

Immigration and Terrorism: Moving Beyond the 9/11 Staff Report on Terrorist Travel

Janice L. Kephart *

*OH GOD, you who open all doors, please open all doors
for me, open all venues for me, open all avenues for me.*

– Mohammed Atta

Introduction

In August 2004, on the last day the 9/11 Commission was statutorily permitted to exist, a 240-page staff report describing the 9/11 Commission border team's fifteen months of work in the area of immigration, visas, and border control was published on the web.¹ Our report, *9/11 and Terrorist Travel*, focused on answering the question of how the hijackers of September 11 managed to enter and stay in the United States.² To do so, we looked closely at the immigration records of the individual hijackers, along with larger policy questions of how and why our border security agencies failed us. The goal of this essay is to build on that report in two areas:

- To provide additional facts about the immigration tactics of indicted and convicted operatives of Al Qaeda, Hamas, Hezbollah, and other terrorist groups from the 1990s through the end of 2004.
- To enlarge the policy discussion regarding the relationship between national security and immigration control.

This report does not necessarily reflect the views of the 9/11 Commission or its staff.

* Janice Kephart is former counsel to the September 11 Commission. She has testified before the U.S. Congress, and has made numerous appearances in print and broadcast media. Research used in preparing portions of this report was conducted with the assistance of (former) select staff of the Investigative Project on Terrorism, Josh Lefkowitz, Jacob Wallace, and Jeremiah Baronberg.

¹ I covered the legacy Immigration and Naturalization Service (INS), while my closest colleague, Tom Eldridge, primarily covered consular affairs at the State Department. Another colleague, Walt Hempel, did essential work on reviewing alien files of terrorists and helping me vet complex questions concerning immigration law. My other colleague, Kelly Moore, while joining us late in the game, did essential work helping us edit and fill in intelligence portions of the report. We could not have done any of this work without the support of the 9/11 Commissioners and Executive Director Philip Zelikow, Deputy Director Chris Kojm, General Counsel Dan Marcus, and the ingenuity of Susan Ginsburg. Each gave us necessary go-aheads at various critical junctures during our investigation and production of the report.

² *9/11 and Terrorist Travel* is available in book form from Hillsboro Press. Available at http://providence-publishing.com/Merchant2/merchant.mvc?Screen=PROD&Store_Code=PP&Product_Code=9ATT&Category_Code=FTANR.

Background

The terrorist operatives discussed here are foreign nationals. They all had to travel to the United States in order to conduct their operations. Few had difficulty getting into the United States. Many successfully obtained immigration benefits while here. Most have committed immigration law violations in addition to terrorist offenses, some of which have resulted in deportation or imprisonment in U.S. jails.

What requires emphasis is the ease with which terrorists have moved through U.S. border security and obtained significant immigration benefits, such as naturalization. The security gaps that existed before September 2001 still, in many instances, exist today. My work on the 9/11 Commission made it clear that terrorists will always need travel documents for movement at some point during their travels, just as much as they need weapons for operations. Once within U.S. borders, terrorists seek to stay. Doing so with the appearance of legality helps ensure long-term operational stability. At the 9/11 Commission, we called this practice *embedding*, a term also used in this article.

Terrorists have used just about every means possible to enter the United States, from acquiring legitimate passports and visas for entry to stowing away illegally on an Algerian gas tanker.³ This study reviews ninety-four individuals closely affiliated with terror organizations, whether through commission of overt terrorist acts, connections to criminal activity in support of terror, or terror financing. Most have been convicted or indicted. It summarizes how these terrorists have successfully sought legal immigration benefits through fraudulent means, and the legal action (if any) taken against them. This report only includes the six 9/11 hijackers who abused immigration benefits to stay in the United States.

Some of the terrorists discussed here have engaged in a variety of Al Qaeda-related plans targeting American civilians within the United States. As each plot unfolded, cell members who were in place within the United States became operational. We know that, at least after September 11, some of the plots discussed here originated in Afghanistan under the guidance of 9/11 mastermind Khalid Sheikh Mohammed. All aspects of the operatives' training, along with spiritual and tactical guidance, developed there. The plots were conceived with multiple objectives: they sought to achieve mass casualties, economic damage, destruction of infrastructure, and terror. Some plots never progressed beyond an idea's genesis, while others reached operational stages before becoming defunct. While U.S. intelligence and law enforcement agencies have identified at least a couple of dozen potential plots, the only plots discussed here are

³ There is no immigration arrival record for Abdel Hakim Tizegha, an associate of Ahmed Ressay in the foiled Millennium bombing plot. He fraudulently claimed political asylum (he stated he was harassed by Muslim fundamentalists in Algeria). His story was that he entered Boston as a stowaway on an Algerian tanker. He was released pending a hearing, which was rescheduled five times. His claim was finally denied two years later, but was appealed, allowing him to stay. Nine months later he could not be located. See *9/11 and Terrorist Travel: A Staff Report of the National Commission on Terrorist Attacks Upon the United States* (Franklin, Tenn.: Hillsboro Press, 2004), 58.

ones where the ways and means of the Al Qaeda operatives' immigration histories are publicly available.

Khalid Sheikh Mohammed was the primary guiding force behind these plots until his capture by Pakistani authorities outside of Islamabad in March 2003. Mohammed grew up in Kuwait in a religious family, and allegedly joined the Muslim Brotherhood at the age of sixteen. According to the 9/11 Commission Report, "Khalid Sheikh Mohammed claims ... to have become enamored of violent *jihād* at youth camps in the desert."⁴ In 1983, he enrolled first at Chowan College, a Baptist school in Murfreesboro, North Carolina, and then at North Carolina Agricultural and Technical State University in Greensboro. There one of his classmates was Ramzi Yousef's brother, who himself later became an Al Qaeda member while Yousef planned the 1993 World Trade Center and Bojinka plots with Khalid Sheikh Mohammed. In 1986, Mohammed returned to Pakistan for *jihadi* military training.

Not swayed in the least by American culture or democratic ideals, Khalid Sheikh Mohammed told his captors in 2003 that even during his U.S. stay he considered killing the radical Jewish leader Meir Kahane when Kahane lectured in Greensboro.⁵ Although there is no evidence that Mohammed ever returned to the United States, he did obtain a U.S. business/tourist visa on 23 July 2001 under the guise of a Saudi citizen, perhaps planning a trip to defuse rising concerns about the friction between 9/11 ring-leader and pilot Mohammed Atta and pilot Ziad Jarrah.⁶

Overview

This article covers a study I recently completed of the U.S. immigration histories of ninety-four foreign nationals involved in nefarious activities related to terrorism and affiliated with terrorist organizations from 1993 to the present. Although most of the operatives covered here have been captured or convicted of terrorist activities, there is an underlying premise that this report is far from complete, due to my assumption that the weaknesses in our immigration system and the lack of adequate intelligence available to our frontline officers (a problem that persists today, even though it has been somewhat improved) have facilitated the entry and embedding of numerous terrorists and their supporters. I must assume that these terrorists, who we still do not know about, have entered the United States both prior to and since September 2001. Thus this report is not intended to be a definitive account. Rather, it seeks to expand the discussion of how terrorists use our immigration system to enter and embed in the United States, in order to assure more effective border security policies.

⁴ *The 9/11 Commission Report: Final Report of the National Commission on Terrorist Attacks Upon the United States* (New York: W.W. Norton & Company, 2004), 145. Unless otherwise noted, the biographical information on Khalid Sheikh Mohammed is drawn from the *9/11 Commission Report*, 145–50, and the accompanying endnotes.

⁵ Kahane was later assassinated by El Sayyid Nosair, who was also indicted in the 1993 WTC bombing.

⁶ *9/11 and Terrorist Travel*, 39.

Table 1: Terrorist Immigration Violations: Completed Attacks

	Conspirators with Immigration Violations	Dead	Injured
CIA attack 1/25/93: Mir Aimal Kansi	1	2	3
WTC 2/26/93: Ramzi Yousef, Ahmad Ajaj, Ramzi Yousef, Eyad Mahmoud Ismail, Mohammad Abouhalima, Mahmud Abouhalima, Biblal Alkaysi, Nidal Abderrahman Ayyad, Mohammed Salameh	9	6	1,042
Africa embassy bombings 8/1998: Ali Mohamed, Khalil Abu Al-Dahab, Wadi El-Hage, Mohammad Salman Farooq Qureshi	4	301	5,077
Attacks of Sept. 11, 2001: Mohamed Atta, Ziad Jarrah, Hani Hanjour, Satam Al Suqami, Nawaf Al Hazmi	5	3,030	2,337
LAX shooting attack, 7/4/2002: Hesham Mohamed Ali Hedayet	1	2	4

This report also covers foreign nationals closely associated with Hamas, who have primarily engaged in terror financing, particularly via creating foundations and shell corporations for the purposes of raising and laundering money. Those discussed here who are aligned with Hezbollah were usually engaged in providing material support to terror organizations operating abroad, such as procuring explosives, money, night vision goggles, sleeping bags, radios, camouflage suits, global positioning equipment, and identification and travel documents. These operations were conducted using methods similar to those used by traditional organized crime groups.

The Al Qaeda operatives discussed here were strategically positioned throughout the United States, often in places not previously associated with terrorist activity, such as Peoria and Chicago, Illinois; Columbus, Ohio; Baltimore, Maryland, and its suburbs; Seattle, Washington; Portland, Oregon; Minneapolis, Minnesota; and upstate New York. A couple of the Al Qaeda operatives covered in this report are still at large and currently unindicted, including Adnan Shukrijumah and Aafia Siddiqui, yet are included here because they are high on the FBI’s list for questioning and spent long periods of time in the United States.

The lists found throughout this report (under immigration benefit subject headings at the end of each section) begin with Mir Aimal Kansi, who in January 1993 opened fire outside CIA headquarters in McLean, Virginia; the most recent cases, from 2004, involve the surveillance operations in New York City; Charlotte, North Carolina;

Nashville, Tennessee; Las Vegas, Nevada; and Southern California. All told, twenty-one of the terrorists included in these lists participated in five attacks against U.S. interests, causing a total of 3,341 deaths and 8,463 injuries; twenty-nine were involved in twelve unexecuted plots. Five hijackers from 9/11 had clear immigration violations, while one (Marwan Al-Shehhi), had a possible violation; thus, thirteen hijackers are not included in the chart below. I do not discuss the 9/11 plotters in this report or other earlier terrorists in detail, as each is covered in *9/11 and Terrorist Travel*.

In forty-seven instances, immigration benefits sought or acquired prior to 9/11 enabled the terrorists to stay in the United States after 9/11 and continue their terrorist activities. This includes three terrorists whose visas or entries into the United States were on 2 September, 6 September, and 10 September 2001. In three instances, terrorists sought immigration benefits after 9/11. One applicant for political asylum associated with the 9/11 hijackers was denied and deported after having previous immigration violations. The second managed to maintain his student status in the United States through mid-2002. A third gained legal permanent residency status in 2002.

Although each of these ninety-four terrorists had committed an immigration violation of some kind, criminal charges alone were brought in at least thirty-seven instances, and immigration charges in eighteen. Indictments in fifty cases included both immigration and criminal charges. There have been a total of fifteen deportations and twenty-three criminal convictions. In sixteen instances, individuals were not convicted (e.g., the six 9/11 hijackers), are being held as enemy combatants after having been captured overseas (e.g., Khalid Sheikh Mohammed), or have fled the United States (e.g., Anwar Al-Aulaqi, an imam associated with the 9/11 hijackers and believed to be currently in Yemen).

Many of these terrorists may have been affiliated with one or more terrorist organizations, but forty individuals associated with Al Qaeda, sixteen with Hamas, sixteen with either the Palestinian or Egyptian Islamic Jihad, and six with Hezbollah are specifically identified. Three are unaffiliated but of a radical Islamist background; one each is affiliated with the Iranian, Libyan, or former Iraqi governments; one each is associated with the Pakistani terrorist groups Lashkar-e-Taiba and Jaish-e-Mohammad; and the affiliations of eight others indicted or detained on terrorism-related charges are unknown.

While I was able to rely on legacy Immigration and Naturalization Service immigration alien files and legal documents for over half of this study, the most recent entries draw on multiple news accounts when indictments are unavailable. The immigration alien files are derived from the 9/11 Commission staff report *9/11 and Terrorist Travel*—where statutory authorities permitted us access to normally inaccessible immigration alien files—for forty-six of these individuals. In another twenty-four cases, we were able to rely on legal documents (often with multiple defendants).

Valid visas were held upon entry by thirty-five of the figures discussed here. This number includes the six 9/11 hijackers known to have sought enhanced immigration status while in the United States. Student visas to attend various universities were used by eighteen individuals, and four had applications approved to change status from

Table 2: Terrorist Immigration Violations: Plots to Attack

There were another 29 persons involved in 12 unsuccessful plots to attack U.S. targets included in this investigation. The breakdown of their involvement is as follows:

	Conspirators with Immigration Violations
<i>NYC Landmarks 6/24/93</i> : Sheikh Omar Abdel Rahman, Matarawy Said Saleh, Ibrahim Il Gabrowni, El Sayyid Nosair, Abdel Rahman Yasin, Amir Abdelghani, Tarig El Hassan, Fares Khallafalla, Siddig Ibrahim Siddiq Ali	10
<i>Manila Air Plot 1/6/1995</i> : Khalid Sheikh Mohammed, Abdul Hakim Murad, Ramzi Yousef (repeat)	2
<i>NYC Subway 8/1/97</i> : Mahamed Mustafa Khalil, Abu Mezer	2
<i>U.S. Millennium Plot</i> : Ahmed Ressay, Abdelhani Meskini, Moktar Haouari, Abdel Hakim Tizegha	4
<i>Columbus Mall Plot</i> : Nuradin Abdi	1
<i>Charlotte Videotapes</i> : Kamran Sheikh Akhtar	1
<i>Brooklyn Bridge</i> : Iyman Faris	1
<i>Disneyland/MGM Grand Las Vegas</i> : Karim Koubriti, Ahmed Hannan, Farouk Ali-Haimoud	3
<i>Niagara Falls Reservoir Photos</i> : Ansar Mahmood	1
<i>Herald Square</i> : Shahawar Matin Siraj, James El-Shafay	2
<i>IMF, NYSE, Prudential Surveillance</i> : Dhiren Barot	1
<i>Nashville Jewish Buildings</i> : Ahmed Hassan Al-Uqaily	1

tourist to student. Another seventeen used a visitor visa—either tourist (B2) or business (B1)—to enter. In at least thirteen instances, the foreign nationals in this study overstayed their visas. In all ninety-four cases, the terrorist sought to stay in the United States once he or she had successfully entered.

All those who engaged or intended to engage in terrorist activity upon entry into the United States committed fraud under U.S. immigration law. However, traditional methods of fraud used to attain some form of immigration benefit—e.g. false documentation, lying about material facts, or entering into a sham marriage—were frequent. About two-thirds of the individuals studied (fifty-nine) clearly engaged in fraud in order to enter or embed in the United States, and they did so multiple times (seventy-nine instances of fraud). Discovery of such fraud usually occurred while the individuals were attempting to upgrade their status in some way, usually to obtain work authorization, become legal permanent residents, or become naturalized. Representatives of every terrorist organization in this study used fraud to some degree, although certain groups appear to use characteristic patterns of tactics in their travel operations. The level of fraud within these cases ranges from a relatively “minor” failure to disclose information on immigration forms to the alteration or fabrication of passports and other

travel documents. An individual was categorized as engaging in fraud so long as the circumstances of his or her immigration history revealed fraudulent activity in relation to any immigration matter, even if no criminal charges for fraud were ever brought.

There were twelve instances of passport fraud and eleven of visa fraud; on thirty-nine occasions, individuals were charged with making false statements to a border officer, immigration enforcement officer, or benefits adjudicator. Seven were indicted for acquiring or using other forms of fake identification, including driver's licenses, birth certificates, social security cards, and immigration arrival records.

