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IMMIGRATION ENFORCEMENT

Preliminary Observations on DHS's Overstay Enforcement Efforts

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GAO Highlights

Highlights of [GAO-13-602T](#), a testimony before the Subcommittee on Border and Maritime Security, Committee on Homeland Security, House of Representatives

Why GAO Did This Study

Each year, millions of visitors come to the United States legally on a temporary basis either with or without a visa. Overstays are individuals who were admitted into the country legally on a temporary basis but then overstayed their authorized periods of admission. DHS has primary responsibility for identifying and taking enforcement action to address overstays. Within DHS, U.S. Customs and Border Protection is tasked with inspecting all people applying for entry to the United States. U.S. Immigration and Customs Enforcement is responsible for enforcing immigration law in the interior of the United States. In April 2011, GAO reported on DHS's actions to identify and address overstays and made recommendations to strengthen these processes. DHS concurred and has taken or is taking steps to address them. Since April 2011, DHS has reported taking further actions to strengthen its processes for addressing overstays.

This testimony discusses GAO's preliminary observations on DHS's efforts since April 2011 to (1) review potential overstay records for national security and public safety concerns, (2) improve data on potential overstays and report overstay rates, and (3) plan for a biometric exit system. This statement is based on preliminary analyses from GAO's ongoing review of overstay enforcement for this subcommittee and other congressional requesters. GAO analyzed DHS documents and data related to overstays and interviewed relevant DHS officials. GAO expects to issue a final report on this work in July 2013. DHS provided technical comments, which were incorporated as appropriate.

View [GAO-13-602T](#). For more information, contact Rebecca Gambler at (202) 512-8777 or gambler@gao.gov.

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Preliminary Observations on DHS's Overstay Enforcement Efforts

What GAO Found

Since GAO reported on overstays in April 2011, the Department of Homeland Security (DHS) has taken action to address a backlog of potential overstay records by reviewing such records to identify national security and public safety threats, but unmatched arrival records remain in DHS's system. In April 2011, GAO reported that, as of January 2011, DHS's Arrival and Departure Information System (ADIS) contained a backlog of 1.6 million potential overstay records. DHS uses ADIS to match departure records to arrival records and subsequently close records for individuals with matching arrival and departure records. Unmatched arrival records—those that do not have corresponding departure records—remain open and indicate that the individual is a potential overstay. In the summer of 2011, DHS reviewed the 1.6 million potential overstay records. As a result, DHS closed about 863,000 records and removed them from the backlog. Since that time, DHS has continued to review all potential overstay records for national security and public safety concerns. However, as of April 2013, DHS continues to maintain more than 1 million unmatched arrival records in ADIS. GAO's preliminary analysis identified nonimmigrants traveling to the United States on a tourist visa constitute 44 percent of unmatched arrival records, while tourists admitted under a visa waiver constitute 43 percent. The remaining records include various types of other nonimmigrants, such as those traveling on temporary worker visas.

DHS has actions completed and under way to improve data on potential overstays and report overstay rates, but the impact of these changes is not yet known. DHS has streamlined connections among databases used to identify potential overstays, among other things. Although these actions have resulted in efficiencies in processing data, they do not address underlying data quality issues, such as missing land departure data. Further, because many of these changes were implemented in April 2013, it is too early to assess their effect on the quality of DHS's overstay data. DHS continues to face challenges in reporting reliable overstay rates. Federal law requires DHS to report overstay estimates, but DHS or its predecessors have not regularly done so since 1994. In September 2008, GAO reported on limitations in overstay data that affect the reliability of overstay rates. In April 2011, GAO reported that DHS officials said that they have not reported overstay rates because DHS has not had sufficient confidence in the quality of its overstay data and that, as a result, DHS could not reliably report overstay rates. In February 2013, the Secretary of Homeland Security testified that DHS plans to report overstay rates by December 2013.

DHS faces challenges planning for a biometric exit system at air and sea ports of entry. Beginning in 1996, federal law has required the implementation of an integrated entry and exit data system for foreign nationals. As of April 2013, DHS's planning efforts are focused on developing a biometric exit system for airports, with the potential for a similar solution at sea ports. However, in October 2010, DHS identified key challenges as to why it has been unable to determine how and when to implement a biometric air exit capability, including challenges in determining what personnel should be responsible for the capture of biometric information.

GAO is assessing DHS's plans and efforts in these areas and plans to report on its results in July 2013.



