

Immigration, Port and Border Security

When considering what is required for foreign citizens to enter the United States with a visa, most Americans believe there are certain requirements that must be met — background checks, fingerprinting and personal interviews with the U.S. Embassy official. Additionally, the applicant would have to have a reason for coming, a place to stay, a job or school lined up and, of course, this information would all be verified before they had the visa in their hand. To the average American this doesn't seem like too much to ask in order to keep our country safe. In many U.S. consular offices, however, this is the ideal but is far from reality.

Before Sept. 11, 2001, security at our borders was not about terrorism. It was about illegal immigrants, drugs and other illegal imports.¹ America has historically relied on two vast oceans and two friendly neighbors for border and port security. The increased mobility and destructive potential of the modern day terrorist and terrorist organizations are forcing America to rethink how we let people and goods into our country. This article will explain the agencies responsible for immigration and imports before Sept. 11, what has been done since Sept. 11, and what needs to be done in the near future to keep U.S citizens safe in their daily pursuits.

The United States shares a 5,525-mile border with Canada and a 1,989-mile border with Mexico. Additionally, our shoreline border includes 95,000 miles of navigable waterways.² Securing these points of entry is a huge undertaking. All people and goods legally entering the United States must be processed through an air, land or sea point-of-entry.



Photo Courtesy of cbp.gov

Border Patrol Agents participate in regular training.

Immigration and Border Patrol — Before Sept. 11

The Immigration and Naturalization Service (INS) and the separate consulars located in U.S. Foreign Embassies were the departments responsible for issuing and considering applications for visas. These departments were not running smoothly prior to Sept. 11. They were struggling with several different issues including the following.

1. Overloaded

The INS could not keep up with the level of visa applications and admissions. In May 2001 (four months before the attacks), the INS reported that new applications for green cards, temporary workers, student visas, etc., increased 50 percent over six years.³ The backlog of unresolved applications grew to nearly four million. During the 1990s, 6.9 million applications for citizenship were filed, three times the number from the 1980s.⁴ An INS spokesman commented: “The field offices weren’t sure what to do with all of the documents they had not been able to look through, they were a bit overwhelmed by the unprecedented growth” in immigration.⁵



Photo by James Tourtellotte

A CBP officer uses her expertise to ensure travel documents are authentic and not fraudulent.

The INS has collected more than two million documents they simply do not have time to go through, which they have stored in underground limestone vaults. Among these documents are 200,000 change-of-address cards, which contributed to the government’s inability to find half of the more than 5,000 non-citizens whom the Justice Department wanted to interview in the wake of the terrorist attacks.⁶ Adding to the problem is how the INS deals with the paperwork they do process. They cannot simply add the information to a database and throw away the form. Instead they must place each form by hand in the individual’s paper file.⁷

America’s foreign policy was to encourage immigration, especially with countries that we depend on for oil or other important imports. This helps keep an air of mutual cooperation and respect with the countries’ leaders. It is common for visa officers to have only two or three minutes to consider an application.⁸ They are pressured to approve a high proportion of applicants to avoid offending the host country.⁹ This does not give them time to check out the information on the form, not to mention running background checks. The State Department’s manual for visa officers still says: “Advocating terrorism, through oral or written statements, is usually not a sufficient ground for finding an applicant ineligible.”¹⁰ So, legally we cannot deny a visa based on knowledge of their terrorist connections or views.

America has been figuratively rolling out the red carpet for terrorists since the 1980s. Out of the 48 documented terrorists since 1993, 11 have been permanent residents (received green cards).¹¹ Consider Mahmud Abouhalima, one of the leaders of the first World Trade Center bombing. He became a legal resident after falsely claiming to be an agricultural worker. This allowed him to qualify for a green card under the Illegal-alien Amnesty Act, passed by Congress in 1986. It was only after he was a permanent resident that he was able to make several trips to Afghanistan, where he received the training used in the attack. Without a green card he could not have left the United States and returned as a trained terrorist.¹²

Another such program called the Visa Express, was only in place three months before Sept. 11. Three of the 9/11 terrorists used this to gain entry.¹³ Visa Express allowed Saudi Arabian citizens to submit their visa application form to their travel agent.¹⁴ It's programs like this, with the objective of relieving pressure on the INS that take away the department's effectiveness.

