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ENHANCING NATIONAL SECURITY BY STRENGTHENING THE LEGAL IMMIGRATION SYSTEM

by

Danielle Lee

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13. ABSTRACT (maximum 200 words)

One of the biggest challenges the U.S. contends with is how foreign nationals are using the legal immigration system to embed themselves in the country. While not every person who commits immigration fraud is a terrorist, those who intend to do this country harm will likely engage in some form of immigration fraud or seek to evade immigration laws in order to gain admission into or remain in this country in an immigration status. Since the September 11, 2001 attacks, the reality that foreign terrorists seek to exploit loopholes in the international travel system to facilitate the planning and implementation of attacks has become clearer. This thesis explores the interconnected relationship between immigration and terrorism. It will illustrate how border security can be strengthened if terrorists' access to immigration benefits is denied. In order to ascertain how terrorist have been able to successfully manipulate the immigration system and avoid detection, this study analyzes the immigration histories of terrorists involved in four case studies. This analysis shows that rather than focus on one benefit category or manner of entry, terrorists will utilize all means available in order to gain admission into or remain in the country. The recommendations provided based on this analysis focus on all facets of the immigration system and apply a holistic approach to immigration reform.

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ENHANCING NATIONAL SECURITY BY STRENGTHENING THE LEGAL IMMIGRATION SYSTEM

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ABSTRACT

One of the biggest challenges the U.S. contends with is how foreign nationals are using the legal immigration system to embed themselves in the country. While not every person who commits immigration fraud is a terrorist, those who intend to do this country harm will likely engage in some form of immigration fraud or seek to evade immigration laws in order to gain admission into or remain in this country in an immigration status. Since the September 11, 2001 attacks, the reality that foreign terrorists seek to exploit loopholes in the international travel system to facilitate the planning and implementation of attacks has become clearer. This thesis explores the interconnected relationship between immigration and terrorism. It will illustrate how border security can be strengthened if terrorists' access to immigration benefits is denied. In order to ascertain how terrorist have been able to successfully manipulate the immigration system and avoid detection, this study analyzes the immigration histories of terrorists involved in four case studies. This analysis shows that rather than focus on one benefit category or manner of entry, terrorists will utilize all means available in order to gain admission into or remain in the country. The recommendations provided based on this analysis focus on all facets of the immigration system and apply a holistic approach to immigration reform.

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EXECUTIVE SUMMARY

Because the current terrorist threat continues to involve an identifiable threat from foreign nationals coming to the United States, enhancing the integrity of the legal immigration system can be an important mechanism to prevent future attacks. The ability to obtain a visa or other legal immigration status is a key component of terrorist mobility. The only way foreign terrorists can legally gain admission into the United States is to obtain some type of immigration benefit, such as an immigrant or nonimmigrant visa (Camarota, 2002b). Although the legal immigration system was considered vulnerable to exploitation by terrorists prior to the September 11, 2001 attacks, insufficient efforts have been taken to reduce that vulnerability. Enhancing its integrity was not seen as a vital component of an effective homeland security strategy (National Commission on Terrorist Attacks upon the United States [National Commission], 2004). Since those attacks, the reality that foreign terrorists seek to exploit loopholes in the international travel system to facilitate the operational planning of attacks has become clearer.

While not every person who commits immigration fraud is a terrorist, those who intend to do this country harm will likely engage in some form of immigration fraud or seek to evade immigration laws in order to gain admission into or remain in this country in an immigration status. This thesis will explore how immigration and terrorism are interrelated. It will illustrate how border security can be significantly enhanced if terrorists' access to immigration benefits is denied. In order to ascertain how terrorist have been able to successfully manipulate the immigration system and avoid detection, this study will analyze the immigration histories of terrorists involved in four case studies. This analysis will be used to identify the reforms to the legal immigration system that are needed.

By eliminating opportunities to exploit weaknesses in the legal immigration system, this nation can strengthen national security significantly by hindering terrorists' attempts to enter or remain in this country. Although no immigration system can be completely secure against exploitation, it can be an effective counterterrorism tool. The

immigration system does not need to be completely invulnerable to exploitation to be an effective means to constrain terrorist activity. If merely some of the members of a plot are detected, it may be sufficient to disrupt the plot (Camarota, 2002b). Therefore, reforming the immigration system should be one component of the overall strategy to strengthen national security. When combined with other key components the end result is an increased level of security for the nation.

The focus of this study is to evaluate how comprehensive immigration reform can be used as one of the many tools used to combat terrorism. The eight recommendations provided to mitigate the vulnerabilities identified through the analysis of the case studies focus on all facets of the immigration system and apply a holistic approach to identifying the necessary reforms. They also seek to identify vulnerabilities not directly related to the benefit application process but nonetheless help facilitate terrorist mobility. The recommendations include efforts to improve the ability to detect threats to national security through increased information sharing and proactive efforts to detect fraud. They also include aspects that focus on holding those who engage in illicit activities accountable, such as expanding administrative penalties for committing immigration benefit fraud. Both components are essential if the overall strategy is to be effective.

