

Congress of the United States
House of Representatives
Washington, DC 20515-4324

February 1, 2016

The Honorable Jeh Johnson
Secretary
U.S. Department of Homeland Security
Washington, DC 20528

Dear Secretary Johnson:

I am writing with great concern regarding the "Entry/Exit Overstay Report" for fiscal year 2015, issued by the Department of Homeland Security on January 19, as well as the testimony of DHS officials at a hearing of the Senate Judiciary Subcommittee on Immigration the following day. As you are aware, this report and the ensuing testimony stated that nearly 500,000 foreign nationals overstayed their visas in fiscal 2015 alone. Worse yet, these numbers don't include certain prominent visa types and modes of travel. This is dangerous and unacceptable.

In overstaying their visas, these half-million individuals have effectively become illegal immigrants, adding to the 11 million illegal immigrants already in the US, approximately 40% of whom may be attributed to visa overstays. While this Administration has made clear its intent to not enforce the law with respect to certain illegal immigrants, a decision with which I fiercely disagree and which has been stayed by the courts, we should at least be able to agree on the paramount importance of national security. Unfortunately, it appears that DHS lacks either the will or ability to track the hundreds of thousands of visa overstays, among whom may be persons who wish to harm innocent Americans.

Craig Healy of U.S. Immigration and Customs Enforcement testified that only 3,000 people who overstayed their visas are under investigation – barely over 0.6%. Is this number deemed acceptable by DHS? If so, why? Healy indicated that there is prioritization of the visa-overstaying individuals who have committed additional crimes. While such criminals must be brought to justice and deported, the trouble is that strategic terrorists often make a point to live in the good graces of the law until they can strike. They must be sought out – they will not announce themselves by their conduct once in the US. Nor can we assume that all those who enter the US have been vetted sufficiently to guarantee that they are not terrorists. In December, the State Department admitted to Congress that it had revoked 9,500 visas in the last 15 years on account of discovering terrorism ties *after* the holders had been admitted into the US – and it had no idea where they were.

Lastly, the long delays associated with this issue are severely troubling, do not instill

confidence, and demand public explanation. A report on overstays was first requested by Congress in 1997 and has only now been written. In addition, a biometric exit system at international ports, which DHS maintains is important but is only a first step that would help identify (not even find) those who overstay visas, has been required by law since 1996 under the *Illegal Immigration Reform and Immigrant Responsibility Act*. Yet, despite seven subsequent acts of Congress and the 2004 recommendations of the 9/11 Commission, this mandated system remains nowhere near implementation.

While space and costs are often cited as obstacles, the Center for Immigration Studies estimated the cost of a biometric exit system would be \$600 million and, as was pointed out at the January 20 hearing, \$2 billion was actually put toward the project. With the stakes so high for protecting our citizens, this delay is unconscionable. I ask you to please explain why this situation has been allowed to continue and provide assurances to my constituents as to when it will be rectified.

Thank you for your review of this correspondence and I look forward to your reply. Should you have any questions regarding this letter, please feel free to contact me, or my Legislative Assistant, Robert Vega, at 202.225.6605 or robert.vega@mail.house.gov.

Sincerely,



Kenny Marchant
Member of Congress