

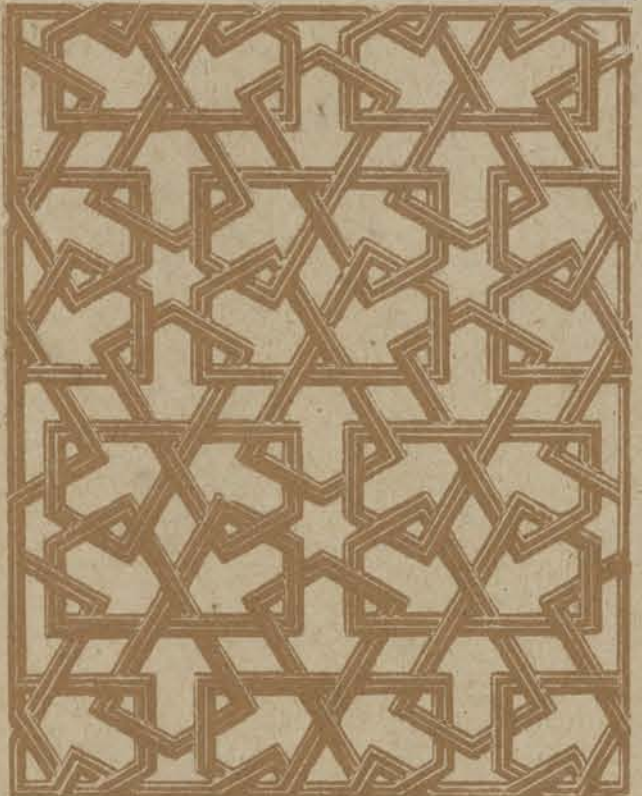


POLICY FOCUS

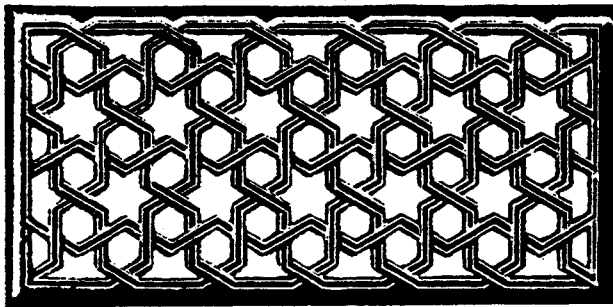
OPEN ADMISSIONS:

**U.S. Policy Toward Students from Terrorism-
Supporting Countries in the Middle East**

HILLARY MANN



THE WASHINGTON INSTITUTE



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RESEARCH MEMORANDUM

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Executive Summary

Six years after revelations emerged that Saddam Hussein sent hundreds of Iraqi students abroad to study subjects that would help Baghdad develop its nuclear weapons program, the U.S. government continues to issue visas to students from Iraq and the other Middle Eastern countries on the State Department's list of "state sponsors of terrorism"—Iran, Libya, Sudan and Syria—to study in the United States, mostly in science-related fields and probably with funding from their governments.

Current U.S. visa procedures, which are intended to exclude students from terrorism-supporting states who may be involved in terrorist activity or who come to the United States to study "dual use" subjects (i.e., those that could contribute to their countries' efforts to develop missiles and/or nuclear, chemical, or biological weapons), are weak and ambiguous. Syrian and Sudanese students are generally not subject to any special clearance procedures; Iranian undergraduates (and graduate students in all disciplines except nuclear physics and related subjects) receive only an intermediate security check, not the more extensive background check required for Iranian graduate students in the nuclear field and nearly all Iraqi and Libyan students. Only a very small number of visas have actually been denied to students from terrorism-supporting states in the Middle East.

In addition, once these students enter the United States they are not subject to any effective monitoring or tracking procedure, which means that students can declare that they are studying benign subjects such as social sciences and then concentrate on nuclear physics, chemistry, biology, and engineering without anyone in the U.S. government becoming aware of the change. Syrian and Sudanese students are also allowed to travel repeatedly outside the United States—back to their countries, to other terrorist-sponsoring states in the Middle East, or anywhere else—without having to obtain a new visa or submit to an updated security check.

Finally, the data on students from terrorism-supporting states in the Middle East is incomplete, making it difficult to determine whether they present a threat to Washington's interest in preventing international terrorism and the transfer of technology to terrorism-supporting states in the Middle East.

To respond to these deficiencies, the United States should tighten its screening procedures to require a Security Advisory Opinion (SAO), its most in-depth background check, for all students from states that sponsor terrorism, and deny entry to such students seeking to study "dual use" subjects that could contribute to their countries' development of missiles and nuclear, biological, and chemical weapons.

Second, Washington should prohibit Iran, Sudan, and Syria from transferring funds to finance their students' studies in the United States, as is already done with students from Libya. Third, the U.S. government should quickly and fully implement Immigration and Naturalization Service recommendations for better monitoring and tracking of foreign students once they are in the country.

Finally, Washington should coordinate with other nations that give student visas to applicants from terrorism-sponsoring countries in order to impede their access to weapons-related technologies as well as lessen the likelihood that potential terrorists will use a student visa to enter a third country such as Canada, as an easier route to eventual entry into the United States.

I

U.S. Policy on Issuing Student Visas

The United States has long been a popular destination for students from around the world to pursue post-secondary education in fields ranging from Western philosophy to nuclear engineering. After completing their studies, most return to their home countries and—along with those who choose to remain in the United States—make positive contributions to society.