LIST OF ACRONYMS AND ABBREVIATIONS

CBP: Customs and Border Protection

CIA: Central Intelligence Agency

DHS: Department of Homeland Security

DHS OIG: Department of Homeland Security Office of the Inspector General

DOJ: Department of Justice

DOS: Department of State

FBI: Federal Bureau of Investigation

FDNS: Fraud Detection and National Security

GAO: Government Accountability Office

ICE: Immigration and Customs Enforcement

IDENT: Automatic Biometric Identification System

INA: Immigration and Nationality Act

INS: Immigration and Naturalization Service

JFK: John F. Kennedy Airport

NSCTT: National Strategy to Combat Terrorist Travel

PLO: Palestinian Liberation Organization

SAW Program: Seasonal Agricultural Workers program

TPS: temporary protected status

USCIS: United States Citizenship and Immigration Services

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I. INTRODUCTION—THE NEXUS BETWEEN IMMIGRATION AND TERRORISM

A. PROBLEM STATEMENT

Because the current terrorist threat continues to involve an identifiable threat from foreign nationals coming to the United States, enhancing the integrity of the legal immigration system can be an important mechanism used to prevent future attacks (Camarota, 2002b). Except for the Oklahoma City bombing, immigrants have played a significant role in all recent major terrorist attacks[1] that have occurred in the United States and Western Europe (Leiken, 2004). The ability to obtain a visa or other legal immigration status is a key component of terrorist mobility. The only way foreign terrorists can legally gain admission into the United States is to obtain some type of immigration benefit, such as an immigrant or nonimmigrant visa (Camarota, 2002b).

Terrorist organizations need operatives who have the ability to enter and reside in the target country in order to conduct surveillance on potential targets, finalize their plans and actually launch the attack. They also need logistical support located within the country in order to facilitate financial transactions, arrange safe houses and make travel arrangements (National Counterterrorism Center, 2006). Regardless of "whether the terrorist seeks mayhem by truck bomb or hijacked airplane, whether he carries a smallpox virus or sarin gas, to carry out his attack he himself must enter the country" (Leiken, 2004, p. 24).

Throughout the 1990s, foreign-born terrorists exploited several avenues to enter the country (Rudolph, 2006). In her study examining terrorist travel patterns, Janice Kephart reported that representatives from every terrorist organization included within the scope of her study used fraud to some degree in order to gain admission into or remain in the country. The level of fraud ranged from failures to disclose information on immigration forms to altered or forged documents (Kephart, 2005). Another study found

[1] Major attacks are defined as those that involve significant loss of life, injuries or damage to property.

that of the 48 foreign-born Islamic extremists involved in terror plots in the United States between 1993 and 2001, 36 percent were naturalized citizens or permanent residents, 33 percent obtained nonimmigrant visas, 6 percent sought political asylum and 25 percent entered the country illegally (Rudolph, 2006). Although eight years have passed since the September 11, 2001 attacks, terrorists are still exploiting the legal immigration system. As recently as September 24, 2009, 19-year-old Jordanian national Hosam Maher Husein Smadi was arrested for attempting to bomb a Dallas skyscraper. He was admitted to the country in early 2007 on a tourist visa. When his authorized period of admission expired, he proceeded to remain in the country illegally. His arrest renewed concerns about vulnerabilities in the security of the immigration system (McKinely & Preston, 2009).

The interconnected relationship between immigration and terrorism and how foreign nationals are using the legal immigration system to embed themselves in the country is one of the biggest challenges the United States confronts. Unfortunately, individuals often attempt to obtain benefits that they are not eligible to receive by exploiting loopholes in the system. Because the Immigration and Naturalization Service (INS) and now the United States Citizenship and Immigration Services (USCIS)[2] processes such a variety of benefit types in numerous offices located throughout the country, there are significant opportunities for individuals to engage in fraudulent activities to obtain these benefits (Government Accountability Office [GAO], 2002). While not every person who commits immigration fraud is a terrorist, terrorist will likely engage in some form of immigration fraud or seek to evade immigration laws in order to obtain the ability to enter and remain in the county.

In general, terrorist events are widely understood to be extremely low probability occurrences with very highly dangerous consequences. Whether compared against the total number of airline passengers, or cargo containers shipped worldwide or, in this case, immigrants and visitors circulating around the globe, the number of mala fide events is

[2] One of the changes to domestic security that was implemented after the September 11, 2001 attacks was the dissolution of the INS and the relocation of its functions under the newly created Department of Homeland Security (DHS) (Martin & Martin, 2004). USCIS was the agency given responsibility for processing applications and petitions for immigration benefits.

statistically fairly negligible. In the current case, the percentage of cases involving terrorists is low when compared to the overall number of applications and petitions for immigrations benefits submitted. Generally approximately 6 million applications and petitions are submitted to the United States Citizenship and Immigration Services every year (Department of Homeland Security, Office of the Inspector General [DHS OIG], 2008). The majority of cases do not involve individuals who commit immigration fraud or pose a threat to national security or public safety. For example, in fiscal year 2005, 75,532 individuals were removed from the country based on immigration fraud (Wasem, 2008). This represents 36 percent of all formal removals from the country for that year (Wasem, 2008). The volume of benefits requested, the vast variety of benefit categories available, and the fairly low percentage of fraudulent submissions by terrorists combined creates significant challenges for efforts to detect and deter illicit activity.

This thesis will explore how immigration and terrorism are interrelated. It will illustrate how border security is significantly enhanced if terrorists' access to these benefits is denied. If terrorists are unable to enter or remain the country, their ability to carry out an attack is significantly diminished (Camarota, 2002b). By eliminating opportunities to commit fraud, this nation can strengthen national security significantly by hindering terrorists' attempts to enter or remain in this country. Although no immigration system can be completely secure against exploitation, it can be an effective counterterrorism tool. The immigration system does not need to be completely invulnerable to exploitation to be an effective means to constrain terrorist activity. If merely some of the members of a plot are detected, it may be sufficient to disrupt the plot (Camarota, 2002b). Therefore, reforming the immigration system should be one component of the overall strategy to strengthen national security. When combined with other key components, such as intelligence gathering and analysis or use of the judicial system to prosecute convicted terrorists, the end result is an increased level of security for the nation.

