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AN ANALYSIS OF THE DHS OVERSTAY REPORTS

EXECUTIVE SUMMARY

The Trump administration used a flawed Department of Homeland Security overstay report to bar people from immigrating or gaining temporary visas in a new travel ban and is likely to continue citing the report in an illegitimate manner. Most remarkably, the administration cited overstay data on temporary visas for several countries to bar people from immigrating to join U.S. citizens or lawful permanent residents permanently, even though it is impossible to overstay a green card. The DHS report contains significant flaws and should not be used to enact broad travel bans, deny student visas or make other immigration policy changes.

The DHS overstay rate for F-1 international students and others is not an actual overstay rate but only an upper-bound estimate of individuals who DHS could not positively identify as leaving the United States. "The DHS figures represent actual overstays *plus arrivals whose departure could not be verified*," according to demographer Robert Warren. "That is, they include both actual overstays *and unrecorded departures*." Problems with DHS systems correctly identifying individuals who changed status inside the U.S. or left the country render the reports inappropriate for policy purposes.

On June 4, 2025, Donald Trump issued a proclamation banning the entry of persons issued immigrant visas at a consulate (but who are not yet lawful permanent residents) and the entry of persons with temporary visas from 12 countries and made a similar ban for 7 other countries, but limited the entry ban on temporary visas to tourists and business travelers and students and exchange visitors. For 15 of the 19 countries, the proclamation cited overstay rates as the primary or secondary reason for banning, with some exceptions, immigrants and temporary visa holders from the countries. Although illogical, the Trump administration cited overstay rates for temporary visas in countries to prohibit people from immigrating and staying permanently via green cards.

The overstay report allowed for a veneer of data to justify predetermined policy decisions. The inconsistencies in the proclamation indicate Trump officials worked backward by first identifying nationalities they wished to block from the United States and then seeking a rationale to list them in the travel ban. The Trump administration may expand the travel ban to an additional 36 countries, including 25 more African nations.

The travel ban proclamation significantly overstates the number of overstays from individual countries by counting people who had already left the country, individuals who briefly stayed past September 30th and left the U.S. and people who changed status inside the United States. In the FY 2023 DHS overstay report, the "suspected in-country overstay" rate for B1/B2 visa holders dropped from 6.94% at the end of FY 2022 to nearly half 15 months later, to 3.87%, indicating that the overstay rates for countries cited in the travel ban are significantly inflated. It takes time for DHS systems to catch up and properly record people who have changed status or left the country. DHS acknowledges people often receive extensions after arriving in the United States.

Illustrating the inconsistencies in the proclamation, an NFAP analysis found the FY 2023 DHS report lists more than 70 countries not banned under the proclamation that have higher alleged overstay rates for student and exchange visitors than Iran and Venezuela. The proclamation does not ban visas for nationals of Liberia and Djibouti, even though the FY 2023 DHS report lists higher overstay rates for B1/B2 visas for those two countries than for several countries banned under the proclamation.

Experts note that the State Department can address overstays by denying visas to individuals they think will overstay a visa, which is a less draconian approach than banning everyone in that country from entering the United States.

When citing student visa overstays, the travel ban proclamation listed countries with few alleged overstays. Cuba and Burundi had 24 alleged F, M and J overstays in FY 2023 and Laos had only 12.

International students are a significant source of talent for U.S. employers and allow U.S. universities to offer high-quality academic programs in science and engineering for American students. Without international students, the number of students in America pursuing graduate degrees (master's and Ph.D.'s) in fields such as computer and information sciences and electrical engineering would be small relative to the size of the U.S. economy. International students also forge vital ties between Americans and people from other backgrounds and can strengthen economic and other relations even when the students return to their home countries. Educators see Africa as the largest source of growth for international students.

According to university groups, State Department consular officers have used the DHS overstay rate reports to deny visas or place additional scrutiny on international student visa applicants. In 2020, DHS used the reports in a proposed rule that would limit international students to a fixed period of stay rather than the long-standing policy of being admitted for "duration of status." DHS asserted the rule was to address international student overstays. The rule was not published before Donald Trump left office but could reemerge during Trump's second term.

Among the key flaws in the DHS overstay reports:

- People from countries experiencing violence may not have overstayed their visas but applied for asylum, received Temporary Protected Status or remained in the country via other lawful means, such as marriage. DHS systems may record and treat them as overstays.

- The DHS overstay rate for F-1 international students and others is not an actual overstay rate but only an upper-bound estimate of individuals who DHS could not positively identify as leaving the United States. The overstay rates in the DHS reports are inflated and do not accurately measure overstays.

