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on National Security, Veterans Affairs,
and International Relations, Committee
on Government Reform, House of
Representatives

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BORDER SECURITY

Visa Process Should Be Strengthened as an Antiterrorism Tool



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Abbreviations

CIA	Central Intelligence Agency
CLASS	Consular Lookout and Support System
FBI	Federal Bureau of Investigation
INA	Immigration and Nationality Act



United States General Accounting Office
Washington, D.C. 20548

October 21, 2002

The Honorable Christopher Shays
Chairman, Subcommittee on National Security, Veterans Affairs, and
International Relations
Committee on Government Reform
House of Representatives

Dear Mr. Chairman:

Citizens of other countries seeking to enter the United States temporarily for business, tourism, and other reasons generally must apply for and obtain a U.S. travel document, called a nonimmigrant visa,¹ at U.S. embassies or consulates abroad before arriving at U.S. ports of entry.² State Department consular officers issued 7.6 million visas in fiscal year 2001. In deciding who should and should not receive a visa, consular officers must perform a risk assessment that balances the need to facilitate legitimate travel with the need to protect the United States against potential terrorists and to deter others whose entry is considered likely to be harmful to U.S. national interests. The President has proposed the establishment of a Department of Homeland Security and has called for visa policy-making authority to be transferred to this new department, while retaining administration of visas within the State Department. The Congress is studying this proposal and considering how the visa function should be organized. Because all 19 of the September 11, 2001, terrorist hijackers were issued visas, strengthening the visa function as an antiterrorism tool has taken on great significance.

At your request, we began in November 2001 to assess (1) how the visa process operated prior to September 11, 2001; and (2) what changes have occurred since then to strengthen the process as a screen against terrorists.

To assess how the visa process operated prior to and following September 11, we analyzed the fundamental factors influencing visa decisions, including the policies and guidance for, and pressures on, consular officers;

¹The United States also grants visas to people who intend to immigrate to the United States. In this report, we use the term "visa" to refer to nonimmigrant visas only.

²Citizens of 28 countries that participate in the visa waiver program, Canada, and certain other locations are not required to obtain visas for business or pleasure stays of short duration.

the U.S. government's processes for checking visa applicants against available security and intelligence data; and staffing and resource issues. We reviewed the 1952 Immigration and Nationality Act (P.L. 82-414), as amended, and related legislation; the State Department's Foreign Affairs Manual and other guidance; consular workload and staffing data, and other related documents from the State Department's Bureau of Consular Affairs. We observed visa operations at U.S. embassies and consulates in eight countries—Canada, Egypt, Germany, Indonesia, Saudi Arabia, Tunisia, the United Arab Emirates, and the United Kingdom. We chose these visa operations because they either had issued a visa to one of the 19 terrorist hijackers or had issued a large number of visas to citizens from countries of potential terrorism concern. In Washington, D.C., we interviewed officials from the Departments of State, Defense, and Justice, including the Federal Bureau of Investigation (FBI) and the Immigration and Naturalization Service. We completed our fieldwork in May 2002, prior to the President's proposal to establish a Department of Homeland Security, and our scope did not include consideration of the organizational options for reforming the visa process contained therein. Our analyses and recommendations, however, focus on fundamental operational issues that need to be urgently addressed, regardless of any subsequent organizational decisions to alter responsibility for various aspects of the visa function. Appendix I provides more information on our scope and methodology.

Results in Brief

Prior to the September 11 attacks, the State Department's visa operations focused primarily on screening applicants to determine whether they intended to work or reside illegally in the United States. In making decisions on who should receive a visa, consular officers relied on the State Department's consular "lookout" system, a name check system that incorporates information from many agencies, as the primary basis for identifying potential terrorists. Consular officers were encouraged to facilitate legitimate travel and, at some posts we visited, faced pressures to issue visas. The State Department gave overseas consular sections substantial discretion in determining the level of scrutiny applied to visa applications and encouraged streamlined procedures to provide customer service and deal with a large workload. As a result, according to State Department officials, consular sections worldwide adopted practices that reduced the amount of time for reviewing visa applications. For example, some posts decided not to interview applicants who were considered good

risks—persons who were thought likely to return to their country at the end of their allotted time in the United States.³

Since September 11, the U.S. government has introduced some changes to strengthen the visa process. For example, the State Department has, with the help of other agencies, almost doubled the number of names and the amount of information in the lookout system. Further, the department began seeking new or additional interagency clearances on selected applicants to screen out terrorists, although these checks were not always completed by other U.S. agencies in a thorough or timely manner. We also observed that consular officers at some of the posts we visited were spending more time reviewing visa applications and interviewing applicants; they were able to do so, at least temporarily, because the number of visa applications decreased dramatically after September 11.

While these actions have strengthened the visa process, there continues to be a wide divergence of opinions and practices among and within overseas posts regarding (1) the authority of consular officers to deny questionable applicants a visa, (2) the role of the visa process in ensuring national security, and (3) the types of changes in posts' visa policies and procedures that are appropriate given the need for heightened border security. Also, there is a disagreement between the Departments of State and Justice on the evidence needed to deny a visa on terrorism grounds. Most of the consular officers at the posts we visited believed that more comprehensive guidance and training would help them to use the visa process as an antiterrorism tool to detect questionable applicants. In addition, more consular staff and use of new technology may be needed in the future to help consular sections identify potential terrorists who should not receive visas. In July 2002, the Secretary of State acknowledged that the visa process needed to be strengthened and indicated that the State Department is working to identify areas for improvement.

In this regard, we are making recommendations to the Secretary of State to strengthen the visa process as a tool to prevent terrorists from entering the United States. Specifically, we are recommending that the Secretary, in consultation with appropriate agencies

³At the port of entry, an inspector from the Immigration and Naturalization Service determines whether the visa holder is admitted to the United States and, if so, for how long he or she may remain in the country.

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- develop a clear policy on the priority attached to addressing national security concerns through the visa process, and
 - develop more comprehensive, risk-based guidelines and standards on how consular officers should use the visa process as a screen against potential terrorists.

Based on this policy and guidance, we are also recommending that the Secretary of State

- fundamentally reassess staffing requirements for visa operations, and
- revamp and expand consular training.

There also is a need to improve coordination between the State Department and other vitally important agencies across government to realize the full potential of the visa process in safeguarding U.S. interests. Accordingly, we are also making recommendations to the Assistant to the President for Homeland Security because of his role in promoting and coordinating homeland security across federal departments and agencies.⁴ Specifically, we are recommending that he coordinate with the appropriate agencies to

- establish a governmentwide policy on the level of evidence needed to deny a visa on terrorism grounds;
- reassess interagency headquarters security checks to verify that all are necessary and ensure their timely coordination among U.S. agencies;
- consider reassessing, on an interagency basis, visas issued before the implementation of new security checks for selected categories of applicants who may pose security risks;

⁴The Assistant to the President for Homeland Security chairs the Homeland Security Council's Principals Committee, the senior interagency forum under the Homeland Security Council. Established on October 8, 2001, the Council is responsible for advising and assisting the President with respect to all aspects of homeland security. It is the mechanism for ensuring coordination of homeland security-related activities among executive branch departments and agencies and promoting the effective development and implementation of all homeland security policies.

-
- reexamine visa operations on a regular basis to ensure that they are effectively contributing to the national strategy for homeland security and that they appropriately anticipate and consider changes in the security environment, technology, and government organization; and
 - ensure that law enforcement and intelligence agencies are promptly providing information to the State Department on persons who may pose a security risk and who, therefore, should not receive a visa.

We provided a draft of this report to the Office of Homeland Security and the Departments of State and Justice for their comments. The Office of Homeland Security did not comment on the report. The State Department said that it found the report to be thorough and balanced, noting that the recommendations would be useful in its ongoing reexamination of visa processes and procedures. The State Department also identified steps it has taken to implement a number of the recommendations and said it plans to implement other recommendations on an interagency basis. The Department of Justice did not comment on the recommendations. The department provided additional information on (1) the evidentiary standard for adjudicating visa applications from individuals who may present a risk to national security, and (2) the procedures for and its timeliness in completing name checks of visa applicants instituted after September 11, 2001. We modified our text to reflect this additional information.

Background

The 1952 Immigration and Nationality Act (INA) is the primary body of law governing immigration and visa operations.⁵ Among other functions, the INA defines the powers given to the Attorney General, the Secretary of State, immigration officers, and consular officers; delineates categories of and qualifications for immigrant and nonimmigrant visas; and provides a broad framework of operations through which foreign citizens are allowed to enter and immigrate to the United States. The State Department and the Immigration and Naturalization Service issue regulations governing visa issuance and processing that further explain and augment the INA. For

⁵The 1952 Immigration and Nationality Act (P.L. 82-414; 8 U.S.C. § 1101 et seq.) has been amended several times since 1952, more recently by the Immigration Act of 1990, the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (P.L. 104-208), the USA PATRIOT Act of 2001 (P.L. 107-56), and the Enhanced Border Security and Visa Entry Reform Act of 2002 (P.L. 107-173).

example, one regulation codified in the Code of Federal Regulations at 22 C.F.R. § 41.121 describes procedures and review requirements for nonimmigrant visa refusals.

The State Department's policy guidance to visa officers consists of the *Foreign Affairs Manual*, instruction telegrams, informal communications, the *Consular Management Handbook*, and the *Consular Best Practices Handbook*. The *Foreign Affairs Manual* contains regulations, policies, and procedures for the department's operations and provides interpretive guidance to visa officers on the sections of the INA and the Code of Federal Regulations related to the visa process. From January 1997 through April 2000, the State Department issued a series of cables to posts that comprised the *Consular Best Practices Handbook*.

The 19 September 11, 2001, hijackers received a total of 23 visas at five different posts from April 1997 through June 2001 (see app. II).⁶ Fifteen of them were citizens of Saudi Arabia. They obtained their visas in their home country, at the U.S. consulate in Jeddah (11 hijackers) and the U.S. embassy in Riyadh (4 hijackers). Two others, citizens of the United Arab Emirates, also received their visas in their home country, at the U.S. embassy in Abu Dhabi and at the U.S. consulate in Dubai. The remaining 2 hijackers obtained their visas at the U.S. embassy in Berlin. They were considered third-country national applicants because they were not German citizens: 1 was a citizen of Egypt, the other of Lebanon. Of the 19 hijackers, 18 received visas for temporary visits for business and pleasure, and 1 received two student visas. These visas allowed the holders to enter the United States multiple times during the visas' validity period, subject to the approval of the immigration officer at the port of entry.⁷ Of the 23 issued visas, 4 were valid for a period of 1 year, 15 were valid for 2 years, 2 for 5 years, and 2 for 10 years.

⁶The scope of our review did not cover visas that were issued before this time period.

⁷The State Department establishes the maximum number of entries and the maximum period that a visa is valid for an applicant based on reciprocity, that is, according to the treatment that the applicant's country affords U.S. citizens traveling there for the same purpose. The validity of a visa issued at a consular post abroad is not related to the length of stay which the Immigration and Naturalization Service may authorize the visa holder upon his or her entry to the United States, nor is it related to the length or number of extensions of stay that may later be granted by the Immigration and Naturalization Service.

Pre-September 11 Visa Process Tried to Meet Multiple Goals

The process for determining who will be issued or refused a visa contains several steps, including documentation reviews, optional interviews, and an applicant name check on the Consular Lookout and Support System (CLASS). The State Department indicated that at most overseas posts, consular officers relied primarily on the CLASS name check system to detect possible terrorists and did not place a special emphasis on using other elements of the visa process, such as interviews and application reviews, as an antiterrorism tool. The department's policies before September 11 gave posts a great deal of discretion in determining how the visa process would operate and encouraged posts to promote international travel, manage an increasing workload, and improve customer service for visa applicants. The policies also suggested ways to reduce the time spent reviewing applications. Consistent with this guidance, the posts we visited, including the five posts that issued visas to the 19 hijackers, established policies and procedures that lessened consular officers' involvement in key parts of the visa process. At the same time, some consular officers faced pressures to issue visas to applicants.

How the Visa Process Works

Under the INA, the State Department is charged with administering visa process functions. The State Department has 211 visa-issuing posts around the world and 843 consular officer positions that it funds using fees collected from visa applicants for machine-readable visas.⁸ In addition to these specially funded positions, a number of other consular officers are funded by State program funds or by other U.S. agencies. At some posts, eligible U.S. citizen family members of U.S. officers have been trained in consular work, have obtained security clearances, and are designated as consular associates to enable them to perform consular work. The incumbent officers are directly responsible for issuing or refusing visas. Their decision to grant or deny a visa is not subject to judicial review.⁹ Foreign Service officers in all of the State Department's functional areas—

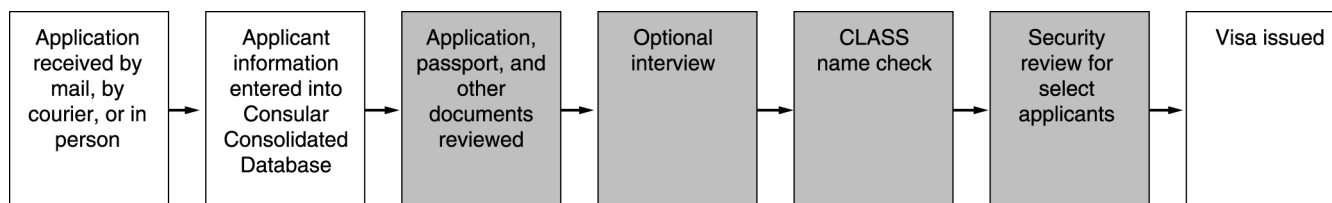
⁸Consular officers also provide services to U.S. citizens living or traveling overseas. According to a State Department official, about 80 percent of consular officers work on visa services, while the remainder work on U.S. citizen services.

⁹The courts have long held that a consular officer's decision to grant or deny a visa is not subject to judicial review. See, e.g., *Centeno v. Schultz*, 817 F.2d 1212 (5th Cir. 1987), cert. denied, 484 U.S. 1005 (1988); *Li Hing of Hong Kong, Inc. v. Levin*, 800 F.2d 970 (9th Cir. 1986); *Ventura-Escamilla v. INS*, 647 F.2d 28 (9th Cir. 1981); *Rivera de Gomez v. Kissinger*, 534 F.2d 518 (2d Cir.), cert. denied, 429 U.S. 897 (1976); *U.S. ex rel. Ulrich v. Kellogg*, 30 F.2d 984 (D.C. Cir.), cert. denied, 279 U.S. 868 (1929).

political, economic, administrative, public diplomacy, and consular—typically begin their careers by serving a tour of duty adjudicating visas. Consular sections range in size from small posts with 1 consular officer to large posts with more than 30 officers. They also employ local staff, known as Foreign Service National staff, to assist with basic data input, translation, fraud prevention, and visa printing.¹⁰ Local staff are not permitted to issue visas.

The process of determining who will receive a visa has several steps (see fig. 1). The consular workload associated with this process depends on a number of factors, including (1) the number of visa applications that a post receives, (2) the amount of time that the consular officers and local Foreign Service National staff spend reviewing the applications and supporting documents, (3) the number and length of applicant interviews, and (4) the number of times that applicants must come back to the post to provide additional documents or other information. Depending on a post’s applicant pool, each stage of the visa process varies in length. For example, at posts in countries with a high incidence of document fraud, the document review stage may take more time if consular staff rigorously screen an applicant’s documents. Similarly, posts in countries undergoing political or economic turmoil may require more personal interviews with applicants to assess their eligibility for visas.

Figure 1: Nonimmigrant Visa Issuance or Refusal Process



Points at which visa could be refused

Note: The interview and CLASS name check may occur at the same time, or the CLASS name check may precede the interview.

Source: GAO analysis of State Department documents and visa operations.

¹⁰At most of the posts we visited, there were about two to four local staff for every one U.S. consular officer.

Visas for temporary visits for business and pleasure—the most popular type of visa—accounted for about 79 percent of all 7.6 million visas issued in fiscal year 2001. Special worker visas—the second most popular—made up about 4.6 percent, followed by student visas at 4.2 percent and exchange visas at 4 percent.

By law, the burden of proof is on the applicant to demonstrate to the consular officer that he or she is eligible for a visa. In fiscal year 2000, consular officers refused about 1.96 million visas (79.8 percent of all refused visas) under INA section 214(b).¹¹ This provision states that each foreign citizen “shall be presumed to be an immigrant until he establishes to the satisfaction of the consular officer....that he is entitled to a nonimmigrant status.” For the most common categories of visas,¹² this means that applicants must demonstrate that they (1) have a residence abroad that they do not intend to abandon, as evidenced by such factors as applicants’ strong economic, social, or other ties to a foreign country; (2) intend to leave the United States after a limited time; and (3) intend to engage in legitimate activities related to that nonimmigrant category.

In fiscal year 2000, consular officers also refused 471,523 visas (19.2 percent of all refused visas) based on INA section 221(g). This provision is generally used when an applicant lacks required documents or the processing of the application is incomplete, as in the case of additional security checks.¹³ Consular officers based the remaining 1 percent of all visa refusals on one of the many other INA provisions for denying a visa (see app. III). One of these sections, INA section 212(a)(3)(B), contains

¹¹In fiscal year 2000, the State Department refused a total of 2.45 million visas. During that same year, it issued 310,899 visas to applicants who were able to overcome previous visa refusals by presenting evidence that the ineligibility did not apply, by approval of a waiver, or by other relief as provided by law.