B. LITERATURE REVIEW

There has been adequate research conducted to document that foreign terrorists have exploited immigration policy to further activities that threaten national security. The literature reviewed thoroughly describes the nature of the problem and the importance of enhancing border security. The existing literature also indicates a widespread consensus that foreign terrorists have all-too-easily exploited the immigration system to pass through the country's border security checkpoints and obtained significant immigration benefits such as citizenship or permanent resident status (Kephart, 2005). The topics and issues covered in this literature review are divided into two categories: the pre-September 11, 2001 environment and the post September 11, 2001 environment. This is because most of the literature indicates that prior to those attacks ensuring the integrity of the legal immigration system generally was not considered an essential element in protecting homeland security. However, the immigration system began to be more universally viewed as a vulnerability to homeland security after the attacks of September 11, 2001.

1. The Pre-September 11, 2001 Environment

The United States historically has considered itself "a 'nation of immigrants,' a 'melting pot' of courageous individuals from diverse origins who have come together to build a society built on freedom and equality" (Rudolph, 2006, p. 41). Some of the literature reviewed indicated that security interests prior to September 11, 2001 focused on the social aspects of immigration, such as foreign nationals sneaking across the border in violation of U.S. laws. In 1994, the Urban Institute published a report that was consistent with this view of migration. The report concluded that U.S. immigration policy was based on five broad goals, which included family reunification, preventing illegal immigration, protecting human rights, increasing the standard of living and national productivity, and encouraging diversity (Rudolph, 2006).

According to the findings documented in *The 9/11Commission Report,* the legal immigration system was not considered vulnerable to exploitation by terrorists prior to the September 11, 2001 attacks. Enhancing its integrity was not seen as a vital

component of an effective homeland security strategy (National Commission, 2004). Most Americans generally did not consider the country to be vulnerable to foreign attack. The fact that the country had experienced a period of nonviolence and prosperity, shared borders with friendly neighbors, and was protected by two oceans contributed to this sense of security (Mylorie, 2001).

The 9/11 Commission found that although there were some efforts to enhance border security, prior to September 11, 2001, immigration policy as a counterintelligence tool was utilized far too little by governmental agencies (Eldridge et al., 2004). Furthermore, the 9/11 Commission ascertained that no governmental agency considered the immigration system an essential counterterrorism measure (GAO, 2008b). The 9/11 Commission concluded that officials, such as consular officers abroad and immigration inspectors at the ports of entry, who are central to determining the admissibility of foreign nationals, were not considered full partners in national security or counterterrorism efforts. Therefore, critical opportunities to identify and detain terrorists before they entered the United States were lost (Garcia & Wasem, 2008).

Although it acknowledged that the consular officers were the first layer of defense in terms of border security, the Department of State (DOS) resisted the concept that it was responsible for identifying terrorists through the interview process during the 1990s (Eldridge et al., 2004). There were individuals within the agency that expressed concerns regarding the growing terrorist threat. For example, in 1997, Mary Ryan, the Assistant Secretary for DOS's Bureau of Consular Affairs stated in congressional testimony that "while the majority of consular fraud is committed to further illegal immigration, there are significant and rising threats against the integrity of our travel documents from organized criminals, drug traffickers and terrorists" (Visa Fraud, 1997, p. 7). Despite these concerns, between 1993 and 2001, DOS visa screening efforts focused primarily on determining whether the applicant was an intending immigrant, or someone planning to overstay their visa and remain in the United States illegally (Eldridge et al., 2004).

Terrorist travel practices were not a major focus for consular officers. The State Department did not increase training in detecting terrorists for consular officers. In fact, they were not trained on how to ascertain whether an individual had terrorist or criminal

connections or to detect if the individual attempted to use fraudulent document practices known to be linked to terrorism. Consular officers were instructed to rely on name-based checks of terrorist watch lists. Confronted with demands to improve customer service and increase productivity, DOS heavily relied on technology and the use of name checks through watch lists to prevent terrorist from obtaining visas. Officials within DOS operated under the assumption that the intelligence community would provide terrorist information on watch lists. However, no law required that this information be shared with DOS. The aftermath of the September 11, 2001 attacks and the realization that Sheik Rahman was successfully able to obtain a visa despite being included on a watch list caused DOS to reevaluate its counterterrorism efforts (Eldridge et al., 2004).

Similarly, the nexus between immigration and terrorism was not fully appreciated by some individuals within INS. On October 17, 2001, INS Commissioner James Ziglar stated during testimony before the immigration subcommittee, "immigrants are not terrorists…The people we are talking about, the hijackers; they weren't immigrants. They were nonimmigrants" (Camarota, 2002b, p. 19). However, there were individuals within the INS that expressed concerns over terrorists manipulating the legal immigration system prior to the September 11, 2001 attacks. For example, in May 1999, the Acting Executive Associate Commission for the Immigration Services Division within INS testified:

> …immigration benefit fraud had increased in both scope and complexity in recent years and that exploitation of the benefit petition process by criminals and criminal organizations had generated serious concerns. He stated that criminal aliens and terrorists manipulate the benefit application process to facilitate expansion of their illegal activities, such as crimes of violence, narcotics trafficking, terrorism, and entitlement fraud. (GAO, 2002, p. 12)

Despite the concerns expressed by some individuals within the agency, the INS generally did not consider the immigration system a mechanism to detect terrorist activity prior to September 11, 2001 (Eldridge et al., 2004). The Staff Report of the National Commission on Terrorist Attacks upon the United States stated that the INS's, "inability to adjudicate applications quickly or with adequate security checks made it easier for

terrorists to wrongfully enter and remain in the United States throughout the 1990s" (Eldridge et al., 2004, p. 99). The Immigration and Nationality Act of 1952 as amended provided the INS with the:

> …statutory responsibility to determine who may enter, who may remain, and who must be removed from the United States. However, neither INS leadership nor any other entity in government ever fully recognized that within INS' overall responsibility to determine admission for all travelers was an important responsibility to exclude and remove terrorists, a task that no other agency could perform. The failure of the INS to recognize the value of its immigration authority in identifying and removing terrorists was manifested throughout the agency. It stemmed from a general lack of a counterterrorism strategy. (Eldridge et al., 2004, p. 142)

Similar to visa processing procedures overseas, inspections at the ports of entry were typically viewed as a means to facilitate travel. Immigration inspectors were under significant pressure to process travelers quickly. Often, they did not have adequate training or the tools to do their job properly (Eldridge et al., 2004). Inspectors were primarily focused on identifying intending immigrants, drug couriers and criminals, all of which were linked to the use of fraudulent documents. They were not provided information regarding terrorist indicators in travel documents that could have enabled them to recognize the indicators present in some of the 9/11 hijackers' passports. Inspectors were provided general information and routinely reviewed documents for general document fraud. However, they did not routinely inspect them for terrorist alterations and indicators (Eldridge et al., 2004). After the 1993 World Trade Center bombing, individuals began to express a growing fear of international terrorism. The 1993 bombings and subsequent plots revealed that procedural problems with the immigration system, inadequate verification of information provided in support of applications or petitions, outdated technology and inadequate information sharing existed (Jenkins, 1993).

2. The Post September 11, 2001 Environment

Based on the literature reviewed, it appears that since the attacks of September 11, 2001, the reality that foreign terrorists seek to exploit loopholes in the international travel

system to facilitate the planning and implementation of attacks against the United States has become clearer. Conflict is no longer as narrowly defined as interactions between national armies for defense. Security concerns are framed in terms of the threat of global terrorism, which represented a new type of asymmetrical threat. The fact that the terrorists involved were able to manipulate the immigration system to infiltrate the country highlighted the danger of this new security threat and the connection between immigration and security (Rudolph, 2006).

The lessons learned from that event have illustrated the importance of improving the monitoring and control of terrorist travel as a means of constraining their activities. In order to carry out an attack, foreign terrorists must successfully enter the country first (National Counterterrorism Center, 2006). The events of September 11, 2001 contributed to the realization that "global terrorism has emerged as a central security issue the world over; and effective immigration and border control have become necessary conditions to maintain national security. That national security and control of international migration are linked is now conventional wisdom. Less recognized, however, is the fact that *migration and national security have been strongly linked long before September 11 and the emergence of the global terror threat*" (Rudolph, 2006, p. 2).

However, some of the literature reflects that even in the post September 11, 2001 environment, there are some that question the "securitization" of immigration (Rudolph, 2006). There was one point of view that reflected the belief that immigration enforcement was not an effective means to combat terrorist or other criminal activity. Rather, traditional law enforcement and intelligence efforts were the only effective means to prevent foreign nationals who entered the country legally from engaging in criminal activities. Immigration procedures should be relied upon to regulate admission into and exit from the country. They were not designed for use in criminal investigations or for gathering intelligence (Bali, 2003). According to this perspective, the portrayal that with increases in the numbers of border security agents and enhanced authority to deport foreign nationals increases security creates a false sense of security. Immigration reform will not and cannot prevent individuals with criminal intent from entering the country no

matter how restrictive the policy, nor will it prevent the recruitment and radicalization of native born or naturalized citizens (Demleitner, 2002).

Furthermore, there were concerns raised regarding the potential impact that the misuse of the legal immigration system can have on civil liberties (Bali, 2003). Advocates who seek to increase support for more open immigration policies have raised concerns about establishing links between immigration and national security. They fear that this will be used as justification to impose more restrictive immigration policies (Rudolph, 2006).

Although the literature pertaining to the post September 11, 2001 environment indicates that there is general agreement that enhancing border security, strengthening the legal immigration system and constraining terrorist mobility are critical aspects of protecting homeland security, there is no consensus as to how to achieve these goals. The existing literature offers a variety of perspectives on how to approach immigration reform and the mechanisms needed to mitigate vulnerabilities to enhance security. For example, Susan Martin and Philip Martin state, "Immigration policy changes cannot prevent terrorism, but they are key ingredients of the effort to combat terrorism" (2004, p. 329). They outline three areas where they feel improvements are needed. These areas include preventing terrorist mobility, prosecuting individuals suspected to be terrorists and protecting the rights of individuals who have been unfairly accused of being terrorists. Although not specifically related to preventing terrorists from entering the country, they also identify four main areas in immigration policies where changes could enhance efforts to counter terrorist travel. These areas include: improving the visa issuance process and border inspections; better mechanisms for tracking foreign nationals once they have entered the country; reducing unauthorized entries and increasing interior enforcement (Martin & Martin, 2004).

The Government Accountability Office (GAO) concluded that legacy INS, now United States Citizenship and Immigration Services (USCIS), must improve its technological capabilities in order improve its ability to identify fraud schemes prior to granting a benefit. Furthermore, the GAO recommended that immigration officials need to balance the duel objectives of detecting and deterring fraud and timely processing

immigration benefit applications; establish guidance for prioritizing immigration fraud investigations; track immigration benefit fraud investigations; determine the best method of providing adjudicators with access to internal databases and establish outcome-based performance metrics (2002).

The 9/11 Commission concluded:

> Targeting travel is at least as powerful a weapon against terrorists as targeting their money. The United States should combine terrorist travel intelligence, operations, and law enforcement in a strategy to intercept terrorists, find terrorist travel facilitators, and constrain terrorist mobility. (National Commission, 2004, p. 385)

One of the most important measures to constrain terrorist mobility and reduce the nation's vulnerability is to enhance technology and increase training to detect terrorist travel documents (National Commission, 2004).

