



February 2017

BORDER SECURITY

DHS Has Made Progress in Planning for a Biometric Air Exit System and Reporting Overstays, but Challenges Remain

Accessible Version

GAO Highlights

Highlights of [GAO-17-170](#), Report to the Chairman, Committee on the Judiciary, U.S. Senate

Why GAO Did This Study

Each year, millions of visitors come to the United States. Overstays are individuals lawfully admitted on a temporary basis who then remain in the country beyond their authorized period of admission. DHS has primary responsibility for identifying and addressing overstays. In 2004, DHS was required to develop a plan to accelerate full implementation of an automated biometric entry-exit system. In various reports, GAO identified a range of long-standing challenges DHS has faced in its efforts to develop and deploy this capability and to use entry and exit data to identify overstays. For example, in 2013, GAO recommended that DHS establish timeframes and milestones for a biometric air exit evaluation framework and document the reliability of its overstay data. DHS concurred with the recommendations and addressed them.

GAO was asked to review DHS's progress in developing a biometric exit capability. This report examines DHS's efforts since GAO's 2013 report to (1) develop and implement a biometric exit capability and (2) report on and address potential overstays. GAO reviewed statutes and DHS documents and interviewed DHS officials about biometric exit capability development and overstays reporting. GAO also observed four biometric entry and exit pilot programs and analyzed overstay data for fiscal years 2013 through 2015 (most recent at time of review). GAO is not making any new recommendations

View [GAO-17-170](#). For more information, contact Rebecca Gambler at (202) 512-8777 or gambler@gao.gov.

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What GAO Found

Since GAO's 2013 report on the Department of Homeland Security's (DHS) efforts to develop a biometric exit capability to collect biometric data, such as fingerprints, from individuals exiting the United States, U.S. Customs and Border Protection (CBP) has conducted four pilot programs to inform the development and implementation of a biometric exit system. CBP has made progress in testing biometric exit capabilities, but various longstanding planning, infrastructure, and staffing challenges continue to affect CBP's efforts to develop and implement a biometric exit system. CBP set 2018 as the goal for initial implementation of a biometric exit capability in at least one airport and is working with airlines and airports on strategies for using public/private partnerships to reduce costs and give industry more control over how a biometric exit capability is implemented at airport gates. However, the agency cannot complete the planning process until these partnership agreements and implementation decisions are finalized. As GAO has also previously reported, infrastructure limitations are a challenge to implementing a biometric air exit capability. For example, CBP noted that U.S. airports generally do not have outbound designated secure areas for exiting travelers where biometric information could be captured by U.S. immigration officers. CBP recognizes these challenges and intends to use the information gained from the pilot programs to identify biometric exit technology and staffing processes that are effective in the airport environment. As CBP is in the process of finalizing its approach, it is too early to assess the agency's plans for developing and implementing a biometric exit capability and the extent to which those plans will address identified challenges.

Since GAO's 2013 report, DHS has reported some required information on potential overstays—individuals who are admitted to the country under a specific nonimmigrant category but exceed their lawful admission period—and has not changed its enforcement priorities for potential overstays. In January 2016, DHS issued its first report on estimated overstay rates that covered fiscal year 2015, which included some but not all overstay information required by statute. The report described expected overstay rates by country for foreign visitors lawfully admitted for business or pleasure through air and sea ports of entry (POE) who were expected to depart the United States in fiscal year 2015. However, because of data reliability concerns, the report did not include all information required by law, including overstay rates for foreign visitors who entered the country through land POEs or under other nonimmigrant categories. According to DHS officials, the report for fiscal year 2016 will include reliable overstay rates on foreign students arriving through air and sea POEs. DHS expects to start reporting overstay rates for foreign visitors who entered the country through land POEs in the report for fiscal year 2017. DHS has improved overstays reporting by, among other things, enhancing the systems it uses to process entry and exit biographic data for potential overstays and is exploring options to collect information from land POEs. DHS has not changed its enforcement priorities with respect to potential overstays, continuing to focus its enforcement actions on individuals that may pose a national security or public safety risk. Specifically, in fiscal years 2013 through 2015, the agency reviewed approximately 2.7 million overstay leads and sent 26,982 of them (about 1 percent) to field offices for further investigation.

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Abbreviations

ADE	Acquisition Decision Event
ADIS	Arrival and Departure Information System
BE-Mobile	Biometric Exit Mobile
CBP	U.S. Customs and Border Protection
CTCEU	Counterterrorism and Criminal Exploitation Unit
DHS	Department of Homeland Security
ERO	Enforcement and Removal Operations
EXT	Entry/Exit Transformation Office
HSI	Homeland Security Investigations
ICE	U.S. Immigration and Customs Enforcement
IDENT	Automated Biometric Identification System
OBIM	Office of Biometric Identity Management
POE	port of entry
S&T	Science and Technology Directorate
VWP	Visa Waiver Program
US-VISIT	U.S. Visitor and Immigrant Status Indicator Technology Program
TSA	Transportation Security Administration
SEVIS	Student and Exchange Visitor Information System

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February 27, 2017

The Honorable Charles Grassley Chairman Committee on the Judiciary
United States Senate

Dear Mr. Chairman,

Each year, millions of visitors legally enter the United States on a temporary basis either with a nonimmigrant visa or, in some cases, as visitors who were allowed to enter without a visa.¹ Overstays are individuals who were lawfully admitted into the United States on a temporary basis but then unlawfully remain in the country beyond their authorized admission period by failing to depart the country and not obtaining an extension or other valid immigration status or protection prior to the expiration of their authorized period of stay; or by otherwise not abiding by the terms of their specific nonimmigrant category during their stay.² We have previously reported that most overstays are likely motivated by economic opportunities to stay in the United States beyond their authorized periods of admission.³ However, overstays could pose significant homeland security risks. For example, 5 of the 19 September 11, 2001, hijackers were overstays.

¹Throughout this report we generally use the term “foreign national” to refer to an “alien,” which is defined under U.S. immigration law as any person who is not a U.S. citizen or national. See 8 U.S.C. § 1101(a)(3). In addition, foreign visitors are foreign nationals present in the United States on a temporary basis pursuant to a specific nonimmigrant category (see 8 U.S.C. § 1101(a)(15); 8 C.F.R. § 214.1(a)(1)-(2)), including those who are allowed to seek admission without a visa, such as Mexican nationals and citizens of Canada and the British Overseas Territory of Bermuda (and certain residents of other adjacent islands, such as the Bahamas) under certain circumstances, as well as Visa Waiver Program (VWP) participants. The VWP allows nationals from certain countries to apply for admission to the United States as temporary visitors for business or pleasure without first obtaining a visa from a U.S. consulate abroad. See 8 C.F.R. §§ 212.1, 214.6(d); 22 C.F.R. §§ 41.0 to 41.3.

²With respect to nonimmigrant visa and Visa Waiver Program overstays, see 8 U.S.C. §§ 1202(g), 1187(c)(8)(C)(ii)(I). DHS has defined an overstay as a nonimmigrant who was lawfully admitted to the United States for an authorized period but stayed in the United States beyond his or her lawful admission period, including those admitted for “duration of status” (i.e., for a specific purpose) who fail to maintain such status. DHS, *Entry/Exit Overstay Report, Fiscal Year 2015* (Washington, D.C.: Jan. 19, 2016).

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

Since 1996, a series of federal statutes has required that the federal government develop and implement, and report to Congress on implementation of, an entry and exit data system to match records, including biographic and biometric identifiers, of foreign nationals entering and leaving the country and to identify overstays.⁴ The Intelligence Reform and Terrorism Prevention Act of 2004 required the Secretary of Homeland Security to develop a plan to accelerate full implementation of an automated biometric entry and exit data system that matches available information provided by foreign nationals upon their arrival in and departure from the United States.⁵ In 2003, the Department of Homeland Security (DHS) initiated the legacy United States Visitor and Immigrant Status Indicator Technology (US-VISIT) program to develop a system to collect biographic data (such as name and date of birth) and biometric data (such as fingerprints) from foreign nationals at U.S. ports of entry.⁶

⁴See 8 U.S.C. §§ 1365a (Pub. L. No. 104-208, div. C, § 110, as amended), 1365b (Pub. L. No. 108-458, § 7208, as amended); Illegal Immigration Reform and Immigrant Responsibility Act of 1996, Pub. L. No. 104-208, div. C, tit. I, subtit. A, § 110, 110 Stat. 3009-546, 3009-558 to -559; Visa Waiver Pilot Program Reauthorization Act of 1997, Pub. L. No. 105-173, § 2, 112 Stat. 56 (1998) (classified at 8 U.S.C. § 1376); Immigration and Naturalization Service Data Management Improvement Act of 2000, Pub. L. No. 106-215, § 2(a), 114 Stat. 337, 337-39; Visa Waiver Permanent Program Act, Pub. L. No. 106-396, tit. II, § 205(a), 114 Stat. 1637, 1641-43 (2000) (classified at 8 U.S.C. § 1187(h)); USA PATRIOT Act of 2001, Pub. L. No. 107-56, tit. IV, subtit. B, § 414, 115 Stat. 272, 353-4 (classified at 8 U.S.C. § 1365a note); Enhanced Border Security and Visa Entry Reform Act of 2002, Pub. L. No. 107-173, tit. III, § 302, 116 Stat. 543, 552-53 (classified at 8 U.S.C. § 1731); Intelligence Reform and Terrorism Prevention Act of 2004, Pub. L. No. 108-458, tit. VII, subtit. B, § 7208, 118 Stat. 3638, 3817-23 (classified, as amended, at 8 U.S.C. § 1365b); Implementing Recommendations of the 9/11 Commission Act of 2007, Pub. L. No. 110-53, tit. VII, subtit. B, § 711(c), (d)(1)(F), 121 Stat. 266, 339, 345 (classified at 8 U.S.C. § 1187(c), (i)); U.S. Customs and Border Protection Authorization Act, Pub. L. No. 114-125, tit. VIII, subtit. A, § 802(a), 130 Stat. 122, 199-209 (classified, as amended, at 6 U.S.C. § 211(c)(10)); and Consolidated Appropriations Act, 2016, Pub. L. No. 114-113, div. F, tit. I, 129 Stat. 2242, 2493 (2015).

⁵Pub. L. No. 108-458, tit. VII, subtit. B, § 7208, 118 Stat. at 3817-23 (classified, as amended, at 8 U.S.C. § 1365b).

⁶Under 8 U.S.C. § 1365b(d), the entry and exit data system is to require the collection of biometric exit data for all categories of individuals who are required to provide such entry data, regardless of the port of entry. Ports of entry are facilities that provide for the controlled entry into or departure from the United States for persons or materials. Specifically, a port of entry is any officially designated location (seaport, airport, or land border location) where DHS officers or employees are assigned to clear passengers, merchandise, and other items; collect duties; and enforce customs laws; and where DHS officers inspect persons seeking to enter or depart, or applying for admission into the United States pursuant to U.S. immigration law.

Since 2004, DHS has tracked foreign nationals' entries into the United States as part of an effort to comply with legislative requirements, and since December 2006, a biometric entry capability has been fully operational at all air, sea, and land ports of entry. However, in various reports, we have identified a range of long-standing challenges that DHS has faced in its efforts to develop and deploy a biometric exit capability to track foreign nationals when they depart the country and to use entry and exit data to identify overstays.⁷ For example, in July 2013, we reported on DHS's progress in developing and implementing a biometric exit system, as well as DHS's efforts to identify and address potential overstays. In the 2013 report, we made recommendations to help ensure that a biometric exit capability was planned, designed, developed, and implemented in an effective and efficient manner and to strengthen DHS's efforts to identify and address overstays. DHS generally agreed with our recommendations and implemented actions which addressed them, as discussed later in this report.

