VISA OVERSTAYS: A GAP IN THE NATION'S BORDER SECURITY

HEARING

BEFORE THE

SUBCOMMITTEE ON BORDER AND MARITIME SECURITY

OF THE

COMMITTEE ON HOMELAND SECURITY
HOUSE OF REPRESENTATIVES

ONE HUNDRED FIFTEENTH CONGRESS

FIRST SESSION

MAY 23, 2017

Serial No. 115–17

Printed for the use of the Committee on Homeland Security

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VISA OVERSTAYS: A GAP IN THE NATION'S BORDER SECURITY

Tuesday, May 23, 2017

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

The subcommittee met, pursuant to notice, at 2 p.m., in room HVC–210, Capitol Visitor Center, Hon. Martha McSally [Chairwoman of the subcommittee] presiding.

Present: Representatives McSally, Rogers, Duncan, Barletta, Rutherford, Vela, Richmond, Correa, Demings, and Barragán.

Ms. MCSALLY. The Committee on Homeland Security, Subcommittee on Border and Maritime Security will come to order. The subcommittee is meeting today to examine visa overstays and their impact on National security. Conversations about the best way to secure the southern land border have been the principal focus of the media, Congress, and the administration for the last months.

Today I want to transition to an equally important but often overlooked aspect of our border and National security, visa overstays. Yesterday DHS released the official fiscal year 2016 overstay numbers, and this year they expanded the number of visa overstay categories to include students and other non-immigrant visa holders.

I want to commend DHS for producing a more accurate picture of the challenge, but the numbers are stark. CBP calculated that we had nearly 740,000 people overstay their visas at some point in fiscal year 2016. Even using CBP's more generous numbers that account for some of those overstays who eventually leave, albeit late, we had almost 630,000 overstays still in the country at the end of last fiscal year.

Over more time, as more and more overstays left, the number gets smaller and by January of this year, we still had 544,000 overstays from fiscal year 2016 suspected of being in the country, still an incredibly large number. To put that number in context, we only apprehended 310,000 unique individuals crossing the land border illegally last year, meaning we had almost twice as many overstays as people apprehended at the land Southern Border.

It is probably time to jettison the conventional wisdom that visa overstays make up about 40 percent of the illicit flow. With this year's number of border apprehensions at a record low, visa overstays are a much, much bigger problem than it has been historically.

So why does closing this gap in our border security defenses matter? Well, there are unidentified National security and public safety risks in a population that large, and visa overstays have historically been the primary means for terrorist entry into the United States. 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 was 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 expired. At least four 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 our border security." The hijackers passed through 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.

That is why I wanted to hold this hearing today. I do not want the threat posed by visa overstays to get drowned out by the challenges we face on the southern land border. We can chew gum and walk at the same time.

We have to keep the DHS focused on both problem sets, illicit traffic flow that crosses the land border and the growing problem of visa overstays. In order to tackle this 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. A mandate for a biometrically-based entry-exit system has been a requirement for 12 years.

CBP has made, in fits and starts, only marginal progress when it comes to the 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.

Recent Executive Orders make it clear that, finally, finishing the exit system is a priority for this administration. Building on previous testing and pilots, CBP will engage in a series of operational demonstrations with a planned roll-out of a facial recognition exit system at some of the Nation's largest airports.

The previous administration committed to a 2018 roll-out of a fully operational biometric exit system at the Nation's highest-volume airports. I look forward to hearing about the plans for exit beyond the operational demonstrations.

Putting a biometric exit system into 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 in the United States, just as four of the 9/11 hijackers were able to do.

In the current high-risk threat environment, it is imperative that we place greater emphasis on the visa process as a counter-terrorism tool. 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 here illegally. Otherwise, we put our citizens at risk unnecessarily.

The recent report by DHS's Office of Inspector General casts significant doubt on ICE's ability to do just that. Multiple I.T. systems, stovepipes, and lack of training have appeared to hamper the work of our agents.

According to the OIG, we have a backlog of 1.2 million visa overstay cases, and we have wasted manpower chasing leads that have either already left the country or have changed their immigration status.

In one instance, an ICE agent spent 50 hours tracking down a lead that turned out to not be an overstay after all. We are closing cases, thinking a public safety threat has left, when in reality they are still here. We have to do better.

Adding a reliable exit system will be an immediate force multiplier that allows National security professionals to focus their efforts on preventing terrorist attacks and only spending time tracking down people who are still in the country.

[The statement of Chairman McSally follows:]

STATEMENT OF CHAIRWOMAN MARTHA MCSALLY

MAY 23, 2017

Conversations about the best way to secure the Southern land border have been the principal focus of the media, Congress, and the administration for the last few months. Today, I want to transition to an equally important, but often overlooked, aspect of our border and National security: Visa overstays.

Yesterday, DHS released the official fiscal year 2016 overstay numbers and this year they expanded the number of visa overstay categories to include students and other non-immigrant visa holders. I want to commend DHS for producing a more accurate picture of the challenge, but the numbers are stark.

CBP calculated that we had nearly 740,000 people overstay their visa at some point in fiscal year 2016. Even using CBP's more generous numbers that account for some of those overstays who eventually leave, albeit late, we had almost 630,000 overstays still in the country at the end of the last fiscal year.

Over time, as more and more overstays leave that number gets smaller, and by January of this year we still had 544,000 overstays from fiscal year 2016 suspected of being in the country—still an incredibly large number.

To put that number into context we only apprehended 310,000 unique individuals crossing the land border illegally last year. Meaning we had almost twice as many overstays as people apprehended at the land border.

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So, why does closing this gap in our border security defenses matter?

There are unidentified National security and public safety risks in a population that large, and visa overstays have historically been the primary means for terrorist entry into the United States.

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 was not surprising. Since the 1993 World Trade Center bombing, terrorists have abused the hospitality of the American people to conduct attacks here at home.

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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.

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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 four of the 9/11 hijackers were able to do.

In the current high-risk threat environment, it is imperative that we place greater emphasis on the visa process as a counterterrorism tool.

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.

The recent report by DHS's Office of Inspector General cast significant doubt on ICE's ability to do just that. Multiple IT systems, stovepipes, and lack of training have appeared to hamper the work of our agents.

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We have to do better.

Adding a reliable exit system will be an immediate force multiplier that allows National security professionals to focus their efforts on preventing terrorist attacks, and only spending time tracking down people who are still in the country.

Ms. MCSALLY. The Chair now recognizes the Ranking Member of the subcommittee, the gentleman from Texas, Mr. Vela, for a statement he may have.

Mr. VELA. I thank Chairwoman McSally for holding today's hearing on the border security risks posed by visa overstays. While the White House focuses its border security rhetoric on building a wall

along the Southern Border, attention and resources should be paid to issues like overstays.

I represent border communities that know first-hand the security challenges we face along the border, but to keep our focus mainly on walls is a vulnerability in and of itself. The approximately 740,000 individuals who overstayed in fiscal 2016 is a far greater number than the 331,000 individuals who were apprehended along the U.S.-Mexico border that year. I believe these figures illustrate the challenge overstays pose.

Over the last few years, DHS renewed its efforts toward a biometric entry-exit system. I look forward to hearing from our panel today about its progress and development and plans for the eventual deployment of that system. I hope to hear about how the Department plans to address biometric exit at our land borders, particularly along the Mexican border.

Unlike Canada, Mexico currently does not have the entry infrastructure, technology, and processes necessary to share traveler information with the United States. 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.

[The statement of Ranking Member Thompson follows:]

STATEMENT OF RANKING MEMBER BENNIE G. THOMPSON

MAY 23, 2017

This committee has long conducted oversight of DHS's activities aimed at addressing overstays and deploying a biometric entry-exit system to identify those who do not depart this country at the appropriate time.

Deploying such a system was a key recommendation of the 9/11 Commission and has been mandated repeatedly on a bi-partisan basis by Congress.

The previous administration's commitment to deploying a biometric exit system at our Nation's busiest airports starting in 2018, coupled with Congress authorizing up to $1 billion over the next decade to pay for such a system, was an essential step towards this goal.

I look forward to hearing from our Customs and Border Protection and DHS Office of Policy witnesses today about their progress toward deploying biometric exit and whether they remain committed to the 2018 time line. As part of the effort to address overstays, the Department released its first Entry/Exit Overstay Report in January 2016.

The 2016 report concluded that over 527,000 individuals, or approximately 1 percent visitors entering the United States by air, overstayed in fiscal year 2015.

While only a small fraction of these visitors pose a security or safety concern, it is worth noting this overstay figure far exceeds the approximately 331,000 individuals apprehended entering the United States along the Southern Border over the same time period.

President Trump is so busy trying to build his "big, beautiful wall" in a misguided attempt to curb illegal immigration, I am concerned his administration will lose focus on dealing with those who come into the United States on a visa, through the proverbial front door, and remain in this country.

This committee is very interested in the fiscal year 2016 overstay report, released just yesterday, and what lessons can be learned about how to address overstays who may pose a security concern.

Though the scope of this most recent report was broader in that it included several more nonimmigrant visas categories, it would appear that the result is not significantly different from last year's analysis.

Of the 50.4 million air and sea nonimmigrant visitors who were expected to depart in fiscal year 2016, 739,478 individuals were suspected to have overstayed, which amounts to a 1.47 percent overstay rate.

I hope to hear more about a recent DHS Office of Inspector General report that concluded DHS IT systems do not effectively support ICE visa tracking operations, requiring ICE personnel responsible for investigating overstays to manually piece together information from over a dozen systems and databases throughout the Department.

Identifying and responding to overstays who may pose a security concern is a difficult enough task without technology being an impediment.

Moreover, the OIG argues that the information used by DHS to produce its annual report to Congress may underestimate the total number and rate of visa overstays in the country.

I want to thank the Inspector General for participating in today's hearing to speak to this technology concern, which is pervasive across the Department, and to share recommendations on how DHS can improve its overstay estimates.

I also hope to hear from our Immigration and Customs Enforcement (ICE) witness about their on-going efforts, using existing systems, to identify and address overstays who pose a National security or public safety concern.

The Department, with support from Congress, has taken unprecedented measures in recent years to secure the borders between the ports of entry.

Rather than spend billions on a border wall boondoggle, DHS must redouble its efforts to address those who enter America legally and overstay, particularly when they pose a security concern.

Ms. MCSALLY. We are pleased to be joined today by four distinguished witnesses to discuss this important topic.

Mr. Michael Dougherty is the assistant secretary for Border Immigration and Trade Policy at the Department of Homeland Security. Mr. Dougherty previously served in DHS as a Citizenship and Immigration Service ombudsman and a senior policy advisor for immigration with the Border and Transportation Security Directorate.

Mr. Dougherty's Federal experience also includes service as legislative counsel on the personal staff of Senator Jon Kyl and on the staff of the Subcommittee on Terrorism, Technology, and Homeland Security within the Senate Judiciary Committee.

Mr. John Wagner is the deputy executive assistant commissioner for the U.S. Customs and Border Protection 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. Clark Settles is the assistant director for the National Security Investigations Division within the Homeland Security Investigations. In this capacity, he is responsible for strategic planning, National policy implementation, and the development and execution of operational initiatives. Additionally, Mr. Settles oversees HSI's National security programs, which include joint terrorism task forces and the visa security program.

Mr. John Roth became the inspector general for the Department of Homeland Security in March 2014. Mr. Roth's long record of public service includes time at the Food and Drug Administration,

where he served as director of the Office of Criminal Investigations and the Department of Justice, where, among many positions, he served as section chief for the Criminal Division's Narcotic and Dangerous Drug section.

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

The Chair now recognizes Mr. Dougherty for 5 minutes to testify.

STATEMENT OF MICHAEL DOUGHERTY, ASSISTANT SECRETARY, BORDER, IMMIGRATION, AND TRADE, OFFICE OF POLICY, U.S. DEPARTMENT OF HOMELAND SECURITY

Mr. DOUGHERTY. Chairwoman McSally, Ranking Member Vela, and distinguished Members of the subcommittee, thank you for the opportunity to appear today to discuss work in progress at the Department of Homeland Security, to identify, report, and address overstays.

Some 50 million non-immigrant visitors enter the United States each year. They enter for business, to study, to see family or loved ones or to vacation here. The United States welcomes these visitors while recognizing that it is imperative that they depart the country when their visas or period of authorized admission expires.

Our ability to identify foreign nationals who overstay their visit is important for numerous reasons. Chief among them, we need to determine whether individuals pose a threat to National security or to public safety. We need to protect the integrity of our immigration system by removing those who are present in violation of law.

The key way to ensure that the Federal Government has the means of accurately determining the presence of unlawful overstays in the United States is through a biometric exit system that will provide a high level of assurance when a visitor has left the country.

As most of us know, biometric exit has been a Federal objective for many years. It is a priority for this administration. In his Executive Order on March 6, the President directed DHS to expedite the completion and implementation of a biometric entry-exit tracking system for in-scope travelers to the United States, as recommended by the 9/11 Commission.

Yesterday, the Department released the fiscal year 2016 entry-exit overstay report. It contains new data that was unavailable last year when the fiscal year 2015 report was issued. The fiscal year 2016 report has been expanded to include foreign students, exchange visitors, and numerous other classes of non-immigrants.

DHS's ability to provide new analysis on these non-immigrant classes results from improvements made by DHS in expanding its data collection capabilities. The fiscal year 2016 report reflects that 98.53 percent of in-scope, non-immigrant visitors departed the United States on time and abided by the terms of their admission.

While that is an impressive level of compliance, our data indicates that 1.47 percent of non-immigrant visitors overstayed their period of admission. That means a total of 739,478 individuals who were expected to depart the United States in fiscal year 2016 did not do so.

While the number of overstays declined through the end of the 2016 calendar year, these overstay numbers are a significant con-

cern for Secretary Kelly and for the Department, as is reflected in the work performed by our inspector general.

