

SENSITIVE BUT UNCLASSIFIED

**REVIEW OF THE ISSUANCE OF VISAS TO
THE SEPTEMBER 11, 2001, TERRORISTS**

ISP-CA-03-27

MARCH 2003

Between November 1997 and June 2001, the 19 terrorist hijackers were issued a total of 23 visas¹ at five missions: Embassy Riyadh (four hijackers) and Consulate General Jeddah (11 hijackers) in Saudi Arabia, Embassy Abu Dhabi (one hijacker) and Consulate General Dubai (one hijacker) in the United Arab Emirates (UAE), and Embassy Berlin (two hijackers) in Germany. Four of the 19 hijackers were issued two visas each. The 15 hijackers who received visas at Embassy Riyadh and Consulate General Jeddah were all Saudi Arabian citizens. Both of the hijackers who were issued visas in the UAE were Emirati citizens. The two who received visas in Berlin did so as third country nationals (TCNs) since they were not German but citizens of Egypt and Lebanon.

OIG interviewed each of the visa officers and consular associates responsible for issuing a visa to one or more of the 19 terrorist hijackers. Each of the officers independently answered the same questions pertaining to the circumstances under which the 23 visas were issued. All cooperated fully and openly with OIG. OIG also visited the missions at which those visas were issued and interviewed staff regarding policies, procedures and practices in effect at that time. Similarly, relevant bureaus and offices within the Department were consulted.²

The Immigration and Nationality Act of 1952 (INA) forms the basis in law governing the visa process.³ The Department also issues regulations and policy guidance to visa officers designed to implement the INA.⁴ The law gives consular officers broad discretion in carrying out their visa responsibility and making judgments regarding applicants' visa eligibility. Section 214(b) of the INA considers all aliens applying for entry to the United States to be intending immigrants, unless they can prove otherwise to the officer adjudicating the visa application. Because the burden of proof is on the applicants, a finding that they have not met that burden is the basic and most frequent reason for visa denial. Additionally, Section 212 of the INA contains specific categories of applicants, including terrorists, who are automatically ineligible.⁵ In these latter cases, however, the consular officer must have sufficient evidence of ineligibility, such as inclusion in the CLASS lookout system,⁶ or his admission of ineligibility, to refuse a visa to that applicant under those specific aspects of the law. Although all applicants for a visa are required by law to appear for a

¹ "Visas" as used in this review refers to nonimmigrant visas permitting temporary stays in the United States.

² Files were reviewed and discussions held at the Bureau of Consular Affairs (CA) and the Bureau of Near Eastern Affairs (NEA) regarding visa laws, policies, procedures, home office instructions to the field, and related communications in place during the timeframe when the relevant visas were issued.

³ Public Law No. 82-414, as amended (1952); 8 U.S.C. 1101 *et seq.*

⁴ Included are 22 C.F.R. Parts 40 and 41, the Foreign Affairs Manual, the Consular Management and Best Practices Handbooks, plus telegrams and informal communications relevant to the November 1997 to June 2001 timeframe.

⁵ 8 U.S.C. 1182 and 1184.

⁶ OIG reviewed the contents of CLASS, the consular automated lookout system, with the Bureau of Intelligence and Research's TIPOFF staff, the Department's office responsible for adding names of potential terrorists to that system.

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personal interview, the consular officer has the discretion to waive the personal appearance or interview if certain criteria are met.⁷

Prior to September 11, 2001, visa issuance procedures focused on working more efficiently and screening out intending immigrants. Sufficient trained staff to conduct interviews of most visa applicants was not available at the five missions, nor were sufficient interviewing facilities and secure workspace. For the Department, terrorist threats were perceived primarily as threats to U.S. missions abroad, with the 1998 bombings of the embassies in East Africa providing concrete evidence supporting this view.

Your specific questions are answered below:

- 1) Were the visa application documents of the terrorist hijackers destroyed, and if so, was the destruction of those documents done in accordance with policies in place at that time?

Five of the 23 visa applications were destroyed at the missions where they were issued, Berlin and Jeddah. All five were destroyed in accordance with the Department's visa documentation destruction policy and schedules in effect at that time. That policy called for returning supporting documents for visitor visas to the applicants and routine destruction of all applications for issued visas 12 months after issuance.⁸ Original copies of the remaining applications are now in the custody of the Federal Bureau of Investigation.

- 2) Are the terrorist hijackers' visa application documents available for review filled in completely?

