Question#:	2
Topic:	Biometric Exit at Land Ports of Entry
Hearing:	Why is the Biometric Tracking System Still Not in Place?
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: In your testimony, you state that CBP will carry out a field test at the Otay Mesa, California port of entry in which it will collect biometric information from departing foreign travelers leaving through the pedestrian gates. CBP conducted a biometric land exit pilot program between December 2009 and September 2011 for H-2A and H-2B visa holders entering and exiting through two ports of entry in Arizona. (See 76 Fed. Reg. 60518 (Sep. 29, 2011)). What lessons did CBP learn from that earlier pilot that it will be applying to the Otay Mesa biometric land exit field test?

Response: The U.S. Customs and Border Protection (CBP) 2009 biometric land exit pilot was designed to document only temporary workers on their final departure from the United States. That pilot used a kiosk where the temporary worker would provide a fingerscan and document information. The kiosks were off to the side of the departure area and unless workers were exiting through the pedestrian lanes, they were required to stop and exit their vehicles. The key lesson learned was that the infrastructure at the land border is not suitable for biometric collection from persons exiting the United States by vehicle.

The new land border field test that CBP is conducting at the Otay Mesa, California port of entry is testing several new capabilities that were not tested in the previous pilot, including:

- Placement of the biometric exit technology directly into the exit lane;
- Iris and face biometric recognition instead of fingerprint-scanning;
- Larger scope of travelers and ability to record more exit events; and
- Collection of biometrics (on departure) while the traveler is "on the move."

Question#:	3
Topic:	Prior Overstay Reports
Hearing:	Why is the Biometric Tracking System Still Not in Place?
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: You testified regarding the problems with passenger information collected by two airlines that delayed the publication of the overstay report for fiscal year 2014. You said those problems have been corrected.

Did the problems with those two airlines affect the overstay data for the fiscal years preceding fiscal year 2014? If not, could the Department please submit overstay reports for fiscal year 2009-2013?

Response: The overstay data for FY 2009-2013 was impacted both by data quality issues pertaining to carriers and by the limited capabilities of DHS systems at that time. DHS continued to make progress over those years. Because of data integrity concerns, DHS did not finalize reports for fiscal years prior to FY 2014.

Question#:	4
Topic:	Fiscal Year 2013 Overstay Report
Hearing:	Why is the Biometric Tracking System Still Not in Place?
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: You testified regarding the problems with passenger information collected by two airlines that delayed the publication of the overstay report for fiscal year 2014. You said those problems have been corrected.

In a hearing on February 26, 2014 before The House Homeland Security Committee, DHS Secretary Johnson said in response to a question from Rep. Miller about the overstay report: "I have seen a draft of the report. I think it needed further work. And I think that there were some things that I wanted to -- I wanted to have some second or third opinions about before I shared it with Congress." Since that statement was made in February 2014, the draft report to which the Secretary was referring must have been a fiscal year 2013 overstay report.

Was the draft report to which the Secretary was referring in fact a fiscal year 2013 overstay report? If not, what fiscal year data did that draft report cover?

Response: The overstay data for FY 2009-2013 was impacted both by data quality issues pertaining to carriers and by the limited capabilities of DHS systems at that time. DHS continued to make progress over those years. Because of data integrity concerns, DHS did not finalize reports for fiscal years prior to FY 2014.

Question: Would you please send the Committee a copy of the report to which the Secretary was referring in his February 2014 remark?

Response: Please see above response.

