

## Modernizing America's Welcome Mat

### The Implementation of US-VISIT

By Jessica M. Vaughan

**U**S-VISIT, the new biometrics-based border inspections program, has proven its value in enhancing U.S. security; so far enabling border and consular officials to intercept the entry of thousands of terrorists, criminals, and other ineligible foreign visitors. But the administration's decision to exempt most Mexicans and Canadians from screening, despite well-documented problems in regulating the entry and exit of these visitors, along with foot-dragging in making use of the exit-recording capability, severely undermines the program and risks transforming this potentially critical national security tool into a high-tech Potemkin Village. In addition, this very limited deployment of US-VISIT will make it virtually impossible to undertake a secure large-scale guestworker program, either of the type President Bush has promoted or any of the proposals currently before Congress.

- Most Mexicans and Canadians, by far the two largest groups of visitors, are exempt from enrollment in either the entry or the exit components. Currently, only about 22 percent of all visitors are screened by US-VISIT.
- Fraud and abuse of Border Crossing Cards (BCCs) issued to Mexicans is rampant, but could be curbed if this group of visitors was enrolled in US-VISIT. Imposters now can use the cards with little risk of detection. In addition, a significant number of Mexican residents are using the cards to commute to jobs in the United States, in violation of the law.
- The exemption of Canadian visitors from US-VISIT at land crossings is another major weakness. The US-VISIT controls now in place at airports intercepted eight Canadian terrorism suspects who would not have been caught if they had used a land port of entry.
- Although visa overstays represent perhaps as many as 40 percent of all illegal aliens, DHS apparently is planning to implement only a very limited entry-exit-recording program. So far, DHS is using the exit-recording feature of US-VISIT primarily for workload reduction rather than for proactive immigration law enforcement.
- US-VISIT cannot by itself bring order to our immigration system. If the Department of Homeland Security (DHS) is serious about curbing illegal immigration, the agency will have to move beyond its current enforcement strategy of triage, targeting only the most newsworthy offenders, and embrace a complementary strategy of "broken windows"-style enforcement of all immigration violations that encourages voluntary compliance with the law.



# Center for Immigration Studies

## Introduction

The United States Visitor Immigration Status Indicator Technology (US-VISIT) program is one of the most important and ambitious border security programs ever undertaken. The basic objectives of US-VISIT are to use advanced biometric technology and enhanced look-out lists to improve the screening of foreign visitors, thereby helping deter and detect the entry of terrorists, criminals, immigration violators, and other dangerous or ineligible visitors. US-VISIT performs three functions:

- 1) authenticating the identity of visitors; that is, making sure that the visitor is the same person who was issued the documents presented, thus guarding against document and identity fraud;
- 2) screening visitors against a new array of expanded security and immigration watch lists; and
- 3) recording entries and exits of visitors, enabling authorities to know if a visitor has departed and complied with the terms of admission.

Congress first ordered the former INS to develop a better entry-exit program in 1996, in response to the first World Trade Center bombing and

the realization that visa overstays represent a significant share of the illegal alien population (perhaps as high as 40 percent). The development of a system was delayed for years, partly because the immigration agency saw no easy way to achieve these objectives without unacceptably slowing the flow of visitors and commerce, but also because of heavy lobbying against the project from border communities.

Thus, on 9/11, according to former DHS official Stewart Verdery, "INS continued to rely on a paper system, and employees literally hand-keyed in departure information into a database weeks after the fact. With no exit system, and only a minimal, unreliable entry system, our entry and exit data was spotty at best, and criminals were able to come and go across our border, some of them dozens of times under different aliases, without detection."<sup>1</sup>

After 9/11 and the subsequent exposure of these and other grave weaknesses in the U.S. immigration system, Congress demanded that the newly-formed DHS speed up implementation of the program. Because of the new focus on preventing the entry of terrorists, at this time the screening and authentication functions assumed priority over the exit-recording function. DHS improved on the original concept by introducing biometrics, specifically fingerprints, as a reliable screening tool. Under US-VISIT, consular officers collect applicants' fingerprints at the time of application,

Table 1. Border Crossing Volume Statistics, 2002 (Millions)

Traveler Category	Air	Sea	Land	Total
<b>Visitors</b>				
Mexican BCC			104.1	104.1
Visa Exempt*			52.2	52.2
Regular Visa	19.3	4.5	4.5	28.3
Visa Waiver	13	0.3	1.8	15.1
<b>Sub-Total</b>	<b>32.3</b>	<b>4.8</b>	<b>162.6</b>	<b>199.7</b>
<b>Residents</b>				
US Citizens	33	7.4	120.7	161.1
Legal Permanent Residents	4.4	0.2	75	79.6
<b>Sub-total</b>	<b>37.4</b>	<b>7.6</b>	<b>195.7</b>	<b>240.7</b>
<b>Total</b>	<b>69.7</b>	<b>12.4</b>	<b>358.3</b>	<b>440.4</b>

\*Includes Canadians and certain Western Hemisphere visitors. Shaded area denotes those visitors subject to US-VISIT."