Once in the United States, sixteen of twenty-three applicants for legal permanent residency obtained it, and out of twenty-one attempts to become naturalized, only one was unsuccessful. At least eighteen of these applications were based on marriage to a U.S. citizen, with a minimum of ten being a sham (one convicted terrorist married three times).⁷ In seventeen instances, the terrorists claimed to lack proper travel documents and instead sought political asylum.

The 1986 amnesty program was fraudulently used five times in attempts to establish residency. One terrorist, Mir Aimal Kanshi, sought amnesty under the 1986 law for

Just Another Overstay

In June 2002, *Adham Hassoun* was detained and charged with overstaying his visa.¹ The immigration judge found that Hassoun "was a person engaged in terrorist activity" and ruled that he had engaged in a plot to commit an assassination; provided material support to terrorist organizations; was a member of Al-Gama'a al-Islamiyya (IG), Egypt's largest militant group; and solicited persons to engage in terrorist activities such as Mohammed Yousseff, a "jihad fighter."

He had firearms violations as well that resulted in a federal indictment in January 2004.² In March 2004, federal prosecutors had filed a superseding indictment that charged Hassoun with seven criminal charges stemming from a scheme to conceal his activities in recruiting and funding global jihad from federal officials.³ The indictment included charges of providing material support to terrorist activities overseas, namely helping support the travel of "dirty bomber" Jose Padilla to Afghanistan for training.⁴ In addition, Hassoun is one of the incorporators in Florida of the office of the Benevolence International Foundation,⁵ designated a financier of terrorism in 2002.

¹ Notice to Appear, In the Matter of Adham Amin Hassoun (A74 079 096), June 12, 2002.

² Indictment, U.S. v. Hassoun (S.D. Fl. 04-CR-60001) Jan. 8, 2004.

³ Ibid.

⁴ Superseding Indictment, U.S. v. Hassoun (SDFL 04-CR-60001) Mar. 4, 2004. For the identification of Padilla, see "Al Qaeda Network Operating In U.S." *CBS News*, June 26, 2002, available at www.cbsnews.com/stories/2002/06/27/attack/main513641.shtml (accessed Aug. 25, 2004).

⁵ "Benevolence International Foundation Articles of Incorporation," Florida Secretary of State (Feb.12, 1993).

⁷ Khalid Abu Al-Dahab was a travel facilitator for Al Qaeda, and married three U.S. citizens. With the third marriage, he was granted legal permanent residency and became naturalized. See *9/11 and Terrorist Travel*, 57.

illegal entrants.⁸ Four others—three convicted for their roles in the 1993 World Trade Center bombing and one in the 1993 Landmarks case—sought amnesty under the Special Agricultural Workers (SAW) Program. Three who sought amnesty under this program attained it.⁹

The individuals reviewed in this report were from all over the Middle East. No country produced more than 10 percent of the individuals in the data sample. Eleven individuals traveled to the United States on documents from Pakistan, Egypt, and Jordan. In addition, eight individuals came from Lebanon, while seven originated from the Palestinian territories and Iraq. Only five individuals entered from Saudi Arabia, and four from Morocco. Countries of origin with three or fewer persons were Kuwait, Yemen, the UAE, Syria, Qatar, Algeria, Somalia, Iran, the Sudan, South Africa, and France.

The Naturalized Citizens

Of the twenty successful naturalizations out of twenty-one applications reviewed in this study, eleven had clear indications of fraud. Three of those instances related to document fraud. Another nine withheld material facts or lied on immigration documents.

Until the formation of the Department of Homeland Security in March 2003, legacy INS was responsible for adjudicating naturalization applications for eligibility. In 2004, U.S. Citizenship and Immigration Services at DHS processed about 600,000 applications. Because of the 1986 illegal-alien amnesty, and other reasons, naturalization applications surged in the 1990s, reaching 1.5 million in 1997.¹⁰ Background checks prior to 9/11 consisted of minimal and sometimes nonexistent reviews of FBI paper files. Today, concerns that terrorists may seek naturalization are understood, yet denying them entry remains difficult to prevent under current law, where USCIS does not have direct access to federal law enforcement or intelligence information, cradle-to-grave identification numbers and travel histories do not exist, and where applications are neither wholly electronic nor biometric.

Naturalization Means a U.S. Passport

Iyman Faris, a naturalized U.S. citizen born in Kashmir who lived in Ohio, pled guilty in May 2003 to casing the Brooklyn Bridge for Al Qaeda, as well as researching and

⁸ *9/11 and Terrorist Travel*, 187–89.

⁹ Mohammed Salameh attempted to use SAW to acquire residency. Although he failed to acquire legal permanent resident status as he sought, filing under the law enabled him to stay in the United States legally. *9/11 and Terrorist Travel*, 193–94. Brothers Mahmud and Mohammed Abouhalima both acquired residency under SAW (op. Cit., 190, 194–95). Fares Khallafalla married a U.S. citizen and received legal permanent resident status under SAW (op. cit., 53, 199).

¹⁰ Office of Immigration Statistics, Department of Homeland Security, G-22.3 Naturalization Summary Chart.

providing information to Al Qaeda regarding the tools necessary for possible attacks on U.S. targets.¹¹ In October 2003, Faris was sentenced to twenty years in prison.¹²

Faris entered the United States in 1984 at the age of twenty-five, and was naturalized in December 1999. During the mid 1980s, Faris became friends with a senior member of Al Qaeda. In 1999, Faris received his U.S. citizenship. With access to a U.S. passport, travel in and out of the United States became simple. He would travel at least twice to Afghanistan in the next two years on behalf of Al Qaeda, each time returning to conduct Al Qaeda business in the United States.

In 2000, Faris traveled to Afghanistan with this same senior Al Qaeda member. There he was introduced to Osama bin Laden at an Afghan training camp. During meetings with senior members of Al Qaeda, Faris was asked about procuring an “escape” plane. Faris then became involved with plots that included the Brooklyn Bridge and trains.¹³ He also conspired with Nuradin Abdi to bomb a Columbus, Ohio shopping mall (a plan discussed below).¹⁴

Faris admitted to federal agents that, during another trip to Karachi in early 2002, he was introduced to Khalid Sheikh Mohammed.¹⁵ As the two talked about Faris’s work as a truck driver in the United States, Faris told Mohammed that some of his deliveries were made to air cargo planes. Mohammed was interested in Faris’s access to these planes, and the two discussed how cargo planes held “more weight and more fuel,” and thus had excellent potential to be converted into weapons.¹⁶ Faris’s employer, Yowell Transportation, confirmed that Faris regularly delivered to an air cargo company at the Columbus airport.¹⁷ It may have been Emery Worldwide, a global cargo company that has its North American hub in Columbus.

According to Faris, Khalid Sheikh Mohammed told Faris that Al Qaeda was planning two simultaneous attacks in New York City and Washington, D.C. The two then talked about destroying the Brooklyn Bridge by severing its suspension cables. Faris was tasked with obtaining the necessary equipment for the operation.¹⁸

In April 2002, Faris returned to the United States and researched “gas cutters” and the Brooklyn Bridge on the Internet. He also traveled to New York City in late 2002 to examine the bridge. He decided the plan was too difficult because of the security and

¹¹ Plea Agreement, U.S. v. Faris (E.D. Va. 03-189-A), 1 May 2003 (unsealed 19 June 2003).

¹² “Iyman Faris Sentenced for Providing Material Support to Al Qaeda.” U.S. Department of Justice Press Release (28 October 2003), at www.usdoj.gov/opa/pr/2003/October/03_crm_589.htm (accessed 9 July 2004).

¹³ Statement of Facts, U.S. v. Faris (E.D. Va. 03-189-A), 1 May 2003.

¹⁴ Government’s motion to detain defendant and memorandum in support, U.S. v. Abdi (S.D. Oh. 2:04-CR-88), 14 June 2004.

¹⁵ Ibid. See also Susan Schmidt, “Trucker Pleads Guilty in Plot by Al Qaeda,” *The Washington Post* (20 June 2003).

¹⁶ Statement of Facts, U.S. v. Faris.

¹⁷ R. Jeffrey Smith and Amy DePaul, “‘Scout’ Had Low Profile,” *The Washington Post* (21 June 2003).

¹⁸ Statement of Facts, U.S. v. Faris.

the structure of the bridge. Faris then sent a coded message communicating this to Al Qaeda leadership.¹⁹

The Special Case of the Sham Marriage

Marrying a U.S. citizen is one of the easiest ways to stay in the United States once within the country's borders. Whether an individual comes to the United States and receives a two-week business entry, a six-month tourist length of stay, or a "duration of status" commensurate with his or her schooling, marrying an American provides an entrée toward permanent legal status and eventual naturalization. Of the twenty naturalized citizens and sixteen legal permanent residents in this study, at least eighteen married U.S. citizens. Ten of these entered into sham marriages to obtain residency, some of them multiple times.

Two conversations between radical Islamists about travel and immigration suggest the tactical importance of such marriages. In the first, taped in August 2000 in Italy between Es Sayed (a document forger active in Italy) and Abdulsalam Ali Ali Abdurahman (a Yemeni described by foreign law enforcement as one "who travels on a diplomatic passport"), the subject of marrying Western women is woven into a discussion of *jihad*:

A: This is worse than Iran, it's a terrifying thing, it moves from north to south from east to west: they see this thing only through a picture but it's crazy, who planned this is crazy but is also a genius, it will leave them mesmerized, you know the verse that says he who touches Islam or believes himself to be strong against Islam must be hit?

S: God is great and Mohammed is his prophet. They are dogs' sons.

A: They are. *Let me go to Germany and we'll see: there are beautiful and brave women there, we have Jamal Fekri Jamal Sami. We marry the Americans, so that they study the faith and the Quran.*

S: *I know many brothers who want to get married, the American woman must learn the Quran.*

A: They think they are lions but they are traitors, they perceive themselves as the world power but we'll deal with them. *I know brothers who entered the U.S. with the scam of the wedding publications, claiming they were Egyptians and not revealing their true identity and they were already married.*

S: *You must be an actor, if they catch you it's serious.*

A: Because they like Egyptians there because Mubarak has many interests with them, but sooner or later he'll end up like Sadat.

S: It was a good attack, that at the military parade.

A: A *mujahid* for the cause of *jihad* never gets tired for *jihad* gives you the strength to go on. We are in a country of enemies of God but we are still *mujahideen* fighting for a cause and we should take the youth here as Sheikh Abdelmajid does. The *mujahid* that fights in the enemy's lines has a greater value. Sheikh Abdelmajid is consid-

¹⁹ Ibid. The FBI first interviewed Faris shortly after 9/11; federal agents followed him when he traveled to New York. See Ted Wendling, "Ohio Agents Tailed Terrorist," *Cleveland Plain Dealer* (21 June 2003).

ered the emir of propaganda for the entire *ummah*. We can fight any force by using candles and planes and they won't be able to stop us with their heavy weapons. We have to hit them day and night. Remember: the danger in the airports, in that country the fire is burning and is only waiting for some wind. Our goal is the sky. ... In Yemen people are talking about you running the mosque.

S: Yes, but only for a few times because I have other things to do. I like to move around, be active. When will this wedding take place?

A: When the light is turned on because last time Sheikh Hajab and Sheikh Abdelmajid blessed ten of the youth and God is with us.²⁰

The second conversation was taped in Spain. Spanish authorities reported:

On the 26th of May [2004], Rabei Osman defended to another disciple, called *Yahia*, the theory by which the 'end justifies the means' for the cause of *jihad*. *'Everything is permitted including marrying with Christian women, because we need [immigration] papers. We have to be everywhere, in Germany, in Holland, in London. We are dominating Europe with our presence. The women serve to obtain documents, because we are in favor of the cause of God.'*²¹

Seven of the ten conspirators in the 1993 Landmarks plot married U.S. citizens, and six successfully converted the marriage into legal permanent residency or naturalization. One conspirator, Fadil Abdelghani, obtained legal residency despite having overstayed his length of stay as a tourist in 1987.²² El Sayyid Nosair married a U.S. citizen in 1981, and was naturalized in 1989. When he was naturalized, the INS was unaware that the FBI had knowledge of Nosair's having provided weapons training to Islamic militants.²³

In November 1990, a year after Nosair was naturalized, the radical rabbi Meir Kahane was murdered in New York City. Nosair, seen holding the gun at the scene, attempted to flee but was caught; he was eventually acquitted of murder but convicted of weapons charges. He was later indicted for his role in the 1993 World Trade Center bombing, in part because he had in his apartment numerous sensitive U.S. military documents from Fort Bragg, now believed to have been provided by Ali Mohamed (discussed below). In March 1993, while searching the apartment of Ibrahim El-Gabrowni, who was the messenger in the World Trade Center plot, authorities discovered a series of fraudulent Nicaraguan passports for his cousin Nosair and Nosair's family. They also found five birth certificates—for Nosair, his wife, and their three children—and driver's licenses, all in the names of aliases.

Al Qaeda. Three defendants involved in the August 1998 East Africa embassy bombings married U.S. citizens; two acquired legal permanent residency, and one became naturalized. Their immigration status enabled all three to operate in the United

²⁰ Report of Italian Intelligence (DIGOS) to the District Attorney, Milan, "Terror threat of Islamic origin," 15 May 2002.

²¹ Conversation taped by Italian police in Milan, 2 June 2004. See also "Casare con cristianas," *El Mundo* (Spain), 6 October 2004.

²² *9/11 and Terrorist Travel*, 53, 199.

²³ *Ibid.*, 52, 197–98.

States for at least a dozen years prior to their arrests for their terrorist activities. Initially, they worked on behalf of other radical Islamists and then, after the organization was founded, for Al Qaeda, doing substantial damage to U.S. national security in the process.

Ali Mohamed was a key liaison between the East Africa conspirators and Al Qaeda's leadership. He met his American wife on a flight to the United States in 1985, and had been a legal permanent resident since 1986. Mohamed was not arrested for his terrorist activity until 1998; before then, he traveled frequently in and out of the United States on behalf of Al Qaeda. Mohamed's criminal activities during his time in the United States included conducting a human smuggling operation on the West Coast, supplying U.S. military information to Al Qaeda leadership, and training bin Laden's bodyguards abroad.

Wadi El-Hage came to the United States as a student in the early 1980s. He acquired legal permanent residency after marrying a U.S. citizen in 1986, and was later naturalized.²⁴ El-Hage had crossed paths with Ali Mohamed on a number of occasions before planning began for the East Africa bombings.²⁵ He was an operational commander for that plot until his arrest by U.S. law enforcement eleven months before the bombings occurred.²⁶ During his nearly two decades in the United States, he had become bin Laden's personal secretary; he also worked with the Al Kifah Refugee Center in New York and set up numerous charitable front organizations for Al Qaeda in Africa. Throughout this time, his immigration status enabled him to easily travel in and out of the United States.

Khalid Abu Al-Dahab married three American women before he finally was able to acquire legal permanent residency; he eventually was naturalized. During his twelve years in the United States, he provided money and fraudulent travel documents to terrorists around the globe. These activities linked him to numerous attacks, including the 1998 East Africa bombings.²⁷

Hezbollah. Six individuals involved in a Hezbollah cigarette smuggling case in North Carolina engaged in a pattern of sham marriages to U.S. citizens followed by petitions to acquire legal permanent residency. The conspirators' "legal" immigration status allowed them to operate in the United States for nearly a decade, raising thousands of dollars through organized criminal activity that was both sent back in dollars to Hezbollah in Lebanon and used to purchase military equipment such as stun guns, night vision goggles, computers, and digital and video cameras.²⁸

²⁴ Kevin Peraino and Evan Thomas, "Odyssey Into Jihad: April Ray's Husband Became bin Laden's Secretary," *Newsweek*, 14 January 2002.

