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US–VISIT: CHALLENGES AND STRATEGIES FOR SECURING THE U.S. BORDER

HEARING

BEFORE THE

SUBCOMMITTEE ON TERRORISM, TECHNOLOGY AND HOMELAND SECURITY

OF THE

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UNITED STATES SENATE

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US–VISIT: CHALLENGES AND STRATEGIES FOR SECURING THE U.S. BORDER

TUESDAY, JANUARY 31, 2007

U.S. SENATE,
SUBCOMMITTEE ON TERRORISM, TECHNOLOGY AND HOMELAND SECURITY,
COMMITTEE ON THE JUDICIARY,
Washington, D.C.

The Subcommittee met, pursuant to notice, at 2:37 p.m., in room SD–226, Dirksen Senate Office Building, Hon. Dianne Feinstein, Chairman of the Subcommittee, presiding.

Present: Senators Feinstein, Kennedy, Cardin, and Cornyn.

OPENING STATEMENT OF HON. DIANNE FEINSTEIN, A U.S. SENATOR FROM THE STATE OF CALIFORNIA

Chairman FEINSTEIN. This meeting of the Subcommittee will come to order.

Senator Kyl, who is the Ranking Member of the Subcommittee, is not able to be present due to the press of other duties. I believe he is on the floor. So the ranking position will be occupied fully and completely by Senator Cornyn of Texas. We are delighted to have you here.

The Subcommittee today will be dealing with a program that is not without its controversy, namely, the US–VISIT Program. I have long been very concerned about the interplay between immigration and national security. I believe that we will not be able to protect our Nation effectively until we can protect our borders. I do believe we need to know who is coming in and out of our country.

The congressional mandate to create a system for tracking who enters and leaves this country was first codified in 1996 with a deadline of establishing a workable program by September 30, 1998. To the best of my knowledge, that is 8 years ago. Since that time, Congress has extended the deadline over and over. Time and time again, we have sacrificed our border security because of inaction or slow action by the Federal Government.

According to the 9/11 National Commission Staff Report on Terrorist Travel, prior to 9/11, no agency of the U.S. Government thought of border security as a tool in the counterterrorism arsenal. 9/11 and its subsequent actions have made this goal a priority and have exposed our country's vulnerability. Yet over 5 years later, the Federal Government has failed to devote sufficient time, technology, personnel, and resources to making border security a cornerstone of our national security policy.

In 2003, 5 years after its first deadline in 1998, the Department of Homeland Security created the US–VISIT Program to implement an automated system for documenting entry and exit by capturing biometric information. US–VISIT is an important program that has done a decent job of monitoring the entry of the millions of visitors into the United States. But there is so much more work to be done.

Today, over 10 years after the initial congressional mandate, we do not have a reliable means of measuring who leaves our country. We are here today to examine the challenges of implementing a workable system.

DHS—Homeland Security—has essentially declared that the exit program is dead as far as land borders are concerned. This is a serious problem. There are over 425 million border crossings at U.S. borders every year. Because we do not know who is leaving the country, we do not know who of these 425 million is overstaying a visa versus who is playing by the rules. We do know that in 2004 there were 335.3 million crossing at land ports of entry. About 4.6 million people who crossed by land were eligible for US–VISIT screening. And we have no way of knowing whether any of those 4.6 million ever left the country. Think about that. We do not know whether 4.6 million people here on a visa, whatever that visa is, ever really followed the visa regulations and left the country.

I understand that the 4.6 million people subject to US–VISIT screening at land ports is only a fraction of the total number crossing each year. I also understand the argument that more US–VISIT-eligible persons come into our country via airports than by land. This argument, though, does not convince me that we should shelve the exit program at the land border. I think we have got to take seriously that we have left a gaping hole in our country's border. Anyone coming in by air or sea could leave undetected by way of one of our 170 land ports of entry on more than 7,500 miles of border with Canada and Mexico. By failing to address exits at all ports, we are providing a blueprint to those who wish to harm the United States. Without implementing a comprehensive exit and entry system at all of our ports, we are leaving ourselves vulnerable to another attack.

The biggest problem here is that we still have not heard a sufficient explanation from the Department of Homeland Security as to the challenges—or I should say the failure—to implement an exit program at all ports. The New York Times reported that Homeland Security claims that an exit program would cost tens of billions of dollars to implement, but we have yet to see a breakdown of these costs or a good-faith explanation of what is at stake here.

Homeland Security has failed to meet their June 2005 statutory requirement to submit a report to Congress describing, one, the status of biometric exit data systems already in use at ports of entry; and, two, the matter in which US–VISIT is to meet the goal of a comprehensive screening system with both entry and exit biometric capability.

I must say I am very disappointed that the Department of Homeland Security, this huge Department, has failed to submit this report, and I call upon them to expedite this report to the Congress. So today, I hope we can have a very candid, honest discussion of how we can implement a workable entry-exit system.

I would also like to just indicate that the National Sheriffs Association is represented here by their general counsel, Richard Weintraub, and I want them to know that we are delighted to have you join us in the audience.

[The prepared statement of Senator Feinstein appears as a submission for the record.]

And now, if I may, I would turn it over to the Ranking Member, Senator Cornyn.

STATEMENT OF HON. JOHN CORNYN, A U.S. SENATOR FROM THE STATE OF TEXAS

Senator CORNYN. Thank you, Chairman Feinstein, and I appreciate very much your convening this hearing, and also Senator Leahy for scheduling this hearing. This is an important program.

As we move forward with our debate about immigration reform and how to solve our Nation's immigration crisis, we all recognize the importance of an immigration enforcement system that enhances the security of our citizens and visitors to the United States. No enforcement system, however, should be adopted without assessing the impact it will have on legitimate travel and trade to the United States. Our Nation's security is paramount, to be sure, but trade, especially with our partners on the Northern and Southern borders, is critical to the health of our economy.

The US–VISIT Program is one component of an overall border and interior enforcement strategy. Since its inception in 2004, the Department of Homeland Security has made significant progress in phasing in implementation of the program at air, sea, and land borders. And I want to specifically congratulate the Department. I know they receive few kudos and more than a few arrows, but this is one program that I think was very well implemented in consultation with local stakeholders. And it was an important part of the rollout process to do that, and I think we should give credit where credit is due.

But DHS must continue working hard to ensure that it continually receives the input of the public and interested stakeholders on any expansion efforts, such as officials along the Texas border.

I remain concerned about the effect of the US–VISIT program on Southern border communities. According to DHS, the US–VISIT entry technology has been installed at most air and sea ports and in secondary inspection areas at 154 land borders. The Texas border region already has felt the effects of increased security screening. Southern border businesses and officials are concerned with the increased delays at border crossing checkpoints and the impact of delays on the local economy. As we continue working toward additional security measures, we need to develop a quick and efficient process to identify those who may be a threat to our national security, while allowing legitimate, law- abiding travelers to enter and exit the United States in a timely manner.

One significant initiative to facilitate trade and travel on the Southern border is the border crossing card. I have introduced yesterday a new bill, S. 422, which will actually permit Mexican nationals who hold laser visas and who have already undergone rigorous background screening by the State Department and the Department of Homeland Security to remain in the United States for

an initial period of up to 6 months. The bill allows for expedited entry into the U.S. while at the same time maintains the strong border enforcement process. It also ensures that commerce on the Southern border remains strong and viable, notwithstanding any new enforcement measures that DHS will put into place.

Now, just a footnote to say that this legislation would merely establish parity with visitors from Canada, and I think it is an appropriate goal for this Nation ultimately, by the use of technology, to treat all of our guests and lawful visitors exactly the same, without any discrimination.

DHS has indicated that the US–VISIT entry process has been beneficial, especially in terms of identifying criminals, people who commit identity theft, and immigration violators. DHS, however, also acknowledges that it needs additional resources and personnel to improve the existing entry process. If we are going to be a welcoming Nation to lawful trade and traffic, we ought to make that as easy as possible, consistent with security efforts, while we spend whatever it takes to secure our borders against those who attempt to enter our country in violation of our laws.

So we will need to continue to work with DHS to make sure that it gets the help that it needs in order to make the system successful.

As Senator Feinstein has noted, DHS has recently announced it would delay implementation of the exit procedures at land borders, in part due to the potentially significant delays in the flow of cross-border traffic and the significant resources it will take to expand existing infrastructure and systems communications that are needed for the US–VISIT process to work effectively.

Of course, I share Senator Feinstein's concerns, but I do note that at this point we have not thought far enough ahead to determine what it is we would actually do with that information if we were to capture it and whether there would be sufficient ICE agents necessary to actually enforce overstays. It is a significant problem, but I think it needs to be addressed in the context of overall border security and immigration reform, and perhaps not as a stand- alone issue.

DHS should continue to explore various strategies for improving the ability to capture traveler biometrics and entry and exit information. With the movement to create a single, secure biometric and machine-readable travel card, like the e-Passport, DHS should work with industry leaders and stakeholders to determine how the latest technologies, such as radio frequency identification technology, can best be incorporated into travel and entry-exit documents. DHS also needs to complete its law enforcement systems integration, which is a cornerstone of any successful law enforcement strategy.

With these improvements and with the support of the Congress, we will eventually be able to have an integrated entry-exit process that protects our Nation's security and facilitates legitimate travel to and from the United States.

Thank you, Madam Chairman.

[The prepared statement of Senator Cornyn appears as a submission for the record.]

Chairman FEINSTEIN. Thank you very much, Senator.

I would like to introduce the witnesses of panel one.

The first will be the Honorable Richard Barth, Assistant Secretary for the Office of Policy Development, Department of Homeland Security. He has been the Assistant Secretary for this office since August 26th of 2006. He is the principal action officer for coordinating policy among DHS entities, as well as with State and Federal agencies and foreign governments. Prior to this, Assistant Secretary Barth was Corporate Vice President and Director, Homeland Security Strategy, for Motorola's Government Relations Office in Washington.

The other witness is Robert Mocny, the Acting Director of US–VISIT, who is on the hot seat today. Mr. Mocny is Acting Director of US–VISIT. He is responsible for the day-to-day operations of US–VISIT, including managing the development and deployment of the program. Over the course of his career, he has served in several senior Federal Government positions related to U.S. immigration policy and operations, including director of the Entry-Exit Project and Acting Assistant Commissioner and Assistant Chief Inspector with the former INS, Immigration and Naturalization Service.

Welcome, gentlemen. What we usually do at these hearings is you will have a time limit of 5 minutes, and that way Senator Cornyn, and I hope other members, will have a chance to ask you additional questions. So please proceed.

STATEMENT OF RICHARD C. BARTH, ASSISTANT SECRETARY, OFFICE OF POLICY DEVELOPMENT, DEPARTMENT OF HOMELAND SECURITY, WASHINGTON, D.C.

Mr. BARTH. Chairman Feinstein and Ranking Member Cornyn, thank you for taking the time and inviting us here to discuss the efforts of the U.S. Department of Homeland Security to record the exit of non-citizens as they leave the United States.

It is one of DHS' missions to modernize and improve our immigration and border management systems, and biometric exit control is a key component of fully securing our Nation's borders. Our first priority, though, given that we do not have unlimited resources, is to fully implement ten-fingerprint collection of non-citizen travelers as visa-issuing ports around the world and upon entry to the U.S. Secretary Chertoff has made it clear many times that keeping terrorists out of the country is the priority as we make decisions for the prudent, risk-based investment of the border control dollars we have. Yet the challenge for border security is to implement a well-planned exit solution to assist us in closing the door on those individuals who pose an overwhelming risk of entering or remaining in the United States undetected.

As you can imagine, the deployment of a comprehensive exit solution poses significant challenges. First, we must address three very different border environments: air, sea, and land. Second, the United States has almost always had some form of entry inspection, and over time, infrastructure developed to support that entry process. U.S. international airports have customs inspection booths near the baggage claim areas for arriving international passengers. Seaports serving international cruise lines provide terminal-based customs inspection. The number of lanes processing vehicular traf-

fic and pedestrian entry inbound is constantly expanding. But not one of these ports was designed to accommodate exit control.

Unlike the entry process, there are only limited facilities to process international travelers as they leave the United States. In fact, the aerial photograph that we have displayed over here, Chairman Feinstein and Ranking Member Cornyn, I think vividly shows the striking difference between entry and exit infrastructure at the largest land border port of entry—San Ysidro, California, which I will discuss in more detail in a moment. And, finally, an exit solution presents not only an infrastructure challenge but, equally important, a fundamental change in the business process of travelers who are departing the United States.

Accordingly, DHS proposes a phased deployment of exit in the three environments of air, land, and sea, with an initial focus on air. We are beginning at airports primarily to focus on travelers from countries of interest, 91 percent of whom arrive in the United States via air. It is absolutely essential for us to know what travelers from these countries have complied with the terms of their admission. We will, of course, work closely with our Government and private sector partners to deploy the most viable option for air exit. We are already in dialog with the airline industry on the options to deploy biometric exit at airports.

After deploying exit procedures at airports, we will begin deploying a solution to seaports based on the air solution. And this brings us to our most significant challenge: deploying an exit solution at the land border. Biometric confirmation of the departure of travelers via land ports is significantly more complicated and costly than the air and sea environments. Using the aerial photograph of San Ysidro, I would walk you through the two different variations of the entry and exit. On the left is the entry, and on the right is the exit from the U.S.

San Ysidro is the largest entry-exit land border port for travelers entering or leaving the United States, with 25 lanes for vehicular entry traffic and only about 4 for exit traffic. Simply duplicating biometric, biographic collection of data upon departure will not work. It would require costly infrastructure improvements, land acquisition costs, and staffing for additional lanes of traffic over multiple shifts.

I could go into the cost of wait times for the public to cross the border, but in the interest of time, I will rely on the written testimony we have provided to give you those details.

As I said, while the challenges are significant, they are not insurmountable. There are ways to approach a land border exit solution, and we intend to pursue them. We are closely monitoring technology solutions that could help resolve the land border challenges without the extraordinary infrastructure investment that otherwise would be required.

An interim solution for exit data collection at the land border could also involve the cooperation of Canada and Mexico. Such cooperation could include agreements between our countries to share data on an as-needed transactional basis between our systems. We will explore that option to more quickly obtain good data on departing aliens.

The Department takes seriously the issue of protecting the privacy of non-citizens travelers also. Our written testimony, again, goes into some detail on attention to privacy as well as accessibility issues.

In conclusion, a comprehensive exit solution for the United States requires the administration and Congress to collaborate closely on finding the best, cost-effective solutions for each environment. We will meet this challenge with a set of policies and processes that provide our decisionmakers with flexible solutions.

Thank you for this opportunity to testify, and we look forward to answering your questions.

[The prepared statement of Mr. Barth appears as a submission for the record.]

Chairman FEINSTEIN. Thank you very much, Dr. Barth.

Mr. Mocny?

STATEMENT OF ROBERT A. MOCNY, ACTING DIRECTOR, US–VISIT, DEPARTMENT OF HOMELAND SECURITY, WASHINGTON, D.C.

Mr. MOCNY. Chairman Feinstein, Ranking Member Cornyn, thank you for inviting me to discuss the operations of the US–VISIT Program, which has just marked its third anniversary. In those 3 years, US–VISIT has significantly strengthened our Nation's immigration and border security capabilities to a level that simply did not exist before. I am proud of our dedicated team of professionals who are working hard to solve some difficult challenges that face our Nation. And I am proud that many are supportive of the program's progress. For example, some governments expressed apprehension when we first launched the program. Now many of those same governments are seeking our expertise as they work to establish their own biometrics-based border management programs. US–VISIT has clearly become the standard for the rest of the world.

The background of US–VISIT is our innovative use of biometrics, which enhances our capacity to know definitively who is coming into our country and to crack down on fraudulent document use. With biometric identification technologies at its base, US–VISIT has revolutionized our ability to verify that travelers are who they say they are and do not pose a risk to the United States.

US–VISIT also provides immigration and law enforcement decisionmakers with critical information when they need it and where they need it. But perhaps the best way to evaluate the success of US–VISIT is to look at what we have achieved against our four goals, and those are: to enhance the security of our citizens and our visitors, to facilitate legitimate travel and trade, to ensure the integrity of our immigration system, and to protect the privacy of our visitors.

In terms of enhancing security, since January of 2004 we have processed more than 76 million visitors and in that time have intercepted approximately 1,800 immigration violators and people with criminal histories based on the biometric alone. US–VISIT also provides the infrastructure for the State Department's BioVisa Program, which consular officials use when they process a person applying for a visa to the United States. Biometrics are also depriv-

ing potential terrorists of one of their most powerful tools—the ability to use fraudulent or stolen identification documents to enter the country. This means that biometrics also protect travelers by making it virtually impossible for anyone else to claim their identifies should their travel documents be lost or stolen.

US–VISIT also tracks and records changes in immigration status and matches entry and exit records to determine overstays. ICE officials, Immigration and Customs Enforcement, have made more than 290 arrests based on US–VISIT overstay information. US–VISIT uses and maintains the Arrival and Departure Information System, or ADIS, which has grown to be the definitive immigration status system that provides overstay information for subsequent action.

Regarding our second goal, facilitating legitimate travel and trade, US–VISIT's biometric-based capabilities, while enhancing security, have not increased wait times at our ports of entry. US–VISIT has also strengthened the integrity of our immigration system, our third goal. We continue to work with the FBI to achieve interoperability between their fingerprint data base and DHS'. We are piloting a program that will provide Federal, State, and local law enforcement officers biometric-based access to criminal and immigration information.

We are also moving from a collection of a two-fingerprint to a ten-fingerprint standard. This will help us collect more accurate and actual information on those attempting to enter our country. But we also recognize that keeping bad people out is not enough. We must ensure that those few people who remain in the country as a threat to our Nation's security do not go undetected.

This brings me to perhaps our greatest challenge: the development of biometric exit procedures that address our goals of security and facilitating legitimate travel and trade at those three very different environments—air, sea, and land. Over the past 2 years, we have been evaluating new and evolving technologies that allow us to definitively know when a traveler has left the country. Through pilot programs at 14 air and sea ports, we have learned that a technology to record a traveler's departure does, in fact, work. But to be most effective, it has to be integrated into the existing travel process. We have already reached out to the travel industry to identify the best way to integrate exit procedures into the traveler's current airport experience.

The land border poses its own challenges. Assistant Secretary Barth adequately explained those challenges, but you should know that we have been pursuing possible solutions there as well. US–VISIT recently completed a test of radio frequency identification, or RFID, technology at five land border ports of entry, proving that vicinity-read RFID technology is a viable solution to meet the multiple challenges of the land border environment. But as cited in the recent GAO report and our own findings, more work needs to be done.

Finally, we are achieving our mission without compromising our fourth goal of protecting the personal privacy of our visitors. Privacy is a part of everything that we do, and it is essential to our mission. But US–VISIT's job is not done. Challenges remain, especially regarding the solution to exit procedures. We have proven

the skeptics wrong in the past, and we believe we can do it again going forward.

Thank you again for your support and for the opportunity to testify here today.

Chairman FEINSTEIN. Thank you very much, both of you.

We appreciate it.

It is my understanding that at least a third of visa holders do not leave the United States. So the looser the system we have, the more visa holders we are going to have who do not leave, the more you add to the numbers of undocumented, and the more you make any reform of immigration more difficult. I think the economic arguments that are made really have to deal with that factor.

The numbers are only going to grow, so the importance of developing an exit program I think is really there. And I travel. I get visas. The other governments know when we leave the country. But the bigger you get, the harder it is going to be. And I think you ought to develop some system. I have gone in and out of San Ysidro. This is my backyard. There is no problem going out. And you look at that photo, and that shows it right there. The lane leaving the United States is vacant. Coming into the United States is where there are a lot of cars. So, in a way, that to me countermands what you are saying. It seems to me we could have an exit land program that would work.

Is it true that you have suspended work on an exit system, Mr. Mocny?

Mr. MOCNY. No, Chairman Feinstein, we have not abandoned exit in any way. In fact, we are pursuing both the air and sea exit this very year and beginning to look at the challenges that we continue to face at the land borders. But we have not—and I want to correct the record that has been out there for some time. We have not abandoned our move toward exit control.

Chairman FEINSTEIN. OK. GAO notes that Homeland Security has discontinued testing of its radio frequency identification system at the land borders. Is this true?

Mr. MOCNY. We concluded a proof of concept, and so we were very clear to call it not a pilot or something that we were going to put out there—

Chairman FEINSTEIN. No, let me—my question is very carefully phrased. Have you discontinued testing of the radio frequency identification system?

Mr. MOCNY. Yes, ma'am.

Chairman FEINSTEIN. Now you can go ahead and answer the rest of it.

Mr. MOCNY. Thank you. We had a proof of concept. It was always designed to be put up and then brought down. The idea was to look at what technologies might afford us to have a viable exit program at the land borders. So we had a very clearly defined—and one thing with US–VISIT is that we practice what I believe to be good project management, which is we have a beginning and an end to anything that we put out there to be able to evaluate that. So we had a proof of concept with a beginning and an end portion to that, with the idea to evaluate that and take it to its next level to see where would we go with that. And what we identified was where there were certain challenges with that proof of concept.

Chairman FEINSTEIN. OK. Are you currently testing any alternative means of tracking who leaves the country?

Mr. MOCNY. We currently have the 14 air and sea pilots that we have, but we do not have any testing at the land ports of entry.

Chairman FEINSTEIN. All right. So there is no testing going on. So as I interpret all of that, effectively the exit program has been stopped. Nothing is moving ahead, so I conclude it stopped. Am I wrong?

Mr. BARTH. Chairman Feinstein, you are correct in concluding that any physical activity by people to test systems, to implement, to do something at the land borders is going on. There is nothing there. You are correct. However, the planning to do something that is efficacious, cost-effective, and real to plug the holes that we are all in agreement need to be plugged for controlling our exit at the borders is very actively underway.

When we hopefully in the very near future send to you our strategies for the 2007 spend plan and budgets, et cetera, you will be able to see in a better level of detail the kinds of things we will be doing to actively pursue air exit, air bio-exit technologies, and implement them, actively pursue them at sea, and actively find the technological solution that we truly believe is out there to solve the problem that we see here.

We cannot do—in our Department's completely agreement throughout, we cannot do a mirror image of that and block up traffic going out of the country like it is blocked up there coming in without costs that are astronomical. That border control station you see there that is causing all that blockage is a very old—

Chairman FEINSTEIN. The blockage is coming into the country, sir.

Mr. BARTH. It is all coming in. And if we tried to put biometric exit data capture going out, we would have to have a similar number of lanes, we would have to have similar staffing, and we would see back-ups like you see coming in. And just to the point of the costs of those buildings there that the U.S. Government owns, the Congress has already approved and has half-funded a $500 million upgrade and replacement of those facilities. So the cost of doing that on the outbound lanes, we have a good data point. Maybe it is only one, but it is a very good one. At your backyard to do what we are doing incoming with biometric exit outgoing would cost $500 million, not including the land acquisition costs and not including the staffing costs.

Chairman FEINSTEIN. You know, I guess I have been around here for almost 15 years now. I mean, this to me is the typical bureaucratic argument: "We cannot do it because it costs too much, therefore..." I mean, we cannot even get a report that was due in 2005.

I guess what I want to say, that is in my State. I care about it. I care about this issue. I think this is a soft underbelly of this country not to know that people ever leave. Virtually everybody that came into this country to do us harm so far came in on a visa. We have no way to know that people leave this country by way of a land border. And that ought to—I mean, how many employees does Homeland Security have, 250,000? How many—what?

Mr. BARTH. Not quite.

Chairman FEINSTEIN. An awful lot. It would seem to me that if this is a priority—and my view is to make it a priority—you would adjust priorities within this huge megalopolis of yours and be able to deal with it.

So I have just got to tell you, I do not accept reasons, well, the building is going to cost X and this is going to cost Y. You came up here with something that shows that this could be done at San Ysidro with some ease because there are no cars on the road leaving. And I will just leave it at that. I think this is a real national security issue, and hopefully somehow that will get through. So thank you very much.

Senator, your turn.

Senator CORNYN. Thank you, Senator Feinstein.

Gentlemen, I want to pick up on the matter of overstays. The latest statistic I have seen indicates that 45 percent of the illegal immigration in this country results not from people who have entered illegally but from people who have entered legally and overstayed. In other words, 55 percent have come across the border without a visa; 45 percent have come in with a visa, but have simply overstayed.

And I guess that gets to my question, Mr. Mocny, to you. You indicate, if I heard you correctly in your statement, that ICE—Immigration and Customs Enforcement—has arrested 290 people for visa overstays. And so I guess the next question is obvious. That is just a fraction of the number of people who come in legally but overstay their visa.

Can you speak to what we need to do as a Nation to make sure that we can actually deal with everyone who overstays their visa, ultimately?

Mr. MOCNY. Well, I think having a viable exit program will begin to address that. The information that we provide to the ICE agents is culled from many different systems. It is corroborated by the biometric systems that we have at the 12 airports, and so we can produce on a daily basis reports to ICE that have people who have definitively been overstays and actually checked out with the biometric. That is called a "confirmed overstay." That record is then flagged for any time they may want to get another visa or try to come back under the Visa Waiver Program. They would be prevented from doing so.

But we also have many unconfirmed overstays, and those are people where this ADIS system, as I described earlier, sends an automatic trigger to our unit, the Data Integrity Group, that culls through that information and says this person is a possible or unconfirmed overstay. We then have to go through many other multiple systems to make a determination whether or not that person did, in fact, leave. And, of course, they go through I–94 information, the boarding card that they get upon arrival. That is a separate system that we have to go into. And then they would have to also consider the land border departure as well.

And so, clearly, this speaks to, in fact, why we have not abandoned exit. We believe that exit has to occur in order to close this gap, but we do not have that. This is the first time in many years that we have been able to actually make arrests on overstays based on an automatic trigger of that person's immigration record. In the

past it has been because of some work site enforcement and it was later determined that they were an overstay. But this sends an automatic signal to ICE.

I will grant you it is far from being as many as we would like it to be, but it is much further than we have been before.

Senator CORNYN. Well, I will grant you both that birds have come home to roost due to many, many, many, many years of neglect that no doubt preceded even the creation of the Department of Homeland Security or your being hired by the Federal Government in your current position. But it strikes me that we have come up with a comprehensive way to deal with the information. Let's say we do get information that somebody has not left the country at the expiration of the visa, so what? Collecting the information does not keep unless we are going to actually have the people to followup on the information and are going to have the ability to communicate technology through the various data bases to give a law enforcement person the information they need in order to apprehend that individual.

So I think what this points out is that there is a huge void we have in other areas. Even if you had the exit system up and running 100 percent, the question is what you are going to do with that information.

I want to ask Dr. Barth—and I think, Mr. Mocny, you also mentioned the desire of the Department to go after a ten-fingerprint on US–VISIT. As I understand right now, it is an index finger on each hand.

Mr. MOCNY. Correct.

Senator CORNYN. But as I understand from Secretary Chertoff, the desire to go to ten fingerprints is to be able to try to get matches with various partial prints that had been obtained in places like safe houses in Afghanistan or Iraq or elsewhere around the country to take advantage of all the fingerprint records that may be available and then match those with people coming across our border through the US–VISIT Program. Do I have that about right?

Mr. BARTH. Yes.

Mr. MOCNY. Yes, you have it very clear.

Senator CORNYN. And what are your estimates in terms of how much of an improvement this will be in terms of our ability to catch criminals and threats to our country by the use of ten fingerprints as opposed to just two?

Mr. BARTH. Let me just add one factor. Then I will have Bob answer your details here.

An additional feature of the ten-fingerprint system is that the DHS data bases then will be able to be more easily aligned with the significantly large FBI data bases which are based on ten fingerprints. So there is an added advantage there that you are not just searching half of the universe, if you will, of available prints. And the interoperability of those two systems is something that our two Departments—the Justice Department and DHS—are very actively pursuing so that when we do have DHS' ten-print systems fully set up, we will have a very good exchange of prints with the FBI.

Senator CORNYN. Thank you very much.

Madam Chairman, I think, you know, one of the things that we have talked about in terms of comprehensive immigration reform is the importance of work site verification and eliminating some of the identity theft and document fraud at the work site, which, of course, is most often the magnet that draws people to this country. And I would just say I will leave this portion of the hearing even more convinced that we are going to have to fill in a lot of different gaps here and not just the exit program in order to make this system work.

Thank you very much.

Chairman FEINSTEIN. Thank you very much, Senator Cornyn.

I would like to ask one quick question. Doesn't Customs and Border Protection require that land passengers submit their I–94 forms to a Mexican or Canadian immigration inspector when they leave the country?

Mr. MOCNY. I don't know if it is a requirement that they actually have that as a requirement, but that is often what happens. So the I–94, the arrival card and the departure card the person gets when they enter the U.S., is either surrendered at the airport to the airline check-in agent and at the land border often times is given to a Canadian officer. The challenge we have with the Mexican border is that for every port of entry we have on the Southern border, there is not always a corresponding port of entry in Mexico. So there is that additional challenge for us as well. But that does happen on a regular basis and very often on the Canadian border that data—those cards are handed over.

Chairman FEINSTEIN. Well, I have one here. It says you must surrender this permit when you leave the United States across the Canadian border to a Canadian official, across the Mexican border to a United States official. Why can't that be a starting point? Why can't we require that when people leave? If they are leaving and they have to give the U.S. official or the Canadian official the information——

Mr. BARTH. I am not sure of the legal or regulatory basis for the language on the card itself. However, it again comes back to an infrastructure problem that we have and have to fix. I think—

Chairman FEINSTEIN. Well, why don't we try to fix it?

Mr. BARTH. Because I think in the first instance we have neither the staff nor the facility to slow down the traffic and collect those things as people leave the U.S.

Mr. MOCNY. That also does not get to the biometric capture at this point. As you have the biographic information—and that is helpful in some cases. We have the name of the individual. But we cannot capture the biometric that way, and I think we are trying to pursue technologies that would allow us to capture a biometric as part of the exit. But that very well may mean work with Canada in doing so. As Assistant Secretary Barth says, they have the infrastructure just 100 yards north of us, and we may be able to use some of that. But that is a negotiation with Canada that we would enter into and have discussions with them.

But as I said—and I think it is fair to note—at our 37-some ports of entry on the Southern border, there is not always a corresponding port of entry into Mexico. So it just represents another challenge for the program.

Chairman FEINSTEIN. But at least where there is a will, something might be worked out. I appreciate that.

We are joined by Senator Kennedy. Senator, I understand you would like to make a statement.

Senator KENNEDY. No, thank you. I will put it in the record, Madam Chairman. I have just a couple of questions at an appropriate time.

[The prepared statement of Senator Kennedy appears as a submission for the record.]

Chairman FEINSTEIN. Yes, please go ahead.

Senator KENNEDY. Thank you very much. I apologize for being late. I was going to ask about these exit systems of other countries. How do they do it? And have you looked at other countries? Which countries are doing it well? What are their systems? Are there lessons we ought to learn from those? I know Singapore, for example, does it well. That is probably a unique situation given the size of the country and the population. But, I mean, in Europe, they might have had a system years ago, but because of the EU, it may be somewhat different. But have you looked at other countries to see what we might be able to learn from them?

Mr. MOCNY. We have, and that is certainly something that we note to ourselves, that these countries have had departure control for many, many years, and it is just something that we never had here. So as they begin to modify some of their systems—you have departure control, passport control in France and Japan and Australia. They have always had that infrastructure in place, and the challenge that we are faced today with is in a very, you know, rapid fashion to stand up any kind of exit control absent that infrastructure. So they do it well, and it is useful information.

I will say that some countries are, in fact, beginning to look at biometric exit, are doing away with the basic infrastructure, the kind of hard brick and mortar, as it were, with personnel in place because that does become very expensive. So we do look at many countries across the world to try to learn from them as well.

Senator KENNEDY. Maybe you have gone over this, and if you have, don't bother. But biometric, I mean, I think all of us are familiar with what happens with automobiles and going through the tolls and all the rest. So you have got that capability, but how do you know who is in the car? And that is obviously the problem.

Did you discuss in terms of the biometric some suggestions in these areas? Mr. Barth. We did not go into that particular detail, Senator, but it is safe to say that that poses the additional layer of problem. If you have the driver and they merely have to come up and put their finger on the biometric detector at the land point of exit, that is one problem. Having everyone get out of the car and have to approach the stand and put the finger on it just would create an impossible back-up at the border that we believe the technology will help us solve, just as—whatever it was-10 or 15 years ago, EZPass just burst on the scene and you had to slow down to 5 miles an hour to get through it, but compared to the Route 95 toll booths, that was definitely an improvement. We will get to that point sometime, and we believe at some time in the future we will get to where the New Jersey Parkway is, which is you can speed through at 55 miles an hour and capture the data you need.

Senator KENNEDY. Just finally, in the next panel we are going to hear some testimony about the use of

electronics, and I don't know whether you want to make any comment or if you have got a reaction to it. I think people ought to be able to make their presentation before people make maybe a comment. But we are all friends here, and we are all trying to learn. So if you have got some ideas or suggestions or comments, it would be useful.

Mr. MOCNY. Thank you, Senator. We did provide in our written testimony the concept of a bio-token, and that is the combination of radio frequency identification with biometrics. So it is a very nascent technology at this point. We have to look at the ergonomics. If people are going to be leaving the country at 55 mph, we have to be careful about what device we give them to actually biometrically verify their departure.

So what we know is that technology is beginning to emerge, but we have to factor in so many things such as the ergonomics, the safety of it as well. So this is something that we are trying to pay attention to. We are looking at it earnestly, and we believe, as the Assistant Secretary says, it is not here now, but in the office in a couple years' time, it may very well present ourselves with a potential solution.

Senator KENNEDY. Thank you. Madam Chairman, if I could, I will submit some additional questions, if I could.

Chairman FEINSTEIN. Absolutely.

Senator KENNEDY. Thank you very, very much.

Chairman FEINSTEIN. Thank you very much.

I thank you gentlemen. We look forward to great things happening. Thank you very much.

The next panel consists of—and I will begin while you all come to the table, please—Richard Stana, the Director of Homeland Security and Justice Issues for the U.S. Government Accountability Office. He is a 30-year veteran of GAO who has directed reviews on a wide variety of complex military and domestic issues. Most recently, he directed GAO's work relating to immigration and border security issues, and he is the author of the recent report on the challenges of implementing an exit program at the land borders.

Phillip Bond is the president and CEO of Information Technology Association of America. Mr. Bond directs the day-to-day operations of the largest and oldest information technology trade association, representing 325 leading software services, Internet, telecommunications, electronic commerce, and systems integration companies.

Stewart Verdery is the president of the Monument Policy Group. He is the founder and president. This is a consulting firm in Washington that advises clients on issues relating to homeland security, immigration, and technology. So, gentlemen, we are very interested to hear from you, and if you could particularly -you have heard the problem. If you could particularly concentrate your remarks as to possible solutions, that would be appreciated. Mr. Stana, please.

STATEMENT OF RICHARD M. STANA, DIRECTOR, HOMELAND SECURITY AND JUSTICE ISSUES, GOVERNMENT ACCOUNTABILITY OFFICE, WASHINGTON, D.C.

Mr. STANA. Thank you, Chairman Feinstein, Senator Cornyn, Senator Kennedy. I am pleased to be here today to discuss DHS' implementation of the US–VISIT entry-exit program. As you know, the US–VISIT Program is designed to collect, maintain, and share data on selected foreign nationals entering and exiting the country at air, sea, and land ports of entry. Data is captured to learn and verify visitors' identities, screen information against watchlists, and record arrival and departure. My prepared statement is based on a report we did last month on the US–VISIT implementation on land ports of entry, and I would just like to make a few points about that effort.

First, we found that DHS cannot currently implement a biometric US–VISIT exit capability, as mandated by statute, without incurring a major physical and economic impact on land border ports. Implementing a biometrically based exit recording system that mirrors entry would require more than $3 billion in new infrastructure and could produce major traffic congestion because travelers would have to stop their vehicles upon exit for processing. Technology compatible to the land port environment is not currently available to address this processing issue. The RFID technology tested at land ports—and you can see them on the picture board hanging on gantries and on poles here at ports of entry, at Alexandria Bay, New York, and Nogales, Arizona—was subject to numerous performance and reliability problems. In fact, it had a success rate of only 14 percent in one test and provided no assurance that the person recorded as leaving the country is the same one who entered. It is important to note that DHS has not yet provided to Congress a statutorily mandated report which was due by June 2005 on its plans to fully implement an exit-entry program.

Second, we found that DHS had not yet articulated how US–VISIT will strategically fit or incorporate other land border security initiatives and mandates. It is important to know, for example, how the new Secure Border Initiative, or SBI, will tie in with US–VISIT, especially given the interior enforcement goals of SBI and the inability of the US–VISIT system to generate comprehensive, reliable, and accurate overstay data. It is also important to know how the Western Hemisphere Travel Initiative will work with US–VISIT.

Last, DHS deserves credit for installing the entry portion of US–VISIT at nearly all of the land ports, and this was done with minimal new construction or changes to existing facilities. But officials at 12 of the 21 land ports we visited told us about US–VISIT-related computer slowdowns and freezes that adversely affected processing times and could have compromised security. These problems were not routinely reported to headquarters, in part because of the lack of coordination between US–VISIT and CBP.

A real challenge lies ahead because the introduction of technology to permit a ten-fingerprint scan and read e-passports could increase inspection times and crowding, and thus affect port operations at aging and space-constrained facilities like those pictures on the picture board. The left-hand side is San Ysidro—it is a port

right in your backyard, Senator Feinstein and on the right is the Detroit-Windsor Tunnel. There is really no place to expand in the tunnel.

In the limited time I have remaining, I would like to raise a few other issues that members of the Committee may wish to consider as you conduct oversight of the US–VISIT Program.

First, technology is a tool, but not a cure for every border security problem. It is only one leg of a three-legged stool that includes people, process, and technology. As good as technology might be, it must fit in the port operational environment and facilitate, not hamper, the inspection process. CBP inspectors told us that technology is unreliable at times or can overwhelm them with information. And when this happens, the inspection process can slow down. Time pressures have resulted in information being ignored and security being compromised by hasty inspections. And keep in mind that Ahmed Ressam, the Millennium Bomber, was stopped not by technology but by an alert customs inspector who observed the subject and had a gut instinct that something was not quite right. We do not want technology to force our inspectors to keep their eyes off the traveler.

Second, the US–VISIT Program cannot operate effectively in a vacuum but, rather, needs to be integrated with other border security systems. Even an effective entry-exit system would be compromised if travelers could walk, drive, or sail in and out of the country without detection between the ports. Controlling 7,500 miles of land border and 95,000 of coastline is no easy or inexpensive task. Fragmenting responsibility for border security programs among several organizational components at DHS frankly is not helpful.

Third, although various laws and mandates call for an entry-exit system, there may be opportunities to help achieve the system's goals in combination with other DHS programs. An effective entry system is extremely important to prevent identified terrorists and other criminals from entering the United States, but enhanced intelligence might also be needed to improve our watchlists. And an effective exit control system would be helpful to identify those who have overstayed their visas, but the feasibility of locating and removing millions of overstays who may not wish to be found is questionable, without increasing the modest number of ICE agents and resources currently devoted to this task and implementing an effective work site enforcement or temporary worker program.

In closing, there is no question that securing our Nation's borders is a vital task and deserves high priority. The challenges we have found provide an opportunity for Congress to consider how this task can best be accomplished.

This concludes my oral statement, and I would be happy to answer any questions you may have.

[The prepared statement of Mr. Stana appears as a submission for the record.]

Chairman FEINSTEIN. Thank you very much, Mr. Stana.

Mr. Bond?

STATEMENT OF PHILLIP J. BOND, PRESIDENT AND CHIEF EXECUTIVE OFFICER, INFORMATION TECHNOLOGY ASSOCIATION OF AMERICA (ITAA), ARLINGTON, VIRGINIA

Mr. BOND. Thank you, Chairman Feinstein, Senator Cornyn, Senator Kennedy. On behalf of the membership of ITAA, it is a privilege to be here. Let me get right to the point.

For this hearing, I was asked to discuss whether technology currently exists that can verify the identity of a foreign visitor leaving this country, as mandated by Congress. The short answer is yes, both proximity-and vicinity-read RFID technologies can help accomplish this task, but as with almost any technology, I have to quickly add that it depends.

Let me talk briefly about the two and preface that by saying just very generally the Co-Chair of the bipartisan RFID Caucus understands this well, but RFID simply means you have some information and a small antenna which transmits differing amounts of information to a receiver, which then reads that information via radio wave. Two different basic approaches.

Proximity-read RFID systems have a very secure chip, a lot of information. These are the smart cards you read about for access to buildings and so forth. They are commonly used and have advanced computing powers. Very good at authenticating the user and ensuring that the person using the card is who they claim to be.

