Transcript of Senate Judiciary Subcommittee on Immigration and the National Interest Hearing on Biometric Exit Tracking Systems

Hearing Date: January 20, 2016

SESSIONS:
The Committee will come to order. I won't -- we won't do any substantive (ph) work until Democratic members have the chance to be here, but I want to thank all of you for coming and I want to be sure that everyone that's watching this hearing can do so without obstruction. If people stand up and block the view of those behind them or speak out of turn, it's not fair or considerate to others and officers will remove those individuals from the room.
And before we begin with opening statements, I want to explain how we're going to proceed today. We have one panel of witnesses today. I will make an opening stamen followed by opening statement from Senator Schumer. Each witness will then have five minutes for an opening statement. Following their statements, we will begin with the first round of questions in which each senator will have five minutes. After the first round, if any senator wishes to continue with questions, we will have a second round of questions.
I would apologize to you. We had a vote that was supposed to be at 2:30 and it went past 2:45 before that vote that called and the voting is going on now. I think -- we're ready with Senator Franken. Senator Franken, if it's all right with you, we would -- I would like to introduce the witnesses and swear them and we'll wait a few minutes to see if Senator Schumer was coming.

FRANKEN:
No, it's not OK with me.
(LAUGHTER)

FRANKEN:
Sure. Go ahead.

SESSIONS:
What would you -- out of nowhere -- you got an A for timing again as always. So I'll ask the witnesses if you would stand and raise your right hand. Do you -- raise your right hand. Do you affirm that the testimony you're about the give for this committee will be the truth, the whole truth, and nothing but the truth, so help you God. Thank you. You may sit all.

I'll introduce our witnesses and then I'll just them all. We could take turns. When you finish, the next witness can testify. So first, we have John Wagner, deputy assistant commissioner for the Office for Field Operations U.S. Customs and Border Protection. In that position in which he has served since April of 2015, Mr. Wagner oversees nearly 30,000 employees -- that's pretty big job, Mr. Wagner -- with more than 22,000 CBP officers and CBP agricultural experts that protect the United States borders. Mr. Wagner graduated from the State University of New York at Albany with a Bachelor of Arts Degree in Psychology. He began his federal law enforcement career in 1991 with joining the U.S. customs service as a customs inspector.

Next, we have Mrs. Anh Duong, director of the Border and Maritime Division, Homeland Security Advanced Research Projects Agency at the Department of Homeland Security Science and Technology Directory. That's a good title. Ms. Duong joined the department in 2008 after spending 25 years working in naval science and technology for the United States Navy. She graduated cum laude in chemical engineering and in computer science from the University of Maryland and earned an M.S. in public administration with honors from American University.

Next, we have Mr. Craig Healy, assistant director of National Security Investigations Division, Homeland Security Investigations, U.S. Immigration and Customs Enforcement. Mr. Healy is dual headed as the assistant director of National Security Investigations Division and as a director of the Federal Export Enforcement Coordination Center. Mr. Healy has served in a variety of management positions at federal level throughout his 28 years of government service including service in the United States Marine Corps and a former U.S. customs service and with U.S. Immigration and Customs Enforcement.

And finally, we have Rebecca Gambler, director of Homeland Security and Justice Issues at the U.S. Government Accountability Office, GAO. Ms. Gambler joined GAO in 2002 and has worked on a wide range of issues related to homeland security and justice. Prior to joining GAO, Ms. Gambler worked at the National Endowment for Democracy International Forum for Democratic Studies. Ms. Gambler has an M.A. in national security and strategic studies from the United States Naval War College, an M.A. in international relations from Syracuse University, and an M.A. in political science from University of Toronto. She was a Fullbright fellow to Canada. Ms. Gambler has a B.A. in political science from Messiah College.

So perhaps since we have highly able and competent Democratic member with us, I'll do my opening statement. And if Senator Schumer does not arrive, I'll call Senator Feinstein ...

FRANKEN:
Where is this highly competent member of the minority?

SESSIONS:
I'm just looking right at you.

FRANKEN:
Oh, thank you for your kind words, Mr. Chairman. I have no opening statement though as competent as I am.

SESSIONS:
Today's hearing will focus on the Department of Homeland Security's refusal really to implement the legally required biometric exit tracking system at all air, sea and land ports. Such a system is the only way to know definitively which aliens admitted to the United States on a temporary basis have left as they were required to do by their visa and which of them -- and which ones have remained here unlawfully in violation of law.

Congress has required the implementation of an automated entry and exit system for years. Indeed, I think the first one was in 1996. Half a dozen laws have been passed to call for this. In about 2004, we added biometrics, not just biographic data, as a requirement for the system that should be set up.

This then repeatedly recognized that such a system is a vital component to our immigration system. It just is. But the law, the promise to the American people made when those laws passed has been more show (ph) than substance. Several of our temporary entry programs are uncapped, meaning that an unlimited number of people can enter the country temporarily on a visa. Others permit the admission of tens of thousands of aliens each year before their cap. If we do not track and enforce departures, then we have open borders, especially as a way it's being carried out today. It is as simple as that.

As the late Barbara Jordan, the chairwoman of the U.S. Commission on Immigration Reforms, said, quote, "Deportation is crucial. Credibility in immigration policy can be summed up in one sentence, those who should get in, get in. Those who should be kept out are kept out. And those who should not be here will be required to leave," close quote.

Come on, Senator Schumer. We -- no business has been taken, but you are missing my great oration.

SCHUMER:
Well, I will read every word of what I missed. Sorry.

SESSIONS:
I'm sure you've heard it before and we've talked about these issues a number of time and I respect your insight into this even when we might not agree.

SCHUMER:
Thank you.

SESSIONS:
Although Department of Homeland Security does not know definitely largely based on the lack of a fully automated biometric entry/exit tracking system, numerous sources estimated that upwards of 40 percent of the population of aliens unlawfully present in the United States today did not cross the borders unlawfully but rather overstayed the authorized period of stay allowed by their visas. So it must be understood that under the policies of this administration overstaying a visa does not result in deportation. There is no plan or policy that does that. Such policies are being carried out today. It's a demonstration by our government that the exit date requirement has no meaning. Again, this is the very essence of open borders, anyone can come in, no one has to leave.

The reason this is so just to go a little further is because the policies established by this administration for deporting people unlawfully here mean that you do not deport people unless they've been arrested for a serious felony. So if you come on a visa for a certain period of time and you overstayed that visa, unless you've been caught virtually, almost totally on a serious criminal

offense, you will not be deported, no action will be taken. And that's why we have -- the kind of openness is unacceptable.

In addition to the harm done to the American job seekers and taxpayers, this also poses a substantial national security risk and a monumental erosion of the integrity of law that encourages more violations. The 9/11 commission found that creating such an entry/exit system was, quote, "insist and essential investment in our national security," close quote. And it was a key recommendation of the 9/11 commission over a decade ago. And when they met 10 years later to evaluate whether their recommendations have been followed or not, this entry/exit visa system was one of the key points they noted had not been carried out. But again, no such system exists today.

The omnibus spending bill that Congress passed last month, which contained many unwise provisions, did include language that could lead to hundreds of millions of dollars going toward implementation of this system. Unfortunately, there were no forcing functions included in the language to ensure its spent properly, but the presence of the money would remove excuses DHS has not deconstruct the system after all these years.

The situation is dire. The time to act is now. The U.S. Customs and Border Protection issued a report yesterday entitled, Entry, Exit, Overstay Report, Fiscal Year 2015, the report which only addresses individuals admitted as non-immigrant visas, for business or pleasure, during one fiscal year and clearly does not include other significant non-immigrant visa categories, such as students or workers or an H-1B or H-2B visas, indicates that during fiscal year 2015, 527,000 individuals overstayed their visas or authorized periods of stay. At the end of the fiscal year, 482,781 of these individuals were still in the United States. Put another way, that means that nearly half a million individuals potentially overstayed their visa in just one fiscal year and that number does not include aliens admitted under a variety of other non-immigrant visa programs, students, temporary workers, and the like.

That is a population of individuals that is larger than any city in Iowa, New Hampshire or South Carolina. The total number of -- because there are three elections coming up. Did you not know that? And perhaps when people go to their election, they're going to consider these types of issues when they choose to cast their votes. The report includes a surprisingly high visa overstay rates for some countries that currently participate in the Visa Waiver Program but entails extremely troubling information about other countries. For example, a report indicates 219 individuals from Afghanistan, 681 from Iraq, 564 from Iran, 56 from Libya, 1,435 from Pakistan, 440 from Syria, 219 from Yemen overstayed their visas and are suspected of being in the United States. That's just one year.

So this nation despite clear law makes no attempt to identify, locate, or find these people who have overstayed their visas or even to find out who overstayed and who did not. Executive branch is on strike against the will of the American people and the requirements of Congress. Undersecretary Jeh Johnson's policies and the president's policies, aliens who overstayed their visas but managed to avoid being convicted of any crimes have practically no chance of ever being removed from the United States.

American citizens face criminal charges if they lie to authorities, illegally take someone's money or steal someone's identity. Yet, we allow millions of aliens to come on temporary visas, ignore

our laws, violate their pledge to leave by certain date, and to take jobs and benefits directly from Americans.

Simply put, there's no border at all if we don't endorse forced out base out routes (ph). Even violent and dangerous aliens are allowed to roam freely in the country until they've been -- till they rob or killed an innocent American. We need to remove alien overstays before they hurt innocent Americans, before they engage in terrorism, not wait until it's too late.

Every time you hear about the deportation of a convicted criminal killer, remember this, if we have deported that alien before the crime, an innocent American would still be alive. Lawlessness cannot continue. We must establish a tracking system at every air, land and sea port and we must send a message to the world -- if you overstay your visa, you're going to be sent home.

Once again, I'd like to thank our witnesses, this distinguished panel, for joining us -- for joining us and we look forward to your testimony.

Senator Schumer?

SCHUMER:
Well, thank you, Mr. Chairman. And I appreciate your holding this hearing. This has always been a bipartisan issue. You and I agree with the total thrust of your statement, and I'm glad you're having this hearing because it is really important.

And I just like to note that I along with every other Democrat who is serving in the Senate today, who was serving during the tumultuous years after 9/11, supported the 9/11 Commission's recommendation that DHS establish a biometric entry/exit system at our land, air and sea ports of entry. Knowing who was coming in to the country and knowing who is going out is a matter of national security, plain and simple.

Congress has on multiple occasions mandated the creation of a biometric entry/exit system. I'm a firm supporter of it. I was personally involved in the push for Canada (ph) to share their entry information with us so that we could count that towards our exit tracking.

I also co-authored and fought for the bipartisan Senate-passed Comprehensive Immigration Reform Bill that reiterated this mandate and prioritized implementation in our 10 busiest international airports. We talked about this on Comprehensive Immigration Reform, lots of Republican and Democratic senators putting their heads together. Unfortunately, it didn't pass but would have moved us forward on this issue.

Yet, it's 15 years now after the first mandate. And several -- let me repeat -- several laws reiterating it, but it still hasn't been implemented. We have a biometric entry system. It's been fully operational for about 10 years, but the biometric exit system is still not off the ground and that is unfortunate, very unfortunate, because it is a matter of national security.

So today, I hope to hear why, what DHS is doing about it. The Department of Homeland Security has as its mission doing everything possible to protect the homeland. And we know you take that mandate seriously. You've dedicated your lives to it. Part of that mission includes fulfilling the

mandates Congress passes and in the latest appropriations legislation, funds to the tune of billions of dollars. We need innovative solutions to implement this mandate, and we can do it without disrupting travel and international commerce.