**Source:** Department of Homeland Security, US-VISIT Program Office

# Center for Immigration Studies

inspectors verify them at the point of entry, and the computerized databases have been expanded and linked so that each agency involved in the process has access to more information on applicants than ever before. The planned exit system for air and sea travelers will also collect fingerprints to verify the identity of the traveler.

Despite the deep skepticism and vigorous protests of the travel industry, airport owners, the U.S. Chamber of Commerce, and others who feared that the program would interfere with the efficient admission of visitors and clog ports of entry, DHS moved remarkably rapidly and efficiently to get the first phase of US-VISIT up and running at U.S. airports in January 2004. Observers braced for a burst of US-VISIT horror stories much like the many “wronged visitor” anecdotes that appeared after the implementation of other post-9/11 programs for students and visitors from countries of special interest. To everyone’s amazement, US-VISIT went live without apparent hitch. (It was later reported that DHS had prepared a “wait-time mitigation” strategy, whereby certain groups would be temporarily waived from enrollment, just in case the lines got too long, but the back-up plan was never needed.) Only the Brazilian government was upset by the program, and launched its own low-tech retaliatory version using regular ink stamp pads and singling out Americans for fingerprinting. Many foreign visitors interviewed at U.S. airports expressed understanding and acceptance that US-VISIT is a necessary feature of post-9/11 travel, and said that the program would not keep them from visiting the United States in the future.

US-VISIT is already making a difference. In the first 17 months, it led U.S. consular officers overseas to deny visas to thousands of ineligible applicants who might not have been detected otherwise,<sup>2</sup> and denied entry to about 600 travelers at the ports of entry. DHS press releases related the details of a few particularly chilling cases, including a Swiss pedophile, a St. Lucian rapist, and a Georgian murderer.<sup>3</sup> Some of the individuals previously had entered the United States on multiple occasions using aliases or new documents.

The interceptions were made possible not only through biometric screening, but also as a result of an ongoing effort to expand the security look-out lists and databases through information sharing among U.S. government agencies and international sources such as Interpol. Previously inaccessible information on

applicants is now available to both port of entry inspectors and consular officers overseas through US-VISIT.

The improvements have required a large commitment of funding. So far, the tab for US-VISIT stands at about \$1 billion, with the ultimate cost possibly reaching \$10 billion, depending on the project’s scope.<sup>4</sup>

Despite the huge outlay of funding, US-VISIT screens only a small fraction of the total population of foreign visitors, and none of those who enter claiming to be U.S. citizens or legal permanent residents (See Table 1). Currently, only regular non-immigrant visa holders and visa waiver program visitors are enrolled. The vast majority of visitors from Mexico and Canada, who make up about 78 percent of the entries from land, sea, and air, are exempt from enrollment in US-VISIT and DHS apparently has no plans ever to enroll these visitors. The absence of the two largest groups of visitors from the screening program drastically devalues US-VISIT and preserves some of the major soft spots in the nation’s immigration system that are vulnerable to terrorists, criminals, and other illegal aliens.

For US-VISIT to make us noticeably safer, DHS will have to do four things:

- 1) Enroll all Mexican visitors;
- 2) Enroll all Canadian visitors;
- 3) Implement the exit component for all visitors;
- 4) Link US-VISIT to enforcement and compliance activities.

## US-VISIT at the Land Ports

Following implementation at air and seaports in early 2004, the next big step for US-VISIT was to extend it to the 50 largest land border-crossings by the end of 2004. Far from the apocalypse for border communities that many US-VISIT opponents had originally predicted, the implementation of US-VISIT at the land ports was “practically a non-event,” in the words of the director of one northern border port. DHS staggered the deployment to different ports over several weeks, bringing the last scheduled ports on line a few days before the end of the year, and were it not for the press releases issued by DHS, hardly anyone would have noticed. This uneventful launch was due not to the efficiency of the technology, good traffic management, or good planning, but rather to the very limited scope of its application.

