Testimony of

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TESTIMONY OF
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SUBCOMMITTEE ON TERRORISM, TECHNOLOGY, AND HOMELAND SECURITY
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US-VISIT: CHALLENGES AND STRATEGIES FOR SECURING THE U.S. BORDER
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Chairman Feinstein, Ranking Member Kyl, and other distinguished Members, it is a pleasure to appear before you today to discuss the efforts of the U.S. Department of Homeland Security (DHS) to record the exit of non-citizens as they leave our Nation.

Introduction

DHS plans to modernize and improve our immigration and border management system through integration, collaboration, and cooperation among all parts of the immigration and border management community. As a component of that overall vision, the Secretary of Homeland Security, Congress, and the 9/11 Commission have all identified exit control as a priority in order to secure our Nation's borders. In this testimony we will provide an overview of how we may implement biometric exit strategies in a phased-in approach at our air, sea, and land ports. The data obtained will allow DHS and the Department of State (DOS), as well as the U.S. intelligence community, to determine if a foreign traveler has left the country-and if so, when.

Presently, DHS captures biometric information on entry through the United States Visitor and Immigrant Status Indicator Technology (US-VISIT) Program. US-VISIT also verifies the biometrics of travelers with visas, who are fingerprinted abroad by the Department of State as part of the biovisa program. The use of biometric identifiers-specifically digital fingerprints and photographs-has made travel safer and more secure by allowing DHS and DOS to identify persons attempting to enter the United States using fraudulent identities and screen individuals to determine whether they constitute a risk to national security. These biometrics are used to fix the identity of an individual during his or her first encounter with the U.S. Government, to verify the identity of the individual upon subsequent encounters, and to run appropriate watch list checks

on the individual if he or she is seeking immigration benefits or admission to the United States. Since January 2004, Customs and Border Protection (CBP) has processed through US-VISIT more than 76 million international travelers applying for admission at U.S. ports of entry. During the same period, about 1,800 criminals and immigration violators attempting to enter the country through the use of false information or fraudulent documents have been intercepted based solely on biometric information.

Deployment of a comprehensive biometric exit solution will provide very real benefits to our Nation's security. The challenge, however, for national security in an age of terrorism is first of all to prevent the very few people who may pose unacceptable risks from entering or remaining in the United States undetected. Therefore, our first priority is to fully implement 10-print biometric entry control at our borders and, in cooperation with DOS, at visa-issuing posts around the world. Secretary Chertoff has made it clear many times that keeping terrorists out is the priority as we make decisions for the prudent, risk-based investment of our border control dollars. There are considerable law enforcement and intelligence benefits from being able to accurately document the entry and exit of foreign nationals and to conduct trend analysis on arrivals and departures. In addition, accurately identifying individuals who stay in the United States beyond their authorized period of admission ("overstays") will allow DHS to focus resources to address known (or confirmed) overstays and permit DHS and DOS to place greater emphasis on properly adjudicating travel and immigration benefits.

US- VISIT tracks and records changes in immigration status and matches entry and exit records to determine those who have overstayed their authorized period of admission. Individuals who have overstayed the terms of their admission, or who are wanted or otherwise encountered by law enforcement, may be apprehended. Immigration and Customs Enforcement (ICE) has made 290 arrests between September 2004 and December 2006 based on US-VISIT overstay information. In addition, IDENT, the Automated Biometric Identification System, conducts "recurrent checks" against all enrolled fingerprints-in other words, as we receive new derogatory information (e.g., where a person for whom no derogatory information existed at the time he or she entered the United States later becomes the subject of a criminal arrest warrant), those prints are checked against the entire population of fingerprints on file. ICE has made 29 arrests between September 2004 and December 2006 based on US-VISIT biometric matches.

Under the initial phases of the implementation of our biometric exit program, data will be used for the following purposes, much as it is today in existing exit pilots at 12 airports and two seaports:

? Overstay information will be analyzed by US-VISIT and forwarded to ICE for further follow-up and interior enforcement;

? Exit information will be used on an individual basis during subsequent applications for admission to the United States, visa renewal, or other immigration benefits; and

? Exit information will be analyzed in the aggregate to identify weak areas in our immigration and border management system where overstay is prevalent. This will require the development of new analytic capabilities within DHS and DOS.