For instance, at airports, DHS could segment the lines of the gates to screen international departures only or perhaps CBP could use a handheld device on the airplanes themselves before takeoff. At our southern border, perhaps we can duplicate the Canadian model and find the way to collect fingerprints within a short distance to the Mexican side of our ports of entry demonstrating that someone has arrived there, and hence, exited the U.S.

So I hope that our experts on the panel have thought of these ideas or even better ideas, and I'm eager to hear them. Now, to our DHS friends -- and I appreciate so much your service -- Congress just gave you $2 billion to do this, and we look forward to hearing your plans.

Thanks, Mr. Chairman.

SESSIONS:
Thank you, Senator Schumer. I -- maybe we can make progress. Unfortunately, without any request from the administration for money to get anything done and I haven't seen any leadership from the other side. But Mr. Wagner, I believe you'll be first up and we would be delighted to hear your statement at this time.

WAGNER:
Thank you, Chairman Sessions, Ranking Member Schumer, distinguished members of the subcommittee. Thank you for the opportunity to appear here today to discuss Customs and Border Protection's efforts to incorporate biometrics into our exit operations.

Since assuming this responsibility for homeland security entry/exit policy as recently as 2013, CBP has been actively moving forward on several initiatives I will discuss today.

I'd like to begin by briefly (ph) discussing how we presently collect arrival and departure data from foreign nationals. We received passenger manifest from air and see carriers, which contain the biographic information on the passengers. This information is vetted against the number of law enforcement databases to enable us to address potential risks prior to departure from foreign.
When the traveler arrives in the United States, they present their passport to the CBP officer. The officer reads the passport and electronically confirms the accuracy of the information received from the airline. For foreign nationals, fingerprint biometrics and a digital photograph are also collected.

If the traveler has a visa, we compare the prints against that state department collected at the embassy to make sure it's the same person. If they're traveling under visa waiver, we collect the biometrics and compare it against the last time we encounter them, or if it's their first visit, we affix the full set of 10 fingerprints to their identity for their next visit.

The officer reviews the biographic and biometric database checks, ensures no previous violations, risk factors, interviews the traveler to determine purpose and intent of travel, and then stamps the

passport, indicates the duration of the stay, the visit, in their passport and records this in our automated system.

When that same person departs the United States, CBP again receives the biographical manifest from the airline. This allows us to create a departure record for the traveler and close out their stay. As you remember, it was through this system that CBP apprehended the Time Square bomber, Faisal Shahzad, who was attempting to depart JFK in 2010. In fact, last year, CBP arrested 379 travelers flying on airlines without standing NCIC warrants based on these departure manifests that the airlines provided.

So we use this arrival and departure information to generate overstay list on a daily basis. It's important to point out the determining lawful status can be more complicated than simply matching entry and exit data. For instance, a person may be admitted for a six-month stay, but they applied for and received an extension, which is relevant to determining if they're an overstay or not. Therefore, overstay list must be correlated against other DHS systems and organizations. We then run this overstay list through our automated targeting system. We're working closely with our partners in ICE. We prioritize this based on national security factors and provide that to ICE for a followup.

As you mentioned, yesterday, we released the overstay report. It provides data on foreign visitors who overstayed their lawful admission period. As you mentioned, out of the nearly 45 million non-immigrant visitors, we calculated an overstay rate of 1.17 percent. If you push that out to January, that same group of people, that number goes down to about 0.9 percent. So in other words, we were able to confirm their departures or over 99 percent of non-immigrant visitors who were scheduled to depart in 2015.

This report articulates the foundation to build the biometric exit system upon. The information we're collecting today is actionable, but it can be enhanced with the addition of biometrics captured at departure in order to confirm the information that we are acting on. The previous attempts to deploy a biometric exit system struggled because they were tempted in isolation and build it up from scratch rather than trying to build upon the existing framework and the existing system.
But the challenge today is not the technology. The challenge is the infrastructure. Our ports of entry were not built for exit processing. Unlike for arrivals, there's no exclusive and dedicated space for departure controls, so where the biometric collection takes place is critical. Placing the technology too early in the departure process, such as at the security checkpoint or the airline counter, would not provide assurances that the passenger who registered their biometrics actually got onboard the plane and left the country. In this case, we'd be defaulting to the very same process we have in place right now, which is relying on the departure manifest from the airline. It would be so easy to circumvent the system. The data would be unreliable.

But in preparation for deploying biometric exit, we have several operation pilots that we've kicked off. We have deployed a mobile biometric capability at 10 airports last year. This capability will help us determine the accuracy of the biographic manifest the airlines are providing, the percentage of records, the additional records that we can close out that we couldn't do just on the basis of biographic records, and then identify the law enforcement requirements because every biometric

kit is not relevant to our departure processing and this gives is a sense of the enforcement capabilities that it will bring to us.

Yesterday, we launched Phase 2 of our facial comparison technology at the JFK airport. This allows us to confirm the passport presented by the true document holder for U.S. citizens and Visa Waiver travelers. We did this at Dallas last spring and we'll be re- launching it at Dallas next month.

Thirdly, we just launched the pedestrian pilot at Otay Mesa land border crossing in California. We're collecting face and iris images on arrival. And next month, we will turn on the departure part and this will teach us about the viability and accuracy of collecting new biometrics in an outdoor, self-service land border environment.

So with that, I will close and happy to take any of your questions.

DUONG:
Good afternoon, Chairman Sessions, Ranking Member Schumer, and distinguished members of the committee. I thank you for this opportunity to testify along with my colleagues from Customs and Border Protection and Immigration and Customs Enforcement, with whom we work closely. The Science and Technology Directorates or S&T's mission is to deliver effective and innovative insight methods and solutions for the critical needs of the homeland security enterprise. We work closely with our operating components such as CBP and ICE to understand the gaps in their operational capabilities and invest in efforts that will result in knowledge or products aimed at closing these gaps.

In 2012, CBP asked for our assistance in their effort to enhance the current air entry and air exit operations. In response, S&T started the Air Entry/Exit Re-engineering project in FY 2016 known as AEER -- A-E-E-R -- which is composed of several interlocking parts, technology forging (ph) and testing, operation analysis, and stakeholder engagement.

With respect to air exit, our goal is to help CBP evaluate technologies and concepts of operation to biometrically verify the departure of foreign nations from U.S. airports. To inform concepts of operation and scenario-based testing, AEER conducted a comprehensive market survey of commercially available standup face (ph), fingerprint, iris and facial recognition technology. We identified over 100 devices from a wide range of vendors for testing at the Maryland Test Facility in Landover, Maryland, which many of your staffs have visited over the past year or so.
We first evaluated these devices' basic performance, such as accuracy, speed, et cetera. Those that performed well were selected for scenario based testing to evaluate the human interface and suitability in various concepts of operation.

Since June 2014, AEER has utilized over 1,700 volunteer human subjects ranging from 18 to 81 years of age from 50 countries of origin and with demographic characteristics similar to those of air travelers. To inform concepts of operation and scenario-based testing at the Maryland Test Facility and to collect data in support of CBP cost analysis, we sent teams into the field to observe and analyze current airport operations. This entails close cooperation with CBP headquarters and field staff as well as airport and airlines stakeholders. We routinely invited industry groups to the

Maryland Test Facility and hosted webinars to keep stakeholders updated and solicited their feedbacks.

Through the AEER project in the past three years, we have gained a robust understanding of the state of the art of biometric technologies, how various technologies interact with passengers, and how they might fit in various concepts of operation. We're in the process of transferring all of this knowledge to CBP including our volume of test results, assessments and recommendations as we transition from S&T lab scenario-based testing to CBP lab airport pilots for biometric exit in 2016. These products will inform CBP's path forward to a nationwide deployment for the biometric exit program in accordance with statutory requirements.

While the AEER project will end this year, S&T will assist CBP in data analysis for the upcoming airport pilot phase and we stand ready to invest in additional R&D work should the need arise as a result of the airport pilots. We also plan to provide our (inaudible) to share with industry the high level results and lessons learned from AEER.

Technology is an essential ingredient of the security. S&T will continue to collaborate with our components and partners to bring technology to operational use and help enhance homeland security.

I thank the committee for this opportunity to testify on this very important topic.

SESSIONS:
Thank you. Mr. Healy?

HEALY:
Good afternoon, Chairman Sessions, Chairman Grassley, Ranking Member Schumer, and distinguished members. Thank you for the opportunity to discuss ICE's role in overstay enforcement and how we would benefit from the implementation of a biometric exit system. After nearly 30 years in federal law enforcement, I recognize the importance of the visa overstay issue to the subcommittee.

I'd like to briefly outline my agency's involvement as a recipient of information collected by my DHS colleagues represented here today and explain how ICE uses that information.

ICE Homeland Security Investigations or HSI through our counterterrorism and criminal exploitation unit is dedicated to identifying and initiating enforcement action on priority overstay violators. Our overstay mission is accomplished in close coordination with CBP and numerous other agencies and our primary objective is to vet the system-generated leads we receive in order to identify true overstay violators for appropriate enforcement action. ICE uses dedicated special agents, analysts, and systems to specifically address non-immigrant overstays who may potentially pose a national security and public safety concern.

In fiscal year 2015, our agents and analysts devoted approximately 650,000 investigative hours on overstay enforcement. In fiscal year 2015, the counterterrorism and criminal exploitation unit

reviewed approximately 700 -- 971,000 system-generated potential violator referrals received from entry/exit data, international student data sets, and other government systems.

The system-generated referrals are created using biographical and travel data stored in CBP's arrival and departure information system. This system allows DHS to identify non-immigrants who potentially have remained in the United States beyond their authorized periods of admission who have violated their visas.

Once the leads are received, ICE conducts both automated and manual searches against additional government databases, social media and public records to determine if a potential overstay has departed the United States, has adjusted to a lawful status, or requires further investigative review. Additionally, ICE prioritizes overstay referrals through a risk- based analysis. A targeting framework consisting of 10 tiers was developed in close consultation with the intelligence and law enforcement communities to ensure that national security and public safety concerns are prioritized. To accomplish this, we meet regularly with our interagency partners to confirm that our targeting methodologies are in line with current U.S. government threat information, trends and priorities.

Of the referrals analyzed in fiscal year 2015 of approximately 1 percent or roughly 10,000 referrals were determined to potentially pose national security or public safety concern. While all these priority referrals are sent to HSI field offices for investigation, often the subsequent field investigation determines that many of these individuals have departed the country or have lawfully changed their immigration status. However, when the two violators encountered, ICE will take appropriate enforcement action.

For fiscal year 2015 of the approximate 10,000 prior referrals that were sent to the field, our offices have about 3,000 of these leads currently under investigation, roughly 4,100 cases have been closed being the individual is found to be in compliance with U.S. immigration law or the individual has departed the United States.

More importantly, we made over 1,900 arrests, which 139 were criminal arrests, secured 86 indictments and 80 convictions. The remaining leads are under continuous monitoring and further investigation.

In conclusion, ICE will continue to work alongside CBP in pursuing overstays who violate the terms of their admission. The implementation of the biometric exit system will facilitate enhanced information sharing while improving the quality of the data; thereby, improving ICE's efficiency and effectiveness in identifying and removing overstay violators.

Thank you for your time. I'll be pleased to answer any questions.