²⁵ When Mohamed acquired the list of unindicted co-conspirators in the 1993 World Trade Center case, which included his name, he sent it to El-Hage (then in Kenya acting as bin Laden's personal secretary), expecting it to be forwarded to bin Laden in Khartoum. See Steven Emerson, *American Jihad: The Terrorists Living Among Us* (New York: Simon & Shuster, 2002), 59.

²⁶ Complaint, U.S. v. Wadih el Hage (S.D. NY), 26 August 1998.

²⁷ The immigration information in this paragraph is derived from *9/11 and Terrorist Travel*, 57.

²⁸ Superseding Indictment, U.S. v Hammoud, et al. (W.D. NC 00-CR-147), 28 March 2001.

Like the 9/11 conspirators, they relied on fraud to enter the United States; but unlike the hijackers, whose stay would end with the execution of their plot, they needed to acquire an immigration status that would enable them to stay (and operate their cigarette smuggling operation) indefinitely. Three of these associates of Hezbollah entered in 1992; they used Lebanese passports with counterfeit nonimmigrant tourist visas purportedly issued in Venezuela; once they were inside U.S. borders, they paid U.S. citizens to marry them.²⁹

From January 1999 through January 2000, Said Mohamad Harb, one of the key figures in Hezbollah's North Carolina operation run by Mohamad Hammoud, helped secure three fraudulent visas and three sham marriages for the purpose of "legally" bringing to the United States his brother, his brother-in-law, and sister so that they might become legal permanent residents. The two men each obtained a nonimmigrant visa from the U.S. Embassy in Cyprus; though given one- and two-week lengths of stay for conducting business upon entry into the United States, each married a U.S. citizen immediately after his arrival and therefore was allowed to stay indefinitely. In the case of Harb's sister, a male U.S. citizen was paid to meet her in Lebanon and then travel with her to Cyprus, where their marriage enabled her to acquire an immigration visa. In June 2000, Harb also attempted to give an immigration special agent a USD 10,000 bribe so that another brother could enter the United States.³⁰

Between 1995 and 2000, Hammoud held "prayer" meetings at his Charlotte home where he would show videos of Hezbollah operations and solicit donations that amounted to thousands of dollars, which were sent to a Hezbollah military commander in Lebanon. The first federal indictment was against eighteen individuals involved in a cigarette smuggling scam that may have raised hundreds of thousands of dollars for Hezbollah. A second indictment nine months later charged nine Lebanese nationals with providing material support to a designated foreign terrorist organization. Seven of the conspirators pled guilty to lesser charges, while Harb entered into a plea agreement to testify against Hammoud. All the conspirators were convicted of all counts against them, including the immigration violations.³¹ Hammoud was sentenced to 155 consecutive years in prison. His sentence was reduced for exceeding the maximum sentencing guidelines and remanded to the lower court.³²

Palestinian Islamic Jihad (PIJ). Members of Palestinian Islamic Jihad operating in South Florida also obtained a variety of immigration benefits illegally and committed

²⁹ The reference here is to Mohamad Youssef Hammoud, Mohamad Atef Darwiche, and Ali Fayez Darwiche. See Superseding Indictment, *U.S. v Hammoud*, et al.

³⁰ Superseding Indictment, *U.S. v Hammoud*, et al.

³¹ *U.S. v. Hammoud*, 381 F.3d 316, 65 Fed R. Evid. Serv. 338 (4th Cir. N.C.), 8 September 2004 (No. 03-4253).

³² *Hammoud v. U.S.*, 125 S.Ct. 1051 (24 January 2005) (No. 04193). On remand to *U.S. v. Hammoud*, 405 F.3d 1034 (4th Cir., 27 April 2005) (No. 03-4253).

immigration violations.³³ Sami Al Arian, the highly publicized lead defendant in the pending terrorism case in Tampa, came under intense scrutiny in 1995 as the suspected leader of PIJ in the United States.

A 1995 raid of Al Arian's offices uncovered a web of immigration violations. The most prominent of the violations is that Al Arian allegedly lied on his own naturalization petition, failing to list his affiliation with two PIJ front organizations. An immigration agent described the fraud scheme that Al Arian was possibly using in a November 1995 search warrant affidavit:

Based upon the facts and information that I have set forth in the instant affidavit, I have probable cause to believe that ICP (Committee of Palestine) and WISE (World and Islam Enterprise) were utilized by Sami Al Arian and Ramadan Abdullah Shallah as 'fronts' in order to enable individuals to enter the United States, in an apparent lawful fashion, despite the fact that these individuals were international terrorists. Among the unlawful methods employed by these terrorist organizations are the apparent lawful procurement and use of visas and other documents relating to immigration that enable terrorists and other excludable aliens to gain entry into the United States through false statements, misrepresentations, and other forms of fraud.³⁴

Al Arian's immigration fraud extended to others within Palestinian Islamic Jihad. In September 1992, for example, Al Arian filed a petition for a temporary worker visa with the INS under false pretenses on behalf of Bashir Musa Nafi, one of the organization's original co-founders, who had worked for Palestinian Islamic Jihad at its London-based headquarters. The petition was granted, permitting Nafi to enter the country as a research director employed by WISE. In fact, the International Institute of Islamic Thought (IIIT) employed Nafi. His lie about IIIT on his INS petition led to his being deported to London in June 1996, only four days after his apprehension by immigration authorities.³⁵ Six years later, in 2002, IIIT was investigated as part of a terror financing investigation of over 100 interconnected business enterprises, located mostly in northern Virginia.

The 1995 raid of Al Arian's offices also contributed to the eventual deportation of Mazen Al Najjar, Sami Al Arian's brother-in-law and a co-founder and the executive director of WISE.³⁶ Al Najjar was editor of WISE's journal, *Qira'at Siyasiyyah* (*Political Readings*), and attended numerous conferences where terror fundraising was discussed.³⁷ Al Najjar also committed a series of immigration violations, from a simple

³³ The PIJ as well as Hamas have as their ultimate aim the destruction of Israel and the creation of an Islamic state from the Jordan River to the Mediterranean Sea; however, they have distinct political priorities and conflicting views on the degree of Islamic rule over the Palestinian *ummah* (community). Both vie for adherents in the Middle East.

³⁴ Affidavit of INS Supervisory Special Agent William West, In re: Search of ICP/WISE Offices, et al., 17 November 1995.

³⁵ Superseding Indictment, U.S. v. Al-Arian, et al. (M.D. Fl. 03-CR-77), 21 September 2004, 21.

³⁶ Mazen A. Al Najjar, Curriculum Vitae.

³⁷ *Qira'at Siyasiyyah* 1:1 (Winter 1991): title page.

overstay of his student visa's length of stay to his fraudulent marriage to a U.S. citizen for the purpose of obtaining permanent resident status. Prior to his deportation, Al Najjar was detained as a threat to U.S. national security.³⁸

Though Al Najjar repeatedly denied that his work at WISE was terrorist-related, audiotapes, such as one from 1991, have Al Najjar calling for "the unification of efforts of the national and Islamic forces in the struggle, to face the new dangerous challenges to the Palestinian cause, the central cause of the Muslim *Ummah*."³⁹ Al Najjar's deportation was ordered on 13 May 1997, but he was not deported until 2002.⁴⁰ The September 2003 Al Arian superseding indictment included Al Najjar as a defendant, asserting that he was part of PIJ's leadership in the United States.⁴¹

Terrorist Affiliation and Denaturalization: The Case of Fawaz Damrah

The main method of pursuing denaturalization claims against terrorists and suspected terrorists is to show that their citizenship was illegally procured. To do so, the government must first criminally charge the citizen with violation of 18 U.S.C. § 1425—knowingly obtaining citizenship unlawfully. If a conviction can be secured on this charge, then denaturalization will automatically follow, pursuant to 8 U.S.C. § 1451(e).

A recent example of this method is the case of Fawaz Damrah, the imam at the Islamic Center of Cleveland who acted as a chief fundraiser for Palestinian Islamic Jihad.⁴² Damrah was charged with making false statements when he submitted his "Application for Naturalization," INS form N-400.⁴³ Specifically, the government alleged that he had concealed from the INS his membership in or affiliation with three entities: the Al Kifah Refugee Center, the Islamic Committee for Palestine (ICP), and Palestinian Islamic Jihad. Al Kifah was Al Qaeda's recruitment center in the United

³⁸ Affidavit of Jan Fairbetter in the Matter of Mazen Al Najjar in Deportation Proceedings, 13 October 2000, 2. Former INS supervisory agent (working on the Al Arian case since 1995) William D. West explained, "The marriage fraud evidence was not used as a basis for the underlying deportation charge, which was his overstaying his original student visa (F-1) authorized period of admission. We used the evidence of the marriage fraud primarily in the hearings related to the denial of discretionary relief from deportation and in the custody proceedings. It was important, as it demonstrated his propensity to engage in deception and fraud, but it was not the basis for his being found deportable ... that was a basic overstay nonimmigrant. One of the ironies of the Al Najjar deportation case was that just ... a 'simple' overstay F-1 student case cost millions of dollars, eight years of litigation (1984–2002), and nearly four years of detention in order to effect his removal from the U.S. All because that overstay student happened to be a Ph.D. terror suspect instead of a dishwasher or bag boy. That in itself says something about the system" (e-mail to author, 18 January 2005).

³⁹ Affidavit of Jan Fairbetter in the Matter of Mazen Al Najjar in Deportation Proceedings, 13 October 2000.

⁴⁰ Memorandum Decision of the Immigration Judge, in the Matter of Mazen A. Al Najjar (EOIR Bradenton, FL A26-599-077), 23 June 1997.

⁴¹ Indictment, *U.S. v. Al Arian, et al.* (M.D. Fl. 03-CR-77), 20 February 2003. See also Superseding Indictment, *U.S. v. Al Arian, et al.* (M.D. Fl. 03-CR-77), 21 September 2004.

⁴² *U.S. v. Damrah*, 334 F. Supp. 2d 967 (N.D. Oh. 2004).

⁴³ *Ibid.*, 969.

States, and ICP was the funding mechanism for PIJ. In addition, Damrah was accused of concealing from the INS that, prior to applying for citizenship, he had “incited, assisted, or otherwise participated in the persecution”⁴⁴ of Jews and others, advocating or supporting violent terrorist attacks and engaging in religion-based persecution.⁴⁵ During the trial, jurors were shown footage of a 1991 speech in which Damrah called Jews “the sons of monkeys and pigs,”⁴⁶ and a 1989 speech in which he declared, “terrorism and terrorism alone is the path to liberation.”⁴⁷

On 17 June 2004, a jury found Damrah guilty of violating 18 U.S.C. § 1425.⁴⁸ He was sentenced to two months in prison,⁴⁹ and stripped of his citizenship.⁵⁰ Following the verdict, Assistant U.S. Attorney Cheri Krigsman commented that Damrah “was the guy ... brought in to raise the money for Islamic Jihad. Without the money they could not operate.”⁵¹ Funds raised in the Islamic Center of Cleveland were sent to the Holy Land Foundation for Relief and Development (HLF),⁵² a charity named in July 2004 in a forty-two-count indictment for providing material support to Hamas, engaging in prohibited financial transactions with a Specially Designated Global Terrorist Group, money laundering, conspiracy, and filing false tax returns.⁵³

The grand jury had indicted Damrah on charges of violating 18 U.S.C. § 1425 on 16 December 2003—one day shy of the expiration of the ten-year statute of limitations for such prosecution (set forth in 18 U.S.C. § 3291). It was on 17 December 1993 that Damrah met with an INS examiner to complete his interview on the information contained within form N-400. At the interview, Damrah affirmed the truth of the answers given within the application, which he had originally filed on 18 October 1993.⁵⁴

Damrah subsequently challenged the jury’s verdict on several grounds, and asked the trial judge to grant an acquittal notwithstanding the verdict. The judge rejected Damrah’s challenge.⁵⁵ In addressing Damrah’s contention that the evidence presented by the government was not sufficient to fulfill its burden of proof, the judge reviewed the evidence presented by the prosecution and repeatedly came to the same conclusions: “a rational jury could conclude beyond a reasonable doubt [that Damrah made

⁴⁴ Indictment, *U.S. v. Damrah*, 16 December 2003.

⁴⁵ ICE Press Release, “Ohio Imam Convicted of Lying About Associations with Palestine Islamic Jihad After ICE/FBI Investigation,” 18 June 2004; www.ice.gov/graphics/news/newsreleases/articles/061804akron.htm (accessed 9 February 2005).

⁴⁶ Memorandum Opinion, *U.S. v. Damrah* (N.D. Oh. 03-CR-484), 30 August 2004.

⁴⁷ Trial transcript, *U.S. v. Damrah* (N.D. Oh. 03-CR-484), 17 June 2004, at 746.

⁴⁸ *U.S. v. Damrah*, 334 F. Supp. 2d 967 (N.D. Oh 2004), at 969.

⁴⁹ Judgment, *U.S. v. Damrah* (N.D. Oh. 03-CR-484), 20 September 2004.

⁵⁰ Memorandum Opinion, *U.S. v. Damrah* (N.D. Oh. 03-CR-484), 23 September 2004.

⁵¹ Associated Press, “Imam Convicted of Lying About Terrorism Ties on Citizenship Application,” 18 June 2004.

⁵² Affidavit of SA David Kane, in the Matter Involving 555 Grove Street, Herndon, Va., and Related Locations (E.D. Va. 02-MG-114.), March 2002 (unsealed 17 October 2003).

⁵³ Indictment, *U.S. v. Holy Land Foundation* (N.D. Tx. 04-CR-240), 27 July 2004.

⁵⁴ *Damrah*, 334 F. Supp. 2d, at 969.

⁵⁵ *Ibid.*, at 985.

false statements on his INS application].”⁵⁶ This evidence consisted of wiretapped conversations between Sami Al Arian and Damrah, as well as videotapes of Damrah speaking.⁵⁷

The judge’s conclusion provides insight into the burden of evidence that the government must meet in an 18 U.S.C. § 1425 prosecution:

Damrah may protest that all this evidence still does not amount to concrete proof that he was a member of PIJ. In a sense, he is right. The Government’s case was weaker than a broad majority of criminal cases this Court has heard. No doubt, the Government’s 10-year delay in bringing this charge contributed to this.

At trial, the Government never offered into evidence a PIJ or ICP membership card bearing Damrah’s name or visage. Nor did it offer an oath of allegiance to PIJ and/or ICP bearing Damrah’s signature. However, the Government does not need open-and-shut evidence to cross the threshold beyond which a rational jury could conclude that Damrah was a member of ICP and/or PIJ. The Supreme Court recognized as much in *United States v. Killian* when (in a case involving a defendant’s ties to the Communist Party) it stated: The phrases ‘member of’ and ‘affiliated with,’ especially when applied to the relationship between persons and organizations that conceal their connection, cannot be defined in absolute terms. The most that is possible, and hence all that can be expected, is that the trial court shall give the jury a fair statement of the issues[,] ... give a reasonable definition of the terms and outline the various criteria, shown in the evidence, which the jury may consider in determining the ultimate issues. 368 U.S. 231, 258 (1961).⁵⁸

This is a lesser burden than the “clear, unequivocal, and convincing” standard established in *Fedorenko* that applies to denaturalization proceedings.⁵⁹ Damrah’s conviction sets a precedent: The prosecution needs only to show that “a rational jury could conclude beyond a reasonable doubt” that the naturalization was illegally procured, the same standard that governs general criminal offenses (including 18 U.S.C. § 1425).

Acquiring and Revoking Naturalization

The burden is always on the immigrant to prove compliance with the criteria for naturalization set by Congress.¹ The eight criteria necessary for any applicant are specified in 8 C.F.R. §316.2:

- (1) Is at least 18 years of age;
- (2) Has been lawfully admitted as a permanent resident of the United States;
- (3) Has resided continuously within the United States, as defined under §316.5, for a period of at least five years after having been lawfully admitted for permanent residence;
- (4) Has been physically present in the United States for at least 30 months of the five years preceding the date of filing the application;

⁵⁶ *Ibid.*, at 981–82.