The Consolidated Appropriations Act, 2016, required that DHS develop a comprehensive plan for implementation of a biometric entry and exit system and issue a report on overstay data.⁸ It also provided an appropriation of up to \$1 billion for DHS to develop and implement biometric entry and exit capabilities starting in fiscal year 2017.⁹ In

⁷GAO, *Border Security: Actions Needed by DHS to Address Long-Standing Challenges in Planning for a Biometric Exit System*, [GAO-16-358T](#) (Washington, D.C.: Jan. 20, 2016); *Overstay Enforcement: Additional Actions Needed to Assess DHS's Data and Improve Planning for a Biometric Air Exit Program*, [GAO-13-683](#) (Washington, D.C.: July 30, 2013); *Overstay Enforcement: Additional Mechanisms for Collecting, Assessing, and Sharing Data Could Strengthen DHS's Efforts, but Would Have Costs*, [GAO-11-411](#) (Washington, D.C.: Apr. 15, 2011); and *Information Technology: Homeland Security Needs to Improve Entry Exit System Expenditure Planning*, [GAO-03-563](#) (Washington, D.C.: June 9, 2003).

⁸Pub. L. No. 114-113, div. F, tit. I, 129 Stat. at 2493. Reported overstay data is to include overstays from all nonimmigrant categories, delineated by each class and sub-class of such categories, and numbers as well as rates of overstays for each class/sub-class by country.

⁹Pub. L. No. 114-113, div. O, tit. IV, § 402(g), 129 Stat. at 3006-07. The Act provided for temporary fee increases through September 30, 2025, of \$4,500 and \$4,000 for L-1 and H-1B visa applications, respectively, for applicants that employ 50 or more employees in the United States if more than 50 percent of such employees are nonimmigrants admitted under 8 U.S.C. § 1101(a)(15)(H)(i)(b), (L). Fifty percent of the amounts collected pursuant to these fee increases are to be deposited as offsetting receipts into the 9-11 Response and Biometric Exit Account up to \$1 billion, to be available until expended. For fiscal year 2017 and each fiscal year thereafter, amounts in the account shall be available to the Secretary of Homeland Security without further appropriation to implement the biometric entry and exit data system under 8 U.S.C. § 1365b.

response to this requirement, in April 2016 DHS issued a biometric entry/exit plan in which the Secretary of Homeland Security stated he had directed U.S. Customs and Border Protection (CBP) to begin implementing a biometric exit system, starting at airports, in 2018.¹⁰ In January 2016, DHS issued a report with data on estimated overstay rates for certain categories of foreign nationals for fiscal year 2015, which we discuss in more detail later in this report.¹¹

DHS has primary responsibility for implementing an entry and exit data system and using the data obtained to identify and address potential overstays. Within DHS, CBP is tasked with, among other duties, inspecting all people seeking entry or applying for admission into the United States to determine their admissibility into the country. CBP is also the DHS lead for entry-exit policy and operations, including implementation of a biometric exit program.¹² CBP collects biographic and biometric information to document nonimmigrants' entry into the country and biographic information to document their exit. In 2013, legacy US-VISIT's biometric identity management functions were transferred into the newly created Office of Biometric Identity Management (OBIM) within DHS's National Protection and Programs Directorate.¹³ OBIM manages the Automated Biometric Identification System, which maintains biometric information that DHS collects from nonimmigrants upon their entry into the United States. DHS's U.S. Immigration and Customs Enforcement

¹⁰DHS, *Comprehensive Biometric Entry/Exit Plan: Fiscal Year 2016 Report to Congress* (Washington, D.C.: Apr. 20, 2016).

¹¹DHS, *Entry/Exit Overstay Report, Fiscal Year 2015* (Washington, D.C.: Jan. 19, 2016).

¹²See Explanatory Statement accompanying the Consolidated and Further Continuing Appropriations Act, 2013 (Pub. L. No. 113-6, div. D), 159 Cong. Rec. S1287, S1550 (daily ed. Mar. 11, 2013) (stating that "[r]esponsibility for implementing a biometric exit program lies with CBP."); see also S. Rep. No. 114-68, at 42 (June 18, 2015) (noting that "[i]n 2013,... the responsibility for entry-exit policy and operations [was moved] from the Office of Biometric Identity Management to CBP.>").

¹³"OBIM is the lead entity within DHS responsible for biometric identity management services through its management of the Automated Biometric Identification System, or IDENT. OBIM assumes the most significant and cross-cutting responsibility from what was known as US-VISIT—namely to serve customers across DHS, at other Federal agencies, in State and local law enforcement, and overseas through storage of biometric identities, recurrent matching against derogatory information, and other biometric expertise and services." See 159 Cong. Rec. at S1558.

(ICE) is the lead agency for enforcing immigration law in the interior of the United States and is primarily responsible for overstay enforcement.¹⁴

You asked us to review DHS's progress in developing a biometric exit system and in identifying and addressing overstays, since our 2013 report. This report examines DHS's efforts since our 2013 report to (1) develop and implement a biometric exit capability and (2) report on and address potential overstays.

To address the first objective, we reviewed statutory requirements for a biometric exit system and analyzed CBP documents, including schedules and an evaluation of CBP's various biometric pilot programs and draft schedules for the acquisition of a biometric exit system. We compared the status of CBP's efforts against statutory requirements, DHS goals for deployment of the system, and agency guidance for major acquisitions. We observed the operation of the four CBP biometric pilot programs initiated since our 2013 report, conducted at Los Angeles International Airport, the Hartsfield-Jackson Atlanta International Airport, John F. Kennedy International Airport, and the Otay Mesa Port of Entry (POE) near San Diego, California. Finally, we interviewed officials from CBP's Office of Field Operations Exit/Entry Transformation Office (EXT) and Office of Acquisitions regarding the ongoing efforts to acquire and deploy a biometric exit system by 2018.

To address the second objective, we compared DHS's fiscal year 2015 overstay report to statutory requirements to determine the extent to which required elements were included in the report. We reviewed documentation and interviewed officials from CBP and ICE regarding any changes made since our 2013 report to DHS systems used for identifying and reporting potential overstays and any actions taken related to the reliability of the information in the DHS 2015 overstays report. We also interviewed CBP officials regarding efforts to produce the fiscal year 2016 overstay report to identify any additional information that they plan to include in the report. To determine the actions taken by DHS to address potential overstays since our 2013 report, we interviewed ICE officials and reviewed ICE documentation, including data on ICE's enforcement actions related to overstays for fiscal years 2013 through 2015, the most recent year for which data was available. To assess the reliability of ICE

¹⁴159 Cong. Rec. at S1551 ("ICE is the appropriate mission owner for visa-overstay investigations and operations.").

data on overstays and enforcement actions, we reviewed documentation on these data and interviewed DHS officials familiar with the data. We determined that the data were sufficiently reliable for the purposes of this report.

We conducted this performance audit from April 2016 to February 2017 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Background

Biometric Exit System Development and Implementation

In 1996, federal law required the development of an automated entry and exit control system to match arrival and departure records for foreign nationals entering and leaving the United States, and to enable identification of overstays.¹⁵ Subsequently, the Immigration and Naturalization Service Data Management Improvement Act of 2000 required implementation of an integrated entry and exit data system for foreign nationals.¹⁶ The system was to provide access to and integrate arrival and departure data that are authorized or required to be created or collected under law and are in an electronic format in certain databases, such as those used at POEs and U.S. consulates abroad, and assist in identifying nonimmigrant visa overstays. In 2003, DHS initiated the US-VISIT program to develop a comprehensive entry and exit system to collect biometric data from foreign nationals entering or exiting the country through POEs. In 2004, US-VISIT initiated the first step of this

¹⁵Pub. L. No. 104-208, div. C, tit. I, subtit. A, § 110, 110 Stat. at 3009-558 to -559. (classified, as amended, at 8 U.S.C. § 1365a).

¹⁶Pub. L. No. 106-215, § 2(a), 114 Stat. at 337-39 (amending 8 U.S.C. § 1365a).

program by collecting biometric data on foreign nationals entering the United States at 115 airports and 14 seaports.¹⁷

The Intelligence Reform and Terrorism Prevention Act of 2004 required the Secretary of Homeland Security to develop a plan to accelerate full implementation of an automated biometric entry and exit data system that matches available information provided by foreign nationals upon their arrival in and departure from the United States.¹⁸ In fiscal year 2016, Congress reiterated its requirement for DHS to submit a plan to implement a biometric entry and exit capability and established a funding mechanism available to the Secretary of Homeland Security beginning in fiscal year 2017 to develop and implement a biometric entry and exit system.¹⁹ Specifically, fifty percent of amounts collected pursuant to temporary fee increases for L-1 and H-1B visas, which began in fiscal year 2016 and will expire at the end of fiscal year 2025, up to a total of \$1

¹⁷In January 2004, DHS issued an interim final rule implementing the first phase of US-VISIT at certain air and sea ports of entry. See Implementation of the United States Visitor and Immigrant Status Indicator Technology Program (“US-VISIT”); Biometric Requirements, 69 Fed. Reg. 468 (Jan. 5, 2004). The specified air and sea ports designated for the collection of biometric identifiers were set forth in the Notice to Nonimmigrant Aliens Subject To Be Enrolled in the United States Visitor and Immigrant Status Indicator Technology System, 69 Fed. Reg. 482 (Jan. 5, 2004). Two subsequent notices expanded the list of designated air and sea ports. See Border and Transportation Security, Notice to Aliens Included in the United States Visitor and Immigrant Status Indicator Technology System (US-VISIT), 69 Fed. Reg. 46,556 (Aug. 3, 2004); Border and Transportation Security, Notice to Nonimmigrant Aliens Subject To Be Enrolled in the United States Visitor and Immigrant Status Indicator Technology System (US-VISIT), 69 Fed. Reg. 51,695 (Aug. 20, 2004).

¹⁸Pub. L. No. 108-458, tit. VII, subtit. B, § 7208, 118 Stat. 3638, 3817-23 (classified, as amended, at 8 U.S.C. § 1365b).

¹⁹DHS Appropriations Act, 2015, Pub. L. No. 114-4, tit. I, 129 Stat. 39, as reiterated by DHS Appropriations Act, 2016, Pub. L. No. 114-113, div. F, tit. I, 129 Stat. at 2493; see also Pub. L. No. 114-113, div. O, tit. IV, § 402(g), 129 Stat. at 3006-07. In addition, on January 27, 2017, the President signed Executive Order 13769, Protecting the Nation from Foreign Terrorist Entry Into the United States (Exec. Order No. 13769, 82 Fed. Reg. 8977 (Feb. 1, 2017)). Section 7 of this Order requires the Secretary of Homeland Security to expedite the completion and implementation of a biometric entry-exit system, and periodically report to the President on DHS’s progress in this regard. 82 Fed. Reg. at 8980.

