

Background

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Coming to America: Initiatives for Better, Faster, and More Secure Visas

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Almost everyone who wants to visit the United States needs a visa issued by the U.S. Department of State and a passport from his or her home country. Deciding who gets visas and how visas are issued is a responsibility shared by Congress and the Administration. A sound national visa policy would provide for security, promote economic competitiveness, and make America a welcoming place for those who wish to come here to learn about its people, places, and ideas.

However, since September 11, 2001, U.S. visa policies have become a hodgepodge of congressional mandates and Administration actions that have produced mixed results. Some measures have added security but have made legitimate travel more difficult. Others have layered on requirements that do little to make Americans safer but do make traveling more troublesome and America less popular.

Rather than accept the status quo, Congress and the Administration should adopt initiatives that will thwart terrorists and criminals, use security resources more efficiently, and facilitate travel for legitimate purposes like business, education, and tourism. Specifically, Congress and the Administration should:

- **Adopt** a risk management approach to visa issuance. This should include providing officials with the appropriate tools and training to separate low-risk applicants from high-risk applicants, allowing them to concentrate their efforts on high-risk persons.

Talking Points

- Known and suspected terrorists have traveled to and remained in the United States in the same manner as most foreign visitors, employing a nonimmigrant visa, which can be obtained from any American consulate or, under certain circumstances, within this country.
- The security measures incorporated into the visa issuance process, which are partly responsible for the decline in visa travel, are incomplete and inefficient.
- Incorporating risk management principles into the visa issuance process would separate low-risk travelers from high-risk travelers, allowing visa security officers to focus on those travelers who warrant greater scrutiny.
- A risk management system using a combination of data analysis technology, seasoned officers' understanding of risk factors, and strategic intelligence to identify risks and anomalies could dramatically improve both the speed and security of the visa review process.

This paper, in its entirety, can be found at:
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- **Expand** the Visa Security Program.
- **Define** the roles of all personnel involved in visa application review to avoid duplicating efforts and to match skills to needs.
- **Create** a visa process ombudsman authority to review contentious visa applications and to oversee the visa review process.

Visa Travel Matters

In 2005, 5.4 million people traveled to the United States using nonimmigrant visas,¹ contributing heavily to both the economy and the international standing of the United States. Visa travelers engage in business and trade, spend money in the United States, and promote stronger economic, cultural, and political ties between the United States and other nations.²

Every kind of international travel poses risks, and visa travel is no exception. “The overwhelming number of known and suspected terrorists,” Heritage Foundation research notes, “have traveled and remained [in the United States] in the same manner as most foreign visitors, employing a nonimmigrant visa, which can be obtained from any of the 211 American consulates around the world or under certain circumstances within this country.”³ Terrorists have attempted to exploit every known means of legitimate travel in the past, and there is every reason to believe that they will try to do so in the future. Thus, any visa issuance regime must

seek solutions that both facilitate the travel of millions and deter the handful of terrorists and criminals that seek to hide in their ranks.

Neither Efficient nor Secure

Some policies adopted since September 11 have neither effectively fostered visa travel nor taken full advantage of opportunities to secure the visa issuance process more effectively. The number of people traveling to the United States on visas is nowhere near pre-9/11 levels,⁴ and the average visa processing time in many countries is measured in months rather than weeks or days.⁵

Moreover, the security measures incorporated into the visa issuance process, which are partly responsible for the decline in visa travel, are incomplete and inefficient. For example, the State Department requires consular officers to interview virtually all visa applicants.⁶ However, many officers are relatively junior and may lack the training and security orientation necessary to conduct effective interviews.⁷ Furthermore, the overwhelming number of visa applicants mandates that most interviews be quite brief, potentially undermining their utility as a meaningful security check.⁸ These factors call into question the value of these interviews.

