of information are we sharing already. You know, at the land border they just do not have a system or the technology or the infrastructure to collect the passenger-level information.

They collect license plates, and we have talked about sharing them or exchanging that. But at the traveler level, they just don't have a system. So it is a case of we can build it on our side for departure and record it, or maybe we could—this opportunity to work with Mexico to build the infrastructure to collect it and then both of us use it.

That is, you know, the ideas and the concepts that are being kicked around, but we haven't really solidified an approach that would work.

Ms. MCSALLY. Great. Thanks.

So a lot of what we have talked about so far and really the focus of the hearing is tracking people who are overstaying and using biographical and biometric information in order to know, you know, who has left and who is in compliance and who is not.

You mentioned in testimony, and we are interested in this committee, about the pilot program of identifying to make sure the person is the person who owns the passport, right? So they could have a fraudulent passport, a stolen passport, and that may—you can match their fingerprints to them in and out but it still may be that there is fraud involved and that is not the person who it is supposed to be.

The pilot project that we had to match the facial recognition—I am interested in the outcome of that. I think Mr. Hurd has legislation to make that permanent for all passengers.

Can you just comment on the fraud piece and how we can make sure that bad guys are not using the system to their advantage? I mean, you may match their biometrics to their passport, but if it is not the right person then we have a whole other program.

Mr. WAGNER. Correct. So as travel documents' physical security has gotten a lot better over the years, we have seen the amount of altered or counterfeit-type documents decrease tremendously, especially in the commercial air environment.

Where the risk remains, though, is a person with a legitimate document that does not belong to them—a lost document, a stolen document, a borrowed document. That is really where the risk is because it is a good physical document. You have to compare the person against it.

Most of the countries issue now electronic passports that at least at the minimum have a photograph on there, including U.S. travel documents. So what we are able to do with the facial comparison technology is read that chip, open it up, take a picture of the traveler, compare the two using an algorithm, and tell us with some certainty or probability that it does belong to that person.

So what we are seeing—we have caught a couple of impostors, what we call them—a person using the—a legitimate document that doesn't belong to them. Just a couple of weeks ago at JFK we had a woman arrive on a flight from Ghana, I believe, that presented a U.S. passport. The officer looked at it; didn't quite think the picture matched up to the traveler, put her in front of the camera, recorded it, and it turned out that no, she was not the document-holder. She turned out to be a person from Liberia that had been denied a visa previously last year.

But knowing that she had a U.S. passport wouldn't routinely subject her to fingerprints upon entry. But using this comparison to the picture on the photograph of the document she presented, we could confirm she is an impostor. We then can fingerprint her, found out what her real identity was and the fact that she was denied a visa.

So it is incredibly helpful technology for our office to be able to help make that determination of who the true document-holder is.

Ms. MCSALLY. Great. Thanks.

Mr. Healy, if you were in charge of—with unlimited resources, in order to be able to do you job, to whittle down those who have overstayed and quickly be able to locate them and take appropriate ac-

tion, what else would you need? We heard the biometric exit would help whittle down those false positives. What else would you need?

I am also interested in local law enforcement are often maybe the first people that are encountering individuals, the information flow between the Federal and the local officials, and what access they may have. But what is your wish list in order to address this issue?

Mr. HEALY. I think we are going in the right direction, ma'am, in terms of the work that we are doing, from where we have come from to where we are now. The system is not perfect. No system is perfect.

But all the players that need to be engaged are engaged. CBP is in the process of pulling it together in terms of the automation process, which is making it a lot easier for us.

In terms of our local engagement, through our field offices, through our task forces we are tied at the hip with our local States and local partners. So they also can be a part of this process, as well.

So in terms of what I would hope for, I would just hope that we would just continue to move in the direction that we are moving. I think that we will get there soon.

Ms. MCSALLY. Thanks.

I do want to follow up on Mr. Barletta's question—I had thought about that myself in preparing for this hearing—is right now if somebody overstays less than—what is it? They can't come in for 2 years if it was a short overstay, and they can't come in for 10 years if it was a long overstay? Yes, okay, 3 and 10. Those are really the only disincentives or accountability items.

Would it be valuable to provide some other accountability to these overstayers—to make it a crime, to have some fines, to have maybe a little bit of a harsher penalties of not being able to reenter? Are there any disincentives that we should consider—thoughtful disincentives?

