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"Visa Overstays: A Gap in the Nation's Border Security"

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Chairwoman McSally, Ranking Member Vela, and Members of the Subcommittee, thank you for inviting me here today to discuss the Department of Homeland Security (DHS) Office of Inspector General's (OIG) work relating to visa overstays, including our recent audit report, *DHS Tracking of Visa Overstays Is Hindered by Insufficient Technology*.[1]

The results of our audit revealed that DHS' information technology (IT) systems do not effectively support U.S. Immigration and Customs Enforcement (ICE) visa tracking operations for the following reasons:

- Identifying and investigating potential visa overstays requires pulling data from dozens of systems and databases, some of which are not integrated and do not electronically share information;

- Access to real-time data is mired by system access restrictions, the need to retain up to 40 passwords, and systems that are not updated;

- ICE personnel do not have the training and guidance they need to effectively identify and utilize the myriad systems currently available for visa overstay tracking; and

- In the absence of a comprehensive biometric exit system at U.S. ports, DHS relies on third-party departure data, which is not always accurate and fails to capture land departure data, which accounts for the vast majority of visitors exiting the United States.

These deficiencies have significant real-world impact, including:

- A backlog of more than 1.2 million visa overstay cases;

- Considerable resources wasted investigating thousands of leads that should have been ruled out as visa overstays (*e.g.*, individuals who already left the country or applied for / received immigration benefits);

- Arrests of less than 0.4% of the individuals who potentially overstayed their visas; and

- Congress receiving DHS visa overstay reports that underestimate and distort the true scope of the visa overstay problem.

Until the Department properly equips its personnel with the tools and training required for the vital work of tracking visitors who overstay their visas, timely identification, investigation, and adjudication of visa overstays will not be possible, increasing the risk to public safety and national security.

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[1] *DHS Tracking of Visa Overstays Is Hindered by Insufficient Technology*, OIG-17-56 (May 2017).

Background

When a nonimmigrant visitor is admitted to the country but exceeds the authorized period of admission, the visitor becomes an "overstay." According to DHS reports, only a small percentage (1.17%) of visa holders overstayed their admission periods in 2015; however, their impact on national security can be great. For example, 2 of the 19 hijackers on September 11, 2001 were visa overstays. This prompted the 9/11 Commission to call for the government to ensure that all visitors to the United States are tracked on entry and exit.

DHS has primary responsibility for identifying visa overstays and taking enforcement action to address security risks. Within DHS, multiple components play a role in tracking, investigating, apprehending, and deporting overstays. For example, U.S. Customs and Border Protection (CBP) collects biographic and biometric information to document arrival and departure information on individuals arriving in the United States at U.S. ports of entry. CBP officers also determine nonimmigrant admissibility into the United States and provide an "admit until date," by which time the individual must leave the country. U.S. Citizenship and Immigration Services (USCIS) processes and maintains documentation pertaining to a visa holder's immigration status. And ICE leads immigration enforcement operations and is responsible for in-country nonimmigrant visa overstay tracking and enforcement. Information sharing and collaboration among these components is critical for timely and accurate identification, tracking, and adjudication of potential visa overstays.

The Department has an electronic automated vetting process for identifying nonimmigrant visa holders who may have remained in the country beyond their period of admission. A suspected overstay is automatically flagged in DHS' systems when there is no record of nonimmigrant departure or change in visitor status. In fiscal year (FY) 2015, through this process, DHS identified more than 970,000 possible overstays and sent them to the ICE Counterterrorism and Criminal Exploitation (CCE) Unit for further investigation. We conducted our audit to determine the effectiveness of ICE's information technology (IT) systems to review, track, and share information associated with visas.

Fragmented IT Systems Hinder Efficient and Effective Overstay Tracking

The myriad of information systems and databases used in DHS for visa tracking are not effective in identifying nonimmigrant overstays. Some of these systems and databases are "stove-piped" and do not electronically share information, resulting in numerous inefficiencies. For example, CCE Unit

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analysts use up to 27 distinct DHS information systems and databases to gather data on potential overstays, including:

- CBP's Arrival and Departure Information System (ADIS) for biographic information on travelers entering and departing ports of entry;

- ICE's Investigative Case Management System/TECS Modernization for law enforcement information and case management capabilities;

- USCIS' Central Index System for data on individuals applying for immigrant and nonimmigrant benefits and status, including violators of immigration law; and

- National Protection and Programs Directorate's Automated Biometric Identification System (IDENT) to correlate biometric data with associated biographic data.