⁵⁷ *Ibid.*, at 979–81.

⁵⁸ *Ibid.*, at 982–83.

⁵⁹ *Fedorenko*, 449 U.S., at 505–6.

- (5) Immediately preceding the filing of an application, or immediately preceding the examination on the application if the application was filed early pursuant to section 334(a) of the Act and the three month period falls within the required period of residence under section 316(a) or 319(a) of the Act, has resided, as defined under §316.5, for at least three months in a State or Service district having jurisdiction over the applicant's actual place of residence, and in which the alien seeks to file the application;
- (6) Has resided continuously within the United States from the date of application for naturalization up to the time of admission to citizenship;
- (7) For all relevant time periods under this paragraph, has been and continues to be a person of good moral character, attached to the principles of the Constitution of the United States, and favorably disposed toward the good order and happiness of the United States; and
- (8) Is not a person described in Section 314 of the Act relating to deserters of the United States Armed Forces or those persons who departed from the United States to evade military service in the United States Armed Forces.

But though the immigrant initially bears the burden of proof to demonstrate entitlement to naturalization, this burden is not continuous: once an applicant has been naturalized, the burden of proof shifts to the government to justify revoking his or her citizenship. The Supreme Court recognized in *Fedorenko v. United States*² that “at first blush”³ the rules for naturalization and denaturalization “appear to point in different directions,”⁴ but it justified placing the burden of proof on the government in the latter case as follows:

*On the one hand, our decisions have recognized that the right to acquire American citizenship is a precious one, and that once citizenship has been acquired, its loss can have severe and unsettling consequences. [citations omitted] For these reasons, we have held that the Government “carries a heavy burden of proof in a proceeding to divest a naturalized citizen of his citizenship.” Costello v. United States, 365 U.S. 265, 269 (1961). The evidence justifying revocation of citizenship must be “clear, unequivocal, and convincing” and “not leave the issue in doubt.” Schneiderman v. United States, 320 U.S. 118, 125 (1943) (quoting Maxwell Land-Grant Case, 121 U.S. 325, 381 (1887)). Any less exacting standard would be inconsistent with the importance of the right that is at stake in a denaturalization proceeding.*⁵

This statement of the government's burden of proof, though clear, says nothing about what precisely the government must demonstrate to show that it has been fulfilled. However, some statutory categories created by Congress provide guidance into when it is appropriate to initiate denaturalization proceedings.

Section 340 of the Immigration and Naturalization Act enumerates several reasons for which denaturalization can be sought. Among these is the “illegal procurement” of the naturalization, which includes “concealment of a material fact” and “willful misrepresentation.”⁶ The statutory language contained within 8 U.S.C. §1451(e) also mandates denaturalization following a conviction for illegal procurement, there simply referred to as “naturalization application fraud.” Prosecuting for naturalization application fraud thus obviates the need to initiate denaturalization proceedings.

¹ INA § 318, 8 C.F.R. § 316.2(a).

² *Fedorenko v. U.S.*, 449 U.S. 490 (1981).

³ *Id.* at p. 505.

⁴ *Ibid.*

⁵ *Id.* at pp. 505-06.

⁶ INA § 340(a), (c), (d), (e), and (h).

Terrorists Who Abused Naturalization

- *Nidal Abderrahman Ayyad*. POB: Kuwait, COC: Jordan. WTC1. Father applies for legal permanent resident (LPR) status on Ayyad's behalf and becomes naturalized in 1991. Withheld facts on naturalization application. Convicted for 240 years.⁶⁰
- *El Sayyid Nosair*. POB: Egypt. Landmarks 1993, and holding gun at Rabbi Kahane's murder. Egyptian naturalized upon marriage to a U.S. citizen. Acquitted of charge of murder involving Rabbi Kahane. Serving life sentence. Denaturalization recommended but not acted on.⁶¹
- *Khalid Abu Al Dahab*. Al Qaeda; East Africa bombings 8/98. Naturalization after marriage to third U.S. citizen.⁶² Also ran alien smuggling and document forgery ring in support of Al Qaeda.
- *Fawaz Damrah*. PIJ fundraiser and mosque leader in Ohio. Denaturalized 2004 (see above).⁶³
- *Sami Al Arian*. POB: Kuwait, COC: Egypt. PIJ leader in U.S. On trial now for terrorism charges; immigration, and 1993 naturalization fraud.⁶⁴
- *Hassan Faraj*. POB: Syria. Benevolence International Foundation (BIF), Al Qaeda links. Syrian; came to U.S. in 1993 as Bosnian refugee; became naturalized; charged with naturalization fraud.⁶⁵
- *Sami Khoshaba Latchin*. POB: Iraq. "Sleeper spy" for Iraqis during Saddam Hussein era. Naturalized; charged with lying on naturalization petition.⁶⁶
- *Rafir Dhafir*. POB: Iraq. Sent money to Iraq in violation of U.S. sanctions; possible PIJ/Hamas association, but not confirmed. Naturalized and charged with defrauding his own charity, Help the Needy, and violating U.S. sanctions against Iraq.⁶⁷
- *Rasmi Khader Almallah*. POB: Jordan. Holy Land Foundation (HLF), Hamas, and former employer of a WTC1 bomber. Sham marriage in 1981 and naturalization in 1988; civil complaint filed to revoke naturalization based on sham marriage in 2004.⁶⁸

⁶⁰ *9/11 and Terrorist Travel*, 192–93.

⁶¹ *Ibid.*, 52, 197–98.

⁶² *Ibid.*, 57.

⁶³ *U.S. v. Damrah*, 334 F. Supp. 2d 967 (N.D. Ohio 2004).

⁶⁴ Superseding Indictment, *U.S. v. Al-Arian* (M.D. Fl. 03-CR-77), August 2004.

⁶⁵ Sabrina Tavernisa, "U.S. Letter Tries to Establish a Doctor's Link to Terrorism," *The New York Times* (6 November 2004); see also Michael Weissenstein, "Prosecutors Allege Brooklyn Doctor's Terror Ties," Associated Press (5 November 2004).

⁶⁶ "U.S. Alleges Suburban Man Is 'Sleeper' Spy," *Chicago Tribune* (12 September 2004).

⁶⁷ Michael Powell, "High-Profile N.Y. Suspect Goes on Trial," *The Washington Post* (19 October 2004).

⁶⁸ Steve McGonigle, "U.S. Seeks to Strip Man's Citizenship," *The Dallas Morning News* (20 October 2004).

- *Ahmed Al Halabi*. POB: Syria. Al Qaeda link and former Guantanamo translator accused of spying for Syria. Naturalized in 1990s; pled guilty to mishandling military documents in 2004.⁶⁹
- *Abdulrahman Odeh*. Hamas, HLF. Naturalized U.S. citizen indicted in 2004 for terror financing, material support.⁷⁰
- *Numan Maflahi*. POB: Yemen. Suspected Al Qaeda member. Naturalized and convicted for lying to federal authorities about relationship with known Al Qaeda-linked sheik in July 2004.⁷¹
- *Mufid Abdulquader*. POB: Palestinian areas. Laundered money from HLF to Hamas. Naturalized; indicted for terror financing.⁷²
- *Tariq Isa*. POB: Palestinian areas. Laundered money from HLF to Hamas. Naturalized; indicted for terror financing.⁷³
- *Nageeb Abdul Jabar Al Hadi*. COC: Yemen. Al Qaeda linked, and activity possibly associated with other 9/11 related planes. Arrived prior to the summer of 2001, and sought naturalization. On 2 September 2001, received a U.S. visa; charged with lying on the application.
- *Muhammad Salah*. POB: Jerusalem. Hamas financier. Naturalized in 1990s; charged under RICO in 2004, not immigration violations.⁷⁴
- *Soliman Biheiri*. Major Hamas financier in Northern Virginia with the SAAR Network. Indicted for fraudulently obtaining naturalization in 2000; pled to passport fraud.⁷⁵
- *Abdulrahman Alamoudi*. POB: West Bank. Hamas financier. Indicted for fraudulent immigration documents and misuse of U.S. passport (naturalized 1996).⁷⁶
- *Iyman Faris*. POB: Kashmir. Al Qaeda. Naturalized in 1999. Charged with providing material support to Al Qaeda in 2002.⁷⁷

⁶⁹ Sam Stanton and Denny Walsh, "Airman Picks up the Pieces after Spy-Case Ordeal," *Sacramento Bee* (16 October 2004); see also Thomas Korosec, "Ex-charity Official Targeted," *Houston Chronicle* (20 October 2004).

⁷⁰ Maya Kremen, "Alleged Terror Aide Says He's Innocent." *Herald News* (New Jersey, 13 August 2004).

⁷¹ William Glaberson, "Man Gets 5 Years for Lying in Terror Inquiry," *The New York Times* (10 July 2004).

⁷² Todd Bendsman and Robert Riggs, "HLF Indictments Reveal Link Between Dallas Worker and Terror Group," CBS 11 Television (28 July 2004); at http://cbs11tv.com/localstories/local_story_210115331.html.

⁷³ *Ibid.*

⁷⁴ Todd Lighty and Laurie Cohen, "Hamas Probe Nearly Fell Apart," *Chicago Tribune* (22 August 2004).

⁷⁵ Indictment, U.S. v. Biheiri, August 2003. See also U.S. v. Biheiri, 299 F.Supp.2d 590 (E.D. Va. 2004); and U.S. v. Biheiri, 356 F.Supp.2d 589 (E.D. Va. 2005).

⁷⁶ Indictment, U.S. v. Alamoudi (E.D. Va.), September 2003.

⁷⁷ Statement of Facts, U.S. v. Faris (E.D. Va. 03-189-A), 1 May 2003.

- *Mukhtar Al-Bakri*. POB: Yemen. Lackawanna Group; attended Afghan training camp. Naturalized (unknown date). Charged with providing material support to Al Qaeda in 2002. Pled guilty and sentenced to ten years.⁷⁸
- *James El-Shafay*. Herald Square subway surveillance. Naturalized; arrested and charged with terrorist activity in 2004.⁷⁹

Legal Permanent Residency

Legal permanent residency (LPR) is an immigration benefit otherwise known as a “green card”; it is a necessary step for those living in the United States who seek to become naturalized citizens. Travel with a green card is permissible and relatively easy, but immigration laws still apply upon entry, and holders of LPR status are not entitled to a U.S. passport. Applications for LPR status surged in the 1990s as a result of the 1986 illegal-alien amnesty and the increased legal immigration levels allowed under the 1990 Immigration Act. In 1994, pending LPR applications were around 125,000. The number surged to about 800,000 by 1998, and 1.2 million by 2003.⁸⁰

Terrorists easily take advantage of the overwhelming numbers of applications and the ease with which the system can be manipulated due to its perpetual lack of adequate information technologies. The result is that fraud runs rampant in applications for immigration benefits, with estimates stated to me while I was on the 9/11 Commission by a senior official at USCIS to be anywhere from 50 to 75 percent. One scheme used by many applicants involves an individual filing multiple applications under different identities with the goal of one of the applications being approved somewhere. Other forms of fraud include lying on the application, including deceiving the U.S. government about past criminal or terrorist activity. In this study, sixteen of twenty-three terrorists who sought LPR status acquired it. LPR status was denied in most cases in this study when the underlying fraud was coupled with terrorist activity already being investigated by federal law enforcement agencies.

The FBI's Most Wanted Al Qaeda LPR

Born in Saudi Arabia,⁸¹ Adnan El-Shukrijumah, aka “Jafar the Pilot,” has spent fifteen years in the United States (mostly in South Florida), speaks fluent English, and has been employed as a teacher.⁸² El-Shukrijumah trained with Jose Padilla to partner in

⁷⁸ Affidavit of Edward Needham, U.S. v. Al-Bakri (W.D.N.Y. 02-m-108), 13 September 2003; at www.usdoj.gov/opa/pr/2003/May/03_crm_307.htm. See also www.usdoj.gov/opa/pr/2003/December/03_crm_658.htm.

⁷⁹ Patrick Gallahue, “All of Gotham in Cross Hairs,” *New York Post* (29 August 2004); see also Greg B. Smith, “They Eyed Subway Stations,” *New York Daily News* (29 August 2004).

⁸⁰ Office of Immigration Statistics, Department of Homeland Security, G-22.2 Adjudication Summary Report (November 2004).

⁸¹ Tennessee Bureau of Investigations, FBI-JTTF Website, at www.tbi.state.tn.us/Fugitives/JTTF/shukrijumah.htm (accessed 6 October 2004).

⁸² “Remarks of FBI Director Robert Mueller on the Summer Terrorist Threat,” 26 May 2004. See also video clip of El-Shukrijumah on the FBI’s website.

the dirty bomb plot, helicopter plots, and the New York and New Jersey financial infrastructure plots discovered in the summer of 2004.⁸³ A Department of Homeland Security document quoted in *Newsweek* states that “Khalid Sheikh Mohammed has identified Adnan el Shukrijumah, a Saudi born permanent U.S. resident alien, as an operative with standing permission to attack targets in the United States that had been previously approved by Osama bin Laden.”⁸⁴ FBI Director Robert Mueller called him “a trained operative who poses an operational threat to the United States,”⁸⁵ who the FBI considers to be armed and dangerous.⁸⁶

In late 2000 or early 2001, El-Shukrijumah was under investigation for his relationship to Imran Mandhai, convicted in Florida of conspiring to bomb a National Guard armory, power stations, Jewish businesses, and Mount Rushmore prior to 9/11.⁸⁷ Mandhai was associated with Hakki Cemal Aksoy, convicted in 2002 for firearms violations and asylum fraud and in whose apartment bomb-making manuals and notes were found. El-Shukrijumah had previously applied for naturalization, but the INS interior enforcement office in Miami noticed that the application was fraudulent. The INS agents working the case met with the U.S. Attorney’s Office in Miami, and even discussed seeking a search warrant for El-Shukrijumah’s residence. Without further information linking El-Shukrijumah to terrorist activity, the matter was dropped.⁸⁸

As a legal permanent resident, El-Shukrijumah easily traveled outside the country, attending training camps in Afghanistan,⁸⁹ where he was most likely schooled by Ramzi Binalshibh, famous for his role as emissary between Khalid Sheikh Mohammed and 9/11 ring-leader Mohammed Atta.⁹⁰ El-Shukrijumah is a skilled bomb maker and a Florida-trained pilot,⁹¹ and authorities have found a document that ties him (via one of his aliases) to the Oklahoma flight school where Zacarias Moussaoui trained.⁹² He may have been friendly with Atta as well; an immigration officer’s description of receiving a request for help with travel documents in May 2001 from El-Shukrijumah on behalf of Atta and likely another 9/11 pilot is described in *9/11 and Terrorist Travel*.⁹³

⁸³ Jerry Seper, “Al Qaeda Leader Identified in ‘Dirty Bomb’ Plot,” *The Washington Times* (5 October 2004).

⁸⁴ Evan Thomas, “Al Qaeda in America: The Enemy Within,” *Newsweek*, 23 June 2003.

⁸⁵ “Remarks of FBI Director Robert Mueller.”

⁸⁶ See www.fbi.gov/terrorinfo/elshukrijumah.htm (accessed 11 July 2005).

⁸⁷ “Remarks of Deputy Attorney General James Comey Regarding Jose Padilla,” 1 June 2004; at www.usdoj.gov/dag/speech/2004/dag6104.htm (accessed 31 August 2004). See also Timothy Burger, Viveca Novak, Michael Weisskopf, and Tim Padgett, “The Making of the FBI’s ‘Most Dangerous’,” *Time*, 7 April 2003.

⁸⁸ E-mail to author from former INS Supervisory Special Agent Bill West, 29 August 2005.

