



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

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# VISA WAIVER PROGRAM

## Limitations with Department of Homeland Security's Plan to Verify Departure of Foreign Nationals

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Highlights of [GAO-08-458T](#), a testimony before the Chairman, Subcommittee on Terrorism, Technology, and Homeland Security, Committee on the Judiciary, U.S. Senate.

## Why GAO Did This Study

The Visa Waiver Program, which enables citizens of participating countries to travel to the United States without first obtaining a visa, has many benefits, yet also presents security, law enforcement, and illegal immigration risks. In August 2007, Congress passed legislation that provides the Department of Homeland Security (DHS) with the authority to expand the program to additional countries whose nationals' applications for short-term business and tourism visas were refused between 3 and 10 percent of the time in the prior fiscal year. Countries must also meet certain conditions, and DHS must first complete and certify a number of required actions aimed at enhancing the security of the program. This testimony will focus on one of these required actions—namely, that a system be in place that can verify the departure of 97 percent of foreign nationals who depart through U.S. airports (referred to as an air exit system). Our observations are based on our review of relevant legislation, regulations and agency operating procedures, and prior GAO reports on the Visa Waiver Program and immigrant and visitor entry and exit tracking systems, as well as on discussions with federal agency officials. In commenting on a draft of this statement, DHS emphasized that it had not finalized its plan for certifying the “97 percent” requirement, but that the department believes the current plan would meet the legislative requirement. The Department of State also provided technical comments, which we incorporated, as appropriate.

To view the full product, including the scope and methodology, click on [GAO-08-458T](#). For more information, contact Jess Ford at (202) 512-4128 or [fordj@gao.gov](mailto:fordj@gao.gov).

## VISA WAIVER PROGRAM

### Limitations with Department of Homeland Security's Plan to Verify Departure of Foreign Nationals

## What GAO Found

On December 12, 2007, DHS reported to us that it will match records of foreign nationals departing the country, as reported by airlines, to the department's existing records of any prior arrivals, immigration status changes, or prior departures from the United States. Using this formula, DHS stated that it can attain a match rate above 97 percent, based on August 2007 data, to certify compliance with the legislative air exit system requirement. DHS told us that it believes this methodology would meet the statutory requirement. On February 21, 2008, DHS indicated that it had not finalized its decision on the methodology the department would use to certify compliance. Nevertheless, the department confirmed that the basic structure of its methodology would not change, and that it would use departure records as the starting point. There are several limitations with this methodology. For example, DHS's methodology does not begin with arrival records and determine if these foreign nationals stayed in the United States beyond their authorized periods of admission (referred to as overstay). Therefore, this methodology will not inform overall and country-specific overstay rates—key factors in determining illegal immigration risks of the Visa Waiver Program. Although most long-term overstays are likely motivated by economic opportunities, a few overstays have been identified as terrorists or involved in terrorist-related activity, including some of the September 11, 2001, hijackers. In addition, DHS's current methodology does not address the accuracy of airlines' transmissions of departure records, and DHS acknowledges that there are weaknesses in the departure data. For example, there may be some visitors who did not leave the country by air even though they were recorded on airlines' manifest data as having departed. The inability of the U.S. government to track the status of visitors in the country, to identify those who overstay their authorized period of visit, and to use this data to compute overstay rates have been longstanding weaknesses in the oversight of the Visa Waiver Program. DHS's plan to meet the “97 percent” requirement in the visa waiver expansion legislation will not address these weaknesses.

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February 28, 2008

Chairman Feinstein and Members of the Subcommittee:

I am pleased to be here to discuss an important aspect of our ongoing work on the Department of Homeland Security's (DHS) oversight of the Visa Waiver Program<sup>1</sup> and executive branch plans to expand the program—namely, a newly enacted legislative requirement that a system be in place that can verify the departure of 97 percent of foreign nationals who depart the United States through airports (referred to as an air exit system). The Visa Waiver Program enables citizens of 27 participating countries to travel to the United States for tourism or business for 90 days or less without first obtaining a visa from U.S. embassies and consulates.<sup>2</sup> The program has many benefits, including facilitating international travel for millions of foreign nationals seeking to visit the United States each year, creating substantial economic benefits to the United States, and allowing the Department of State (State) to allocate resources to visa-issuing posts in countries with higher-risk applicant pools.