The National Strategy to Combat Terrorist Travel (NSCTT) was drafted to guide the nation's efforts to constrain terrorists' mobility. The NSCTT is based on the assumption that constraining terrorist mobility will diminish their capacity to operate and engage in acts of terrorism. In order to prevent terrorists from exploiting international travel, the government must work closely with its foreign allies to utilize and expand existing tools to collect and analyze information on terrorist travel and enhance screening and information sharing initiatives regarding their travel patterns. NSCTT offers recommendations to further enhance the nation's ability to constrain terrorist mobility overseas and to help prevent terrorists from entering, exiting or traveling within the country. These recommendations include activities such as:

- Continuing to work with foreign governments to develop identity verification systems aimed at detecting and intercepting high-risk travelers;
- Working with Canada to examine the feasibility of developing and implementing compatible systems and procedures to screen individuals traveling between the two countries;
- Encouraging foreign leaders to implement or enhance laws that criminalize counterfeiting, altering or misusing travel or identity documents;

- Implementing pre-departure Advance Passenger Information System to improve the ability to vet travelers;
- Expanding efforts to enhance border control and combat immigration fraud through initiatives such as the Secure Border Initiative and increasing the number of actionable leads to Immigration and Customs Enforcement (ICE) and the Federal Bureau of Investigations (FBI) through development of increased analytical capabilities (National Counterterrorism Center, 2006).

Although several recommendations were identified, the majority of the literature failed to include in-depth analysis on how terrorists have been able to successfully obtain immigration benefits or why their fraudulent claims were not identified. The existing research also provided little analysis that identified broader patterns or trends in order to determine how terrorists were able to manipulate the immigration system. Although the majority of the documents offered general recommendations for enhancing border security, there were few significant recommendations for programmatic, legislative or regulatory changes to immigration policy that would prevent terrorists from fraudulently obtaining benefits.

Furthermore, despite the availability of considerable information gathered through numerous investigations:

> …no agency of the U.S. government undertook what was so desperately needed: a comprehensive analysis of how terrorists exploit weaknesses in travel documents and international travel channels to commit deadly attacks. In practical terms, this meant the United States denied itself the ability to disrupt terrorist operations and prevent undetected terrorist entries by disrupting operatives' ability to travel. (Eldridge et al., 2004, p. 69)

The 9/11 Commission found that if this analysis had been conducted, it would have uncovered ways in which terrorists had been systematically exploiting weaknesses in the legal immigration system since the early 1990s (National Commission, 2004). It is crucial to analyze cases of proven fraud to determine interrelationships or patterns among these cases. This analysis will help to identify and remove the loopholes that compromise the integrity of the legal immigration system that have been exploited by terrorists. Additional emphasis needs to be placed on identifying the mechanisms needed

to detect the systemic vulnerabilities in the legal immigration system that have been exploited by terrorists and the requisite solutions.

C. PURPOSE OF RESEARCH

This thesis will investigate the nexus between immigration and terrorism. The research will also seek to identify the loopholes in the legal immigration system exploited by foreign terrorists and the long-term solutions necessary to eliminate the systemic vulnerabilities. This research includes instances where the foreign national did not commit immigration fraud at the time of initial entry but subsequently overstayed his or her visa or violated the terms and conditions of their status. For example, under immigration law, engaging in terrorist related activity has direct consequences in relation to a person's ability to enter or remain in the country. Prior to September 11, 2001, any foreign national who engaged in terrorism or was a member or representative of a terrorist organization was considered inadmissible. A foreign national who was legally admitted into the country but subsequently engages in terrorist activity is subject to deportation (Garcia & Wasem, 2008). Therefore, "all those who engage or intend to engage in terrorist activity upon entry into the United States have committed fraud under U.S. immigration law" (Kephart, 2005, p. 10). This reality makes the task of border security and visa screening more difficult. In addition to searching for indicators of fraud, border security officials must also search for indications of terrorist intent and experience.

However, since it is outside the scope of the study, this research will not evaluate the threat that domestic terrorist represents to the safety and security of the country nor will it evaluate the issue of whether there are immigrants who enter legally and subsequently become radicalized inside the United States. Strengthening the legal immigration system is not the most effective mechanism to address domestic threats or the radicalization of foreign nationals once they have entered the country.

Although enhancing border security is paramount to winning the War on Terror, "the border and immigration system of the United States must remain a visible manifestation of our belief in freedom, democracy, global economic growth, and the rule of law, yet serve equally well as a vital element of counterterrorism" (National

Commission 2004, p. 387). Reforms to the immigration system must effectively balance the duel objectives of enhancing integrity and maintaining an open immigration system. Although this researcher acknowledges the need to maintain the balance between security and the protection of civil liberties, the purpose of this thesis is to identify the weaknesses in the immigration system and the improvements needed in the enforcement of immigration law. Therefore, how to maintain this balance will not be addressed within the context of this study.

Key questions to be addressed include: How have foreign terrorists exploited loopholes in the legal immigration system in order to gain admission into or remain in the country; are there systemic vulnerabilities in the legal immigration system that enable foreign terrorists to engage in immigration fraud and what policy, procedural, operational or legislative changes can be implemented to mitigate risks? The evidence required is a detailed analysis of the immigration histories of known foreign terrorists who have manipulated or attempted to manipulate the legal immigration system in order to enter and operate in the United States. The analysis will show that rather than focus on one benefit category or manner of entry, terrorist operatives will utilize all means available in order to gain admission into or remain in the country. Therefore in today's global environment, "immigration and security are indivisible—weakness in any aspect of immigration enforcement can and will be exploited" (Krikorian, 2007, p. 1). The recommendations provided to mitigate the vulnerabilities identified through the analysis of the case studies will focus on all facets of the immigration system and apply a holistic approach to identifying the necessary reforms and seek to identify vulnerabilities not directly related to the benefit application process but help facilitate terrorist mobility.