There is the potential for abuse of the U.S. student visa procedures, however, by states that sponsor international terrorism and actively seek to acquire weapons of mass destruction and missiles to deliver them. In 1991, for example, UN weapons inspectors in Iraq discovered documents detailing an Iraqi government strategy to send students abroad (including to the United States) specifically to study nuclear-related subjects in order to develop Iraq's non-conventional weapons programs.¹ One of those students, Samir Al-Araji, received his doctorate in nuclear engineering from Michigan State University and then returned to Iraq to head its nuclear weapons program, known as Petrochemical Project III, under the auspices of the Iraqi Atomic Energy Commission.²

Similarly, at least three Iranian officials suspected of developing Tehran's nuclear program also reportedly studied in the United States: Reza Amrollahi studied electrical engineering at the University of Texas,³ Mahdi Chamran studied nuclear physics at the University of California at Berkeley,⁴ and Kazem Khabir studied nuclear engineering at the University of Oklahoma.⁵ Libya also reportedly sent students to study abroad, including to the United States, in order to develop Tripoli's weapons programs.⁶

Indeed, the presence of students from Middle East state-sponsors of terrorism in weapons-related scientific fields may be a useful indicator of their countries' weapons development plans and/or the status of those programs.⁷ Yet more than six years after these revelations about Iraq's strategy, thousands of students from Iraq and other countries in the Middle East that the State Department has designated "state sponsors of terrorism"—Iran, Libya, Sudan and Syria—are still

¹ David Kay, "Denial and Deception Practices of WMD Proliferators: Iraq and Beyond," *Washington Quarterly* 18, no. 1 (Winter 1995); "Saddam's Nuclear Weapons Dream: A Lingerin Nightmare," *Washington Post*, October 13, 1991, p. A1.

² David Kay, "Iraqi Inspections: Lessons Learned," *Eye on Supply* 8 (Winter 1995), p. 88.

³ "Iran Plans a Vast Nuclear Build-Up," *International Herald Tribune*, May 15, 1995; "Iran Defends Its Pursuit of Nuclear Technology," *Christian Science Monitor*, February 18, 1993, p. 7.

⁴ "Iran: Prague, Gateway to the West," *Intelligence Newsletter*, September 2, 1993; "Thinking the Unthinkable About Iran," *Jerusalem Post*, April 23, 1992.

⁵ "Tehran Grants a Glimpse of a Nuclear Site Reborn," *International Herald Tribune*, May 20, 1995.

⁶ "Qaddafi's Great Aim for Libya is a Nuclear Capability of Its Own," *Christian Science Monitor*, November 12, 1980, p. 14. One such student, Haidar Barbouti, came to the United States in the late 1980s on a student visa to study liberal arts at Columbia University. While in the United States, he allegedly coordinated Libya's purchase of "dual use" military technology and chemical compounds. In addition, U.S. officials have named Barbouti's father Ihsan as the primary contractor for Libya's Rabta chemical weapons plant; see "Arms Probe Shifts to Dealer's Son," *Newsday*, April 21, 1991, p. 24. See also "Barbouti's Son Found Liable in Technology Theft Scheme," *Houston Chronicle*, March 6, 1992, p. A23.

⁷ Marvin M. Miller, "The Proliferation Implications of the Education and Training of Foreign Nationals in Discipline Relevant to Weapons of Mass Destruction" (unpublished paper prepared for the Defense and Arms Control Studies Program, Department of Nuclear Engineering, Massachusetts Institute of Technology, March 1997).

studying in the United States, mostly in science-related fields and some probably with funding from their governments.⁸

Although the United States has many reasons to promote the continuing education of foreign students, problems in screening and tracking students from terrorism-sponsoring countries threaten to undermine an otherwise beneficial program. The U.S. government's visa procedures concerning the entry and exit of students from terrorism-sponsoring countries are weak and ambiguous: after it issues their visas, the government does not update records of how many of these students are in the country, what schools they attend, what subjects they study, or who finances their studies. Indeed, once students enter the country, there is virtually no effort to monitor their studies, movements, or other activities.

STUDENT VISA APPLICATION PROCEDURES

Students enter the United States by filling out visa applications that include their name, the name of the school they will be attending, their intended area of study, and certification from their school that they have sufficient funding to cover their stay in the United States.⁹ Syrian students submit the applications to the U.S. embassy in Damascus; because there is no functioning U.S. embassy in Iran, Iraq, Libya, and Sudan, students from these states must apply to U.S. embassies in other countries.

The State Department conducts a routine check of all visa applicants to see if the person has a criminal record or appears on the "alert list" of known terrorists. After this initial screening, security checks on students from each of the terrorist-sponsoring states differ according to their country of origin. Based on State Department visa issuance procedures, consular officers in U.S. embassies overseas decide which visa applications from students from terrorist-sponsoring states should also be referred back to Washington for more extensive name and background checks.

These processes are coordinated by an office of the State Department's Bureau of Consular Affairs. The first, known as "Visa Eagle," involves checking several additional U.S. government data bases for the applicant's name and information about the student's background that may connect them to terrorist activity or nuclear research and development. The other, known as "Visa Donkey," involves checking even more data bases and the preparation of a Security Advisory Opinion (SAO) on whether the prospective student has any known connections to terrorist activity, espionage, or his or her country's nuclear program. Neither of these more extensive security checks considers the prospective students' ties to their countries' chemical or biological weapons programs, however. Based on these name and background checks—and information from other sources (including U.S. intelligence agencies)—the State Department informs the consular officer whether to issue a student visa.

The security checks required for students from terrorism-sponsoring countries in the Middle East to obtain a visa to study in the United States range from extensive (Libya) to non-existent (Syria). The requirements are summarized below:

- **Libyan** students seeking to study in the United States are subjected to the most extensive security checks of any of the Middle East state-sponsors of terrorism. An SAO is required for all Libyan passport holders, persons born in Libya of Libyan fathers, and third-country nationals living or who have lived in Libya for two years or more since 1981, regardless of their current place of residence.¹⁰ For visa applications indicating an intention to study certain nuclear-related

⁸ Although much of the data in this study is from public sources, some of the information is the product of numerous "off the record" conversations and interviews with officials from the various U.S. government agencies responsible for immigration and counterterrorism issues. Their identities remain confidential.

⁹ See Appendix A.

¹⁰ U.S. Department of State, *Foreign Affairs Manual*, vol. 9, part IV, September 2, 1996.