¹²INA section 214(b) does not apply to certain categories of nonimmigrant visas, such as special workers, intracompany transferees, and their spouses and children.

¹³Consular officers in London, Frankfurt, and Berlin told us that they use 221(g) refusals as “pseudo-214(b)” refusals for the bulk of the applications they process, because they handle applications by mail and 214(b) refusals require the applicants’ presence.

exclusion provisions based on terrorism-related grounds. In fiscal year 2000, the State Department refused 99 visas under this provision.¹⁴

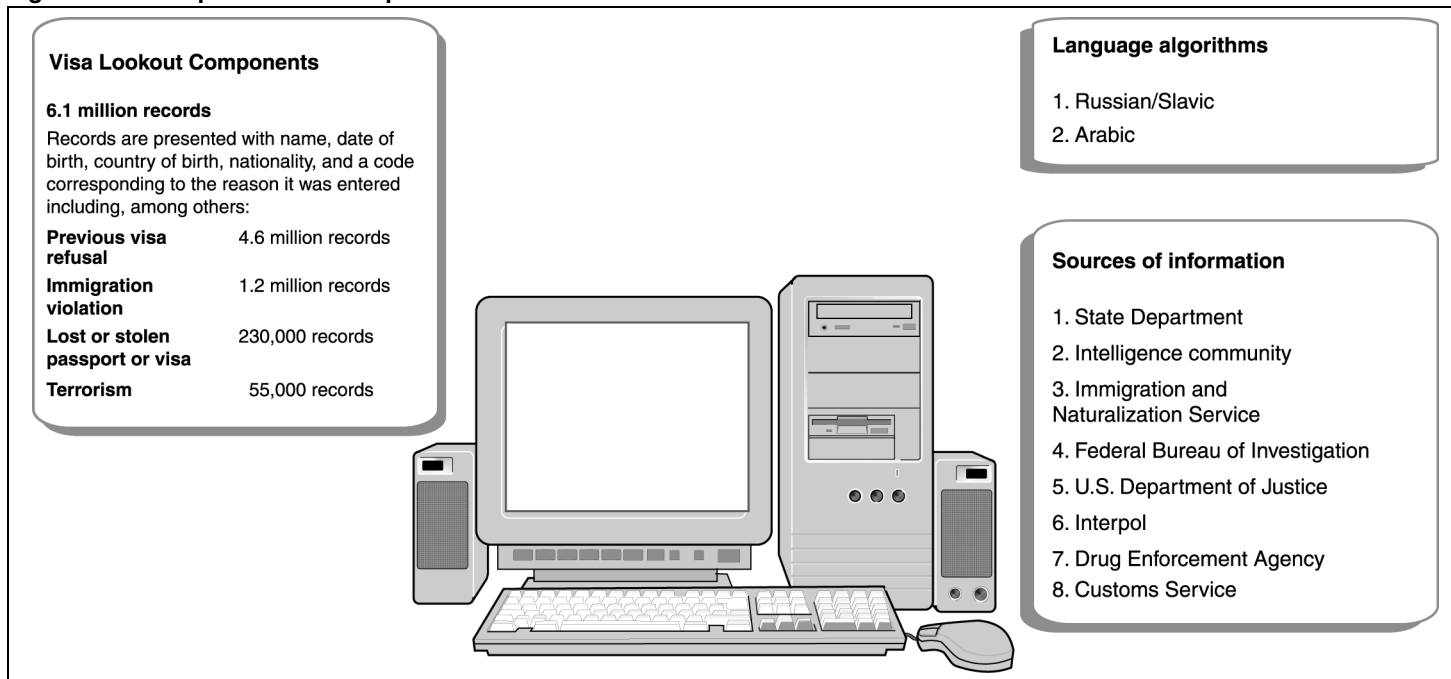
Terrorism Screening Relied Mainly on CLASS Name Checks

For visa applicants of most countries, consular officers relied on a name check system called CLASS to determine if visa applicants were suspected of being terrorists or could pose other security risks (see fig. 2). By law, consular officers must certify that they have conducted a CLASS name check on each applicant to whom a visa is issued and that they have found no information that would form a basis for excluding that applicant from the United States.¹⁵ The *Foreign Affairs Manual* emphasized the consular officer's responsibility to ensure that CLASS name checks have been completed in all cases. In cases where the main CLASS system was not operational, State's policy allowed consular officers to complete visa processing after running a name check through the backup Distributed Namecheck System, a CD-ROM updated monthly by the State Department.

¹⁴In addition, in fiscal year 2000 the State Department issued 31 visas that had been previously refused on terrorism grounds. Visas refused on terrorism grounds can be overcome with a waiver from the Immigration and Naturalization Service.

¹⁵See section 140(c) of Public Law 103-236 (Foreign Relations Authorization Act, Fiscal Years 1994 and 1995).

Figure 2: Pre-September 11 Components of CLASS



Note: The number of visa lookout records before September 11 is a State Department estimate.
Source: State Department.

Before September 11, the majority of the estimated 6.1 million visa lookout records in CLASS came from the State Department’s database of visa refusals. CLASS also contained an estimated 48,000 records from the State Department’s interagency watch list for terrorists, known as “TIPOFF,”¹⁶ as well as information on about 7,000 people who were refused or could be refused visas for terrorism-related reasons. Other sources for information in CLASS included the Immigration and Naturalization Service, the Drug Enforcement Administration, the FBI, Customs, and other U.S. intelligence community sources. CLASS uses language algorithms to help increase the likelihood that the name check will find a person’s name if it is in the

¹⁶As of September 10, 2001, TIPOFF contained 61,474 records in its terrorist watchlist database. After being assessed for relevance and completeness, approximately 48,000 of these records were included in CLASS. Although the majority of CLASS terrorism records derive from TIPOFF, the State Department also adds information on known and suspected terrorists from several other sources.

database. CLASS operates language algorithms for Arabic and Russian/Slavic names.¹⁷

In addition to CLASS, the State Department had special clearance procedures and interagency name checks for visa applicants from certain countries. These procedures, in effect for years before September 11, were designed to screen out persons who could possibly pose a threat to U.S. interests. These included those persons who might engage in espionage or illegal technology transfer, break economic sanctions against countries such as Cuba and Sudan, or commit acts of terrorism. Before September 11, certain citizens from 33 countries required special processing or special clearances, with citizens of 9 being screened for terrorism-related reasons (see app. IV). These included the 7 countries that the United States has designated as state sponsors of terrorism—Cuba, Iran, Iraq, Libya, North Korea, Sudan, and Syria—plus Afghanistan and Russia (Chechnya).

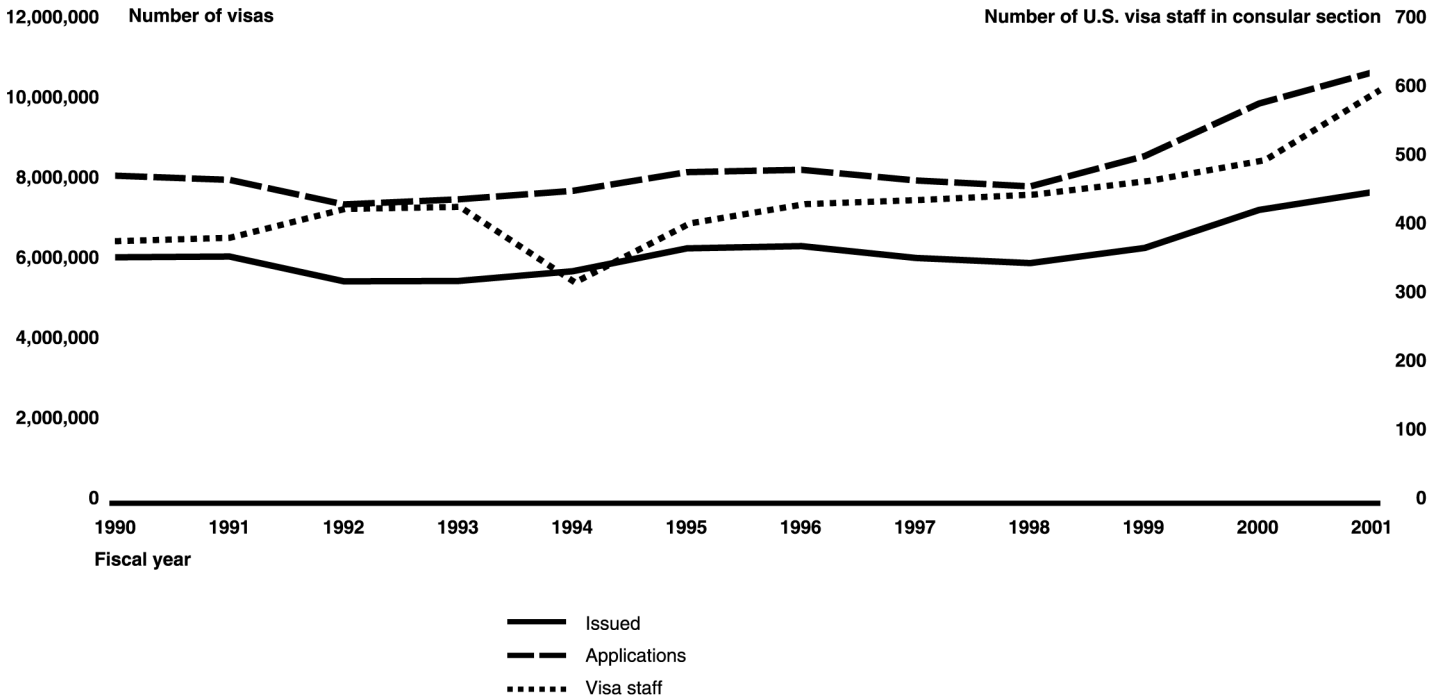
Guidance Allowed Flexibility to Address Travel, Workload, and Customer Service Concerns

As articulated in the *Foreign Affairs Manual*, the State Department's visa policies before September 11 encouraged consular officers to expedite visa processing as a means of promoting travel to the United States. In the section dealing with the most common type of visa, temporary visitor for business and pleasure, the manual stated that it is the U.S. government's policy to facilitate and promote travel and the free movement of people of all nationalities to the United States, both for the cultural and social value to the world and for economic purposes. This section called for consular officers to expedite applications for the issuance of visitor visas, so long as the consular officer was satisfied that the issuance was in accordance with U.S. immigration law and the applicant had overcome the presumption of intending immigration. In explaining visa refusals, the manual stated that while the law places the burden of proof upon applicants to establish that they are eligible to receive a visa, "it is the policy of the U.S. government to give the applicant every reasonable opportunity to establish eligibility."

The State Department's policy guidance also aimed to assist posts worldwide in managing an increasing workload and improving customer service. As shown in figure 3, the number of U.S. visa applications worldwide grew from about 7.7 million to 10.6 million from fiscal year 1998 through fiscal year 2001, an increase of about 37 percent.

¹⁷The State Department has an algorithm for Hispanic names in the final stages of development and is considering the development of an East Asian algorithm.

Figure 3: Nonimmigrant Visa Applications, Issuances, and Staffing, Fiscal Years 1990-2001



Note: Staffing figures are estimates.

Source: State Department data.

While overall staffing increased with workload, the escalating workload had a negative impact on the operations of individual posts. For example, the U.S. embassy in Cairo experienced about a 45 percent increase in its visa workload from fiscal year 2000 through fiscal year 2001. To handle the increased workload, according to an embassy report on consular operations, existing staff worked unusually long hours interviewing applicants for an extended time period, a pace that led to staff burnout. At times, the consular section also had “extended gaps” when no eligible and qualified consular employee was available to adjudicate visas. In 1998 we reported that many posts faced a backlog of visa applications as a result of

staffing shortages.¹⁸ As late as June 2002, staffing shortages remained common at hardship posts, including the consular sections.¹⁹

To address these concerns, in 1997 and 1998 the State Department's *Consular Best Practices Handbook* directed consular managers throughout the world to explore ways of reducing the amount of time that consular officers spend reviewing individual visa applications. This guide, along with the *Foreign Affairs Manual*, allowed consular staff a great deal of discretion in streamlining their visa operations and in determining what factors to consider in assessing who is eligible to receive a visa. Ordinarily, according to the policy manual, the consular officer was to use the application and interview to determine the applicant's eligibility to receive a visa and the proper nonimmigrant classification. However, the policy guidance gave consular managers and staff the discretion to

- waive the personal appearance and interviews for certain nonimmigrant visa applicants, and in certain limited circumstances, the filing of their visa applications;²⁰
- use third parties, such as travel agencies, to help persons complete applications and to do an initial screening of visa applicants;²¹
- decide the period for which the visa would be valid.

¹⁸See U.S. General Accounting Office, *State Department: Tourist Visa Processing Backlogs Persist at U.S. Consulates*, [GAO/NSIAD-98-69](#) (Washington, D.C.: Mar. 13, 1998).

¹⁹See U.S. General Accounting Office, *State Department: Staffing Shortfalls and Ineffective Assignment System Compromise Diplomatic Readiness at Hardship Posts*, [GAO-02-626](#) (Washington, D.C.: June 18, 2002).

²⁰If the filing of an application was waived, the consular officer was instructed to complete an application form for the applicant, using data available in the passport or other submitted documents. This would ensure that State's database included the essential information normally obtained through the application form. On September 18, 2002, State revised this section of the *Foreign Affairs Manual* to make clear that consular officers should waive the completion of applications only in cases of life-threatening emergencies.

²¹According to the *Foreign Affairs Manual*, the travel agency screening process was to be based largely on financial factors. That is, if the travel agency was reasonably satisfied that the traveler had the means to purchase a tour package, there would be little further evaluation of the applicant's qualifications for a visa. On September 18, 2002, the State Department revised this section of the *Foreign Affairs Manual*, thereby removing this language from the policy guidance. This revision emphasized that no visa adjudication authority may be delegated to any third party entity.

The guidance did not specify what documentation, if any, consular managers or officers must provide to support their decisions to waive personal appearances or interviews, to use third parties to screen visa applicants, or to determine the visa's period of validity.

The *Foreign Affairs Manual* said that posts could not waive the CLASS name check or interviews of certain applicants, such as those whose names showed up in CLASS or who belonged to a group of the post's visa clientele representing a security threat. Specific sections of the manual explained CLASS and special clearance procedures for applicants from certain countries. However, in the section dealing with temporary visitors for business and pleasure, the manual emphasized the importance of facilitating international travel and expediting visas, without mentioning how consular officers should balance these efforts with the need to protect the United States against potential terrorists.

Moreover, the *Foreign Affairs Manual* provided general guidance to consular officers on how they could determine whether an applicant had overcome the presumption of intending immigration. At the same time, it allowed them the discretion to determine what constitutes sufficient proof for this purpose. The manual also encouraged consular officers to complete all processing and issue visas for routine applications on the day of the application's receipt.

Training Focused on Screening Out Intending Immigrants

Training provided to consular officers followed the State Department's policies and guidance—it helped to prepare officers to screen out visa applicants who intended to live or work illegally in the United States and did not focus on using the visa process as an antiterrorism tool. Before reporting to posts, officers received 7 days of training on nonimmigrant visa processing,²² which included basic training on fraud prevention, the CLASS name check process, and interviewing techniques. In addition, according to the State Department, officers also received on-the-job training and guidance from more senior consular managers after arriving at a post. However, as we reported in June 2002, at least some of the State Department's consular sections are staffed with supervisors having less

²²The consular course at the Foreign Service Institute lasts 26 days. In addition to training on nonimmigrant visas, the course includes modules on immigrant visas, American citizen services, and passports.

experience than their position requires.²³ As a result, supervisory coaching may suffer.

Furthermore, the State Department reported that hiring shortfalls in the 1990s had left the department with too few officers and that State had sacrificed training in some cases. For example, in reporting on its workforce planning in fiscal year 2000, the department noted that inadequate staffing had forced the department “to choose between training and deploying its human resources.” According to consular officials, this has been a problem for many consular sections around the world. The Consul General at one of the posts we visited said it was difficult to send her consular officers to training when she had no one to take their place. A Cairo consular section report for fiscal year 2001 stated that there was limited time for training, because officers were needed to work at the interview windows for most, if not all, of the day.

Pressures to Issue Visas Existed

Consular officers often faced a variety of pressures to issue visas. For example, applicants who are seeking a visa may become angry, distraught, or threaten physical violence if the visa is denied. In addition, consular and other officials at five posts we visited expressed concern over the use of the posts’ referral systems, through which U.S. government personnel may recommend that a visa be issued to someone of official interest to the U.S. government who is well and favorably known to them. At two posts, staff cited examples of Foreign Commercial Service personnel referring visa applicants that they did not know as members of trade delegations visiting the United States.²⁴ Further, according to consular officers whom we interviewed at four posts, the State Department’s policy of requiring consular managers to review all visa denials, but not visa issuances, encouraged officers to approve visas to avoid possible supervisory criticism and reversal of their initial decisions. In addition, post officials cited cases of pressure from Members of Congress who sent letters asking why consular officers denied certain visas. In fiscal year 2001, the nonimmigrant visa section in Cairo received 202 congressional inquiries, an average of nearly 4 each week. According to officials from the State Department’s Office of Inspector General, ambassadors have occasionally

²³GAO-02-626.