However, as we have reported,<sup>3</sup> the program also poses inherent security, law enforcement, and illegal immigration risks to the United States. In particular, visa waiver travelers are not subject to the same degree of screening as those with visas because they are not interviewed by a consular officer before arriving at a U.S. port of entry. Therefore, the program could be exploited to gain illegal entry into the United States. In addition to these concerns, weaknesses in the U.S. government's system to track foreign visitors may hamper efforts to track foreign nationals who enter the country illegally, as well as those who enter legally yet overstay their authorized period of admission (referred to as overstay). Although most long-term overstay are likely motivated by economic opportunities, a few overstay have been identified as terrorists or involved in terrorist-related activity, including some of the September 11, 2001, hijackers.

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<sup>1</sup>The Immigration Reform and Control Act of 1986, P.L. 99-603, created the Visa Waiver Program as a pilot program. In 2000, the program became permanent under the Visa Waiver Permanent Program Act, P.L. 106-396.

<sup>2</sup>The participating countries are Andorra, Australia, Austria, Belgium, Brunei, Denmark, Finland, France, Germany, Iceland, Ireland, Italy, Japan, Liechtenstein, Luxembourg, Monaco, the Netherlands, New Zealand, Norway, Portugal, San Marino, Singapore, Slovenia, Spain, Sweden, Switzerland, and the United Kingdom.

<sup>3</sup> See GAO, *Border Security: Stronger Actions Needed to Assess and Mitigate Risks of the Visa Waiver Program*, [GAO-06-854](#) (Washington, D.C.: July 28, 2006).

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Until recently, U.S. law required that a country may be considered for admission into the Visa Waiver Program if the refusal rate for its nationals' business and tourism visas was less than 3 percent in the prior fiscal year. The executive branch has supported more flexible criteria for admission, and, in August 2007, Congress passed legislation that provides DHS with the authority to admit countries with refusal rates between 3 percent and 10 percent, if the countries meet certain conditions.<sup>4</sup> For example, countries must meet all mandated Visa Waiver Program security requirements and cooperate with the United States on counterterrorism initiatives. Before DHS can exercise this new authority, the legislation requires that the department complete certain actions aimed at enhancing security of the Visa Waiver Program.

As requested, my testimony today will focus on one of these requirements placed on DHS—namely that an air exit system is in place that can verify the departure of not less than 97 percent of foreign nationals who depart through U.S. airports.<sup>5</sup> Our observations are derived from our ongoing review of the Visa Waiver Program based on a request from this subcommittee.

In the course of this work, we reviewed documentation, including the laws governing the Visa Waiver Program and its expansion, relevant regulations and agency operating procedures, and prior GAO reports on immigrant and visitor entry and exit tracking systems. (A list of related GAO products appears at the end of this testimony.) Specifically, we collected and analyzed documentation and interviewed officials from several DHS components—including Customs and Border Protection (CBP) and the U.S. Visitor and Immigrant Status and Indicator Technology (US-VISIT)

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<sup>4</sup>Implementing Recommendations of the 9/11 Commission Act of 2007, P.L. 110-53.

<sup>5</sup>Before DHS can expand the program to countries with refusal rates between 3 percent and 10 percent, it must also certify that an electronic travel authorization system is fully operational. This system would require nationals from visa waiver countries to provide the United States with biographical information before boarding a U.S.-bound flight to determine the eligibility of, and whether there exists a law enforcement or security risk in permitting, the foreign national to travel to the United States under the program. As of Feb. 21, 2008, DHS had not announced its plans for this authorization system. In addition, Congress also required the implementation of a biometric exit system at U.S. airports. If this is not in place by mid-2009, the flexibility DHS could have obtained to admit countries with refusal rates between 3 percent and 10 percent will be suspended until it is in place. A biometric air exit system utilizes biometric identifiers such as digital fingerprint scans rather than paper documents and biographic information to verify the departure of foreign nationals from the United States. As of Feb. 21, 2008, DHS had not announced plans for a biometric exit system.