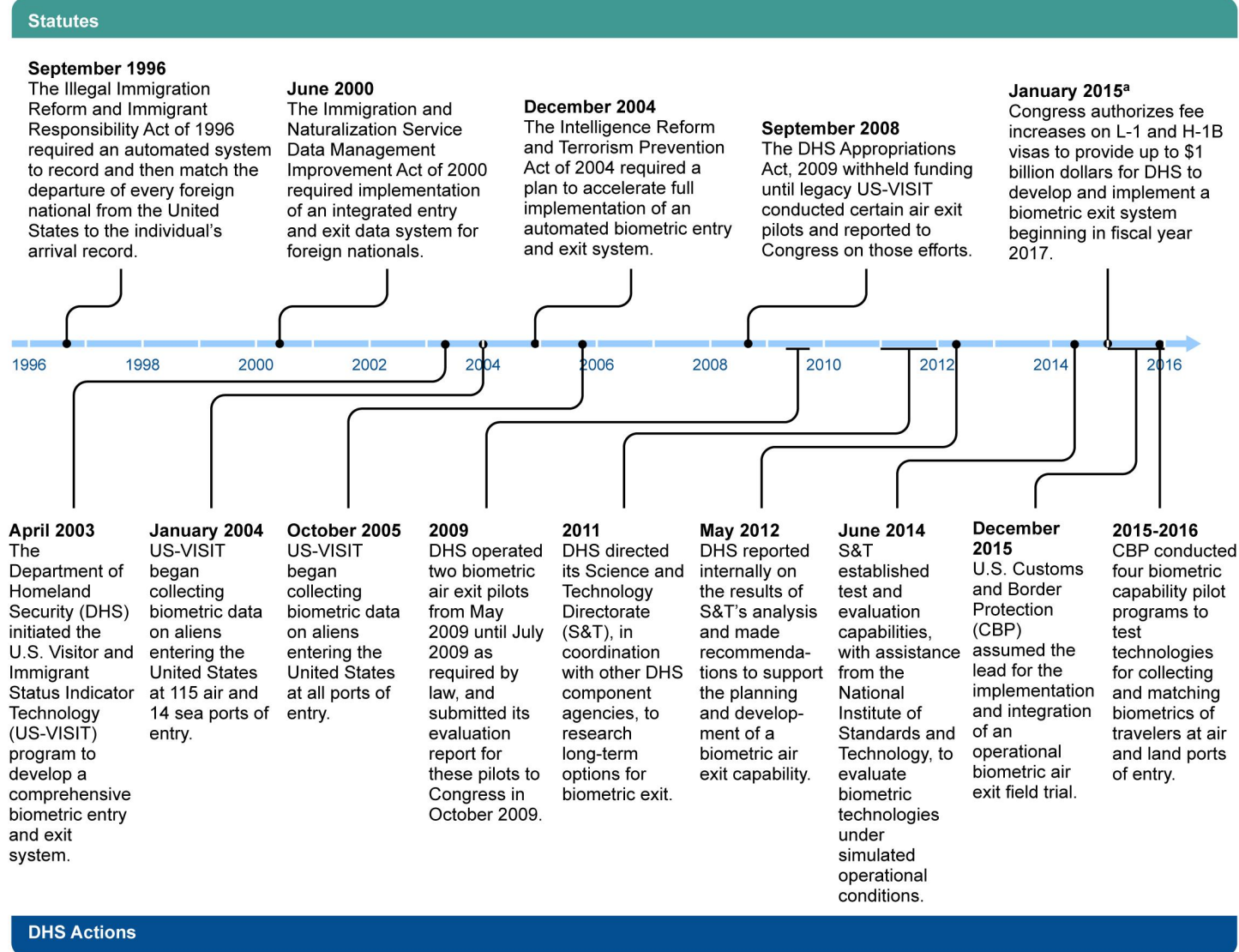
billion, shall be deposited into the 9-11 Response and Biometric Exit Account for DHS to implement the biometric entry and exit data system.²⁰

Since 2009, DHS has been exploring various biometric exit capabilities through laboratory and field testing. For instance, in 2009, the legacy US-VISIT program, in partnership with CBP and the Transportation Security Administration (TSA), deployed two biometric exit pilot programs in U.S. airports.²¹ In 2014, CBP also collaborated with the DHS Science and Technology Directorate to test possible biometric solutions in simulated operational conditions, using the results to inform subsequent CBP biometric efforts. Although this effort informed later biometric exit pilot programs, it did not test potential biometric capabilities in a real-world setting. Figure 1 demonstrates key actions taken by Congress and DHS to pursue biometric entry and exit capabilities from 1996 through 2016.

²⁰Consolidated Appropriations Act, 2016, Pub. L. No. 114-113, div. O, tit. IV, § 402(g), 129 Stat. at 3006-07. L-1 and H1-B visas are nonimmigrant visas for foreign workers transferring from their employer's foreign office to an office in the United States to work in a management or executive role, or in a position requiring specialized knowledge; or who U.S. companies are seeking to hire for work in specialty occupations, respectively, to come to the United States temporarily to engage in such employment. See 8 U.S.C. § 1101(a)(15)(H),(L). The House and Senate reports accompanying the DHS Appropriations Bill, 2017, direct DHS to provide an expenditure plan for funds deposited in the 9-11 Response and Biometric Exit Account for implementation of a biometric exit capability, including certain information, as well as a cost estimate for full implementation. See H.R. Rep. No. 114-668, at 27 (July 6, 2016); S. Rep. No. 114-264, at 13 (May 26, 2016).

²¹In 2009, DHS issued a notice of the implementation of US-VISIT exit pilot programs at two airports, as required by Division D of the Consolidated Security, Disaster Assistance, and Continuing Appropriations Act, 2009 (Pub. L. No. 110-329, div. D, tit. III, 122 Stat. 3574, 3668-70 (2008)), with one pilot conducted by CBP at Detroit Metropolitan Wayne County Airport and the other by TSA at the Hartsfield-Jackson Atlanta International Airport, for a 30-45 day period beginning on May 28, 2009. See Notice to Aliens in the U.S. Visitor and Immigrant Status Indicator Technology (US-VISIT) Program; Collection of Alien Biometric Data upon Exit From the United States at Air Ports of Departure, 74 Fed. Reg. 26,721 (June 3, 2009).

Figure 1: Timeline of Events Related to Biometric Entry and Exit System



Source: GAO analysis of DHS documents. | GAO-17-170

^aL-1 and H-1B visas are nonimmigrant visas for foreign workers transferring from their employer's foreign office to an office in the United States to work in a management or executive role, or in a position requiring specialized knowledge; or who U.S. companies are seeking to hire for work in specialty occupations, respectively, to come to the United States temporarily to engage in such employment. See 8 U.S.C. § 1101(a)(15)(H),(L).

Overstay Reporting and Enforcement

Federal law also requires that DHS implement a program to collect data, for each fiscal year, regarding the total number of foreign visitors who overstayed their lawful admission period in the United States; and submit an annual report to Congress providing numerical estimates of the number of foreign nationals from each country in each nonimmigrant classification who remained in the country beyond their authorized period of stay.²² Two DHS components—CBP and ICE—are primarily responsible for collecting and maintaining overstay data, issuing reports on overstays, and addressing potential overstays, as shown in table 1. Further, the Office of Biometric Identity Management, which was created in March 2013 and replaced US-VISIT, is responsible for storing biometric data for the department. In addition, the State Department is responsible for ensuring that individuals who have previously overstayed and are ineligible for a visa do not receive one when applying for a visa to the United States at consular offices overseas.

Table 1: Roles and Responsibilities for Overstays Identification and Enforcement

Federal Agency	Overall Role	Overstay Responsibilities
U.S. Customs and Border Protection (CBP)	Executes policies and procedures at ports of entry for the inspection of travelers and merchandise entering the United States.	<ul style="list-style-type: none"> Determines nonimmigrant admissibility based in part on previous overstay violations and provides a date by which the individual must leave the country to avoid overstaying. Collects biographic and biometric information to document nonimmigrant entry into the country and biographic information to document nonimmigrant exit from the country. Identifies overstays by matching arrival and departure data using Arrival and Departure Information System, produces overstay reports, and sends overstay information to ICE for enforcement purposes.
U.S. Immigration and Customs Enforcement (ICE) Homeland Security Investigations (HSI) <ul style="list-style-type: none"> Counterterrorism and Criminal Exploitation Unit 	HSI: Investigate a range of domestic and international activities arising from the illegal movement of people and goods into, within, and out of the United States.	<ul style="list-style-type: none"> CTCEU: Using CBP data on overstays, identifies overstay leads posing national security and public safety threats and then sends these leads to HSI field offices for further investigation. CTCEU sends overstay leads not posing national security or public safety

²²See Visa Waiver Pilot Program Reauthorization Act of 1997, Pub. L. No. 105-173, § 2, 112 Stat. 56 (1998) (classified at 8 U.S.C. § 1376). In addition, the Consolidated Appropriations Act, 2016, required that DHS submit to Congress a report on overstay numbers and rates by country for all nonimmigrant visa categories, delineated by each class and sub-class of such categories. Pub. L. No. 114-113, div. F, tit. I, 129 Stat. at 2493.

Federal Agency	Overall Role	Overstay Responsibilities
(CTCEU) • HSI field offices		<ul style="list-style-type: none"> threats to Enforcement and Removal Operations (ERO) for further enforcement action. HSI field offices: Investigate overstay leads and determine appropriate action to be taken, including initiating administrative procedures to remove an individual from the country, if appropriate.
ICE Enforcement and Removal Operations (ERO)	Identifies and apprehends aliens who are subject to removal from the country, detains these individuals when necessary, and removes them from the United States.	<ul style="list-style-type: none"> Reviews CTCEU overstay leads not posing national security or public safety threats and uses a data analysis system to manage these leads. Contributes to overstay efforts through various programs, such as the Criminal Alien Program.^a Responsible for the removal of deportable aliens from the United States.
National Protection and Programs Directorate (NPPD) Office of Biometric Identity Management (OBIM) ^b	Stores biometric identities and matches them against derogatory information.	<ul style="list-style-type: none"> Maintains biometric information for supporting Department of Homeland Security (DHS) components. Conducts recurrent matching against criminal records and provides other biometric expertise and services to DHS components. Uses the Automated Biometric Identification System (IDENT) to manage biometric information and is developing the Homeland Advanced Recognition Technology to replace IDENT.

Source: GAO analysis of DHS information | GAO-17-170

^aThe Criminal Alien Program identifies, processes, and removes criminal aliens incarcerated throughout the United States, focusing on those that pose a risk to public safety.

^bDHS plans to transfer the Office of Biometric Identity Management from the National Protection and Programs Directorate to CBP, pending Congressional approval. See Explanatory Statement accompanying Division F—Department of Homeland Security Appropriations Act, 2016 (Pub. L. No. 114-113, div. F), 161 Cong. Rec. H10161, H10173 (daily ed. Dec. 17, 2015) (stating that transfer of OBIM out of NPPD “would require authorization to implement, [and] should not be allowed to detract from OBIM’s focus on carrying out its important departmental mission.”). The Senate and House Appropriations Committees have noted the need for authorization of such reorganization in reports accompanying the proposed DHS Appropriations Bill, 2017. See S. Rep. No. 114-264, at 13-14, 33-34 (May 26, 2016); H.R. Rep. No. 114-668, at 21, 59, 63 (July 6, 2016).

CBP Has Made Progress Testing and Evaluating Biometric Exit Capabilities since 2013, but It is Too Early to Assess Whether Current Implementation Plans Address Long-Standing Challenges

CBP Has Conducted Biometric Pilot Programs to Inform Planning for a Biometric Exit System

Since our 2013 report on DHS’s efforts to develop a biometric exit capability, CBP has conducted four biometric pilot programs intended to inform the acquisition of a biometric exit system: (1) Biometric Exit Mobile Air Test (BE-Mobile) (mobile fingerprint reader); (2) 1 to 1 Facial Comparison Project (facial recognition upon entry); (3) Departure Information Systems Test (matching on-site facial scan to a gallery of photographs); and (4) the Southwest Border Pedestrian Exit Field Test (face and iris scanning at pedestrian exit from the United States).²³ As of September 2016, CBP reported that it had obligated nearly \$13 million developing, implementing, and evaluating these four pilot programs, as illustrated in table 2. This amount includes over \$3.5 million to install secure Wi-Fi systems for supporting the BE-Mobile pilots in three of the test airports.