Chairman Miller, Ranking Member Jackson Lee, and Members of the Subcommittee:

I am pleased to be here today to provide our preliminary observations on the actions that the Department of Homeland Security (DHS) has taken since April 2011 to address overstays.¹ Each year, millions of visitors come to the United States legally on a temporary basis either with a visa or, in some cases, as visitors who were allowed to enter without a visa.² Overstays are individuals who were admitted into the country legally on a temporary basis but then overstayed their authorized periods of admission.³ We have reported that most overstays are likely motivated by economic opportunities to stay in the United States beyond their authorized periods of admission.⁴ However, overstays could pose homeland security concerns—for example, 5 of the 19 September 11, 2001, hijackers were overstays.

DHS has primary responsibility for identifying and taking enforcement action to address overstays. Within DHS, U.S. Customs and Border Protection (CBP) is tasked with, among other duties, inspecting all people applying for entry to the United States to determine their admissibility to the country and screening Visa Waiver Program applicants to determine their eligibility to travel to the United States under the program. U.S. Immigration and Customs Enforcement (ICE) is the lead agency for enforcing immigration law in the interior of the United States and is

¹GAO, *Overstay Enforcement: Additional Mechanisms for Collecting, Assessing, and Sharing Data Could Strengthen DHS's Efforts but Would Have Costs*, [GAO-11-411](#) (Washington, D.C.: Apr. 15, 2011).

²Visitors who are allowed to seek admission without a visa include citizens of Canada and the British Overseas Territory of Bermuda (and certain residents of other adjacent islands, such as the Bahamas) under certain circumstances, as well as Visa Waiver Program participants. This program allows nationals from certain countries to apply for admission to the United States as temporary visitors for business or pleasure without first obtaining a visa from a U.S. consulate abroad. Currently, there are 37 participants in the program.

³In this statement, we include out-of-status students—student visa holders who fail to meet certain requirements, such as enrolling in a qualified education program—in our definition of overstays. In general, foreign students remain in status and therefore eligible to stay in the United States under their student visas as long as they are enrolled in and attending a qualified education program.

⁴GAO, *Visa Waiver Program: Limitations with Department of Homeland Security's Plan to Verify Departure of Foreign Nationals*, [GAO-08-458T](#) (Washington, D.C.: Feb. 28, 2008).

primarily responsible for overstay enforcement. Within ICE, the Counterterrorism and Criminal Exploitation Unit (CTCEU) and the Overstay Analysis Unit are primarily responsible for overstay investigations. The Office of Biometric Identity Management (OBIM), within DHS's National Protection and Programs Directorate, supports the identification of overstays by managing the Arrival and Departure Information System (ADIS), which tracks and matches arrival and departure records for the purpose of identifying potential overstays, and the Automated Biometric Identification System (IDENT), which maintains biometric information, such as fingerprints, collected from nonimmigrants upon their entry into the United States.⁵

In April 2011, we reported on DHS's actions to identify and take actions to address overstays and made recommendations to the department to strengthen these efforts.⁶ DHS concurred with our recommendations and has taken or is taking steps to address them. Further, since April 2011, DHS has reported taking additional actions to strengthen its processes for identifying and taking enforcement action against overstays.

This testimony discusses our preliminary observations on DHS's efforts since April 2011 to (1) review potential overstay records for national security and public safety concerns, (2) improve data on potential overstays and report overstay rates, and (3) plan for a biometric exit system. My statement is based on preliminary analyses from our ongoing review of overstay enforcement for this subcommittee and other congressional requesters. We expect to issue a final report on this work in July 2013. To conduct this work, we analyzed DHS documents and data related to overstays and interviewed relevant DHS officials. Specifically, we analyzed DHS planning documents and reports on processes to

⁵The Automated Biometric Identification System (IDENT) also contains fingerprints collected by the Department of State to establish and verify the identities of visa applicants. Both the Overstay Analysis Unit and OBIM were formerly part of the U.S. Visitor and Immigrant Status Indicator Technology Program (US-VISIT) within DHS's National Protection and Programs Directorate. DHS initiated US-VISIT in 2002 to develop a comprehensive entry and exit system to collect biometric data from aliens traveling through U.S. ports of entry. In 2004, US-VISIT initiated the first step of this program by collecting biometric data on aliens entering the United States. Pursuant to the fiscal year 2013 DHS appropriations act and its accompanying explanatory statement, DHS realigned US-VISIT's overstay analysis function into ICE and created OBIM effective March 27, 2013.

⁶[GAO-11-411](#).

review potential overstay records and collect additional data to improve overstay identification. We analyzed DHS's unmatched arrival records as of November 2012, the most recent date for which DHS had compiled the records at the time we began our review. We also reviewed statutory requirements and a May 2012 DHS report on the status of efforts to implement biometric exit capabilities at airports. To analyze the reliability of data on previously unreviewed potential overstay records and DHS's current set of unmatched arrival records, we reviewed documentation regarding the databases used to collect these data and interviewed DHS officials familiar with the data. We determined that the data were sufficiently reliable for our purposes. We conducted this work in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. We provided a draft of this statement to DHS for review and incorporated its comments where appropriate.