SESSIONS:
Thank you. Ms. Gambler, GAO?

GAMBLER:
Good afternoon, Chairman Sessions, members of the subcommittee. I appreciate the opportunity to testify in today's hearing to discuss GAO's work reviewing Department of Homeland Security

Efforts to plan for and implement a system to collect biometric data from foreign nationals at U.S. ports of entry. Such a system is intended to help the department in its efforts to identify potential overstays among other goals.

Beginning in 1996, federal law has required the implementation of an entry and exit system. And in 2004, DHS was mandated to develop a plan to accelerate full implementation of a biometric entry/exit system. Currently, DHS collects biographic information from foreign nationals entering and departing the country through airports, and on a more limited basis, at land ports. And since 2004, DHS has collected biometric information, namely fingerprints, from foreign nationals entering the United States. However, the department has not yet developed and implemented a biometric exit capability as required by statute.

We have issued a number of reports on DHS' efforts to implement a biometric exit system and we have identified weaknesses in the department's overall management of these efforts. My remarks today will focus on DHS' planning efforts for a biometric air exit capability.

DHS has faced significant and longstanding challenges in developing and implementing such a capability. Some of these challenges include determining efficient mechanisms for collecting biometric data that do not disrupt passenger flows through airports and capturing biometric data at the point of departure.

In May 2012, DHS reported internally on the results of analysis researching long-term options for a biometric air exit capability. In that report, DHS concluded that the building blocks for implementing an effective system were available. However, DHS also concluded that significant questions remained regarding, for example, the additional value biometric air exit would provide over the current biographic air exit process and the overall value and cost of a biometric capability. The report made recommendations to support the planning and development of a biometric air exit capability, such as for DHS to develop goals and objectives for its efforts and an evaluation framework to assess whether biometric air exit is economically justified. DHS initially planned to address these recommendations by May 2014, but DHS has not yet fully addressed them.

Further, DHS had planned to develop options for biometric air exit and reports to Congress regarding benefits and cost in time for the fiscal year 2016 budget cycle. DHS did not meet that timeframe and does not know when it will be positioned to report this information to Congress. More recently, DHS has implemented several projects to test and evaluate possible biometric air exit technologies. For example, last year, CBP began testing a handheld mobile device to collect biographic and biometric exit data from randomly-selected foreign national travelers at selected airports.

While these are positive steps, DHS began these efforts without having a finalized evaluation framework for assessing biometric air exit options. Such a framework is important for helping to guide DHS' efforts. We previously recommended that the department set timeframes and milestones for developing and implementing an evaluation framework. DHS concurred with this recommendation and has developed a draft framework but still on the process of finalizing metrics for measuring performance and effectiveness, and our recommendation remains open.

In closing, DHS has faced longstanding challenges in making progress toward meeting the statutory requirements for biometric exit capabilities. While DHS has planning efforts underway to assess options for a biometric air exit system, DHS initiated these efforts without having in place an overall an overall framework to guide these assessment efforts.

Further, DHS has missed a number of its own milestones for implementing recommendations to strengthen its biometric exit planning efforts and through reporting information to Congress. We will continue to monitor and followup on these issues as well as the status of the department's efforts to implement our prior recommendations.

This concludes my all statement and I'll be pleased to answer any questions members may have.

SESSIONS:
Thank you. Just briefly, Ms. Gambler, how many times does GAO reviewed this effort?

GAMBLER:
I can get back with you with an exact number, but a number of reports probably six, seven, eight.

SESSIONS:
I have -- do they have an actual plan today this being executed that will fix this problem and meet the requirements of law?

GAMBLER:
We have not yet seen the plan from the department for biometric exit.

SESSION:
Mr. Wagner, that's a pretty serious result. Senator Schumer said he saw this. We've talked about it for years. It's not a question of technology, is it? Do you have any failure in technology that would keep you from executing this plan?

WAGNER:
No. Sorry. It's the placement of the technology and how you collect it to ensure that the person actually departed the United States.

SESSION:
Right. So the question is for -- since 2004 or earlier, you've been trying to figure out where to put the equipment. Is that right?

WAGNER:
It's a matter of incorporating into the departure process. So, number one, we don't create gridlock ...
(CROSSTALK)

SESSIONS:
How long would it take you to decide that -- this has been going on for years. Can't you decide it next week?

WAGNER:

We can't compel space at the airports. We don't -- we don't occupy space for the government to operate in departure in the international airports. There is no zone to do that. Theirs is ...
(CROSSTALK)

WAGNER:

So we're working with S&T to come up with what is the right biometric to collect and what's the right way to collect it without creating gridlock at the airports and the land borders to do that.

SESSIONS:

Mr. Wagner, this is the Congress of the United States. You're in charge of doing an exit visa -- exit system for the United States of America. It's been required for 20 years. It is not in place. So we're not going to talk about problems that have been out there that could have been solved a long time ago.
First, the extra million that Senator Schumer talked about being in this budget, did you request it?

WAGNER:

No.

SESSIONS:

It hasn't been requested because administration has had no interest in seeing this system completed. That's the fact. Now, if someone comes in to this country on a visa for six months and they overstay two years, do you even know that they've overstayed?

WAGNER:

Yes. Absolutely.

SESSIONS:

Do you have a record if it? How does it come up?

WAGNER:

Yes. Because ...

SESSIONS:

Can you find -- the question is not can you find it. The question is, is a system in place that reports kicks out the names of people who overstayed.

WAGNER:

Yes. Because when their period of admission is up but we don't have a confirmed departure, that would appear on an overstay list.

SESSIONS:

Well then everybody is -- since we don't have a method of departure, everybody is on the list.

WAGNER:

We have a method of departure via the airline manifests.

SESSIONS:
But you don't have the biometrics as required by law?

WAGNER:
Correct.

SESSIONS:
All right. Now, if they overstayed and you have a list of those, do you go out and look for them?

WAGNER:
We provide that to ICE.

SESSIONS:
Does ICE go out and look for them?

WAGNER:
You have to ask ICE.

SESSIONS:
Mr. Healy, do you go -- when you get a name of an individual that doesn't have any criminal attachment to it, do you look for that individual if they overstay?

HEALY:
Yes, we do, sir. What we'll do is we'll take that information and it comes in in batch form. We'll prioritize it according to national security, public safety. It will show one of the things ...

SESSIONS:
No, Mr. Healy.

HEALY:
Sir?

SESSIONS:
I asked you a question. You said you prioritize.

HEALY:
Yes, sir.

SESSIONS:
And you said that -- as I understood you cited (ph) at 3,000 that you're investigating now and out of 49 million people that have come here and 400,000 to 500,000 who have overstayed their visas. Is that right?

HEALY:

What we need to do, sir, is we need ...

SESSIONS:
I'm just asking. So you got investigation of 3,000. You admit that there are 400,000 to -- really 500,000 overstays and you don't go out and look for 500,000 people, do you?

HEALY:
No. We prioritize to what we look.

SESSIONS:
So you prioritize and this is the key word, colleagues. Prioritize means you got some sort of information and this usually involves terrorism or some serious crime. Is that right?

HEALY:
It could be, sir.

SESSIONS:
But if they are not that way, if they came here from a country and did not return and you have no information that they are a terrorist based on the information you have, you don't go look for them, do you?

HEALY:
No, sir.

SESSIONS:
Right. So this is overwhelmingly that so. So an individual who wants to go to America, Mr. Wagner, and they think about crossing the border to Mexico or Canada, and they say, "Wait a minute. I could just come on a visa and never go home." Isn't it true that unless they can -- caught for a serious crime, they will not even be investigated?

WAGNER:
Well, in order to get the visa, they have to prove certain ties to their home country. They have to show that they have a job, they have a home, they don't intent to abandon, they go through states department ...

SESSIONS:
Well, that's to get the number down.

WAGNER:
Right.

SESSIONS:
You got 49 million, whatever. That's trying to keep the number down that overstay, but we're talking about a half a million overstays. So nobody is looking for those people, right? And the policies of this administration, Secretary Johnson, is not to look for them and not to bother to

deport them unless they are apprehended for a serious crime. Isn't that the policy of the United States government?

HEALY:
No, sir.

SESSIONS:
What is it, Mr. Healy?

HEALY:
Sir, may I clarify in terms of the process? That number that we have that is a snapshot in time. It's a continuous cycle for us. So, sir, when someone comes to us and they're a potential overstay, what we first need to do is determine how does that individual obtain some type of lawful benefit through CIS, how does that individual departed the U.S. If not, then we prioritize that and we'll take a look at that individual over a continuum.

SESSIONS:
My time is up. Now, I want to go on, but I don't see that dispute is what I'm saying. If a person comes to America, they don't have a criminal background and your computer doesn't pick it up and they just don't go home, nobody is going to look for them. Isn't that correct?

HEALY:
Not necessarily, sir.

SESSIONS:
Why would you look for them then? Under what circumstances?

HEALY:
There may be a situation, sir, where their name would pop up with my ...
(CROSSTALK)

SESSIONS:
Well, they might pop up.
(CROSSTALK)

HEALY:
Sir, additional information may be obtained after the individual has overstayed that may cause them to be looked for and they caused them to be...
(CROSSTALK)

SESSIONS:
Information might be obtained that they might be a danger to the security of the United States.

HEALY:
Well, other information.

SESSIONS:
All right. But if you don't -- if all it is is they came in and overstayed their visa, you're not going to look for them and not going to deport them, isn't that right?

HEALY:
There could also be criminal information available to us.

SESSIONS:
What if there is not?

HEALY:
They could be out of status.

SESSIONS:
What I'm saying to you, Mr. Healy, is plainly obvious that if somebody comes here and keeps their nose clean and doesn't have a criminal record and they come here on a visa and they stay, nobody is ever going to come look for them under the policies of this government and it is a wide open method by which millions of people can enter our country unlawfully.

HEALY:
And we will be able to monitor that, sir.

SESSIONS:
When?

HEALY:
We do now, sir.

SESSIONS:
Well, you're not monitoring. I bet (ph) you don't have -- you're not close to having enough people to monitor the ...

HEALY:
My apologies, sir ...

SESSIONS:
... 500,000 people.

HEALY:
Just to clarify, that information is maintained in databases. I didn't mean to imply that we're actually out monitoring them.

SESSIONS:
Senator Franken, I'm sorry.

FRANKEN:

That's quite right. I'm going to go to Ms. Gambler. Department of Homeland and Security recently allocated roughly $2 billion to meet the -- this existing obligation that we've been talking about to implement a biometric data collection program. But in your reviews of the department's past attempts, the GAO's reviews, to stand up this program, you said that there's poor internal planning and benchmark setting were at least in part to blame for those efforts not bearing fruit.

So it seems to me that while support (ph) to make sure the department has funds to implement program in many respects, just a bureaucratic inertia seemed to be responsible for these failures. And maybe Mr. Wagner would take issue to that, but you've reviewed these past efforts. Based on your examination of DHS's record, do you believe the funds recently allocated will be sufficient for DHS to meet its statutory obligations and in a timely manner and what do you view as the primary obstacles going forward?

GAMBLER:

So, Senator, in terms of your first question on the cost piece, I think that's unclear at this time, and let me tell you why I think that's unclear. When we last did a fuller evaluation of DHS' planning for biometric exit back in July of 2013, at that time DHS had planned to conduct analysis and submit information to Congress on the cost and benefits of various options for biometric exit system. They had planned to do that in time for the fiscal year 2016 budget planning cycle. They have not -- they did not meet that date and they were not able to provide us with the timeframe for when they will be able to provide that information to Congress. So in the absence of that information, I think it's unclear how much various options for biometric exit may cost.