Question#:	5
Topic:	Accuracy of Overstay Rate
Hearing:	Why is the Biometric Tracking System Still Not in Place?
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: Jessica Vaughan of the Center for Immigration Studies makes the following point about the methodology of the DHS overstay report:

"The DHS overstay rate methodology, which uses admissions rather than individuals, produces a deceptively low overstay rate that does not reflect the true magnitude of the problem. DHS has calculated an overall business/pleasure air/sea overstay rate for 2015 of about 1 percent. The agency did not calculate an overstay rate for individual travelers. Under this methodology, the frequent visits by millions of compliant travelers have the effect of suppressing the overall overstay rate, because those who overstay are most likely to do it on their first visit. For example, if 10 people are admitted to the United States for three visits each and all are compliant, that is counted as 30 admissions. If in addition one person is admitted and overstays, that is counted as one admission. Using the DHS methodology, in this case the overstay rate would be 1/31 or 3 percent, not 1/11 or 9 percent. DHS has established that the business/pleasure categories include many individuals who are admitted multiple times in one year, and it is their compliance that is reflected in the low-sounding overstay rate."

http://www.cis.org/vaughan/dhs-reports-huge-number-visitors-overstayed-2015. Please respond to this criticism.

Response: Every time a foreign national enters the United States as a nonimmigrant, there is a potential risk that person could overstay their period of admission. We believe that it is critical to remain vigilant and uphold homeland security with each and every admission to the United States. Factoring this into our calculation, as the Department of Homeland Security did in the report, is the most accurate way to measure the overall compliance rate of any foreign country. The proposed alternative method is misleading, because it fails to account for the risk of every admission as part of the calculation.

Question#:	6
Topic:	Actions Taken Against Overstays
Hearing:	Why is the Biometric Tracking System Still Not in Place?
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: How many overstays were actually arrested for each of the last 5 fiscal years? And how many of those were actually removed?

Response: In fiscal year (FY) 2011, U.S. Immigration and Customs Enforcement (ICE) Enforcement and Removal Operations (ERO) made 6,852 arrests of aliens with an overstay violation pursuant to section 237(a)(1)(B) of the Immigration and Nationality Act.[3] Of these 6,852 cases, 6,847, or over 99%, were subsequently removed from the United States.

In FY 2012, ICE ERO made 5,003 arrests of aliens with an overstay violation noted above. In all 5,003 of these cases the aliens were subsequently removed from the United States.

In FY 2013, ICE ERO made 2,450 arrests of aliens with an overstay violation noted above. Of these 2,450 cases, 2,442, or 99%, were subsequently removed from the United States.

In FY 2014, ICE ERO made 2,152 arrests of aliens with an overstay violation noted above. Of these 2,152 cases, 2,133, or over 99%, were subsequently removed from the United States.

In FY 2015, ICE ERO made 1,492 arrests of aliens with an overstay violation noted above. Of these 1,492 cases, 1,491, or over 99%, were subsequently removed from the United States.

[3] Due to ICE data system operating capabilities, these figures represent only aliens who have been charged with being subject to removal under INA section 237(a)(1)(B), and thus do not include individuals who may have overstayed their period of authorized admission, but were charged with other grounds of removal under the INA. Furthermore, also due to ICE data system operating capabilities and the reordering of relevant statutes that occurred over time, ICE cannot reliably report on the number of aliens arrested for overstay violations pursuant to former INA section 241.

Question#:	7
Topic:	Visa Revocations
Hearing:	Why is the Biometric Tracking System Still Not in Place?
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: In your testimony, you include recommending to the Department of State to revoke a visa as one possible course of action when you determine that an alien has overstayed a visa.

For each year since Fiscal Year 2009, how many times has the Department asked the Department of State to revoke a visa held by an alien present in the United States?

Response: Below are the numbers of recommended visa revocations submitted to the Department of State (DOS) by the U.S. Immigration and Customs Enforcement (ICE) Homeland Security Investigations Visa Security Program (VSP), as captured in the VSP Tracking System (VSPTS), from Fiscal Year (FY) 2009 through FY 2015. These numbers denote the number of visa revocations recommended to DOS, not necessarily the number of visa revocations ultimately revoked.

Fiscal Year:	**ICE Recommended Visa Revocations in VSPTS:**
2009	0
2010	1
2011	44
2012	71
2013	110
2014	64
2015	16

Question: In how many of the occasions described in your answer to question #1 did the Department of State actually revoke the visa per the Department's request?