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Program Office<sup>6</sup>—on the department’s plans for the air exit system. We conducted this performance audit from September 2007 through January 2008, in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. We will be reporting later this year on other aspects of the Visa Waiver Program, including the actions that DHS has taken to implement recommendations from our 2006 report.<sup>7</sup>

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## Summary

On December 12, 2007, DHS reported to us that it will match records, reported by airlines,<sup>8</sup> of visitors departing the country to the department’s existing records of any prior arrivals, immigration status changes,<sup>9</sup> or prior departures from the United States. Using this methodology, DHS stated that it can attain a match rate above 97 percent, based on August 2007 data, to certify compliance with the air exit system requirement in the legislation.<sup>10</sup> On February 21, 2008, in commenting on a draft of this statement, DHS indicated that it had not finalized its decision on the methodology the department would use to certify compliance. Nevertheless, the department confirmed that it planned to use departure

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<sup>6</sup>The US-VISIT program is governmentwide program designed to integrate information on certain foreign nationals’ arrival and departure from the United States. US-VISIT aims to enhance the security of U.S. citizens and visitors, facilitate legitimate travel and trade, ensure the integrity of the U.S. immigration system, and protect visitors’ privacy. In 2004, DHS’s US-VISIT program began collecting information on foreign nationals arriving in the United States. The program is managed by the US-VISIT Program Office, which is headed by the US-VISIT Director, who reports to the DHS Undersecretary for National Protection and Programs. GAO has issued a series of reports on the US-VISIT program.

<sup>7</sup>[GAO-06-854](#).

<sup>8</sup>Air carriers transmit visitor manifest information, which is obtained directly from government-issued passports, to CBP through the Advanced Passenger Information System (APIS). APIS includes arrival and departure manifest information such as name, date of birth, travel document issuing country, gender, U.S. destination address, entry date, and departure date. As of Feb. 19, 2008, commercial carriers are required to transmit manifest information to be vetted by DHS prior to departure of the aircraft.

<sup>9</sup>This includes changes and extensions of the visits of lawfully admitted, nonimmigrant foreign nationals.

<sup>10</sup>DHS officials indicated that they may update the air departure data prior to certification.

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records as the starting point. There are several limitations with this approach. First, DHS's approach does not begin with arrival records to determine if those foreign nationals stayed in the United States beyond their authorized periods of admission. Therefore, DHS's plan will not inform overall and country-specific overstay rates—key factors in determining illegal immigration risks in the Visa Waiver Program.<sup>11</sup> In addition, the methodology does not address weaknesses in data the airlines report on people who are departing the United States by air, and DHS acknowledges there are weaknesses in the departure data. For example, there may be some visitors who did not leave the country by air even though they were recorded on airlines' manifest data as having departed. The inability of the U.S. government to track the status of visitors in the country, to identify those who overstay their authorized period of visit, and to use these data to compute overstay rates have been longstanding weaknesses in the oversight of the Visa Waiver Program.<sup>12</sup> DHS's plan to meet the "97 percent" requirement in the visa waiver expansion legislation will not address these weaknesses.

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## Background

In 2007, almost 13 million citizens from 27 countries entered the United States under the Visa Waiver Program. The program was created to promote the effective use of government resources and to facilitate international travel without jeopardizing U.S. national security. The United States last expanded the Visa Waiver Program's membership in 1999 with

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<sup>11</sup>The overstay rate is the ratio of the total number of nationals of a country who were admitted to the United States as nonimmigrant visitors during the previous fiscal year and who violated the terms of such admission by remaining in the country beyond the authorized time period to the total number of nationals of that country who arrived at a U.S. port of entry and applied for admission into the United States as nonimmigrant visitors during the same period.

<sup>12</sup>For more than 10 years, GAO has recommended the collection of departure information and the development of estimates of overstays by air. See GAO, *Illegal Aliens: Despite Data Limitations, Current Methods Provide Better Population Estimates*, [PEMD-93-25](#) (Washington, D.C.: Aug. 5, 1993) and GAO, *Illegal Immigration: INS Overstay Estimation Methods Need Improvement*, [PEMD-95-20](#) (Washington, D.C.: Sept. 26, 1995). In November 2007, DHS told us that the department could not yet respond to open recommendations from these reports, in part because DHS has not identified which office will have responsibility for calculating overstay rate estimates.