- The overstay problem appears to be primarily an issue of matching student and other data rather than actual overstays. DHS systems catch up and correctly identify people as lawfully in the country or have already left the United States as time passes. The “suspected in-country overstay” rate for student and exchange visitors at the start of FY 2023 dropped by 42% over 15 months, from 3.5% to 2.03%, according to DHS. The “suspected in-country overstay” rate for student and exchange visitors in FY 2018 dropped by 60% during the year, from 2.11% to 0.84% 12 months later, according to DHS. The rate declined every three months. To the extent there are problems with overstays, the DHS data show the issue mostly solves itself over time.

- The DHS reports contain a crucial caveat that illustrates why using the reports for policy purposes is unwise: “It is important to note that the total number of overstays identified in this report does not equal the total number of overstays who currently remain in the United States during this reporting period. That number is lower because foreign nationals identified as possible overstays can subsequently depart the United States or apply to change or extend their current lawful status. For purposes of this report, these are still considered overstays.”

- DHS has trouble tracking within SEVIS (Student and Exchange Visitor Information System), the university database and reporting system for international students. The DHS report notes unique difficulties in estimating overstay rates from the SEVIS database used to track international students. Since SEVIS tracks documents rather than individuals, a student who changes to a new school may generate a new I-20 "Certification of Eligibility" that creates a new SEVIS record. However, an expected departure date may be generated from the old record. The same issue may occur when a student obtains a different immigration status, such as a green card, and is withdrawn from the SEVIS system. In March 2025, when DHS arrested a pro-Palestinian protest leader, Mahmoud Khalil, agents thought he was on a student visa even though Khalil was married to a U.S. citizen and had been a lawful permanent resident for months.

- The reference date is another factor contributing to the possible inflation of student visa overstays. All overstay rates are calculated based on the information available to DHS as of September 30th for all visas with expected departure dates within the previous 12 months. An F-1 student with a completion date at the

end of an academic year in May or June would have an expected departure date 60 days afterward in July or August, just a short period before the cutoff date.

- The country-specific overstay rates used to evaluate F-1 students include other visa categories, biasing the overstay rates upwards. For FY 2023, the suspected in-country overstay rate reported for M visas was 4.02%; for J visas, 3.26%, and only 2.69% for F visas.

- Accurate visa overstay numbers would not fluctuate significantly from year to year. However, the overstay rates for African countries change significantly each year, indicating the reports are inaccurate and cannot predict future student overstays. The suspected in-country overstay rate for students and exchange visitors from Kenya started at 9.7% in FY 2020, declined by 22% to 7.6% in FY 2021, rose by 93% in FY 2022 to 14.66% and declined by 40% in FY 2023 (to 10.48%). The suspected in-country overstay rate for B1/B2 visas for Nigerians began at 7.17% in FY 2020, nearly tripled to 20.96% in FY 2022 and declined to 6.91% in FY 2023, according to DHS. The figure 6.91% likely significantly overstates the actual overstay rate for Nigeria, given DHS statistics that show the average overstay rate for B1/B2 visas drops by nearly half 15 months later, primarily due to DHS systems catching up and properly recording people who have changed status or left the United States only shortly after their required date.

The DHS overstay reports contain significant flaws that make them inappropriate for denying visas, justifying new regulatory restrictions or enacting policy changes via broad travel bans.

DHS "OVERSTAY" REPORTS

Beginning in 2016, the Department of Homeland Security began issuing annual reports purported to identify the number of individuals who overstayed their period of authorized stay, labeling the results, with some caveats, as an overstay rate.

The term "suspected in-country overstay" rate in the DHS definitions illustrates the report's lack of certainty. "An overstay is defined as a nonimmigrant who was lawfully admitted to the United States but remained in the United States beyond the authorized period of admission," according to the DHS *Entry/Exit Overstay Report Fiscal Year 2023* published in August 2024. "This can be a fixed period or for the duration of a certain activity, such as the period during which a student is pursuing a full course of study or any authorized technical/practical training program. CBP identifies two types of overstays: 1) individuals for whom no departure was recorded (Suspected In-Country Overstays), and 2) individuals whose departure was recorded after their authorized period of admission expired (Out-of-Country Overstays)."[1]

In the travel ban proclamation, the Trump administration used the higher "total overstay rate" rather than the "suspected in-country overstay rate" that accounts for people DHS knows who have already left the United States. The proclamation also inflates the overstay rate by failing to acknowledge the "suspected in-country overstay rate" for countries declines significantly over several months as DHS systems catch up and properly record people who have changed status or left the country. In some cases, people may have briefly stayed beyond what DHS believes to be their visa expiration date but departed the U.S. and did not add to the unauthorized immigrant population. In the FY 2023 DHS overstay report, the "suspected in-country overstay" rate for B1/B2 visa holders dropped from 6.94% at the end of FY 2022 to nearly half 15 months later, to 3.87%.