Response: DHS respectfully defers to DOS to advise on the number of visa revocations effectuated following a request from the Department of Homeland Security.

Question: In how many of the cases in which the Department of State revoked the visa of an alien present in the United States did the Department of State carry out the revocation while the alien was still in the United States?

Question#:	7
Topic:	Visa Revocations
Hearing:	Why is the Biometric Tracking System Still Not in Place?
Primary:	The Honorable Charles E. Grassley
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Response: DHS respectfully defers to DOS to advise on the number of visa revocations effectuated while the alien was still in the United States.

Question: Does the Department of Homeland Security interpret section 428 of the Homeland Security Act to give the Secretary of Homeland Security the authority to not only refuse, but also revoke visas?

Response: The Department of Homeland Security and DOS interpret section 428 of the Homeland Security Act as authorizing the Secretary of Homeland Security to direct the revocation of a visa that has already been issued. This interpretation is reflected in the 2003 Memorandum of Understanding Between the Secretaries of State and Homeland Security Concerning Implementation of Section 428 of the Homeland Security Act of 2002 ("Memorandum"). Please find attached a copy of the Memorandum for your convenience.

Question: What official or officials within the Department of Homeland Security may exercise the section 428 authority to refuse or revoke visas?

Response: The Secretary and Deputy Secretary of Homeland Security may exercise the authority to direct the refusal or revocation of visas. This authority may be delegated. *See* 6 U.S.C. § 112(b)(1); 8 U.S.C. § 1103(a)(4); 8 C.F.R. § 2.1.

Question#:	8
Topic:	Recurrent Vetting of Aliens in the United States
Hearing:	Why is the Biometric Tracking System Still Not in Place?
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: In your testimony, you state that U.S. Customs and Border Protection "conducts continuous vetting of nonimmigrant U.S. visas that have been recently issued, revoked, and/or denied." You further say that this recurrent vetting ensures that new information that impacts a traveler's admissibility is identified in near real-time. Recurrent vetting is very important to ensuring that those who have been admitted to the United States are eligible to remain.

Does the recurrent vetting of visa holders in the United States include checks against criminal and terror databases, i.e. not just against databases relating to immigration status, benefits, or violations of status?

Response: Yes, recurrent vetting of visa holders includes checks against the Terrorist Screening Database managed by the Terrorist Screening Center (TSC), criminal, and other law enforcement records.

Question: Could you please identify the specific visa categories of aliens in the United States that are subject to recurrent vetting?

Response: U.S. Customs and Border Protection (CBP) conducts recurrent vetting on visas captured in the DOS Consular Consolidated Database (CCD). CBP defers to DOS for a specific listing of visa categories in the CCD.

Question: Does the Department have any plans to recurrently vet all lawfully present aliens in the United States? If not, why not?

Response: CBP conducts continuous vetting of nonimmigrant visas and Electronic System for Travel Authorization (ESTA) travel authorizations for Visa Waiver Program travelers to ensure that changes in a traveler's eligibility are identified in near real-time. CBP matches travelers' information against risk-based criteria that are developed based on actionable intelligence derived from current Intelligence Community reporting or other law enforcement information available to CBP. This allows CBP to immediately determine whether to provide a "no board" recommendation to a carrier in imminent travel situations, to recommend that DOS revoke the visa, to deny an ESTA, or whether additional notification should be made for individuals determined to be present in the United States.

In the event that an individual is identified in-country and matches to derogatory information, CBP will take any actions necessary (e.g., request revocation of visa, denial

Question#:	8
Topic:	Recurrent Vetting of Aliens in the United States
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of ESTA) and alert the appropriate agency (e.g., Federal Bureau of Investigation, U.S. Immigration and Customs Enforcement/Homeland Security Investigations) for action.

Additionally, USCIS vets lawfully present foreign nationals as each individual requests additional immigration benefits, such as changes or extensions to their lawful status, adjustment of status to lawful permanent resident, or requests for naturalization.

