



441 G St. N.W.
Washington, DC 20548

February 22, 2019

Congressional Committees

Department of Homeland Security: Review of the Fiscal Year 2017 Entry/Exit Overstay Report

Each year, millions of foreign visitors, or nonimmigrants, legally enter the United States on a temporary basis under specific nonimmigrant categories. They may travel to the United States with or as permitted, without a nonimmigrant visa and then enter the United States after admission at a U.S. port of entry for an authorized period of stay.¹ Overstays are nonimmigrants who remain in the United States beyond the expiration of their authorized period of stay, regardless of whether they ultimately depart. The Department of Homeland Security (DHS) has primary responsibility for identifying and addressing suspected overstays. According to DHS, identifying overstays is important for national security, public safety, and immigration enforcement.

Within DHS, multiple components play a role in identifying and addressing suspected overstays. U.S. Customs and Border Protection (CBP) is tasked with, among other duties, inspecting all people seeking entry or applying for admission into the United States to determine their admissibility and compliance with U.S. law. CBP has an electronic process for identifying overstays who are suspected or known to have remained in the country beyond the expiration of their authorized period of stay. In addition, U.S. Immigration and Customs Enforcement (ICE) is the lead agency for enforcing immigration law in the interior of the United States and is primarily responsible for overstay enforcement. Further, U.S. Citizenship and Immigration Services (USCIS) receives, processes, and maintains documentation pertaining to a nonimmigrant's immigration status, including the extension or change of status, and works with ICE to ensure proper adherence to U.S. immigration laws.

Federal law requires that DHS implement a program to collect data, for each fiscal year, regarding the total number of nonimmigrants who overstayed (i.e., remained in the United States after the expiration of their authorized period of stay) and report annually to Congress.² In January 2016, DHS issued its first report on estimated air and sea overstay rates that covered fiscal year 2015.³ Subsequently, DHS has issued reports covering fiscal years 2016 and 2017. The reports provide data on expected departures and overstays by country for nonimmigrants who entered through an air or sea port of entry and who were expected to depart in a particular fiscal year.

¹Certain individuals are allowed to seek admission without a visa, such as citizens of Canada, as well as participants in the Visa Waiver Program, through which nationals of certain countries may apply for admission to the United States as temporary visitors for business or pleasure without first obtaining a visa from a U.S. embassy or consulate abroad. See 8 U.S.C. § 1187; 8 C.F.R. §§ 212.1, 214.6(d), 217.1-217.7; 22 C.F.R. §§ 41.0-41.3.

²See 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).

³The nonimmigrant air and sea overstay population refers to those who entered the country through air and sea ports, rather than through land ports. CBP reports limited information on overstays who entered through land ports for reasons discussed later in this report.

The Explanatory Statement accompanying the Consolidated Appropriations Act, 2018 (2018 Explanatory Statement), directed DHS to develop and report within 180 days after enactment (by September 2018) on a statistically-sound metric for measuring the total nonimmigrant air and sea overstay population in the United States at a given time.⁴ DHS responded to this directive through its *Fiscal Year 2017 Entry/Exit Overstay Report*.⁵ The 2018 Explanatory Statement also included a provision for GAO to review DHS's report and provide a preliminary briefing to the House and Senate Appropriations committees on its review within 90 days after DHS's report is provided to the committees. This report transmits, in the form of the enclosed briefing, our assessment of DHS's report and its findings that we provided to you electronically on December 19, 2018. The briefing examined how DHS identifies the total population of nonimmigrants who entered the United States through air and sea ports and for whom there is no evidence indicating an on-time departure.

To examine how DHS identifies the total population of overstays who entered the United States through air and sea ports, we reviewed DHS's fiscal years 2015 through 2017 Entry/Exit Overstay Reports, including the findings and methodology. In particular, we reviewed these three reports to determine any changes made to the methodology over time. In addition, we reviewed DHS documentation on how department officials determine the number of overstays, including standard operating procedures for developing the Entry/Exit Overstay Reports and an assessment of the methodology used to develop the fiscal year 2014 overstay report.⁶ Further, we reviewed prior GAO and DHS Office of Inspector General (OIG) reports on overstay identification and enforcement.⁷ We also observed how CBP generates data for the overstay report by watching a CBP official extract data from DHS's overstay data system. Finally, we interviewed CBP, ICE, and USCIS officials involved in the development of the overstay report to learn about their respective roles in generating the report, the data they provide and their data systems, the steps they take to ensure the data are reliable, and any challenges they encounter collecting and reporting the data. On the basis of the information we obtained from these agencies, we determined that the metric for measuring the air and sea overstay population in the United States is logically sound and DHS has taken steps to continually monitor and improve the quality of the data in the underlying databases. As a result, we present high-level summary results for purposes of illustration for the briefing, noting certain known limitations as appropriate.

We conducted this performance audit from October 2018 to February 2019 in accordance with generally accepted government auditing standards. Those standards require that we plan and

⁴164 Cong. Rec. H2045, H2545 (daily ed. March 22, 2018), accompanying Pub. L. No. 115-141, 132 Stat. 348. The nonimmigrant air and sea overstay population refers to those who entered the country through air and sea ports, rather than through land ports.

