



U.S. Immigration and Customs Enforcement

STATEMENT

OF

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REGARDING A HEARING ON

“Student Visa Integrity: Protecting Educational Opportunity and National Security”

BEFORE THE

**UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY
SUBCOMMITTEE ON BORDER SECURITY AND IMMIGRATION**

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226 Dirksen Senate Office Building
2:30 p.m.**

Chairman Cornyn, Ranking Member Durbin, and distinguished members of the Subcommittee.

Thank you for the opportunity to discuss the efforts of U.S. Immigration and Customs Enforcement (ICE) Homeland Security Investigations (HSI) and address the complexities of maintaining a free and open academic environment while protecting national security. ICE HSI administers the Student and Exchange Visitor Program (SEVP) and oversees various investigative programs that safeguard against national security and public safety threats. Through these programs, we provide the framework and legal parameters governing the enrollment of international students in U.S. academic institutions. I would like to highlight some of the ongoing efforts and improvements HSI has implemented, including the certification of schools permitted to enroll international students, student vetting processes, and the investigation of student visa violations. In addition, I will provide an overview of our domestic and international operations, enumerating the security programs that work to guard the United States against evolving threats.

Student and Exchange Visitor Program Enhancements

The first program I would like to discuss with the Committee is the Student and Exchange Visitor Program, or SEVP. SEVP certifies schools to enroll academic (F visa) and vocational (M visa) nonimmigrant students in the United States. As of April 2018, there were 8,625 SEVP-certified schools and 1,174,610 nonimmigrant students participating in the Program.

SEVP uses the Student and Exchange Visitor Information System, or SEVIS, to monitor nonimmigrant students in an F or M visa status and the schools that enroll them while in the United States. SEVIS also contains information for the Exchange Visitor nonimmigrant visa program (J visa holders), which generally is administered by the U.S. Department of State (DOS). SEVIS contains information such as a student's name, the address where he or she resides (the mailing address if the student cannot receive mail at the residence address), date of birth, phone number, email address, and major and employment information (if applicable). SEVIS information is updated by Designated School Officials (DSOs), but the system will auto-terminate a student's record if the student fails to enroll or report to school, meaning the student's status is terminated and he or she generally must immediately depart the United States.

The SEVP certification and oversight processes are rigorous and continual. Schools must submit required evidence with their application, undergo site visits and investigations, and recommend DSOs. These school officials must be U.S. citizens or lawful permanent residents and must affirm their knowledge of, and intent to comply with, all federal regulations. The schools are furthermore subject to biennial recertification, unannounced site visits, and out-of-cycle reviews. SEVP may withdraw a school's certification for failing to comply with the regulations and, as a result, a school would be ineligible to enroll nonimmigrant students until successfully re-petitioning for approval and meeting all the standards of initial certification.

Beyond the certification process, SEVP uses SEVIS data to engage in risk management and has enhanced its risk management framework by developing a compliance dashboard that

identifies schools with regulatory and behavioral risk indicators. SEVP uses this risk analysis to identify schools that may have violated SEVP regulations, to focus recertification reviews and school updates, and to initiate out-of-cycle reviews. SEVP regularly conducts compliance site visits to schools to ensure that the programs are functioning as reported in SEVIS. In addition, SEVP continuously vets leads reported by the public concerning both schools and students, acting decisively to protect public safety and the integrity of the immigration system.

SEVP also maintains rigorous standards in other areas, such as for flight schools that seek certification to enroll nonimmigrants. In accordance with the Federal Aviation Administration regulations, all flight schools must show that they are in compliance with CFR Title 14, Part 141 or 142 in order to be eligible for SEVP approval. SEVP has also augmented its outreach efforts by hiring field representatives across the country to regularly engage with school officials and maximize both cooperation and understanding of the nonimmigrant student system.

Along with the efforts noted above, HSI Special Agents have been conducting outreach visits to SEVP-certified institutions as part of HSI's Project Campus Sentinel program. This outreach program, which was established in 2011, aims to build a partnership between local HSI Special Agents and SEVP-certified institutions by collaboratively preventing the criminal exploitation of SEVP through direct and open communication. It also creates an avenue for improved direct communication between DSOs and local HSI Special Agents. Although this outreach program was initially established to encourage communication between school officials and HSI Special Agents, the inclusion of SEVP Field Representatives and Campus Public Safety entities is strongly encouraged and has been implemented among some of the outreach visits. This partnership allows all stakeholders the opportunity to openly exchange information, improve cooperation, and bolster the safety and security of students, faculty, and institutions. Since inception, HSI Special Agents have conducted over 2,900 Project Campus Sentinel outreaches.