For the purpose of the exit program, DHS could issue all US–VISIT applicants a smart card upon entering. They would then authenticate their identity upon exiting by going through a reader station. Officials located at the stations could verify that the person is who they say they are by a visual matchor by a biometric match which fingerprints. This may, as has been noted, slow traffic. It may require significant investment, additional agents at point of entry, or expansion of those. On the other hand, stopping the traffic to inspect the documents may be the answer if the national priority is 100 percent authentication. That technology would do that. DHS would need, I think, to perform a cost/benefit analysis.

Alternatively, there is ultra-high frequency or vicinity-read RFID. This could be attached to the I–94 form when visitors enter. These have a longer read range—they are like the speed pass that you are familiar with on some of the roads—and would provide some flexibility in facilitating the flow of traffic while hopefully securing our borders.

Vicinity-read RFID technology transmits a unique number, kind of like your license plate number on a car, and then you separately dive into a secure data base to determine the connection between the two.

With the UHF border solution, DHS could quickly read a high volume of credentials while vehicles passed through. And as with any type of exit program, presumably some visual inspections would need to occur. Unlike the smart card or proximity-read option, it would keep the traffic moving and perhaps align with existing trusted traveled programs that we have today that use similar technology.

However, the current generation of vicinity-read solutions, like existing smart card products, do not independently tie a person to an ID card through biometrics without some intervention, without

checking visually or with some other biometric. The limitation in this case is that it really only proves that the I–94 left the country, not the person that is supposed to be attached to that I–94, which is, of course, not the same thing.

I am aware of the pilot program that was mentioned and the results there are not satisfactory looking at the ultra-high frequency vicinity-read. However, I also know that this kind of technology works. It is in use on both our borders today with the NEXUS and SENTRI programs. The DOD has used it. And as has been mentioned, there is technology on the horizon that would combine the longer read, faster flow with the biometric capability. It is not here yet, but it is on the horizon.

Proponents of the vicinity-read technology would say that implementing this through a phased approach would give significant benefits in the near term, increasing dividends on security, and commerce in the future while minimizing delays. That is the chief advantage there. However, it is not up to me or my association to pick winners in this space, and I think Government should be very careful about picking winners and losers as well. As Senator Cornyn I think alluded to earlier, Government should define the mission, objectives, and requirements, and then go to the technology sector of the country and find what is best to fit the mission and the objectives and the priorities that Congress in its oversight helps to set.

If I can, with 12 seconds, I want to briefly just point out that some folks very legitimately concerned about privacy have depicted vicinity-read RFID as a privacy risk. I would submit that it is not at all inherently secure and that those charges do not really hold up to scrutiny because, again, it only transmits a number, like your license plate, and unless you know which secure data base to go to and how those numbers correspond to the personally identifiable information, the risk is very, very small. In fact, in the 10 years that these kind of technologies have been in use, I am not aware of any identity theft problems that come from that operation.

I am over my time limit. Thank you, Chairman Feinstein.

[The prepared statement of Mr. Bond appears as a submission for the record.]

Chairman FEINSTEIN. Thank you. Thank you, Mr. Bond.

Mr. Verdery?

STATEMENT OF C. STEWART VERDERY, JR., PARTNER AND FOUNDER, MONUMENT POLICY GROUP, LLC, AND ADJUNCT FELLOW, CENTER FOR STRATEGIC AND INTERNATIONAL STUDIES, WASHINGTON, D.C.

Mr. VERDERY. Chairman Feinstein and Ranking Member Cornyn and Senator Kennedy, it is nice to return to your Committee again and talk about some of the issues that the country faces in securing our borders and mixing policy, technology, and personnel to do so. Not only must these programs protect us against terrorism, crime, and illegal immigration, but also must welcome those and facilitate the travel of those who contribute to our economic livelihood and contribute to our public diplomacy efforts.

My written testimony goes into great depth about six priorities for US–VISIT in 2007 and moving forward. I am only going to

touchon some of them. But, in order, they are airport exit, the International Registered Traveler Program, land entry and exit, transition from two- to ten-fingerprint capture, cooperation internationally, and how this would fit in with our employment verification efforts. I have a great faith in the US–VISIT Program Office and the Office of Screening Coordination at the Department to make the best use of the dollars that Congress gives them under the authorities that they are operating under.

As you may know, I served as Assistant Secretary for Border and Transportation Security Policy at DHS 2003 to 2005 working for Tom Ridge and Asa Hutchinson. I was proud to help build the US–VISIT Program into what it is today. We spent many years, as you mentioned in your opening statement, Madam Chairman, with no deployment because people could not figure out how to build a system all at once. So Secretary Ridge made the tough decision to build this in increments, and that is the way it has gone since, and it has worked well with what has been built. The problem has been the lack of progress in the last couple years on building additional steps.

One reason for that fact is, of course, the budget for the program has relatively been flat, between $330 million and $362 million a year for the last 5 years, just enough to pay for ongoing operations and the important interoperability work with the FBI systems. In addition, the post-Ridge leadership has gone the extra mile to try to coordinate US–VISIT with other credentialing and screening programs resulting in delays.

I was interested to see the GAO report that Mr. Stana released last month. I thought it was a fascinating report. Some news stories picked this up as a huge bombshell. It was a development out of left field no one had heard of. We had taken a shocking turn away from monitoring departures of all foreigners leaving the country—except it is not so shocking and it is not a new development. There has never been money in the budget that has been requested, and there has never been money in the budget that has been enacted to do a land exit solution for the reasons that have been discussed here related to infrastructure and personnel.

On air exit, I do believe that DHS and US–VISIT have to end 2 years of deliberation and choose a system to deploy. They have had a difficult time deciding whether to place this at the airport check-in counter, at the TSA checkpoint, at the boarding gate, or at some combination of the above. In my view, it ought to be at the checkpoint where TSA screeners operate because they are used to interacting with the public. You have a law enforcement presence there. You have information technology connectivity there, and also it is a natural funneling device to move people through a limited number of locations as opposed to putting it at the counter or at the gate. This, of course, would have to require coordination with the airlines' departure records to make sure that the person who was "exited" biometrically at the checkpoint actually left the country.

Hopefully, once we have a robust exit system, this would change some of our visa policies that have been deterring travel to the United States. The overwhelming majority of people who want visas, don't get them because we are not sure they are going to

leave. Hopefully, with a robust exit system, we could expand the Visa Waiver Program if countries meet the security criteria that DHS has put forward, the new proposal that has been proposed, as well as requiring those nationals to compile a sterling record—and whatever percentage you want, 98 percent, 99 percent—of on-time dedicated departures. I think this is a way to both do the risk management of travel that we need to do and also make our country more welcoming than it has been in several years.

The Discover America Partnership announced a report today endorsing the Visa Waiver Program enhancements that the President has put forward, but also the exit requirement as a way to make sure that people have actually left the country.

Another aspect of this would be the International Registered Traveler Program. Frequent business travelers, whether they are U.S. citizens returning to the country or foreigners coming to the country, should not have to through robotic screening time after time after time. The U.K. has deployed a system, their Project IRIS. They are going to have a million people enrolled by the end of the decade who have been enrolled, gone through a thorough background check, and are able to skip immigration processing with a random audit function, of course. It is a way to maximize the attention on less known travelers.

On the land side—and it looks like I am running out of time—I do believe that the RFID solution that Secretary Bond mentioned can work. The piloting that was done in the last couple years, the results were not good, but I think it really will require a port-by-port deployment with the kind of resources you need to put the gantries in the right place. Programs are coming online with RFID and travel documents, such as the Western Hemisphere Passport Card, which will be unveiled later this year or perhaps next with RFID. The Border Crossing Card that Mexicans travel with will need to be retrofitted to include RFID. And this can work, and we should not wait for a biometric, bio-token system which could be several years down the road, which is the ultimate solution. We should be able to do both at the same time.

As I mentioned, my written testimony also talks about the use of biometrics from employment verification as part of the guest worker program. Perhaps we can address that in written questions.

I thank you for the opportunity to be here, and I look forward to your questions.

[The prepared statement of Mr. Verdery appears as a submission for the record.]

Chairman FEINSTEIN. Thank you, gentlemen, very, very much.

Mr. Verdery, since you mentioned the Visa Waiver Program, as you know, two terrorists entered the country on the Visa Waiver Program: Mr. Moussaoui and the Shoe Bomber, Mr. Reid. As you also know, there are 27 countries, there were 15 million people who came in a year ago on Visa Waiver, and no one knows whether they left or not.

You also know that there is great pressure to expand the program. The rejection rate of Visa Waiver is 3 percent. In other words, if you are a country that rejects more than 3 percent of the—has 3 percent or more of the visas to come here rejected, you are not eligible. Well, these countries have like 20 percent rejec-

tion, 25 percent rejection. I don't know whether you know or not, but there are tens of thousands of Visa Waiver country passports that are stolen, international travel documents, Geneva Convention travel documents that are stolen, international driver's licenses that are stolen. What do you think happens to those? People buy them. They are in the country that is part of the Visa Waiver Program, and they come into this country, and we do not know who they really are. Now, some of us have had a bill to tighten up passport fraud. Use a forged passport illegally, you know, it is a go-to-jail card, which it should be in my view.

Having said that, I think, you know, we are with this dilemma. The bigger these programs get, the more people come here and stay, the more you swell the undocumented population, which creates this backlash in America which prevents us from doing a number of things to reform immigration.

Mr. Bond, you mentioned that there are systems that could provide the kind of exit program, and you mentioned coordinating them with the I–94 document. I am not asking you to declare a winner and a loser in the competitive race for this, but what kind of a system would be most practical, would be doable, and satisfy verification simply that a visa holder has left the country?

Mr. BOND. Well, I think in the near term there is no perfect solution right now. You could attach RFID to the I–94 and know that the I–94—

Chairman FEINSTEIN. You could attach—go ahead.

Mr. BOND. RFID technology on the form.

Chairman FEINSTEIN. Right.

Mr. BOND. It could actually go on the form, and so you know when the I–94 has left. Now, if that were combined with random testing of some leaving, the visitor who is getting ready to leave thinks, well, there is some chance I may be pulled out and checked, and so you have some additional security. Ultimately what they are looking at is—

Chairman FEINSTEIN. Is that costly to do that, to attach it to the I–94 form?

Mr. BOND. No. I think compared to some of the alternatives, that would be considered a very low-cost factor.

Chairman FEINSTEIN. And so that would be a chip. Is that correct?

Mr. BOND. Yes.

Chairman FEINSTEIN. That essentially would have biometric identifiers?

Mr. BOND. No. In this case, it would have—currently, it would just simply transmit a unique number, which then, when read on the other end, that separately connects to a secure data base that tells you what that number corresponds to. This is where I used the example of your license plate. It does not really tell you anything, but when combined with the DMV data base, then you know who that person is. That could be done today, but, again, if it is attached to the form, it only tells you the form has left. If you combine it with some random testing, you get some more discipline in the system perhaps.

They are looking at ways to use a biometric on the form—and this is where you heard concern about safety and ergonomics—so

that it perhaps might have a biometric on the form so when my thumb is read, that releases the identifier. So then I know that not only is it the I–94 but it is my I–94 because it read my finger.

Chairman FEINSTEIN. Fascinating.

Mr. BOND. But that is not here today, I want to be clear about that.

Mr. VERDERY. Senator, could I just jump in? Because, again, the air side is a key. You do not need all this for the air side. You have people there. You have connectivity.

Chairman FEINSTEIN. You do not need all this what?

Mr. VERDERY. You do not need these forms and this kind of RFID. You have the person right there who can be fingerprinted. So the air side, it is just a question of where you put it—at the checkpoint, at the counter, at the gate. You have the person right in front of you, can put their fingerprints down, two, four, ten, or whatever.

And then in terms of the visa waiver question, if people who come in, fly in from France or Japan or a new country, South Korea, and want to leave for a day trip to Mexico, that is fine. They come back in. But they still would have to leave the U.S. by air, "exited," checked out. You would know they left within 90 days. And if their country does not compile a sterling record, it is out. It would solve the problem that you eloquently described.

Mr. STANA. Senator, can I add a note of caution to the RFID discussion?

Chairman FEINSTEIN. Please.

Mr. STANA. One of the things that concerns me about the discussion of using a card or a key fob and pressing your thumb to it as you leave at X number of miles an hour is that I have witnessed Border Patrol agents at Border Patrol stations and I have witnessed inspectors at the ports trying to take fingerprints. Taking fingerprints is nothing that is easy, that you can just put your finger on a form while you are talking on the cell phone going through a port at 35 miles an hour. Maybe technology will catch up, but currently it is very difficult to get readable prints that would satisfy the biometric identity requirement of the law. Prints, you know, are pressed too hard, or too soft; it could be raining outside, or be foggy. As a result the technology does not pick up the print. The car's glass could be tinted. You might hold the I–84 too close to your body. There is any number of reasons why it won't work as planned. There might be a solution down the road, but right now I think it is a bit optimistic.

Chairman FEINSTEIN. So come up with a better one.

Mr. STANA. Well, right now—what can we do right now, I guess is your question. Right now there is no good solution, and unless you want to embark on a $3 to $5 billion building program—and I do not think any of us want to do that. There might be something downstream a little ways that we can rely on. Right now we might be able to build somewhat on current trusted traveled programs, but, again, you are basically keeping honest people honest. People who enroll in those programs are not a threat. They are likely to leave. But it is a start.

The other thing I would do is I would look to non-US–VISIT, non-trusted traveler programs to see if we can get there through

different means. Senator Cornyn mentioned more effective work site enforcement, beefing up ICE agents to search out visa overstays. If you do the math, Senator, there are about 5 million visa overstays in the United States—12 million illegal alien times roughly 40 percent estimated to be overstays, you get about 5 million overstays. ICE has between 200 and 300 agents out looking for them right now. And if you consider the numbers, you would see they are not going to get very far, and it explains the 200 apprehensions figure that Mr. Mocny mentioned a few minutes ago. So that is one way we can do it.

We can beef up intelligence services to try to get our line of defense up so we do not let dangerous people in to begin with. We only know to stop those on the watchlist, and there are ways we can improve those lists. And then, of course, there's the work site. If people are coming here to find work, fine. We can acknowledge that and create a temporary worker program. Or we can enforce the work site rules and reduce the size of that haystack, so to speak.

But until a technology solution presents itself, I think we need to take interim steps. But I would caution against taking a step that would lead us to a large investment that would not ultimately be the solution we are looking for.

Chairman FEINSTEIN. My time is up. Mr. Bond had wanted to respond. Do you mind, Senator?

Senator CORNYN. No.

Mr. BOND. Thank you, Chairman Feinstein. Just one additional point. While I agree that the technology is not there today, you had mentioned, Chairman Feinstein, your desire for at least a starting point. And I guess if I could, I would say a common denominator you may be hearing here is some combination of faster flowing vicinity read along with bringing some percentage of the folks out for a real fingerprint biometric test so there is some discipline or decent chance of discipline in the system. But that might be a starting point for you and the Department to discuss.

Chairman FEINSTEIN. Just one quick comment. I think Mr. Stana is right about the fingerprint. I think they are very difficult. You have to have very trained people. They do take time, and I am not sure that that is the right biometric indicator to use for this.

What piqued my interest was the I–94 form that is simple, that is a piece of paper, but that Canadian officials and Mexican officials at least at places collect. Maybe there is a way of temporarily building on that.

Mr. BOND. That would let you know, as I said, that the form had left. You do not have real correlation between—certain correlation.

Chairman FEINSTEIN. We understand that. We understand it is imperfect.

Mr. BOND. But it would be the starting point, right.

Chairman FEINSTEIN. I mean, China, you know, you go into China, and you get a piece of paper, and you fill it out. It is in triplicate. And you give it out at various places, and when you leave, you provide one piece of paper, too. They know you have left.

Mr. BOND. I think all I was trying to suggest is just as we do at airports pull some people out for a little bit closer examination,

you may do that with some percentage of the folks going across the land borders.

Chairman FEINSTEIN. Thank you.

Sorry, Senator. Go right ahead.

Senator CORNYN. No problem. We have a former State elected official in Texas who likes to, when she is traveling around the State on the stump, talk about the Yellow Pages test and her conviction that Government should not do anything that you can find provided by a private party in the Yellow Pages. And I think there is a lot of merit to that.

But I am struck by the fact that I can carry a card like this around with me, provided by the financial services industry, and I can transfer funds at a store, at a money machine, virtually anywhere in the world. And in the United States, in talking about the various incremental changes we have made to try to adapt to a post-9/11 environment, we have, for example, Mr. Stana, you mentioned the Secure Border Initiative, which is a huge project that has been announced by the Department of Homeland Security. I think, Mr. Verdery, you talked about the Western Hemisphere Travel Initiative, which will require American citizens to have a passport or passport equivalent just to go back and forth to Mexico or back and forth to Canada, out of the country. We have the laser visas that we issue to Mexican nationals. We have the port security bill we passed late last year that requires workers at ports to carry cards that will demonstrate they have gone through the appropriate background and security check. And we have this proliferation of programs and cards.

And what I worry about a little bit is that Government is just so slow and we do things in such an incremental way that the wisdom perhaps of a program that seemed like exactly the thing we needed to do 5 years ago after 9/11 has sort of been overcome by subsequent events. I would be interested to know, and perhaps get a comment from each of you, about whether there is anything that you would recommend we do to reduce or minimize that problem in order to address the concerns that we are talking about here today.

Mr. Stana, do you have any thoughts?

Mr. STANA. Well, yes, I have a few thoughts.

First, you mentioned a number of programs—SBI, WHTI, US–VISIT, and so on. There is an alphabet soup of border security programs—NEXUS, SENTRI. If they are not well coordinated and funded on a level where they complement each other, I think we might be at a point where we are creating chains with a lot of weak links. A great US–VISIT Program is not going to be any good if you can walk 2 miles down the border and cross without detection. So that is one point.

The second point is let's define what the goals are. What are we trying to achieve here? If we are trying to achieve a criminal-and terror-free country, then I would want to beef up entry, because I think experience has shown that sometimes terrorists they do not exit alive.

If I am looking for immigration control, I would—

Senator CORNYN. If I could just interject there, the problem is when they get in, not them leaving.

Mr. STANA. Exactly.

Mr. BOND. Because they are going to do their damage, and we—

Mr. STANA. They are going to do their damage and they do not care if they leave. If you are looking for immigration control, there are any number of programs and methods of getting at overstays without a US–VISIT system. The trick is identifying them.

I would point out we ran into this identification and location issue with the old Alien Registration Program. I don't know if you remember, but every January, aliens used to have to go to the post office and fill out a card about their whereabouts. And many filled it out, and many did not because they did not want to be found. And that is the problem that ICE has now. Even when US–VISIT sends them the names of overstays, trying to find people who do not want to be found is extremely difficult.

We all leave electronic fingerprints everywhere. You pointed at your credit card, and somewhere, if you used it today, there is going to be a record of you using it. If you do not want to be found, you do not us the you do not use the card and those records will not exist. So if we are trying to find overstays and if overstays is the problem we are trying to address, you probably do not need a US–VISIT system or have to rely solely on a US–VISIT system to get there. You might find another way to at least start doing that.

But I would agree with the proposition that we ought to know who is in the country and we ought to have some way to assure our border security and our internal security, but maybe we do not need to wait until the US–VISIT technology is mature enough to give us that assurance.

Senator CORNYN. Mr. Stana, your comments remind of—I think I have seen or read about cell phones that are being marketed to parents because they have the capacity to be tracked by global positioning systems so they can determine where their children are.

Mr. STANA. That is true. The same with the video surveillance technology with cameras everywhere. I have been told that there probably are not too many hours of the day—and those hours are probably at home in your bedroom while you are asleep—where you are not recorded on some camera, either passing by an ATM machine or being in a CVS pharmacy.

Senator CORNYN. I am not suggesting we issue cell phones to all of our visitors when they come to the United States, but, clearly, the technology exists if we can figure a way to direct it in a way that is most constructive.

I know my time is up, but I would appreciate it, Madam Chairman, if Mr. Bond and Mr. Verdery could respond.

Chairman FEINSTEIN. Please, go ahead.

Senator CORNYN. Thank you.

Mr. BOND. Thank you. I will be very brief. I think that that, as was alluded to here, Government should define the mission, the objectives, and the prioritized requirements so that you can get started, and then sit down with those folks in the Yellow Pages who are the technology leaders, many of them in Texas and California, and figure out what is possible, what is possible in the near term, what really are longer-term considerations so you can begin to match the technology with the prioritized requirements.

Senator CORNYN. Thank you.

Mr. VERDERY. Senator, just a few points. One, I completely agree with the need to synergize and look at these programs holistically. There is a new office at the Department that started last year, the Office of Screening Coordination. That is their exact job, to look at these credentialing programs and find out where the gaps are, where the benefits are in coordination. And they are trying to do that.

I think in terms of the land systems, if you could get a system where the Western Hemisphere Passport Card or a State-issued passport card was online with RFID, you retrofitted the Border Crossing Cards or laser visas with RFID, you have people with the new e-Passports—it is a different kind of RFID, but it would still probably work—you essentially have gotten to the point where most people are coming in with an RFID capability that could be tracked inbound and outbound; you have gotten far down the road for the land borders.

The other question would be, as Mr. Stana mentioned, on the entry side, the ten-print conversion that you have heard a lot about is unfortunately moving rather slowly. This was announced in the summer of 2005. Those machines are out there. They are being tested, but we are not talking about full implementation now until the end of 2008 at our consular posts and ports of entry. And they are not the big giant, bulky ones you saw before. They are very smooth and work well. So I think that is an entry security enhancement that is ready to go from a technology basis.

Chairman FEINSTEIN. Just by way of having a bit of discussion here until we have the vote and can excuse the panel, I want to go back to the national security implications. There is a lot of pressure on us economically, ease everything, let people come in—largely, a lot of businesses. I have had California companies, I have had others come in to me. They run big operations. They want more and more and more people.

On the other hand, you have to look at it as to whether we are going to be a country that respects a border at all, and we have always been a sieve. People have come, they have gone, and we now find ourselves wanting to have some security, some knowledge, with huge immigration problems that grow every year.

Senator Cornyn and I got interested in the last Congress in something that is called the OTM, the Other than Mexican, who comes across the Mexican border. And we see those numbers burgeoning, and we see more people appearing from Middle Eastern countries who come into the country illegally through Mexico—all of which sends a signal, you know, there could be a problem.

And I do not know how we sit here and just shrug our shoulders and say, well, it does not appear to be doable, without trying different things. And I do not think the perfect should be the enemy of the good. I think we probably do not worry about the fingerprint on it, but just at least if you give in a piece of paper when you leave, that is a record that that individual has left.

And so I am really interested in following this through and trying to get a continuum of technology where, for a modest investment up front, you can begin to get this correct accounting and then build on it as the technology improves. So if anybody has any

ideas, at least I—and I hope Senator Cornyn, too—would be interested in receiving them.

Would you like to make any further comment?

Senator CORNYN. Just one last comment, Senator Feinstein. Thank you very much again for convening this hearing. This is important to me and my constituents in Texas and I submit, to the Nation, for the reasons that you have mentioned and we have discussed here today. But I think there is also a risk that we need to acknowledge, and that is, a false sense of security.

I am reminded of the recent raids by ICE on the Swift Meat Packing Plant companies across the country. This is a company that participated in a voluntary program, as you know, called Basic Pilot to be able to verify that, in fact, their employees could legitimately work in the United States. So they were sort of the good guys participating in it. But what they did not realize is that a large percentage of their employees were using forged documents, which Basic Pilot does not reveal. And so while it is true that they were—that because they participated in the Basic Pilot program, they were immunized from certain penalties that might otherwise attach to those who hire people who cannot legally work in the country, they suffered millions of dollars of business disruption because, in fact, they were under the false impression that if they just complied like a good citizen with the Basic Pilot program that they would be protected. And they were not.

So this is another way to look at this problem that we have got to solve as we address all these other issues.

Chairman FEINSTEIN. I really agree with that, and this is really about bringing order out of disorder. And I think it is worth it to do it, and I think it makes it easier for us to do some of those things like a guest worker program that you referred to, Mr. Stana, because there is so much hyperbole. People's emotions swell so greatly around this issue. And we cannot go out and represent to anyone that our borders are enforced. We just cannot do it. And that is a very terrible situation.

So my very strong view is that we have to walk before we run, that we should work on, even if it is a paper system, whatever it is, to try to bring about a continuum of order and have it cost-effective.

So, once again, any suggestions would be more than welcome, and I really want to thank the witnesses for being here. I hope to continue this conversation. I know Senator Cornyn, Senator Kyl, and Senator Kennedy would like to as well.

Thank you very much. The vote has started, and the meeting is adjourned.

[Whereupon, at 4:12 p.m., the Committee was adjourned.]

[Questions and answers and submissions for the record follow.]

QUESTIONS AND ANSWERS

Question#:	1
Topic:	US-VISIT airport expansion
Hearing:	US-VISIT: Challenges and Strategies for Securing the US Border
Primary:	The Honorable John Cornyn
Committee:	JUDICIARY
Question:	The Department of Homeland Security (DHS) has indicated that it is delaying implementation of US-VISIT exit procedures at land borders to concentrate resources on expansion and improvement of the program at airports. Currently, US-VISIT exit procedures are available at 12 airports and 2 seaports. DHS also indicates that it could potentially capture biometric data from nearly 85% of foreign travelers by operating the US-VISIT exit in the top 20-25 airports in the nation. Does DHS currently have a timetable for expansion of US-VISIT to other major airports?

https://ect.dhs.gov/iq/workflow_edit.aspx?cid=627260&tabid=

Answer:
US-VISIT has deployed biometric entry procedures at 119 United States international airports and 17 seaports. Currently, exit pilots are in place at 12 airports and 2 seaports.

US-VISIT will work with the airlines to identify a solution for the air environment. DHS will initially focus on the air exit solution and plans to deploy biometric exit to air and sea ports, as well as develop options to record biographic exit at land ports. Once a specific solution, or set of solutions, is identified, DHS will then develop an exit implementation schedule.

Question#:	2
Topic:	US-VISIT airport expansion
Hearing:	US-VISIT: Challenges and Strategies for Securing the US Border
Primary:	The Honorable John Cornyn
Committee:	JUDICIARY
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https://ect.dhs.gov/iq/workflow_edit.aspx?cid=627261&tabid=

Answer:
US-VISIT has deployed biometric identity services for entry at 119 United States international airports and 17 seaports that have fixed federal inspection areas. Currently, 12 airports and 2 seaports have implemented US-VISIT biometric exit procedures.

US-VISIT will initiate activities in FY 2007 by working with the airlines to identify a solution for the air environment. DHS will initially focus on the air exit solution and plans to deploy biometric exit to air and sea ports, as well as develop options to record biographic exit at land ports. Once a specific solution, or set of solutions, is identified, DHS will then develop an exit implementation schedule.

Question#:	3
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Committee:	JUDICIARY
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https://ect.dhs.gov/iq/workflow_edit.aspx?cid=627262&tabid=

Answer:
US-VISIT will initiate activities in FY 2007 by working with the airlines to identify a solution for the air environment. DHS will initially focus on the air exit solution and plans to deploy biometric exit to air and sea ports, as well as develop options to record biographic exit at land ports. Once a specific solution, or set of solutions, is identified, DHS will then develop an exit implementation schedule.

Question#:	4
Topic:	US-VISIT exit kiosks
Hearing:	US-VISIT: Challenges and Strategies for Securing the US Border
Primary:	The Honorable John Cornyn
Committee:	JUDICIARY
Question:	There is some concern that the current process for "exit" at the U.S. airports, using US-VISIT "exit" kiosks is not working as well, with travelers being unable to locate the kiosks or forgetting all together to use the kiosks on exit. Has any consideration been given to working with the airlines to capture and transmit exit data electronically directly at the check-in counters?

https://ect.dhs.gov/iq/workflow_edit.aspx?cid=627263&tabid=

Answer:
Yes, working with the airlines to capture and transmit exit data electronically directly at the check-in counters is being considered, as well as other options. DHS is currently discussing the Department's options for deployment of a biometric exit solution in the air environment with U.S. air carriers.

No matter where DHS deploys biometric exit, these deployments will be designed to minimize any increased wait times or delays to travelers, meet directives to build an exit solution that does not impede legitimate travel and trade, while at the same time substantially add to efforts to secure the borders.

Question#:	5
Topic:	Biometric data capture at exit points
Hearing:	US-VISIT: Challenges and Strategies for Securing the US Border
Primary:	The Honorable John Cornyn
Committee:	JUDICIARY
Question:	If DHS is considering not continuing using kiosks at US-VISIT exit checkpoints, how does it intend to capture the biometric data of travelers?

https://ect.dhs.gov/iq/workflow_edit.aspx?cid=627264&tabid=

Answer:
Any successful exit program must incorporate the biometric collection into the air and sea travelers' departure process. DHS is currently discussing the Department's options for deployment of a biometric exit solution in the air environment with U.S. air carriers.

Question#:	6
Topic:	Personnel training
Hearing:	US-VISIT: Challenges and Strategies for Securing the US Border
Primary:	The Honorable John Cornyn
Committee:	JUDICIARY
Question:	Some concerns have been raised regarding the quality of personnel who are running the US-VISIT systems (e.g., they are not familiar with the US-VISIT technology and are leaning towards doing manual inspections which is increasing delays at the land borders). What steps is DHS taking to improve U.S. Visit training?

https://ect.dhs.gov/iq/workflow_edit.aspx?cid=627265&tabid=

One of the goals of the United States Visitor and Immigrant Status Indicator Technology (US-VISIT) Program within the Department of Homeland Security (DHS) is to facilitate legitimate travel and trade. The US-VISIT application is one of the tools used by DHS to prevent the entry of terrorists and criminals into this country. To accomplish this task, DHS continually modifies and enhances the functionality of the US-VISIT land border applications to better provide immigration officers with the ability to perform their duties and to expedite processing times at the port of entry (POE).

On the land border, US-VISIT processing capabilities are available only in the secondary areas at the land border POEs. Generally, only aliens requiring a Form I-94 are processed through US-VISIT at the land border. Mexican Border Crossing Card (BCC) holders are not processed through US-VISIT if they are staying within the geographical and time limits allowed by the BCC. If they intend to exceed these limits, they are processed through US-VISIT in the secondary inspection area.

With each US-VISIT land border enhancement, DHS provides training to port personnel in the use and operation of the US-VISIT technology. One of the expected and proven outcomes of US-VISIT training is that it minimizes the impact US-VISIT has on daily port operations. For example, DHS/CBP provided training at the land border during a US-VISIT project that provided for automated issuance of Form I-94s. The Form I-94 automated issuance system, called U.S. Arrival, has significantly decreased the processing time for Form I-94s at the land

Question#:	6
Topic:	Personnel training
Hearing:	US-VISIT: Challenges and Strategies for Securing the US Border
Primary:	The Honorable John Cornyn
Committee:	JUDICIARY
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borders from an average of 15 minutes per traveler to three minutes per traveler. The training that was provided for the land border automated Form I-94 process has been so successful that DHS is now looking to emulate the process at air and sea POEs.

DHS realizes the importance of providing updated and refresher training to the personnel operating US-VISIT at the land border ports. DHS is determined to provide immigration officers the training they need to perform their job of protecting our borders and at the same time to decrease traveler processing wait times. US-VISIT training is currently included as part of the curriculum at the Federal Law Enforcement Training Center (FLETC). As new US-VISIT functionality is introduced at the land border ports, DHS will continue to improve US-VISIT training. This will be accomplished by providing port personnel formal, instructor-led training explaining the purpose, use, and effect of the US-VISIT Program on the inspection process at the land border and how to interpret the data captured and displayed through US-VISIT technology. Field guidance on enhanced US-VISIT standard operating procedures will also be distributed to the ports on an as-needed basis.

DHS will continue to monitor the training needs of personnel at the land border and will ensure that our training officers have the knowledge base and educational tools needed to successfully deliver US-VISIT training to land border personnel.

Question#:	7
Topic:	Tracking tool coordination
Hearing:	US-VISIT: Challenges and Strategies for Securing the US Border
Primary:	The Honorable John Cornyn
Committee:	JUDICIARY
Question:	How does DHS intend on ensuring that the various initiatives that are being used to track passengers and their activity (i.e. SecurFlight, US-VISIT) are compatible and working together efficiently?

https://ect.dhs.gov/iq/workflow_edit.aspx?cid=627266&tabid=

DHS recently established the Screening Coordination Office (SCO) to integrate and coordinate screening functions throughout the Department and to work with other Federal agencies to assess collective screening requirements, seeking ways to enhance efficiency and effectiveness. The goals of the SCO are to improve security, enhance customer service, increase operational efficiencies, and prioritize investments related to people screening. Specifically, the SCO supports and guides DHS terrorist and immigration-related screening activities and programs, such as Secure Flight, US-VISIT, TWIC, and WHTI. In addition, the SCO has led the Department-wide effort to launch DHS TRIP, a single redress process for travelers. In a longer-term effort, the office is developing unified screening standards, policies, and capabilities. The SCO performs an important role in improving the experience for legitimate travelers to and within the United States.

Question#:	8
Topic:	border screening integration
Hearing:	US-VISIT: Challenges and Strategies for Securing the US Border
Primary:	The Honorable John Cornyn
Committee:	JUDICIARY
Question:	When will DHS be able to achieve total integration of all law enforcement systems, including FBI systems, which are currently utilized for screening especially on the border checkpoints?

https://ect.dhs.gov/iq/workflow_edit.aspx?cid=627267&tabid=

The Department of Homeland Security (DHS) is striving to achieve interoperability of law enforcement systems where interoperability is necessary and appropriate. As part of that effort DHS established the Screening Coordination Office (SCO) to integrate and coordinate screening functions throughout the Department and to work with other Federal agencies to assess our collective screening requirements, seeking further ways to enhance efficiency and effectiveness.

DHS has made important strides with making multiple systems available at the border so that Customs and Border Protection (CBP) officers can make confident and informed decisions regarding lawful entry. DHS systems, such as US-VISIT, SEVIS, TECS, and IDENT, the Department of Justice's NCIC and IAFIS systems, and the Department of State's CCD system, are examples of those available to the CBP officer at the border. These systems provide CBP officers information regarding a traveler's criminal history, visa application, student status, travel history and previous apprehensions by CBP and other law enforcement agencies.

Question#:	9
Topic:	Mandatory departure
Hearing:	US-VISIT: Challenges and Strategies for Securing the US Border
Primary:	The Honorable Edward M. Kennedy
Committee:	JUDICIARY
Question:	During the 109th Congress, some proposals for comprehensive immigration reform included a mandatory departure requirement in order to qualify for earned adjustment. But for such a requirement to be effective there must be a system in place for ensuring that those individuals who leave the country will actually receive credit for doing so. Yet your testimony today suggests that the Department of Homeland Security, despite the President's call for comprehensive immigration reform, is ill-prepared-and in fact has no intention to act-to implement exit controls. Question: In light of legislative proposals incorporating mandatory departure into comprehensive immigration reform, what steps has U.S. Visit taken to prepare for the possibility of a program involving mandatory departure of possibly millions of individuals? Does the agency have contingency plans for such an event? Given the contours of past proposals, does U.S. Visit have a cost projection for rapid implementation of an exit control plan?

https://ect.dhs.gov/iq/workflow_edit.aspx?cid=627313&tabid=

Answer:
US-VISIT has been participating on the Department's Temporary Worker Program (TWP) working group.

US-VISIT has examined several options for deployment in the air, sea, and land environments. All options are dictated primarily by the operational constraints for those environments (i.e., no infrastructure to record exit) and accompanying connectivity requirements with the ports.

Question#:	10
Topic:	Mandatory departure Exit Controls
Hearing:	US-VISIT: Challenges and Strategies for Securing the US Border
Primary:	The Honorable Edward M. Kennedy
Committee:	JUDICIARY
Question:	Is it feasible to incorporate exit controls into comprehensive reform strategies? Can U.S. VISIT and other immigration agencies within DHS handle the possible impact of mandatory departure proposals such as those proposed during the 109th Congress?

https://ect.dhs.gov/iq/workflow_edit.aspx?cid=627314&tabid=

Answer:
Tracking the entry and exit of travelers at the Nations' borders is critical to a successful immigration enforcement program. US-VISIT will continue its work on implementing a successful exit program. US-VISIT will initiate efforts in FY 2007 by working with the airlines to identify a solution for the air environment. DHS will initially focus on the air exit solution and plans to deploy biometric exit to air and sea ports, as well as developing options to record biographic exit at land ports. Once a specific solution, or set of solutions, is identified, DHS will then develop an exit implementation schedule.

Should any comprehensive reform legislation include provisions on recording exit, DHS will re-examine options for recording exit based on parameters and guidance contained in the legislation. Other options, such as verifying exit outside the country at U.S. consulates, will be considered depending on the legislation's implementation period and requirements.

Question#:	11
Topic:	Visa Overstays
Hearing:	US-VISIT: Challenges and Strategies for Securing the US Border
Primary:	The Honorable Edward M. Kennedy
Committee:	JUDICIARY
Question:	The U.S. VISIT exit system detects people who have overstayed their visas and then departed. A main concern, though, is that visitors who obtained legal extensions of their visiting time may be falsely labeled as having overstayed. I'm also concerned that some people may have overstayed their visas inadvertently or through circumstances such as serious illness beyond their control. What consequences will such people face in terms of gaining entrance to the United States in the future? What safeguards are built in so that innocent travelers are not falsely tagged as overstayers? What opportunity will there be for them to correct the record?

https://ect.dhs.gov/iq/workflow_edit.aspx?cid=627315&tabid=

Answer:
With respect to travelers under the Visa Waiver Program who inadvertently overstay their period of admission, CBP has some discretion in extending their temporary visit and considers the totality of circumstances pursuant to the following regulation:

> **8 CFR § 217.3 Maintenance of status. (Section revised effective 4/1/97; 62 FR 10312)**
>
> (a) Satisfactory departure. If an emergency prevents an alien admitted under this part from departing from the United States within his or her period of authorized stay, the district director having jurisdiction over the place of the alien's temporary stay may, in his or her discretion, grant a period of satisfactory departure not to exceed 30 days. If departure is accomplished during that period, the alien is to be regarded as having satisfactorily accomplished the visit without overstaying the allotted time.

With respect to those aliens who previously overstayed inadvertently and who were *not* admitted under the Visa Waiver Program, the answer may be a bit more complicated than it would appear because of potential inadmissibility under section 212(a)(9)(B) of the Immigration and Nationality Act, 8 U.S.C. § 1182(a)(9)(B). CBP officers can parole an alien into the United States, provided

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the requirements of section 212(d)(5)(A) of the Immigration and Nationality Act are met (urgent humanitarian reasons or significant public benefit). Further, an alien has access to an immigration judge in order to challenge a charge of inadmissibility under section 212(a)(9)(B) in removal proceedings. DHS cannot use expedited removal if that is the ground of inadmissibility.

Where an alien is incorrectly labeled as having overstayed a period of admission, or where there are issues with how a specific exit is recorded, the alien can use the redress process to correct any erroneous information. DHS's Travel Redress Inquiry Program (DHS TRIP) is a single point of contact for individuals who have inquiries or seek resolution regarding difficulties experienced during their travel screening at transportation hubs. The DHS redress service can be accessed at http://www.dhs.gov/trip.

Question#:	12
Topic:	Entry/Exit Registration System
Hearing:	US-VISIT: Challenges and Strategies for Securing the US Border
Primary:	The Honorable Edward M. Kennedy
Committee:	JUDICIARY
Question:	In 2002, Homeland Security implemented the National Security Entry Exit Registration System as a screening program for non-immigrants it thought posed a greater security threat. In 2004, Secretary Ridge testified that DHS has a long term goal of treating all people attempting to enter and exit the country the same way, regardless of their country of origin? Given Homeland Security's goal of one comprehensive entry-exit system, with greater systems capabilities, isn't it time for this special registration system to end?

https://ect.dhs.gov/iq/workflow_edit.aspx?cid=627316&tabid=

The Department of Homeland Security considers the collection of information on non-immigrant visitors to the United States of paramount importance to the security of the United States. DHS is in the process of reviewing with our inter-agency partners how best to capture this information.

Question#:	13
Topic:	biometric system costs
Hearing:	US-VISIT: Challenges and Strategies for Securing the US Border
Primary:	The Honorable Edward M. Kennedy
Committee:	JUDICIARY
Question:	A reliable biometric identification system would be an important way to confirm visitors' identities when they leave the country. Recent press reports, however, indicate that DHS is "side-tracking" the exit component of US VISIT at land ports of entry. Secretary Chertoff is quoted as saying that "[i]f we require all the people leaving the country by land going into Canada to stop to give a biometric print... you would see lines that are 10 or 15 miles long ... " The lines would be even longer on the southern border. GAO reports that installing such a system at all ports of exit could cost $3 billion and take 5-20 years to implement. Question: Are the problems we face in implementing an exit system at the land ports of entry insurmountable? Is the cost worth the benefit?

https://ect.dhs.gov/iq/workflow_edit.aspx?cid=627341&tabid=

Answer:
The Department does not believe that the problems facing implementation of land exit at the ports are insurmountable. However, creating a mirror image of current entry processes for exit is not a realistic option. DHS will look towards other systems to record a traveler's exit at the land ports and evaluate how technology can be used to overcome obstacles. Another potential for exit data collection capability along the land borders could involve the cooperation of Canada and Mexico, given that our exit is entry into Canada and Mexico. Such a solution could include data-sharing between national systems and would require agreements between countries.