⁵DHS, *Fiscal Year 2017 Entry/Exit Overstay Report* (Washington, D.C.: Aug. 7, 2018).

⁶DHS did not publish the fiscal year 2014 overstay report because of data reliability concerns.

⁷For example, see GAO, *Border Security: DHS Has Made Progress in Planning for a Biometric Air Exit System and Reporting Overstays, but Challenges Remain*, [GAO-17-170](#) (Washington, D.C.: Feb. 27, 2017) and *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). Also see DHS OIG, *Progress Made, but CBP Faces Challenges Implementing a Biometric Capability to Track Air Passenger Departures Nationwide*, [OIG-18-80](#) (Washington, D.C.: Sept. 21, 2018) and *DHS Tracking of Visa Overstays Is Hindered by Insufficient Technology*, [OIG-17-56](#) (Washington, D.C.: May 1, 2017).

perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

In summary, we found DHS has developed and implemented a metric to calculate the number and rate of air and sea overstays, which it has published annually beginning with its fiscal year 2015 overstay report. CBP collects overstay data and develops the annual overstay report in collaboration with and using data from other DHS components, such as ICE and USCIS. As presented in the annual report, the overstay rate is an automated calculation based on the number of nonimmigrant admissions to the United States through air or sea ports of entry who did not depart in a fiscal year divided by the total number of expected departures for that fiscal year. CBP has also taken steps to improve its identification of overstays and the calculation of the overstay rate by, for example, automating the exchange of nonimmigrant data between CBP, ICE, and USCIS. Based on these and other improvements, CBP has included more complete data in the annual overstay report on more classes of admission over time, such as including foreign students beginning in fiscal year 2016.

DHS's fiscal year 2017 overstay report states that the report accounts for about 97 percent of all air and sea nonimmigrants expected to depart in fiscal year 2017. The remaining 3 percent pertained to classes of admission who are unlikely to overstay, according to DHS (e.g., foreign diplomats and flight crews). According to the fiscal year 2017 overstay report, there were about 52.7 million nonimmigrant admissions to the United States through air or sea ports of entry who were expected to depart the country in fiscal year 2017. DHS identified about 702,000 overstays during that time frame—1.33 percent of admissions. However, the overstay report does not include a metric for determining the total (i.e., cumulative) nonimmigrant air and sea overstay population in the United States at a given time as directed by the 2018 Explanatory Statement. Specifically, the report does not include air and sea overstays from prior years who may remain in the United States. CBP officials stated that they are considering including the total number of suspected air and sea overstays expected to depart since fiscal year 2015—the first year CBP determined overstay data to be reliable—in future reports.

Although the overstay report identifies air and sea overstays, due to existing limitations in collecting departure data in the land environment, the 2017 overstay report provides limited departure and overstay information for land ports of entry, which DHS is required to collect and report by law.⁸ When DHS uses data collected at land ports of entry, it is primarily to match records of certain travelers arriving into the United States by air and sea to records of those who may have subsequently departed by land to Canada. However, DHS has efforts underway to collect biographic and biometric data on travelers arriving into and departing the United States at land ports to help develop a more comprehensive overstay estimate. For example, in fiscal year 2017, CBP began planning for a pilot test at the San Luis and Nogales, Arizona, ports of entry to demonstrate the feasibility of acquiring photos of all arriving and departing travelers and comparing those photos using facial recognition to photos in government databases. CBP officials stated that the pilot test for arriving travelers began at the San Luis Port of Entry in September 2018 and the Nogales Port of Entry in October 2018.

⁸The collection of departure information in the land environment is more difficult than in the air and sea environments due to the major physical, logistical, and operational obstacles involved with electronically collecting an individual's biographic and biometric data.

Agency Comments

We provided a draft of this report to DHS for comment. DHS provided technical comments, which were incorporated as appropriate.

We are sending copies of this report to the appropriate congressional committees, the Secretary of Homeland Security, and other interested parties. In addition, the 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 GamblerR@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 include Adam Hoffman (Assistant Director), James Cook, Paul Hobart, Amanda Miller, Sasan J. "Jon" Najmi, Claire Peachey, and Khristi Wilkins.



Rebecca Gambler
Director, Homeland Security and Justice

Enclosure

List of Committees

The Honorable Shelley Moore Capito
Chairman
The Honorable Jon Tester
Ranking Member
Subcommittee on Homeland Security
Committee on Appropriations
United States Senate

The Honorable Lucille Roybal-Allard
Chairwoman
The Honorable Chuck Fleischmann
Ranking Member
Subcommittee on Homeland Security
Committee on Appropriations
House of Representatives



Department of Homeland Security: Review of the Fiscal Year 2017 Entry/Exit Overstay Report

Information Provided to Staff of the House and Senate Appropriations Committees

For more information, contact: Rebecca Gambler (gablerr@gao.gov)

Contents

- Introduction
- Legislative Language
- GAO Objective
- Scope and Methodology
- Summary of Observations
- Background
- Observations
- GAO Contacts

Introduction

- Each year, millions of foreign visitors, or nonimmigrants, legally enter the United States on a temporary basis under specific nonimmigrant categories. They may travel to the United States with or, as permitted, without a nonimmigrant visa and then enter the United States after admission at a U.S. port of entry for an authorized period of stay.¹
- Overstays are nonimmigrants who remain in the United States beyond the expiration of their authorized period of stay, regardless of whether they ultimately depart.
- The Department of Homeland Security (DHS) has primary responsibility for identifying and addressing suspected overstays. According to DHS, identifying overstays is important for national security, public safety, and immigration enforcement.