This brings us to the big question. How did the 9/11 terrorists get here? Did they simply slip through the cracks of an overloaded agency? A panel discussion held on Oct. 31, 2002 addressed these questions.¹⁵ The main speaker was Steven Camarota, director of research at the Center for Immigration Studies.

Out of the 19 terrorist visa applications, four were destroyed by the State Department and the remaining 15 should never have been approved.¹⁶ Six different current and former consular officers examined the forms giving this unanimous opinion.¹⁷ Even to the untrained eye, it's easy to see why. The forms were plagued with missing information.

For example, while all but one of the terrorists claimed to be employed or in school, only three of the forms had the area filled in listing the name and address of their school or employer.¹⁸ Under "specific destination" the terrorists gave such answers as: California, hotel, and one wrote in "No." Abdulaziz Alomari was one of the terrorists that got in under the Express Visa program. He had listed his home address as a hotel in Jeddah, Saudi Arabia.¹⁹ A hotel is not a stable residence, defined as a place you would be likely to return. He also did not list his nationality or gender. He claimed to be a student but does not list a school. He also claimed to be paying for a two to six month trip to the United States for himself and his brother, who was also a 9/11 terrorist, though he does not list any current or previous employment.²⁰

Additionally, 13 of these 15 applicants were never interviewed before receiving their visas.²¹ Wail Alsharhr and his brother traveled on the same day they applied for visas.²² All of these errors and inconsistencies should have at least been red flags to the consular offices, warranting an interview with the applicant.

Another visa application that should have been denied belonged to Mohammed Atta, who planned and instigated the attacks on Sept. 11.²³ Under Section 214(b) of the Immigration and Nationality Act (which was in place prior to Sept. 11) individuals who are young, unmarried, unemployed, or lack strong attachment to a residence overseas are to be denied temporary visas.²⁴ This describes most of the terrorists at the time of their visa applications. Mark Krikorian, executive director of the Center for Immigration



Photo by James Tourtellotte
Before Sept. 11, security at our borders was not about terrorism. A Blackhawk helicopter swoops down on a suspect.

Studies, believes that “if only a few of the dozen conspirators had been identified by consular officers during the visa processing or by border inspectors, it is very possible that the entire conspiracy would have unraveled.”²⁵

2. Staffing

The INS’s status as the “Rodney Dangerfield” of federal agencies does not help in their effort to recruit capable people.²⁶ The agency’s performance has been publicly ridiculed. In 1999, the Government Executive magazine did a poll of the worst six federal agencies. The INS received the worst grade, a C-. In the same poll in 2002 the INS received the lowest grade again, down from 1999, now a D.²⁷

This low status, compounded by low pay has caused a hemorrhaging of staff. In the first 10 months of 2002, some 2,000 of the 15,000 border patrol agents and immigration inspectors left the agency. The agency lost 1,459 veterans and then hired 1,499 new agents during this same period.²⁸ This was an increase of 40 people. However, they lost experience and expertise. This constant turnover results in working agents with little knowledge or experience.

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3. No Sharing of Technology between Departments

This is possibly the biggest security problem for America. Attorney General John Ashcroft said: “The greatest structural failure in thwarting the Sept. 11, 2001 terrorist attacks involved the ‘impediments to communication and information sharing among

the men and women charged with keeping America safe.’”²⁹ Historically there has been no sharing of information between federal, state and local law enforcement agencies. Even between the INS branches, information is not shared. For example, ten of the 48 terrorists referred to earlier had significant violations of immigration laws prior to the attacks, some of them prior to their visa applications. These were for prior visas or other trips to the United States.³⁰ If this information had been available between the INS branch responsible for enforcement of the immigration laws and the consulars’ offices, many of these visa applications would have been rejected. When reviewing a visa application, the Consular’s office is not able to put a name in the computer to perform a background check. They cannot even check for a criminal record within the United States.³¹ Minimally, they should be able to look up former applications under the same

name done at the same consular's office. This technology was not available, causing at least one of the hijackers to gain a visa.³²