Question#:	14
Topic:	Lesson from other Countries
Hearing:	US-VISIT: Challenges and Strategies for Securing the US Border
Primary:	The Honorable Edward M. Kennedy
Committee:	JUDICIARY
Question:	I was pleased to hear that the Department of Homeland Security has been studying the exit control infrastructure and processes that other countries maintain on their land borders and at airports and seaports. You said that other countries do a good job in their exit processing and that the United States is trying to learn from their experiences. Question: Please elaborate on the answer you provided during the hearing. Which other countries' exit systems have you studied? How do those systems work? Can you identify processes and procedures you consider to be best practices?

https://ect.dhs.gov/iq/workflow_edit.aspx?cid=627343&tabid=

Answer:
The biggest hurdle to overcome for the deployment of biometric exit is that our air, sea, and land ports were not designed for exit control. Unlike entry, there are currently no fixed inspection booths or other facilities to process international travelers as they leave the United States. There are difficulties in creating the infrastructure, architecture, and operational processes for exit screening. Exit screening presents not only a space and equipment issue, but also how it affects departing travelers.

DHS has not conducted formal evaluations of the procedures used in any other countries. However, as the result of discussions and visits to other countries such as Dubai, United Arab Emirates, Japan, and numerous EU nations, US-VISIT has viewed and examined the exit systems of these countries. The similar feature for each of these countries is the ability to segment the traveling populations that require exit processing. This is completed through designated departure areas that comprise filtered or limited checkpoint areas with designated officers using technology to collect the exit information. For example, in Japan, all travelers pass by an officer who then reads the barcode on the sticker that is placed in the passport at entry. This allows Japan's system to close the record of the traveler.

Most countries have also identified the need to combine biometrics with the entry and exit processes and have begun to explore the integration of a biometrics into the process

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or, in some limited trials, have used biometrics as a part of the airline check-in process, such as in the United Kingdom.

Question#:	15
Topic:	Erroneous overstay records
Hearing:	US-VISIT: Challenges and Strategies for Securing the US Border
Primary:	The Honorable Edward M. Kennedy
Committee:	JUDICIARY
Question:	I was concerned to learn from your testimony that over 70 percent of the overstay records checked by DHS were erroneous. You attributed this fact to biographic data inconsistencies and omissions, and to unvalidated outbound electronic manifest reporting from air carriers. Question: Please elaborate on the problems with current overstay records. How do you plan to improve DHS processes to ensure that biographic data is consistently and completely provided and that air carrier outbound electronic manifest reporting is properly validated?

https://ect.dhs.gov/iq/workflow_edit.aspx?cid=627344&tabid=

Answer:

The data source used to identify individual overstay records is DHS' Arrival and Departure Information System (ADIS). The core functionality of ADIS is to intake high volumes of transactions provided from legacy systems that capture non-U.S. citizens' arrivals, departures, and immigration status updates and to match each transaction to the correct individual's "immigration account." Based on the transactions recorded in the account, ADIS calculates the current and historical status of the individual's account, much like a banking or accounting system does.

For all non-immigrants who are identified as overstays in ADIS, the system has recorded an arrival or subsequent immigration benefit transaction that has a specific date to which the individual is authorized to remain in the United States.

There are two reasons why an erroneous overstay match may occur. In the case of erroneous in-country overstays, the system has no corresponding record of a departure (or subsequent arrival) when, in fact, the individual did depart the country. In the case of erroneous out-of-country overstays, the system has recorded a subsequent departure beyond the authorized period of stay, but has not recorded actual intervening travel or immigration benefits for the individual. These problems are caused by transactions that are not captured in ADIS or that are captured but not matched to the correct individual.

There are a number of activities currently underway to reduce the number of erroneous overstay records in ADIS.

- US-VISIT created the Data Integrity Group (DIG) in September 2004, which validates overstay records for the operational units that require this data.

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- US-VISIT established a Data Governance program in August 2005 to develop policies and standards on data usage so as to prevent mis-matches from occurring at the outset.
- To address the area of data omissions, US-VISIT is currently expanding the ADIS System of Records Notice (SORN) to permit the system to acquire data from additional sources.
- US-VISIT is seeking to improve the system's ability to accurately match records by examining ways to improve algorithm analysis.

Question#:	16
Topic:	Data sharing with Mexico and Canada
Hearing:	US-VISIT: Challenges and Strategies for Securing the US Border
Primary:	The Honorable Edward M. Kennedy
Committee:	JUDICIARY
Question:	Your testimony indicates that one solution to exit data collection capability along our land borders is to negotiate data-sharing agreements with Canada and Mexico Question: Have you entered into negotiations with Canada and Mexico to put in place such agreements? Please provide a status report on the progress achieved.

https://ect.dhs.gov/iq/workflow_edit.aspx?cid=627345&tabid=

Answer:
The United States has not entered into formal negotiations with Mexico or Canada on data sharing agreements related to exit data collection at the land border. However, the United States and Canada have continued discussions on entry into Canada serving as exit from the United States. The United States has asked Canada to identify concerns and legal limitations inherent to sharing data on individuals entering Canada from the United States. Canada, like the United States, has raised individual privacy issues and parameters for such discussions are being identified.

There is precedent for Canada assisting the United States in gathering data. In 2005, Canada assisted the United States in conducting its proof of concept for capturing limited exit data at the land border by verifying the read rates of RFID tags that were embedded in Form I-94s for individuals exiting the United States. The United States has exchanged data with Canada on applicants for asylum and is exploring additional data sharing options through the Four Country Conference. Additionally, the United States and Canada exchange law enforcement data on an as-needed basis.

While the United States and Mexico have proven that their systems allow for exchange of data, Mexico does not currently have an entry process comparable to that of the United States or Canada from which the United States could collect entry information at the land border. The United States is still exploring what information could be collected from Mexico and hopes to work with Mexico to identify options for future discussions.

Question#:	17
Topic:	Ports of entry with no data collection
Hearing:	US-VISIT: Challenges and Strategies for Securing the US Border
Primary:	The Honorable Edward M. Kennedy
Committee:	JUDICIARY
Question:	According to your testimony, DHS has not yet established a timeframe or cost estimates for initiation of land exit controls. You also indicated that in places where no exit collection currently exists, DHS will initially match records using biographic information, since biometric validation will be difficult to implement in the short term. Question: At which ports of entry does no current data collection exist today? What mechanisms will DHS put in place to match biographic information in those situations? What is your timetable for implementation? When will you provide a time frame and cost estimates for initiation of land exit validation?

https://ect.dhs.gov/iq/workflow_edit.aspx?cid=627346&tabid=

Answer:
US-VISIT has deployed biometric entry capabilities at all air and sea ports of entry where there are fixed federal inspection areas and Customs and Border Protection (CBP) officers are stationed full-time. US-VISIT has also deployed biometric entry in secondary inspection at 154 land ports of entry.

DHS will first focus on deployment of biometric exit to the air and sea environment and then to the land ports.. Implementing biometric confirmation of the departure of travelers via land ports of entry is significantly more complicated and costly than for the air or sea environments. For example, the port at San Ysidro, CA is the largest entry/exit port for travelers coming to or leaving the United States. It has 25 entry lanes for vehicular traffic and approximately four for exit. Enabling biometric, much less biographic, collection of data upon exit would require a massive expansion of exit capacity, including physical infrastructure, land acquisition, and staffing. Other ports, such as Detroit, MI, present no feasible land for acquisition to enable biometric collection of data upon exit, at least with currently available technology.

Another possible solution for exit data collection capability along the land borders could involve the cooperation of Canada and Mexico, given that our exit is an entry into Canada and Mexico. Such a solution could include data-sharing between national systems and would require agreements between the countries.

Question#:	18
Topic:	Impact on criminal activity
Hearing:	US-VISIT: Challenges and Strategies for Securing the US Border
Primary:	The Honorable Edward M. Kennedy
Committee:	JUDICIARY
Question:	Former Secretary Ridge recently wrote that gaining operational control of the borders is impossible without a strong Temporary Guest Worker program to bring those now working here illegally out of the shadows and into legal status. Question: The Department of Homeland Security has already spent more than 1.7 billion dollars on U.S. VISIT. Can you elaborate on how DHS will use the system's identification of overstayers to locate terrorists and criminals?

https://ect.dhs.gov/iq/workflow_edit.aspx?cid=627347&tabid=

Because US-VISIT tracks and records changes in immigration status and matches entry and exit records to determine those who have overstayed their authorized period of admission, DHS can cross-reference data among criminal, terrorist and immigration watchlists. In this way, individuals who have overstayed the terms of their admission, or who are wanted or otherwise encountered by law enforcement, may be apprehended.

US-VISIT collects *biographic* information through the Arrival and Departure Information System (ADIS), which is composed of manifest data provided by carriers. Using this biographic overstay information, Immigration and Customs Enforcement (ICE) made 290 arrests between September 2004 and December 2006.

US-VISIT also collects biometric data, using IDENT, the Automated Biometric Identification System from travelers. US-VISIT also runs checks against this system to identify people who have overstayed their admission period while identifying people for whom new derogatory information has been collected. During the same reporting period, from between September 2004 and December 2006, using IDENT, ICE made 29 arrests based on US-VISIT analyses of *biometric* matches.

There are considerable law enforcement and intelligence benefits from being able to accurately document the entry and exit of foreign nationals and to conduct trend analysis on arrivals and departures. In addition, accurately identifying individuals who stay in the United States beyond their authorized period of admission (overstays) allows DHS to

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focus resources on addressing known (or confirmed) overstays and permit both DHS and the Department of State to place greater emphasis on properly adjudicating travel and immigration benefits.

Question#:	19
Topic:	25 percent solution
Hearing:	US-VISIT: Challenges and Strategies for Securing the US Border
Primary:	The Honorable Edward M. Kennedy
Committee:	JUDICIARY
Question:	Smooth operations at ports of entry are important to the flow of trade and travelers. A recent study by the San Diego Association of Governments determined that over 3 million potential working hours in San Diego County are spent in delays at the border, resulting in $42 million in lost wages in that county alone. Other border communities report that local businesses depend heavily on consumers from the Mexican side of the border. Question: A program called the "25 percent solution" was tested at the Detroit-Windsor crossing in 2005. The program added staffing at peak crossing times and installed inspection booths that could be quickly raised or lowered to accommodate trucks or cars. Can you comment on the effectiveness of this program?

https://ect.dhs.gov/iq/workflow_edit.aspx?cid=627348&tabid=

The 25% Challenge was launched in December 2004, with the goal of reducing transit time by 25 percent within one year in the Detroit/Windsor area. The results were very positive. By working together with facility owners, truck operators, and Michigan/Windsor DOTs, we were able to cut wait times at the Ambassador Bridge, the Blue Water Bridge, and the Detroit-Windsor Tunnel. The Ambassador Bridge crossing was the more successful of the crossings, as it related to the Challenge. With the addition of four more booths on the U.S. side, and three on the Canadian side, wait times at the bridge were reduced by close to 80 percent, while smaller reductions were noted at the Detroit-Windsor Tunnel.

Wait times at the Ambassador Bridge declined by 84 percent during weekdays and by 20 percent during the weekends. The large decline in the weekday transit wait times represents an especially important drop in cargo wait times, since the majority of commercial shipments are moved during weekdays. The wait times at the Blue Water Bridge decreased by 60 percent during the weekdays and 50 percent during the weekend periods. At the Detroit-Windsor Tunnel the wait times declined slightly; however we have not yet achieved our goal of a 25 percent reduction.

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One benefit of the 25% Challenge was the opportunity to discuss metrics with the operators and trucking companies, so that we were able to develop a common definition for "wait times". We defined zones to include points of demarcation that would assist in measurements. We also identified choke points as areas where traffic is not necessarily headed for a gateway yet interferes with gateway performance. The DHS Private Sector Office (PSO) Metrics Team base-lined the three border crossings to determine the impact of the Challenge. They used hourly vehicle wait times and lanes open variables. The three Detroit-Windsor crossing operators provided the most accurate and timely vehicle data for both the Canadian and U.S. sides because their toll-collecting technology enabled them to keep nearly exact records on vehicle volumes. The

PSO metrics team integrated the CBP data with the operators' volume data. This created a baseline from which to judge the success.

The addition of four primary inspection booths to the Ambassador Bridge caused substantial drops in wait times that coincided with the introduction of the 25% Challenge. As more lanes on average were open each hour, hourly average wait times diminished.

Although the Blue Water Bridge did not construct more primary inspection booths, more of the existing booths were open each hour, contributing to the drop in commercial weekday wait times. Another factor at the Blue Water Bridge was the implementation of the first "dedicated" FAST lane. The dedicated FAST lane allows approved FAST

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vehicles to bypass queues in the plaza and to access this lane directly from the approaching highway.

In addition to infrastructure and metrics, the reductions in wait times and corresponding faster transit times are a result of a larger percentage of manned inspection booths during peak periods of traffic.

Question#:	20
Topic:	Inadequate infrastructure
Hearing:	US-VISIT: Challenges and Strategies for Securing the US Border
Primary:	The Honorable Edward M. Kennedy
Committee:	JUDICIARY
Question:	Question: I was concerned to read in the GAO report that border patrol officers sometimes direct visitors arriving at peak times to leave because there is no room for them to wait. How does DHS plan to improve procedures to ensure this does not take place?

https://ect.dhs.gov/iq/workflow_edit.aspx?cid=627349&tabid=

It is not now, and never has been, CBP policy to turn visitors away from ports of entry or to indicate that they should leave and return at a less busy time. CBP officers have never been instructed to control congestion by recommending that arriving visitors leave because there is no room to wait. All facilities experience some level of visitor "peaking" during exceptional travel days, such as holidays or special event days, and there are sometimes brief periods when our facilities operate at maximum capacity. During these times, CBP does everything possible to mitigate the delays and alleviate the congestion while at the same time maintaining the required level of screening to ensure control of our borders at the ports of entry.

CBP has undertaken an extensive, ongoing effort to upgrade and modernize its facilities in order to serve the traveling public and to ensure the highest level of port security. At present, there are 39 land border port and more than 140 airport/seaport facility improvement projects that are either ongoing or in the scheduled planning stage. This list includes an extensive improvement project at the San Ysidro, California, crossing, the facility referenced in the GAO report. CBP began this project in 2004 and expects to complete it in 2014. This major expansion and re-design of the processing facilities at San Ysidro should substantially improve processing efficiency and minimize the delays encountered by visitors, even on peak travel days.

Question#:	21
Topic:	Port of entry space problems
Hearing:	US-VISIT: Challenges and Strategies for Securing the US Border
Primary:	The Honorable Edward M. Kennedy
Committee:	JUDICIARY
Question:	Many U.S. ports of entry have inadequate infrastructure. The GAO says that the land ports it visited suffer from significant space constraints and have problems processing a high volume of visitors and associated traffic. Your testimony cites difficulties in creating the infrastructure, architecture, and operational processes for exit screening. Question: Does DHS have a long-term plan for port of entry infrastructure improvements? How are you planning to alleviate these space problems?

https://ect.dhs.gov/iq/workflow_edit.aspx?cid=627350&tabid=

U.S. Customs and Border Protection (CBP) is tasked with protecting our Nation's borders, a critical mission of the Department of Homeland Security. The facilities and other real property assets of CBP are important to our efforts to achieve this mission. In order to improve facilities so that they more effectively support inspection and law enforcement activities and meet mission requirements, CBP has implemented a facility investment planning process. As a component of this process, CBP has developed a capital improvement plan (CIP) for land ports of entry. The purpose of this process is to ensure that facility and real property funding is allocated in a systematic and objective manner to the critical facility projects that are required to support CBP's mission.

The CIP consists of the following components:

1. Long-Range Strategic Resource Assessments – These assessments are used to gather data that support the project prioritization method and to credibly identify projects. Strategic resource assessments include internal and external stakeholder input, assessments of existing facility conditions, predictions of future housing needs, space capacity analyses, options to meet current and future needs, and estimated costs for the recommended options.

2. Project Prioritization Method – This method ranks projects using an objective and equitable process that determines which projects have the most critical needs. The criteria used for prioritization are operations and mission, security and life-safety, space and site deficiencies, and workload and personnel growth.

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3. Five-Year Investment Strategy – All projects identified by the long-range strategic resource assessments follow an annual approval process to receive funding. Each project is scored according to the project prioritization method, with higher project scores representing facilities with more critical needs. The resulting list of prioritized projects comprises the five-year investment strategy, which is divided into annual work plans for project execution.

4. Planning Database and Portfolio Management Tools – These tools support the CIP by compiling and managing the comprehensive data necessary for the project prioritization method, long-range resource assessments, and five-year investment strategy. Portfolio management tools consist of support applications that make the database useful to decision-makers, including future projections, trend analysis, resource scenarios, and cost control.

5. Annual Update Process – The five-year investment strategy is updated annually. The process for updating the strategy includes assessing the need for change to the scoring criteria, scoring projects, circulating the project list to key stakeholders, and approving the annual five-year project list.

Question#:	22
Topic:	Disposition of those detained
Hearing:	US-VISIT: Challenges and Strategies for Securing the US Border
Primary:	The Honorable Edward M. Kennedy
Committee:	JUDICIARY
Question:	Your testimony indicates that since January 2004, Customs and Border Patrol, based solely on biometric information, intercepted 1800 criminals and immigration violators attempting to enter the United States. Question: How many of these 1800 persons were intercepted for offenses other than immigration violations? How many were linked with terrorism? What happened to those who were intercepted? Were they arrested? Were they turned over to home country authorities?

https://ect.dhs.gov/iq/workflow_edit.aspx?cid=627351&tabid=

Since January 2004, 1,800 criminals and immigration violators were intercepted while attempting to enter the United States. CBP worked with US-VISIT to reconcile the history of the intercepts and determined that the actual number of intercepts numbered 1,799. CBP was able to determine the adverse actions of the 1,799 entry/exit biometric intercept encounters. Adverse action, for this purpose, is defined as an encounter at entry that resulted in the following actions: Criminal Prosecution, Expedited Removal, I-275 Withdrawal, Notice to Appear issued, Turned over to Law Enforcement, or VWP Refusal. These data are shown below. To provide additional details on the intercepts CBP would need to research the individual records of each intercept, a process that would require several weeks and that CBP can provide at a later date.

Adverse Actions on Biometric-Based Intercepts (1/1/04 – 2/14/07)

- Criminal Prosecutions: 74
- Expedited Removals: 604
- I-275 Withdrawals: 552
- Notices To Appear: 49
- Turned Over To Law Enforcement: 164
- VWP Refusals: 356

Total Adverse Actions: 1,799

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"Criminal prosecution" relates to those offenses whereby a CBP officer requests that a subject be charged criminally, instead of administratively, for whatever offense they have committed and the Assistant United States Attorney (AUSA) accepts the case for prosecution. Some examples are for using fraudulent documents or attempting to re-enter within a banned period of time.

"Turned over to law enforcement" reflects an individual is encountered and then turned over to a federal, state, or local law enforcement entity, usually due to an active want or warrant. This number includes extraditions across state lines. Not all law enforcement entities are willing or able to expend the cost of a long distance extradition so this number may be lower than the actual number of want/warrant encounters.
Extraditions from foreign countries to the U.S. are not tracked here.

Some of the Adverse Actions may have also had a biographic hit in addition to the biometric hit.

Question#:	23
Topic:	Full implementation report
Hearing:	US-VISIT: Challenges and Strategies for Securing the US Border
Primary:	The Honorable Jeff Sessions
Committee:	JUDICIARY
Question:	The Intelligence Reform and Terrorism Prevention Act of 2004 required DHS to develop a plan to accelerate the full implementation of a biometric entry and exit program and then report to Congress on this plan by June 15, 2005. To date, Congress has not received this important report. Until the plan is finalized, neither DHS nor Congress can move forward or decide where resources are most needed. It is my understanding this report is completed and has been sitting at DHS waiting for approval for over a year. Why hasn't the report been provided to Congress yet? When will DHS send it (a finite date is preferred)?

https://ect.dhs.gov/iq/workflow_edit.aspx?cid=627352&tabid=

Answer:
US-VISIT will submit its Strategic Plan with the US-VISIT Fiscal Year 2007 Expenditure Plan this spring.

Question#:	24
Topic:	Integration of IDENT and IAFIS
Hearing:	US-VISIT: Challenges and Strategies for Securing the US Border
Primary:	The Honorable Jeff Sessions
Committee:	JUDICIARY
Question:	The 9/11 Commission and various legislation enacted since 9/11 have all called for greater interoperability between the many databases that various federal agencies use to identify people on our criminal watch lists or visa overstay lists. US VISIT is well underway with its effort to create interoperability between its Automated Biometric Identification System (or IDENT) and the FBI's Integrated Automated Fingerprint Identification System (or IAFIS). What can you tell us about the milestones that process has reached so far, and what do you see ahead?

https://ect.dhs.gov/iq/workflow_edit.aspx?cid=627353&tabid=

Answer:
US-VISIT has already completed the interim Data Sharing Model (iDSM), the first step in building 10-print-interoperability between IDENT and IAFIS with some initial dramatic results. The iDSM allows for two-way sharing of certain biometric information. The FBI provides information on all wants and warrants. DHS provides information on expedited removals. The Department of State (DOS) provides Category 1 visa refusals (e.g., generally those involving a permanent ground of inadmissibility). The iDSM became operational in September 2006.

A good illustration of the benefits of 10-print-interoperability is shown in the work that has been done with state and local law enforcement. Since deployment, four pilot agencies have begun participation in iDSM: the Boston Police Department, the Dallas County Sheriff's Office, the Office of Personnel Management, and the Harris County Sheriff's Office. Each of these pilot agencies has experienced successes in obtaining positive biometric identifications against DHS immigration information. As of 3/6/07, 54 fingerprint submissions from the pilot agencies have been positively identified to the immigration records contained in iDSM.

In the second phase, initial operating capability (IOC), DHS will begin to collect 10-prints and will convert the current two-print IDENT system to store and process 10-prints. DHS and FBI will establish an infrastructure for exchanging information and search capabilities. This effort will be completed in 2008.

Question#:	25
Topic:	US VISIT database information sharing
Hearing:	US-VISIT: Challenges and Strategies for Securing the US Border
Primary:	The Honorable Jeff Sessions
Committee:	JUDICIARY

https://ect.dhs.gov/iq/workflow_edit.aspx?cid=627354&tabid=

Questions
What information, specifically, does the US-VISIT system collect on an individual who enters the country (name, nationality, travel document number, entry date and location, biometrics, etc)?

What information, specifically, does the US-VISIT System collect on that same individual when he leaves the country?

What federal entities have access to the exit and entry information collected in the US-VISIT Database?

Are there any components of federal law enforcement that do not have full access to the information collected as part of US-VISIT?

Do state and local law enforcement entities have access to the exit and entry information collected in the US-VISIT Database?

If the answer to (e) above is "yes", how do they access the US-VISIT collected information?

Is the US-VISIT collected information that state and local law enforcement entities can access limited in any way or do they have full access to all information collected as part of US-VISIT?

Answers
The US-VISIT Program, through IDENT, is currently collecting the following information by reading the machine readable zone (MRZ) of the document (passport or U.S.-issued visa): Document Type, Bearer Nationality, Issuing Country Code, Date of Birth, Document Bearer Name, Gender, Document Number, and Document Expiration Date. IDENT also collects a digital photo and digital scans of the two index fingers. IDENT collects the same information at the biometric exit pilot sites at 12 air and two sea ports.

Question#:	25
Topic:	US VISIT database information sharing
Hearing:	US-VISIT: Challenges and Strategies for Securing the US Border
Primary:	The Honorable Jeff Sessions
Committee:	JUDICIARY

US-VISIT is the business owner of DHS' Arrival and Departure Information System (ADIS). This system uses airline and sea vessel manifests to collect the following information: Message Origination, Message Type, TECS Record Identifier, FIN Number, Last Name, First Name, Middle Name, Gender, Date of Birth, Document Type, Document Number, Document Issue Country, Print Quality Indicator Entry/Exit Indicator, Lookout Indicator, IDENT Results Indicator, Event Site Code, and Event Date Time.

Information US-VISIT collects is stored in the Automated Biometric Identification (IDENT) system. While US-VISIT maintains IDENT, ownership over original data and files is still retained by the agency which collected and stored that data. Subsequently, those agencies owning the data set the parameters for other organizations to view that data.

IDENT shares data with federal, state, local, tribal, foreign, or international government agencies charged with DHS national security, law enforcement, immigration, intelligence, or other DHS mission-related functions.

IDENT may share any of the data contained in IDENT, with the consent of the data owner, for DHS national security, law enforcement, immigration, intelligence, or other DHS mission-related functions and to provide associated testing, training, management reporting, planning and analysis, and other administrative uses that require biometrics to identify or verify the identity of individuals. Information is transmitted or disclosed to external organizations in one of three ways: direct limited access to IDENT where personnel of these organizations are co-located with DHS personnel with access to the system; limited direct connections to other systems where data may be transmitted directly between IDENT and those other systems; and secure transfer on portable media where there is no direct connection between systems.

Question#:	26
Topic:	Ten fingerprint
Hearing:	US-VISIT: Challenges and Strategies for Securing the US Border
Primary:	The Honorable Jeff Sessions
Committee:	JUDICIARY
Question:	Secretary Chertoff announced in July 2005 during his Second Stage Review that he planned to migrate the US-VISIT program from a two fingerprint enrollment system to a 10 fingerprint enrollment system. Is this still the plan of the Administration? What are the benefits achieved in moving to a 10 fingerprint system? What is the estimated timeline for achieving full transition to a 10 fingerprint system? What is the estimated cost of the change from 2 to 10 prints? Does DHS need additional funding for US-VISIT to accomplish this goal?

https://ect.dhs.gov/iq/workflow_edit.aspx?cid=627355&tabid=

1. Answer:
The Administration is committed to migrate the US-VISIT system from a two to 10-print system by the end of 2008. The 2008 President's Budget includes the resources to accomplish this project, as well as IDENT/IAFIS interoperability.

2. Answer:
10-print interoperability will allow DHS to increase the accuracy of biometric matching and to provide the Department's users with the ability to screen against latent prints collected at locations of criminal and terrorist activity. It will also give the FBI and state and local law enforcement additional immigration information.

3. Answer:
US-VISIT has already completed the interim Data Sharing Model (iDSM), the first step in building 10-print interoperability between IDENT and IAFIS. The iDSM allows for two-way sharing of certain biometric information. The FBI provides information on wants and warrants with associated FBI numbers. DHS provides information on expedited removals. The Department of State (DOS) provides Category 1 visa refusals (e.g., generally those involving a permanent ground of inadmissibility). The iDSM became operational in September 2006. In the second phase, initial operating capability (IOC), DHS will begin to collect 10- prints and DHS will convert the current two-print IDENT system to store and process 10 flat prints. DHS and FBI will establish an

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infrastructure for exchanging information and search capabilities. This effort will be completed by the end of 2008. The full operating capability (FOC) will build upon the IOC to further expand information sharing between IDENT and IAFIS.

US-VISIT will conduct a pilot of 10-print capture devices at 10 airport locations beginning in the summer of 2007. Following the pilots, US-VISIT and CBP will begin rolling out 10-print devices to all air, land and sea ports of entry and will be completed by the end of 2008. The State Department will complete 10- print deployment in 2007.

4. Answer:
Full 10-print interoperability of IDENT and IAFIS will be delivered in three phases; the Interim Data Sharing Model (iDSM), the Initial Operating Capability (IOC), and Full Operating Capability (FOC). The iDSM is operational, work is underway to develop and deliver the IOC, and FOC is in the very early planning stages. US-VISIT has budgeted $390M over FY2007 and FY2008 to deliver the IOC phase of 10-print interoperability and the addition of 10-print capture capability. The President's Budget for FY 2008 of $462 million will allow the Department to complete the transition to the 10-print standard and IDENT/IAFIS interoperability.

Question#:	27
Topic:	Exit portion of US VISIT
Hearing:	US-VISIT: Challenges and Strategies for Securing the US Border
Primary:	The Honorable Jeff Sessions
Committee:	JUDICIARY
Question:	What information is being collected from an individual when they are recorded leaving the country by one of the exit portion pilot programs? Specifically, are fingerprints scanned upon exit? Why has DHS been able to implement pilot portions of the exit system at airports and seaports, but not at land border ports of entry? Why has DHS not progressed further in fully implementing the exit portion of US Visit? If enough funding was provided, does the technology exist to complete it today or is DHS waiting on technology to develop?

https://ect.dhs.gov/iq/workflow_edit.aspx?cid=627356&tabid=

1. Yes, travelers provide fingerprints upon exit at the air and sea ports of entry pilots. US-VISIT is now working with the airlines to identify a solution for the air environment. DHS will initially focus on the air exit solution and plans to deploy biometric exit to air and sea ports, as well as developing options to record biographic exit at land ports. Once a specific solution, or set of solutions, is identified, DHS will then develop an exit implementation schedule.

2. Travelers departing the United States from air and sea ports do so in a more controlled environment than at the land ports, where travelers do not interact with anyone as they leave. Additionally, the air and sea ports have infrastructure that allows for the use of new equipment and connectivity to DHS databases. Such facilities are absent during exit at the land ports. However, the Department does not believe that the problems facing implementation of land exit at the ports are insurmountable. Creating a mirror image of current entry processes for exit is not a realistic option. DHS will look towards other systems to record a traveler's exit at the land ports and evaluate how technology can be used to overcome obstacles. Another potential for exit data collection capability along the land borders could involve the cooperation of Canada and Mexico, given that our exit is entry into Canada and Mexico. Such a solution could include data-sharing between national systems and would require agreements between countries.

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3. Answer:
The biggest hurdle to overcome for the deployment of biometric exit is that our air, sea, and land ports were not designed for exit control. Unlike entry, there are currently no fixed inspection booths or other facilities to process international travelers as they leave the United States. There are difficulties in creating the infrastructure, architecture, and operational processes for exit screening. This presents not only a space and equipment issue, but also impacts departing travelers. Nonetheless, DHS is committed to establishing a comprehensive biometric-based entry and exit border system.

4. Answer:
The Department does not believe that the problems facing implementation of land exit at the ports are insurmountable. However, creating a mirror image of current entry processes for exit is not a realistic option. DHS will look towards other systems to record a traveler's exit at the land ports and evaluate how technology can be used to overcome obstacles. Another potential for exit data collection capability along the land borders could involve the cooperation of Canada and Mexico, given that our exit is entry into Canada and Mexico. Such a solution could include data-sharing between national systems and would require agreements between countries.

Question#:	28
Topic:	Report on implementation of entry exit system
Hearing:	US-VISIT: Challenges and Strategies for Securing the US Border
Primary:	The Honorable Dianne Feinstein
Committee:	JUDICIARY
Question:	Congress mandated a report to be issued in 2005 that would explain what the government needs to create a workable program. That report has not been submitted. Please give us a date as to when we should expect that report.

https://ect.dhs.gov/iq/workflow_edit.aspx?cid=627357&tabid=

Answer:
US-VISIT will submit its Strategic Plan with the US-VISIT Fiscal Year 2007 Expenditure Plan this spring.

Question#:	29
Topic:	US VISIT at airports
Hearing:	US-VISIT: Challenges and Strategies for Securing the US Border
Primary:	The Honorable Dianne Feinstein
Committee:	JUDICIARY
Question:	How is the passenger biographic information now collected by the airlines in the form of passenger manifests and I-94 forms being used? Are you using this information to track visitors who overstay their visas? If not, why not? At the airports, even though the biometric entry system is now operational, only 24% of the visitors who were supposed to check out at airports actually do so. What plans do you have to increase the compliance with US-VISIT at the airports? Given that Transportation Security Agency (TSA) is another DHS agency, why not collect biometric information when an international passenger goes through the security checkpoint?

https://ect.dhs.gov/iq/workflow_edit.aspx?cid=627358&tabid=

Answer:

1&2: I-94 forms generate a travel record showing arrival. When the traveler departs the United States, the departure portion of the Form I-94, when turned in to CBP, will close out the travel record. Any traveler who does not turn in the departure portion may be viewed as having remained in the United States beyond his or her authorized period of admission. US-VISIT also collects *biographic* information through the Arrival and Departure Information System (ADIS), which is composed of manifest data provided by carriers. Using this biographic overstay information, Immigration and Customs Enforcement (ICE) made 290 arrests between September 2004 and December 2006.

3&4: Regarding the 24 percent compliance rate of those who voluntarily checked out at airports, in 2005 US-VISIT did conduct an evaluation of the exit pilot at airports. While the pilots demonstrated that the technology works, they also revealed low compliance on the part of the travelers. This low compliance can be explained, in part, because DHS did not have the authority to mandate placement of kiosks with easy access for travelers and thus, kiosks were located in bad locations. Further, there was inconsistent carrier and port authority cooperation to educate and assist travelers with the biometric exit process. Further, there was no enforcement mechanism. US-VISIT's evaluation of biometric exit identified that, in order to achieve 100 percent compliance, the exit solution should be integrated into one of the essential processes for a traveler, such as check-in, security screening, or boarding. No matter where DHS deploys biometric exit, these deployments will be designed to minimize any increased wait times or delays to travelers, meeting

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directives to build an exit solution that does not impede legitimate travel and trade, while at the same time substantially adding to our efforts to secure the Nation.

Question#:	30
Topic:	I-94 forms at border
Hearing:	US-VISIT: Challenges and Strategies for Securing the US Border
Primary:	The Honorable Dianne Feinstein
Committee:	JUDICIARY
Question:	Customs and Border Protection requires that land passengers submit their I-94 form to a US or Canadian immigration inspector when they leave the country. Is there a specific location at the borders where passengers turn in these forms? If so, how is it designated? Are you using these forms as a way to track who is leaving the country? What are the consequences of failing to turn in this I-94 form? Please provide specific information of when action has been taken against someone who has failed to turn in their I-94 form. Please provide any statistics of how often a visitor has been denied re-entry to the U.S. either because the visitor failed to return this form or because the form indicated that the visitor failed to comply with his/her entry-exit requirements?

https://ect.dhs.gov/iq/workflow_edit.aspx?cid=627359&tabid=

Question: Customs and Border Protection requires that land passengers submit their I-94 form to a U.S. or Canadian Immigration inspector when they leave the country. Is there a specific location at the borders where passengers turn in these forms? If so, how is it designated?

Answer: The Form I-94 includes specific written instructions for nonimmigrant travelers to submit the Form I-94 to a U.S. or Canadian immigration inspector, as appropriate, when leaving the United States. Any nonimmigrant turning in a Form I-94 can go to any CBP land border port of entry and present it to a CBP officer. When traveling by air or sea, a nonimmigrant may return a Form I-94 to the carrier or carrier designee.

Question: Are you using these forms as a way to track who is leaving the country?

Answer: Yes. I-94 forms generate a travel record showing arrival. When the traveler departs the United States, the departure portion of the Form I-94,

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when turned in to CBP, will close out the travel record. Any traveler who does not turn in the departure portion may be viewed as having remained in the United States beyond his or her authorized period of admission.

Question: What are the consequences of failing to turn in the I-94? Please provide specific information of when action has been taken by someone who has failed to turn in his or her I-94.

Answer: Travelers who do not validate a timely departure from the United States, or who cannot otherwise reasonably prove such departure when they next apply for admission, may be subject to visa cancellation and/or may be denied entry and immediately returned to their foreign port of embarkation.

Visitors who remain beyond their authorized stay in the United States under the Visa Waiver Program (VWP) are statutorily barred from future participation in the VWP and cannot reenter the United States without first obtaining a nonimmigrant visa. If an overstay occurs and the visitor subsequently seeks admission without a visa, CBP can order the visitor's immediate return to his or her port of embarkation.

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Question:	Customs and Border Protection requires that land passengers submit their I-94 form to a US or Canadian immigration inspector when they leave the country. Is there a specific location at the borders where passengers turn in these forms? If so, how is it designated? Are you using these forms as a way to track who is leaving the country? What are the consequences of failing to turn in this I-94 form? Please provide specific information of when action has been taken against someone who has failed to turn in their I-94 form. Please provide any statistics of how often a visitor has been denied re-entry to the U.S. either because the visitor failed to return this form or because the form indicated that the visitor failed to comply with his/her entry-exit requirements?

It should be noted that a missing departure record is not necessarily, in and of itself, sufficient to make a final determination of inadmissibility as a confirmed overstay on a previous visit. When encountered, departure records that have not been closed – either because the form was not submitted, as required, or because the nonimmigrant alien may have indeed overstayed his or her period of lawful admission – are evaluated on a case-by-case basis. The existence of a record is considered to be an indication of a possible violation. What this means is that within systems of law enforcement databases, a record was created that indicates that a subject *may be* or *may have been* an overstay. The record is neither open nor closed. The CBP Officer conducting the inspection where a record exists on a subject cannot reopen the record and amend it, nor can the CBP Officer delete or close the record. A "record" in this sense is information that a CBP Officer may utilize to determine the admissibility.

In order to establish inadmissibility and execute an enforcement action, the CBP Officer must substantiate and document the overstay by means of a sworn statement and/or other evidence that establishes that the subject was in the United States in violation of the terms of his or her admission. Any adverse action taken requires supervisory review and a determination of legal sufficiency before approved.

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Topic:	I-94 forms at border
Hearing:	US-VISIT: Challenges and Strategies for Securing the US Border
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Committee:	JUDICIARY
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Question: Please provide any statistics of how often a visitor has been denied re-entry to the United States either because the visitor failed to return this form or because the form indicated that the visitor failed to comply with his/her entry-exit requirements?

Answer: Statistical information on the denial of re-entry by visitors specifically because of a failure to submit the departure portion of the Form I-94 currently cannot be retrieved from our system of law enforcement databases.

Question#:	31
Topic:	CBP and US VISIT
Hearing:	US-VISIT: Challenges and Strategies for Securing the US Border
Primary:	The Honorable Dianne Feinstein
Committee:	JUDICIARY
Question:	Why aren't US-VISIT and Customs and Border Protection under the same umbrella? What efforts are being made to coordinate the activities of these two Homeland Security agencies?

https://ect.dhs.gov/iq/workflow_edit.aspx?cid=627360&tabid=

1. Answer:
The mission of U.S. Customs and Border Protection (CBP) is to be the guardian of our Nation's borders. US-VISIT provides the biometric entry and exit program at the border, but also services for interior enforcement (Immigration and Customs Enforcement), for immigration benefits (U.S. Citizenship and Immigration Services), for the visa application process beyond our borders (State Department), and for law enforcement purposes (Federal Bureau of Investigation).

DHS has recognized US-VISIT's role in protecting the Nation's infrastructure by re-aligning the program into the National Protection and Programs (NPP), effective March 31, 2007.

US-VISIT is being placed in the NPPD to support coordination for the program's protection mission and to strengthen DHS management oversight. The placement of US-VISIT into this new directorate recognizes that US-VISIT has evolved from a border control program created to address specific legislative mandates to an organization that is now an asset for the entire Department.

2. Answer:
Coordination between CBP and US-VISIT has existed since US-VISIT was created in 2003. CBP is a member of the Integrated Project Team, which helps govern US-VISIT. Additionally, CBP has on-site staff assigned to US-VISIT to assist with day-to-day activities.

Question#:	32
Topic:	biometric deadlines
Hearing:	US-VISIT: Challenges and Strategies for Securing the US Border
Primary:	The Honorable Dianne Feinstein
Committee:	JUDICIARY
Question:	There is now no legislatively mandated deadline for the collection of biometric information at the land borders. Based on your assessment of the problems, what is a reasonable deadline for implementation of biometrically based exit technology? The President's Budget, released on February 5, 2007, requested $462 million, a $100 million (28 %) increase over the 2007 enacted level. According to the budget, this increase will be used to collect 10 fingerprints from foreign visitors and for interoperability with the FBI's fingerprint system, the Integrated Automated Fingerprint Identification System (IAFIS). This increase will also permit deployment of US-VISIT to all air, land, and sea ports of entry by the end of 2008. Can you confirm that it is the goal of US-VISIT to document entry-exit by the end of 2008 at all ports? If so, how does DHS plan to address the logistical problems of documenting exit at the borders?

https://ect.dhs.gov/iq/workflow_edit.aspx?cid=627361&tabid=

Answer:
US-VISIT has deployed biometric entry capabilities at 119 United States international airports and 17 seaports that have fixed federal inspection areas. In addition, currently 12 airports and 2 seaports have implemented US-VISIT biometric exit procedures.

