

1                   WHY IS THE BIOMETRIC EXIT TRACKING SYSTEM  
2                                   STILL NOT IN PLACE?

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4                                   WEDNESDAY, JANUARY 20, 2016

5   United States Senate,  
6                   Subcommittee on Immigration and the National Interest,  
7   Committee on the Judiciary,  
8   Washington, D.C.

9                   The Subcommittee met, pursuant to notice, at 3:05 p.m.,  
10           in room SD-226, Dirksen Senate Office Building, Hon. Jeff  
11           Sessions, Chairman of the Subcommittee, presiding.

12                   Present: Senators Sessions, Perdue, Grassley, Cornyn,  
13           Lee, Tillis, Schumer, Klobuchar, and Franken.

14                                   OPENING STATEMENT OF HON. JEFF SESSIONS, A U.S.

15   SENATOR FROM THE STATE OF ALABAMA

16                   Chairman Sessions. We will not do any substantive work  
17           until our Democratic members have a chance to be here. But  
18           I want to thank all of you for coming, and I want to be sure  
19           that everyone that is watching this hearing can do so  
20           without obstruction. If people stand up and block the view  
21           of those behind them or speak out of turn, it is not fair or  
22           considerate to others, and officers will remove those  
23           individuals from the room.

24                   And before we begin with opening statements, I want to  
25           explain how we are going to proceed today. We have one

1 panel of witnesses today. I will make an opening  
2 statement, followed by an opening statement from Senator  
3 Schumer. Each witness will then have 5 minutes for an  
4 opening statement. Following their statements, we will  
5 begin with the first round of questions in which each  
6 Senator will have 5 minutes. After the first round, if any  
7 Senator wishes to continue with questions, we will have a  
8 second round of questions.

9 I would apologize to you. We had a vote that was  
10 supposed to be at 2:30, and it went past 2:45 before that  
11 vote was called. And the voting is going on now.

12 [Pause.]

13 Chairman Sessions. We are ready with Senator Franken.

14 Senator Franken, if it is all right with you, I would  
15 like to introduce the witnesses and swear them, and we will  
16 wait a few minutes to see if Senator Schumer is coming.

17 Senator Franken. No. It is not okay with me.

18 [Laughter.]

19 Senator Franken. Sure, go ahead.

20 Chairman Sessions. You get an "A" for timing again, as  
21 always.

22 So I will ask the witnesses if you would stand and  
23 raise your right hand. If you would raise your right hand,  
24 do you affirm that the testimony you are about to give  
25 before this Committee will be the truth, the whole truth,

1 and nothing but the truth, so help you God?

2 Mr. Wagner. I do.

3 Ms. Duong. I do.

4 Mr. Healy. I do.

5 Ms. Gambler. I do.

6 Chairman Sessions. Thank you. You may be seated.

7 I will introduce our witnesses. I will just do them  
8 all, and then we can take turns. When you finish, the next  
9 witness can testify.

10 First, we have John Wagner, Deputy Assistant  
11 Commissioner for the Office of Field Operations, U.S.  
12 Customs and Border Protection. In that position, in which  
13 he has served since April of 2014, Mr. Wagner oversees  
14 nearly 30,000 employees--that is a pretty big job, Mr.  
15 Wagner--with more than 22,000 CBP officers and CBP  
16 agricultural experts that protect United States borders.  
17 Mr. Wagner graduated from the State University of New York  
18 at Albany with a Bachelor of Arts degree in psychology. He  
19 began his Federal law enforcement career in 1991 when he  
20 joined the U.S. Customs Service as a Customs Inspector.

21 Next we have Ms. Anh Duong, Director of the Border and  
22 Maritime Division, Homeland Security Advanced Research  
23 Projects Agency, at the Department of Homeland Security's  
24 Science and Technology Directorate. That is a good title.  
25 Ms. Duong joined the Department in 2008 after spending 25

1 years working in naval science and technology for the United  
2 States Navy. She graduated cum laude in chemical  
3 engineering and in computer science from the University of  
4 Maryland and earned an M.S. in public administration with  
5 honors from American University.

6 Next we have Mr. Craig Healy, Assistant Director,  
7 National Security Investigations Division, Homeland Security  
8 Investigations, U.S. Immigration and Customs Enforcement.  
9 Mr. Healy is dual-hatted as the Assistant Director of  
10 National Security Investigations Division and as the  
11 Director of the Federal Export Enforcement Coordination  
12 Center. Mr. Healy has served in a variety of management  
13 positions at the Federal level throughout his 28 years of  
14 Government service, including service in the United States  
15 Marine Corps, the former U.S. Customs Service, and with U.S.  
16 Immigration and Customs Enforcement.

17 Finally, we have Rebecca Gambler, Director of Homeland  
18 Security and Justice Issues at the U.S. Government  
19 Accountability Office, GAO. Ms. Gambler joined GAO in 2002  
20 and has worked on a wide range of issues related to homeland  
21 security and justice. Prior to joining GAO, Ms. Gambler  
22 worked at the National Endowment for Democracy's  
23 International Forum for Democratic Studies. Ms. Gambler has  
24 an M.A. in national security and strategic studies from the  
25 United States Naval War College, an M.A. in international

1 relations from Syracuse University, and an M.A. in political  
2 science from the University of Toronto. She was a Fulbright  
3 Fellow to Canada. Ms. Gambler has a B.A. in political  
4 science from Messiah College.

5 Perhaps since we have a highly able and competent  
6 Democratic member with us, I will do my opening statement,  
7 and if Senator Schumer does not arrive, I will call on  
8 Senator Franken.

9 Senator Franken. Where is this highly competent member  
10 of the minority?

11 [Laughter.]

12 Chairman Sessions. I am just looking right at you.

13 Senator Franken. Oh, well, thank you for your kind  
14 words, Mr. Chairman. I have no opening statement, though,  
15 as competent as I am.

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

24 Congress has required the implementation of an  
25 automated entry and exit system for years. Indeed, I think

1 the first one was in 1996. Half a dozen laws have been  
2 passed that call for this. In about 2004, we added  
3 biometric not just biographic data as a requirement for the  
4 system that should be set up.

5 It has been repeatedly recognized that such a system is  
6 a vital component to our immigration system. It just is.  
7 But the law, the promise to the American people made when  
8 those laws passed, has been more show than substance.

9 Several of our temporary entry programs are uncapped,  
10 meaning that an unlimited number of people can enter the  
11 country temporarily on a visa. Others permit the admission  
12 of tens of thousands of aliens each year before they are  
13 capped. If we do not track and enforce departures, then we  
14 have open borders, especially the way it is being carried  
15 out today. It is as simple as that.

16 As the late Barbara Jordan, the Chairwoman of the U.S.  
17 Commission on Immigration Reform, said, "Deportation is  
18 crucial. Credibility in immigration policy can be summed up  
19 in one sentence: Those who should get in, get in; those who  
20 should be kept out are kept out; and those who should not be  
21 here will be required to leave."

22 Senator Schumer, no business has been taken, but you  
23 are missing my great oration.

24 Senator Schumer. Well, I will read every word of what  
25 I missed.

1 [Laughter.]

2 Senator Schumer. Sorry.

3 Chairman Sessions. I am sure you have heard it before,  
4 and we have talked about these issues a number of times, and  
5 I respect your insights into this even when we might not  
6 agree.

7 Senator Schumer. Thank you.

8 Chairman Sessions. Although the Department of Homeland  
9 Security does not know definitely, largely based on the lack  
10 of a fully automated biometric entry/exit tracking system,  
11 numerous sources estimated that upwards of 40 percent of the  
12 population of aliens unlawfully present in the United States  
13 today did not cross the borders unlawfully but, rather,  
14 overstayed the authorized period of stay allowed by their  
15 visas. So it must be understood that under the policies of  
16 this administration, overstaying a visa does not result in  
17 deportation. There is no plan or policy that does that.  
18 Such policies being carried out today is a demonstration by  
19 our Government that the exit date requirement has no  
20 meaning. Again, this is the very essence of open borders.  
21 Anyone can come in; no one has to leave.

22 The reason this is so, to go a little further, is  
23 because the policies established by this administration for  
24 deporting people unlawfully here mean that you do not deport  
25 people unless they have been arrested for a serious felony.

1 So if you have come on a visa for a certain period of time  
2 and you overstay that visa, unless you have been caught  
3 virtually almost totally on a serious criminal offense, you  
4 will not be deported. No action will be taken. And that is  
5 why we have the kind of openness that is unacceptable.

6 In addition to the harm done to American job seekers  
7 and taxpayers, this also poses a substantial national  
8 security risk and a monumental erosion of the integrity of  
9 law that encourages more violence. The 9/11 Commission  
10 found that creating such an entry/exit system was "an  
11 essential investment in our national security," and it was a  
12 key recommendation of the 9/11 Commission over a decade ago.  
13 And when they met 10 years later to evaluate whether their  
14 recommendations had been followed or not, this entry/exit  
15 visa system was one of the key points they noted had not  
16 been carried out.

17 But, again, no such system exists today. The omnibus  
18 spending bill that Congress passed last month which  
19 contained many unwise provisions did include language that  
20 could lead to hundreds of millions of dollars going toward  
21 implementation of this system. Unfortunately, there were no  
22 forcing functions included in the language to ensure it is  
23 spent properly, but the presence of the money would remove  
24 excuses DHS has not to construct a system after all these  
25 years.

1           The situation is dire. The time to act is now. The  
2 U.S. Customs and Border Protection issued a report yesterday  
3 entitled, "Entry/Exit Overstay Report Fiscal Year 2015."  
4 The report, which only addresses individuals admitted as  
5 nonimmigrant visas for business or pleasure during one  
6 fiscal year and clearly does not include other significant  
7 nonimmigrant visa categories such as students or workers on  
8 H-1B or H-2B visas, indicates that during fiscal year 2015,  
9 527,000 individuals overstayed their visas or authorized  
10 periods of stay.

11           At the end of the fiscal year, 482,781 of these  
12 individuals were still in the United States. Put another  
13 way, that means that nearly half a million individuals  
14 potentially overstayed their visa in just one fiscal year,  
15 and that number does not include aliens admitted under a  
16 variety of other nonimmigrant visa programs, students,  
17 temporary workers, and the like. That is a population of  
18 individuals that is larger than any city in Iowa, New  
19 Hampshire, or South Carolina. The total number of--

20           Senator Schumer. Why did you pick those three?

21           Chairman Sessions. Because there are three elections  
22 coming up. Did you not know that? And perhaps when people  
23 go to their election, they are going to consider these type  
24 issues when they choose to cast their vote.

25           The report includes surprisingly high visa overstay

1 rates for some countries that currently participate in the  
2 Visa Waiver Program, but entails extremely troubling  
3 information about other countries. For example, the report  
4 indicates 219 individuals from Afghanistan, 681 from Iraq,  
5 564 from Iran, 56 from Libya, 1,435 from Pakistan, 440 from  
6 Syria, and 219 from Yemen overstayed their visas and are  
7 suspected of being in the United States. That is just one  
8 year.

9 So this Nation, despite clear law, makes no attempt to  
10 identify, locate, or find these people who have overstayed  
11 their visas or even to find out who overstayed and who did  
12 not. Our executive branch is on strike against the will of  
13 the American people and the requirements of Congress.

14 Under Secretary Jeh Johnson's policies and the  
15 President's policies, aliens who overstay their visas but  
16 manage to avoid being convicted of any crimes have  
17 practically no chance of ever being removed from the United  
18 States.

19 American citizens face criminal charges if they lie to  
20 authorities, illegally take someone's money, or steal  
21 someone's identity. Yet we allow millions of aliens to come  
22 on temporary visas, ignore our laws, violate their pledge to  
23 leave by a certain date, and to take jobs and benefits  
24 directly from Americans. Simply put, there is no border at  
25 all if we do not enforce our visa rules. Even violent and

1 dangerous aliens are allowed to road freely in the country  
2 until they have robbed or killed an innocent American. We  
3 need to remove alien overstays before they hurt innocent  
4 Americans, before they engage in terrorism, not wait until  
5 it is too late.

6 Every time you hear about the deportation of a  
7 convicted criminal killer, remember this: If we had  
8 deported that alien before the crime, an innocent American  
9 would still be alive. The lawlessness cannot continue. We  
10 must establish a tracking system at every air, land, and sea  
11 port, and we must send a message to the world if you  
12 overstay your visa, you are going to be sent home.

13 Once again, I would like to thank our witnesses--it is  
14 a distinguished panel--for joining us, and we look forward  
15 to your testimony.

16 Senator Schumer?

17 OPENING STATEMENT OF HON. CHARLES E. SCHUMER, A U.S.

18 SENATOR FROM THE STATE OF NEW YORK

19 Senator Schumer. Well, thank you, Mr. Chairman, and I  
20 appreciate your holding this hearing. This has always been  
21 a bipartisan issue. You and I agree with the total thrust  
22 of your statement, and I am glad you are having this hearing  
23 because it is really important.

24 I would just like to note that I, along with every  
25 other Democrat who is serving in the Senate today who was

1 serving during the tumultuous years after 9/11, supported  
2 the 9/11 Commission's recommendation that DHS establish a  
3 biometric entry/exit system at our land, air, and sea ports  
4 of entry. Knowing who is coming into the country and  
5 knowing who is going out is a matter of national security,  
6 plain and simple.

7 Congress has on multiple occasions mandated the  
8 creation of a biometric entry/exit system. I am a firm  
9 supporter of it. I was personally involved in the push for  
10 Canada to share their entry information with us so that we  
11 could count that towards our exit tracking.

