

# U.S. Struggles to Nab Visitors Who Overstay

By LAURA MECKLER

WASHINGTON—A long-standing problem in immigration enforcement—identifying foreigners who fail to go home when their visas expire—is emerging as a key question as senators and President Barack Obama chart an overhaul of immigration law.

The Senate is discussing an overhaul that would require the government to track foreigners who overstay their visas. The problem is the U.S. currently doesn't have a reliable system for doing this.

A group of Democratic and Republican senators say that a better visa-tracking system should be in place and that there should be improved U.S. border security before any of the estimated 11 million people now in the U.S. illegally can apply for citizenship under proposed new laws. Mr. Obama wants no such precondition before illegal foreigners can apply for citizenship.

Talk of illegal immigration often conjures images of people sneaking across the U.S. border from Mexico, but an estimated 40% or more of those now illegally in the U.S. entered with a valid visa.

Congress moved to tighten the system after the Sept. 11, 2001, terror attacks. Foreigners now get their fingerprints taken when they enter the country. A similar biometric system to track exits also was mandated. But it proved costly and tricky to set up, and it wasn't put in place. Among other things, airports have no obvious place to do the checks.

Now, as the Senate tackles immigration overhaul, the visa-overstay challenge is gaining new attention. "We need a visa-tracking system," Sen. Marco Rubio (R., Fla.), a member of the bipartisan group, told talk show host Rush Limbaugh. "We don't track people when they leave. We only track them when they come in." He added that he wouldn't support a bill unless "enforcement mechanisms are in place."

The Senate group aims to introduce a bill by March and hopes to begin moving it through the legislative process this spring. President Obama has said he would propose his own immigration legislation if progress stalls, though White House officials say they are pleased with the pace so far.

Mr. Obama's potential legislation would allow all people in the country illegally to qualify for a "Lawful Prospective Immigrant" visa right away if they passed a criminal-background check, submitted biometric information and paid fees, according to a person familiar with the bill.

After eight years, people with provisional status could qualify for a green card—legal permanent residence—if they learned English and U.S. history and paid back taxes, under Mr. Obama's approach. That would allow them to apply for citizenship after a further five years. The green cards would be

available earlier if the government clears the backlog of people waiting legally before eight years pass. Details of the president's draft legislation were reported earlier by USA Today.

Nobody is sure how many people are in the U.S. on expired visas. The most commonly cited figures equate to some four million to five million people. But that is based on a 2006 study by the Pew Hispanic Center, which relied on a formula that was created using 1990 data.

In 2011, there were 159 million nonimmigrant visits to the U.S., according to the Department of Homeland Security. More than three-quarters were for pleasure. But millions also involved business travelers, temporary workers and students.

A handful of other countries have established systems for monitoring visa overstays, according to the Migration Policy Institute, a nonpartisan think tank that studies immigration issues.

The institute singles out Australia as having a particularly effective system. Information is collected and electronically recorded for all visitors entering Australia, and then checked again on the spot as people depart. People who have overstayed their visas are flagged for a secondary inspection upon departure. The institute also points to Japan, which implemented an entry-exit system in 2007 that includes fingerprinting visitors.

The Senate legislation under discussion wouldn't create any additional enforcement program to track down people who overstayed visas, Senate aides in both parties said. Still, they said it is important to understand the scope of the problem, and that tougher employment-verification systems contemplated by the legislation would deter future visitors from overstaying their visas.

The Department of Homeland Security says it is on its way to creating a tracking system, though it isn't clear if it will satisfy the senators working on immigration overhaul.

The department is no longer focused on implementing a biometric system, one relying on fingerprints or other unique personal markers, to make sure someone leaving the country is the same person who entered on a particular visa. Instead, the department has begun comparing lists of people with expired visas with lists of foreigners who depart through airports and seaports.

However, the department has no current way of tracking foreigners who leave by land. And officials said the department still can't say how many people are in the country on an expired visa.

Another problem is that some of the people who haven't left the country have found legal means of staying—such as getting employment or student visas, or gaining refugee status. Officials said they are working to integrate all these databases now.

At a Senate Judiciary Committee hearing last week, Homeland Security Secretary Janet Napolitano said that her department should be able to report the rate of visa overstays by the end of the year.

A biometric system that included measures like fingerprints, she said, would be "extraordinarily expensive."

The department tested three possible biometric checkpoints in pilot programs, and all had problems. The first checked travelers when they got their boarding passes. But airlines balked at that additional

responsibility, and officials concluded it would be easy for travelers to "check out" at the counter and then simply leave the airport.

A second option was processing people at the security checkpoint. But that diverted officers' attention from their prime responsibilities, and slowed the lines, officials said. Plus, travelers could still leave the airport after going through security.

The final option was to do the checks in or near the jetways to capture people just before boarding.

But it was difficult to find space at the gates, a senior homeland security official said, and airlines again balked at any additional responsibilities, arguing that this is a government function.

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