²⁴In April and May 2002, the State Department documented referral program abuse in two additional locations, Lagos, Nigeria, and Santo Domingo, Dominican Republic.

pressured consular managers and officers to issue visas to questionable applicants for political reasons.

Posts Followed Pre-September 11 Policy Guidance

In accordance with the *Foreign Affairs Manual* and *Consular Best Practices Handbook*, all of the posts that we visited, including the five posts that issued visas to the 19 hijackers, had instituted policies and procedures that expedited the application process for certain visa applicants. While intended to improve efficiency, these measures allowed many applicants to obtain a visa without undergoing the close scrutiny of a consular officer.

The five posts that issued visas to the hijackers had followed the State Department's policy guidance in deciding to routinely waive interviews and adopt an interview-by-exception policy for certain categories of applicants. They did so based on the belief that these categories of applicants were "good cases," that is, they were neither intending illegal immigrants nor security risks.

For Saudi Arabia and the United Arab Emirates, consular managers, officers, and documents indicated that post policies were to consider all Saudi and Emirati citizens as "good cases" for visas because they were unlikely to overstay or illegally immigrate to the United States.²⁵ For example, according to our review of State and post records and discussions with consular officials, consular officers in Saudi Arabia issued visas to most Saudi applicants without interviewing them, requiring them to complete their applications, or providing supporting documentation. One Bureau of Consular Affairs record identified Riyadh's policy of "interview

²⁵At the time of our fieldwork, the posts in Saudi Arabia had not done any recent studies to validate their assumptions that Saudi nationals do not illegally immigrate to the United States, even though a decline in the country's economic conditions would make illegal immigration more likely. According to a U.S. embassy economic report, the government of Saudi Arabia been unable to employ most of the 150,000-200,000 new Saudi entrants into the workforce each year, as Saudi Arabia's per capita gross domestic product had declined from its peak of about \$28,600 in 1981 to less than \$7,500 by 2001. Over the same time period, the U.S. per capita gross domestic product rose from about \$28,600 to about \$36,000 (all numbers in 2001 dollars). Posts in the United Arab Emirates had also not done any recent validation studies on the return rates of Emirati nationals.

by exception” for Saudi applicants as a “best practice.”²⁶ Another record noted that the embassy in Abu Dhabi had proposed including the United Arab Emirates in the visa waiver program because of limited concerns about Emirati nationals overstaying or illegally immigrating to the United States. In contrast, the posts enforced much higher standards of evidence for most third country national applicants to prove their visa eligibility, as the posts considered them a high risk to illegally immigrate to the United States. For example, consular officers interviewed most of these applicants.

Current and former consular managers confirmed that, consistent with policies in effect prior to the attacks, the posts in Saudi Arabia and the United Arab Emirates issued visas to almost all Saudi and Emirati applicants, respectively, without interviewing them. Generally, consular officers interviewed these applicants only when their names showed up in CLASS or they had indicated on their applications that they were terrorists or had a criminal history.²⁷ The embassy in Riyadh estimated that less than 3 percent of Saudi applicants were required to undergo an interview prior to September 11. In the United Arab Emirates, the embassy in Abu Dhabi and consulate in Dubai readily issued 10-year, multiple entry business/tourist visas to Emirati nationals without requiring an interview. Consular managers also said that the posts had accepted applications from Saudi and Emirati nationals that were incomplete and lacked supporting documents. Consular managers at the embassies in Riyadh and Abu Dhabi estimated that, prior to the September attacks, less than 1 percent of Saudi and Emirati applicants, respectively, were refused visas. (See app. V for data on interview and refusal rates for applicants in Saudi Arabia before and after September 11.)

We reviewed 18 visa applications for 15 hijackers from Saudi Arabia and the United Arab Emirates.²⁸ None of these 18 applications had been completely filled out. Based on our review of these applications and our

²⁶According to this August 2000 document, the consular section in Riyadh also applied the interview-by-exception policy to citizens of Bahrain, Kuwait, Oman, Qatar, and the United Arab Emirates.

²⁷Visa application forms ask at least one question related to the applicant’s involvement with terrorism.

²⁸We could not review the visa applications of the remaining two Saudi and Emirati hijackers, because the posts had destroyed them in accordance with the State Department’s document destruction policies in effect at that time.

discussions with consular officers, we determined that consular officers granted visas to 13 of these 15 Saudi and Emirati hijackers without an interview. Consular officers in these two countries told us that if post practices had been to review the merits of each application, they would have been more likely to call those individuals in for an interview and obtain more information on whether they had strong ties abroad and a clear, credible purpose for their visit to the United States.²⁹

According to a cable from the U.S. embassy in Berlin, the post's practice prior to July 2001 for third-country nationals studying in Germany was to consider them eligible for a visa because their studies showed that they had sufficient ties to Germany and, therefore, were not likely to stay illegally in the United States. The two hijackers who received their visas in Berlin fit this applicant category.³⁰ In July 2001, the consular section changed its practices to require that third-country national applicants, including students, provide additional evidence to prove that they were eligible for a visa.

According to State Department officials and documents, the consular officers who issued visas to the hijackers also followed established procedures for conducting CLASS name checks on all 19 hijackers when they applied for visas. The CLASS database, however, did not contain information on them at that time. According to State Department officials, the intelligence community notified State on August 23, 2001, after the hijackers' visas were issued, that it had identified two of them as possible terrorists who should not receive visas. The State Department said that it had immediately revoked the visa that was still valid and notified the Immigration and Naturalization Service.³¹ Further, for Saudi Arabia and the United Arab Emirates, consular managers and officers told us that prior to

²⁹The posts in Saudi Arabia instituted the Visa Express program for Saudi nationals in May 2001 and expanded it to all visa applicants in June 2001. This program required applicants to submit their applications to any of 10 designated travel agencies, which would then forward them for processing to the U.S. embassy in Riyadh or the consulate in Jeddah. At that stage, consular officers would review the applications. Four of the 15 Saudi hijackers received their visas after the start of the Visa Express program. The program did not affect the likelihood that Saudi applicants would be interviewed. The interview rate for Saudi nationals remained at less than 3 percent through September 10, 2001.

³⁰We could not review the visa applications for these hijackers because the post had destroyed them in accordance with the State Department's document destruction policies at that time.

³¹The visa for the other hijacker had expired on April 2, 2000.

September 11, neither the State Department nor any other U.S. agency at post or in Washington, D.C., had warned them to screen Saudi or Emirati visa applicants more closely—that is, beyond doing a CLASS check—to protect against potential terrorists. Other U.S. officials in these countries corroborated their statements. Moreover, none of the 19 hijackers came from a country that required special clearance processing or closer scrutiny for terrorism or other reasons. Thus, the consular officers believed that they had no basis for more carefully scrutinizing the hijackers’ applications based on security concerns or for refusing them a visa.

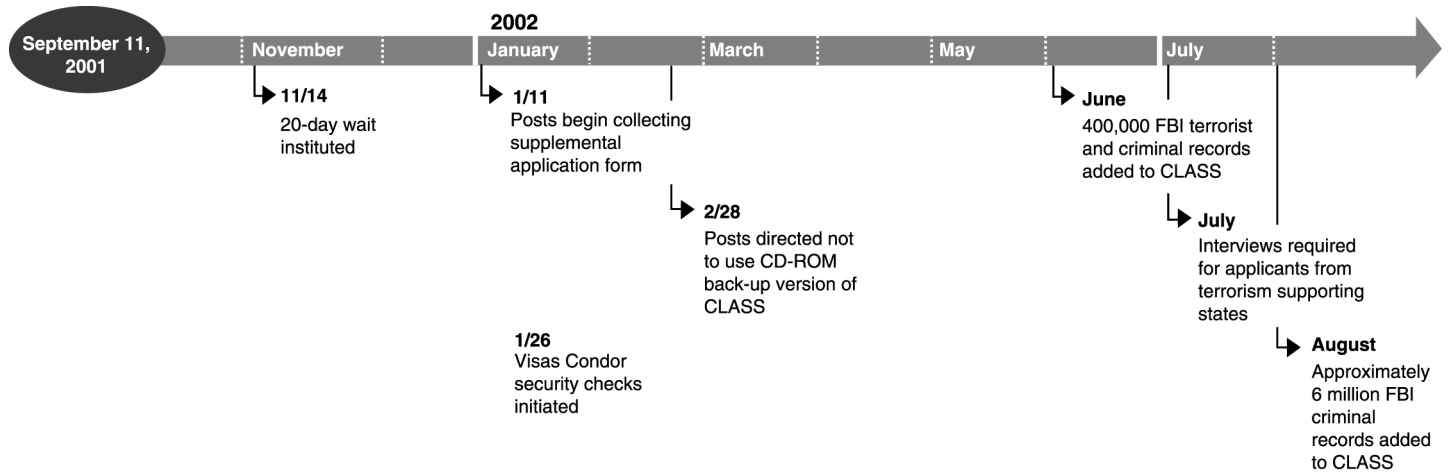
Post-September 11 Changes Enhanced Security, but Weaknesses Remain

Since September 11, 2001, the U.S. government has implemented several changes to consular operations, but weaknesses remain in visa policies and procedures that limit the effectiveness of the visa process as an antiterrorism tool. For example, some interagency security checks instituted after September 11 have not been thorough, timely, or complete. Furthermore, the State Department has not given consular officers sufficient guidance on what techniques can be used in the visa process to screen against terrorists. Wide discrepancies exist among and within posts in the areas of consular officers’ understanding of their authority, the role of the visa process in ensuring national security, the practices at various overseas posts, and the implementation of the many security clearance procedures. Furthermore, two human resource concerns—shortages of consular officers and consular training that focuses on detecting intending illegal immigrants—could limit the effectiveness of visa operations in screening out terrorists. Officers at a number of posts that we visited told us that additional training in interview techniques, CLASS, and terrorism trends could help them more effectively use the visa process as an antiterrorism tool.

Procedural Changes Since September 11

Following the events of September 11, the State Department instituted a number of changes to its security check procedures, including adding two additional checks at the request of the Department of Justice—a 20-day name check and a 30-day name check. The 30-day name check is referred to as the “Visas Condor” procedure. As of August 2002, State also received almost 6.4 million criminal records from the FBI that it has added to the CLASS database. These and other changes are illustrated in figure 4. In addition, the State Department began requiring supervisory spot checks of visa issuances and tightened its policy on visa referrals.

Figure 4: Changes in State's Security Check Procedures Since September 11



Source: GAO analysis of State Department documents.

New Security Clearance Procedures Have Not Been Thorough or Timely

Intended as an interim measure, the 20-day name check went into effect on November 14, 2001, for all male visa applicants of certain national groups between the ages of 16 and 45. When the consular officer attempts to issue a visa to such an applicant, the computer system automatically places a hold on that applicant's record, so that the consular officer cannot issue a visa before the 20 days have elapsed. The information on the applicant is then electronically transmitted from the State Department to the FBI for the name check itself. On the twenty-first day, the computer automatically unlocks these applicant cases, and the computer system prompts the consular officer to make a decision. If the consular officer has not received a negative response from Washington on an applicant, then he or she is permitted to issue the visa.

The State Department instituted the 30-day name check, called Visas Condor, in late January 2002. Consular officers apply Visas Condor procedures to those applicants who require a 20-day name check and who fit certain additional classified criteria.³² Local staff prepare Condor cables for these applicants and transmit them back to the State Department. Until mid-September 2002, the State Department then sent the cables to the FBI

³²As of September 23, 2002, these classified criteria were under revision.

and the Central Intelligence Agency (CIA) for name checks.³³ The initial Condor process allowed the consular officer to issue the visa after 30 days if he or she had not received negative information on the applicant from any of these agencies. The supplemental visa application form, instituted in mid-January 2002, provides additional information on such things as the applicant's travel and educational history, employer information, and military service to aid the consular officers' assessment of whether the applicant requires a Condor or other security check. All male applicants between the ages of 16 and 45 must fill out and submit the supplemental form along with the usual visa application.

Until recently, these two new security checks had not been fully implemented. According to officials from the Departments of State and Justice, including officials from the FBI, as of August 1, 2002, neither the FBI nor any other federal agency had done additional name checks to supplement the CLASS checks on the visa applicants subject to the 20-day waiting period. At that point, the FBI's National Name Check Program, hereafter referred to as the name check unit, and the Foreign Terrorist Tracking Task Force³⁴ began conducting name checks on a sample of these visa applicants. These assessments were to determine whether there is a need to retain and fully implement the 20-day requirement.

Further, according to FBI officials, including the FBI's Deputy Assistant Director of the Records Management Division and the chief of the name check unit, the FBI did not systematically conduct the Visas Condor check from January through April 2002. They said that analysts in the FBI's operational sections did not always forward Visas Condor cables to the name check unit for the security checks. As of mid-April, the FBI was still developing internal procedures to ensure that the name check unit received all Visas Condor cables. FBI officials did not have data on how many Visas Condor checks the name check unit had completed as of mid-April, but they estimated the unit had completed only a few of these checks. In late

³³The State Department also sends the Visas Condor cables to the Department of Defense and the National Security Agency for their information.

³⁴The President established the Foreign Terrorist Tracking Task Force, an interagency group under the auspices of the Department of Justice, on October 30, 2001. The task force was to ensure that, to the maximum extent permitted by law, federal agencies coordinate programs to (1) deny entry into the United States of aliens associated with, suspected of being engaged in, or supporting terrorist activity; and (2) locate, detain, prosecute, or deport any such aliens already present in the United States. The task force does not have legal authority to adjudicate visa applications or applications for immigration benefits.

April, the Foreign Terrorist Tracking Task Force assumed primary responsibility for the FBI's Visas Condor name checks. According to the chief of the FBI's name check unit and a task force official, the task force faced a backlog of at least 8,000 unchecked cables when it started doing the Visas Condor and other security checks for the FBI in mid-April.

Of the estimated 38,000 Condor cables processed by August 1, 2002, the task force had identified about 280 visa applicants who should not receive a visa under the INA's terrorism provision.³⁵ The task force either believed these applicants are suspected terrorists, or, in the majority of the cases, needed additional information to determine the applicant's true identity. The State Department received the refusal recommendation for about 200 of these applicants after the 30-day hold had expired, according to the State Department official responsible for interagency coordination of these security checks. By that time, the posts had already issued the visas to the applicants. According to a senior State Department official, the department revoked the visas in these cases as a prudent measure and notified the Immigration and Naturalization Service of this action. During our fieldwork, we noted that at least four posts independently decided to extend the time frame for the Visas Condor name checks to prevent visas from being inadvertently issued to ineligible applicants.

In July 2002, the FBI and the State Department changed their Visas Condor name check procedures. The FBI streamlined its internal procedures for providing Visas Condor responses to the State Department and moved the primary responsibility for Condor name checks from the Foreign Terrorist Tracking Task Force to the FBI's name check unit. The State Department eliminated the 30-day waiting period for applicants subject to Visas Condor checks.³⁶ Posts must now wait for an affirmative response from the State Department before issuing a visa to any applicant who meets the Visas Condor criteria. According to a State Department official, the consular officer now refuses any visa applicant who requires this clearance on the grounds that the application is incomplete or otherwise inadequate. The consular officer then sends a Visas Condor cable to Washington and

³⁵Through various security checks, the task force as of August 1, 2002, had identified a total of 567 visa applicants who may pose a threat to national security. About half of the 567 applicants were identified through the Visas Condor name check, with the remaining applicants identified through other special security checks. The task force recommended to the State Department that all of these applicants should be denied a visa.

³⁶As of late September 2002, the 20-day wait continued to apply.

notifies the applicant once the officer receives word back on that applicant's name check. This official told us that in general, the clearance process often took longer than 30 days because State had to receive and record feedback from both the CIA and the FBI on all Visas Condor applicants.

In mid-September 2002, State Department, the CIA, and the Justice Department again changed the Condor name check procedures. Specifically, the FBI became the primary agency for doing the name checks and clearing Visas Condor cables, and the CIA started doing name checks for selected Condor applicants rather than all of them. According to CIA and Justice Department officials, under the new procedures, the FBI's name check unit conducts the initial Condor name check, running the applicant's information against their databases at headquarters and, in some cases, at the Foreign Terrorist Tracking Task Force. If these checks result in a possible match, then the FBI sends the information on that visa applicant to the State Department, who then forwards it to the CIA for a name check against the agency's databases. With these new procedures, the State Department hopes to reduce the review time for Condor applicants that have no FBI record to 10 days or less.

The Visas Condor security check applies only to visas adjudicated after January 2002. The check does not apply to previously issued visas. We note that visas from many countries are valid for extended periods of time. (See app. VI for the visa validity periods for selected countries).

State and Justice Disagree on Evidence Needed to Deny a Visa on Terrorism Grounds

The Departments of Justice and State have different views on how to apply the INA's terrorism provision, section 212(a)(3)(B), to visa applicants whose names have resulted in a possible match against FBI or Foreign Terrorist Tracking Task Force databases. In July 2002, an Associate Deputy Attorney General told us that the State Department applies too high a standard of evidence to deny a visa under the INA's terrorism provision.³⁷ According to this official, the Justice Department believes that the Visas Condor name checks provided sufficient evidence to deny a visa to these applicants under the INA's terrorism provision, but the State Department does not agree. According to the State Department, it requires specific

³⁷If the State Department denies a visa on terrorism grounds, the applicant's ineligibility would remain in CLASS until the applicant reaches the age of 90. Under these circumstances, the ineligible applicant could not obtain a visa unless granted a waiver by the Immigration and Naturalization Service.

evidence to prove an applicant ineligible under this provision. In a June 10, 2002, letter to the Deputy Attorney General, the Deputy Secretary of State said that consular officers must know the specific actions or associations that may render an applicant ineligible in order to legally deny a visa. As of August 1, 2002, this dispute applied to 567 visa applicants whose names matched information in Foreign Terrorist Tracking Task Force databases.