Question#:	9
Topic:	Visa Waiver Program Participation
Hearing:	Why is the Biometric Tracking System Still Not in Place?
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: The overstay report provides a breakdown of overstays for visa waiver countries. To be a member of the program, a country's visa refusal rate cannot exceed 3%. The law says the Department may only use refusal rates, not overstay rates, at least until the Secretary certifies that a biometric exit system is in place at airports.

In light of that, I'm very concerned about this line in the overstay report presented to Congress: "DHS is in the process of evaluating whether and to what extent the data presented in this report will be used to make decisions on the VWP country designations."

What is meant by this line in the report?

Can you agree that the law does not allow the Department to unilaterally consider overstay rates as a criteria for eligibility to be in the Visa Waiver Program until a biometric exit system is fully in place?

Response: The Fiscal Year 2015 Entry/Exit Overstay Report notes that the Department of Homeland Security (DHS) is evaluating whether to use the data in the report for decisions regarding Visa Waiver Program (VWP) country designations. Specifically, this language refers to enforcement action regarding ***continuing*** designations in the VWP and is **not** a reference to the requirement that a country's visa refusal rate cannot exceed three percent for ***initial*** designation. DHS included that language in the report to clarify that, given the limitations associated with the data in the report, country overstay rates would not immediately lead to enforcement action regarding a country's ***continuing*** designation in the Program. The overstay rates and visa refusal rates are discrete statistics, and although overstay rates could potentially be considered as part of the totality of a country's characteristics, it is not a statutory factor required for consideration in initial designation in the VWP.

DHS acknowledges that, given the expiration of the Secretary of Homeland Security's authority to waive the low nonimmigrant visa refusal rate requirement, overstay rates are not utilized as any form of substitute to overcome a disqualification related to a country's visa refusal rate, with regards to an ***initial*** designation in the VWP. In addition to the other statutory and policy requirements, a country must have a low nonimmigrant visa refusal rate of less than three percent to qualify for ***initial*** designation into the VWP.

Question#:	10
Topic:	Duration of Status
Hearing:	Why is the Biometric Tracking System Still Not in Place?
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Question: In your testimony you say, regarding applicants for admission to the United States, "If admission is granted, the CBP officer will stamp the traveler's passport with a date indicating his or her authorized period of admission." But this isn't entirely accurate. As Mr. Wagner noted during his oral testimony, foreign students are not given a specific end date for their status when they are admitted; instead, the Form I-94 that they receive just says that the student is admitted for "duration of status."

When did DHS, or the predecessor Immigration and Naturalization Service (INS), begin admitting foreign students for "duration of status" and why did the Department or INS make that change? Prior to that, were foreign students admitted for specific periods of time?

Response: U.S. Customs and Border Protection (CBP) administers the provisions relating to admission of aliens under each visa classification as articulated in controlling regulations, including Title 8 Code of Federal Regulations Part 214 – Nonimmigrant Classes. Admission terms for nonimmigrants are broadly divided into two distinct types. The first is associated with a timeframe that is generated from the date of actual admission, such as a visitor for business or pleasure who is being admitted for 180 days. This is a fixed timeframe and the traveler is provided a date by which he or she is required to depart, unless he or she obtains authorization to remain beyond that date, such as through an approved extension of stay or change of status request. The second type of admission is tied to a particular program, such as an academic course of study or exchange visitor program, which has varying and uncertain temporal boundaries. Individuals admitted to engage in such programs are admitted for "Duration of Status." When individuals are admitted for duration of status, they are able to maintain nonimmigrant status in the United States as long as they properly participate in the programs for which they were admitted and do not otherwise violate their status. An example is a student admitted for duration of status into a 4-year academic program as an F-1 nonimmigrant student. If the student were to drop out of the program, he or she generally would violate his or her student status and would be expected to depart the United States. This could occur anytime within the 4 years of the academic program. Conversely, if the student maintains F-1 status but ultimately requires 5 years to complete the course of study, the period of authorized admission as an F-1 nonimmigrant would extend as well. The student would not have to depart the United States and seek readmission or request an extension of stay at the end of the initial 4 years.