On your second point in terms of what have been some of the obstacles or what DHS could do to ensure that it's -- use these funds efficiently and effectively and makes progress ...

FRANKEN:

Yes.

GAMBLER:

... based on our work, I think there are a couple of things that DHS could do. One, as we recommended, it's important for them to have an overall framework for how they plan to evaluate their current pilots and their ongoing planning efforts. It will also be important for them to finalize metrics for assessing performance and effectiveness which they're working on. Third, it would be good for them to have an overall schedule for the different aspects of what they're testing now. And finally, be able to provide that information back to Congress.

FRANKEN:

OK. Let me see if I understand this, Wagner, do you -- you're being -- so one of the obstacles of this is having a physical space in these, I guess, air and sea ports to -- as people board to collect this information. But this has been something that it's been since 2004, OK? So now, we have $2 billion. That's 12 years -- 11, 12 years -- 11 years we'll say -- 11 years to figure out -- I mean this is about national security and I can't -- it's hard for me to envision that we can't figure out where

to get a space to do this in an airport or seaport. It's just -- not being able to solve -- and if you can't solve them in 11 or 12 years, how can you solve it -- how can we know it will ever be solved?

WAGNER:
So when -- on inbound travelers, everybody comes to dedicated space within the airport. It's secured -- only inbound arriving international passengers can come in there. For departures, departures leave from any place in the airport. They comingle with domestic passengers and you walk down the gates and you'll see Los Angeles, New York, Dubai, Singapore. They're all mixed. They comingle. So there is no dedicated space to install technology that you have the confidence somebody recorded their biometrics and then got on board on the plane because you could give your biometrics and turn around and walk ...
(CROSSTALK)

FRANKEN:
Could you do that on the plane or as you're boarding the plane?

WAGNER:
You could, but you flew on a plane (ph). You know what it's like to board and the time constraints and the chaos that ensues when you're boarding an aircraft. We've got to figure a biometric, working with the airlines to figure this out, that you can take without creating gridlock, and it takes two hours to board a plane.

Now, we've run pilots over the years. Yes, it's been way too long. I'm an operator. I want this information, believe me. We've had standalone kiosks. We've had handheld technology. We have some handheld pilots going now. But we're still working to see what's the right biometric. We collect fingerprints. We've done that for a long time. We're now looking at facial recognition software, facial comparison software, iris recognition software, and those different things.
And the constraints to collect them in a time-sensitive environment and the fact that you have a couple of thousand departure gates in the United States. So unless you want to restructure the airports and rebuild them to support this like other airports around the world have this, you have to look at a solution. You can multiple by over 2,000 to put in that time-sensitive environment to do that. And that's where the challenge is.

We do -- we can install a gate. We can make everybody line up and walk through it. It can take two hours to board the plane. We will plan on the cost to do that easily, but that's not feasible and it's not going to work and the cost is going to be tremendous to do that. You know, we can hire a few hundred -- few thousand CBP officers with handheld technology and do all the departures, but it's going to cost probably $1 billion a year to do that. We're looking for something that's feasible and implementable because we want the information.

You're right. There are national security implications on this, but we're having accurate biographic data that needs to be confirmed with the biometric. The biometric in and of itself doesn't have a lot of national security value attached to just the biometric.

FRANKEN:
It's whether they ...

(CROSSTALK)

WAGNER:
It's connecting it to the biographic that let us do the national security checks and the link analysis and the review of these people to connect them to the information and you need that biometric to confirm you're vetting the right person. So just collecting the biometric is just a piece. And by releasing that report yesterday, we showed there is a system there which provides us actionable information. But you're right, it needs to be enhanced. I agree wholeheartedly, and it has taken too long.

FRANKEN:
OK. Well, I'm sure my colleagues will follow up. Thank you.

SESSIONS:
Well, you only have to do the exit, the airports. The plane is leaving to depart a country, right -- not every airplane? The biometric exit should only be used when a plane is departing the country, right?

WAGNER:
Correct. But they depart from anywhere in an airport.

SESSIONS:
Well, but you only have to have it at those gates?

WAGNER:
Yes. But there are several thousands of those gates. There's, you know, 240,000 people that leave the United States on commercial air.

SESSION:
OK. I'm sorry. Let's see. Senator Grassley?

GRASSLEY:
(OFF-MIKE) for an opening statement. And my first question goes to Mr. Wagner. But listen for lead in and we've already talked about the amount of money that we've appropriated for this process. So your department has promised members of Congress that it would be publishing a report on visa overstay statistics. In response to the foot dragging (ph), the omnibus appropriation bill required the department to issue a report 30 days or lose $13 million intended for the Office of the Secretary. That report came out. I don't agree that this report complies with the congressional mandate, very insufficient.

According to the report, DHS estimates that 482,781 people overstayed their visas last year. Unfortunately, the report doesn't tell us how many of the total foreign nationals are in the country despite their visa having expired and the report only touches on one of many visa categories, leaving out foreign students, workers, and other visa holders.

So my question is about the report. Two questions, but I'll ask one at a time. When will we see a comprehensive report as required by the omnibus spending bill that includes overstaying rates of all visa categories?

WAGNER:
Correct. So the report contains about 85 percent of the non-immigrant travelers that were admitted to the U.S. Those are the ones with finite entrance and exit dates, although there are a lot of adjustments that can occur. The more challenging ones, as you mentioned, are the students and some of the workers because they're admitted duration of status. So what that means is while they're in the school program, which can go on and be extended, there's no finite end date until the program is over. So it's building the integration between the other organizations, the other parts of DHS that maintain that data, and when that's updated in AEER systems, it automatically filters into our report database that allows us to track them. So, expect by next year, we should have a more complete report. We wanted to get this report out at least as the 85 percent solution.

GRASSLEY:
Well, this 482,000 who are supposed to have left the country in 2015 but didn't leave, what is the total of number of overstays in the United States regardless of the year in which they were supposed to have left?

WAGNER:
I don't have the number. We have the number from 2014 which are there were some data discrepancy issues which were corrected that allowed us to produce the 2015 report. So, that's the only data we have that we can reliably say this we have confidence in these numbers.

GRASSLEY:
OK. Mr. Healy, since I'm going back to the first bombing of the World Trade Center to set the stage for, what I'm going to ask you that was '93. At that time, we mandated the student tracking system which are on portal (ph) -- unfortunately, it wasn't in place when 9/11 happened. Those attacks carried out in part by terrorist who exploited (ph) loopholes in the Visa system and order to go to school and do flight training. You know the whole story.

The Government Accountability Office has reported problems with many schools who accept foreign students. Many schools who recreate -- recruit and accept foreign students are not accredited. Students are not being properly monitored, transferring from one college to another school. Official don't always properly document the whereabouts. Today, they are nearly -- nearly by our count one and two-tenths million international students in the United States yet the overstay reports completely ignore the population.

So, I -- I appreciate that the department will consider focusing on this population. You know what, the first question goes to Mr. Wagner and then to you. What can -- when can Congress expect the department to report to Congress on student visa overstays?

WAGNER:
I believe by next year while that included in the report.

GRASSLEY:

OK. Now, Mr. Healy, what can you say about the problems with student visa programs and can you tell us what your agency is doing to better track and remove foreign students who do not comply with the terms of their visas?

HEALY:

Yes, sir. And as you are aware, sir, we are working with your office for our student exchange and visitors program. The numbers that I provided during my oral testimony, the 971,000 number, it's not in the report because the report only covers the B1s, B2s, as well as the visa waiver. My numbers include all visa categories.

So, sir that -- out of the 971,000 number; 63,000 roughly are coming in from SEVP which is the Student Exchange Visitor (ph) Program, which is providing overstay information to CBP. For all purposes, sir, we don't differentiate between the way we treat an overstay. When the numbers come in, we pretty much treat them all the same in terms of the way we prioritize and the way we go after the determining if in fact the individual is legitimately an overstay.

So, in answer to your questions, sir, through -- we are going through some modifications through the Student Exchange Visitor Information System and we're trying to tightening up some of the vulnerabilities that GAO has identified, but we're also already including this population and we did receive $10 million in additional -- I'm going to invest (ph) money that we're going to be looking to apply towards the overstay population. We're in the process of figuring out how best to utilize that funding.

GRASSLEY:

Mr. Chairman, I have some questions that I'll have to submit in writing because my time is out for I think that, again, it'd be for Mr. Wagner and Mr. Healy. I'd appreciate you answering them. Thank you very much.

SESSIONS:

Thank you and thank you, Chairman Grassley, for your leadership on this committee and for you leadership on immigration in general, and particularly, I know you've worked on this issue for years and is very frustrating frankly.

Well, we're aware of the excuses, Mr. Wager, we've been hearing those for a decade, more than a decade. So, let's just -- the time is -- excuses is over.
Senator Klobuchar, thank you for your patience and
we recognize you now.

KLOBUCHAR:

No problem. Thank you very much. Thank you. I do share frustration about how long this has taken. I was looking back at the 9/11 commission. That was a long time ago and I remember within my first term in Congress when we got that and actually voted through some of those recommendations and I just think it's time to move forward here.

And I guess my first question would be, you know, out exactly and maybe you said this before Mr. Wagner, when are we going to get results from the pilot projects? What they?

WAGNER:
So, the -- the pilot projects are underway now and we're compiling the information as they're being run. So, we're looking at the -- the mobile pilot. We're looking at measuring the accuracy and the amount of (ph) ...

KLOBUCHAR:
No. I know -- I know ...

WAGNER:
Right.

KLOBUCHAR:
.. so when will the -- when will we know the results from them?

WAGNER:
So, I would -- I will commit to the one-year mark ...

KLOBUCHAR:
One year from now?
(CROSSTALK)

WAGNER:
... for that (ph) version. No, no. One year since we started.

KLOBUCHAR:
OK.

WAGNER:
We started last year. We will produce the report on them.

KLOBUCHAR:
Yes. So, that would be what day -- what -- not day, but month?

WAGNER:
Let me just check to see what -- I will get back.

KLOBUCHAR:
OK. All right. Well, we can get that in a writing (ph) later. And then so far have -- do you have any results from the pilot so far that we could use if we want to bring this out nationally? Is there any like preliminary information that you've gathered?

WAGNER:

I think we're seeing the airline manifest overall are accurate. They're actionable. There is law enforcement value to collecting fingerprints and we are catching a few records that we would not have caught through the just biographical alone. We are able to close out additional records somebody flies in the country on one passport flies out under a different nationality and a different passport. The biometrics helped us more easily close that. We just haven't quantified the values and the percentage ...
(CROSSTALK)

KLOBUCHAR:
And then this is just only ...

WAGNER:
... what we would expect.

KLOBUCHAR:
... fingerprints that you've found to be helpful or use -- or any of that -- is the reason the other irises and those things aren't helpful because we don't have the records from other countries, is that why?

WAGNER:
Well, your criminal files are always going to be against your fingerprints.

KLOBUCHAR:
Exactly. I know that.

WAGNER:
Where that the biometric -- the other biometrics will help us because sometimes the easier, quicker to collect and you can always run the fingerprints in the background.

KLOBUCHAR:
So, you would -- you -- part of this is getting all the biometrics?

WAGNER:
Right.

KLOBUCHAR:
And not just the ...