Table 2: Funds Obligated for Biometric Exit Capability Pilot Programs, Reported by U.S. Customs and Border Protection, as of September 2016

Pilot Program	Biometric Technology Tested	Obligated Funds	Program Status
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²³See, generally, 8 U.S.C. § 1365b for requirements related to the implementation of an automated biometric entry and exit data system. Under 8 C.F.R. § 235.1, foreign nationals seeking admission at a U.S. port of entry must present whatever documents are required, and with certain exceptions, the Secretary of Homeland Security may require any foreign national to provide biometric identifiers, documentation of immigration status, and other requested evidence of identity and status. With respect to biometric exit, see 8 C.F.R. § 215.8, which authorizes the Secretary of Homeland Security to establish pilot programs at land border ports of entry, and at up to fifteen air or sea ports requiring that, with certain exceptions, departing foreign nationals provide biometric identifiers, documentation of immigration status, and other requested evidence to determine their identity and status while in the United States.

Pilot Program	Biometric Technology Tested	Obligated Funds	Program Status
Biometric Exit Mobile Experiment	Fingerprint matching	\$5,990,000 ^{a, c}	Complete
1 to 1 Facial Comparison Project (pilot program only) ^a	Facial recognition	1,050,000 ^b	Complete
Departure Information System Test	Facial recognition	1,960,000 ^b	Under evaluation
Southwest Border Pedestrian Exit Field Test	Facial recognition and iris scanning	3,790,000 ^b	Under evaluation
Total		\$12,790,000^b	

Source: U.S. Customs and Border Protection. | GAO-17-170

^aAfter the pilot program was completed, the Facial Comparison Project was deployed at both Dulles International Airport and John F. Kennedy International Airport.

^bObligated funds include all site specific installation and deployment costs, pilot Project Management Office support costs, and information technology development and testing costs. The obligated funds do not include program oversight; labor and materials used for program planning; support and communication to all stakeholders (including the traveling public); or the development and testing of software and hardware devices deployed to the pilot program sites.

^cThis figure includes over \$3.5 million to install secure Wi-Fi systems for supporting the BE-Mobile pilots in three of the 10 test airports.

BE-Mobile. In summer of 2015, CBP began deploying the BE-Mobile pilot at the 10 highest international passenger volume airports in the United States.²⁴ Under this pilot, CBP officers stationed at the passenger loading bridges of selected flights used a handheld mobile device to scan fingerprints and passports for certain foreign nationals at the time of departure from the United States at identified airports.²⁵ The biometric and biographic data collected by the BE-Mobile device was matched against data such as departures and arrivals in the United States, criminal histories, and visa status. The goal of the BE-Mobile pilot was to evaluate the viability of using the technology to collect biometric exit data from a

²⁴See Test to Collect Biometric Information at Up to Ten U.S. Airports ("Be-Mobile Air Test"), 80 Fed. Reg. 44,983 (July 28, 2015).

²⁵This pilot program collected biometric information from all foreign nationals departing the United States on selected flights from up to ten identified U.S. airports, except those who, at the time of such departure, were exempt pursuant to 8 C.F.R. § 215.8(a)(2). According to the *Federal Register* Notice, exempted individuals include all foreign nationals under the age of 14 or over the age of 79; U.S. citizens or nationals; Canadian citizens admitted under INA § 101(a)(15)(B) who are not otherwise required to present a visa or have been issued Form I-94 or Form I-95 upon arrival; certain foreign government officials, diplomats, or employees of international organizations; other classes of foreign nationals as jointly determined by the Secretaries of Homeland Security and State; or specific individuals as determined by the Secretaries of Homeland Security or State, or the Director of Central Intelligence.

sample population on randomly selected flights, as well as to evaluate the viability of implementing biometric exit in conjunction with CBP's outbound enforcement operations.²⁶ See figure 2 for a representation of the BE-Mobile device.

Figure 2: Biometric Exit Mobile Device



Source: U.S. Customs and Border Protection. | GAO-17-170

During our observations, CBP officials noted that the BE-Mobile pilot demonstrated that while the technology can effectively capture biometric data and match that data against DHS databases, it requires too much time and manpower to be a solution for biometric exit capabilities on all flights departing the United States—a statement consistent with our own observations of BE-Mobile at two airports. According to CBP officials, the pilot program established that the manifest data provided by the carriers in the Advance Passenger Information System (APIS) are accurate and reliable. However, using BE-Mobile to screen outgoing passengers is time consuming. For example, in May 2016, we observed CBP's use of BE-

²⁶ CBP conducts passenger targeting operations to vet inbound and outbound passengers and crews from commercial airlines to identify potential high-risk individuals such as terrorists.

Mobile at Los Angeles International Airport to capture biometric information on categories of passengers included in the pilot (approximately 75 individuals) on one flight departing for Mexico. We observed that the outbound process using BE-Mobile took six CBP officers—who constitute a CBP tactical operations team—approximately 45 minutes to complete. CBP officials noted that when those six officers are conducting outbound enforcement operations using BE-Mobile, they are not conducting inspections or operations on inbound cargo and passengers.

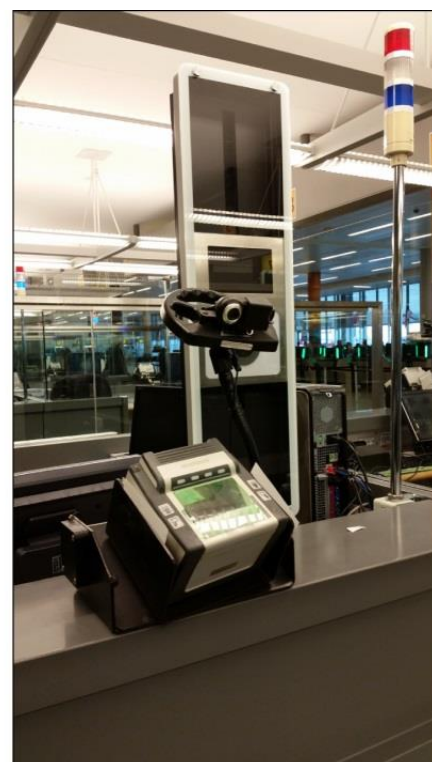
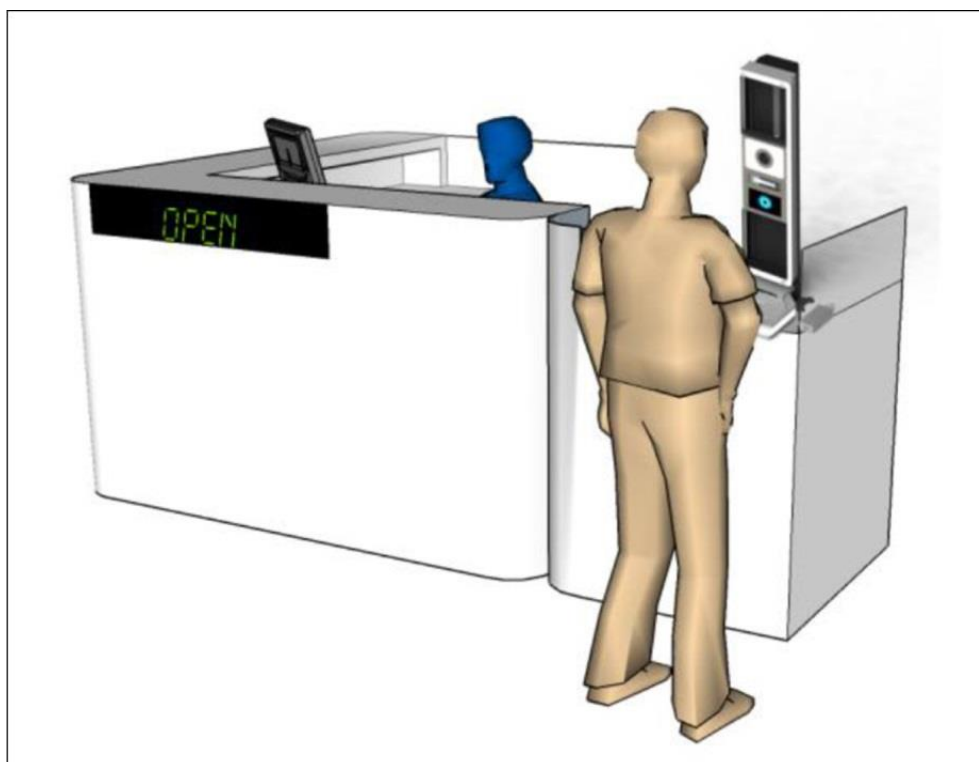
CBP officials also noted that the BE-Mobile system provided some benefits to the officers checking foreign nationals leaving the country. For instance, BE-Mobile allows officers to identify travelers who have suspicious travel histories or other derogatory information for further investigation by searching databases that detail individuals' travel patterns, visa status, and criminal records. For instance, during our observation of the program at Los Angeles International Airport, one officer used BE-Mobile to identify an individual whose travel pattern may have indicated drug trafficking, so the individual was examined more closely before being allowed to board a plane to Mexico. Similarly, BE-Mobile can identify travelers exiting the country who do not have corresponding entry information, indicating that they potentially entered the country without inspection. Finally, BE-Mobile may identify individuals who have overstayed their period of admission, allowing CBP to collect more accurate overstay information. During our observation of BE-Mobile at John F. Kennedy International Airport, an officer identified one traveler as having overstayed a student visa, and noted the violation in the traveler's Student and Exchange Visitor Information System record. According to CBP officials, CBP is currently maintaining the BE-Mobile program at the original 10 airports as an enforcement tool for use by CBP officers. These officials also said BE-Mobile may be a viable solution for smaller airports with relatively few outbound international flights at which officers could utilize BE-Mobile to obtain biometric information from exiting passengers at times when no international travelers are arriving.

1 to 1 Facial Comparison. Between March and May 2015, CBP tested the 1 to 1 Facial Comparison Project at Dulles International Airport. This pilot was intended to assist CBP officers in confirming the identity of U.S. citizens entering the United States against the travel document being presented. After the conclusion of the pilot program, the technology was deployed for use at both Dulles International Airport and John F. Kennedy International Airport. The technology compares a photograph taken of the U.S. citizen by a CBP officer to the photograph stored on the traveler's

passport chip to assess whether the individual applying for entry into the United States was the same person to whom the U.S. passport was legally issued.²⁷ Although the capability was tested at entries to the United States, the information gathered through the pilot is intended to also inform the acquisition of a biometric exit capability, according to CBP officials. According to an evaluation conducted by CBP, the results of the pilot showed that biometric facial matching can increase the confidence with which CBP officers verify individuals' identities without a negative impact to port of entry operations and traveler wait times. When we observed CBP officers at John F. Kennedy International Airport processing passengers using this technology in July 2016, they said that the facial recognition process added approximately 20 to 30 seconds to the processing time for each passenger. However, agency officials stated that the technology is not yet integrated with CBP systems, and will not impact wait times once it is fully integrated. See figure 3 for a representation of the 1 to 1 Facial Recognition use and equipment.

²⁷According to CBP officials, the 1 to 1 Facial Comparison Project focused on U.S. citizens because fingerprint biometrics are already used upon admission to the United States for non-citizens. This program sought to address the risk that those seeking to use legitimate documents fraudulently as an imposter would utilize U.S. passports.