DHS has collaborated with the State Department, with DOJ and with ODNI to improve screening and vetting standards and procedures so that we can better determine when non-immigrants intend to fraudulently overstay the terms of their visas, which is a task assigned to us by the President's Executive Order of March 6. Secretary Kelly is also committed to increasing the number of ICE agents to undertake enforcement efforts against immigration law violators.

We have a clear commitment and direction from the President via the Executive Order to prioritize biometric entry-exit. DHS also acknowledges and appreciates the strong support that it has continuously received from Congress in favor of implementing such a system.

Building on recent CBP biometric exit pilot programs, on-going work includes an aggressive effort to reengineer and to redesign data handling, to develop next generation facial matching capabilities, and to build a back-end communication portal to connect with the travel industry and with our security partners.

Ultimately, the goal of our collaborative efforts with Government, industry, and international stakeholders is to accurately identify passengers and to deliver a seamless and secure travel experience. While implementation of a robust and effective biometric exit solution will take time, and presents significant operational challenges, DHS is aggressively advancing the development of a comprehensive biometric exit system.

Our strategy is to expand activities under way in the air and sea environment to include our land borders as well. DHS will continue to build on the progress made in the fiscal year 2016 overstay report 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, and I look forward to answering your questions.

[The joint prepared statement of Mr. Dougherty, Mr. Wagner, and Mr. Settles follows:]

JOINT PREPARED STATEMENT OF MICHAEL DOUGHERTY, JOHN WAGNER, CLARK E. SETTLES

MAY 23, 2017

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.

Presently, DHS, in conjunction with the Department of State, collects biometrics for most nonimmigrant foreign nationals[1] and checks them against criminal and

[1] The following categories of aliens currently are expressly exempt from biometric requirements by DHS regulations: Aliens admitted on an A–1, A–2, C–3 (except for attendants, servants, or personal employees of accredited officials), G–1, G–2, G–3, G–4, NATO–1, NATO–2, NATO–3, NATO–4, NATO–5, or NATO–6 visa; children under the age of 14; persons over the

terrorist watch lists prior to the issuance of a visa or lawful entry to the United States. Furthermore, the Department has developed new capabilities and enhanced existing systems, such as the Automated Targeting System (ATS), to help identify possible terrorists and others who seek to travel to 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—combined with the clear commitment and direction of the President in section 8 of Executive Order 13780, *Protecting the Nation from Foreign Terrorist Entry into the United States*— CBP is making significant progress toward implementation of a biometric exit system. The Department has also released the fiscal year 2016 Entry/Exit Overstay Report, which contains significant additional data not available in the fiscal year 2015 version, which itself was the first report issued in over 20 years.

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 documents 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 (e.g., 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 captured at the time his or her visa application is filed with the Department of State (DOS), along with supporting information developed during an interview with a consular officer. Additionally, for certain visa categories, the individual will have already provided biographic information via a petition filed with U.S. Citizenship and Immigration Services (USCIS). 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, the individual is able to travel to the United States under the VWP. Biometric information is captured at the U.S. port of entry (POE) for VWP travelers, 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.

For individuals who apply for a visa at posts supported by ICE's Visa Security Program (VSP), biographic information is captured prior to DOS review to facilitate the screening and vetting of 100 percent of nonimmigrant visa applicants at those posts prior to DOS Consular Affairs visa adjudication. As part of VSP operations, additional information may be developed by the investigative efforts of internationally deployed ICE Special Agents conducting interviews and working with domestic based intelligence analysts.

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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)(A)–(B); 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 biometric collection requirements and the Secretaries of State and Homeland Security, as well as the director of the Central Intelligence Agency, may exempt individuals from biometric collection requirements. 8 CFR 235.1(f)(1)(iv)(C)–(D).

[2] ESTA 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.

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 the Office of Biometric Identity Management's (OBIM) 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 by regulations promulgated under the Trade Act of 2002 (Pub. L. No. 107–210) 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 nearly 100 percent. DHS monitors APIS transmissions to ensure compliance and, if needed, issues fines for noncompliance. 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]

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 change or adjustment to immigration status information to generate a complete picture of individuals traveling to the United States. This process extends beyond our physical borders to include a number of steps that may occur well before an individual enters the United States through a land, air, or sea POE and up to the point at which that same individual departs the United States.

CBP's ADIS identifies and transmits potential overstays to CBP's ATS on a daily basis, which screens them against derogatory information, prioritizes them, and sends them to ICE's lead management system, LeadTrac,[5] 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 individuals admitted as nonimmigrants 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 few 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.

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[3] Supra note 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] LeadTrac is an ICE system designed to receive overstay leads to compare against other DHS systems and Classified datasets to uncover potential National security or public safety concerns for referral to ICE field offices for investigation. The system employs a case management tracking mechanism to assist with analysis, quality control reviews, lead status, and field tracking.

- 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,"[6] increasing the efficiency of data flow between OBIM[7] 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, and closing information gaps between the two systems.
- Improved ability of ADIS to match 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, establishing 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.
- Enhanced the Student and Exchange Visitor Information System and ADIS interface, in order to automatically calculate the last date of F, M, or J status and more accurately capture a nonimmigrant's immigration status. This improved data will reduce fraud and increase awareness by providing Government officials actionable intelligence with which to make decisions and initiate investigations.

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 2017.

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* provided data on departures and overstays, by country, for foreign visitors to the United States who were lawfully admitted for business (i.e., B–1 and WB classifications) or pleasure (i.e., B–2 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 nonimmigrant admissions.

Recently, the Department released the *Fiscal Year 2016 Entry/Exit Overstay Report*. In partnership with other DHS components, CBP is continuing to improve data provided by ADIS allowing for the fiscal year 2016 report to include a significantly expanded classes of admission, compared with the fiscal year 2015 report.

While the focus of last year's report was on individuals visiting the United States for business or pleasure, and those traveling under the VWP, this year's report expands the report population to include foreign student and exchange visitors (F, M, and J admission classes) and other in-scope nonimmigrant admission classes (such as H, O, P, Q admission classes). With the expansion of the report population, the fiscal year 2016 report accounts for 96.02 percent of all air and sea nonimmigrant admissions to the United States in fiscal year 2016. This represents all in-scope classes of admission (i.e. classes of admission that can produce enforceable overstays), and is expected to be used as the baseline population for reporting annually going forward. However, it does not include vehicular or pedestrian admissions at land ports of entry.

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[6] "Hot lists" are lists of individuals that are prioritized based on their level of risk.
[7] OBIM supports DHS components by providing biometric storage and matching services using its IDENT system to identify known or suspected terrorists, National security threats, criminals, and those who have previously violated U.S. immigration laws.

In fiscal year 2016 there were 50,437,278 in-scope nonimmigrant admissions to the United States through air or sea POEs who were expected to depart in fiscal year 2016, which represents the majority of annual nonimmigrant admissions. Of this number, DHS calculated a total overstay rate of 1.47 percent, or 739,478 individuals. In other words, 98.53 percent of the in-scope nonimmigrant visitors departed the United States on time and abided by the terms of their admission.

This report breaks down the overstay rates further to provide a better picture of those overstays who remain in the United States beyond their period of admission and for whom there is no identifiable evidence of a departure, an extension of period of admission, or transition to another immigration status. At the end of fiscal year 2016, there were 628,799 Suspected In-Country Overstays. The overall Suspected In-Country Overstay rate for this scope of travelers is 1.25 percent of the expected departures.

Due to continuing departures and changes in nonimmigrant status or adjustment of status to lawful permanent residence by individuals in this population, by January 10, 2017, the number of Suspected In-Country Overstays for fiscal year 2016 decreased to 544,676, rendering the Suspected In-Country Overstay rate as 1.07 percent. In other words, as of January 10, 2017, DHS has been able to confirm departures, changes to, or adjustment of status of more than 98.90 percent of nonimmigrant visitors scheduled to depart in fiscal year 2016 via air and sea POEs, and that number continues to grow.

This report separates VWP country overstay numbers from non-VWP country numbers. For VWP countries, the fiscal year 2016 Suspected In-Country Overstay rate is 0.60 percent of the 21,616,034 expected departures. For non-VWP countries, the fiscal year 2016 Suspected In-Country Overstay rate is 1.90 percent of the 13,848,480 expected departures.

As mentioned previously, part of the nonimmigrant population in this year's report now includes visitors who entered on a student or exchange visitor visa, F, M, or J visa, respectively. DHS has determined there were 1,457,556 students and exchange visitors scheduled to complete their program in the United States. However, 5.48 percent stayed beyond their authorized window for departure at the end of their program.

For Canada, the fiscal year 2016 Suspected In-Country Overstay rate is 1.33 percent of 9,008,496 expected departures. For Mexico, the fiscal year 2016 Suspected In-Country Overstay rate is 1.52 percent of 3,079,524 expected departures. Consistent with the methodology for other countries, this represents only travel through air and sea POEs and does not include data on land border crossings. Currently, it is unclear if these numbers are inflated as Canadian and Mexican nationals can depart across the land border. CBP is pursuing a variety of methods to obtain this land border departure data, which will be discussed in greater detail below.

Identifying overstays is important for National security, public safety, immigration enforcement, and processing applications for immigration benefits and is one of the many drivers for DHS as it continues to develop and test the entry and exit system during fiscal year 2017, both biometric and biographic, which will improve the ability of CBP to report this data accurately.

OVERSTAY ENFORCEMENT IN THE UNITED STATES

With regard to overstay enforcement, ICE focuses its efforts on identifying and prioritizing, for enforcement action, foreign nationals who overstayed their period of admission or otherwise violated the terms or conditions of their admission to the United States. ICE receives nonimmigrant compliance information from various investigative databases and DHS entry/exit registration systems. The information identifies nonimmigrants who have entered the United States through an established immigration entry process and may have failed to comply with immigration regulations. As part of a tiered review, ICE Homeland Security Investigations (HSI) prioritizes nonimmigrant overstay cases through risk-based analysis. HSI's Counterterrorism and Criminal Exploitation Unit (CTCEU) oversees the National program dedicated to the investigation of nonimmigrant visa violators who may pose a National security or public safety risk.

Using a comprehensive prioritization scheme, ICE identifies nonimmigrant overstays, conducts in-depth analysis, locates targets, and initiates field investigations by referring high-priority information to ICE HSI field offices Nation-wide. In order to ensure that those who may pose the greatest threats to National security and public safety 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), comprised of subject-matter experts from other law enforcement agencies and members of the intel-

ligence community, who assist in maintaining targeting methods in line with the most current threat information. 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.

Each year, ICE HSI CTCEU analyzes records of hundreds of thousands of potential status violators after preliminary analysis of data from the Student and Exchange Visitor Information System and CBP's ADIS, along with other information. Once the leads are received, ICE conducts both batch and manual vetting against Government databases, social media, and public indices. This vetting establishes compliance or departure from the United States and/or determines potential violations that warrant field investigations. Overstays who do not meet ICE HSI CTCEU's National security and public safety threat criteria are referred to ICE Enforcement and Removal Operations (ERO) for action.

As part of its vetting process, ICE HSI CTCEU also instituted the Visa Waiver Enforcement Program (VWEP). ICE HSI CTCEU scrutinizes individuals identified as potential VWP violators, to identify those subjects who attempt to circumvent the U.S. immigration system by seeking to exploit VWP travel. Other significant 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 2016, ICE HSI CTCEU reviewed 1,282,018 compliance leads. Numerous leads that were referred to ICE HSI 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 4,116 leads were sent to HSI field offices for investigation. From the 4,116 leads sent to the field, 1,884 are currently under investigation, 1,126 were closed as being in compliance (pending immigration benefit, granted asylum, approved adjustment of status application, or departed the United States) and the remaining leads were returned to ICE HSI CTCEU for continuous monitoring and further investigation. HSI Special Agents made 1,261 arrests, secured 97 indictments, and 55 convictions in fiscal year 2016.

Improvements in Information Sharing, Data Integrity, and Use of Biometrics

ICE executes risk-based overstay enforcement activities as part of an integrated strategy to combat transnational crime in coordination with our domestic and foreign partnering agencies, targeting the illegal movement of people, merchandise, and monetary instruments into, within, and out of the United States. In addition to developing viable leads for field investigation, ICE's in-depth vetting efforts serve to continually improve DHS's overall data holdings, and the information it can bring to protecting the homeland. That validated information is used to update the various DHS systems, including ADIS.

ICE has been an integral partner supporting the creation of a DHS Unified Overstay Case Management process that established a data exchange interface between ADIS, ATS–P, and ICE's LeadTrac systems. That effort has helped reduce the time line required for vetting National security-related and public safety overstay leads.

Improvements in Overstay Enforcement and OIG Recommendations

ICE is committed to improving and evolving our overstay enforcement efforts, including through advancing our information technology capabilities. In 2014, ICE HSI CTCEU established the Open-Source Team (OST) to conduct social media analysis to help resolve unable-to-locate cases. OST applies in-depth knowledge of a broad range of publicly-available information to locate specific targeted individuals, identify trends and patterns, and identify subtle relationships. This initiative enhances investigative leads that are currently being sent to HSI field offices for investigation. In August 2016, ICE HSI CTCEU's Overstay Lifecycle and Domestic Mantis Pilot Programs were launched. These pilot programs will help to better capture information on visa violators as part of an overarching visa life cycle and identify foreign students who have access to sensitive technology. The Overstay Lifecycle pilot program tracks nonimmigrant visitors from the time they file a visa application to the time they depart from the United States, or until such time as they become an overstay or otherwise fail to comply with their terms of admission. The Domestic Mantis pilot program identifies nonimmigrant students who enter the United States to study in a non-sensitive academic field and subsequently transfer to a sensitive academic field, or attempt to work in areas posing a National security or public safety threat. It is anticipated that these pilot programs will provide another layer of security and tool for overstay enforcement in the United States.