¹Certain individuals are allowed to seek admission without a visa, such as citizens of Canada, as well as participants in the Visa Waiver Program, through which nationals of certain countries may apply for admission to the United States as temporary visitors for business or pleasure without first obtaining a visa from a U.S. embassy or consulate abroad. See 8 U.S.C. § 1187; 8 C.F.R. §§ 212.1, 214.6(d), 217.1-217.7; 22 C.F.R. §§ 41.0-41.3.

Introduction (cont.)

- Within DHS, multiple components play a role in identifying and addressing suspected overstays.
 - U.S. Customs and Border Protection (CBP) is tasked with, among other duties, inspecting all people seeking entry or applying for admission into the United States to determine their admissibility and compliance with U.S. law. CBP designates classes of nonimmigrants (generally aligned with the initial visa type) based on the form of admission they are granted, such as temporary workers and trainees, students, and temporary visitors for business or pleasure. Since 2016, CBP has publicly reported the number of nonimmigrants who entered the United States through air and sea ports and were expected to depart in a given fiscal year but did not do so by the end of their authorized period of stay (overstays). CBP reports limited information on overstays who entered through land ports for reasons discussed later in this briefing.
 - U.S. Immigration and Customs Enforcement (ICE) is the lead agency for enforcing immigration law in the interior of the United States and is primarily responsible for overstay enforcement.
 - U.S. Citizenship and Immigration Services (USCIS) receives, processes, and maintains documentation pertaining to a nonimmigrant's immigration status, including the extension or change of status, and works with ICE to ensure proper adherence to U.S. immigration laws.²

²The Department of State is responsible for receiving, vetting, and processing applications for immigration and temporary admission to the United States from abroad.

Legislative Language

- The Explanatory Statement accompanying the Consolidated Appropriations Act, 2018 (2018 Explanatory Statement), directed DHS to develop and report within 180 days after enactment (by September 2018) on a statistically-sound metric for measuring the total nonimmigrant air and sea overstay population in the United States at a given time.³ The report should also describe the characteristics of suspected in-country overstays and detail how the Department will improve its collection and use of data sets necessary to develop a more comprehensive in-country alien overstay estimate.⁴ DHS responded to this directive through its *Fiscal Year 2017 Entry/Exit Overstay Report*.⁵ Although the 2018 Explanatory Statement does not direct DHS to address the land overstay population, federal law does require DHS to collect data and annually report on the number of overstays, regardless of the manner of lawful entry.⁶
- The 2018 Explanatory Statement included a provision for GAO to review this report and provide a preliminary briefing to the House and Senate Appropriations Committees on its review within 90 days after DHS's report is provided to the committees.

³164 Cong. Rec. H2045, H2545 (daily ed. March 22, 2018), accompanying Pub. L. No. 115-141, 132 Stat. 348. The nonimmigrant air and sea overstay population refers to those who entered the country through air and sea ports, rather than through land ports.

⁴According to DHS, suspected in-country overstays 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.

⁵DHS, *Fiscal Year 2017 Entry/Exit Overstay Report* (Washington, D.C.: Aug. 7, 2018). Throughout this briefing, we refer to this report as the fiscal year 2017 overstay report.

⁶See 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).

GAO Objective

- This briefing examines how DHS identifies the total population of nonimmigrants who entered the United States through air and sea ports and for whom there is no evidence indicating an on-time departure. Specifically, it describes how DHS calculates and reports information on the population of overstays, the findings of the fiscal year 2017 overstay report, and the air and sea overstay information not included in the report. This briefing also describes steps DHS has taken to collect departure information at land ports.

Scope and Methodology

- To address our objective, we reviewed:
 - DHS's fiscal years 2015 through 2017 Entry/Exit Overstay Reports, including the findings and methodology. In particular, we reviewed these three reports to determine any changes made to the methodology over time.
 - DHS documentation on how department officials determine the number of overstays, including standard operating procedures for developing the Entry/Exit Overstay Reports.
 - DHS's Office of Administration Investment Analysis Office (IAO) draft review and assessment of the methodology used to develop the fiscal year 2014 overstay report (which was not publicly released due to data reliability concerns). IAO conducted this assessment at the request of CBP to review the reporting process, data systems and inputs, and data validation and vetting processes used to develop overstay estimates.
 - Prior GAO and DHS Office of Inspector General (OIG) work on overstay identification and enforcement.⁷

⁷For example, see GAO, *Border Security: DHS Has Made Progress in Planning for a Biometric Air Exit System and Reporting Overstays, but Challenges Remain*, [GAO-17-170](#) (Washington, D.C.: Feb. 27, 2017); *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); and *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). Also see DHS OIG, *Progress Made, but CBP Faces Challenges Implementing a Biometric Capability to Track Air Passenger Departures Nationwide*, [OIG-18-80](#) (Washington, D.C.: Sept. 21, 2018) and *DHS Tracking of Visa Overstays Is Hindered by Insufficient Technology*, [OIG-17-56](#) (Washington, D.C.: May 1, 2017).