Any exit solution is key to assisting DHS and DOS in "closing the door" on those individuals that seek to exploit our immigration and border management enterprise. Comprehensive trend analysis will allow DHS and DOS to identify specific visa-issuing posts, visa categories, Visa Waiver Program (VWP) countries, or other criteria that may be common to an unacceptably high overstay rate. Subsequent visa applicants and travelers from those same posts, categories, and countries will then receive increased scrutiny.

The biggest hurdle to overcome for the deployment of biometric exit is that our air, sea, and land ports were not designed for exit control. Unlike entry, there are currently no fixed inspection booths or other facilities to process international travelers as they leave the United States. There are difficulties in creating the infrastructure, architecture, and operational processes for exit screening. This presents not only a space and equipment issue, but also an impact on the business process of departing travelers. Nonetheless, DHS is committed to establishing a comprehensive biometric-based entry and exit border system.

To achieve the benefits noted and to better secure our border, DHS proposes an incremental deployment into the three port of entry environments-air, sea, and land-with an initial focus on air (Air Exit Solution) and the corresponding development of data analysis needed to produce highly reliable, actionable information.

Exit in the Air Environment (Air Exit Solution)

Given the current layout of airports, there are three possible locations where DHS could biometrically record the exit of a departing non-citizen traveler: the airline check-in counter, the Transportation Security Administration (TSA) inspection station, and the airline boarding gate. Each have its unique set of benefits and challenges, but all have a key component-integration into the current international travel process to minimize the impact on the legitimate traveler. DHS is currently discussing with the U.S. air carriers the Department's options for deployment of a biometric exit solution in the air environment.

No matter where DHS deploys biometric exit, these deployments will be designed to minimize any increased wait times or delays to travelers, meeting directives to build an exit solution that does not impede legitimate travel and trade, while at the same time substantially adding to our efforts to secure the borders.

US-VISIT has run biometric exit pilots at 14 air and sea locations, some as early as the start of the program in January 2004. These pilots involved the use of automated kiosks, and sometimes mobile devices, in the port terminals. While the pilots demonstrated that the technology works, they also revealed low compliance on the part of the travelers. US-VISIT's evaluation of biometric exit identified that, in order to achieve 100 percent compliance, the exit solution should be integrated into one of the essential processes for a traveler, such as check-in, security screening, or boarding.

A critical focus of counter-terrorism efforts is recording the arrival of travelers from Countries of Interest (COIs), which is conducted by the National Counter-Terrorism Center (NCTC), DHS, the Department of Justice (DOJ)/FBI, and DOS. Over 91% of all COI travelers arrive in the United States via air. Knowing which travelers from COIs complied with the terms of their

admission, including whether they have overstayed their authorized period of admission, is essential to assessing risk and to enhancing the integrity of our immigration and border management system.

Current biographic data inconsistencies and omissions, including unvalidated outbound electronic manifest reporting from air carriers, have somewhat limited our current entry-exit record matching capabilities. Previous experience at DHS has shown that over 70% of the overstay records checked were erroneous. Implementation of the Air Exit Solution will increase the integrity and operational utility of data by increasing the capture ofbiometric exits for COI travelers and by providing an appropriate technical environment in which the data can be analyzed.

Additionally, deployment ofthe Air Exit Solution will cover the vast majority of Visa Waiver Program (VWP) travelers. These are travelers from mostly western European countries that enter the United States for business or pleasure without a visa for a period of 90 days (or less).

Deployment in the air environment will be integrated with other government systems, as well as with the airline systems and operational processes if necessary. As a result, the impact upon the traveler to provide a biometric exit record will be minimized.

Exit in the Sea Environment

The long-term exit solution will be deployed to seaports to provide an integrated biometric exit capture for cruise line passengers. Biometrics will be captured and processed in a manner mimicking the protocol developed for air exit and allowing for optimal efficiency in traveler processing. However, the scope for biometric exit at sea will be considerably smaller than for air. US-VISIT entry biometric collection is currently in operation at 17 seaports. The biometric exit solution will be deployed to all seaport locations where cruise ships depart. Seaport deployment will occur after the air environment, so lessons learned can be applied.