DHS Continually Reviews Potential Overstay Records, but Unmatched Arrival Records Remain

DHS Reviewed a Backlog of 1.6 Million Potential Overstay Records

DHS has taken action to address a backlog of potential overstay records we previously identified in April 2011. Specifically, in April 2011, we reported that, as of January 2011, ADIS contained a backlog of 1.6 million potential overstay records, which included prior nonpriority overstay leads that had not been reviewed, nonpriority leads that continued to accrue on a daily basis, and leads generated in error as a result of CBP system

changes.⁷ DHS uses ADIS to match departure records to arrival records and subsequently close records for individuals with matching arrival and departure records because either (1) the individual departed prior to the end of his or her authorized period of admission and is therefore not an overstay or (2) the individual departed after the end of his or her authorized period of admission and is therefore an out-of-country overstay. Unmatched arrival records—those records in ADIS that do not have corresponding departure records—remain open and indicate that those individuals are potential in-country overstays.⁸

In the summer of 2011, DHS completed a review of the 1.6 million records against various national security and law enforcement databases to determine if the subjects of these records had already left the United States and to help identify if the subjects posed any potential national security or public safety threats.⁹ As a result, DHS closed approximately 863,000 records for individuals who had departed, were in status, or had adjusted status, and removed them from the backlog. Second, DHS reviewed the remaining 757,000 records against national security and law enforcement databases to identify potential national security or public safety threats. As part of this national security and public safety review, DHS also reviewed approximately 82,000 additional records identified by CTCEU that were unresolved or had not yet undergone full review because they did not meet ICE's enforcement priorities (a total of approximately 839,000 combined records). As a result of these reviews, DHS reprioritized 1,901 of the 839,000 records because the subjects of the records could pose national security or public safety concerns and

⁷ICE prioritizes potential overstay leads for possible investigation. The specific criteria ICE uses to rank the priority level of overstay leads are determined triannually based on current threat information by the Compliance Enforcement Advisory Panel, an interagency panel of intelligence experts assembled by ICE for the purpose of determining these criteria. CBP system changes had resulted in multiple arrival and departure records being inadvertently created for a single individual.

⁸Enforcement actions for in-country and out-of-country overstays differ in that the focus of enforcement against in-country overstays is to remove them from the country if they pose a threat, whereas enforcement against out-of-country overstays is to prevent possible readmission to the United States.

⁹To determine whether an unmatched arrival record is likely to be an in-country overstay, DHS agencies review multiple databases to determine if any information is available to document a departure or a change in immigration status. For example, the review process includes both automated searches, such as searching for immigration benefit application information through a U.S. Citizenship and Immigration Services database, and manual searches, such as determining whether the individual applied for refugee or asylum status.

provided them to CTCEU for further review and consideration for enforcement action. Table 1 describes how CTCEU resolved these leads.

Table 1: Preliminary Analysis of Results of DHS’s 2011 Review of Backlog of Potential Overstay Records

Outcome	Number of records (percentage of total)
Individual had departed the United States	711 records (37.4 percent)
Records forwarded to ICE’s Enforcement and Removal Operations (ERO) as potential public safety threats ^a	481 records (25.3 percent)
Individual was in status (e.g., the subject filed a timely application to change his or her status or extend his or her authorized period of admission in the United States)	302 records (15.9 percent)
Individual could not be located ^b	266 records (14.0 percent)
Individual was arrested	9 records (0.5 percent)
Other ^c	132 records (6.9 percent)
Total	1,901 records (100 percent)

Source: ICE CTCEU.

^aCTCEU refers information on nonpriority potential overstays to ICE’s ERO, which is responsible for identifying and apprehending aliens who are subject to removal from the country, detaining these individuals when necessary, and removing aliens subject to removal from the United States. ERO personnel may encounter overstays in the course of their work but they do not directly focus on overstay enforcement.

^bAn ICE contractor’s system automatically queries these records against various databases on a weekly basis for new information relating to the location of the suspected overstay. If such information is identified, CTCEU will reopen the investigation.