Scope and Methodology (cont.)

- We also observed how CBP generates data for the overstay report by watching a CBP official extract data from the system CBP uses to generate a list of suspected overstays.
- We interviewed CBP, ICE, and USCIS officials involved in the development of the overstay report to learn about their respective roles in generating the report, the data they provide and their data systems, the steps they take to ensure the data are reliable, and any challenges they encounter collecting and reporting the data. On the basis of the information we obtained from these agencies, we determined that the metric is logically sound and DHS has taken steps to continually monitor and improve the quality of the data in the underlying databases. As a result, we present high-level summary results for purposes of illustration for this briefing, noting certain known limitations as appropriate.⁸

⁸We did not assess the reliability of the underlying data systems or conduct an independent test of the data to ensure their reliability. See GAO-17-170 and GAO-13-683 for more information on the underlying data systems.

Summary of Observations on DHS's Fiscal Year 2017 Overstay Report

- DHS has developed and implemented a metric to calculate the number and rate of air and sea overstays, which it has published annually beginning with its fiscal year 2015 overstay report. CBP collects overstay data and develops the annual overstay report in collaboration with and using data from other DHS components, such as ICE and USCIS. CBP has also taken steps to improve its identification of overstays and the calculation of the overstay rate by, for example, automating the exchange of nonimmigrant data between CBP, ICE, and USCIS.
- The fiscal year 2017 overstay report identified the number of air and sea overstays in fiscal year 2017 (about 702,000 overstays out of about 52.7 million admissions—1.33 percent).
- The overstay report does not include a metric for determining the total (i.e., cumulative) nonimmigrant air and sea overstay population in the United States at a given time as directed by the 2018 Explanatory Statement. Specifically, the report does not include air and sea overstays from prior years who may remain in the United States. CBP officials stated that they are considering including the total number of suspected overstays expected to depart since fiscal year 2015 in future reports. Further, the overstay report includes limited information on nonimmigrants who were admitted into the United States at land ports.
- DHS has efforts underway to collect biographic and biometric data on travelers departing the United States at land ports to help develop a more comprehensive overstay estimate.

Background—Nonimmigrant Admissions and Overstays

- Generally, prospective nonimmigrants seeking to visit the United States do so through one of two ways:
 - Those eligible for the Visa Waiver Program apply online for authorization to travel to the United States under the program before commencing travel to the United States from their country of origin.
 - Those not eligible for the Visa Waiver Program and not otherwise exempt from the visa requirement must obtain a visa from a U.S. consular office overseas.
- CBP receives passenger manifests from commercial air and sea carriers and private aircraft for all arrivals and departures from the United States.
- Upon arriving at a port of entry, nonimmigrant travelers must undergo inspection by CBP officers, who determine whether or not they may be admitted into the United States for an authorized period of stay. CBP officers are to collect biographic information (such as name and date of birth) for all nonimmigrants applying for admission and are to confirm the accuracy of the biographic manifest data provided by the carriers.
- If CBP determines a nonimmigrant traveler is admissible, it grants the individual an authorized period of stay. This period may be for a specific length of time, which CBP designates by assigning a specific “admit until” date, or for as long as the nonimmigrant maintains compliance with the terms of a particular program or activity, the duration of which may be variable. For example, a foreign student may be eligible to remain in the United States for “duration of status,” meaning as long as they are making normal progress toward completion of their educational objective, including by being enrolled in and attending classes for an approved course of study (except during any normal breaks in the school year) or engaging in authorized practical training following completion of studies.

Background—Nonimmigrant Admissions and Overstays (cont.)

- Overstays are nonimmigrants who remain in the United States beyond the expiration of their authorized period of stay by: (1) failing to depart by the status expiration date or completion of qualifying activity (plus any time permitted for departure) without first obtaining an extension or other valid immigration status or protection, or (2) violating the terms and conditions of their nonimmigrant status at any point during their stay.
- If a nonimmigrant would like to stay in the country under his or her current status for longer than previously authorized, he or she must file an application for extension of status with USCIS before the admission period expires. Certain nonimmigrants cannot apply for an extension, such as participants in the Visa Waiver Program and those who fail to maintain status during their stay by violating their terms of admission.