Hani Hanjour, the person who is believed to have piloted the plane that smashed into the pentagon was more blatant on his application. On the comment box he wrote that he would like to stay three years or more. But he was applying for a non-immigrant visa, which has a maximum stay of 24 months.³³ He announced his intention of overstaying his visa on the application and also gave no specific address. His form said "Arizona, rent home." So, he had no legitimate purpose of travel. These were red flags to a consulate employee, and he was rejected with this application. Two weeks later he filled out another application. This time he listed one year as the amount of time he would like to stay. Additionally, instead of "Arizona, rent home," he listed a specific address in California. He also decided to be a student and not just a tourist as listed on his former application.³⁴ These inconsistencies would have tipped off any consulate employee had they been available. Unfortunately, the applications are not logged into a central database. The employee that approved the second application was not even aware of the existence of the first application.

There was also no way to track immigrants once they were given a visa and traveled to the United States. Every year 500 million people legally enter this country, 330 million of which are non-citizens.³⁵ The INS is given the enormous task of tracking them. Some are daily commuters coming from Mexico or Canada. Most others are students, tourists or family members of U.S. citizens. There are no systems in place to track their movements. This became blaringly obvious after the September attacks.

In the summer of 2001 Attorney General John Ashcroft announced that the INS would resume enforcement of a long-ignored law, which required legal immigrants to submit change-of-address notification within 10 days of moving.³⁶ The INS could not find half of the 5,000 non-citizens whom Justice Department officials wanted to interview concerning the attacks.³⁷ Perhaps their information was in the vaults full of documents not even processed as referred to earlier.

Immigration and Border Patrol — After Sept. 11

The attacks caused large-spread scrutiny of the immigration system. The INS was thrust into the Congressional spotlight. There has been a new consensus on the need for tighter immigration enforcement. Even the Libertarian left, United Front for open borders — which has obstructed immigration enforcement in the past — has gracefully agreed something must be done.³⁸

Anti-terrorism legislation has passed both the senate and the house in record time. The U.S. Patriot Act of 2001 was the primary legislative response to the attacks. The Homeland Security Act of 2002 followed.



Photo by Gerald Nino

"Unmanned aerial vehicles (UAVs) are used by the CBP to detect illegal activities along the most rugged areas of the U.S. border." (cbp.gov)

1. *The U.S. Patriot Act of 2001*³⁹

This piece of legislation contains a number of immigration provisions that will improve our ability to identify and either exclude or prosecute aliens with terrorist ties. Listed below are some of its highlights.

- Condemns discrimination against Arab and Muslim Americans.
- Grants authority for information to be shared with immigration officials when a matter of foreign intelligence is involved.
- Authorizes a tripling of the number of border patrol personnel, customs personnel, and immigration inspectors along the Northern Border. It also provides \$50 million in funding for Customs and INS to improve monitoring technology.
- Broadens the grounds for excluding spouses and children of those with known terrorist ties.
- Urges Congress to expedite the implementation of the entry and exit data system at airports, seaports and land borders.
- Expands the foreign student tracking system enacted in 1996.

2. *Homeland Security Act of 2002*⁴⁰

The U.S. Patriot Act gave the go ahead for the INS reform; however, the strategy was not implemented until the passing of the Homeland Security Act of 2002. On March 1, 2003, the Department of Homeland Security (DHS) was created, which merged 180,000 employees from 22 agencies, making it the 15th department in the federal government. These are the Department of Homeland Security's achievements from their first year.



Photo by James Tourtellotte
"Two CBP Air Branch Citation aircraft patrol the vast Southwest Border." (cbp.gov)

- United States Visitor and Immigrant Status Indicator Technology (US-VISIT) — This is an entrance and exit tracker that was launched at major airports and seaports. It includes a biometric identifier (fingerprints, voice prints, retinal prints or facial recognition). Since Jan. 5, 2004, this system has identified 107 individuals who were wanted for crimes in the U.S. or were previously deported and were trying to re-enter.
- One Face at the Border — This initiative combined once separate agencies: Department of Immigration, Customs and Agriculture inspectors. Combining these departments allows smoother operation, one chain of command and better information sharing.