US-VISIT will initiate efforts in FY 2007 by working with the airlines to identify a solution for the air environment. DHS will initially focus on the air exit solution and plans to deploy biometric exit to air and sea ports, as well as develop options to record biographic exit at land ports. Once a specific solution, or set of solutions, is identified, DHS will then develop an exit implementation schedule for the air environment.

Air and sea biometric exit can be achieved in the short term, but biometric exit at the land border will take a considerable amount of planning, as well as advances in technology that currently do not exist.

February 23, 2007

The Honorable Edward M. Kennedy
U.S. Senate
Washington, D.C. 20510-0504

Dear Senator Kennedy:

Thank you very much for the opportunity to testify before the Terrorism, Technology and Homeland Security Subcommittee of the Senate Judiciary Committee on January 31, 2007. As a follow up to my testimony at the hearing "US-VISIT: Challenges and Strategies for Securing the U.S. Border," you asked the following question: "In your testimony you highlight that technology is only effective if there are also a proper focus on process, policies and people. What should Homeland Security be doing to improve the reliability of the computer infrastructure at U.S. Visit?"

As a general matter, in order to improve the reliability of a computer system, one needs to review the current system architecture and program requirements and deploy robust technologies after proper analysis, design and testing have been completed. This requires a very fact-specific inquiry into the parameters of a particular system under analysis. ITAA, however, does not have the specific knowledge and technology insight into the US-VISIT program to provide you with the information you requested. Your question is best directed to the Department of Homeland Security and its prime contractor for the U.S. Visit program. Thank you again for the opportunity to aid the Committee in its important work.

Regards,

Phillip J. Bond

President and CEO
Information Technology Association of America

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GAO responses to Questions from Senator Kennedy
January 31, 2007 Hearing on US-VISIT: Challenges and
Strategies for Securing the U.S. Border
Subcommittee on Terrorism, Technology, and Homeland Security
Committee on the Judiciary
United States Senate

Question 1

Your report highlights that many aspects of US-VISIT implementation have been defined by various legislative mandates, including implementation by December 21, 2005 of an integrated entry and exit system at all U.S. ports of entry. In their testimony, Assistant Secretary Barth and Acting Director Mocny stated that "US-VISIT has met every legislative mandate to date, on time and within budget."

Question: *Do you agree with this assessment of the US-VISIT program's compliance with Congressional mandates?*

GAO Response: Under law, DHS was to create an automated system to integrate information on the entry and exit from the United States of foreign nationals and implement the system at (1) air and sea ports of entry (POEs) by December 31, 2003, (2) the 50 highest-volume land POEs by December 31, 2004, and (3) the remaining POEs by December 31, 2005. Subsequent legislation required the collection of biometric exit data from all individuals who are required to provide biometric entry data, but it did not set a deadline for implementation of this requirement.

After having spent more than $1 billion of the $1.7 billion in funds appropriated through fiscal year 2007, DHS has largely met legislative milestones and expectations to implement entry capabilities at most POEs. Specifically, on January 5, 2004, US-VISIT deployed and began operating most aspects of its planned biometric entry capability at 115 airports and 14 seaports for selected foreign nationals, including those from visa waiver countries. Also, as noted in our report,[1] as of December 2005, US-VISIT had deployed and begun operating entry capability in the secondary inspection areas of 154 of 170 land POEs.[2]

Nonetheless, DHS has not met the statutory requirement to collect biometric exit data from travelers at air, sea, or land POEs. Although there is no specific statutory deadline for meeting this requirement, DHS was to have reported to

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

[2] According to program officials, 14 of the remaining 16 POEs have no operational need to deploy US-VISIT because visitors who are required to be processed through US-VISIT are, by regulation, not authorized to enter into the United States at these locations. The other two POEs do not have entry capability deployed because they do not have the necessary transmission lines to operate US-VISIT; CBP officers at those sites have continued to process visitors manually.

Congress by June 2005 on how the agency intended to fully implement a biometric entry/exit program. As of February 2007, this plan was under review by the Office of Management and Budget (OMB), according to a US-VISIT official. According to statute, this plan is to include, among other things, a description of the manner in which the US-VISIT program meets the goals of a comprehensive entry and exit screening system—including both biometric entry and exit—and fulfills statutory obligations imposed on the program by several laws enacted between 1996 and 2002. Until such a plan is finalized and issued, DHS is not able to articulate how entry/exit concepts will fit together—including any interim nonbiometric solutions—and neither DHS nor Congress is positioned to prioritize and allocate resources for a US-VISIT exit capability or plan for the program's future.

Question 2

The US-VISIT program has cost about $1.7 billion so far. Setting it up has required the extensive use of private contractors. Last June, GAO found that contractors under US-VISIT have not been effectively managed or overseen. Because of a lack of financial controls, DHS was unable to report the expenditures reliably.

Question: ***The American people have the right to know that the massive funds allocated for this program are being well-spent. Have the problems you identified been corrected?***

GAO response: In our June 2006 report,[3] we found that the US-VISIT program office had not effectively overseen US-VISIT-related contract work performed on its behalf by other DHS and non-DHS agencies, and these agencies did not always establish and implement the full range of controls associated with effective management of contractor activities. Furthermore, we found that the program office and the other agencies did not implement effective financial controls. Regarding the latter, the program office and other agencies managing US-VISIT–related work were unable to reliably report the scope of contracting expenditures and some agencies improperly paid and accounted for related invoices, including making a duplicate payment and making payments for non-US-VISIT services from funds designated for US-VISIT. We recommended that DHS (1) develop and implement practices for overseeing contractor work managed by other agencies on the program office's behalf, (2) require these agencies, through agreements, to implement effective contract management practices consistent with acquisition guidance for all US-VISIT contract actions, and (3) ensure that effective financial controls are established and implemented for contracts managed by US-VISIT and on behalf of US-VISIT.

DHS agreed with our recommendations. In a September 2006 letter to the Chairmen and Ranking Members of the Senate Committee on Homeland Security and Governmental Affairs, the House Committee on Homeland Security, and the House Committee on Government Reform, DHS stated that it intends to take steps to (1) strengthen oversight controls with regard to work performed by agencies on behalf of US-VISIT and (2) develop and implement requirements designed to foster improved contract management practices through the agreements reached with these agencies. DHS also said it intends to take steps to strengthen financial controls for work performed by and on behalf of US-VISIT. We have not assessed the steps DHS plans to take or has taken to address the management and financial control weaknesses we discussed in our report.

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[3] GAO, *Homeland Security: Contract Management and Oversight for Visitor and Immigrant Status Program Need to Be Strengthened*, GAO-06-404 (Washington, D.C.: June 9, 2006).

Questions from Senator Kennedy
for the Record for C. Stewart Verdery, Jr.
Partner and Founder, Monument Policy Group, LLC
Adjunct Fellow, Center for Strategic and International Studies

U.S. Senate Committee on the Judiciary
Subcommittee on Terrorism, Technology and Homeland Security

on

"US-VISIT: Challenges and Strategies for Securing the U.S. Border"

Washington, D.C.
January 31, 2007

1. During the 109th Congress, some proposals for comprehensive immigration reform included a mandatory departure requirement in order to qualify for earned adjustment. But for such a requirement to be effective there must be a system in place for ensuring that those individuals who leave the country will actually receive credit for doing so.

> Question: *In light of legislative proposals incorporating mandatory departure into comprehensive immigration reform, what steps has U.S. Visit taken to prepare for the possibility of a program involving mandatory departure of possibly millions of individuals? Does the agency have contingency plans for such an event? What steps should it be taking? Given the contours of past proposals, does U.S. Visit have a cost projection for rapid implementation of an exit control plan?*

As your question notes, some immigration legislative proposals include a mandatory departure requirement for those currently in the United States illegally to apply for a new earned adjustment status and/or guest worker program. However, it is my understanding that those proposals are premised on the concept that such individuals would enroll at an overseas location operated by the Department of State or perhaps by a private sector entity and provide documentation of their prior presence in the United States. Thus, I do not believe that these proposals are predicated on the idea that the country would need to build an "exit" system at the U.S. land borders in order to document that such individuals departed the country.

Accordingly, I am not aware of any plans that US-VISIT has made to enroll potentially millions of individuals at land ports of entry who might wish to apply for reentry to the United States. Nor do I believe that the land ports of entry are the correct location for such enrollments, which would be so numerous that they should not occur in crowded traffic-laden areas.

I have previously testified before this Committee in favor of the concept of a legal status for certain undocumented individuals living in the United States and would prefer that such status be applied for in the U.S. at a law enforcement location such as an U.S. Immigration and Customs Enforcement office. However, if legislation were enacted requiring an enrollment outside of the country, it should be structured as an enrollment in the US-VISUT database, but should not occur at the land ports of entry.

It is worth noting that many legislative proposals would create a new temporary status for guest workers for some defined period of months or years to work in the U.S. Such a limitation does imply that there will be a mechanism to "check out" guest workers when their duration of stay expires. Hopefully by the time such a requirement were to be triggered, US-VISIT will have built a solution at the land ports of entry to close the loop on a temporary guestworker program.

Lastly, I do support basing a guest worker program on the US-VISIT information system of systems. Only by utilizing biometrics in travel credentials, port of entry clearance, workplace verification and port of entry exit will the U.S. have a system that is credible.

2. You recommend in your testimony that the Visa Waiver Program should be altered to allow advanced countries to join the Visa Waiver Program, if they meet a series of tough security measures after the air exit portion of U.S. Visit is constructed.

> Question: *Shouldn't all visa waiver program countries comply with tough security measures? Why are you singling out possible new entrants for advanced security measures? Are they a greater security risk?*

The President and DHS have proposed reform of the Visa Waiver Program that would allow additional countries into the program if they meet a series of stringent security criteria and also require existing VWP countries to meet these security enhancements over the next several years. I support bringing all of the VWP countries, new and old, up to the proposed security levels. Among the important changes are new reporting requirements for lost and stolen passports, submission of advance passenger information for pre-flight vetting of air passengers, development of an electronic travel authorization submission to DHS, and cooperation on counter-terrorism programs. Having led the negotiations with the European Union on the PNR treaty in 2003-2004 while at DHS, I recognize the importance of building the most secure envelope of security programs for visa-less travel. For existing VWP countries, compliance with the new security programs should be made part of the next round of country reviews conducted by the interagency teams led by DHS.

I do support conditioning the admission of additional VWP countries on the deployment of an effective air exit program within US-VISIT. These additional countries do pose a

slightly higher risk of visa overstayers than the current VWP countries, and the U.S. needs to accurate metrics about the VWP departure compliance rate to know whether newly-admitted countries are contributing to the illegal immigrant population in the U.S. As my testimony outlines, VWP countries should be held to a sterling record of compliance, but such documentation will require a sustained commitment to building an effective air exit system at our international airports.

3. In your testimony, you state that "the post-Ridge leadership at DHS has gone the extra mile to coordinate US-VISIT efforts with other credentialing and screening programs, resulting in unfortunate delays."

> Question: *Please elaborate on this statement. Which credentialing and screening programs has DHS attempted to coordinate with US-VISIT? What challenges have been encountered? What is the main reason for delay?*

The proliferation of credentialing and screening programs after 9/11 has led to an unfortunate duplication of effort and expense as agencies have built systems designed to implement a specific legislative or executive branch priority. The result has been systems that do not "talk" to each other, identification cards that are not acceptable for multiple purposes, and confusion among affected people and constituencies. This problem is fostered by the fact that appropriations are largely granted to operational agencies whose responsibilities may be stovepiped but impact programs being handled by other agencies.

During my tenure at DHS from 2003-2005, we attempted to find synergies across programs and systems. The most notable of these efforts came after President Bush issued Homeland Security Presidential Directive 11, which directed that DHS conduct a comprehensive review of screening programs. The review occurred but did not result in any sweeping changes in policy or procurement.

When Secretary Chertoff and Deputy Secretary Jackson assumed the leadership of DHS in early 2005, they essentially froze new programmatic announcements for six months while conducting a "Second Stage Review" of DHS organization and policies. Just after "2SR" had concluded, Hurricane Katrina hit the United States, understandably occupying the attention of DHS leadership for some time. During this time, programs such as Registered Traveler at TSA, International Registered Traveler at CBP, Secure Flight at TSA, the Western Hemisphere Travel Initiative, the Transportation Worker Identification Card, REAL-ID, and development of the administration's positions related to immigration reform meandered without significant policy decisions or operational deployment. Each program or mandate had significant impacts on other programs and tough decisions on how to implement a specific initiative were delayed while synergies were explored.

In 2006, however, we saw significant progress in moving programs to operational capability. First, the new leadership finally embraced the HSPD-11 creation of an Office

of Screening Coordination and brought in a well-respected director, Kathy Kraninger. Second, the policy and procurement environment for WHTI moved forward with an eye towards federally-produced land-border-only passport cards ready for delivery in 2007 or 2008. Third, programs such as REAL-ID and TWIC moved forward through rule-making and/or procurement announcements.

US-VISIT, however, has not received the budgetary commitment from the Congress and Administration to move beyond the areas it had successfully deployed in 2003-2005. The US-VISIT program office, led by former Director Jim Williams and Acting Director Robert Mocny, has moved as aggressively as possible in the international environment to develop information-sharing agreements and to assist other governments build systems similar to US-VISIT. It has met all program deliverables that were reasonably funded by the Congress. Hopefully, the six areas for action outlined in my written testimony will be ripe for action in 2007.

4. You advocate an "air exit" system to be developed and deployed as part of the TSA checkpoint. You note that for the system to work effectively, air carriers will need to code boarding passes to indicate to TSA personnel which travelers require "exit." You also note that air carriers' departure passenger records provided to CBP will need to be matched against biometric exit records to ensure that individuals did indeed depart the country.

> Question: *How expensive will these procedures be to implement? Can DHS fund them from its exciting budget?*

The air exit system presents a series of difficult trade-offs related to the cost, effectiveness, and operational impact of a biometric check-out system. My written testimony describes my view that an exit system at the TSA checkpoint is the most viable solution for an implementable exit system, while recognizing that over the long-term, a system that records an 'exit" at the airline check-in counter which is confirmed at the gate is the most preferred solution.

Should DHS seek to implement an "exit" system at the checkpoint, I recommend that this information be coupled with a match against passenger manifest information collected by airlines and provided to U.S. Customs and Border Protection. Without this check, there is no definitive way to know that any particular individual actually boarded a departing aircraft, as opposed to just leaving the airport after having "exited" the country. I understand the CBP and US-VISIT believe that airline manifest records are not normally of sufficient quality to do a robust one-to-one passenger match, but such inadequacies should be corrected during a Secure Flight passenger name record rule-making or via CBP's own authority.

In terms of budget, the main costs of a biometric exit program as outlined in my testimony will not fall upon US-VISIT but upon TSA, whose screeners would man the

exit kiosks and assist travelers with the exit procedures, and upon airlines who would need to improve their manifest systems to confirm an exit with US-VISIT databases. In terms of TSA's budget, it appears likely that an incremental increase in overall screener numbers would be needed to implement an air exit system. US-VISIT would face increased connectivity costs as well, necessitating a small increase above projected budgets, unless such costs were also borne by TSA.

These costs are not insignificant but they are well worth the cost to building a coherent, credible immigration system.

SUBMISSIONS FOR THE RECORD

TESTIMONY OF
RICHARD BARTH
ASSISTANT SECRETARY FOR POLICY DEVELOPMENT
AND
ROBERT MOCNY
ACTING DIRECTOR
US-VISIT PROGRAM
DEPARTMENT OF HOMELAND SECURITY
BEFORE
THE SENATE COMMITTEE ON THE JUDICIARY
SUBCOMMITTEE ON TERRORISM, TECHNOLOGY, AND HOMELAND SECURITY
ON
US-VISIT: CHALLENGES AND STRATEGIES FOR SECURING THE U.S. BORDER

January 31, 2007

Chairman Feinstein, Ranking Member Kyl, and other distinguished Members, it is a pleasure to appear before you today to discuss the efforts of the U.S. Department of Homeland Security (DHS) to record the exit of non-citizens as they leave our Nation.

Introduction

DHS plans to modernize and improve our immigration and border management system through integration, collaboration, and cooperation among all parts of the immigration and border management community. As a component of that overall vision, the Secretary of Homeland Security, Congress, and the 9/11 Commission have all identified exit control as a priority in order to secure our Nation's borders. In this testimony we will provide an overview of how we may implement biometric exit strategies in a phased-in approach at our air, sea, and land ports. The data obtained will allow DHS and the Department of State (DOS), as well as the U.S. intelligence community, to determine if a foreign traveler has left the country—and if so, when.

Presently, DHS captures biometric information on entry through the United States Visitor and Immigrant Status Indicator Technology (US-VISIT) Program. US-VISIT also verifies the biometrics of travelers with visas, who are fingerprinted abroad by the Department of State as part of the biovisa program. The use of biometric identifiers—specifically digital fingerprints and photographs—has made travel safer and more secure by allowing DHS and DOS to identify persons attempting to enter the United States using fraudulent identities and screen individuals to determine whether they constitute a risk to national security. These biometrics are used to fix the identity of an individual during his or her first encounter with the U.S. Government, to verify the identity of the individual upon subsequent encounters, and to run appropriate watch list checks on the individual if he or she is seeking immigration benefits or admission to the United States. Since January 2004, Customs and Border Protection (CBP) has processed through US-VISIT more than 76 million international travelers applying for admission at U.S. ports of entry. During the same period, about 1,800 criminals and immigration violators attempting to enter the

country through the use of false information or fraudulent documents have been intercepted based solely on biometric information.

Deployment of a comprehensive biometric exit solution will provide very real benefits to our Nation's security. The challenge, however, for national security in an age of terrorism is first of all to prevent the very few people who may pose unacceptable risks from entering or remaining in the United States undetected. Therefore, our first priority is to fully implement 10-print biometric entry control at our borders and, in cooperation with DOS, at visa-issuing posts around the world. Secretary Chertoff has made it clear many times that keeping terrorists out is the priority as we make decisions for the prudent, risk-based investment of our border control dollars. There are considerable law enforcement and intelligence benefits from being able to accurately document the entry and exit of foreign nationals and to conduct trend analysis on arrivals and departures. In addition, accurately identifying individuals who stay in the United States beyond their authorized period of admission ("overstays") will allow DHS to focus resources to address known (or confirmed) overstays and permit DHS and DOS to place greater emphasis on properly adjudicating travel and immigration benefits.

US-VISIT tracks and records changes in immigration status and matches entry and exit records to determine those who have overstayed their authorized period of admission. Individuals who have overstayed the terms of their admission, or who are wanted or otherwise encountered by law enforcement, may be apprehended. Immigration and Customs Enforcement (ICE) has made 290 arrests between September 2004 and December 2006 based on US-VISIT overstay information. In addition, IDENT, the Automated Biometric Identification System, conducts "recurrent checks" against all enrolled fingerprints—in other words, as we receive new derogatory information (e.g., where a person for whom no derogatory information existed at the time he or she entered the United States later becomes the subject of a criminal arrest warrant), those prints are checked against the entire population of fingerprints on file. ICE has made 29 arrests between September 2004 and December 2006 based on US-VISIT biometric matches.

Under the initial phases of the implementation of our biometric exit program, data will be used for the following purposes, much as it is today in existing exit pilots at 12 airports and two seaports:

- Overstay information will be analyzed by US-VISIT and forwarded to ICE for further follow-up and interior enforcement;
- Exit information will be used on an individual basis during subsequent applications for admission to the United States, visa renewal, or other immigration benefits; and
- Exit information will be analyzed in the aggregate to identify weak areas in our immigration and border management system where overstay is prevalent. This will require the development of new analytic capabilities within DHS and DOS.

Any exit solution is key to assisting DHS and DOS in "closing the door" on those individuals that seek to exploit our immigration and border management enterprise. Comprehensive trend analysis will allow DHS and DOS to identify specific visa-issuing posts, visa categories, Visa Waiver Program (VWP) countries, or other criteria that may be common to an unacceptably high

overstay rate. Subsequent visa applicants and travelers from those same posts, categories, and countries will then receive increased scrutiny.

The biggest hurdle to overcome for the deployment of biometric exit is that our air, sea, and land ports were not designed for exit control. Unlike entry, there are currently no fixed inspection booths or other facilities to process international travelers as they leave the United States. There are difficulties in creating the infrastructure, architecture, and operational processes for exit screening. This presents not only a space and equipment issue, but also an impact on the business process of departing travelers. Nonetheless, DHS is committed to establishing a comprehensive biometric-based entry and exit border system.

To achieve the benefits noted and to better secure our border, DHS proposes an incremental deployment into the three port of entry environments—air, sea, and land—with an initial focus on air (Air Exit Solution) and the corresponding development of data analysis needed to produce highly reliable, actionable information.

Exit in the Air Environment (Air Exit Solution)

Given the current layout of airports, there are three possible locations where DHS could biometrically record the exit of a departing non-citizen traveler: the airline check-in counter, the Transportation Security Administration (TSA) inspection station, and the airline boarding gate. Each have its unique set of benefits and challenges, but all have a key component—integration into the current international travel process to minimize the impact on the legitimate traveler. DHS is currently discussing with the U.S. air carriers the Department's options for deployment of a biometric exit solution in the air environment.

No matter where DHS deploys biometric exit, these deployments will be designed to minimize any increased wait times or delays to travelers, meeting directives to build an exit solution that does not impede legitimate travel and trade, while at the same time substantially adding to our efforts to secure the borders.

US-VISIT has run biometric exit pilots at 14 air and sea locations, some as early as the start of the program in January 2004. These pilots involved the use of automated kiosks, and sometimes mobile devices, in the port terminals. While the pilots demonstrated that the technology works, they also revealed low compliance on the part of the travelers. US-VISIT's evaluation of biometric exit identified that, in order to achieve 100 percent compliance, the exit solution should be integrated into one of the essential processes for a traveler, such as check-in, security screening, or boarding.

A critical focus of counter-terrorism efforts is recording the arrival of travelers from Countries of Interest (COIs), which is conducted by the National Counter-Terrorism Center (NCTC), DHS, the Department of Justice (DOJ)/FBI, and DOS. Over 91% of all COI travelers arrive in the United States via air. Knowing which travelers from COIs complied with the terms of their admission, including whether they have overstayed their authorized period of admission, is essential to assessing risk and to enhancing the integrity of our immigration and border management system.

Current biographic data inconsistencies and omissions, including unvalidated outbound electronic manifest reporting from air carriers, have somewhat limited our current entry-exit record matching capabilities. Previous experience at DHS has shown that over 70% of the overstay records checked were erroneous. Implementation of the Air Exit Solution will increase the integrity and operational utility of data by increasing the capture of biometric exits for COI travelers and by providing an appropriate technical environment in which the data can be analyzed.

Additionally, deployment of the Air Exit Solution will cover the vast majority of Visa Waiver Program (VWP) travelers. These are travelers from mostly western European countries that enter the United States for business or pleasure without a visa for a period of 90 days (or less).

Deployment in the air environment will be integrated with other government systems, as well as with the airline systems and operational processes if necessary. As a result, the impact upon the traveler to provide a biometric exit record will be minimized.

Exit in the Sea Environment

The long-term exit solution will be deployed to seaports to provide an integrated biometric exit capture for cruise line passengers. Biometrics will be captured and processed in a manner mimicking the protocol developed for air exit and allowing for optimal efficiency in traveler processing. However, the scope for biometric exit at sea will be considerably smaller than for air. US-VISIT entry biometric collection is currently in operation at 17 seaports. The biometric exit solution will be deployed to all seaport locations where cruise ships depart. Seaport deployment will occur after the air environment, so lessons learned can be applied.

Exit in the Land Environment

Implementing biometric confirmation of the departure of travelers via land ports of entry is significantly more complicated and costly than for the air or sea environments. Consider, for example, the port at San Ysidro, CA. This port is the largest entry/exit port for travelers coming to or leaving the United States. It has 25 entry lanes for vehicular traffic and approximately four for exit. Enabling biometric, much less biographic, collection of data upon exit would require a costly expansion of exit capacity, including physical infrastructure, land acquisition and staffing. Other ports, such as Detroit, MI, present no feasible land for acquisition to enable biometric collection of data upon exit, at least with currently available technology.

While DHS tests and installs first air and then sea biometric exit solutions, we will also continuously evaluate technologies that are expected to evolve, like biotoken-enabled documents, that would allow for biometric exit data to be collected "at speed" for traffic so that costly facilities-based solutions would not be needed.

One possible solution for exit data collection capability along the land borders could involve the cooperation of Canada and Mexico, given that our exit is entry into Canada and Mexico. Such a solution could include data-sharing between our systems and would require agreements between

our countries. Because of the immense scope and complexity of the land border, biometric exit information cannot be practically based on biometric validation in the short term. Instead, DHS will initially seek to match records using biographic information in instances where no current collection exists today.

DHS has not yet determined a timeframe or cost estimates for initiation of land exit.

Radio Frequency Identification (RFID) Technology

Our vision for exit at the land ports will build upon the RFID work being done with WHTI.

RFID technology is already being used successfully to facilitate both travel and trade at certain ports of entry on the Canadian and Mexican borders. DHS has programs currently operating on the border which use RFID technology: NEXUS, SENTRI, and FAST. These trusted traveler programs have more than a quarter of a million participants.

These programs have made major advancements in recent years. When DHS first started to work with RFID cards, the antennas were large, the cards could only be read a few inches from the antennae, and the read rates were poor. By the time DHS launched NEXUS, the antennas had become the size of small books, and the read ranges had expanded to 10 feet from inside a car traveling at 35 miles an hour, with read rates in excess of 90%.

As part of the WHTI effort, DOS has proposed the issuance of Passport Cards to US citizens as an alternative to the standard passport book. A Notice of Proposed Rulemaking dealing with the Passport Card has just closed, and DOS and DHS are currently considering the more than 4,000 comments received. While discussion of RFID and the Passport Card (even though only available to US citizens) is important to understanding how DHS could implement a viable solution for both entry and exit at the land borders of certain foreign nationals, it is important to keep in mind that the final specifications of the Passport Card have not been set.

It has been proposed that this card be RFID-enabled, which would support both security and facilitation at the border. One of the technologies proposed for the Passport Card is a more advanced version of RFID technology that is currently being used successfully by other DHS programs (e.g., NEXUS) to facilitate both travel and trade at select ports of entry on the Canadian and Mexican borders. As this technology is further analyzed, we will make any necessary improvements in the technology or operational protocols to address any security gaps that may arise.

The proposed RFID technology would allow us to accomplish three necessary objectives as travelers (with RFID enabled documents) enter or re-enter the United States: pre-position information on a border officer's screen so that we know who is attempting to enter the country; electronically record that person's entry; and automatically trigger a check of watch lists in order to determine if that traveler is a known risk. Because RFID technology would allow us to remotely read travel documents prior to the traveler's arrival at the inspection booth, officer safety would be improved and wait times would not be increased for the traveler.

Additionally, the proposed RFID tags would protect a traveler's privacy by transmitting only a number that links to a record in a secure government database. The proposed RFID tag would not hold any information other than a unique, randomly generated number. Card holders would also be issued a protective sleeve for the card, preventing transmission of the RFID signal while the card is in the sleeve.

US-VISIT has conducted several evaluations of the RFID technology Proof of Concept at five ports of entry. The initial performance evaluation of entry and exit conducted in September 2005 identified a number of operational and technical issues and found that read rates were much lower than anticipated. Analysis revealed that the low read rates were due to human and environmental factors (such as car speed and card placement), as well as technological deficiencies. Corrective measures introduced resulted in a significant increase in read rates for entry, though they did not reach levels that previous trial testing suggested. Subsequent to the proof of concept test, a "second generation" RFID technology is available that has not yet been evaluated.

Privacy Implications

DHS takes the issue of protecting the privacy of information collected from foreign national visitors seriously. For example, the US-VISIT biometric collection and screening program extends important privacy principles to information collected from foreign national visitors, even though DHS is only obligated to apply the Privacy Act to U.S. citizens and legal permanent residents.

As with any U.S. government program that involves the collection, storage, analysis, and use of personal information, there are significant privacy considerations in partnering with the air, and eventually sea, carrier industries. To ensure maximum integrity and application of fair information practices during the Department's approach to the collection of biometric information, DHS will work closely with the travel industry to protect travelers' privacy.

The public must be clearly informed of any use of biometric collections for purposes other than confirmation of departure from the United States, such as aviation threat mitigation, law enforcement, or immigration enforcement. Extensive outreach efforts will be needed.

Accessibility Implications

DHS is committed to ensuring that all of the electronic and information technology are developed, designed and implemented in accordance with accessibility laws. DHS has determined that accessibility features can be built into any biometric system and still fulfill national security needs with the exception of the use of biometrics. As such, DHS recognizes that some individuals may lack certain biometric features such as eyes or fingers. To ensure that individuals who lack these selected biometric features, DHS will be required to ensure that an alternative is available to address this situation.

DHS will need to create and implement a uniform policy for all air and sea companies, as well as Federal authorities, to ensure that the necessary information is collected, that would meet the national security needs as well as accommodate all end users, specifically those with disabilities.

US-VISIT Program

DHS will rely on the proven track record of the US-VISIT Program, and its history of working with multiple federal agencies and private sector stakeholders to implement its programs on time and within budget, to implement the envisioned exit solution.

DHS created the US-VISIT Program in July 2003 to meet statutory requirements and, more broadly, to achieve the following program goals:

- To enhance the security of our citizens and visitors;
- To facilitate legitimate travel and trade;
- To ensure the integrity of our immigration system; and
- To protect the privacy of our visitors

US-VISIT has met every legislative mandate to date, on time and within budget. The addition of biometrics, coupled with the integration of databases, has contributed to improved decision-making and information sharing across the immigration and border management community. In each of the incremental improvements that have been successfully deployed to date, all of the four goals listed above have been met.

DHS met its first statutory requirement by integrating existing arrival and departure biographic information on December 31, 2003. Subsequently, DHS:

- deployed US-VISIT biometric entry procedures at airports and seaports on January 5, 2004, for those individuals applying for admission with nonimmigrant visas;
- expanded biometric entry procedures to include those individuals applying for admission under the Visa Waiver Program on September 30, 2004;
- supported the deployment of the DOS BioVisa Program, completed in October 2004;
- deployed biometric entry to the 50 busiest land ports before the legislative deadline of December 31, 2004;
- deployed biometric entry capabilities to the remaining 104 land border ports of entry before the Congressionally mandated deadline of December 31, 2005;
- deployed technology for biometrically enabled e-Passports to 33 airports that cover 97 percent of all travel from Visa Waiver Program (VWP) countries as of November 2006;
- tested RFID at five test sites along the northern and southern land borders to capture entry/exit information, trigger updated watchlist checks, and provide the results of this information to the CBP officer at entry; and
- has collected biometrics on exit at 14 pilot locations for travelers departing the United States.

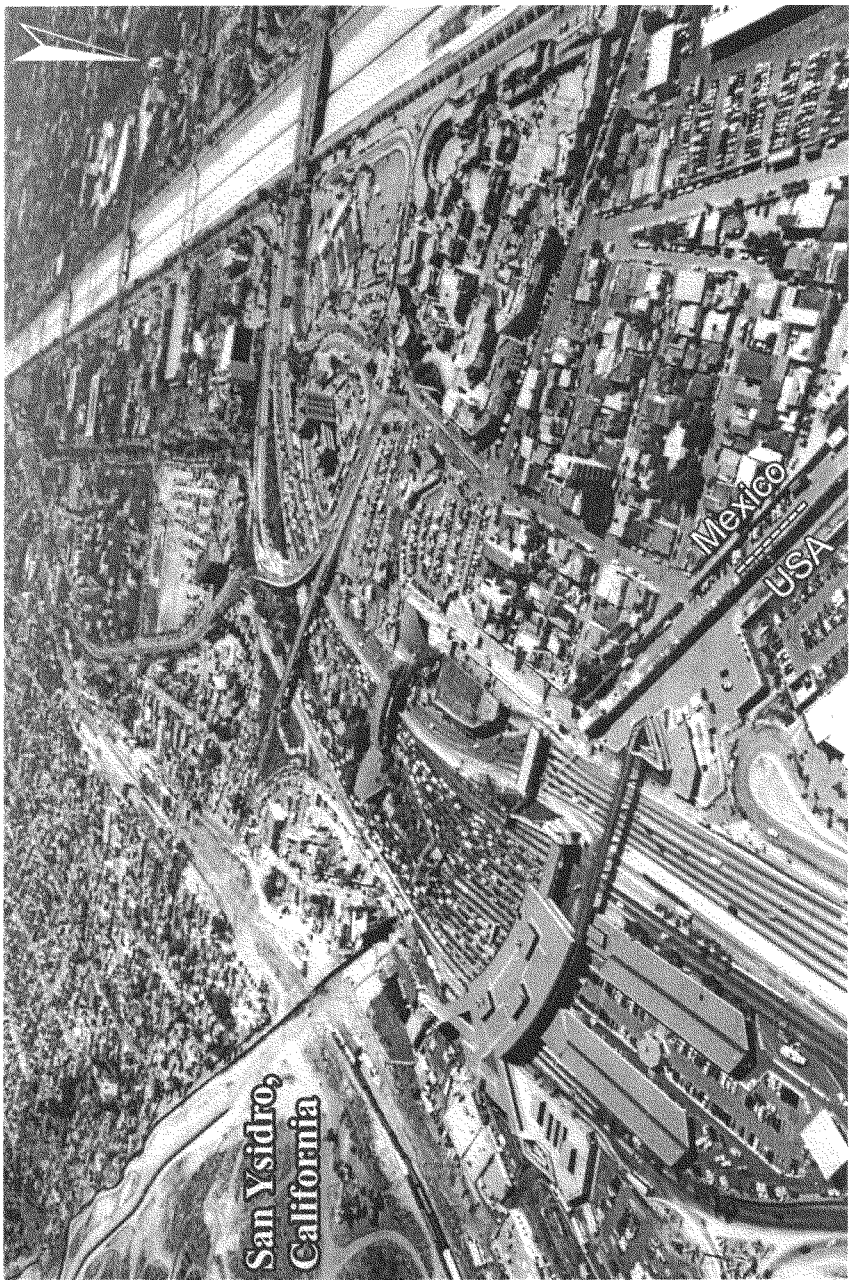
One of the major initiatives that US-VISIT is presently implementing is the development of interoperability between the DHS biometric database—IDENT—and the FBI's fingerprint

database, the Integrated Automated Fingerprint Identification System (IAFIS). This exchange of information allows DOS consular officers and DHS border and immigration officers to have access to an additional number of FBI wants and warrants when making visa-issuing and admissibility decisions, and when taking law enforcement actions. Likewise, the FBI and State and local law enforcement officials have the ability to query Category One visa refusals (e.g., generally one involving a permanent ground of inadmissibility) and all expedited removals. DHS and DOJ are working to increase the amount of data they exchange, thus improving the accuracy and usefulness of information available to border security officials and to state and local law enforcement. One of the benefits of US-VISIT's transition to ten-print enrollment is that it facilitates more efficient IAFIS and IDENT interoperability through the use of a common biometric template.

Conclusion

A comprehensive long-term traveler exit strategy for the United States is an exceedingly complex and costly challenge and is subject to constant change due to factors such as fluctuating terrorist threat levels, evolving supporting policies, and developing technologies. DHS must meet this challenge by using new technologies and modernized facilities, establishing new levels of inter- and intra-governmental cooperation and by identifying and committing significant investment.

Thank you for this opportunity to testify and we look forward to answering any questions you may have.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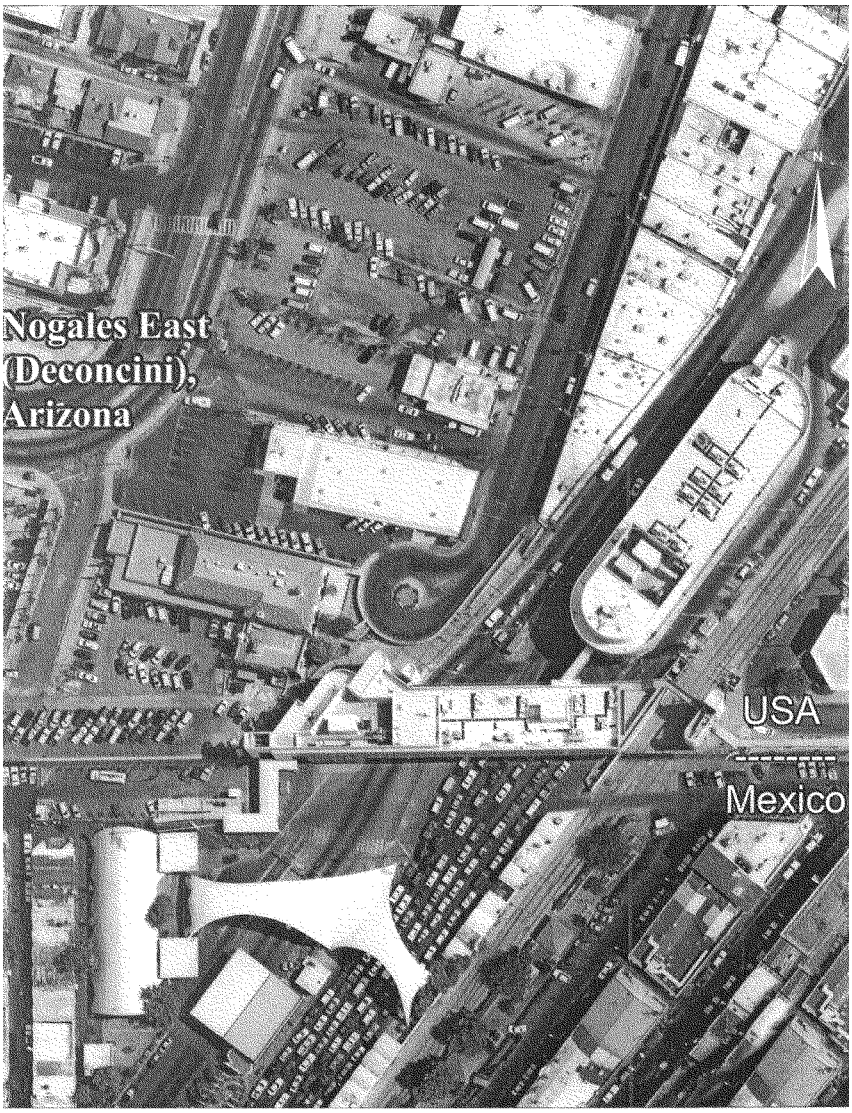
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(Deconcini),
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USA
Mexico

TESTIMONY OF

PHILLIP J. BOND
PRESIDENT and CEO
INFORMATION TECHNOLOGY ASSOCIATION OF AMERICA (ITAA)

BEFORE THE
SENATE COMMITTEE ON THE JUDICIARY
SUBCOMMITTEE ON TERRORISM, TECHNOLOGY AND HOMELAND SECURITY

RE: US-VISIT: CHALLENGES AND STRATEGIES FOR SECURING THE U.S. BORDER

JANUARY 31, 2007

Chairman Feinstein, distinguished members of the Subcommittee, on behalf of ITAA's 325 corporate members, I'd like to thank you for inviting me to share our perspective on the potential use of personal identification technology at our nation's borders. In particular, I would like to discuss technologies available to implement an exit program at U.S. land border ports as part of the U.S. Visitor and Immigration Status Technology (US-VISIT) program as administered by the US Customs and Border Protection (CBP) Agency at the Department of Homeland Security. I'd also like to take this opportunity to thank you and this committee for taking a closer look at this important border security program.

The Information Technology Association of America (ITAA), which I am proud to have joined about six months ago as President and CEO, provides global public policy, business networking, and national leadership to promote the continued rapid growth of the IT industry. The Association plays the leading role in issues of IT industry concern including information security, taxes and finance policy, digital intellectual property protection, telecommunications competition, workforce and education, immigration, online privacy and consumer protection, government IT procurement, human resources and e-commerce policy. ITAA members range from the smallest IT start-ups to industry leaders in the Internet, software, IT services, digital content, systems integration, telecommunications, and enterprise solution fields.

The ability to record and track the entry – and exit – of foreign visitors who pass through our ports of entry (POE) is an arduous task, but not an insurmountable one. Technology is available to aid in this important mission, but let me be clear: As is usually the case, there is no simple technological fix that holds all the answers.

Generally speaking, the US VISIT program requires that the government begin tracking all visitors who are entering the United States as non-immigrants, regardless of their country of origin. They may have a visa for some specific purpose (student, temporary employment, etc.) or they may be from one of the "visa waiver" countries in which case a visa is not required. Just as it is important to keep track of when and where such visitors enter the United States, it is equally important to keep track of when and where they leave the United States. Today the specific focus of my remarks is on the exit program portion of US VISIT; the procedures under consideration for keeping track of visitors as they leave the US at our land border ports of entry.