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the addition of Portugal, Singapore, and Uruguay;<sup>13</sup> since then, other countries have expressed a desire to become members. In recent years, Members of Congress have introduced bills calling for the expansion of the program. In February 2005, President Bush announced that DHS and State would develop a strategy, or “Road Map Initiative,” to clarify the statutory requirements for designation as a participating country. According to DHS, some of the countries seeking admission to the program are U.S. partners in the war in Iraq and have high expectations that they will join the program due to their close economic, political, and military ties to the United States.

In July 2006, we reported that DHS and State were consulting with 13 “Road Map” countries seeking admission into the Visa Waiver Program—Bulgaria, Cyprus, Czech Republic, Estonia, Greece, Hungary, Latvia, Lithuania, Malta, Poland, Romania, Slovakia, and South Korea.<sup>14</sup> In September 2007, State nominated Greece for admission into the program, and DHS is currently reviewing this nomination to assess the impact of Greece’s participation on U.S. security, law enforcement, and illegal immigration interests. In fiscal year 2006, Greece was one of three countries (along with Cyprus and Malta) with a refusal rate below 3 percent. Three other “Road Map” countries have refusal rates between 3 and 10 percent, while seven others have rates above 10 percent (see table 1).<sup>15</sup>

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<sup>13</sup>In 2003, the Attorney General removed Uruguay from the Visa Waiver Program, stating that Uruguay’s participation in the program was inconsistent with U.S. interests. According to a 2002 *Federal Register* notice on the subject, Uruguayan nationals were, on average, two to three times more likely than all nonimmigrants to have been denied admission at the border. Uruguayan air entries had an apparent overstay rate more than twice that of the average apparent overstay rate for all nonimmigrant air entries. In addition, Argentina was removed from the program in 2002, following an economic crisis in that country and an increase in the number of Argentinean nationals attempting to use the Visa Waiver Program to live and work illegally in the United States.

<sup>14</sup>See GAO, *Process for Admitting Additional Countries into the Visa Waiver Program*, [GAO-06-835R](#) (Washington, D.C.: July 28, 2006).

<sup>15</sup>Under the August 2007 visa waiver legislation, a country whose refusal rate is above 10 percent could also be considered for admission into the program if its overstay rate does not exceed a maximum overstay rate. According to the legislation, DHS and State must establish the maximum overstay rate, using information from the air exit system to do so. DHS has not indicated if or when it plans to establish this rate.

**Table 1: Visa Refusal Rates for Short-Term Tourist and Business Visitors of Countries Seeking to Join the Visa Waiver Program, Fiscal Year 2007**

<b>“Road Map” country</b>	<b>Refusal rate (%)</b>
Greece	1.6
Cyprus	1.8
Malta	2.7
Estonia	4.0
South Korea	4.4
Czech Republic	6.7
Hungary	10.3
Latvia	11.8
Slovakia	12.0
Lithuania	12.9
Bulgaria	14.3
Poland	25.2
Romania	37.7

Source: Department of State.

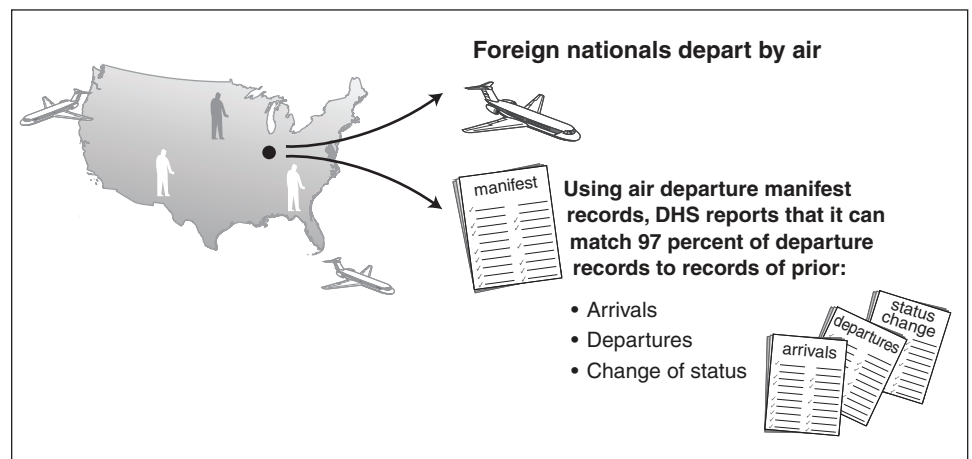
We plan to report later this year on the other aspects of our ongoing work for the subcommittee, including the status of DHS’s plans to expand the Visa Waiver Program to other “Road Map” countries and the extent to which DHS has implemented other provisions in the August 2007 legislation, including an electronic travel authorization system. In addition, we plan to report this year on the cost and resource implications for State’s consular operations of changes in the countries that participate in the Visa Waiver Program.