Background—DHS Identification and Reporting of Overstays

- Federal law requires that DHS implement a program to collect data, for each fiscal year, regarding the total number of nonimmigrants who overstayed (i.e., remained in the United States after the expiration of their authorized period of stay) and report annually to Congress providing numerical estimates of the number of overstays from each country in each nonimmigrant classification.⁹
- In January 2016, DHS issued its first report on estimated air and sea overstay rates that covered fiscal year 2015. Subsequently, DHS has issued reports covering fiscal years 2016 and 2017. The reports provide data on expected departures and overstays, by country, for nonimmigrants who entered through an air or sea port of entry and who were expected to depart in a particular fiscal year.
- DHS identifies two types of overstays:
 - Suspected in-country overstays refer to individuals for whom no departure has been recorded.
 - Out-of-country overstays refer to individuals whose departure was recorded after their authorized period of admission expired.

⁹See 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).

Background—DHS Identification and Reporting of Overstays (cont.)

- CBP has an electronic process for identifying overstays who are suspected or known to have remained in the country beyond the expiration of their authorized period of stay. Specifically, a suspected overstay is automatically flagged in CBP's Arrival and Departure Information System (ADIS) when there is no record of the individual's departure.¹⁰ The suspected overstay is then checked against other DHS immigration databases to determine whether the individual obtained an extension or other valid immigration status or protection and thus is not a potential overstay. CBP conducts this matching of entry, exit, and change of status information primarily using biographic data, which is supplemented with biometric data.¹¹

¹⁰ADIS is a person-centric system that matches nonimmigrant biographic information (such as name and date of birth) with entry and exit information to determine whether nonimmigrants departed the country according to their terms of admission.

¹¹In February 2017, we reported that DHS had made progress developing a biometric exit capability to collect biometric data, such as fingerprints, from individuals exiting the United States. We found that CBP had tested biometric exit capabilities, but that challenges remained. See GAO-17-170. Pilots underway to collect biometric and biographic information for nonimmigrants departing the United States at land ports of entry are discussed later in this briefing.

Background—DHS Identification and Reporting of Overstays (cont.)

- CBP relies on third-party departure data, such as commercial carrier passenger manifests, to confirm an individual's exit from the country. CBP receives commercial passenger and crew biographical data directly from air and sea carriers through the Advance Passenger Information System (APIS) prior to the passenger and crew's arrival in or departure from the United States. Carriers are required to provide specific biographic data, including name and passport number, and carriers are subject to fines for missing or inaccurate data.
- APIS then shares the data with ADIS, which works as a central repository and is specifically designed to determine who has complied with the terms of admission and who has overstayed.
- In addition to arrival and departure information, ADIS receives other DHS data from ICE and USCIS relevant to whether a person is lawfully present in the United States. Table 1 provides information on the primary DHS databases used for determining suspected overstays. Identifying extensions, changes, or adjustments of status are necessary steps to determine whether a person is an overstay who remained beyond the authorized period of admission. For example, a person traveling to the United States for business or pleasure may be admitted by CBP for a 6 month authorized period of stay, and then the individual may subsequently apply for and receive from USCIS an extension of up to 6 months.

Background—DHS Identification and Reporting of Overstays (cont.)

Table 1: Selected Department of Homeland Security (DHS) Databases Used for Identifying Overstays

Database	DHS component responsible for managing database	Information maintained in the database related to overstays
Arrival and Departure Information System (ADIS)	U.S. Customs and Border Protection	Nonimmigrant arrival and departure information, the date until which an individual may remain in the United States, and various other information (e.g., the address where the individual will reside in the United States).
Automated Biometric Identification System (IDENT)	Office of Biometric Identity Management	Biometric information collected from nonimmigrants upon their entry into the United States (i.e., fingerprints and photographs).
Student and Exchange Visitor Information System (SEVIS)	U.S. Immigration and Customs Enforcement	Information about nonimmigrant foreign students and their programs of study and exchange visitors in the United States.
Computer-Linked Application Information Management System 3 (CLAIMS)	U.S. Citizenship and Immigration Services	Status of foreign nationals' petitions for extensions of stay or changes of immigration status (e.g., to convert from a tourist to a student). CLAIMS maintains data on applications to extend or change nonimmigrant status and applications for work authorization or for lawful permanent resident status.

Source: GAO analysis of DHS information. | GAO-19-298R

Background—Prior GAO Work

- In April 2011, we found that DHS’s efforts to identify and report on overstays were hindered by unreliable data, and we identified various challenges to DHS’s efforts to identify potential overstays.¹² Since that time, DHS has taken action to strengthen its processes for reviewing records to identify potential overstays, as discussed later in this briefing.
- In July 2013, we reported on the extent to which DHS’s changes in its systems or processes improved its ability to report overstay rates.¹³ We found that DHS had actions completed and under way to improve overstay data but continued to face challenges in reporting reliable overstay rates. We recommended that DHS assess and document the extent to which the reliability of the data used to develop any overstay estimates had improved and any remaining limitations in how the data could be used. DHS concurred, and in its fiscal year 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.
- In February 2017, we found that since our 2013 report, DHS had reported some but not all information required by statute on potential overstays in the department’s fiscal year 2015 overstay report.¹⁴ The overstay report described expected overstay rates by country for certain nonimmigrants lawfully admitted for business or pleasure through air and sea ports of entry 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 nonimmigrants who entered the country through land ports of entry or under other nonimmigrant categories, such as foreign students. At the time of our report, DHS officials told us that the department planned to address these limitations in future overstay reports.