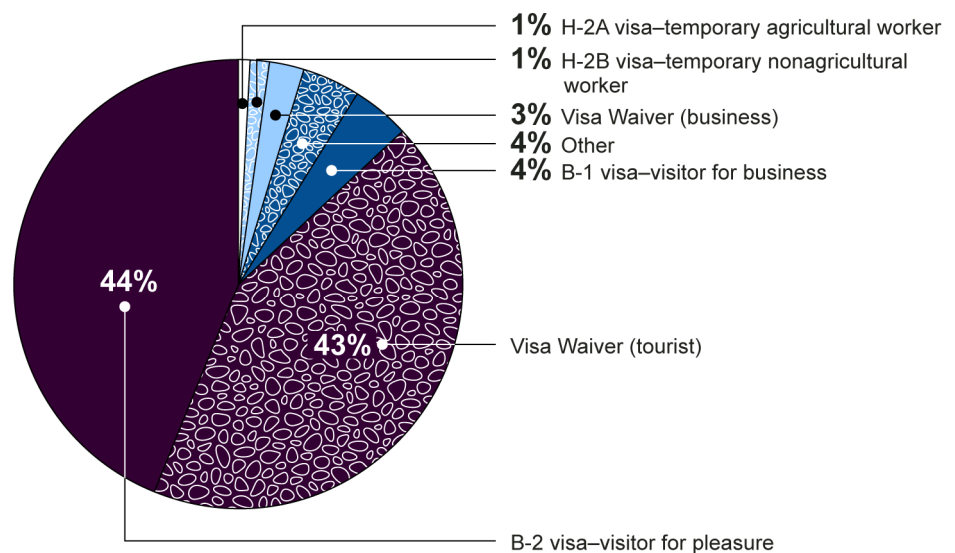
^cOther includes the following outcomes: (1) ICE determined that information indicating a possible national security or public safety threat was false (73 leads, 3.8 percent); (2) the subject of the lead was in removal proceedings, previously arrested, or the subject of an investigation (43 leads, 2.3 percent); (3) the lead is open for continuous review (13 leads, 0.7 percent); and (4) the subject of the lead is the subject of an ongoing investigation at an ICE Homeland Security Investigations field office (3 leads, 0.2 percent).

Since completing this review of the backlog of potential overstay records in the summer of 2011, DHS has continued to review all potential overstay records through national security and law enforcement databases to identify potential threats, regardless of whether the subjects of the records meet ICE’s priorities for enforcement action. This occurs on an ongoing basis such that DHS may identify threats among individuals who were not previously identified as such when new information becomes available in various national security and law enforcement databases.

DHS Has More than 1 Million Unmatched Arrival Records

As of April 2013, DHS continues to maintain more than 1 million unmatched arrival records in ADIS (that is, arrival records for which ADIS does not have a record of departure or status change). Some of these individuals are overstays, while others have either departed or changed immigration status without an ADIS record of their departure or status change. For example, the individual may have departed via a land port of entry without providing a record of departure or the individual may have applied for immigration benefits using a different name. In addition, these records include those from the previous backlog of unmatched arrival records that were not prioritized for enforcement in the summer of 2011 and have not subsequently been matched against a departure or change of status record. As part of our ongoing work, we are analyzing these data to identify various trends among these unmatched arrival records. For example, our preliminary analysis shows that 44 percent of the unmatched arrival records are nonimmigrants traveling to the United States on a tourist visa, while 43 percent are also tourists but were admitted under the Visa Waiver Program. Figure 1 presents our preliminary analysis of the breakdown of unmatched arrival records by admission class.

Figure 1: Preliminary Analysis of Unmatched Arrival Records by Admission Class, as of November 2012



Source: Preliminary GAO analysis of data from the Office of Biometric Identity Management's Arrival and Departure Information System.

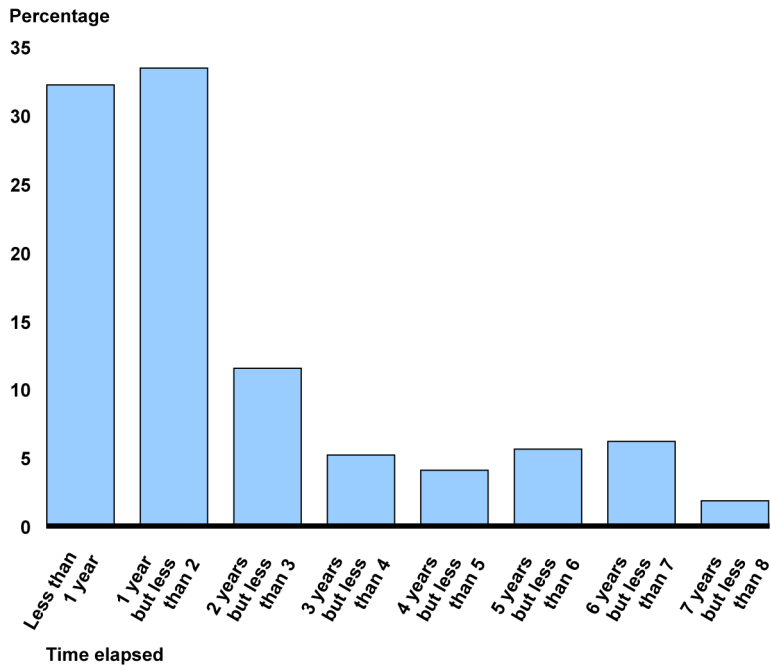
Note: Other includes those nonimmigrant visa categories otherwise not listed in the figure, such as temporary workers with specialty occupations and spouses and children of temporary workers. The nonimmigrant classes established by the Immigration and Nationality Act generally refer to aliens with no intention of abandoning their foreign residences, and they are each given specific designations