12 I also co-authored and fought for the bipartisan  
13 Senate-passed comprehensive immigration reform bill that  
14 reiterated this mandate and prioritized implementation at  
15 our ten busiest international airports. We talked about  
16 this on comprehensive immigration reform, lots of Republican  
17 and Democratic Senators putting their heads together.  
18 Unfortunately, it did not pass, but it would have moved us  
19 forward on this issue. Yet it is 15 years now after the  
20 first mandate, and several--let me repeat, several laws  
21 reiterating it, but it still has not been implemented.

22 We have a biometric entry system. It has been fully  
23 operational for about 10 years. But the biometric exit  
24 system is still not off the ground, and that is unfortunate,  
25 very unfortunately, because it is a matter of national

1 security.

2       So today I hope to hear why, what DHS is doing about  
3 it. The Department of Homeland Security has as its mission  
4 doing everything possible to protect the homeland, and we  
5 know you take that mandate seriously. You have dedicated  
6 your lives to it. Part of that mission includes fulfilling  
7 the mandates Congress passes and in the latest  
8 appropriations legislation funds to the tune of billions of  
9 dollars.

10       We need innovative solutions to implement this mandate,  
11 and we can do it without disrupting travel and international  
12 commerce. For instance, at airports, DHS could segment the  
13 lines at the gates to screen international departures only.  
14 Or perhaps CBP could use a handheld device on the airplanes  
15 themselves before takeoff.

16       At our southern border, perhaps we can duplicate the  
17 Canadian model and find a way to collect fingerprints within  
18 a short distance of the Mexican side of our ports of entry,  
19 demonstrating that someone has arrived there and, hence,  
20 exited the U.S. So I hope that our experts on the panel  
21 have thought of these ideas or even better ideas, and I am  
22 eager to hear them.

23       Now, to our DHS friends--and I appreciate so much your  
24 service--Congress just gave you \$2 billion to do this, and  
25 we look forward to hearing your plans.

1           Thanks, Mr. Chairman.

2           Chairman Sessions. Thank you, Senator Schumer. Maybe  
3 we can make progress. Unfortunately, we have not had any  
4 requests from the administration for money to get anything  
5 done, and I have not seen any leadership from the other  
6 side. But, Mr. Wagner, I believe you would be first up, and  
7 we would be delighted to hear your statement at this time.

1 STATEMENT OF JOHN WAGNER, DEPUTY ASSISTANT  
2 COMMISSIONER, OFFICE OF FIELD OPERATIONS, U.S.  
3 CUSTOMS AND BORDER PROTECTION, U.S. DEPARTMENT OF  
4 HOMELAND SECURITY, WASHINGTON, D.C.

5 Mr. Wagner. Thank you, Chairman Sessions, Ranking  
6 Member Schumer, distinguished members of the Subcommittee.  
7 Thank you for the opportunity to appear here today to  
8 discuss Customs and Border Protection's efforts to  
9 incorporate biometrics into our exit operations.

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

14 I would like to begin by briefly discussing how we  
15 present collect arrival and departure data from foreign  
16 nationals. We receive passenger manifests from air and sea  
17 carriers which contain the biographic information on the  
18 passengers. This information is vetted against a number of  
19 law enforcement databases to enable us to address potential  
20 risks prior to departure from foreign.

21 When the traveler arrives in the United States, they  
22 present their passport to the CBP officer. The officer  
23 reads the passport and electronically confirms the accuracy  
24 of the information received from the airline. The foreign  
25 national's fingerprint biometrics and a digital photograph

1 are also collected. If the traveler has a visa, we compare  
2 the prints against what State Department collected at the  
3 embassy to make sure it is the same person. If they are  
4 traveling under visa waiver, we collect the biometrics and  
5 compare it against the last time we encountered them; or if  
6 it is their first visit, we affix the full set of ten  
7 fingerprints to their identity for their next visit.

8 The officer reviews the biographic and biometric  
9 database checks, ensures no previous violation's risk  
10 factors, interviews the traveler to determine purpose and  
11 intent of travel, and then stamps the passport, indicates  
12 the duration of the stay, the visit in their passport, and  
13 records this in our automated system.

14 When that same person departs the United States, CBP  
15 again receives the biographical manifest from the airline.  
16 This allows us to create a departure record for the traveler  
17 and close out their stay. As you will remember, it was  
18 through this system that CBP apprehended the Times Square  
19 bomber, Faisal Shahzad, who was attempting to depart JFK in  
20 2010. In fact, last year CBP arrested 379 travelers flying  
21 on airlines without standing NCIC warrants based on these  
22 departure manifests that the airlines provided.

23 So we use this arrival and departure information to  
24 generate overstay lists on a daily basis. It is important  
25 to point out that determining lawful status can be more

1 complicated than simply matching entry and exit data. For  
2 instance, a person may be admitted for a 6-month stay, but  
3 they apply for and receive an extension, which is relevant  
4 to determining if they are an overstay or not. Therefore,  
5 overstay lists must be correlated against other DHS systems  
6 and organizations. We then run these overstay lists through  
7 our automated targeting system, and working closely with our  
8 partners in ICE, we prioritize these based on national  
9 security factors and provide that to ICE for follow-up.

10 As you mentioned, yesterday we released the overstay  
11 report. It provides data on foreign visitors who overstay  
12 their lawful admission period. As you mentioned, out of the  
13 nearly 45 million nonimmigrant visitors, we calculate an  
14 overstay rate of 1.17 percent. If you push that out to  
15 January, that same group of people, that number goes down to  
16 about 0.9 percent. So, in other words, we were able to  
17 confirm the departures for over 99 percent of nonimmigrant  
18 visitors who were scheduled to depart in 2015.

19 This report articulates the foundation to build the  
20 biometric exit system upon. The information we are  
21 collecting today is actionable, but it can be enhanced with  
22 the addition of biometrics captured at departure in order to  
23 confirm the information that we are acting on, and previous  
24 attempts to deploy a biometric exit system struggled because  
25 they were attempted in isolation and building them from

1 scratch rather than trying to build upon the existing  
2 framework and the existing system.

3 But the challenge today is not the technology. The  
4 challenge is in the infrastructure. Our ports of entry were  
5 not built for exit processing. Unlike for arrivals, there  
6 is no exclusive and dedicated space for departure controls.  
7 So where the biometric collection takes place is critical.  
8 Placing the technology in the departure process, such as the  
9 security checkpoint or the airline counter, would not  
10 provide assurances that the passenger who registered their  
11 biometrics actually got on board the plane and left the  
12 country. And in this case, we would be defaulting to the  
13 very same process we have in place right now, which is  
14 relying on the departure manifests from the airline. It  
15 would be so easy to circumvent this system, the data would  
16 be unreliable.

17 But in preparation for deploying biometric exit, we  
18 have several operational pilots that we have kicked off. We  
19 have deployed a mobile biometric capability at ten airports  
20 last year. This capability will help us determine the  
21 accuracy of the biographic manifests the airlines are  
22 providing, the percentage of records, the additional records  
23 that we can close out that we could not do just on the basis  
24 of the biographic records, and then identify the law  
25 enforcement requirements, because every biometric hit is not

1 relevant to our departure processing, and this gives us a  
2 sense of the enforcement capabilities that it will bring to  
3 us.

4 Yesterday, we launched Phase 2 of our facial comparison  
5 technology at JFK Airport. This allows us to confirm the  
6 passport presented by the true document holder for U.S.  
7 citizens and visa waiver travelers. We did this at Dulles  
8 last spring, and we will be relaunching at Dulles next  
9 month.

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

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

18 [The prepared statement of Mr. Wagner follows:]

1 Chairman Sessions. Thank you, Mr. Wagner.  
2 Ms. Duong?

1 STATEMENT OF ANH DUONG, DIRECTOR, BORDER AND  
2 MARITIME SECURITY DIVISION, HOMELAND SECURITY  
3 ADVANCED RESEARCH PROJECTS AGENCY, SCIENCE AND  
4 TECHNOLOGY DIRECTORATE, U.S. DEPARTMENT OF  
5 HOMELAND SECURITY, WASHINGTON, D.C.

6 Ms. Duong. Good afternoon, Chairman Sessions, Ranking  
7 Member Schumer, and distinguished members of the Committee.  
8 I thank you for this opportunity to testify along with my  
9 colleagues from Customs and Border Protection and  
10 Immigration and Customs Enforcement with whom we work  
11 closely.

12 The Science and Technology Directorate's, or S&T's,  
13 mission is to deliver effective and innovative insight,  
14 methods, and solutions for the critical needs of the  
15 homeland security enterprise. We work closely with our  
16 operating components such as CBP and ICE to understand the  
17 gaps in the operational capability and invest in efforts  
18 that will result in knowledge or products aimed at closing  
19 these gaps.

20 In 2012, CBP asked for our assistance in their effort  
21 to enhance the current air entry and air exit operations.  
22 In response, S&T started the Air Entry/Exit Reengineering  
23 Project in fiscal year 2013 known as AEER, which is composed  
24 of several interlocking parts: technology forging and  
25 testing, operation analysis, and stakeholder engagement.

1           With respect to air exit, our goal is to help CBP  
2 evaluate technologies and concepts of operation to  
3 biometrically verify the departure of foreign nationals from  
4 U.S. airports. To inform concepts of operation and  
5 scenario-based testing, AEER conducted a comprehensive  
6 market survey of commercially available, standard-based  
7 fingerprint, iris, and facial recognition technologies. We  
8 identified over 100 devices from a wide range of vendors for  
9 testing at the Maryland test facility in Landover, Maryland,  
10 which many of your staff have visited over the past year or  
11 so.

12           We first evaluated these devices' basic performance  
13 such as accuracy, speed, et cetera. Those that performed  
14 well were selected for scenario-based testing to evaluate  
15 the human interface and suitability in various concepts of  
16 operation. Since June 2014, AEER has utilized over 1,700  
17 volunteer human subjects, ranging from 18 to 81 years of  
18 age, from 50 countries of origin, and with demographic  
19 characteristics similar to those of air travelers.

20           To inform concepts of operation and scenario-based  
21 testing at the Maryland test facility and to collect data in  
22 support of CBP cost analysis, we sent teams into the field  
23 to observe and analyze current airport operations. This  
24 entailed close cooperation with CBP headquarters and field  
25 staff as well as airport and airline stakeholders. We

1 routinely invited industry groups to the Maryland test  
2 facility and hosted webinars to keep stakeholders updated  
3 and solicited their feedback.

4 Through the AEER project, in the past 3 years we have  
5 gained a robust understanding of the state of the art of  
6 biometric technologies, how various technologies interact  
7 with passengers, and how they might fit in various concepts  
8 of operation. We are in the process of transferring all of  
9 this knowledge to CBP, including our volume of test results,  
10 assessments, and recommendations, as we transition from S&T-  
11 led scenario-based testing to CBP-led airport pilots for  
12 biometric air exit in 2016. These products will inform  
13 CBP's path forward to a nationwide deployment for the  
14 biometric exit program in accordance with statutory  
15 requirements.

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

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

1           I thank the Committee for this opportunity to testify  
2 on this very important topic.

3           [The prepared statement of Ms. Duong follows:]

1 Chairman Sessions. Thank you.

2 Mr. Healy?

1           STATEMENT OF CRAIG C. HEALY, ASSISTANT DIRECTOR,  
2           NATIONAL SECURITY INVESTIGATIONS DIVISION,  
3           HOMELAND SECURITY INVESTIGATIONS, U.S. IMMIGRATION  
4           AND CUSTOMS ENFORCEMENT, U.S. DEPARTMENT OF  
5           HOMELAND SECURITY, WASHINGTON, D.C.

6           Mr. Healy. Good afternoon, Chairman Sessions, Chairman  
7           Grassley, Ranking Member Schumer, and distinguished members.  
8           Thank you for the opportunity to discuss ICE's role in  
9           overstay enforcement and how we would benefit from the  
10          implementation of a biometric exit system. After nearly 30  
11          years in Federal law enforcement, I recognize the importance  
12          of the visa overstay issue to the Subcommittee.

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

17          ICE Homeland Security Investigations, or HSI, through  
18          our Counterterrorism and Criminal Exploitation Unit, is  
19          dedicated to identifying and initiating enforcement action  
20          on priority overstay violators. Our overstay mission is  
21          accomplished in close coordination with CBP and numerous  
22          other agencies, and our primary objective is to vet the  
23          system-generated leads we receive in order to identify true  
24          overstay violators for appropriate enforcement action.

25          ICE uses dedicated special agents, analysts, and

1 systems to specifically address nonimmigrant overstays who  
2 may potentially pose a national security and public safety  
3 concern. In fiscal year 2015, our agents and analysts  
4 devoted approximately 650,000 investigative hours on  
5 overstay enforcement. In fiscal year 2015, the  
6 Counterterrorism and Criminal Exploitation Unit reviewed  
7 approximately 971,000 system-generated potential violator  
8 referrals received from entry/exit data, international  
9 student data sets, and other Government systems. These  
10 system-generated referrals are created using biographical  
11 and travel data stored in CBP's arrival and departure  
12 information system. This system allows DHS to identify  
13 nonimmigrants who potentially have remained in the United  
14 States beyond their authorized periods of admission or have  
15 violated their visas.

16       Once the leads are received, ICE conducts both  
17 automated and manual searches against additional Government  
18 databases, social media, and public records to determine if  
19 a potential overstay has departed the United States, has  
20 adjusted to a lawful status, or requires further  
21 investigative review.