¹²GAO-11-411.

¹³GAO-13-683.

¹⁴GAO-17-170.

DHS Has Developed a Metric to Calculate the Overstay Rate

- DHS has developed a metric to calculate the number and rate of overstays, and it publishes air and sea overstay data in an annual overstay report.
- The metric to calculate the overstay rate is:

$$\frac{\textit{Suspected in-country overstays in a fiscal year} + \textit{out of country overstays in a fiscal year}}{\textit{Total expected departures in a fiscal year}}$$

- As presented in the annual report, the overstay rate is an automated calculation based on the number of nonimmigrant admissions to the United States through air or sea ports of entry who did not depart in a fiscal year divided by the total number of expected departures for that fiscal year.
 - The overstay rate is based on those nonimmigrants who were expected to depart in a given fiscal year regardless of when they were admitted.
 - Also, the rate calculates overstays by entry rather than by individual. For example, if a nonimmigrant enters multiple times during the year and overstays more than once, each incident when the visitor remains longer than the authorized period of admission is counted as a separate overstay.

DHS Has Developed a Metric to Calculate the Overstay Rate (cont.)

- The annual overstay report also describes the characteristics of suspected in-country and out-of-country overstays by
 - Certain classes of admission, including: Visa Waiver Program countries (business or pleasure nonimmigrants); non-Visa Waiver Program countries (business or pleasure nonimmigrants); student and exchange visitors; and all other in-scope nonimmigrants.¹⁵
 - Country of citizenship.
- DHS's fiscal year 2017 overstay report includes information on expected departures, suspected in-country overstays, out-of-country overstays, total overstays, and the total and suspected in-country overstay rates by country of citizenship and for each class of admission referenced above.

¹⁵Other in-scope nonimmigrant classes of admission include, among others: temporary workers and trainees; intracompany transferees; and alien fiancées of U.S. citizens. The 2017 overstay report presents figures pertaining to Canada and Mexico separately from those of other countries because air and sea information represent a smaller portion of the Canadian and Mexican travel population, as the majority of Canadian and Mexican nonimmigrants enter the United States at land ports.

DHS Has Implemented a Process to Develop the Annual Overstay Report

- DHS produces the overstay report through a series of steps, as shown in table 2.

Table 2: Steps Taken to Produce and Validate Overstay Report

Step	Federal Stakeholder	Action
1	U.S. Customs and Border Protection (CBP)	Performs an initial data extraction from ADIS of all nonimmigrants expected to depart during the fiscal year but no departure or status adjustment was received.
2	U. S. Citizenship and Immigration Services	Determines whether a potential overstay has received an extension, change, or an adjustment to their status through an automated analysis of CLAIMS data.
3	CBP	Validates overstay data by matching known information about a nonimmigrant (such as their biometrics) to other information, such as their name.
4	Department of Homeland Security (DHS) Office of Immigration Statistics (OIS)	Receives extract of ADIS data to validate. Conducts an independent review and performs additional quality assurance checks to identify and evaluate potential data issues.
5	CBP and OIS	Perform a final validation.
6	DHS	Executives review overstay data and report.
7	CBP	Publishes the overstay report to Congress and the public.

DHS Has Taken Steps to Improve Its Overstay Metric Since 2014

- In late 2014, at CBP's request, IAO conducted an assessment of the fiscal year 2014 overstay report development process. The assessment found that CBP's methodology was defensible, but also identified potential issues and gaps, including data reliability concerns, and DHS did not issue the fiscal year 2014 overstay report.
- Further, IAO did not assess the data inputs and systems quality and accuracy used for the fiscal year 2014 overstay report. As a result, the assessment noted that IAO could not state definitively a level of confidence in the overstay data contained within the report. IAO recommended as a next step that IAO conduct an in-depth review of entry and exit data systems (such as SEVIS, IDENT, and CLAIMS) to assess the completeness of CBP data. Although CBP did not request that IAO complete the assessment, CBP officials stated that they have and continue to coordinate with other stakeholders, including ICE and USCIS, to improve the quality of the underlying overstay data from the supporting data systems and in ADIS.

DHS Has Taken Steps to Improve Its Overstay Metric Since 2014 (cont.)