The goals of the US VISIT program are to enhance the security of our citizens and visitors, facilitate legitimate travel and trade, ensure the integrity of our immigration system and protect the privacy of our visitors. These goals present unique challenges at our congested land borders where visitors often wait hours for permission to cross. The good news is that information technology offers policy makers many options, especially surrounding identity authentication and verification, to help make the vision of US VISIT a reality.

That said, technology is only one piece of the puzzle. It is also critically important to focus on the processes, policies and people that make a technology effective. Most importantly, and before any exit solution can be implemented at America's borders, DHS and CBP must focus carefully on the specific, detailed objectives for the exit portion of the program. The government, and ultimately its industry partners, will have to understand which objectives are essential and which are important but less critical to achieving the overall mission. Only after conducting such an analysis, can the United States decide which of the information technology solutions available for the exit program of US VISIT offer the most benefit to American taxpayers and our foreign visitors.

Please allow me to provide a brief overview of one broad technology field that has great promise for use in identity management and border security applications. I am speaking of course of Radio Frequency Identification Technology (RFID). RFID is not a new technology; it was first used during WW II. Rather it is a proven technology that is being used in new and innovative ways beyond simple supply chain management.

RFID systems use radio waves to transmit information from tags to readers in order to identify people or things. You are probably familiar with the bar code systems so common in retail stores. Each bar code represents a unique series of numbers that identifies a particular product. A laser scanner can read a bar code and then a computer can translate it into the unique number that identifies a given product. The computer then uses the number to retrieve information from a database and display the associated product description at check out.

RFID operates on a similar principle, but instead of a stamped bar code and a laser scanner, RFID systems use a radio frequency tag (transmitter) and a reader (receiver). Each tag includes a microchip to store information and an antenna to transmit that information over radio waves. A reader can then pick up that radio signal. In order for the RFID tag to be read, it must be transmitting on the same radio frequency as the reader. Different types of RFID tags use different radio frequencies, thus allowing for the short range (proximity) or long range (vicinity) transmission of information.

I want to focus today on those two basic types of RFID systems, both of which are widely used and commercially available. Proximity-read RFID systems contain a secure chip with advanced computing powers and are the technology at work in so-called "smart cards." Smart cards require a user to swipe them across a reader or come in close proximity to a reader. These cards are commonly used today as keys to buildings or computer systems. With their advanced computing powers, they are very good at authenticating a given user; that is, ensuring that the person using the card is indeed the person whom he or she claims to be. Smart cards can also contain not just a coded set of numbers like those contained in bar codes, but also digital files containing personal information, an ID number, an address or phone number, a digital photo image or even a digital fingerprint image. Smart cards are used for many federal government credentialing programs including those under the authority of Homeland Security

Presidential Directive 12 (HSPD-12), the Transportation Worker Identification Credential (TWIC) and the DoD Common Access Card (CAC).

Alternatively, ultra high frequency (UHF) or vicinity-read RFID systems have a longer read range – a maximum of twenty to thirty feet. They are frequently used for asset tracking and inventory control, but they can have many other applications, including identity management. In identity management applications, vicinity-read RFID technology normally transmits a unique identifier to a secure database where actual personal identifiable information is stored. The RFID card/tag itself contains no personal information, only the unique identifier. This is done to ensure that no personally identifiable information can be skimmed off the transmission from the card to the reader. The federal government is already using this type of technology in several trusted traveler programs at the border like NEXUS, FAST, and SENTRI.[1] Additionally, the regulations proposed by the Department of State for the Western Hemisphere Travel Initiative call for vicinity-read RFID technology. This type of RFID system is very familiar to anyone who has experience with the EasyPass automated toll collection system in use along the East Coast (e.g., the Delaware Turnpike) and in the Washington area to collect highway tolls.

For this hearing, I was asked to discuss whether technology currently exists that can verify the identity of a foreign visitor leaving this country, as mandated by Congress. The short answer is yes; both proximity and vicinity read RFID technologies can help accomplish this task. I have to quickly qualify my answer, however, to say, "It Depends." The fact is that each of these technologies has both benefits and shortcomings that designers of the automated entry and exit system will have to take into account.

As a baseline, consider a border without any RFID technology: To verify the identity of foreign visitors upon exit, DHS could simply build multiple exit lanes, stop every vehicle and person leaving the land border, and use available techniques to authenticate and verify documents presented by foreign visitors. Other security measures could be added by using the numerous types of biometric authentication technologies available (iris scans, fingerprints authentication, etc) and compare them with information gained when the individual first entered the US.

As a step up, DHS could issue all US VISIT applicants a Form I-94 credential upon entry. This credential could be a proximity read RFID smart card, similar to the e-passport or HSPD-12 compliant cards, which are highly secure and can encrypt any

[1] NEXUS - Canadian Border Dedicated Commuter Lane. The project of the Canada-United States Shared Border Accord, designed to facilitate pre-enrolled, low risk, vehicular traffic across the Canadian and United States border.
SENTRI - Secure Electronic Network for Traveler's Rapid Inspection. The system that provides an electronic, dedicated commuter lane that expedites the flow of low-risk, frequent border crossers across the southern border. Sensory system is based on RFID technology.
FAST - Free and Secure Trade. The program that provides dedicated commercial lanes for expedited processing to qualifying commercial participants. Sensory system for FAST is based on RFID technology
http://www.dhs.gov/xlibrary/assets/foia/US-VISIT_RFIDattachB.pdf

information that is transmitted. Visitors would then authenticate their identity upon exiting the border by going through a reader station. Additional CBP officials located at exit stations could visually verify that the person exiting matches the person whose identity is recorded on the card. Additional technology could be added to improve the system. For example the system could provide thumb print readers next to the smart card readers so that a visitor leaving the country could swipe his or her card and then place a thumbprint on the reader to provide a biometric match on the card. This would eliminate some of the visual inspection noted above. All of this could be implemented to achieve 100% compliance, but this too would require that traffic be stopped and individuals get out of their cars and buses to present their electronic credentials in close proximity to a reader and be visually cleared.

All of these solutions require significant investment in infrastructure and the stopping of traffic at the nation's land borders. The feasibility of creating new delays at the border is questionable when one considers the enormous volume of border crossings, numbering in the millions of individuals each day[2]. This may not be the best way to facilitate legitimate travel and trade. On the other hand, stopping traffic to inspect travelers' documents may still be the answer if 100% authentication and compliance is the only acceptable outcome. Still, by the time new exit facilities with multiple lanes are built, technologies that today are in development will most likely be ready for adoption, leaving only an antiquated system to protect our nation's land borders. Ultimately, DHS would need to perform a cost/benefit analysis to see if this type of technology would meet the business requirements of the US-VISIT program.

There is another option: Vicinity-read or Ultra-High Frequency (UHF) RFID technology could also be used at the border placed in an I-94 credential. Multiple credentials could be read as vehicles slowly go through reader stations. As with any type of exit program, some visual inspections would need to occur. Like the other options I have discussed there will need to be an investment in infrastructure. Unlike the other options, it would keep the traffic moving and would align with existing trusted traveler programs at the border. However, the current generation of UHF solutions, like existing smart card products, do not independently tie a person to an ID card through biometrics without human intervention to examine a photo and match it to the person's face. The limitation of vicinity read RFID technology when applied for this purpose is that it only proves that an I-94 form left the country, which of course is not the same thing as proving that an individual left the country.

I am aware that there was a pilot program using UHF for the US VISIT exit program and that the results were not good. ITAA was not part of that program, so I am not fully conversant with the testing and results. However, I do know that the UHF technology works. The government is using such systems for several trusted traveler programs at the border, and they have proven to facilitate travel while authenticating traveler identity.

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[2] U.S. Customs and Border Protection Fact Sheet.
http://www.cbp.gov/linkhandler/cgov/newsroom/fact_sheets/typical_day.ctt/typical_day.pdf

Furthermore, there is technology on the horizon that will combine biometric authentication with long range radio frequency transmission. For example, technology now under development will require a person to activate their credential by placing a thumb on the device. The credential will then verify the user's identity by authenticating his or her thumb print and unlocking the credential's unique identifier for transmission to a reader.

Given the special challenges of avoiding compounding congestion and delays at our nation's land-border crossings while controlling the entry and exit of visitors, it may very well be that vicinity-read RFID technology holds the most promise. By implementing this type of technology through a phased approach, DHS could achieve a high-level of compliance without delaying the flow of traffic. DHS could begin by using the technology available to collect useful exit data on foreign visitors, encourage them to comply through education programs and support the endeavor with the right policies and training. Then, as new classes of RFID solutions come on line that support higher levels of authentication and compliance, those technologies can be integrated into the existing infrastructure with relative ease. In this way, the government can realize some benefits on behalf of the American taxpayer in the near term while increasing the dividends of security and commerce in the future.

Before concluding, I would like to very briefly discuss legitimate concerns about protecting individuals' privacy at the border. Either version of RFID technology can be a part of a secure solution. UHF technology is sometimes branded as inherently insecure but that claim does not hold up to scrutiny. For example, in DHS's NEXUS and SENTRI programs, the registered traveler ID cards do not transmit any private information about the cardholder. They only transmit a random serial number that is meaningless until it is matched in a secure database to a particular individual. Therefore, it is useless to any unauthorized individual. In the 10 years that these programs have been in operation, I am not aware of a single case of identity theft. The US-VISIT pilot program followed the same model, and it is my understanding the Western Hemisphere Travel Initiative will do the same. So I think the American people should be reassured that their personal information is not going to be put at significant risk in these programs.

In closing, it is crucial that we begin to implement the US VISIT exit program and that we do so with clear, realistic and prioritized objectives in mind. With the help of the private sector, the government can fully realize the vision of the US VISIT program over time. It is really a question of how and when rather than if we will accomplish this mission. Thank you again for the opportunity to testify before the subcommittee today, Chairman Feinstein. I would be happy to answer any questions that you or members of the subcommittee may have.

Mr. Greg Clawson
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Motorola Enterprise Mobility Government Business Solutions
Testimony Submitted for the Record
Senate Committee on the Judiciary
Subcommittee on Terrorism, Technology and Homeland Security
"US-VISIT: Challenges and Strategies for Securing the U.S. Border"

January 31, 2007

Thank you for the opportunity to provide this statement. My name is Greg Clawson. I am the Regional Manager for Business Development and Channel Partners for Motorola. Earlier this month, Motorola acquired Symbol Technologies, which specialized in enterprise mobility applications. Symbol is now a major component of Motorola's Enterprise Mobility Business Unit. For more than half a century, both companies have individually helped set the standard for secure and reliable enterprise mobile communications. Today, we provide a comprehensive mobility platform to seamlessly unify digital information across large enterprises.

Prior to joining forces with Motorola, Symbol provided the technology components for the US-VISIT Phase 2C Pilot Project. This pilot project used radio frequency identification technology (RFID) to capture entry and exit data at five land-border ports of entry. I would like to take this opportunity to discuss some of the unique challenges posed by land border crossings, and some of the technology issues surrounding this portion of the US-VISIT program.

Land Border Ports of Entry Pose Unique Challenges:

The mission of the US-VISIT program is to collect biometric information on visitors to the United States to help verify their identity, record their entry into and exit from the United States, and support admission decisions by checking individuals against terrorism watch lists. US-VISIT operates in three different types of environments: airports, sea ports, and land-border crossings.

Land-border ports of entry pose unique logistical challenges. They serve both pedestrians and vehicles. They must accommodate vehicles of all shapes and sizes, ranging from a single-passenger compact car to a bus with 30 passengers. They operate outdoors in a wide

range of weather conditions (heat, cold, wind, rain, etc.). And they must process seamlessly heavy volumes of travelers who are facing growing delays at many locations. Every day, an estimated 359,000 vehicles drive across U.S. land-border ports of entry. Of the 1.1 million travelers who arrive in this country each day, 80 percent arrive at the land borders.

For these reasons, the choice of which technologies to employ at land borders is not simple. Program requirements must be carefully analyzed, and the technologies with the capabilities that best match those requirements selected. There are two important considerations involved in designing a program for screening individuals entering and exiting the United States. The first is security – we must be able to verify that travelers are who they claim to be and exclude security threats. The second is efficiency – we must enable legitimate travelers to move across our borders without excessive delays. Some would argue that the two are mutually exclusive, and one can only be done at the expense of the other. We disagree. We believe that appropriate technologies, utilized within a well-designed system, can both improve security and increase the speed of commerce at our borders.

For the "Phase 2C" pilot project, vicinity-read RFID technology was chosen. Vicinity-read technology is based on the newest ISO Standard -- 18000-6(C). ISO-18000-6(C) governs RFID that operates in the Ultra High Frequency range and is commonly referred to as UHF Gen 2 RFID. The goal of this project was to demonstrate the capability of RFID technology to capture and record the identities of visitors when they exit the country. The pilot program was conducted at five land-border ports of entry, two in Arizona, two in Washington State, and one in New York State. Visitors traveling to the U.S. were provided with multiple-entry visas (Form I-94) with RFID tags sewn into the fabric. Gantries of RFID readers placed around exit lanes (both vehicle and pedestrian) recorded individuals as they left the country without requiring them to stop for processing.

Vicinity-read technology was chosen after a careful selection process. It was vigorously tested prior to implementation. In a highly realistic testing facility simulating a land border crossing, our RFID products, which were ultimately selected for the pilot project, recorded better than 90 percent read rates across several lanes of moving traffic.

In addition, vicinity-read technology already has a successful track record in several registered traveler programs. It is being used in the NEXUS program for frequent travelers along the Canadian border as well as the SENTRI program along the Mexican border. Each program has more than 100,000 participants who carry RFID-enabled identification cards allowing them to use registered traveler lanes that reduce their waiting times significantly. According to a recent Washington Post article, participants in SENTRI at the heavily congested San Ysidro, California, border crossing often have their waits reduced from 90 minutes to 15 minutes.

1. Privacy is Protected:

The protection of personal privacy is a high priority for any border security program. People must be assured that their personal information is protected at all times. The US-VISIT program is well-designed to accomplish this important task. The RFID tags embedded in the I-94 multiple entry visa forms contain no personal information about the traveler. They contain nothing more than a unique identifying number, or a serial number. All personal information about the visa-holder is maintained within a secure database protected by firewalls and strict access limits. This is similar to a license plate on a car. The license plate number is visible to anyone passing by. However, it is meaningless unless one has access to the Department of Motor Vehicles' database, where personal information about the car's owner is protected.

When a traveler approaches a border, such as when he or she is driving out of the country, the card transmits this unique number to a nearby RFID reader. Then, within a secure system, the fact that the traveler has left the country is recorded in the database. No personal information about the traveler is transmitted over the air. It is protected in a secure database and subject to Federal privacy laws.

Comments on GAO Report:

A GAO report released in December ("US-VISIT Program Faces Strategic, Operational, and Technological Challenges at Land Ports of Entry," GAO-07-248) raised several issues about the Exit portion of the US-VISIT program. For example, the GAO raised questions about the performance of the RFID systems in the Phase 2C pilot program. The GAO noted that in a one-week test, actual read rates were generally lower than the targets established by the Homeland

Security Department. Let me first say that the GAO report makes numerous helpful points and findings, and sheds light on some important issues. We should use this information to help us operate more effectively. At the same time, I would like to make several points about these results.

First, Phase 2C was a pilot program designed to test how the technology would perform in different environments, and in different regions of the country. It has always been assumed that, based on the results, technical adjustments would need to be made to maximize performance in different settings. For example, it appears that minor construction errors at some sights may have resulted in RFID readers being positioned slightly farther from the road than intended, resulting in reduced read rates. At another site, routine maintenance was being performed while the test was conducted. Such minor problems, which were brought to light by the GAO, are easily addressable, and can have a significant impact on system performance. The wide variation in test results at different locations (from a high of 86 percent at Nogales-Mariposa to a low of 27 percent at Nogales-DeConcini for participating vehicles reentering the country) strongly suggests implementation issues at each sight, as opposed to an overall performance issue with the technology.

Second, the exit system requires the cooperation of the traveler. The I-94 form must be removed from any baggage and placed near a window or on the dashboard of the car as it travels through the checkpoint. For the system to be effective, proper signage must be in place to instruct travelers on the proper procedures. There was a wide variation in the quality and quantity of the signage and instructions available to travelers at the different test sites, leading to a wide variation in compliance. Clearly, this had an impact on the test results.

Third, the pilot program used the RFID components available at the time – EPC Global Generation One UHF RFID technology. These tags and readers, while a very good product in their day, have since been replaced with a newer and more modern technology based on a new standard -- EPC Global Generation Two. As mentioned earlier in my testimony, this standard has also been adopted by the International Organization for Standards, as ISO 18000 6-C. As one would expect in the world of high technology, this newer generation of RFID has even greater capabilities and superior performance than the generation of technology it replaces.

Finally, the one-week tests referred to in the GAO study are based on very small sample sizes (in one case, only three individuals), and other questions have been raised about the methodology that was used and how it affected the results. The test performed at the Pacific Highway border crossing in Blaine, Washington, is a case in point. According to the GAO, only 23 out of 166 I-94 forms that passed through the border crossing were recognized by the RFID readers, for a score of 14 percent. However, it is our understanding that the Homeland Security Department actually recorded 694 I-94 forms passing through the border crossing during that same time period. One has to question why the test cited by the GAO focused on only 166 individuals, and why it missed the hundreds of other RFID-enabled forms that were recorded by the Department's RFID readers.

We agree that the results of the entire six-month pilot program should be carefully analyzed to determine how the technology performed and how it can be improved. However, we do not believe that the one-week test results published by the GAO are indicative of how the technology actually performed.

Conclusion:

Thank you for the opportunity to submit this testimony. We believe that advanced technologies are an important component of an overall border security system. Information technology by itself cannot make our borders secure. However, as part of a layered security program, technology tools can be successfully utilized to improve the safety and security of all Americans.

We continue to believe that vicinity-read RFID is the right technology for the U.S. border, and that no other technology provides the flexibility to both improve security and avoid longer lines at U.S. land borders. We look forward to working with the Department of Homeland Security to implement the best possible technology solutions at the border, and we would be happy to respond to any questions you might have.

Statement
United States Senate Committee on the Judiciary
US-VISIT: Challenges and Strategies for Securing the U.S. Border
January 31, 2007

The Honorable John Cornyn
United States Senator , Texas

Opening Statement – Senator John Cornyn
"US VISIT: Challenges and Strategies for Security the U.S. Border"

Thank you, Madam Chair.

As we move forward with our debate on immigration reform, we all recognize the importance of an immigration enforcement system that enhances the security of our citizens and visitors to the United States. No enforcement system, however, should be adopted without assessing the impact it will have on legitimate travel and trade to the United States. Our nation's security is paramount—but trade, especially with our partners on the northern and southern borders, is critical to the health of our economy.

The US-VISIT program is one component of an overall border and interior enforcement strategy. Since its inception in 2004, the Department of Homeland Security (DHS) has made significant progress in phasing-in implementation of the program at air, sea and land borders. DHS must continue working hard to ensure that it continually receives the input of the public and interested stakeholders on any expansion efforts, such as officials along the Texas border.

I remain concerned about the affect of the US-VISIT program on the southern border communities. According to DHS, the US-VISIT entry technology has been installed in most air and sea ports, and in the secondary inspection areas at 154 land borders. The Texas border region already has felt the effects of increased security screening at the border.

Southern border businesses and officials are concerned with the increased delays at border-crossing checkpoints and the impact of the delays on the local economy. As we continue working toward additional security measures, we need to develop a quick and efficient process to identify those who may be a threat to national security while allowing legitimate, law-abiding travelers to enter and exit the U.S. in a timely manner.

One significant initiative to facilitate trade and travel on the southern border is the introduction of my bill, S. 422. This legislation permits Mexican nationals who hold laser visas—and have already undergone rigorous background screening by the State Department and DHS—to remain in the United States for an initial period of six months. The bill allows for expedited entry into the U.S., while at the same time maintains the strong border-enforcement process. It also ensures that commerce on the southern border remains strong and viable—notwithstanding any new enforcement measures DHS may put in place.

DHS has indicated that the US-VISIT entry process has been beneficial, especially in terms of identifying criminals and immigration violators. DHS, however, also acknowledges that it needs additional resources and personnel to improve the existing entry process. We need to work with DHS to ensure that they get all the help they need to make the system successful.

Recently, DHS announced that it would delay implementation of US-VISIT "exit" procedures at land

borders, in part due to the potentially significant delays in the flow of cross-border traffic, and the significant resources it will take to expand existing infrastructure and systems communications that are needed for the US-VISIT process to work effectively. I fully support Secretary Chertoff's decision to focus efforts on expansion of the US-VISIT program at airports, where the majority of travelers enter and exit the United States.

DHS should continue to explore various strategies for improving its ability to capture traveler biometrics and entry and exit information. With the movement to create a single, secure, biometric and machine-readable travel card, like the E-passport, DHS should work with industry leaders and stakeholders to determine how latest technologies, such as radio frequency identification technology (RFID) can best be incorporated into travel and entry/exit documents. DHS also needs to complete its law enforcement systems integration, which is the cornerstone of any successful law enforcement strategy.

With these improvements, we will eventually be able to have an integrated, entry-exit process that protects our nation's security and facilitates legitimate travel to and from the United States.

I yield the remainder of my time.
Thank you.

Statement
United States Senate Committee on the Judiciary
US-VISIT: Challenges and Strategies for Securing the U.S. Border
January 31, 2007

The Honorable Dianne Feinstein
United States Senator , California

Statement of Senator Dianne Feinstein for the Subcommittee on Terrorism, Technology and Homeland Security Hearing on Challenges of Implementing the US-VISIT Program

I have long been concerned about the interplay between immigration and national security. I believe that we will not be able to protect our nation effectively until we can protect our borders. We must know who is coming in and out of our country.

The Congressional mandate to create a system for tracking who enters and leaves this country was first codified in 1996 with a deadline of establishing a workable program by September 30, 1998, almost ten years ago.

Since that time, Congress has extended the deadline over and over again.

Time and time again, we have sacrificed our border security because of inaction or slow action by the federal government.

According to the 9/11 National Commission Staff Report on Terrorist Travel, prior to September 11, 2001, no agency of the U.S. government thought of border security as a tool in the counterterrorism arsenal.

September 11, and subsequent terrorist actions, have made this goal a priority and have exposed our country's vulnerability.

Yet, over five years later, the federal government has failed to devote sufficient time, technology, personnel and resources to making border security a cornerstone of our national security policy.

In 2003, five years after its first deadline in 1998, the Department of Homeland Security created the US-VISIT program to implement an automated system for documenting entry and exit by capturing biometric information.

US-VISIT is an important program that has done a decent job of monitoring the entry of the millions of visitors to the United States.

But there is still much more work to be done. It is not enough to know who is entering the country.

Today, over ten years after the initial Congressional mandate, we still do not have a reliable means of measuring who leaves our country.

We are here today to examine the challenges to implementing a workable system to document who leaves this country.

The Department of Homeland Security has essentially declared that the EXIT program is dead as far as the land borders are concerned. This is a serious problem.

There are over 425 million border crossings at U.S. borders every year.

Yet, because we don't know who is leaving the country, we do not know who, of these 425 million, is overstaying a visa versus who is playing by the rules.

We do know that in 2004, there were 335.3 million crossings at land ports of entry. About 4.6 million people who crossed by land were eligible for US-VISIT screening. And we have no way of knowing whether any of those 4.6 million people ever left the country.

I understand that the 4.6 million people subject to US-VISIT screening at land ports is only a fraction of the total number crossing each year.

I also understand the argument that more US-VISIT eligible persons come into country via airports than by land.

This argument does not convince me that we should shelve the exit program at the land border.

We must take seriously that we have left a gaping hole in our country's border.

Anyone coming in by air or by sea could leave undetected by way of one of our 170 land ports of entry on more than 7500 miles of border with Canada and Mexico

By failing to address exit at all ports, we are providing a blue print to those who wish to harm the United States.

Without implementing a comprehensive exit and entry system at all of our ports, we are leaving ourselves vulnerable to another attack.

The biggest problem here is that we still have not heard a sufficient explanation from the Department of Homeland Security as to the challenges to implementing exit at all ports.

The New York Times reported that Homeland Security claims that an exit program would cost "tens of billions of dollars" to implement, but we have yet to see a breakdown of these costs or a good faith explanation of what is at stake here.

The Department of Homeland Security has failed to meet their June 2005 statutory requirement to submit a report to Congress describing

(1) the status of biometric exit data systems already in use at ports of entry and

(2) the matter in which US-VISIT is to meet the goal of a comprehensive screening system, with both entry and exit biometric capability.

I am disappointed that the Department of Homeland Security has failed to submit this report and I call on them to expedite this report to Congress.

I hope today that we can have an honest discussion about implementing a workable entry-exit system.

We need straightforward answers to what needs to be done -- now, over ten years after Congress's initial mandate -- to make this program work.

Senator Edward M. Kennedy Statement
Senate Judiciary Committee Hearing on
"US-VISIT: Challenges and Strategies for Securing the U.S. Border"
Tuesday, January 31, 2007

Thank you, Chairman Feinstein, for convening this very important hearing. Strengthening the security of our nation's borders through systems such as U.S. VISIT is a vital part of our ongoing effort to prevent future terrorist attacks. Better border security is necessary to detect and disrupt the activities of drug smugglers and violent criminals. Deployment of biometric identification technology is essential, since potential terrorists often use aliases and obtain false or stolen identification.

However, U.S. VISIT needs to be developed and deployed with proper regard for costs and benefits. Technology is essential, but hiring, training, and retaining personnel are also important. The technology needs to have protections against high rates of false matches or equipment slow-downs that interfere with the entry of lawful travelers and goods. Adding fifteen seconds to each inspection at a land port of entry, for example, can cause delays of many hours at the border.

U.S. VISIT will improve our ability to identify people who overstay their visas. We know, however, that the vast majority of foreign visitors, students, and workers who overstay their visas are not criminals or terrorists. Focusing resources on them will not improve national security. Enhancing our intelligence capabilities will.

Above all, we must live up to our history and heritage as a nation of immigrants. Immigration is part of our national well-being, our identity as a nation, and our strength in today's world. In defending the nation, we are also defending the fundamental constitutional principles that have made America strong in the past and will make us even stronger in the future.

Significant improvement of border security will only come with broad immigration reform. Long experience has proven that all elements of the immigration problem must be dealt with together-- stronger enforcement at the border, stronger enforcement inside the United States, legitimate visas to match willing workers with willing employers, and earned legalization for the millions of undocumented immigrants already living and working in the United States -- or none of them will be solved at all.

As our debates in the last Congress proved, our current immigration system is broken. On Election Day, Americans sent a loud and clear message that it needs to be fixed – comprehensively. In fact, last year the Senate came together – Democrats and Republicans – and did that. We passed a far-reaching immigration reform bill. The American people are calling on us to come together again. They know it's a crisis, and they want action now.

So I welcome this hearing, and I look forward to the testimony of our witnesses on this important issue.

Prepared testimony of Rey Koslowski

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INTRODUCTION

Senator Feinstein and members of the Committee, thank you for the opportunity to submit testimony on the challenges of implementing US-VISIT and possible strategies for increasing border security.

This testimony is primarily based the much more comprehensive report, *Real Challenges for Virtual Borders: The Implementation of US-VISIT* published by the Migration Policy Institute (MPI). I undertook research for the report while in Washington as a Fellow of the Woodrow Wilson International Center for Scholars and during trips to San Diego/Tijuana, and Detroit-Windsor. A draft of my report was presented at an MPI workshop that included relevant Department of Homeland Security (DHS) officials, members of a project advisory board and policy analysts. The final report was released at a June 2005 MPI meeting and it is available at the MPI website. Subsequently, I conducted additional research on border control information technology that involved border crossing visits and interviews with border security officials in Canada, the United Kingdom, Poland, Lithuania, Latvia, Hungary, Austria, Slovenia, Switzerland, Germany, Singapore, Australia and New Zealand. This research has given me some additional insights into efforts to develop automated biometric entry-exit systems like US-VISIT.

The automated entry-exit tracking system at the core of US-VISIT was initially envisioned in 1996 legislation[1] in order to identify visa overstayers and enforce immigration law. After the September 11th attacks, the system that the DHS developed took on a greater counter-terrorism mission and was promoted as such. Even when fully developed and deployed, however, US-VISIT can only be a small part of the counterterrorism toolkit. US-VISIT is becoming an additional obstacle to foreign terrorists wishing to enter the country, but it is unlikely itself to catch many terrorists trying to enter the United States. "Established" terrorists with track records within the intelligence community are unlikely to voluntarily submit their biographical and biometric data at U.S. consulates and ports of entry. "Potential" future terrorists are unlikely to have generated intelligence records that would trigger a watch list hit in the system. There are also many technical, physical, political, and economic challenges to the implementation of US-VISIT, even if only to enforce immigration laws. This testimony will focus on three challenges: 1) multiple missions and high expectations; 2) entry at land borders; 3) exit at land borders. It will then offer four policy options and recommendations: A) reconsider current policy and/or revise implementation expectations; B) use technology appropriate to the task; C) hire more inspectors at border crossing points; D) explore alternative inspection processes.

CHALLENGES

1. Multiple missions and high expectations

According to the DHS, US-VISIT has both immigration law enforcement and antiterrorism missions. There are serious limitations, however, as to what US-VISIT can accomplish with respect to each of these missions. US-VISIT will provide much better visa overstay data, but this data might not be that useful for the apprehension and prosecution of visa overstayers. On the counterterrorism front, it is likely that US-VISIT will only be able to deter or divert terrorists, not catch them. These inherent limitations call into question the ambitiousness of the goals set out for the system and raise the issues of goal prioritization, implementation reconsiderations, and deadline expectations.

An automated entry-exit system can be a very powerful tool to identify visa-overstayers, as Australian experience amply demonstrates. Australian inspectors electronically record the entry of everyone entering Australia (whether a foreigner or Australian citizen), usually with an automated passport reader. Inspectors similarly capture passport data from everyone leaving and the system matches exit records with corresponding entry records. If the system determines that someone has overstayed his or her visa, he or she will be referred to secondary inspection for an interview. If the overstay is more than 28 days, the person is informed that he or she will not be granted a temporary visa to travel to Australia for three years. The Australian border officials have been collecting entry and exit data since 1981 and, due to improvements in data collection, such as automated passport readers at entry and exit, they can now easily determine the number of people who have overstayed their visas (47,500) as well as which countries they come from – the largest number being from the United States (4,940).[2]

The situation in the U.S. has been quite different. Prior to the deployment of US-VISIT, the U.S. had an entry-exit tracking system but it consisted of a paper I-94 form stamped at the port of entry, which was then supposed to be collected by airlines upon departure, given to the Immigration and Naturalization Service (INS), then sent by the INS to a contractor who manually entered the data into the database of the legacy INS Nonimmigrant Information System (NIIS). There are no exit controls at land border crossing points and therefore no systematic collection of I-94 forms. Lost forms, incomplete or inaccurate data entry and exit by land border have meant that the missing exit data corrupted the database, leaving inspectors with no effective way of knowing if individuals had actually overstayed their visas.[3]

US-VISIT can become a powerful immigration law enforcement tool; however, the database must be accurate enough to ensure that the lack of an exit record truly meant that the person in question actually had not left the country. If there were to be repeated errors in the exit data that could be corroborated by other evidence (e.g., an entry stamp in the individual's passport from another country before the individual's U.S. visa expired, combined with boarding passes, home videos documenting the individual's homecoming, etc.), then the entry-exit system could be considered unreliable as a whole and the data it generated not useful for the prosecution of individual cases. If one individual could register an exit of another without being detected by the entry-exit system, it could be susceptible to fraud. Once identified, it is unlikely that a visa

overstayer would remain at the address originally given upon arrival, and even if he or she did, there are a limited number of ICE officers available to find, apprehend, and deport millions of visa overstayers.[4]

Although it is clear that an automated entry-exit system cannot also automatically enforce visa time limitations, such a system constrains the options open to visa overstayers that may, in turn, modify their behavior. Most importantly, individuals may be able to overstay their visas once (not be found and remain in the United States), but it would be very difficult for them to leave the United States, apply for another visa, and overstay again. Without a credible entry-exit system, it has been possible for visa overstayers to not only stay in the United States, but also to travel back and forth. If nothing else, US-VISIT could reduce the total number of visa overstayers in the United States simply by stopping those who have overstayed from returning again.

Alternatively, if deployment of US-VISIT is not paired with increased enforcement of laws prohibiting employment of illegal migrant workers, visa overstayers who are gainfully employed in the U.S. underground economy may simply opt to remain in the United States and not return home so as to not risk being denied entry. Those who obtain a visa in order to enter the United States and work illegally may opt to stay as well. It may have the same effect that increased enforcement at the U.S.-Mexican border has had—turning temporary illegal migrant workers into permanent illegal migrant workers who opt to have their families smuggled into the United States once rather than paying multiple smuggler's fees and repeatedly risking assault, theft, injury, or apprehension on trips back and forth themselves.

Moreover, with the addition of its biometric capabilities, US-VISIT differs fundamentally from the previous, incomplete automated entry-exit system, which was more susceptible to fraud. With the addition of biometrics, the system has been useful in stopping those with records of criminal or immigration violations from entering the United States, some of whom had previously entered the United States repeatedly using aliases and fraudulent documents but whose fingerprints collected upon entry produced watch list hits in IDENT. Moreover, since US-VISIT's biometric capabilities make it more difficult to commit visa fraud; it will most likely deter foreign nationals from attempting it.

With respect to counterterrorism, the DHS has yet to announce the apprehension of a single suspected terrorist with data gathered by US-VISIT (although visa applications have been denied by the State Department due to security watch list checks supported by biometrics). Of course, one can never know how many potential terrorists were deterred. Even if US-VISIT did collect data used to identify a terrorism suspect, law enforcement and intelligence agencies may opt not to make it public, so as not to compromise ongoing investigations.

Terrorists may simply circumvent US-VISIT by crossing borders between points of entry. One stakeholder in the Detroit-Windsor area noted that while CBP is collecting fingerprints from legitimate travelers crossing the Ambassador Bridge, a terrorist could easily take a boat across the Detroit River into the United States undetected just a few miles up- or downstream, mixing in with the thousands of Michigan's recreational boaters. In FY2004, the U.S. Border Patrol apprehended 1.1 million people attempting to cross into the United States between ports of

entry.[5] For every one arrested, it is estimated that several successfully enter. Terrorists could be smuggled into the United States between ports of entry, just as hundreds of thousands of illegal migrants are every year. In Congressional testimony, former Deputy Secretary of Homeland Security James Loy noted that "several Al Qaeda leaders believe operatives can pay their way into the country through Mexico."[6]

Frontline border control officers often compare their task to squeezing a balloon: If you squeeze one end, it expands at the other. Clamping down at one part of the border diverts smugglers and illegal migrants to attempt to cross elsewhere. If one stiffens controls at some ports of entry or eliminates one form of visa and document fraud, smugglers will try others and put new pressures on other systems. US-VISIT will increase the risks for terrorists attempting to enter the United States undetected through ports of entry. Should they not be deterred and persist in their attempts, US-VISIT may divert them into means of entry that pose higher risks of apprehension and/or other harm that disables them and disrupts their plot.

Essentially, US-VISIT is an additional obstacle to foreign terrorists wishing to enter the United States, however, even when fully deployed, it is unlikely itself to catch many terrorists trying to enter the United States. It is unlikely that "established terrorists" who suspect that they may have been under surveillance will willingly provide the biographical and biometric data that may lead to their apprehension. It is unlikely that the data given by "potential terrorists" who have no criminal record and minimal contacts with terrorist organizations will generate a hit on the watch lists that are checked by US-VISIT. Undeterred, "established terrorists" are more likely to try to circumvent US-VISIT, either by fraud using stolen or fraudulent U.S. or Canadian travel documents or fraudulent Mexican border crossing cards, or by crossing between ports of entry.

Much depends on the intelligence, experience, and training of the terrorists. As some of the mistakes and risky behavior of some of the 9/11 hijackers indicate, terrorists, much like other criminals, are not always that smart. US-VISIT may succeed in catching a few of the less competent, but there are still simply too many ways to circumvent or deceive the system for it to be much more than a small part of border control authorities' response to international terrorism.

2. Entry process at land borders

The US-VISIT program completed its rollout at land borders at the end of 2005 and without any appreciable disruptions of traffic flows. It is important to keep in mind, however, that at land borders, enrollment in US-VISIT can be performed in secondary inspection because it is only mandatory for those individuals who require an I-94, and this constitutes only a very small percentage of those crossing land borders.

Enrollment in US-VISIT is only required of those traveling on a regular visa or entering under the Visa Waiver Program. Enrollment in US-VISIT is not required of U.S. citizens, permanent resident aliens, visa-exempt Canadian nationals,[7] or the seven million plus Mexicans with border crossing cards, who together constitute the four largest categories of entries (see Table 1). The DHS has announced that it plans to require US-VISIT enrollment of legal permanent residents and several other categories of aliens. In order to limit the impact on traffic flows, CBP officers

at land border crossings will have discretion as to which permanent residents will be referred to secondary inspection and enrollment in US-VISIT.[8]

Table 1
FY 2002 Entries into the United States (in millions)[9]

	Air	Sea	Land	Totals
U.S. Citizens	33.0	7.4	120.7	161.1
Legal Permanent Residents	4.4	0.2	75.0	79.6
Visa Waiver	13.0	0.3	1.8	15.1
Visa Exempt (Canadians)			52.2	52.2
Regular Visa	19.3	4.5	4.5	28.3
Mexican Border Crossing Card			104.1	104.1
Totals	67.9	12.4	358.3	440.4

In FY2002, regular visa and visa waiver entries constituted only 6.3 million of the 358.3 million total land border entries, or approximately 1.7 percent. If current entry rates follow recent historical patterns, only 1.5 to 2 percent of those people entering the United States over land borders are being enrolled in US-VISIT. Although the challenges of implementing the US-VISIT exit process at land borders is well known, when asked about the exit process, a senior DHS official said, "Exit? I'm not so sure about entry." After closer examination, this skepticism becomes clear.

The challenge of implementing the entry process of US-VISIT at land borders is evident at the country's busiest border crossing, where there would be a significant impact if the percentage of entries requiring US-VISIT were increased beyond single digits. According to a DHS official, on an average day at the San Ysidro, California, port of entry, 53,000 vehicles with drivers and 80,000 passengers enter through twenty-four inbound lanes, together with 20,000 to 30,000 pedestrians, for a total of about 150,000 entries. This official flatly stated that if enrollment in US-VISIT took place in primary inspection and added only ten seconds to each individual crossing, it would "kill operations" and lead to unsustainable backups. Similarly, a stakeholder from the Detroit-Windsor area said that the addition of ten to fifteen seconds to the processing of every driver and passenger entering the United States over the Ambassador Bridge would "shut down the bridge." There were no shutdowns when US-VISIT was deployed at San Ysidro and the Ambassador Bridge at the end of 2004 because enrollment of US-VISIT was accomplished in secondary inspection and required of only a very small percentage of those who entered, and most of these people were already going to secondary for I-94 form processing.

Given exemptions from US-VISIT, it becomes very important to make sure that the Americans, Canadians and Mexicans who are exempted from US-VISIT are in fact who they say they are. At land borders, U.S. citizens may simply make an oral declaration of citizenship to enter. The inspector, using his or her judgment, may allow the person to enter if satisfied with the totality of information available or ask to see a passport or other proof of citizenship, such as a birth certificate. For example, in 2004, I entered the U.S. from Canada as an automobile passenger. The driver told the inspector that we were U.S. citizens and I never spoke. The inspector did not ask the driver or me for proof of citizenship. Similarly, a daring English-speaking illegal migrant (or foreign terrorist) could declare U.S. citizenship to avoid biometric enrollment in US-

VISIT and hope not to be asked for proof of citizenship. In 2004, there were 12,404 individuals making false claims to U.S. citizenship who were intercepted by inspectors when their claims were challenged (see Table 2). There are no available statistics for those, like the driver and myself, who entered with a declaration of U.S. citizenship that went unchallenged.

Table 2
Apprehensions of Persons with False Claims to Citizenship[10]

	FY1999	FY2000	FY2001	FY2002	FY2003	FY2004
False Claims to U.S. Citizenship	27781	31964	30129	15293	12878	12404
False Claims to other Citizenship	1108	787	908	836	269	295

Recognizing this security loophole, the 9/11 Commission recommended ending the so-called "Western Hemisphere exemption" that allows U.S., Canadian and Mexican citizens to cross U.S. land borders without passports. Families of the 9/11 victims pressured Congress to enact these recommendations and the resulting Intelligence Reform and Terrorism Prevention Act of 2004 requires that everyone, including U.S. citizens, be required to have a valid passport or other designated documentary proof of citizenship in order to enter the U.S. beginning January 1, 2008. Members of Congress, particularly from border states, began to argue against the passport requirement, contending that it would impose too great a burden on Americans who have been able to travel to Canada and Mexico without the costs of getting a passport; that the 74% of Americans who do not have a passport would choose not to travel to Canada and Mexico and millions of dollars of cross-border economic activity would be threatened. Senators Patrick Leahy and Ted Stevens added an amendment to the Department of Homeland Security appropriations bill that succeeded in delaying the deadline for implementation of this requirement until June 1, 2009.