Some questions on many of those 18 applications which were not destroyed were not filled in completely. For example, 16 applications did not fully or precisely answer the question "at what address will you stay in the U.S.A.?" Responses ranged from a blank entry to the names of cities and states or the word "hotel." One applicant's nationality and gender were missing from his form, although this information was available from his passport. The issuing officers considered that those questions dealing with the likelihood of an applicant's illegally working in the United States, such as occupation and U.S. address, generally were not significant in terms of visa adjudication of Saudi and Emirati nationals. As further described below, such nationals were considered unlikely to work or remain illegally in the United States. Questions pertaining to an applicant's identity and those that dealt with specific categories defined under Section 212 of the INA as inadmissible to the United States were considered to be essential, and were filled in on all 18 available applications.

- 3) If they were not, should those applications therefore have been subject to denial or further scrutiny, such as personal interviews, under the prevailing law, regulation or policy at that time?

⁷ INA sec. 222(e), 8 U.S.C. 1202(e), 22 C.F.R. 41.102, 9 FAM 41.101 N3 and 9 FAM 41.102 N2/3.

⁸ U.S. Department of State Records Disposition Schedule, Chapter 9: Consular Records, Visa Services, B-09-002-01a, Issued Visa Files. This policy was subsequently changed on Sep. 12, 2001 by telegram (01 STATE 157778) directing missions not to destroy such applications, and further updated on Jan. 18, 2003 (State 16489) with detailed new centralized permanent storage procedures for visa applications.

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INA Section 222(c) specifies certain categories of information to be contained in an application, including those necessary for the identification of the applicant, and provides that applications should contain additional unspecified information necessary to make an eligibility determination.⁹ Section 41.103 of Title 22 of the C.F.R. states further that the consular officer shall ensure that the application form is fully and properly completed in accordance with applicable regulations and instructions. However, not all of the questions on an application were actually mandated by the statute and regulations. Subsequent to the enactment of the INA, missions developed their own practices to determine which questions were essential and what constituted an acceptable application. The five missions that issued the hijackers' visas developed their own practices based on local conditions. Consequently, consular officers at those missions were not obliged to subject every incomplete application to denial or further scrutiny under prevailing law, policy, and practice existing at the time.

Although the INA and Department regulations in effect when the 23 visas were issued called for all applicants to appear for a personal interview, they also provided for a waiver if the consular officer deemed it to be in the national interest.¹⁰ Apart from informal communications, the five missions annually submitted detailed "consular packages" reporting relevant visa statistics, and alerting the Department to their visa practices, including waivers of personal appearances or interviews.¹¹ Riyadh, Jeddah, Abu Dhabi, and Dubai did not consider that host country citizen visa applicants were intending immigrants or security risks at the time. These citizens enjoyed a relatively high level of income and had no apparent incentive to work abroad illegally. The missions also received virtually no negative feedback from the Immigration and Naturalization Service (INS), the organization responsible for these visa bearers' actual admission into and stay in the United States.¹² Personal interviews for Saudi and Emirati citizens, therefore, were routinely waived. The missions estimated that less than three percent of Saudi and Emirati citizens were interviewed before September 11, 2001. Only two of the issuing visa officers were trained in Arabic, and none received thorough training in interviewing techniques.¹³ Consular officers concentrated their time and energy on screening TCN visa applicants. These applicants, many of whom were third world domestics, construction workers, and laborers, were considered much more likely to immigrate illegally than were local citizens.¹⁴

⁹ 8 U.S.C. 1202(c).

¹⁰ INA sec. 222(e) and 9 FAM 41.102. At that time, the Department's Best Practices Handbook provided detailed guidance on personal appearance waivers as a way to free up limited consular resources.

¹¹ 01 Abu Dhabi 0163, 00 Dubai 024, 01 Riyadh 0270, 01 Jeddah 025, and 00 Berlin 04874.

¹² The INS inspector at the port of entry determines whether a visa holder is to be admitted to the U.S., and for how long that person may remain.

¹³ One of these two officers received nine months of Arabic training and the other a three-month refresher course after previously studying Arabic at university for two years. However, the Department generally restricts "hard" language training such as Arabic, which can take up to two years, for first- and second-tour untenured officers who might not make the Foreign Service a career.

¹⁴ Between FY-1997 and FY-2001 annual refusal rates for Saudi citizens at Riyadh and Jeddah were very low, ranging from 2.11 percent to 4.40 percent. Refusal rates for Emiratis were similarly low. Refusal rates for TCNs in those countries at that time ranged from 28 percent to 53 percent.