Mr. WAGNER. Well, what we do see is people that overstay, as time goes on, you know, those numbers do get whittled down, like you mentioned. You know, a lot of people do leave at some point, just late or later.

They are subject to that 3-year bar or 10-year bar of getting a visa then to come back. They certainly cannot use the Visa Waiver Program again. You know, their Estás are invalidated; that information goes to State, and then they have to go to State and apply and really state their case as to what why they overstayed.

So once they do depart the United States or are removed from the United States, it is going to be very difficult to come back in and get a visa unless they overcome with a waiver, and there are procedures to do that, or wait out the bar of inadmissibility.

I don't know if fining them or making it a criminal act would change the behavior of the people that are going to stay here and not leave.

Ms. MCSALLY. Are individuals who left, say, 60 days late considered the same as individuals you caught 60 days later and put out? Like, basically it is the same punishment that they left voluntarily or you caught them and deported them? Because that is different behavior.

Mr. WAGNER. I believe it would be the same.

Ms. MCSALLY. Okay.

Mr. WAGNER. I will have to think about it.

Ms. MCSALLY. Do all of you—I mean, do you feel that those disincentives are adequate?

Mr. WAGNER. I think people that are going to stay here permanently are—will try to stay here permanently. It will be difficult to come back in once a person leaves that has been identified as an overstay, so it is going to be difficult to get a travel document, to get on board a plane to come back.

Ms. MCSALLY. Okay.

I think we have exhausted a lot of items here. Let me give the opportunity for any of the members of the panel to share any other perspectives you weren't asked about that weren't in your testimony that you feel are important, even with some of the lines of questioning that came from the entire group of Members here. Is there anything else you want to leave with us that we haven't considered on this issue?

Mr. HEALY. Ma'am, just for the record, I wanted to clarify I have that number. Out of the 1,900 that you asked about—

Ms. MCSALLY. Yes.

Mr. HEALY [continuing]. One hundred thirty of those were criminal.

Ms. MCSALLY. Got it. So it is 80 of 130, not 80 of 1,910, right? You know, 80 convictions of 130—

Mr. HEALY. That is correct.

Ms. MCSALLY [continuing]. Criminal arrests.

Mr. HEALY. That is correct, ma'am.

Ms. MCSALLY. That is a little bit of a higher rate of conviction there.

Mr. HEALY. Yes, ma'am.

Ms. MCSALLY. Okay, great. Anything else?

Mr. WAGNER. I would just like to add that, you know, just to follow up on what we discussed about the—our plan is to deploy the solution in fall 2018. The Secretary has charged us with doing that. We have put together a strategy to get there.

It is contingent on the Government procurement process to spend the fees that Congress has made available to us to do this as a reference of \$1 billion over the 10 years to do that. So there is a quite extensive procurement process, several steps that we will be engaging the industry and doing request for proposals over the next, you know, 18 months to be able to get there.

So there are some tight deadlines to do this, but we will be going through that structured procurement process to be able to take that money and then put it onto a contract and be able to spend it to deploy the solution. So that is all.

Ms. MCSALLY. Great.

Any other—Mr. Burns. Ms. Burriesci. Anything else to add?

Ms. BURRIESCI. No.

Mr. BURNS. No.

Ms. MCSALLY. Great, thanks.

I appreciate the hard job that you all have. There is obviously some differing perspectives about what is more important, you know, 1 percent or, you know, 480,000. I think at some point, you know, quantity has a quality all of its own when you are talking

about the magnitude of individuals, and it only takes one person with bad intentions, you know, to be a risk to public safety and National security.

So we don't need to hyperbolize it, but we need to be vigilant about doing everything we can to make sure that those that are trying to use our system and our processes that are trying to do us harm are very quickly identified and the public remains safe. So I appreciate all the efforts that are being made related to that.

I think we do have a lot of—a lot of work has been done, but we do have a lot of work left to do, and we look forward to partnering with you to make sure that we are able to close some these gaps that are still there in technology and procedures and whatever else is required.

So I appreciate your testimony today and appreciate all the work that you all do.

I also want to thank the Members for their questions. The Members of the committee may have some additional questions for the witnesses, and I think we have already had some for the record, so please get back. We would ask you to respond to additional questions in writing. Pursuant to committee rule VII(e), the hearing record will be held open for 10 days.

Without objection, the committee stands adjourned.

[Whereupon, at 11:49 a.m., the subcommittee was adjourned.]

