



U.S. Immigration and Customs Enforcement

STATEMENT

OF

**VICTOR X. CERDA
COUNSEL TO THE ASSISTANT SECRETARY**

**U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT
DEPARTMENT OF HOMELAND SECURITY**

BEFORE

**HOUSE COMMITTEE
ON EDUCATION AND THE WORKFORCE**

**SUBCOMMITTEE ON 21ST CENTURY COMPETITIVENESS
AND
SUBCOMMITTEE ON SELECT EDUCATION**

**TRACKING INTERNATIONAL STUDENTS IN HIGHER EDUCATION:
A PROGRESS REPORT**

THURSDAY, MARCH 17, 2005

WASHINGTON, DC

INTRODUCTION

Chairmen McKeon and Tiberi, and Members of the Committee, thank you for the opportunity to provide you with an update on the progress the Department of Homeland Security (DHS) has made in implementing an effective system to monitor foreign students and exchange visitors in the United States and the schools and exchange visitor program sponsors that host them.

The Student and Exchange Visitor Information System (SEVIS) was successfully deployed on time on January 1, 2003, as required by the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (USA PATRIOT Act). Since then, SEVIS has been a central tool used by law enforcement entities officers to ensure compliance with immigration laws by foreign students, exchange visitors, schools and exchange visitor sponsors. This achievement could not have been possible without the commitment and cooperation from the academic and exchange community, for which we are very grateful. But there is much more to accomplish with SEVIS and we look forward to updating you on the recent successes and upcoming challenges that present us with further opportunities for growth and improvement.

BACKGROUND

Since representatives of the former Immigration and Naturalization Service (INS) last testified before you on September 24, 2002, DHS has fundamentally changed the process for monitoring foreign students and exchange visitors on F, M and J visas attending DHS

certified schools and Department of State (DOS) designated exchange visitor program sponsors in the United States.

Prior to SEVIS, there was a decentralized, manual, paper-driven process that monitored foreign students attending more than 70,000 schools. These schools were certified to accept foreign students through a decentralized process by district offices throughout the United States. There was, in essence, no tool that was capable of detecting the culprits of the first World Trade Center bombing in 1993, for which a foreign student who had never attended school was convicted, and the terrorist attacks of September 11, 2001, where four of the 19 hijackers were foreign students.

Congressional response to these events resulted in legislation that mandated progress be made in the Federal government's ability to monitor the foreign student and exchange visitor population in the United States. These legislative mandates include: the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996, which required the development of an electronic system for collecting information on foreign students and exchange visitors (F, M and J non-immigrants); the USA PATRIOT Act of 2001, which established the January 1, 2003 date by which SEVIS must be operational; the Homeland Security Act of 2002, which delegated responsibility of SEVIS to the U.S. Immigration and Customs Enforcement (ICE) and required that SEVIS information be used to carry out enforcement functions; and the Enhanced Border Security and Visa Entry Reform Act of 2002.

Despite the tremendous challenge, DHS, in cooperation with DOS, developed and successfully implemented SEVIS on January 1, 2003, thus creating an electronic system that

permitted the United States to monitor foreign students and exchange visitors and their dependents throughout their stay in the United States. Needless to say, this new capability enhanced our national security and ability to maintain integrity in our immigration system. As many of you know, SEVIS is a web-based system that provides real-time, up-to-date information on F, M and J visa holders that can be accessed electronically, making it an effective tool used by law enforcement to ensure that foreign students and exchange visitors in the United States are complying with the terms of their immigration status and are not a threat to national security.

In 2003, ICE took responsibility for SEVIS from U.S. Citizenship and Immigration Services (USCIS) and established the Student and Exchange Visitor Program (SEVP). SEVP was created to manage SEVIS, to centralize the certification process for schools wishing to accept foreign students; to conduct outreach to the academic community; and to perform other related program functions. In addition, ICE established the Compliance Enforcement Unit (CEU) within its Office of Investigations, which uses SEVIS data to identify and investigate potential student, exchange visitor, school and exchange visitor program sponsor violators. All of this work was completed by June 1, 2003. By August 2003, all F, M and J foreign students and exchange visitors were enrolled in SEVIS by their respective school or sponsor.