- Threats Mapped Against Vulnerabilities — This system allows threat information to be shared between the State Department and the DHS. This new capability to analyze threat information and find its potential targets will allow the right security measures to be taken in a timely manner.
 - Visa Pilot Programs — In May 2004, three new pilot programs aimed at a systematic deduction in processing time for visa applications and paper flow were implemented. The information gathered will be used to overhaul the whole process of visa applications.
1. New Technology — The first Homeland Security Center of Excellence was launched at the University of Southern California. Out of thousands of applicants, 100 were selected to pursue new technologies to protect the homeland.

Immigration and Border Patrol — Plans for the Future

The first year has been a busy one for the DHS. The second year objectives for this department are to implement a full-scale overhaul of the infrastructure of many of its departments.

1. Information Sharing

Within the next year, the department will expand its computer-based counter-terrorism communication network, known as JRIES, to all 50 states, five territories and Washington D.C.⁴¹ This will allow the two-way flow of information to state, local and private sectors. The department will launch a new internal network that will provide a stronger technical backbone for the department's information sharing program. By July 1, 2004 this information should be available in all governors' offices. This network will carry all threat information from unclassified up to the "secret" level.⁴²

2. Watch List Integration

By the end of 2004, there will be a fully integrated Watch List Database in the Terrorist Screening Center (TSC). This will provide immediate updates to federal border screening and border law enforcement personnel. The Department of Homeland Security, along with state and local officials, will use this to identify suspected terrorists trying to enter or operate within the United States.⁴³

3. Northern Border

The DHS plans to open five new branches along the northern U.S. border. "Our goal is to create in our northern border the same kind of protection and interdiction capability we demonstrate every day along our southern border," said Division Director Charles

If the Department of Homeland Security is able to keep funding for the new branches and programs it has started, the problems with the old INS should be in America's past.

Stallworth.⁴⁴ The need for the branches was realized as far back as December of 1999 when Ahmed Rassam was caught trying to cross the border in Canada with a car trunk full of explosives. He had planned on blowing up Los Angeles International Airport on New Year's Eve.⁴⁵ Not until after Sept. 11, when Congress placed more focus on security, was funding allocated for two of the new branches. The DHS also rolled out a new fleet of 130 aircraft. The objective is to be able to give air support within minutes of any security threat along the northern border.⁴⁶

If the Department of Homeland Security is able to implement and keep funding for the new branches and programs it has started, the problems with the old INS should be in America's past. Sept. 11, 2001 was a call to arms, and Congress has answered it with a show of force at our borders. America will still welcome immigrants with open arms, but not before a literal and informational "pat down" courtesy of the Department of Homeland Security.



Photo by James R. Tourtellotte

Ports are attractive to terrorists because they are usually close to a crowded metropolitan area, can be contacted by land or sea, and are large and sprawling.

Port Security

Prior to Sept. 11, security at the major U.S. ports focused on navigation and safety issues, such as environmental protection. The attacks caused the nation to initially focus on immigration and aviation security, but it did not take long for attention to fall on the nation's ports. Ports are attractive targets by terrorists for many reasons. They are usually close to a crowded metropolitan area, can be contacted by land or sea, and are large and sprawling. They are intertwined with highways, factories and large businesses.