In most U.S. consulates, security screening for visa applicants is performed exclusively by consular officers. In a select few, however, the Department of

1. U.S. Department of State, “Report of the Visa Office 2005,” Table 1, at <http://travel.state.gov/pdf/FY05table1.pdf> (September 22, 2006).
2. James Jay Carafano, Ph.D., “A Visa Reform Plan for Congress,” Heritage Foundation *Executive Memorandum* No. 1001, May 25, 2006, at www.heritage.org/Research/NationalSecurity/upload/97695_1.pdf.
3. James Jay Carafano, Ph.D., “The Visa Process: Strategic Direction for a 21st Century System,” testimony before the Subcommittee on National Security, Emerging Threats, and International Relations, Committee on Government Reform, U.S. House of Representatives, September 13, 2005, at <http://author.heritage.org/Research/HomelandDefense/tst091305a.cfm>.
4. U.S. Department of State, “Report of the Visa Office 2005.”
5. Jess T. Ford, Director, International Affairs and Trade, U.S. Government Accountability Office, “Border Security: Reassessment of Consular Resource Requirements Could Help Address Visa Delays,” GAO-06-542T, testimony before the Committee on Government Reform, U.S. House of Representatives, April 4, 2006, at www.gao.gov/new.items/d06542t.pdf (September 26, 2006), p. [ii].
6. U.S. Department of State, “U.S. Visa Policy,” at www.unitedstatesvisas.gov/visapolicy (September 26, 2006).
7. U.S. Government Accountability Office, *Border Security: Actions Needed to Strengthen Management of the Department of Homeland Security’s Visa Security Program*, GAO-05-801, July 2005, at www.gao.gov/new.items/d05801.pdf (September 26, 2006) p. 11.
8. U.S. Department of State, “Visas,” at www.travel.state.gov/visa (September 26, 2006).

Homeland Security (DHS) has deployed personnel from the Bureau of Immigration and Customs Enforcement (ICE) to implement the Visa Security Program—the mechanism through which DHS reviews visa applicants for security concerns pursuant to Section 428 of the Homeland Security Act of 2002. In these consulates, the visa security officers (VSOs) participate in some visa applicant interviews and obtain additional information from law enforcement and intelligence sources for use in the visa adjudication process.⁹ The VSOs review visa applications, including those in which the applicant is an exact match for a Terrorist Identities Database record or the consular officer has initially denied the application and is awaiting further instructions on whether or not to issue the visa.¹⁰

These efforts, though substantial, have sometimes failed to address serious weaknesses in the visa issuance process. In July 2003, U.S. Customs and Border Protection (CBP) denied entry to Raed Mansour Al Banna, a 30-year-old Jordanian national traveling on a valid B1/B2 visa. Although he was not on any terrorist watch list, the CBP did not believe his stated purpose for travel. Al Banna later carried out a suicide bombing in Iraq that killed 132 innocent Iraqis.¹¹

Furthermore, valuable resources in the visa issuance process are not always allocated efficiently. Visa Security Units are tasked with reviewing some—in some consulates, all—visa applications that have been checked by consular officers. In cases in which visa applicants are low-risk, VSOs duplicate work already done by consular officers, preventing VSOs from focusing on areas in which their specific expertise is needed. These shortcomings in the visa issuance system detract from its overall purpose and create obstacles for those who wish to enter the U.S. for lawful purposes.

Restructuring Visa Issuance

The U.S. government should explore new options for introducing greater security into the

visa issuance process while facilitating legitimate travel to the United States and effectively using the resources at the country's disposal. This can be accomplished by introducing risk management principles and technologies into visa issuance, enhancing the training of consular officers, expanding the Visa Security Program and allowing it more flexibility, streamlining security reviews, and creating a visa process ombudsman authority to oversee the process.

Risk Management. Introducing risk management principles into the visa issuance process would aim to separate high-risk travelers from low-risk travelers, allowing the VSOs to focus attention on those passengers who warrant greater scrutiny. Such measures could include allowing consular officers to waive the mandatory interview requirement for certain types of low-risk travelers to the United States, such as regular business travelers and cultural ambassadors (e.g., musicians, artists, and athletes). Reducing the number of required interviews would accelerate the visa issuance process and allow officers to spend more time reviewing applications that raise red flags.