22       Additionally, ICE prioritizes overstay referrals  
23 through a risk-based analysis. A targeting framework  
24 consisting of ten tiers was developed in close consultation  
25 with the intelligence and law enforcement communities to

1 ensure that national security and public safety concerns are  
2 prioritized. To accomplish this, we meet regularly with our  
3 interagency partners to confirm that our targeting  
4 methodologies are in line with current U.S. Government  
5 threat information, trends, and priorities.

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

16 For fiscal year 2015, of the approximate 10,000  
17 priority referrals that were sent to the field, our offices  
18 have about 3,000 of these leads currently under  
19 investigation; roughly 4,100 cases have been closed, being  
20 the individual was found to be in compliance with U.S.  
21 immigration law or the individual has departed the United  
22 States. More importantly, we made over 1,900 arrests of  
23 which 139 were criminal arrests, secured 86 indictments and  
24 80 convictions. The remaining leads are under continuous  
25 monitoring and further investigation.

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

8           Thank you for your time. I would be pleased to answer  
9    any questions.

10           [The prepared statement of Mr. Healy follows:]

1 Chairman Sessions. Thank you.

2 Ms. Gambler, GAO.

1 STATEMENT OF REBECCA GAMBLER, DIRECTOR, HOMELAND  
2 SECURITY AND JUSTICE ISSUES, U.S. GOVERNMENT  
3 ACCOUNTABILITY OFFICE, WASHINGTON, D.C.

4 Ms. Gambler. Good afternoon, Chairman Sessions,  
5 members of the Subcommittee. I appreciate the opportunity  
6 to testify at today's hearing to discuss GAO's work  
7 reviewing Department of Homeland Security efforts to plan  
8 for and implement a system to collect biometric data from  
9 foreign nationals at U.S. ports of entry. Such a system is  
10 intended to help the Department in its efforts to identify  
11 potential overstays, among other goals.

12 Beginning in 1996, Federal law has required the  
13 implementation of an entry and exit system, and in 2004, DHS  
14 was mandated to develop a plan to accelerate full  
15 implementation of a biometric entry/exit system. Currently,  
16 DHS collects biographic information from foreign nationals  
17 entering and departing the country through airports and on a  
18 more limited basis at land ports. And since 2004, DHS has  
19 collected biometric information--namely, fingerprints--from  
20 foreign nationals entering the United States. However, the  
21 Department has not yet developed and implemented a biometric  
22 exit capability as required by statute.

23 We have issued a number of reports on DHS' efforts to I  
24 partner a biometric exit system, and we have identified  
25 weaknesses in the Department's overall management of these

1 efforts. My remarks today will focus on DHS' planning  
2 efforts for a biometric air exit capability.

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

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

24 Further, DHS had planned to develop options for a  
25 biometric air exit and report to Congress regarding benefits

1 and costs in time for the fiscal year 2016 budget cycle.

2 DHS did not meet that time frame and does not know when it  
3 will be positioned to report this information to Congress.

4 More recently, DHS has implemented several projects to  
5 test and evaluate possible biometric air exit technologies.  
6 For example, last year, CBP began testing a handheld mobile  
7 device to collect biographic and biometric exit data from  
8 randomly selected foreign national travelers at selected  
9 airports. While these are positive steps, DHS began these  
10 efforts without having a finalized evaluation framework for  
11 assessing biometric air exit options. Such a framework is  
12 important for helping to guide DHS' efforts.

13 We previously recommended that the Department set time  
14 frames and milestones for developing and implementing an  
15 evaluation framework. DHS concurred with this  
16 recommendation and has developed a draft framework, but is  
17 still in the process of finalizing metrics for measuring  
18 performance and effectiveness, and our recommendation  
19 remains open.

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

1 DHS has missed a number of its own milestones for  
2 implementing recommendations to strengthen its biometric  
3 exit planning efforts and for reporting information to  
4 Congress.

5 We will continue to monitor and follow up on these  
6 issues as well as the status of the Department's efforts to  
7 implement our prior recommendations.

8 This concludes my oral statement, and I would be  
9 pleased to answer any questions members may have.

10 [The prepared statement of Ms. Gambler follows:]

1 Chairman Sessions. Thank you. Just briefly, Ms.  
2 Gambler, how many times has GAO reviewed this effort?

3 Ms. Gambler. I can get back with you with an exact  
4 number, but a number of reports, probably six, seven, eight.

5 Chairman Sessions. Do they have an actual plan today  
6 that is being executed that will fix this problem and meet  
7 the requirement of law?

8 Ms. Gambler. We have not yet seen a plan from the  
9 Department for biometric exit.

10 Chairman Sessions. Well, Mr. Wagner, that is a pretty  
11 serious result. Senator Schumer said he is for this. We  
12 have talked about it for years. It is not a question of  
13 technology, is it? Do you have any failure in technology  
14 that would keep you from executing this plan?

15 Mr. Wagner. No, sir. It is the placement of the  
16 technology and how you collect it to ensure that the person  
17 actually departed the United States.

18 Chairman Sessions. Right. So the question is: Since  
19 2004 or earlier, you have been trying to figure out where to  
20 put the equipment? Is that right?

21 Mr. Wagner. it is a matter of incorporating into the  
22 departure process so, number one, we do not create gridlock  
23 at the--

24 Chairman Sessions. How long does it take you to decide  
25 that? This has been going on for years. Can you decide it

1 next week?

2 Mr. Wagner. We cannot compel space at the airports.  
3 We do not occupy space for the Government to operate in  
4 departure in the international airports. There is no zone  
5 to do that. There are 2,000--

6 Chairman Sessions. Well, we do it now, don't we?

7 Mr. Wagner. --departure gates to do this. So we are  
8 working with S&T to come up with what is the right biometric  
9 to collect and what is the right way to collect it without  
10 creating gridlock at the airports and the land borders to do  
11 that.

12 Chairman Sessions. Mr. Wagner, this is the Congress of  
13 the United States. You are in charge of doing an exit  
14 system for the United States of America. It has been  
15 required for 20 years. It is not in place. So we are not  
16 going to talk about problems that have been out there that  
17 could have been solved a long time ago.

18 First, the extra money that Senator Schumer talked  
19 about being in this budget, did you request it?

20 Mr. Wagner. No.

21 Chairman Sessions. It has not been requested because  
22 the administration has had no interest in seeing this system  
23 completed. That is the fact.

24 Now, if someone comes into this country on a visa for 6  
25 months and they overstay 2 years, do you even know that they

1 have overstayed?

2 Mr. Wagner. Yes, absolutely.

3 Chairman Sessions. You have a record of it? How does  
4 it come up?

5 Mr. Wagner. Yes, because at the--

6 Chairman Sessions. Can you find--the question is not  
7 can you find it. The question is: Is a system in place  
8 that reports or kicks out the names of people who  
9 overstayed?

10 Mr. Wagner. Yes, because when their period of  
11 admission is up, if we do not have a confirmed departure,  
12 that would appear on an overstay list.

13 Chairman Sessions. Well, then, everybody is--since we  
14 do not have a method of departure, everybody is on the list.

15 Mr. Wagner. We have a method of departure via the  
16 airline manifests.

17 Chairman Sessions. But you do not have the biometric  
18 as required by law?

19 Mr. Wagner. Correct.

20 Chairman Sessions. All right. Now, if they overstay  
21 and you have a list of those, do you go out and look for  
22 them?

23 Mr. Wagner. We provide that to ICE.

24 Chairman Sessions. Does ICE go out and look for them?

25 Mr. Wagner. You will have to ask ICE.

1 Chairman Sessions. Mr. Healy, when you get a name of  
2 an individual that does not have any criminal attachment to  
3 it, do you look for that individual if they overstayed?

4 Mr. Healy. Yes, we do, sir. What we will do is we  
5 will take that information--and it comes in in batch form--  
6 we will prioritize it according to national security, public  
7 safety. Sir, one of the things--

8 Chairman Sessions. No, no, Mr. Healy, I asked you a  
9 question. You said you prioritize.

10 Mr. Healy. Yes, sir.

11 Chairman Sessions. And you said that, as I understood  
12 you to say, there are 3,000 that you are investigating now,  
13 and out of 49 million people that have come here, and  
14 400,000 to 500,000 who have overstayed their visas. Is that  
15 right?

16 Mr. Healy. What we need to do, sir, is we need--

17 Chairman Sessions. I am just asking. So you have an  
18 investigation of 3,000. You admit that there are 400,000 to  
19 500,000 overstays. And you do not go out and look for  
20 500,000 people, do you?

21 Mr. Healy. No. We prioritize the way we look--

22 Chairman Sessions. So you prioritize them. This is a  
23 key word, colleagues. "Prioritize" means you have got some  
24 sort of information, and it usually involves terrorism or  
25 some serious crime. Is that right?

1 Mr. Healy. It could be, sir.

2 Chairman Sessions. But if they are not that way, if  
3 they came here from a country and did not return and you  
4 have no information that they are a terrorist based on the  
5 information you have, you do not go look for them, do you?

6 Mr. Healy. No, sir.

7 Chairman Sessions. Right. So this is--overwhelmingly  
8 that is so. So an individual that wants to come to America,  
9 Mr. Wagner, and they think about crossing the border of  
10 Mexico or Canada, and they say, "Well, wait a minute, I can  
11 just come on a visa and never go home." Isn't it true that  
12 unless they get caught for a serious crime, they will not  
13 even be investigated?

14 Mr. Wagner. Well, in order to get the visa, they have  
15 to prove certain ties to their home country. They have to  
16 show that they have a job, they have a home they do not  
17 intend to abandon. They go through the State Department.

18 Chairman Sessions. Well, that is to try to keep the  
19 number down.

20 Mr. Wagner. Right.

21 Chairman Sessions. You have got 49 million, whatever,  
22 that is to try to keep the number down that overstay. But  
23 we are talking about half a million overstays. So nobody is  
24 looking for those people, right? And the policies of this  
25 administration and Secretary Johnson is not to look for them

1 and not to bother to deport them unless they are apprehended  
2 for a serious crime. Isn't that the policy of the United  
3 States Government?

4 Mr. Wagner. No, sir.

5 Chairman Sessions. What is it, Mr. Healy?

6 Mr. Healy. Sir, may I clarify in terms of the process?  
7 That number that we have, that is a snapshot in time. It is  
8 a continuous cycle for us. So, sir, when someone comes to  
9 us, and they are a potential overstay, what we first need to  
10 do is determine: Has that individual obtained some type of  
11 lawful benefit through CIS? Has that individual departed  
12 the U.S.? If not, then we prioritize that, and we will take  
13 a look at that individual over a continuum.

14 Chairman Sessions. My time is up now. I want to go  
15 on, but I do not see that that disputes what I am saying.  
16 If a person comes to America, they do not have a criminal  
17 background, and your computer does not pick it up, and they  
18 just do not go home, nobody is going to look for them.  
19 Isn't that correct?

20 Mr. Healy. Not necessary, sir.

21 Chairman Sessions. Why would you look for them then?  
22 Under what circumstances?

23 Mr. Healy. There may be a situation, sir, where their  
24 name would pop up. Our database--

25 Chairman Sessions. Well, they might pop up. But if it

1 does not pop up?

2 Mr. Healy. Sir, additional information may be obtained  
3 after the individual has overstayed that may cause them to  
4 be looked for, may cause them to be prioritized.

5 Chairman Sessions. Information might be obtained that  
6 they might be a danger to the security of the United States.

7 Mr. Healy. Or other information, sir.

8 Chairman Sessions. All right. But if all it is is  
9 they came and overstayed their visa, you are not going to  
10 look for them and are not going to deport them. Isn't that  
11 right?

12 Mr. Healy. There could also be criminal information  
13 available to us, sir.

14 Chairman Sessions. But if there is not?

15 Mr. Healy. They could be out of status.

16 Chairman Sessions. What I am saying to you, Mr. Healy,  
17 is plainly obvious, that if somebody comes here and keeps  
18 their nose clean and does not have a criminal record and  
19 they come here on a visa and they stay, nobody is ever going  
20 to come look for them under the policies of this Government,  
21 and it is a wide open method by which millions of people can  
22 enter our country unlawfully.

23 Mr. Healy. And we will be able to monitor that, sir.

24 Chairman Sessions. When?

25 Mr. Healy. We do now, sir.

1 Chairman Sessions. Well, you are not monitoring. You  
2 are not close to having enough people to monitor the--

3 Mr. Healy. My apologies, sir--

4 Chairman Sessions. --500,000 people--

5 Mr. Healy. Just to clarify, that information is  
6 maintained in databases. I did not mean to imply that we  
7 are actually out monitoring them.

8 Chairman Sessions. Senator Franken, I am sorry.

9 Senator Franken. That is quite all right.

10 I am going to go to Ms. Gambler. The Department of  
11 Homeland Security has recently allocated roughly \$2 billion  
12 to meet the existing obligation that we have been talking  
13 about to implement a biometric data collection program. But  
14 in your reviews of the Department's past attempts, GAO's  
15 reviews, to stand up this program, you have stated that  
16 there is a poor internal planning and benchmark setting. We  
17 are at least in part to blame for those efforts not bearing  
18 fruit.

19 So it seems to me that while it is important to make  
20 sure that the Department has funds to implement the program,  
21 in many respects, just bureaucratic inertia seems to be  
22 responsible for these failures. And maybe Mr. Wagner would  
23 take issue with that, but you have reviewed these past  
24 efforts. Based on your examination of DHS' record, do you  
25 believe the funds recently allocated will be sufficient for

1 DHS to meet its statutory obligations and in a timely  
2 manner? And what do you view as the primary obstacles going  
3 forward?