Nonimmigrant students have not always been admitted for duration of status. Prior to January 1979, nonimmigrant students were admitted to the United States for a period of 1

Question#:	10
Topic:	Duration of Status
Hearing:	Why is the Biometric Tracking System Still Not in Place?
Primary:	The Honorable Charles E. Grassley
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year and were required to apply annually to extend their stay to continue their studies and accept employment.

In 1978, the former Immigration and Naturalization Service (INS) published a final rule, effective January 1, 1979, to permit nonimmigrant students to be admitted for duration of status with certain limitations.[4] INS cited increased efficiencies and savings to the government as reasons for the change.

In 1981, the former INS amended the rule, eliminating duration of status effective February 23, 1981, due to issues related to control over foreign students and record keeping problems.[5]

In 1983, the former INS reinstituted duration of status for F-1 students, effective August 1, 1983, with certain limitations.[6] The former INS cited reducing its workload, eliminating paperwork for the public, more control over F-1 students, and the introduction of a new computerized recordkeeping system as some reasons for the change.

In 1987, the former INS published a final rule expanding duration of status for F-1 students, effective May 22, 1987, citing further elimination of burdensome paperwork while maintaining control over the students.[7] Today, duration of status remains fundamentally the same.

Question: Since foreign students aren't given an end date for their period of stay, at what point does DHS consider a foreign student who has been granted "duration of status" to be an "overstay"? What office makes that determination?

Response: A foreign student is considered to be an overstay at the time he or she fails to enroll in school or maintain enrollment in school, completes the term of study of training period, and/or the grace period has expired, and the student has taken no action to apply for a change of status. U.S. Immigration and Customs Enforcement (ICE) Homeland Security Investigations Counterterrorism and Criminal Exploitation Unit receives system-generated suspected student overstay records from the Arrival and Departure Information System (ADIS), as well as information from the Student and Exchange Visitor Information System (SEVIS). ICE researches and analyzes the information to further develop a lead. If the lead is viable, meaning the student can be located, has not adjusted

[4] *Federal Register*, v. 44, November 22, 1978, p. 54618
[5] *Federal Register*, v. 46, January 23, 1981, p. 7267
[6] *Federal Register*, v. 48, April 5, 1983, p. 14575
[7] *Federal Register*, v. 52, April 22, 1987, p. 13223.

status, or departed the country, and ICE has reason to believe the individual falls within DHS enforcement priorities as a risk to national security or public safety, the lead is sent to the field for enforcement action.

Question: Does a foreign student who has been determined by the Department to have violated his or her status immediately start accruing unlawful presence for purposes of section 212(a)(9)(B)(i) of the Immigration and Nationality Act?

Response: No, Department of Homeland Security (DHS) policy on this issue is set forth in the U.S. Citizenship and Immigration Services' (USCIS) Adjudicator's Field Manual. Under this policy, if an individual admitted for duration of status violates his or her nonimmigrant student status, the individual does not begin to accrue "unlawful presence" for purposes of section 212(a)(9)(B)(i) of the Immigration and Nationality Act (INA) until an immigration judge sustains a removal charge or DHS finds a status violation in adjudicating some benefit application. However, a nonimmigrant student who fails to maintain his or her student status is subject to removal from the United States under INA section 237(a)(1)(C)(i).

Question: Aside from foreign students, what other categories of foreign travelers to the United States do not receive a fixed end date to their status when they are admitted and are instead allowed to remain for "duration of status"?