MISUSE OF OVERSTAY REPORT TO JUSTIFY TRAVEL BAN

For 15 of the 19 countries, the presidential proclamation issued on June 4, 2025, cited overstay rates from the FY 2023 DHS overstay report as the primary or secondary reason for banning, with some exceptions, immigrants and temporary visa holders from the countries.[2] Most remarkably, the Trump administration cited overstay rates for *temporary visas* in countries to prohibit people from immigrating and *staying permanently* in America. It is impossible to overstay an immigrant visa (a green card) since people can permanently remain in the United States on such visas. The U.S. government banned one set of individuals for actions taken by a different group of people from the

[1] *Entry/Exit Overstay Report Fiscal Year 2023*, Department of Homeland Security, August 5, 2024. https://www.dhs.gov/publication/entryexit-overstay-report.
[2] This section adapted from Stuart Anderson, "Immigration Restrictions Mount Against Americans and Legal Residents," *Forbes*, June 16, 2025. On June 7, Secretary of State Marco Rubio further suspended the issuance of visas to people in the targeted countries and categories.

same country that bear no relationship to joining a spouse or other close family member to live in America. The Trump administration's use of the DHS overstay report in this manner questions the wisdom of Supreme Court justices giving such deference to the president in *Trump v. Hawaii*, the Supreme Court case that permitted the first travel ban to take effect in September 2017.[3]

In banning immigrant visas, the proclamation used statements such as, "According to the Overstay Report, Turkmenistan had a B-1/B-2 visa overstay rate of 15.35 percent and an F, M, and J visa overstay rate of 21.74 percent. (ii) The entry into the United States of nationals of Turkmenistan as *immigrants* . . . is hereby suspended."[4] Similar statements were made for most of the other countries affected by the travel ban.

The proclamation banned the entry of persons issued immigrant visas at a consulate (but who are not yet lawful permanent residents) and the entry of persons with temporary visas from 12 countries: Afghanistan, Burma, Chad, Republic of the Congo, Equatorial Guinea, Eritrea, Haiti, Iran, Libya, Somalia, Sudan and Yemen.[5] The proclamation also bans the entry of persons issued immigrant visas and limits the entry ban on temporary (nonimmigrant) visas to tourists and business travelers and students and exchange visitors for an additional 7 countries: Burundi, Cuba, Laos, Sierra Leone, Togo, Turkmenistan and Venezuela.

The proclamation exempts the Immediate Relatives of U.S. citizens (spouses, children and parents). However, the proclamation bars U.S. citizens from sponsoring their siblings and adult children and lawful permanent residents from sponsoring their spouses, minor children or unmarried adult children. The travel ban also bars employers from sponsoring people outside the country for permanent residence from the 19 nations and Diversity Visa applicants.

The Trump administration may expand the travel ban to an additional 36 countries, including 25 more African nations.[6]

Several countries on the travel ban list have experienced war and civil unrest. People from countries experiencing violence may *not* have overstayed their visas but applied for asylum or received Temporary Protected Status. DHS systems may record and treat them incorrectly as overstays.

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[3] https://www.supremecourt.gov/opinions/17pdf/17-965_h315.pdf. "For today's purposes, the Court assumes that it may look behind the face of the Proclamation to the extent of applying rational basis review, i.e., whether the entry policy is plausibly related to the Government's stated objective to protect the country and improve vetting processes. Plaintiffs' extrinsic evidence may be considered, but the policy will be upheld so long as it can reasonably be understood to result from a justification independent of unconstitutional grounds," according to the opinion.

[4] Emphasis added.

[5] Donald J. Trump, "Restricting the Entry of Foreign Nationals to Protect the United States from Foreign Terrorists and Other National Security and Public Safety Threats, a proclamation, June 4, 2025.

[6] Adam Taylor, "Trump administration considers adding 36 countries to travel ban list," *Washington Post*, June 14, 2025.