This research is primarily intended for senior leaders within the United States Citizenship and Immigration Services. Because this research seeks to identify the systemic vulnerabilities in the legal immigration system and propose solutions, USCIS may be able to implement changes to prevent terrorists from obtaining immigration benefits through illicit means and therefore minimize their opportunity to engage in criminal activities in the country. However, this research also has a broader audience, including all senior leaders within the Department of Homeland Security.

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II. BACKGROUND INFORMATION ON THE IMMIGRATION SYSTEM AND IMMIGRATION FRAUD

A. THE UNITED STATES LEGAL IMMIGRATION SYSTEM: HISTORICAL CONTEXT

Before an analysis of how the immigration system has been exploited can be conducted, it is important to understand the basic elements that make up the system and how it functions. The legal immigration system is based on a set of administrative and legal procedures that regulate the entry and departure of foreign nationals into the country (Bali, 2003). Immigration policy is designed to facilitate the entry of legitimate foreign nationals into the country while simultaneously identifying and preventing foreign nationals who pose a threat to safety and security from gaining admission (Martin & Martin, 2004). Global security concerns, economic factors and changing demographic trends have influenced recent increases in migration. This trend has created new challenges for the countries of origin, transit and resettlement, such as the strain that it can place on job markets and social infrastructure. These strains become even more pronounced when humanitarian programs like family reunification and asylum are involved (Brinkmann, 2004).

The General Accounting Office (GAO) documented in a report issued in January 2002 that "the goal of providing immigration benefits in a timely manner to those who are legally entitled to them may conflict with the goal of preserving the integrity of the legal immigration system" (GAO 2002, p. 5). Since the tragic events of September 11, 2001, many have questioned whether or not the current legal immigration system is able to balance these two objectives (Martin and Martin, 2004). Immigration officials in the United States believe that individuals have used the benefit application process in this country to provide them the means to further engage in illegal activities such as terrorism, violent crimes or trafficking narcotics (GAO, 2002).

The September 11, 2001 attacks highlighted the flaws in the immigration system. The conspirators involved:

> …depended on the ability of the hijackers to obtain visas and pass an immigration and customs inspection in order to enter the United States. It also depended on their ability to remain here undetected while they worked out the operational details of the attack. If they had failed on either count—entering and becoming embedded—the plot could not have been executed. (Eldridge et al., 2004, p. 2)

Analysis of the immigration history of the terrorists involved in the plot revealed that all of them committed some form of immigration fraud (National Commission, 2004). All 19 of the hijackers entered the country using a temporary nonimmigrant visa, and 16 of the terrorists involved were still in a legal status when the attacks occurred (Camarota, 2002b). Some of the hijackers overstayed their visas, in violation of immigration laws (Leiken, 2004). Once they gained admission into the country, two of the terrorists violated the terms of their visas. One of the hijackers entered the country on a student visa but failed to attend school. Another entered on a tourist visa but immediately enrolled in flight school (Eldridge et al., 2004). Illegal Salvadorian immigrants provided at least two of the hijackers with fraudulent documents. Zacharias Moussaoui, a second generation French Moroccan, exploited his status to enter the United States without a visa under the Visa Waiver Program[3] (Leiken, 2004).

The 9/11 Commission also found that 15 of the 19 terrorists involved in the attacks were potentially vulnerable to interception at the port of entry (National Commission, 2004). Three of the terrorists' involved possessed passports that had indicators of Islamist extremist linked to al Qaeda. Two of the 19 hijackers entered the country using passports that had been manipulated in a fraudulent manner. The passports contained fraudulent entry-exit stamps, which were most likely inserted to hide suspicious travel. Two of the individuals provided false statements on their visa applications but ultimately were not questioned about those discrepancies. Khalid Sheikh Mohammed, a Pakistani national and the chief tactical planner for the attacks, applied for

[3] This program enables citizens of participating countries to travel to United States for business or tourism to enter without a visa and remain for a period of up to 90 days (Eldridge et al., 2004).

and obtained a visitor's visa using a Saudi passport under an assumed name. Because he used an alias, he was able to obtain the visa despite the fact that he was listed on the terrorist watch list since 1996[4] (Eldridge et al., 2004).

The 9/11 Commission concluded that if the legal immigration system had:

> …set a higher bar for determining whether individuals are who or what they claim to be—and ensuring routine consequences for violations—it could potentially have excluded, removed, or come into further contact with several hijackers who did not appear to meet the terms for admitting short-term visitors. (National Commission, 2004, p. 384)

In total, the 19 terrorists involved in the attacks came into contact with consular officers 25 times and immigration and customs authorities 43 times. Over a period of 21 months, they were able to enter the United States 33 times through nine different ports of entry. The apparent ease with which the terrorists were able to obtain visas and freely enter the United States illustrates the importance of travel mobility to terrorist operations (Eldridge et al., 2004).

Routine procedures created to administer and enforce immigration laws, including aspects not directly designed to detect terrorist threats, influenced al Qaeda's operational planning for the attacks. The *Staff Report of the National Commission on Terrorist Attacks upon the United States on 9/11 and Terrorist Travel* determined that because immigration regulations automatically granted tourists a six-month period of admission, obtaining tourist visas to enter the country was important to the hijackers (Eldridge, et al. 2004). The 14 hijackers who were admitted in the spring and early summer of 2001 were legally permitted to remain in the country until September 11. This six-month period of admission provided the hijackers adequate time to make preparations for the attack (Eldridge, et al. 2004).