## DHS's Current Plan to Certify Air Exit System Requirement Will Not Address All Potential Risks of An Expanded Visa Waiver Program

In response to our inquiries, on December 12, 2007, DHS reported to us that it will match records of foreign nationals' departures that airlines reported to the department to records of any prior arrival, change of status action, or prior departure from the United States to certify the air exit system requirement (see fig. 1). Using this methodology, DHS stated that it can achieve a 97.10 percent match rate, based on data from August 2007. Although DHS acknowledged there are weaknesses with this methodology, the department told us that it had no intention of altering its plans for certifying the air exit system requirement. On January 23, 2008, the assistant secretary for policy development noted that DHS may use more current departure manifest data prior to certification. On February 21, 2008, in commenting on a draft of this testimony, DHS indicated that it had not finalized its decision on which methodology the department would use to certify compliance; however, the department confirmed that all methodologies under consideration would match foreign nationals' departure records against prior records "to determine that the person is a foreign national, and that the person did depart the country through a U.S. airport."

**Figure 1: DHS's Current Plan for Certifying "97 Percent" Requirement**

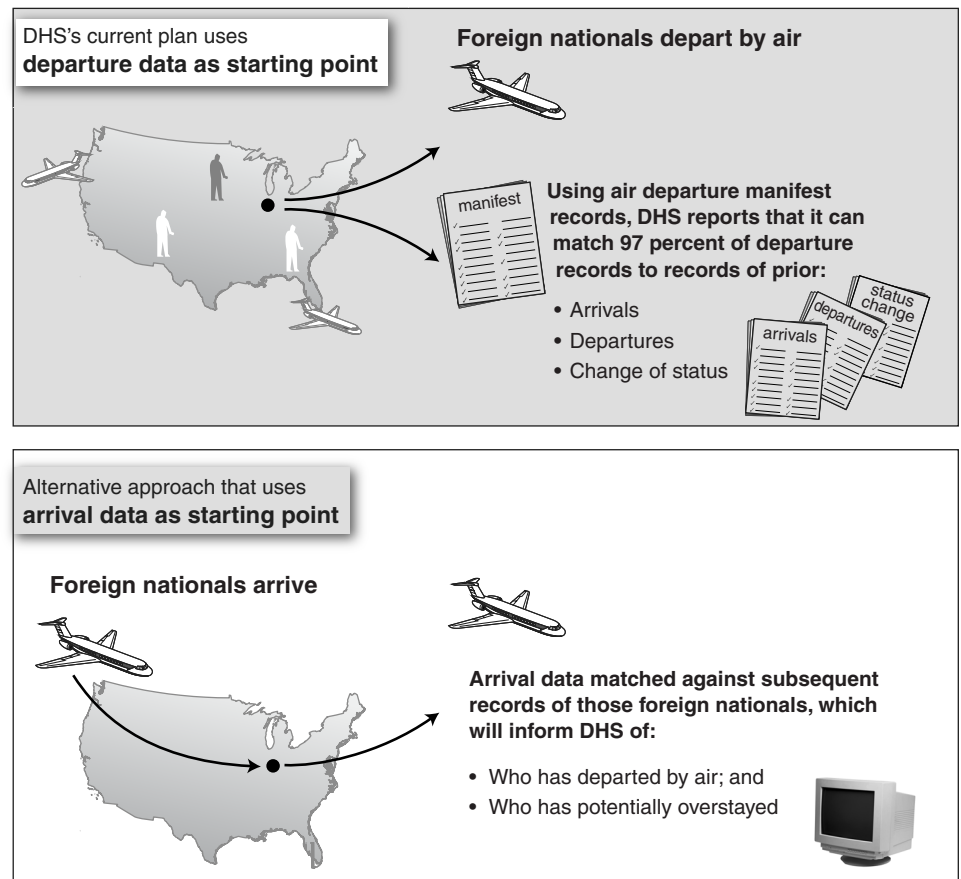


Sources: GAO analysis of Department of Homeland Security data; Map Resources (maps); Nova Development (clip art).