Despite some recent system integration efforts, ICE personnel has to conduct cumbersome and manual searches across these myriad systems to gather data for each individual, such as country of origin, immigration status, and criminal history. For example, CCE Unit analysts at ICE headquarters rely on approximately 17 systems, including 13 DHS and 4 external systems and databases, to compile a case file for each lead for investigation. Further, ICE personnel in the field used as many as 18 distinct DHS systems and databases, as well as approximately 5 external systems, to conduct investigations to accurately determine an individual's overstay status. Because these systems were each designed and built for a distinct purpose, these systems contain only the fields of information relevant for performing the functions necessary to support that purpose, leaving ICE agents and analysts to "connect the dots" when conducting investigative queries.

The lack of integration poses confusion for the system users. For example, ICE personnel in the field are not always sure which systems to use to perform their specific job functions. Personnel we met at multiple locations expressed concerns that they are unaware of all systems available to them across DHS components and agencies, potentially limiting their effectiveness in carrying out their visa tracking responsibilities. Additionally, ICE personnel has to retain and use anywhere from 10 to 40 passwords, which is cumbersome as users may log into dozens of systems each week, all with separate passwords. The vast number of passwords and different protocols are difficult to remember and increases the potential for denial of access and system lock-outs.

Further, ICE agents and officers face challenges using these systems to obtain real-time access to information about the immigration status of potential overstays, which is critical to properly validate whether or not a subject is in

the United States legally at the time of investigation. ICE needs to know when a foreign national under investigation files a petition or application to change his or her nonimmigrant status (*i.e.*, extend the time allowed in the country). However, obtaining timely immigration status information has proven difficult due to the unstructured manner in which data is stored. Specifically, USCIS employs nearly a dozen unintegrated systems that were individually designed to process a particular application rather than to support all transactions associated with a single applicant. Consequently, ICE personnel have to conduct searches in multiple USCIS systems to compile the complete history of an individual and determine his or her current immigration status. This can take several hours, or several days, depending on the case.

Obtaining accurate information on immigration status is even more problematic when ICE personnel cannot gain access to some USCIS systems. When an ICE user cannot access a particular system, or in the event that immigration files have not been scanned or digitized, the user has to obtain the required information from USCIS personnel in hard copy. ICE agents and officers complain that the wait time to obtain needed files can sometimes stretch to weeks or more, which delays each case from moving forward and potentially results in investigations of overstay subjects who USCIS has already approved for changes of status.

In 2006, USCIS created a consolidated search capability, the Person Centric Query Service, to provide a single search capability for immigration and naturalization applications and transactions. Although several ICE agents and officers found the service beneficial and comprehensive, personnel at four field locations were unaware of it or lacked access to the system. Other ICE users questioned the reliability or completeness of the data returned when using this query service. As a result, ICE users felt compelled to separately confirm the data in legacy systems and/or query for more in-depth information.

Unintegrated Systems Used for Visa Overstay Tracking Persist in the Decentralized IT Environment

The stove-piped systems used for visa tracking were inherited from the former Immigration and Naturalization Service (INS). With the creation of DHS in 2003, INS was split into three separate components: CBP, ICE, and USCIS. Each component carried forward the legacy INS systems it needed to accomplish its respective mission responsibilities. Over time, distinct IT infrastructures evolved within each of the components, resulting in dozens of parallel and highly specialized visa-related IT systems.

In 2012, CBP began an effort to consolidate 34 disparate data sources into a single system, Unified Passenger (UPAX). This effort was meant to upgrade a CBP system currently used by ICE for overstay vetting, and further integrate

the numerous systems owned by CBP, USCIS, ICE, and the Department of State. However, at the time of our audit, CBP had not identified all potential system users DHS-wide based on mission need. Consequently, the system was not accessible to ICE field users to support their overstay investigations.

Despite efforts to improve visa system integration and information sharing, the DHS Chief Information Officer (CIO) has not provided the necessary oversight and management needed to overcome the fragmentation of its assets, as we have repeatedly reported.[2] In 2013, the CIO was part of a department-wide task force that examined how the vetting and sharing of information associated with visa overstays could be improved, which reportedly increased data sharing between at least two systems — ADIS and the Student and Exchange Visitor Information System. The CIO had several other methods for improving consolidation of agency IT investments, such as formal department-wide IT system reviews, but these have not yet been fully executed for visa IT systems.