While many of SEVP's processes and programs have proven to be effective, HSI strives to improve and enhance these programs. For example, to close previously identified national security gaps and system vulnerabilities, SEVP is modernizing SEVIS and introducing enhancements to the system. These enhancements will make the system's tracking capabilities more robust and ultimately transform SEVIS into a person-centric database, which means a person could not have more than once active record at a time. In March 2018, SEVP launched the SEVP Portal for students participating in optional practical training, which generally permits certain students to engage in post-graduation training and employment related to their degree program. The Portal allows nonimmigrant students to directly upload their required SEVIS information, including an employer's name and address, as well as other key information for monitoring purposes. The portal interfaces with SEVIS but does not give students direct access to SEVIS. The Portal has been a success with more than 113,000 registered portal users (i.e., 49 percent of the students eligible for Portal Accounts). Eventually, this system will be expanded to all nonimmigrant students in an F or M visa status, resulting in SEVIS data that is both more accurate and more rapidly collected.

Other enhancements to the nonimmigrant student program include the development of an Admissibility Indicator and the initiation of background checks on DSOs. In 2014, SEVP, in

partnership with U.S. Customs and Border Protection (CBP), developed and launched the Admissibility Indicator at U.S. airports. This initiative ensures that international students who may not have maintained status are identified for additional vetting by CBP. The Admissibility Indicator is embedded within the existing Traveler Primary Arrival Client, the system used by CBP to screen individuals entering the country. It informs the CBP officer whether there is any derogatory information relating to a nonimmigrant student or exchange visitor's eligibility to enter the United States on an F, M, or J visa. For example, the Admissibility Indicator provides real-time data about whether a school has terminated a nonimmigrant student or whether he or she remains in active status in SEVIS. In Fiscal Year (FY) 2017, SEVP and CBP continued their collaboration and successfully deployed the Admissibility Indicator at all land ports of entry (except pedestrian).

Additionally, in May 2017, SEVP started conducting criminal background checks on proposed DSOs, because these individuals have access to a secure government database and a role in reporting information in that database. SEVP had previously vetted only DSOs employed by schools with students in grades K-12. These additional background checks have identified DSOs with a range of criminal arrests and convictions, and have resulted in the removal of several DSOs. HSI intends to expand this process and incorporate such vetting as part of its regular review of approved schools and DSOs, both to safeguard against potential vulnerabilities and to ensure the integrity of the information in SEVIS.

SEVP's current programs, ongoing enhancements, and proposed expansion will further secure our nation from those wishing to exploit the nation's education system.

Identifying and Apprehending Threats to National Security and Public Safety within the United States

HSI also actively identifies and initiates enforcement action on overstay violators who pose a national security, border security, or public safety concern. This includes individuals who entered the United States as nonimmigrant students or exchange visitors. As part of the overstay enforcement mission, HSI's primary objective is to vet nonimmigrant information in order to identify true overstay violators, match any criminal conviction history or other derogatory information, and take appropriate actions.

Within HSI, the National Security Investigations Division's Counterterrorism and Criminal Exploitation Unit leverages Special Agents, analysts, information systems, and interagency partnerships to determine which overstay leads may be suitable for further national security investigation. This specialized unit oversees the national program dedicated to the investigation of nonimmigrant visa violators who may pose a national security or public safety concern, and prioritizes overstay cases using a risk-based analysis.

In an average year, the Counterterrorism and Criminal Exploitation Unit analyzes the records of over one million potential status violators, incorporating data from various government systems, such as SEVIS and CBP's Arrival and Departure Information System, along with other information. The vetting helps determine whether an individual who overstayed has departed the United States, changed to a different nonimmigrant status, adjusted status to

lawful permanent residence, has a pending immigration benefit application, or would be appropriate for an enforcement action.

HSI proactively develops cases for investigation, monitors the latest threat reports, and addresses emerging issues. This practice is designed to detect and identify individuals exhibiting specific risk factors, and formulated based on intelligence reporting, travel patterns, and in-depth criminal research and analysis. The Counterterrorism and Criminal Exploitation Unit has contributed to the counterterrorism mission by initiating and supporting high-priority national security initiatives, based on specific intelligence. As one of its many initiatives, the Unit also partners with the National Counterterrorism Center (NCTC) to screen overstays and identify potential matches to derogatory intelligence community holdings through the Recurrent Student Vetting Program to routinely screen nonimmigrant students who are lawfully present in the United States against known derogatory information.