Figure 3: Representation of 1 to 1 Facial Recognition Use and Equipment



Source: U.S. Customs and Border Protection, 1:1 Facial Recognition Concept of Operations, April 2014. | GAO-17-170

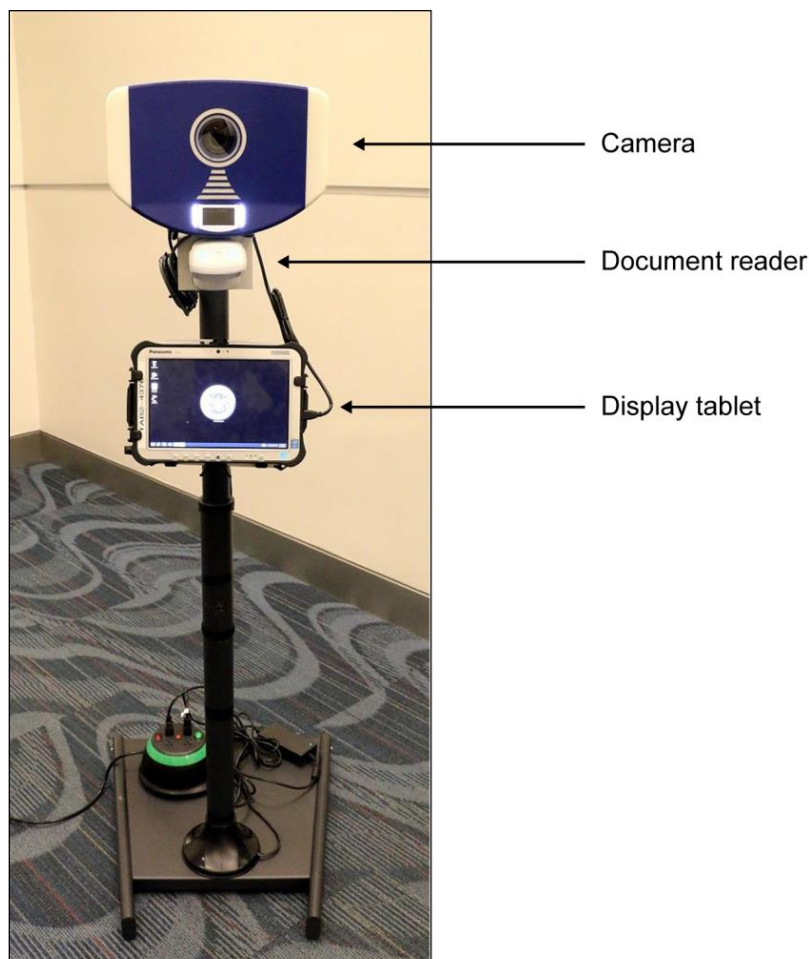
Departure Information Systems Test. From June to September 2016, CBP deployed the Departure Information Systems Test pilot at Atlanta's Hartsfield-Jackson International Airport. The goal of the pilot was to evaluate the effectiveness of biometric facial recognition matching of a real-time photograph of an individual to a gallery of facial images stored in a database. Photographs of travelers taken during boarding were compared against photographs taken previously (U.S. passport, U.S. visa, and DHS encounters) that had been stored in the gallery based on names on the outbound flight manifest. The biometric capture device includes a camera, document reader and display tablet. The display tablet instructs travelers to present their boarding pass to the reader as they approach the unit. Once the boarding pass is scanned, an image of the traveler's face is captured. The system matches the photograph to all images in the gallery of photographs, at which point a green light appears and the traveler is instructed to proceed to board the plane. After the flight has departed, the system compares the captured images to the images in

the gallery to determine the system's effectiveness at matching photographs taken to those in the gallery.²⁸ CBP officials told us that the capability to match one photograph to a gallery of photographs will be critical in developing a biometric exit solution for deployment on a nationwide scale because the agency already has access to one or more photographs on record of each person exiting the country, if they entered legally. As of November 2016, CBP had not yet completed the formal evaluation of the test. They added that a second biometric indicator, such as fingerprints, would also be useful in cases where the facial recognition software cannot match the live image to the images in the gallery.

For this pilot test, CBP deployed the capability at one gate and used it to obtain biometric information from passengers on a daily nonstop flight from Atlanta to Tokyo. We observed this capability collecting biometric information from passengers in August 2016. CBP officials told us that this flight was selected because it departed from a gate with ample physical space every day, which allowed CBP to set up its equipment to collect photographs. In addition, the flight departed at a time when few international flights were arriving or departing, so CBP did not have to divert officers from inspecting departing or incoming travelers to operate the pilot. See figure 4 for a representation of the biometric capture device.

²⁸According to CBP officials, the results of the facial recognition matching were not used to pursue enforcement actions against any travelers.

Figure 4: Departure Information Systems Test Apparatus



Source: U.S. Customs and Border Protection, Departure Information System Test Concept of Operations, May 2016. | GAO-17-170

Southwest Border Pedestrian Exit Field Test. From February to May 2016, CBP initiated a pilot program to test facial and iris scanning technology at the Otay Mesa POE south of San Diego, California.²⁹ The purpose of the test was to determine if biometric technology could be effectively used in an outdoor land environment without significant impact to operations and wait times, and to determine if collecting biometrics in conjunction with biographic data upon exit will assist CBP in identifying individuals who have overstayed their period of admission. Under this

²⁹See Test to Collect Biometric Information at the Otay Mesa Port-of-Entry, 80 Fed. Reg. 70,241 (Nov. 13, 2015).

pilot program, CBP collected biographic data from all travelers departing the United States at the Otay Mesa POE and biometrics (facial images and/or iris scans) from certain foreign nationals entering and departing the Otay Mesa POE on foot.³⁰ To exit the country, travelers scanned their passports at a radio frequency identification-enabled kiosk, as shown in the picture on the left in figure 5. One collection lane was equipped with facial and iris scanning equipment that required the traveler to pause for biometric data collection, as pictured in the middle picture shown in figure 5. Another lane was equipped with technology that collected facial and iris images while the traveler continued through the lane without pausing, as shown in the picture on the right in figure 5.

³⁰This pilot program collected biometric information from all foreign nationals crossing through the Otay Mesa port of entry at the time of arrival to and departure from the United States, except those who, at the time of such arrival or departure, were exempt pursuant to 8 C.F.R. §§ 215.8(a)(2), 235.1(f)(1)(iv). According to the *Federal Register* Notice, exempted individuals include all foreign nationals under the age of 14 or over the age of 79; U.S. citizens or nationals; Canadian citizens admitted under INA § 101(a)(15)(B) who are not otherwise required to present a visa or have been issued Form I-94 or Form I-95 upon arrival; certain foreign government officials, diplomats, or employees of international organizations; other classes of foreign nationals as jointly determined by the Secretaries of Homeland Security and State; or specific individuals as determined by the Secretaries of Homeland Security or State, or the Director of Central Intelligence.

Figure 5: Photographs of Pedestrian Exit Pilot Program

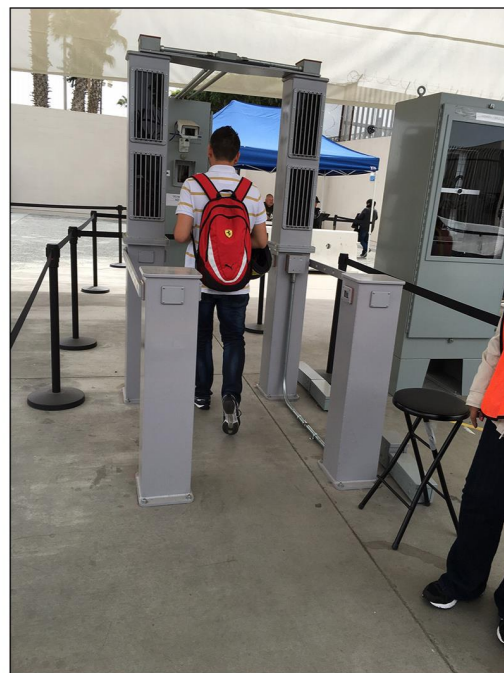
Pedestrian scanning passport prior to providing face/iris biometrics at kiosk



Pedestrian departing U.S. providing face/iris biometrics at kiosk



Pedestrian providing face/iris biometrics using collection device that did not require pedestrian to pause



Source: U.S. Customs and Border Protection. | GAO-17-170

Although CBP had not completed its formal evaluation of the pedestrian exit field test as of November 2016, CBP officials told us the pilot provided information about the physical challenges to implementing face and iris scanning technology at land POEs. The officials noted that the conditions at Otay Mesa POE were “ideal” in terms of space availability and weather conditions compared with other land POEs. Specifically, the Otay Mesa POE had sufficient space to install and operate the kiosks and cameras to collect biometric data from departing pedestrians. In addition, the location generally had favorable weather and climate conditions that were less likely to affect the biometric collection machines stationed outside, though the officials told us that the technology did need to be under a roof or canopy, both to protect it from the rain and to prevent sun glare from affecting the quality of the images captured. However, the officials said that while rain and wind are not a significant issue at Otay Mesa’s location in southern California, other land POE locations, such as those in southern Texas, may experience challenges such as heavy storms or dust. They added that the pilot program had highlighted the need for biometric scanning equipment to be located inside for protection

from the elements, but that some land POEs do not have sufficient space for such infrastructure.

DHS Continues to Face Long-Standing Challenges Implementing a Biometric Exit System but It is Too Early to Assess Current Implementation Plans

While DHS has made progress testing and evaluating biometric exit capabilities through the pilot programs described above, DHS continues to face challenges in developing and deploying a biometric exit system, many of which are longstanding. In particular, we and DHS have identified challenges in the areas of planning, infrastructure, and staffing that have affected DHS's efforts to develop and implement a biometric exit capability. DHS has recognized these challenges and, according to CBP officials, is working to address them as part of its current planning process for a biometric exit system. Under this current process, as of November 2016, CBP plans to implement a biometric exit capability in at least one major airport by 2018, but has not yet finalized the approach it will take to deploy this capability in airports. As a result, it is too early to assess CBP's current plans and how the department will address the challenges we and DHS have identified.

Planning process. We and DHS have identified challenges in CBP's planning efforts to develop and implement a biometric exit capability. For example, in our July 2013 report we found that DHS had a high-level plan for a biometric air exit capability, but it did not clearly define the steps, time-frames, and milestones needed to develop and implement an evaluation framework, as is standard in project management. As a result, we recommended that DHS establish time-frames and milestones for developing and implementing an evaluation framework to be used in conducting the department's assessment of biometric exit options. DHS concurred with this recommendation and finalized goals and implemented actions to address it. Specifically, in June 2016, CBP provided us with the evaluation framework as well as expected time-frames and milestones for implementing the biometric exit system.

CBP has also previously faced challenges in meeting the timeframes it has identified for deploying a biometric exit capability at airports. For instance, in July 2014, a DHS document stated that the department's goal was to deploy a biometric exit capability to the top 20 airports—selected by international passenger departure volume—between 2015 and 2018. However, as of November 2016, CBP's planned timeframe was to begin

deployment of a biometric exit capability at one airport by the end of 2018, and additional airports in subsequent months. CBP officials told us this change in schedule was because funds from the appropriation funds established by Congress in the Consolidated Appropriations Act, 2016, to develop and implement the system were not available until October 2016.