WAGNER:
So, we could ...

KLOBUCHAR:
... and you acknowledge that at some point, the rest of the world will be doing this anyway. So, that's what I have -- will be at some point, people will be collecting?

WAGNER:
So, we run a pilot at Dallas in the spring on facial comparison ...

KLOBUCHAR:

Yes.

WAGNER:

... we compare the passport holder to the picture ...

KLOBUCHAR:

Yes.

WAGNER:

... to what -- who's presenting it. We run about 4,000 to 5,000 people through it. We figured we can collect it. We collect it accurately. We can match it efficiently but we just launched at a JFK yesterday. We're extending that to U.S. citizen and first time visa waiver holder, so we don't have biometrics on.

We want to expand that across the ...

KLOBUCHAR:

That's the group we were talking about when we were discussing visa waiver issues ...

WAGNER:

Right.

KLOBUCHAR:

... back in December ...

WAGNER:

Yes.

KLOBUCHAR:

... with Senator Feinstein.

WAGNER:

And we just kicked off the pilot at the land border for pedestrians to capture the iris and the face in a land border environment environments where pedestrians are crossing the border inbound and outbound what we've planned to test is the accuracy and the validity of capturing it reliably to be able to match it to track them. That pilot would then serve as the basis for the land border.

KLOBUCHAR:

Yes. So, then how do you foresee (ph) of these 10 locations you think? Is it easier to put in at some locations and others? As soon -- as we look at trying to break this out ...

WAGNER:

Like ...

KLOBUCHAR:
... in a bigger way?

WAGNER:
But I expect that will be the solution for small or potentially mid-sized airports that we won't -- we will not install permanent technology and but we may have officers that have a handheld device to be able to do that. We sought (ph) to figure out that permanent piece in that infrastructure and that biometrics. So, it will be part of it.

KLOBUCHAR:
Yes. And are there other airports in that -- just to airports -- are there airports in the rest of the world like in England and other places that are outfitting their airports differently?

WAGNER:
Well, they are setup differently ...

KLOBUCHAR:
Yes.

WAGNER:
... and they have designated departure control. You go through a border officer. You go through a secure location that is just departing people to leave that. Europe, Asia have these system. They were designed that way. So, creating (ph) funnels since the -- and then there were departure terminals and departure gates. We're not set up that way. Everything -- everything ...
(CROSSTALK)

KLOBUCHAR:
Yes, I know. I -- I heard you say that. But yet, I -- I think of the frustration here even with these pilots. I understand doing pilots, that's smart thing to do first and since it's been taking so long. So, if we could get the time that we get them information I think that would be very helpful, so we can really get this moving.
OK. Thank you.

SESSIONS:
Thank you, Senator Klobuchar. The way I have it, it's Senator Cornyn, Perdue and Tillis. If I -- if I'm incorrect, let me know it.

(UNKNOWN)
Down here.
(LAUGHTER)

CORNYN:
Well, thank you Mr. ...

SESSIONS:

I liked this new -- I don't know how that facial reading would do with new growth (ph) you've got.

KLOBUCHAR:
I muddy (ph) it all up.

(UNKNOWN)
Thunders (ph) won Super Bowl, I'll be shaving, again.

SESSIONS:
OK.

KLOBUCHAR:
Oh.

SESSIONS:
We're going to see it happen.

KLOBUCHAR:
Don't bring up the NFL (ph) play-off games to the Viking fans, please.

SESSIONS:
Senator Cornyn?

CORNYN:
Thank you, Mr. Chairman. I -- I share the concerns have been expressed previously about the fact that Congress has mandated an entry-exit system since 1996. And still we -- still haven't gotten there and it -- it is a huge gaping hole in our broken immigration system which helps contribute to the perception that the federal government is just not interested in enforcing our immigration laws. I know that many of you were, of course, feeling the political leadership that gives you priorities exemptions (ph), Mr. Healy, I know Director Saldana (ph) who has -- is from Dallas and who I have had many conversations with. She's given the order as has the president that you prioritize criminals, which sounds pretty good, but the fact is there are many people who have not been kept -- caught in jails for committing other offenses who violated our immigration laws who are not being removed from the United States.

So, I was intrigued Mr. Wagner and, again, I want to preface my comments by saying, thank you for what you doing. I know this is a very incredible challenge and there's a lot of reasons for that, but I want to make clear -- I think what you said, Mr. Wagner, you said, that's not a technology problem. It's an infrastructure problem. Did I hear you correctly?

WAGNER:
Yes, sir.

CORNYN:
Because at least at airports, you capture -- everybody who's come in with the 10 fingerprint -- biometric identification.

WAGNER:
Correct.

CORNYN:
And so the question is how do we capture that same information on the way out?

WAGNER:
Correct. It exactly it.

CORNYN:
And of course, airports are a little easier, perhaps, to manage even though it's high volume then the land base ports of entry and, of course, down where I come from in Texas, you have a lot of people coming across the land base border and then with no biometric information about who leave were simply left to guess. How many people have overstayed?
As I understand the report that was issued, this one it has to do with business and tourist visas, correct?

WAGNER:
Yes.

CORNYN:
And Mr. Healy, I think you and Mr. Wagner alluded to the fact that there -- we just don't know how many other visa categories are part of the overstay. So, really the problem could be much, much bigger than 416,000. Would you agree with that?

HEALY:
Yes, sir.

CORNYN:
You know, it strikes me Disneyland can do this. The federal government ought to be able to do it. And again, making Mr. Wagner's point that it's a matter of technology is not the problem and it strikes me that -- what's the missing element here is the will. On behalf of the federal government, writ large, to deal with this in way that helps to restore public confidence.

One of the reasons we haven't been able to take even baby steps on immigration reform is because the fed -- the American people simply don't believe we're serious about enforcing the law, but in these times, when national security is on our minds, of course, we see the importance of knowing who is coming into the country and why they're here and making sure they're properly vetted which is why I was so disappointed to see our Democratic colleagues be filibuster (ph).

The enhanced vetting requirements in the Refugee bill that the House passed and which we just voted on but just to highlight the national security -- potential national security issues as I understand it, Mr. Wagner, of the visa overstays only in business and tourist visas, 564 of them came from Iran, 681 from Iraq, 56 from Libya, 278 from Sudan and 440 from Syria. Did I get that correct?

WAGNER:
I believe so.

CORNYN:
And if you listen to the FBI director who sat where you are sitting and the deputy attorney general, they tell us we have a real problem with Islamic extremism in the United States. We have people who come here from that poor (ph) area with the intent of killing American citizens. We have people from America and I just met with the French ambassador. They said, they have 2,000 French citizens who travelled to Syria and they are worried about coming back and committing acts like that occurred in -- in Paris recently.

But we have the third area that we saw in the San Bernardino where we see people being radicalized in place and that the FBI directors told us that every field office in America has an open investigation and I suspect that it is more than just one case of -- of suspected radicalization of Americans in place being radicalized through social media or online.

So, we've got a real problem and I think got a long way to go to rebuild the public's confidence. Ms. Gambler, I might just -- my time is waning here but I might just ask you as my one question here, maybe your last question. From the GAO's perspective, could you comment on how the problems that you've seen in terms of the implementation of this congressional mandate that's existed on the books since 1996, U.S. visits since 2003, why we still don't have the functioning entry- exit system as Congress has mandated?

GAMBLER:
Sure. A couple of thoughts there, Senator. One, I think we've -- we've highlighted some of the management challenges and the planning challenges that -- that have characterized DHS' efforts of not having fully reliable schedules or a framework or overall plan for -- for guiding their efforts. The other thing that I would add is I think it's a positive step that DHS is implementing these current pilot programs. DHS has previously implemented pilot programs in both airports and land borders and those pilots had some issues with them in terms of making sure all requirements were tested making sure that DHS had an overall plan for those pilots as well.

And so I think it's really important for DHS (ph) have some of these kind of basic building blocks in place for their current efforts to make sure that they have good schedules, good plans, a good roadmap for what they want to get out of this pilot tested that we can ensure moving forward that the money that's being spent here is being spent efficiently and effectively.

SESSIONS:
Thank you, Senator Cornyn. You've been very nice (ph) about this issue for a number of years and I thank you for your comments. Senator Perdue?

PERDUE:
Thank you, Mr. Chairman and I thank each of you for your efforts. This goes back across three different president's administration. So, we recognize and I put in perspective, but I come moral

(ph) where the -- I -- I can't relate to this conversation. I apologize but I -- I just don't understand where the mandate from Congress why we hear 20 years later having this conversation.

Now, many of you wanting (ph) your current job so that -- that's a parenthetical comment. But when Secretary Johnson was here, but it was before this committee last April, I particularly asked him, I said, "You know, do you have this -- this report to this date?" And he said, "I've seen the preliminary report," but he didn't believe in the -- as believe he called the preliminary report that lack fidelity.

It's almost a year later, I gave him high -- high remarks for now giving us the report. My questions today -- and I don't know who would be best to respond to this, but what -- what -- how confident are we in this data? Why now is it more credible than it was a year ago? What happened between and intervening (ph) period of time? And how was the data collected? What efficacy does the -- the data collection process have os that next year and the next year when we're looking at this evaluating progress? We can ask some confident -- who would be best to answer that?

WAGNER:
I will, Senator.

PERDUE:
Commissioner, thank you.

WAGNER:
We have high confidence in that report that was issued for ...
(CROSSTALK)

PERDUE:
What was the problem a year ago?

WAGNER:
The problem in 2014, we had two major carriers that were transmitting manifest, too. They have to transmit initial manifest to us, and once the flight leaves, they have to tell who actually board it, and those close-out messages, those onboard messages were faulty. So, they were not reporting people as left, so we had extremely high overstay rates of people who flew on those carriers because we hadn't checked them off as leaving.

PERDUE:
So, the manifests weren't accurate, is that what ...

WAGNER:
They were accurate in the name. They weren't accurate who actually departed. So, what happens is they carry people from all the visa wherever countries and also visa countries as well and skewed the data because these were two major carriers. So, skewed every countries data in 2014. We corrected that and you see the numbers in 2015 and that's been corrected. We have very high confidence in that information that we've presented.
Now, we're ...

PERDUE:
Like ...

WAGNER:
... you know, running that handheld pilot to help us validate what our assumptions are on that.

PERDUE:
I understand that. So, this was in '14 and '15. If we go back 10 years where any of you -- I mean, were we not collecting data then?

WAGNER:
We were collecting data but we had additional problems beyond that about the accuracy. The inbound data has always been accurate. We've been collecting the airline inbound manifest ...

PERDUE:
I can see that.

WAGNER:
... since 1988, I think and in -- in -- yes, after September 11th, we made that mandatory.

PERDUE:
OK.

WAGNER:
We validate each and every person when we read that passport. What we do is score the airlines and they could find if it's inaccurate.

PERDUE:
OK.

WAGNER:
We do it for departure, though.

PERDUE:
Director Healy, I think you're the proper person to direct this question. How many -- we've got estimates of this report at about little less than 500,000 in '15. About 1 percent overstayed their visit. Roughly last year, how many did we deport? We locate and remove from the country roughly directly.

HEALY:
Last year overstay -- just overstay removals?

PERDUE:
Yes, sir. Of the -- of the 500,000 -- if I'm -- I'm trying to correlate the two numbers. I realized that that's one year. There are many years. I've seen estimates to size 40 percent of the total illegal

immigrants that are here came in and overstayed the visit (ph) on. I understand you don't have accurate numbers on that ...