4 Ms. Gambler. So, Senator, in terms of your first  
5 question on the cost piece, I think that is unclear at this  
6 time, and let me tell you why I think that is unclear. When  
7 we last did a fuller evaluation of DHS' planning for a  
8 biometric exit back in July 2013, at that time DHS had  
9 planned to conduct analyses and submit information to  
10 Congress on the costs and benefits of various options for a  
11 biometric exit system. They had planned to do that in time  
12 for the fiscal year 2016 budget planning cycle. They did  
13 not meet that date, and they were not able to provide us  
14 with a time frame for when they will be able to provide that  
15 information to Congress. So in the absence of that  
16 information, I think it is unclear how much various options  
17 for biometric exit may cost.

18 On your second point in terms of what have been some of  
19 the obstacles or what DHS could do to ensure that it uses  
20 funds efficiently and effectively and makes progress, based  
21 on our work, I think there are a couple of things that DHS  
22 could do.

23 One, as we have recommended, it is important for them  
24 to have an overall framework for how they plan to evaluate  
25 their current pilots and their ongoing planning efforts.

1           It will also be important for them to finalize metrics  
2 for assessing performance and effectiveness, which they are  
3 working on.

4           Third, it would be good for them to have an overall  
5 schedule for the different aspects of what they are testing  
6 now.

7           And, finally, be able to provide that information back  
8 to Congress.

9           Senator Franken. Okay. Let me see if I understand,  
10 Mr. Wagner. One of the obstacles to this is having a  
11 physical space in these air and sea ports, as people board,  
12 to collect this information. But this has been something  
13 that--it has been since 2004. Okay? So now the \$2 billion,  
14 that is 12 years--11 years, let us say--11 years to figure  
15 out--I mean, this is about national security, and I cannot--  
16 it is hard for me to envision that we cannot figure out  
17 where to get a space to do this at an airport or seaport and  
18 not be able to solve it, and if you cannot solve it in 11 or  
19 12 years, how can you solve it--how can we know it will ever  
20 be solved?

21           Mr. Wagner. So on inbound travelers, everybody comes  
22 to dedicated space within the airport. It is secured. Only  
23 inbound arriving international passengers can come in there.

24           For departures, departures leave from any place in the  
25 airport. They commingle with domestic passengers, and you

1 walk down the gates, and you will see Los Angeles, New York,  
2 Dubai, Singapore. They all mix. They commingle. So there  
3 is no dedicated space to install technology that you have  
4 the confidence somebody recorded their biometrics and then  
5 got on board the plane, because you could give you  
6 biometrics and turn around and walk right out.

7 Senator Franken. Could you do that on the plane or as  
8 you are boarding the plane?

9 Mr. Wagner. You could, but you have flown in a plane.  
10 You know what it is like to board and the time constraints  
11 and the chaos that ensues when you are boarding an aircraft.  
12 We have got to figure a biometric, working with the airlines  
13 to figure this out, that you can take without creating  
14 gridlock and it take 2 hours to board a flight.

15 Now, we have run pilots over the years. Yes, it has  
16 been way too long. I am operator. I want this information,  
17 believe me. We have had stand-alone kiosks. We have had  
18 handheld technology. We have some handheld pilots going  
19 now. But we are still working to see what is the right  
20 biometric. We collect fingerprints. We have done that for  
21 a long time. We are now looking at facial recognition  
22 software, facial comparison software, iris recognition  
23 software, and those different things, and the constraints to  
24 collect them in a time-sensitive environment and the fact  
25 that you have a couple of thousand departures gates in the

1 United States. So unless you want to restructure the  
2 airports and rebuild them to support this, like other  
3 airports around the world have this, you have to look at a  
4 solution you can multiply by over 2,000 to put in that time-  
5 sensitive environment to do that. And that is where the  
6 challenge is.

7 We can install a gate, and we could make everybody line  
8 up and walk through it, and it can take 2 hours to board the  
9 plane. I can give you a plan and the cost to do that  
10 easily. But that is not feasible, and it is not going to  
11 work. And the cost is going to be tremendous to do that.

12 You know, we can hire a few thousand CBP officers with  
13 handheld technology and do all the departures, but it is  
14 going to cost probably \$1 billion a year to do that. We are  
15 looking for something that is feasible and implementable,  
16 because we want the information. You are right. There are  
17 national security implications in this. But we are having  
18 accurate biographic data that needs to be confirmed with the  
19 biometric. The biometric in and of itself does not have a  
20 lot of national security value attached to just the  
21 biometric.

22 Senator Franken. It is whether they have left or not.

23 Mr. Wagner. It is connected into the biographics that  
24 let us do the national security checks and the link analysis  
25 and the review of these people to connect them to the

1 information. And you need that biometric to confirm you are  
2 vetting the right person. So just collecting the biometric  
3 is just a piece, and by releasing that report yesterday, we  
4 showed there is a system there which provides us actionable  
5 information. But you are right. It needs to be enhanced, I  
6 agree wholeheartedly, and it has taken too long.

7 Senator Franken. Okay. Well, I am sure my colleagues  
8 will follow up. Thank you.

9 Chairman Sessions. Well, you only have to do the exit,  
10 the planes leaving to depart the country, right? Not every  
11 airplane. The biometric exit should only be used when a  
12 plane is departing the country, right?

13 Mr. Wagner. Correct. But they depart from anywhere in  
14 an airport.

15 Chairman Sessions. Well, but you only have to have it  
16 at those gates.

17 Mr. Wagner. Yes, but there are several thousands of  
18 those gates. There are, you know, 240,000 people that leave  
19 the United States on commercial air.

20 Chairman Sessions. We will--okay. I am sorry. Let us  
21 see. Senator Grassley?

22 Chairman Grassley. I will put a statement in the  
23 record, an opening statement.

24 [The prepared statement of Chairman Grassley follows:]

25 / SUBCOMMITTEE INSERT

1 Chairman Grassley. My first question goes to Mr.  
2 Wagner, but listen for a lead-in, and we have already talked  
3 about the amount of money that we have appropriated for this  
4 process. So your Department has promised Members of  
5 Congress that it would be publishing a report on visa  
6 overstay statistics. In response to the foot dragging, the  
7 omnibus appropriation bill required the Department to issue  
8 a report 30 days or lose \$13 million intended for the Office  
9 of the Secretary. That report came out. I do not agree  
10 that this report complies with the congressional mandate,  
11 very insufficient. According to the report, DHS estimates  
12 that 482,781 people overstayed their visas last year.  
13 Unfortunately, the report does not tell us how many of the  
14 total foreign nationals are in the country despite their  
15 visa having expired, and the report only touches on one of  
16 many visa categories, leaving out foreign students, workers,  
17 and other visa holders. So my question is about the report-  
18 -two questions, but I will ask them one at a time.

19 When will we see a comprehensive report as required by  
20 the omnibus spending bill that includes overstay rates of  
21 all visa categories?

22 Mr. Wagner. Correct. So the report contains about 85  
23 percent of the nonimmigrant travelers that are admitted to  
24 the U.S. Those are the ones with finite entrance and exit  
25 dates, although there are a lot of adjustments that can

1 occur.

2 The more challenging ones, as you mentioned, are the  
3 students and some of the workers because their admitted  
4 duration of status. So what that means is while they are in  
5 the school program, which can go on and be extended, there  
6 is no finite end date until the program is over.

7 So it is building the integration between the other  
8 organizations, other parts of DHS that maintain that data,  
9 and when that is updated in their systems, it automatically  
10 filters into our report database that allows us to track  
11 them. So we expect by next year we should have a more  
12 complete report. We wanted to get this report out, at least  
13 as the 85 percent solution.

14 Chairman Grassley. Well, these 482,000 were supposed  
15 to have left the country in 2015 but did not leave. What is  
16 the total number of overstays in the United States,  
17 regardless of the year in which they were supposed to have  
18 left?

19 Mr. Wagner. I do not have that number. We have the  
20 number from 2014, which there were some data discrepancy  
21 issues, which were corrected, that allowed us to produce the  
22 2015 report. So that is the only data we have that we can  
23 reliably say that we have confidence in these numbers.

24 Chairman Grassley. Okay. Mr. Healy, since I am going  
25 back to the first bombing of the World Trade Center to set a

1 stage for what I am going to ask you, that was 1993. At  
2 that time we mandated a student tracking system, which,  
3 unfortunately, was not in place when 9/11 happened, those  
4 attacks carried out in part by terrorists who exploited  
5 loopholes in the visa system in order to go to school and do  
6 flight training. You know the whole story.

7 The Government Accountability Office has reported  
8 problems with many schools that accept foreign students.  
9 Many schools that recruit and accept foreign students are  
10 not accredited. Students are not being properly monitored,  
11 transferring from one college to another. School officials  
12 do not always properly document the whereabouts. Today  
13 there are nearly, by our count, 1.2 million international  
14 students in the United States, yet the overstay reports  
15 completely ignore the population. So I appreciate that the  
16 Department will consider focusing on this population. You  
17 know what? The first question goes to Mr. Wagner, then to  
18 you. When can Congress expect the Department to report to  
19 Congress on student visa overstays?

20 Mr. Wagner. I believe by next year we will have that  
21 included in the report.

22 Chairman Grassley. Okay. Now, Mr. Healy, what can you  
23 say about the problems with student visa programs? And can  
24 you tell us what your agency is doing to better track and  
25 remove foreign students who do not comply with the terms of

1 their visas?

2 Mr. Healy. Yes, sir. And as you are aware, sir, we  
3 are working with your office through our Student Exchange  
4 and Visitors Program. The numbers that I provided during my  
5 oral testimony, the 971,000 number, it is not in the report  
6 because the report only covers the B1's, B2's, as well as  
7 the visa waiver. My numbers include all visa categories.

8 So, sir, out of that 971,000 number, 63,000, roughly,  
9 are coming in from SEVP, which is the Student Exchange and  
10 Visitors Program, which is providing overstay information to  
11 CBP.

12 For our purposes, sir, we do not differentiate between  
13 the way we treat an overstay. When the numbers come in, we  
14 pretty much treat them all the same in terms of the way we  
15 prioritize and the way we go after determining if, in fact,  
16 the individual is legitimately an overstay.

17 So in answer to your question, sir, we are going  
18 through some modifications through the Student Exchange  
19 Visitor Information System, and we are trying to tighten up  
20 some of the vulnerabilities that GAO has identified. But we  
21 are also already including this population, and we did  
22 receive \$10 million in additional omnibus money that we are  
23 going to be looked to apply towards the overstay population.  
24 We are in the process of figuring out how best to utilize  
25 that funding.

1 Chairman Grassley. Mr. Chairman, I have some questions  
2 that I will have to submit in writing because my time is  
3 out. I think, again, it would be for Mr. Wagner and Mr.  
4 Healy. I would appreciate your answering them.

5 [The questions of Chairman Grassley follows:]

6 / SUBCOMMITTEE INSERT

1 Chairman Grassley. Thank you very much.

2 Chairman Sessions. Thank you. And thank you, Chairman  
3 Grassley, for your leadership on this Committee and for your  
4 leadership on immigration in general, and particularly I  
5 know you have worked on this issue for years, and it is very  
6 frustrating, frankly.

7 We are aware of the excuses, Mr. Wagner. We have been  
8 hearing those for a decade--more than a decade. So let us  
9 just--the time for excuses is over.

10 Senator Klobuchar, thank you for your patience, and we  
11 recognize you now.

12 Senator Klobuchar. No problem. Thank you very much.  
13 Thank you. I do share frustration about how long this has  
14 taken. I was looking back at the 9/11 Commission. That was  
15 a long time ago. And I remember it was in my first term in  
16 Congress when we got that and actually voted through some of  
17 those recommendations. And I just think it is time to move  
18 forward here.

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

23 Mr. Wagner. So the pilot projects are underway now,  
24 and we are compiling the information as they are being run.  
25 So we are looking at the mobile pilot. We are looking at

1 measuring the accuracy of the--

2 Senator Klobuchar. I know, but when will we know the  
3 results from them?

4 Mr. Wagner. So I would--I will commit to the 1-year  
5 mark.

6 Senator Klobuchar. One year from now?

7 Mr. Wagner. No. One year since we started.

8 Senator Klobuchar. Okay.

9 Mr. Wagner. We started last year. We will produce a  
10 report on them.

11 Senator Klobuchar. So that would be what day--not day,  
12 but month?

13 Mr. Wagner. Let me just check to see. I will get back  
14 to you.

15 Senator Klobuchar. All right. We can get that in  
16 writing later.

17 [The information follows:]

18 / SUBCOMMITTEE INSERT

1           Senator Klobuchar. And then so far, have you had any  
2 results from the pilot so far that we could use if we want  
3 to bring this out nationally? Is there any preliminary  
4 information that you have gathered?

5           Mr. Wagner. I think we are seeing the airline  
6 manifests overall are accurate. They are actionable. There  
7 is law enforcement value to collecting fingerprints, and we  
8 are catching a few records that we would not have caught  
9 through just the biographical alone. We are able to close  
10 out additional records because somebody flies in the country  
11 on one passport, flies out under a different nationality on  
12 a different passport. The biometrics help us more easily  
13 close that. We just have not quantified the values and the  
14 percentages of what we would expect.

15          Senator Klobuchar. And then is it just only  
16 fingerprints that you have found to be helpful? And is the  
17 reason the other irises and those things are not helpful  
18 because we do not have the records from other countries? Is  
19 that why?

20          Mr. Wagner. Well, your criminal files are always going  
21 to be against your fingerprints.

22          Senator Klobuchar. Exactly. I know that.

23          Mr. Wagner. The other biometrics will help us because  
24 sometimes they are easier or quicker to collect, and you can  
25 always run the fingerprints in the background.