The most recent DHS overstay report lists Iran and Venezuela as having low overstay rates for F-1 students and exchange visitor visas. Nonetheless, the proclamation bans nationals from the two countries from obtaining student visas.

Illustrating the inconsistencies in the proclamation, an NFAP analysis found the FY 2023 DHS report lists more than 70 countries not banned under the proclamation that have higher alleged overstay rates for student and exchange visitors than Iran and Venezuela. The proclamation does not ban visas for nationals of Liberia and Djibouti, even though the FY 2023 DHS report lists higher overstay rates for B1/B2 for those two countries than for several countries banned under the proclamation.[7]

The proclamation criticizes Haiti, Venezuela and Afghanistan for lacking a reliable or functioning government even though the Trump administration terminated Temporary Protected Status for the three countries and claimed it is safe for Haitians, Venezuelans and Afghans to return. The proclamation labels the governments in Libya and Sudan unreliable, yet the Trump administration has sought to deport third-country nationals from the United States to those countries and give custody to those governments.

The inconsistencies in the proclamation indicate Trump officials worked backward by first identifying nationalities they wished to block from the United States and then seeking a rationale to list them in the travel ban. In other words, the overstay report allowed for a veneer of data to justify predetermined policy decisions.

Table 1
DHS Suspected In-Country Overstay Rate for F-1 Students

Year	Suspected In-Country Overstay Rate F-1 Students
FY 2016	2.99%
FY 2017	2.25%
FY 2018	1.99%
FY 2019	1.42%
FY 2020	1.43%
FY 2021	1.04%
FY 2022	3.23%
FY 2023	2.69%

Source: Department of Homeland Security, National Foundation for American Policy. DHS Data for FY 2021 included F, M and J visa holders. The other fiscal years in the table are only F-1 students.

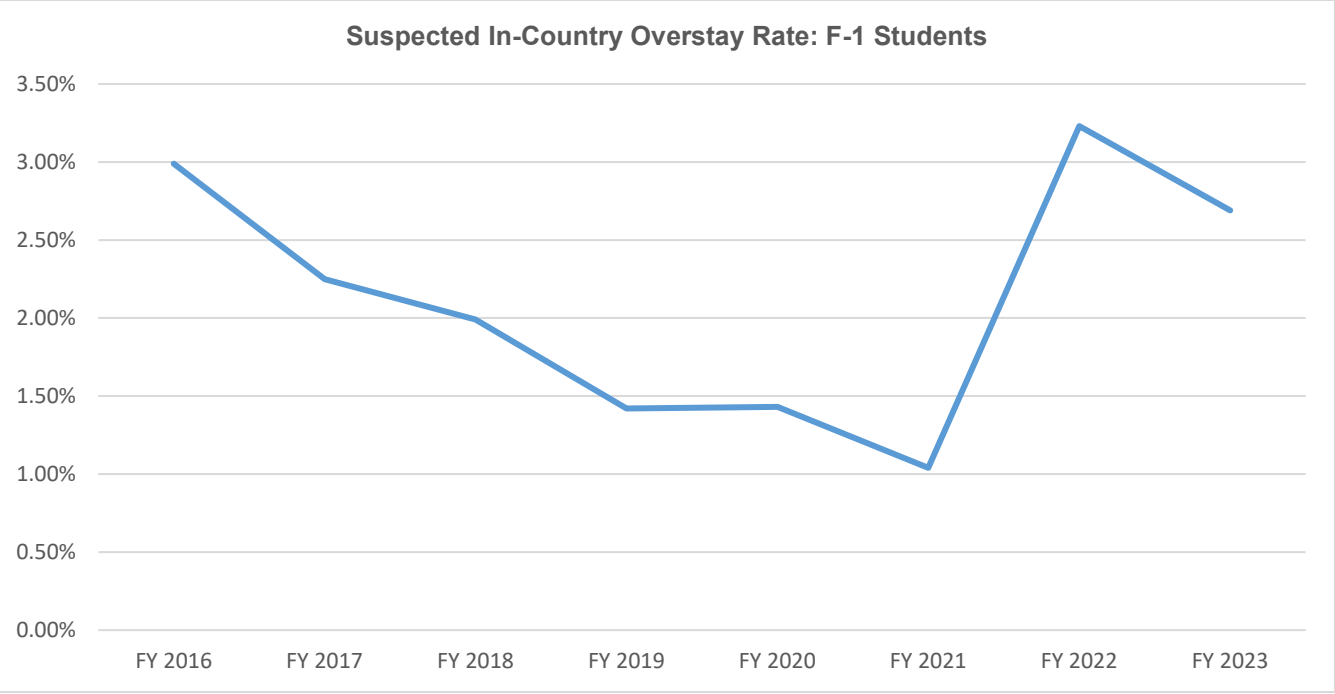
[7] The FY 2023 DHS report lists seven banned countries with higher B1/B2 overstay rates than Djibouti and four higher than Liberia. https://www.linkedin.com/posts/doug-rand_the-trump-administration-justifies-its-new-activity-7336264928367927296-7BJ0/.

