

**Statement of Glenn A. Fine
Inspector General, U.S. Department of Justice
before the
House Judiciary Committee
Subcommittee on Immigration, Border Security, and Claims
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Mr. Chairman, Congresswoman Jackson Lee, and Members of the Subcommittee on Immigration, Border Security, and Claims:

I. INTRODUCTION

Thank you for inviting me to appear before the Subcommittee to testify about the implementation of the foreign student tracking system, the Student and Exchange Visitor Information System, or SEVIS.

The Office of the Inspector General (OIG) first examined the implementation of this system in a May 2002 report. In that report, we described our investigation of how the Immigration and Naturalization Service (INS) mailed forms notifying a Florida flight school that two September 11 terrorists, Mohamed Atta and Marwan Alshehhi, had received approval to change their immigration status from "visitors" to "students" six months after they died committing the terrorist attacks. We also discussed the INS's contacts with the two terrorists and how the INS handled their change-of-status applications. In addition, our report examined the INS's monitoring of foreign students and raised serious concerns about its implementation of SEVIS.

In September 2002, in a hearing before this Subcommittee, I described those concerns and questioned whether the INS would be able to meet the January 1, 2003, deadline established by Congress for full implementation of SEVIS. The concerns included whether the INS would assign and train sufficient numbers of dedicated staff to review and approve the schools that applied to use SEVIS, whether it would conduct sufficient and thorough site visits of schools applying to accept foreign students, whether it would adequately train school officials to use SEVIS, and whether it would train INS inspectors and investigators adequately to use SEVIS to detect fraud.

Since that hearing, the OIG has continued to examine the implementation of SEVIS, and last month we released a follow-up report that assessed the INS's progress in implementing that system. We found that the INS had made significant progress implementing SEVIS, including requiring previously approved schools to reapply for certification and requiring non-accredited vocational, language, and flight schools to undergo on-site reviews prior to providing them access to SEVIS. However, despite this progress, we

concluded that SEVIS is not yet fully implemented and that significant deficiencies remain in its implementation.

In my testimony today, I first will discuss background on the foreign student program and then findings from our recent follow-up review on SEVIS. Finally, I will describe recommendations for improving the implementation of SEVIS.

II. BACKGROUND ON THE FOREIGN STUDENT VISA PROCESS

The State Department is responsible for issuing student visas to foreign students who want to study in the United States. Formerly, it was the INS's responsibility to determine which schools were entitled to accept foreign students, to inspect the documentation of persons arriving with student visas, to keep track of the entries and exits of foreign students, to know whether students were continuing to maintain their status once in this country, to facilitate the removal of students once their status ended, and to approve appropriate requests by aliens who were in the country through some other classification to acquire student status. Responsibility for each of these obligations was divided among several different offices, divisions, and branches within the INS, as well as among private contractors working with the INS. The DHS now has responsibility for these functions, since March 1, 2003, when the INS was transferred to the DHS.

Historically, the INS has not handled these responsibilities adequately and has acknowledged that it does not know how many foreign students are in the United States. The INS also lacked accurate data about the schools that are authorized to issue I-20s (the INS form that contains identifying information about the school and the prospective student, including the course of study for which the student has been accepted and information about the student's financial resources). In addition, the INS lacked accurate data on individuals who obtain student visas, their current status, and whether fraud is being perpetuated in the foreign student program.

For example, an important component of the foreign student program is the school certification process, which allows the INS to ensure that a school is legitimate and not simply an operation designed to assist foreigners to enter or remain in the country fraudulently. Yet, our May 2002 review found that INS District offices assigned the responsibility for approving and recertifying schools to adjudicators or inspectors only as a collateral, low priority duty. We found that these inspectors and adjudicators – called “schools officers” – did not adequately review the schools' applications for certification or recertification. In addition, the INS rarely conducted site visits of schools prior to or after certification, but instead relied primarily on written representations from the schools.

In addition, INS investigators and adjudicators consistently reported to us that they believed fraud with I-20 forms was prevalent. The old, pre-SEVIS forms contained few security features and were relatively easy to counterfeit. Schools received multiple blank I-20s, and we found that many schools that were no longer approved to issue such forms still retained a supply of the forms.

Moreover, prior to SEVIS, the INS's database for recording information about the status of foreign students and schools relied on information from paper forms that were supposed to be sent to the INS and uploaded into a database. But we found the information inputted into this database was incomplete, unreliable, and riddled with inaccuracies. For example, of 200 schools we reviewed from the database's list of active schools, we found that 86 appeared to no longer be in operation. Of the 114 schools still in operation, 40 had incorrect addresses and 16 had incorrect names. Two of the schools in the database were not even approved to issue I-20s and should never have been in the system.