Exit in the Land Environment

Implementing biometric confirmation of the departure of travelers via land ports of entry is significantly more complicated and costly than for the air or sea environments. Consider, for example, the port at San Ysidro, CA. This port is the largest entry/exit port for travelers coming to or leaving the United States. It has 25 entry lanes for vehicular traffic and approximately four for exit. Enabling biometric, much less biographic, collection of data upon exit would require a costly expansion of exit capacity, including physical infrastructure, land acquisition and staffing. Other ports, such as Detroit, MI, present no feasible land for acquisition to enable biometric collection of data upon exit, at least with currently available technology.

While DHS tests and installs first air and then sea biometric exit solutions, we will also continuously evaluate technologies that are expected to evolve, like biotoken-enabled documents, that would allow for biometric exit data to be collected "at speed" for traffic so that costly facilities-based solutions would not be needed.

One possible solution for exit data collection capability along the land borders could involve the cooperation of Canada and Mexico, given that our exit is entry into Canada and Mexico. Such a solution could include data-sharing between our systems and would require agreements between our countries. Because of the immense scope and complexity of the land border, biometric exit information cannot be practically based on biometric validation in the short term. Instead, DHS will initially seek to match records using biographic information in instances where no current collection exists today.

DHS has not yet determined a time frame or cost estimates for initiation of land exit.

Radio Frequency Identification (RFID) Technology

Our vision for exit at the land ports will build upon the RFID work being done with WHTI.

RFID technology is already being used successfully to facilitate both travel and trade at certain ports of entry on the Canadian and Mexican borders. DHS has programs currently operating on the border which use RFID technology: NEXUS, SENTRI, and FAST. These trusted traveler programs have more than a quarter of a million participants.

These programs have made major advancements in recent years. When DHS first started to work with RFID cards, the antennas were large, the cards could only be read a few inches from the antennae, and the read rates were poor. By the time DHS launched NEXUS, the antennas had become the size of small books, and the read ranges had expanded to 10 feet from inside a car traveling at 35 miles an hour, with read rates in excess of 90%.

As part of the WHTI effort, DOS has proposed the issuance of Passport Cards to US citizens as an alternative to the standard passport book. A Notice of Proposed Rulemaking dealing with the Passport Card has just closed, and DOS and DHS are currently considering the more than 4,000 comments received. While discussion of RFID and the Passport Card (even though only available to US citizens) is important to understanding how DHS could implement a viable solution for both entry and exit at the land borders of certain foreign nationals, it is important to keep in mind that the final specifications of the Passport Card have not been set.

It has been proposed that this card be RFID-enabled, which would support both security and facilitation at the border. One of the technologies proposed for the Passport Card is a more advanced version of RFID technology that is currently being used successfully by other DHS programs (e.g., NEXUS) to facilitate both travel and trade at select ports of entry on the Canadian and Mexican borders. As this technology is further analyzed, we will make any necessary improvements in the technology or operational protocols to address any security gaps that may arise.

The proposed RFID technology would allow us to accomplish three necessary objectives as travelers (with RFID enabled documents) enter or re-enter the United States: pre-position information on a border officer's screen so that we know who is attempting to enter the country; electronically record that person's entry; and automatically trigger a check of watch lists in order to determine if that traveler is a known risk. Because RFID technology would allow us to

remotely read travel documents prior to the traveler's arrival at the inspection booth, officer safety would be improved and wait times would not be increased for the traveler.

Additionally, the proposed RFID tags would protect a traveler's privacy by transmitting only a number that links to a record in a secure government database. The proposed RFID tag would not hold any information other than a unique, randomly generated number. Card holders would also be issued a protective sleeve for the card, preventing transmission of the RFID signal while the card is in the sleeve.

US-VISIT has conducted several evaluations of the RFID technology Proof of Concept at five ports of entry. The initial performance evaluation of entry and exit conducted in September 2005 identified a number of operational and technical issues and found that read rates were much lower than anticipated. Analysis revealed that the low read rates were due to human and environmental factors (such as car speed and card placement), as well as technological deficiencies. Corrective measures introduced resulted in a significant increase in read rates for entry, though they did not reach levels that previous trial testing suggested. Subsequent to the proof of concept test, a "second generation" RFID technology is available that has not yet been evaluated.

Privacy Implications

DHS takes the issue of protecting the privacy of information collected from foreign national visitors seriously. For example, the US-VISIT biometric collection and screening program extends important privacy principles to information collected from foreign national visitors, even though DHS is only obligated to apply the Privacy Act to U.S. citizens and legal permanent residents.