“sensitive technologies” (but not chemical or biological ones), the SAO includes the applicant’s “field of expertise, educational background, professional employment history, focus and nature of past and present study and research, detailed description of the proposed study or research program in the U.S., and sponsoring institution.”¹¹

- **Iraqi** students require an SAO, but there are no additional requirements regarding “certain sensitive technologies.”¹² Students from Iraq traveling on other passports, however, may be able to evade the SAO.

- **Iranian** students require an SAO if they intend graduate-level study in the nuclear field, but not for graduate-level study in any other field, including those which may be related to chemical or biological weapons programs. SAOs are also not required at all for Iranian undergraduates, even if they plan to study in the nuclear field.¹³ As with Iraqi students, Iranian students holding other passports may be able to evade the more in-depth SAO background check.

Although all applications from Iranian students require a Visa Eagle check,¹⁴ there is a significant loophole in the process. After requesting the Visa Eagle, U.S. consular officers are instructed to wait thirty days for a reply from the State Department. If there is no reply within this time, standard procedures require the consular officer to issue a visa. Although this procedure saves the State Department the trouble of responding in cases in which no security problems are found, it creates the possibility of wrongfully issuing a visa in cases in which links to terrorism are found *after* the thirty day period—for example, if there is a delay in the transmission of the Visa Eagle request, if the request is lost or stolen, or if the State Department is simply slow to respond.

- **Sudanese** students are not subject to any special security clearance procedures unless they are a government official or member of the armed forces—to whom Washington generally denies visas.¹⁵

- **Syrian** students are unique among applicants from state-sponsors of terrorism in that they are not subject to *any* security clearance procedures, regardless of the prospective student’s course of study (e.g., nuclear physics) or source of funding (e.g., government funds).¹⁶

VISA DENIALS AND APPEALS

Despite these security procedures, few non-immigrant visa applicants are denied entry into the United States because of concerns about terrorism or technology transfer (see table below).

Non-Immigrant Visas Issued, Denied, and Reversed, 1992–96¹⁷

	1992	1993	1994	1995	1996
Non-immigrant visas issued	5,368,437	5,359,620	5,610,953	6,181,822	6,237,870
Visas denied due to terrorism concerns	28	73	38	79	41
Visas denied due to technology concerns	28	10	24	6	11
Terrorism denials appealed and reversed	15	40	8	24	8
Technology denials appealed and reversed	3	4	4	0	1
Total denials appealed and reversed	53%	53%	19%	28%	17%

¹¹ Ibid., August 1, 1994.

¹² Ibid.

¹³ Ibid., May 2, 1997.

¹⁴ Ibid.

¹⁵ Ibid.

¹⁶ Ibid., February 16, 1996.

¹⁷ Ibid., 1992, 1993, 1994, 1995, 1996.

Moreover, a significant percentage of those initially denied entry due to concerns about terrorist activity and illegal technology transfer have been able to appeal these decisions to the State Department and ultimately receive visas. Although data on the exact number of student visas denied to nationals of terrorist-sponsoring states are not available, the table below shows the number of non-immigrant visas (of which student visas are the second largest of nineteen categories) denied on those bases.

Even these data, however, may not accurately reflect the exact numbers. The number of refusals may be overstated, for example, because a single applicant can re-apply and be refused more than once a year; the number of denials reversed may be understated because some embassies' automated visa systems do not keep data on visa denials reversed.

II

Monitoring Foreign Students in the United States

Until recently, the U.S. government did not attempt to monitor the activities of foreign students—including what they study, where they study, and who finances their studies—once they had entered the United States. According to the INS, it does not even have an effective system for keeping track of foreign students' current addresses. Indeed, a task force report on foreign students, drafted by the INS in response to concerns within the federal law enforcement community¹ about how the 1993 World Trade Center bombers were allowed to enter the United States, declared: "At present, foreign students in the United States are not subject to continuing scrutiny, tracking, or monitoring when they depart, drop out, transfer, interrupt their education, violate [their visa] status, or otherwise violate the law."²

This means, for example, that a student from a terrorism-sponsoring state in the Middle East could apply to study business administration at one school and then transfer to a nuclear engineering program at another school without anyone in the U.S. government necessarily knowing about it—thereby circumventing current visa screening procedures specifically intended to impede access to sensitive U.S. technologies.

In the wake of the World Trade Center bombing and the INS task force report indicating that foreign students in the United States were not subject to any kind of effective tracking or monitoring, in late 1996 the U.S. Congress passed Public Law 104-208 (Subtitle D, Section 641), which authorized a pilot program to determine the practicality of collecting data electronically on foreign students in the United States. The program began in June 1997 and covers approximately 10,000 (or about .02 percent) of the estimated 500,000 foreign students currently in the United States. Although the results of this limited program remain to be seen (a report on its results is scheduled for submission to Congress by 2001), it represents the first real step to address the government's inability to track or monitor foreign students, including those from terrorism-supporting states in the Middle East.

NUMBERS OF FOREIGN STUDENTS

Although the State Department maintains statistics on the number of student visas issued annually, the U.S. government has not kept track of the exact number of foreign students—including those from terrorist-sponsoring states in the Middle East—in the country at any given time. Some may quit their studies and leave the country, others may quit but remain in the country, and still others may complete their studies and remain in the country after their visas expire. Reliable estimates put the number of foreign students in the United States at more than 500,000. State Department records indicate that 9,767 visas have been issued to students from state-sponsors of terrorism since the 1991 Gulf War (see table on following page).

¹ See Appendix C.

² INS, "Controls Governing Foreign Students and Schools That Admit Them," Final Report by the Task Force on Foreign Student Controls, December 22, 1995, p. 1-1.