# Center for Immigration Studies

For reasons that have yet to be clearly articulated, DHS decided to designate only a very small subset of foreign visitors – those Canadians who require a visa (mainly students and guestworkers) and those Mexicans entering for long stays or traveling beyond the immediate border area – for enrollment (See Table 2 on page 3). Numbering about three million a year, these individuals represent less than 3 percent of all foreign visitors using these ports.<sup>5</sup> Ironically, those land crossers covered by US-VISIT probably pose the least risk for terrorism or overstay, since they have made an effort to comply with the law by voluntarily announcing their interest in staying for an extended period, thus inviting extra scrutiny.

Limiting enrollment to the smallest categories of travelers is probably not just a temporary situation. Some high-level DHS officials have suggested that the exemption of Mexicans and Canadians may well be the “end vision.” When asked about the policy at a recent gathering, senior Customs and Border Protection (CBP) official Robert Jackstra spoke candidly: “The technology is there – we can do it, but someone needs to make the decision to do it, and I don’t see that

happening. It is too politically sensitive.” Representatives of numerous private companies who have been involved in border security contracting agree that the task of screening and logging 200 million visitors a year is feasible, and at least one company included the capability in its US-VISIT bid for work, but DHS has yet to express a commitment to that objective.

## Mexican Border Crossing Cards

Ample justification exists to include Mexican visitors in US-VISIT. Mexico sends the largest number of visitors to the United States, and Mexicans make up the largest share of illegal aliens overall (70 percent), and probably the largest share of overstays.<sup>6</sup>

Most Mexican visitors enter using a Border Crossing Card (BCC). The BCC is a version of the regular “B” visa, which is issued to short term visitors entering for the purpose of business or pleasure.

BCCs were created to give qualified Mexicans a secure document to use for brief visits (originally three days) to the southern border region of the United States.

**Figure 1. Implementation of US-VISIT**

<b>Original Commitments</b>		Collect biometric data from machine-readable passports (deadline extended to 10/05)		Deliver entry capability to remaining 115 land ports	
<b>Date</b>	12/03	10/04	12/04	12/05	
	Deliver entry and exit capability at air- and seaports		Deliver entry and initial exit capability at the 50 busiest land ports		
<b>Date</b>	1/04			7/05	
	Entry system at air- and seaports		Partial entry system at 50 largest land border crossings	Pilot for RFID exit system at land ports begun	
	Exit system pilot at one airport and one seaport	Additional exit pilots begin at 12 air- and one seaport begin			
<b>Increments Delivered</b>					

Source: Government Accountability Office, GAO-05-202

# Center for Immigration Studies

They were meant to encourage travel for shopping, business, family visits, and tourism. Use of the card for work or study is not permitted – other types of visas are issued for those purposes, with much stricter criteria. Nearly seven million people have been issued the cards. In 1997 Congress required the State Department to develop a biometric border crossing card, mainly to guard against counterfeiting.

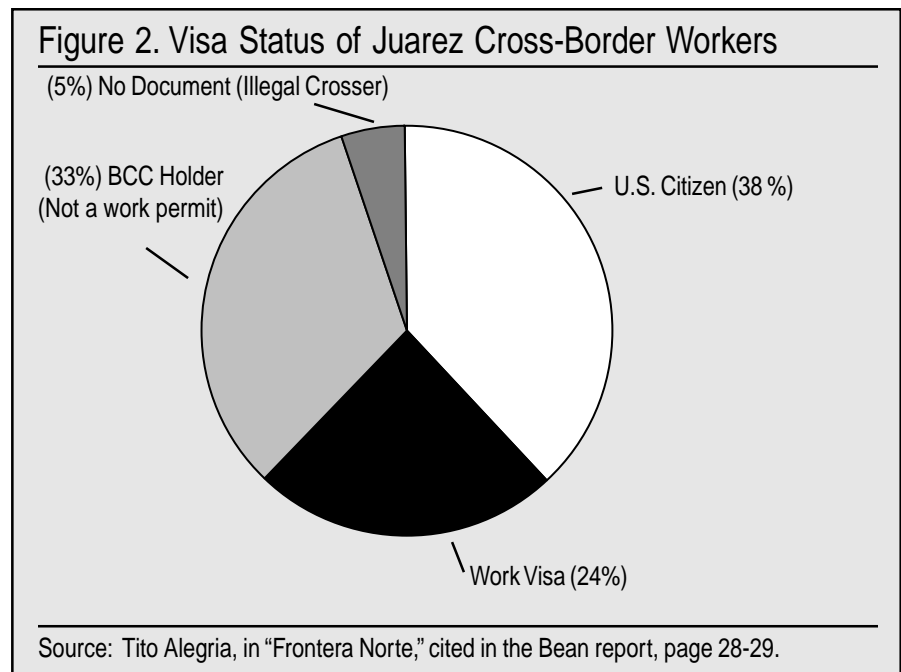
Despite the biometric features of the document, the BCC program is at least as susceptible to abuse, if not more so, than the regular non-immigrant visa program. Currently, this huge temporary entry program is being run on the honor system. The biometric features are rarely used to authenticate identity or to screen the visitor. Inspectors merely eyeball the photo, and do not routinely query the look-out lists. Crossers in automobiles are inspected only on a random basis.<sup>7</sup> The electronic card readers are located in the secondary inspections area, to which only a small share of applicants are referred. Most referrals to secondary are for additional paperwork, not because the primary inspector thinks the visitor needs more scrutiny. Even there, the scanners are not routinely used to verify identity; and are used only as a back-up to manual name checks and questioning.