In November 2016, CBP officials also told us the agency had changed its approach to the biometric exit capability and was working with airlines and airports on strategies for using public/private partnerships to both reduce the cost to taxpayers and give industry more control over how a biometric exit capability is implemented at airport gates. CBP's previous planned approach had been for CBP to acquire and deploy biometric technology at airports, and to be responsible for collecting biometric information from passengers. Developing a biometric exit system in collaboration with airlines and airports, if implemented, would represent a change in CBP's acquisition strategy because it would rely on airlines and airports to collect biometric information from passengers by acquiring biometric exit technology, such as cameras to collect facial images or equipment for fingerprinting. CBP would then be responsible for transmitting, storing, and analyzing this biometric information in order to pursue enforcement actions, such as the apprehension of individuals with warrants for their arrests, or recording the presence of individuals who entered the country illegally. Under this scenario, the airlines could integrate this biometric collection process into their existing boarding procedures, potentially resulting in minimal disruption to the flow of passengers during boarding, according to CBP officials. For instance, CBP officials suggested facial images or iris scans could be collected as travelers' boarding passes are being scanned, and the biometrics could eventually be used in the place of boarding passes.

CBP officials said that this new approach did not change the timelines for initial implementation of a biometric exit capability, but officials noted that the approach or approaches selected will affect timelines and costs for future implementation. As of November 2016, CBP officials told us they had not finalized any partnership agreements with airports or airlines providing international service; and the agency cannot complete the planning process, including cost and schedule estimates, until these partnership agreements and key implementation decisions are finalized. Going forward, CBP intends to finalize its plans and approach for developing and implementing a biometric exit capability. Given these considerations, it is too early to assess CBP's plan for including airlines and airports in the development and implementation of the biometric exit system or the cost to CBP of this system.

Infrastructure. We and CBP officials have also identified limitations in infrastructure as a significant challenge to implementing a biometric exit capability at airports as well as at land POEs. For example, CBP officials pointed out that U.S. airports generally do not have designated and secure exit areas for conducting outbound immigration inspections, nor are there checkpoints for travelers to pass through where their departure is recorded by a U.S. immigration officer and where biometric information could be captured. According to CBP officials, for a biometric exit program to be effective, the collection of biometric information must take place at the gate or on the jetway to ensure that the traveler actually departs the country. To address these challenges, CBP intends to use the information gained from the pilot programs to identify biometric exit technology and processes that are effective in the airport environment and minimize the impact on passenger flow and airport operations.

At land POEs, there are also longstanding infrastructure and operational challenges to implementing a biometric exit capability to collect traveler information upon departure from the United States. In 2006 we reported that establishing a biometric exit capability at land POEs faced a number of challenges, including space constraints complicated by the logistics of processing high volumes of visitors and associated traffic congestion.³¹ For example, travelers may arrive at land POEs on foot or via a variety of vehicles—including cars, trucks, trains, buses, ferries, and bicycles—and many land POEs do not have sufficient space to deploy equipment and staff for obtaining biometric information from individuals leaving the country. Given the current capabilities of biometric capture devices, applying biometric capabilities to vehicle passengers would be more difficult than doing so for those crossing on foot, because, according to CBP officials, biometric capabilities currently available would require all passengers to stop and exit their vehicle to be photographed or scanned. In addition to the large amount of space this process would require, DHS officials stated that it would cause extensive delays at vehicle POEs. CBP officials said they intend to use the information from the pedestrian exit field test at Otay Mesa to inform any future solution. The officials also told us that they entered into an agreement with Oak Ridge National Laboratory beginning in June 2016 to explore options for applying biometric capabilities to vehicle passengers exiting the country. Given

³¹GAO, *Border Security: US-VISIT Program Faces Strategic, Operational, and Technological Challenges at Land Ports of Entry*, [GAO-07-248](#) (Washington, D.C.: Dec. 6, 2006).

these challenges, CBP does not plan to implement a biometric exit capability at land POEs until 2020.

Staffing. In addition, CBP officials stated that implementing a biometric exit capability will likely require additional CBP officers at each POE. The biometric exit pilot programs we observed required CBP staff to assist travelers with using the biometric technology and also for any enforcement actions that may be needed. However, CBP officials noted that they are exploring biometric exit capabilities that minimize the involvement of CBP officials, either by having the collection of biometric information done automatically through facial recognition technology or using airline personnel to process passengers. In either case, the CBP officials said that any biometric exit capability will require additional officers to support increased enforcement operations involving individuals departing the country that result from a biometric exit system. For example, individuals with warrants for their arrest may be prevented from departing the country so they can be tried for a crime. CBP officials told us that they have developed staffing estimates for each of the 20 busiest airports in the United States and that the estimates will be reviewed by DHS management and the Office of Management and Budget. However, CBP officials also told us they are still developing enforcement policies and priorities for foreign visitors departing the United States, so it is difficult to determine the extent to which enforcement actions would increase or how many additional CBP officers may be needed at each airport or land port of entry.

DHS Included Some Required Information in Its First Overstay Report and Plans to Include More Information in Future Reports, and DHS Overstay Enforcement Priorities Have Not Changed Since 2013

DHS Overstay Report Includes Some Required Information, and DHS Officials Expect Future Reports to Include Additional Information

In January 2016, DHS issued its first report on estimated overstay rates that covered fiscal year 2015, which included some but not all information required by statute.³² DHS had not previously reported required overstay estimates to Congress on an annual basis, as required, because of DHS and legacy INS concerns about the reliability of the data available on overstays. In April 2011, we reported that DHS officials stated that the department had not reported overstay estimates because it did not have sufficient confidence in the quality of its overstay data.³³ In our July 2013 report, we found that although DHS had taken action to strengthen its overstay data, DHS had not yet validated or tested the reliability of those actions and challenges to reporting reliable overstay data remained. We recommended that DHS assess and document the extent to which the reliability of the data used to develop any overstay estimates has improved and any remaining limitations in how the data can be used.³⁴ DHS concurred, and in the 2015 overstay report, DHS noted which data were used to compile the overstay estimates in the report and identified limitations with other data sources, thus addressing our recommendation. To identify overstays, CBP matches arrival and departure data on foreign nationals in the Arrival and Departure Information System. These overstays are then checked against other DHS immigration databases to identify persons who have departed the United States or obtained an extension, or other valid immigration status or protection, and thus are not potential overstays.

³²See 8 U.S.C. § 1376.

³³[GAO-11-411](#).

³⁴[GAO-13-683](#).

DHS's fiscal year 2015 overstay report describes expected overstays rates by country for foreign nationals lawfully admitted into the United States for business or pleasure through air and sea POEs and who were supposed to depart the United States in fiscal year 2015, as required. According to the overstay report, 527,127 of the nearly 45 million foreign nationals admitted for business or pleasure through air and sea POEs that were expected to depart the United States in fiscal year 2015 overstayed their period of admission, for a total overstay rate of 1.17 percent (see table 3). This number represents 85 percent of all the foreign visitors who arrived through air and sea POEs and who were expected to depart the country in fiscal year 2015, according to the report. DHS classifies individuals as overstays by matching departure and status change records to arrival records collected during the admission process.

DHS distinguishes two groups of foreign visitors who overstayed their period of admission: (1) foreign nationals who are "out of country overstays" because their departure records show they departed the United States after their lawful admission period expired, and (2) foreign nationals who are "suspected in-country overstays" because they have no departure records nor did they obtain an extension, or other valid immigration status or protection, prior to the end of their authorized admission period. For example, 482,781 of the 527,127 foreign visitors who overstayed their period of admission in fiscal year 2015 were suspected in-country overstays because CBP did not have a departure record for them so they appeared to have remained in the country, a suspected in-country overstay rate of 1.07 percent, as illustrated in table 3.

Table 3: Fiscal Year 2015 Overstay and Suspected In-Country Overstay Rates for Foreign Nationals Admitted to the United States for Business or Pleasure through Air and Sea Ports of Entry

Country of Citizenship	Expected departures	Total overstays	Total overstay rates (percent)	Suspected in-country overstays	Suspected in-country overstay rate (percent)
Visa Waiver Program (VWP) countries ^a	20,974,390	153,166	0.73	136,807	0.65
Non-VWP countries	13,182,807	228,783	1.74	210,825	1.60
Canada	7,875,054	99,906	1.27	93,035	1.18
Mexico	2,896,130	45,272	1.56	42,114	1.45
All countries	44,928,381	527,127	1.17	482,781	1.07

Source: Department of Homeland Security data. | GAO-17-170

^aThe Visa Waiver Program allows nationals from certain countries to apply for admission to the United States as temporary visitors for business or pleasure without first obtaining a visa from a U.S. consulate abroad.

However, the DHS overstay report does not include all required information. Specifically, because of data reliability concerns, the overstay report does not include required information on expected departures, overstays, and overstay rates for foreign nationals who entered the country under nonimmigrant visa categories other than for business and pleasure, such as those covering, for example, foreign students and their families (F, M, and J visas).³⁵ DHS officials noted that the department is working to improve the reliability of the overstay information on foreign nationals who entered the country under student visa categories by, among other things, adding data on each visa holder's last date of compliance and modernizing the database that contains data on individuals holding student visas. DHS officials stated that the fiscal year 2016 overstay report—which they expect to be issued in early 2017—will include reliable overstays estimates for these foreign student visa categories.

The fiscal year 2015 overstay report also did not include information on foreign visitors who entered the United States from Canada and Mexico using land POEs because of unreliable collection of departure data at these POEs. The collection of departure information at land POEs is more difficult than at air and sea POEs because of the lack of electronically captured biographic information of foreign nationals departing the country using land POEs. Specifically, land POEs do not receive information on anticipated arrivals or departures, because travel across these POEs is often on foot or in private vehicles rather than through a transportation company that provides CBP with advance passenger manifests, such as an airline or passenger ship operator.

To address this limitation for the land POEs at the northern border specifically, DHS and Canada's Border Service Agency implemented the Beyond the Border agreement in October 2012 under which they exchange entry records for land crossings between the two countries so that an entry into one is recorded as an exit from the other. However,

³⁵Foreign students and their qualifying family members may be granted F, J, or M category visas to enter the United States. F visas are for foreign students pursuing academic studies at a college, university, or other academic institution, or in an accredited language training program. 8 U.S.C. § 1101(a)(15)(F); 8 C.F.R. § 214.2(f). M visas are for foreign students pursuing studies at an established vocational or other recognized nonacademic institution. 8 U.S.C. § 1101(a)(15)(M); 8 C.F.R. § 214.2(m). J visas enable foreign nationals to come to the United States to teach, study, conduct research, demonstrate special skills, or receive on-the-job training for periods ranging from a few weeks to several years. 8 U.S.C. § 1101(a)(15)(J); 8 C.F.R. § 214.2(j).

according to DHS, the southwest border with Mexico does not present the same opportunities as the border with Canada because Mexico's border infrastructure and data collection capabilities are more limited. As a result, DHS officials noted that they have started discussions with Mexican government officials to set up a land pilot on the Mexican side of the border to capture information from travelers entering Mexico, similar to the information captured and exchanged under the Beyond the Border initiative with Canada. DHS has also been exploring other methods and technologies for obtaining biographic and biometric data from travelers departing the country through land POEs on the border with Mexico, such as the pedestrian biometric exit field test at the Otay Mesa border crossing near San Diego discussed earlier. DHS expects to start reporting overstay rates for foreign visitors who entered the country through land POEs in the fiscal year 2017 report.

DHS's Overstay Enforcement Priorities Have Remained the Same Since 2013

Since our July 2013 report, DHS has not changed its enforcement priorities with respect to potential overstays, focusing its enforcement actions on individuals that may pose a national security or public safety risk. Within ICE, the Homeland Security Investigations (HSI) Counterterrorism and Criminal Exploitation Unit (CTCEU) oversees the program for investigating nonimmigrant visa violators who may pose a national security risk. CTCEU receives system-generated lists of overstay leads from the Arrival and Departure Information System, which is produced by matching arrival and departure data on foreign nationals. On a weekly basis, CTCEU also receives information on overstay leads from the Student and Exchange Visitor Information System on foreign students who have remained in the United States beyond their authorized periods of admission. Once these leads are received, CTCEU analysts then determine whether the individuals from these lists meet DHS's overstay enforcement priorities based on national security and public safety criteria.