HEALY:
That's correct (ph).

PERDUE:
... today.

HEALY:
That's correct.

PERDUE:
But directionally (ph) -- is that fairly correct that ...
(CROSSTALK)

HEALY:
Well, we -- I'd have to get back to you on that sir ...

PERDUE:
Would you?

HEALY:
... because there is a distinction in -- in my numbers and CBP's number.

PERDUE:
OK. I -- I -- I -- that's where I'm going because I see conflicting data about what estimates we have for that. What I'm really trying to get at is of the people that we've identified, how many are we really actually been identifying and removing.

HEALY:
We're -- in terms of that 971,000 numbers so that I gave out. After it goes to the entire vetting and after we account for people changing their status or people departing the country, about 1 percent gets turned out (ph) about -- roughly 10,000 get sent out as criminal investigations to the field.

So, for F.Y. '15, sir, which is just the snapshot that I alluded to earlier. So, roughly we have about 3,000 that are still under investigation right now, 1,626 leads have been what we call exhausted meaning that we have been able to locate the individual. It comes back to us and it goes into our continuous monitoring status.

PERDUE:
Right. Just so -- let me put that into space, so I don't need you (ph) to write. So, 3,000 were investigated ...

HEALY:
Are under investigated right now.

PERDUE:

... under investigated, right. But those 3,000 could have come in, in anyone of the years in the last 20 years. Correct?

HEALY:

That's correct, sir.

PERDUE:

All right. So, my question is if it's 40 percent of whatever that top number. We have 4 million, 5 million, 6 million people here who overstayed their visa. Directionally, that's fairly correct.

HEALY:

Yes.

PERDUE:

And last year, we -- we identified and investigated 3,000. So, you can kind of see where I'm going here.

HEALY:

Yes, sir and I will ...

PERDUE:

We have a monumental -- you have -- I'm telling you anything you don't know. I'm here -- it's your profession but I mean, we have a monumental issue here. Even if we were to put biometric end -- and exit -- have all they're 100 percent accurate information on exit. We've got this huge built up issue.

HEALY:

Yes.

PERDUE:

So, my -- my -- am I -- am I directionally (ph) correct? I'm not trying to draw a conclusion but I'm trying to get ...
(CROSSTALK)

HEALY:

Now, you're -- you're correct, sir ...

PERDUE:

... why.

HEALY:

... and we can get back to with more numbers but one of the issues for us from the placement (ph) side in terms of biometrics. Let's say you come across the individual, sir, who is not completely identified. You have pieces of information ...

PERDUE:
Right.

HEALY:
... say, he's got seven aliases. Right now, our analyst have to take that time to go through all of that, whereas if we have the biometrics, we're going to be able to cut right to the chase. The fingerprints of thing ...

PERDUE:
Thank you. That -- that really clarifies. Let me ask you a question and Director Gambler then, I know you've got several of these pilots out there. Can you talk about what's promising, what's not promising? And I know you have one at -- at Hartsfield Jackson International Airport in Atlanta as a matter of fact. But after going around, I've travelled a lot in the last 15 years. You know, a lot of these other country surprisingly and some of these countries would surprise us have been doing this for a number of years.

So, I'd love to see us catch up on that. My question is what's promising right now in these programs and what -- what are we discarding? But basically focus on what -- what's encouraging that we might be able to do this to -- as Director Healy said, make this a system more efficient in terms of cleaning up what is built up over the years.

GAMBLER:
So, Senator, from -- from GAO's perspective, we actually will be starting work shortly for this subcommittee to review where DHS is currently in their planning out there ...

PERDUE:
And remember that -- remember that amount?

GAMBLER:
... for biometric exit. We are starting that work shortly at the request of -- of the chairman.

PERDUE:
But as I understand, this program (ph) has been in Atlanta for a while, right?

GAMBLER:
And so in terms of what benefits are being realized from the pilots, currently, we don't have up-to-date information on that. Mr. Wagner may be able to speak to that since it's his office that's -- that's running the pilots, but it is an important question in terms of what -- what are really getting out of the pilot and to what extent CBP has metrics in place to kind of assess the -- the performance and effectiveness of those pilots and that's an important piece of it.

PERDUE:
Well, Mr. Chairman, I'm out of my time, but Commissioner, would you like to add to that?

WAGNER:

It's just to -- the handheld pilot that we're doing in Atlanta (ph) ...
(CROSSTALK)

PERDUE:
Yes, sir.

WAGNER:
... right. So that's -- that's ...

PERDUE:
Particularly, in Atlanta.

WAGNER:
... right. So, that's allowing us to verify the accuracy of those manifests, right.

PERDUE:
I know. What -- what's the conclusion there? Are you moving -- is it favorable at this point?

WAGNER:
It's absolutely favorable. It's just a question, it's a very expensive way to do it, a very manual way to do biometric exit, but it would work.

PERDUE:
Well, that tells me ...

WAGNER:
With the ...

PERDUE:
... it's not going to work.

WAGNER:
It will work in at small and mid-sized reports not at Atlanta Hartsfield.

PERDUE:
So, on Atlanta, that's where I'm going.

WAGNER:
Right.

PERDUE:
Chicago, Atlanta Airport, seeing, you know, these bigger airports. What -- what's the idea now? What do we -- what do we now investigating? What pilots are out there that might work in those bigger airports?

WAGNER:

It's looking at the other biometrics. Things that we can collect in a -- in a -- in a quick and reliable manner.

PERDUE:
And what period of time can we expect to get at that? And I'm -- I'm really out of time.

WAGNER:
We planned to launch another field trial later this calendar year to be able to start to measure exactly that.

PERDUE:
And -- and you would want -- what years' information or evidence ...

WAGNER:
Yes.

PERDUE:
... out of that.

WAGNER:
Yes.

PERDUE:
So, some time around this time next year, we would -- would DHS you think be in position to bring -- I'm not trying to put origin amount (ph) but I am trying to get to some results.

WAGNER:
You know, I'm confident we will be able to, yes.

PERDUE:
OK. Thank you. Thank you, Mr. Chairman. Sorry.

SESSION:
Thank you. Senator Tillis?

TILLIS:
Thank you, Mr. Chairman. Thank you for holding this hearing on very important topic. I am -- first to tell the witnesses, thank you for being here and for your -- your work. I know it's difficult talk. I -- I can also appreciate the complexities we're talking about, different configurations at different airports, concerns based on the airlines, about disrupting the flow (ph) to the airports and it's a difficult process but I'm -- I really am struck by the length of time that has passed.

I think it was May 1961 that President Kennedy said, "We want to go to the Moon." In July 1969, we landed on the Moon. This to me doesn't seem like it rises to the same level of complexity when you also consider the -- at that time, the computing capacity that would consume a room is now something I can carry in my briefcase.

So, a part of what I think we need to do is start getting to specific targets back into it, what it's going to take to get it done so that we just get it done and I share my colleagues on a bipartisan basis just frustration with what is it that we're not getting in and -- and also understands not a partisan issue. It trend centered (ph) administrations and for some reason the challenges have prevented us from getting it done.

For Mr. Wagner and Ms. Gambler, I have one question. I was one of the officers that was pushing for withholding funding for the Department of Homeland Security and Security Office, I guess, of the secretary and executive management until we got the report, and Mr. Wagner, you said it's about 85 percent complete. I know it was released yesterday which was at least consistent with the 30-day timeline that we had and at the bill we passed in December.

Was this report actually -- I think that one of the comments that we got from the secretary was they were wanting to have a third party review it for accuracy before it was submitted to us? Was the report actually reviewed by third party and what were the findings?

WAGNER:
I'm not aware if it was. I will have to check.

TILLIS:
OK. I'd be also very interested in getting the -- if there were findings. And Ms. Gambler, are you aware whether or not there was any review of the report?

GAMBLER:
We are not aware, but if I could add one point, Senator, back in our July 2013 Report on overstays and biometric exit, we had made a recommendation to the department that they assess and document the improvements that have been made and the reliability of the overstay rate estimate, and so now that we have this report, we'll be looking at it in more detail and following up with the department to determine the extension (ph) which it meets our recommendation in terms of -- of -- of showing or documenting the improvements and the reliability of the overstay data.

TILLIS:
Or what time do you think you'll -- you'll be able to have that information available to us?

GAMBLER:
So, we just got the report yesterday. So, we'll -- we'll follow up and probably have some follow-up questions for the department on this. We'd be happy to get back to you and -- and your office on the results of that follow-up work.

TILLIS:
OK. And -- and -- and Mr. Wagner, that -- this -- and maybe back to Ms. Gambler, the -- when we're talking about gathering this information, we know that it's going to have an incremental positive effect on -- on the overall process. But you were to take the current system's process as day of collection methods in place and then talk about adding this lair of information to fully implement it across the United States, on a scale how would you rate the current system, how much

farther does this bring us along in terms of having a better information -- more reliable information more likely that we can identify those whoever stay?

WAGNER:
Senator Tillis would you divide that between airports and land?

TILLIS:
Yes, sir.
(CROSSTALK)

TILLIS:
That's a good -- that's a good...
(CROSSTALK)

WAGNER:
So, airports I mean there is a system to track and verify inbounds and there is system to track outbound records and there is a system to match that up to determine overstays as evidenced in the report. So, the frameworks there, it's a matter of incorporating...

TILLIS:
Got it.

WAGNER:
...that biometric into those departure records...

TILLIS:
Got it. Mr. Wagner what I'm wondering it has to do with the exit and it has to do with -- I know that you're capturing or you are using biographic data to do some matching, we know there are some deficiencies maybe we're not capturing everybody that's exiting so that we have verified that they're exiting -- what I'm trying to get to is how much more capability does this give us relative to the current system? I mean is this minor I mean are we making much to about nothing, is it a significant advance just trying to get a...

WAGNER:
Well, I wouldn't...

TILLIS:
...sense in your opinion for the...

WAGNER:
...I'll tell you on inbound that the majority of our enforcement actions are based on biographical information, okay? There are very little national record attributed to just the biometric. But what the biometric does it confirms that biographic data that's critical to the national security...

TILLIS:
And that they are when they say they are -- they are what the biographical data suggests who...

WAGNER:
Correct. And it makes it easier to match than the inbound...

TILLIS:
That's a pretty critical piece to fully and conclusively verify that who you are tracking is who you should be tracking.

WAGNER:
Right. So, I'll give you an example. Last year, you know, we're looking Visa Waiver travellers that came in, you know, we have 21 million Visa Waiver travellers. We took 7,099 we refused their entry for various reasons into the United States 7,099. Four hundred and seventy six of those refusals were based on biographic -- biometric, I'm sorry, only information. The great majority of that was through criminal records, zero were for national security reasons based on the biometrics alone. So, it's important that it confirms our biographic data but that's where our true value is really on the national security piece.

TILLIS:
Okay. And final question, Mr. Chair if you don't mind. The -- a country's admission to the Visa Waiver Program is currently based on visa rejection rights I believe. I think legislation introduced by Senators Howard (ph) and Schumer proposed a change to this criteria to visa overstay rights granting all other security protocol required for entry for the Visa Waiver Program are met, do you think that visa overstay rights are a more appropriate or a secure criteria for admission to the Visa Waiver Program than as versus Visa Rejection Rights? And so if anybody who wants to opine?