Student Visas Issued, 1991-96³

	1991	1992	1993	1994	1995	1996	Total
Iran	955	948	835	797	736	518	4,789
Iraq	45	102	84	96	82	58	467
Libya	29	15	20	18	10	14	104
Sudan	302	293	226	193	199	191	1,404
Syria	739	640	488	381	412	343	3,003
Total	2,070	1,998	1,653	1,485	1,439	1,124	9,767

In addition, the U.S. Immigration and Naturalization Service (INS) keeps figures on how many "student admittances"—entering the country with a student visa—occur each year. The INS statistics (see table below) indicate that there were 8,492 "student admittances" from terrorist-

Student Admittances to the United States, 1991-96⁴

	1991	1992	1993	1994	1995	1996	Total
Iran	709	624	534	600	522	405	3,394
Iraq	51	72	50	72	49	42	336
Libya	19	8	12	12	64	13	128
Sudan	231	218	145	165	944	174	1,878
Syria	560	373	370	384	828	341	2,856
Total	1,570	1,295	1,111	1,233	2,407	975	8,592

supporting states in the Middle East since the Gulf War. Depending on the terms of the visa, some students can enter several times on the same visa, as in the case of Syrian and Sudanese students. Whereas Syrian students generally receive multiple-entry visas valid for two years, Sudanese students' multiple-entry visas are valid for only six months. Libyan, Iraqi, and Iranian students must obtain a new visa before each entry into the United States. These figures do not differentiate between students coming directly from their home countries and those who are long-term residents of third countries. The State Department and the INS were unable to explain the discrepancy between the number of students from terrorist-sponsoring states actually admitted to the United States and those provided with student visas, or the sharp increase in the number of students admitted from Libya, Syria, and Sudan between 1994 and 1995.

WHAT FOREIGN STUDENTS STUDY AND WHO FUNDS THEM

The Institute of International Education (IIE), a private organization that receives federal funding for administering certain student exchange programs, compiles data on foreign students—including what they study and who funds them—by surveying students at educational institutions across the United States. Only about 60 percent of these institutions respond to IIE's surveys, however (exceptions include such major universities as Harvard and Stanford), and only an estimated 50 percent of all foreign students provide the needed information. In addition, there are no effective checks to ensure that students supply truthful information. Nevertheless, the data compiled by the IIE provides at least a partial picture of foreign students not available elsewhere.

³ U.S. Department of State, Bureau of Consular Affairs, "Report of the Visa Office," 1991-96.

⁴ Data compiled from interviews with Immigration and Naturalization Service (INS) official, Office of Policy and Planning/Demographic Statistics, January, March, and July 1997.

In brief, the most recent IIE data (see tables below) indicate that the vast majority of students from terrorism-sponsoring states in the Middle East who responded to the survey report that they are studying in science-related fields (such as engineering, physical and computer sciences, and mathematics), with a plurality studying some form of engineering.

Declared Areas of Study for Students from Terrorism-Sponsoring States, 1995–96⁵

Areas of Study	Iran	Iraq	Libya	Sudan	Syria
Science (total)	71.9%	65%	47.5%	53.9%	68.5%
— Engineering	30.8%	34%	21.1%	24.6%	30.6%
— Physical and Life Sciences	17.1%	8%	5.3%	12.3%	7.6%
— Health Sciences	13.9%	15%	5.3%	6.6%	19.1%
— Math and Computer Science	8.8%	6%	15.8%	7.1%	10.2%
— Agriculture	1.3%	2%	0	3.3%	1%
Undeclared	6.3%	6%	5.3%	6.2%	2.2%
Other	4.9%	9%	10.5%	5.7%	7%
Social Science	4.8%	4%	10.5%	12.3%	1.9%
Fine Arts	1.7%	2%	0	3.3%	2.5%
Business	7.1%	7%	26.3%	12.3%	10.8%
Humanities	1.1%	5%	0	1.9%	3.8%
Intensive English	1.2%	0	0	0.9%	1.6%
Education	1%	2%	0	3.3%	1.6%

In addition, a significant percentage of respondents reported receiving funding from “non-family sources” (see table below) which, in countries with authoritarian regimes and strictly controlled economies such as those in the Middle East, probably means the student’s government or government-funded institutions. Moreover, because money is fungible and its ultimate source easily disguised, there is no way to determine whether students who declared their source of funding as “personal/family” did not receive full or at least partial financing from their governments. The number of students in the latter category may be higher than reported.

Declared Sources of Funding for Students from Terrorism-Sponsoring States, 1995–96⁶

Source	Iran	Iraq	Libya	Sudan	Syria
Personal/Family	71.2%	57.9%	100%	66.3%	80%
U.S. sponsor	24.2%	31.6%	—	18%	15%
Non-U.S. sponsor (probably own government)	4.6%	10.5%	—	15.7%	5%

The fact that none of the Libyan students surveyed by IIE reported funding from a non-family sponsor may be due to U.S. legal restrictions that prohibit the Libyan government from transferring funds to any person in the United States. The same legal restrictions apply to Iraqi government funds, however, and yet some Iraqi students reported receiving funds from a non-

⁵ Table based on data supplied to author from 1995 and 1996 IIE surveys of 1,937 students from terrorism-sponsoring states in the Middle East.

⁶ Ibid.

U.S. sponsor, which was most likely the Iraqi government or a government-funded institution.⁷ By contrast, Iran, Sudan, and Syria are permitted to transfer funds into the United States.⁸

⁷ See Libyan Sanctions Regulations, 31 CFR Ch. V, Part 550, Subpart B, Section 550.209, July 1, 1996; and Iraqi Sanctions Regulations, 31 CFR Ch. V, Part 575, Subpart B, Section 575.201, July 1, 1996.

⁸ See Terrorism List Governments Sanctions Regulations; Authorization for Government Stipends and Scholarships for Students, 31 CFR Part 596, 61 FR 67943, Fed. Reg., vol. 61, no. 249, December 26, 1996. See also Iranian Transactions Regulations, 31 CFR, Ch. V, Part 560, Subpart B, Sections 560.201 and 560.206. These regulations do not explicitly prohibit the Iranian government from transferring funds to Iranian students in the United States.