More robust school screening requirements have essentially “cleaned” the list of schools that could issue the necessary I-20 that initiates the process for an individual to enter the United States as a student. Gone are the days of the questionable dog grooming school that, despite no investigation, had the authority to sponsor individuals to enter the country. Of the 70,000 previously certified schools, approximately 8,000 schools now remain in SEVIS due to the

enhanced and centralized SEVP certification process, which requires a site visit, and consistent reporting in SEVIS of changes in the student's status and performance at the institution. As a result SEVIS data is more reliable and, therefore, more useful as an enforcement tool.

The SEVIS system also creates an electronic, real-time, centralized repository of these records. Today, SEVIS is the only electronic system used to track the status of F, M and J non-immigrants from the moment they are accepted at a U.S. institution, through the completion of their program. As of February 25, 2005, 609,517 students, 142,901 exchange visitors, and 120,870 of their dependents are registered in SEVIS. These individuals report to --and are monitored by-- 7,960 certified schools and 1,453 exchange visitor program sponsors. Over a period of two years, we have effectively eliminated a vulnerable and archaic paper-based system of records and transitioned to an electronic, interactive and up-to-date system. We believe we have accomplished this, in partnership with DOS, the academic and exchange community, in a manner that has addressed concerns from this community while at the same time establishing a tool that enhances our immigration and law enforcement capabilities as well as our national security.

HOW SEVIS WORKS

SEVIS is a fully integrated system that incorporates information directly from schools, exchange program sponsors, and other Federal electronic systems. The process begins with prospective foreign students applying for admission to one or more schools in the United States. If accepted, the school/s issues the students a Form I-20 from SEVIS after inputting specific data on the individuals into the system. At this point, the students must decide which

school they wish to attend. The students then pay the \$100 SEVIS fee using the information from the I-20 issued by the school they will attend. The students then take the I-20 issued from that institution to the U.S. consulate or embassy to apply for a student visa. During the visa application and screening process, the Department of State (DOS) consular officers use SEVIS to confirm that the individual before them has, in fact, been accepted by the school referenced on the application, and that the institution is certified by DHS. The consular officer verifies the information on the I-20 with the information in SEVIS, and if the application is approved, issues the student a non-immigrant visa. Once approved, this visa data is electronically uploaded into SEVIS from the DOS Non-Immigrant Visa (NIV) system.

The student must then present the Form I-20 along with the visa at the post of entry prior to admission by a U.S. Customs and Border Protection (CBP) officer. As the student is inspected and admitted, pursuant to either the United States Visitor and Immigrant Status Indicator Technology (US-VISIT) Program and/or National Security Entry Exit Registration System (NSEERS) registration process, the information is uploaded into SEVIS from the CBP Arrival and Departure Information System (ADIS). This information is made available to schools in order to notify them that their foreign student has arrived in the U.S. and should be reporting to the school within 30 days. Once the student has physically reported to the school and enrolled, the school updates the student's SEVIS record, thus confirming arrival. If a student enters the country and fails to enroll at the school, the student's record will be terminated in SEVIS, which, in turn, will trigger further investigation from the ICE Compliance Enforcement Unit.

Schools will continue to update the record throughout the student's stay in the United States with information such as change of address, change of course study, employment, or transfer to another institution. Once the foreign students graduate or complete their program, they should depart the United States, or change to another immigration status in accordance with immigration law.

The process described above is very similar for an exchange visitor who is participating in an exchange activity authorized by DOS. As shown, SEVIS is able to provide up-to-date information on the status of foreign students and exchange visitors throughout their stay in the United States.

REVIEW OF ACCOMPLISHMENTS

In order to better understand the progress of SEVIS and its importance as a law enforcement and immigration tool, I would like to share with the Committee some of the program's accomplishments.