Not surprisingly, the BCC program is rife with fraud and vulnerable to terrorists and anyone else wishing to enter as an imposter. This lax inspections process also enables card holders to enter legally and then work illegally in the United States.

Considering its size, the BCC program has been the subject of surprisingly little research or analysis to guide its management or policymaking. In 1994, the U.S. Commission on Immigration Reform, also known as the Jordan Commission, sponsored a report that looked at certain aspects relating to illegal Mexican migration. That report provides some clues (hereafter referred to as the Bean report, after the first author listed).<sup>8</sup> While the data in the report are more than 10 years old, it is reasonable to assume that the findings are still valid. If anything, the scale of the problem is probably larger today, because illegal immigration has increased since the Commission finished its work.

The Bean report cited a survey completed by a Mexican research institute involving a sample of households in Ciudad Juarez, a Mexican city adjacent to El Paso, Texas. The survey reported that at that time, nearly half (48 percent) of all Juarez workers had been issued a BCC. The report also projected the number of cross-border commuters in Juarez and estimated that one-third of these commuters (roughly 5,000 people at the time) used the card to cross the border and work illegally in the United States (see Figure 2 below).

In addition to genuine card holders using the cards to work illegally, it is common practice for the genuine cards to be used by imposters. According to INS statistics cited in the Bean report, BCC imposter fraud is one of two main kinds of document fraud detected at the southern ports of entry (see table 2 on page 6).<sup>9</sup> From page 116 of the report: “While almost



# Center for Immigration Studies

no one appears to attempt to cross with an altered or fraudulent BCC, a fair number of people seem to attempt to cross with someone else's card, presumably betting on lax inspection of the photograph it bears on the part of INS personnel at the port of entry."

Awareness of these program weaknesses has not prompted tighter controls; the only changes have loosened regulations. In August 2004, DHS unilaterally changed the program rules for duration of stay, allowing BCC holders to remain in the United States for up to 30 days, instead of 72 hours. This change re-defines the fundamental nature of the card, and makes it far easier for those working, studying, or planning terrorist attacks here in violation of the law to continue to do so without harassment from immigration officials. In addition, as the DHS Inspector General noted in its report, the policy change further reduces the number of visitors who are subject to enrollment in US-VISIT.

## Canadian Visitors

Visa-exempt Canadians account for about 22 percent of land border foreign visitors, and represent the second-largest group of foreign visitors. They currently require neither a visa nor even a passport. Visa-exempt visitors must have a photo identification document, usually a driver's license, and proof of citizenship, usually a birth certificate or passport. U.S. immigration officers have no easy way to verify the authenticity of a

Canadian driver's license or other documents issued by the provincial governments.

The United States does not have a large problem with illegal immigration from Canada, although the current procedures do make that option very accessible. More worrisome is the possibility that the members of the 50 known active terrorist organizations in Canada will try to enter over the land border.

Canada's relaxed immigration policies have long been a concern for security experts. "Canada's the only country that I would say hasn't significantly tightened up," according to Martin Collacott, a former high-ranking Canadian diplomat and national security expert.<sup>10</sup> Canada has a generous legal immigration system and political asylum is available to anyone who asks for it. Some terrorists have already sought to use Canada as a springboard to the United States; Ahmed Ressam, the millennium bomber, attempted to enter using a driver's license issued in Montreal while his asylum claim was pending.