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From a practical point of view, sufficient staff to interview all or even most visa applicants was simply not available in Riyadh, Jeddah, Abu Dhabi, Dubai, and Berlin. For example, one officer, occasionally supported by another part-time officer, processed 34,837 visa cases during the year that the officer issued a visa to a terrorist hijacker. It would have been physically impossible to interview all the applicants. Even if sufficient trained staff had been available, interview windows and secure workspace were not.

- 4) Did State consular officials act within existing policy and regulation in accepting these applications and granting visas?

Based on the analysis described above, OIG's review concluded that the consular officers who issued visas to the 19 terrorist hijackers did, in fact, act in accordance with visa policy and regulations which existed at that time as practiced at their missions with the Department's concurrence.

The two terrorists who obtained their visas in Berlin did so as TCNs since they were not German but citizens of Egypt and Lebanon. Both applied for and received student visas. At that time, it was Embassy Berlin's policy to readily issue visas to TCNs who had been studying in Germany over two years, considering them unlikely to immigrate illegally.

- 5) Did any individual or office within the State Department have information linking any of the 19 hijackers to terrorist concerns before the granting of visas?

The Department conducted a thorough search of its TIPOFF and CLASS terrorist lookout name check databases to determine what information might have been in the Department's lookout system pertaining to the 19 hijackers at the time their visas were granted. The search revealed that no information about them was available in the system at that time. However, late on August 23, 2001, the Department received a request to include Bin Laden associates Khalid Al Mihdhar and Nawaf Al Hazmi in the system. The important derogatory information in this request was simultaneously provided to other federal law enforcement agencies, including the INS. On the following morning, TIPOFF included their names in CLASS and notified the Bureau of Consular Affairs, requesting that their visas be revoked. The Visa Office revoked Al Mihdhar's visa on August 27, 2001, but no further action by the Department could be taken on Al Hazmi's visa because records indicated that it had already expired.¹⁵

In sum, the consular officers who issued visas to the terrorist hijackers, despite the absence of personal interviews or fully completed applications in many cases, acted in accordance with policies that prevailed at their missions at the time the visas were issued, and with published policies, practices and procedures established by the Department.

¹⁵ Testimony Before the Joint Intelligence Committee Inquiry on the TIPOFF Program by Christopher A. Kojm, Deputy for Intelligence Policy and Coordination, Bureau of Intelligence and Research, Department of State, September 19, 2002.

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United States Department of State
and the Broadcasting Board of Governors

Inspector General

November 13, 2002

MEMORANDUM

To: CA - Mr. George Lannon, Acting

From: OIG - Clark Kent Ervin *CKE*

Subject: Notification of Review - Issues Surrounding Processing of Visa Applications Submitted by September 11 Hijackers

Congressman Frank Wolf, Chairman of the Subcommittee on the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies, has requested the Office of Inspector General to conduct an inquiry "into the issues surrounding the issuance of visas to the September 11 terrorist hijackers." We will analyze whether laws, policies and procedures in place at the time the applications were processed were properly followed.

Our work will begin as soon as possible, probably on or about December 1, 2002. The team will contact you and members of your staff to discuss plans for our inquiry. Please designate a point of contact in CA/VO to work with us on our effort.

Please contact me if you have any questions or your staff may contact Robert B. Peterson, Acting Assistant Inspector General for Inspections, at (703) 284-2652. We look forward to a constructive and cooperative effort to improve the effectiveness of the Department's conduct of foreign affairs.



United States Department of State
and the Broadcasting Board of Governors

Inspector General

November 8, 2002

The Honorable Frank R. Wolf
Subcommittee on Commerce, Justice, State,
the Judiciary and Related Agencies
Committee on Appropriations
U.S. House of Representatives
H-309 Capitol Building
Washington, D.C. 20515-6017

Dear Mr. Chairman:

I received your letter dated November 6, 2002, requesting information from my office on the issues surrounding the issuance of visas to the September 11th terrorist hijackers. I assure you that I am greatly concerned about these issues. Therefore, I have directed my Office of Inspections to initiate a review immediately in response to your request. Robert Peterson, Assistant Inspector General of Inspections, will be contacting your staff shortly to discuss the review in further detail.

Sincerely,

A handwritten signature in black ink, appearing to read "Clark Kent Ervin", written over a vertical line that extends from the signature down to the typed name below.