- Implementation of the SEVIS Fee -- Congress mandated that SEVP be an entirely fee-funded program through the collection of school certification fees and the SEVIS fee paid by students and exchange visitors. On September 1, 2004, SEVP implemented the SEVIS fee for students and exchange visitors successfully and on time. This accomplishment assisted the program in meeting its goal of transitioning from appropriated funding to fee-based funding in Fiscal Year (FY) 2005. In addition, SEVP established several fee payment mechanisms to enable the international education and exchange community. These payment options include credit card or debit card on-line; check or money order mailed to a lockbox in the United States;

payment by a third party on the student or exchange visitor's behalf; and bulk-filing for certain exchange visitor program sponsors. SEVP has continued to make enhancements to the fee payment system, including a new fee payment method established on November 1, 2004, which allows payment in local currency through the Western Union Quick Pay Service, available in over 130 countries. Our goal was to ensure that all foreign students and exchange visitors could successfully pay the SEVIS fee, and we reached that goal. To date, we have collected over 170,000 fee payments and we are not aware of any applicant not being able to pay the fee. In order to prevent -or immediately resolve- fee payment problems, SEVP established a Case Resolution Unit working directly with the individuals experiencing fee payment problems. This unit became operational on August 10, 2004, and has been engaged since September 1, 2004, in resolving over 3,000 fee application and payment issues. This unit's efforts prevent the outright rejection of many fee applications, thereby expediting the fee payment process, as well as better serving our customers in their efforts to pay the fee. Moreover, SEVP has established a real-time check between the student and exchange visitor's fee information and SEVIS data to ensure 100 percent accuracy. Finally, on April 18, 2005, SEVP is scheduled to begin implementation of a customer service website that will enable students and exchange visitors to check online the status of their fee payment.

- Centralized and Enhanced School Certification -- As mandated by Congress, U.S. schools interested in accepting foreign students must first be certified by SEVP. Today, SEVIS has nearly 8,000 schools certified to accept foreign students. The school certification process is an excellent example of a re-engineered process. SEVP

has centralized the adjudication of school petitions from district offices located throughout the United States to ICE Headquarters. This move enables us to ensure we are applying the same criteria and standards to all petitions and see trends to better identify potential fraud in schools. Each school certification requires both the review and adjudication of the I-17 petition, and an on-site visit. This on-site visit confirms the bona fides of the school, and, more importantly, ensures that the school understands its responsibilities to keep adequate records and to update SEVIS with any changes to the students' status. In addition, SEVIS provides alerts and reports to the schools and exchange visitor program sponsors to help them monitor and keep track of their students and exchange visitors.

- Implementation of SEVIS Response Team -- In preparation for the August 1, 2003, statutory deadline to have all non-immigrant students and exchange visitors registered in SEVIS, SEVP organized and implemented a highly successful SEVIS Response Team (SRT) to assist with issues associated with students and exchange visitors not yet registered in SEVIS but who appeared at the ports-of-entry. Operating 24-7, the SRT worked with inspectors at ports of entry, adjudicators, investigators, schools and program sponsors to expeditiously resolve issues related to the admission into the United States of students and exchange visitors. The creation of the SRT demonstrates the Department's and ICE's commitment to making SEVIS a process that not only enhances national security but also facilitates the entry of legitimate students and exchange visitors into the United States. During the first six weeks in operation, the SRT received over 8,000 calls and assisted over 5,400 students and exchange visitors entering the United States. Three subsequent SRTs were established

during high volume entry periods to ensure the success of the program and solidify a cooperative relationship with our government and non-government stakeholders.

Today, we are proud to say that even during high volume entry periods, the SRT is no longer necessary since CBP officers at ports of entry have access to SEVIS violator information at primary inspection and to all SEVIS data at secondary inspection. In addition, CBP inspectors have increased their knowledge of SEVIS and are now proficient in accessing SEVIS information. The success and recent decline in the need for SRT assistance is attributable to our partnership with the academic and exchange visitor community. As a result, students and exchange visitors are more aware of the requirements to participate in SEVIS and are now arriving at the ports of entry with the required documentation ready, resulting in fewer delays.