III

Conclusions and Policy Recommendations

Allowing foreign students, including those from the Middle East, to study in the United States is generally in the U.S. interest. These students usually return home with an appreciation for the openness of American society and contribute to the development of their respective homelands. The overwhelming majority of foreign students are neither terrorists nor nuclear bombmakers.

The current U.S. procedures for issuing student visas and tracking students once they are in the country, however, are amorphous, weak, and ripe for abuse. Over the past five years, thousands of students have entered the United States from countries in the Middle East that the United States has officially designated as sponsors of international terrorism. Yet, at any given time, the U.S. government does not know exactly how many of these students are in the country, where they are, what school they are attending, what they are studying, and who finances their studies. By their own admission, a majority of students from terrorist-sponsoring states in the Middle East are studying science-related fields, and some probably are being funded by their governments. The United States should be concerned that students from terrorist-sponsoring states in the Middle East have relatively easy access to U.S. scientific information that can be used to help their countries develop weapons of mass destruction and missiles to deliver them.

The United States is not the only country, however, that attracts such students. Ghazi Ibrahim Abu Maizar, one of those arrested in New York in August 1997 for allegedly planning suicide bombings, reportedly slipped into the United States after entering Canada on a student visa.¹ Moreover, Rihab Taha and Jafar Diya Jafar, two of the principal participants in Iraq's weapons of mass destruction programs, received doctorates in Great Britain.²

Although restricting the flow of foreign students to the United States would be unseemly for an open, democratic society, it would be equally foolhardy to ignore the risk that identified state sponsors of terrorism may use weak student visa procedures as a means of entering the United States and acquiring technologies that would otherwise be prohibited to them by export-control laws. Moreover, failing to deal with the small number of states that sponsor terrorism subjects the much greater number of students from other Middle Eastern states to unfair suspicion.

POLICY RECOMMENDATIONS

To address these problems, the U.S. government should:

- Require that the most in-depth background check, known as the Visa Donkey security advisory opinion (SAO), be conducted for all students coming to the United States from the states designated as sponsors of terrorism—Iran, Iraq, Libya, Sudan, and Syria. Students from these countries should be denied entry to study nuclear engineering (as is already the case with

¹ "Torture Tales in Bomb Case Are Challenged," *New York Times*, August 8, 1997.

² " 'Dr. Germ': One of the World's Most Dangerous Women," *Los Angeles Times*, November 7, 1995, p. E6; "Head of Saddam's Germ Warfare Project Profiled," *al-Sharq al-Awsat*, January 29, 1995, p. 2, in FBIS-NES 95-025, February 7, 1995, p. 48.

all Libyan students and Iranian graduate students) or subjects that could contribute to their countries' missile or chemical and biological weapons programs.

- Prohibit the governments of Iran, Sudan, and Syria from financing their students' studies in the United States, as is already done with the government of Libya.
- Quickly and fully implement the recommendations of the INS task force to improve monitoring of foreign students in the United States. An INS pilot program to obtain and maintain data on foreign students in the United States, implemented in June 1997 and covering approximately .02 percent of the foreign student population in the United States, is an important start, but it needs to be expanded as quickly as possible.
- Coordinate with other countries that attract students from state-sponsors of terrorism to impede their access to weapons-related technologies and decrease the likelihood that potential terrorists will use student visas into a third country, such as Canada, as an easier route to eventual entry into the United States.

Appendices

APPENDIX A

Certificate of Eligibility for Non-Immigrant (F-1) Student Status¹

This page must be completed and signed in the U.S. by a designated school official.

<p>1. Family Name (surname)</p> <p>First (given) name (do not enter middle name)</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 30%;">Country of birth</td> <td>Date of birth (mo./day/year)</td> </tr> <tr> <td>Country of citizenship</td> <td>Admission number (Complete if known)</td> </tr> </table>	Country of birth	Date of birth (mo./day/year)	Country of citizenship	Admission number (Complete if known)	<p style="text-align: center;">For Immigration Official Use</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%;">Visa issuing post</td> <td>Date Visa issued</td> </tr> </table> <p>Reinstated, extension granted to:</p>	Visa issuing post	Date Visa issued
Country of birth	Date of birth (mo./day/year)						
Country of citizenship	Admission number (Complete if known)						
Visa issuing post	Date Visa issued						
<p>2. School (school district) name</p> <p>School official to be notified of student's arrival in U.S. (Name and Title)</p> <p>School address (include zip code)</p> <p>School code (including 3-digit suffix, if any) and approval date</p> <p style="text-align: center;">_____ 214F _____ approved on _____</p>							

3. This certificate is issued to the student named above for:
(Check and fill out as appropriate)
- a. Initial attendance at this school.
 - b. Continued attendance at this school.
 - c. School transfer.
Transferred from _____
 - d. Use by dependents for entering the United States.
 - e. Other _____
4. Level of education the student is pursuing or will pursue in the United States:
(check only one)
- | | |
|--|---|
| a. <input type="checkbox"/> Primary | e. <input type="checkbox"/> Master's |
| b. <input type="checkbox"/> Secondary | f. <input type="checkbox"/> Doctorate |
| c. <input type="checkbox"/> Associate | g. <input type="checkbox"/> Language training |
| d. <input type="checkbox"/> Bachelor's | h. <input type="checkbox"/> Other |
5. The student named above has been accepted for a full course of study at this school, majoring in _____
The student is expected to report to the school not later than (date) _____
and complete studies not later than (date) _____
The normal length of study is _____
6. English proficiency is required:
 The student has the required English proficiency.
 The student is not yet proficient, English instructions will be given at the school.
 English proficiency is not required because _____
7. This school estimates the student's average costs for an academic term of _____ (up to 12) months to be:
- | | |
|---------------------------|-----------------|
| a. Tuition and fees | \$ _____ |
| b. Living expenses | \$ _____ |
| c. Expenses of dependents | \$ _____ |
| d. Other (specify): | \$ _____ |
| Total | \$ _____ |
8. This school has information showing the following as the student's means of support, estimated for an academic term of _____ months (Use the same number of months given in Item 7).
- | | |
|---|-----------------|
| a. Student's personal funds | \$ _____ |
| b. Funds from this school
(specify type) | \$ _____ |
| c. Funds from another source
(specify type and source) | \$ _____ |
| d. On-campus employment (if any) | \$ _____ |
| Total | \$ _____ |
9. Remarks: _____