Another problem is posed by the 811,000 U.S. passports that have been reported to INTERPOL as lost or stolen.[11] A somewhat less daring English-speaking foreigner could acquire one of these U.S. passports and have his picture inserted then show the passport's outside cover while declaring U.S. citizenship at the border. If demanded by the inspector to verify identity and citizenship, the passport may, or may not, be detected as fraudulent. Although there were 12,599 fraudulent U.S. passports intercepted at ports of entry in 2004 (see table 3), the DHS Inspector General concluded that those attempting to enter the United States with stolen passports are usually admitted, that reports of stolen passports on lookout systems made little difference, and that several blocks of stolen passports have been linked to Al Qaeda.[12]

Table 3
Fraudulent Documents Intercepted at All Ports of Entry[13]

	FY1999	FY2000	FY2001	FY2002	FY2003	FY2004
Alien Registration Cards	33295	34120	26259	14373	14523	16446
Re-entry Permits[14]	1107	153	702	1003	1193	1792
Border Crossing Cards	30797	38650	30419	16265	15604	18587

Nonimmigrant Visas	17965	17417	21127	21275	19137	17934
Immigrant Visas	663	447	597	544	3309	2874
Foreign Passports[15]	14695	15047	15994	10467	6251	9041
U.S. Passports[16]	21196	17703	18925	10892	9956	12599
Total Fraudulent Docs	119718	123537	114023	74819	69973	79273

Those who smuggle migrants though ports of entry conduct their own surveillance and know the realities of the inspection processes extremely well. If certain visa fraud schemes and the use of fraudulent foreign passports are foiled by the biometric screening of US-VISIT, travel documents that enable individuals to pose as U.S., Canadian, and Mexican citizens exempt from US-VISIT become much more useful and valuable to smugglers and terrorists. Passports with film photographs laminated onto the inside cover are easier to alter with substitute photos than current passports with digital photographs and are therefore much more valuable to smugglers. These older passports were issued until April 2002 and are valid for ten years. Tens of thousands of people attempt to enter the United States with fraudulent U.S. passports each year.

Part of the reasoning for exempting those entering the United States with Mexican border crossing cards is that the border crossing cards contain fingerprint biometrics and a photograph, and the biometric data can be read by swiping the card through a reader. Unfortunately, many U.S. ports of entry have not had readers, and the biometric inspection has simply been an inspector comparing the photo on the card to the person presenting it.[17] Border crossing card readers were deployed at the fifty busiest land border crossings by the end of June 2004.[18] According to the DHS inspector general, at most of these land ports of entry readers were only deployed in secondary inspection and border crossing card holders entering though primary inspection "are unlikely" to have their cards scanned.[19] Hence, "biometric verification" still mostly amounts to inspectors "eyeballing" the photograph on border crossing cards and comparing it to the holder, as interviewees at the border noted. "As a result, the entry of (border crossing card) holders is not electronically recorded and their identity is not verified."[20] Tens of thousands of the border crossing cards presented to inspectors are fraudulent.

In order to ensure that enrollment in US-VISIT is not circumvented by deception, it is necessary that those who declare U.S. citizenship are required to present their U.S. passport or other documents to prove it. If, however, inspectors must examine and verify the passports or other proof of citizenship of all the roughly 120 million U.S. citizens that enter through land border crossings, it can easily add ten seconds to the primary inspection of thousands, if not millions of people at already congested ports of entry. Similarly, if all 100 million Mexican border crossing cards must be swiped though a reader to record each entry or if a one-to-one fingerprint match must be made with the person presenting the card, it could have a similar, if not even more negative, impact on throughput at primary inspection. If inspectors inspected the travel documents of every U.S. citizen, permanent resident, and visa-exempt Canadian national as well as swiped every border crossing card, the added seconds to the primary inspection process would cause a significant, cumulative increase in average crossing times at many land border crossings. Therefore, in order to minimize the effect on traffic flows at certain border crossings, it may be necessary to add more entry lanes, booths, and inspectors.

As Geronimo Gutierrez, the undersecretary for North America at the Mexican Secretariat of External Relations, put it, "We have pre-NAFTA infrastructure at our borders."[21] With new data

collection requirements in addition to increasing trade and travel flows, it may become impossible to process visitors and shipments without backing up traffic unless larger secure areas at border crossings are cleared for inspection lanes and booths and more bridges and tunnels are built, especially between the Canada and the United States. Even without the new requirements of US-VISIT, many land ports of entry do not have sufficient space for current operations. Indeed, sixty-four ports of entry have less than 25 percent of the space they require.[22]

At certain ports of entry such as the Detroit-Windsor Tunnel, the busiest passenger crossing on the U.S.-Canada border, there is little space available to expand the number of lanes and booths for secondary or primary inspections. Such physical constraints on expanding existing ports of entry, combined with expectations of increasing trade and travel over the coming decades, has led to many proposals for building additional bridges and tunnels between the United States and Canada, particularly at the Detroit-Windsor crossing. These proposals have been thwarted by the dynamics of not-in-my-backyard (NIMBY) interest group politics, the political maneuvering of the privately-held Ambassador Bridge Company, which seeks to build a new span itself and minimize competition in the meantime, and a lack of political will on the part of state and national governments to raise the taxes necessary to build additional publicly funded bridges. In any event, another crossing is unlikely to be built before 2010, which is not in time to provide increased capacity to handle the increasing throughput demands when all U.S. citizens' documents will have to be checked.

Given the impending requirement that citizens present a passport or other proof of citizenship, the State Department and the DHS announced that they will begin issuing the People Access Security Service (PASS) card, an alternative, less expensive wallet-sized biometric passport card for use by U.S. citizens to cross the U.S. land borders with Canada and Mexico. The new PASS cards are to have Radio Frequency Identification (RFID) chips that can be read 30 feet away and will transmit a unique number. This number will trigger retrieval of the individual's passport data, enable automated watch list screening and this information could be pulled up on the inspector's computer screen as the vehicle arrives at the inspection booth.[23]

Inspection of an RF-enabled PASS card would clearly be faster than inspecting existing passports of all U.S. citizens, however, travelers would still have to stop at the border and inspectors would have to visually verify that the person in front of them matches the passport photo. Moreover, just as it is not clear as to how many of the 120 million U.S. citizens who have entered the U.S. at land borders have done so without their passports being inspected, it is also not clear as to how many of the future entries after the passport requirement goes into effect would be with PASS cards, NEXUS or SENTRI cards as opposed to standard U.S. passports. Finally, the key issue is throughput at certain high volume, low capacity ports of entry that often operate at low thresholds before unacceptable back-ups begin. It is difficult to know what the impact of new passport requirements would have at these border crossing points until the requirements go into effect.

Implementation of the entry process of US-VISIT at land ports of entry does not appear to have disrupted traffic flows very much. Given prevailing travel document inspection practices and current exemptions from US-VISIT enrollment requirements, however, this has not been a very high hurdle. The more difficult challenges at entry have yet to be faced.

3. Exit process at land borders

At most land border crossings there are currently no facilities for outbound inspections. The existing exit data collection at land borders involves those traveling on visas and under the Visa Waiver Program depositing their I-94 forms in drop boxes when they leave, usually at CBP secondary inspection locations on inbound lanes. At San Ysidro, the Detroit-Windsor Tunnel, and the Ambassador Bridge there was no clear signage on outbound lanes instructing an exiting foreigner who wanted to submit his or her I-94 form where to go to deposit the form. At those border crossings in urban areas, the outbound lanes often have very little, if any, room to pull over and park. A persistent, regulation-obeying individual would have to locate and interrupt a CBP officer to find out what to do with the form, and the most visible officers are those working the inbound lanes. At some crossings into Canada—at the Ambassador Bridge, for example—Canadian inspectors will take I-94 forms given to them and send the forms back across the border to be added to the drop box collection. Contactors then enter the information written on the forms into a database, which can be compared to entry records in the Arrival Departure Information System (ADIS), a legacy system component of US-VISIT.

The DHS considered its ability to capture biographical exit data from airline and ship passenger manifests and from the RFID system at land borders in pilot projects at five ports of entry (Nogales East and Nogales West in Arizona; Alexandria Bay in New York; Pacific Highway and Peace Arch in Washington) to be sufficient to meet congressionally mandated deadlines of the Data Management Improvement Act (DMIA) of 2000.

Although biometric data were collected at entry, there was no clear requirement for the collection of biometric exit data until the Intelligence Reform and Terrorism Prevention Act of 2004. According to the new law, "The entry and exit data system shall include a requirement for the collection of biometric exit data for all categories of individuals who are required to provide biometric entry data, regardless of the port of entry where such categories of individuals entered the United States."[24] This means that biometric exit data will need to be collected from not only the approximately thirty-seven million people who enter by air and sea with nonimmigrant visas, or under the Visa Waiver Program, but also the six million people who enter over land borders. It also means that those who submit biometrics to US-VISIT when entering by air or sea must also be able to submit their biometrics at land border exits. Therefore, the existing plan to use RF technology to collect biographical data at exit is not sufficient to meet existing legal requirements for the US-VISIT system. The Intelligence Reform and Terrorism Prevention Act of 2004 also requires that the DHS report to Congress on progress in developing a biometric exit process, the first of which was to be provided by June 2005. A recent GAO report[25] explains in detail that this progress report has yet to be made and that a viable plan for a biometric exit process is not yet in sight.

Although there are currently no exit controls at most U.S. land borders, one could envision exit controls at land borders that would mirror entry controls with the construction of additional lanes and booths, the installation of biometric readers and workstations, and the hiring of inspectors to process departing foreigners and record exit data for US-VISIT. The DHS estimated that the cost of infrastructure improvements necessary for the final increment of US-VISIT would be

approximately $2.9 billion. This figure, however, assumes that no additional lanes would be required for entry and that exit lane requirements would be the same as those for entry.[26] Given the prospects for increased average crossing times and declining throughput at entry discussed above, this is a rather heroic assumption.

As the border community stakeholders who were interviewed made clear, at some border crossings such as the Detroit-Windsor Tunnel, there is little room for secondary inspection of outbound traffic and for additional exit lanes that accommodated primary inspection booths for collection of exit data. Even if only a few vehicles were to be stopped at exit stations, especially at peak traffic times, rows of departing vehicles would quickly back up into the main streets of downtown Detroit. In order to implement a secure exit process, it would be necessary to expand the number of lanes and to build exit booths. However, there are limitations on expanding the physical infrastructure of approaches to bridges and tunnels within the time frame envisioned for the implementation of US-VISIT.

The US-VISIT program has great hopes for using RF technology to expedite travelers through border controls at land border crossings and avoid building extensive exit control infrastructure as well as adding staff. RF-enabled exit controls at land borders that did not include a primary inspection by a DHS officer might save billions of dollars but if US-VISIT were to depend upon RF-enabled exit controls, it may be next to impossible for US-VISIT to achieve its objectives of determining whether someone has overstayed or should be apprehended when leaving because there are limits as to what processes can be securely automated in the collection of exit data. An RF-based exit system may record the exit of an RF-enabled travel document, but one can only be certain that the person exiting with the document is the same person who entered with that document if that person is physically checked against the picture on the document and the biometric on the chip.

According to the US-VISIT Request for Proposals (RFP), "As foreign national travelers leave the United States, their exit will be recorded and, if warranted based on watch list screening results, immediate detainment action will be taken. Entry and exit records will be matched and visa compliance will be determined and maintained along with travel history."[27] The RFP further states, "The Government intends to deploy RF capability at vehicle lanes and use this technology to record biographic entry and exit data for RF-enabled vehicles/passengers"[28] It also states, "The Contractor's exit solution cannot assume that vehicles can be stopped in traffic lanes."[29]

The pilot at the five land ports of entry uses automatic identifiers (a-IDs) to register exits. When a foreign national enters at one of the pilot land ports of entry, he or she goes to secondary inspection to submit biographical and biometric data for I-94 processing and is issued an a-ID. The a-ID has a number that is linked to a database with the traveler's biographical and biometric data. No biographical or biometric data are stored on the a-ID itself. The system then registers entries and exits of the traveler with the a-ID when crossing in a vehicle. Pedestrian entry also includes real-time biographic watch list checks. In a second phase of system deployment, a-ID crossings will pull up biographic and biometric data for vehicle primary inspection.[30] In order for such a system to operate, CBP would need to install RF readers over all exit lanes. The RF readers appear to be similar to those used for EZ-Pass and other automated toll systems, some of which now read RFID tags on cars passing by at fifty-five miles per hour. GAO reported that the

US-VISIT pilot system's ability to read the a-ID in the I-94 form of those exiting, whether by car or on foot, did not reach target ranges, often by very large margins.[31] If drivers and passengers placed their I-94 forms against side windows of vehicles, read rates did improve.

It is hard to envision how an RF system could automatically "check out" holders of automatic identifier cards and RF-enabled biometric passports as they drive through exit lanes and be able to determine whether the person leaving is the same person who arrived. For example, a criminal or terrorist could overstay his visa but be registered as having "checked out" by paying a Canadian national to take his RF-enabled a-ID and exit the United States as a passenger of a car driven through the exit lane into Canada.

To deal with this problem, DHS officials have suggested that a wireless biometric card could be used. As individuals are enrolled in US-VISIT upon entry they would be given an RF-enabled entry-exit card with a wireless fingerprint reader that could transmit a live read of the individual's fingerprint as the person exited so as to verify that the person did indeed leave with the entry-exit card.[32] As drivers and passengers subject to US-VISIT exit requirements cross the land border out of the United States, they would put their finger on the finger scan section of the card as they pass under the RF readers. The reader would collect the data transmitted from the card and the digitized finger scan biometric. The biographical data would be used to register an exit to correspond to the individual's entry and the finger scan biometric would be matched to the finger scan collected upon enrollment to verify the identity of the individual exiting.

Wireless fingerprint readers are becoming increasingly common. They are used in building access control systems, and they are incorporated in wireless computer mice in order to verify the identity of a person accessing a computer. Wireless handheld fingerprint readers are used by CBP inspectors (or contract personnel) to collect biometrics from passengers in the departure lounges of airports and seaports. However, there are no currently available off-the-shelf wireless fingerprint reader cards that are appropriate for the US-VISIT exit process at land borders.[33]

Even if such an RF-enabled exit process can be developed, there is major problem with its practical application. To begin with, it may not be particularly safe for a driver use one hand to hold the steering wheel and the fingerprint reader while pressing a finger from the other hand to capture the biometric while driving past the RFID readers at the border. Moreover, acquiring a readable fingerprint scan often involves careful placement of the finger on the reader and takes several tries. If the fingerprint is not properly read and transmitted and the exit is not recorded, the departing visitor risks being denied entry to the United States in the future. Unless there is some way of transmitting a signal that the finger scan has been read and the data received, people may think that their exits were registered when they in fact were not. US-VISIT airport exit kiosks provide a paper exit receipt. This would not be the case for an RF-enabled exit process in which vehicles would not stop.

The proposed RF-enabled exit process would also be very susceptible to deception by those who wish to register an exit but then overstay their visas. A finger scan reader on a wireless entry-exit card is much more susceptible to "spoofing" than enrollment in US-VISIT at ports of entry. There have been several experiments showing that finger scan readers can be spoofed with fake fingers made of gelatin and other materials.[34] Someone could make a fake finger (following

instructions readily available in articles on the Internet) and have someone drive it over the border while pressed on the finger scan reader of the wireless entry-exit card. Antispoofing techniques include supervised enrollment, enrolling several biometric samples, e.g., two or more fingers instead of one, and multimodal biometrics, e.g., facial and fingerprint.[35] Enrollment in US-VISIT at ports of entry employs all three anti-spoofing techniques while the proposed wireless biometric reader solution utilizes none.

Even if a criminal or terrorism suspect attempted to exit without pressing his finger to the finger scan reader or if the RF system registered a "hit," what could U.S. authorities do if the suspect had already crossed the border into Canada or Mexico, especially if the individual in question holds a Canadian or Mexican passport? Are the enforcement measures in this situation as good as what could be attained with an exit inspection process that was similar to the entry process (i.e., presentation of travel documents to an inspector, identity check based on facial recognition and fingerprint scan, watch list check, and optional secondary inspection)?

It is unlikely that a land border exit process in which the automobile does not stop is viable. At best, an automated, self-service exit station could be envisioned. Individuals could drive up to the exit station; drivers and passengers could use their wireless entry-exit cards to transmit their finger scans to the RF reader. When the exit is recorded, the station would print out paper receipts, and the barrier would lift to allow the car to pass. If the exit generated a lookout hit, the barrier would not raise and CBP officers could pull the vehicle over for secondary inspection. This solution would still be susceptible to deception with fake fingers. The only secure solution would be to require inspector supervised collection of scans of at least two, if not ten, fingers and a digital photo.

POLICY OPTIONS AND RECOMMENDATIONS

A. Reconsider policy and/or revise implementation expectations

Development and deployment of an automated entry-exit system is possible, as Australia and New Zealand proved many years ago. Similarly, full deployment of US-VISIT with entry and exit capability at all U.S. border crossing points is possible, however, it is not clear that the President and Congress have appreciated the total cost of doing so and that they are willing to expend the necessary budgetary resources and political capital to overcome the challenges outlined above.

For example, the Bush Administration has been unwilling to require US-VISIT enrollment of all Canadians and Mexicans entering the U.S., let alone U.S. citizens, and Congress has been unwilling to pass legislation to mandate it. These US-VISIT exemptions open a major security gap in that terrorists could pose as US-VISIT-exempt U.S. citizens who may enter the U.S. without a passport. Due to political pressures generated by border state economic interests, Congress was willing to delay closing this security gap for another one and a half years. U.S. passports cost just under $100 and are valid for ten years. Ten dollars per year is apparently too much for Congress to ask of Americans in order to help plug a big hole in U.S. border security.

Based on current deployment limitations, the implementation challenges still to be addressed, the uncalculated costs for necessary border infrastructure, and the risk that the system, even when fully deployed, may not achieve the counterterrorism objectives envisioned, the President and Congress should consider reassessing their commitments to the US-VISIT program.

If counterterrorism is the primary justification for the system, the President and Congress should reconsider the opportunity costs of US-VISIT deployment in relation to spending on other initiatives and programs dedicated to disrupting terrorist travel such as improving information sharing on stolen passports, better incorporation of stolen passport data into watch lists, intelligence programs to better identify travel document fraud associated with terrorists, and other intelligence measures to identify and disrupt terrorist travel.

If counterterrorism is not the primary justification but reducing visa overstayers is, then the President and Congress should consider the opportunity costs in relation to spending on other forms of immigration law enforcement. Given that most illegal migrants come to the U.S. in order to work (or join family members already working illegally in the U.S.), investing some of the hundreds of millions of dollars currently allocated for US-VISIT into developing an effective employment eligibility verification system and hiring a sufficient number of labor regulation inspectors may enable effective internal enforcement of immigration laws, dry up demand for illegal migrant workers, and reduce the number of visa overstayers much more effectively and economically than attempting to collect exit data at land borders with US-VISIT.

If after such a policy reassessment of the opportunity costs of the US-VISIT system, the President and Congress continue to support the US-VISIT program, they should make a commitment to a full deployment of a complete system that registers all entries and exits, including all U.S. citizens, Canadians, and Mexicans. The system should be highly scalable, and there should be an overabundance of data storage capacity built into the planning and funding of the system—sufficient to store entry and exit data of up to as many as 550 million people per year (the number who entered annually in the late 1990s), and to accommodate ten fingerprints of all of these people, if deemed necessary. An incomplete system that only enrolls a small fraction of entries and an even smaller fraction of exits is too easily circumvented by terrorists and human smugglers alike. It may provide a way for policymakers to reassure the public and demonstrate they are doing something to combat terrorism and illegal migration, but a partially deployed US-VISIT system will not be effective in accomplishing its intended missions. If the President and Congress are not willing to expend the political capital and budgetary resources necessary for full implementation of US-VISIT, it may be better not to further develop it at all.

B. Use technology appropriate to the task

US-VISIT should remain one tool among the many used by CPB inspectors to screen for terrorists, criminals, and immigration law violators. In congressional hearings on US-VISIT, Robert Jacksta, executive director of Border Security and Facilitation, CBP Office of Field Operations, stated, "We do train our inspectors in a number of areas—document fraud, interviewing techniques—and that training is important to make sure that we have a layered approach. We don't count on one specific type of tool to identify individuals. We bring it all

together so that we can respond appropriately."[36] However, there is the old saying that when the only tool you have is a $10 billion hammer, everything begins to look like a nail.

DHS must resist letting US-VISIT become the answer to an increasing range of homeland security problems for which it may not be the optimal tool. This becomes especially tempting as US-VISIT becomes a big budget item that needs to be justified before Congress every year. Moreover, if inspectors increasingly use US-VISIT to make their determinations, a negative feedback loop could develop in which inspectors become overly dependent on biometric scans and automated watch list checks and fail to develop or retain interviewing and document inspection skills. This negative feedback loop could lead to deterioration of human capital in frontline CBP positions in the same way that U.S. intelligence became increasing dependent on satellite imagery over the past decades and human intelligence capabilities deteriorated—to disastrous effect.

C. Hire more inspectors

Congress and the administration should consider authorizing DHS to hire additional inspectors at ports of entry in order to maintain a balance between spending on information technology and human resources. DHS officials often describe technology as a "force multiplier" that can be used to counter terrorism. Many organizations in both the public and private sectors have used similar concepts in arguments for spending on information technology in lieu of hiring new staff or to reduce staff size through automation. US-VISIT deployment should not be considered a "force multiplier" of the existing CBP inspectors that in any way should be considered a substitute for more inspectors.

While Congress has been very keen on authorizing hiring of more Border Patrol agents, it has paid less attention to the staffing needs at ports of entry. For example, the Intelligence Reform and Terrorism Prevention Act of 2004 authorizes increasing the number of full-time Border Patrol agents by 2,000 per year for five years and increasing the number of full-time Immigration and Customs Enforcement investigators by 800 per year for five years, but it does not authorize increasing the number of CBP inspectors at the ports of entry. Moreover, there is anecdotal evidence that many of the most experienced CBP inspectors are being hired by other agencies due to differences in labor contracts and wage scales across DHS and federal law enforcement agencies.

Congress and the President should consider hiring and training more CBP officers at the ports of entry in order to meet increasing demand resulting from the need to physically inspect all travel documents at land borders. If one of the easiest ways for a terrorist to enter the United States is to simply declare U.S. citizenship and have a stolen U.S. passport available for proof of citizenship if contested, then CBP should ensure that all travel documents are as carefully inspected at land borders as they are at airports and seaports. It would be just as easy, if not easier, for a terrorist with a stolen U.S. passport to fly to Tijuana instead of San Diego or Windsor instead of Detroit and then cross the land border into the United States as a pedestrian or a passenger of car or bus.

With respect to staffing, a bit of international comparative perspective may be useful. Table 4 provides a rough comparison of U.S. Bureau of Customs and Border Protection staffing with that

of several European countries. CBP staffing is quite modest compared to border control agencies of other advanced industrialized countries with large-scale immigration flows such as Germany, especially in relation to the length of their respective land borders and traveler flows through border crossing points.

Table 4
Border Control Agency Staffing

Country	U.S.	Germany	Poland
Area (in square miles)	3,794,083	137,846	120,728
Land borders (in miles)	7,521	2,263	1,742
Border crossing points	341[37]	428[38]	154[39]
Entries (annual estimates)	440,000,000	218,000,000[40]	100,000,000[41]
Total staff (approx.)	41,000	40,000	16,000[42]
Staff per mile of land border	5.5	17.7	9.2
Staff per border crossing point	120	93	104
Entries per staff member	10,732	5,450	6,250

CBP has 40,828 employees,[43] of whom 10,739 are Border Patrol agents[44] and 18,000 are CBP officers at ports of entry.[45] This is roughly equivalent to the size of Germany's *Bundesgrenzschutz* (Federal Border Police), now *Bundespolizei* (Federal Police), with 40,000 employees (30,000 of whom are officers, with 21,000 stationed at border crossing points).[46] Although Germany has more border crossing points than the U.S., it is important to keep in mind when that Germany is much smaller than the U.S. (about the size of Montana) and many of these crossing points are small operations that are very close to other larger ports of entry and can have minimal staffing with readily available backup, if needed. Also, of Germany's 161 land border crossing points, 74 are with Switzerland, which joined the Schengen Convention in 2004 and were lightly staffed, if at all, even before then. All of Germany's members are members are now Schengen countries and, as the convention is implemented, border controls at all land border crossings will be lifted. More important for port of entry operations is the flow of travelers entering the country. While the U.S. has the greatest number of entries, Germany has about half the number, at 218 million, with roughly the same overall staffing capabilities. At 100 million, Poland has less than a quarter of the flow of the U.S. yet almost 40% of U.S. staffing capabilities. Meanwhile, due to their much shorter land borders, there is less need for staffing between ports of entry in Poland and Germany. While CBP is responsible for inspecting the entry of many more travelers and for patrolling many more miles of border between ports of entry than that of Germany and Poland, the border control staffing capabilities of just these two countries, not mention the entire European Union, significantly exceed that of the U.S.

D. Explore alternative inspection options

The physical limitations of US-VISIT implementation imposed by deficient land border crossing infrastructure, particularly at bridges and tunnels in binational urban areas, may be partially overcome by intensified international law enforcement cooperation. Instead of building exit booths and staffing them with CBP officers to conduct primary exit inspections, Canadian border control officers could simultaneously conduct their entry inspections together with U.S. exit inspections, so-called "reversed inspections." Canadian officers would collect biographical and biometric data and enter that exit data into US-VISIT.[47]

Canada and the United States have already shared in infrastructure development at two ports of entry (Oroville, Washington, and Sweetgrass, Montana) and have agreed to a land preclearance pilot project at the Buffalo-Fort Erie Peace Bridge that will move all U.S. primary and secondary inspections to the Canadian side of the bridge. A similar reversed inspection arrangement could be envisioned with Mexico; however, Mexican immigration authorities do not inspect all vehicles and individuals crossing into Mexico from the United States at land ports of entry, but do so further in the interior. For Canadian and Mexican officials to assume responsibility for the US-VISIT exit process, it would require significant cost sharing and a high level of mutual trust. Nevertheless, it may be the best, if not the only, secure option short of building and staffing an exit infrastructure comparable to the existing entry infrastructure.

CONCLUSION

It is not clear that US-VISIT's potential benefits justify the necessary investments in border infrastructure and human resources to make it work as envisioned or that the President and Congress are willing to expend sufficient political capital to overcome these barriers.

If the President and Congress are willing to do so, then the Congress must work with the DHS to identify and fund critical border infrastructure improvements, appropriate funding for a sufficient expansion of CBP inspector staffing at ports of entry and US-VISIT program personnel, and raise sufficient revenue to pay for all of it. The President must lead by advocating tax increases or borrowing to fund the program and assertively clear local obstacles to building new border crossings and expanding existing border infrastructure.

If the political will is lacking to undertake some potentially very expensive and unpopular measures necessary for effective deployment of US-VISIT, it may be better to scale back the requirements—and expectations—of the program rather than develop a problem-ridden, partially deployed system that cannot accomplish the unrealistic goals set out for it.

The deployment of new screening systems that citizens can see in operation may increase their sense of security. These new systems may also provide examples of what the government is doing to protect its citizens. However, if these new systems are not complete, if they are easily countered or bypassed by the determined terrorist, they may end up providing more of a sense of security to citizens than actually making them more secure. Policymakers are often reluctant to ask their own citizens to sacrifice—to wait longer for proper inspections at borders, to pay more for international travel, to submit biometrics for more secure travel documents. It is much easier to envision a technological solution and promise that it will have little, if any, impact on citizens' lives and pocketbooks. It is not yet clear what US-VISIT will be able to accomplish, but this largely depends on the willingness of Congress and the President to ask the American people to make a few sacrifices.

ENDNOTES:

[1] *Illegal Immigration Reform and Immigrant Responsibility Act of 1996,* section 110.a.1, "Automated Entry-Exit Control System," U.S. Congressional Record—House (September 28, 1996): H11787.
[2] As of June 30, 2005. Australian Government, Department of Immigration and Multicultural Affairs, *Population Flows: Immigration Aspects, 2004-05 edition*, p. 77.
[3] Statement of Michael R. Bromwich before the House Judiciary Committee, Subcommittee on Immigration and Claims, March 18, 1999.
[4] Senate Judiciary Committee Report, submitted with *The Border Improvement and Immigration Act of 1998,* Senate Report 105-197, pp. 14-16.
[5] See Immigration Monthly Statistical Report, September 2004 Year End Report, Southwest Border Apprehensions, http://uscis.gov/graphics/shared/aboutus/statistics/msrsep04/SWBORD.HTM.
[6] James Loy, "Statement of Deputy Secretary Admiral James Loy on the World Wide Threat," U.S. Senate Select Committee on Intelligence, February 16, 2005.
[7] Canadian nationals entering the United States for short stays are exempt from most visa requirements and also from US-VISIT; however, those who are entering the United States on a visa are required to be enrolled in US-VISIT.
[8] *Federal Register*, Vol. 71, No 144, July 27, 2006, pp. 42605-42611.
[9] "Request for Proposals for US-VISIT Program Prime Contractor Acquisition," RFP no. HSSCHQ-04-R-0096, US-VISIT Office, Department of Homeland Security, November 28, 2003, p. 12.
[10] Source: INS Form G-22.1.
[11] INTERPOL Presentation, Border Security 2006, Warsaw Poland, May 9-10, 2006.
[12] "A Review of the Use of Stolen Passports from Visa Waiver Countries to Enter the United States," Department of Homeland Security, Office of Inspector General, OIG-05-07, December 2004.
[13] Source: INS Form G-22.1.
[14] and refugee travel documents.
[15] and citizenship documents.
[16] and citizenship documents.
[17] James Ziglar, testimony, "U.S.-Mexican Relations: The Unfinished Agenda," hearing before the Subcommittee on Western Hemisphere, Peace Corps, and Narcotics Affairs of the Senate Committee on Foreign Relations, April 16, 2002.
[18] See US-VISIT FAQs: Land Borders, http://www.dhs.gov/dhspublic/interapp/editorial/editorial_0447.xml.
[19] "Implementation of the United States Visitor and Immigrant Status Indicator Technology Program at Land Border Ports of Entry," Office of Inspector General, Department of Homeland Security, OIG-05-11, February 2005, p. 17.
[20] Ibid.
[21] Geronimo Gutierrez,"Remarks by Germonimo Gutierrez, Mexican Secretariat of External Relations," *North American Integration: Migration, Trade, and Security* Institute for Research on Public Policy, Ottawa, April 1-2, 2004.
[22] "Data Management Improvement Act (DMIA) Task Force Second Annual Report to Congress," Department of Homeland Security, 2003.

[23] US Department of State, Passport Card Stock and Printer Supply Procurement Request for Information, October 27, 2006.
[24] *The Intelligence Reform and Terrorism Prevention Act of 2004,* House Report 108-796, Section 7208 (d).
[25] "US-VISIT Program Faces Strategic, Operational, and Technological Challenges at Land Ports of Entry," General Accountability Office, December 2006, GAO-07-248.
[26] Randolf C. Hite, testimony for oversight hearing, "US VISIT—A Down Payment on Homeland Security," House Committee on the Judiciary, March 18, 2004.
[27] "Request for Proposals for US-VISIT Program Prime Contractor Acquisition," op. cit., 9.
[28] Ibid., 118.
[29] Ibid., 121.
[30] *Final Environmental Assessment, US-VISIT Increment 2C Proof of Concept at Select Ports of Entry*, Department of Homeland Security, April 13, 2005, p. 3.
[31] "US-VISIT Program Faces Strategic, Operational, and Technological Challenges at Land Ports of Entry," General Accountability Office, December 2006, GAO-07-248, Appendix VII, Table 5, p. 85.
[32] As described by Robert Jacksta, executive director, Border Security and Facilitation, CBP, in his presentation "Smart Borders: The Implementation of US-VISIT and other Biometric Control Systems," Alexandria, VA, October 26-27, 2004.
[33] This was the information provided by representatives of the biometric industry present at "Smart Borders: The Implementation of US-VISIT and other Biometric Control Systems," Alexandria, VA, October 26-27, 2004.
[34] See T. Van der Putte and J. Keuning, "Biometrical Fingerprint Recognition: Don't Get Your Fingers Burned," *Proceedings of the Fourth Working Conference on Smart Card Research and Advanced Applications* (Kluwer Academic Publishers: 2000); T. Matsumoto, et. al. "Impact of Artificial 'Gummy' Fingers on Fingerprint Systems," Proceedings of SPIE 4677 (January 2002).
[35] S.A.C. Schuckers, "Spoofing and Anti-spoofing Measures," *Information Security Technical Report* 7, no. 4 (2002), 56-62.
[36] Robert Jacksta, answer to question posed at a hearing of the Committee of the Judiciary, Subcommittee on Immigration, Border Security and Claims, March 18, 2004.
[37] There are 327 official ports of entry in the United States and 14 preclearance offices in Canada and the Caribbean. See CBP: http://www.cbp.gov/xp/cgov/toolbox/contacts/ports/
[38] European Commission, Proposal for a Council Regulation establishing a Community Code on the rules governing the movement of persons across borders,
COM(2004) 391, final 2004/0127 (CNS), Brussels, 26.5.2004.
[39] *Ibid.*
[40] This estimate is arrived at taking roughly one half of Germany's total entries and exits: 436,580,484, as reported in *Bundesgrenzschutz Jahresbericht 2002.* P. 28.
[41] Author's interview with senior Polish Guard official, May 12, 2006.
[42] William J. Kole, "EU expansion to isolate poor neighbors," *Seattle Times*, April 11, 2004.
[43] "Budget in Brief, Fiscal Year 2006," DHS, op. cit., 23.
[44] Ibid., 27.
[45] See Deborah Waller Meyers, *One Face at the Border: Behind the Slogan*, Migration Policy Institute, June 2005.

[46] Although roughly comparable, the *Bundesgrenzschutz* is not composed of the same array of functions as the CBP in that it also includes the Federal Railway Police (the U.S. counterpart would be Amtrak Police), but it does not include customs inspectors, which CBP does. See "*Grenzschutz Aufgaben*" at: http://www.bundesgrenzschutz.de/Aufgaben/index.php.
[47] This had been recommended in the DMIA Task Force's first Report to Congress, p. 37.

United States Government Accountability Office

GAO

Testimony before the Subcommittee on Terrorism, Technology, and Homeland Security, Committee on the Judiciary, U.S. Senate

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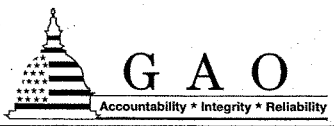
BORDER SECURITY

US-VISIT Program Faces Strategic, Operational, and Technological Challenges at Land Ports of Entry

Statement of Richard M. Stana, Director
Homeland Security and Justice Issues



GAO-07-378T

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Highlights

Highlights of GAO-07-378T, a report to a testimony before the Subcommittee on Terrorism, Technology, and Homeland Security, Committee on the Judiciary, U.S. Senate

Why GAO Did This Study

This testimony summarizes a December 2006 GAO report on the Department of Homeland Security's (DHS) efforts to implement the U.S. Visitor and Immigrant Status Indicator Technology (US-VISIT) program at land ports of entry (POEs). US-VISIT is designed to collect, maintain, and share data on selected foreign nationals entering and exiting the United States at air, sea, and land POEs. These data, including biometric identifiers like digital fingerprints, are to be used to screen persons against watch lists, verify identities, and record arrival and departure. This testimony addresses DHS's efforts to (1) implement US-VISIT entry capability, (2) implement US-VISIT exit capability, and (3) define how US-VISIT fits with other emerging border security initiatives. GAO analyzed DHS and US-VISIT documents, interviewed program officials, and visited 21 land POEs with varied traffic levels on both borders.

What GAO Recommends

GAO recommended that DHS improve management controls for US-VISIT, develop performance measures to assess the impact of US-VISIT at land POEs, and ensure that a statutorily mandated report describes how DHS will move to a biometric entry/exit capability and align US-VISIT with emerging land border security initiatives. DHS generally agreed and said that it has begun to or plans to implement GAO's recommendations.

www.gao.gov/cgi-bin/getrpt?GAO-07-378T

To view the full product, including the scope and methodology, click on the link above. For more information, contact Richard Stana at (202) 512-8777 or stanar@gao.gov.

January 2007

BORDER SECURITY

US-VISIT Program Faces Strategic, Operational, and Technological Challenges at Land Ports of Entry

What GAO Found

US-VISIT entry capability had been installed at 154 of the 170 land POEs. Officials at all 21 sites GAO visited reported that US-VISIT had improved their ability to process visitors and verify identities. DHS plans to further enhance US-VISIT's capabilities by, among other things, requiring new technology and equipment for scanning all 10 fingerprints (see photo, below left). While this may aid border security, installation could increase processing times and adversely affect operations at land POEs where space constraints, traffic congestion, and processing delays already exist. GAO's work indicated that management controls in place to identify such problems and evaluate operations were insufficient and inconsistently administered. For example, GAO identified computer processing problems at 12 sites visited; at 9 of these, the problems were not always reported. US-VISIT has developed performance measures, but measures to gauge factors that uniquely affect land POE operations were not developed; these would put US-VISIT officials in a better position to identify areas for improvement.

US-VISIT officials concluded that, for various reasons, a biometric US-VISIT exit capability cannot now be implemented without incurring a major impact on land POE facilities. An interim nonbiometric exit technology tested (see photo, below right) did not meet the statutory requirement for a biometric exit capability and thus cannot ensure that visitors who enter the country are those who leave. DHS had not yet reported to Congress on a required plan describing how it intended to fully implement a biometric entry/exit program or use nonbiometric solutions. Until this plan is finalized, neither DHS nor Congress is in a good position to prioritize and allocate program resources or plan for POE facilities modifications.

DHS had not articulated how US-VISIT is to align with other emerging land border security initiatives and mandates, and thus could not ensure that the program would meet strategic program goals and operate cost effectively at land POEs. Knowing how US-VISIT is to work with these initiatives, such as one requiring U.S. citizens, Canadians, and others to present passports or other documents at land POEs in 2009, is important for understanding the broader strategic context for US-VISIT and identifying resources, tools, and potential facility modifications needed to ensure success.

US-VISIT entry capability set up with computer and camera (left); nonbiometric exit identification readers mounted over highway (right)

Source: GAO.

Chairman Feinstein and Members of the Subcommittee:

I appreciate the opportunity to be here today to provide a summary of our December 2006 report[1] on the challenges facing the Department of Homeland Security (DHS) as it implements United States Visitor and Immigrant Status Indicator Technology (US-VISIT) at land ports of entry (POE).[2]

In the years since the 2001 terrorist attacks, the need to secure U.S. borders has taken on added importance and has received increasing attention from Congress and the public. In an effort to avoid repetition of such attacks, and improve overall national security, Congress and the Administration have sought better ways to record and track the entry and departure of foreign visitors who pass through U.S. POEs by air, land, or sea; to verify their identities; and to authenticate their travel documentation. Pursuant to several statutory mandates, DHS, in consultation with the Department of State, established an automated visitor system to integrate information on the entry and exit from the United States of foreign nationals, called the US-VISIT Program. According to DHS, the purpose of US-VISIT is to enhance the security of U.S. citizens and visitors, facilitate legitimate travel and trade, ensure the integrity of the U.S. immigration system, and protect visitors' privacy. The program is managed by the US-VISIT Program Office, which is headed by the US-VISIT Director, who currently reports to the DHS Deputy Secretary. US-VISIT is used in the field by officers with U.S. Customs and Border Protection (CBP), a separate DHS component.

US-VISIT is designed to use biographic information (e.g., name, nationality, and date of birth) and biometric information (e.g., digital fingerprint scans and photographs) to verify the identity of those covered by the program. The program applies to certain visitors whether they hold

[1] GAO, *Border Security: US-VISIT Program Faces Strategic, Operational, and Technological Challenges at Land Ports of Entry*, GAO-07-248 (Washington, D.C.: December 2006), which is the publicly available version of our report entitled *Border Security: US-VISIT Program Faces Strategic, Operational, and Technological Challenges at Land Ports of Entry*, GAO-07-56SU (Washington, D.C.: November 2006).