Obstacles to securing U.S. Ports

1. *Law Enforcement Collaboration*

Because of shared law enforcement jurisdictions between local, state and federal governments, security is often sporadic — making security issues complicated and security efforts unsynchronized. "Terrorists not only understand the vulnerability of seaports and shipping but have readjusted their target folder for the greater difficulty in attacking aviation," Kim Petersen, executive director of the trade group Maritime Security Council, said, adding, "the presumption is that maritime is going to be a more significant target in the future."⁴⁷

Osama bin Laden and the al-Qaida terrorist network have vowed to cripple the U.S. and world economy.⁴⁸ More than half of all goods that enter the United States arrive by oceangoing cargo containers.⁴⁹ A terrorist attack using a sea container would prove detrimental to this portion of the global trading system. It would bring the worldwide movement and processing of oceangoing cargo containers to a halt. America got a taste

of what the shutdown of a port could mean in 2002, when a 10-day lockout of dockworkers at the Port of Los Angeles generated a massive backup of maritime cargo and an estimated \$1 billion a day in economic loss.⁵⁰ The backlog took months to clear. In 2002, The Customs and Border Protection Division (CBP) of the Department of Homeland Security simulated the economic damage caused by the shutdown of all 361 U.S. ports. Every port in the country was shut down, resulting in the loss of \$58 billion to the U.S. economy.⁵¹

If a terrorist were to use a container as a weapon-delivery device, the easiest choice would be high explosives such as those used in the Murrah Federal Building in Oklahoma City. Another possibility is some form of chemical weaponry, perhaps even involving hazardous materials.⁵² Because of the absence of security and the awesome global effect using a container would have on the world's economy, this is a likely scenario. So if we know the vulnerability of our ports why have we not taken measures to secure them?

2. *Vast Number of Cargo Containers*

In 2001, approximately 5,400 ships carrying multinational crews and cargo made more than 60,000 U.S. port calls at 361 different ports. These ships unloaded 16 million cargo containers.⁵³ It is the job of the CBP to inspect these containers arriving at U.S. ports. The CBP has the resources to inspect only a fraction of them. To make the best use of these resources, the CBP uses the Automated Targeting System (ATS) as the “premier tool”⁵⁴ to help single out high-risk containers. But ATS, which is a computerized system, began life as an anti-narcotics system used by the old U.S. Customs Service to help in the “War on Drugs.”⁵⁵



More than half of all goods that enter the United States arrive by ocean-going cargo containers.

In the wake of Sept. 11, the system was forced into service as an anti-terrorist weapon. A report by the U.S. General Accounting Office (GAO) released in December of 2003 stated that ATS is struggling in that capacity.⁵⁶ ATS makes its decisions on which containers are high risk primarily by analyzing the data that comes from inventory sheets, called manifests, sent electronically by incoming ships. But the GAO report states that these manifests are one of the least reliable or useful types of information for targeting purposes. Shippers can revise their manifests up to 60 days after the cargo has arrived at the port. By this time the container could have already left the port by truck and be anywhere.⁵⁷

There is really no way of knowing whether ATS is doing an adequate job because the CBP has never attempted to test and validate it. There are two known instances of simulated tests, which were done by ABC News. In two separate years, the news organization simulated the smuggling of highly enriched uranium into the United States. In both instances ATS targeted the container carrying the mock uranium device (which contained depleted uranium in a sealed lead-lined pipe).

It did not, however, detect any anomaly when an x-ray device was used to inspect the container, so the container was never opened and was released to its destination,⁵⁸ which brings us to the next obstacle in port security.

3. Training on Use of the ATS System

In an effort to maximize the use of ATS, the CBP developed a two-week national training program for inspectors, called “targeters,” to help them make better use of the system. More than 400 targeters have completed the training; however, there is no way to certify their competence.⁵⁹

4. Vessel Identification System (VIS) Development



Photo by James R. Tourtelotte

Prior to Sept. 11, security at the major U.S. ports focused on navigation and safety issues, such as environmental protection.

As early as the 1980s, lawmakers saw a need for being able to identify ships before they pulled into port. In 1988 Congress passed legislation requiring the Coast Guard to develop a VIS to share individual states' vessel information as well as information on federally documented vessels.⁶⁰ With such a system the Coast Guard and state law enforcement officials could more effectively identify information on vessels in the nation's ports and waterways. In the late 1980s and early 1990s, the Coast Guard undertook numerous activities to define requirements for such a system.