Response: A number of categories of foreign travelers to the United States, depending on their Class of Admission (COA), do not receive a fixed end date when admitted into the country. These include:

- Most diplomatic ("A") COAs
- Most foreign government ("G") COAs
- Most NATO ("N") COAs
- Foreign media representatives ("I") COAs
- Exchange visitors ("J") COAs

Question: Why is DHS granting applicants for admission "duration of status" at all? Why isn't DHS giving every applicant for admission a specific end date for their authorized period of stay? In the case of foreign students, that end date could just be the academic program end date on the student's Form I-20 issued by the school or Form DS-2019.

Question#:	10
Topic:	Duration of Status
Hearing:	Why is the Biometric Tracking System Still Not in Place?
Primary:	The Honorable Charles E. Grassley
Committee:	JUDICIARY (SENATE)

Response: Admission of nonimmigrant students (F-1) and exchange visitors (J-1) is managed as described above.

Admission for "duration of status" ties the legal status of an individual seeking admission to the United States to the purpose of the intended visit. In these cases, this legal term of art allows for changes in a student's course of study or an exchange visitor's program that may lengthen, or shorten, their stay. Educational and exchange visitor programs may span multiple years and their duration often is fluid. Individuals entering under an M student visa are admitted for a specific purpose. As long as they continue to be within the bounds of their purpose and visa category, they are permitted to stay lawfully in the United States. Although the Form I-20 lists a specific date, the date indicated on those forms serves as an estimate based on expectations for completion of a given academic program or educational exchange, but is not controlling.

Question#:	1
Topic:	Entry/Exit Overstay Report, FY 2015
Hearing:	Why is the Biometric Tracking System Still Not in Place?
Primary:	The Honorable Jeff Sessions
Committee:	JUDICIARY (SENATE)

Question: At the hearing, you were asked several questions about the report that CBP issued last week, entitled "Entry/Exit Overstay Report, FY 2015." This report – which only addresses individuals admitted as nonimmigrant visitors for business or pleasure – indicates that at the end of FY 2015, 482,781 individuals who were expected to depart remained in the United States. The report goes on to indicate that as of January 4, 2016, 416,500 of these individuals remained in the United States. As of the date of your reply to these questions, how many of these individuals are still in the United States?

Response: Since February 15, 2016 an additional 25,730 cases have been resolved, leaving a total number of Suspected In-Country Overstays for FY15 at 390,770 or 0.87 percent. DHS calculates this change based on continuing departures by nonimmigrant visitors and the receipt of other data relevant to whether a person is lawfully present.

Question: Please provide the same information for all nonimmigrant visa categories for FY 2015 and FY 2014 (i.e. the number of individuals with an F-1 visa, an H-1B visa, an H-2A visa, an H-2B visa, a J-1 visa, an L-1 visa, etc., who were expected to depart in FY 2015, but did not).

Response: As indicated in the "Entry/Exit Overstay Report, FY 2015," the requested data on additional admissions categories is not available for Fiscal Years (FY) 2014 and 2015 because of limitations in available information technology systems needed to identify overstays in these categories. DHS is in the process of upgrading our systems to accurately identify overstay populations among the admissions classes not covered by the FY 2015 Entry/Exit Overstay Report. Once these upgrades are complete, U.S. Customs and Border Protection (CBP) will include additional admissions classes prospectively starting with the FY 2016 report, which would be released in FY 2017. However, in the interim, the FY 2015 report provides overstay data for 87 percent of all nonimmigrant travelers entering the United States through air or sea ports of entry (i.e., nonimmigrant visitors for business (B-1 visas and Visa Waiver Program travelers) or pleasure (B-2 visas and Visa Waiver Programs travelers).

Question: The above-referenced report also addressed only those arrivals and departures via air or sea. Does CBP have any estimates that include land arrivals and/or departures?

Response: These entry/exit collection and verification initiatives for land are still in various stages of testing and implementation. DHS will share progress and data on these efforts as it becomes available.