The State Department's handling of visa applicants who match records in TIPOFF, the department's watchlist of known or suspected terrorists that is included in CLASS, illustrates how the State Department has applied the law. According to the State Department's fiscal year 2003 Congressional Presentation Document, 178 applicants in fiscal year 2001 had names and biographical data that were true matches to information in TIPOFF—a watchlist with a relatively low standard for adding names and other biographic data. Of these true matches, the State Department denied visas to 81 applicants under the terrorism provision but did not do so for 79 applicants, because it determined there was insufficient information linking them to terrorism.³⁸ According to a State Department official, these visas were issued when the department found that insufficient information existed to deny a visa under INA section 212(a)(3)(B).

The Justice Department, in its comments on our report, said that it does not share the State Department's view of the law for several reasons. Most importantly, the Justice Department believes that the law presumes a visa applicant is inadmissible and places the burden of proof on the applicant to establish his admissibility. Therefore, a consular officer need not have specific evidence that the applicant participated in terrorist activities or associations to justify a visa denial. Further, the Justice Department believes that it will often be impossible to know for sure whether a visa applicant is indeed the same person contained in the relevant databases, even after all information on the applicant is shared between the two departments. In that situation, the department thinks it appropriate to proceed cautiously and deny a visa on the theory that the name check match does provide the consular officer a "reasonable ground to believe" that the applicant presents a threat to national security and is, therefore, ineligible for admission.

³⁸The remaining 18 applicants abandoned or withdrew their applications.

More Information Added to CLASS

The State Department has stressed that it must have the best interagency information available on persons who are potential security risks in order to make good visa decisions. In June 2002, the State Department added about 400,000 records from an FBI database, known as the National Crime Information Center, to the CLASS system for consular officers to use in adjudicating visas. This batch included 7,000 records from the Violent Gang and Terrorist Organization File. According to a State Department official, as of August 15, 2002, the department had incorporated an additional 6 million FBI records into CLASS, which almost doubled the amount of information in the system.

Since September 11, the State Department's TIPOFF watchlist office³⁹ has reported a significant increase in the number of names that other agencies have added to the terrorist watchlist. As of August 14, 2002, this watchlist had increased by 17,899 records to 79,373 total records, with much of the new information coming from the CIA and relatively little information from the FBI and the Department of Defense. After assessing the records' relevance and completeness, the watchlist unit incorporated about 88 percent of them into CLASS. CLASS now contains about 12 million records.

Further, effective late February 2002, the State Department changed its policy on the use of the Distributed Namecheck System as the backup to CLASS. The department had relied on this CD-ROM-based system when consular officers were unable to access CLASS because it was temporarily not operational. However, the backup system did not always contain updates of names that had been recently added to CLASS. Because of this, the State Department instructed consular officers that they can no longer use this backup system for the name check. Instead, they must wait for CLASS to come back up in order to conduct name checks before issuing a visa. The State Department has developed a new Backup Namecheck System, which will provide a more robust name check and more timely data. This new Backup Namecheck System is currently scheduled for deployment to all posts by October 2002.

CLASS Has Technical Limitations

The CLASS database has limitations in helping consular officers screen out terrorists due to system idiosyncrasies, inaccurate applicant information on travel documents, and Arabic naming customs and patterns. For example, according to a State Department official, the system may not

³⁹This unit is responsible for receiving information from other agencies on potential terrorists and adding the names to CLASS.

conduct a comprehensive name search—it may overlook CLASS records on suspected terrorists that have missing biographical data because they were developed from incomplete intelligence reports. In addition, when the biographical data do exist, they may inadvertently be entered inaccurately into the system. For example, the State Department recently entered into CLASS the names and biographical information for the 19 hijackers who carried out the September 11 attacks to ensure that their passports and visas are not used again to enter the United States. Of these new entries, at least two contain inaccuracies.⁴⁰ Moreover, travel documents of visa applicants may contain inaccurate biographical data, either by mistake, by fraud, or by government decree.⁴¹ Finally, citizens of Arab countries have the common practice of using four or five official names, with some names being extremely common. All of these factors led to difficulties at all the posts we visited in identifying possible name matches in CLASS.

New Interview Requirements for Applicants from State Sponsors of Terrorism

In response to a provision in the Enhanced Border Security and Visa Entry Reform Act of 2002,⁴² the State Department in July 2002 began requiring interviews for all applicants over the age of 16 who are from one of the seven countries designated as state sponsors of terrorism—Cuba, Iran, Iraq, Libya, North Korea, Sudan, and Syria. In addition, all of these applicants must complete a supplemental visa application form and are subject to a Visas Condor clearance before the consular officer can issue a visa. This provision requires the Secretary of State, in consultation with the Attorney General and the heads of other appropriate U.S. agencies, to determine that these applicants do not pose a threat to the safety or security of the United States before issuing them a visa. According to State Department procedures, consular officers have the discretion to waive the interview requirement for diplomats, government officials, and

⁴⁰For example, when we reviewed the CLASS entries for the two Emirati hijackers in May 2002, the date of birth of one, Fayeze Ahmed Banihammad, appeared in CLASS as 19 May 1977 instead of 19 Mar 1977. The last name of the other Emirati hijacker, Marwan Al-Shehhi, was spelled in CLASS as “Al-Shehri.” A consular officer could override either of these close matches by noting, “Name and/or date of birth are different.” In commenting on a draft of the report, the State Department said that it had corrected the lookout entry for Banihammad and that Al Shehhi’s name was already spelled the same in CLASS and in his visa.

⁴¹The United Arab Emirates, in an attempt to prevent discrimination, permits naturalized citizens to officially alter their place of birth information. The algorithms that CLASS uses rely heavily on place of birth information.

⁴²P.L. 107-173.

representatives to and employees of international organizations from these countries.

Changes to Post Referrals and Visa Reviews

On May 18, 2002, the State Department announced a number of changes to strengthen posts' existing visa referral systems, under which U.S. government employees may recommend a visa for someone of official interest to the U.S. government who is well and favorably known to them. These changes included creating new terms for different types of referrals, as well as requiring posts to use standardized forms and establish a tracking system for referrals. The department also reaffirmed the essential requirements of referral systems, including the need of a signature from the agency or section head. Through these measures, the State Department intends to protect the integrity of the visa referral system.

On June 8, 2002, the State Department added a provision to its *Foreign Affairs Manual* requiring the nonimmigrant visa chief, the visa chief, or the consular section chief to spot-check approved nonimmigrant visa applications. Before this announcement, the official supervisory review policy required only that consular managers review all visa refusals and spot check compliance with CLASS name checks. While still not requiring a review of all issuances, this change may address pre-September 11 concerns that the supervisory review policy encouraged officers to issue visas in order to avoid managerial scrutiny.

Lack of Clear Guidance Resulted in Wide Discrepancies Among Posts

Although the State Department had changed selected procedures and announced plans to examine visa operations worldwide, it had not issued comprehensive policy guidance to posts as of late July 2002, regarding how consular officers should react to the heightened border security concerns following the September 11 attacks. Our fieldwork indicated that the lack of headquarters' guidance has caused uncertainty among consular personnel overseas.

In the absence of clear policy guidance, consular staff overseas and at the State Department held different views on balancing customer service and national security in the visa process. For example, consular officers held different opinions about whether they should use INA section 214(b) to refuse visas to questionable applicants, that is, those who either did not appear credible or who could not convince them of the purpose of their visit, regardless of the applicants' income or ties to a residence abroad. Many consular officers told us they were using the provision for this purpose. Consular managers and individual consular officers whom we

interviewed differed on whether consular officers should be using INA section 214(b) to screen applicants in this manner. Moreover, the *Foreign Affairs Manual* provided conflicting guidance on the factors to be assessed in determining whether an applicant qualifies for a visa. In one section, the policy manual said that consular officers must assess, among other things, whether the applicant is seeking admission to the United States for the sole purpose of engaging in legitimate activities related to business or pleasure. In another section, this manual stated that travel agencies were to base the applicant screening processes largely upon financial factors. If the travel agency was reasonably satisfied that the traveler had the means to purchase a tour “package,” there was to be little further evaluation of the application’s qualifications for receiving a nonimmigrant visa.⁴³

Consular management at the posts we visited responded to the September 11 attacks by changing post-specific visa policies in widely varying ways. Many senior consular managers and junior officers, particularly in the five posts that issued visas to the September 11 hijackers, said that national security had become their primary concern in reviewing visa applications. At those five posts, consular management changed their policies and procedures for issuing visas immediately after September 11. For example, in Saudi Arabia and the United Arab Emirates, consular officers began more rigorously scrutinizing citizens of those countries who were applying for visas, including screening them to determine whether they were intending immigrants. In doing so, according to data from the consular section in Riyadh and consular managers, they interviewed many more applicants from those two countries and also started to ensure that Saudi and Emirati applicants had completely filled out their visa applications, a requirement they had not enforced before September 11. In late July 2002, the posts in Saudi Arabia changed their visa interview policies to require interviews for all visa applicants between the ages of 12 and 70. They also eliminated the role of travel agencies in collecting and transmitting visa applications and ended the Visa Express program for expediting visa applications.

Consular staff in other posts we visited, such as in Cairo, Tunis, and Jakarta, noted that they, too, are placing more emphasis on preventing terrorism in their reviews of visa applications. For example, at one post,

⁴³The State Department revised this section of the *Foreign Affairs Manual* on September 18, 2002, thereby removing this language from the policy guidance and emphasizing that no visa adjudication authority may be delegated to any third party entity.

consular officers reported that they had broadened their definition of what constitutes a close CLASS match, that is, a close but not exact match of an applicant's name or date of birth with the name and date of birth of a potential terrorist included in CLASS. Now they are much more likely to ask for a security advisory opinion from the State Department in deciding whether to issue a visa to an applicant with a close match.

On the other hand, consular managers whom we interviewed at the U.S. embassy in London and the U.S. consulate in Frankfurt were implementing the new security clearance procedures but had not received specific guidance from the State Department on how much emphasis to place on security in visa operations. Thus, the posts continued to operate in accordance with the department's best practices, which included a policy of waiving interviews for certain categories of applicants whom posts believe will not illegally immigrate to the United States. Furthermore, consular officers in London told us that they were uncomfortable because they were not interviewing more applicants. In Ottawa, Canada, the post's refusal rates for third-country national applicants decreased from about 29 percent in June 2001 to about 12 percent in October 2001, after the post had received a new consular section chief. In late January 2002, the new chief told us that she considered the post to be a lower fraud risk than did her predecessor. She, therefore, held a more liberal policy for issuing visas and placed a lower priority on fraud detection.

Moreover, at several posts we visited, consular officers held differing views on whether they had the authority to issue a visa for less than the maximum validity period. The *Foreign Affairs Manual* states that consular officers have the discretion to issue a visa for less than the maximum time allowed, but the manual encourages them to issue a visa for the longest time possible. During our fieldwork, we found widely varying opinions within and among posts as to the amount of discretion allowed to consular officers in this area. In the United Arab Emirates, home to two of the September 11 hijackers, consular officers in Abu Dhabi expressed concern that they were required to issue visas to all Emirati nationals for the full 10-year term; however, a consular officer in Dubai told us that he routinely limits the period of visa validity for Emirati nationals, based on his assessment of each applicant's situation. This officer cited the example of issuing a visa to a 15-year old boy to travel to the United States on vacation with his parents. For this boy, the consular officer would limit the visa to 3 years rather than the maximum of 10, since the officer would not know whether the applicant would qualify for a visa as an adult. In Tunis, one of the consular officers routinely issued visas for periods less than full

validity, while the other believed that the State Department's policy did not allow that action. On September 23, 2002, the State Department said that it is currently revising instructions to posts on this matter and intends to change previous guidance that visas should, in most cases, be issued for the maximum validity period.

Senior consular managers at three posts we visited believed that the State Department had not provided them with comprehensive guidance on how to balance security concerns or new procedures with the need to promote legitimate travel to the United States. They told us that it would be useful to have better guidance on these matters. Further, at a fourth post, two senior consular managers held different policies on how to balance customer service and national security in their post's visa operations.

Finally, many consular officers overseas told us that they had difficulties in implementing the State Department's various security clearance procedures for visa applicants. Consular managers at all the posts we visited⁴⁴ told us that they received minimal guidance from the department on how to coordinate the 20-day and 30-day clearances so that they would not inadvertently issue a visa to an applicant subject to both clearances before the end of the 30-day waiting period. In the absence of guidance from the State Department, the posts we visited had created and refined ad hoc procedures, often in consultation with one another. In February 2002, the consular section in Riyadh sent a cable to the State Department asking for a clarification of this matter; however, as of the time of our fieldwork, the department had not responded to the request. Further, some posts that processed visa applicants who were subject to multiple pre- and post-September 11 security check requirements had difficulty in determining which check, if any, takes precedence. One post completed only post-September 11 security checks, while other posts completed all checks that applied to an individual applicant.

The State Department, in its comments on our report, said that the guidance provided to the field has historically emphasized operational flexibility to ensure that visa operations are as effective and efficient as possible based on local circumstances. The department recognized that the events of September 11 changed this cost-benefit calculus and now understands that more detailed centralized guidance—and, conversely, less

⁴⁴We visited the U.S. embassy in Ottawa and the consulate in Montreal before the 30-day wait took effect.

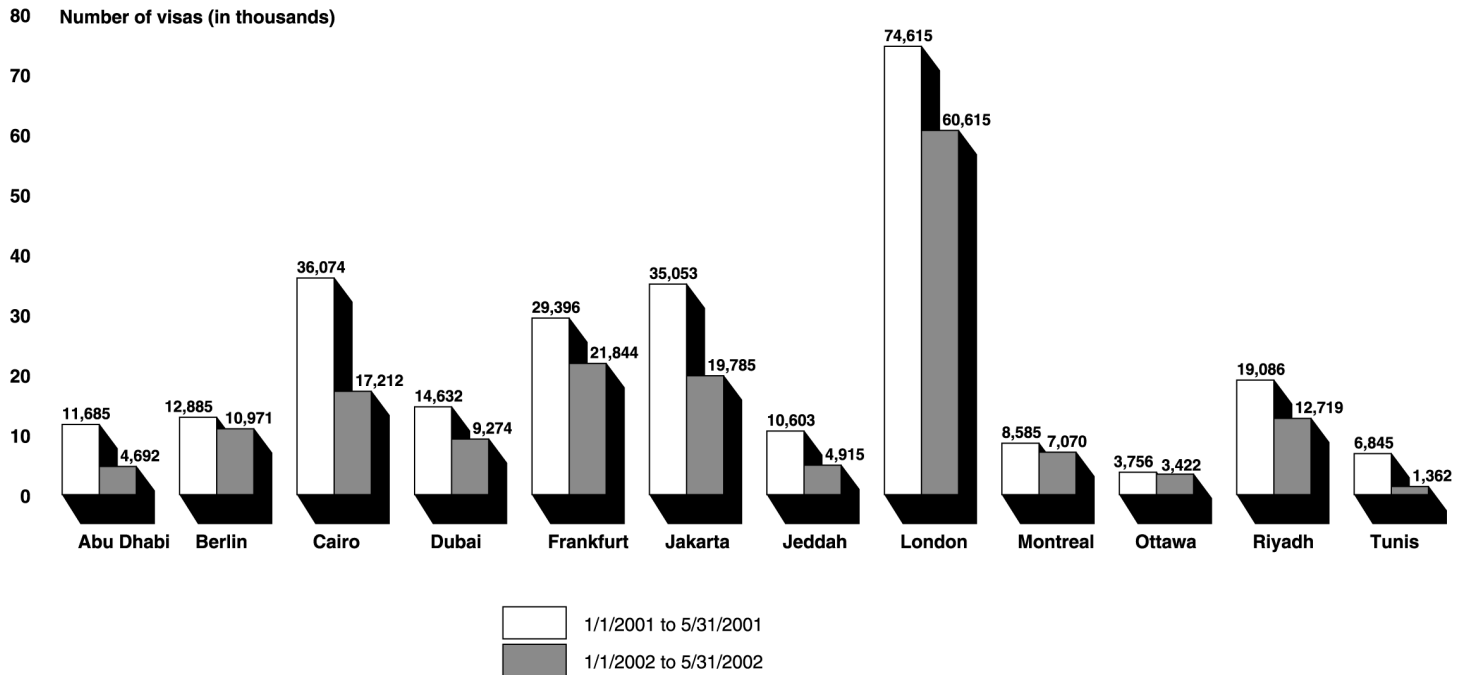
flexibility at the field level—is called for. The State Department noted that it plans to (1) issue new rules that will eliminate much of the discretion consular officers have in such things as waiving interviews of visa applicants and using travel agencies to process visa applications, (2) reduce the period of maximum validity of nonimmigrant visas from 10 years to 5 years, and (3) redraft department guidance on when consular officers can issue less-than-full validity visas.