according to regulation. The B-1 and B-2 designations refer to nonimmigrants who are visiting the United States temporarily for business or pleasure, respectively. See 8 U.S.C. § 1101(a)(15)(B). The H-2B designation refers to nonimmigrants who are coming temporarily to the United States to perform temporary, non-agricultural service or labor if unemployed persons capable of performing such service or labor cannot be found in the United States, and the H-2A designation refers to nonimmigrants who are coming temporarily to the United States to perform agricultural labor or services of a temporary or seasonal nature. See 8 U.S.C. § 1101(a)(15)(H)(ii)(a)-(b). For a listing and descriptions of all nonimmigrant classes, see 8 U.S.C. § 1101(a)(15); see also 8 C.F.R. § 214.1(a)(1)-(2) for the corresponding designations. The Visa Waiver tourist and business categories in the graph include admissions of both visitors from Visa Waiver Program countries and other visitors for whom a tourist or business visa was waived, such as certain citizens of Canada and the British Overseas Territory of Bermuda. See, e.g., 22 C.F.R. § 41.2(a)-(b).

We also analyzed the records to assess the amount of time that has elapsed since travelers were expected to depart the country, based on travelers' "admit until" date. CBP assigns certain nonimmigrants an "admit until" date, by which they must leave the country to avoid overstaying.¹⁰ Figure 2 presents our preliminary analysis of the breakdown of the amount of time elapsed, as of November 2012, since the "admit until" date. The average amount of time elapsed for all unmatched arrival records was 2.7 years.

¹⁰In general, foreign students remain in status and therefore eligible to remain in the United States as long as they are enrolled in and attending a qualified education program. Individuals traveling on student visas are generally not issued a specific date until which they are authorized to remain in the United States, but instead are admitted for what is referred to as duration of status. This means that they may remain in the country until they complete their approved program of study, provided they otherwise maintain their student status.

Figure 2: Amount of Time Elapsed since Travelers Were Expected to Depart the United States, as of November 2012, Based on Preliminary Analysis of Unmatched Arrival Records



Source: Preliminary GAO analysis of data from the Office of Biometric Identity Management's Arrival and Departure Information System.

As of April 2013, DHS has not analyzed its unmatched arrival records to identify whether there are any trends in these data that could inform the department's overstay enforcement efforts. We will continue to evaluate these data as part of our ongoing work.

DHS Has Actions Completed and Under Way to Improve Data, but the Effect of These Changes Is Not Yet Known

DHS Has Begun Collecting Additional Data and Improved Sharing of Data among Its Databases to Help Identify Potential Overstays

Since April 2011, DHS has taken various actions to improve its data on potential overstays. In April 2011, we reported that DHS's efforts to identify and report on overstays were hindered by unreliable data, and we identified various challenges to DHS's efforts to identify potential overstays, including the incomplete collection of departure data from nonimmigrants at ports of entry, particularly land ports of entry, and the lack of mechanisms for assessing the quality of leads sent to ICE field offices for investigations.¹¹ Since that time, DHS has taken action to strengthen its processes for reviewing records to identify potential overstays, including (1) streamlining connections among DHS databases used to identify potential overstays and (2) collecting information from the Canadian government about those exiting the United States and entering Canada through northern land ports of entry.

First, DHS has taken steps to enhance connections among its component agencies' databases used to identify potential overstays and reduce the need for manual exchanges of data. For example:

- In August 2012, DHS enhanced data sharing between ADIS and IDENT. This improved connection provides additional data to ADIS to improve the matching process based on fingerprint identification. For example, when an individual provides fingerprints as part of an application for immigration benefits from U.S. Citizenship and Immigration Services or a visa from the State Department, or when apprehended by law enforcement, IDENT now sends identity information, including a fingerprint identification number, for that individual to ADIS. This additional source of data is intended to help allow ADIS to more effectively match the individual's entry record with

¹¹[GAO-11-411](#).

a change of status, thereby closing out more unmatched arrival records.