In addition, further guidance and training is needed to support visa tracking in the field. Not all ICE personnel are familiar with the distinct functions and capabilities offered within each system. ICE field personnel expressed concern that they might miss information due to a lack of training on system functionality and features. While ICE field personnel have access to training online or through informal coaching methods, many in the field do not consider this training sufficient. In addition, ICE management has not provided field users with documented procedures on which systems should be used to perform various steps of the investigative process.

Lack of an Exit System Hampers DHS' Ability to Capture Accurate and Complete Departure Data

In addition to the myriad stove-piped systems, DHS lacks a system at U.S. ports of departure to capture data on exiting visitors. ICE field personnel we interviewed commonly cited this as the most significant gap in the Department's ability to accurately track visa overstays. Although Congress has mandated that DHS implement an integrated system that provides foreign national arrival and departure biometrics for immigration control, enforcement, and reporting, CBP lacks the personnel, facilities, and technology needed to account for travelers leaving the country.

For example, airports in the United States have no designated areas or checkpoints to collect biometric data for travelers departing the country. Likewise, biometric land departure information is not captured, as most

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[2] *Improvements Needed to DHS' Information Technology Management Structure*, OIG-04-30 (July 2004); *Progress Made in Strengthening DHS Information Technology Management, But Challenges Remain*, OIG-08-91 (September 2008); *DHS Information Technology Management Has Improved, But Challenges Remain*, OIG-12-82 (May 2012).

travelers cross the borders to Mexico on foot or using their own vehicles and typically are not stopped for inspection. Additionally, biographic information is not regularly captured on the southern border. Nonetheless, CBP is able to reconcile a portion of travelers who arrive through the borders with Mexico and Canada when their reentrance to the United States confirms their previous departure. By agreement, the Canadian Government captures biographic data on individuals crossing the northern border and shares this information with CBP Border Patrol; however, it excludes data on Canadian citizens traveling from the United States.[3]

Congress required DHS to implement a biometric air entry-exit system for tracking foreign nationals by 2009.[4] To that end, DHS established the U.S. Visitor and Immigrant Status Indicator Technology (US-VISIT) program in 2003. This program was created to develop a means for collecting biographic and biometric data on foreign nationals passing through U.S. airports for entry and departure. Despite multiple pilots of this and other programs, however, virtually no progress was made. In 2013, Congress transferred responsibility for the biometric exit system to CBP.[5] Since that time, CBP has initiated several pilots to test different technologies and capabilities, such as facial recognition, iris scans, and mobile fingerprint collection devices. At the time of our audit, a biometric exit system pilot was underway at Atlanta's Hartsfield-Jackson International Airport. CBP plans to begin implementing the biometric exit system in 2018 at a number of airports with the highest volume of travelers.

In the meantime, without a complete exit system that includes the ability to obtain biometrics from visitors departing the country, DHS has had to rely on third-party biographic data, such as commercial carrier passenger manifests, to confirm an individual's exit from the country.[6] Identifying overstays in this manner involves matching third-party exit data against the biographic and biometric data collected by CBP at land, air, and sea ports of entry. For example, CBP uses the IDENT system to capture biometric data (*e.g.*, fingerprints). Further, CBP receives commercial passenger and crew biographical data directly from air and sea carriers through APIS prior to the passenger and crew's arrival in or departure from the United States. APIS then shares the data with ADIS, which works as a central repository and automatically matches arrival and departure records to identify potential overstays. Both ADIS and APIS share information with the Automated Targeting System-Passenger, which vets arrival and departure information and is used by ICE personnel to confirm a passenger's onboard status.

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[3] *United States-Canada Beyond the Border: A Shared Vision for Perimeter Security and Economic Competitiveness*, Action Plan, December 2011.
[4] 8 U.S.C. 1187 (8)(A)(i).
[5] *Consolidated and Further Continuing Appropriations Act, 2013*, Pub. L. No. 113-6 (2013).
[6] Commercial carriers are required by law to submit passenger manifests to CBP, which are then recorded as arrivals or departures from the United States.

The effectiveness of this process depends on the accuracy of the records DHS obtains from third-party commercial carriers, which occasionally provide incorrect departure or arrival status on individuals. Although CBP has reported that ADIS has over a 90 percent match rate for individuals who enter the country by any given means and then depart by air, officials acknowledge data quality issues with specific commercial airline carriers. ICE personnel also complained of multiple instances of false reporting on departures. For example, ADIS sometimes falsely reports that individuals are still in the country after they have already departed, or that individuals have left the country when they are still physically present in the United States. The latter occurs when airlines or other commercial carriers mistakenly report that individuals were on board when they were not.