Finally, we are working with DHS to address the recommendation in the recent report released by the DHS Office of Inspector General (OIG). The report included two recommendations for ICE and ICE is working to identify training gaps for visa-related IT systems used by ICE personnel and to notify the ICE user community of available training options. ICE is also working towards compiling a comprehensive list of all visa-related systems across the Department, to include system owners and training points of contacts. By addressing these two concerns and ensuring that ICE users have the opportunity to receive official, hands-on training in visa IT systems and documented guidance on potential uses of each system, the efficiency and adeptness of the visa overstay tracking system will be enhanced. In the immediate term, ICE HSI has sent guidance to all HSI field offices providing further instruction on how to conduct HSI CTCEU investigations.

The DHS Office of Chief Information Officer (OCIO) is currently building an enterprise information-sharing platform that, in the future, can provide a solution to mitigate the issues raised and gaps identified in the OIG report. The vision of the Data Framework is to deliver an information-sharing platform in which intelligence analysts and mission operators have controlled, near-real-time access to consolidated homeland security data in Classified and Unclassified environments in a manner consistent with applicable law and policy and while protecting individuals' privacy, civil rights, and liberties.

OCIO has been building the platform for the Classified environment. In fiscal year 2017, the OCIO is beginning to focus on the Unclassified environment portion of the Data Framework. This would afford the components the ability to timely access within articulated constraints, the relevant and necessary homeland security information they need to successfully perform their duties, identifying overstays and reporting on overstay numbers, being two such duties. The goal of the Data Framework is to provide a mission user with the ability to access, search, manipulate, and analyze, as appropriate, different data sets extracted from multiple DHS systems for a specific purpose; retrieve accurate and timely information; and view the information in a clear and accessible format.

CBP COMPREHENSIVE BIOMETRIC 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. CBP developed and implemented a series of biometric exit pilot programs in the air and land environments between 2014 and 2016, and we testified regarding those efforts in June 2016.

Biometric Exit in the Air Environment

The earlier trials allowed CBP to develop a realistic and achievable biometric exit plan. CBP's vision for implementing biometric exit is to "pre-stage" biometric data throughout the travel process and allow that data to be used by each traveler as they follow the typical process for boarding an aircraft departing the United States. CBP will perform the matching function and use biometrics to streamline the passenger process throughout the air travel process, not just at departure. CBP's process for matching "pre-stage" biometric data to biometric data captured at departure is described in greater detail below.

Adding biometrics provides greater assurance of the information already collected by CBP and will allow for future facilitated processing upon both entry and exit. CBP will use a traveler's face as the primary way of identifying the traveler to facilitate entry and exit from the United States, while simultaneously leveraging fingerprints for watch list checks. This innovative structure will make it possible to confirm the identity of travelers at any point in their travel, while at the same time establishing a comprehensive biometric air exit system.

CBP is dedicated to protecting the privacy of all travelers, and will ensure that all legal and privacy requirements are met as we continue to implement biometric exit.

CBP's plan is to complete the technical matching service by 2018, but this summer CBP will roll out biometric air exit technical demonstrations at a number of airports to continue biometric exit implementation. These demonstrations will occur at select flights in each of the airports.

CBP Traveler Verification Service (TVS)

The technical demonstrations are based on a concept that CBP has been testing since June 2016 at Atlanta Hartsfield International Airport. The Atlanta airport demonstration tested a solution under five guiding principles: (1) Avoid adding any new process to minimize time and impact; (2) utilize existing infrastructure to avoid

large capital costs and enable a near-term deployment; (3) leverage existing stakeholder systems, processes, and business models to reduce costs and avoid large changes for all stakeholders; (4) leverage passenger behaviors and expectations to promote ease of use for travelers; and (5) use existing traveler data and existing Government IT infrastructure to reduce costs and avoid stove-piped systems.

The Atlanta test was designed using existing CBP systems, leveraging data already provided to the U.S. Government by the traveler and airlines. CBP created a pre-positioned "gallery" of face images from DHS holdings based on a flight departure manifest provided by the airline. These photographs can come from passport applications, visa applications, or interactions with CBP at a prior border encounter where a photograph is typically taken. Essentially, CBP creates a gallery of all the passengers it expects to see boarding an aircraft, based on the manifest provided by the airline.

CBP then compares a live photograph of the traveler captured at the departure gate to the flight's gallery of face images to confirm the traveler's departure, providing a biometric record of departure for passengers on that flight. This process allows CBP to increase security by using a facial biometric to match the traveler to their advanced passenger information and biographic vetting results while simultaneously checking the fingerprints on file against the watch list.

U.S. Citizens are not exempted from this process for two reasons: First, it is not feasible to require airlines to have two separate boarding processes for U.S. citizens and non-U.S. citizens, and second, to ensure U.S. citizen travelers are the true bearer of the passport they are presenting for travel.

If the photograph captured at boarding is matched to a U.S. citizen passport, the photograph is discarded after a short period of time.

In essence, for U.S. citizens the document check has been transformed from a manual process by airline personnel or CBP officers into an automated process using a machine. It is important to note that CBP is committed to privacy and has engaged our privacy office at every step in the process to add biometrics to the departure process from the United States.

CBP has processed approximately 28,000 travelers through the Atlanta demonstration. For travelers who have an existing photograph in DHS systems—about 96 percent of travelers—the system matched at a 90 percent rate or higher.[8] Today, CBP continues to process biometric exit records for a limited number of daily international flights in Atlanta.

Summer 2017 Technical Demonstrations

Based on the success of the Atlanta demonstration, CBP will demonstrate the initial implementation of the TVS through the expansion of air exit capabilities to eight airports during the summer of 2017. The capability will utilize the TVS to biometrically identify departing travelers, and demonstrate to airlines and airports how biometrics can be integrated into current boarding processes.

Stakeholder Outreach

In addition to CBP demonstrations, CBP is executing a proactive engagement strategy with partners within the travel industry to execute public/private partnerships. The goal of these engagements is to demonstrate an integrated, comprehensive approach to identity verification that provides a seamless travel experience.

To this end, CBP has introduced the Biometric Entry/Exit vision to the air travel industry including international airports, U.S. airline carriers, and travel organizations.[9] By involving all of the stakeholders, CBP is able to discuss and refine the solution and verify potential benefits for all stakeholders.

CBP is now collaborating with U.S. carriers and planning demonstration pilots. For these pilots, airlines will procure the biometric facial cameras and integrate with CBP's provided TVS. CBP has also begun discussions with numerous international carriers on the biometric exit vision. Under this approach, CBP will learn best practices for operations and integration into existing airline boarding processes as these processes vary among airlines and airports.

CBP is working closely with stakeholders to ensure successful implementation of biometric exit and transform the entry process. Biometric technology has the potential to transform how travelers interact with airports, airlines, and CBP, which has the potential to create a seamless travel process, improving both convenience and security.

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[8] Two of the most common reasons for not having a photo within DHS systems is flying as a U.S. citizen under military orders or as an alien who entered the United States without inspection.

[9] Including the A4A, ACI–NA, AAAE, and IATA.

Biometric Exit in the Land Environment

In pursuing a biometric exit system, DHS is cognizant of limitations posed by existing infrastructure. In the land environment, there are often geographical features that prevent expansion of exit lanes to accommodate adding lanes or CBP-manned booths. CBP has developed a biometric exit land strategy that focuses on implementing an interim exit capability while simultaneously investigating innovative technologies needed to reach our long-term vision of a comprehensive biometric exit land solution. Recording exits and biometrically verifying travelers who depart at the land border will close a gap of information necessary to complete a non-immigrant traveler's record in ADIS, and will allow CBP an additional means to determine when travelers who depart the United States via land have overstayed their admission period.

Land-Phased Approach

Given the limitations outlined above and DHS's desire to implement this program without negatively impacting cross-border commerce, a phased approached to land implementation will be undertaken. The initial implementation of the land exit strategy will require certain third-country nationals to self-report their departure from the United States. Third-country nationals are defined as those who are neither American, Mexican, nor Canadian, and for this initial phase, will be limited to nonimmigrant visa holders, types B–1 or B–2 or VWP travelers.

In addition, facial recognition technology, similar to what will be used in the air environment will be deployed at two ports on the Southwest Border in both pedestrian entry and exit locations. Facial recognition technology will be implemented for frequent travelers and cameras will be located within the vicinity of primary processing booths. At pedestrian departure, cameras will also record facial images upon departure and once the camera system identifies a "match" (confirms the identity of the traveler), the system will record a biometrically-confirmed exit for the traveler.

Biographic Exit Exchange Partnerships with Canada and Mexico

At the Northern land border, as part of the Beyond the Border Action Plan with Canada, the United States and Canada are implementing a biographic exchange of traveler records that constitutes a biographic exit system on the 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 final phase.

Engagement with Mexico on establishing a similar collection and exchange of entry/exit information is under way, and both countries plan to implement a biographic data exchange at the San Ysidro port of entry early in fiscal year 2018, using reading of radio-frequency ID documents (RFID) which are very common among Southern Border crossers.

Biometric Vehicle Capture "At Speed"

In 2016, CBP conducted a field of "at speed" facial biometric capture technology on vehicle outbound travelers. The results from the feasibility analysis of the field test will be used to conduct market research to identify and evaluate production-ready solutions available in the market. Technical specifications established by the field test will be used to conduct a controlled test facilities to determine equipment placement and number of cameras necessary to capture photographs beyond the driver, and to establish the performance metrics baseline. In addition, comparative analysis will be performed on facial recognition matching algorithms being developed by academia and industry on images captured during the field test. These two tests will culminate in an operational experiment of cameras, camera placement, algorithm matching accuracy, and performance results at an outbound port with optimal conditions.

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 has completed a spend plan and acquisition plan to account for the execution of these funds and these are currently being evaluated as part of the DHS Acquisition Review Board. As mentioned, CBP plans to 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 steps in development of a biometric entry/exit system at the highest volume airports, full Nation-wide deployment of a comprehensive entry-exit 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 moving forward in development of a comprehensive biometric exit system, in the land, air, and sea environments. We are proud of our progress. We look forward to the technical demonstrations in major airports coming this summer, and will continue to share our on-going findings with this subcommittee. 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. Dougherty.

The Chair now recognizes Mr. Wagner for 5 minutes.

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

Mr. WAGNER. Good afternoon, Chairwoman McSally, Ranking Member Vela, and distinguished Members of the subcommittee. Thank you for the opportunity to discuss U.S. Customs and Border Protection's progress since last year for its implementation of a comprehensive biometric entry and exit system.

Before that, let me touch on the overstay report we released yesterday. This year's report accounts for 96 percent of all air and sea non-immigrant admissions for fiscal year 2016 at air and sea locations. We have expanded the report to include additional categories of temporary visitors, including foreign students, exchange visitors, and certain worker classifications.

Last fiscal year, there were approximately 50.4 million in-scope non-immigrant admissions through the air and sea locations who were expected to depart. Of this number, DHS has calculated a total overstay rate of approximately 1.47 percent, which is about 739,000 individuals. Of these, about 628,000 remained in the United States, or 1.25 percent at the end of the fiscal year.

Due to continuing departures, that number is currently at about 455,000 or 0.9 percent. I am happy to discuss that report further.

So moving to biometric exit, last year I testified before the subcommittee and described some of the pilots that CBP and DHS have conducted over the years and the many challenges we have faced in developing a feasible biometric exit solution. I understand your frustration with the pace of this.

I also recognize that Congress has made $1 billion available over the next decade for biometric exit and essentially funded a program in advance of DHS having a real plan on how to implement.

As I have said publicly, we are out of time and we are out of excuses. So the good news is we have developed a feasible solution.

We have had a lot of discussions with private-sector technology experts and many stakeholders. We knew for this to be successful, we couldn't implement another stand-alone, stove-piped process, adding yet another new process for travelers to learn.

We certainly couldn't rearrange, in the near term, how airports are built or the operating model of the airline industry. So the biggest factor in our struggle to find a solution was relying on finding that single magic piece of technology that would accomplish our needs.

Previous efforts never really took a deep look at the processes behind how our data systems already function. So we figured out a way to better position the data we already have on travelers, to make the inspection process a lot more efficient.

In non-technical terms, we moved the biometrics of the traveler expected to be on a departing flight out of the DHS open database and into its own temporary and secure database until we encounter the person. By doing so, we can now skip reading the passport first. Like all other countries require who have smart gates and a lot of the technology we have seen developed, we can go straight to collecting a biometric and matching against the gallery. This makes the process a lot quicker and the infrastructure footprint much smaller, less expensive, and much more manageable to implement.

So we put this concept to test using facial recognition on a flight in Atlanta. We created a pre-positioned gallery of facial images we had already collected and compared a live photograph of the traveler boarding the plane, thus creating a biometric record of departure.

We have processed about 28,000 travelers through this Atlanta demonstration over the last 10 months, matching at a rate at high 90 percentile for travelers who have a photograph available. So this validated our concept on how to use the data, coupled with the latest technology and fitting within the operational model of the airline and the airports. It is easy for travelers to use. Everybody knows how to take a picture.

So while facial recognition will be used, we will continue to collect fingerprints from foreign nationals upon initial encounters. Both biometrics will be fused together in our systems and the fingerprint results can be returned by matching a photo associated with them.

So we are getting the same vetting results as if we had read the fingerprints or the passport. This is just a more efficient, convenient, and user-friendly way of traveler verification without losing any of the security benefits.

We have introduced this vision to the air travel industry. Beginning this summer, we will roll out 6 to 10 biometric air exit demonstrations at airports. The demonstrations will occur at select flights at each of the airports.

Some of these will be utilizing airline or airport-provided technology through cameras at self-boarding gates. This will allow our stakeholders to work with the new process, and we can jointly develop an implementation strategy that also conforms to their own modernization plans.

Now, CBP is not neglecting the land environment. The land strategy will consist of initially requiring third-country nationals, non-Mexican citizens, non-Canadian citizens, to self-report their departure from the United States at the land border ports.

There are very few of these travelers making a final departure from the United States, only a few hundred a day, if that. We will commence a notification process later this year to advise travelers of these new requirements.