1           Senator Klobuchar. So part of this is getting all the  
2 biometrics.

3           Mr. Wagner. Right.

4           Senator Klobuchar. And you acknowledge that at some  
5 point the rest of the world will be doing this anyway, so  
6 that is what I--at some point people will be collecting--

7           Mr. Wagner. So we ran a pilot at Dulles in the spring  
8 on facial comparison where we compared the passport holder  
9 to the picture to who is presenting it. We ran about 4,000  
10 or 5,000 people through it. We figured we can collect it.  
11 We can collect it accurately. We can match it sufficiently  
12 that we just launched it at JFK yesterday, and we are  
13 extending that to U.S. citizens and first-time visa waiver  
14 holders who we do not have biometrics on. We want to expand  
15 that across--

16          Senator Klobuchar. Well, that is the group we were  
17 talking about when we were discussing visa waiver issues  
18 back in December.

19          Mr. Wagner. Right.

20          Senator Klobuchar. With Senator Feinstein.

21          Mr. Wagner. And we just kicked off the pilot at the  
22 land border for pedestrians to capture the iris and the face  
23 in a land border environment where pedestrians are crossing  
24 the border, inbound and outbound. What we plan to test is  
25 the accuracy and the validity of capturing it reliably to be

1 able to match it to track them. That pilot would then serve  
2 as the basis for the land border.

3 Senator Klobuchar. So then how do you proceed? So you  
4 have these ten locations you think--is it easier to put in  
5 at some locations than others as we look at trying to bring  
6 this out in a bigger way?

7 Mr. Wagner. I expect that will be the solution for  
8 small and potentially mid-sized airports, that we will not  
9 install permanent technology in but we may have officers  
10 that have a handheld device to be able to do that. But we  
11 still have to figure out that permanent piece and that  
12 infrastructure and that biometric. So it will be part of  
13 it.

14 Senator Klobuchar. And are there other airports--and I  
15 will just go to airports. Are there airports in the rest of  
16 the world, like in England and other places, that are  
17 outfitting their airports differently?

18 Mr. Wagner. Well, they are set up differently, and  
19 they have designated departure control. You go through a  
20 border officer. You go through a secure location that is  
21 just departing people to leave that. Europe and Asia have  
22 these systems. They were designed that way, so everything  
23 funnels into that. And then there are departure terminals  
24 and departure gates. We are not set up that way.  
25 Everything--

1           Senator Klobuchar. I know. I heard you say that. But  
2 yet I think the frustration here is even with these pilots.  
3 I understand doing pilots. That is a smart thing to do  
4 first. It just has been taking so long. So if we could get  
5 the time that we get that information, I think that would be  
6 very helpful so we can really get this moving.

7           Thank you.

8           Chairman Sessions. Thank you, Senator Klobuchar.

9           The way I have it, it is Senators Cornyn, Perdue, and  
10 Tillis. If I am incorrect, let me know. I like this new--I  
11 do not know how that facial reading would do with the new  
12 growth you have got.

13          Senator Klobuchar. That would muddy it all up.

14          Senator Tillis. If the Panthers win the Super Bowl, I  
15 will be shaving again.

16          [Laughter.]

17          Chairman Sessions. Okay. We are going to see it  
18 happen.

19          Senator Klobuchar. Do not bring up the NFL playoff  
20 games to the Viking fans, please.

21          Chairman Sessions. Senator Cornyn.

22          Senator Cornyn. Thank you, Mr. Chairman. I share the  
23 concern that has been expressed previously about the fact  
24 that Congress has mandated an entry/exit system since 1996  
25 and we still have not gotten there. And it is a huge,

1 gaping hole in our broken immigration system, which helps  
2 contribute to the perception that the Federal Government is  
3 just not interested in enforcing our immigration laws. I  
4 know that many of you are, of course, dealing with political  
5 leadership that gives you priorities. For example, Mr.  
6 Healy, I know Director Saldana, who is from Dallas and who I  
7 have had many conversations with, she has given the order,  
8 as has the President, that you prioritize criminals, which  
9 sounds pretty good but the fact is there are many people who  
10 have not been caught in jails for committing other offenses  
11 who have violated our immigration laws, who are not being  
12 removed from the United States.

13 I was intrigued, Mr. Wagner--and, again, I want to  
14 preface my comments by saying thank you for what you are  
15 doing. I know this is a very incredible challenge, and  
16 there are a lot of reasons for that. But I want to make  
17 clear I think what you said, Mr. Wagner. You said it is not  
18 a technology problem, it is an infrastructure problem. Did  
19 I hear you correctly?

20 Mr. Wagner. Yes, sir.

21 Senator Cornyn. Because at least at airports you  
22 capture everybody who has come in with a ten-fingerprint  
23 biometric identification.

24 Mr. Wagner. Correct.

25 Senator Cornyn. And so the question is: How do we

1 capture that same information on the way out?

2 Mr. Wagner. Correct. That is exactly it.

3 Senator Cornyn. Of course, airports are a little bit  
4 easier perhaps to manage, even though it is high volume,  
5 than the land-based ports of entry. And, of course, down  
6 where I come from in Texas, you have a lot of people coming  
7 across the land-based border. And then with no biometric  
8 information about who leaves, we are simply left to guess  
9 how many people have overstayed.

10 As I understand the report that was issued, this only  
11 has to do with business and tourist visas, correct?

12 Mr. Wagner. Yes.

13 Senator Cornyn. And, Mr. Healy, I think you--Mr.  
14 Wagner alluded to the fact that we just do not know how many  
15 other visa categories are part of the overstays, so really  
16 the problem could be much, much bigger than 416,000. Would  
17 you agree with that?

18 Mr. Healy. Yes, sir.

19 Senator Cornyn. You know, it strikes me if Disneyland  
20 can do this, the Federal Government ought to be able to do  
21 it. And, again, making Mr. Wagner's point, it is a matter  
22 of technology is not the problem. And it strikes me that  
23 what is the missing element here is the will on behalf of  
24 the Federal Government, writ large, to deal with this in a  
25 way that helps to restore public confidence.

1           One of the reasons we have not been able to take even  
2 baby steps on immigration reform is because the American  
3 people simply do not believe we are serious about enforcing  
4 the law. But in these times when national security is on  
5 our minds, of course, we see the importance of knowing who  
6 is coming into the country and why they are here and making  
7 sure they are properly vetted, which is why I was so  
8 disappointed to see our Democratic colleagues filibuster the  
9 enhanced vetting requirements in the refugee bill that the  
10 House passed and which we just voted on.

11           But just to highlight the potential national security  
12 issues, as I understand it, Mr. Wagner, of the visa  
13 overstay only in business and tourist visas, 564 of them  
14 came from Iran, 681 from Iraq, 56 from Libya, 278 from  
15 Sudan, and 440 from Syria. Did I get that correct?

16           Mr. Wagner. I believe so.

17           Senator Cornyn. And if you listen to the FBI Director,  
18 who sat where you are sitting, and the Deputy Attorney  
19 General, they tell us we have a real problem with Islamic  
20 extremism in the United States. We have people who come  
21 here from that war area with the intent of killing American  
22 citizens. We have people from America--and I just met with  
23 the French ambassador. They said they have 2,000 French  
24 citizens who have traveled to Syria, and they are worried  
25 about them coming back and committing acts like occurred in

1 Paris recently.

2 But we have the third area that we saw in San  
3 Bernardino, where we see people being radicalized in place,  
4 and the FBI Director has told us that every field office in  
5 America has an open investigation. And I suspect that means  
6 more than just one case of suspected radicalization of  
7 Americans in place being radicalized through social media or  
8 online. So we have got a real problem, and I think we have  
9 got a long way to go to rebuild the public's confidence.

10 Ms. Gambler, my time is waning here, but I might just  
11 ask you, as my one question here, maybe your last question:  
12 From the GAO's perspective, could you comment on how the  
13 problems that you have seen in terms of the implementation  
14 of this congressional mandate that has existed on the books  
15 since 1996, US-VISIT since 2003, why we still do not have a  
16 functioning entry/exit system as Congress has mandated?

17 Ms. Gambler. Sure. A couple of thoughts there,  
18 Senator.

19 One, I think we have highlighted some of the management  
20 challenges and the planning challenges that have  
21 characterized DHS' efforts, not having fully reliable  
22 schedules or a framework or overall plan for guiding their  
23 efforts.

24 The other thing that I would add is I think it is a  
25 positive step that DHS is implementing these current pilot

1 programs. DHS has previously implemented pilot programs in  
2 both airports and at land borders, and those pilots had some  
3 issues with them in terms of making sure all requirements  
4 were tested, making sure that DHS had an overall plan for  
5 those pilots as well. And so I think it is really important  
6 for DHS to have some of these kind of basic building blocks  
7 in place for their current efforts to make sure that they  
8 have good schedules, good plans, a good road map for what  
9 they want to get out of these pilot tests so that we can  
10 ensure moving forward that the money that is being spent  
11 here is being spent efficiently and effectively.

12 Senator Cornyn. Thank you, Mr. Chairman.

13 Chairman Sessions. Thank you, Senator Cornyn. You  
14 have been very knowledgeable about this issue for a number  
15 of years, and I thank you for your comments.

16 Senator Perdue?

17 Senator Perdue. Thank you, Mr. Chairman. And I thank  
18 each of you for your efforts.

19 This goes back across three different Presidents'  
20 administrations, so we recognize that. I will put that in  
21 perspective. But I come from a world where I cannot relate  
22 to this conversation. I apologize, but I just do not  
23 understand with a mandate from Congress why we are here 20  
24 years later having this conversation. Now, many of you were  
25 not in your current jobs, so that is a parenthetical

1 comment. But when Secretary Johnson was here--I believe it  
2 was before this Committee last April--I particularly asked  
3 him, I said, you know, "Do you have this report and this  
4 data?" And he said, "I have seen a preliminary report."  
5 But he did not believe in, as I believe he called I, a  
6 preliminary report that lacked fidelity.

7 It is almost a year later. I give him high marks for  
8 now giving us the report. My question today--and I do not  
9 know who would be best to respond to this, but how confident  
10 are we in this data? Why now is it more credible than it  
11 was a year ago? What happened in the intervening period of  
12 time? And how was the data collected? What efficacy does  
13 the data collection process have so that next year and the  
14 next year when we are looking at this evaluating progress,  
15 we can have some confidence? Who would be best to answer  
16 that?

17 Mr. Wagner. I will, Senator.

18 Senator Perdue. Thank you.

19 Mr. Wagner. We have high confidence in that report  
20 that was issued for--

21 Senator Perdue. What was the problem a year ago?

22 Mr. Wagner. The problem in 2014, we had two major  
23 carriers that were transmitting manifests to--they have to  
24 transmit an initial manifest to us, and once the flight  
25 leaves, they have to tell us who actually boarded. And

1 those closeout messages, those on-board messages, were  
2 faulty. So they were not reporting people as left, so we  
3 had extremely high overstay rates of people who flew on  
4 those carriers because we had not checked them off as  
5 leaving.

6 Senator Perdue. So the manifests were not accurate?  
7 Is that what--

8 Mr. Wagner. They were accurate in the name. They are  
9 not accurate in who actually departed. So what happened is  
10 they carried people from all the visa waiver countries, and  
11 a host of visa countries as well, and it skewed the data  
12 because these were two major carriers. So it skewed every  
13 country's data in 2014.

14 We corrected that, and you see the numbers in 2015, and  
15 that has been corrected. We have very high confidence in  
16 that information that we have presented.

17 Now, we are running that handheld pilot to help us  
18 validate what our assumptions are on that information.

19 Senator Perdue. I understand that. So this was in  
20 2014 and 2015. If we go back 10 years, were any of you--I  
21 mean, were we not collecting data then?

22 Mr. Wagner. We were collecting data, but we had  
23 additional problems beyond that about the accuracy. The  
24 inbound data has always been accurate. We have been  
25 collecting the airline inbound manifests--

1 Senator Perdue. I can see that.

2 Mr. Wagner. --since 1988, I think, and after September  
3 11th, we made that mandatory.

4 Senator Perdue. Okay.

5 Mr. Wagner. We validate each and every person when we  
6 read that passport. What we do is we score the airlines,  
7 and they get fined if it is inaccurate.

8 Senator Perdue. Okay.

9 Mr. Wagner. We do not do it for departure, though.

10 Senator Perdue. Director Healy, I think you are the  
11 proper person to direct this question. We have got  
12 estimates, this report said, of about a little less than  
13 5,000 in 2015, about 1 percent overstayed their visas.  
14 Roughly, last year, how many did we deport, did we locate  
15 and remove from the country? Roughly, directionally.

16 Mr. Healy. Last year overstay--just overstay removals,  
17 sir?

18 Senator Perdue. Yes, sir. Of the 500--I am trying to  
19 correlate the two numbers, and I realize that that is one  
20 year. There are many years. I have seen estimates as high  
21 as 40 percent of the total illegal immigrants that are here  
22 came in and overstayed a visa. I understand you do not have  
23 accurate numbers on that today.

24 Mr. Healy. That is correct.

25 Senator Perdue. But, directionally, is that fairly

1 correct that roughly--

2 Mr. Healy. I would have to get back to you on that,  
3 sir.

4 Senator Perdue. Would you?

5 Mr. Healy. Because there is a distinction in my  
6 numbers and CBP's numbers.

7 Senator Perdue. Okay. That is where I am going,  
8 because I see conflicting data about what estimates we have  
9 for that.

10 [The information follows:]

11 / SUBCOMMITTEE INSERT

1           Senator Perdue. What I am really trying to get at is  
2 of the people that we have identified, how many are we  
3 really actually then identifying and removing?