When citing student visa overstays, the travel ban proclamation cited countries with very few alleged overstays. Cuba and Burundi had 24 alleged F, M and J overstays in FY 2023, Laos had 12, Sierra Leone had 67, Togo 75, Turkmenistan 45, and Venezuela had 164 alleged overstays with an F, M and J student overstay rate of only 2.7%. Since the DHS report combines F students, M (vocational) students and J exchange visitors, it overstates alleged overstays among F-1 students. Eritrea had only 134 B1/B2 visa overstays and 51 alleged F, M and J visa overstays.

Reports Lack Consistent Year-to-Year Overstay Rates for Students

The lack of consistent overstay rates for F-1 students from year to year indicates problems with DHS methodologies. The "suspected in-country overstay" rates for F-1 international students, which are not actual overstay rates, declined from 2.99% in FY 2016 to 2.25% in FY 2017 and 1.99% in FY 2018, to 1.42% in FY 2019. In FY 2020, the rate remained steady at 1.43%, dropped to 1.04% for F-1 students and exchange visitors combined in FY 2021 (the number DHS published for that year), rose to 3.23% in FY 2022 for F-1 students and declined by 17% to 2.69% in FY 2023. (See Table 1 and Figure 1.)

Figure 1
DHS Suspected In-Country Overstay Rate for F-1 Students



Source: Department of Homeland Security, National Foundation for American Policy. DHS Data for FY 2021 included F, M and J visa holders. The other fiscal years are only F-1 students.

USING THE OVERSTAY REPORTS TO DENY VISAS

Despite flaws in the reports, even before its use in the travel ban proclamation in June 2025, State Department personnel told university groups that consular officers use the DHS overstay reports to deny visas or apply additional scrutiny to international students based on their country's denial rates. "I have heard the Department of State explain how and why they look at the overstay rate that it's a data point that DOS officials look at, so higher overstay rates for F1s from a specific country puts more of an onus on future students from that country requesting a visa to demonstrate that they will not overstay," said Miriam Feldblum, the executive director of the Presidents' Alliance on Higher Education and Immigration. "And it's become more of a reason for consular officers to be skeptical and make them more likely to deny a student visa based on the perceived past behavior of those coming from that country."[8]

During Donald Trump's first term, a proposed DHS rule asserted international students must be approved for a fixed period of stay rather than the long-standing policy of being admitted for "duration of status," in large part to address international student "overstays." Universities opposed the rule, and the Trump administration did not publish the rule before Donald Trump left office. The rule could return in 2025 or later.

THE MOST SIGNIFICANT PROBLEMS WITH THE DHS OVERSTAY REPORTS

The DHS overstay reports are flawed and should not be used by government personnel to deny visas, issue rules or make other immigration policies.

1) THE DHS OVERSTAY RATE IS NOT AN ACTUAL OVERSTAY RATE

The DHS overstay rate for F-1 international students is not an actual overstay rate but only an upper-bound estimate of individuals who DHS could not positively identify as leaving the United States. The overstay rates in the DHS reports are inflated and do not measure overstay rates. "The DHS figures represent actual overstays *plus arrivals whose departure could not be verified*," according to demographer Robert Warren. "That is, they include both actual overstays *and unrecorded departures*." (Emphasis added.) Problems with DHS systems correctly identifying individuals who changed status inside the U.S. or left the country render the reports inappropriate for policy purposes.

[8] Interview with Miriam Feldblum.

2) Overstay Rate Declines Quickly, Shows it's a Matching Problem

The FY 2018 data (contained in the FY 2019 report) show that the overstay problem appears to be primarily an issue of matching student data rather than actual overstays. The "suspected in-country overstay" rate for student and exchange visitors in FY 2018 dropped by 60% during the year, from 2.11% to 0.84% 12 months later, according to DHS. The rate declined every three months. DHS systems catch up and correctly identify people who are lawfully in the country or have already left the United States as time passes.