Registered Business Travelers. The State Department, working with DHS and the larger law enforcement community, could develop a program to identify and register businesses that require frequent international travel for their employees. This program would thoroughly assess a business's legitimacy, internal visa compliance policies, past visa compliance (or visa refusal) records of its employees, and potential security risks posed by its employees. In many cases, registration of a business would result in classifying its employees as low-risk business travelers who would not need interviews to obtain visas. This would be a much better approach to expediting desirable travel than the "visa express" program that was abolished after September 11.

Information Management. A risk management system for visa issuance could use an automated

9. U.S. Government Accountability Office, *Border Security*, p. 3.

10. *Ibid.*, p. 7.

11. Robert C. Bonner, "Remarks to the American Society of Travel Agents," U.S. Customs and Border Protection, November 2005, at www.cbp.gov/xp/cgov/newsroom/commissioner/speeches_statements/archives/2005/bonner_asta.xml (September 26, 2006).

data analysis tool to sift quickly through applicant, government, and open-source data to help responsible officials distinguish among low-risk applicants, high-risk applicants (who are not on a watch list),¹² and known-risk applicants (who may match a watch list). At present, the CBP employs the Automated Targeting System, which analyzes passport information and other data to identify potentially high-risk passengers on flights to the United States. This type of system could be adapted to the visa issuance process.

Another option would be to build on US-VISIT and to expand the consulates' use of biometric capture and comparison technologies. These technologies could be used to check people against international watch lists that include biometric data and photographs and to detect common fraudulent practices in visa issuance, such as one person applying for a visa under two different names. These systems could prove valuable by helping to distinguish between travelers who may pose a threat to national security and those who do not.

Training. To exercise such discretion effectively, consular officers need appropriate training in accurately assessing risks. The State Department could work with DHS and others to develop a training program for officers to help them identify risk factors in visa applicants. Government and other personnel with relevant experience in identifying travelers who may pose a risk—intelligence professionals, seasoned consular officers, ICE agents, and CBP officers—could offer valuable insights into identifying terrorist risk factors, conducting effective questioning, and detecting deception, such as visa and document fraud. This would enhance risk assessment capabilities, allowing visa security officers to concentrate on travelers identified as possible threats instead of reexamining applicants who are highly unlikely to perpetrate terrorist acts.

A risk management system using a combination of data analysis technology, seasoned officers' understanding of risk factors, and strategic intelligence to identify risks and anomalies could dramatically improve both the speed and security of the visa review process.

Expanding the Visa Security Program

Even with excellent tools and training, consular officers may not possess the same skills as experienced law enforcement officers or have access to the same types of data from various government databases. The Government Accountability Office, ICE, and State Department generally agree that training visa security officers in questioning, document fraud detection, and investigation techniques could substantially improve security screening in the visa issuance process.¹³

Moreover, visa security officers with investigative or intelligence backgrounds may be more able to establish productive information-sharing relationships with local law enforcement and intelligence professionals.¹⁴ They could be employed more effectively by stationing them where their skills are needed the most: in the consulates that process the greatest numbers of high-risk visa applicants.

To expand the Visa Security Program on such a large scale, the government would need to make three changes:

- Congress would need to increase funding for the Visa Security Program substantially because of the costs involved in stationing personnel overseas.
- DHS would need to expand the ranks of visa security officers to include personnel from other agencies. ICE lacks the necessary personnel to staff an expanded program. Including CPB officers could help to ease the shortage, and bringing in CBP officers—the law enforcement officers with the most hands-on experi-

12. ICE has stated that this is a principal purpose of the Visa Security Program. U.S. Government Accountability Office, *Border Security*, p. 5.

13. *Ibid.*, p. 2.

14. James Jay Carafano, Ph.D., "Strengthening Visa Management," Heritage Foundation *Executive Memorandum* No. 1008, August 3, 2006, at www.heritage.org/Research/NationalSecurity/em1008.cfm

ence in identifying and interacting with high-risk visa travelers—would strengthen the security screening process.