In 2004, airport immigration inspectors using US-VISIT intercepted a total of eight Canadian citizens who were suspected of terrorist activity. The DHS auditors noted that these interceptions would not have been possible if these individuals had tried to enter at the land ports, because Canadian citizens are not subject to routine enrollment in US-VISIT, and thus are able to avoid having their travel documents authenticated and evade watch-list screening.

Table 2. Types of False Documentation Attempted by Mexican Crossers (Juarez, Bridge of the Americas, September 1993 to January 1994)

Fraudulent claim to US citizenship	38 %
Imposter using BCC	30 %
Counterfeit green card	17 %
Green card Imposter	12 %
Altered green card	1 %
Amnesty imposter	1 %
Altered BCC	0 %
I-94 Imposter	0 %
Fraudulent or Altered US Passport	0 %

Source: US INS, El Paso Office.

## Need for Exit Recording

The exit recording component of US-VISIT was originally conceived as a way to monitor visa compliance patterns and reduce overstays and as an investigative tool to enable officials to determine if an individual of interest has departed the country. For now, DHS plans only a limited implementation of the exit program, to cover only regular non-immigrant visa visitors and visa waiver program visitors. Again, most Mexicans and Canadians visitors will be exempt.

Lack of attention to the overstay problem continues to compromise our efforts to prevent terrorist operations and control illegal immigration. At the moment, in a dangerous international environment, we are admitting about 200 million temporary visitors a year, with virtually no way to keep visitors from staying beyond their authorized visit, and no way even to count the number of visitors who overstay. DHS estimates that at least 30 percent of the approximately 10 million illegal immigrants living in the United States are probably visa overstayers. The Government Accountability Office (GAO) says that figure is almost certainly understated, probably significantly so.<sup>11</sup>

Several of the 9/11 terrorists were overstayers, including Mohammed Atta. In late May of 2005, DHS deported Khamal Muhammad, a member of a State-Department-designated terrorist organization known to be associated with al Qaeda, who had overstayed his visa by eight months.

The exit recording portion of US-VISIT originally was scheduled to be implemented at the same time as the regular enrollment process, but so far mandatory exit recording is in place only at a few pilot sites. Officials cite the need to proceed incrementally, and the need to test a variety of options to find solutions appropriate to land, sea, and air ports of entry. In a conversation in October, 2004, US-VISIT director Jim Williams suggested that the sheer number of visitors arriving from Mexico and Canada was holding them back: "We [US-VISIT] simply cannot handle that large a volume at the ports yet."

More recently, DHS has taken the position that it is not required by the statute to collect departure information for every alien, only for those aliens whose entry information is collected. According to DHS, the entry of BCC holders is not documented because they are not enrolled in US-VISIT; therefore, they need not attempt to document their exit. The DHS auditors

---

CBP official Robert Jackstra spoke candidly: "The technology is there – we can do it, but someone needs to make the decision to do it, and I don't see that happening. It is too politically sensitive."

---

who evaluated the implementation of the program at the land ports frowned on this approach, suggesting it was not in the spirit of the program goals.<sup>12</sup>

Experts in the private sector, including representatives of contractors who bid on the project, assert that the volume of land border crossers could easily be handled by systems available today. By way of comparison, the New Jersey EZ-Pass system, which uses radio frequency identification technology similar to what DHS plans for US-VISIT, handles roughly 486 million travelers per year, compared with fewer than 200 million foreign visitors who pass through our air, sea, and land ports.<sup>13</sup>

In general, DHS has displayed a remarkable lack of curiosity about overstayers. Despite direct orders from Congress,<sup>14</sup> it has failed to complete reports on the estimated size or composition of the overstay population. Part of the problem has been the lack of a good system for gathering the information. The agency's Non-Immigrant Information System, which relies on the hit-or-miss collection of paper stubs from departing travelers, has been of limited use. The agency does have access to other data that would provide additional clues on overstays. These include records from the automated departure information system, which collects information from passenger manifests; information provided by immigrants adjusting status or who are subject to enforcement actions; and survey data that could be gathered in conjunction with the Census Bureau. Responsibility for producing these estimates now rests with the US-VISIT Program Office. Obviously, without data on the two largest groups of visitors, these estimates will be incomplete.

Not only do we not know how many overstayers there are, we have little idea where they came from, how long they have been here, or what kind of visa they entered on.