Clark Kent Ervin

Nov-07-02 12:33pm

From-HOUSE APPROPRIATIONS

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P. 02/03

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 VIRGIL R. BOODE, JR., VIRGINIA

Congress of the United States

House of Representatives
 Committee on Appropriations
 Washington, DC 20515-6015

November 6, 2002

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CLERK AND STAFF OF
 JAMES H. DYE
 TELEPHONE
 12021 214-2221

Clark Kent Ervin
 Inspector General
 U. S. Department of State
 Washington, D.C. 20520-6817

Dear Inspector General Ervin:

I am writing to request that you conduct a thorough inquiry into the issues surrounding the issuance of visas to the September 11 terrorist hijackers.

A report issued by the GAO last month revealed that they were only able to review 18 visa applications for 15 hijackers from Saudi Arabia and the United Arab Emirates. None of the visa application documents they reviewed were completely filled out. Also, at least 13 of the Saudi and Emirati hijackers were granted visas without being interviewed by an American consular officer. Further, the report indicates that the State Department claims that it did not possess any information before the issuance of these visas that would have suggested that these individuals were suspected terrorists.

I request that you conduct an investigation into these matters, including an analysis of whether laws, policies and procedures in place at that time were properly followed. In this context I would expect that your investigation would include the following issues:

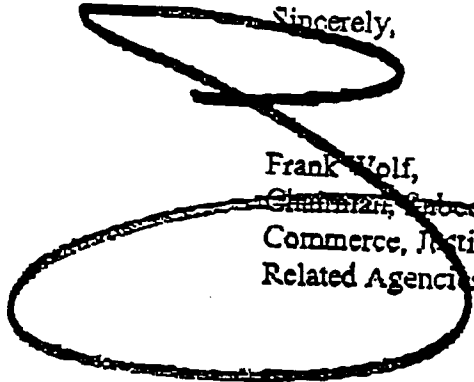
- 1) Were the visa application documents of the terrorist hijackers destroyed, and if so, was the destruction of those documents done in accordance with policies in place at that time?
- 2) Are the terrorist hijackers' visa application documents available for review filled in completely?
- 3) If they were not, should those applications therefore have been subject to denial or further scrutiny, such as personal interviews, under the prevailing law, regulation or policy at that time?
- 4) Did State consular officials act within existing policy and regulation in accepting these applications and granting visas?

5) Did any individual or office within the State Department have information linking any of the 19 hijackers to terrorist concerns before the granting of visas?

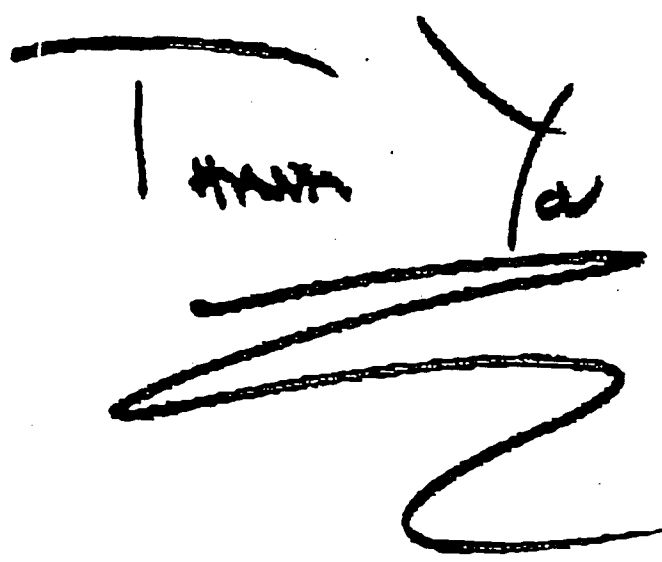
Your review will help Congress to determine how terrorists were able to exploit the visa process, and will help the Congress and the Department to continue to transform that process into a more effective anti-terrorism tool.

I appreciate your attention to this matter, and look forward to hearing back from your office on how you intend to proceed with your inquiry.