10. School Certification: I certify under penalty of perjury that all information provided above in items 1 through 8 was completed before I signed this form and is true and correct; I executed this form in the United States after review and evaluation in the United States by me or other officials of the school of the student's application, transcripts or other records of courses taken and proof of financial responsibility, which were received at the school prior to the execution of this form; the school has determined that the above named student's qualifications meet all standards for admission to the school; the student will be required to pursue a full course of study as defined by 8 CFR 214.2(f)(6); I am a designated official of the above named school and I am authorized to issue this form.

Signature of designated school official	Name of school official (print or type)	Title	Date issued	Place issued (city and state)
---	---	-------	-------------	-------------------------------

11. Student Certification: I have read and agreed to comply with the terms and conditions of my admission and those of any extension of stay as specified on page 2. I certify that all information provided on this form refers specifically to me and is true and correct to the best of my knowledge. I certify that I seek to enter or remain in the United States temporarily, and solely for the purpose of pursuing a full course of study at the school named on Page 1 of this form. I also authorize the named school to release any information from my records which is needed by the INS pursuant to 8 CFR 214.3(g) to determine my nonimmigrant status.

Signature of student	Name of student	Date
Signature of parent or guardian if student is under 18	Name of parent/guardian (Print or type)	Address (city) (State or province) (Country) (Date)

¹ U.S. Department of Justice, Immigration and Naturalization Service, Form I-20 A-8/1-201D (Rev 04-27-88)N.

APPENDIX B

Legal Authority for Denying Visas to Prospective Students¹

TITLE 8. ALIENS AND NATIONALITY
CHAPTER 12. IMMIGRATION AND NATIONALITY IMMIGRATION ADMISSION QUALIFICATIONS
FOR ALIENS; TRAVEL CONTROL OF CITIZENS AND ALIENS

8 USCS @ 1182 (1997)

Excludable Aliens

INA 212(a)(3) Security and Related Grounds

(A) **IN GENERAL.** Any alien who a consular officer or the Attorney General knows, or has reasonable ground to believe, seeks to enter the United States to engage solely, principally, or incidentally in—

(i) any activity

(I) to violate any law of the United States relating to espionage or sabotage or

(II) to violate or evade any law prohibiting the export from the United States of goods, technology, or sensitive information,

(ii) any other unlawful activity, or

(iii) any activity a purpose of which is the opposition to, or the control or overthrow of, the Government of the United States by force, violence, or other unlawful means, is inadmissible.

(B) **TERRORIST ACTIVITIES.**

(i) **IN GENERAL.** Any alien who—

(I) has engaged in a terrorist activity,

(II) a consular officer or the Attorney General knows, or has reasonable ground to believe, is engaged in or is likely to engage after entry in any terrorist activity (as defined in clause iii),

(III) has, under circumstances indicating an intention to cause death or serious bodily harm, incited terrorist activity,

(IV) is a representative (as defined in clause iv) of a foreign terrorist organization, as designated by the Secretary [of State] under section 219 [8 USCS @ 1189], or

(V) is a member of a foreign terrorist organization, as designated by the Secretary under section 219 [8 USCS @ 1189], which the alien knows or should have known is a terrorist organization is inadmissible. An alien who is an officer, official, representative, or spokesman of the Palestine Liberation Organization is considered, for purposes of this Act, to be engaged in a terrorist activity.

(ii) **TERRORIST ACTIVITY DEFINED.** As used in this Act, the term “terrorist activity” means any activity which is unlawful under the laws of the place where it is committed (or which, if committed in the United States, would be unlawful under the laws of the United States or any State) and which involves any of the following:

(I) The hijacking or sabotage of any conveyance (including an aircraft, vessel, or vehicle).

(II) The seizing or detaining, and threatening to kill, injure, or continue to detain, another individual in order to compel a third person (including a governmental organization) to do or abstain from doing any act as an explicit or implicit condition for the release of the individual seized or detained.

(III) A violent attack upon an internationally protected person (as defined in section 1116(b)(4) of Title 18, United States Code) or upon the liberty of such a person.

(IV) An assassination.

(V) The use of any—

(a) biological agent, chemical agent, or nuclear weapon or device, or

¹ Title 8 of the U.S. Code gives the government the legal authority to deny visas to prospective students who may be involved in terrorist activities or who may seek to illegally acquire nonconventional weapons technology.

(b) explosive or firearm (other than for mere personal monetary gain), with intent to endanger, directly or indirectly, the safety of one or more individuals or to cause substantial damage to property.

(VI) A threat, attempt, or conspiracy to do any of the foregoing.

(iii) **ENGAGE IN A TERRORIST ACTIVITY DEFINED.** As used in this Act, the term “engage in terrorist activity” means to commit, in an individual capacity or as a member of an organization, an act of terrorist activity or an act which the actor knows, or reasonably should know, affords material support to any individual, organization, or government in conducting a terrorist activity at any time, including any of the following acts:

(I) The preparation or planning of a terrorist activity.

(II) The gathering of information on potential targets for terrorist activity.

(III) The providing of any type of material support, including a safe house, transportation, communications, funds, false documentation or identification, weapons, explosives, or training, to any individual the actor knows or has reason to believe has committed or plans to commit a terrorist activity.

(IV) The soliciting of funds or other things of value for terrorist activity or for any terrorist organization.

(V) The solicitation of any individual for membership in a terrorist organization, terrorist government, or to engage in a terrorist activity.