- Information Technology (IT) Enhancements -- Since the deployment of SEVIS, SEVP has made multiple improvements to its core technology. The vast majority of these improvements were the result of feedback and requests from the non-government users of the system (i.e. the schools and sponsors hosting foreign students and exchange visitors). By the end of FY 2005, SEVIS will have undergone a total of 11 major releases to improve performance and functionality, which, in turn, represents several hundred individual improvements. For example, in the summer of 2003, data “bleeding” between records in SEVIS surfaced as a critical issue. With an expedited IT update release, the hiring of an additional IT contractor, and the applying of additional resources, data “bleeding” was eliminated and has no longer been an issue. Just as important as data collection is the need to make SEVIS capable of interfacing with the IT systems of key Federal partners. This has been

accomplished. Interfaces have been built between SEVIS and the Computer-Linked Application Information Management System (CLAIMS), the USCIS database that maintains information on immigration benefit petitions and applications; SEVIS and ADIS, the CBP system that collects port of entry information on non-immigrants; SEVIS and NIV, the DOS system that collects information on visas issued to non-immigrants; SEVIS and the Consolidated Consular Database (CCD), the DOS database overseas that facilitates the issuance of visas; SEVIS and US VISIT, the system that collects biometrics on non-immigrants arriving and departing from the United States. These interfaces are key to ensuring that SEVIS data represents the total picture of the status of foreign students and exchange visitors in the U.S.

- SEVIS Recognition -- In May 2004, the E-Gov Institute Government Solutions Center selected SEVIS as a best practice system that delivers improved service with innovative applications and streamlined processes. SEVIS was selected among nominations received from all levels of government, including Federal, State, local and international organizations. Also, representatives from the ICE Chief Information Office and SEVP were recognized at the 2004 Annual Government Solutions Forum Exhibition awards banquet in Washington, D.C. While SEVIS is still a relatively new system responsible for collecting significant amounts of student and exchange visitor data, a June 2004 Government Accountability Office (GAO) report on SEVIS noted that many of the initial problems with the system, including system performance have been corrected and that the system is improving. The system is currently performing the function that it was designed to do in an effective and efficient manner.

- Information Sharing -- ICE recognized that the national security impact of the SEVIS data would be minimized if it were not capable of being shared with key Federal partners. ICE has addressed this concern. SEVIS data is being shared with other Federal partners and has enhanced their capabilities of detecting immigration benefit fraud and criminal and terrorist activities. In addition, SEVIS data is currently being used across DHS, as well as by DOS and the Federal Bureau of Investigations (FBI) to support homeland security and national security functions. USCIS uses SEVIS data to support immigration benefit eligibility determinations. CBP uses SEVIS data to assist in the determination of non-immigrant eligibility for admission into the United States. Agencies outside DHS, such as the FBI, use SEVIS data to support ongoing investigations. DOS uses SEVIS to administer and monitor the exchange visitor program and uses data in SEVIS to verify visa eligibility and to facilitate the visa issuance process. Additionally, USCIS is using SEVIS to assist the Social Security Administration (SSA) in determining the eligibility of foreign students and exchange visitors to obtain social security numbers. This expedited process of determining eligibility is critical for students interested in pursuing optional practical training -or work related to their academic studies. SEVIS is used to conduct searches to respond to SSA inquiries regarding students and exchange visitors status. This process is a joint venture between DOS, DHS, and SSA. Using SEVIS as a mechanism to verify status replaces a manual search process that often took weeks to accomplish. The result is that eligible students and exchange visitors receive social security numbers in a timely manner. Since January 2004, SEVIS data has been used for verification in

over 47,000 cases. At the same time, SEVIS provides the SSA a more efficient and accurate tool to ensure that only eligible students are issued Social Security cards.

- Outreach to the Academic Community -- SEVP has implemented a comprehensive outreach strategy to reach the schools and sponsors system users, as well as the students and exchange visitors that they host. We have implemented an enhanced website for the centralized dissemination of information on the program and its requirements, and have posted frequently asked questions to provide standardized and consistent information on various subjects of interest-such as fee payment and travel into the U.S. The website address itself was simplified and it currently has the second highest number of hits of any website in ICE. We also hold bi-weekly conference calls with various stakeholders on policy and information technology issues. SEVP sends representatives to stakeholder conferences across the country in order to get our message out and to get feedback from the community on various elements of the program. Additionally, SEVP publishes a quarterly newsletter that is also posted on the website. All of these efforts promote a cooperative partnership that is critical to the success of the program.
- Privacy Safeguards -- SEVP has undertaken safeguards to ensure that robust privacy protection is accorded to all individuals whose information is maintained in SEVIS. As this data continues to serve the law enforcement needs of ICE and of our Federal partners, it is important that all users understand and respect the privacy of the information in the system. For this reason, SEVP, in coordination with the DHS Privacy Office, has prepared a Privacy Impact Assessment and a System of Records Notice.