- CBP, ICE, and USCIS took corrective actions to address the findings and recommendations from the assessment that allowed DHS to report overstay data beginning with the fiscal year 2015 report. These actions included developing:
 - Standard operating procedures to ensure the same methodology is used consistently in following years for reporting overstays (fiscal year 2015).
 - A revision to ADIS that facilitates the exchange of immigration status changes with CLAIMS in real-time (fiscal year 2015).
 - A dedicated ADIS reporting tool that automated the process of generating report data and, according to CBP officials, reduces errors and improves the efficiency of reporting (fiscal year 2017). We observed a CBP official recreate the fiscal year 2017 overstay data using the ADIS reporting tool. We observed that the tool is user-friendly and quickly generates reports.
 - A new CBP process with ICE to better facilitate sharing data for certain types of student visas. This effort resulted in capturing an “end date” by which foreign students must leave the country or otherwise be considered overstays. As a result, DHS was able to include student data in the fiscal year 2016 report for the first time. ICE and CBP also provide each other with daily updates of SEVIS and ADIS data (fiscal year 2016).
- Based on these and other improvements, CBP has included more complete data in the annual overstays report on more classes of admission over time, such as including foreign students beginning in fiscal year 2016. Further, CBP officials stated that they have a high degree of confidence in the overstay metric and reliability of the data presented in the fiscal year 2017 overstay report.

DHS Has Taken Steps to Improve Its Overstay Metric Since 2014 (cont.)

- To improve the reliability of data used to identify overstays and to complement the biographic data collection that exists, CBP has made progress developing and implementing a biometric capability to track air passenger exits using facial recognition technology.¹⁶
- According to a September 2018 DHS OIG report, CBP's Biometric Entry-Exit Program conducted a pilot at nine airports and demonstrated ability using this technology to match 98 percent of passengers' identities at departure gates to biometrics collected during previous encounters with CBP and other government entities. The OIG reported that CBP expects to build on this progress by supporting airline use of the biometric capability for a greater volume of flights by 2019.¹⁷

¹⁶Since 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. See, e.g., 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 (classified, as amended, at 8 U.S.C. § 1365a); 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). In February 2017, we reported that DHS has made progress in planning for a biometric air exit system and has tested biometric exit capabilities, but challenges remain. See GAO-17-170.

¹⁷OIG-18-80.

DHS's 2017 Overstay Report Accounts for Almost All Air and Sea Nonimmigrant Visits with Expected Departures in a Given Fiscal Year

- DHS's fiscal year 2017 overstay report states that the report accounts for about 97 percent of all air and sea nonimmigrants expected to depart in fiscal year 2017. The remaining 3 percent pertained to classes of admission who are unlikely to overstay, according to DHS (e.g., foreign diplomats and flight crews).
- According to the fiscal year 2017 overstay report, there were about 52.7 million nonimmigrant admissions to the United States through air or sea ports of entry who were expected to depart the country in fiscal year 2017. DHS counted about 702,000 overstays (1.33 percent). Of these, DHS identified about 607,000 suspected in-country overstays and 95,000 out-of-country overstays.

DHS's 2017 Overstay Report Accounts for Almost All Air and Sea Nonimmigrant Visits with Expected Departures in a Given Fiscal Year (cont.)

- As shown in table 3, the air and sea overstay rate decreased from fiscal year 2016 to fiscal year 2017, according to the overstay reports.

Table 3: Overstay Rates, as Reported by DHS in its Fiscal Years 2016 and 2017 Overstay Reports

Fiscal year	Total overstay rate	Suspected in-country overstay rate	Out-of-country overstay rate
2016	1.47%	1.25%	0.22%
2017	1.33%	1.15%	0.18%

Source: GAO analysis of Department of Homeland Security (DHS) data. | GAO-19-298R

- The overstay report provides a snapshot of overstays at a particular point in time (end of the fiscal year), but a significant number of overstays depart the United States shortly after their expected departure date according to the 2017 overstay report.
 - As of January 24, 2018, the fiscal year 2017 suspected in-country overstay rate had decreased from 1.15 percent (606,926 overstays) to 0.94 percent (494,710 overstays). By May 1, 2018, this rate had decreased to 0.80 percent (421,325 overstays).
 - The fiscal year 2017 overstay report includes a new section on examining overstay durations, which shows that 92 percent of the 94,974 out-of-country overstays left the country within the first 50 days after their “admit until” date.

Overstay Reports Do Not Account for the Total Air and Sea Overstay Population

- While the fiscal year 2017 overstay report identified the number of air and sea overstays whose nonimmigrant status was to expire in fiscal year 2017, it did not include a metric for quantifying the total air and sea overstay population in the United States at a given time as directed by the 2018 Explanatory Statement. Specifically, the report did not include air and sea overstays who were expected to depart in prior years and who may remain in the United States.
- According to CBP officials, overstay data prior to fiscal year 2015 are unreliable. However, these officials stated that they have the capability to track prior air and sea suspected overstays since fiscal year 2015 and could report these data. We observed that ADIS has the capability to generate reports of the total number of overstays since fiscal year 2015. CBP officials stated that they are considering including the total number of suspected overstays expected to depart since fiscal year 2015 in future reports.