This dearth of information handicaps our visa processing and inspections system. Their effective functioning depends on having some understanding of who the risky applicants are. According to the law,

---

Far from the apocalypse for border communities that many US-VISIT opponents had originally predicted, the implementation of US-VISIT at the land ports was “practically a non-event,” in the words of the director of one northern border port.

---

to qualify for a visa, applicants must have more going for them than mere absence from the security watch list. They must have a legitimate and credible purpose for their visit, and they must show they are likely to return home. The collection of departure information under US-VISIT will help consular officers make better decisions on individual cases and provide a body of data that can be analyzed to set general policies on which kinds of cases may deserve better scrutiny in the consulate. More targeted scrutiny of visa applicants will benefit legitimate travelers, as officials could then focus their attention on the most risky cases.

In addition, US-VISIT could be used to share information with the State Department consulates on visa-holders who are refused entry by DHS inspectors or later found to be violating the terms of their stay. Currently, consular officers do not get this kind of feedback.

In addition to assisting in the adjudication of visas, the exit recording feature of US-VISIT will help end the practice of using counterfeit foreign entry stamps or obtaining new passports to cover up an overstay.

## Interior Enforcement

The exit recording component of US-VISIT will provide only limited benefits without more robust interior enforcement, which is currently the weakest link in our immigration system. The data generated by US-VISIT could provide some guidance to DHS on the problem groups and categories, and also could produce leads on specific individuals. However, for the program to have a meaningful impact on enforcement, it is necessary that it generate actual enforcement activity.

The most practical way for US-VISIT to be used to enhance interior enforcement is to have it augment existing databases used by the immigration

agencies in adjudicating benefits and inspecting travelers. For instance, the US-VISIT confirmed overstay data could be dumped into other appropriate law enforcement and immigration benefits databases, such as NCIC, CLASS, and SEVIS. Sharing this information will help ensure that overstayers are more likely to come to the attention of immigration and other government or law enforcement officials. A recent GAO study noted that the current risk of an overstayer being identified and removed is less than 2 percent.<sup>15</sup>

Faced with an overwhelming workload and a perceptible ambivalence in its leadership about the problem of illegal immigration, DHS has adopted a triage strategy of immigration law enforcement, with the emphasis on locating and removing the most loathsome criminals such as sexual predators and people who have participated in genocide, along with those caught working illegally in sensitive locations like airports and tall buildings. Over the last several years, DHS has actively drawn attention to these enforcement successes in news conferences and congressional testimony. Meanwhile, resources for workplace enforcement and other less sensational types of activities have dried up. For instance, only 124 employers were fined for hiring illegal aliens in 2003, down from 778 in 1997.

In order to bring about a noticeable reduction in the size of the illegal population and deter future illegal immigration, DHS will have to move beyond the triage approach and embrace a parallel “broken windows” strategy – or random audit-style law enforcement of the type practiced by the Internal Revenue Service and state and local police jurisdictions, for example. These agencies face similar workloads and also operate under the assumption that they will not catch every violator. But in addition to devoting a certain amount of resources to catching the worst offenders, they also seek to encourage voluntary compliance with the law by using techniques such as random audits, speed traps, meter maids, and the like.

For the moment, DHS seems content to use the US-VISIT exit-recording feature primarily for workload reduction purposes rather than pro-active interior enforcement. A US-VISIT spokesman recently touted the program’s value in helping reduce the size of the absconder list (a list of some 300-400,000 aliens who have failed to appear for removal after deportation). Thanks to US-VISIT, immigration enforcement agents can now identify those absconders who have already



departed the country, thus saving the agency the trouble of looking for them. That is certainly a useful application of US-VISIT, but can hardly be called a major breakthrough in immigration law enforcement.

## Need for Infrastructure Investment

To avoid disrupting the smooth flow of visitors over the border, further major infrastructure investments at the land ports will be required to manage the new traffic patterns created by additional screening. These would have to happen anyway to accommodate a growing flow of people and goods. Rather than trying to block the expansion of US-VISIT, private businesses and local governments in border communities who benefit from increased cross-border travel must be prepared to contribute to building the infrastructure to make it work well.