- Compliance Enforcement Unit (CEU) Liaison -- Addressing the concerns of schools, program sponsors, foreign students and exchange visitors, SEVP established a Compliance Enforcement Unit Liaison position to examine and verify investigative leads on potential status violators. Specifically, the CEU Liaison researches and analyzes leads on potential violators, working with the schools and program sponsors to verify the accuracy of SEVIS information. The objective is to ensure that ICE investigative resources are used as efficiently as possible by verifying that all leads sent to the field are indeed valid and warrant the expenditure of those resources. This review process has helped prevent the unnecessary detention and removal of legitimate students and exchange visitors. Alternately, this process has also expedited the forwarding of valid leads for further investigation.

COMPLIANCE ENFORCEMENT UNIT

The Enhanced Border Security and Visa Entry Reform Act of 2002 requires schools to report foreign students who fail to enroll within 30 days of the schools' registration deadline. Schools appoint foreign student advisors who are required to maintain foreign student information and assist the students and the school in adhering to the laws and regulations of the Immigration and Nationality Act. These advisors, known as designated school officials, are responsible for reporting students who fail to maintain their status for specific reasons, such as failing to show up for their program, failing to carry the required course load, and other adverse reasons. Additionally, SEVIS performs automatic data runs to identify students who have fallen out of status by failing to enroll or for other reasons. These actions will cause a student's record in SEVIS to become "terminated."

After a student's SEVIS record has been terminated, CEU, which is part of the ICE Office of Investigations, extracts data from SEVIS on the terminated records. Lookouts are entered on these terminated records to alert officers and inspectors within DOS, CBP, and USCIS of a potential violation of the student's non-immigrant status and to scrutinize subsequent attempts to obtain a visa or another immigration benefit, or to enter the United States.

Moreover, the ICE Law Enforcement Service Center (LESC) in Burlington, Vermont, has access to SEVIS, as well as the CEU-generated violators lookouts in IBIS, and can advise Federal, State, and local law enforcement officers who make inquiries to the LESC of the immigration status of a foreign student or exchange visitor. If a student is later determined not to be in violation of his/her status, or overcomes a past violation by virtue of a new visa, the lookout is removed. The process described above also applies to exchange visitors and their program sponsors.

CEU conducts a thorough review of each individual terminated record to identify those who have actually violated their status. This review includes record checks against several immigration and terrorist databases. After this review, actionable leads are identified, and recorded, and tracked electronically to ensure accountability. These validated leads are then prioritized according to their national security risk, or impact on public safety, such as the case with criminal aliens. ICE field offices for investigation are assigned actionable leads for further investigation and enforcement action. ICE field offices have arrested 641 status violators as a result of this effort. ICE is committed to enforcing our immigration laws against violators identified through SEVIS. This is founded in our belief that effective compliance enforcement of violators is a critical component of SEVIS , and of our legal immigration system.

CEU identifies approximately 1,000 potential student and exchange visitor status violators a week through SEVIS. However, this number more than doubles when student enrollment peaks after the start of the school term. To date, over 81,000 potential violator leads have been resolved through CEU analysis. CEU has placed more than 130,000 lookouts on students and exchange visitors who have been terminated in SEVIS, and who have potentially violated their nonimmigrant status. The lookouts are subsequently reviewed to determine whether they are, in fact, malafide students or exchange visitors. CEU has assigned over 3,700 SEVIS violator leads to ICE Special Agent in Charge (SAC) field offices for investigation, resulting in 641 arrests.