WAGNER:
I think it's a combination of factors but the Visa Rejection rate is really going to be your true measure of compliance with issuance of that admission to the United States. Your visa overstay rates, now these are people that have already been screened by Department of State and already screened by CVP and we've made the determination they're not a risk to not comply with the terms of that admission. And that's the people of the State Department filtering out oversees in coordination with us as well. To determine that they are not a risk, that's really going to be your true measure of the population of who intends not to comply with that. The Visa Overstay Rate for visa -- I mean the Visa Waiver Overstay Rate is going to be a little more difficult but it's going to be part of that argument but it's really the visa rejection rate.

TILLIS:
Thank you. Thank you, Mr. Chair.

GRASSLEY:
Well, just a follow-up briefly on that. The overstay rate is important whether if Mr. Wagner if you wanted to be sure that people ever getting visas from various countries actually returned and they're supposed to return.

WAGNER:
Absolutely.

GRASSLEY:

All right. Well, I'm looking at your report that the report that was just released yesterday and you say that one percent and Mr. Healy said about all the people are over -- are overstays. However many of those people are business people that may fly 10 -- 20 times a year from Germany or London ain't that true? But looking at this other numbers are very troubling to me. So, you cite less than one percent but after understanding there has a 10.25 percent overstay, right? Bhutan 24 percent, Burundi 9.3, Cameroon 7.8, Chad 15.3, Djibouti 26 over a quarter of the people from Djibouti are overstaying their visa. Iraq is six and Jordan are however low but it's 4.2 but better than the others. And ain't it true that some those countries that I've named do have terrorist Al Qaeda type -- ISIS type individuals in them.

WAGNER:

Absolutely and that report now that we have it we're able to share that with Department of State and we are able to look at those factors and consider them as we review these visas and review their admissions people from those -- from those locations.

GRASSLEY:

Well, these are some of the higher numbers in the list and they are very troubling essentially.

TILLIS:

Thank you, Mr. Chairman. Thanks to all of you for joining us today and for your work on this issue. Ms. Gambler I'd like to start with you if that's all right. In your written testimony, you point that in 2013 GIO made a recommendation that DA -- DHS established "timeframes and milestones for biometric air exit evaluation framework". But you also point out that it's now 2016 and DHS has said that it's still developing framework, so can you tell me what -- first of all, why is an evaluation framework something that's important to have in place in guiding DHS assessment efforts?

GAMBLER:

Thank you, senator. A framework like that is helpful to set out and document what methodology, CVP or DHS plans to follow as it continues to work towards developing and implementing a biometric as the solution. First -- for example, it could lay out the methodologies, the metrics that they would look at as they're testing different scenarios. So, it's important to have kind of guide them and provide a roadmap for the overall effort.

TILLIS:

It sounds very important and it is. Now, what reasons have been given for why this framework has not been put into place?

GAMBLER:

DHS does have a draft framework. What they've most recently told us is that they're still finalizing the metrics they will use to evaluate the performance and effectiveness of, you know, what the different options that are being tested and they're waiting on finalizing those metrics before they complete the evaluation framework.

TILLIS:

Did the report that was released yesterday provide a framework that you would consider satisfactory?

GAMBLER:

The report yesterday was focused on the overstay rate estimates so we're still waiting to see that evaluation framework.

TILLIS:

So, we still -- we still going to have that. Mr. Wagner, in the DHS report regarding visa overstays, we learned that an estimated 480,000 people overstayed their visas and remained in the country in each of the last two years and while this represents a small percentage of those who came in on such basis, the number itself as you can appreciate is very significant. I mean we're talking about nearly a million people just in the last two years just on that type of visa overstay. The congressional mandate for a biometric exit system has now been in place for well over a decade since 2002 as I recall and we have -- we haven't seen the system put in place yet. We haven't even received a timeline for full implementation. So, let me just ask, does DHS any have goal date for full implementation?

WAGNER:

Senator, I agree. It's a low percentage but it's a very large number of overstays but any biometric exit to that is going to reduce that number by a little bit but that's not going to make that problem go away. It's going to confirm with surety that those are overstays. Now...

TILLIS:

I understand that. I understand that it's not going to be a pure cure all, there's no fantasy, there's no magic ball that's going to fix everything but we are talking about a mandate that we've had in place now for nearly a decade and a half and the fact that it wouldn't solve everything doesn't mean that it wouldn't solve part of the problem and also it doesn't mean it's not important to have some idea is to when we're going to actually have it.

WAGNER:

Absolutely. I mean we are working diligently through these pilots to do this. This is -- it is very complex. The travel industry is very time sensitive, very I mean you've flown you've notice like running through an airport boarding a flight it's restructuring those processes and our travel system is -- was not setup to do this. So, we're at a point we can try to inject a biometric into that where it doesn't change that or we can redesign how people board aircraft and where they board them from.

TILLIS:

Okay, well that's good to know. I still would like an answer to my question do you have a goal date?

WAGNER:

I do not.

TILLIS:
And I do find that surprising at this point. I understand that you've got a lot of logistical details to work with you but we are talking about something that has been in place now for nearly a decade and a half and that's a problem and it's a problem that you can't even give me a goal date. Other than the field test for the next year, is there any set timeline for further efforts?

WAGNER:
We plan to do another field trial in an airport later this calendar year but we have to design it, we've got to fund it, we've got to implement it and then run it.

TILLIS:
What if it takes well over a decade you even get pilot programs up and running, can I expect to see biometric exit system in place in my lifetime? Men, I'm 44 years old, I rate at the level of a 45-year-old but I'm not going to live forever. Is that something that's realistic?

WAGNER:
Yes. I expect that we will.

TILLIS:
Okay. Thank you Mr. Chair.

SESSIONS:
Thank you. Well, how long is the pilot in Atlanta have been undertaken?

WAGNER:
We kicked off the -- I have to look up the actual deployment date but it's been less than a year.

SESSIONS:
There's another pilot program in Atlanta, wasn't it? It seems like we have Ms. Gambler as the other pilot programs have initiated number of years ago at various airports?

GAMBLER:
I believe that CVP run a pilot program that two airports back in the 2007-2008 timeframe.

SESSIONS:
Right. Back and within (ph), we had -- we're going to -- we're going to be the pilot programs, they're going to tell how to implement the system nine years ago. Well, Mr. Wagner essentially if you're going to board international flight, you would setup either a handheld or I would think a permanent place where somebody would place their 10 fingers on before they got on the plane and that's about how it matters to because it's not.

WAGNER:
Correct.

SESSIONS:

Now, I remember Secretary Ridge, he and I went at it for a long-time. I will cite this should have been completed before the Bush administration left the office. They drag freedom (ph) they feed on it too but a lot of work was done by the time that Obama Administration took office and it should have been completed from. But Mr. Ridge and I were around and around and when he left, he made a statement and he said, "I've got one bit of advice to my colleague that is we need to use the fingerprint." You would agree would you not that the fingerprint is the key data point for identifying individuals because all of overstay and even in Iraq and records involved people we've arrested we have their fingerprints, we don't have their iris or their face.

WAGNER:
Absolutely agree. The first encounter, we have to collect the fingerprints. Subject we encounters like on departure we're encouraged by what we see as touchless fingerprints of ISIS, we're encouraged by what we see as capturing in iris or face while the person is moving and as that technology developed, will it work in an airport environment so we can...

SESSIONS:
Well, you can try that and that would be a nice thing but it doesn't seem like to me it will take very long to put your fingers on the machine before you depart and I can get a pretty -- isn't it true that Mr. Healy that ICE and their regional field offices and some even in their vehicles have fingerprint reading machines?

HEALY:
Yes, that's correct.

SESSIONS:
Police officers all over America have them in their vehicles. Virtually, every side of (ph) police department has one but because you want to know no matter what the person's name and there maybe 10 people with the same name or 10,000 people. I'll say in London I believe the most common name in London is Muhammad for a young child born. So, you'll have common name so the biometric is the key thing to discriminate between whether or not the person is a violent person or non-violent person.

HEALY:
Correct. So, the mobile pilot that we're doing CVP officers have a handheld device that runs the biometrics in real time. Now, we could nail that down at the departure gate but someone has to funnel the people over to it and differentiate between the U.S. citizens and then the non-U.S. citizens who has to do that then someone has to be there while they take their fingerprints and go through the time to be able to do that.

SESSIONS:
Well, I would just say this is not going to take an incredible amount of space and it is not going to slow down the process very much. I will acknowledge it requires some more personnel and that's amount of that would cost some money but otherwise I don't think this is technologically difficult and I believe it hasn't been done because there's a lack of will is two time. The will has been not to do it. There's been a systematic effort for a long time to block the implementation of this system. That's just the way I see it, I've been watching it for a long time. Well, let's get to the numbers

here. How many people appear to be non-criminal aliens the Department of Homeland Security removed from the United States last year? In other words were deported for a reason other than having committed to crime?

HEALY:
I don't have those numbers available sir. I'll have to get back to you with that.

SESSIONS:
Well, I do. According to the ICE website, Mr. Healy you removed 69,000 aliens from the interior of the United States in 2015.

HEALY:
Okay.

SESSIONS:
That would be about right to you?

HEALY:
Sounds correct sir coming from website...

SESSIONS:
Now, are those 69,000 -- 63,539 were people who were convicted of crime...

HEALY:
Okay.

SESSIONS:
Did that sound about right?

HEALY:
That comes from the website, sir.

SESSIONS:
And that means only 5,939 non-criminal aliens were deported from America's interior. They were caught right on the border and they got passed the border that would be so and of those how many of that 5,900 let's say 6,000 were from visa overstays?

HEALY:
I want to check sir and get back to you to make sure but my number shows here about roughly approximately 2,500.

SESSIONS:
All right. So, we have 49 million people entering in and out of the country maybe in excellent numbers of people -- different people probably considerably less and that goes (ph) multiple times a year but you're only identifying a miniscule amount and there must be some aggravating or prioritizing factor that would probably cause that 2,500 to be deported, it that right?

HEALY:

Well, that's just for that snapshot for fiscal year 15 sir.

SESSIONS:

Right.

HEALY:

Like for example fiscal year 15 as I mentioned to you earlier, those 3,000 cases that are still ongoing so they can't bleed over from other fiscal years.

SESSIONS:

But, Mr. Healy what I want everybody to understand is and American people to understand that more than -- the issue is more than whether you are a terrorist or a violent criminal...

HEALY:

Yes, sir.

SESSIONS:

The American people rightly (ph) and who have been promised a system of immigration that would be lawful and that would be enforceable and just because you want to come to America you don't get to get to come to America. You have to go to the process. And if you get a visa for six months and that's all you get should you not return Mr. Healy when the six months is over and comply with the law.

HEALY:

And that's correct, sir. We have very robust protocols. We just need to not only prioritize the individuals we also need to prioritize predictive (ph) on our resources and what we can do to move those -- remove those individuals.

SESSIONS:

Now, according to the reactions you've been given by Secretary Johnson and previously Mr. Morton was involved in it, you said people who don't -- aren't committed -- aren't -- have not been convicted of a crime or accused of a crime of the serious nature, not just speeding or DUI that they will not be deported. Isn't that right?

HEALY:

Well I actually misspoke sir because it's -- probably the chances are that in our prioritization scheme we will not get to those individuals unless they rise to the level that it meets even the National Security, the criminal or the Secretary's priorities. Sir, we have situations where individuals might appear to might not have been engaged in any type of criminal activity, we monitor those names in our databases and if something occurs, we will then put them into a status where they are removed.