⁸⁹ Burger, et al., “The Making of the FBI’s ‘Most Dangerous’.”

⁹⁰ Jerry Seper, “FBI Steps up Hunt for Pakistani,” *The Washington Times* (2 April 2003).

⁹¹ Josh Meyer, Greg Krikorian, and William C. Rempel, “Quiet Investigation Centers on Al Qaeda Aide in New York,” *Los Angeles Times* (3 September 2004).

⁹² Dan Eggen and Manuel Roig-Franzia, “FBI on Global Hunt for Saudi Al Qaeda Suspect,” *The Washington Post* (21 March 2003).

⁹³ *9/11 and Terrorist Travel*, 30–31.

According to Attorney General John Ashcroft, El-Shukrijumah “scouted sites across America that might be vulnerable to terrorist attack.”⁹⁴ In addition to surveilling high-profile targets in New York’s financial district,⁹⁵ El-Shukrijumah also surveilled the Panama Canal.⁹⁶ Back in the United States, he was also involved in an aborted plot with Jose Padilla to blow up apartment buildings in the United States.⁹⁷ He was also likely Padilla’s first partner in the dirty bomb plot, but differences between them ended the joint venture.

There are also reports that El-Shukrijumah attempted to procure radioactive material from McMaster University in Hamilton, Ontario.⁹⁸ In March 2004, El-Shukrijumah attended a terrorist summit in Pakistan and met with a number of key Al Qaeda members, including Abu Issa Al-Hindi, Mohammed Naeem Noor Khan, and Mohammed Babar.⁹⁹ Recently he has been spotted in Mexico.¹⁰⁰ He reportedly met with members of the Mara Salvatrucha gang (known as MS-13) in Honduras, although Interpol denies the existence of evidence of such a meeting.¹⁰¹ In September 2004, the Aviation and Security Association reported, “An alert airline crewmember saw and then confronted a suspicious acting person at Kansai International Airport in Japan. El-Shukrijumah was this suspicious person.” However, law enforcement was not notified.¹⁰²

Reporting indicates that since El-Shukrijumah fled the United States after 9/11, he has tried to get back into the United States using various passports.¹⁰³ He has a Guyanese passport, but may also hold passports from Saudi Arabia, Canada, and Trinidad.¹⁰⁴ However, unless authorities made a decision to permit Shukrijumah his freedom

⁹⁴ “Remarks of FBI Director Robert Mueller.”

⁹⁵ Jerry Seper, “Al Qaeda Leader Identified in ‘Dirty Bomb’ Plot,” *The Washington Times* (5 October 2004).

⁹⁶ Thomas, “Al Qaeda in America.”

⁹⁷ “Remarks of Deputy Attorney General James Comey Regarding Jose Padilla.” The two worshipped at the same mosque; see Seper, “Al Qaeda Leader Identified in ‘Dirty Bomb’ Plot.”

⁹⁸ “Remarks of Deputy Attorney General James Comey Regarding Jose Padilla.”

⁹⁹ Elaine Shannon and Tim McGirk, “What is this Man Plotting?” *Time*, 23 August 2004; see also Josh Meyer, Greg Krikorian and William C. Rempel, “Quiet Investigation Centers on Al Qaeda Aide in New York,” *Los Angeles Times* (3 September 2004).

¹⁰⁰ Jerry Seper, “Al Qaeda Leader Identified in ‘Dirty Bomb’ Plot,” *The Washington Times* (5 October 2004). A 21 March 2003 *Washington Post* article placed Shukrijumah in Morocco; Dan Eggen and Manuel Roig-Franzia, “FBI on Global Hunt for Saudi Al Qaeda Suspect,” *The Washington Post* (21 March 2003).

¹⁰¹ Jerry Seper, “Al Qaeda Seeks Ties to Local Gangs,” *The Washington Times* (28 September 2004). This is not the first report tying Al Qaeda to Latin American gangs. For example, a previous report that “Al Qaeda members are working with Mexican organized crime groups, such as drug-trafficking organizations, in an attempt to enter the United States covertly.” See Bill Gertz, “Terrorists Said to Seek Entry to U.S. Via Mexico,” *The Washington Times* (7 April 2003).

¹⁰² See www.as-sa.org/terroralert.html (accessed 11 July 2005).

¹⁰³ “Remarks of FBI Director Robert Mueller.”

¹⁰⁴ Tennessee Bureau of Investigations, FBI-JTTF Website, at www.tbi.state.tn.us/Fugitives/JTTF/shukrijumah.htm

for law enforcement or intelligence reasons, or know that he did manage to enter the United States on one of these passports undetected, I do not place much credence in these reports.

LPRs Move People and Goods

Uzair Paracha is a Pakistani citizen with legal permanent resident status in the United States¹⁰⁵ who, along with his father, has ties to Khalid Sheikh Mohammed.¹⁰⁶ While living in the United States, Paracha traveled to Pakistan and met with Mohammed. He last entered the United States in February 2003, and lived with relatives in Brooklyn.¹⁰⁷

Khalid Sheikh Mohammed allegedly wanted Paracha to use Paracha's father's Karachi-based import-export firm to smuggle explosives into the United States. Moreover, Mohammed and another Al Qaeda operative who lived in Baltimore, Majid Khan, planned to invest USD 200,000 in that firm.¹⁰⁸ After meeting with Mohammed in Pakistan, Paracha agreed to assist Al Qaeda by entering the United States under Khan's identity.¹⁰⁹ Paracha was to obtain immigration documents that would enable Paracha to enter the United States as Khan. Aafia Siddiqui (discussed below) helped secure for Paracha a post office box in Khan's name. Paracha was then to conduct financial transactions in Khan's name. Detained in March 2003 as a material witness, Paracha was charged in August 2003 with conspiring to provide material support and resources to Al Qaeda.¹¹⁰ Paracha's father has also been detained by U.S. authorities and is being held in Afghanistan.¹¹¹

The plot was intricate. Khalid Sheikh Mohammed had also tasked Khan, whose relatives own gas stations in the city, to "move forward" with a plot to bomb a number of U.S. gas stations by "simultaneously detonating explosives in the stations' underground storage tanks," according to Justice Department documents summarizing Mohammed's interrogation that were quoted in *Newsweek*.¹¹² Khalid Sheikh Mohammed reportedly wanted to use two or three African-American Muslim converts to participate

¹⁰⁵ Complaint and Deposition of Janelle Miller, Special Agent, Federal Bureau of Investigation, Joint Terrorism Task Force, U.S. v. Paracha (S.D. NY 03-CR-1197), 8 August 2003.

¹⁰⁶ Daniel Klaidman and Mark Hosenball, "Terrorism: Ties to a Qaeda Chief," *Newsweek*, 18 August 2003; John Lehmann, "Pakistan Biz Kid Met Terror Sheikh: Lawyer," *The New York Post* (13 August 2003).

¹⁰⁷ Ibid.

¹⁰⁸ Complaint and Deposition of Janelle Miller, Special Agent, Federal Bureau of Investigation, Joint Terrorism Task Force, U.S. v. Paracha (SDNY 03-CR-1197), 8 Aug. 2003; see also Greg Smith, "Al Qaeda Sought Garment Center Tie," *New York Daily News* (22 August 2003).

¹⁰⁹ Smith, "Al Qaeda Sought Garment Center Tie."

¹¹⁰ Complaint and Deposition of Janelle Miller, Special Agent, Federal Bureau of Investigation; see also Daniel Klaidman and Mark Hosenball, "Terrorism: Ties to a Qaeda Chief," *Newsweek*, 18 August 2003.

¹¹¹ David Rohde, "In U.S. Web, Pakistani Man Contacts Wife," *The New York Times* (5 September 2003).

¹¹² Thomas, "Al Qaeda in America."

in the plot. Upon his capture,¹¹³ Khan told the FBI that he saw two African-Americans when he met with Khalid Sheikh Mohammed in Pakistan in 2000.¹¹⁴

Terrorists Who Abused LPR

- *Mahmud Abouhalima*. WTC1. Applied for and received amnesty under the SAW program, then applied for LPR status; applied for permission to travel abroad in February 1993. Sentenced to 1,300 months in prison.¹¹⁵
- *Sheik Omar Abdel Rahman*. Egyptian Islamic Jihad, WTC1 and Landmarks. In January 1991, received LPR status and, when detained by INS in July 1991, used LPR status to gain re-entry.¹¹⁶
- *Matarwy Mohammed Said Saleh*. Landmarks 1993. Applied for LPR status based on sham marriage; in 1990, placed in deportation hearing but released on bail. Convicted and sentenced to three years, then deported in September 1996.¹¹⁷
- *Amir Abdelghani*. Landmarks 1993. Naturalized or LPR status upon marriage to a U.S. citizen. Serving prison sentence until 2019.¹¹⁸
- *Fadil Abdelghani*. Landmarks 1993. LPR status upon marriage to a U.S. citizen. Overstayed tourist visa length of stay. Serving prison sentence until 2015.¹¹⁹
- *Tarig El Hassan*. Landmarks 1993. Naturalized or LPR status upon marriage to a U.S. citizen. Serving prison sentence until 2023.¹²⁰
- *Fares Khallafalla*. Landmarks 1993. LPR status through SAW program and marriage to U.S. citizen. Serving prison sentence until 2019.¹²¹
- *Siddig Ibrahim Siddiq Ali*. Landmarks 1993. Naturalized or LPR status upon marriage to a U.S. citizen.¹²²
- *Wadi El-Hage*. East Africa embassy bombings, August 1998. LPR status based on marriage to a U.S. citizen.¹²³
- *Wan Isra Wan Mohammad*. Possessed guns for *jihad* in Chechnya. Malaysian, with LPR status; in possession of firearm; one-year sentence with deportation to follow.¹²⁴

¹¹³ Benjamin Weiser, "Federal Prosecutors Charge Pakistani in Brooklyn with Supporting Terrorism," *The New York Times* (9 August 2003).

¹¹⁴ Thomas, "Al Qaeda in America."

¹¹⁵ *9/11 and Terrorist Travel*, 194–95.

¹¹⁶ *Ibid.*, 52–56.

¹¹⁷ *Ibid.*, 52–53, 195–97.

¹¹⁸ *Ibid.*, 52, 199.

¹¹⁹ *Ibid.*, 53, 199.

¹²⁰ *Ibid.*

¹²¹ *Ibid.*

¹²² *Ibid.*, 52, 199.

¹²³ *Ibid.*

¹²⁴ Bert Dalmer, "U.S. Links 35 Arrests in Iowa to Terror," *Des Moines Register* (18 July 2004).

- *Mohamad Youssef Hammoud*. Hezbollah cigarette scam. LPR based on sham marriage in 1995. Denied an immigration visa in 1996 and told to depart, but did not. In March 2001, indicted and convicted for criminal conspiracy.¹²⁵
- *Chawki Youssef Hammoud*. Hezbollah cigarette scam. Petitioned for LPR status based on sham marriage in 1995. In March 2001, indicted and convicted for criminal conspiracy.¹²⁶
- *Sajjad Nassar*. Attended Jaish-e-Mohammed training camp (group responsible for murder of Daniel Pearl). Acquired LPR status and pled guilty to possessing fraudulent immigration documents in 2003. Deported to Pakistan in 2004.¹²⁷
- *Mohamad Atef Darwiche*. Hezbollah cigarette scam. Petitioned for LPR status based on sham marriage in 1997. In March 2001, indicted and convicted for criminal conspiracy.¹²⁸
- *Ali Hussien Dawiche*. Hezbollah cigarette scam. Petitioned for LPR status based on sham marriage. In 1996, paroled into the U.S. In March 2001, indicted and convicted for criminal conspiracy.¹²⁹
- *Ali Fayez Dawiche*. Hezbollah cigarette scam. Petitioned for LPR twice (1995 and 1999) based on sham marriage. In 1996, paroled into the U.S. In March 2001, indicted and convicted for criminal conspiracy.¹³⁰
- *Mohammed Abdullah Warsame*. Al Qaeda training camp. Sham marriage; received LPR status. Charged for providing material support to terror organization.¹³¹
- *Mohamed Kamal Elzahabi*. Al Qaeda member. Obtained LPR status via sham marriage; charged with providing material support to terrorists.¹³²
- *Mousa Mohammed Abu Marzook*. U.S. Hamas leader. Received green card via lottery; INS detained him for terrorist activities, deported April 1997. Charged with RICO in absentia.¹³³

¹²⁵ Superseding Indictment, U.S. v. Hammoud et al. (M.D. Fl.), 28 March 2001.

¹²⁶ Ibid.

¹²⁷ See www.ice.gov/graphics/news/insideice_091304_web4.htm.

¹²⁸ Ibid.

¹²⁹ Ibid.

¹³⁰ Ibid.

¹³¹ Affidavit of Kiann Vandover, U.S. v. Warsame (D. Minn. cr-04-29-jrt-fln), 6 February 2004.

¹³² Affidavit of Kiann Vandover, U.S. v. Elzahabi (D. Minn. cr-04-29-jrt-fln), 24 January 2004.

- *Hasan Saddiq Faseh Alddin*. Roommate of 9/11 hijackers Hazmi and Mihdhar. LPR status via marriage; convicted twice of domestic abuse, deported to Saudi Arabia.
- *Anwar Nasser Aulaqi*. Spiritual adviser to 9/11 hijackers. J1 visa led to LPR status; now fugitive.¹³⁴
- *Uzair Paracha*. Al Qaeda, plan to blow up gas stations in Baltimore. LPR; indicted for terrorist conspiracy in 2003.¹³⁵
- *Adnan El-Shukrijumah*. Al Qaeda, Padilla dirty bomb plan, and others. LPR; now a fugitive.¹³⁶
- *Mekki Hamed Mekki*. Al Qaeda, possible plot to fly a plane into a U.S. target. Submitted multiple diversity visa applications to obtain LPR status. Indicted.¹³⁷

The Student Visa

In 1998, while on the staff of the Senate Judiciary Subcommittee on Terrorism, Technology, and Government Information, I wrote an obscure report as part of a hearing record entitled *Foreign Terrorists in America: Five Years After the World Trade Center*.¹³⁸ The report was called “The Thwarted Brooklyn Bomb Plot: Identifying, Excluding, and Removing Terrorists from the United States.”¹³⁹ At that time, the concern was that numerous foreign nationals from nations identified as state sponsors of terrorism (notably Iraq) were obtaining educations in sensitive science-related fields, such as nuclear physics. In the 1980s, Libyans who acquired student visas were believed to pose a national security threat. After 9/11, the spotlight turned to vocational pilot schools, such as those attended by the four 9/ 11 hijacker pilots. While all these concerns are legitimate, it is critical that security vetting of students of all kinds be efficient, elec-

¹³³ Charles W. Hall and Robert O’Harrow, Jr., “Virginia Man Suspected of Terrorism Known for Anonymity,” *The Washington Post* (9 May 1997); see also Pierre Thomas and Charles W. Hall, “Palestinian with Local Ties is Detained as Suspected Hamas Leader,” *The Washington Post* (28 July 1996); John Lancaster, “Freedom Suits Hamas Leader; Fresh from U.S. Jail, Abu Marzook Minds his Step in Jordan,” *The Washington Post* (9 May 1997); and Memorandum of Law on Behalf of Marzook, in the Matter of the Extradition of Marzook (S.D. NY 95 Cr. Misc. 1).

¹³⁴ *9/11 and Terrorist Travel*, 203–4. There is some evidence apparently held by the FBI (but which does not match the INS Alien file) that indicates that there is an Aulaqi born an American citizen in New Mexico. However, FBI information is not considered primary to this information in the area of immigration, and therefore I use the Alien file as the basis for my information.

¹³⁵ *U.S. v. Paracha* (S.D. NY 03-CR-1197), 8 August 2003.

¹³⁶ See www.fbi.gov/terrorinfo/elshukrijumah.htm (accessed 11 July 2005).