- The role of the officers in the visa issuance process would need to be carefully redefined to ensure that VSOs are not simply duplicating the work of consular officers.

Although consular officers cannot be fully replaced in the application reviews, DHS should revise the role of VSOs to allow them to focus their research and interviews on high-risk visa applicants. Reducing their interview and research workload could free them to act regionally, identifying crosscutting criminal trends and regional threat patterns using information collected from local consular posts.

Building relationships with local and regional law enforcement would allow visa security officers to synthesize information from U.S. and non-U.S. sources, share information among relevant law enforcement and consular offices, and enhance visa security by concentrating on larger trends, specifically in locations with substantial travel and trade flows and international hot spots of criminal and terrorist activity. By redefining the work of visa security officers, DHS and the State Department could minimize the number of officers in each consulate, thereby expanding the global reach of the VSO corps and using scarce resources more efficiently while also lowering costs.

Streamlining the Review Process

In a restructured visa issuance process with a vastly expanded Visa Security Program, applicant screening work could be allocated to utilize the different skills of DHS and State Department personnel more effectively. Applicants would be sorted by risk level—low, high, and known—using the tools described above. Consular officers would be responsible for reviewing low-risk applications, which constitute the bulk of the applications in most countries. Using their enhanced training, they could deny an application based on traditional grounds or for secu-

rity reasons, confirm an applicant's low-risk status and issue the visa without an interview, or identify risk factors suggesting that the applicant should be treated as high-risk and therefore interviewed.

In cases in which an applicant is a potential name match with a Terrorist Identities Database record (or another type of record that would lead to a visa denial), neither the consular or visa security officers should assess the applicant further until the match is conclusively verified or falsified. If the match is confirmed, then the visa application should be denied without further review¹⁵ and without reexamining the work of the Terrorist Screening Center, which decides who has a Terrorist Identities Database record.

In cases in which consular officers or targeting tools identify high-risk applicants, visa security officers would review the applications and prepare for the applicant interviews. Interviews with high-risk applicants could be jointly conducted, but responsibility for the final security assessment of the applicant would rest with the VSO. In addition to performing this function, the VSOs could review a very small number of low-risk visa applications approved by consular officers. These reviews would help to ensure that both share a common understanding of risk and that high-risk applicants are not being issued visas without appropriate review.

Visa Process Ombudsman Authority

Ultimately, most visa issuance decisions are within the discretion of the consular officer. The officer may exercise good judgment in the vast majority of cases, but the current visa process provides no easy means of redressing potentially subjective decisions made at the consular level. As noted, legitimate international travel is necessary for both economic and political reasons, and denying visas to legitimate travelers can harm the economy and international standing of the U.S. Furthermore, visa refusal rates directly affect a country's eligibility for Visa Waiver status, which many countries seek as a means to increased exchanges with the U.S.

15. The only exception to this rule would be if the intelligence or law enforcement communities determined that there would be value in interviewing the visa applicant.

Congress should create an ombudsman authority for the visa process within the DHS Citizenship and Immigration Services Ombudsman. This authority would involve reviewing contentious visa application cases and assessing consular posts with unusually high rejection rates. This review authority should not be viewed as duplicating the work of consular officers, but as providing additional oversight for what is currently a one-person decision. This oversight could help to rectify erroneous visa denials, allow for more transparency, and strengthen visa management.

Improvements Past Due

The visa issuance system needs improvements to its security function and its international travel facilitation function. A few well-designed changes could make it far more effective in guaranteeing U.S. national security, both by preventing terrorism and by protecting the health of the U.S. economy. Changes to the visa issuance process should include:

- **Creating** a risk management system to separate low-risk applicants from high-risk applicants;
- **Defining** more clearly the roles of consular officers, visa security officers, and other personnel involved in the visa review process and enhancing their training;
- **Expanding** the Visa Security Program; and
- **Establishing** a visa ombudsman authority to review contentious applications and oversee the visa review process by consular officers.

Conclusion

America deserves a process for issuing visas that is better, faster, and more secure. This process should open America's door to the world without giving terrorists and criminals a license to travel.

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