In addition, facial recognition technology will be deployed at two Southwest Border land ports of entry for pedestrians and exit later this year. This configuration will be developed so it is expandable to other pedestrian locations.

So in conclusion, we would have a feasible, efficient biometric exit solution at all modes, with the exception of land border vehicles. It is a matter of building out the I.T. back-end services and infrastructure to support this on a National basis, while simultaneously working with the industry stakeholders to incorporate their own automation efforts into the exit infrastructure.

So thank you for the opportunity to appear today, and I look forward to your questions.

Ms. MCSALLY. Thank you Mr. Wagner.

The Chair now recognizes Mr. Settles for 5 minutes.

STATEMENT OF CLARK SETTLES, ASSISTANT DIRECTOR, NATIONAL SECURITY DIVISION, HOMELAND SECURITY INVESTIGATIONS, U.S. DEPARTMENT OF HOMELAND SECURITY

Mr. SETTLES. Chairwoman McSally, Ranking Member Vela, and distinguished Members of the subcommittee, thank you for the opportunity to appear today to discuss how ICE Homeland Security investigations, HSI, investigates visa overstays and to highlight improvements HSI has implemented in overstay enforcement.

HSI's Counter-Terrorism and Criminal Exploitation Units, CTCEU, focuses on identifying and prioritizing its enforcement efforts toward overstays who are still in the country, otherwise known as in-country overstays, who may pose a National security or public safety threat.

On a daily basis, HSI agents ingest thousands of potential overstay leads from U.S. Customs and Border Protection, CBP's Arrival and Departure Information System, ADIS, from HSI Student and Exchange Visitor Information System, SEVIS, and other referrals on foreign nationals who may have overstayed their mission period or otherwise violated the terms of their admission to the United States.

When leads are received by the CTCEU team, they go through an automated and manual vetting process based on a prioritized risk-based framework. Lead packages that include all available information and instructions on how to adjudicate the leads are sent to the HSI SAC offices Nation-wide for further investigation by local trained and experienced field agents.

In fiscal year 2016 HSI reviewed approximately 1.2 million unvalidated overstay leads. Numerous leads were closed through the above-described vetting process due to subsequent departures from the United States, a change in status or pending immigration benefits.

Those that did not meet HSI's threat criteria were referred to ICE's Enforcement and Removal Operations, ERO, for further action.

Of the overstay leads remaining within HSI's purview, 4,116 lead packages were sent to HSI field offices for further investigation. From those leads, HSI special agents made 1,261 arrests, secured 97 indictments and 55 convictions.

One thousand eight hundred and eighty-four cases are still currently under investigation. Another 1,126 were closed as being in compliance. The remaining leads were cycled back into continuous monitoring for further research as new information is revealed.

However, we at HSI are committed to always doing better in advancing our capabilities, as technology has developed and as resources allow, and overstay enforcement is certainly no exception.

I would like to take a moment to highlight a recent pilot program in overstay enforcement, an effort to prevent overstays by pushing the borders out and our effort to improve data.

First, our overstay life-cycle pilot is an effort to ensure continuous monitoring. Started last year, HSI is tracking non-immigrant visitors who file visa applications at certain visa security posts, from the time they apply through their departure from the United States. This continuous review allows HSI the ability to take actions should derogatory information be uncovered at any point in the visa life cycle.

Second, HSI, in collaboration with the Department of Defense and CBP, developed a biometric program called BITMAP, to target high-risk subjects who are en route to the United States.

Through BITMAP, we provide capability to our foreign partners to tactically collect biometric and biographic data on persons of interest they encounter. If such individuals are identified as threats to U.S. National security, HSI and our U.S. Government partners work with host nations to take appropriate law enforcement action.

In addition, BITMAP collections bring individuals of interest to our attention so that we can prevent them from acquiring visas and stop admission to the United States at future encounters.

One example of BITMAP program success involves an Eastern European national encountered in South America. Through BITMAP, the subject was found to be a match to a no-fly record. When confronted and questioned, he identified himself as a foreign fighter. He was detained for deportation in South America and his travel was stopped.

This is what HSI is striving to do: Identify such individuals and prevent them from reaching the United States.

Third, HSI has been an integral partner in improving the data interface between DHS systems to streamline our ability to identify overstays. Through modernization of lead track and SEVIS, we are advancing DHS information sharing and expediting overstay vetting. A number of initiatives are on-going at DHS to enable systems to provide person-centric, rather than event-specific data that will help us better prioritize our cases.

Before concluding, let me emphasize how seriously we take the recommendations from OIG and GAO reviews. When I came into this job from the field, just a few weeks ago, and was given the last

OIG report, I took action immediately in response to concerns about field training and overstay investigations.

I re-sent the CTCEU Overstay Handbook and guidance to all of the HSI field offices and agents. This handbook provides detailed instructions on what systems to use and how to conduct overstay investigations.

I also launched a plan to reinvigorate our regional training program, including training on systems, because if even one agent is confused on how to investigate one of these leads, it is not acceptable.

Thank you again for inviting me today to explain HSI's critical role in the overstay enforcement process. I will be pleased to answer any of your questions. Thank you.

Ms. MCSALLY. Thank you, Mr. Settles.

The Chair now recognizes Mr. Roth for 5 minutes.

STATEMENT OF JOHN ROTH, INSPECTOR GENERAL, OFFICE OF THE INSPECTOR GENERAL, U.S. DEPARTMENT OF HOMELAND SECURITY

Mr. ROTH. Chairwoman McSally, Ranking Member Vela, Members of the subcommittee, thank you for inviting me here today to testify to discuss our work relating to visa overstays, including our most recent audit report. The results of our audit revealed that DHS information technology systems do not effectively support ICE visa tracking operations for a number of reasons.

First, identifying potential visa overstays requires pulling data from dozens of systems and databases, some of which are not integrated and do not electronically share information.

This is necessary because four different DHS components ICE, CBP, USCIS, and the National Protection and Programs Directorate, as well as numerous entities outside of DHS, are involved in managing the overstay issue.

Much of the data that is stored is not in easily retrievable fields. As an illustration of the disjointed nature of the I.T. systems involved, ICE investigators need to retain up to 40 different passwords, each with different access restrictions and expiration dates, for up to 27 different information systems.

Second, real-time access or access to real-time data is hampered by system access restrictions. ICE personnel are sometimes unable to gain access to USCIS systems, despite having the need to do so. Some data is retained in paper-based files, which can take considerable time to access, and some systems are not frequently updated.

Third, ICE personnel do not have the training and guidance they need to effectively identify and utilize the numerous systems currently used for visa overstay tracking. ICE personnel in the field are not always sure which systems to use to perform their specific job functions.

Personnel we met at multiple locations expressed concerns that they were unaware of all the systems available to them across DHS components and agencies, potentially limiting their effectiveness in carrying out their visa tracking responsibilities.

Last, in the absence of a comprehensive biometric exit system at U.S. ports, DHS relies on third-party departure data, such as pas-

senger lists from airlines, which is not always accurate and fails to capture land departure data, which accounts for the vast majority of visitors leaving the United States.

These deficiencies have a significant real-world impact, including a backlog of more than 1.2 million visa overstay cases, an inability to estimate, with any degree of confidence, the number of individuals who are actually overstaying, which results in a poor understanding of the problem and incomplete reporting to Congress.

Considerable resources are wasted investigating thousands of leads that could have been eliminated, such as individuals who had already left the country or applied for and received immigration benefits.

In fact, during our review, we found that HSI agents spend 40 percent of their caseload investigating individuals they should not be investigating, largely because they were in compliance with the law or had left the country. Part of the problem is that the Department has historically done a poor job of requiring I.T. integration, which results in a fragmented and decentralized system.

The DHS chief information officer should provide greater oversight and centralized management of DHS I.T. systems. This is a long-standing issue we have repeatedly reported on. Additionally, the ICE chief information officer must provide adequate training and guidance to personnel in the field about how to properly use current data systems.

Finally, CBP must continue to work on moving forward with the biometric entry-exit system, which will assist in streamlining ICE's investigative efforts. Until the Department properly equips its personnel with the tools and training required for the vital work of tracking visitors who overstay their visas, timely identification, investigation, and adjudication of visa overstays will not be possible, increasing the risk to public safety and National security.

We made five recommendations in our audit report that we will believe will assist in making the process more efficient. The Department and its components have agreed with each of our recommendations and is implementing corrective action. We will monitor the progress the Department makes and report as needed.

This concludes my testimony. I will be happy to answer any questions you or other Members of the committee may have.

[The prepared statement of Mr. Roth follows:]

PREPARED STATEMENT OF JOHN ROTH

MAY 23, 2017

Chairwoman McSally, Ranking Member Vela, and Members of the subcommittee, thank you for inviting me here today to discuss the Department of Homeland Security (DHS) Office of Inspector General's (OIG) work relating to visa overstays, including our recent audit report, *DHS Tracking of Visa verstays Is Hindered by Insufficient Technology.*[1]

The results of our audit revealed that DHS's information technology (IT) systems do not effectively support U.S. Immigration and Customs Enforcement (ICE) visa tracking operations for the following reasons:

- Identifying and investigating potential visa overstays requires pulling data from dozens of systems and databases, some of which are not integrated and do not electronically share information;

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[1] *DHS Tracking of Visa Overstays Is Hindered by Insufficient Technology*, OIG–17–56 (May 2017).

- Access to real-time data is mired by system access restrictions, the need to retain up to 40 passwords, and systems that are not updated;
- ICE personnel do not have the training and guidance they need to effectively identify and utilize the myriad systems currently available for visa overstay tracking; and
- In the absence of a comprehensive biometric exit system at U.S. ports, DHS relies on third-party departure data, which is not always accurate and fails to capture land departure data, which accounts for the vast majority of visitors exiting the United States.

These deficiencies have significant real-world impact, including:

- A backlog of more than 1.2 million visa overstay cases;
- Considerable resources wasted investigating thousands of leads that should have been ruled out as visa overstays (e.g., individuals who already left the country or applied for/received immigration benefits);
- Arrests of less than 0.4 percent of the individuals who potentially overstayed their visas; and
- Congress receiving DHS visa overstay reports that underestimate and distort the true scope of the visa overstay problem.

Until the Department properly equips its personnel with the tools and training required for the vital work of tracking visitors who overstay their visas, timely identification, investigation, and adjudication of visa overstays will not be possible, increasing the risk to public safety and National security.

BACKGROUND

When a nonimmigrant visitor is admitted to the country but exceeds the authorized period of admission, the visitor becomes an "overstay." According to DHS reports, only a small percentage (1.17 percent) of visa holders overstayed their admission periods in 2015; however, their impact on National security can be great. For example, 2 of the 19 hijackers on September 11, 2001 were visa overstays. This prompted the 9/11 Commission to call for the government to ensure that all visitors to the United States are tracked on entry and exit.

DHS has primary responsibility for identifying visa overstays and taking enforcement action to address security risks. Within DHS, multiple components play a role in tracking, investigating, apprehending, and deporting overstays. For example, U.S. Customs and Border Protection (CBP) collects biographic and biometric information to document arrival and departure information on individuals arriving in the United States at U.S. ports of entry.

CBP officers also determine nonimmigrant admissibility into the United States and provide an "admit until date," by which time the individual must leave the country. U.S. Citizenship and Immigration Services (USCIS) processes and maintains documentation pertaining to a visa holder's immigration status. And ICE leads immigration enforcement operations and is responsible for in-country nonimmigrant visa overstay tracking and enforcement. Information sharing and collaboration among these components is critical for timely and accurate identification, tracking, and adjudication of potential visa overstays.

The Department has an electronic automated vetting process for identifying nonimmigrant visa holders who may have remained in the country beyond their period of admission. A suspected overstay is automatically flagged in DHS's systems when there is no record of nonimmigrant departure or change in visitor status. In fiscal year 2015, through this process, DHS identified more than 970,000 possible overstays and sent them to the ICE Counterterrorism and Criminal Exploitation (CCE) Unit for further investigation. We conducted our audit to determine the effectiveness of ICE's information technology (IT) systems to review, track, and share information associated with visas.

FRAGMENTED IT SYSTEMS HINDER EFFICIENT AND EFFECTIVE OVERSTAY TRACKING

The myriad of information systems and databases used in DHS for visa tracking are not effective in identifying nonimmigrant overstays. Some of these systems and databases are "stove-piped" and do not electronically share information, resulting in numerous inefficiencies. For example, CCE Unit analysts use up to 27 distinct DHS information systems and databases to gather data on potential overstays, including:

- CBP's Arrival and Departure Information System (ADIS) for biographic information on travelers entering and departing ports of entry;
- ICE's Investigative Case Management System/TECS Modernization for law enforcement information and case management capabilities;

- USCIS' Central Index System for data on individuals applying for immigrant and nonimmigrant benefits and status, including violators of immigration law; and
- National Protection and Programs Directorate's Automated Biometric Identification System (IDENT) to correlate biometric data with associated biographic data.

Despite some recent system integration efforts, ICE personnel has to conduct cumbersome and manual searches across these myriad systems to gather data for each individual, such as country of origin, immigration status, and criminal history. For example, CCE Unit analysts at ICE headquarters rely on approximately 17 systems, including 13 DHS and 4 external systems and databases, to compile a case file for each lead for investigation. Further, ICE personnel in the field used as many as 18 distinct DHS systems and databases, as well as approximately 5 external systems, to conduct investigations to accurately determine an individual's overstay status. Because these systems were each designed and built for a distinct purpose, these systems contain only the fields of information relevant for performing the functions necessary to support that purpose, leaving ICE agents and analysts to "connect the dots" when conducting investigative queries.

The lack of integration poses confusion for the system users. For example, ICE personnel in the field are not always sure which systems to use to perform their specific job functions. Personnel we met at multiple locations expressed concerns that they are unaware of all systems available to them across DHS components and agencies, potentially limiting their effectiveness in carrying out their visa tracking responsibilities. Additionally, ICE personnel has to retain and use anywhere from 10 to 40 passwords, which is cumbersome as users may log into dozens of systems each week, all with separate passwords. The vast number of passwords and different protocols are difficult to remember and increases the potential for denial of access and system lock-outs.