In FY 2017, 1,466,208 leads regarding potential overstays were reviewed. Numerous leads were closed through an automated screening process, most commonly due to subsequent departure from the United States. A total of 7,353 leads were sent to HSI field offices for investigation. Of these, 1,935 are pending further investigation, 2,216 were closed for being in compliance (pending immigration benefit, granted asylum, approved adjustment of status application, or have departed the United States), and the remaining leads were returned for continuous monitoring and further investigation. In FY 2017 alone, HSI made 1,230 administrative arrests, and 97 criminal arrests that resulted in 85 indictments and 95 convictions.

The Counterterrorism and Criminal Exploitation Unit refers leads that do not meet HSI criteria for further investigation to the Enforcement and Removal Operations (ERO) National Criminal Analysis and Targeting Center for further vetting. If necessary, the lead is forwarded to the respective ICE ERO field office for enforcement action.

Improvements in Overstay Enforcement

HSI has dedicated additional resources to develop domestic screening and the Visa Lifecycle programs. These programs help identify nonimmigrant students who have access to sensitive technology and better capture the overarching visa lifecycle and provide another layer of security for the nation, and serve as innovative investigative tools to support the enforcement of U.S. immigration laws.

Domestic Screening

A domestic screening program was created in response to a Government Accountability Office audit that identified a potential vulnerability with nonimmigrant students who enter the United States to study in a non-sensitive field of study and subsequently transfer to a sensitive field of study. These individuals could pose a substantial risk related to the diversion of sensitive technology, materials, or information.

This program aims to enhance national security by preventing the export of goods, technology, or sensitive information through activities such as graduate-level studies, teaching,

research, training, or employment. The program works by identifying students who have changed their field of study to a potentially sensitive area of concern and evaluates those individuals against risk-based targeting criteria. To accomplish this, SEVIS data pertaining to students from countries that have an elevated risk of proliferation activity are manually extracted and reviewed. The potential leads are analyzed using a comprehensive vetting process, including a review against Intelligence Community holdings for additional derogatory information, open-source information, and academic journals. These checks are performed twice a year to identify new students who enroll at varying times within the school year.

Visa Lifecycle Program

The Visa Lifecycle Program tracks certain nonimmigrant visa holders from the time they file a visa application to the time they depart from the United States, or until they become overstays or otherwise fail to comply with their terms of admission (i.e., become “out-of-status”). This program allows HSI to continuously vet and identify derogatory information on these nonimmigrant visa holders for the validity of the visa and authorized period of stay. In instances where violators are identified, appropriate enforcement actions are initiated.

The Visa Lifecycle Program focuses on nonimmigrants seeking visitor for business or pleasure (i.e., B-1 and B-2), student (i.e., J and M), or exchange visitor (i.e., J) visas from five DOS visa issuing posts. These posts were selected to complement existing HSI screening efforts in response to recent global acts of terrorism perpetrated in those countries. Working in coordination with HSI’s Visa Security Program, the Counterterrorism and Criminal Exploitation Unit receives information on these visa applicants pulled from the Pre-Adjudicated Threat Recognition and Intelligence Operations Team (PATRIOT) and the DOS Consular Consolidated Database. This data allows for continuous vetting of these nonimmigrant visa holders using an automated open-source platform in conjunction with Intelligence Community holdings.

Visa Security Program

The HSI Visa Security Program (VSP) leverages resources in the United States and abroad to screen and vet visa applicants, identify and prevent the travel of those who constitute potential national security or public safety threats, and launch investigations into transnational criminal and terrorist-affiliated networks operating around the globe. The VSP is authorized by Section 428 of the Homeland Security Act of 2002 and implemented by a 2003 Memorandum of Understanding between the Secretaries of State and Homeland Security.

One key facet of VSP operations is the overseas assignment of HSI Special Agents to diplomatic posts worldwide. Embedded within American Embassies and Consulates, these agents work alongside DOS Consular Affairs personnel, other partner agencies at post, and appropriate host country officials to identify and investigate terrorists, criminals, or other individuals who pose a threat to the United States.

A second critical component of the VSP is PATRIOT, which enables the automated screening of visa application information against DHS holdings, as well as holdings of other U.S. agencies, prior to the visa applicant’s interview and visa adjudication. Derogatory information

discovered during the automated screening process is manually vetted by PATRIOT personnel utilizing law enforcement, open-source information, and classified systems. PATRIOT analysts then provide HSI Special Agents assigned to VSP posts with relevant information to utilize during consular interviews of visa applicants or other investigative activities conducted abroad prior to visa adjudication. Following the analysis of all known derogatory information, HSI Special Agents at VSP posts provide a unified DHS recommendation to DOS on visa eligibility.