Table 2
DHS Estimates of Suspected In-Country Overstays of Holders of F, J and M Visas (Percentages)

Fiscal Year	**Sept. 30th Estimate**	**3 Months Later**	**6 Months Later**	**9 Months Later**	**12 Months Later**	**14 Months Later**
2017	2.35%	2.04%	1.74%	1.34%	1.11%	1.01%
2018	2.11%	1.63%	1.35%	1.01%	0.84%	n.a.
2021	1.04%	1.04%	1.04%	1.04%	0.87%	n.a.
2022	3.50%	3.52%	2.86%	2.55%	n.a.	2.03%

Source: DHS. Note: DHS did not report this information for some years or periods; n.a. is listed for periods data not available

To the extent there are problems with overstays, the DHS data show the issue mostly solves itself over time. The data are similar in the FY 2023 report. The "suspected in-country overstay" rate for student and exchange visitors at the start of FY 2023 dropped by 42% over 15 months, from 3.5% to 2.03%, according to DHS.

Table 3 shows the estimated number of "suspected in-country overstays of F, J and M visa holders," declined by more than half from September 30, 2017, to 14 months later, from 39,074 to 16,770, and from September 30, 2018, to 12 months later, declining from 38,881 to 15,252. The estimated number also fell from 43,402 on September 30, 2022, to 25,119 14 months later.

Table 3
DHS Estimates of Suspected In-Country Overstays of Holders of F, J and M Visas (People)

Fiscal Year	**Sept. 30th Estimate**	**3 Months Later**	**6 Months Later**	**9 Months Later**	**12 Months Later**	**14 Months Later**
2017	39,074	33,961	28,867	22,351	18,515	16,770
2018	38,881	29,980	24,869	18,505	15,525	n.a.
2021	11,137	11,139	11,139	11,139	9,287	n.a.
2022	43,402	43,647	35,422	31,643	n.a.	25,119

Source: DHS. Note: DHS did not report this information for some years or periods; n.a. is listed for periods data not available.

3) DHS Has Trouble Tracking Students Within SEVIS

DHS has trouble tracking within SEVIS, the university reporting system for international students. The DHS report notes unique difficulties in estimating overstay rates from the SEVIS database used to track international students. Since SEVIS tracks documents rather than individuals, a student who changes to a new school may generate a new I-20 "Certification of Eligibility" that creates a new SEVIS record. However, an expected departure date may be generated from the old record. The same issue may occur when a student obtains a different immigration status, such as a green card, and is withdrawn from the SEVIS system.

"The system-generated overstay leads are created by ADIS matching information against SEVIS data," according to the FY 2023 DHS Entry/Exit Overstay report. "However, one current challenge in this process is that ADIS contains person-centric data, but SEVIS data is document-centric, meaning the system tracks a unique SEVIS identification number associated with each Form I-20 issued. In a person-centric environment an individual is either active or inactive, but in a document-centric environment a person could have multiple active and inactive records, making it difficult to determine if a person is in valid status."[9]

Experts note reasonable explanations underscore why the Department of Homeland Security might be unable to verify a foreign national's departure in its system. "The DHS report on overstays is dependent on the accuracy of information in SEVIS and the agency's ability to match entry and exit information, especially for students who, for example, may have departed through a land port of entry or have had a change of status that was not updated in SEVIS," according to attorney Paul Virtue, a former top official at the Immigration and Naturalization Service.[10]

"The system for matching data on change of status from the CLAIMS system administered by USCIS is not foolproof," said Virtue. "While CBP's [Customs and Border Protection] effort in this regard holds promise, it is not a finished product, and there is still too much guesswork built into the DHS assumptions concerning the number of overstays among the student and exchange visitor populations."[11]

4) DHS September 30 Date Likely Inflates Student Overstays

The reference date is another factor contributing to the possible inflation of student visa overstay rates. All overstay rates are calculated based on the information available to DHS as of September 30th for all visas with expected departure dates within the previous 12 months. An F-1 student with a completion date at the end of an academic

[9] *Entry/Exit Overstay Report Fiscal Year 2023.*
[10] Stuart Anderson, "USCIS Policy Change Could Bar Many International Students," *Forbes*, June 1, 2018.
[11] Ibid.

year in May or June would have an expected departure date 60 days afterward in July or August, just a short period before the cutoff date. J-1 and M-1 students are not very different, with a 30-day grace period after the end of the academic year. Not all those on J visas are students---the visa is also used to provide seasonal work permits, and J visa holders ending summer jobs would have an even shorter period between their departure date and the DHS reporting cutoff.