The mere ability to obtain a visa to enter the U.S. also played a significant part in the preparing for these attacks (National Commission, 2004). The fact that 15 of the 19 terrorists involved in the September 11, 2001 attacks were Saudis can be linked to the ease with which they could obtain visas. In contrast, Yemeni nationals had a 66 percent

[4] There is no evidence that he used this visa to enter the country (Eldridge et al., 2004).

refusal rate for tourist visas in fiscal year 1999 (Eldridge et al., 2004). Furthermore, five known conspirators attempted to obtain nonimmigrant student or tourist visas to enter the United States. Because they were not deemed to be bona fide non-immigrants, their applications were denied. An additional conspirator was able to obtain a visa but was denied by the immigration inspector at the port of entry (National Commission, 2004). This provides evidence that the inability to travel can interrupt the operational plans of terrorists (Eldridge et al., 2004).

Constraining terrorist mobility is now described as "one of the most effective weapons in the War on Terror. Limiting their movements markedly diminishes terrorists' ability to attack the United States, our interests abroad, or our allies" (National Counterterrorism Center, 2006, p. 1). Since terrorists must travel in order to meet, gain access to their target, plan their attack and conduct surveillance on their target, they must utilize travel documents to facilitate movement in and out of the country (National Commission, 2004). Travel documents are as important to terrorists as the weapons used in their operations (Kephart, 2005). High-level al Qaeda operatives are believed to be experts in forging documents. They actively train recruits, including Mohammed Atta, in forging techniques (Eldridge et al., 2004). Because they are key tools that facilitate terrorist travel, decreasing terrorists' access to travel documents and increasing the ability to detect fraudulent documents is critical to the nation's efforts to combat terrorism. Additionally, strengthening the security features of travel documents limits terrorists' ability to use forged copies of legitimate documents. Denying foreign terrorists entry into the country also significantly reduces the problem of having to locate them after they have been admitted (National Counterterrorism Center, 2006).

B. OVERVIEW OF THE LAYERS WITHIN THE LEGAL IMMIGRATION SYSTEM

There are various entities involved in administering the multiple layered immigration control system. The first layer consists of the United States Citizenship and Immigration Services and Department of State (DOS) Bureau of Consular Affairs (Krikorian, 2004). Consular officers stationed at posts overseas are responsible for

processing visa applications. USCIS is responsible for processing approximately six million applications and petitions for immigration benefits filed with the agency every year (DHS OIG, 2008). DOS and USCIS are responsible for verifying the identities, conducting background checks and ensuring eligibility for the individuals seeking visas or the adjudication of immigration benefits (Wasem, 2008). The type of immigration benefits available range from applications for temporary nonimmigrant visas, employment authorization, political asylum, legal permanent residence and naturalization (GAO, 2002).

The next layer occurs at the port of entry when the individual presents him or herself for inspection (Kirkorian, 2004). Customs and Border Protection plays a crucial role in securing the border by conducting inspections of foreign nationals seeking admission at the ports of entry (Wasem, 2008). Enforcement of immigration laws at the ports of entry has been successfully used to deny terrorists entry into the county. For example, in December 1999, Ahmed Ressam attempted to enter the country using a forged Canadian passport under the assumed identity of Benni Norris (Rudolph, 2006). Ressam traveled to Canada in 1994. He subsequently applied for asylum, but Canadian authorities denied his application. Despite several arrests, Canadian authorities did not deport him. He obtained a Canadian driver's license and passport under a false name by using a forged baptismal certificate (Martin & Martin, 2004). When he attempted to enter the United States from Canada, he had a car full of explosives he was intending to use to during the millennium celebrations in Seattle and for an attack on Los Angeles International Airport. He was detained when the inspector at the port of entry observed some suspicious behavior (Kirkorian & Camarota, 2001).

The final layer involves interior enforcement of immigration laws after the individual has already been admitted (Kirkorian, 2004). Immigration and Customs Enforcement (ICE) has primary responsibility for interior enforcement and criminal investigations of immigration fraud (Wasem, 2008). This aspect is the most problematic given the difficulty in finding and removing an individual that has already been admitted. Without effective controls to track departures, it is nearly impossible to determine who has overstayed the authorized period of admission and remained in the country illegally.

Several of the terrorists involved in attacks that have occurred in the United States overstayed their visas. Many of these individuals were able to live, work, open bank accounts and obtain drivers' licenses, despite the fact that they did not have valid immigration status. Because several terrorists have violated immigration law after they were legally admitted, effective interior enforcement is a crucial aspect of preventing or disrupting terrorist plots (Kirkorian, 2004).

The fact that there are multiple layers and entities involved in administering the legal immigration system adds to the complexity in detecting fraudulent activity and enforcing compliance with existing laws. It becomes progressively more difficult to remove or exclude an individual with each successive layer (Krikorian, 2004). Understanding this complexity is necessary in order to realize the importance of talking a holistic approach when analyzing how terrorists have been able to successfully manipulate the legal immigration system. Without this understanding, critical areas could be overlooked during the analysis.

C. DEFINING IMMIGRATION FRAUD

Generally, immigration fraud is divided into two broad categories, document fraud and benefit fraud. Document fraud involves the use, production or sale of altered or forged documents. Generally, these documents include identity documents, alien registration documents, employment authorizations, passports, visas or any other document needed to support an application or petition for an immigration benefit (Wasem, 2008). Document fraud can also involve attempts to fraudulently obtain legitimate documents through vendors who sell counterfeit documents or corrupt immigration officials who sell legitimate documents or falsify official records. Fraudulent documents are used as evidence for employment eligibility or to obtain other benefits like drivers' licenses or social security cards (Visa Fraud, 1997). Investigations into counterfeit document rings are important because terrorist organizations, crime syndicates and alien smuggling rings rely on these documents to avoid detection. The Immigration and Nationality Act (INA) provides civil enforcement provisions for individuals who have committed immigration document fraud. Under U.S. Criminal

Code, knowingly producing, using or facilitating the production of fraudulent immigration documents is a criminal offence (Wasem, 2008).