The Coast Guard accepted the contractor-developed VIS in 1998 despite system performance problems. They intended to resolve these problems as the system evolved. Later, the Coast Guard determined that there was no viable way to correct these and other problems, and the cost to populate the system with the data needed would be high.⁶¹ The two factors that complicated the implementation of VIS were (1) not all vessels had unique identification numbers; and (2) the system depended on the voluntary participation of the states, and many states were unwilling or unable to commit the funds needed to participate.⁶² Consequently, even though the Coast Guard spent \$9 million to develop VIS, it is only used by one state.

In the wake of Sept. 11 there has been a GAO inquiry into VIS, and several new technologies are being developed; but it could take years to develop and test a new system before it could be implemented.

Measures the U.S. has taken to Secure Ports

1. *Maritime Transportation Anti-Terrorism Act of 2002*

This includes the Container Security Initiative.⁶³ One of the U.S. Customs Service Port Security Initiatives is to prescreen cargo bound for the United States at foreign ports. Through this initiative, the U.S. Customs Service (USCS) inspectors are stationed at foreign ports. They use the ATS to identify “high risk” containers, which are then searched. They are either searched manually or with the new advanced electronic testing, which tests for radiation, explosives, concealed passengers and other contraband.

This search uses the “down-time” between when cargo is dropped off at the foreign port and before it is put aboard the vessel bound for a U.S. port.

As a first step, USCS has determined the top 10 “mega-ports” that send containers to the United States. They were chosen because nearly 70 percent of the cargo containers entering the United States pass through them. In the summer of 2002 the USCS contracted with five of these countries — Canada, the Netherlands, France, Belgium and Germany — to participate in the CSI program.⁶⁴ Participating countries that wish to do so can also send their customs inspectors to the United States to examine cargo bound for their ports. So far, Canada is the only nation utilizing this reciprocal agreement.⁶⁵

2. *Customs-Trade Partnership Against Terrorism (C-TPAT)*

This is another program instituted by the USCS. This agreement is between the USCS and private industry.⁶⁶ The partnership allows major U.S. importers, carriers, customs brokers, and others to meet minimum standards for security of the shipments they facilitate from foreign to U.S. ports. In return, these companies that partner with USCS will be given the fast lane through land border crossings and seaports. Since January of 2002, General Motors, Target Stores, Sara Lee, Ford, Daimler-Chrysler, BP-Amoco and Motorola have joined the C-TPAT as “charter members.” Currently, more than 500 companies have signed on with the program.⁶⁷

3. *Changes Beginning July 1, 2004*

With more than 80 percent of world trade traveling by sea, it is understandable why so many measures and money needs to be invested to protect not only our nation’s security but also to safeguard our economy as well as the world’s.⁶⁸



The U.S. Patriot Act of 2001 helps urge Congress to expedite the implementation of the entry and exit data system at airports, seaports and land borders.

In an attempt to further safeguard these interests, a robust enforcement effort will begin by July 1, 2004, which will include the following.⁶⁹

- Establishment of the National Maritime Security Advisory Committee.
- Review and approval of more than 10,500 domestic vessel security plans and 5,000 domestic facility security plans. Additionally, verification of security plans will be done on 8,100 foreign vessels. In total, “an estimated 9,500 vessels, 3,200 facilities, and 40 off-shore oil or natural gas rigs are directly affected.”⁷⁰
- Completion of port security assessments on more than 100 countries conducting direct trade with the United States.
- Completion of 55 domestic port security assessments.

America’s best defense against terrorism is intelligence, whether discussing immigration or port security. If we know all the details about the cargo or people we are letting through our borders then we know the risks they bring with them. We have some technology and are developing other technology to help manage these risks. The sharing of information is essential, and the development of information technology will be critical in the future.

The Department of Homeland Security has a huge task ahead, a task that will never be completed. As our policies change so will the strategies used by terrorist organizations. We are a nation of immigrants whether our ancestors were here witnessing the signing of the Declaration of Independence, or we just “stepped off the boat” this decade. America has always prided itself on the free flow of people, ideas and goods that comes in and goes out of this country. The challenge will be adding enough security to keep Americans safe without disturbing this flow.

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