5) Mixing Visas Likely Inflates Country Data For Students

The country-specific overstay rates used to evaluate F-1 students include other visa categories, biasing the overstay rates upwards. For FY 2023, the suspected in-country overstay rate reported for M visas was 4.02%; for J visas, 3.26%; and only 2.69% for F visas. In general, F visas are a majority of this combined reporting category, although this differs by country. For example, J-visas were 65% of the visas issued in these three categories in FY 2023 in France.

6) Problems with Overstay Report Known for Many Years

Demographers and analysts have identified problems with the report for almost a decade. In January 2018, Robert Warren, a noted demographer who developed some of the nation's first estimates of the unauthorized immigrant population at the Immigration and Naturalization Service, published a study for the Center for Migration Studies, where he is a senior visiting fellow.[12] Warren analyzed the *Fiscal Year 2016 Entry/Exit Overstay Report* released by the Department of Homeland Security during the Trump administration on May 22, 2017. Unlike the first report, which focused on tourists and business travelers, the FY 2016 report expanded to include international students and exchange visitors.

Warren found several estimates in the DHS report to be implausible. "It is clear that the DHS estimates of overstays from Canada and from VWP [Visa Waiver Program] countries that have very small undocumented populations, as well as the *total* number, erroneously include very large numbers of nonimmigrants [individuals with temporary status] that departed but their departure could not be verified," he writes. "Slightly more than *half* of the 628,799 reported to be overstays by DHS actually left the country but their departures were not recorded. After adjusting the DHS estimates to take account of unrecorded departures, as well as departures in 2016 of overstays that lived here in 2015, overstay population growth was near zero in 2016."[13]

[12] Parts of this section are adapted from Stuart Anderson, "USCIS Uses Questionable 'Overstay' Report to Justify Policies," *Forbes*, June 6, 2018.
[13] Ibid.

"Overstay population growth *was near zero in 2016*," according to Warren. The DHS report does not explain this reality, which would conflict with the tenor of the DHS report.[14]

"This paper finds that DHS has greatly overstated the number of noncitizens from roughly 30 countries who have overstayed their nonimmigrant (temporary) visas," according to Warren. "In particular, the DHS estimates for 2016 include significant numbers of nonimmigrants that left the undocumented population, but whose departure could not be verified. Thus, the actual number of overstays in 2016 was about half of the number estimated by DHS."[15]

Warren's Center for Migration Studies report reached two conclusions: "First, the remarkably high, and erroneous, number of overstays reported by DHS for many Visa Waiver Program countries could lead to mistaken efforts to remove specific countries or to eliminate the program entirely. Second, the unsubstantiated report that more than 600,000 nonimmigrants overstayed in 2016 could revive fears that undocumented population growth has resumed or could lead to enforcement tactics or funding levels unjustified by the size of the overstay challenge."[16]

7) DHS Caveats Note the Limitations in the Overstay Data

The DHS reports contain important caveats that make using the reports for policy purposes unwise. The FY 2019 report states: "It is important to note that the total number of overstays identified in this report does not equal the total number of overstays who currently remain in the United States during this reporting period. That number is lower because foreign nationals identified as possible overstays can subsequently depart the United States or apply to change or extend their current lawful status. For purposes of this report, these are still considered overstays."[17] This caveat has appeared in all DHS overstay reports published to date, including the FY 2023 report. While the caveat appears in a paragraph on temporary visitors for business and pleasure, it is also relevant to the student and exchange visitor portions of the report.

The FY 2015 report noted: "It is very important to point out that determining lawful status is more complicated than simply matching entry and exit data. For example, a person may receive a six month stay at the time of entry but then apply for and receive an extension of that six months while in the United States—which is relevant in determining if a person is truly an overstay or not."[18]

[14] Ibid.
[15] Ibid.
[16] Ibid.
[17] *Entry/Exit Overstay Report Fiscal Year 2019.* Emphasis added.
[18] *Entry/Exit Overstay Report Fiscal Year 2015*, Department of Homeland Security, January 19, 2016.

EXAMINING AFRICAN COUNTRIES

Since it appears State Department consular officers use the DHS overstay reports to deny student visas for Africans, it's worth evaluating the data in the reports for four African countries. Accurate visa overstay numbers would not fluctuate significantly from year to year. However, the overstay rates for African countries change significantly each year, indicating the reports are inaccurate and cannot predict future student overstays.