[2] A port of entry is generally a physical location, such as a pedestrian walkway and/or a vehicle plaza with booths, and associated inspection and administration buildings, at a land border crossing point, or a restricted area inside an airport or seaport, where entry into the country by persons and cargo arriving by air, land, or sea is controlled by U.S Customs and Border Protection.

a nonimmigrant visa or are traveling from a country that has a visa waiver agreement with the United States under the Visa Waiver Program.[3] U.S. citizens, lawful permanent residents, and most Canadian and Mexican[4] citizens are currently exempt from being processed under US-VISIT upon entering and exiting the country.[5] When foreign nationals subject to US-VISIT arrive at a land POE, they are directed by CBP officers from the primary inspection area to the secondary inspection area for further processing. Visitors covered by US-VISIT who are determined to be admissible are issued an I-94 arrival/departure form, which, among other things, records their date of arrival and the date their authorized period of admission expires. The requirement that arriving nonimmigrants admitted to the United States, unless otherwise exempted, be issued a Form I-94 as evidence of the terms of their admission predates implementation of US-VISIT and was incorporated into US-VISIT processing.[6]

Many aspects of US-VISIT program implementation have been driven or defined by various legislative mandates. These include a 2001 statutory requirement to focus particularly on the use of biometric technology in developing the integrated entry-exit system subsequently named US-VISIT; a 2002 statutory requirement to develop biometric identifier standards to be used to verify the identity of persons seeking to enter the United States at POEs; and a requirement to install at all POEs equipment and software

[3] The Visa Waiver Program enables nationals of certain countries to travel to the United States for tourism or business for stays of 90 days or less without obtaining a visa. Most western European countries participate in this program, along with Japan, Singapore, Australia, Brunei, and New Zealand.

[4] To visit the United States, Mexican citizens generally need either a Mexican passport and U.S. visa, or a Border Crossing Card (BCC), which is issued to Mexican visitors who wish to enter the country for business or pleasure for no more than 6 months. The BCC contains machine-readable biographic and biometric information. Mexican citizens with BCCs who are traveling within 25 miles of the border, (75 miles in Arizona, if entering through certain POEs near Tucson) and who plan to stay no more than 30 days, are generally not subject to US-VISIT processing upon entry. A Mexican citizen is subject to US-VISIT requirements, however, if a CBP officer determines that the entrant intends to stay more than 30 days or travel beyond the 25- or 75-mile limit.

[5] On July 27, 2006, DHS issued a Notice of Proposed Rulemaking that, if finalized, would expand the scope of US-VISIT to include, among others, lawful permanent residents, aliens seeking admission on immigrant visas, refugees and asylees, and certain categories of Canadians. DHS did not report how many additional persons would be covered by US-VISIT if the rule was adopted.

[6] Visitors traveling on nonimmigrant visas are issued Form I-94 and visitors from Visa Waiver Program countries are issued Form I-94W. Both forms show the date of arrival, port of entry, and date the authorized period of admission expires.

to allow biometric comparison and authentication of U.S. visas and other travel and entry documents issued to aliens, as well as Visa Waiver Program participant passports. In addition, by law, an integrated entry and exit data system was to be implemented at all U.S. POEs, including land POEs, by December 31, 2005, but there was no specific requirement to collect any new data on foreign nationals departing at land POEs by that date. The Intelligence Reform and Terrorism Prevention Act of 2004, on the other hand, did require the collection of biometric exit data for all individuals subject to US-VISIT, but it did not set a deadline for implementation of this requirement.

This statement presents a summary of our December 2006 report on the US-VISIT program, which was requested by the Chairman and Ranking Minority Member of the House Homeland Security Committee and Congressmen Filner, Grijalva, Hinojosa, Ortiz, and Reyes. My testimony today provides a summary of our report and will focus on the following issues:

- what the US-VISIT Program Office has done to implement US-VISIT entry capabilities at land POEs and what impact US-VISIT has had on these facilities,
- the status of US-VISIT Program Office efforts to implement a US-VISIT exit capability at land POE facilities, and
- what DHS has done to define how US-VISIT fits with other emerging border security initiatives.

Summary

US-VISIT entry capability had been installed, as of November 2006, at 154 of the 170 land POEs. Officials at all 21 sites we visited reported that US-VISIT had improved their ability to process visitors and verify identities. DHS plans to further enhance US-VISIT's capabilities by, among other things, requiring new technology and equipment for scanning all 10 fingerprints. While this may aid border security, installation could increase processing times and adversely affect operations at land POEs where space constraints, traffic congestion, and processing delays already exist. We found that management controls in place to identify such problems and evaluate operations were insufficient and inconsistently administered. For example, we identified computer processing problems at 12 sites visited; at 9 of these, the problems were not always reported to CBP's computer help desk, as required by CBP guidelines. US-VISIT has developed performance measures, but measures to gauge factors that

uniquely affect land POE operations were not developed; these would put US-VISIT officials in a better position to identify areas for improvement.

Our December 2006 report also stated that US-VISIT officials had concluded that, for various reasons, a biometric US-VISIT exit capability cannot be implemented without incurring a major impact on land POE facilities. According to these officials, implementing a biometrically based exit recording system like that used to record those entering or re-entering the country is potentially costly (an estimated $3 billion in 2003), would require new infrastructure, and would produce major traffic congestion because travelers would have to stop their vehicles upon exit to be processed—an option officials consider unacceptable. US-VISIT officials stated that they believe technological advances over the next 5 to 10 years will enable the biometric verification of persons exiting the country without a major impact on facilities. The US-VISIT Program Office has tested radio frequency identification (RFID) technology as a nonbiometric means of recording visitors as they exit. RFID technology can be used to electronically identify and gather information contained on a tag—in this case, a unique identifying number embedded in a tag on a visitor's arrival/departure form—which an electronic reader at the POE is intended to detect. While RFID technology required few facility and infrastructure changes, US-VISIT's initial testing and analysis of this technology identified numerous performance and reliability problems, such as the failure of RFID readers to detect a majority of travelers' tags during testing. Furthermore, the RFID solution did not meet the statutory requirement for a biometric exit capability because the technology as tested cannot meet a key goal of US-VISIT—ensuring that visitors who enter the country are the same ones who leave. Specifically, the RFID tag in the visitor's arrival/departure form cannot be physically tied to an individual, which means that while a document may be detected as leaving the country, the person to whom it was issued at time of entry may be somewhere else. By statute, DHS was to have reported to Congress by June 2005 on how it intended to fully implement a comprehensive, biometric entry/exit program, but DHS had not yet reported how it intended to do so, or use nonbiometric solutions. Until this plan is finalized, neither DHS nor Congress is in a good position to prioritize and allocate program resources, including funds for any facility modifications that might be needed, plan for the program's future, or consider trade-offs between traveler convenience and security.

DHS had not articulated how US-VISIT is to strategically fit with other land border security initiatives and mandates and could not ensure that these programs work in harmony to meet mission goals and operate cost

effectively. As we reported 3 years ago, agency programs need to properly fit within a common strategic context governing key aspects of program operations, such as what functions are to be performed, what facility or infrastructure changes will be needed to ensure that they operate in harmony and as intended, and what standards govern the use of technology.[7] DHS had drafted a strategic plan defining an overall immigration and border management strategy, but had not yet approved it, and did not provide it to us for review. Meanwhile, new border security initiatives or mandates are planned or under way that could potentially have an impact on US-VISIT operations and facilities at land POEs. For example, no later than June 2009, U.S. citizens and foreign nationals of Canada, Bermuda, and Mexico who enter the United States at land POEs from within the Western Hemisphere will be required, for the first time, to present a passport or other documents deemed sufficient to show identity and citizenship. It is not yet known what types of documents, other than passports, may be permitted at land POEs, or whether these documents and the equipment required to read them can be aligned with US-VISIT technologies. Until decisions for this and other initiatives are made, it remains unclear how this program will be integrated with US-VISIT, if at all—raising the possibility that CBP would be faced with managing differing technology platforms and border inspection processes at each land POE. Knowing how US-VISIT is to work in concert with other border security and homeland security initiatives and what facility or facility modifications might be needed could help Congress, DHS, and others better understand what resources and tools are needed to ensure success and ensure that land POE facilities are positioned to accommodate them.

We made three recommendations to enhance the US-VISIT program at land POEs. Specifically, with respect to entry capability our report recommended that DHS (1) improve existing controls for identifying and reporting computer processing and other operational problems to help ensure that these controls are consistently administered and (2) develop performance measures specifically for assessing the impact of US-VISIT operations at land POEs. With respect to the mandated report to Congress, we recommended that the Secretary take steps to ensure that it includes, among other things, (1) information on the costs, benefits, and feasibility of deploying biometric and nonbiometric exit capabilities at land POEs; and (2) a description of how DHS plans to align US-VISIT with other

[7] GAO, *Homeland Security: Risks Facing Key Border and Transportation Security Program Need to Be Addressed*, GAO-03-1083 (Washington, D.C.: Sept. 19, 2003).

emerging land border security initiatives to ensure that different technologies and processes work in harmony. DHS generally agreed and said that it has already begun or plans to implement our recommendations.

Background

US-VISIT is a large, complex governmentwide program intended to

- collect, maintain, and share information on certain foreign nationals who enter and exit the United States;
- identify foreign nationals who (1) have overstayed or violated the terms of their visit; (2) can receive, extend, or adjust their immigration status; or (3) should be apprehended or detained by law enforcement officials;
- detect fraudulent travel documents, verify visitor identity, and determine visitor admissibility through the use of biometrics (digital fingerprints and a digital photograph); and
- facilitate information sharing and coordination within the immigration and border management community.

The US-VISIT Program Office has responsibility for managing the acquisition, deployment, operation, and sustainment of US-VISIT and has been delivering US-VISIT capability incrementally based, in part, on statutory deadlines for implementing specific portions of US-VISIT. For example, the statutory deadline for implementing US-VISIT at the 50 busiest land POEs was December 31, 2004, and at the remaining POEs, December 31, 2005.[8] From fiscal year 2003 through fiscal year 2007, total funding for the US-VISIT program has been about $1.7 billion.

In reports on US-VISIT over the last 3 years, we have identified numerous challenges that DHS faces in delivering program capabilities and benefits on time and within budget. In September 2003, we reported that the US-VISIT program is a risky endeavor, both because of the type of program it is (large, complex, and potentially costly) and because of the way that it was being managed.[9] We reported, for example, that the program's acquisition management process had not been established, and that US-

[8] See appendix I for a legislative overview of the US-VISIT program.

[9] GAO-03-1083.

VISIT lacked a governance structure. In March 2004, we testified that DHS faces a major challenge maintaining border security while still welcoming visitors. Preventing the entry of persons who pose a threat to the United States cannot be guaranteed, and the missed entry of just one can have severe consequences. Also, US-VISIT is to achieve the important law enforcement goal of identifying those who overstay or otherwise violate the terms of their visas. Complicating the achievement of these security and law enforcement goals are other key US-VISIT goals: facilitating trade and travel through POEs and providing for enforcement of U.S. privacy laws and regulations.[10] Subsequently, in May 2004, we reported that DHS had not employed the kind of rigorous and disciplined management controls typically associated with successful programs.[11] Moreover, in February 2006, we reported that while DHS had taken steps to implement most of the recommendations from our 2003 and 2004 reports, progress in critical areas had been slow.[12] As of February 2006, of 18 recommendations we made since 2003, only 2 had been fully implemented, 11 had been partially implemented, and 5 were in the process of being implemented, although the extent to which they would be fully carried out is not yet known.

US-VISIT Scope, Operations, and Processing at Land POEs

Currently, US-VISIT's scope includes the pre-entry, entry, status, and exit of hundreds of millions of foreign national travelers who enter and leave the United States at over 300 air, sea, and land POEs. However, most land border crossers—including U.S. citizens, lawful permanent residents, and most Canadian and Mexican citizens—are, by regulation or statute, not

[10] GAO, *Homeland Security: Risks Facing Key Border and Transportation Security Program Need to Be Addressed*, GAO-04-569T (Washington, D.C.: March 2004).

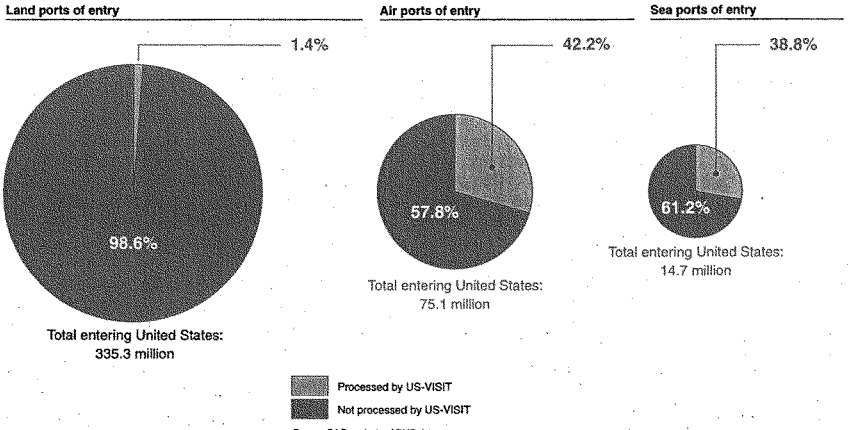
[11] GAO, *Homeland Security: First Phase of Visitor and Immigration Status Program Operating, but Improvements Needed*, GAO-04-586 (Washington, D.C.: May 2004).

[12] GAO, *Homeland Security: Recommendations to Improve Key Border Security Programs Need to Be Implemented*, GAO-06-296 (Washington, D.C.: February 2006).

required to enroll into US-VISIT.[13] In fiscal year 2004, for example, U.S. citizens and lawful permanent residents constituted about 57 percent of land border crossers; Canadian and Mexican citizens constituted about 41 percent; and less than 2 percent were US-VISIT enrollees. Figure 1 shows the number and percentage of persons processed under US-VISIT as a percentage of all border crossings at land, air, and sea POEs in fiscal year 2004.

[13] Since the statute governing US-VISIT applies to foreign national arrival and departure data only, U.S. citizens do not fall within the scope of the program and therefore are exempt from US-VISIT screening. Also, in general, regardless of whether they are to be processed into US-VISIT, Mexican citizens must present either a passport and visa or a BCC when seeking admission to the United States, while Canadian citizens generally do not need such documents at this time (Canadian visitors at land POEs may need passports as early as January 2008, however, under regulations implementing a new statutory provision on passport requirements). According to US-VISIT, when a Mexican receives a BCC, the data on the individual entered into U.S. databases at the time of their visa application are accessible by US-VISIT—if they are to be processed into it for any reason.

Figure 1: Persons Processed under US-VISIT as a Percentage of All Border Crossings at Land, Air, and Sea Ports of Entry, Fiscal Year 2004



Source: GAO analysis of DHS data.

Note: Persons processed by US-VISIT may include foreign nationals who were also issued an I-94 valid for multiple entries and who have re-entered multiple times. Total entering the United States includes U.S. citizens who may have re-entered the country multiple times and foreign nationals, including those not issued I-94s, such as Canadian citizens and Mexicans with BCCs, and those issued multiple entry I-94s who also may have re-entered multiple times. U.S. citizens do not fall within the statutory scope of US-VISIT and therefore are exempt from US-VISIT screening.

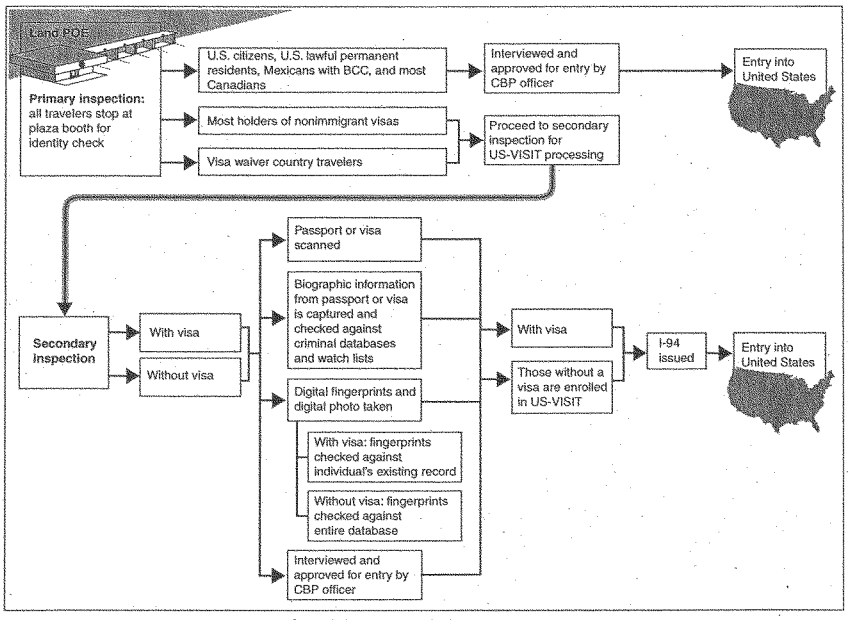
Foreign nationals subject to US-VISIT who intend to enter the country encounter different inspection processes at different types of POEs depending on their mode of travel. Those who intend to enter the United States at an air or sea POE are to be processed, for purposes of US-VISIT, in the primary inspection area upon arrival. Generally, these visitors are subject to prescreening, before they arrive, via passenger manifests, which are forwarded to CBP by commercial air or sea carrier in advance of

arrival.[14] By contrast, foreign nationals intending to enter the United States at land POEs are generally not subject to prescreening because they arrive in private vehicles or on foot and there is no manifest to record their pending arrival. Thus, when foreign nationals subject to US-VISIT arrive at a land POE in vehicles, they initially enter the primary inspection area where CBP officers, often located in booths, are to visually inspect travel documents and query the visitors about such matters as their place of birth and proposed destination. Visitors arriving as pedestrians enter an equivalent primary inspection area, generally inside a CBP building. If the CBP officer believes a more detailed inspection is needed or if the visitors are required to be processed under US-VISIT,[15] the visitors are to be referred to the secondary inspection area—an area away from the primary inspection area—which is generally inside a facility. The secondary inspection area inside the facility generally contains office space, waiting areas, and space to process visitors, including US-VISIT enrollees. Equipment used for US-VISIT processing includes a computer, printer, digital camera, and a two-fingerprint scanner. Figure 2 shows how U.S. citizens and most Mexicans, Canadians, and foreign nationals subject to US-VISIT are to be processed at land POEs.

[14] Under the Enhanced Border Security and Visa Entry Reform Act of 2002 (Pub. L. No. 107-173, § 402(a), 116 Stat. 543, 557-59), commercial air and sea carriers are to transmit crew and passenger manifests to appropriate immigration officials before arrival of an aircraft or vessel in the United States. These manifests are transmitted to CBP through the Advanced Passenger Information System (APIS), which helps officers identify (1) those arrivals for which biometric data are available and (2) foreign nationals who need to be scrutinized more closely.

[15] At land border POEs, the Form I-94 issued to foreign nationals covered by US-VISIT who are deemed admissible is considered issued for multiple entries, unless specifically annotated otherwise. A multiple entry I-94 permits them to re-enter the country, generally for up to 6 months, without additional US-VISIT processing during the period covered by the I-94.

Figure 2: Overview of US-VISIT Processing at Land POEs for Visitors with and without Visas Entering the Country



Sources: GAO (analysis), MapArt (map).

As of August 2006, there were 170 land POEs that are geographically dispersed along the nation's more than 7,500 miles of borders with Canada and Mexico. Some are located in rural areas (such as Alexandria Bay, New York, and Blaine-Pacific Highway, Washington) and others in cities (such as Detroit) or in U.S. cities across from Mexican cities, such as Laredo and El Paso, Texas. The volume of visitor traffic at these POEs varied widely, with the busiest four POEs characterized by CBP, in fiscal year 2005, as

San Ysidro, Calexico, and Otay Mesa, California, and Bridge of the Americas in El Paso, Texas.

DHS Had Installed US-VISIT Biometric Entry Capability at Nearly All Land POEs, but Faces Challenges Identifying and Monitoring the Operational Impacts on POE Facilities

My statement will now focus on what the US-VISIT Program Office had done to implement US-VISIT entry capabilities at land POEs and what impact US-VISIT has had on these facilities.

At the time of our review, DHS had installed the entry portion of US-VISIT at 154 of the nation's 170 land POEs,[16] usually with minimal new construction or changes to existing facilities. As required by law, the US-VISIT entry capability includes biometric features—such as digital scans of 2 fingerprints—to help verify the identity of visitors. CBP officials at all 21 land POEs we visited told us that US-VISIT's entry capability has generally enhanced their ability to process visitors subject to US-VISIT by providing assurance that visitors' identities can be confirmed through biometric identifiers and by automating the paperwork associated with processing I-94 arrival/departure forms.

Going forward, DHS plans to introduce changes and enhancements to US-VISIT at land POEs intended to further bolster CBP's ability to verify the identity of individuals entering the country, including a transition from digitally scanning 2 fingerprints to scanning 10. While such changes are intended to further enhance border security, deploying them may have an impact on aging and space-constrained land POE facilities because they could increase inspection times and adversely affect POE operations. Our site visits, interviews with US-VISIT and CBP officials, and the work of others suggest that both before and after US-VISIT entry capability was installed at land POEs, these facilities faced a number of challenges—operational and physical—including space constraints complicated by the logistics of processing high volumes of visitors and associated traffic congestion. Moreover, our work over the past 3 years showed that the US-VISIT program office had not taken necessary steps to help ensure that US-VISIT entry capability operates as intended. For example, in February 2006 we reported that the approach taken by the US-VISIT Program Office to evaluate the impact of US-VISIT on land POE facilities focused on changes in I-94 processing time at 5 POEs and did not examine other

[16] US-VISIT was not installed at 14 of the 16 other POEs because visitors subject to US-VISIT are not permitted to enter the country at those locations; at the other 2 POEs, DHS lacked the infrastructure needed to install the equipment.

operational factors, such as US-VISIT's impact on physical facilities or work force requirements.[17] As a result, program officials did not always have the information they needed to anticipate problems that occurred, such as problems processing high volumes of visitors in space-constrained facilities.

Turning to another aspect of our work on US-VISIT entry capability, our December 2006 report stated that management controls did not always alert US-VISIT and CBP to operational problems. Our standards for internal controls in the federal government state that it is important for agencies to have controls in place to help ensure that policies and procedures are applied and that managers be made aware of problems so that that they can be addressed and resolved in a timely fashion.[18] CBP officials at 12 of 21 land POE sites we visited told us about US-VISIT-related computer slowdowns and freezes that adversely affected visitor processing and inspection times, and at 9 of the 12 sites, computer processing problems were not always reported to CBP's computer help desk, as required by CBP guidelines. Although various controls are in place to alert US-VISIT and CBP officials to problems as they occur, these controls did not alert officials to all problems, given that they had been unaware of the problems we identified before we brought them to their attention. These computer processing problems have the potential to not only inconvenience travelers because of the increased time needed to complete the inspection process, but to compromise security, particularly if CBP officers are unable to perform biometric checks—one of the critical reasons US-VISIT was installed at POEs.

Our internal control standards also call for agencies to establish performance measures throughout the organization so that actual performance can be compared to expected results. While the US-VISIT Program Office established performance measures for fiscal years 2005 and 2006 intended to gauge performance of various aspects of US-VISIT at air, sea, and land POEs in the aggregate, performance measures specifically for land POEs had not been developed. It is important to do so, given that there are significant operational and facility differences among

[17] GAO-06-296.

[18] GAO, *Internal Control: Standards for Internal Control in the Federal Government*, GAO/AIMD-00-21.3.1 (Washington, D.C.: November 1999) and GAO, *Internal Control Standards: Internal Control Management and Evaluation Tool*, GAO-01-1008G (Washington, D.C.: August 2001).

these different types of POEs. Additional performance measures that consider operational and facility differences at land POEs would put US-VISIT program officials in a better position to identify problems, trends, and areas needing improvements.

DHS Cannot Currently Implement a Biometric US-VISIT Exit Capability at Land POEs and Faces Uncertainties as Testing of an Alternative Exit Strategy Continues

My statement will now focus on the challenges facing DHS as it attempts to implement a biometric exit capability at land POEs.

Various Factors Have Prevented US-VISIT from Implementing a Biometric Exit Capability

Various factors have prevented US-VISIT from implementing a biometric exit capability. Federal laws require the creation of a US-VISIT exit capability using biometric verification methods to ensure that the identity of visitors leaving the country can be matched biometrically against their entry records.[19] However, according to officials at the US-VISIT Program Office and CBP and US-VISIT program documentation, there are interrelated logistical, technological, and infrastructure constraints that have precluded DHS from achieving this mandate, and there are cost factors related to the feasibility of implementation of such a solution. The major constraint to performing biometric verification upon exit at this time, in the US-VISIT Program Office's view, is that the only proven technology available would necessitate mirroring the processes currently in use for US-VISIT at entry. A mirror image system for exit would, like one for entry, require CBP officers at land POEs to examine the travel documents of those leaving the country, take fingerprints, compare visitors' facial features to photographs, and, if questions about identity arise, direct the departing visitor to secondary inspection for additional

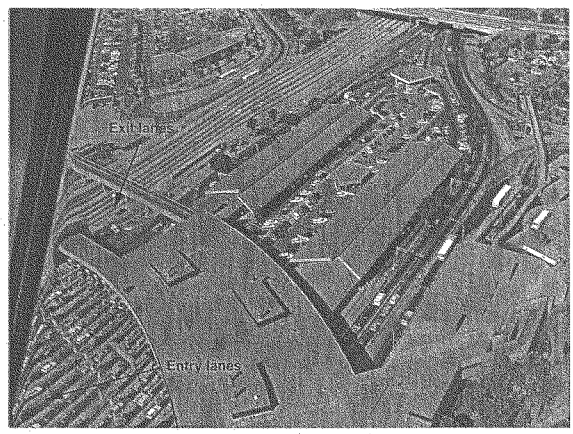
[19] Intelligence Reform and Terrorism Prevention Act of 2004, § 7208, 8 U.S.C. § 1365b. See also USA PATRIOT Act, Pub. L. No. 107-56, § 414(b)(1), 115 Stat. 272, 353 (2001); 8 U.S.C. § 1365a(b)(2)-(4).

questioning. These steps would be carried out for exiting pedestrians as well as for persons exiting in vehicles. The US-VISIT Program Office concluded in January 2005 that the mirror-imaging solution was "an infeasible alternative for numerous reasons, including but not limited to, the additional staffing demands, new infrastructure requirements, and potential trade and commerce impacts."[20]

US-VISIT officials told us that they anticipated that a biometric exit process mirroring that used for entry could result in delays at land POEs with heavy daily volumes of visitors. And they stated that in order to implement a mirror image biometric exit capability, additional lanes for exiting vehicles and additional inspection booths and staff would be needed, though they had not determined precisely how many. According to these officials, it is unclear how new traffic lanes and new facilities could be built at land POEs where space constraints already exist, such as those in congested urban areas. (For example, San Ysidro, California, currently has 24 entry lanes, each with its own staffed booth and 6 unstaffed exit lanes. Thus, if full biometric exit capability were implemented using a mirror image approach, San Ysidro's current capacity of 6 exit lanes would have to be expanded to 24 exit lanes.) As shown in figure 3, based on observations during our site visit to the San Ysidro POE, the facility is surrounded by dense urban infrastructure, leaving little, if any, room to expand in place. Some of the 24 entry lanes for vehicle traffic heading northward from Mexico into the United States appear in the bottom left portion of the photograph, where vehicles are shown waiting to approach primary inspection at the facility; the 6ix exit lanes (traffic toward Mexico), which do not have fixed inspection facilities, are at the upper left.

[20] US-VISIT, *Increment 2C Operational Alternatives Assessment—FINAL* (Rosslyn, Virginia: Jan. 31, 2005).

Figure 3: Aerial View of San Ysidro, California, POE



Source: GAO.

Other POE facilities are similarly space-constrained. At the POE at Nogales-DeConcini, Arizona, for example, we observed that the facility is bordered by railroad tracks, a parking lot, and industrial or commercial buildings. In addition, CBP has identified space constraints at some rural POEs. For example, the Thousand Islands Bridge POE at Alexandria Bay, New York, is situated in what POE officials described as a "geological bowl," with tall rock outcroppings potentially hindering the ability to expand facilities at the current location. Officials told us that in order to accommodate existing and anticipated traffic volume upon entry, they are in the early stages of planning to build an entirely new POE on a hill about a half-mile south of the present facility. CBP officials at the Blaine-Peace Arch POE in Washington state said that CBP also is considering whether to relocate and expand the POE facility, within the next 5 to 10 years, to better handle existing and projected traffic volume. According to the US-VISIT program officials, none of the plans for any expanded, renovated, or relocated POE include a mirror image addition of exit lanes or facilities comparable to those existing for entry.

In 2003, the US-VISIT Program Office estimated that it would cost approximately $3 billion to implement US-VISIT entry and exit capability at land POEs where US-VISIT was likely to be installed and that such an effort would have a major impact on facility infrastructure at land POEs. We did not assess the reliability of the 2003 estimate. The cost estimate did not separately break out costs for entry and exit construction, but did factor in the cost for building additional exit vehicle lanes and booths as well as buildings and other infrastructure that would be required to accommodate a mirror imaging at exit of the capabilities required for entry processing. US-VISIT program officials told us that they provided this estimate to congressional staff during a briefing, but that the reaction to this projected cost was negative and that they therefore did not move ahead with this option. No subsequent cost estimate updates had been prepared, and DHS's annual budget requests have not included funds to build the infrastructure that would be associated with the required facilities.

US-VISIT officials stated that they believe that technological advances over the next 5 to 10 years will make it possible to utilize alternative technologies that provide biometric verification of persons exiting the country without major changes to facility infrastructure and without requiring those exiting to stop and/or exit their vehicles, thereby precluding traffic backup, congestion, and resulting delays. US-VISIT's report assessing biometric alternatives noted that although limitations in technology currently preclude the use of biometric identification because visitors would have to be stopped, the use of the as yet undeveloped biometric verification technology supports the long-term vision of the US-VISIT program.[21] However, no such technology or device currently exists that would not have a major impact on facilities. The prospects for its development, manufacture, deployment, and reliable utilization are currently uncertain or unknown, although a prototype device that would permit a fingerprint to be read remotely without requiring the visitor to come to a full stop is under development.

While logistical, technical, and cost constraints may prevent implementation of a biometrically based exit technology for US-VISIT at this time, it is important to note that there currently is not a legislatively mandated date for implementation of such a solution. The Intelligence

[21] US-VISIT, *Increment 2C Operational Alternatives Assessment—FINAL* (Rosslyn, Virginia: Jan. 31, 2005).

Reform and Terrorism Prevention Act of 2004 requires US-VISIT to collect biometric exit data from all individuals who are required to provide biometric entry data.[22] The act did not set a deadline, however, for requiring collection of biometric exit data from all individuals who are required to provide biometric entry data. Although US-VISIT had set a December 2007 deadline for implementing exit capability at the 50 busiest land POEs, US-VISIT has since determined that implementing exit capability by this date is no longer feasible, and a new date for doing so has not been set.

The US-VISIT Program Office Tested Nonbiometric Technology to Record Travelers' Departure, but Identified Numerous Performance and Reliability Problems

US-VISIT has tested nonbiometric technology to record travelers' departure, but testing showed numerous performance and reliability problems. Because there is at present no biometric technology that can be used to verify a traveler's exit from the country at land POEs without also making major and costly changes to POE infrastructure and facilities, US-VISIT tested radio frequency identification (RFID) technology as a nonbiometric means of recording visitors as they exit. RFID technology can be used to electronically identify and gather information contained on a tag—in this case, a unique identifying number embedded in a tag on a visitor's arrival/departure form—which an electronic reader at the POE is intended to detect. While RFID technology required few facility and infrastructure changes, US-VISIT's testing and analysis at five land POEs at the northern and southern borders identified numerous performance and reliability problems, such as the failure of RFID readers to detect a majority of travelers' tags during testing. For example, according to US-VISIT, at the Blaine-Pacific Highway test site, of 166 vehicles tested during a 1-week period, RFID readers correctly identified 14 percent—a sizable departure from the target read rate of 70 percent.[23]

Another problem that arose was that of cross-reads, in which multiple RFID readers installed on poles or structures over roads, called gantries, picked up information from the same visitor, regardless of whether the individual was entering or exiting in a vehicle or on foot. Thus, cross-reads

[22] 8 U.S.C. § 1365b(d).

[23] A US-VISIT program official explained that for vehicles exiting during RFID testing, one could "reasonably expect" a read rate of 70 percent because vehicles are not required to stop upon exit. The official also cited vehicle speed, safety, and awareness (of optimal positioning of the arrival/departure form; for example, holding the form up to the window of the vehicle) as factors that affected RFID read rates.

resulted in inaccurate record keeping. According to a January 2006 US-VISIT corrective-action report, remedying cross-reads would require changes to equipment and infrastructure on a case-by-case basis at each land POE, because each has a different physical configuration of buildings, roadways, roofs, gantries, poles, and other surfaces against which the signals can bounce and cause cross-reads. Each would therefore require a different physical solution to avoid the signal interference that triggers cross-reads. Although cost estimates or time lines had not been developed for such alterations to facilities and equipment, it is possible that having to alter the physical configuration at each land POE in some regard and then test each separately to ensure that cross-reads had been eliminated would be both time consuming and potentially costly, in terms of changes to infrastructure and equipment.

However, even if RFID deficiencies were to be fully addressed and deadlines set, questions remain about DHS's intentions going forward. For example, the RFID solution did not meet the congressional requirement for a biometric exit capability because the technology that had been tested cannot meet a key goal of US-VISIT—ensuring that visitors who enter the country are the same ones who leave. By design, an RFID tag embedded in an I-94 arrival/departure form cannot provide the biometric identity-matching capability that is envisioned as part of a comprehensive entry/exit border security system using biometric identifiers for tracking overstays and others entering, exiting, and re-entering the country. Specifically, the RFID tag in the I-94 form cannot be physically tied to an individual. This situation means that while a document may be detected as leaving the country, the person to whom it was issued at time of entry may be somewhere else.

Our report also noted that DHS was to have reported to Congress by June 2005 on how the agency intended to fully implement a biometric entry/exit program. As of October 2006, this plan was still under review in the Office of the Secretary, according to US-VISIT officials. According to statute, this plan is to include, among other things, a description of the manner in which the US-VISIT program meets the goals of a comprehensive entry and exit screening system—including both biometric entry and exit—and fulfills statutory obligations imposed on the program by several laws enacted between 1996 and 2002.[24] Until such a plan is finalized and issued, DHS is not able to articulate how entry/exit concepts will fit together—

[24] 8 U.S.C. §1365b(c)(2)(E).

including any interim nonbiometric solutions—and neither DHS nor Congress is positioned to prioritize and allocate resources for a US-VISIT exit capability or plan for the program's future.

DHS Had Not Articulated How US-VISIT Strategically Fits with Other Land Border Security Initiatives

My statement will now focus on DHS efforts to define how US-VISIT fits with other emerging border security initiatives.

DHS had not articulated how US-VISIT strategically fits with other land border security initiatives. In recent years, DHS has planned or implemented a number of initiatives aimed at securing the nation's borders. In September 2003, we reported that agency programs need to properly fit within a common strategic context governing key aspects of program operations—e.g., what functions are to be performed by whom; when and where they are to be performed; what information is to be used to perform them; what rules and standards will govern the application of technology to support them; and what facility or infrastructure changes will be needed to ensure that they operate in harmony and as intended.[25] We further stated that DHS had not defined key aspects of the larger homeland security environment in which US-VISIT would need to operate. For example, certain policy and standards decisions had not been made, such as whether official travel documents would be required for all persons who enter and exit the country, including U.S. and Canadian citizens, and how many fingerprints would be collected—factors that could potentially increase inspection times and ultimately increase traveler wait times at some of the higher volume land POE facilities. To minimize the impact of these changes, we recommended that DHS clarify the context in which US-VISIT is to operate. Our December 2006 report noted that, 3 years later, defining this strategic context remained a work in progress. Thus, the program's relationships and dependencies with other closely allied initiatives and programs were still unclear.

According to the US-VISIT Chief Strategist, the Program Office drafted in March 2005 a strategic plan that showed how US-VISIT would be strategically aligned with DHS's organizational mission and also defined an overall vision for immigration and border management.[26] According to this

[25] GAO-03-1083.

[26] In commenting on our December 2006 report, DHS stated that this plan includes US-VISIT's draft response to the legislative requirement that DHS produce a report to Congress by June 2005 that describes a comprehensive US-VISIT entry/exit screening system, as discussed earlier in this report.

official, the draft plan provided for an immigration and border management enterprise that unified multiple internal departmental and other external stakeholders with common objectives, strategies, processes, and infrastructures. As of October 2006, we were told that DHS had not approved this strategic plan. This draft plan was not available to us, and it is unclear how it would provide an overarching vision and road map of how all these component elements can at this time be addressed given that critical elements of other emerging border security initiatives have yet to be finalized.

For example, under the Intelligence Reform and Terrorism Prevention Act of 2004, DHS and the Department of State are to develop and implement a plan, no later than June 2009, which requires U.S. citizens and foreign nationals of Canada, Bermuda, and Mexico to present a passport or other document or combination of documents deemed sufficient to show identity and citizenship to enter the United States (this is currently not a requirement for these individuals entering the United States via land POEs from within the Western Hemisphere).[27] This effort, known as the Western Hemisphere Travel Initiative (WHTI), was first announced in 2005, and some members of Congress and others have raised questions about agencies' progress carrying out WHTI. In May 2006, we issued a report that provided our observations on efforts to implement WHTI along the U.S. border with Canada.[28] We stated that DHS and the Department of State had taken some steps to carry out the Travel Initiative, but they had a long way to go to implement their proposed plans, and time was slipping by. Among other things, we found that

- key decisions had yet to be made about what documents other than a passport would be acceptable when U.S. citizens and citizens of Canada enter or return to the United States—a decision critical to making decisions about how DHS is to inspect individuals entering the

[27] In November 2006, DHS and the Department of State issued a final rule announcing that, beginning on January 23, 2007, citizens of the United States, Canada, Mexico, and Bermuda generally are required to present a passport to enter the United States when arriving by air from any part of the Western Hemisphere (8 C.F.R. Parts 212 and 235 and 22 C.F.R. Parts 41 and 53). According to DHS, a separate proposed rule addressing land and sea travel will be published at a later date with specific requirements for travelers entering the United States through land and sea POEs. By law, these new requirements are to be in place no later than June 2009.

[28] GAO, *Observations on Efforts to Implement the Western Hemisphere Travel Initiative on the U.S. Canadian Border*, GAO-06-741R (Washington, D.C.: May 25, 2006).

country, including what common facilities or infrastructure might be needed to perform these inspections at land POEs, and

- a DHS and Department of State proposal to develop an alternative form of passport, called a PASS card, would rely on RFID technology to help DHS process U.S. citizens re-entering the country, but DHS had not made decisions involving a broad set of considerations that included (1) utilizing security features to protect personal information, (2) ensuring that proper equipment and facilities are in place to facilitate crossings at land borders, and (3) enhancing compatibility with other border crossing technology already in use.

As of September 2006, DHS had still not finalized plans for changing the inspection process and using technology to process U.S. citizens and foreign nationals of Canada, Bermuda, and Mexico re-entering or entering the country at land POEs. In the absence of decisions about the strategic direction of both programs, it was unclear (1) how the technology used to facilitate border crossings under the Travel Initiative would be integrated with US-VISIT technology, if at all, and (2) how land POE facilities would have to be modified to accommodate both programs to ensure efficient inspections that do not seriously affect wait times. This raises the possibility that CBP would be faced with managing differing technology platforms and border inspection processes at high-volume land POEs facilities that, according to DHS, already face space constraints and congestion.

Similarly, our December 2006 report noted that it is not clear how US-VISIT is to operate in relation to another emerging border security effort, the Secure Border Initiative (SBI)—a comprehensive DHS initiative, announced last year, to secure the country's borders and reduce illegal migration. Under SBI and its CBP component, called SBI*net*, DHS plans to use a systems approach to integrate personnel, infrastructures, technologies, and rapid response capability into a comprehensive border protection system. DHS reports that, among other things, SBI*net* is to encompass both the northern and southern land borders, including the Great Lakes, under a unified border control strategy whereby CBP is to focus on the interdiction of cross-border violations between the ports and at the official land POEs and funnel traffic to the land POEs. As part of SBI, DHS also plans to focus on interior enforcement—disrupting and dismantling cross border crime into the interior of the United States while locating and removing aliens who are present in the United States in violation of law. Although DHS has published some information on SBI and SBI*net*, it remains unclear how SBI*net* will be linked, if at all, to US-

VISIT so that the two systems can share technology, infrastructure, and data across programs.

Also, given the absence of a comprehensive entry and exit system, questions remain about what meaningful data US-VISIT may be able to provide other DHS components, such as Immigration and Customs Enforcement (ICE), to ensure that DHS can, from an interior enforcement perspective, identify and remove foreign nationals covered by US-VISIT who may have overstayed their visas. In a May 2004 report, we stated that although no firm estimates were available, the extent of overstaying is significant.[29] We stated that most long-term overstays appeared to be motivated by economic opportunities, but a few had been identified as terrorists or involved in terrorist-related activities. Notably, some of the September 11 hijackers had overstayed their visas. We further reported that US-VISIT held promise for identifying and tracking overstays as long as it could overcome weaknesses matching visitors' entry and exit.