Further, ICE agents and officers face challenges using these systems to obtain real-time access to information about the immigration status of potential overstays, which is critical to properly validate whether or not a subject is in the United States legally at the time of investigation. ICE needs to know when a foreign national under investigation files a petition or application to change his or her nonimmigrant status (i.e., extend the time allowed in the country). However, obtaining timely immigration status information has proven difficult due to the unstructured manner in which data is stored. Specifically, USCIS employs nearly a dozen unintegrated systems that were individually designed to process a particular application rather than to support all transactions associated with a single applicant. Consequently, ICE personnel have to conduct searches in multiple USCIS systems to compile the complete history of an individual and determine his or her current immigration status. This can take several hours, or several days, depending on the case.

Obtaining accurate information on immigration status is even more problematic when ICE personnel cannot gain access to some USCIS systems. When an ICE user cannot access a particular system, or in the event that immigration files have not been scanned or digitized, the user has to obtain the required information from USCIS personnel in hard copy. ICE agents and officers complain that the wait time to obtain needed files can sometimes stretch to weeks or more, which delays each case from moving forward and potentially results in investigations of overstay subjects who USCIS has already approved for changes of status.

In 2006, USCIS created a consolidated search capability, the Person Centric Query Service, to provide a single search capability for immigration and naturalization applications and transactions. Although several ICE agents and officers found the service beneficial and comprehensive, personnel at four field locations were unaware of it or lacked access to the system. Other ICE users questioned the reliability or completeness of the data returned when using this query service. As a result, ICE users felt compelled to separately confirm the data in legacy systems and/or query for more in-depth information.

Unintegrated Systems Used for Visa Overstay Tracking Persist in the Decentralized IT Environment

The stove-piped systems used for visa tracking were inherited from the former Immigration and Naturalization Service (INS). With the creation of DHS in 2003, INS was split into three separate components: CBP, ICE, and USCIS. Each component carried forward the legacy INS systems it needed to accomplish its respective mission responsibilities. Over time, distinct IT infrastructures evolved within each of the components, resulting in dozens of parallel and highly-specialized visa-related IT systems.

In 2012, CBP began an effort to consolidate 34 disparate data sources into a single system, Unified Passenger (UPAX). This effort was meant to upgrade a CBP system currently used by ICE for overstay vetting, and further integrate the numerous systems owned by CBP, USCIS, ICE, and the Department of State. However, at the time of our audit, CBP had not identified all potential system users DHS-wide based on mission need. Consequently, the system was not accessible to ICE field users to support their overstay investigations.

Despite efforts to improve visa system integration and information sharing, the DHS Chief Information Officer (CIO) has not provided the necessary oversight and management needed to overcome the fragmentation of its assets, as we have repeatedly reported.[2] In 2013, the CIO was part of a Department-wide task force that examined how the vetting and sharing of information associated with visa overstays could be improved, which reportedly increased data sharing between at least two systems—ADIS and the Student and Exchange Visitor Information System. The CIO had several other methods for improving consolidation of agency IT investments, such as formal Department-wide IT system reviews, but these have not yet been fully executed for visa IT systems.

In addition, further guidance and training is needed to support visa tracking in the field. Not all ICE personnel are familiar with the distinct functions and capabilities offered within each system. ICE field personnel expressed concern that they might miss information due to a lack of training on system functionality and features. While ICE field personnel have access to training on-line or through informal coaching methods, many in the field do not consider this training sufficient. In addition, ICE management has not provided field users with documented procedures on which systems should be used to perform various steps of the investigative process.

LACK OF AN EXIT SYSTEM HAMPERS DHS'S ABILITY TO CAPTURE ACCURATE AND COMPLETE DEPARTURE DATA

In addition to the myriad stove-piped systems, DHS lacks a system at U.S. ports of departure to capture data on exiting visitors. ICE field personnel we interviewed commonly cited this as the most significant gap in the Department's ability to accurately track visa overstays. Although Congress has mandated that DHS implement an integrated system that provides foreign National arrival and departure biometrics for immigration control, enforcement, and reporting, CBP lacks the personnel, facilities, and technology needed to account for travelers leaving the country.

For example, airports in the United States have no designated areas or checkpoints to collect biometric data for travelers departing the country. Likewise, biometric land departure information is not captured, as most travelers cross the borders to Mexico on foot or using their own vehicles and typically are not stopped for inspection. Additionally, biographic information is not regularly captured on the Southern Border. Nonetheless, CBP is able to reconcile a portion of travelers who arrive through the borders with Mexico and Canada when their reentrance to the United States confirms their previous departure. By agreement, the Canadian Government captures biographic data on individuals crossing the Northern Border and shares this information with CBP Border Patrol; however, it excludes data on Canadian citizens traveling from the United States.[3]

Congress required DHS to implement a biometric air entry-exit system for tracking foreign nationals by 2009.[4] To that end, DHS established the U.S. Visitor and Immigrant Status Indicator Technology (US–VISIT) program in 2003. This program was created to develop a means for collecting biographic and biometric data on foreign nationals passing through U.S. airports for entryand departure. Despite multiple pilots of this and other programs, however, virtually no progress was made. In 2013, Congress transferred responsibility for the biometric exit system to CBP.[5] Since that time, CBP has initiated several pilots to test different technologies and capabilities, such as facial recognition, iris scans, and mobile fingerprint collection devices. At the time of our audit, a biometric exit system pilot was underway at Atlanta's Hartsfield-Jackson International Airport. CBP plans to begin implementing

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[2] *Improvements Needed to DHS' Information Technology Management Structure*, OIG–04–30 (July 2004); *Progress Made in Strengthening DHS Information Technology Management, But Challenges Remain*, OIG–08–91 (September 2008); *DHS Information Technology Management Has Improved, But Challenges Remain*, OIG–12–82 (May 2012).

[3] *United States-Canada Beyond the Border: A Shared Vision for Perimeter Security and Economic Competitiveness, Action Plan,* December 2011.

[4] 8 U.S.C. 1187 (8)(A)(i).

[5] *Consolidated and Further Continuing Appropriations Act, 2013, Pub. L. No. 113–6 (2013).*

the biometric exit system in 2018 at a number of airports with the highest volume of travelers.

In the mean time, without a complete exit system that includes the ability to obtain biometrics from visitors departing the country, DHS has had to rely on third-party biographic data, such as commercial carrier passenger manifests, to confirm an individual's exit from the country.[6] Identifying overstays in this manner involves matching third-party exit data against the biographic and biometric data collected by CBP at land, air, and sea ports of entry. For example, CBP uses the IDENT system to capture biometric data (e.g., fingerprints). Further, CBP receives commercial passenger and crew biographical data directly from air and sea carriers through APIS prior to the passenger and crew's arrival in or departure from the United States. APIS then shares the data with ADIS, which works as a central repository and automatically matches arrival and departure records to identify potential overstays. Both ADIS and APIS share information with the Automated Targeting System-Passenger, which vets arrival and departure information and is used by ICE personnel to confirm a passenger's on-board status.

The effectiveness of this process depends on the accuracy of the records DHS obtains from third-party commercial carriers, which occasionally provide incorrect departure or arrival status on individuals. Although CBP has reported that ADIS has over a 90 percent match rate for individuals who enter the country by any given means and then depart by air, officials acknowledge data quality issues with specific commercial airline carriers. ICE personnel also complained of multiple instances of false reporting on departures. For example, ADIS sometimes falsely reports that individuals are still in the country after they have already departed, or that individuals have left the country when they are still physically present in the United States. The latter occurs when airlines or other commercial carriers mistakenly report that individuals were on board when they were not.

False departure information has resulted in ICE officers closing visa overstay investigations of dangerous individuals, such as suspected criminals, who were actually still in the United States and could pose a threat to National security. For example, one officer stated that a suspect under investigation was listed as having left the country when, in fact, he had given his ticket to a family member and was still residing in the United States. ICE agents and officers were unable to tell us how often subjects of investigations are incorrectly recorded as having left the country.

UNINTEGRATED SYSTEMS AND THE LACK OF AN EXIT SYSTEM RESULTED IN POOR OVERSTAY REPORTING AND INEFFICIENT TRACKING

Given the unintegrated systems and the lack of a biometric departure system, DHS cannot ensure it accurately accounts for the total number of overstays in the country in its annual report to Congress, known as the Entry/Exit Overstay Report. DHS completed its first and only overstay report in 2015, listing 527,127 nonimmigrant visitors as overstays, out of approximately 45 million visitors in 2015. However, DHS has acknowledged that this number does not reflect the full extent of visa overstays, as it does not include individuals who traveled to the country on student visas or anyone who crossed the border by land from Canada or Mexico. Because of unreliable departure data collection at these ports of entry, the Department could not account for these potential overstays. Therefore, the report was limited in that it only included individuals traveling to the United States by air or sea on business travel or tourism.

The Department also could not provide assurance that all nonimmigrants who overstayed their period of admission had been caught. DHS's inability to accurately confirm the departures of all nonimmigrants from the United States at the end of their authorized admission periods prohibited ICE agents and officers from fully accomplishing their immigration enforcement and removal Department of Homeland Security responsibilities. ICE agents and officers arrested only 3,402—or less than 0.4 percent—of the people who potentially overstayed their visas in 2015.[7]

The inefficient systems and management processes contribute to case backlogs and inefficient use of resources. ICE Homeland Security Investigations (HSI) field personnel stated they routinely spent a significant amount of time—several days in some instances—to manually extract and compile data to support a decision on whether to actively pursue a potential overstay. Working in this manner contributes to the inability of ICE's CCE Unit to address and close a backlog of more than 1.2

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[6] Commercial carriers are required by law to submit passenger manifests to CBP, which are then recorded as arrivals or departures from the United States.

[7] Of the 971,305 leads sent to ICE's CCE Unit that were not closed through automated vetting or manual closure, 3,402 arrests were made. Of the 3,402 individuals arrested, 777 were cases sent to the field in previous fiscal years.

million cases that were in continuous monitoring from previous fiscal years as well as fiscal year 2015. HSI agents in the field have also experienced increases in their workloads as the number of overstay leads has increased by 65 percent over the last 3 years. Specifically, the number of leads that the CCE Unit sent to HSI agents in the field increased from 6,033 in fiscal year to 9,968 in fiscal year 2015.

Further, ICE personnel lost a significant amount of time investigating individuals who should not have been considered overstays. More than 40 percent of the cases sent to HSI agents in the field were closed because the individuals had departed the country or had applied for or received immigration benefits, such as a visa extension. For example, 17 percent (1,649 of 9,968) of the leads sent to HSI field agents for investigation in fiscal year were closed after agents determined that the subjects had, in fact, already departed the country. Another 25 percent (2,499 of 9,968) were closed upon agents learning that the subjects had applied or been approved for immigration benefits. In one case, an ICE officer estimated that he spent more than 50 hours on a single suspect, only to find that the individual should not have been categorized as an overstay because he had applied for a USCIS benefit.

CONCLUSION

Timely identification, tracking, and adjudication of potential visa overstays is critical to DHS's public safety and National security mission. The Department must equip its personnel with the tools and training required for the vital work of tracking visitors who overstay their visas. Until DHS takes the steps needed to improve system integration and complete its biometric exit system, efforts to track and enforce the increasing number of visa overstays will be hindered.

We made five recommendations to the DHS CIO and ICE CIO to:
- Eliminate duplication and improve information sharing across components, and align system access according to mission requirements;
- Compile an up-to-date inventory of all IT systems across the Department that ICE agents and officers can use for visa tracking, and provide documented guidance on the use of each system;
- Provide necessary training to ICE personnel on IT systems used for visa tracking;
- Assess current plans to expedite the development and implementation of the biometric exit system; and
- Evaluate the extent to which data used to develop overstay estimates is accurate and reliable, and identify how data may be improved.

The DHS CIO and ICE CIO concurred with our recommendations.

DHS OIG will continue to exercise diligent oversight over immigration enforcement, paying particular attention to the Department's progress implementing a biometric exit solution. Consistent with our obligations under the *Inspector General Act of 1978,* we will keep Congress fully and currently informed of our findings and recommendations.

Ms. Chairwoman, this concludes my testimony. I am happy to answer any questions you or other Members of the subcommittee may have.

Ms. MCSALLY. Thank you Mr. Roth.

I now recognize myself for 5 minutes for questions. I will tell you, gentlemen, listening to your testimony it is deeply concerning, the situation that we are in. It is troubling. It is frustrating. It is infuriating.

I mean, this is a significant issue that we need the will and the capability to address, right? From my view, and, you know, I look at things often—I was a fighter pilot—we have two main challenges.

The first is we need to make sure we have good data and good information. We need to know who has overstayed and who hasn't overstayed. So that is on the data front so our situation awareness is high and we have good data.

Then the second piece is once we know who has overstayed, what are we doing about it? How are we using your resources, Mr. Settles, to prioritize, so that you are not wasting time and prioritizing in order to address the issue for enforcement with the highest priority being those that are potential National security risks.

In both these areas, we have had significant failures and challenges that bring us to this place of the report. We appreciate the information in the report, but we still just have so much more to go to address the will and the capability in both of these areas.

We have shown, Mr. Wagner, as you said, the will in Congress. We have funded money for a program without a plan. We are now anxiously awaiting, you know, for the will and the capabilities to increase in these areas.

So, Mr. Wagner, I want to start with you. On some of the challenges you have had in the past is when we have had biographical data focus versus biometric, it is still relying more on the airlines and private industry to be able to give information to something that many believe is an inherent Governmental responsibility.

So talk to me about this facial recognition approach and how that is actually going to be implemented? What is in the airline industry and what is the Government doing? Then how is that also impacting U.S. travelers?

Are we getting our facial recognition collected and then brought somewhere into a Government database, you know, because we are not foreign travelers? How does that all work?