Overstay Reports Contain Limited Information for Travelers Crossing at Land Ports

- Due to existing limitations in collecting departure data in the land environment, the 2017 overstay report provides limited departure and overstay information for land ports of entry. When used, it is primarily to match records of certain travelers arriving into the United States by air and sea to those that may have subsequently departed by land to Canada.
- The collection of departure information in the land environment is more difficult than in the air and sea environments due to the major physical, logistical, and operational obstacles involved with electronically collecting an individual's biographic and biometric data. Additionally, in the land environment, it is not feasible to obtain advance reporting of arrivals and departures, as the majority of travelers cross the borders using their own vehicle or as a pedestrian.
- Unlike other countries, a majority of nonimmigrants from Canada and Mexico enter the United States through land ports. Although the overstay report does not include data on travelers who enter the United States through land ports, according to the fiscal year 2017 overstay report, CBP is able to reconcile a significant portion of nonimmigrants who enter through ports of entry on the borders with Canada and Mexico, since the majority of those nonimmigrants are frequent border crossers and CBP is able to close a previous arrival when recording a new arrival.

Overstay Reports Contain Limited Information for Travelers Crossing at Land Ports (cont.)

- On the northern border, under the 2011 U.S.-Canada Beyond the Border declaration, the United States and Canada exchange biographic entry records for land crossings between the two countries, so that an entry into one is recorded as an exit from the other. However, the agreement currently only includes third-country nationals (i.e., non-Canadian citizens), but there is legislation under consideration in the Canadian Parliament that would allow the sharing of Canadian citizens' data. According to the 2017 overstay report, CBP matches 98.6 percent of the entry information received from Canada to an entry in ADIS. CBP uses this information to match previous traveler air and sea arrivals into the United States for those cases where the traveler may depart by land into Canada.
- According to DHS, the southwest border with Mexico does not present the same opportunities as the border with Canada because Mexico's border infrastructure is more limited. For example, Mexico does not collect data on all nonimmigrants who enter the country.

DHS Is Piloting Initiatives to Better Identify Overstays for Nonimmigrants Who Travel Through Land Ports

- DHS has efforts underway to collect biographic and biometric data on travelers at land ports.
 - In fiscal year 2017, CBP began planning for a pilot test at the San Luis and Nogales, Arizona, ports of entry to demonstrate the feasibility of acquiring photos of all arriving and departing travelers and comparing those photos using facial recognition to photos in government databases. CBP officials stated that the pilot test for arriving travelers began at the San Luis Port of Entry in September 2018 and the Nogales Port of Entry in October 2018.
 - Beginning in December 2017, CBP and its Mexican counterpart agency began collecting data on travelers departing the United States at the San Ysidro, California, port of entry using radio frequency identification, which is included on many forms of documentation typically carried by Mexican nationals, according to CBP officials.

This is a work of the U.S. government and is not subject to copyright protection in the United States. The published product may be reproduced and distributed in its entirety without further permission from GAO. However, because this work may contain copyrighted images or other material, permission from the copyright holder may be necessary if you wish to reproduce this material separately.

GAO's Mission

The Government Accountability Office, the audit, evaluation, and investigative arm of Congress, exists to support Congress in meeting its constitutional responsibilities and to help improve the performance and accountability of the federal government for the American people. GAO examines the use of public funds; evaluates federal programs and policies; and provides analyses, recommendations, and other assistance to help Congress make informed oversight, policy, and funding decisions. GAO's commitment to good government is reflected in its core values of accountability, integrity, and reliability.

Obtaining Copies of GAO Reports and Testimony

The fastest and easiest way to obtain copies of GAO documents at no cost is through GAO's website (<https://www.gao.gov>). Each weekday afternoon, GAO posts on its website newly released reports, testimony, and correspondence. To have GAO e-mail you a list of newly posted products, go to <https://www.gao.gov> and select "E-mail Updates."

Order by Phone

The price of each GAO publication reflects GAO's actual cost of production and distribution and depends on the number of pages in the publication and whether the publication is printed in color or black and white. Pricing and ordering information is posted on GAO's website, <https://www.gao.gov/ordering.htm>.

Place orders by calling (202) 512-6000, toll free (866) 801-7077, or TDD (202) 512-2537.

Orders may be paid for using American Express, Discover Card, MasterCard, Visa, check, or money order. Call for additional information.

Connect with GAO

Connect with GAO on [Facebook](#), [Flickr](#), [Twitter](#), and [YouTube](#).
Subscribe to our [RSS Feeds](#) or [E-mail Updates](#). Listen to our [Podcasts](#).
Visit GAO on the web at <https://www.gao.gov>.

To Report Fraud, Waste, and Abuse in Federal Programs

Contact:

Website: <https://www.gao.gov/fraudnet/fraudnet.htm>

Automated answering system: (800) 424-5454 or (202) 512-7470

Congressional Relations

Orice Williams Brown, Managing Director, WilliamsO@gao.gov, (202) 512-4400, U.S. Government Accountability Office, 441 G Street NW, Room 7125, Washington, DC 20548

Public Affairs

Chuck Young, Managing Director, youngc1@gao.gov, (202) 512-4800 U.S. Government Accountability Office, 441 G Street NW, Room 7149 Washington, DC 20548

Strategic Planning and External Liaison

James-Christian Blockwood, Managing Director, spel@gao.gov, (202) 512-4707 U.S. Government Accountability Office, 441 G Street NW, Room 7814, Washington, DC 20548



Please Print on Recycled Paper.