- Beginning in April 2013, ICE's Student and Exchange Visitor Information System (SEVIS) began automatically sending data to ADIS on a daily basis, allowing ADIS to review SEVIS records against departure records and determine whether student visa holders who have ended their course of study departed in accordance with the terms of their stay.¹² Prior to this date, DHS manually transferred data from SEVIS to ADIS on a weekly basis. According to DHS officials, these exchanges were unreliable because they did not consistently include all SEVIS data—particularly data on “no show” students who failed to begin their approved course of study within 30 days of being admitted into the United States.
- Also in April 2013, DHS automated the exchange of potential overstay records between ADIS and CBP's Automated Targeting System (ATS), which is intended to allow DHS to more efficiently (1) transfer data between the systems for the purpose of identifying national security and public safety concerns, and (2) use matching algorithms in ATS that differ from those in ADIS to close additional records for individuals who departed.

These changes have resulted in efficiencies in reviewing records for determining possible overstay leads; however, they do not address some of the underlying data quality issues we previously identified, such as incomplete data on departures through land ports of entry. Furthermore, because many of these changes were implemented in April 2013, it is too early to assess their effect on the quality of DHS's overstay data.

Second, DHS is implementing the Beyond the Border initiative to collect additional data to strengthen the identification of potential overstays. In October 2012, DHS and the Canada Border Services Agency began exchanging entry data on travelers crossing the border at selected land ports of entry. Because an entry into Canada constitutes a departure from the United States, DHS will be able to use Canadian entry data as proxies for U.S. departure records. We have previously reported that DHS faces challenges in its ability to identify overstays because of unreliable

¹²SEVIS contains biographical and immigration status information for nonimmigrant foreign students and exchange visitors.

collection of departure data at land ports of entry.¹³ This effort would help address that challenge by providing a new source of data on travelers departing the United States at land ports on the northern border. In the pilot phase, DHS exchanged data with the Canada Border Services Agency on third-country nationals at four of the five largest ports of entry on the northern border.¹⁴ These data covered entries from September 30, 2012, through January 15, 2013. DHS plans to expand this effort to collect data from additional ports of entry and to share data on additional types of travelers. According to DHS officials, after June 30, 2013, DHS plans to exchange data for third-country nationals at all automated ports of entry along the northern border.¹⁵ At that time, DHS also plans to begin using these data for operational purposes (e.g., taking enforcement action against overstays, such as revoking visas or imposing bars on readmission to the country based on the length of time they remained in the country unlawfully).¹⁶ After June 30, 2014, DHS plans to exchange data on all travelers, including U.S. and Canadian citizens, at all automated ports of entry along the northern border.

¹³[GAO-11-411](#).

¹⁴These ports were Pacific Highway (Blaine, Washington), Peace Arch (Blaine, Washington), Lewiston-Queenston Bridge (Lewiston, New York), and Rainbow Bridge (Niagara Falls, New York). For the purposes of this pilot, third country nationals are individuals who are not citizens of Canada or citizens or nationals of the United States. The pilot phase included the exchange of biographic data on permanent residents of Canada and lawful permanent residents of the United States.

¹⁵For the purposes of the Beyond the Border initiative, an automated port of entry refers to a port of entry on the shared Canada-U.S. land border with a primary processing capacity to capture traveler (land, ferry, and pedestrian) passage as an electronic record. This does not include large cruise vessels deemed to be sea crossings under the laws of Canada and the United States.

¹⁶Since these data include only individuals who have departed the United States, all of the overstays identified would be out-of-country overstays. In general, nonimmigrants, such as those traveling under temporary visas for business or pleasure, who were unlawfully present in the United States for a period of more than 180 days but less than 1 year and voluntarily departed the United States prior to the commencement of legal proceedings to remove them from the country, are inadmissible for 3 years. In addition, aliens who were unlawfully present in the United States for 1 year or more, and who again seek admission within 10 years of the date of their departure or removal from the United States, are inadmissible. For nonimmigrants whose overstay violations fall below 180 days, their visas are void and the State Department has the discretion to determine whether to issue them new visas, and CBP has the discretion whether to readmit them into the country.

DHS Continues to Face Challenges in Reporting Reliable Overstay Rates, and Recent Changes Have Not Yet Been Fully Implemented