As with any U.S. government program that involves the collection, storage, analysis, and use of personal information, there are significant privacy considerations in partnering with the air, and eventually sea, carrier industries. To ensure maximum integrity and application of fair information practices during the Department's approach to the collection of biometric information, DHS will work closely with the travel industry to protect travelers' privacy.

The public must be clearly informed of any use of biometric collections for purposes other than confirmation of departure from the United States, such as aviation threat mitigation, law enforcement, or immigration enforcement. Extensive outreach efforts will be needed.

Accessibility Implications

DHS is committed to ensuring that all of the electronic and information technology are developed, designed and implemented in accordance with accessibility laws. DHS has determined that accessibility features can be built into any biometric system and still fulfill national security needs with the exception of the use of biometrics. As such, DHS recognizes that some individuals may lack certain biometric features such as eyes or fingers. To ensure that individuals who lack these selected biometric features, DHS will be required to ensure that an alternative is available to address this situation.

DHS will need to create and implement a uniform policy for all air and sea companies, as well as Federal authorities, to ensure that the necessary information is collected, that would meet the national security needs as well as accommodate all end users, specifically those with disabilities.

US-VISIT Program

DHS will rely on the proven track record of the US-VISIT Program, and its history of working with multiple federal agencies and private sector stakeholders to implement its programs on time and within budget, to implement the envisioned exit solution.

DHS created the US-VISIT Program in July 2003 to meet statutory requirements and, more broadly, to achieve the following program goals:

? To enhance the security of our citizens and visitors;

? To facilitate legitimate travel and trade;

? To ensure the integrity of our immigration system; and

? To protect the privacy of our visitors

US-VISIT has met every legislative mandate to date, on time and within budget. The addition of biometrics, coupled with the integration of databases, has contributed to improved decision making and information sharing across the immigration and border management community. In each of the incremental improvements that have been successfully deployed to date, all of the four goals listed above have been met.

DHS met its first statutory requirement by integrating existing arrival and departure biographic information on December 31, 2003. Subsequently, DHS:

? deployed US-VISIT biometric entry procedures at airports and seaports on January 5, 2004, for those individuals applying for admission with nonimmigrant visas;

? expanded biometric entry procedures to include those individuals applying for admission under the Visa Waiver Program on September 30, 2004;

? supported the deployment of the DOS Bio Visa Program, completed in October 2004;

? deployed biometric entry to the 50 busiest land ports before the legislative deadline of December 31, 2004;

? deployed biometric entry capabilities to the remaining 104 land border ports of entry before the Congressionally mandated deadline of December 31, 2005;

? deployed technology for biometrically enabled e-Passports to 33 airports that cover 97 percent of all travel from Visa Waiver Program (VWP) countries as of November 2006;

? tested RFID at five test sites along the northern and southern land borders to capture entry/exit information, trigger updated watchlist checks, and provide the results of this information to the CBP officer at entry; and

? has collected biometrics on exit at 14 pilot locations for travelers departing the United States.

One of the major initiatives that US-VISIT is presently implementing is the development of interoperability between the DHS biometric database-IDENT-and the FBI's fingerprint database, the Integrated Automated Fingerprint Identification System (IAFIS). This exchange of information allows DOS consular officers and DHS border and immigration officers to have access to an additional number of FBI wants and warrants when making visa-issuing and admissibility decisions, and when taking law enforcement actions. Likewise, the FBI and State and local law enforcement officials have the ability to query Category One visa refusals (e.g., generally one involving a permanent ground of inadmissibility) and all expedited removals. DHS and DOJ are working to increase the amount of data they exchange, thus improving the accuracy and usefulness of information available to border security officials and to state and local law enforcement. One of the benefits of US-VISIT's transition to ten-print enrollment is that it facilitates more efficient IAFIS and IDENT interoperability through the use of a common biometric template.

Conclusion

A comprehensive long-term traveler exit strategy for the United States is an exceedingly complex and costly challenge and is subject to constant change due to factors such as fluctuating terrorist threat levels, evolving supporting policies, and developing technologies. DHS must meet this challenge by using new technologies and modernized facilities, establishing new levels of inter- and intra-governmental cooperation and by identifying and committing significant investment.

Thank you for this opportunity to testify and we look forward to answering any questions you may have.