CTCEU prioritizes investigation of overstay leads based on the perceived risk each lead is likely to pose to national security and public safety as determined by threat analysis. To prioritize investigation of overstay leads, CTCEU uses an automated system to assign each overstay lead a priority ranking based on threat intelligence information. For the records that meet DHS's overstay enforcement priorities, CTCEU analysts then conduct manual searches of other databases to determine, for example, if

the individual obtained an extension, or other valid immigration status or protection and is therefore not an overstay. For their priority records, if CTCEU analysts are unable to identify evidence of a change in status or a departure, they search for the nonimmigrant's current U.S. address, and if they are able to identify an address, they send the lead to the relevant HSI field office for investigation. In addition, starting in 2014, CTCEU has been using social media and open source information to locate and track individuals. HSI field offices only investigate a case if they have derogatory information on an individual or if they have viable location information, according to ICE officials. CTCEU sends overstay leads who do not meet DHS's enforcement priorities to ICE's ERO for potential enforcement action.

According to ICE data, between fiscal years 2013 and 2015, CTCEU reviewed approximately 2.7 million overstay leads, and closed 871,463 leads (about 32 percent) through their vetting process (see table 4). The most common reasons for closure were subsequent departure from the United States or pending immigration benefits. CTCEU had 155,182 overstays leads (about 6 percent) open under continuous monitoring. CTCEU sent 26,982 overstay leads (about 1 percent) to HSI field offices for further investigation because they represented national security or public safety threats. The majority of overstay leads CTCEU reviewed during this time period did not meet DHS's priorities and were referred to ERO for potential enforcement action (over 60 percent).

Table 4: Results of U.S. Immigration and Customs Enforcement's (ICE) Counterterrorism and Criminal Exploitation Unit's Potential Overstay Lead Efforts from Fiscal Year (FY) 2013 through FY2015

Potential overstay leads	FY 2013	FY 2014	FY 2015	Total
Reviewed	842,209	898,506	971,305	2,712,020
Closed through vetting	426,138	261,763	183,562	871,463
Open under continuous monitoring	42,148	29,103	83,931	155,182
Sent to Homeland Security Investigations' field offices for investigation	6,033	10,981	9,968	26,982
Under investigation	719	1,949	5,066	7,734
Closed following investigation	3,951	6,806	3,818	14,575
Referred to ICE's Enforcement and Removal Operations	363,220	587,904	684,960	1,636,084

Source: U.S. Immigration and Customs Enforcement data. | GAO-17-170

According to ICE data, CTCEU's overstay enforcement efforts resulted in about 5,000 administrative arrests, 369 criminal arrests, 333 indictments, and 300 convictions from fiscal year 2013 through fiscal year 2015, as shown in table 5.

Table 5: Arrests, Indictments, and Convictions Resulting from U.S. Immigration and Customs Enforcement's Counterterrorism and Criminal Exploitation Unit's Overstay Efforts from Fiscal Year (FY) 2013 through FY 2015

Fiscal Year	Administrative Arrests ^a	Criminal Arrests ^b	Indictments ^c	Convictions ^c
FY 2013	1,355	115	99	99
FY 2014	1,934	115	148	121
FY 2015	1,777	139	86	80
Total	5,066	369	333	300

Source: U.S. Immigration and Customs Enforcement data. | GAO-17-170

^aAdministrative arrests of foreign nationals are for charges to be adjudicated in administrative removal proceedings. These individuals are served with a notice to appear before an immigration judge and their information is sent to U.S. Immigration and Customs Enforcement's Enforcement and Removal Operations for appropriate action during the removal proceedings.

^bCriminal arrests of foreign nationals are for charges to be adjudicated before a criminal court.

^cIndictments and convictions are related to criminal arrests. However, in some instances, criminal arrests may not result in indictments. Also, in some instances, indictments may happen without criminal arrests. Some indictments and convictions are carried over from the previous fiscal year. For example, someone can be arrested and the indictment and conviction will come at a later date, often in the next fiscal year.

Of the more than 1.6 million overstay lead referrals sent by CTCEU to ERO between fiscal years 2013 and 2015, ERO did not send any leads to field offices for further investigation or enforcement action. ERO conducts reviews of the CTCEU overstay leads referrals to determine whether they meet DHS's priorities and maintains the records of these referrals for reference and periodic reviews.³⁶ ERO did not send any of the CTCEU's referrals to ICE field offices for enforcement action because the overstay lead referrals did not meet DHS's enforcement priorities. Specifically, ERO officials said that in most cases, overstay lead referrals do not have criminal convictions required to classify the referrals as DHS's enforcement priority. As a result, based on current DHS's priorities, ICE's overstay enforcement efforts are limited to potential overstays involving national security and public safety threats.

³⁶In April 2011, we reported on DHS's efforts to identify and take actions to address overstays and made recommendations to the department to strengthen these efforts. Specifically, we recommended that ICE establish a target time frame for completing the assessment of funding and resources needed to shift more overstay enforcement responsibilities to ERO and that ICE use the results to inform its decision on whether to assign ERO more of these responsibilities. See [GAO-11-411](#). In 2011, ICE completed the assessment in which it concluded that significant resources would be required to establish ERO teams dedicated to overstays enforcement. As a result, ICE did not change ERO's overstay enforcement responsibilities.

Agency Comments

We provided a draft of this report to DHS for review and comment. DHS provided written comments, which are noted below and reproduced in full in appendix II, and technical comments, which we incorporated as appropriate.

In its comments, DHS stated that CBP has made progress testing and evaluating biometric exit capabilities since our work was completed. DHS noted that it plans to develop a biometric exit system at airports based on the facial recognition pilot program conducted at the Hartsfield-Jackson Atlanta International Airport. In December 2016, this system became the Biometric Verification System, which is biometrically confirming selected travelers departing the United States at the airport. DHS further noted that CBP will continue to test different facial image capture devices and work with airlines to more fully integrate the Biometric Verification System into the airline boarding process at additional airport locations. To support this effort, DHS reported that CBP has made progress in developing the documentation needed to designate Biometric Exit as a "program of record," indicating that it has met certain thresholds to allow for procurements and execution of funds. DHS also reported that CBP is developing a spend plan describing the execution of up to \$1 billion that will accrue pursuant to the Consolidated Appropriations Act, 2016, for implementation of a biometric entry and exit system.

In addition, DHS reported that CBP drafted an overstay report for fiscal year 2016, which it expects to release by the end of February 2017. DHS stated that the report addresses over 95 percent of all nonimmigrants admitted by air to the United States, and will include student visa categories. DHS stated that it plans to report these numbers annually, as required.

We are sending copies of this report to the Secretary of Homeland Security, appropriate congressional committees and members, and other interested parties. In addition, this report is available at no charge on the GAO website at <http://www.gao.gov>. If you or your staff have any questions about this report, please contact me at (202) 512-8777 or gablerr@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. GAO staff who made key contributions to this report are listed in appendix III.

Letter

Sincerely yours,

Rebecca Gambler

Rebecca Gambler Director, Homeland Security and Justice

Appendix I: Previous GAO Reports and Recommendations Related to Biometric Exit Development

Table 6: GAO Reports and Recommendations Related to the Development of a Biometric Exit System, 2003-2016

Report	Findings and Recommendations
GAO, <i>Information Technology: Homeland Security Needs to Improve Entry Exit System Expenditure Planning</i> , GAO-03-563 (Washington, D.C.: June 9, 2003).	<p>GAO reported that DHS's initial plan for an entry-exit system did not provide sufficient information about specific system capabilities, benefits, and costs.</p> <p>Recommendation</p> <p>GAO recommended that the Secretary of Homeland Security ensure that future expenditure plans fully disclose what entry-exit system capabilities and benefits are to be delivered, by when, and at what cost, and how the department intends to manage the acquisition to provide reasonable assurance that these system capability, benefit, schedule, and cost commitments will be met.</p> <p>Status</p> <p>Closed - Implemented</p> <p>The fiscal year 2007 expenditure plan disclosed planned system capabilities, expected benefits, and estimated schedules and costs. More specifically, the expenditure plan identified capabilities for various U.S. Visitor and Immigrant Status Indicator Technology (US-VISIT) projects, such as the capability to receive and store 10-Print finger scans captured by U.S. consulates. Additionally, the expenditure plan identified benefits, such as reduced information gaps and enhanced immigration and border enforcement. Furthermore, the expenditure plan provided timeframes, such as the deployment of the 10-print pilot to 10 air locations in late 2007. Moreover, the expenditure plan provided meaningful cost information for some of its projects.</p>
GAO, <i>Homeland Security: Some Progress Made, but Many Challenges Remain on U.S. Visitor and Immigrant Status Indicator Technology Program</i> , GAO-05-202 (Washington, D.C.: Feb. 23, 2005).	<p>GAO reported that changing facts and circumstances introduced additional risk to US-VISIT's delivery of promised capabilities and benefits on time and within budget.</p> <p>Recommendation</p> <p>GAO recommended that the Secretary of Homeland Security direct the Under Secretary for Border and Transportation Security to ensure that the US-VISIT program director reassesses its plans for deploying an exit capability to ensure that the scope of the exit pilot program provides for adequate evaluation of alternative solutions and better ensures that the exit solution selected is in the best interest of the program.</p> <p>Status</p> <p>Closed - Implemented</p> <p>The fiscal year 2008 expenditure plan stated that DHS reassessed its exit plans, described a new strategy for deploying biometric exit capabilities at air and sea ports of entry, and noted the absence of near-term biometric options for land ports of entry. DHS also shut down the exit pilots (and demonstration projects) that this recommendation was intended to address.</p>

**Appendix I: Previous GAO Reports and
Recommendations Related to Biometric Exit
Development**

Report	Findings and Recommendations
<p>GAO, <i>Homeland Security: U.S. Visitor and Immigrant Status Program's Long-standing Lack of Strategic Direction and Management Controls Need to be Addressed</i>, GAO-07-1065 (Washington, D.C.: Aug. 31, 2007).</p>	<p>GAO reported that DHS continued to propose spending tens of millions of dollars on US-VISIT exit projects that were not well-defined, planned, or justified on the basis of costs, benefits, and risks.</p> <p>Recommendation</p> <p>In this report, GAO reiterated prior recommendations regarding the US-VISIT program and further recommended that the Secretary of Homeland Security report to the department's authorization and appropriations committees on its reasons for not fully addressing its expenditure plan legislative conditions and our prior recommendations.</p> <p>Status</p> <p>Closed - Not Implemented</p> <p>US-VISIT program officials told GAO that they had periodically briefed their authorization and appropriation committees on program-related issues, including reasons for not having fully satisfied all expenditure plan legislative conditions and GAO's prior recommendations. However, documentation of these congressional briefings provided by US-VISIT does not indicate that the program's reasons for not fully addressing expenditure plan legislative conditions or our open recommendations were discussed. Further, staff with the appropriations committees that focus on US-VISIT told us that they were not aware of any briefings in which this information was presented. As of August 2011, DHS officials had yet to provide evidence of discussions with the congressional committees regarding the topics of this recommendation, and GAO closed the recommendation as not implemented.</p>
<p>GAO, <i>Homeland Security: Key US-VISIT Components at Varying Stages of Completion, but Integrated and Reliable Schedule Needed</i>, GAO-10-13 (Washington, D.C.: Nov. 19, 2009).</p>	<p>GAO reported that the US-VISIT program office had not adopted an integrated approach to scheduling, executing, and tracking work toward a comprehensive exit solution.</p> <p>Recommendation</p> <p>GAO recommended that the US-VISIT Program Director develop and maintain an integrated master schedule for the exit system project in accordance with nine scheduling practices discussed in the report.</p> <p>Status</p> <p>Closed - Implemented</p> <p>In April 2015, DHS reported that it had developed a corrective action plan to facilitate a structured approach to addressing the weaknesses in its schedule and achieving compliance with best practices. In June 2016, CBP updated its schedules for a series of entry/exit pilot projects. Our analysis of CBPs pilot project schedules showed improvement in multiple areas that we previously identified as weaknesses, such as the sequencing of activities, assigning resources to activities, and conducting schedule risk analyses. CBP also provided documentation that it conducted assessments of the health of its schedules against best practices. As a result of these efforts, the program has improved its ability to manage and measure its progress in executing the work to be accomplished.</p>