Despite Drop in Applications, Staffing Limitations Remain a Concern

Since September 11, the number of nonimmigrant visa applications has dropped worldwide. At some posts, this decrease in demand has allowed consular officers to handle the increased workload associated with new security clearance procedures and additional and lengthier interviews of visa applicants within the current staffing level. At other posts, according to State Department officials, the demand for visas combined with increased workload per visa applicant still exceeds available staff, as evidenced by the waiting time for a visa appointment and in overtime by consular staff.

The State Department's data show that the number of visa cases decreased by about 16 percent worldwide from January 1, 2002, through May 31, 2002, compared with a year earlier. At some posts, the caseload dropped by more than 50 percent from pre-September 11 levels during that same period (see fig. 5). As of May 2002, consular officers in the United Arab Emirates were interviewing almost all applicants; they could do so because visa cases at post had declined by almost 50 percent. Consular officers in Cairo, Tunis, and Jeddah also told us the reduced number of applications meant they could spend more time interviewing applicants. In Cairo, one officer reported that after September 11, he had more time to develop information in interviews and felt he was doing a more thorough job of screening applicants.

Figure 5: Nonimmigrant Visa Caseload for Selected Posts, January 1, 2001-May 31, 2001, and January 1, 2002-May 31, 2002



Note: Caseload consists of visa issuances and refusals.

Source: State Department data.

Several consular managers at the posts we visited reported that they would not be able to handle an increase in workload at their existing staff levels. Although the posts could manage existing workload with current staffing, these officials said that they would need more staff if they faced an increase in either security clearance procedures or visa applications. In July 2002, when the posts in Saudi Arabia decided to start interviewing all visa applicants between the ages of 12 and 70, the State Department recognized that the posts would require more staff to handle the increased workload.

We note that through its Diplomatic Readiness Initiative plan, the State Department aims to hire an additional 1,158 Foreign and Civil Service employees above the normal attrition rate by fiscal year 2004 and that some of these new staff will be assigned to consular positions. In fiscal year 2002,

the department established 55 new consular positions,⁴⁵ in addition to the 81 new consular positions that it had established over the previous 2 years. Moreover, through the Diplomatic Readiness Initiative, the State Department plans to phase out the use of consular associates to adjudicate visas and replace them with about 165 Foreign Service consular officers over a 3-year period.

Consular Training Changes Have Been Limited

As of July 2002, training for new consular officers remained focused on detecting intending illegal immigrants through the visa process, with little training given on detecting possible terrorists. In January, an official from the Foreign Service Institute, the training arm for Foreign Service officers, told us that the institute had not made any substantive changes in consular training since September 11. When we spoke with this official again in July, he said that the institute was considering some minor changes to the nonimmigrant visa curriculum. These changes would increase the nonimmigrant visa module from 7 days to approximately 8 days and would place more emphasis on interviewing skills. On September 10, 2002, State added a session on visa fraud and accountability to the basic consular course. Many consular officers with whom we met overseas believed that more comprehensive training could help them detect inadmissible applicants, particularly in the areas of interviewing techniques, the CLASS name check system, and terrorism trends.

Many consular officers whom we interviewed wanted more training in how to interview visa applicants effectively. Some officers thought that if they were trained to ask more interrogative questions they might be better able to identify inadmissible applicants. One officer in London said he wanted to learn how to open interviews, how to extract information from the applicant, and how to close interviews.

Some consular officers with whom we spoke wanted more training in the CLASS name check system, particularly in how the system's Arabic algorithm works, so that they could better discern what constitutes a true match between the applicant and the names found by CLASS. Officers in Cairo, for example, received possible name matches, also known as "hits," for 75 percent of applicants. They felt that a better understanding of how CLASS operates would make it easier to know when the visa applicant's

⁴⁵State funded these positions using fees it collected from applicants for machine-readable visas.

name and biographical data constituted a match with the information in CLASS. In fact, the State Department began offering an advanced course in CLASS name checks in January 2002. Consular officers in Cairo and Abu Dhabi who had taken the course said that it greatly helped in understanding CLASS hits and system operations. The department plans to offer the course seven times in 2002 and at least 10 times in 2003, primarily to consular officers who will use the knowledge gained from the course in follow-on visa assignments. As of September 23, 2002, the State Department had trained 70 students in this course and planned to train 120 more in each of the next 2 fiscal years.

Several consular officers told us that they would like to receive briefings on profiles of terrorist groups operating locally and globally so that they could attempt to detect terrorists if these operatives applied for a visa. They believed that information on terrorism trends and related antifraud measures could provide important background in the visa process to screen out terrorists. Two consular officers in London, a post that processed applicants from more than 180 countries, said that they would like intelligence officers at the embassy to conduct these briefings to alert them to terrorists' travel patterns and behaviors. At other posts, consular officers told us that the fraud detection training they had received before going to their first visa post and while at the post was limited. According to terrorism experts and the State Department's Fraud Prevention training course, some terrorists make use of fraudulent documents. Therefore, knowledge of antifraud techniques is useful for helping consular officers detect terrorists and criminals, as well as intending immigrants, who are applying for nonimmigrant visas.

Some consular officers also felt that they would be better prepared to make visa adjudications if they had more knowledge about the local culture, conditions, and language of the country in which they are posted. For example, an officer in Riyadh said that post-specific area studies in the behavior, culture, and economic situation of the local population would have been useful to her in evaluating visa applicants. This officer suggested that a new officer's tenure overlap with that of departing officers so that this type of local knowledge could be passed along. Furthermore, not all consular officers are proficient enough in their post's language to hold interviews with applicants. Cairo reported that 90 percent of interviews are conducted in Arabic, yet most officers lacked strong Arabic skills. In the United Arab Emirates, the State Department's consular officers relied on the Arabic language skills of local staff at post, as none of the visa positions require Arabic. Moreover, effective in August 2002, the State Department

changed the consular section staffing in Jeddah to replace a 2-year Arabic language-designated position with two 1-year non-language designated positions.

In late September 2002, the State Department said that it is adding a number of new elements to the basic consular training course. It is collaborating with FBI officials to develop a counterterrorism presentation that the bureau would give to course participants, planning to add the session to the course by the end of October 2002. The State Department is also developing a new session on interviewing techniques to give students time to work on and discuss how to conduct effective visa interviews. The department believes this new session will add substantially to the comfort level and effectiveness of newly graduated first tour consular officers.

State Is Reexamining Visa Operations

The State Department has acknowledged the need to strengthen the visa process. In mid-July 2002, the Secretary of State said the visa process needed revision, noting that the department is examining consular operations to enhance their effectiveness. In response to a provision in the USA PATRIOT Act, the State Department, in conjunction with the Attorney General and the National Institute of Standards and Technology, is studying the potential of biometric technologies in screening visa applicants. The biometric technologies under consideration, facial recognition and fingerprints, would be used to conduct background checks on and confirm the identity of visa applicants and to ensure that they had not received a visa under a different name. As part of this effort, the State Department in March 2002 required all posts to start electronically capturing photos of refused visa applicants. Prior to this, the department had only required posts to capture photos of applicants who had received a visa. The Departments of State and Justice, along with the National Institute of Standards and Technology, are scheduled to issue a joint report on the development, implementation, efficacy, and privacy implications of the proposed biometric technologies by November 2002.

Moreover, the State Department's Inspector General initiated a worldwide review of visa operations in July 2002. As part of this review, the Office of the Inspector General sent questionnaires to all posts in mid-August 2002. These questionnaires asked them about terrorist threat information sharing and posts' policies on interviewing visa applicants and using travel agencies to complete and submit visa applications. The Office of the Inspector General plans to issue a report on these matters by late November 2002.

The State Department said on September 23, 2002, that it is continuing to evaluate all aspects of the visa process. Further, it will expand its coordination with the homeland security community to develop additional procedures and guidelines to aid in screening out potential terrorists. For example, it initiated efforts to identify and reassess categories of visas issued prior to the implementation of the new security checks. State plans to recheck those applicants in CLASS and will ask other agencies if they want to review outstanding visas as well.

Conclusions

The visa process can be an important tool to keep potential terrorists from entering the United States. While changes to the visa process have been implemented since the September 11 attacks, weaknesses remain that limit the effectiveness of the visa process as an antiterrorism tool. The State Department needs to improve its implementation of the visa process to improve its effectiveness and consistency among posts. A lack of clear guidance has resulted in wide discrepancies among posts in the level of scrutiny of visa applications and in factors used to refuse visas to questionable applicants. Consular officers need clear statements of policies and priorities to guide them in their risk assessments of visa applicants and in determining who should and who should not receive visas. In addition, human resource limitations are a concern, as some consular sections may need more staff if the number of visa applicants returns to the levels that were common prior to September 11. Furthermore, consular training has not incorporated the tools to identify potential terrorists. Action is also needed at the interagency level as key agencies disagree on the information needed to deny a visa on terrorism grounds and headquarters' security checks of selected visa applicants have not been completed in a timely fashion.

Recommendations for Executive Action

We are making recommendations to strengthen the visa process as an antiterrorism tool. These recommendations are being directed to the Secretary of State, who is currently responsible for visa policy and operations, and to the Assistant to the President for Homeland Security, because of his current role in promoting and coordinating homeland security across the federal government. While we recognize that the establishment of the proposed Department of Homeland Security could affect the role and responsibilities of various entities involved in visa processing, the actions we are recommending focus on fundamental operational issues that need to be urgently addressed.

To strengthen the risk-based approach to visa decision-making, we recommend that the Secretary of State, in consultation with appropriate agencies, develop

- a clear policy on the priority attached to addressing national security concerns through the visa process, including how this priority should be balanced with the desire to facilitate legitimate travel, provide timely customer service, and manage workload; and
- more comprehensive, risk-based guidelines and standards on how consular officers should use the visa process as a screen against potential terrorists, including the factors to consider in assessing risks, the level of scrutiny of visa applications, the information needed to approve and deny a visa, and the degree of discretion to waive interviews and other visa checks and to limit the duration of visa validity.

Based on the new policy and guidelines, we also recommend that the Secretary of State

- perform a fundamental reassessment of staffing and language skill requirements for visa operations in light of the current and the anticipated future number of visa applications and, if appropriate, request additional human resources to ensure that consular sections have adequate staff with necessary language skills; and
- revamp and expand consular training courses to place more emphasis on detecting potential terrorists by improved interview techniques, greater recognition of fraudulent documents, greater understanding of terrorism trends and local culture and conditions, and better utilization of the CLASS name check system.

To address visa issues requiring coordination and actions across several agencies, we recommend that the Assistant to the President for Homeland Security coordinate with the appropriate agencies to

- establish governmentwide guidelines on the level of evidence needed to deny a visa on terrorism grounds under INA section 212(a)(3)(B);
- reassess interagency headquarters' security checks on visa applicants to verify that all the checks are necessary and to ensure that appropriate checks are carried out promptly, and provide clear guidance to overseas

posts and headquarters agencies on their roles in conducting these checks;

- consider reassessing, on an interagency basis, visas issued before the implementation of new security checks, particularly for selected categories of persons from selected countries who may pose security concerns;
- reexamine visa operations on a regular basis to ensure that the operations are effectively contributing to the overall national strategy for homeland security and that they reflect changes in the security environment, the availability of new information technologies, and organizational changes that may be implemented if a Department of Homeland Security is established; and
- ensure that law enforcement and intelligence agencies promptly provide information to the State Department on persons who may pose a security risk and, therefore, should not receive a visa.

Agency Comments and Our Evaluation

We provided a draft of this report to the Office of Homeland Security and the Departments of State and Justice for their comment. The Office of Homeland Security did not comment on the report. The comments of the Departments of State and Justice, along with our responses to specific points, are reprinted in appendixes VII and VIII, respectively.

The State Department said that it found the report to be thorough and balanced, noting that the recommendations would be useful to their ongoing reexamination of visa processes and procedures. The State Department indicated it concurred with or was taking steps to implement all of our recommendations. The department said it would work with Congress to obtain legislative changes, as necessary, to permit it to take the steps it believes are necessary to incorporate all known risk assessments into the visa process as a means of furthering national security objectives. The State Department also provided a number of technical comments, which we have incorporated throughout the report, where appropriate.

The Department of Justice did not comment on the report's recommendations. Instead, the department limited its comments to two issues. First, the department elaborated upon the evidentiary standard for adjudicating visa applications by individuals who may present a risk to national security. We incorporated the substance of these arguments into

the report. Second, the department said that our report failed to discuss fully certain visa applicants screened by the Foreign Terrorist Tracking Task Force and expressed concern about several statements regarding the task force's and the FBI's processes for handling Visas Condor cables, as well as their timeliness. We have modified relevant sections in the report to update information and clarify our points on these matters.

We are sending copies of this report to interested congressional committees and to the Assistant to the President for Homeland Security, the Secretary of State, the Attorney General, and the Director of the FBI. We also will make copies available to others upon request.

If you or your staff have any questions concerning this report, please call me at (202) 512-4128. Additional GAO contacts and staff acknowledgments are listed in appendix IX.

Sincerely yours,

A handwritten signature in black ink that reads "Jess T. Ford". The signature is written in a cursive style with a large, looping initial "J" and a distinct "T" and "F".

Jess T. Ford, Director
International Affairs and Trade

Objectives, Scope, and Methodology

At the request of the Chairman of the Subcommittee on National Security, Veterans Affairs, and International Relations of the House Committee on Government Reform, we assessed (1) how the visa process operated prior to September 11, 2001; and (2) what changes have occurred since then to strengthen the process as a screen against terrorists. To assess how the visa process operated prior to and following September 11, we reviewed the Immigration and Nationality Act and related legislation, the State Department's *Foreign Affairs Manual* and best practices cables, consular training guides, consular workload and staffing data, and other related documents from the State Department's Bureau of Consular Affairs. We assessed the State Department's data on visa applications, issuances, and refusals worldwide and for selected posts.

We visited U.S. embassies and consulates in eight countries—Canada, Egypt, Germany, Indonesia, Saudi Arabia, Tunisia, the United Arab Emirates, and the United Kingdom. During these visits, we observed visa operations, reviewed selected visa applications, and interviewed consular staff and embassy management about visa adjudication policies, procedures, and resources. We visited Canada from January 27, 2002, through February 2, 2002, and the remaining countries from April 28, 2002, through May 26, 2002. We also conducted telephone interviews with consular staff at 11 other posts in countries of interest as potential terrorist bases or transit routes to obtain information on how their posts had changed visa operations since September 11.

Table 1 shows the number of people who applied for U.S. visas during fiscal year 2001 at the posts that we visited. We selected these posts based on the following criteria: (1) the post had issued at least one visa to a September 11 hijacker, (2) the post was located in a country of interest to U.S. antiterrorism efforts, or (3) the post had a large population of third-country national applicants from countries of interest to U.S. antiterrorism efforts.

Table 1: Applicants for Nonimmigrant Visas at 12 Selected Posts, Fiscal Year 2001

Country and post	Host country nationals		Third country nationals	
	Number of cases ^a	Percent	Number of cases ^a	Percent
Canada				
Montreal	1,099	5.2	20,068	94.8
Ottawa	708	10.2	6200	89.8
Egypt				
Cairo	78,428	92.0	6,794	8.0
Germany				
Berlin	26,841	70.0	11,511	30.0
Frankfurt	43,090	59.3	29,623	40.7
Indonesia				
Jakarta	84,123	97.9	1,786	2.1
Saudi Arabia				
Jeddah	17,365	54.6	14,465	45.4
Riyadh	29,352	48.9	30,627	51.1
Tunisia				
Tunis	11,294	84.0	2,158	16.0
United Arab Emirates				
Abu Dhabi	7,979	25.5	23,318	74.5
Dubai	3,523	10.0	31,759	90.0
United Kingdom				
London	97,865	57.4	72,600	42.6

^aCases include visa issuances and refusals.

Source: State Department data.

We did fieldwork at the five posts that issued visas to the 19 hijackers: the U.S. embassy in Riyadh and the U.S. consulate in Jeddah, Saudi Arabia; the U.S. embassy in Abu Dhabi and the U.S. consulate in Dubai, the United Arab Emirates; and the U.S. embassy in Berlin, Germany.

In Saudi Arabia, we met with three consular officers who issued 14 visas to 12 of the 15 Saudi hijackers. We also reviewed 17 of the 19 visa applications that the Saudi hijackers submitted, dating from November 1997 through June 2001. The scope of our review did not cover visas that were issued before this time period. Overall, we were able to meet with an issuing consular officer or review the applications for 14 of the 15 Saudi hijackers. We did not interview the issuing consular officers or review the visa applications for Nawaf Al Hazmi or Khalid Al Mihdhar's first visa—both of these visas were issued in 1999—because the officers were no longer

working at the post (Jeddah), and the applications had been destroyed as part of the post's normal document retention policy.

We also interviewed past and present senior consular officials for Saudi Arabia to obtain their views on U.S. visa policies and procedures before September 11. We met with the current Consul General in Riyadh, who started there on September 10, 2001. In London, we met with the State Department official who served as the Consul General in Riyadh from September 2000 through July 2001, the period when almost all of the 15 hijackers received either their first or second visas. In July 2002, we held a telephone interview with the acting Consul General at the U.S. embassy in Islamabad, Pakistan, who served as the Consul General in Riyadh from the summer of 1998 through the summer of 2000.