There are several weaknesses with this approach. First, DHS's methodology does not begin with arrival records to determine if those foreign nationals departed or remained in the United States beyond their authorized periods of admission—more useful data for oversight of the Visa Waiver Program and consideration of its expansion. Furthermore, DHS's methodology will not inform overall or country-specific overstay rates, which are key factors in determining illegal immigration risks in the

Visa Waiver Program. An alternate approach would be to track air arrivals from a given point in time and determine whether those foreign nationals have potentially overstayed.<sup>16</sup> Figure 2 compares DHS's plan to match visitor records using departure data as a starting point to a methodology that would track foreign nationals using arrival data as a starting point.

**Figure 2: DHS's Current Plan Omits Those Who Remain in the United States**



Sources: GAO analysis of Department of Homeland Security data; Map Resources (maps); Nova Development and Ingram Publishing (clip art).

<sup>16</sup>This could include foreign nationals who departed after their authorized period of admission expired, as well as those foreign nationals who may have remained in the country as overstays.

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Second, for the purposes of this provision, we do not see the value in verifying that a foreign national leaving the United States had also departed at a prior point in time—in other words, matching a new departure record back to a previous departure record from the country.<sup>17</sup> If, however, DHS attempted to match records of air departures in August 2007 back to records of prior entries alone, US-VISIT data for that month show that DHS would only achieve a 92.8 percent match rate. DHS’s assistant secretary for policy development told us in January 2008 that the department chose to include previous departure and change of immigration status records in its methodology because this method allowed the department to achieve a match rate of 97 percent or greater.

Third, DHS’s methodology does not address the accuracy of airlines’ transmissions of departure records, and DHS acknowledges that there are weaknesses in the departure data. Foreign nationals who enter the United States by air are inspected by DHS officers—a process that provides information that can be used to verify arrival manifest data—and, since 2004, DHS has implemented the US-VISIT program to collect biometric information on foreign nationals arriving in the United States.<sup>18</sup> However, the department has not completed the exit portion of this tracking system; thus, there is no corresponding check on the accuracy and completeness of the departure manifest information supplied by the airlines. As a result, according to DHS, it cannot be certain that visitors listed on airlines’ manifest data as departing the country did in fact physically depart. Furthermore, there may be some visitors who did leave the country by air, but were not recorded on airlines’ manifest data as having departed. According to DHS, the department works with air carriers to try to improve both the timeliness and comprehensiveness of manifest records,

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<sup>17</sup> A DHS official told us that the system functions by matching the departure record to an alien’s “account,” which may contain numerous prior arrivals, departures, and immigration benefit transaction records. The official also stated that a specific departure record match may not fall chronologically in the alien’s “account” after an arrival; it may fall, for example, after a record that an immigrant benefit was granted to extend the alien’s stay for 6 additional months.

<sup>18</sup> DHS’s US-VISIT program collects, maintains, and shares data, including biometric identifiers like digital fingerprints, on selected foreign nationals entering the United States to verify their identities as they arrive at air, sea, and land ports of entry. DHS currently operates the entry portion of the US-VISIT program at more than 300 air, sea, and land U.S. ports of entry. When fully implemented, US-VISIT is also intended to capture the same information from foreign nationals as they depart the country. The program aims to, among other things, identify foreign nationals who have overstayed or violated the terms of their visit.

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and fines carriers that provide incomplete or inaccurate information. If DHS could evaluate these data, and validate the extent to which they are accurate and complete, the department would be able to identify problems and work with the airlines to further improve the data.