Mr. WAGNER. So on the manifest issue with the third-party data, I mean, we find it is very accurate. This is data that is collected by the airline when you check in. It is verified by the airline when they give you your boarding pass. It is verified by a TSA officer when you go through the checkpoint and they compare it against your boarding pass.

It is the basis we do all of our National security checks against, for your no-fly lists and your selectee list, including on all your domestic travel.

Our work with it, adding biometrics to it, has found that that data is very accurate, but, true, the vulnerability remains of an imposter departing the United States under somebody else's biographic data. So the biometrics are essential to closing that vulnerability in doing it. But that doesn't mean the data we are using today or relying on today is inaccurate.

I mean, this is the biographic data that we caught the Times Square bomber leaving the United States on, you know. But if he flies out under somebody else's U.S. passport, we may not catch him unless somebody within looks at the photograph very closely.

So the facial recognition will allow us to lock that down and close that vulnerability. So our plan this year—we have already got pictures on everyone from their arrival records. I will address your U.S. citizen comment, too.

But what we can do is, when the airline provides us that manifest, is we will pull all of the faces that we have in the DHS database and put them in its own secure database. When the person goes to board the plane, it is as simple as just taking their picture and querying against that small subset of data you have put aside.

So this is really quick and really easy to do, and it is as simple as putting a camera at the departure area to do this. Now, U.S. citizens are included in that because just because someone presents a U.S. passport, we still have to determine they are a U.S. citizen.

We can have an officer there or an airline person there standing and comparing the document manually, or we can use the algorithm to make that match.

Once we confirm it is a U.S. citizen, we discard the data, because they are not subject to the biometric exit requirement. But we do have a responsibility to determine if a person is a citizen and not an imposter to the passport that they are presenting.

Ms. MCSALLY. Does that happen automatically or manually?

Mr. WAGNER. That would happen automatically with the facial recognition software.

Ms. MCSALLY. OK.

Mr. WAGNER. We take a picture. We compare you against the photograph you have already provided to the U.S. Government for purposes of travel. We compare you against your passport photo that we have from Department of State, and if you match against that, we discard the data because you are confirmed now to be a U.S. citizen.

So the plan for this year is to build out the back-end services and build out the ability on a National basis to take all of the manifests in, be able to populate the galleries and build the database space to store this and then work on the infrastructure to be able to match that.

So you need the space to store the data. You need to build the services to retrieve the photos out of IDENT or OBIM's database, stage them and create that gallery per flight.

Then you have got to procure the matchers, the algorithms from the private-sector technology companies that build these. You have got to implement that, and then you have to build a protocol between the camera at the gate and getting into that gallery to match and have a response back.

So what we are working with the—while we are building that out, and that will take us the rest of this calendar year, really, to build that out. Once we build that, we are working with the airlines and the airports on their own modernization plans because they are looking at self-boarding gates. They are looking at facial recognition for boarding passes, for self-tagging checked bags.

So we want to combine with them so there is not this gauntlet of cameras you go through just to board the plane, but it is one single photograph that we will be able to take care of several purpose at once, including the biometric exit.

All the same data runs in the background. The fingerprints run in the background. The biographical queries all run in the background. You are just pointing it to the same vetting results through matching the face instead of actually reading the passport.

So the plan is to combine what we are doing with what the airlines and the airports want to do and build that out over the course of this year and into next year so we can really leverage each other's technology and we can provide the platform. We can provide the service.

Now, who owns the front-end piece? Once we build this service out, it is a matter of buying cameras and plugging them in. Our plans include looking at TSA and the checkpoint and some possibilities to helping them with some of their work, because you compare against the same document.

You know, looking at other services within that airport, provided we could work through the privacy requirements of doing so, but you should be able to match against that passport or that visa photo all through the airport, anyplace you would currently show an ID. Now——

Ms. McSALLY. So I am almost out of my time. I saw there are no additional funds for this project in the fiscal year 2018 budget request that just came out, so do you have the funds already from what we have allocated? What is the time line to complete all this?

Mr. WAGNER. Correct, so we have enough money this year and next year to get the platform built and get this started. We will be demonstrating six to eight sites, up to maybe a dozen sites this summer, to show the stakeholders how it works and start to work on their own modernization plans to fit it.

So this year we will be building out that back-end service, that platform, stage those photos, procure the space and procure the algorithms to do the matching. We think there is enough money there to do the complete air environment starting this year into next year.

Land border is a different challenge, so——

Ms. McSALLY. Got it. OK, so we will circle back afterwards. I am out of time, but I do want to know the full time line and the full cost for air and sea for this to roll out.

The Chair now recognizes Mr. Vela for 5 minutes.

Mr. VELA. Oh, Mr. Roth, I want to make sure that I understand your testimony and subsequently I am curious as to what the Department's feelings are about it because before you began your testimony, I assumed that the 739,000 figure that we had for 2016 would be precise.

But as I understand your testimony, you are suggesting that that is not likely so. Is that right?

Mr. ROTH. That is correct, and I can explain why. There are a couple areas in which inaccuracies get injected into the system. With all respect to Officer Wagner, I think that the airlines do an OK job with regard to providing passenger manifests.

But during our audit we found that that accuracy rate was in the low 90 percents, somewhere between 92 percent and 95 percent. It seems pretty good except if you are talking about 50 million people, 5 percent of 50 million is still a significant number of people.

The other thing that the report, and it is very up-front, it acknowledges the fact that it does not include the land border, which obviously is a significant issue. This year, of course, they included students, which they hadn't last year so we commend them for gradually increasing the accuracy.

But I think when we are talking about this level of numbers of travelers there are going to be inaccuracies here. What we found, for example, is the cases that got shipped to Homeland Security Investigations for overstays, and these were the high-priority cases, 40 percent of them either already got some sort of immigration benefit or had left the country.

In other words, we thought that they were overstays and then once they got investigated they weren't overstays. So there is going to be a significant amount of inaccuracy in these kinds of numbers.

Mr. VELA. So are you saying that that figure is probably about 90 percent accurate or——

Mr. ROTH. That is the problem is we can't tell exactly how accurate it is, and that is the whole nature of the problem. As I said, once we took a look at the accuracy of the numbers that we got from the airlines, we saw that that was somewhere in the low 90 percent accuracy rate. But again, that is an estimate.

We can't estimate what kind of volume we are talking about at the southern land border, for example, or the northern land border, excluding Canadians, who will not share that information. So again, there is a lot we don't know, so I would caution or I would exercise some caution believing the accuracy, the specific accuracy of these numbers.

Mr. VELA. So Chief Wagner, what are your thoughts on that?

Mr. WAGNER. So the report didn't include the airline manifest data or how it was accounted for or received from the airlines, so I don't know how the 90 percent figure was calculated. That really wasn't in our report.

What I did see in the report was some ICE agent case data from fiscal year 2015, but there was no indication of how old or stale that data was. Were those cases from 2015 or 2014 or 2013? So it is hard, really, to say about the accuracies of that data without having the analysis of what actual data was received and how it was calculated, other than some, you know, anecdotal statements from the ICE agents about how complicated it was.

So there was a lot of summaries, judgments made based on anecdotal information. I really didn't see the data analysis behind it.

Now, as far as the land border goes, sure, you know, 250 million land border travelers last year, but once you take out the Mexican citizens and the Canadian citizens the numbers are very small. You know, out of 190 million, and this is on arrivals, land border travelers last year, just over 400,000 were non-Mexican citizens and not American citizens, very small number.

On the Northern Border, out of 60 million travelers, there were about 1.1 million non-Canadian, non-U.S. travelers. So we think this is a manageable subset to start with. You know, we think there are manual reporting requirements we can put in for that same population if they depart the land border, you know, as their final departure from the United States.

You know, those numbers will be even smaller than these numbers because these include the—workers and the people that cross back and forth to, we will call them, you know, third-country nationals at this point.

So we think that is a manageable subset, but true. A lot more people cross the land borders but it is a lot of, as you know, it is the commuting traffic. It is a lot of local community going back and forth who wouldn't be subject to biometric exit anyway.

Mr. VELA. Thank you.

Ms. MCSALLY. The Chair now recognizes Mr. Barletta for 5 minutes.

Mr. BARLETTA. Thank you.

Mr. Wagner, for years, you know, I have been calling for the Congress and the administration to follow through on one of the key recommendations of the 9/11 Commission report to complete a

biometric entry-exit screening system, which they called "an essential investment in our security."

As noted earlier, as many as four of the nine hijackers violated the terms of their visas and/or overstayed. We have seen this pattern continue in other terrorist plots.

Biometric entry-exit means collecting biometrics on entry and exit at land, air, and sea. One gaping hole in the plans we have heard about today is land ports of entry where about two-thirds of travelers pass through.

Can you please speak to plans to collect biometric entry data at land ports of entry? Why aren't we verifying the identity of land arrivals biometrically?

Mr. WAGNER. So land arrivals are collected biometrically when someone leaves that border zone on the Southwest Border or, you know, Canadian citizens on the Northern Border are not subject to the biometric collection. So any third-country national coming across the Canadian border we would collect the biometrics.

On the Southern Border, it is any Mexican citizen that wants to proceed past the border zone, which is different miles in different States, and then any third country nationals that would come in.

I gave you the numbers on the third-country nationals on the Mexican border. For Mexican citizens, you know, it is just over 15 million last year, so it is a pretty significant number, but all of them come in, have their biometrics verified. They have already been taken by State Department when they got the visa. We verify who it is.

So the plans on departure would be start with the third-country nationals and it is a very manageable group. Set up a manual reporting requirement for them. Have them come in and give us their biometrics and we confirm them.

The premise of technology in the vehicle lanes, there is just nothing yet, so we are testing some cameras that can do facial recognition in through a vehicle. We haven't seen anything that is commercially available yet, but for pedestrians I think we can do that using the same system we are building for airports.

Mr. BARLETTA. OK. Thank you.

Mr. Dougherty, it is good to see an updated visa overstay report, which was more complete than the one issued last year. That being said, it is noted that this report does not cover all foreign visitors to the United States, such as those that enter through the land ports of entry.

It also does not provide the total estimated in-country overstay population that are here now. It is a snapshot of time of those foreign visitors who are expected to depart in fiscal year 2016 and those who did not do so.

How do you plan to use the information in the new overstay report? What do you think is the most effective way to address the problem of overstays?

Mr. DOUGHERTY. I personally think that a better means of communicating with people who are here on visas should be explored. I think we are doing that now. I think CBP is looking toward pushing something out on your phone that says, hey, you are almost done. I think it would be nice if the sending countries would do the same thing.

I know if I was on travel and the host country was telling me that it was about time to go, and my own Government was telling me the same, that would motivate me to get going.

I think that in terms of compliance and getting people to voluntarily leave, if their intention is to come here and overstay we need to do a better job of understanding whether or not that is their intention on the front end. So if we are going to be doing screening and vetting in a more sort of robust fashion, how does that translate into real life?

I think part of it is going to be probably increasing training for those individuals who actually do interview people who are intending to come to the United States to better understand their intent.

That is, as I mentioned in my opening statement, part of the Executive Order is that the interagencies getting together and looking at whether or not we can do a better job of determining intent and perhaps denying admission to those people who would intend to overstay.

So we have got in a sense a little bit of a carrot, perhaps, with notifying people, hey, you are almost done. But then there is the stick, which is we can't let you in because basically I cannot determine based on the colloquy that you and I are having right now that you are not going to the United States under whatever visa category, that you don't intend to just overstay.

Mr. BARLETTA. OK.

Thank you, Madam Chair.

Ms. MCSALLY. The gentleman yields back.

The Chair now recognizes Mrs. Demings from Florida, for 5 minutes.

Mrs. DEMINGS. Thank you so much, Madam Chair.

Mr. Wagner, you talked about the operational model in Atlanta and the plans for further buildout at 6 to 10, I believe, additional airports. What portion of the process are the stakeholders, the airports, the airlines willing to own and what portions will be CBP's?

Mr. WAGNER. So CBP will receive the airline manifest information about who checks in for a flight just as we do today. We will build a gallery of photographs based on the holdings, the data we have already got from people's arrival information where we took their picture.

We will stage that in a gallery in a secure computer database. We will procure a matching algorithm to be able to match a received photograph against that gallery. Now, who owns that front-end camera and who takes that picture? I think that could be—the Government could do that or the airline could do that.

Mrs. DEMINGS. What about cost-wise?

Mr. WAGNER. The cost of the cameras would really be the inexpensive part of this. The cost would be the personnel.

Now, CBP has to staff each one of the 5,000 departure gates at all the airports or look at restricting departures to only locations we could staff.

Mrs. DEMINGS. How many additional personnel or officers, personnel, would you need to implement the program Nationally, roughly?

Mr. WAGNER. That would be thousands. That would be thousands of officers to do that or pull them from the inbound lanes, but creating additional delays there.

So if the airlines are already going through a boarding process and verifying passports manually, because that is what a lot of the gate agents do now is they have to look at that passport, because wherever they are going that country also holds them to board the right person.

If we can help the airline with that requirement and confirm their identity based on our records, it helps the airlines with their resources. So we want to build a platform that if an airline is looking at modernizing and doing facial recognition, which we are in talks with an airline right now about doing that for a boarding pass.

Well, why not link them up and just have one camera, one picture of the traveler taken that provides both benefits, boarding the plane and doing the biometric exit so that the traveler wouldn't have to go through two cameras and having a CBP officer standing there doing what the airline person is doing.

So should the airlines choose to do that, we want to build a platform that could accept their technology and allow them to do that. If not, the Government could procure that, but then the cost will go up. But then the resources and the manpower to do that would be astronomical.

Mrs. DEMINGS. OK, thank you.

Mr. Dougherty, how does the Department ensure that DHS field personnel are adequately trained to identify and investigate incidents of individuals who may be in the country longer than the term of their visas?