COMPLIANCE SEVIS ENFORCEMENT EXAMPLES

CEU continuously monitors SEVIS data in order to increase the effectiveness of SEVIS as an enforcement tool. Using the work of CEU, ICE will continue to adapt SEVIS enforcement priorities to recent trends, current intelligence and known threats as they relate to national security and public safety. The following are some examples of successful apprehensions of status violators resulting from CEU initiated SEVIS leads. These violators were identified as national security threats only after they had entered the country and had been properly screened:

- A Pakistani national was arrested for failure to enroll. This student violator was the subject of a terrorist database record entered after his arrival to the U.S., and was investigated by the Joint Terrorism Task Force. This subject is currently in removal proceedings. If ordered removed, he will be barred from re-entry for a period of 10 years.
- A Saudi Arabian national was investigated for failing to maintain his student status. After his arrival, this violator was identified as a potential extremist having possible links

to a terrorist organization. He attempted to smuggle a 50,000-volt stun gun onboard a commercial aircraft. This subject was deported from the United States and is barred from re-entry for 10 years.

- A Jordanian national was arrested for failing to maintain his student status. Subsequent to his entry into the United States, this student violator was entered in the National Crime Information Center database (NCIC) as a potential terrorist, having possible links to a terrorist organization, and was the subject of an FBI investigation. This subject is currently in removal proceedings.

These apprehensions are significant in that ICE was able to use SEVIS to rapidly identify nonimmigrant violations on each potential terrorist subject, and place them into removal proceedings. These examples demonstrate how SEVIS capabilities augment the overall effectiveness of terrorist databases and counter terrorism investigations.

LOOKING FORWARD

As you have heard, many initial obstacles encountered during the implementation phase of SEVIS and SEVP have been overcome. Major accomplishments have been achieved as a result of the cooperation and coordination with the academic community and other Federal partners. But there is still room for growth and greater efficiency in SEVP.

One such area is the overall integrity of the information in SEVIS. The system is a cornerstone in the fight against terrorism, used by law enforcement partners to identify potential violators in the United States who seek to do us harm. Consequently, the information in the system must be reliable. We are working toward an overall data integrity

strategy that will address data correction issues, including enhanced training for SEVIS users, more frequent and targeted discussion to receive feedback from the education community, and increased authority for school and program sponsors to correct data entry errors. In order to facilitate data integrity and system performance discussion with SEVIS users, SEVP is considering the establishment of a Federal Advisory Committee (FAC) specifically focused on performance. Such a FAC would bring together members of the SEVIS community to meet on a regular basis to discuss user requirements and system enhancements. Such a FAC would be composed of a diverse group of individuals to ensure that SEVIS community at large is represented. We look forward to working with the education community and our Federal partners in crafting a solution to these issues that will be beneficial to us all.

Another area that we recognize presents a challenge to us and to the community is the coordination of student and exchange visitor policy across multiple agencies in the Federal government. This situation is not unique to student and exchange visitor issues, but is a complex one that affects the lives of individuals in a very personal way. We recognize this challenge and are eager to work with the community and our agency partners to develop a process that will allow for enhanced and expedited decision making between various organizations on issues that impact the academic and exchange visitor community.

We welcome the thoughts of the academic and exchange community regarding ways the Federal government can provide better service to foreign students and exchange visitors and the schools and program sponsors that are hosting them.

Another opportunity for further collaboration with the community and Federal partners in the very near future is the recertification of schools currently participating in SEVIS. The

Enhanced Border Security Act of 2002 required that all schools accepting non-immigrant students be recertified every two years. An implementing rule on recertification is currently being prepared, and will be published in the Federal Register. Schools will be given ample time to prepare for recertification and will maintain their authority to accept non-immigrant students while they are undergoing the recertification process. A dialogue with the community about the recertification process will ensure that the process is not burdensome to the schools and will allow us to ascertain whether the school is still fulfilling its SEVIS requirements, such as maintaining current records on the students throughout their participation in the academic program.

We look forward to continuing to grow as a program and to more effectively work with the community on our common goal of keeping the doors open to foreign students and exchange visitors interested in participating in outstanding academic institutions and exchange visitor programs in the US, while effectively monitoring their compliance with our nation's laws for the security of us all.

Thank you, Chairmen McKeon and Tiberi, and Members of the Committee, for the opportunity to testify before you. I look forward to answering any questions that you may have.