¹³⁷ Tim Whitmire, “NC Plot Investigated for Al-Qaeda Links,” Associated Press (24 September 2002); at www.dukeemployees.com/immigration5.html.

¹³⁸ S. Hrg. 105-703, 24 February 1998.

¹³⁹ *Ibid.*, 133–53.

tronic, and biometrically based to assure that foreign national terrorists like the ones discussed below can not use the student visa as a mode of entry for their activities.

From Student Visa to Sham Marriage

Mohammad Kamal Elzahabi is a Lebanese national who entered the United States in 1984 on a student visa. He paid a woman in Houston, Texas, to marry him and help him obtain legal permanent resident status. Elzahabi divorced her in 1988, after he obtained his green card.¹⁴⁰ In July 2004, Elzahabi pled not guilty to charges that he had lied to FBI investigators during a terrorism-related investigation.¹⁴¹

Upon obtaining his green card, Elzahabi left the United States to fight *jihad* in Afghanistan, where he met the key *jihadi* figures Abu Musab Al-Zarqawi, Raed Hijazi, and Bassam Kanj. He again traveled to Afghanistan in 1991, and remained there about four years. During this time, he was a sniper in combat and served as an instructor in small arms and sniper skills for other *jihadis* attending the Khaldan training camp in Afghanistan. Elzahabi admitted that while he was in Afghanistan he personally knew Abu Zubaida and knew of Khalid Sheikh Mohammed.¹⁴²

Elzahabi returned to the United States in 1995 and moved to New York City, where he ran an axle repair business. He used this business to help ship portable field radios to Pakistan, later found in Afghanistan by U.S. troops.

From 1997 to 1998 Elzahabi lived in Boston, working as a cabdriver. There he associated with Raed Hijazi, whom he aided in obtaining a Massachusetts driver's license in 1997.¹⁴³ Raed Hijazi (born in California to Palestinian parents and later radicalized) was later convicted in Jordan of masterminding the failed Millennium bombing plot that had targeted American and Israeli tourists in that country.¹⁴⁴ While in Boston, he lived with Bassam Kanj, who had married a U.S. citizen in 1988 and was later naturalized.¹⁴⁵ Kanj helped Hijazi lease a taxi that officials believe was used to fund the bombing plot in Jordan.¹⁴⁶ Also working with these taxi drivers was Nabil Al-Marabh, discussed in the illegal entry section below.

¹⁴⁰ Criminal Complaint and Affidavit of Kiann Vandover, FBI Special Agent, U.S. v. Elzahabi (DMN 04-MJ 26), 25 June 2004.

¹⁴¹ Gita Sitaramiah, "Man Pleads Not Guilty to Lying to FBI Officials," *St. Paul Pioneer Press* (10 July 2004).

¹⁴² Criminal Complaint and Affidavit of Kiann Vandover, FBI Special Agent, U.S. v. Elzahabi (DMN 04-MJ 26), 25 June 2004. Kanj was killed by Lebanese troops in 2000 while leading a violent coup that sought to replace the Lebanese government with a fundamentalist Islamic state.

¹⁴³ Elzahabi moved back to New York City in April 2004. Criminal Complaint and Affidavit of Kiann Vandover, U.S. v. Elzahabi (DMN 04-MJ 26), 25 June 2004.

¹⁴⁴ *9/11 Commission Report*, 175.

¹⁴⁵ Steve Camarota, "The Open Door: How Militant Islamic Terrorists Entered and Remained in the United States, 1993–2001," Center for Immigration Studies, 2002; at www.cis.org/articles/2002/terrorpr.html.

¹⁴⁶ Tim Golden with Judith Miller, "Bin Laden Operative Is Linked to Suspects," *The New York Times* (18 September 2001).

Elzahabi also traveled to Lebanon, where he provided small arms training to the group of fighters that Bassam Kanj had formed to overthrow the government of Lebanon. Kanj was killed in 2000 in Lebanon. Elzahabi stated that he personally knew both Khalid Sheikh Mohammed and Abu Musab al-Zarqawi.¹⁴⁷

Before the 9/11 attacks, the FBI identified Mohammad Kamal Elzahabi as a suspected terrorist. Yet in early 2002, Elzahabi received a commercial driver's license that allowed him to operate a school bus and transport hazardous materials.¹⁴⁸ According to the Minnesota Department of Public Safety's Division of Driver and Vehicle Licensing, the FBI "ran his name through a database and cleared him." In June 2004, Elzahabi's license for transporting toxic materials was still valid, though his school bus driver's license had been canceled in February for reasons unknown.¹⁴⁹

Alleged Al Qaeda Operatives' Use of the Student Visa

When Al Qaeda sought to target U.S. financial infrastructures, they conducted detailed surveillance operations for a number of years on potential targets. While El-Shukrijumah may have conducted some of the surveillance, the FBI asserts that Issa Al-Britani (aka Dhiren Barot), an Al Qaeda operative arrested in London in August 2004, came to the United States posing as a student in order to survey the Prudential Building in Newark, New Jersey.¹⁵⁰ According to the 9/11 Commission's final report, Al-Britani's U.S. trip was directed by Khalid Sheikh Mohammed and Osama bin Laden: "Khalid Sheikh Mohammed claims [that] at bin Laden's direction in early 2001, he sent Al-Britani to the United States to case potential economic and 'Jewish' targets in New York."¹⁵¹ The plot was to include hijacked tourist helicopters,¹⁵² limousines packed with explosives, or large trucks.¹⁵³

Aafia Siddiqui is an alleged Al Qaeda operative and Pakistani citizen who entered the United States on a student visa and lived here for over a decade.¹⁵⁴ She studied and worked at Brandeis and MIT, training in biology and neurology.¹⁵⁵ With her primary

¹⁴⁷ Shelley Murphy, "Cab Driver Charged with Lying to FBI," *The Boston Globe* (26 June 2004).

¹⁴⁸ U.S. Department of Transportation, Federal Motor Carrier Safety Administration Register, at www.fmcsa.dot.gov (accessed 25 February 2005).

¹⁴⁹ Associated Press, "Terror Suspect Got Hazardous Material OK," 1 July 2004.

¹⁵⁰ Dhiren Barot is also known as Abu Eisa Al-Hindi, Abu Musa Al-Hindi, and Issa Al-Britani. See Mitchel Maddux, "FBI Says Al-Qaida Scout Used N.J. as Base," *The Bergen Record* (14 October 2004).

¹⁵¹ *9/11 Commission Report*, 150.

¹⁵² David Johnston, "Tourist Copters in New York City a Terror Target," *The New York Times* (9 August 2004).

¹⁵³ Bill Powell, "Target: America," *Time*, 8 August 2004.

¹⁵⁴ Daniel Klaidman with Mark Hosenball, Michael Isikoff, and Evan Thomas, "Al Qaeda in America: The Enemy Within," *Newsweek*, 23 June 2003.

¹⁵⁵ Juan Zamorano, "From Islamabad to Panama, Worldwide Search for Terrorism Suspects as U.S. on High Alert," Associated Press (27 May 2004).

residence in the United States, reports have placed Siddiqui in Liberia prior to 9/11, where she was tasked with acting as a mediator between other Al Qaeda operatives.¹⁵⁶

According to the FBI's intelligence from Khalid Sheikh Mohammed, Siddiqui was a travel facilitator in the United States, helping operatives successfully enter and embed here.¹⁵⁷ Her estranged husband supported Al Qaeda by buying U.S. military-style goods and manuals that were to be shipped to Pakistan.¹⁵⁸

In one instance, Siddiqui spent time in Maryland helping facilitate the illegal entry of Uzair Paracha, to support the Baltimore gas station plot described above.¹⁵⁹ Siddiqui was to similarly aid "other [Al Qaeda] operatives as they entered the United States."¹⁶⁰

Siddiqui is believed to have left Boston in January of 2003.¹⁶¹ In March 2003, the FBI issued a global alert for Siddiqui. A report of her capture in Pakistan in April 2003 proved to be false, and a month later the FBI issued a BOLO ("be on the lookout for") notice on Siddiqui in connection with current threats against the United States.¹⁶²

Khalid Sheikh Mohammed has identified Ali Al-Marri as "the point of contact for [Al Qaeda] operatives arriving in the United States for September 11 follow-on operations."¹⁶³ Al-Marri had reentered the United States on 10 September 2001,¹⁶⁴ in order to enroll in a graduate program at Bradley University in Peoria, Illinois.¹⁶⁵ Former Attorney General Ashcroft confirmed that Al-Marri was an operative "sent by Al Qaeda to facilitate another wave of terrorist attacks on Americans."¹⁶⁶ Khalid Sheikh Mohammed called Al-Marri "the perfect sleeper agent because he has studied in the United States, had no criminal record, and had a family with whom he could travel."¹⁶⁷ Phone records have tied Al-Marri to a phone number linked to the 9/11 paymaster, Mustafa Al-Hawsawi, the 9/11 hijacker Mohammed Atta, and the alleged twentieth hijacker, Zacarias Moussaoui.¹⁶⁸

¹⁵⁶ Edward Harris, "Al-Qaida Bought Diamonds Ahead of Sept. 11 Attacks," Associated Press (7 August 2004).

¹⁵⁷ "Remarks of FBI Director Robert Mueller"; "Al Qaeda in America: The Enemy Within," *Newsweek*, 17 June 2003.

¹⁵⁸ Daniel Klaidman, "Al Qaeda in America: The Enemy Within," *Newsweek*, 17 June 2003.

¹⁵⁹ Associated Press, "Terror Suspects Named by U.S. Officials," 26 May 2004.

¹⁶⁰ *Ibid.*

¹⁶¹ "Remarks of FBI Director Robert Mueller."

¹⁶² Curt Anderson, "Woman Sought for Ties to al-Qaida in Custody in Pakistan," Associated Press (22 April 2003); see also Anderson, "After Initial Optimism, Authorities Now Doubt Pakistani Woman Sought by FBI Is in Custody," Associated Press (22 April 2003); and Federal Bureau of Investigation, "Seeking Information Re: Aafia Siddiqui," at www.fbi.gov/terrorinfo/siddiqui.htm (accessed 4 October 2004).

¹⁶³ Thomas, "Al Qaeda in America," *Newsweek*, 23 June 2003.

¹⁶⁴ Indictment, U.S. v. Al-Marri (CDIL 03-CR-1044), 22 May 2003.

¹⁶⁵ Complaint, U.S. v. Al-Marri (CDIL 03-CR-1044), 28 January 2002.

¹⁶⁶ Prepared Testimony of Attorney General John Ashcroft before Senate Judiciary Committee, "The Department of Justice's Efforts to Combat Terrorism," presented 8 June 2004.

¹⁶⁷ Thomas, "Al Qaeda in America," *Newsweek*, 23 June 2003. Al-Marri had a 1990 DUI charge in Peoria, Illinois.

¹⁶⁸ *Ibid.*

Al-Marri was arrested as a material witness on a warrant issued out of the Southern District of New York in December 2001, and in May 2003 he was indicted on a number of charges.¹⁶⁹ These include making false statements to FBI agents during the investigation of the terrorist attacks of September 11; making false statements to banks in Macomb, Ill.; identity fraud; and access device (credit card number) fraud.¹⁷⁰ In addition to lying about calling the telephone number linked to Al-Hawsawi, he told FBI agents that his last visit to the United States before 2001 was in 1991, even though he had entered the country in the summer of 2000.¹⁷¹ In addition, a search of Al-Marri's apartment turned up *jihadi* material and an almanac bookmarked to locate information on dams, reservoirs, and railroads.¹⁷²

In June 2003, Al-Marri was declared an enemy combatant after the U.S. government received, in the words of the Department of Defense, "recent credible information provided by other detainees in the War on Terrorism."¹⁷³ One of those detainees alleged that Al-Marri was trained in poisons; others said that Al-Marri had met with Osama bin Laden at the Al Faruq training camp in Afghanistan, and that Al-Marri had offered to martyr himself.¹⁷⁴

Mohammed Warsame was born in Somalia and sought refugee status in Canada in 1989. He became a naturalized Canadian citizen, and moved to Minneapolis in 2002.¹⁷⁵ He was arrested in December 2003 as a material witness in the Zacarias Mousaoui case.¹⁷⁶ At the time of his arrest, he was a student at Minneapolis Community and Technical College. In January 2004, Warsame was indicted and charged with conspiracy to provide material support to Al Qaeda.¹⁷⁷ Warsame has admitted attending an Al Qaeda training camp in 2000 and 2001, where he received military training in weapons and martial arts. He attended lectures given by Osama bin Laden, and even sat next to him at a meal. Moreover, he fought with the Taliban, and provided financial assistance to Al Qaeda members in Pakistan once he had returned to the United States.¹⁷⁸

Terrorists Who Abused Student and Exchange Visas

- *Hussam Yousef Abou Jubara*. Co-founder of the Islamic Concern Project with Sami al-Arian (Palestinian Islamic Jihad). Entered on student visas in 1980 and

¹⁶⁹ In the Matter of the Application of the U.S. for Warrant Authorizing the Search of the Premises Known and Described as 2712 West Radan Court, West Peoria, Ill., Affidavit in Support of an Application for Search Warrant (CDIL P-01-03), 14 December 2001.

¹⁷⁰ Indictment, U.S. v. Al-Marri (CDIL 03-CR-1044), 22 May 2003.

¹⁷¹ Complaint, U.S. v. Al-Marri (CDIL 03-CR-1044), 28 January 2002.

¹⁷² Thomas, "Al Qaeda in America," *Newsweek*, 23 June 2003.

¹⁷³ Department of Defense Press Release, "Enemy Combatant Taken into Custody," 23 June 2003.

¹⁷⁴ CNN.com, "Al Qaeda Suspect Declared 'Enemy Combatant'," 24 June 2003.

¹⁷⁵ Affidavit in Support of Pretrial Detention, 6 February 2004.

¹⁷⁶ Todd Nelson, "Suspect Faces N.Y. Extradition," *Saint Paul Pioneer Press* (13 December 2003).

¹⁷⁷ Indictment, U.S. v. Warsame (D.Mn. 04-CR-29), 20 January 2004.

¹⁷⁸ *Ibid.*

1986. Married a U.S. citizen. Eight years later, Jesse Maali filed for employment authorization on Jubara's behalf. In 1999, filed for political asylum, which is deemed false.¹⁷⁹

- *Eyad Mahmoud Ismail*. Drove van containing bomb in WTC1. Entered on F1 visa, and two years later dropped out of school; convicted and sentenced to 240 years in prison.¹⁸⁰
- *Mohamed Kamal Elzahabi*. Supported Jordanian Millennium plot and shipped communications equipment to Pakistan. Entered on F1 visa in 1984 and entered into a sham marriage. Thereafter, left the U.S. for Afghan training camp; eventually deported upon return to United States in 2004.¹⁸¹
- *Khalid Sheikh Mohammed*. Manila Air Plot, January 1995, and 9/11 mastermind. Entered on F1 visa and attend Chowtan College from 1992 to 1996. Began plotting attacks in 1992. Committed visa fraud in July 2001, applying for visa under a false identity.¹⁸²
- *Sameeh Taha and Nadia Hammoudeh*. Taught at PIJ-associated academy and employees of Sami Al Arian. Entered on student visas in 1993; subsequently filed false LPR petitions. Convicted of financial fraud in August 2004.¹⁸³
- *Hani Hanjour*. 9/11 pilot of the Pentagon flight. Entered on F1 visa for English language school in September 2000. Had attended such schools twice before in the US, but was a no-show in 2000.¹⁸⁴
- *Ziad Jarrah*. 9/11 pilot of Shanksville, Pennsylvania flight (UA 93). Attended U.S. flight school full time from initial entry, but never applied for a change of status, and thus excludable upon each of six subsequent re-entries.¹⁸⁵
- *Mohammed Atta*. 9/11 pilot of WTC flight (AA 11) and operational commander. In September 2000, applied for a change of status from visitor to student until 8 September 2001; application approved 17 July 2001.¹⁸⁶
- *Marwan Al-Shehhi*. 9/11 pilot of WTC flight (UA 175). On 22 September 2000, applied for change of status from visitor to student until 8 September 2001; application approved 9 August 2001.¹⁸⁷

¹⁷⁹ Indictment, U.S. v. Jubara (cover page missing for court info).