4           Mr. Healy. In terms of that 971,000 number, sir, that  
5 I gave out, after it goes through the entire vetting and  
6 after we account for people changing their status or people  
7 departing the country, about 1 percent gets turned--about  
8 roughly 10,000 get sent out as criminal investigations to  
9 the field. So for fiscal year 2015, sir, which is just the  
10 snapshot that I alluded to earlier, roughly we have about  
11 3,000 that are still under investigation right now; 1,626  
12 leads have been what we call "exhausted," meaning that we  
13 have not been able to locate the individual. It comes back  
14 to us, and it goes into a continuous monitoring status.

15           Senator Perdue. So let me put that in perspective.  
16 Let me get it right. So 3,000 were investigated.

17           Mr. Healy. Are under investigation right now.

18           Senator Perdue. Under investigation, right. But those  
19 3,000 could have come in in any one of the years of the last  
20 20 years, correct?

21           Mr. Healy. That is correct, sir.

22           Senator Perdue. All right. So my question is: If it  
23 is 40 percent of whatever that top number--we have got 4, 5,  
24 6 million people here who overstayed their visa.  
25 Directionally, that is fairly correct.

1 Mr. Healy. Yeah.

2 Senator Perdue. And last year we identified and  
3 investigated 3,000? So you can kind of see where I am going  
4 here.

5 Mr. Healy. Yes, sir, and I--

6 Senator Perdue. We have a monumental--you have--I am  
7 not telling you anything you do not know. It is your  
8 profession. But, I mean, we have a monumental issue here.  
9 Even if we were to put biometric in and exit and have all  
10 the 100 percent accurate information on exit, we have got  
11 this huge built-up issue. Am I directionally correct--I am  
12 not trying to draw a conclusion, but I am trying to get  
13 information--

14 Mr. Healy. No, you are correct, sir, and we can get  
15 back to you with more numbers. But one of the issues for us  
16 from the enforcement side in terms of biometrics, let us say  
17 you come across an individual, sir, who is not completely  
18 identified. You have pieces of information.

19 Senator Perdue. Right.

20 Mr. Healy. Say he has got seven aliases. Right now,  
21 our analysts have to take that time to go through all of  
22 that; whereas, if we had the biometrics, we are going to be  
23 able to cut right to the chase. A fingerprint is a  
24 fingerprint.

25 Senator Perdue. Thank you. That really clarifies.

1           Let me ask a question then of Director Gambler. I know  
2 you have got several of these pilots out there. Can you  
3 talk about what is promising, what is not promising? And I  
4 know you have one at Hartsfield-Jackson International  
5 Airport in Atlanta, as a matter of fact. But I have gone  
6 around--I have traveled a lot in the last 15 years. You  
7 know, a lot of these other countries, surprisingly--some of  
8 these countries would surprise us--have been doing this for  
9 a number of years. So I would love to see us catch up on  
10 that. My question is: What is promising right now in these  
11 programs? And what are we discarding? But basically focus  
12 on what is encouraging that we might be able to do this, as  
13 Director Healy said, to make this system more efficient in  
14 terms of cleaning up what has built up over the years.

15           Ms. Gambler. So, Senator, from GAO's perspective, we  
16 actually will be starting work shortly for the Subcommittee  
17 to review where DHS is currently in their planning efforts  
18 for biometric exit.

19           Senator Perdue. And when will that come out?

20           Ms. Gambler. We are starting that work shortly at the  
21 request of the Chairman.

22           Senator Perdue. But as I understand it, this program  
23 has been in Atlanta for a while, right?

24           Ms. Gambler. So in terms of what benefits are being  
25 realized from the pilots currently, we do not have up-to-

1 date information on that. Mr. Wagner may be able to speak  
2 to that since it is his office that is running the pilot.  
3 But it is an important question in terms of what are we  
4 really getting out of the pilots and to what extent CBP has  
5 metrics in place to kind of assess the performance and  
6 effectiveness of those pilots. And that is an important  
7 piece of it.

8 Senator Perdue. Well, Mr. Chairman, I am out of time,  
9 but, Commissioner, would you like to add to that?

10 Mr. Wagner. Is this the handheld pilot that we are  
11 doing in Atlanta?

12 Senator Perdue. Yes, sir. Particular in Atlanta.

13 Mr. Wagner. Right. So that is allowing us to verify  
14 the accuracy of those manifests.

15 Senator Perdue. I know. What is the conclusion? Is  
16 it favorable at this point?

17 Mr. Wagner. It is absolutely favorable. It is just a  
18 question it is a very expensive way to do it and a very  
19 manual way to do biometric exit. But it would work.

20 Senator Perdue. Well, that tells me it is not going to  
21 work.

22 Mr. Wagner. It will work at small and mid-sized  
23 airports, not at an Atlanta Hartsfield.

24 Senator Perdue. That is where I am going.

25 Mr. Wagner. Right.

1           Senator Perdue. Chicago, Atlanta airport, you know,  
2 these bigger airports. What is the idea now? What are we  
3 now investigating? What pilots are out there that might  
4 work in those bigger airports?

5           Mr. Wagner. It is looking at the other biometrics,  
6 things that we can collect in a quick and reliable manner.

7           Senator Perdue. Over what period of time can we expect  
8 to get at that? And I am really out of time.

9           Mr. Wagner. We plan to launch another field trial  
10 later this calendar year to be able to start to measure  
11 exactly that.

12          Senator Perdue. And you would want, what, a year's  
13 information or evidence out of that?

14          Mr. Wagner. Yes.

15          Senator Perdue. So sometime around this time next year  
16 we would--would DHS, do you think, be in a position to--I am  
17 not trying to put words in your mouth, but I am trying to  
18 get to some results.

19          Mr. Wagner. No, I am confident we will be able to,  
20 yes.

21          Senator Perdue. Okay. Thank you.

22          Thank you, Mr. Chairman. I am sorry.

23          Chairman Sessions. Thank you.

24          Senator Tillis?

25          Senator Tillis. Thank you, Mr. Chairman. Thank you

1 for holding this hearing on a very important topic.

2 First, to all the witnesses, thank you for being here  
3 and for your work. I know it is a difficult task. I can  
4 also appreciate the complexities. We are talking about  
5 different configurations at different airports, concerns  
6 based on the airlines about disrupting the flow through the  
7 airports. It is a difficult process. But I really am  
8 struck by the length of time that has passed. I think it  
9 was in May 1961 that President Kennedy said we want to go to  
10 the moon, and in July 1969, we landed on the moon. This to  
11 me does not seem like it rises to the same level of  
12 complexity when you also consider at that time the computing  
13 capacity that would consume a room, and it is now something  
14 I can carry in my briefcase.

15 So a part of what I think we need to do is start  
16 getting to specific targets back into it, what it is going  
17 to take to get it done so that we just get it done. And I  
18 share on a bipartisan basis my colleagues' frustration with  
19 what is it that we are not getting, and also, understand  
20 this is not a partisan issue. It has transcended  
21 administrations, and for some reason, the challenges have  
22 prevented us from getting it done.

23 For Mr. Wagner and Ms. Gambler, I have one question. I  
24 was one of the offices that was pushing for withholding  
25 funding for the Department of Homeland Security and the

1 Security Office, I guess, of the Secretary and executive  
2 management until we got the report. And, Mr. Wagner, you  
3 said it is about 85 percent complete. I know it was  
4 released yesterday, which was at least consistent with the  
5 30-day timeline that we had and the bill that we passed in  
6 December.

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

12 Mr. Wagner. I am not aware if it was. I will have to  
13 check.

14 Senator Tillis. Okay. I would be also very interested  
15 in getting them, if there were findings.

16 And, Ms. Gambler, are you aware whether or not there  
17 was any review of the report?

18 Ms. Gambler. We are not aware, but if I could add one  
19 point, Senator, back in our July 2013 report on overstays  
20 and biometric exit, we had made a recommendation to the  
21 Department that they assess and document the improvements  
22 that have been made in the reliability of the overstay rate  
23 estimate. And so now that we have this report, we will be  
24 looking at it in more detail and following up with the  
25 Department to determine the extent to which it meets our

1 recommendation in terms of showing or documenting the  
2 improvements and the reliability of the overstay data?

3 Senator Tillis. Over what time do you think you will  
4 be able to have that information available?

5 Ms. Gambler. So we just got the report yesterday, so  
6 we will follow up and probably have some follow-up questions  
7 for the Department on this. We would be happy to get back  
8 to you and your office on the results of that follow-up  
9 work.

10 Senator Tillis. Okay. And, Mr. Wagner, and maybe back  
11 to Ms. Gambler, when we are talking about gathering this  
12 information, we know that it is going to have an incremental  
13 positive effect on the overall process. But if you were to  
14 take the current systems processes, data colleague methods  
15 in place, and then talk about adding this layer of  
16 information to fully implement it across the United States,  
17 on a scale how would you rate the current system? How much  
18 further does this bring us along in terms of having better  
19 information, more reliable information, more likely that we  
20 can identify those who overstay?

21 Chairman Sessions. Senator Tillis, would you divide  
22 that between airports and land?

23 Senator Tillis. Yes, sir.

24 Chairman Sessions. Separate the two?

25 Senator Tillis. That is a good way to bifurcate it.

1           Mr. Wagner. So airports, there is a system to track  
2 and verify inbound, and there is a system to track outbound  
3 records. And there is a system to match that up to  
4 determine overstays, as evidenced in the report. So the  
5 framework is there. It is a matter of incorporating that  
6 biometric into those departure records.

7           Senator Tillis. I have got it. Mr. Wagner, what I am  
8 wondering has to do with the exit and it has to do with--I  
9 know that you are capturing--or you are using biographic  
10 data to do some matching. We know there are some  
11 deficiencies. Maybe we are not capturing everybody that is  
12 exiting so that we have verified that they are exiting.

13           What I am trying to get to is how much more capability  
14 does this give us relative to the current system? I mean,  
15 is this minor? Are we making much ado about nothing? Is it  
16 a significant advance? I am just trying to get a sense in  
17 your opinion for--

18           Mr. Wagner. Well, I will tell you on inbound that the  
19 majority of our enforcement actions are based on  
20 biographical information. Okay? There are very little  
21 national security records attributed to just the biometric.  
22 But what the biometric does, it confirms that biographic  
23 data that is critical to the national security piece.

24           Senator Tillis. And that they are who they say they  
25 are, they are what the biographical data suggests they are?

1           Mr. Wagner. Correct, and it makes this easier to match  
2 than the inbound and outbound--

3           Senator Tillis. So that is a pretty critical piece to  
4 fully and conclusively verify that who you are tracking is  
5 who you should be tracking.

6           Mr. Wagner. So I will give you an example. Last year,  
7 you know, we looked at visa waiver travelers that came in.  
8 You know, we had 21 million visa waiver travelers. We took  
9 7,099. We refused their entry for various reasons into the  
10 United States--7,099. Four hundred and seventy-six of those  
11 refusals were based on biographic--biometric, I am sorry,  
12 only information. The great majority of that was through  
13 criminal records. Zero were for national security reasons  
14 based on the biometrics alone.

15           So it is important that it confirms our biographic  
16 data, but that is where our true value is really on the  
17 national security piece.

18           Senator Tillis. Okay. A final question, Mr. Chair, if  
19 you do not mind. A country's admission to the Visa Waiver  
20 Program is currently based on visa rejection rates, I  
21 believe. I think legislation introduced by Senators Heller  
22 and Schumer propose a change to this criteria to visa  
23 overstay rates, granted all other security protocol required  
24 for entry for the Visa Waiver Program were met.

25           Do you think that visa overstay rates are a more

1 appropriate or secure criteria for admission to the Visa  
2 Waiver Program versus visa rejection rates? And it is open  
3 to anybody who wants to opine.

4 Mr. Wagner. I think it is a combination of factors,  
5 but the visa rejection rate is really going to be your true  
6 measure of compliance with issuance of that admission to the  
7 United States. Your visa overstay rates, now, these are  
8 people that have already been screened by Department of  
9 State and already screened by CBP, and we have made the  
10 determination they are not a risk to not comply with the  
11 terms of that admission. And that is the people the State  
12 Department is filtering out overseas, in coordination with  
13 us as well, to determine that they are not a risk. That is  
14 really going to be your true measure of the population of  
15 who intends not to comply with that.

16 The visa overstay rate for--I mean, the visa waiver  
17 overstay rate is going to be a little more difficult, but it  
18 is going to be part of that argument. But it is really the  
19 visa rejection rate.

20 Senator Tillis. Thank you.

21 Thank you, Mr. Chair.

22 Chairman Sessions. Well, just to follow up briefly on  
23 that, the overstay rate is important, isn't it, Mr. Wagner,  
24 if you wanted to be sure that people who were getting visas  
25 from various countries actually returned as they are

1 supposed to return?

2 Mr. Wagner. Absolutely.

3 Chairman Sessions. All right. Well, I am looking at  
4 your report, the report that was just released yesterday,  
5 and you say that 1 percent, Mr. Healy said, of all the  
6 people are overstays. However, many of those people are  
7 business people that may fly 10, 20 times a year from  
8 Germany or London. Isn't that true? But looking at these  
9 other numbers, they are very troubling to me. So you say  
10 less than 1 percent, but Afghanistan has a 10.25 percent  
11 overstay rate; Bhutan, 24 percent; Burundi, 9.3 percent;  
12 Cameroon, 7.8 percent; Chad, 15.3 percent; Djibouti, 26  
13 percent. Over a quarter of the people from Djibouti are  
14 overstaying their visa. Iraq is 6 percent, and Jordan, our  
15 ally, but it is 42. percent, but better than the others.