Sincerely,



Frank Wolf,
Chairman, Subcommittee on the Departments of
Commerce, Justice, and State, the Judiciary, and
Related Agencies



QUESTIONS FOR THE VISA ADJUDICATORS

1. For the record, please tell me your name, present rank and position.
2. Were you the officer (or consular associate) who issued a nonimmigrant visa to (name of applicant) on (date) at (name of post)?
3. Is this a copy of his application?
If no application is available, then why is it not available?
4. Did you check the CLASS lookout system for his name, and what were the results?
5. Did you interview this individual prior to issuing the visa?
6. If not, why not?
7. What was the policy at post regarding personal appearance waivers?
8. How were you informed of this policy? In writing? Orally? By whom?
9. Were you personally given any instructions by your supervisors or superiors about asking applicants to appear in person for an interview?
10. Did a travel agency submit the case?
11. If so, what was the policy at post regarding travel agency procedures?
12. How were you informed of this policy? In writing? Orally? By whom?
13. Would a personal interview of this applicant have helped you decide his eligibility for a visa, and why?
14. If you interviewed this individual, what details can you recall?
15. Did he present any documents in support of his application?
16. If so, can you recall any details of the documents that were presented?
17. What specific elements obtained from the interview or the application convinced you that this applicant was entitled to a visa?
18. Did you have sufficient time to conduct the interview or review the application to your satisfaction? If not, how much time would you have preferred?
19. If there were sufficient consular officers at post to conduct personal interviews of every visa applicant, would there have been sufficient interview windows, work space and support staff?
20. What other elements would have helped you make a better decision regarding the applicant's eligibility for a visa and why?
21. Did your superiors ever discuss the post's NIV refusal rates in general with you?
22. Did your superiors ever counsel you to raise or lower your own refusal rate?
23. Did you or anyone in the consular section conduct NIV return validation studies? If not, why not?
24. How well did you speak and read Arabic?
25. Did the Department train you in this language?
26. Do you consider that the training you received in the Department to carry out your visa adjudication responsibilities was adequate?
27. If not, what additional training would have enabled you to do a better job?
28. What other comments would you like to make at this time regarding this visa case?

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FACTORS INFLUENCING THE VISA PROCESS

Beginning with the influx of post-World War II refugees and peoples into the United States, visa processing has become the largest function of most American consular sections abroad, one that requires significant resources, both human and material. The focus of concern was consistently on illegal immigration; that is, on screening applicants to determine whether they intended to work or reside illegally in the United States. Pressures to emigrate to the United States have been depicted as the "push" factors of economic hardship and political and social unrest abroad coupled with the "pull" factor of American prosperity. Consequently, staffing, training and procedures have all been directed at determining whether visitor visa applicants were intending immigrants, a determination specifically required by the law. It should also be apparent that promoting travel and the free movement of people of all nationalities to America serves our interests culturally, socially, and economically; foreign tourists annually provide billions of dollars to our economy (\$82 billion in 2000).

Numerous factors impacted on the Department of State's (Department) visa process and policies in effect during the period leading to the September 11, 2001, terrorist attacks. That period extended from November 1997 to June 2001 when 21 visitor visas were issued to the 19 hijackers.

- Visa demand rose significantly more sharply than did the number of trained staff available to perform the function. This shortfall was exacerbated during the 1990s when budget cuts for Foreign Service personnel compelled the Department to "do more with less." At the same time, applications for visas increased worldwide from about seven and a half million in 1998 to about ten and a half million in 2001. In 1998 GAO reported that serious staffing shortages resulted in visa processing backlogs.¹ Consular sections also experienced "extended personnel shortages," particularly during summer months, when few qualified officers were available to adjudicate visas. Resource shortfalls for adequate officer staffing extended to the Foreign Service national staff that supports visa operations with basic data processing. Missions were obliged to work existing staff long hours, which led to adjudicator fatigue and morale problems. In short, sufficient resources to permit thorough personal interviews of every visa applicant were never obtained.

- Inadequate funding also resulted in unsuitable workspace at most missions that was neither secure nor conducive to carry out interviews, and insufficient to store all visa files. A desire to establish uniform consular file maintenance procedures as well as a lack of space at many missions prompted the Department to establish visa documentation destruction schedules. This meant that all supporting documents for visitor visas were returned to the applicants and virtually all applications were routinely destroyed annually.²

- CA gave all visa issuing missions broad discretion in processing visas and streamlining their visa operations, encouraging them to promote travel to the United States by

¹ General Accounting Office, State Department: Tourist Visa Processing Backlogs Persist at United States Consulates, GAO/NSIAD-98-69, March 1998.

² Except in cases involving permanent ineligibility such as criminal convictions.