DHS reported to us that it had used its methodology for meeting the “97 percent” requirement to match records in the past; however, we were unable to identify an instance when DHS had used this particular methodology. We noted that DHS has used a similar methodology since 2004 in its annual report to the Committees on the Judiciary in the U.S. Senate and House of Representatives on the matching of visitor arrival and departure records using biographic and biometric data gathered through US-VISIT.<sup>19</sup> However, the methodology used in these annual reports is different from what DHS told us it intends to use to certify the “97 percent” provision. In these prior annual reports, DHS matched departure records to records of prior arrivals into the United States. For example, for the period of January 5, 2004, through September 30, 2004, DHS was able to match 71 percent of recorded departures from air and sea ports of entry to records of prior arrivals. In its May 2007 report on its integrated entry and exit data system, DHS was able to match 88.1 percent of recorded departures from air and sea ports of entry to records of prior arrivals. While these reports have shown that DHS’s ability to match departure records has improved since US-VISIT was established in 2004, this methodology does not account for foreign nationals who have not left the United States.

Moreover, DHS’s plans to certify the “97 percent” requirement will not further its efforts in responding to Congress’s longstanding calls for the development of an automated entry and exit control system to track visitors to the United States and identify those visitors who have remained in the country illegally.<sup>20</sup> We testified in June 2007 that the prospects for successfully delivering a biometric exit system were as uncertain then as

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<sup>19</sup>See “United States Visitor and Immigrant Status Indicator Technology (US-VISIT) Annual Report on the Integrated Entry and Exit Data System” as required by the Data Management Improvement Act of 2000, P.L. 106-215, and the Visa Waiver Permanent Program Act, P.L. 106-396.

<sup>20</sup>In 1996, Congress called for such a system. See Illegal Immigration Reform and Immigrant Responsibility Act of 1996, P.L. 104-208. In 2000, Congress passed legislation requiring the establishment of an electronic system that would provide access to and integrate visitor arrival and departure data for all ports of entry by December 31, 2005. See The Immigration and Naturalization Service Data Management Improvement Act of 2000, P.L. 106-215.

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they were when US-VISIT was first implemented in 2004.<sup>21</sup> Without the capability to verify departures, DHS cannot ensure the integrity of the immigration system by identifying visitors who have overstayed their original period of admission.

In October 2007, DHS officials told us that data on overstay rates would be very useful for oversight of the Visa Waiver Program. As we have reported, overstays are a significant part of the larger problem of illegal immigration.<sup>22</sup> For example, overstay rates would inform decision makers of illegal immigration risks associated with adding new countries to the program.<sup>23</sup> However, according to the department, it cannot generate accurate overstay rates for visitors from visa waiver countries due to weaknesses in the data that indicate who has departed the United States, as previously mentioned. Moreover, the department has not designated an office with the responsibility of developing such data for the purposes of this program. Nevertheless, we identified an office within US-VISIT, the Data Integrity Group, which develops limited data on overstay rates that may be useful information for oversight of the Visa Waiver Program. This office provides information to DHS's Immigration and Customs Enforcement on visitors who have potentially overstayed the terms of

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<sup>21</sup>We have reported on how DHS has managed US-VISIT's exit capability. In particular, we reported that, beyond a high-level schedule, no other exit program plans are available that define what will be done by what entities and at what cost. See GAO, *Homeland Security: Prospects for US-VISIT Biometric Exit Capability Remain Unclear*, [GAO-07-1044T](#) (Washington, D.C.: June 28, 2007).

<sup>22</sup>In 2000, the then-Immigration and Naturalization Service estimated that about one-third of illegal aliens in the United States were overstays. In 2004, we reported that three alternative estimates of overstays that we analyzed did not represent the illegal population, but did provide some evidence that a substantial proportion of illegal immigrants are likely overstays. These data demonstrated that preventing additional visitors from becoming overstays is in the national interest. See GAO, *Overstay Tracking: A Key Component of Homeland Security and a Layered Defense*, [GAO-04-82](#) (Washington, D.C.: May, 21, 2004).

<sup>23</sup>In addition, a country must be terminated from the Visa Waiver Program if that country's disqualification rate for the most recent fiscal year for which data are available was more than 3.5 percent. The disqualification rate is the total for a given fiscal year, of (1) those nationals of the country who were admitted as nonimmigrants and violated the terms of their admission—this would include overstays—and (2) the number of foreign nationals who were denied admission upon arrival in the United States, as it compares to the total number of nationals of that country who applied for admission as nonimmigrant visitors during the same time period. According to the legislation, the country must be terminated at the beginning of the second fiscal year following the fiscal year in which the determination of the disqualification rate was made. See 8 USC § 1187 (f). We will be reporting on this issue later in the year as part of our overall work on the Visa Waiver Program for this subcommittee.