In the United Arab Emirates, we interviewed one of two consular officers who issued a visa to an Emirati hijacker and reviewed that hijacker's visa application. We did not interview the issuing consular officer or review the visa application for the other Emirati hijacker, because the officer was no longer working at the post, and the application had been destroyed as part of the post's normal document retention policy.

In Germany, we did not interview the consular officer(s) who had issued visas to two of the hijackers in Berlin or review those hijackers' applications, because the officer(s) were no longer working at the post, and the applications had been destroyed as part of the post's normal document retention policy.

In Washington, D.C., we conducted interviews with officials from the Departments of State, Defense, and Justice, including the Federal Bureau of Investigation, the Immigration and Naturalization Service, and the interagency Foreign Terrorist Tracking Task Force. We requested meetings with the headquarters officials of the CIA to discuss the agency's role in the Visas Condor security check and interagency information sharing, but they declined to meet with us. We received information on changes to the agency's role in the Visas Condor process during a briefing given to congressional staff by officials from the CIA and the Departments of State and Justice in late September 2002.

We limited our review to nonimmigrant visa applicants. While we reviewed the State Department's consular lookout system, we did not compare its capabilities with those of other name check or lookout systems. We did not review the immigrant visa-issuance process, nor did we review the role and

effectiveness of the Immigration and Naturalization Service in inspecting foreign citizens once they arrive at a U.S. port of entry. We also did not assess how the proposed Department of Homeland Security would affect visa issuance.

We conducted our work from November 2001 through August 2002 in accordance with generally accepted government auditing standards.

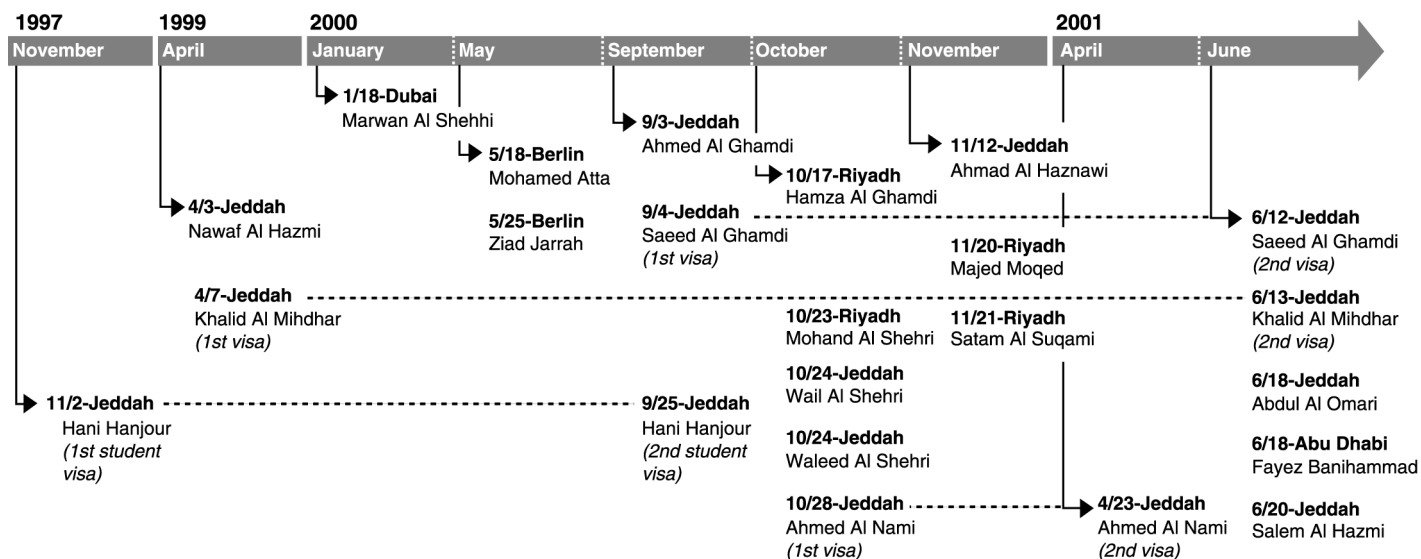
Visas Issued to the September 11, 2001, Terrorist Hijackers

This appendix provides information on the visa applications and issuances for the 19 hijackers who participated in the September 11 terrorist attacks. The hijackers received a total of 23 visas at five different posts from April 1997 through June 2001 (see fig. 6).

Fifteen of them were citizens of Saudi Arabia. They applied for their visas in their home country, at the U.S. consulate in Jeddah (11 hijackers) and the embassy in Riyadh (4 hijackers). Two others, citizens of the United Arab Emirates, also received their visas in their home country, at the U.S. embassy in Abu Dhabi and consulate in Dubai. The remaining 2 hijackers applied for their visas at the U.S. embassy in Berlin. They were considered third-country national applicants because they were not German citizens: one was a citizen of Egypt, the other of Lebanon. Of the 19 hijackers, 18 received a total of 21 visas for temporary visits for business and pleasure, and 1 received 2 student visas. These visas allowed the holders to enter the United States multiple times during the validity period, subject to the approval of the immigration officer at the port of entry. Of the 23 issued visas, 4 were valid for a period of 1 year, 15 were valid for 2 years, 2 for 5 years, and 2 for 10 years.

Appendix II
Visas Issued to the September 11, 2001,
Terrorist Hijackers

Figure 6: Timeline of Visas Issued to Hijackers at Overseas Posts, November 1997 through June 2001



Note: All visas were tourist/business class unless otherwise noted. For Hani Hanjour's second visa, the visa application shows that he applied for and was granted a student visa by the adjudicating consular officer. However, according to testimony by the Staff Director of the Joint Inquiry Staff on September 20, 2002, the post erroneously issued the hijacker a tourist/business visa but the Immigration and Naturalization Service recognized and corrected this error when he arrived in the United States.

Source: State Department documents.

Grounds for Visa Ineligibility

The Immigration and Nationality Act (INA) (8 U.S.C. 1182-1202) lists the reasons why consular officers may consider applicants ineligible to receive a visa (see table 2).

Table 2: Provisions Concerning Visa Ineligibility Under the INA

Grounds for visa ineligibility	Section of the INA	
Health-related grounds	212(a)(1)	
Communicable disease		(A)(i)
Immigrant lacking required vaccinations		(A)(ii)
Physical or mental disorder and behavior that may cause a threat		(A)(iii)
Drug abuser or addict		(A)(iv)
Criminal-related grounds	212(a)(2)	
Crime involving moral turpitude		(A)(i)(I)
Controlled substance violators		(A)(i)(II)
Multiple criminal convictions		(B)
Controlled substance traffickers		(C)(i)
Relative of substance trafficker who obtained benefit from illicit activity within past 5 years		(C)(ii)
Prostitution (within 10 years)		(D)(i)
Procuring (within 10 years)		(D)(ii)
Unlawful commercialized vice		(D)(iii)
Certain aliens involved in serious criminal activity who have asserted immunity from prosecution		(E)
Foreign government officials who have engaged in violations of religious freedom		(G)
Significant trafficker in persons as listed in yearly report to Congress by President		(H)(i)
Relative of trafficker on the President's list who obtained financial benefit from the activity within the past 5 years		(H)(ii)
Security-related grounds	212(a)(3)	
Espionage, sabotage, or technology transfer		(A)(i)
Other unlawful activity		(A)(ii)
Activity to overthrow the U.S. government		(A)(iii)
Terrorist activities		(B)
Entry would have potentially serious adverse foreign policy consequences		(C)
Immigrant membership in totalitarian party		(D)
Participation in Nazi persecutions		(E)(i)
Participation in genocide		(E)(ii)
Association with terrorist organizations		(F)
Applicant may become a public charge	212(a)(4)	
Labor certification and qualifications of certain immigrants	212(a)(5)	
Labor certification		(A)
Unqualified physicians		(B)
Uncertified foreign health care workers		(C)

Appendix III
Grounds for Visa Ineligibility

(Continued From Previous Page)

Grounds for visa ineligibility	Section of the INA	
Illegal entrants, immigration violators, and misrepresentation	212(a)(6)	
Aliens present without admission or parole		(A)
Failure to attend removal proceedings		(B)
Misrepresentation/fraud		(C)(i)
False claim to U.S. citizenship		(C)(ii)
Stowaways		(D)
Smugglers of aliens		(E)
Subject of civil penalty for document fraud		(F)
Student visa abusers		(G)
Documentation requirements	212(a)(7)	
No entry documentation (applies to immigrants at port of entry only)		(A)
Nonimmigrants not in possession of valid passport and nonimmigrant visa or border-crossing card		(B)
Ineligible for citizenship	212(a)(8)	
Ineligible for citizenship in general		(A)
Draft evaders		(B)
Aliens previously removed and unlawfully present	212(a)(9)	
Aliens previously removed		(A)
Aliens unlawfully present		(B)
Aliens unlawfully present after previous immigration violations		(C)
Miscellaneous	212(a)(10)	
Practicing polygamists (applicable only to immigrants)		(A)
Guardian accompanying helpless alien (applicable only at port of entry)		(B)
International child abduction		(C)
Unlawful voters		(D)
Former citizens who renounced citizenship to avoid taxes		(E)
Foreign residence requirement for former exchange visitors	212(e)	
Presidential proclamation suspending the entry of any class of aliens	212(f)	
Failure to establish entitlement to nonimmigrant status	214(b)	
Applications do not comply with the INA or related regulations	221(g)	
Alien in illegal status required to apply for new visa in country of nationality	222(g)	

Sources: 1999 Report of the Visa Office, Consular Training Guide, and related statutes.

List of Pre-September 11 Special Clearance Requirements for Visa Applicants

This appendix provides information on the types of special clearances for visa applicants beyond the Consular Lookout and Support System (CLASS) name check that the State Department required for terrorism-related and other security and foreign policy reasons before the September 11, 2001, attacks. All special clearance requirements call for the consular officer to use one of several standardized cable formats when contacting the State Department's headquarters concerning issuance of visas in certain circumstances.

Table 3 lists the 9 countries subject to terrorism-related clearance requirements before the September 11 attacks. Table 4 lists the additional 24 countries subject to clearances for other security or foreign policy reasons before September 11. All of these clearances were still required as of August 12, 2002.

Appendix IV
List of Pre-September 11 Special Clearance
Requirements for Visa Applicants

Table 3: Countries Subject to Terrorism-related Clearances Before September 11

Country	Types of visa applicant
Afghanistan	Members of Taliban leadership; senior military officers; persons conducting business on behalf of the Taliban Persons claiming to be diplomatic representatives of any Afghan faction and their dependents
Cuba	Cuban nationals applying within Cuba: Officials of the government; and government representatives to and employees of international organizations, their families, and servants Certain employees or officials of the Cuban government or the Cuban Communist Party Cuban nationals applying outside of Cuba: Persons possessing diplomatic or official passports or affiliated with the government; professional performer or artist resident in Cuba; persons suspected of violating trade sanctions; and individual ship crewmember applicants
Iran	Officials of the government; and government representatives to and employees of international organizations, their families, and servants Certain officials and employees of the government and of state-controlled companies; lawyers connected to the Iranian claims tribunal; religious leaders; and employees of the Islamic Republic News Agency Student or other visa applicants involved in the field of nuclear technology Male applicants aged 18-60 residing in Iran; all Iranians who are currently studying or who have studied in the United States since 1977; and immigrant applicants who have lived in the United States for 6 months or more Applicants who are medical personnel in private practice and primary or secondary school teachers
Iraq	Persons over age 16 who are applicants for student visas or who are present or former members of the Iraqi Baath Party, government, or military Officials of the government; government representatives to and employees of international organizations; and third-country nationals applying to work at the Iraqi embassy/missions or as household employees to such officials, representatives, or employees
Libya	Certain visa applicants aged 16-65 who are present or former members of the government or military Nonofficial Libyan applicants and third-country nationals who have lived in Libya for more than 2 years since 1981 and who are not present or former members of the government or military Applicants sponsored by Libyan entities who deal with certain sensitive technologies Government representatives to and employees of international organizations, their families, and servants
North Korea	All nationals Government representatives to and employees of international organizations, their families, and servants
Russia	Applicants age 18-65 who are seeking immigrant or refugee status or who are nonimmigrant fiancé(e)s of U.S. citizens and their children Applicants whose purpose of travel is (a) to engage in terrorist fundraising or (b) to conduct official business on behalf of the government of Chechnya Officials of the government, government representatives to and employees of international organizations, and their families and servants Official and diplomatic visa applicants who match certain CLASS information or who are possibly ineligible on security-related grounds

Appendix IV
List of Pre-September 11 Special Clearance
Requirements for Visa Applicants

(Continued From Previous Page)

Country	Types of visa applicant
Sudan	Senior members, officials, and certain other employees of the government or armed forces Persons whose trip is government-sponsored Persons whose trip activities may involve sensitive technology Persons likely to engage in trade involving Sudan and the United States Student applicants intending to study items on the Technology Alert List ^a Servants of officials of the government or of government representatives to international organizations who are serving missions other than Sudan's
Syria	All applicants ^b

^aThe Technology Alert List is provided as guidance for consular officers adjudicating visa cases potentially falling within the purview of INA section 212(a)(3)(A)(i)(II). This section of the INA renders ineligible any foreign citizen who a consular officer knows or has reasonable grounds to believe is seeking entry to engage in any activity to violate or evade any law prohibiting the export from the United States of goods, technology, or sensitive information.

^bThere are no mandatory special clearance procedures for Syrian applicants. However, because Syria is a state sponsor of terrorism, it is the State Department's policy that all Syrian visa applications be scrutinized closely for potential illegal transfer of sensitive technology.

Source: State Department cable regarding "Summary of Special Processing Requirements," June 23, 2001.

Appendix IV
List of Pre-September 11 Special Clearance
Requirements for Visa Applicants

Table 4: Countries Subject to Nonterrorism-related Clearances Before September 11

Country	Types of visa applicant
Angola	Officials of the National Union for the Total Independence of Angola, and adult family members; applicants intending to engage in aircraft-related activities in violation of U.S. Treasury Department regulations
Armenia	Official and diplomatic visa applicants who match certain CLASS information or who are possibly ineligible on security-related grounds
Bosnia	Members of Bosnian Serb authorities and military officers; persons found to have violated certain United Nations Security Council resolutions Officials of the government, and government representatives to international organizations, their families, and servants
Burma	Certain senior government and military officials and their families; other officials of the government, and government representatives to international organizations, their families, and servants
Central African Republic	Officials of the government and government representatives to international organizations on long-term assignment to the United States
China	Applicants who are seeking immigrant or refugee status or who are nonimmigrant fiancé(e)s of U.S. citizens and their children Certain student or exchange applicants involved in a scientific or technical field on the Technology Alert List Official and diplomatic visa applicants who match certain CLASS information or who are possibly ineligible on security-related grounds; government officials Government representatives to and employees of international organizations, their families, and servants
Georgia	Official and diplomatic visa applicants who match certain CLASS information or who are possibly ineligible on security-related grounds
Haiti	Named applicants who have been credibly alleged to have ordered, carried out, or materially assisted in extrajudicial and political killings in Haiti
Kazakhstan	Official and diplomatic visa applicants who match certain CLASS information or who are possibly ineligible on security-related grounds
Kyrgyzstan	Official and diplomatic visa applicants who match certain CLASS information or who are possibly ineligible on security-related grounds
Laos	Officials of the government, and government representatives to and employees of international organizations, their families, and servants Official and diplomatic visa applicants who match certain CLASS information or who are possibly ineligible on security-related grounds
Liberia	Applicants who plan, engage in, or benefit from activities that support the Revolutionary United Front or that otherwise impede the peace process in Sierra Leone, and their families Officials on permanent diplomatic assignment in the United States
Moldova	Official and diplomatic visa applicants who match certain CLASS information or who are possibly ineligible on security-related grounds
Mongolia	Official and diplomatic visa applicants who match certain CLASS information or who are possibly ineligible on security-related grounds
Pakistan	Applicants whose activities in the United States may support Pakistan's nuclear program Officials of the government, and government representatives to and employees of international organizations, their families, and servants
Rwanda	Applicants born before 1981 who are applying outside of Kigali; applicants who have not previously been cleared through the State Department (for genocide-related reasons)

Appendix IV
List of Pre-September 11 Special Clearance
Requirements for Visa Applicants

(Continued From Previous Page)

Country	Types of visa applicant
Sierra Leone	Applicants who match certain CLASS information or who are possibly ineligible on security-related grounds
Somalia	Officials of the government, and government representatives to international organizations, their families, and servants
Tajikistan	Official and diplomatic visa applicants who match certain CLASS information or who are possibly ineligible on security-related grounds
Turkmenistan	Official and diplomatic visa applicants who match certain CLASS information or who are possibly ineligible on security-related grounds
Ukraine	Official and diplomatic visa applicants who match certain CLASS information or who are possibly ineligible on security-related grounds
Uzbekistan	Official and diplomatic visa applicants who match certain CLASS information or who are possibly ineligible on security-related grounds
Vietnam	Certain current and former senior members of the government and military, and certain government-sponsored delegations Applicants involved in scientific and technical fields included on the Technology Alert List Official and diplomatic visa applicants who match certain CLASS information or who are possibly ineligible on security-related grounds Government officials, and government representatives to and employees of international organizations, their families, and servants
Yugoslavia, Federal Republic of	Officials and employees of the government and government representatives to and employees of international organizations who are on long-term diplomatic assignment to the United States

Source: State Department cable regarding "Summary of Special Processing Requirements," June 23, 2001.