¹⁸⁰ *9/11 and Terrorist Travel*, 189.

¹⁸¹ Affidavit of Kiann Vandover, U.S. v. Elzahabi (D. Minn. 04-mj-261-jsm), 24 June 2004.

¹⁸² *9/11 Commission Report*, 145–50, and accompanying notes.

¹⁸³ Indictment, U.S. v. Hammoudeh, et al. (M.D. Fl (no case number)), 4 August 2004.

¹⁸⁴ Unpublished portion of my work in *9/11 and Terrorist Travel: Staff Report of the National Commission on Terrorist Attacks Upon the United States*.

¹⁸⁵ *9/11 and Terrorist Travel*, 16.

¹⁸⁶ *Ibid.*, 12–46 and 187–89.

¹⁸⁷ *Ibid.*

- *Ayman Ismail*. HLF (Hamas) fundraiser, website designer. Violated student status when he became an HLF employee without seeking a change of status. Deported to Jordan.¹⁸⁸
- *Adham Amin Hassoun*. Hamas fundraiser, including Holy Land Foundation and the Global Relief Foundation. Entered as student; charged with terror financing and conspiracy to murder citizens in a foreign country.¹⁸⁹
- *Abdel Jabbar Hamdan*. HLF fundraiser. Entered on student visa in 1979; detained on immigration violations.¹⁹⁰
- *Osama Satti*. Lashkar-e-Taiba (Pakistani terror group) weapons acquisition. Came originally as student in 1990; received two degrees from Rochester Institute of Technology. On 6 September 2001, entered on B2 visa and overstayed; convicted also of firearm possession.¹⁹¹
- *Sami Omar Al-Hussayen*. Jihadi website master. Entered on F1 visa in 1999, until detained in 2002. Not convicted of multiple counts of visa fraud and providing material support to terrorists, after classified evidence supporting allegations remained protected.¹⁹²
- *Issa Al-Britani (aka Dhiren Barot)*. IMF, NYSE, Prudential surveillance. Student visa used several times as cover for mission while attending various U.S. universities.¹⁹³
- *Aafia Siddiqui*. Al Qaeda. Entered on F1 visa in mid-1990s; fugitive since 2003.¹⁹⁴
- *Ali Al-Marri*. Al Qaeda. Entered on 10 September 2001 for purposes of participating in more U.S. attacks.¹⁹⁵

¹⁸⁸ See www.ice.gov/graphics/news/insideice/articles/insdeice_091304_web4.htm (accessed 15 August 2005).

¹⁸⁹ U.S. Department of Justice Press Release, 7 October 2004; at www.usdoj.gov/usao/fls/Hassoun3.html (accessed 25 January 2005).

¹⁹⁰ Ben Fox, "Southern California Muslims Rally Around Detained Fund-raiser," *Associated Press* (31 July 2004).

¹⁹¹ Indictment, U.S. v. Satti (E.D. Tex. No. 6:04-cr-25), 6 April 2004; see Affidavit of James Parker, U.S. v. Mohamed (E.D. Tex. No. 604mj22), 9 March 2004. See also Thomas Korosec, "Pakistani Investigated for Possible Terror Ties," *The Houston Chronicle* (13 May 2004).

¹⁹² Indictment, U.S. v. Al-Hussayen (D. Idaho No. cr-03-0048-c-ejl), 4 March 2004.

¹⁹³ John Mintz and Kamran Khan, "Britain Charges 8 in Alleged Terror Plot," *The Washington Post* (18 August 2004); see also Mitchel Maddux and Trenton Bureau, "FBI Say al-Qaida Scout Used N.J. as Base," *Bergen Record* (New Jersey) (14 October 2004); see also Dunstan McNichol, "Probers Retrace Terror Suspect's Moves in N.J.," *Newark Star-Ledger* (14 October 2004).

¹⁹⁴ Juan Zamorano, "From Islamabad to Panama: Worldwide Search for Terrorism Suspects as U.S. on High Alert," *Associated Press* (27 May 2004); Indictment, U.S. v. Al-Marri (CDIL 03-CR-1044), 22 May 2003.

The Religious Worker Visa

Among the specific requirements of obtaining a religious worker visa is the filing of an application from a primary religious organization—such as a mosque—to certify that the applicant:

- a) Is a minister, or professional or other religious worker
- b) Is in the United States solely to engage in a religious vocation or to work for a bona fide United States religious organization
- c) Has been a member of the sponsoring religious organization's denomination continually for at least two years
- d) Has received a job offer as a religious worker and will not be working in any secular employment.¹⁹⁶

From 1999 to 2004, about 106,000 people were admitted to the United States using visas for “religious workers.” Since 9/11, the number of these admissions has continued to increase. Between 1992 and 1998, there were about 42,000 such admissions. The largest number were foreign nationals from Mexico (5,198), India (4,666), Canada (4,357), and Britain (3,393). Immigration authorities do not maintain statistics for admissions by religion. However, in the past three years, records indicate that more than 1,000 holders of religious worker visas from predominantly Muslim countries were granted admission; topping the list for these countries were Egypt (270), Indonesia (173), and Pakistan (113).¹⁹⁷

While I was working on the 9/11 Commission in 2003, a source inside the U.S. Citizenship and Immigration Services told me that religious worker visa fraud was known to be extremely problematic, in part because there is little vetting of the religious institutions that sponsor the visa applicants, nor were there rules in place to require verification of the authenticity of the applicant. Even in 2000, fraud in the religious worker authorizations was a known problem. In that year, in a hearing before the House Judiciary Subcommittee on Immigration and Claims, Chairman Lamar Smith remarked in his opening statement:

In 1997, the State Department's Assistant Secretary of State for Consular Affairs wrote to me that the Department has ‘uncovered a troubling number of scams, both individual and organized, seeking to exploit this category to obtain immigration benefits illegally Most problematic are those cases that involve organized fraud rings in which documents of religious institutions in the U.S. are fabricated, or when the applicant colludes with a member of a religious institution in the U.S. to misrepresent either his or her qualifications, or the position to which the applicant is des-

¹⁹⁵ Complaint, *U.S. v. Al-Marri* (CDIL 03-CR-1044), 28 January 2002.

¹⁹⁶ Public Law 101-649, 104 Stat. 5004, 5027 (29 November 1990). The legislation also applies to spouses and children of religious workers.

¹⁹⁷ *Yearbook of Immigration Statistics: 2004*, “Temporary Admissions (Nonimmigrants) Admitted as Temporary Workers, Exchange Visitors and Intracompany Transferees by Region and Country of Citizenship: FY 2004.” For aggregate numbers, see *Yearbook of Immigration Statistics* for prior years.

ted. The American Embassy in Moscow discovered a fraud ring in New York which fabricated documentation of several religious denominations in New York City on behalf of applicants who had no religious training and no intention of taking up religious occupations in the U.S. Several consular offices have reported suspicions that some churches in the U.S. have created fictitious positions solely to help an alien procure an immigration benefit.’

Then ranking subcommittee member Melvin Watt and I asked the General Accounting Office to conduct a study to determine the extent of fraud in the program. In order to provide assistance to the GAO, the State Department conducted a field inquiry to obtain the views of consular offices as to the level and type of fraud. Almost half of the responding posts that had issued a substantial number of religious worker visas reported experiencing fraud and abuse.

The GAO report concluded that ‘both INS and State have expressed concern about fraud in the religious worker visa program.’ The report stated that INS and State Department officials were not confident that the agencies’ screening processes were identifying all unqualified applicants and sponsoring organizations.¹⁹⁸

More specifically, the GAO said in a 1999 report on religious worker visa fraud that:

They [the INS] do not have data or analysis to firmly establish the extent of fraud in the religious worker visa program. The nature of the fraud uncovered typically involved (1) applicants making false statements about their qualifications as religious workers or their exact plans in the United States or (2) conspiracy between an applicant and a sponsoring organization to misrepresent material facts about the applicant’s qualifications or the nature of the position to be filled.¹⁹⁹

The problem of religious worker fraud is a mere subset of the fraud that has traditionally run rampant throughout the immigration benefits system. In the student visa arena as well, phony academic institutions—often under the guise of technical, vocational, or English language schools—provide false cover for those seeking to come to the United States illegally. Due to the lack of adequate rules and enforcement, fraud thrives in the application process, and is aided during the application review process by a lack of adequate information and biometrically-based technologies.

Religious Worker Fraud in Brooklyn

Muhammad Khalil was the imam and director of the Dar Ehya Essunnah mosque, located in a basement in Brooklyn. Khalil was never charged with terrorism offenses. However, investigators said that he incited others to *jihad*, associating himself with Al Qaeda and bin Laden, and the Taliban leader Mullah Mohammed Omar. He urged Muslims living in the United States to arm themselves, and stated, “Hopefully, another

¹⁹⁸ Opening Statement of Rep. Lamar Smith, “Religious Worker Visa Programs,” House Judiciary Subcommittee on Immigration and Claims, 29 June 2000.

¹⁹⁹ GAO Report, “Visa Issuance: Issues Concerning the Religious Worker Visa Program,” 26 March 1999.

attack in the United States will come shortly.”²⁰⁰ According to a source who lived at the mosque in July 2000, the premises were filthy and cockroach-infested, with poor sanitary conditions.²⁰¹ Few people came there to pray.²⁰²

Since 1993, Khalil had used his position as director of a mosque to sponsor more than 200 applications for aliens seeking to obtain immigrant and nonimmigrant religious worker visas through the INS’s religious worker program. According to his indictment, Khalil told the federal agents at INS offices in New York “that each applicant gave a donation to the Mosque—the usual fee was \$20, but some applicants gave thousands of dollars.”²⁰³ In November 2001, a witness (“W-1”) in custody on immigration charges informed the agents interviewing him that, “Muhammad Khalil ... was the director of the Mosque, where W-1 had been living. W-1 stated that he paid Khalil \$5,000 to \$6,000 to sponsor W-1 under the INS Religious Worker program. ... W-1 said that he saw non-religious workers pay Khalil \$5,000 to \$6,000 to file Religious Worker applications for them.”²⁰⁴

A cooperating witness described a sting he helped perform against Khalil on 9 August 2002. Under the supervision of the INS, he gave Khalil USD 3,800 as a down-payment for an application to obtain a religious work visa. The indictment accused Khalil of “falsely stat[ing] to federal agents that all of the individuals whom he assisted in applying for ‘green cards’ were religious workers who taught the Koran, Islamic history, and Arabic language.”²⁰⁵

Khalil was also charged with fraudulently obtaining legitimate Social Security cards (for which he charged USD 2,300) and making false statements to law enforcement officials. He had forged driver’s licenses and undergraduate (B.A.) degrees as well. The mosque’s operations ceased soon after Khalil was arrested in February 2003. In September 2004, a New York court convicted Khalil of all counts.²⁰⁶

Recently, an imam at a Lodi, California, mosque, Shabbir Ahmed, was charged with overstaying his three-year religious worker visa. Authorities said the arrest came as part of a long-term counterterrorism investigation. Another Muslim cleric, Muhammed Adil Khan, 47, and his son Muhammed Hassan Adil, 19, were also picked up in a sweep to crack down on foreign nationals who are overstaying these types of visas.²⁰⁷

²⁰⁰ Indictment, U.S. v. Khalil, et al. (SDNY 03-CR-289), 10 March 2003.

²⁰¹ Ibid.

²⁰² Larry Neumeister, “Brooklyn Imam Convicted in ‘Massive’ Visa Fraud Scheme,” Associated Press (23 September 2004).

²⁰³ Indictment, U.S. v. Khalil, et al. (SDNY 03-CR-289), 10 March 2003.

²⁰⁴ Ibid.

²⁰⁵ Ibid.

²⁰⁶ Ibid.

²⁰⁷ Rone Tempest, “In Terror Fight, Imams Ousted Over Visa Law,” *Los Angeles Times* (24 June 2005); at www.latimes.com/news/local/la-me-visa24jun24,1,497778.story.

Terrorists Who Abused the Religious Worker Visa

- *Omar Mohamed*. Worked for GRF, al Haramain. Failed to work for religious institution that sponsored him, and obtained LPR status; lied on naturalization application.²⁰⁸
- *Shabbir Ahmed*. Lodi mosque. Former imam acting as liaison for Al Qaeda. Arrested in June 2005 for violating the terms of his visa. Held without bond in August 2005.²⁰⁹
- *Mohammad Adil Khan*. Lodi mosque imam. Agreed to be deported to Pakistan upon arrest.²¹⁰

Political Asylum

Anywhere from 50,000 to 75,000 requests for political asylum are filed annually. In May 2005, Congress passed the REAL ID Act. It includes provisions dealing with key aspects of U.S. asylum law. The law narrowly reforms our asylum procedures to better ensure that all courts better scrutinize asylum claims, so that legitimate claims survive and fraudulent claims get thrown out. In *9/11 and Terrorist Travel*, we discussed in some depth the fact that terrorists like 1993 World Trade Center mastermind Ramzi Yousef (whose uncle is Khalid Sheikh Mohammed) used political asylum claims effectively to enter and stay in the United States. Even with the revision of the law, immigration personnel who deal with asylum applicants must remain cognizant that those who claim political persecution in a country that the United States considers a high national security risk should receive extra scrutiny.

There are a few reasons why these claims are an excellent option for terrorists. First, the claim itself keeps the applicant from being subject to potential automatic removal or detention. Second, if an applicant for asylum (whether at a port of entry, a hard border, or in a courtroom) does not appear to pose a threat to public safety, the lack of detention space usually means the applicant is free to move about the United States. Third, often the only information available to a judge is the word of the applicant, without any corroborating evidence whatsoever; thus, fraudulent claims are easily made by those motivated to make them. For all of these reasons, political asylum claims usually permit terrorists to do what they seek: buy time to live in the United States freely.

On 14 June 2004, Nuradin Abdi was indicted in Columbus, Ohio, on four counts, including conspiracy to provide material support to Al Qaeda.²¹¹ In 1999, Abdi had applied for and received political asylum. Abdi was allegedly involved in a plot with the

²⁰⁸ Indictment, U.S. v. Mohamed (S.D. Calif. 03-cr-3433-jah), 26 March 2004.

²⁰⁹ See www.ice.gov/graphics/news/insideice/articles/insideice_061505_Web5.htm (accessed 15 August 2005).

²¹⁰ See www.ice.gov/graphics/news/insideice/articles/insideice_081505_Web5.htm (accessed 15 August 2005).