(iv) **REPRESENTATIVE DEFINED.** As used in this paragraph, the term “representative” includes an officer, official, or spokesman of an organization, and any person who directs, counsels, commands, or induces an organization or its members to engage in terrorist activity.

APPENDIX C

FBI Director's Memorandum on Loopholes in the U.S. Visa System¹

U.S. Department of Justice
Office of Investigative Agency Policies
Washington, D.C. 20530
September 26, 1994

MEMORANDUM

TO: Jamie S. Gorelick
Deputy Attorney General

FROM: Louis J. Freeh, Director
Office of Investigative Agency Policies

At your request, the Office of Investigative Agency Policies ("OIAP") has considered "current procedures, policies and practices relating to aliens' entry into and departure from the United States," and addressed ways "to improve the Department's law enforcement capabilities in these areas." In making this request, you noted the participation of aliens in two heinous crimes: the World Trade Center bombing and the killings outside of the Central Intelligence Agency headquarters.

After consulting with the members of the OIAP's Executive Advisory Board ("EAB"),² I make the recommendations contained herein. The recommendations, if fully implemented, would require an infusion of funds and personnel.

Visa Applications

The members of the EAB stressed the need for coordination and cooperation in determining whether the United States Government should issue a visa to an alien. In this regard, it was noted that, when agencies provide information to the State Department which suggests that a visa should not be issued, the State Department should not specify the reason for the visa's denial. Such information often results from criminal investigations and, thus, its disclosure could jeopardize them. Accordingly, the EAB recommends, and I endorse, the establishment of a uniform system for the State Department's communication of visa denials.

The members of the EAB also expressed concern about the Visa Waiver Pilot Program, which the United States Government employs with a growing number of countries. Criminals and terrorists can use that program to their advantage. For example, although an undesirable alien may be a citizen of Country A (a country that does not participate in the Visa Waiver Pilot Program), he obtains false documents demonstrating his citizenship in Country B (a partner of the United States in the Visa Waiver Pilot Program). Such false documents avert the necessity of his procuring a visa to enter the United States, thereby avoiding any overseas State Department scrutiny of his right to enter. Failure to allow that overseas

¹ In this memorandum, FBI Director Louis J. Freeh outlined several concerns regarding the potential use by terrorists of loopholes in the U.S. visa system to gain entry into the United States. In particular, Freeh cited the need to subject foreign students to thorough and continuing scrutiny both prior to and during their stay in the United States. Subsequent footnotes in the memo are from the original.

² The EAB consists of representatives from the Drug Enforcement Administration (DEA), United States Marshals Service (USMS), Immigration and Naturalization Service (INS), Federal Bureau of Investigation (FBI), and the Department of Justice's Criminal division.

scrutiny shrinks the United States Government's "window of opportunity" to exclude or detain that person from a few weeks to just a few hours.

I recognize the foreign policy and political implications of United States participation in the Visa Waiver Pilot Program. Nevertheless, in view of the competing law enforcement interests described herein, I recommend careful review of any expansion of United States participation in the Visa Waiver Pilot Program.

The Immigration and Naturalization Service ("INS") has established a pre-inspection program that currently is used in a handful of countries. The goals of that program include preventing "bottlenecks" at busy United States airports, as well as preventing the entry of undesirable aliens, especially international terrorists and criminals. Aliens have fewer rights in foreign countries than they have once they have entered the United States. Thus, a thorough law enforcement program, such as a vigorous employment of the INS pre-inspection program, can be a valuable tool for preventing the entry of undesirable aliens into the United States.³ Expansion of the INS pre-inspection program should be explored.

Immigration Issues in the United States

The members of the EAB also made several suggestions concerning procedures and policies relating to aliens present in the United States.

United States Government agencies cannot presently use protected or classified information—including sensitive technical and human source information—in deportation or other proceedings against aliens, because there are no adequate means to protect that information under existing law. Disclosure of the information could compromise ongoing investigations. There is, therefore, a need to establish a mechanism for *in camera*, *ex parte* proceedings relating to the use of protected or classified information in alien proceedings.⁴

A related problem involves deportation appeal procedures. Those procedures often delay deportation for many years, thereby defeating the goal of expeditiously removing undesirable aliens. Failure to remove them swiftly from the United States simply exposes our country to needless risks.

Aliens coming to the United States to engage in illegal conduct know that one of the easiest ways to enter and remain in the country is by requesting asylum. Such a person entering the United States today either is asked to post a small appearance bond or released into the United States on his own recognizance, and instructed to appear for an immigration hearing at a future date. Any legal procedures devised to address such aliens will fail unless they include provisions for the detention and removal of the alien. At present, too many of these aliens simply blend into American society and never return for their immigration hearing.

Two other categories of aliens require additional scrutiny: those who enter on student visas and do not abide by their terms; and, those who enter the United States and thereafter engage in "sham marriages" with American citizens or permanent resident aliens in order to attain permanent resident status themselves. Aliens seeking to avail themselves of these immigration privileges should undergo thorough

³ In those instances in which a suspicious alien's entry is not blocked in the foreign country, the pre-inspection program allows American law enforcement to use the alien's flight time to the United States to conduct any additional investigation which could prevent his entry.

⁴ I urge reconsideration of the "Terrorist Alien Removal" legislation that the Department of Justice has drafted previously. The core concept of this legislation creates a special court to conduct "special removal hearings" directed, against aliens in the United States who engaged in international terrorist activities. At the hearing, the court would conduct an *in camera*, *ex parte* review of certain types of sensitive, classified information.

scrutiny at the outset, as well as some form of continuing scrutiny.⁵ In the case of student visas, such follow-up investigation would include reviewing the alien's academic records.

Investigative Tools

The EAB also assessed the need for various tools that can be used to investigate alien activities in the United States. At present, some portions of an alien's INS asylum file are not available to other law enforcement agencies. For example, the FBI has noted that, in terrorist investigations, those unavailable portions of an alien's asylum file could prove invaluable. Indeed, those portions could provide sufficient leads to prevent the commission of further terrorist acts or crimes. Thus, in certain instances, full or expanded disclosure of the contents of an alien's asylum file should be considered.