**Appendix I: Previous GAO Reports and
Recommendations Related to Biometric Exit
Development**

Report	Findings and Recommendations
<p>GAO, <i>Homeland Security: US-VISIT Pilot Evaluations Offer Limited Understanding of Air Exit Options</i>, GAO-10-860 (Washington, D.C.: Aug. 10, 2010).</p>	<p>GAO reported that DHS would need to leverage other sources of information to develop a biometric air exit solution given limitations in DHS's biometric air exit pilot programs.</p> <p>Recommendation</p> <p>GAO recommend that the US-VISIT Program Director identify additional sources for the operational impacts of air exit not addressed in the pilots' evaluation and to incorporate these sources into its air exit decision making and planning.</p> <p>Status</p> <p>Closed - Implemented</p> <p>In March 2013, DHS reassigned the responsibilities of the US-VISIT program to other organizations within the department. The department also assigned Customs and Border Protection (CBP) with responsibility for coordinating DHS's entry and exit policies and operations. In December 2014, CBP finalized a report titled Biographic/Biometric Exit Analysis (B2EA) Project Current State Assessment & Gap Analysis, which assessed the current state of the biographic and biometric exit environment, as well as provided a gap analysis in the areas of data, technology, personnel, infrastructure, and operations. Among other things, the report identified the operational effectiveness of key exit capabilities (such as the ability to interdict high-risk travelers prior to departure) across the primary modes of travel into and out of the United States, including commercial air exit. The report also detailed how biometrics can potentially address the gaps identified and improve exit capabilities. As a result, the report provides a basis to assess the impact of future biographic and biometric solutions on exit operations and assist in air exit decision making and planning.</p>
<p>GAO, <i>Overstay Enforcement: Additional Actions Needed to Assess DHS's Data and Improve Planning for a Biometric Air Exit Program</i>, GAO-13-683 (Washington, D.C.: July 30, 2013).</p>	<p>GAO reported that DHS had a high-level plan for a biometric air exit capability, but it did not clearly define the steps, time frames, and milestones needed to develop and implement an evaluation framework, as is standard in project management.</p> <p>Recommendation</p> <p>To provide reasonable assurance of when DHS will be able provide an assessment of the benefits and costs of biometric air exit options to Congress, the Secretary of Homeland Security should establish time frames and milestones for developing and implementing an evaluation framework to be used in conducting the department's assessment of biometric air exit options.</p> <p>Status</p> <p>Closed – Implemented</p> <p>CBP finalized goals and objectives for a biometric air exit system in March 2014, and provided GAO with the evaluation framework in June 2016. CBP also provided GAO with expected time frames and milestones for implementing the framework as CBP evaluates the results of field experiments for different biometric exit options. Having an evaluation framework will help CBP in evaluating the extent to which different options under consideration can meet the established goals and objectives for a biometric exit program.</p>
<p>GAO, <i>Border Security: Actions Needed by DHS to Address Long-Standing Challenges in Planning for a Biometric Exit System</i>, GAO-16-358T (Washington, D.C.: Jan. 20, 2016).</p>	<p>GAO testified before the U.S. Senate Subcommittee on Immigration and the National Interest, Committee on the Judiciary with a summary of GAO-13-683 and did not make any additional recommendations.</p>

Source: GAO reports. | GAO-17-170

Appendix II: Comments from the Department of Homeland Security

U.S. Department of Homeland Security
Washington, DC 20528



**Homeland
Security**

February 6, 2017

Rebecca Gambler
Director, Homeland Security and Justice
U.S. Government Accountability Office
441 G Street, NW
Washington, DC 20548

Re: Management Response to Draft Report GAO-17-170, "BORDER SECURITY:
DHS has Made Progress in Planning for a Biometric Air Exit System and Reporting
Overstays, but Challenges Remain"

Thank you for the opportunity to review and comment on this draft report. The U.S. Department of Homeland Security (DHS) appreciates the U.S. Government Accountability Office's (GAO) work in planning and conducting its review and issuing this report.

As noted in the draft report, CBP leads DHS efforts to integrate biometric exit technology and processes for travelers departing the United States. CBP has made progress testing and evaluating biometric exit capabilities, has developed an achievable vision to implement a biometric air exit system—the details of which were not all available during GAO's fieldwork for this report—and is moving forward to deploy that system.

Specifically, the vision for implementing this biometric exit system is modeled after the facial recognition biometric pilot conducted at Hartsfield International Airport in Atlanta, GA. CBP considered 5 key parameters in determining the success of that pilot. The biometric exit solution had to:

- avoid adding another layer to the travel process (i.e., stove piped approach);
- fit into existing airport infrastructure;
- leverage existing airline systems, processes, and business models;
- use current passenger behaviors and expectations without requiring new or unexpected steps for travelers; and,
- utilize advanced passenger information and, to the greatest extent possible, existing traveler data and government systems to stage biometrics in small batches to facilitate faster matching.

The Atlanta pilot was successful both in terms of facial recognition matching capability, and fitting into the five parameters outlined above. In December 2016, the pilot became the Biometric Verification System (BVS). Using BVS, CBP is now biometrically confirming selected travelers departing the United States at Atlanta's international airport.

During the next several months, CBP will continue to test different facial image capture devices and work with airlines to more fully integrate BVS into the airline boarding process at additional airport locations.

In addition, CBP has made significant progress developing the documentation needed to designate Biometric Exit as a “program of record,” indicating that it has met certain thresholds to allow for procurements and execution of funds. Once formally recognized as such within the DHS program management structure, Biometric Exit will be managed, reviewed, and monitored utilizing programmatic best practices and lessons learned from previous successful acquisition programs. As part of this process, CBP and others are reviewing the President’s “Executive Order: Protecting The Nation From Foreign Terrorist Entry Into The United States,” dated January 27, 2017, to determine how best DHS can comply with a requirement to expedite the completion and implementation of a biometric entry-exit tracking system for all travelers to the United States, as recommended by the National Commission on Terrorist Attacks Upon the United States.

DHS is also developing a spend plan describing the execution of funds allocated under the Fiscal Year (FY) 2016 DHS Appropriations Act. As part of that law, DHS received fee funds from certain immigration benefit applications which are estimated to accrue \$1 billion over a ten-year period. Per the terms of the law, these funds must be used to build a biometric entry-exit system.

Finally, CBP has drafted an overstay report for FY 2016, covering nonimmigrant travelers who were expected to depart the United States between October 1, 2015 and September 30, 2016, which is currently in the process of being finalized. DHS expects this report will be released by the end of February 2017. The report addresses over 95% of all nonimmigrants admitted by air to the United States. It also will include overstay rates by country for nonimmigrant Visa Waiver Program (VWP) and B-1/B-2 visa categories, as well as student (F, M, and J) visa categories along with other nonimmigrant categories with overstay rates by country. Moving forward, DHS plans to report these numbers annually, as required.

Again, thank you for the opportunity to review and comment on this draft report. Technical comments were previously provided under separate cover. Please feel free to contact me if you have any questions. We look forward to working with you again in the future.

Sincerely,



JIM H. CRUMPACKER, CIA, CFE
Director
Departmental GAO-OIG Liaison Office

Appendix III: GAO Contact and Staff Acknowledgments

Contact

Rebecca Gambler, (202) 512-8777 or gablerr@gao.gov

Staff Acknowledgments

In addition to the contact named above, Adam Hoffman (Assistant Director), Juan Tapia-Videla (Analyst-In-Charge), Miriam Hill, Megan Erwin, Sasan J. “Jon” Najmi, Amanda Miller, Adam Vogt, Eric Hauswirth, Richard Hung, and Nathan Tranquilli made significant contributions to this report.

Appendix IV: Accessible Data

Data Tables

Accessible Data for Figure 1: Timeline of Events Related to Biometric Entry and Exit System

Statute or DHS Action	Date	Description
Statute	September 1996	The Illegal Immigration Reform and Immigrant Responsibility Act of 1996 required an automated system to record and then match the departure of every foreign national from the United States to the individual's arrival record.
Statute	June 2000	The Immigration and Naturalization Service Data Management Improvement Act of 2000 required implementation of an integrated entry and exit data system for foreign nationals.
DHS Action	April 2003	The Department of Homeland Security (DHS) initiated the U.S. Visitor and Immigrant Status Indicator Technology (US-VISIT) program to develop a comprehensive biometric entry and exit system.
DHS Action	January 2004	US-VISIT began collecting biometric data on aliens entering the United States at 115 air and 14 sea ports of entry.
Statute	December 2004	The Intelligence Reform and Terrorism Prevention Act of 2004 required a plan to accelerate full implementation of an automated biometric entry and exit system.
DHS Action	October 2005	US-VISIT began collecting biometric data on aliens entering the United States at all ports of entry.
Statute	September 2008	The DHS Appropriations Act, 2009 withheld funding until legacy US-VISIT conducted certain air exit pilots and reported to Congress on those efforts.
DHS Action	2009	DHS operated two biometric air exit pilots from May 2009 until July 2009 as required by law, and submitted its evaluation report for these pilots to Congress in October 2009.
DHS Action	2011	DHS directed its Science and Technology Directorate (S&T), in coordination with other DHS component agencies, to research long-term options for biometric exit.
DHS Action	May 2012	DHS reported internally on the results of S&T's analysis and made recommendations to support the planning and development of a biometric air exit capability.
DHS Action	June 2014	S&T established test and evaluation capabilities, with assistance from the National Institute of Standards and Technology, to evaluate biometric technologies under simulated operational conditions.

Statute or DHS Action	Date	Description
Statute	January 2015 a	Congress authorizes fee increases on L-1 and H-1B visas to provide up to \$1 billion dollars for DHS to develop and implement a biometric exit system beginning in fiscal year 2017.
	a L-1 and H-1B visas are nonimmigrant visas for foreign workers transferring from their employer's foreign office to an office in the United States to work in a management or executive role, or in a position requiring specialized knowledge; or who U.S. companies are seeking to hire for work in specialty occupations, respectively, to come to the United States temporarily to engage in such employment. See 8 U.S.C. § 1101(a)(15)(H),(L).	
DHS Action	December 2015	U.S. Customs and Border Protection (CBP) assumed the lead for the implementation and integration of an operational biometric air exit field trial.
DHS Action	2015-2016	CBP conducted four biometric capability pilot programs to test technologies for collecting and matching biometrics of travelers at air and land ports of entry.

Agency Comment Letters

Text of Appendix II: Comments from the Department of Homeland Security

Page 1

U.S. Department of Homeland Security Washington, DC 20528

February 6, 2017

Rebecca Gambler

Director, Homeland Security and Justice

Government Accountability Office 441 G Street, NW

Washington, DC 20548

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Page 2

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Sincerely,

Director, Departmental GAO-OIG Liaison Office

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