III. RESULTS OF OIG'S MARCH 2003 FOLLOW-UP REVIEW

Beginning in January 2003, we conducted a follow-up review to assess the INS's progress in implementing SEVIS. We interviewed INS Headquarters officials, INS adjudicators, INS training officers, and representatives from school associations. We also reviewed INS data on schools that had submitted applications for access to SEVIS, and we reviewed reports submitted by INS contract investigators who conducted site visits of schools.

In the follow-up report issued last month, we concluded that the INS had made significant progress in implementing SEVIS. To ensure the integrity of the SEVIS database, the INS is requiring all schools approved previously to host foreign students to reapply for approval and, in addition, is requiring non-accredited vocational schools, language schools, and flight schools to undergo an on-site review prior to approval. The INS also is planning to conduct on-site reviews at all schools every two years to verify that the schools are bona fide and are complying with SEVIS reporting and recordkeeping requirements. We also found that SEVIS is available at all Department of State consular posts, INS Service Centers, INS District offices, and ports of entry.

Yet, despite this progress, we concluded that SEVIS is still not fully implemented. The INS asserts that SEVIS was fully implemented by January 1, 2003, the congressionally mandated deadline, because it was technically available as of that date. However, as I stated in my September 2002 testimony before this Subcommittee, we believe full implementation includes not only technical availability of the system, but also ensuring that sufficient resources are devoted to the foreign student program; ensuring that only bona fide schools are provided access to SEVIS; ensuring

that schools are completely and accurately entering information on their foreign students into SEVIS in a timely manner; providing adequate training for DHS employees and school representatives; and establishing procedures for using SEVIS data to identify noncompliant and fraudulent operations as well as following up when SEVIS data indicates fraud in a school's program.

Our follow-up review determined that most of these actions have not yet taken place. In addition, while the SEVIS database contains information on newly enrolled foreign students, it will not contain information on all continuing foreign students until August 1, 2003. Until then, the INS will continue to operate its inadequate, paper-based system to monitor continuing foreign students.

I will now summarize several deficiencies in SEVIS and the foreign student program that our follow up review identified.

A. School Certifications

The INS established January 30, 2003, as the mandatory implementation date by which all schools were required to begin issuing SEVIS I-20s to their new students. Because of the inaccuracy of the information in its old student database, the INS required all schools previously approved to accept foreign students to resubmit applications to obtain access to SEVIS.

The INS instituted a two-phased process for certifying schools to facilitate processing of the applications. In the first phase, effective July 1, 2002, through September 24, 2002, the INS established a preliminary enrollment period for schools that met certain requirements. These included public and private secondary schools, post-secondary schools, private elementary schools, language schools, and vocational schools as long they were accredited and had been approved by the INS within the past three years. Flight schools were prohibited from applying during this period. The INS deferred the required on-site review for these schools. According to the INS, it approved 1,418 schools during this preliminary enrollment period.

During the second phase, which began on September 25, 2002, the INS accepted applications from all other schools. All schools that applied during this phase were required to have an on-site review prior to approval. To ensure completion of the certification review by January 30, 2003, the INS "strongly encouraged" schools to submit their applications (called an "I-17") by November 15, 2002. Once the school submitted an electronic application, INS Headquarters directed one of three contract firms to conduct an on-site review at the school. INS District staff then adjudicated the schools' applications using on-site review reports submitted by the contractors and supporting documentation submitted by school officials to determine whether to grant the

school access to SEVIS. A total of 2,856 schools submitted applications from September 25, 2002, through November 15, 2002.

The INS fell behind in its processing of the school applications and by January 30, 2003, had processed only 1,963 of these 2,856 applications. Moreover, as of January 30, 2003, the INS had not processed any of the 1,305 school applications it received after November 15, 2002. Our review found that these processing delays occurred for several reasons:

- The INS failed to dedicate sufficient field adjudication staff to the task. At six of the ten INS Districts we contacted, only one adjudicator had been assigned responsibility for processing school applications and this task was not adjudicators' full-time responsibility in two of these six Districts. We also found that officials at five of the ten INS District offices we contacted had assigned the primary responsibility for performing the school certifications to personnel with no prior experience in processing school applications.
- Technical problems with SEVIS impeded adjudicators' access to the system. At four of the ten INS Districts we contacted, several adjudicators had not yet been assigned passwords. At two other Districts, adjudicators complained of continual problems in using passwords.
- The contract investigators the INS hired to conduct on-site reviews often failed to collect documentation supporting the schools' applications. This oversight caused additional delays because the adjudicators were unable to process the applications without the supporting documentation. Consequently, the adjudicators had to spend additional time contacting the schools and waiting for them to send the missing documentation.
- One of the contract firms the INS hired to conduct on-site reviews failed to conduct the reviews in a timely manner. The INS gave its contractors ten working days to complete the on-site reviews and submit a report to the INS. As of January 16, 2003, the contract firm hired to perform the bulk of the reviews had submitted reports on only 545 of the 1,232 schools it had been assigned to review.