DHS has not reported overstay rates because of concerns about the reliability of its data on overstays. According to federal law, DHS is to submit an annual report to Congress providing numerical estimates of the number of aliens from each country in each nonimmigrant classification who overstayed an authorized period of admission that expired during the fiscal year prior to the year for which the report is made.¹⁷ Since 1994, DHS or its predecessors have not reported annual overstay rates regularly because of its concerns about the reliability of the department's overstay data. In September 2008, we reported on limitations in overstay data, such as missing data for land departures, that affect the reliability of overstay rates.¹⁸ In April 2011, we reported that DHS officials stated that the department had not reported overstay rates because it had not had sufficient confidence in the quality of its overstay data. DHS officials stated at the time that, as a result, the department could not reliably report overstay estimates in accordance with the statute.¹⁹ Although the new departure data DHS is collecting as part of the Beyond the Border initiative may allow DHS to close out more potential overstay records in the future, these data are limited to land departure at northern border ports of entry, and as the initiative has not yet been fully implemented, it is too early to assess its effect on helping strengthen the reliability of DHS's overstay data for reporting purposes. In February 2013, the Secretary of Homeland Security testified that DHS plans to report overstay rates by December 2013.²⁰ As of April 2013, DHS was working to determine how it plans to calculate and report these overstay rates. As part of our ongoing review, we are assessing how the changes DHS has made to its processes for matching records to identify potential overstays may affect the reliability of overstay data and DHS's ability to report reliable overstay rates.

¹⁷8 U.S.C. § 1376(b).

¹⁸GAO, *Visa Waiver Program: Actions Are Needed to Improve Management of the Expansion Process, and to Assess and Mitigate Program Risks*, [GAO-08-967](#) (Washington, D.C.: Sept. 15, 2008).

¹⁹[GAO-11-411](#).

²⁰See statement of Janet Napolitano, Secretary, Department of Homeland Security, before the Committee on the Judiciary, United States Senate, Washington, D.C.: February 13, 2013.

DHS Faces Challenges Planning for a Biometric Exit System at Air and Sea Ports of Entry

Developing a biometric exit capability has been a long-standing challenge for DHS. Beginning in 1996, federal law has required the implementation of an integrated entry and exit data system for foreign nationals.²¹ The Intelligence Reform and Terrorism Prevention Act of 2004 required the Secretary of Homeland Security to develop a plan to accelerate full implementation of an automated biometric entry and exit data system that matches available information provided by foreign nationals upon their arrival in and departure from the United States.²² Since 2004, we have issued a number of reports on DHS's efforts to implement a biometric entry and exit system. For example, in November 2009, we reported that DHS had not adopted an integrated approach to scheduling, executing, and tracking the work that needed to be accomplished to deliver a comprehensive exit solution. We concluded that without a master schedule that was integrated and derived in accordance with relevant guidance, DHS could not reliably commit to when and how it would deliver a comprehensive exit solution or adequately monitor and manage its progress toward this end.²³ We have made recommendations to address these issues, including that DHS ensure that an integrated master schedule be developed and maintained.²⁴ DHS has generally concurred with our recommendations and has reported taking action to address them. For example, in March 2012, DHS reported that the US-VISIT office was adopting procedures to comply with the nine scheduling practices we recommended in our November 2009 report and has conducted training on our scheduling methodology.

DHS has not yet implemented a biometric exit capability, but has planning efforts under way to assess options for such a capability at airports and seaports. In 2009, DHS conducted pilots for biometric exit capabilities in airport scenarios, as called for in the Consolidated Security, Disaster

²¹Pub. L. No. 104-208, div. C, § 110, 110 Stat. 3009-546, 3009-558 to 59.

²²8 U.S.C. § 1365b.

²³GAO, *Homeland Security: Key US-VISIT Components at Varying Stages of Completion, but Integrated and Reliable Schedule Needed*, GAO-10-13 (Washington, D.C.: Nov. 19, 2009).

²⁴GAO-10-13; GAO, *Homeland Security: U.S. Visitor and Immigrant Status Program's Long-standing Lack of Strategic Direction and Management Controls Needs to Be Addressed*, GAO-07-1065 (Washington, D.C.: Aug. 31, 2007); and *Homeland Security: First Phase of Visitor and Immigration Status Program Operating, but Improvements Needed*, GAO-04-586 (Washington, D.C.: May 11, 2004).

Assistance, and Continuing Appropriations Act, 2009.²⁵ In August 2010, we reported on the results of our review of DHS's evaluation of these pilot programs. Specifically, we reported that there were limitations with the pilot programs—for example, the pilot programs did not operationally test about 30 percent of the air exit requirements identified in the evaluation plan for the pilot programs—which hindered DHS's ability to inform decision making for a long-term air exit solution and pointed to the need for additional sources of information on air exit's operational impacts.²⁶ According to DHS officials, the department's approach to planning for biometric air exit has been partly in response to our recommendation that DHS identify additional sources for the operational impacts of air exit not addressed in the pilot programs' evaluation and to incorporate these sources into its air exit decision making and planning. As of April 2013, the department's planning efforts are focused on developing a biometric exit system for airports, with the potential for a similar solution to be rolled out at seaports, according to DHS officials. However, in October 2010, DHS identified three primary reasons why it has been unable to determine how and when to implement a biometric air exit solution: (1) the methods of collecting biometric data could disrupt the flow of travelers through air terminals; (2) air carriers and airport authorities had not allowed DHS to examine mechanisms through which DHS could incorporate biometric data collection into passenger processing at the departure gate; and (3) challenges existed in capturing biometric data at the point of departure, including determining what personnel should be responsible for the capture of biometric information at airports.