16 Isn't it true that some of those countries that I have  
17 named do have terrorist and al Qaeda-type, ISIS-type  
18 individuals in them?

19 Mr. Wagner. Absolutely, and that report, now that we  
20 have it, we are able to share that with the Department of  
21 State, and we are able to look at those factors and consider  
22 them as we review these visas and review their admissions,  
23 people from those locations.

24 Chairman Sessions. Well, these are some of the higher  
25 numbers on the list, and they are very troubling.

1 Senator Lee?

2 Senator Lee. Thank you, Mr. Chairman. Thanks to all  
3 of you for joining us today and for your work on this issue.

4 Ms. Gambler, I would like to start with you, if that is  
5 all right. In your written testimony, you point out that in  
6 2013, GAO made a recommendation that DHS establish "time  
7 frames and milestones for a biometric air exit evaluation  
8 framework." But you also point out that it is now 2016 and  
9 DHS has said that it is still developing a framework.

10 So can you tell me, first of all, why is an evaluation  
11 framework something that is important to have in place in  
12 guiding DHS assessment efforts?

13 Ms. Gambler. Thank you, Senator. A framework like  
14 that is helpful to set out and document what methodology CBP  
15 or DHS plans to follow as it continues to work toward  
16 developing and implementing a biometric exit solution. So,  
17 for example, it could lay out the methodologies, the metrics  
18 that they would look at as they are testing different  
19 scenarios. So it is important to help kind of guide and  
20 provide a road map for the overall effort.

21 Senator Lee. It sounds very important, and it is. But  
22 what reasons have been given for why this framework has not  
23 been put into place?

24 Ms. Gambler. DHS does have a draft framework. What  
25 they have most recently told us is that they are still

1 finalizing the metrics they will use to evaluate the  
2 performance and effectiveness of, you know, what the  
3 different options that they are being tested, and they are  
4 waiting on finalizing those metrics before they complete the  
5 evaluation framework.

6 Senator Lee. Did the report that was released  
7 yesterday provide a framework that you would consider  
8 satisfactory?

9 Ms. Gambler. The report yesterday was focused on the  
10 overstay rate estimates, so we are still waiting to see that  
11 evaluation framework.

12 Senator Lee. So we still do not have that.

13 Ms. Gambler. Right.

14 Senator Lee. Mr. Wagner, in the DHS report regarding  
15 visa overstays, we learned that an estimated 480,000 people  
16 overstayed their visas and remained in the country in each  
17 of the last 2 years. And while this represents a small  
18 percentage of those who came in on such visas, the number  
19 itself, as you can appreciate, is very significant. I mean,  
20 we are talking about nearly 1 million people just in the  
21 last 2 years, just on that type of visa overstay.

22 The congressional mandate for a biometric exit system  
23 has now been in place for well over a decade, since 2002, as  
24 I recall, and we have not seen the system put in place yet.  
25 We have not even received a timeline for full

1 implementation. Let me just ask, does DHS have any goal  
2 date for full implementation?

3 Mr. Wagner. Senator, I agree, it is a low percentage,  
4 but it is a very large number of overstays. But adding  
5 biometric exit to that is going to reduce that number by a  
6 little bit, but it is not going to make that problem go  
7 away. It is going to confirm with surety that those are  
8 overstays. Now--

9 Senator Lee. I understand that. I understand that it  
10 is not going to be a cure-all. There is no panaceas, there  
11 is no magic bullet that is just going to fix everything.  
12 But we are talking about a mandate that we have had in place  
13 now for nearly a decade and a half, and the fact that it  
14 would not solve everything does not mean that it would not  
15 solve part of the problem. And it also does not mean it is  
16 not important to have some idea as to when we are going to  
17 actually have it.

18 Mr. Wagner. Absolutely. I mean, we are working  
19 diligently through these pilots to do this. It is very  
20 complex. The travel industry is very time-sensitive. I  
21 mean, you have flown. You know what it is like running  
22 through an airport, boarding a flight. It is restructuring  
23 those processes, and our travel system was not set up to do  
24 this.

25 So we are at a point we can try to inject a biometric

1 into that where it does not change that, or we can redesign  
2 how people board aircraft and where they board them from.

3 Senator Lee. Okay. All that is good to know. I still  
4 would like an answer to my question: Do you have a goal  
5 date?

6 Mr. Wagner. I do not.

7 Senator Lee. I do find that surprising and  
8 disappointing. I understand that you have got a lot of  
9 logistical details to work with here, but we are talking  
10 about something that has been in place now for nearly a  
11 decade and a half, and that is a problem. It is a problem  
12 that you cannot even give me a goal date. Other than the  
13 field test for the next year, is there any set timeline for  
14 further efforts?

15 Mr. Wagner. We plan to do another field trial in an  
16 airport later this calendar year. But we have to design it,  
17 we have got to fund it. We have got to implement it and  
18 then run it.

19 Senator Lee. But if it takes well over a decade to  
20 even get pilot programs up and running, can I expect to see  
21 a biometric exit system in place in my lifetime? I mean, I  
22 am 44 years old. I read at the level of a 45-year-old, but  
23 I am not going to live forever. Is that something that is  
24 realistic?

25 Mr. Wagner. Yes, I expect that we will.

1 Senator Lee. Okay. Thank you, Mr. Chairman.

2 Chairman Sessions. Thank you.

3 Well, how long has the pilot in Atlanta been  
4 undertaken?

5 Mr. Wagner. We kicked off--I will have to look up the  
6 actual deployment date, but it has been less than a year.

7 Chairman Sessions. There was another pilot program in  
8 Atlanta, was there not? It seems like we had--Ms. Gambler,  
9 were there other pilot programs initiated a number of years  
10 ago at various airports?

11 Ms. Gambler. I believe that CBP ran a pilot program at  
12 two airports back in the 2007-08 time frame.

13 Chairman Sessions. Back then. Well, we had it--these  
14 were going to be the pilot programs that were going to tell  
15 us how to implement the system 9 years ago.

16 Well, Mr. Wagner, essentially, if you are going to  
17 board an international flight, you would set up either a  
18 handheld or, I would think, a permanent place where somebody  
19 would place their ten fingers on before they got on the  
20 plane, and that is about all that amounts to, is it not?

21 Mr. Wagner. Correct.

22 Chairman Sessions. Now, I remember Secretary Ridge,  
23 and he and I went at it for a long time. I will say this  
24 should have been completed before the Bush administration  
25 left office. They dragged their feet on it, too. But a lot

1 of work was done by the time the Obama administration took  
2 office, and it should have been completed promptly. But Mr.  
3 Ridge and I went around and around, and when he left, he  
4 made a statement, and he said, "I have got one bit of advice  
5 to my colleagues; that is, we need to use the fingerprint."

6 You would agree, would you not, that the fingerprint is  
7 the key data point for identifying individuals? Because all  
8 of our State and even our Iraq records involve people we  
9 have arrested. We have their fingerprints. We do not have  
10 their iris or their face.

11 Mr. Wagner. I absolutely agree. The first encounter,  
12 we have to collect the fingerprints. Subsequent encounters,  
13 like on departure, we are encouraged by what we see as  
14 touchless fingerprint of ICE's. We are encouraged by what  
15 we see as capturing an iris or a face while the person is  
16 moving. And as that technology develops, will it work in an  
17 airport environment so we can do that?

18 Chairman Sessions. Well, you could try that, and that  
19 would be a nice thing. But it does not seem like to me it  
20 would take very long to put your fingers on the machine  
21 before you depart. And you can get a pretty--isn't it true,  
22 Mr. Healy, that ICE in their regional field offices and some  
23 even in their vehicles have fingerprint-reading machines?

24 Mr. Healy. Yes, that is correct.

25 Chairman Sessions. Police officers all over America

1 have them in their vehicles. Virtually, every sizable  
2 police department has one, because you want to know, no  
3 matter what the person's name is--and there may be 10 people  
4 with the same name or 10,000 people. I see in London, I  
5 believe, the most common name in London now is Mohammed for  
6 a young child born. So you are going to have common names.

7 So the biometric is the key thing to discriminate  
8 between whether or not the person is a violent person or  
9 nonviolent person.

10 Mr. Wagner. Correct, so the mobile pilots that we are  
11 doing, CBP officers have a handheld device that runs the  
12 biometrics in real time. Now, we could nail that down at a  
13 departure gate, but someone has to funnel the people over to  
14 it and differentiate between the U.S. citizens and the non-  
15 U.S. citizens. Who has to do that? And then someone has to  
16 be there while they take their fingerprints and go through  
17 the time to be able to do that.

18 Chairman Sessions. Well, I would just say this is not  
19 going to take an incredible amount of space, and it is not  
20 going to slow down the process very much. I will  
21 acknowledge it will require some more personnel, and that is  
22 a matter that would cost some money. But, otherwise, I do  
23 not think this is technologically difficult, and I believe  
24 it has not been done because there is--"a lack of will" is  
25 too kind. The will has been not to do it. There has been a

1 systematic effort for a long time to block the  
2 implementation of this system. That is just the way I see  
3 it. I have been watching it for a long time.

4 Let us get to the numbers here. How many people who  
5 appear to be non-criminal aliens did the Department of  
6 Homeland Security remove from the United States last year--  
7 in other words, were deported for a reason other than having  
8 committed a crime?

9 Mr. Healy. I do not have those numbers available, sir.  
10 I will have to get back to you with that.

11 Chairman Sessions. Well, I do. According to the ICE  
12 website, Mr. Healy, you removed 69,000 aliens from the  
13 interior of the United States in 2015.

14 Mr. Healy. Okay.

15 Chairman Sessions. Would that be about right to you?

16 Mr. Healy. It sounds correct, sir, if it is coming  
17 from the website.

18 Chairman Sessions. Now, of those 69,000, 63,539 were  
19 people who were convicted of a crime. Does that sound about  
20 right?

21 Mr. Healy. If it comes from the website, sir.

22 Chairman Sessions. And that means only 5,939 non-  
23 criminal aliens were deported from America's interior. They  
24 were not caught right on the border, and they got past the  
25 border, that would be so. And of those, how many of that

1 five thousand nine--let us say 6,000 were from visa  
2 overstays?

3 Mr. Healy. I want to check, sir, and get back to you  
4 just to make sure, but my number shows here about roughly  
5 approximately 2,500.

6 Chairman Sessions. All right. So we have 49 million  
7 people entering in and out of the country, maybe in actual  
8 numbers of people, different people, probably considerably  
9 less than that, because some come multiple times a year.  
10 But you are only identifying a minuscule amount, and there  
11 must be some aggravating or prioritizing factor that would  
12 probably cause that 2,500 to be deported. Is that right?

13 Mr. Healy. Well, that is just for that snapshot for  
14 fiscal year 2015, sir.

15 Chairman Sessions. Right.

16 Mr. Healy. Like, for example, fiscal year 2015, as I  
17 mentioned to you earlier, those 3,000 cases that are still  
18 ongoing, so they can bleed over from other fiscal years.

19 Chairman Sessions. But, Mr. Healy, what I want  
20 everybody to understand, the American people to understand,  
21 is that there are more than--the issue is more than whether  
22 you are a terrorist or a violent criminal.

23 Mr. Healy. Yes, sir.

24 Chairman Sessions. The American people, rightly, have  
25 been promised a system of immigration that would be lawful

1 and that would be enforceable. And just because you want to  
2 come to America, you do not get to come to America. You  
3 have to go through the process. And if you get a visa for 6  
4 months and that is all you get, should you not return, Mr.  
5 Healy, when the 6 months are over and comply with the law?

6 Mr. Healy. And that is correct, sir, and we have very  
7 robust protocols. We just need to not only prioritize the  
8 individuals, we also need to prioritize predicated upon our  
9 resources and what we can do to remove those individuals.

10 Chairman Sessions. Well, according to the directions  
11 you have been given by Secretary Johnson, and previously Mr.  
12 Morton was involved in it, you said people who are not  
13 committed--have not been convicted of a crime or accused of  
14 a crime of a serious nature, not just speeding or DUI, that  
15 they will not be deported. Is that not right?

16 Mr. Healy. I actually misspoke, sir, because probably  
17 the chances are that in our prioritization scheme we will  
18 not get to those individuals unless they rise to the level  
19 that it meets either the national security, the criminal, or  
20 the Secretary's priorities.

21 Sir, we have situations where individuals might appear  
22 to not have been engaged in any type of criminal activity.  
23 We monitor those names in our databases, and if something  
24 occurs, we will then put them into a status where they are  
25 removed.

1 Chairman Sessions. But I want to go back to the  
2 fundamental point, and the fundamental point is the  
3 overwhelming majority are not priorities. And I mean 90-  
4 plus percent are not priorities. Is that not correct, are  
5 not encapsulated in the priorities of the Department based  
6 on your supervisor's directions?

7 Mr. Healy. We follow the Department's priorities, sir.

8 Chairman Sessions. And so the result is that we do not  
9 have an enforcement policy for people who come on visas and  
10 do not return. The Congressional Budget Office found  
11 several years ago, when we had the Gang of 8 bill, that 40  
12 percent, they estimated, of the people that are illegally in  
13 America have overstayed their visas. And they predicted  
14 that number would grow, and I think they are correct. And I  
15 think as more and more people find--why would you just not  
16 buy a plane flight to come to America rather than try to  
17 find your way across the Mexican border? It would be a lot  
18 easier and probably less likely to get in trouble or get  
19 caught, and a lot less expensive. So we have a totally open  
20 door to abuse on this system.