I also note that the Foreign Intelligence Surveillance Act does not provide for "roving authority" to intercept communications.⁶ Such authority would enhance the FBI's ability to investigate aliens' terrorist activities in the United States.

I am available to discuss this matter at your convenience.

cc: Thomas A. Constantine, Administrator, DEA
Doris Meissner, Commissioner, INS
Eduardo Gonzalez, Director, USMS
Jo Ann Harris, AAG, Criminal Division
Mary Jo White, Chairwoman, AGAC

⁵ Obviously, the intent is not to harass an alien who lawfully opts either to study in this country or to marry an American. Instead, the intent is to ascertain which aliens are using these avenues as a means to remain in this country indefinitely in order to engage in unlawful conduct. I recognize that certain legitimate privacy interests are implicated.

⁶ The requirements for such authority in criminal investigations are set forth at Title 18, United States Code, Section 2518 (11).

APPENDIX D

Conclusions of the INS Task Force on Foreign Student Controls¹

The following conclusions were reached by the task force:

- At present, foreign students in the U.S. are not subject to continuing scrutiny, tracking, or monitoring when they depart, drop out, transfer, interrupt their education, violate status, or otherwise violate the law. Schools are not required to notify INS regarding such key elements of student events.
- Presently there is no effective system or process for reporting or maintaining current addresses of foreign students in the U.S.
- Weak and ineffective data systems make the current process vulnerable at the points within the U.S. where the INS has authority and responsibility. These are:
 - Admission of a foreign student at port of entry (POE) to the United States
 - Upon change of status to student
 - Upon application of associated benefits
- There is no inter-agency data system access between INS, DOS, and USIA in the current process.
- The current change of status process for aliens within the U.S. fails to apply effective scrutiny relative to granting of student status.
- The current system does not use biometric identifiers to verify true identity of foreign students.
- The Student/School data system does not provide all the information needed to effectively monitor and regulate students and schools, and also is not linked to other related INS data systems.
- The INS has no system in place to monitor or audit schools.

¹ U.S. Immigration and Naturalization Service, "Controls Governing Foreign Students and Schools That Admit Them," Final Report by the Task Force on Foreign Student Controls, 1995. The INS convened the task force in response to FBI Director Freeh's 1994 memorandum (see Appendix B). This is a partial list of the report's principal conclusions.

APPENDIX E

Authorization for a Pilot Program to Monitor Foreign Students¹

OMNIBUS APPROPRIATIONS ACT, 1997
P.L.104-208

Subtitle D—Other Provisions

SEC. 641. PROGRAM TO COLLECT INFORMATION RELATING TO NON-IMMIGRANT FOREIGN STUDENTS AND OTHER EXCHANGE PROGRAM PARTICIPANTS

(a) IN GENERAL.

(1) **PROGRAM.** The Attorney General, in consultation with the Secretary of State and the Secretary of Education, shall develop and conduct a program to collect from approved institutions of higher education and designated exchange visitor programs in the United States the information described in subsection (c) with respect to aliens who—

- (A) have the status, or are applying for the status, of nonimmigrants under subparagraphs (F), (J), or (M) of section 101(a)(15) of the Immigration and Nationality Act; and
- (B) are nationals of the countries designated under subsection (b).

(2) **DEADLINE.** The program shall commence not later than January 1, 1998. . . .

(c) INFORMATION TO BE COLLECTED.

(1) **IN GENERAL.** The information for collection under subsection (a) with respect to an alien consists of—

- (A) the identity and current address in the United States of the alien;
- (B) the nonimmigrant classification of the alien and the date on which a visa under the classification was issued or extended or the date on which a change to such classification was approved by the Attorney General;
- (C) in the case of a student at an approved institution of higher education, the current academic status of the alien, including whether the alien is maintaining status as a full-time student, or, in the case of a participant in a designated exchange visitor program, whether the alien is satisfying the terms and conditions of such program; and
- (D) in the case of a student at an approved institution of higher education, any disciplinary action taken by the institution against the alien as a result of the alien's being convicted of a crime or, in the case of a participant in a designated exchange visitor program, any change in the alien's participation as a result of the alien's being convicted of a crime.

(2) **FERPA.** The Family Education Rights and Privacy Act of 1974 shall not apply to aliens described in subsection (a) to the extent that the Attorney General determined necessary to carry out the program under subsection (a).

(3) **ELECTRONIC COLLECTION.** The information described in paragraph (1) shall be collected electronically, where practicable. . . .

(d) PARTICIPATION BY INSTITUTIONS OF HIGHER EDUCATION AND EXCHANGE VISITOR PROGRAMS.

(1) **CONDITION.** The information described in subsection (c) shall be provided by as a condition of—

- (A) in the case of an approved institution of higher education, the continued approval of the institution under subparagraph (F) or (M) of section 101(a)(15) of the Immigration and Nationality Act; and

¹ This recently enacted legislation authorizes a pilot program to determine the feasibility of monitoring foreign students in the United States.

(B) in the case of an approved institution of higher education or a designated exchange visitor program, the granting of authority to issue documents to an alien demonstrating the alien's eligibility for a visa under subparagraph (F), (J), or (M) of section 101(a)(15) of such Act.

(2) **EFFECT AND FAILURE TO PROVIDE INFORMATION.** If an approved institution of higher education or a designated exchange visitor program fails to provide the specified information, such approvals and such issuance of visas shall be revoked or denied. . . .

(f) **JOINT REPORT.** Not later than 4 years after the commencement of the program established under subsection (a), the Attorney General, the Secretary of State, and the Secretary of Education shall jointly submit to the Committees on the Judiciary of the Senate and the House of Representatives a report on the operations of the program and the feasibility of expanding the program to cover the nationals of all countries. . . .

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