Mr. DOUGHERTY. Ma'am, I would defer a portion of that question to my colleagues within ICE to answer. I do want to address one thing if I could regarding Secretary Kelly's interest in bringing on many new ICE officers.

As a former Marine general he is very interested in the ground troops. He is very interested in the quality of their life, the equipment that they get and principally in the training that they get as well. So his objective is to add as many folks as we can while keeping a high quality of recruits coming into ICE to assist as ICE agents, the number that has been placed out in public is 10,000 people over time.

So his intention there would be to ensure that they were very, very well-trained. He believes in professionalism and it is a strong characteristic of his personality. The remainder of your question, if I could, I would defer to Mr. Settles.

Mrs. DEMINGS. Mr. Settles.

Mr. SETTLES. Yes, thank you. I guess from looking at the report it is kind of a two-part question. One is training in the systems and then the other part is training on how to conduct the investigations. I know that, you know, the main DHS and ICE CIOs came forward with a plan on the system training that is supposed to be implemented by, I believe, April 30, 2018. It was, you know, concurred with by OIG.

On the other side, like I mentioned, when I took over this job and I saw that there were some agents out there, and again, I know

there may be new agents, and these are difficult cases. I mean, the people don't want to be found, especially if they came here, you know, to hurt us, for National security or public safety concerns, or if they just ended up overstaying their visa, they are not going to make it easy for us.

So just like any criminal investigation, you know, some of them we can adjudicate in a few hours, some of them take a long time because the people just don't want to be found and then we have to go through it.

As far as the number of systems, we do have work to do. There is no doubt about it. I will say we have come a long ways, though, from the days I can remember of the systems that I used when I was a field agent and how you had to type in these long strings of almost DOS-like codes in order to be able to search things like criminal records.

We are moving in our lead track, which is the CTCEU. We have already moved to it being a single sign-on and person-centric, which is very important because it allows us to look at everything that that person did, not just the event or the visa that they filed.

But, you know, we are going to—we have already sent out the handbook. It seemed like there was some confusion that there was at least one agent that didn't, you know, understand how to do these. The handbook gives detailed information.

The leads we actually send out, the reports of investigation, says it is about 130 employees that, you know, I have here and in the National capital region that ingest these leads, the 1.2 million leads. After the automated screening then they go through, you know, and check all of the systems manually.

Part of the reason they do that is because, I mean, the system is only as good as the information you put in it. Part of that is to amplify the information, make it better and make connections that the technology can't do yet, you know, along the lines of looking through a system and finding a speeding ticket and seeing that it adds another, you know, another address.

Right now you are going to have to log on to a different system in order to be able to do that because there are concerns of third agency and privacy and other things. So there is always going to be a lot of systems. I mean, I think that is why these guys and gals get paid as——

Mrs. DEMINGS. OK. Thank you so much.

Thank you, Madam Chair.

Ms. MCSALLY. The Chair now recognizes Mr. Rutherford from Florida, for 5 minutes.

Mr. RUTHERFORD. Thank you, Madam Chair.

Mr. Settles, in Mr. Roth's numbers, and again this kind of goes back to the issue we were just talking about, it says 0.4 percent of the overstays were actually arrested. Now, that is 3,402. That is obviously a pretty small number.

To kind-of follow up where you were at, and I want to ask just a couple of brief questions. No. 1, do they log into NCCIC and look for these overstays being in jails throughout the country?

Mr. SETTLES. Yes, sir, they do. Also the sister agency to HSI, ERO has a program that goes around to the jails and, you know, puts detainers on individuals——

Mr. RUTHERFORD. OK.

Mr. SETTLES [continuing]. That are within the jails.

Mr. RUTHERFORD. When Mr. Wagner builds out the facial recognition program, is there a way for 287(g) agencies to actually tap into that and let you know instead of—because if you check NCCIC today they may not be in there. They may be in there tomorrow, though. So unless you are continuously checking you are really missing the boat.

But if we had those agencies out there helping you hit a database of overstays, then we identify them for you and tell you come pick them up. That way we have thousands of officers all over the country helping to capture this population.

So my question is when this database becomes available, will you have to be a 287(g) agency to get into that database or can some other structure be put up like through the fusion centers or something like that?

Mr. SETTLES. You know, I don't know the answer to that yet because we are not there to that point yet, but I think it is a great idea. I mean, it would be very helpful for us for the departments that want to work with us to be able to run that information and send it back to us.

It would also be helpful when the technology comes on-line to where it can continually search and you don't have to go in there every day, like you said, and rerun the name when the technology comes on-line. That we just put it in there once and, you know, it is out there looking.

Mr. RUTHERFORD. Mr. Wagner.

Mr. WAGNER. But that database already exists. That exists today. We have collected the biometrics, the fingerprints, the photographs of every, you know, non-citizen that has arrived in the United States with the exception of Canadian citizens. So that is already there.

All we are building with this is when the airline tells us who to expect to fly, because that database is 200 million identities.

Mr. RUTHERFORD. Yes.

Mr. WAGNER. Probably a billion photographs. So it is difficult just to send a picture in and say who is this or send your fingerprints in and say who is this? You have got to read the passport first to find it, right, because the databases are too big the way they have been architected over time.

What we will do is when we get the airline manifests is we go and pull all those biometrics out and just stage it somewhere so you have a very small file you are searching against. If they're not found in that file then we start over and start to look, OK, who is this person really?

But I think a lot of those capabilities already exist to run fingerprints and to run photographs into that main database, which is run by DHS's OBIM's office to do that.

Mr. RUTHERFORD. But again I go back to the question, same question I had for Mr. Settles. If the officers aren't accessing those databases every day, those databases are changing every day as far as arrests. Who is in our jails? Do local jails have access to that database?

Mr. WAGNER. I don't exactly know, but what we will do is we will run a lot of recurrent vetting or perpetual vetting against the databases that we have. So we take State Department's visa database and every day we run that against new information.

We take the visa waiver travelers——

Mr. RUTHERFORD. OK.

Mr. WAGNER [continuing]. Who has been given an ESTA. We run that all the time against new pieces of information.

If the TSDB, the terrorism watch list gets a new entry, we get that and we run it against all our holdings to see do we know this person? Does the U.S. Government have any info on this person?

Mr. RUTHERFORD. OK.

Mr. WAGNER. Do they have a visa? Are they in the country? Are they out of the country or are they an overstay? So if when we receive that information at our National targeting center and we see that person has a visa, we look to see have they traveled to the United States and are they here?

If they are here, we are passing it off to ICE to say here is a——

Mr. RUTHERFORD. Right.

Mr. WAGNER [continuing]. TSDB hit. The person is still in the country. We will also call State Department and have that visa canceled——

Mr. RUTHERFORD. So let me ask you one other question, too, because I know sometimes the numbers that aren't included are as important as the ones that are. The 0.4 percent is those overstays that were actually arrested.

Do you have a clearance number for your agents, Mr. Settles? I think, who even though they only arrest 0.4 percent, how many of the overstay cases they investigate do they actually clear either by arrest or especially clear because they find out they are out of the country or, you know, they passed away or, you know, whatever the exceptional circumstances might be?

Mr. SETTLES. Yes, I mean, again, so when they come in to us we are looking for that derogatory information and for National security and public safety. The ones that don't meet our criteria we send to ERO. That is about 679,000.

Mr. RUTHERFORD. Yes.

Mr. SETTLES. Of the leads that come into us, then we do the manual vetting and we close about 350,000 because, again, like we talked about, this is a snapshot in time.

Mr. RUTHERFORD. Right.

Mr. SETTLES. People are coming and going every day.

Ms. MCSALLY. The gentleman's time has expired.

Mr. RUTHERFORD. Yes, I——

Ms. MCSALLY. Can we follow up in a second round?

Mr. RUTHERFORD. Yes, I just didn't want to leave the impression that you only know about 3,400. You know a lot more than that.

Mr. SETTLES. Yes, sir.

Mr. RUTHERFORD. Thank you.

Ms. MCSALLY. The Chair now recognizes Ms. Barragán from California.

Ms. BARRAGÁN. Thank you.

Mr. ROTH. I want to go back to you about this issue of whether the numbers we have are accurate or not. Can you tell us the num-

bers that we are given, what is the basis on you saying they are not accurate?

Mr. ROTH. Excuse me. Yes, you know, we do this audit and we talk to CBP so the numbers that I gave you are cited in our report. Those are numbers that CBP themselves gave us, the low 90 percent to 94 percent accuracy rate of the passenger manifests that they get, CBP itself says is between 90 percent and 94 percent accurate.

We put that in our report. We give it to CBP. CBP has an opportunity to object to that, say it is not accurate. They did not object to that. This was referenced by our auditors.

According to Government auditing standards we believe that that is an accurate number of people who are either underreported, meaning they have not left even though the airline records show that they have left or overreported, meaning that the airlines failed to show that they left.

So either way, it is a problem for our visa overstay issue. Now, that is corroborated by the fact that when we went out to the field and we talked to the ICE agents, the folks who were actually—the HSI agents who are actually doing the work, they found that a lot of their cases, in fact, were people who had left the country. It was like 17 percent of their caseload.

So we have it both ways, both from CBP data that CBP itself gave us, as well as from, you know, anecdotally from HSI agents who say, hey, you know, the data that you have given us, these files that you are giving us are bad. So that is how we can tell.

This is through no fault of either CBP or ICE or DHS that this happens. This is the law of large numbers. When you are talking about 50 million people at, you know, a number of different ports, these kinds of errors are going to happen.

Ms. BARRAGÁN. Thank you. Do we know how long—you said that there are times where you go to the investigators and they start to investigate and they realize that there is no overstay. Do we know how often that happens and how much time we waste in doing that or how far along in the process we find that out?

Mr. ROTH. We looked at that in our audit report and for fiscal 2015, which is the year that our audit looked at, it was a 40 percent rate. So about 25 percent were individuals who had received some sort of immigration benefit, so they weren't, in fact, overstaying. They were complying with the immigration law. The remainder were out of the country by the time the HSI agents received that. That is the data that we compiled based on our audit looking at HSI data.

Ms. BARRAGÁN. Mr. Settles, do you know what the timing is like on, let's say somebody overstays their visa, when ICE would actually get this report that there is an overstay? Does it take weeks? Does it take months? Is it a year?

Mr. SETTLES. It used to take weeks and now we have reduced it down to about 3 to 5 days because you remember it has got to come in and be automated, vetted, you know, on an automated and a manual process to both intelligence holdings and, you know, like we have said quite a few other databases currently.

Then we package it up and send it out to the field. So we cut it down from 2 to 3 weeks to 3 to 5 days, which has been a significant achievement.

Ms. BARRAGÁN. I guess my concern has been, you know, you hear about the reports of the 9/11 attackers or people who have overstayed their visa—I mean—makes this a critical issue that we need to actually invest dollars in as opposed to a wall per se.

Once you get that list, I imagine there are a lot of people on that list. How are you going to determine who is a priority? Do you look at people coming from certain countries? Do you look at, you know, how long they have overstayed their visa? What is the process?

Mr. SETTLES. So we get about 3,000 leads a day that comes into us either from CBP or from SEVIS and other sources. We chair this board called the Compliance Enforcement Advisory Board or the CEAB, and that has other law enforcement agencies like FBI, CBP, other agencies in the intelligence community and they help us set a ten-tiered priority matrix that we bounce that off.

Tier 1 are the people that we know they are some type of National security or derogatory information. The other tiers could be because of travel patterns of concern, countries of concern.

One of the things that after looking at both the overstay report and the OIG report that we are going to take, I have asked my team to take to this Compliance Enforcement Advisory Board is, you know, maybe looking at countries adding in that have a very high rate of overstay as another factor.

But we bounce it off of those and that gives us a prioritized list and then that is what we send out first. We continue to monitor the other, but it, I mean, if you don't mind me saying, it really is— and for the HSI side it is a resource issue because our agents are doing other things.

They are investigating child exploitation where there is actually a victim. You know, we have to prioritize those things that we get information that a drug load is coming in that day.

Now, I am not saying that if we knew that an overstay lead had anything to do with National security or something that was more important, you know, but if it is a fraud case that we have in an overstay and the agent, you know, is needing to go out and rescue a child victim we are going to prioritize that.

So I mean, that is kind of the different layers of how we get down to prioritizing, but what I can tell you is——

Ms. BARRAGÁN. Thank you.

Mr. SETTLES [continuing]. We have sent out more leads already this year than we did all of last year because that ten-tiered system, because we are no longer excluding any classes of aliens, we are looking at all 10 tiers again.

Ms. BARRAGÁN. OK, thank you so much.

I yield back.

Ms. MCSALLY. The Chair now recognizes Mr. Rogers from Alabama.

Mr. ROGERS. Thank the Chair.

Mr. Settles, we know in 2016 that more illegal aliens stayed in the United States on visa overstays than were caught at the Southern Border. Is it just employment that is drawing them? Is that what you are finding? Or what is making that happen?

Mr. SETTLES. Sir, that is a really hard question for me to answer. I mean, I think I would be giving you my opinion.

Mr. ROGERS. That is what I am looking for.

[Laughter.]

Mr. ROGERS. I hope it is an informed opinion.

Mr. SETTLES. Well, I would rather get back to you on that if I could? I think I would just be speculating. I want to work with my team and maybe give you a, you know, a more informed answer.

Mr. ROGERS. OK. When these individuals are caught and removed are exit interviews done? Are they debriefed?

Mr. SETTLES. That does occur, especially if they are somebody that is of concern. We are gonna work with ERO and we are going to talk with them, try to find out information and that is what criminal investigators do.

Mr. ROGERS. I mean, every overstay is a concern. So I would hope that when we do apprehend somebody who has overstayed and we remove them that somebody is asking them a few questions before we send them out home.

Mr. SETTLES. Absolutely, I mean, that is part of presenting the case. If it is a criminal case we are going to have to have interviewed them and we are going to have to, you know, produce evidence. The same if it is an administrative arrest and we are taking them in front of an immigration judge.