False departure information has resulted in ICE officers closing visa overstay investigations of dangerous individuals, such as suspected criminals, who were actually still in the United States and could pose a threat to national security. For example, one officer stated that a suspect under investigation was listed as having left the country when, in fact, he had given his ticket to a family member and was still residing in the United States. ICE agents and officers were unable to tell us how often subjects of investigations are incorrectly recorded as having left the country.

Unintegrated Systems and the Lack of an Exit System Resulted in Poor Overstay Reporting and Inefficient Tracking

Given the unintegrated systems and the lack of a biometric departure system, DHS cannot ensure it accurately accounts for the total number of overstays in the country in its annual report to Congress, known as the *Entry/Exit Overstay Report*. DHS completed its first and only overstay report in 2015, listing 527,127 nonimmigrant visitors as overstays, out of approximately 45 million visitors in 2015. However, DHS has acknowledged that this number does not reflect the full extent of visa overstays, as it does not include individuals who traveled to the country on student visas or anyone who crossed the border by land from Canada or Mexico. Because of unreliable departure data collection at these ports of entry, the Department could not account for these potential overstays. Therefore, the report was limited in that it only included individuals traveling to the United States by air or sea on business travel or tourism.

The Department also could not provide assurance that all nonimmigrants who overstayed their period of admission had been caught. DHS' inability to accurately confirm the departures of all nonimmigrants from the United States at the end of their authorized admission periods prohibited ICE agents and officers from fully accomplishing their immigration enforcement and removal

responsibilities. ICE agents and officers arrested only 3,402 — or less than 0.4 percent — of the people who potentially overstayed their visas in 2015.[7]

The inefficient systems and management processes contribute to case backlogs and inefficient use of resources. ICE Homeland Security Investigations (HSI) field personnel stated they routinely spent a significant amount of time — several days in some instances — to manually extract and compile data to support a decision on whether to actively pursue a potential overstay. Working in this manner contributes to the inability of ICE's CCE Unit to address and close a backlog of more than 1.2 million cases that were in continuous monitoring from previous fiscal years as well as FY 2015. HSI agents in the field have also experienced increases in their workloads as the number of overstay leads has increased by 65 percent over the last 3 years. Specifically, the number of leads that the CCE Unit sent to HSI agents in the field increased from 6,033 in FY 2013 to 9,968 in FY 2015.

Further, ICE personnel lost a significant amount of time investigating individuals who should not have been considered overstays. More than 40 percent of the cases sent to HSI agents in the field were closed because the individuals had departed the country or had applied for or received immigration benefits, such as a visa extension. For example, 17 percent (1,649 of 9,968) of the leads sent to HSI field agents for investigation in FY 2015 were closed after agents determined that the subjects had, in fact, already departed the country. Another 25 percent (2,499 of 9,968) were closed upon agents learning that the subjects had applied or been approved for immigration benefits. In one case, an ICE officer estimated that he spent more than 50 hours on a single suspect, only to find that the individual should not have been categorized as an overstay because he had applied for a USCIS benefit.

Conclusion

Timely identification, tracking, and adjudication of potential visa overstays is critical to DHS' public safety and national security mission. The Department must equip its personnel with the tools and training required for the vital work of tracking visitors who overstay their visas. Until DHS takes the steps needed to improve system integration and complete its biometric exit system, efforts to track and enforce the increasing number of visa overstays will be hindered. We made five recommendations to the DHS CIO and ICE CIO to:

- Eliminate duplication and improve information sharing across components, and align system access according to mission requirements;

[7] Of the 971,305 leads sent to ICE's CCE Unit that were not closed through automated vetting or manual closure, 3,402 arrests were made. Of the 3,402 individuals arrested, 777 were cases sent to the field in previous fiscal years.

- Compile an up-to-date inventory of all IT systems across the Department that ICE agents and officers can use for visa tracking, and provide documented guidance on the use of each system;

- Provide necessary training to ICE personnel on IT systems used for visa tracking;

- Assess current plans to expedite the development and implementation of the biometric exit system; and

- Evaluate the extent to which data used to develop overstay estimates is accurate and reliable, and identify how data may be improved.

The DHS CIO and ICE CIO concurred with our recommendations.

DHS OIG will continue to exercise diligent oversight over immigration enforcement, paying particular attention to the Department's progress implementing a biometric exit solution. Consistent with our obligations under the *Inspector General Act of 1978*, we will keep Congress fully and currently informed of our findings and recommendations.

Ms. Chairwoman, this concludes my testimony. I am happy to answer any questions you or other members of the Subcommittee may have.