The combination of the international and domestic dimensions of the VSP equips HSI with a unique capability to investigate suspicious travelers, enhance existing information, and identify previously unknown threats, rather than simply denying visas and potential travel of these applicants. These efforts allow the VSP to operate as a counterterrorism tool that mitigates threats posed by transnational terrorist and criminal networks. Utilizing information obtained through the visa application process, the VSP enhances the national security and border security of the United States by identifying national security or public safety threats at the earliest part of the visa lifecycle.

Currently, HSI VSP operations are conducted at 33 visa-issuing posts in 26 countries, and operate as a critical component of the USG's layered approach to visa security. In FY 2017, VSP screened and vetted more than two million visa applicants, submitted 1,123 nominations/enhancements to the Terrorist Screening Center's (TSC) Terrorist Screening Database (TSDB) (which is the United States Government's consolidated terrorist watchlist). VSP recommended the refusal of more than 8,800 visas of which 2,579 were based on an identified nexus to terrorism, in most cases augmenting often minimal derogatory information available to consular officers through standard visa adjudication tools.

In addition, VSP personnel also participate in other screening and vetting processes focused on protecting the homeland from diverse national security and public safety threats. Generally, these processes entail collaboration among HSI, DOS, and other partner agencies involved in screening and vetting. VSP personnel then provide consular officers advice and background information to properly adjudicate immigrant and nonimmigrant visa applications of security or foreign policy interest.

In some instances, a more intensive screening and vetting of a visa application is prompted by risk factors indicative of a visa applicant's potential involvement in activities related to the unlawful procurement, transfer, or export of sensitive U.S.-origin military or dual-use goods or technology on behalf of foreign adversaries or criminal organizations. HSI, through the Counter-Proliferation Investigations program, actively conducts criminal investigations into these types of activities. These cases focus on individuals and networks involved in proliferation activities that violate U.S. export-control laws and regulations. These strategic investigations are critically important to a number of U.S. national security efforts. They strive to prevent the proliferation of weapons of mass destruction and missile delivery systems, restrain the development of destabilizing conventional military capabilities in certain regions of the world, prevent the transfer of arms and sensitive dual-use items to terrorist organizations, criminal networks, or state adversaries, and maintain the U.S. advantage in sensitive technologies controlled for export. As a result of this program and the investigations HSI special agents conduct in this arena, HSI successfully identifies individuals and illuminates networks that

potentially seek to harm the United States or its interests through their illicit proliferation activities.

The information available to HSI due to these investigations, combined with other information in DHS holdings, serves as an important tool in the screening and vetting process. It is utilized daily by a dedicated team of special agents and analysts within the VSP. This team is responsible for conducting more intensive reviews of visa applications originating from all 226 visa-issuing posts worldwide that are considered high risk for the applicant's potential involvement in the unlawful procurement, transfer, or export of sensitive military or dual-use U.S. information and technology. At times, these applications may involve individuals seeking to exploit the U.S. educational system by engaging in research, teaching, or exchange visitor programs as a way to acquire and transfer sensitive, export-controlled technology or information on behalf of adversaries or organizations that pose a national security risk to the United States.

The members of this dedicated VSP team review DHS holdings for relevant information and, when appropriate, coordinate with additional ICE programs, DHS components, and partner law enforcement and intelligence agencies to identify the full scope of information available on the visa application under review. Ultimately, as part of this more intensive application review process, the VSP team provides a recommendation for visa issuance or refusal to DOS, based on the information uncovered during the HSI review. In all cases where the Visa Security Program team recommends the refusal of a visa, the VSP coordinates in advance with CBP's National Targeting Center-Passenger regarding the applicant's admissibility or inadmissibility, per the Immigration and Nationality Act, presenting a single, uniform DHS position to DOS.

Conclusion

In closing, HSI remains committed to maintaining a free and open academic environment while protecting the security of the nation. HSI will continue to work with academia, law enforcement partners, and other agency partners, to pursue individuals or organizations who seek to harm to the United States. Today, I provided a brief description of the various HSI programs established to accomplish this goal. These programs provide a multi-layered level of security. HSI contributes its law enforcement expertise to the visa issuing process through the VSP. The Visa Lifecycle Program allows HSI to continuously vet individuals from select posts throughout the validity of their visa and their authorized period of stay. Once in the United States, the Recurrent Student Vetting Program provides continuous vetting among the nonimmigrant student population, to identify individuals with known derogatory information. Domestic screening further identifies students who change from a non-sensitive major to a sensitive major from countries with proliferation concerns. Enhancements and expansion of these programs will improve our ability to identify those individuals who violate their status, or pose national security or public safety concerns to the United States. We look forward to working with the Committee staff regarding these HSI programs.

Thank you again for inviting me today to explain HSI's critical role in protecting the national security and public safety of the United States. I would be pleased to answer your questions.