21 I think the American people want their laws enforced,  
22 and they believe that their jobs are at stake. They believe  
23 their wages are at stake. They believe their hospital  
24 emergency rooms are at stake.

25 What if, Mr. Healy, a lady that is pregnant comes to

1 America? That happens sometimes?

2 Mr. Healy. I believe so, sir.

3 Chairman Sessions. And let us say she has a baby, even  
4 within her visa situation. And her visa is up. What is she  
5 likely to say if she wants to stay in America? What will  
6 she contend if you say, "You should leave. Your visa is  
7 up"? What is she going to say?

8 Mr. Healy. I do not know, sir.

9 Chairman Sessions. She is going to say, "My child is  
10 an American citizen. I cannot leave this baby here. I have  
11 got to stay and keep this baby."

12 So this is the way the system gets eroded. This is  
13 where public confidence is being destroyed. This is how we  
14 are sending a message to the world that you can get away  
15 with it. That is what it is all about. And you have got to  
16 send the reverse message. We have got to send the message  
17 that if you try to come to America unlawfully or overstay a  
18 visa when you came lawfully, you will be apprehended and you  
19 will be deported, and it is going to be an unpleasant time,  
20 and you are going to wish you had not done it, and then the  
21 numbers will go down. But as long as they are this high,  
22 you are going to have more of it rather than less. And that  
23 is not where this country needs to be going. We have got a  
24 border. We either have a sovereign nation or we do not.  
25 And I guess we are going to have to decide what is going to

1 happen there.

2 Now, Ms. Gambler, I think you have been a little kind  
3 to our friends, and you keep saying they do not have a  
4 framework. What do you mean by "framework"? I mean, your  
5 reports are good reports. They establish clearly that this  
6 Department has failed to do what it has promised to do:  
7 carry out its plans and to comply with the laws passed by  
8 Congress. That is plain in multiple reports, I think. But  
9 what do you mean they do not have a framework? And how do  
10 you create a framework?

11 Ms. Gambler. Senator, when we discuss that specific  
12 piece, we mean a framework by which CBP and DHS lay out kind  
13 of the methodology and how they plan to evaluate the  
14 different pilots and efforts that they are testing or  
15 considering for a biometric exit system. So that is what we  
16 specifically mean by a framework in that case.

17 We have also had broader findings related to the need  
18 for DHS to, for example, have a schedule to guide its  
19 overall planning and management of its biometric exit  
20 efforts.

21 Chairman Sessions. Well, how hard is it to develop a  
22 framework to evaluate a report or a pilot program? How hard  
23 is that?

24 Ms. Gambler. And DHS has not yet put in place that  
25 framework, and we made that recommendation back in 2013.

1 Chairman Sessions. So in 2013. It is now 2016. How  
2 long should that take, a couple of hours or a couple of days  
3 to get that framework done?

4 Ms. Gambler. I do not know how long it should take,  
5 but it is something that we have been monitoring their  
6 progress on. They do have a draft framework in place, but  
7 they need to finalize that. That is an important part of  
8 their efforts right now to manage and have an overall road  
9 map for the steps they are taking to plan for a biometric  
10 exit system or options.

11 Chairman Sessions. I guess it was back in 2007 or 2008  
12 that we had a report on--I thought it was the Atlanta pilot  
13 program, and two things I remember pretty clearly. It was  
14 easier than had been said. We had all the airlines  
15 predicting total disaster and costs through the roof. And  
16 it came out much easier and effective than they were saying,  
17 and it cost less. Is that not basically a fair analysis of  
18 that entry/exit pilot program?

19 Ms. Gambler. DHS ran two pilot programs in that time  
20 frame, Senator. One I believe was at Detroit, and one was  
21 at Atlanta, and they each tested different methods for  
22 collecting biometric exit data from a selected number of  
23 passengers on selected flights.

24 What we looked at in terms of that pilot was how well  
25 DHS had conducted the pilots and evaluated it, and one of

1 the key takeaways from that work was that DHS had not tested  
2 all of the requirements or all of the elements that they had  
3 planned to test and that they had not necessarily fully  
4 evaluated all of the elements of that. And so for that  
5 reason, and given what our past work has shown about some of  
6 these pilot programs, you know, I think our prior work kind  
7 of raises questions about the pilots DHS is conducting right  
8 now and whether they have, you know, as we have talked  
9 about, that sort of overall framework and road map in place  
10 in terms of what they want to get out of the pilots. And  
11 that is an important part.

12 Mr. Wagner. Senator, if I could just add?

13 Chairman Sessions. Yes.

14 Mr. Wagner. Those pilots were evaluated. The Atlanta  
15 pilot, it was the question of biometrics at the TSA security  
16 checkpoint. Those pilots were--

17 Chairman Sessions. The 2007 time frame we are talking  
18 about.

19 Mr. Wagner. 2009, I believe.

20 Chairman Sessions. Okay.

21 Mr. Wagner. That pilot was evaluated. We can collect  
22 biometrics at the checkpoint. But what we also saw was a  
23 person could turn around and walk right out of the airport  
24 then, and you are relying on the airport manifest, which is  
25 what we have right now, to tell you if the person departed.

1 It was a lot of--

2 Chairman Sessions. But they would not have been  
3 recorded as having departed, and you would have confirmed  
4 they are still in the country.

5 Mr. Wagner. No. We would have confirmed they  
6 registered their biometrics. We could have gotten a  
7 confirmation from the airline the person boarded and left.  
8 But that person could have turned around and walked out of  
9 the country--I mean walked out of the airport and given  
10 their boarding pass--boarding pass swaps are common ways of  
11 alien smuggling organizations. That--

12 Chairman Sessions. But you cannot swap it if you have  
13 got a biometric, right?

14 Mr. Wagner. Yes, but your biometric is so far away  
15 from the gate--

16 Chairman Sessions. Well, that is the way--

17 Mr. Wagner. --there is too much opportunity to do  
18 that.

19 Chairman Sessions. --you did that. I mean, why don't  
20 you set it up where you board the international flight?

21 Mr. Wagner. Right, then you have to do it at the gate.  
22 But this pilot was evaluated to do it there, and these were  
23 the things that we learned. There was also--

24 Chairman Sessions. So you learned that you need to do  
25 it at the boarding--

1 Mr. Wagner. Exactly.

2 Chairman Sessions. Well, why haven't we done it? That  
3 was 2009.

4 Mr. Wagner. Well, we are doing that with the officers  
5 with--

6 Chairman Sessions. How long does it take you to make--

7 Mr. Wagner. --the handheld devices, and that is where  
8 we are looking at the other biometrics that could work  
9 without creating gridlock where it takes several hours to  
10 board a plane.

11 Chairman Sessions. Well, I have been here dealing with  
12 this issue a long time. I am not persuaded okay that it  
13 could not already have been done in 2009. It could have  
14 been done in 2006 for that matter. The law for biometrics  
15 was passed in 2004.

16 Well, Ms. Duong, has anyone in the Department of  
17 Homeland Security leadership provided you with a deadline as  
18 to when the pilot programs need to stop and when  
19 implementation should begin?

20 Ms. Duong. S&T's role is just to provide information  
21 that would help inform CBP's next step, which is designing  
22 the pilot. So we are not involved in carrying out  
23 operational pilots at the airports. We are supporting.

24 Chairman Sessions. But you have completed your  
25 responsibilities?

1 Ms. Duong. Yes, sir. We are in the process of  
2 transferring all of our knowledge that we have gained in the  
3 past 3 years, all the test assessment recommendations, to  
4 CBP to help them design the next pilot that Mr. Wagner  
5 talked about at the end of 2016.

6 Chairman Sessions. And so if there is a slowdown, it  
7 is not because you have not done your part?

8 Ms. Duong. No, sir.

9 Chairman Sessions. Or yes. You feel like you have  
10 done your part.

11 Ms. Duong. Yes, sir.

12 Chairman Sessions. Well, let me ask, Mr. Wagner, who  
13 is responsible for leading the effort to implement a  
14 biometric exit system? Is someone designated for that job?

15 Mr. Wagner. So in 2013, that responsibility through  
16 congressional appropriation was provided to CBP, the  
17 operator. So the operators are now in charge of taking this  
18 information and finding the solution--

19 Chairman Sessions. What operator? Who is the  
20 operator?

21 Mr. Wagner. The operator, us, Customs and Border  
22 Protection.

23 Chairman Sessions. So you are--

24 Mr. Wagner. Before 2013, it was at other parts of DHS.

25 Chairman Sessions. Well, first of all, that is not an

1 excuse.

2 Mr. Wagner. I know it is not an excuse, but you asked  
3 who is responsible now.

4 Chairman Sessions. Effectively now you have been  
5 designated.

6 Mr. Wagner. Right, as the operator, the person that  
7 admits people to the United States and inspects them, the  
8 operators are now designing a system that will work based on  
9 the knowledge we have learned from the previous pilots.

10 Chairman Sessions. Who is the operator? Is it you?

11 Mr. Wagner. It is me. Yes, sir.

12 Chairman Sessions. You keep saying "the operator," so  
13 I just would like to--so I am fixing responsibility. You  
14 are the man.

15 Mr. Wagner. Absolutely.

16 Chairman Sessions. Okay. Well, we will have to hold  
17 you accountable. It is time to get some action.

18 In the 1 month of processing between heavy  
19 international travel times, between June and July, the 2009  
20 pilot study found that the Customs and Border Protection  
21 pilot at the jetway in Detroit processed 9,448 aliens and  
22 identifying 44 watchlist--this is terrorist watchlist--hits  
23 and 60 suspected overstays. The TSA pilot project processed  
24 20,296 aliens subject to US-VISIT and identified 131  
25 watchlist and 90 overstays. I believe that was Atlanta, Ms.

1 Gambler. Is that correct?

2 Ms. Gambler. I believe so, and we can double-check  
3 those numbers, Senator.

4 Chairman Sessions. TSA pilot as opposed to the Customs  
5 and Border Protection pilot in Detroit.

6 Ms. Gambler. Correct. TSA was at Atlanta and CBP was  
7 at Detroit.

8 Chairman Sessions. The study also found that lines,  
9 waiting lines, at the TSA checkpoint did not increase, and  
10 the Customs and Border Protection officers on the jetway had  
11 little or no impact on departure times. Importantly, the  
12 Department of Homeland Security databases were able to  
13 maintain the quality and matching requirements using the  
14 fingerprints collected, assuring that people were who they  
15 said they were and their exit data correlated with their  
16 identity. Well, that was the whole purpose of it.  
17 Apparently, it worked like a charm. Why are we still  
18 testing and fumbling around?

19 Mr. Wagner. When they refer to watchlist, I do not  
20 believe they are referring to the terrorist screening  
21 database watchlist. I think they are referring to the US-  
22 VISIT watchlist, which is a host of records of immigration  
23 enforcement actions, criminal records, and a handful of  
24 terrorist records.

25 Chairman Sessions. Enforcement actions, criminal

1 records--

2 Mr. Wagner. The previous--correct.

3 Chairman Sessions. And terrorist records.

4 Mr. Wagner. Right, but it is not all terrorist-related  
5 watchlists.

6 Chairman Sessions. Okay. I stand to be corrected.

7 Mr. Wagner. Now, the handheld pilot--

8 Chairman Sessions. So it was working, it looked like  
9 to me.

10 Mr. Wagner. It worked, but the handheld pilot that we  
11 deployed, I do not believe it was running those prints in  
12 real time. I think we were loading up a handheld device and  
13 going back to the office and plugging it in to see what the  
14 results were. That test is no good if the person is now  
15 gone. Okay? One at the TSA checkpoint does us no good for  
16 a person to register their biometrics and then turn around  
17 and walk out of the airport.

18 Chairman Sessions. But under the present capabilities,  
19 Ms. Duong, you can put your hands on a system now, and you  
20 should come up rather quickly, could you not, with the data?

21 Mr. Wagner. That is the one we are running right now.

22 Ms. Duong. That is the one we are running right now.

23 Mr. Wagner. In live, real-time responses.

24 Chairman Sessions. Look, I know a lot of things that  
25 went on. I know the airlines just did not want this. They

1 thought they could beat it, and they beat it for over a  
2 decade. But you guys have got to do the national interest.  
3 I do not think it is going to be a big burden for the  
4 airlines. I think we have established that it is not nearly  
5 as problematic as they may have thought at the beginning.  
6 And maybe there are others that oppose this, too. But you  
7 guys work for the people of the United States. I believe  
8 this is an issue of national security. I believe it is an  
9 issue of criminality. We do not need to be admitting  
10 criminals to the country. We may have--let us say somebody  
11 came to the country and committed a terrorist act or  
12 committed a murder or some other serious crime, maybe abused  
13 a woman, and we have got a warrant for their arrest, should  
14 they not be stopped, Mr. Healy, before they get on a plane  
15 and flee the country?

16 Mr. Healy. Yes, sir.

17 Chairman Sessions. And this system would stop that,  
18 too, would it not?

19 Mr. Healy. We would hope.

20 Chairman Sessions. And it would send a signal to the  
21 world that we are getting our act together, and we are not a  
22 place where criminals can come and hide out, as I think  
23 sometimes has been happening.

24 Well, thank you all. You have got some extra money  
25 now, Mr. Wagner. You are the man. It is time to call the

1 question, decide what plan you are going to use. I believe  
2 you can do it in a way that will minimize disruption and  
3 that will be very helpful in providing for security and  
4 helping us get to the point where we have integrity in our  
5 system.

6 I thank all of you for testifying. The record will be  
7 open for 1 week. The Committee stands in recess.

8 [Whereupon, at 5:09 p.m., the Subcommittee was  
9 adjourned.]

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