Interview and Refusal Rates for Nonimmigrant Visa Applicants in Saudi Arabia

This appendix provides information on interview and refusal rates for visa applicants at the U.S. consulate in Jeddah and the U.S. embassy in Riyadh. Table 5 provides these data for Saudi visa applicants and table 6 for third-country national visa applicants. According to consular managers in Jeddah and Riyadh, the visa applicant population before and after September 11 was significantly different due to a large decline in visa applications after the terrorist attacks. In July 2002, consular posts in Saudi Arabia began requiring interviews for all nonimmigrant visa applicants between the ages of 12 and 70, including Saudi citizens.

Table 5: Interview and Refusal Rates for Saudi Visa Applicants in Saudi Arabia Before and After September 11, 2001

Post	Applications	Interviews	Percent interviewed	Issuances	Refusals	Percent refused
Jeddah						
Before	6,540	150 ^a	2.3 ^a	6,470	70	1.1
After	2,308	439	19.0	2,241	67	2.9
Riyadh						
Before	11,193	282 ^a	2.5 ^a	11,176	17	0.2
After	3,828	1,644	42.9	3,696	132	3.5
All Saudi Arabia						
Before	17,733	432 ^a	2.4 ^a	17,646	87	0.5
After	6,136	2,083	33.9	5,937	199	3.2

Note: Before = September 11, 2000, through April 30, 2001

After= September 11, 2001, through April 30, 2002

^aThis figure is an estimate from consular managers at the U.S. embassy in Riyadh.

Source: Data provided by the U.S. embassy in Riyadh.

Appendix V
Interview and Refusal Rates for
Nonimmigrant Visa Applicants in Saudi
Arabia

Table 6: Interview and Refusal Rates for Third-Country National Visa Applicants in Saudi Arabia Before and After September 11, 2001

Post	Applications	Interviews	Percent interviewed	Issuances	Refusals	Percent refused
Jeddah Before	5,295	3,971 ^a	75.0 ^a	3,150	2,145	40.5
After	1,878	1,008	53.7	1,334	544	29.0
Riyadh Before	10,109	7,581 ^a	75.0 ^a	7,246	2,863	28.3
After	4,523	3,266	72.2	3,151	1,372	30.3
All Saudi Arabia Before	15,404	11,552 ^a	75.0 ^a	10,396	5,008	32.5
After	6,401	4,274	66.8	4,485	1,916	29.9

Note: Before = September 11, 2000, through April 30, 2001

After= September 11, 2001, through April 30, 2002

^aThis figure is an estimate from consular managers at the U.S. embassy in Riyadh.

Source: Data provided by the U.S. embassy in Riyadh.

Period of Visa Validity for Visa Holders of Selected Countries

This appendix provides information on the maximum amount of time that U.S. visas remain valid for citizens of selected locations (see table 7). The State Department establishes the maximum period of visa validity for each country based on reciprocity, that is, according to the treatment that the applicant's country affords U.S. citizens traveling there for the same purpose. For the territories of the West Bank and Gaza, reciprocity depends on the passport and travel document submitted by the visa applicant, which can be either an Israeli passport and travel document or a Palestinian Authority passport.⁴⁶

At the U.S. port of entry, an inspector from the Immigration and Naturalization Service determines how long a visa holder may remain in the United States. The validity of a visa issued at a consular post abroad is neither related to the length of stay authorized by the immigration inspector at the port of entry, nor is it related to the length or number of extensions of stay that may later be granted by the Immigration and Naturalization Service.

⁴⁶While the State Department has determined that the Palestinian Authority is a competent authority for passport-issuing purposes, the United States does not recognize the Palestinian Authority as a foreign government.

Appendix VI
Period of Visa Validity for Visa Holders of
Selected Countries

Table 7: Maximum Period of Visa Validity for Visa Holders of Selected Countries and Territories (as of August 30, 2002)

Location	Period of visa validity		
	Temporary visitor for business or pleasure	Student visa	Exchange visa
Valid less than 5 years			
Afghanistan	3 months	3 months	3 months
Algeria	3 months	1 year	1 year
Cuba ^a	6 months	3 months	3 months
Djibouti	1 year	1 year	1 year
Eritrea	1 year	1 year	3 months
Iran ^a	3 months	3 months	3 months
Iraq ^a	3 months	3 months	3 months
Libya ^a	3 months	1 year	1 year
North Korea ^a	3 months	3 months	3 months
Saudi Arabia	2 years	2 years	2 years
Somalia	3 months	3 months	3 months
Sudan ^a	3 months	6 months	6 months
Syria ^a	2 years	2 years	2 years
Yemen	1 year	1 year	1 year
Territories of the West Bank and Gaza ^b	3 years	3 years	3 years
Valid 5 years or more			
Bahrain	5 years	5 years	5 years
Bangladesh	5 years	5 years	1 year
Egypt	5 years	5 years	5 years
Indonesia	5 years	5 years	1 year
Jordan	5 years	5 years	5 years
Kuwait	10 years	5 years	5 years
Lebanon	5 years	5 years	5 years
Malaysia	10 years	5 years	5 years
Morocco	10 years	5 years	5 years
Oman	2 years	5 years	5 years
Pakistan	5 years	5 years	5 years
Qatar	10 years	5 years	5 years
Tunisia	10 years	5 years	5 years
United Arab Emirates	10 years	4 years	4 years
Territories of the West Bank and Gaza ^c	10 years	5 years	5 years

^aThis country has been designated a state sponsor of terrorism.

Appendix VI
Period of Visa Validity for Visa Holders of
Selected Countries

^bApplicants who present a Palestinian Authority passport.

^cApplicants who present an Israeli passport and travel document.

Source: State Department data.

Comments from the Department of State

Note: GAO comments supplementing those in the report text appear at the end of this appendix.



United States Department of State

Washington, D.C. 20520

SEP 23 2002


Dear Ms. Westin:

We appreciate the opportunity to review your draft report, "BORDER SECURITY: Visa Process Should Be Strengthened as an Antiterrorism Tool," GAO-02-1028, GAO Job Code 320087.

The enclosed Department of State comments are provided for incorporation with this letter as an appendix to the final report, as well as technical comments.

If you have any questions concerning this response, please contact Catherine Barry, Acting Deputy Assistant Secretary of Visa Services, Bureau of Consular Affairs, at (202) 647-9584.

Sincerely,


Christopher B. Burnham
Assistant Secretary and
Chief Financial Officer

Enclosure:

As stated.

cc: GAO/IAT - Ms. Judy McCloskey
State/OIG - Mr. Berman
State/CA - Mr. George Lannon

Ms. Susan S. Westin,
Managing Director,
International Affairs and Trade,
U.S. General Accounting Office.

Department of State Comments on GAO Draft Report

BORDER SECURITY: Visa Process Should Be Strengthened as an Antiterrorism Tool. (GAO-002-1028, Job Code 320087)

The Department appreciates the thorough and balanced approach taken by GAO in reviewing the visa process. While our comments below point out some specific areas of the draft report where we differ on the facts or believe that more context is needed, the report taken as a whole and, most importantly, the recommendations will be quite useful in our ongoing reexamination of visa processes and procedures. We have already taken steps to implement a number of the recommendations and plan to work closely with the Department of Homeland Security, once established, and other security agencies to implement other recommendations. Our specific comments on the recommendations as well as comments on particular points in the text follow.

Part I -- Recommendations

To strengthen the risk-based approach to visa decision making, we recommend that the Secretary of State, in consultation with appropriate homeland security agencies, develop

- *a clear policy on the priority attached to addressing national security concerns through the visa process, including how this priority should be balanced with the desire to facilitate legitimate travel, provide timely customer service, and manage visa workload; and*
- *more comprehensive, risk-based guidelines and standards on how consular officers should use the visa process as a screen against potential terrorists, including the factors to consider in assessing risks, the level of scrutiny of visa applications, the information needed to approve and deny a visa, and the degree of discretion to waive interviews and other visa checks and to limit the duration of visa validity*

The Department of State has already initiated a number of steps that address the concerns of these recommendations. A series of cables has been sent to all embassies and consulates that clarify the overriding importance of national security. One such cable emphasize the importance of ensuring that applicants fill out visa application forms completely and sign them and will present revised, stricter rules regarding which applicants can have interviews waived and on the use of travel agencies. These new rules will eliminate much of the discretion consular officers currently have in this matter and will serve to reinforce and codify changes posts have already made since September 11, 2001, which have resulted in interview of a far greater number of applicants and consequent lowering of the use of third party application procedures. Another step will be to reduce the maximum validity of a nonimmigrant visa from ten years to 5 years and to redraft Department guidance on when less-than-full-validity visas can be issued.

Now GAO-03-132NI.

See comment 1.

Through these and additional cables and Departmental guidance, consular officers will continue to be sensitized to national security issues. While risk and threat assessments are rendered by other agencies, the Department is committed to incorporating all known assessments into the visa process to further national security objectives. Because visa applications are processed in the context of a comprehensive statutory regime, established primarily by the Immigration and Nationality Act, the Department will also work with Congress to obtain legislative changes as necessary to permit us to take the steps we believe are necessary.

We agree that staffing requirements must be regularly assessed to ensure that border security requirements are being met. In this regard, the Department established 55 new consular positions in FY-2002, funded through fees from the Machine Readable Visa Fee. These are in addition to 81 new consular positions that had been established over the previous two years.

Moreover, through the Department's Diplomatic Readiness Initiative, we are phasing out use of consular associates to adjudicate visas. Approximately 165 associates will be replaced with Foreign Service consular officers drawn from the Diplomatic Readiness Initiative over a three-year period.

We continue to evaluate all aspects of the visa process and will expand our coordination with the Homeland Security community to develop additional procedures and guidelines to aid in screening out potential terrorists.

Based on the new policy and guidelines, we also recommend that the Secretary of State

- consider reassessing previously issued visas for selected categories of persons from selected countries that may potentially pose security concerns.***

The Department concurs with this recommendation. We have identified categories of visas issued prior to the implementation of new special administrative processing requirements for review and will expand this program. We will recheck those applicants in our CLASS system and will ask other agencies if they want to review outstanding visas as well. Moving to a five-year validity period may also facilitate this initiative.

You may wish to note in the final version of the report that the guidance provided to the field has historically emphasized operational flexibility in order to ensure that visa operations are as effective and efficient as possible based on local circumstances. The events of 9/11 have changed this cost/benefit calculus and we now understand that more detailed centralized guidance (and, conversely, less flexibility at the field level) is called for. These changes are being made.

See comment 2.

Part II – Specific Comments

Now on p. 3.
See comment 3.

Page 5. We are not aware of an official disagreement over legal issues, which if they existed could be resolved definitively by the Attorney General. We would suggest changing the sentence “*Also, there is a disagreement between State and Justice on the evidence needed to deny a visa on suspected terrorism grounds*” to “*Also, there are a number of issues relating to the handling of cases of possible terrorist concern identified by the FTTTF that need to be resolved by State and Justice.*”

Now on p. 6.
See comment 4.

Page 8. In the first paragraph, the statement that the FAM and the Best Practices Handbook are the sum total of consular guidance is inaccurate. We recommend either, “*FAM and various other handbooks and communications*” or, “*FAM, instruction telegrams, informal communications, the Consular Management Handbook and the Consular Best Practices Handbook.*” Also, this section should read, “*policy guidance to visa officers*” and “*interpretive guidance to visa officers,*” since the Department has other guidance for other areas of consular operations.

Now on p. 7.
See comment 5.

Page 9. There should be a change to the second sentence of the last paragraph to say, “*...State has 843 MRV-funded consular officer positions and 211 visa-processing posts around the world. In addition to the MRV-funded consular officers, a number of officers performing consular duties are funded by State program funds or by other U.S. agencies. At some posts, eligible U.S. citizen family members of U.S. officers have been trained in consular work, have obtained security clearances, and are designated as consular associates to enable them to perform consular work.*”

Now on p. 8.
See comment 6.

Page 11. The drawing is problematic. It oversimplifies the process and will be misunderstood. We recommend that it be dropped. If you do not drop it, the step labeled, “*Application, passport and other documents reviewed*” should be split into two steps: reviewed for completeness, and reviewed by consular officer for visa eligibility. In addition, a step for data entry and a note that CLASS check occurs immediately afterwards should be added.

Now on p. 14.
See comment 7.

Page 16. The first bullet states that officers are authorized to waive the filing of visa applications in a way that ignores the fact that officers rarely use this authority. VO is redrafting the FAM notes to make it clear that completion of the application should only be waived in cases of dire medical or other emergency or in special circumstances.

Now on p. 14.
See comment 8.

Footnote #20 It would be more accurate if the footnote read, “*In the rare situations in which the filing of the application by the applicant was waived, to ensure that the Department’s data base would include the essential information normally obtained through the application, the consular officer was instructed to complete an application form for the applicant insofar as possible using data available in the passport or other submitted documents.*”

Now on p. 14.
See comment 9.

In Footnote #21 on the travel agency program. This language was inaccurate and misleading and was deleted from the FAM several months ago.

Now on p. 18.
See comment 10.

Page 20. After the sentence in paragraph 2 (“*Generally, consular officers interviewed...a criminal history.*”) we request GAO add, “*In no case, however, was a visa issued until after confirmation that the applicant was not the subject of a CLASS hit or, if the applicant was the subject of a hit, that the hit was addressed and resolved (e.g., with a waiver of ineligibility, if any).*”

Now on pp. 19-20.
See comment 11.

Page 22. At the end of first full paragraph, the last sentence states that some interviewing officers believed they had no basis for denying the visas and, with the rest of the paragraph, implies that State was somehow remiss. The real issue is that, based on the information available to the interviewing consular officers, and in fact all information available to the Department at that point, the applicants qualified for visas.

Now on p. 19.
See comment 12.

CLASS did not have information on the two hijackers at the time they were issued visas. We received information about them only on August 23, 2001, although we understand that by January 2000 it was available to another agency. Had this information been timely included in TIPOFF and then CLASS, these two would not have been issued visas without a check with relevant agencies. That check would have likely resulted in the visas not being issued.

Now on p. 20.
See comment 13.

Page 23. FSI has two comments. First, FSI is collaborating with Counter-Terrorism officials at the FBI to work up a CT presentation that the Bureau would present to assembled ConGen classes. FSI and the FBI plan to start those sessions in October. Second, FSI agrees that more training on the use of the CLASS namechecking system is appropriate and will help to bolster the State Department’s anti-terrorism efforts. FSI began working on this issue prior to 9/11. FSI developed and has now been, as GAO was informed, offering a class in Advanced Consular Namechecking Techniques since February of 2002. FSI has trained 70 students so far and plans to train 120 more in each of the next two fiscal years. In fact, if there is sufficient demand, FSI will increase the course offerings accordingly.

Now on p. 22.
See comment 14.

Page 25. At the top of the page, we suggest the statement should also read, “...*FBI was still developing internal procedures for doing a namecheck beyond the CLASS namecheck conducted by consular officers.*”

Now on p. 23.
See comment 15.

The middle paragraph should instead read, “...*750 visa applications that should be held because the applicants are persons of possible interest or concern, although the FBI was not able to provide information bringing them within the scope of the terrorist exclusion. State received the hold request for about 200 of these...*”

Now on p. 22.
See comment 16.

Footnote #33: For accuracy, we suggest adding at the end the following additional sentence: “The FTTTF does not have legal authority to adjudicate visa applications or applications for immigration benefits. As a legal matter, its role is to advise those who do (consular and immigration officers, the Secretary of State, and the Attorney General) of

Now on p. 24.
See comment 17.

Now on p. 25.
See comment 18.

Now on p. 27.
See comment 19.

Now on pp. 24-25.
See comment 20.

Now on p. 26.
See comment 21.

Now on p. 27.
See comment 22.

Now on p. 28.
See comment 23.

the availability of information that could lead an adjudicator to deny a visa or other benefit on grounds of terrorism.”

Page 26. The discussion of Condor should be updated to reflect ongoing efforts to streamline and target the process, including revised working arrangements with the CIA (now in place) and revised Condor criteria, under discussion as the report is being drafted.

In the last line, the phrase should read, “...matched information “*in TIPOFF*.”

Transliterations of Arabic names can vary widely. The CLASS namecheck system uses a special Arabic algorithm to ensure that name matches are detected even if the lookout name varies from the query name. Hijacker’s name in CLASS, Marwan Yousef Mohammed R Lekrab Al Shehhi, is spelled exactly as in his visa. There may be an alternate transcription of his name, but the logical spelling to use in CLASS is as it appeared in his passport and visa. The lookout entry for hijacker Fayez Banihamad has been corrected to reflect the data as it appears in his visa record.

Last paragraph: We request that the language track with that we have suggested for Page 5, noting a concerns between DOS and FTTTF given the requirements of the INA with respect to visa denials and the kind of information on possible terrorists available to FTTTF, rather than suggesting the existence of an unresolved legal issue between State and Justice. To the extent that the immigration laws do not provide a basis for denying cases of the kind FTTTF has wanted “held”, State and Justice are working with OHS to address the issue.