In addition to the application processing problems, SEVIS developed technical problems during January 2003 as more schools and foreign exchange visitor program sponsors began to access the system. Users had difficulty logging onto SEVIS, and as the volume of users grew the system became increasingly sluggish. Because of the technical problems and processing backlogs, the INS extended the mandatory compliance date from January 30 to

February 15, 2003. To help clear up its processing backlog, the INS also permitted public secondary schools and accredited schools to conditionally enroll in SEVIS without first requiring an on-site review. According to the INS, by February 15, 2003, adjudicators were able to complete their reviews of the 2,856 applications submitted by the schools by November 15, 2002.

B. Contract Investigators

Our May 2002 report was critical of the INS's failure at the time to conduct site visits of higher-risk schools – specifically language, vocational, and flight schools – to ensure they were bona fide. As noted above, the INS subsequently decided to require all schools applying for SEVIS access to undergo site visits. Due to the lack of sufficient in-house resources to conduct such reviews, the INS hired contract investigators to conduct these visits and provided them with INS-developed checklists to use in conducting their reviews. The contract investigators were required to submit copies of the completed checklists, along with the supporting documentation provided by the school, to INS field adjudicators who made the determination whether the school was bona fide and would be certified for access to SEVIS.

Our March 2003 follow-up review found that the contractors' completed checklists were of limited use to INS adjudicators in determining whether a school was bona fide. We found that the INS failed to properly train the contract investigators, test the checklist for usefulness and completeness, and monitor the quality of contract investigators' on-site reviews. The INS adjudicators we contacted complained that most of the checklists were sparse and contained little or no narrative comments about the physical characteristics or the operations of the school. In addition, adjudicators noted that, in some cases, even though a contract investigator had concluded on the checklist that the school was bona fide, other comments written on the checklist appeared to contradict this conclusion. Based on their contacts with school officials and their reviews of the completed checklists, some INS adjudicators questioned the thoroughness of the on-site visit, the basic knowledge of the contract investigators, and, in some instances, whether the on-site visits even were conducted.

We believe that the DHS needs to more closely monitor these contract investigators. In October 2002, we had discussed with INS officials the need to establish quality control over the on-site reviews, and they stated that they routinely reviewed copies of the contract investigators' on-site review checklists for completeness and timeliness. The INS did not agree with our suggestion to spot-check the contract investigators' reviews by re-visiting a sample of sites, but instead expressed confidence in the contract firms' abilities. Based upon our review of the process, and our interviews of INS adjudicators, we continue to believe that quality control reviews are necessary to ensure that contract

investigators are conducting thorough reviews and are actually visiting schools and not just obtaining information telephonically.

C. Internal Controls

Our May 2002 report recommended that the INS conduct periodic audits of schools to ensure that the schools' internal controls are sufficient to prevent or detect fraud, and that the schools are entering data into SEVIS accurately, completely, and timely. In the past, alien smuggling rings were operated from within legitimate schools by individuals who were involved with the schools' foreign student programs.

The INS responded to our recommendation by indicating that the primary audit mechanism would be the on-site reviews conducted by the contract investigators. Using the INS-developed checklists, contract investigators are supposed to ask about school procedures related to internal controls. The investigators also are required to verify information from the schools' records for at least five foreign students selected from a list provided by the INS.

However, we do not consider these actions sufficient to identify a school's internal control weaknesses that could lead to fraud or sufficient to conclude that a school's SEVIS records are complete, accurate, and current. The INS-developed checklists do not address all internal control issues, such as whether the Designated School Officials are properly safeguarding their SEVIS passwords. In addition, five records is an insufficient sample from which to draw a conclusion about a school's compliance with SEVIS recordkeeping requirements.

The Department of Education already requires schools participating in federal student financial aid programs to obtain an independent audit. Therefore, we believe the DHS should coordinate with the Department of Education to incorporate SEVIS reviews into its required financial aid audits. While partnering with Education would address a significant number of schools, the DHS still would need to ensure the remaining schools were audited.