Such public-private partnerships have worked well in the past. In Nogales, Ariz., for example, a project to open extra crossing lanes for pre-screened truckers that was originally expected to take three years at a cost of \$10 million was finished in one year at a cost to the government of just \$3 million after private businesses joined the effort.<sup>16</sup>

## Next Steps

The next milestone for US-VISIT will be the implementation of a limited exit program at all points of entry. DHS is currently testing several different systems at airports and began a pilot program involving radio frequency identification chips at land crossings in July 2005. Air and sea travelers using visas who exit through the pilot sites are required to check out. At the land ports, visitors with visas (not BCCs) arriving by car will be checked in and out, but not screened against look-out lists. Only visa-holding pedestrian crossers will be screened and checked in and out. The pilot programs will run through March of 2006.

## Conclusion

By improving the screening of foreign visitors and keeping track of entries and exits, US-VISIT contributes greatly to the effective and efficient functioning of the immigration system at the air and sea ports of entry, thus helping prevent the entry of terrorists, criminals, and illegal aliens. However, the very limited deployment of US-VISIT at the land borders leaves these ports of

---

Not surprisingly, the BCC program is rife with fraud and vulnerable to terrorists and anyone else wishing to enter as an imposter. This lax inspections process also enables card holders to enter legally and then work illegally in the United States.

---

entry still vulnerable. With only a tiny percentage of land-crossers subject to having their identity authenticated and screened against the watch lists, it remains easy for dangerous individuals, imposters and illegal workers to use the land ports to come and go from the United States as they please.

While this arrangement ensures that the flow of visitors and commerce over the land ports will not be disrupted for the sake of security, it also makes it impossible to undertake a secure new large-scale guestworker program, either of the kind President Bush has promoted, or any of the various proposals recently introduced in Congress, such as the McCain-Kennedy or the Kyl-Cornyn bills. The rationale of these proposals is both to legalize a large portion of the current illegal alien population, thus enhancing security by bringing them “out of the shadows” so their identity is known, and to greatly increase visa issuances so that prospective foreign workers will not choose the riskier routes of smuggling or dangerous illegal overland crossings.

The current version of US-VISIT (and indications are that the current version is the administration’s preferred final version) is incapable of assuring the integrity of the visitors and their documents in such a program. As noted above, since very few visitors using the land borders (which is likely to be the entry point for most people using a new guestworker program) are now checked, and those who are checked are routed to secondary inspections areas, there is no procedure or infrastructure in place, or planned, to enable immigration inspectors to authenticate the identity of large volumes of new land border crossers. Nor is it currently realistic with the existing infrastructure and staffing to run security checks for hundreds of thousands or possibly millions (depending on the program enacted) of new guestworkers, whether at the border, in the consulates, or in DHS district offices or service centers. Immigration officials have said privately that the background checks alone (outside of other processing procedures) for applicants to such a

## Center for Immigration Studies

---

The exit recording component of US-VISIT will provide only limited benefits without more robust interior enforcement, which is currently the weakest link in our immigration system.

---

guestworker program would take several years to finish.

And, of course, without an entry-exit-recording system that includes all nationalities and all ports of entry, there will be no way for authorities to know if guestworkers comply with the terms of the law and depart on schedule at the conclusion of the program, which, at least in some versions, is supposed to be temporary.

Experts agree that most of the target beneficiaries of the proposals under consideration would be from Mexico. Yet none of the proposals target the logistics of screening them. The proposal authors must be assuming either that the guestworkers will be exempt from screening like most other Mexicans (though that

contradicts claims that the program will enhance security) or that the southern land border inspections capacity will be increased, which will not happen anytime soon.

Putting aside all of the other compelling arguments against a massive new guestworker program, it would be downright foolhardy to launch such a plan without the complete and universal deployment of US-VISIT. Because such large number of visitors (most Mexicans and Canadians) are not subject to US-VISIT, our ports of entry remain susceptible to terrorists, criminals, and other illegal aliens. Besides, as long as the BCC program operates as a de facto work pass and inspections remain spotty, there will be little incentive for Mexicans to sign up for a new formal regulated guestworker program.”

Discussion of any new visa program of this scale should be postponed until such time as our new welcome mat is fully functioning, with all three components – authentication, screening and exit-recording – applied to all foreign visitors.

## End Notes

<sup>1</sup> Testimony of C. Stewart Verdery, Jr., former DHS official, before the U.S. House of Representatives Committee on Homeland Security, June 22, 2005.