Table 4

Kenya: Suspected In-Country Overstay for Students and Exchange Visitors (F, M, J)

Country	FY 2023	FY 2022	FY 2021	FY 2020
Kenya	10.48%	14.66%	7.60%	9.70%

Source: Department of Homeland Security, National Foundation for American Policy.

The suspected in-country overstay rate for students and exchange visitors from Kenya started at 9.7% in FY 2020, declined by 22% to 7.6% in FY 2021, rose by 93% in FY 2022 to 14.66% and declined by 40% in FY 2023 (to 10.48%).

Table 5

Nigeria: Suspected In-Country Overstay for Students and Exchange Visitors (F, M, J)

Country	FY 2023	FY 2022	FY 2021	FY 2020	FY 2019	FY 2018
Nigeria	14.41%	19.44%	9.01%	10.94%	11.12%	18.56%

Source: Department of Homeland Security, National Foundation for American Policy.

The suspected in-country overstay rate for students and exchange visitors from Nigeria started at 18.56% in FY 2018, declined by 51% to 9.01% in FY 2021, rose by 116% in FY 2022 to 19.44% and declined by 27% in FY 2023 (to 14.41%).

Table 6

Rwanda: Suspected In-Country Overstay for Students and Exchange Visitors (F, M, J)

Country	FY 2023	FY 2022	FY 2021	FY 2020	FY 2019	FY 2018
Rwanda	7.18%	12.91%	3.78%	13.42%	14.32%	8.25%

Source: Department of Homeland Security, National Foundation for American Policy.

The suspected in-country overstay rate for students and exchange visitors from Rwanda started at 8.25% in FY 2018, rose by 74% to 14.32% in FY 2019, declined by 74% to 3.78% in FY 2021, rose by 241% in FY 2022 to 12.91% and declined by 44% in FY 2023 (to 7.18%).

The suspected in-country overstay rate for students and exchange visitors from Ethiopia started at 12.48% in FY 2020, declined by 65% to 4.42% in FY 2021, rose by 599% to 30.89% in FY 2022 and declined by 40% in FY 2023, to 18.55%.

Unlike the other three countries, a significant event occurred that could have affected students and others from Ethiopia. In November 2020, a civil war began in Ethiopia "when a constitutional dispute between Tigray and federal leaders escalated into conflict amid a prolonged power struggle," according to Federal Register notice. "Since then, Ethiopian forces and their allies have been accused of pillaging and targeting homes and civilian infrastructure including businesses, hospitals, banks, livestock, and harvests."[19]

Table 7

Ethiopia: Suspected In-Country Overstay for Students and Exchange Visitors (F, M, J)

Country	FY 2023	FY 2022	FY 2021	FY 2020
Ethiopia	18.55%	30.89%	4.42%	12.48%

Source: Department of Homeland Security, National Foundation for American Policy.

Although the civil war started in November 2020, The suspected in-country overstay rate for students and exchange visitors from Ethiopia declined by 65% between FY 2020 and FY 2021 (down to 4.42%). DHS offered Temporary Protected Status for 18 months to Ethiopians who continuously resided in the United States since October 20, 2022, and were physically present since December 12, 2022. The increase in the suspected in-country overstay rate for students and exchange visitors from Ethiopia between FY 2021 and FY 2022 could be explained by Ethiopian students not returning to Ethiopia as planned but applying for TPS or making other arrangements due to the civil war. DHS databases likely did not pick up this change and recorded Ethiopians as "overstaying." According to DHS, the suspected in-country overstay rate fell by 40% between FY 2022 and FY 2023 for Ethiopia.

CONCLUSION

Citing alleged overstay rates for temporary visas to justify banning people from being sponsored for permanent residence does not make rational sense for immigration policy. Problems in the overstay report include limitations in the data, database problems that make matching complex, DHS challenges in using SEVIS, shortcomings in the

[19] https://www.federalregister.gov/documents/2022/12/12/2022-26880/designation-of-ethiopia-for-temporary-protected-status.

report due to using September 30 as the cut-off date and mixing other categories with F-1 when measuring visa overstay rates for individual countries.[20] The DHS overstay reports contain significant flaws that make them inappropriate for denying visas, justifying new regulatory restrictions or enacting other policy changes.

[20] An executive order issued in 2025 encourages using visa bonds to discourage overstays. A proposed pilot program in 2020 would have been confined to B1/B2 visas. However, it could expand to other categories. The pilot program would have used the DHS overstay report to determine the countries whose citizens would have required visa bonds.

ABOUT THE NATIONAL FOUNDATION FOR AMERICAN POLICY

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