D. Training for Adjudicators and Inspectors

Our follow-up review found that INS adjudicators have not received adequate training for performing school adjudications, including what to look for when reviewing the contract investigator checklists and how to use the information provided on the checklists to identify fraudulent schools. As a result, there is no assurance that INS adjudicators are only approving bona fide schools for access to SEVIS. Although the INS conducted two training sessions last summer for adjudicators, the training primarily focused on the technical aspects of SEVIS. The adjudicators we contacted stated that they

had not received training on how to use the completed contract investigator checklists to identify possible fraudulent operations or what to do if fraud was identified. In future training sessions for adjudicators, we strongly encourage the DHS to focus more on the adjudication process and how to identify fraud.

Further, although new foreign students currently are using SEVIS-generated documents to enter the United States, at the time of our follow-up review the INS had not fully trained its inspectors at ports of entry on how to use SEVIS to identify whether an alien is a legitimate student. It is crucial that these inspectors receive adequate training in SEVIS, because they are the first line of defense in preventing mala fide individuals from entering the United States. At the time of our review, the INS had only recently begun providing formal training to its inspectors at ports of entry. In general, we found the only fully trained inspectors were those at ports of entry where an inspector was responsible for certifying schools and therefore had attended the INS's adjudicator training sessions.

E. Using SEVIS to Identify Fraud

Our May 2002 report recommended that the INS establish a separate unit at Headquarters responsible for analyzing SEVIS data to identify non-compliant and possibly fraudulent activity, such as sham schools and alien smuggling operations. In response to our recommendation, the INS stated that in September 2002 it hired a consulting firm to prepare a quarterly report identifying no-show rates, drop-out rates, and failures for each INS-approved school. The report also will show INS processing times for I-17 applications. In its response, however, the INS did not provide us with any details on what actions will be taken in response to anomalies identified in the quarterly reports. While identifying non-compliance and potential fraud is a good first step, the process will be effective only if such instances are referred for further investigation and enforcement action.

In this regard, we found that the INS had not committed sufficient resources to investigate potential fraud in the foreign student program. The INS has taken some action since our original review to identify, locate, and detain aliens who enter the United States on a student visa but fail to attend school. As required by the Enhanced Border Security and Visa Entry Reform Act of 2001, schools are reporting to DHS the names of foreign students who fail to enroll or begin participation in a course of study within 30 days after the deadline for registering for classes. We also were told that DHS Headquarters investigative staff is now entering names of probable "no-shows" into the National Automated Immigration Lookout System to identify these aliens as "out-of-status" should they leave the United States and attempt to re-enter.

In addition, we believe the DHS should commit resources to identify schools that are fraudulent, school officers who commit fraud, and students

who complete their programs but fail to depart the United States. Our May 2002 report suggested that the INS use fees paid by foreign students to help fund additional investigator positions. We continue to believe that this is an appropriate strategy for ensuring sufficient numbers of investigators dedicated to investigating foreign student program fraud.

IV. CONCLUSIONS

Once fully implemented, SEVIS should provide a more effective mechanism to monitor both foreign students and the schools they attend. However, we found that significant gaps remain in its implementation. Our March 2003 follow-up report offers eight recommendations to help improve the effectiveness of SEVIS and the DHS's program to monitor foreign students attending United States schools. These recommendations include:

- Appointing a foreign student program manager to coordinate, and be accountable for, immigration issues affecting foreign students.
- Assigning full-time staff whose sole responsibility is to certify and monitor schools.
- Monitoring closely the contract investigators to ensure that they conduct timely and thorough on-site reviews.
- Improving the checklists used by the contract investigators in their on-site reviews to make them more descriptive and more useful to the adjudications staff.
- Coordinating with the Department of Education to conduct audits of schools to ensure they are complying with SEVIS reporting and recordkeeping requirements.
- Providing training to those responsible for certifying schools on the adjudication process and on using the contract investigator checklists to identify fraud indicators.
- Ensuring that possible fraud identified through the adjudication process and through analytical reviews is referred for investigation; and
- Ensuring that sufficient investigative resources are available to investigate instances of potential fraud identified by SEVIS.

Finally, the transfer of the INS to the DHS creates additional management challenges. Responsibility for the foreign student program and SEVIS has shifted from a bureau in the INS focused on providing immigration

benefits to a bureau in the DHS responsible for enforcement. We are concerned about the continuity of supervision of the program. Among other issues, DHS officials will need to identify personnel in the new organization responsible for certifying schools so that they receive sufficient training and guidance to administer the program effectively.

In sum, we believe that SEVIS has the potential to significantly improve the monitoring of foreign students studying in the United States, and the INS has made significant progress in implementing the new system. However, significant steps still must be taken to ensure that SEVIS is fully implemented, reliable, and effective.

This concludes my prepared statement. I would be pleased to answer any questions.