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their admission into the country. Immigration enforcement officials told us they use these data regularly during investigations of potential illegal immigrants. The Data Integrity Group also provides similar information to the department's Office of Immigration Statistics, as well as the Visa Waiver Program Office. While these are positive actions, DHS acknowledges that there are significant limitations in these data because of weaknesses in the multiple systems that the Data Integrity Group uses. For example, an unknown portion of reported overstays may be false because DHS could not match an arrival record to a departure or change of status record (for example, a visitor may have departed via a land border and not generated a departure record).

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## Conclusion

An air exit system that facilitates the development of overstay rate data is important to managing potential risks in expanding the Visa Waiver Program. DHS's planned methodology for meeting the "97 percent provision" so it can move forward with program expansion will not demonstrate improvements in the air exit system or help the department identify overstays or develop overstay rates.

Chairman Feinstein, this completes my prepared statement. I would be happy to respond to any questions you or other Members of the Subcommittee may have at this time.

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## Contact and Acknowledgments

For further information about this statement, please contact Jess Ford at (202) 512-4128 or [fordj@gao.gov](mailto:fordj@gao.gov). Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this statement. In addition, John Brummet, Assistant Director; Teresa Abruzzo; Kathryn Bernet; Joseph Carney; Etana Finkler; and Eric Larson made key contributions to this statement.

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# Related GAO Reports

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*Homeland Security: U.S. Visitor and Immigrant Status Program's Longstanding Lack of Strategic Direction and Management Controls Needs to Be Addressed.* [GAO-07-1065](#). August 31, 2007.

*Homeland Security: Prospects For Biometric US-VISIT Exit Capability Remain Unclear.* [GAO-07-1044T](#). June 28, 2007.

*Homeland Security: US-VISIT Program Faces Operational, Technological, and Management Challenges.* [GAO-07-632T](#). March 20, 2007.

*Homeland Security: US-VISIT Has Not Fully Met Expectations and Longstanding Program Management Challenges Need to Be Addressed.* [GAO-07-499T](#). February 16, 2007.

*Homeland Security: Planned Expenditures for U.S. Visitor and Immigrant Status Program Need to Be Adequately Defined and Justified.* [GAO-07-278](#). February 14, 2007.

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

*Border Security: Continued Weaknesses in Screening Entrants into the United States.* [GAO-06-976T](#). August 2, 2006.

*Border Security: Stronger Actions Needed to Assess and Mitigate Risks of the Visa Waiver Program.* [GAO-06-854](#). July 28, 2006.

*Process for Admitting Additional Countries into the Visa Waiver Program.* [GAO-06-835R](#). July 28, 2006.

*Homeland Security: Recommendations to Improve Management of Key Border Security Program Need to Be Implemented.* [GAO-06-296](#). February 14, 2006.

*Homeland Security: Some Progress Made, but Many Challenges Remain on U.S. Visitor and Immigrant Status Indicator Technology Program.* [GAO-05-202](#). February 23, 2005.

*Overstay Tracking: A Key Component of Homeland Security and a Layered Defense.* [GAO-04-82](#). May 21, 2004.

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*Homeland Security: Overstay Tracking Is a Key Component of a Layered Defense.* [GAO-04-170T](#). October 16, 2003.

*Homeland Security: Risks Facing Key Border and Transportation Security Program Need to Be Addressed.* [GAO-03-1083](#). September 19, 2003.

*Information Technology: Homeland Security Needs to Improve Entry Exit System Expenditure Planning.* [GAO-03-563](#). June 9, 2003.

*Illegal Immigration: INS Overstay Estimation Methods Need Improvement.* [PEMD-95-20](#). September 26, 1995.

*Illegal Aliens: Despite Data Limitations, Current Methods Provide Better Population Estimates.* [PEMD-93-25](#). August 5, 1993.

*Border Security: Challenges in Implementing Border Technology.* [GAO 03-546T](#). March 12, 2003.



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