Conclusions, Recommendations, and Agency Response

Developing and deploying complex technology that records the entry and exit of millions of visitors to the United States, verifies their identities to mitigate the likelihood that terrorists or criminals can enter or exit at will, and tracks persons who remain in the country longer than authorized is a worthy goal in our nation's effort to enhance border security in a post-9/11 era. But doing so also poses significant challenges; foremost among them is striking a reasonable balance between US-VISIT's goals of providing security to U.S. citizens and visitors while facilitating legitimate trade and travel.

DHS has made considerable progress making the entry portion of the US-VISIT program at land POEs operational, but our work raised questions whether DHS has adequately assessed how US-VISIT has affected operations at land POEs. Because US-VISIT will likely continue to have an impact on land POE facilities as it evolves—especially as new technology and equipment are introduced—it is important for US-VISIT and CBP officials to have sufficient management controls for identifying and reporting potential computer and other operational problems that could affect the ability of US-VISIT entry capability to operate as intended. For example, if disruptions to US-VISIT computer operations are not

[29] GAO, *Overstay Tracking A Key Component of Homeland Security and a Layered Defense*, GAO-04-82 (Washington, D.C.: May 2004).

consistently and promptly reported and resolved, it is possible that a critical US-VISIT function—notably, the ability to use biometric information to confirm visitors' identities through various databases—could be disrupted, as has occurred in the past. The need to avoid disruptions to biometric verification is important given that one of the primary goals of US-VISIT is to enhance the security of U.S. citizens and visitors, and in light of the substantial investment DHS has made in US-VISIT technology and equipment. To help DHS achieve benefits commensurate with its investment in US-VISIT at land POEs and security goals and objectives, we recommended that DHS (1) improve existing controls for identifying and reporting computer processing and other operational problems to help ensure that these controls are consistently administered and (2) develop performance measures specifically for assessing the impact of US-VISIT operations at land POEs.

With respect to DHS's effort to create an exit verification capability, developing and deploying this capability at land POEs has posed a set of challenges that are distinct from those associated with entry. US-VISIT has not determined whether it can achieve, in a realistic time frame, or at an acceptable cost, the legislatively mandated capability to record the exit of travelers at land POEs using biometric technology. Apart from acquiring new facilities and infrastructure at an estimated cost of billions of dollars, US-VISIT officials have acknowledged that no technology now exists to reliably record travelers' exit from the country, and to ensure that the person leaving the country is the same person who entered, without requiring that person to stop upon exit—potentially imposing a substantial burden on travelers and commerce. US-VISIT officials stated that they believe a biometrically based solution that does not require those exiting the country to stop for processing, that minimizes the need for major facility changes, and that can be used to definitively match a visitor's entry and exit will be available in 5 to 10 years. In the interim, it remains unclear how DHS plans to proceed. According to statute, DHS was required to report more than a year ago on its plans for developing a comprehensive biometric entry and exit system, but DHS has yet to finalize this road map for Congress. Until DHS finalizes such a plan, neither Congress nor DHS is likely to have sufficient information as a basis for decisions about various factors relevant to the success of US-VISIT, ranging from funding needed for any land POE facility modifications in support of the installation of exit technology to the trade-offs associated with ensuring traveler convenience while providing verification of travelers' departure consistent with US-VISIT's national security and law enforcement goals. We recommended that as DHS finalizes the mandated report, the Secretary take steps to ensure that the report includes, among other things, information on the

costs, benefits, and feasibility of deploying biometric and nonbiometric exit capabilities at land POEs. Our recommendation also stated that DHS's report should include a description of how DHS plans to align US-VISIT with other emerging land border security initiatives and what facilities or facility modifications would be needed at land POEs to ensure that different technologies and processes work in harmony. By showing how these initiatives are to be aligned, Congress, DHS, and others would be in a better position to understand what resources and tools are needed to ensure success and ensure that land POE facilities are positioned to accommodate them.

DHS generally agreed with our recommendations and stated that it either had begun to take or was planning to take actions to implement them. It acknowledged that the exit technology tested by DHS would not satisfy statutory requirements for a biometric exit system and said that it would perform research and industry outreach to satisfy the mandate. DHS, however, disagreed with our finding that the US-VISIT Program Office did not fully consider the impact of US-VISIT on the overall operations at POEs. It said that US-VISIT impacts are limited to changes in Form I-94 processing time, which according to officials, improved, and that issues related to capacity, staffing, and other factors are "arguably" beyond the scope of US-VISIT. We agree that the approach taken to do operational assessments of the impact of US-VISIT land POE facilities focused on changes to I-94 processing time. Our concern is that the assessments did not examine other operational factors, such as US-VISIT's impact on physical facilities, to help ensure that US-VISIT operates as intended. We believe more complete assessments of the impact of US-VISIT on land POE operations would better position DHS to anticipate potential problems and develop solutions, especially as additional US-VISIT capabilities, such as 10-fingerprint scanning, are introduced at these facilities.

This concludes my prepared testimony. I would be happy to respond to any questions that Members of the Subcommittee may have.

GAO Contact and Staff Acknowledgements

For further information about this testimony, please contact me at (202) 512-8816. John Mortin, Assistant Director; Amy Bernstein; Frances Cook; Odi Cuero; Richard Hung; Amanda Miller; James R. Russell; and Jonathan Tumin made key contributions to this testimony.

Appendix I: Legislative Overview of the US-VISIT Program

The Illegal Immigration Reform and Immigrant Responsibility Act of 1996 originally required the development of an automated entry and exit control system to collect a record of departure for every alien departing the United States and match the record of departure with the record of the alien's arrival in the United States; make it possible to identify nonimmigrants who remain in the country beyond the authorized period; and not significantly disrupt trade, tourism, or other legitimate cross-border traffic at land border ports of entry. It also required the integration of overstay information into appropriate databases of the Immigration and Naturalization Service and the Department of State, including those used at ports of entry and at consular offices. The system was originally to be developed by September 30, 1998; this deadline was changed to October 15, 1998, and was changed again for land border ports of entry and sea ports to March 30, 2001.

The Immigration and Naturalization Service Data Management Improvement Act (DMIA) of 2000 replaced the 1996 statute in its entirety, requiring instead an electronic system that would provide access to and integrate alien arrival and departure data that are authorized or required to be created or collected under law, are in an electronic format, and are in a database of the Department of Justice or the Department of State, including those created or used at ports of entry and at consular offices. The act specifically provided that it not be construed to permit the imposition of any new documentary or data collection requirements on any person for the purpose of satisfying its provisions, but it further provided that it also not be construed to reduce or curtail any authority of the Attorney General (now Secretary of Homeland Security) or Secretary of State under any other provision of law. The integrated entry and exit data system was to be implemented at airports and seaports by December 31, 2003, at the 50 busiest land ports of entry by December 31, 2004, and at all remaining ports of entry by December 31, 2005.

The DMIA also required that the system use available data to produce a report of arriving and departing aliens by country of nationality, classification as an immigrant or nonimmigrant, and date of arrival in and departure from the United States. The system was to match an alien's available arrival data with the alien's available departure data, assist in the identification of possible overstays, and use available alien arrival and departure data for annual reports to Congress. These reports were to include the number of aliens for whom departure data were collected during the reporting period, with an accounting by country of nationality; the number of departing aliens whose departure data were successfully matched to the alien's arrival data, with an accounting by country of

nationality and classification as an immigrant or nonimmigrant; the number of aliens who arrived pursuant to a nonimmigrant visa, or as a visitor under the visa waiver program, for whom no matching departure data have been obtained as of the end of the alien's authorized period of stay, with an accounting by country of nationality and date of arrival in the United States; and the number of identified overstays, with an accounting by country of nationality.

In 2001, the USA PATRIOT Act provided that, in developing the integrated entry and exit data system under the DMIA, the Attorney General (now Secretary of Homeland Security) and Secretary of State were to focus particularly on the utilization of biometric technology and the development of tamper-resistant documents readable at ports of entry. It also required that the system be able to interface with law enforcement databases for use by federal law enforcement to identify and detain individuals who pose a threat to the national security of the United States. The PATRIOT Act also required by January 26, 2003, the development and certification of a technology standard, including appropriate biometric identifier standards, that can be used to verify the identity of persons applying for a U.S. visa or persons seeking to enter the United States pursuant to a visa for the purposes of conducting background checks, confirming identity, and ensuring that a person has not received a visa under a different name. This technology standard was to be the technological basis for a cross-agency, cross-platform electronic system that is a cost-effective, efficient, fully interoperable means to share law enforcement and intelligence information necessary to confirm the identity of persons applying for a U.S. visa or persons seeking to enter the United States pursuant to a visa. This electronic system was to be readily and easily accessible to consular officers, border inspection agents, and law enforcement and intelligence officers responsible for investigation or identification of aliens admitted to the United States pursuant to a visa. Every 2 years, beginning on October 26, 2002, the Attorney General (now Secretary of Homeland Security) and the Secretary of State were to jointly report to Congress on the development, implementation, efficacy, and privacy implications of the technology standard and electronic database system.

The Enhanced Border Security and Visa Entry Reform Act of 2002 required that, in developing the integrated entry and exit data system for the ports of entry under the DMIA, the Attorney General (now Secretary of Homeland Security) and Secretary of State implement, fund, and use the technology standard required by the USA PATRIOT Act at U.S. ports of entry and at consular posts abroad. The act also required the

establishment of a database containing the arrival and departure data from machine-readable visas, passports, and other travel and entry documents possessed by aliens and the interoperability of all security databases relevant to making determinations of admissibility under section 212 of the Immigration and Nationality Act. In implementing these requirements, the INS (now the Department of Homeland Security [DHS]) and the Department of State were to utilize technologies that facilitate the lawful and efficient cross-border movement of commerce and persons without compromising the safety and security of the United States and were to consider implementing a North American National Security Program, for which other provisions in the act called for a feasibility study.

The act, as amended, also established a number of requirements regarding biometric travel and entry documents. It required that not later than October 26, 2004, the Attorney General (now Secretary of Homeland Security) and the Secretary of State issue to aliens only machine-readable, tamper-resistant visas and other travel and entry documents that use biometric identifiers and that they jointly establish document authentication standards and biometric identifiers standards to be employed on such visas and other travel and entry documents from among those biometric identifiers recognized by domestic and international standards organizations. It also required by October 26, 2005, the installation at all ports of entry of the United States of equipment and software to allow biometric comparison and authentication of all U.S. visas and other travel and entry documents issued to aliens and passports issued by visa waiver participants. Such biometric data readers and scanners were to be those that domestic and international standards organizations determine to be highly accurate when used to verify identity, that can read the biometric identifiers used under the act, and that can authenticate the document presented to verify identity. These systems also were to utilize the technology standard established pursuant to the PATRIOT Act.

The Intelligence Reform and Terrorism Prevention Act of 2004 did not amend the existing statutory provisions governing US-VISIT, but it did establish additional statutory requirements concerning the program. It described the program as an "automated biometric entry and exit data system" and required DHS to develop a plan to accelerate the full implementation of the program and to report to Congress on this plan by June 15, 2005. The report was to provide several types of information about the implementation of US-VISIT, including a "listing of ports of entry and other DHS and Department of State locations with biometric exit data systems in use." The report also was to provide a description of the

manner in which the US-VISIT program meets the goals of a comprehensive entry and exit screening system, "including both entry and exit biometric;" and fulfills the statutory obligations imposed on the program by several laws enacted between 1996 and 2002. The act provided that US-VISIT "shall include a requirement for the collection of biometric exit data for all categories of individuals who are required to provide biometric entry data, regardless of the port of entry where such categories of individuals entered the United States."

The new provisions in the 2004 act also addressed integration and interoperability of databases and data systems that process or contain information on aliens and federal law enforcement and intelligence information relevant to visa issuance and admissibility of aliens; maintaining the accuracy and integrity of the US-VISIT data system; using the system to track and facilitate the processing of immigration benefits using biometric identifiers; the goals of the program (e.g., serving as a vital counterterrorism tool, screening visitors efficiently and in a welcoming manner, integrating relevant databases and plans for database modifications to address volume increase and database usage, and providing inspectors and related personnel with adequate real time information); training, education, and outreach on US-VISIT, low-risk visitor programs, and immigration law; annual compliance reports by DHS, State, the Department of Justice, and any other department or agency subject to the requirements of the new provisions; and development and implementation of a registered traveler program.

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U.S. Senate Committee on the Judiciary
Subcommittee on Terrorism, Technology and Homeland Security

on

"US-VISIT: Challenges and Strategies for Security the U.S. Border"

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INTRODUCTION

Chairman Feinstein and Ranking Member Cornyn, thank you for the opportunity to return to the Senate Judiciary Committee to discuss the challenges that the country faces in developing and deploying an effective mix of policy, technology, and resources to secure our borders. Not only must these programs deter and detect those who would commit acts of terrorism or crime, or violate our immigration laws, they must also welcome those who contribute to our economic livelihood and maintain our diplomatic position in the world.

I am currently a partner and founder of the consulting firm Monument Policy Group, LLC and an Adjunct Fellow at the Center for Strategic and International Studies. I also recently served as a member of the Independent Task Force on Immigration Reform and America's Future which was chaired by former Senator Spencer Abraham and former Congressman Lee Hamilton and managed by the Migration Policy Institute.[1]

SUMMARY

This written testimony discusses how to build on the current success of the US-VISIT program within the Department of Homeland Security. In my view, there are six primary areas of activity that should be funded aggressively by the Congress and implemented by DHS and its partners within the U.S. government and abroad:

- Airport Exit
- International Registered Traveler
- Land Entry and Exit
- Transition from Two-Fingerprint Capture to Ten-Print
- International Cooperation
- Employment Verification

[1] Monument Policy Group represents several clients with a variety of interests related to immigration matters and CSIS does not take policy positions; thus, this testimony is submitted in my personal capacity and not on behalf of any third party.

I have great faith in the US-VISIT program office and their partners in the new Office of Screening Coordination at DHS to make the best use of available resources and authorities, but their success requires a budget commitment and making tough policy decisions for imperfect operational environments.

BACKGROUND

As you know, I served as Assistant Secretary for Border and Transportation Security (BTS) Policy and Planning at DHS from 2003 through 2005. I was responsible for policy development within the BTS Directorate, working closely with Under Secretary Asa Hutchinson and Secretary Tom Ridge, in the areas of immigration and visas, transportation security, law enforcement, and cargo security. These policies largely were carried out in the field by BTS agencies such as U.S. Customs and Border Protection (CBP), U.S. Immigration and Customs Enforcement (ICE), and the Transportation Security Administration (TSA). BTS' functions have been subsumed and enhanced under the new DHS structure, most notably the new DHS Policy Directorate.

During my time at DHS, the Department deployed revolutionary uses of biometrics to better secure our borders and transportation systems. Most famous of these success stories was the creation of the US-VISIT program. This initiative has come under sporadic criticism for not yet encompassing a 100% entry-exit system but such critiques fail to recognize the necessity of deploying US-VISIT in manageable stages to ensure success. Before Secretary Ridge and DHS took the bold step of allowing an entry-exit system to be built in increments, the United States lacked an automated entry and exit system that would allow us to know when foreign visitors arrive and when they depart for many years after it was technologically possible. Following the bombing of the first World Trade Center in 1993, Congress demanded that an entry-exit system be installed at our ports of entry, but it did not happen, and none was in place on 9/11. Remarkably, on that date the Immigration and Naturalization Service continued to rely on a paper system, and employees literally hand-keyed in departure information into a database weeks after the fact. With no exit system, and only a minimal, unreliable entry system, our entry and exit data was spotty at best, and criminals were able to come and go across our border, some of them dozens of times under different aliases, without detection. Year after year passed because nobody could figure out how to deploy a universal system all at once that would actually find terrorists, criminals and visa overstayers without crippling international trade and sparking outrage among the business persons, students, and tourists we need to attract to our country.

But in 2004, DHS rolled out the entry-exit system known as US-VISIT. We improved on the Congressional mandate by adding a biometric requirement to the system. To capture biometrics, US-VISIT electronically scans a visitor's index fingers and takes a digital photograph at a kiosk – all in the space of seconds. The biometrics captured by US-VISIT allow consular and immigration officials to confidently tie travelers to the visas and passports they are carrying, and permit the development of an internationally uniform standard for identifying travelers.

The unpublicized success of the existing portions of US-VISIT sometimes makes it easy to forget how significant the achievements have been: DHS created an operational system in less than a year that launched at our air and sea ports in 2004 that now has enrolled around 80M travelers and has identified over 1800 criminals and other inadmissible persons.

Further incremental deployments continued this record of success when US-VISIT expanded to cover air travelers arriving under the Visa Waiver Program (VWP) in 2004 and persons entering at land borders with visas and under the VWP in 2004 and 2005. It is not possible to know how many terrorists or criminals have been frightened away from attempting to enter our country because of US-VISIT, but the number surely must be substantial. The 9/11 Commission took a hard look at the US-VISIT and basically said that DHS was on the right track, just to deploy the system more quickly.

Among other aspects of my work on US-VISIT, I had the privilege of chairing the federal advisory committee created under the Data Management Improvement Act, known as the DMIA Task Force. The committee advised DHS on how border enforcement regimes would affect the flow of traffic through our ports of entry and provided valuable research that is still relevant enough to be cited in the current 2006 Government Accountability Office (GAO) report under discussion today.

It is unfortunate that many other screening programs, like those designed to issue credentials to transportation workers and vetting of domestic air passengers, have floundered to date because the government could not successfully deploy an entire program at once. Those other setbacks, however, should remind us of the success of US-VISIT and the wisdom of building the program in manageable steps.

However, since this initial burst of activity in 2003-2005, the program has not seen similar growth. In part this is due to the fact the program's budget has essentially been flat, between $330M and $362M a year, just enough to pay for existing operations and important interoperability work with the FBI's computer systems. In addition, the post-Ridge leadership at DHS has gone the extra mile to try to coordinate US-VISIT efforts with other credentialing and screening programs, resulting in unfortunate delays. However, with the right combination of aggressiveness and funding, 2007 could be the year when US-VISIT makes great progress in becoming the universal entry-exit system that Americans deserve and expect.

Those of us who follow US-VISIT closely were very interested to see the recent report by the GAO concerning the progress, or lack thereof, of DHS and US-VISIT to build a more robust exit capability at our land borders. One prominent news source reported it as a significant bombshell, reporting the alleged recent decision not to deploy an exit system at our land borders as a "major blow" to the Bush administration. US-VISIT apparently had taken a shocking turn away from plans to monitor the departure of Mexicans, Canadians, and others driving or walking out of the country.

Except that it is not so shocking, and not a change of plans. The executive branch has never requested, and Congress has never provided, funds to build the infrastructure and technology to track departures at the land borders. But while there was really no new news here, the press that the "bombshell" generated hopefully will have the effect of highlighting the need to complete US-VISIT just as Congress takes up the FY08 homeland security budget.

AIRPORT EXIT

Simply put, DHS and US-VISIT must end two years of deliberation and meet the statutory mandate to build a biometrically-based exit system at air and sea ports. The controlled nature of these environments makes deployment possible without great expense. Limited pilots conducted since 2004 have educated travelers about the exit requirement. To date, however, DHS has refused to make the tough call whether to place the exit requirement at the airline check-in counter, at the TSA security checkpoint, in the secure boarding area, or at actual departure gates, or to deploy a system that combines multiple layers of confirmation. To be fair, it is true that all of the options are imperfect until we build airports with immigration departure controls, as do many other countries.

Taking the situation as it exists, and not as we might wish it, the "air exit" should be built as part of the TSA checkpoint for the following reasons:

- The TSA security presence provides a workforce used to interacting with the traveling public and able to steer foreign travelers to the exit kiosk or station;
- The checkpoint already includes technology connectivity that can allow the exit kiosk or device to receive updated watchlist information or other alerts; and
- The checkpoint is a natural "funneling" location to minimize the confusion faced by travelers and the connectivity burden that would be necessary at check-in counters or gates.

For this system to work effectively, however, air carriers will need to code boarding passes to indicate to TSA personnel which travelers require "exit." In addition, and most importantly, air carriers' departure passenger records provided to CBP will need to be matched against the biometric exit records to ensure that individuals did indeed depart the country.

Over time, it may be possible to deploy "exit" at the airline check-in counter or at the gate, but changing airline booking or check-in systems has proven a controversial, expensive, and slow process. Programs such as the pre-flight Advanced Passenger Information System (known as APIS + or as Automated Quick Query) at CBP, or Secure Flight (previously known as CAPPS II) at TSA have seen years of delay while agency personnel negotiate with air carriers and airport authorities. Relying on a proposal that requires airlines to change their reservation and/or check-in processes in all likelihood means we will not deploy an air exit system until next decade, a simply unacceptable

outcome. A TSA checkpoint proposal, on the other hand, could be implemented in under a year at major airports, and at all international airports within a handful of years.

The build-out of a true air and sea "exit" system should allow the U.S. to change our visa system in several important ways. First, the overwhelming majority of potential business or tourist visitors to the United States who are refused a visa are turned down for reasons that have nothing to do with terrorism. Under U.S. immigration law, it is the burden of the would-be visitor to convince the consular affairs officer reviewing his or her visa application that he or she does not plan to immigrate illegally to the United States. This decision cannot be appealed within the Department of State (DOS) and cannot be reviewed in any court. The overall refusal rate hovers around twenty-five percent, with rates much higher in non-Western countries. So when we hear the accurate statement that once applicants receive a visa interview about 98% receive their visa within two or three days, remember that 25% of applicants are turned down on the spot for reasons that have nothing to do with any crime or prior immigration violation they may have committed or a connection with terrorism.

Our failure to deploy any meaningful system to track whether visitors have left the country under the terms of their visa has forced us to guess ahead of time which people are likely to overstay. Imagine the United States as a business seeking "customers" from overseas to sell our products and ideals. Since we have failed to build an "exit" tracking system, we are essentially telling millions of potential "customers" that we are not willing to even allow them into our store.

The Visa Waiver Program should be altered to allow a select category of additional economically-advanced countries to enter the VWP if they meet a series of tough security measures once the air exit portion of US-VISIT is constructed. If nationals from a new VWP entrant do not compile a sterling record of on-time departures from the U.S., their participation would be suspended. Moreover, once the exit capability is in place, the participation of existing VWP countries can also be conditioned on their compliance with the 90-day stay rule. And those entering on full-fledged visas can be tracked as well. The recent expansion of the Fugitive Operations at ICE should allow for in-country enforcement of overstays who represent any particular security concern. This approach is similar to, but tougher than, that advocated by DHS, and has attracted support from the travel industry.

It is worth noting that a sea exit, largely for cruise ship passengers, is not nearly a difficult task as the air system, but needs to be constructed as well over time.

Some may argue that building an air and sea exit system is foolish until and unless there is also a land exit, especially if VWP entrants depart the U.S. by land. However, even if there is no legal or practical barrier to VWP travelers traveling to Canada or Mexico by land for short trips, we can easily require that they still depart on time via an airport as a condition of their initial entry.

INTERNATIONAL REGISTERED TRAVELER PROGRAMS

A key component of continuing to attract and facilitate travelers to the U.S. should be the aggressive construction of an international registered traveler (IRT) program. This program would build on the model of existing CBP NEXUS and SENTRI programs for land and air travel between the U.S., Canada, and Mexico and bring to life the vision of Secretary Ridge's January 2005 announcement of such a pilot operating between the Netherlands and the U.S. While it would be beneficial to travelers who undergo enhanced vetting to receive preferential treatment at a foreign departure airport, the main use of biometrics would be to exempt IRT enrollees from normal immigration and customs processing at U.S. ports of entry. Enrollees would simply have their travel documents scanned at a US-VISIT kiosk, provide fingerprints to ensure a match to the documents, and proceed to pick up their luggage. This system will require construction of real-time connectivity to the IRT kiosks.

On the front end, enrollees would need to be vetted for any connection to inadmissible behavior, including terrorism, criminal behavior or prior immigration violations. Especially for Visa Waiver Program travelers, such a review will need to be thorough and include an interview by a trained U.S. inspector. If done correctly, the program would be an excellent example of risk management to enable CBP to focus on riskier visitors. It would also send a strong signal to the customers, clients, and co-workers of the world, whose travel we need to be able to expedite, that the U.S. is open for business.

The British use of IRT is perhaps the most instructive example for the U.S. due to their understandable concerns both about foreign guests and citizens with ties to terrorism. Project IRIS is a biometric-based passenger screening system implemented in the past two years using biometric technology at Heathrow, Gatwick, Birmingham, Manchester, and Stansted airports. The British government anticipates that within five years more than a million people will be registered to use the system.

While an initial IRT program may be open only to returning U.S. citizens and legal permanent residents, the U.S. should allow foreign travelers to enroll following an in-person interview with CBP officials and a thorough background check. This interview could occur at a U.S. airport or at overseas location where CBP has a presence, such as at locations with an Immigration Advisory Program. In addition, enrollees in any IRT program should also be enrolled in the TSA domestic registered traveler program as well – so that international travelers will find traveling within America convenient, especially as they move through U.S. customs processing and onto a domestic flight.

LAND ENTRY AND EXIT

Background

The next several years will see a convergence of major initiatives affecting how traffic flows across our land borders with Mexico and Canada:

- The possible deployment of US-VISIT to primary lanes of our land ports of entry and exit;
- The requirement under the Western Hemisphere Travel Initiative that U.S. citizens and Canadians present a secure travel document to enter or reenter the U.S.;
- The implementation of improvements in driver's licenses under the REAL ID law and the possibility that secure licenses might be used for border crossing purposes under WHTI; and
- The possibility of a new guest worker program to ensure that foreign workers able to pass a security check are allowed to work for willing employers in the U.S.

While it is understandable to focus on the relatively poor results of the recent land border exit pilots using radio frequency identification (RFID) technology to detect the departure of aliens holding special I-94 forms, this test is only a small part of the larger set of issues to be addressed.

Despite the operational problems found by the GAO in the I-94 pilots, a RFID-based system can work both in the controlled environment of an entrance port of entry and in the uncontrolled environment of a highway exiting the country.

Entry traffic lanes must be constructed or altered to allow for wireless connectivity to identify watchlist or criminal hits in time for an inspector to refer a potential entrant to secondary processing. While it may not be feasible to conduct a one-to-one check on all applicants (i.e., is the person holding the identification card the same person to whom it was issued), a one-to-many check (i.e. does the information on the card indicate a watchlist hit) should be feasible. Building a system of biometric records that can be read through a pointer system by border inspectors upon entry and by unmanned sensors upon departure will be costly, perhaps in the range of $1B in one-time construction costs. However, a considerable amount of the ongoing cost should be borne by the travelers purchasing next-generation travel documents.

Western Hemisphere Travel Initiative and REAL ID

Currently, only a small fraction of cross-border travelers have RFID-equipped travel documents, but that situation is about to shift dramatically. Under the current WHTI implementation plan, DHS and the DOS announced plans to buy and distribute passport cards to millions of Americans. These IDs would look like driver's licenses. Under this plan, almost every U.S. citizen would have to either purchase a full-fledged passport

($90) or the passport card ($45) if they planned to reenter the country. These cards would be equipped with vicinity RFID to transmit a pointer to a database containing previously-supplied biographic information to allow CBP to conduct watchlist checks on individuals arriving at land ports of entry. It is further expected that Canadian provinces will build and supply a similar travel document to its citizens to facilitate their travel. After many delays throughout 2005 and 2006 and Congressional activity to allow for additional time to deploy the Passport card, the program appears on track to supply credentials later this year.

There may be another WHTI solution, however, that needs to be tested and implemented – a secure driver's license. In May 2005, Congress passed the REAL ID Act, which calls for an unprecedented reform of drivers licenses if the documents are to be used for federal purposes, such as traveling on a domestic flight. The new law requires states to scrutinize and store identity documents and to implement tight security regimes on the production of credentials, and states are also checking numerous law enforcement databases to find imposters and criminals. It is difficult to ascertain any security advantage in the vetting process to obtain a passport card versus a REAL ID license, especially since DOS will ask individuals to submit licenses as part of a passport or passport card application.

Unfortunately, there is not yet a robust federal effort to combine the programs. The DOS wants to maintain responsibility for determining citizenship, but there is no reason why the federal government cannot cooperate with states so that citizenship information could be securely conveyed for the department to decide whether an applicant is entitled to a border crossing document that the state would issue. If a state did not want to present this option to its citizens, it would not have to do so.

Washington state officials recently requested that DHS authorize a pilot project for scanning driver's licenses at the British Columbia border to test the viability of using driver's licenses rather than passports to secure border crossings. While a federal passport card may be one way to meet the legal mandate, there is no reason to deny a state the ability to provide its citizens with an equally secure, more convenient option.

States will need to recognize the technical needs of DHS and build credentials that can be read by the same federal readers while providing DHS advance information about travelers via Radio Frequency technology. WHTI was designed to simplify and speed up the border inspection process, and states should not expect that DHS will allow a plethora of acceptable cards and technologies at the border.

In addition, Congress should offer generous grants to help states implement REAL ID, which is going to cost states billions of dollars over the next decade. Even passports are insecure if source documents like drivers licenses themselves are candidates for fraud.

Border Crossing Cards

WHTI will deliver a huge amount of RFID-enabled cards to Americans and Canadians. The overwhelming majority of Mexican visitors to the U.S., however, travel with a Border Crossing Card (BCC), or Laservisa, that does not have RFID and normally is only subject to a visual comparison with the card holder at the primary inspection booth. As soon as the RFID standards are finalized for the Passport card in the ongoing rule-making at the DOS, the regulations and procurement rules governing the BCC need to amended so the BCC operates as a Passport card as well.

There will still be a significant number of travelers arriving at land ports of entry without RFID-equipped documents for the foreseeable future as legacy passports, new proximity RFID passports, and perhaps other documents are presented. However, moving a large percentage of the flow into the RFID category will keep wait times manageable and enhance security at our ports of entry.

Land Exit

It is hard to imagine that it will ever be a worthwhile investment to build a "mirror" system of controlled exit stations at an estimated cost of at least $2B complete with checkpoints and inspectors. This figure is prohibitive under any reasonable current budget scenario. Technology which is deployable during the remainder of this decade, however, should allow the construction of a system that records via RFID that a travel document has departed the country. During the next decade, a new generation of travel documents that must be activated via biometric means during the exit zone should be within reach.

A reasonable goal over the next several years is construction of a system that will inform DHS whether persons departing the U.S. have complied with the terms of their entry, with relationships built with Mexican and Canadian authorities to assist with the very rare case of a departing individual who needs to be apprehended immediately.

It is true that Congress has passed legislation which requires submission of a plan to deploy a universal biometric entry-exit system. A system that does not confirm that an individual has indeed left the country does not meet this requirement. Congress, however, cannot expect DHS and US-VISIT to build a system while not providing an adequate level of resources to do so.

According to the GAO report, only around $182M was appropriated to US-VISIT during FDY03-05 for land border operations, and that figure includes building VISIT capabilities in secondary processing for visa and Visa Waiver Program travelers. If the Congress is serious about a land exit solution, the budget for US-VISIT will need to increased substantially.

Statutory Mandates

One further issue worth mentioning briefly is the confusing legal regime which governs the operations of US-VISIT. Even the exhaustive GAO report has a difficult time cataloging the variety of laws which determine what US-VISIT is required to tackle. The conflicting dictates of the Data Management Improvement Act of 2000, the PATRIOT Act in 2001, the Enhanced Border Security and Visa Entry Reform Act of 2002, the Intelligence Reform and Terrorism Prevention Act of 2004, and annual mandates contained in DHS appropriations laws mean that US-VISIT has been presented with a great deal of flexibility on what to deploy at the land borders of the United States. That flexibility has also made Congress's oversight of US-VISIT difficult and allowed Congress to avoid the tough choices on what it actually expects to be built. This murkiness perhaps gives discretion to the agency best able to make difficult choices on where to spend limited funds, but it also means that there are not measurable deadlines to force decision-making and action.

In sum, within five years, the performance of RFID-equipped credentials and readers should be robust enough to build a land exit system akin to the EZ-PASS toll lanes now working well around the country. This final phase of US-VISIT will take an additional hundreds of millions of dollars to build the necessary infrastructure and travel documents. If the New York Times can write a similar story about the state of our entry-exit system in 2012, then we will have failed to do what is technologically possible and intellectually wise.

TRANSITION TO TEN-FINGERPRINT CAPABILITY

In July of 2005, a long-running debate between DHS and the Department of Justice concerning how the DHS IDENT fingerprint system and the FBI IAFIS fingerprint system would interact was resolved when Secretary Chertoff announced that US-VISIT and IDENT would migrate to taking ten fingerprints. An interagency user group soon issued a "Challenge to Industry" to build a ten-fingerprint device that could take a full set of fingerprints quickly and accurately. The industry stepped up quickly and has provided the user group with machines from several different manufacturers that generally meet the specifications sought by the user group with respect to size, weight, speed, accuracy, ergonomics, and durability. These machines are in testing currently both at DHS and the DOS.

Some 18 months after this "challenge" however, the deployment of the next generation machines has proceeded along a fairly slow track not expected to be completed until the end of 2008. Secretary Chertoff has spoken eloquently about the benefits of the conversion to ten-print capability including matching travelers against latent prints left at terrorist or crime scenes. The primary delay appears to be based on an inability of the FBI's fingerprint system to handle the volume of ten-print queries on a real-time basis, as well as the continued construction of the interfaces between the systems, known as the Initial Operating Capability. US-VISIT and the FBI's Criminal Justice Information

Service Division have outlined the budget needs to build this capability, but to date less than half of the funds identified have been appropriated to make this interoperability a reality. Hopefully 2007 not only will see rapid procurement of these next generation machines by the DOS and DHS, but also the funding to implement the ten-print vision as the FBI rebrands IAFIS as the Next Generation Identification.

It is worth noting that the deployment of the ten-print machines should not have any negative impacts on travel to the U.S. or wait times at airports. It is expected that travelers will provide all ten prints only once, either at the time of their visa interview or arrival in the U.S. if traveling via the VWP. On subsequent encounters with U.S. front-line officers, taking merely one or two prints on the ten-print device should confirm identity quickly and confidently.

For those who argue that a ten-print system is yet another inconvenience for travelers, it is worth a remainder that scientists at the National Institutes of Science and Technology long have warned that a system of two-print files will eventually grow to a large enough size that the system will begin to generate an unacceptable level of false positives. This problem could drastically increase the number of travelers forced to go to secondary processing for ten-print collection and interviews, distracting inspectors from individuals who pose viable threats.

INTERNATIONAL COOPERATION

As the European Union and other countries build their own entry-exit programs, often patterned after the technology and lessons learned from US-VISIT, we need to work aggressively to share information about potential threats, and those who have gone through an intensive background check.

By definition, border management systems involve international cooperation, and the effectiveness of our use of biometrics will depend greatly on our ability to operate effectively in the bilateral and multilateral environments. Negotiating information-sharing agreements or playing a leading role in international standards-setting bodies may not be as sexy as deploying new high-tech biometric equipment but both are crucial to our success.

Developing information-sharing agreements with foreign partners is a laborious process that has to deal with varying privacy regimes, technical challenges, and concerns about revealing sources and methods of intelligence. However, we know that terrorists and other criminals must use international travel to develop their plots, and the development of robust sharing agreements of biometric and biographic watchlist information should be a high priority. Especially with allies like the United Kingdom and Canada, these types of agreements dramatically increases the odds of using travel checkpoints to find those who need to be detected.

I would make a special mention of the European Union's Visa Information System (VIS) due to come on-line in the next several years. Having negotiated the original treaty on airline passenger data with the EU in 2004, I know how difficult it may be to build interoperability between the VIS and our BioVisa/US-VISIT program. Now is the time to begin to tackle that challenge as our citizenries should expect these systems to share valuable intelligence when they are both operational.

In addition, DHS needs to increase dramatically its engagement with foreign governments and international standards setting bodies such as the International Civil Aviation Organization (ICAO). The merger of the BTS Policy office, the DHS Office of International Affairs, and other policy entities in DHS into the new Policy Directorate was a necessary first step. DHS needs to develop a cadre of country specialists and DHS attachés to represent the department in key international locations and to ensure that DHS policymaking does not stop at the water's edge.

Part of this international effort starts at home. Biometrics now play a key role in the security of passports issued to American citizens. Under the electronic passport program developed by the DOS and the Government Printing Office, most new passports now include a biometric facial image and biographic information which is read via a contactless chip by passport readers deployed by DHS. The United States, like many countries around the world developing biometric passports, saw deployment of e-passports delayed while technical issues were ironed out in international organizations and privacy concerns were addressed. A well-designed U.S. passport program is essential to securing our own borders to detect foreign imposters and perhaps even those entitled to a U.S. passport with ties to terrorism or serious criminal behavior.

However, there is a major flaw in this program. The United States has never advocated mandatory collection of fingerprint information in foreign passports, in part because it has never required that U.S. citizens provide fingerprints in their own passport applications. This decision needs to be reexamined. In part due to this decision, the United States and the larger world community are building out two elaborate but conflicting border management systems. In the first, governments are going to great lengths to collect terrorist fingerprints along with biographic information, to share such information with other governments, and to ensure that agencies within their government are sharing relevant fingerprints. Within the U.S. government alone, massive efforts have been expended to ensure sharing of relevant biometric information between agencies. In the second system, countries are building elaborate systems of tamper-resistant passports and passport readers capable of doing biometric comparisons; however, neither the mandatory biometric of facial recognition nor one of the optional biometrics, iris scan, can be utilized to find a known terrorist or criminal from a database, because such databases are not available to front-line officers.

The historical resistance of governments to fingerprint law-abiding citizens, not only in the U.S. but in Japan, Australia, and numerous other nations, is weakening. The collective weight of the 70 million non-controversial enrollments in US-VISIT is huge. The program applies to all nationalities and races, has generated no privacy complaints,

and has not impacted the speed of border crossings. At a time when terrorists have killed large numbers of people in Asia, Europe, Africa, and other areas of the globe, in addition to North America, people are understandably willing to put aside nervousness about fingerprinting in order to cut off the lifeblood of terrorists – mobility across borders.

Thus I recommend that the U.S. match the bold step of the European Union to include fingerprints in passports and that the U.S. should advocate for fingerprints as a mandatory biometric in passports at ICAO. At a time when we are going to great lengths to build anti-terrorism and law enforcement systems based on fingerprints, we will never be able to fully engage other countries if we decline ourselves to do what is needed.

Of course governments could attempt to build a regime to allow a one-to-one biometric check between the person who applied for a passport and the person seeking entry based on a facial recognition match. Such a system, however, leaves extensive fingerprint information unutilized and denies us the "bully pulpit" to ask ICAO and other governments to march down the fingerprint path. It is also worth noting that current policy does not allow U.S. passport applicants to be vetted biometrically against criminal or terrorist databases before they are issued passports, meaning we may miss potential imposters or home-grown terrorists or criminals. Nor are we in a strong position to ask other countries to vet their applicants against watchlists they maintain or have rights to access. I am encouraged by the strong efforts of DOS to vet applicants against name-based databases such as the Terrorist Screening Center and certain lists of persons with outstanding warrants, but a fingerprint capability would augment those efforts considerably.

EMPLOYMENT VERIFICATION

As Congress considers comprehensive immigration reform, the US-VISIT biometric platform should be the basis for enrolling and tracking the likely millions of new temporary workers or persons given new legal status in our country. As the recent raids at the Swift meat packing company demonstrate, building any employment verification system solely on Social Security numbers or other forgeable biographic or numeric identifiers is doomed to fail. It appears that an appropriate consensus has developed to allow temporary workers to enter the country or obtain employment only after receiving and presenting a biometric credential at a port of entry and at a workplace.

US-VISIT's proposed end state includes a "person-centric" inventory of all relevant enforcement and immigration services information. When fully-funded and implemented, the program should put an end to the unwieldy and confusing system of records maintained regarding travel and immigration and will result into better service to legitimate travelers and students, and better enforcement tools as well.

Requiring biometric work authorization documents only of foreign workers, however, leaves open the door that they will evade the dictates of their work status by using forged or stolen documents to claim U.S. citizenship or other legal status. While building a universal system of biometric verification at the workplace may have to wait until a

subsequent phase of immigration reform, Congress should explicitly preserve the ability of law enforcement agencies to implement such a system. Only when technology and public sentiment converge around this concept will we have an employment enforcement regime that minimizes discrimination, reduces red tape, and provides employers with the certainty they need to hire and train workers. In the meantime, the advent of REAL ID and driver's licenses that can be authenticated via embedded watermark technology should provide employers with an ability to detect bogus documents with greater ease at a reasonable cost.

CONCLUSION

US-VISIT was and remains an extremely difficult program to execute. But for 2007, let's focus on the six challenges above, and build on the truly historic achievement US-VISIT represents: restoring control and integrity to our borders after decades of neglect without destroying the attractiveness of the United States as a place to study, conduct research or business, or see friends or family.

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