<sup>2</sup> The exact number of consular refusals (applicants who apply for an NIV at an embassy and are rejected, as opposed to those who apply for entry at the port of entry and are refused by a DHS inspector) that are attributable to US-VISIT is unclear. DHS claims that so far more than 7,000 consular denials are due to US-VISIT. Janice Jacobs, the State Department official in charge of visa operations, maintains that most of these cases in fact had already been refused by a consular officer before the “hit” from US-VISIT was returned to post, meaning that a much smaller number resulted from the additional screening.

<sup>3</sup> See “US-VISIT Stops Murderers, Pedophiles, and Immigration Violators From Entering the United States Through Biometrics and International Cooperation,” Department of Homeland Security, May 17, 2005. <http://www.ice.gov/text/news/newsreleases/articles/usvisit051705.htm>

<sup>4</sup> Greta Wodele, “Accenture wins \$10 billion US-VISIT contract,” [www.govexec.com](http://www.govexec.com), June 1, 2004.

<sup>5</sup> Department of Homeland Security, Office of Inspector General, *Implementation of the United States Visitor and Immigrant Status Indicator Technology Program at Land Border Ports of Entry*, OIG-05-11, February 2005, p. 3. [www.dhs.gov/interweb/assetlibrary/OIG\\_05-11\\_Feb05.pdf](http://www.dhs.gov/interweb/assetlibrary/OIG_05-11_Feb05.pdf)

<sup>6</sup> Current and reliable data on overstays do not exist. The last published report from the INS to make estimates of overstays by nationality, based on a problematic exit-recording system, estimated an in-flow of 236,000 Mexican overstays from 1988-1992, out of a

total of 1.3 million. The next largest country at that time was Poland, with 57,000. See “Statistics on Emigration and Illegal Immigration: The Fiscal Year 1992,” by Robert Warren, then Director of INS Statistics.

<sup>7</sup> Inspectors do complete a query based on the license plate number, but there is no screening done based on the individual’s name or other indexable personal identifiers. See OIG-05-11.

<sup>8</sup> Frank D. Bean, et al, *Illegal Mexican Migration and the U.S./Mexican Border: The Effects of Operation Hold The Line on El Paso/Juarez*, July 1994.

[www.utexas.edu/lbj/uscir/respapers/imm-jul94.pdf](http://www.utexas.edu/lbj/uscir/respapers/imm-jul94.pdf)

<sup>9</sup> Ibid.

<sup>10</sup> Martin Collacott, quoted in “U.S.-Canada Border Leaves Many Jittery,” by Beth Duff-Brown and Pauline Arrillaga, Associated Press, July 4, 2005.

<sup>11</sup> *Overstay Tracking is a Key Component of a Layered Defense*, Statement of Nancy R. Kingsbury, GAO report number GAO-04-170T.

[www.gao.gov/new.items/d04170t.pdf](http://www.gao.gov/new.items/d04170t.pdf)

<sup>12</sup> See Management Comments on DHS OIG report 05-11, p. 25.

<sup>13</sup> New Jersey Turnpike Authority, “E-Z Pass: Working for New Jersey, Two Years of Progress,” July 12, 2004.

<sup>14</sup> See See Public Law 105-173.

<sup>15</sup> Ibid.

<sup>16</sup> “Ridge sees need for 3<sup>rd</sup> border crossing,” *San Diego Union-Tribune*, December 14, 2004.

# **Backgrounder**

## **Modernizing America's Welcome Mat The Implementation of US-VISIT**

By Jessica M. Vaughan

**U**S-VISIT, the new biometrics-based border inspections program, has proven its value in enhancing U.S. security; so far enabling border and consular officials to intercept the entry of thousands of terrorists, criminals, and other ineligible foreign visitors. But the administration's decision to exempt most Mexicans and Canadians from screening, despite well-documented problems in regulating the entry and exit of these visitors, along with foot-dragging in making use of the exit-recording capability, severely undermines the program and risks transforming this potentially critical national security tool into a high-tech Potemkin Village. In addition, this very limited deployment of US-VISIT will make it virtually impossible to undertake a secure large-scale guestworker program, either of the type President Bush has promoted or any of the proposals currently before Congress.

**9-05**

Center for Immigration Studies  
1522 K Street, NW, Suite 820  
Washington, DC 20005-1202  
(202) 466-8185 • Fax (202) 466-8076  
center@cis.org • www.cis.org



**Center for Immigration Studies**  
1522 K Street NW, Suite 820  
Washington, DC 20005-1202  
(202) 466-8185  
center@cis.org  
www.cis.org

NON-PROFIT  
U.S. POSTAGE  
**PAID**  
PERMIT #6117  
WASHINGTON, DC