Question#:	1
Topic:	Entry/Exit Overstay Report, FY 2015
Hearing:	Why is the Biometric Tracking System Still Not in Place?
Primary:	The Honorable Jeff Sessions
Committee:	JUDICIARY (SENATE)

For the Northern Border, as part of the Beyond the Border Action Plan, the United States and Canada are implementing a biographic data exchange for land crossings on our shared border. Today, traveler records for all lawful permanent residents and non-citizens of the United States and Canada who enter through land ports on the Northern border are exchanged in such a manner that land entries into one country serve as exit records from the other. The current match rate of exit records received from Canada against existing U.S. entry records is over 98 percent.

While the Southwest border does not provide the same capabilities and infrastructure as the Northern border, DHS obtains exit data along the Southwest border through "pulse and surge" operations, which provide some outbound departure information on travelers departing the United States and entering Mexico. The Department is pursuing every opportunity to leverage its biographic and biometric and exit processing investments and its partnership with Mexico to develop the best methods of obtaining data from travelers departing the United States through the Southwest land border.

Question#:	2
Topic:	Consolidated Appropriations Act for 2016
Hearing:	Why is the Biometric Tracking System Still Not in Place?
Primary:	The Honorable Jeff Sessions
Committee:	JUDICIARY (SENATE)

Question: The Consolidated Appropriations Act for 2016 contains language requiring the Department of Homeland Security to submit a "comprehensive plan for implementation of the biometric entry and exit data system . . . and a report on visa overstay data by country[.]"

When will CBP issue a comprehensive plan for implementation of the biometric entry and exit system?

Response: We are working diligently to finalize an entry/exit plan and will continue to update the Committee on its progress.

Question: When will CBP issue a report on visa overstay data that complies with the requirements of section 1376 of Title 8, United States Code, and thus, the mandate of the Act?

Response: The Fiscal Year (FY) 2015 Entry/Exit Overstay Report represents 87 percent of all nonimmigrant travelers entering the United States through air or sea ports of entry. The Department of Homeland Security (DHS) is in the process of making the necessary information technology system upgrades to accurately identify the additional classes of admission overstay populations for future reports. Once these upgrades are complete, CBP will include additional visa classifications moving forward.

Question: At the hearing, you indicated that CBP had no goal date for implementation of the biometric exit system. Does CBP have any benchmark dates for implementation of any aspect of the system?

Response: DHS plans to begin implementing biometric exit processing at the ten largest airports by passenger volume ("top 10 gateway airports") in the next few years.

Question#:	3
Topic:	legislation
Hearing:	Why is the Biometric Tracking System Still Not in Place?
Primary:	The Honorable Richard Blumenthal
Committee:	JUDICIARY (SENATE)

Question: I want to make sure that Congress does not take actions that further delay your efforts to complete a biometric exit capability. As a former chairman of the Judiciary subcommittee with jurisdiction over rulemaking, I am attentive to the ways that measures designed to change the agency rulemaking process can delay or derail agency initiatives like the effort to implement a biometric exit system.

Two pieces of legislation recently reported by the Senate Committee on Homeland Security and Governmental Affairs-S. 1818 and S. 1820-appear to have implications for DHS's ability to complete a biometric exit capability. Additionally, the Regulatory Accountability Act-which has been passed in the House-includes a variety of provisions that could impact DHS.

Would S. 1818, S. 1820, or the Regulatory Accountability Act have any impact on your ability to complete a biometric exit capacity in a timely fashion?

Response: CBP is committed to ensuring that regulations are tailored to advance statutory goals in a manner that is efficient and cost-effective, and that minimizes uncertainty. When CBP promulgates a regulation, the agency adheres to requirements of Federal law, including the Administrative Procedure Act, the Regulatory Flexibility Act, the Unfunded Mandates Reform Act, the Paperwork Reduction Act, the Congressional Review Act, and Executive Order 12866. These laws require CBP to promulgate regulations upon a reasoned determination that the benefits justify the costs, to consider regulatory alternatives, to promote regulatory flexibility, and to reach out to the parties affected by proposed rules.