Mr. ROGERS. OK. It seems staying in the United States on an expired visa is the lowest risk and highest rewards way to live in the United States illegally. I think one way to make illegal labor less profitable and less appealing is to put a fee on money sent back to their home country by these illegal workers. I have introduced a bill to do that, tax remittances or put a fee on remittances.

But other than that, what current legal mechanism do you have in ICE or CBP that can reduce the appeal of overstays? I know you talked a little while ago, Mr. Dougherty, about the interviews that you could do on the front end, but what legal mechanisms do you have to really chill their enthusiasm for coming over here and overstaying?

Mr. DOUGHERTY. Well, I will touch on it briefly and then I can pass it to my colleague with CBP. But, I mean, depending on how long they overstay that makes them ineligible for applying or getting a visa again. It could be 3 years or 10 years.

It also limits their ability to apply for a visa anywhere other than their home country, which can be really difficult. So there are mechanisms, and then they face detention, you know, removal, so——

Mr. ROGERS. But not in this country they hadn't been. My recollection is from about 10 or 11 years ago that when folks come here on these visas, particularly if it is a temporary work visa or a student visa that they are issued a Social Security card. Is that still the practice?

Mr. SETTLES. I can't—that happens in some cases. People are able to get Social Security cards, but it is an individual and I think it has to do with—I would just rather get back to you on that answer, if I could?

Mr. ROGERS. If you would? My recollection is that we require it if they are going to be here as a student or working that they have

to get a Social Security I.D. number. So if you would check to see if that is still the case and get back with me I would appreciate that.

Mr. SETTLES. Yes, sir.

Mr. ROGERS. With that I yield back, Madam Chair.

Ms. MCSALLY. Thank you.

The Chair now recognizes Mr. Correa from California.

Mr. CORREA. Thank you, Madam Chair. My apologies for running a little bit late. I was caught up on the floor, but I am going to ask a question that hasn't been asked before.

People come in on temporary visas from Mexico. When you return you are not actually required to collect them at the border? Is that correct? Or is it a process to collet those?

Mr. WAGNER. They are provided a paper I–94 if they cross through the land border.

Mr. CORREA. That is correct.

Mr. WAGNER. They are supposed to hand that back in at the end of their stay, but they are multiple entries so they can use them for multiple entries and not hand it in.

Mr. CORREA. So how do you account in terms of guesstimating folks that are still here versus those that are not given that they may be handed in versus not returned when they exit the country?

Mr. WAGNER. So with the land border what we look at is what we call subsequent arrivals. So if someone has a border crossing card, a Mexican citizen with a visa——

Mr. CORREA. Yes.

Mr. WAGNER [continuing]. You know, 85 percent of those travelers cross the border again within 30 days.

Mr. CORREA. OK.

Mr. WAGNER. Obviously they left if they can cross again. If you push that out to 6 months, 95 percent of them cross again within 180 days. So right now that is the best indicator we have of what percentage might be overstaying or not crossing the border again.

Mr. CORREA. So you have got essentially a guesstimate, a algorithm, so to speak, to try to guesstimate how many folks actually are returning and how many are not.

Mr. WAGNER. True because we do not have the exit collection process on the land border.

Mr. CORREA. OK. Any thoughts on a collection process? I guess an even more important question is how important is it to really have that, you know, collection process? Are we going after an issue that is significant?

I say that to you because I have had many relatives that I go pick them up at Tijuana. They get the permit, come over, and when you exit there is nobody really there to take the card. It is really an issue or not to me because, you know, other than I tell them, you know, let's find somebody to give this card to, otherwise you may be accused of overstaying your time here.

So the question is, is it really an issue? No. 2, if it is an issue are we going to move forward to create a process to collect these cards?

Mr. WAGNER. Correct, so we don't have the infrastructure or the personnel there to do that to the extent that we do in-bound. You

know, there are not facilities built. There is not infrastructure. It was never designed to control the departures.

You know, we can do enforcement work and we can do targeted examinations of people, but to do it on a wholesale process, you know, we are not equipped or built to do that.

There is some work with perhaps the Mexican government we can do about exchanging information that we are discussing with the Mexican government in Tijuana about potentially looking at pedestrians and exchanging some of the information, similar to what we have done with Canada. That an entry into Canada can serve as a departure record from the United States.

We are exchanging non-Canadian data with that right now for the third-country nationals. So I think there are possibilities to help Mexico build out their infrastructure to do that, or the U.S. Government can build it on our side. But again, there is no infrastructure there now or personnel to do that.

Mr. CORREA. Thank you, Mr. Wagner. I was just going to say that that is an excellent idea given the cost of the infrastructure and the fact that on both sides of the border you are having a lot of infrastructure being built right now.

I believe occasionally when you do cross the border into Mexico, the Mexican authorities do check you out to see who you are and what you have got in your car and so on and so forth. So I encourage you to continue to try to seek some similar relationships, cooperation as we have with Canada with Mexico. I think that is a win-win strategy.

Thank you very much, and with that, Madam, I yield the remainder of my time.

Ms. MCSALLY. The gentleman yields back.

We are going to start a second round, and I now recognize myself for 5 minutes.

I want to follow up on the carrots and sticks related to trying to change some of the behavior here. When we look at the penalties that could be a potential deterrent, if you could stay 364 days and that only means that once you are told to leave or if you leave on your own you just can't come back for 3 years.

If you stay a little bit longer you can't come back for 10 years. Coming over the land border illegally a second time is a felony. Do you feel, Mr. Wagner, that the penalties are appropriate to deter this action? Then second, as I look at some of these charts I think about, like, carrots and sticks to countries.

I mean, we have some countries on here that have rates of 75.21 percent overstays, from Eritrea. Let us see, and some of them are in the high 20's and the 40's, 56.86 for Afghanistan, 67 percent from Liberia.

I mean, if 77 percent of the individuals that are given a visa are overstaying, are we coordinating with the State Department to have some country-specific sticks in order to deter continuing behavior like this, because obviously it is not working?

Mr. WAGNER. Yes, so we have provided the overstay report to the Department of State. We have, you know, had that discussion with them. I know they have shared it with their posts, those kinds of numbers.

I know we have shared it with our field locations that, you know, these are the countries that have very high overstay rates, so, you know, scrutinize travelers with those passports a little closer with that in mind that they have very high overstay rates.

Ms. MCSALLY. But, I mean, there is no—obviously the State Department is not here, but there needs to be other tools, from my view, of, like, hey, country X, get your act together. Or you are no longer going to be granted visas because if you are having a 70-plus percent overstay rate, I mean, there has got to be some sort of carrot.

There are other diplomatic and economic tools for them to actually tighten up their process at the country level? How are the individual penalties? What do you think about the individual penalties?

Mr. WAGNER. I mean, we enforce them as the legislation permits. I mean, to——

Ms. MCSALLY. Right. No, I know. I am just asking——

Mr. WAGNER [continuing]. The fullest extent that we can.

Ms. MCSALLY [continuing]. If you think it is an appropriate deterrent or if anybody has got any thoughts on that? Obviously with 700,000-plus people blowing them off, you know, perhaps we need to be looking into that here to tighten those up.

Mr. Settles, I want to talk about resources. You said you don't have adequate resources. How many HSI agents are there total and how many are focused on visa overstays, what subset?

Mr. SETTLES. Thank you. The numbers change and we are trying to hire. We have about 6,500 agents. For the last few years we have dedicated I think somewhere between 600,000 and 700,000 hours toward overstay enforcement, if that gives you—because that is how we measure.

Ms. MCSALLY. How is that as a percentage of total man-hours? I am just trying to get a sense of percentage of effort.

Mr. SETTLES. I would have to take it back. I think it is——

Ms. MCSALLY. OK.

Mr. SETTLES [continuing]. Around 3 percent.

Ms. MCSALLY. OK. So I am hearing that you feel you need additional agents and resources to be able to adequately enforce this and prioritize it.

Mr. SETTLES. Well, yes, ma'am. I mean, obviously with more we could do more. I mean, but I would say that we are currently going through a, you know, a big hiring push, which is very good for us. That is something we are working on right now.

We have a task force. We are doing these super one-stops, you know, where the potential agent candidates come in and it is almost like the military back when they had, you know, when you were called up for the draft.

You go through each phase all at the same time from an interview and a physical and doing the physical fit test. That moves us along a lot quicker, so we are doing those throughout the country.

Ms. MCSALLY. Thanks. I yield back.

The Chair—you have a second round? OK, anybody else?

Mr. Correa?

Ms. Barragán? OK.

Ms. BARRAGÁN. Yes, I would like to go back to Mr. Settles. You had mentioned that you have a 10-tier system. You said you are now looking at all 10 tiers. Give me an example of what is at the 10th tier?

Mr. SETTLES. I don't have it specifically in front of me, but it may be an individual from a country that has some level of concern but not as high because of travel patterns where we have identified that people have traveled for foreign fighters.

Ms. BARRAGÁN. OK.

Mr. SETTLES. Then other criteria like age and——

Ms. BARRAGÁN. You say you are now looking at all 10 tiers. Does that mean because there are no longer priorities set in the Department and they have been expanded? Or why is it that you are now looking at all 10 tiers?

Mr. SETTLES. Yes, ma'am, that is correct because we are no longer excluding any classes of individuals. Our guidance now is to enforce the law across the books.

Ms. BARRAGÁN. Well, it sounds like you have a resource issue and now without the priorities it is making it even harder for your Department. Is that accurate?

Mr. SETTLES. Yes and no. I mean, we have already sent out more leads than we did last year, which is a very good thing. But I would say the year before we had sent out almost twice as many leads and the subsequent years as well.

So it creates a resource issue and we are hiring more people. But it also, I think, because again, that whole 10-tier and working in coordination with other agencies like the FBI and the intelligence community to figure out the people and the travel patterns that would be most likely to be of concern to us.

Ms. BARRAGÁN. So how do we know then if you are looking at all 10 tiers, let's say you are working on somebody who is in the ninth tier. That means that somebody in the first tier may not be addressed basically because somebody is working on that ninth-tier person.

Mr. SETTLES. No, I mean, every day we are prioritizing and triaging and moving and so, you know, priority one through fours we are going to get to before we get to the ninth. Like I say, we get about 3,000 leads a day and we have about 130 agents and analysts crunching through them as fast as they can.

Ms. BARRAGÁN. There, you know, all the reports about there are going to be 10,000 new ICE agents hired. Do we know how many of those will be allocated to overstays?

Mr. SETTLES. I do not have any visibility on that, no. I think like most of our priorities we have quite a few that will, you know, it will move back and forth depending on whatever the threat is at the time.

Ms. BARRAGÁN. OK. There was also my understanding was that the OIG report indicated that some of the investigators were not properly trained to access the systems. Why is it they were not properly trained?

Mr. SETTLES. Well, I guess what I would say is, like I mentioned in my oral testimony, I mean, that is of concern to me as well. If even one agent feels that way that is not acceptable. So we are taking steps to change that.

But I can say I ran 10 field offices in northern California and I just finished running seven in Virginia and the District of Columbia, and I never had that complaint from any of the agents in those offices that they didn't feel they were trained.

But they did sometimes feel like, you know, rightfully so, I think we all feel like we have a lot of passwords and we have a lot of different systems that we have to navigate.

If you don't do them every day—so if you are a, you know, if you are somebody that works in child exploitation or money laundering or drug smuggling or weapons smuggling and you are taking up some leads in this area and there are some databases with USCIS that you haven't used before or only use a couple times a year, you know, we would love for the technology to get to a single sign-on, you know, across the board.

You know and Federated searches. But so I think—does that answer your question?

Ms. BARRAGÁN. Yes. Thank you.

Mr. WAGNER. if I may, what is CBP doing to ensure the servers and the data, the biometrics data, is not compromised under a cyber attack?

Mr. WAGNER. So, I mean, I would have to defer to our I.T. staff to provide the, you know, the technical answer on that. But, you know, the data is housed within a CBP system. We will be using some cloud space technology to store that data, but what we will do is what is called templatizing the photographs.

So it takes your picture, it turns it into basically ones and zeroes and numbers. That is put into the cloud space where the matching occurs. So if somebody were to hack that all they would get was just a bunch of numbers.

When that match is made the data comes back into the CBP database then where it is secured.

Ms. BARRAGÁN. All right, thank you.

I yield back.

Ms. MCSALLY. Thanks. One last question, Mr. Wagner, and I started it at the end of my first round, which is you said you had enough funding for what you are planning to do for the remainder of fiscal year 2017 and 2018. Do we have a sense of what the total cost of the facial recognition to be rolled out to all land—sorry, air and sea ports and the time line? Should we expect to get a plan on how that is all going to happen from CBP?

Mr. WAGNER. So we believe there is enough funding there now to do the facial recognition at the air and sea locations.

Ms. MCSALLY. At all?

Mr. WAGNER. All of it——

Ms. MCSALLY. OK.

Mr. WAGNER [continuing]. Over, you know. Now, depending on how the final deployment goes and what some of the stakeholders take on or provide versus what the Government will provide, if CBP has to provide staff at each one of the 5,000 departure gates, that funding would not be enough.

If we can work with TSA and consolidate some of the adjudication of the mismatches in a centralized place, maybe that is an easier way to do it then partnering with the airlines with the final

confirmation at the gate. That brings the staffing cost way down dramatically.

So there is still a lot of work to do on that on exactly how that would be deployed. So, you know, we will have to follow up with you as this progresses and to see what the funding will cover. The idea is, of course, spend as little of the funding as possible and make that money work for what we have to do.

Ms. MCSALLY. Great, thank you. I want to thank the witnesses for your valuable testimony on this very important topic. I want to thank the Members for their questions.

Members of the committee may have some additional questions for the witnesses. I will ask you to respond to these in writing. Pursuant to committee rule VII(D) the hearing record will be open for 10 days.

Without objection, the committee stands adjourned.

[Whereupon, at 3:26 p.m., the subcommittee was adjourned.]

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