²¹¹ Indictment, U.S. v. Abdi (SDOH 2:04-CR-88), unsealed 14 June 2004.

admitted Al Qaeda member Iyman Faris to blow up a Columbus shopping mall.²¹² In addition, Abdi allegedly received bomb-making instructions from a co-conspirator, and had intended to travel to Ethiopia to receive training in weapons, guerrilla warfare, and bombs at a military-style training camp.²¹³ Federal investigators believe that the plot may have involved as many as five people. The three other men, unnamed, were truck drivers who worked with Faris.²¹⁴

Sixteen other instances of political asylum being used to either prevent removal or deportation are as follows:

- *Kamran Sheikh Akhtar* was detained in Charlotte, North Carolina while videotaping buildings there in July 2004. He entered the United States illegally through Mexico in December 1991, and claimed political asylum in 1992. Five years later, in 1997, the asylum request was denied. A month later, he sought to resist removal by filing for residency based on marriage to a U.S. citizen. In March 1998, he was found by an immigration judge to be removable, and was given voluntary departure, but a month later the marriage petition secured him permanent residency.²¹⁵
- *Abdul Halim Hassan Al-Ashqar* came to the United States on a student visa in 1989. He had received a scholarship through the U.S. government from the Thomas Jefferson Center “in order to complete my higher education in Business Administration” at the University of Mississippi.²¹⁶ He was able to do so despite the fact that he had co-founded a university on the West Bank with Abu Marzook (eventually deported for his role as the U.S. leader of Hamas) and Hamas founder Sheikh Ahmed Yassin. He had run public relations at that university for eight years prior to coming to the United States. Once in the United States, Al-Ashqar overstayed his visa and continued working for Hamas in a variety of capacities.²¹⁷ He was imprisoned for refusing to testify about Abu Marzook during a grand jury investigation.²¹⁸ Al-Ashqar was then placed in deportation hearings himself, but claimed political asylum. The asylum claim was denied, but he fought that denial

²¹² U.S. Department of Justice Press Release, “Iyman Faris Sentenced for Providing Material Support to Al Qaeda,” 28 October 2003; see www.usdoj.gov/opa/pr/2003/October/03_crm_589.htm (accessed 9 July 2004).

²¹³ Government’s Motion to Detain Defendant and Memorandum in Support, U.S. v. Abdi (SDOH 2:04-CR-88), 14 June 2004; see also http://schumer.senate.gov/SchumerWeb/site/press-room/press_releases/2004/PR02693.mallsecurity062004.pf.html (accessed 5 November 2004).

²¹⁴ “Investigators: Mall Plot May Have Involved 5 People,” 18 June 2004; at www.nbc4columbus.com/news/3434353/detail.html.

²¹⁵ Affidavit of Sr. Special Agent John Scott Sherrill, U.S. v. Akhtar (filed 5 August 2004).

²¹⁶ “Interview with Abdul Halim Hassan Al-Ashqar, Independent Islamic Candidate for the Palestinian Presidential Elections, Discussing the National Agenda and Dialogue between the Palestinian Factions,” Radio Sawa, Iraq (2 January 2005).

²¹⁷ See Testimony of Steven Emerson, House Judiciary Subcommittee on Immigration and Claims (26 January 2000) for more details.

²¹⁸ “Interview with Abdul Halim Hassan Al-Ashqar.”

for six years in U.S. courts. In 2004, he agreed to voluntarily leave the country, but was instead indicted on RICO charges for running Hamas in the United States with Marzook.²¹⁹ In January 2005, he announced he was an independent candidate for president of the Palestinian Authority.²²⁰

- *Hesham Hedayet*, who killed airline personnel at LAX on 4 July 2002, filed for political asylum in 1992, but ended up acquiring legal status through a diversity immigration lottery.²²¹
- *Rabih Haddad*, a Lebanese citizen and a co-founder and chairman of the Global Relief Foundation (GRF), was arrested on 14 December 2001, the same day that GRF's offices were raided.²²² GRF's assets were frozen by the U.S. Treasury Department on 14 December 2001, for financially supporting Al Qaeda.²²³ Also on 14 December 2001, the government detained Haddad on a visa violation. Haddad was originally admitted to the United States in 1998 with the status of a non-immigrant visitor. His visa expired on 31 August 1999.²²⁴ Haddad was ordered deported. Despite a series of appeals, and the filing of an application for asylum and withholding of removal,²²⁵ in November 2002 an immigration judge concluded that he presented "a substantial risk to the national security of the United States."²²⁶ Haddad appealed again and was denied again, and on 14 July 2003 Haddad was deported to Lebanon.²²⁷ After his deportation, the Department of Immigration and Customs Enforcement (ICE) issued a press release that reiter-

²¹⁹ Author conversation with an Assistant U.S. Attorney, March 2005.

²²⁰ Interview with Abdul Halim Hassan Al-Ashqar."

²²¹ *9/11 and Terrorist Travel*, 204–6.

²²² Immigration and Customs Enforcement Press Release, "Former President of Global Relief Foundation Loses Immigration Appeal and is Removed From the United States," 11 July 2003.

²²³ U.S. Department of the Treasury, Office of Foreign Assets Control, "Terror Financier Designation of BIF and GRF," 14 December 2001; see www.ustreas.gov/offices/eotffc/ofac/actions/20011214a.html (accessed 26 May 2004).

²²⁴ Alexandra Moses, "Local Community Leader Detained by INS, Lawyer Says," *Associated Press* (17 December 2001).

²²⁵ *Ibid.* According to the ICE, Haddad's requests for relief from removal, including requests for bond and for asylum, were denied by the immigration judge chiefly upon the finding that Haddad was not eligible for asylum because he was a danger to the security of the United States.

²²⁶ USDOJ Press Release, "Statement of Barbara Comstock, Director of Public Affairs, on the Haddad Asylum Decision," 22 November 2002; at http://www.usdoj.gov/opa/pr/2002/November/02_civ_691.htm (accessed 14 October 2004).

²²⁷ *Ibid.* The acting assistant secretary for ICE, Michael J. Garcia, said of Haddad's deportation: "The removal of individuals like Mr. Haddad highlights the importance of enforcing immigration laws in our ongoing efforts to secure the homeland. ... This action is also a testament to the cooperation between law enforcement agencies in pursuing and removing those individuals linked to terrorism."

ated GRF's ties to Wadi El-Hage and stated again that GRF was a Specially Designated Global Terrorist Group.²²⁸

- At least three people closely associated with the September 11 hijackers claimed political asylum: one that helped them obtain Virginia identification cards, and two other "friends."
 - *Malek Mohamed Seif*, a friend of 9/11 hijacker Hani Hanjour, filed a false application for asylum and was indicted for Social Security, mail, and immigration fraud.²²⁹
 - *Eyad Mohammed Mohammed Mustafa* helped 9/11 hijackers (unknowingly) to obtain Virginia ID cards. He made a false claim of asylum during deportation hearings in October 2002. The application was denied, and he was deported to Jordan.²³⁰
 - *Mohdar Abdullah* was a friend of two 9/11 hijackers. He claimed political asylum defensively in 2000 after overstaying his visitor visa's length of stay by a year and a half. He was charged with fraud in November 2001, and was deported to Yemen in May 2004.²³¹
- *Abdel Hakim Tizegha*, an associate of the LAX Millennium plotters, claimed political asylum based on persecution by Muslim fundamentalists. He said he entered the United States at Boston as a stowaway on an Algerian gas tanker. Hearings were rescheduled five times. The claim was denied two years later, and then appealed. Nine months later his location was unknown.²³²
- *Abu Mezer*, responsible for the New York City subway plot in August 1997, was arrested in Washington State in January 1997 after his third attempt to illegally enter the United States. The next month, he applied for political asylum, denying an affiliation with Hamas. In July, he did not show up for his hearing. Instead, he called his attorney and stated he had married a U.S. citizen and was living in Canada. On 1 August 1997, he was arrested in New York City based on an informant's tip.²³³
- *Muin Mohammad* (aka Muin Shabib, Kamel Mohammad Shabib, and Abu Muhammad) is one of the original founders of the Al Aqsa Educational Fund (AAEF), and is listed on the group's 1993 IRS Form 990 as the secretary of the AAEF Executive Committee.²³⁴ According to an FBI Action Memorandum, Muin Kamel Mohammed Shabib attended the October 1993 Hamas conference in

²²⁸ Ibid.

²²⁹ Superseding Indictment, U.S. v. Seif, No. cr-01-0977-phx-pgr (D. Ariz.), 6 December 2001; see also Detention Order, U.S. v. Seif, No. cr-01-0977-phx-pgr (D. Ariz.), 8 November 2001.

²³⁰ *9/11 and Terrorist Travel*, 201–3.

²³¹ Indictment, U.S. v. Abdoulah (S.D. Cal. 01-cr-3240-w), 2 November 2001.

²³² *9/11 and Terrorist Travel*, 58.

²³³ Ibid., 56, 199–200.

²³⁴ Al Aqsa Educational Fund, IRS Form 990, State of Mississippi (accessed 17 January 2005).

Philadelphia, along with Abdelhaleem Al-Ashqar and others.²³⁵ Documents submitted by the Department of Justice in *HLFRD v. John Ashcroft* show that Shabib was identified by the government of Israel as a senior Hamas operative formerly in charge of Hamas' Central Section (Ramallah-Jerusalem) in the West Bank.²³⁶ On 16 March 1994, the FBI interviewed Shabib in Falls Church, Va., at the home of Yasser Bushnaq. During the interview, Shabib admitted supporting Hamas financially and politically.²³⁷ Shabib was interviewed under the pretext of gaining information relating to his immigration status (he had applied for political asylum in December 1993).²³⁸

- *Faraj Hassan* was arrested and charged with naturalization fraud in June 2004 after being granted refugee status from Syria in 1993. He worked for the Benevolence International Foundation, which was considered a significant source of funding for Al Qaeda.²³⁹
- Three terrorists involved in the 26 February 1993 World Trade Center bombing, *Ramzi Yousef*, *Sheik Omar Abdel Rahman*, and *Biblal Alkaiasi*, all sought political asylum. Yousef, mastermind of the bombing, was initially arrested with fraudulent travel documents upon entry at JFK International Airport in August 1992. Yousef claimed political asylum, and was released pending a hearing.²⁴⁰ Alkaiasi, also a key witness in the Meir Kahane murder, filed for both "temporary protected status" using a fake birth certificate and fake immigration entry record in August 1991, and for political asylum in May 1992, falsely claiming a prior illegal entry.²⁴¹ Sheik Rahman, who issued the fatwa for Anwar Sadat's assassination, and was also convicted for his role as the spiritual leader of the 1995 conspiracy to bomb New York City landmarks, had a long history of immigration violations and fraud, including a March 1992 political asylum claim to prevent his pending deportation.²⁴²

²³⁵ Action Memorandum, International Emergency Economic Powers Act for Holy Land Foundation for Relief and Development, from Dale Watson, Assistant Director FBI Counterterrorism Division to Richard Newcomb, Director of the Office of Foreign Assets Control, Department of Treasury (5 November 2001), 9.

²³⁶ *Holy Land Foundation for Relief and Development v. Ashcroft* (D.C.), August 2002, at Vol.1, Doc. No. 31, Exh. No. 24.

²³⁷ Action Memorandum, International Emergency Economic Powers Act for Holy Land Foundation for Relief and Development, from Dale Watson, Assistant Director FBI Counterterrorism Division to Richard Newcomb, Director of the Office of Foreign Assets Control, Department of Treasury (5 November 2001), 11.

²³⁸ *Holy Land Foundation for Relief and Development v. Ashcroft* (D.C.), August 2002, at Vol.1, Doc. No. 31, Exh. No. 22.

²³⁹ Sabrina Tavernise, "U.S. Letter Tries to Establish a Doctor's Links to Terrorists," *The New York Times* (6 November 2004); see also Michael Weissenstein, "Prosecutors Allege Brooklyn Doctor's Terror Ties," Associated Press (5 November 2004).

²⁴⁰ *9/11 and Terrorist Travel*, 49–52.

²⁴¹ *Ibid.*, 53, 190–92.

²⁴² *Ibid.*, 2–56.

- *Mir Aimal Kansi*, who killed two people outside CIA headquarters on 25 January 1993, became an illegal overstay in February 1991. In February 1992, he simultaneously sought both political asylum and amnesty under a 1986 law. While the applications were pending, he was able to obtain a Virginia driver's license and work as a courier.²⁴³
- *Ibrahim Parlak* of the Kurdistan Worker's Party (PKK) applied for political asylum upon his arrival in the United States in 1991. In 1992, he was granted asylum, and LPR status the following year. In October 2004, he was charged with inciting terrorism and providing material support for terrorist activities. He was also charged with lying on his INS applications for failing to disclose his membership in the Kurdistan Worker's Party, along with his prior aggravated felon record from Turkey.²⁴⁴

Conclusion

The terrorist attacks of September 11 were not an isolated instance of Al Qaeda infiltration into the United States. In fact, dozens of operatives (other than the hijackers themselves)—mostly before, but also a few after 9/11—have managed to enter and embed themselves in the United States, actively carrying out plans to commit terrorist acts against U.S. interests or supporting designated foreign terrorist organizations. For each to do so, they needed the guise of legal immigration status to support them. Al Qaeda operatives have used every viable means of entry. The longer the duration of the permissible length of stay granted by the visa or the adjustment of status to permanent residency or naturalization, the more easily the terrorist could travel both within and outside the United States. No matter what the terrorist organization or mission, it is clear from this study that terrorists will continue to try to come to the United States to carry out operations, and their instructions will continue to include immigration-related plans. Until we have a system designed to weed out terrorists, their plans to stay in the United States will likely succeed.

Those who come to stay and embed themselves into communities throughout the United States will continue to rely on a false guise of legality. Sham marriages and student visas that lead to legal permanent residency (and an almost certain guarantee of naturalization) will likely continue to be some of the most egregious immigration abuses by terrorists. More aggressive culling of applications for national security risks will help prevent terrorists from attaining enhanced immigration status on the front end. However, it must therefore be a prerequisite for any strategy that seeks to attain border security to include the United States Citizenship and Immigration Service (USCIS) in fraud prevention and national security agendas.

Risk management, as well as targeting and pattern analysis, will help assure that scarce resources are used more efficiently to target immigration benefit applications

²⁴³ *Ibid.*, 187–89.

²⁴⁴ James Prichard, "Terrorism Charges Filed Against Michigan Restaurant Owner," Associated Press (19 October 2004).

that may pose a national security risk. In addition, law enforcement agencies with criminal jurisdiction, such as the Bureau of Immigration and Customs Enforcement (ICE) and FBI-run Joint Terrorism Task Forces, must consider such investigations as priorities. Once it is discovered that a naturalized citizen is a terrorist, denaturalization should be automatically put in motion, with a streamlined appeals process that harnesses the talents of both ICE and DOJ legal experts.

To address fraud effectively, immigration benefits adjudicators must have access to comprehensive, biometrically-based immigration histories that include information from the moment an individual first applies for a visa at a U.S. consulate or presents a passport at a port of entry, through every subsequent request for an immigration benefit. USCIS needs to have a fully electronic applications process, with biometrics embedded into each application and required on-site interviews. Adequate human resources will be necessary to fulfill such a mandate while efficiently processing applications. Well-trained fraud specialists should be available at every immigration benefits center, with access to the Forensic Document Lab. The practical result is that USCIS should not have to rely solely on fees for upgrading its data systems, technologies, security vetting procedures, and other necessary national security tasks. Budgets must be allocated.

Also critical are security background checks, with real-time access to federal, state, and local law enforcement information upon request. The more access that is given to the national security or law enforcement information that exists on a foreign national, the less we will need to rely upon unwieldy name-based watch lists. The more security measures the United States incorporates into its own adjudications of immigration benefits *before* they are granted, the more success the United States will have in re-buffing terrorists who seek to embed here.

Underpinning practical improvements at USCIS must be a commitment to enforcing the law with better and more resources. Better resources include clearer guidelines for processing immigration benefits in order to eliminate the arbitrary decision-making that inevitably takes place in their absence. In addition, comprehensive immigration reform must entail, in the long run, not only streamlining the overly complex body of immigration laws, but also providing sufficient human and technological resources to enforce the law on the border *and* in USCIS immigration benefits centers.

These recommendations should not be considered in a policy vacuum. Comprehensive immigration reform that includes a review of all elements of our immigration security infrastructure (seven fragments dispersed through six agencies) must be vigorously debated and addressed now. However, that does not mean that we should wait to provide sorely needed technological, informational, and human resources to our frontline personnel at U.S. consulates abroad, at our ports of entry, and our borders. Severe deficiencies have existed in these areas for years that must be redressed now; what we still lack are the metrics to determine exactly what measures will provide the best value in an environment of limited funding. We must find a way to acquire that information in order to assure that our border system provides the value the American people deserve and have the right to demand.