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giving their applicants every reasonable opportunity to establish eligibility for visas. Adding to the complexity of managing visa operations worldwide are the vast resource disparities among those missions which range from one part-time consular officer to more than 30 full-time officers, and from missions with very low visa refusal rates to those with very high rates.

- Inadequate resources prompted CA to advocate introducing every efficiency possible. Consular sections were constantly exhorted to “do more with less,” to employ “best practices,” -- innovations that had proven successful at other missions, and to “work around” U. S. staff who had inadequate or no language or interview techniques training by the Department or were simply unavailable. Consular section chiefs constantly faced hard decisions about where to put their limited resources.

- Many visa officers maintained that they regularly faced pressures from host country officials, other sections and agencies, and senior management at their missions, and from interested parties in the United States, including Congress, to issue visas -- but rarely, if ever, to refuse applicants.

- Beginning in 1994, in response to a congressional mandate, CA deployed modern computer-based processing designed to improve the security of the visa system. While providing tools that enhanced the security of visas and their adjudication, these developments both slowed the process and required more human resources.

- Earlier, in 1986, Congress authorized the Visa Waiver Pilot Program, allowing citizens of participant countries to visit the United States for up to 90 days without obtaining a visitor visa, completing a visa application, or being subject to an interview by a consular officer. The criteria for a country's participation in the program include a very low rate of visitor visa refusals and reciprocal treatment of U. S. citizens.³ Twenty-eight countries currently participate and, in 2000, 17.6 million of their citizens visited the United States.⁴

- Rapidly increasing volume of applications coupled with staffing shortages led to CA policy decisions designed to lessen officer involvement in much of the visa process. These pre-September 11, 2001, workload and staffing realities prompted visa managers to “work smarter” and seek any efficiency possible in the visa process. Consequently, many missions followed Department guidance by routinely waiving personal appearances and interviews for large categories of visa applicants perceived to be “low risk.” Low risk meant that the possibility of visa applicants overstaying the duration of their permitted visit or working in the United States was very unlikely. All of these steps occurred in an environment that sought to maximize legitimate travel to the United States while identifying intending immigrants and preventing them from entering the United States.

³ Although the two countries met the Visa Waiver Pilot Program requirement for very low refusal rates prior to September 11, 2001, both failed a second criterion of declaring their willingness to provide reciprocal visa treatment for U. S. citizens visiting their countries.

⁴ General Accounting Office Report on Border Security: Implications of Eliminating the Visa Waiver Program, No. GAO-03-38, November 2002.

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- Despite the first attack on the World Trade Center in February 1993, terrorism and security were perceived primarily as threats against U. S. missions abroad. The 1998 bombings of the U. S. embassies in East Africa convinced diplomatic security officers that large crowds of visa applicants were a major problem. Crowds were perceived as both a threat from terrorists in their midst and a magnet attracting bombers. Security and consular officers worked together to limit and control access to consular sections. Their focus was on protecting Department personnel and property rather than screening out terrorist visa applicants.

- Some missions found travel agents useful in assisting visa applicants to fill out their applications and verifying their financial ability to pay for a tour to the United States. Consular officers must adjudicate these applications, interview the applicants as appropriate, and must always check them in CLASS before issuing visas. Incidentally, with the Department's full endorsement, the so-called Visas Express program was established for the two Saudi missions in May 2001. Under the program, visa applicants were required to submit their applications through any of ten designated in-country travel agencies for subsequent adjudication by consular officers. Although four of the Saudi hijackers received their visas through the program after May 2001, Visas Express did not affect whether or not they were issued visas or subjected to an interview.

- The primary tool for terrorist screening available to consular officers is CLASS. All visa applicants must be checked against this database before a visa can be issued. In determining whether visa applicants were suspected of being terrorists or posed security risks, consular officers relied essentially on CLASS. Absent a negative entry in CLASS or an actual admission of ineligibility, it is possible for a terrorist applicant to obtain a visa. None of the names of any of the September 11, 2001 terrorists were in CLASS at the time they applied for visas.

Procedurally, an era of inadequate staffing and support resources prompted the Bureau of Consular Affairs (CA) to encourage consular sections to carry out every possible efficiency, such as limiting consular officer participation in the visa process to those cases considered most difficult to adjudicate. The missions in Saudi Arabia and the U.A.E. responded to these resource pressures by routinely waiving personal interviews for so-called good visa cases, that is, those of their host country nationals. Berlin was similarly strapped for staff. There were simply not enough visa officers available to interview more than a handful of applicants at any of the five consular sections.