SESSIONS:

But I want to go back to the fundamental point and the fundamental point is the overwhelming majority are not priorities and I mean 90 plus percent are not priorities. Is that correct are not encapsulated in the priorities of the department made on your supervisor's directions?

HEALY:
We follow department's priority sir.

SESSIONS:
And so the result is that we don't have an enforcement policy for people who come on visas and do not return and the Congressional Budget Office has found in several years ago when we have began of eight (ph) bill that 40 percent they estimated of the people that are illegally in America have overstayed their visas and they predicted that number would grow and I think they're correct and I think as more and more people find it why would you -- why would you just not buy a plane flight to come to America rather than try to find your way across the Mexican border. It'd be a lot easier and probably less likely to get in trouble or get caught so and a lot less expensive so we have a totally open door to abuse on this system so I think the American people where their law is enforced and they believe that their jobs are at stake. They believe their wages are at stake. They believe their hospital emergency rooms that are at stake.

What if Mr. Healy a lady that's pregnant comes to America, that happened sometimes?

HEALY:
I believe so sir.

SESSIONS:
And let's say she has a baby even within her visa situation and her visa is up, what is she likely to say if she wants to stay in America? What would she contend if you say you should leave your visa is up, what is she going to say?

HEALY:
I don't know sir.

SESSIONS:
She is going to say then my child is American citizen. I can't leave this baby here. I've got to stay and keep this baby.

So this is the way the system gets eroded. This is where public confidence is being destroyed. This is how we're sending a message to the world that you can get away with it. That's what it's all about and you -- you have got to send the reverse message.

We've got to send the message that if you try to come to America unlawfully or overstay a visa when you came lawfully, you will be apprehended and you will be deported and this is going to be an unpleasant time and you're going to wish you hadn't done it and then the numbers will go down, but as long as there it is high, you're going to have more of it rather than less and that's not the way this country needs to be going. I just -- We got a border. We have have a sovereign nation or we don't and I guess we're going to have to decide what's going to happen there.

The -- Now Ms. Gambler I think you've been a little kind to do our prints and you keep saying they don't have a framework, what do you mean by framework?

I mean your reports are good reports. They have established clearly that this department has failed to do what it promised to do, carry on its plans and to comply with the laws passed by Congress that's plain in multiple reports I think, but what do you mean they don't have a framework and how do you create a framework.

GAMBLER:
Senator, when we discussed that specific piece, we mean a framework by which CDP and DHS lays out kind of the methodology and how they plan to evaluate the different pilots and efforts that they're testing or considering for a biometric exit system so that's what we specifically mean by a framework in that case.

We've also had broader findings related to the need for DHS to for example have a schedule to guide its -- its overall planning and management of its biometric exit efforts.

SESSIONS:
Well how hard is it to develop a framework to evaluate a report of a pilot program?

GAMBLER:
And ...

SESSIONS:
How hard is that?

GAMBLER:
And DHS has not yet put in place that -- that framework and we made that recommendation back in 2013.

SESSIONS:
So in 2013, it's now 2016. How long should that take? A couple of hours or a couple of days to get that framework done?

GAMBLER:
I don't know how long it should take, but it is something that we've been monitoring their -- their progress on. They do have a draft framework in place, but they need to finalize that -- that that's an important part of their efforts right now to manage and have an overall roadmap for the steps they are taking to plan for a biometric exit system or options.

SESSIONS:
I guess it was back in 2007 or 8 that we had a report on I thought it was the Atlanta -- Atlanta pilot program and several -- two things I remember pretty clearly it was easier than -- than it had been said. We had all the airlines predicting total disaster and calls through the roof and it came out much easier and effective than they were saying and it costs less and that's basically the -- a fair analysis of that entry-exit pilot program.

GAMBLER:

DHS run two pilot programs in that timeframe Senator, one I believe was at Detroit and one was at Atlanta and they each tested different methods for collecting biometric exit data from selected number of passengers on selected flights.

What we looked at in terms of that pilot was how well DHS had conducted the pilots and evaluated it and one of the key takeaways from that work was that DHS had not tested all of the -- the requirements or all of the elements that they had planned to test and that they hadn't necessarily fully evaluated all of the -- the elements of that and so for that reason and given what our past work has shown about some of these pilot programs, you know, I think our prior work kind of raises questions about the pilots DHS is conducting right now and whether they have, you know, as we've talked about that sort of overall framework and roadmap in place in terms of what they want to get out of the pilots and that's an important part.

WAGNER:

Senator if I could just add those pilots were evaluated. I mean the Atlanta pilot it was the question of biometrics at the TSA Security Checkpoint, you know, those pilots were ...

SESSIONS:

2007 timeframe we're talking about.

WAGNER:

2009 I believe.

SESSIONS:

OK.

WAGNER:

That pilot was evaluated. We can collect biometrics at the checkpoint, but what we also saw was a person can turnaround and walk right out of the airport then and you're relying on the airport manifest, which is what we have right now to tell you if the person departed. It was also ...

SESSIONS:

But a lot of -- They wouldn't have been recorded as having departed and you were to confirm they're still in the country.

WAGNER:

No. We were to confirm they registered their biometrics. We would -- could have gotten the confirmation from the airline the person boarded and left, but that person could have turnaround and walked out of the country I mean walked out of the airport and given their boarding pass. Boarding pass swaps are common ways of alien (ph) smuggling organizations. That ...

SESSIONS:

And you can swap it if you -- you got a biometric right.

WAGNER:
Even if your biometric is so far away from the gate ...
(CROSSTALK)

SESSIONS:
I mean why don't you set it up where you board the international flight.

WAGNER:
Right then you have to do it here, but this -- this pilot was evaluated to do it there and these were the things that we learned. There's also a part ...

SESSIONS:
So you learned that you need to do it at the boarding.

WAGNER:
Exactly.
(CROSSTALK)

SESSIONS:
That was 2009.

WAGNER:
We were doing that with the office ...
(CROSSTALK)

WAGNER:
... with the handheld devices and that's where we're looking at the other biometrics that could work without creating gridlock where it takes several hours to board a plane.

SESSIONS:
Well I've been here dealing with this issue a long time. I'm not persuaded ...

WAGNER:
OK.

SESSIONS:
... that it could already have been done in 2009. It could have been done in 2006 for that matter. The law for biometrics is passed in 2004.

Well Ms. Duong has -- has anyone in Department of Homeland Security's Leadership provided you with the deadline as to when the pilot programs need to stop and when implementation should begin?

DUONG:

S&T role is just to provide information that would help inform CBP's next step, which is designing the pilots so we're not involved in carrying out operational pilots at the airports.
We support CBP.

SESSIONS:
But -- But you -- you've completed your responsibilities?

DUONG:
Yes sir. We're in the process of transferring all of our knowledge that we've gained in the past three years of the test assessment recommendations to CBP to help them design the next pilot that Mr. Wagner talked about at the end of 2016.

SESSIONS:
And so if there's a slowdown, it's not because you haven't done your part?

DUONG:
No sir.

SESSIONS:
Oh yes. You feel like you've done your report -- your report.

DUONG:
Yes sir.

SESSIONS:
Well let me ask Mr. Wagner. Who is responsible for leading the effort to implement a biometric exit system? Is someone designated for that job?

WAGNER:
So in 2013 that responsibility through Congressional Appropriation was provided to CBP, the operator so the operators are now in charge of taking this information and finding the solution to ...
(CROSSTALK)

WAGNER:
The operator, Customs and Border Protection so if you were 2013 it was at other parts of DHS.

SESSIONS:
Well first of all that's not an excuse.

WAGNER:
I know it's not an excuse, but yes ...
(CROSSTALK)

WAGNER:

Right as the operator or the person that admits people to the United States and inspects them, the operators are now designing a system that will work based on the knowledge we've learned from the previous pilots.

SESSIONS:
Or who is the operators, is it you?

WAGNER:
It's me. Yes sir.

SESSIONS:
So and what you keep saying the operator so I just would like to say there so I'm fixing (ph) responsibility. You're the man.

WAGNER:
Absolutely.

SESSIONS:
OK. Well we'll have to hold you accountable. It's time to get some action.
I -- In the one month of processing between heavy international travel times between June and July, the 2009 pilot study found that the Customs and Border Protection pilot at the Jetway in Detroit processed 9,448 aliens and identified 44 watchlists, this is terrorist watchlist hits and 60 suspected overstays.

The TSA pilot project processed 20,296 aliens subject to U.S. visit and identified a 131 watchlists and 90 overstays. I believe that was at Atlanta Ms. Gambler. Is that correct of it?

GAMBLER:
I believe so and we can doublecheck those numbers Senator.

SESSIONS:
TSA pilot as opposed to their Customs and Border Protection pilot in Detroit.

GAMBLER:
Correct. TSA was at Atlanta and CBP was at Detroit.

SESSIONS:
The study also found that lines -- waiting lines at the TSA checkpoint did not increase and the Customs and Border Patrol Officers on the Jetway had little or no impact on departure times. Importantly the Department of Homeland Security Databases were able to maintain the quality and matching requirements using the fingerprints collected assuring that people who they said were who they said they were and their exit data correlated with their identity. Well that was the whole purpose of it. Apparently, it worked like a charm why are we still testing and fumbling around.

WAGNER:

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When they refer to watchlist, I don't believe they're referring to the terrorist screening database watchlist. I think they're referring to the U.S. visit watchlist, which is a host of records of immigration enforcement actions, criminal records and a handful of terrorist records.

SESSIONS:
Enforcement actions, criminal records and ...

WAGNER:
Correct. Right, but it's not all terrorist-related watchlist.
(CROSSTALK)

SESSIONS:
So it's working like to me.

WAGNER:
It's working, but the handheld pilot that we deployed I don't believe that it was running those prints in real time. I think we're loading up a handheld device and go back to the office and plug it in to see what the results were. That just is no good if the person is now gone. OK.

The one at the TSA checkpoint that is no good for person that register their biometrics and then turnaround and walk out of the airport.

SESSIONS:
Now with the present capabilities, Ms. Duong you can put your hands on a system now and you should come up rather quickly could you not with -- with the data.

WAGNER:
That's the one we're running right now.

DUONG:
That's the one we're running right now.

WAGNER:
In live real-time responses.

SESSIONS:
Look. I know a lot of the things it went on. I know that airlines just didn't want this and they thought they could beat it and they have beat it for over a decade, but you guys have got to do the national interest. I don't think it's going to be a big burden for the airlines.

I think we have established that it's just nearly as problematic as they may have thought at the beginning and maybe there are others that oppose this too, but you guys work for the people of United States. I believe this is an issue of national security. I believe it's an issue of criminality. We don't need to be admitting criminals to the country. We may have -- let's say somebody came in the country and committed a terrorist act or committed a murder or some other serious crime or

maybe abuse a woman and we've got a warrant for their arrest, shouldn't they be stopped Mr. Healy before they get on a plane and leave the country?

HEALY:
Yes sir.

SESSIONS:
And this system would stop that too, would it not?

HEALY:
We would hope.

SESSIONS:
And it would send the signal to the world that we're getting our act together and we're not a place where criminals can come and hide out as I think sometimes this is going to happen. Well thank you all.

You've got some extra money now Mr. Wagner. You're the man. It's time to call the question and decide what plan you're going to use. I believe you can do it in a way that will minimize disruption and they will be very helpful in providing for security and helping us get to the point where we have integrity in our system.

I thank all of you for testifying. The record will be opened for one week. The Committee stands in recess.