According to DHS officials, these challenges have affected the department's planning efforts. In 2011, DHS directed its Science and Technology Directorate (S&T), in coordination with other DHS component agencies, to research "long-term options" for biometric exit.²⁷ In May 2012, DHS reported internally on the results of S&T's analysis of previous air exit pilot programs and assessment of available technologies, and the

²⁵Pub. L. No. 110-329, 122 Stat. 3574, 3668-70 (2008).

²⁶GAO, *Homeland Security: US-VISIT Pilot Evaluations Offer Limited Understanding of Air Exit Options*, [GAO-10-860](#) (Washington, D.C.: Aug. 10, 2010).

²⁷In our previous reviews of DHS's efforts to pursue biometric exit capabilities, DHS's plans have approached development of a biometric exit system through a phased approach that involved conducting pilots to inform eventual planning for long-term solutions. Different pilots were created to inform solutions at air/seaports and land ports. See [GAO-10-13](#).

report made recommendations to support the planning and development of a biometric air exit capability.²⁸ In that report, DHS concluded that the building blocks to implement an effective biometric air exit system were available. However, DHS reported that significant questions remained regarding (1) the effectiveness of current biographic air exit processes and the error rates in collecting or matching data, (2) methods of cost-effectively integrating biometrics into the air departure processes (e.g., matching arrival and departure records based on biometric information like fingerprints rather than based on biographic information, such as names and dates of birth), (3) the additional value biometric air exit would provide compared with the current biographic air exit process, and (4) the overall value and cost of a biometric air exit capability. The report included nine recommendations to help inform DHS's planning for biometric air exit, such as directing DHS to develop explicit goals and objectives for biometric air exit and an evaluation framework that would, among other things, assess the value of collecting biometric data in addition to biographic data and determine whether biometric air exit is economically justified.²⁹

DHS reported that, by May 2014, it planned to take steps to address the recommendations in its report; however, according to DHS Office of Policy and S&T officials, the department has not yet completed actions in response to these recommendations, although DHS officials reported that DHS has plans to do so to help support development of a biometric air exit concept of operations. For example, DHS's report recommended that DHS develop explicit goals and objectives for biometric air exit and use scenario-based testing rather than operational pilot programs to inform the concept of operations for biometric air exit. As of April 2013, DHS officials stated that they expect to finalize goals and objectives in the near

²⁸DHS, *DHS Biometric Air Exit: Analysis, Recommendations and Next Steps*, draft final report (Washington, D.C.: May 2012).

²⁹The report recommended that DHS take the following actions: (1) develop explicit goals and objectives for biometric air exit, (2) leverage improvements in passenger facilitation and biometric technology to support a concept of operations, (3) use developmental scenario testing instead of pilot programs to validate a concept of operations, (4) establish collaborative relationships with airports and airlines, (5) use operational tests to validate performance and cost estimates, (6) develop an evaluation framework for biometric air exit, (7) employ a holistic approach to assess the costs and benefits of comprehensive biometric entry and exit processes, (8) determine whether biometric air exit is economically justified, and (9) incrementally deploy biometric air exit to airports where it is cost-effective to do so.

future and are making plans for future scenario-based testing. In addition, DHS's report stated that new traveler facilitation tools and technologies—for example, online check-in, self-service, and paperless technology—could support more cost-effective ways to screen travelers, and that these improvements should be leveraged when developing plans for biometric air exit. However, DHS officials stated that there may be challenges to leveraging new technologies to the extent that U.S. airports and airlines rely on older, proprietary systems that may be difficult to update to incorporate new technologies. Furthermore, DHS officials stated they face challenges in coordinating with airlines and airports, which have expressed significant reluctance about biometric exit because of concerns over its effect on operations and potential costs. To address these concerns, DHS is conducting outreach and soliciting information from airlines and airports regarding their operations.

DHS officials stated that the goal of its current efforts is to develop information about options for biometric exit and to report to Congress in time for the fiscal year 2016 budget cycle regarding (1) the additional benefits that biometric exit provides beyond enhanced biographic exit and (2) costs associated with biometric exit. As part of our ongoing work, we are assessing DHS's progress in meeting its goals for addressing the recommendations in its biometric exit report by May 2014. We plan to report on the results of our analysis in July 2013.

Chairman Miller, Ranking Member Jackson Lee, and members of the subcommittee, this completes my prepared statement. I would be pleased to respond to any questions that you may have at this time.

GAO Contact and Staff Acknowledgments

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