Page 28. CLASS is a state-of-the-art system. We suggest changing the title from “*CLASS Has Technical Limitations*” to something like “*CLASS Is An Advanced Name-Check System That Nevertheless Has Technical Limitations*.”

Footnote 38. Although the CLASS system is designed so that it routinely returns “hits” on similar names even with different place of birth information, the practice of altering place of birth information, as described in the footnote, does pose an increased risk of missing a lookout entry. However, the footnote is misleading in implying that the Arabic algorithm is especially vulnerable to this risk. The Arabic algorithm in fact broadens the scope of returns for similar names, without changing the weight accorded to place of birth information.

Page 29. As written, the bottom paragraph implies that prior to the May 18, 2002, guidance, post referral systems did not include defining referral criteria, use of special forms and tracking systems and approval of referrals by chiefs of sections or agency heads. On the contrary, the May 18 guidance merely standardized the referral forms to be used worldwide and reaffirmed the essential requirements of referral systems, especially the need of a signature from the agency or section head. Indeed, the CA Assistant Secretary has consistently reminded chiefs of mission in writing each year about the importance of the integrity of post’s visa referral system.

Now on p. 29.
See comment 24.

Page 31. The middle of the page reads, "...consular officers began screening citizens of those countries who were applying for visas to determine whether they were intending immigrants." This implies that the increased scrutiny being given to applications in Saudi Arabia and the UAE was only focusing on the issue of intending immigration. We believe it would be more accurate to make a more general statement, such as "consular officers began screening citizens of those countries who were applying for visas with increased rigor."

Now on pp. 30-31.
See comment 25.

Page 32. Regarding the last paragraph, VO is currently revising instructions to posts on implementation of validity periods, which will change previous guidance to issue for full validity in most cases.

Now on p. 31.
See comment 26.

Page 33. The first full paragraph needs more explanation and qualification. Did all the consular officers, including senior officers, at all the posts visited believe that they had received insufficient guidance? Or did only a few officers believe this?

Now on p. 31.
See comment 27.

There is a reference to a cable from Riyadh on the Visa Condor process that post said had not been answered. We responded to many of those questions in an ALDAC sent out two days after receiving the January 27 cable (State 16413). Other questions, from Riyadh as well as many other posts, we dealt with directly via e-mail. The new procedures understandably raised many questions at posts throughout the world. After sending out our clarification cable, we found that the best way to deal with the remaining inquiries was via e-mail.

Now on p. 32.
See comment 28.

Under the heading "Despite drop in Applications..." the first few sentences should read: "Since September 11, the number of non-immigrant visa applications has dropped worldwide. In some countries, this decrease in NIV demand has made it possible for the post to handle the expanding per case workload resulting from additional interviews and security requirements with the current level of staffing. At other posts, demand combined with increased per case workload still exceeds capacity and this is reflected in the waiting time for a visa appointment and in overtime by consular staff." Then continue with "State's data show that the number of non-immigrant visa cases decreased by ..."

Now on p. 34.
See comment 29.

Page 35. FSI does not think that statement is accurate. It is true that FSI has not yet made all of the changes that it now believes are necessary, given the post-September 11 situation. However, the Advanced Namechecking Course is one important change FSI implemented in 2002. FSI has added (the first session was on September 10th) a DS-developed and delivered session on Visa fraud and accountability to ConGen. As noted above, FSI plans to add a FBI Counter-Terrorism session to ConGen in the near future. FSI is also developing a new session on interviewing techniques and advice to give ConGen students more time to work on, and talk about, how to conduct effective visa interviews. That session should add substantially to the comfort level and effectiveness of newly graduated first tour consular officers.

Now on pp. 34-36.
See comment 30.

Page 38. Regarding training, while all of our planned changes are not yet in place, FSI has focused on this issue, and has been focused on it for some months. As noted above, FSI plans to have a FBI-developed and delivered session on counter-terrorism in place in ConGen by the end of October. FSI is also working with S/CT to include counter-terrorism awareness and issues in a wide spectrum of courses, including consular training.

The following are GAO's comments on the State Department's letter dated September 23, 2002.

GAO Comments

1. The State Department's issuance of cables on new and revised visa procedures is a good first step toward defining a clear policy on the priority attached to addressing national security concerns through the visa process. However, the series of cables does not represent a comprehensive policy statement on how to balance national security concerns with the desire to facilitate legitimate travel, provide timely customer service, and manage visa workload.
2. In the draft of our report that went to the State Department for comment, we made this recommendation to the Secretary of State. However, after a discussion with State Department officials on September 16, 2002, we agreed that the State Department would need to work with other departments and agencies to implement this recommendation. Thus, in our final report, we make this recommendation to the Assistant to the President for Homeland Security, who chairs the Homeland Security Council that is responsible for ensuring coordination of homeland security-related activities among executive branch departments and agencies.
3. In commenting on a draft of this report, the Department of Justice said that it does not share the State Department's view of the law regarding the evidentiary standard that should be applied to visa applicants from high-risk countries. Because of the apparent disagreement between the Departments of State and Justice on this aspect of the law, we continue to recommend that the Assistant to the President for Homeland Security coordinate with the appropriate agencies to establish governmentwide guidance on the level of evidence needed to deny a visa on terrorism grounds under INA section 212(a)(3)(B).
4. We have modified the text on page 6 of the report.
5. We have modified the text on page 7.
6. We have added more detail to the graphic on page 8. We disagree that the CLASS check always occurs immediately after data entry. During our fieldwork at overseas posts, we observed that consular officers may check the applicant's name against the CLASS system at various times during the visa process.

7. We have modified the text on page 14 to reflect the rare use of the application waiver authority and to note that the State Department revised this policy on September 18, 2002.
8. We have added information to page 14.
9. We have modified text on pages 14 and 29 to note that the State Department revised this section of the *Foreign Affairs Manual* on September 18, 2002.
10. The paragraph in question deals with the circumstances under which consular officers in Saudi Arabia and the United Arab Emirates would interview Saudi or Emirati visa applicants, respectively, rather than whether the officers completed CLASS checks for each applicant. Page 19 of the report includes information on these consular officers completing CLASS checks.
11. We disagree with the State Department's comment that "based on the information available to the interviewing consular officers, and in fact all information available to the Department at that point, the (September 11 hijacker) applicants qualified for a visa." As our report states on page 9, the law places the burden of proof on each visa applicant to demonstrate that he or she is eligible for a visa, with each applicant presumed to be an intending immigrant under section 214(b) of the Immigration and Nationality Act (INA). We were able to review the applications for 15 of the 17 Saudi and Emirati hijackers, and, in most cases, to meet with the issuing consular officer. Based on that review, we determined that the hijackers had presented little information to prove their eligibility for a visa under INA section 214(b)—none of their applications had been completely filled out and only 2 of the 15 hijackers had been interviewed before receiving a visa.
12. We added the specific date to the text on page 19. If the information on the two hijackers had been added to CLASS in January 2000, the visa process may have screened out one of the hijackers, rather than the two that the State Department suggests in its comments. Only one of them, Khalid Al Mihdhar, applied for a visa after January 2000. The other, Nawaf Al Hazmi, applied for and received his visa in April 1999.
13. We have added information on the FBI counterterrorism briefing to the text on page 36 and on the numbers of people trained in the advanced consular name check course to page 35.

14. We modified the text on page 22 to specify the name check for which the FBI was still developing procedures.
15. The Justice Department, in comments on a draft of this report, said that the Foreign Terrorist Tracking Task Force sent recommendations on 567 visa applicants to the State Department, stating that these applicants pose a threat to national security and should be denied a visa. Thus, we did not change this language in our report.
16. We have added information on the legal authority of the Foreign Terrorist Tracking Task Force to page 22.
17. We revised text on pages 21 and 24 to reflect these recent and planned changes.
18. We modified the text on page 25 of the report.
19. We added this information to the text on page 27.
20. See comments 3 and 15.
21. While we reviewed the State Department's consular lookout system, we did not compare its capabilities with those of other name check or lookout systems. Thus, we cannot say whether CLASS is a state-of-the-art system.
22. We modified the text on page 27.
23. We modified the text on page 28 to acknowledge that the State Department had visa referral procedures in place before the recent changes.
24. We added wording to page 29 to reflect that consular officers in Saudi Arabia and the United Arab Emirates began more closely screening Saudi and Emirati nationals who applied for visas.
25. We added this information to text on pages 30-31.
26. We have limited our discussion on page 31 to the views of senior consular managers only.

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27. The State Department's January 27 cable on Visas Condor procedures predates the embassy's February request for additional information. As of the time of our fieldwork in May, consular managers at the embassy in Riyadh told us that they had not received a response from the State Department in any form to their request for additional information.
 28. We have added information on some posts having insufficient staff to meet current visa demand to the text on page 32.
 29. We revised the title to the section on page 34 to reflect the State Department's concerns and added information on recent and proposed changes to the department's basic consular training course to the text on page 36.
 30. See comments 13 and 29.

Comments from the Department of Justice

Note: GAO comments supplementing those in the report text appear at the end of this appendix.



U.S. Department of Justice

Washington, D.C. 20530

SEP 27 2002

Mr. Jess Ford
Director
International Affairs and Trade
U.S. General Accounting Office
Washington, DC 20548

Dear Mr. Ford:

The Deputy Attorney General has asked me to convey the comments of the Department of Justice concerning your draft report entitled "BORDER SECURITY: Visa Process Should be Strengthened as an Antiterrorism Tool." The Department is pleased that the General Accounting Office (GAO) has undertaken a review of the current visa issuance process with the goal of making it fully responsive to the national security imperatives of the United States. We appreciate having the opportunity to comment and would like to limit our discussion to two particular issues 1) the evidentiary standard for adjudicating visa applications submitted by individuals who may present a risk to national security and 2) the Justice Department's timeliness in processing Condor cables.

With respect to the first issue, we would like to give you a comprehensive statement of our views which are not reflected in page 25 of the draft report. The following is full discussion of our views and we propose it as an alternative to the current language in the GAO draft report.

As you may know, the evidentiary standard that should be applied to visa applicants from high risk countries is the subject of an ongoing high-level dialogue between the Justice and State Departments. We are continuing to work with the State Department toward reaching a consensus on this matter. The State Department is of the view that, in cases involving the terrorism provision of Section 212(a)(3)(B) of the Immigration and Nationality Act (Act), a consular officer cannot deny a visa unless there is specific evidence of activities or associations that render the applicant ineligible for admission to the United States. If there is no such evidence of activities or associations, a consular officer is required to issue the applicant a visa. The State Department is also of the view that it cannot deny a visa based solely on a Foreign Terrorist Tracking Task Force (FTTTF) or Federal Bureau of Investigation (FBI) name search that results in a hit or a match.

We do not share the State Department's view of the law for several reasons. First, the law presumes that a visa applicant is inadmissible and places the burden of proof on the applicant to establish his admissibility. As such, a consular officer need not have specific evidence that the applicant has

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participated in terrorist activities or associations to justify a visa denial. We think the evidence is sufficient when a check of the applicant's name and date of birth results in a hit or a match against the relevant databases. In our view, a name search hit does provide the consular officer a "reasonable ground to believe" (see Section 212(a)(3)(B) of the Act) that the applicant presents a threat to national security and is therefore ineligible for admission.

Second, we think that Congress meant to impose a higher evidentiary burden on visa applicants from countries that sponsor terrorism when it enacted Section 306 of the Enhanced Border Security Act in May 2002. Section 306 provides that nationals of state sponsors of terrorism are not to be issued non-immigrant visas unless the Secretary of State "determines, in consultation with the Attorney General and the heads of other appropriate United States agencies, that such alien[s] do[] not pose a threat to the safety or national security of the United States." In our view, this statute was meant to effect a fundamental change to the State Department's adjudication of visa applications after September 11th. We read the statutory requirement of a "determination" that an applicant does not pose a threat to the safety of national security of the United States to mean that there is a presumption of non-issuance of visas in cases where we know nothing about the applicant.

Third, we recognize the State Department's concern about resolving issues of identity which is critical to the adjudication of visa applications. The State Department has already undertaken additional measures that will enable consular officers to ascertain the identity of a visa applicant. One such measure is to require a personal interview of every visa applicant over age 16 from countries that are state sponsors of terrorism and other high risk countries. We applaud this change and, at the same time, have requested the State Department to automate the supplemental visa application form DS-156 and DS-157 which it began using in those countries earlier this year. If translated into English and converted into electronic format, the additional information provided in the supplemental form can be readily transmitted to the FTTTF and the FBI for the purpose of determining identity and determining whether a visa applicant is indeed the same person referenced in a database hit. In this regard, we are committed to providing the State Department all the information that we are legally authorized to share, as we believe that having the additional information will enable the State Department to resolve more visa cases. Even after all available information is shared both ways, however, it will often still be impossible to know for sure whether an applicant is indeed the same person contained in the relevant databases. In that situation, we think it is appropriate to proceed cautiously and deny a visa on the theory that the database hit does provide the needed "reasonable ground to believe" that the applicant is inadmissible.

The preceding discussion of the evidentiary standard to be applied to visa applicants is quite lengthy but we feel that it is important to fully explain our view of this matter. Because the above discussion is comprehensive and fully covers the issue, we ask that you substitute the substance of this four paragraph discussion for the last paragraph in the section "New Security Procedures Have Not Been Thorough or Timely" (page 25 of the draft report).

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With respect to the processing of Condor cables, the GAO fails to fully discuss the visa applicants screened by FTTTF name checks that could not be fully identified in order to be cleared. According to FTTTF records, 567 recommendations were sent to the State Department which stated that the applicants may pose a threat to national security and thus should be denied a visa; approximately half of these were Condors. In the majority of these cases, there was not enough information available to the FTTTF to definitively identify the applicants, therefore, the recommendations were made to err on the side of caution. This problem highlights the need to obtain additional information about visa applicants from certain countries. Such information can be gathered from the supplemental visa application forms that the State Department began using earlier this year. The additional information provided on the supplemental form could greatly assist the FTTTF's risk assessment process and help the State Department resolve more visa cases. Unfortunately, because the information captured on the supplemental form is not available in electronic format, the FTTTF does not have ready access to such information at this time. We have encouraged the State Department to automate the supplemental visa forms so that they can be downloaded into the Justice Department's databases.

See comment 1.

We also have concerns about several inaccurate statements concerning the FBI's and the FTTTF's processes for handling Condor cables and timeliness. The report fails to note that the FBI's National Name Check Program (NNCP) conducted checks on the sample of 20-day hold applicants at the same time the FTTTF began conducting such name checks. In addition, the report inaccurately states that the FBI did not conduct the Visas Condor check from January through April 2002, resulting in a backlog of 14,000 unchecked Condor cables. The NNCP actually ran these cables through the FBI indices so that name checks were conducted for the cables. The NNCP then forwarded hard copies of these cables to the FTTTF for review. The FTTTF also checked these names through available databases. Further, while the GAO reports that as of mid-April, the FBI was still developing internal procedures for doing the name check, the NNCP already had a procedure in place for conducting name checks of individuals listed in Condor cables, although such checks were done manually. We are providing you substitute language under separate cover to correct these and other inaccuracies found in the report.

See comment 2.

See comment 3.

Finally, we would like to note the recent efforts undertaken by the Department of Justice to improve its handling of Condor cables which are not discussed in the draft report. These efforts have enabled the FBI and the FTTTF to eliminate a significant portion of their backlog of cases that have accrued in the first several months after the new screening procedure went into effect (on July 1, 2002). Three weeks ago, we met with our colleagues at the State Department and other agencies to discuss the need for better information collection and sharing which is essential to the FBI's name check process and the FTTTF's risk assessment. We also proposed to streamline the interagency screening process so that the Justice Department will bear primary responsibility for conducting name searches and clearing Condor cables. Based on these discussions, we are confident that our handling of Condor cables will remain responsive and timely, without sacrificing security.

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We appreciate having the opportunity to review the report and to provide our comments. Please call Vickie L. Sloan, Director, Audit Liaison Office on 514-0469 if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert F. Diegelman", with a stylized flourish extending to the right.

Robert F. Diegelman
Acting Assistant Attorney General
for Administration

The following are GAO's comments on the Department of Justice's letter dated September 27, 2002.

GAO Comments

1. We have added information on the name check unit's sample of 20-day hold applicants to page 22 of the report.
2. The Justice Department's comments on the extent of FBI name checks differ from information provided by FBI and Foreign Terrorist Tracking Task Force officials earlier in our fieldwork. Because of the differences, we modified the text of the draft to clarify our points, then on October 4, 2002, contacted the FBI's Deputy Assistant Director of the Records Management Division—which includes the name check unit known as the National Name Check Program—and the chief of the name check unit for further clarification and confirmation of the information. These officials told us that the information was accurate for the time frame covered, with the exception of the size of the backlog of Visas Condor checks. The chief of the name check unit said that the FBI had a backlog of 8,000 cables for Visas Condor and other security checks, rather than the 14,000 for Visas Condor checks as stated in our draft. We have added this information to page 23 of the report.
3. We have added information on the new Visas Condor procedures to page 24.

GAO Contacts and Staff Acknowledgments

GAO Contacts

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Acknowledgments

In addition to the persons named above, Jody Woods, Kate Brentzel, Gabrielle Anderson, Rona Mendelsohn, and Mary Moutsos made key contributions to this report.

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