In a study it conducted on the Department of Homeland Security's ability to control fraud, the GAO identified several types of fraudulent documents used by individuals seeking benefits for which they were not eligible. These documents included birth certificates, marriage certificates, financial documents, college transcripts and employee resumes (GAO, 2006). The fact that at least seven of the terrorists involved in the September 11, 2001 attacks were able to obtain valid Virginia drivers' licenses by submitting fraudulent residency certificates illustrates the threat that document fraud presents (U.S. Immigrations and Customs Enforcement [ICE], 2006a).

Benefit fraud involves the misrepresentation or falsification of a material fact in order to obtain an immigration benefit or status such as citizenship, legal permanent resident status or temporary nonimmigrant visas through illicit means. Often benefit fraud is viewed in conjunction with other crimes since individuals frequently will create or procure fraudulent documents in order to establish eligibility for an immigration benefit. The Immigration and Nationality Act prohibits the misrepresentation of a material fact or falsely claiming to be a U.S. citizen. Individuals who have engaged in these activities are inadmissible or subject to removal (Wasem, 2008).

The incentives to commit benefit fraud are easy to understand. It allows an ineligible individual the opportunity to obtain legitimate immigration documents. Therefore, he or she does not need to rely on fraudulent or counterfeit documents in order to live and work in the United States. Once the individual obtains a legitimate immigration document, it is unlikely the fraud will be detected (Visa Fraud, 1997). Because immigration benefits such as permanent residence, citizenship or employment authorization are so valuable, illegal aliens, criminals and terrorists consider them to be highly valuable and are willing to pay substantial amounts of money to obtain them (ICE, 2006a).

Because it covers such a wide range of benefit programs, combating fraud presents serious challenges. In addition to the wide variety of benefit programs subject to

fraudulent claims, the significant volume of applications or petitions that can be included in one scheme present additional challenges (Branigin, 1997). Investigations are labor intensive and can involve hundreds to thousands of applications and petitions (Visa Fraud, 1997). One case involving a major criminal conspiracy involved approximately 50 percent of the applications filed by a particular immigration consulting firm for illegal aliens, applying under the amnesty provisions enacted during the 1980s, were suspected or proven to be fraudulent. The 54 individuals who were prosecuted for the scheme had collected over $9 million in fees (Branigin, 1997).

In January 2002, the Government Accountability Office found that legacy INS did not have a comprehensive strategy for combating benefit fraud and did not have a mechanism to collect or report data regarding the amount of fraud that exists. Efforts to combat benefit fraud were disorganized and tended to focus on large-scale conspiracies. Without quantifiable data on how pervasive the problem was, the agency did not have the means to appropriately direct resources to combat immigration benefit fraud (GAO, 2002). In March 2006, the GAO completed a review on immigration benefit fraud and concluded that although the full extent of the problem is unknown, immigration fraud is a pervasive problem (GAO, 2006). The Department of Homeland Security Office of Immigration Statistics reported that indictments for immigration fraud increased from 709 in fiscal year 2004 to 1,032 in fiscal year 2006. During that same timeframe, convictions for immigration fraud increased from 533 to 1,073 (Wasem, 2008).

D. COMMON TYPES OF IMMIGRATION FRAUD

Immigration benefit fraud involves diverse schemes and can include scenarios such as an individual filing multiple applications under various aliases in the hopes that one of the applications will get approved. It can also include providing material misrepresentations on applications or petitions to give the appearance of eligibility or hide derogatory information such as prior criminal history that would make the individual ineligible for the benefit sought (Kephart, 2005). Examples of benefit fraud included entering into a sham marriage, fraudulent claims of political persecution, the omission of a disqualifying criminal history and falsely claiming to have lived in the United States for

the requisite time required for the benefit (Wasem, 2008). It can also involve the creation of fictitious companies or jobs for the foreign national beneficiary (Visa Fraud, 1997).

One of the most common avenues available to remain in the country is marriage to a U.S. citizen. This provides the foreign national an avenue towards legal permanent residence and, ultimately, citizenship (Kephart, 2005). The number of individuals who have obtained legal permanent resident status through marriage to an American citizen has more than doubled since 1985 and quadrupled since 1970 (Seminara, 2008). Between 1998 and 2007, over 2.3 million foreign nationals obtained legal permanent resident status based on marriage to an American citizen (Seminara, 2008). In 2007, foreign spouses of U.S. citizens comprised of 25 percent of all individuals granted legal permanent resident status (Seminara, 2008). Approximately twice as many individuals were granted permanent resident status based on a marriage based petition filed by an American citizen than based on an employment-based petition filed by a company seeking to employ a foreign worker (Seminara, 2008).

The immediate relative of a U.S. citizen category, which includes spouse, parents and children under the age of 21, is the only immigrant classification that is not subject to numerical limitations (Seminara, 2008). Because they are subject to numerical limitations, the waiting period for some other classifications can be over 15 years. Additionally, marriage to a United States citizen provides a faster avenue to naturalization. These individuals can apply for citizenship three years after obtaining permanent resident status, rather than the standard five-year period (S. Rep 99-325, 1986). Once an individual obtains legal permanent resident status or citizen, he or she can freely travel in and out of the country (GAO, 2008b).

Despite the fact that the Immigration Marriage Fraud Amendments Act of 1986 provides for a maximum penalty of a $250,000 fine and 5 years in prison for individuals convicted of engaging in a fraudulent marriage for the purposes of obtaining an immigration benefit, marriage fraud is a common form of immigration benefit fraud. Marriage fraud can take a variety of forms. One of the most common scenarios involves the American citizen receiving payment in order to marry the foreign national. The fees typically range from $5,000 to $10,000 but can be as high as $20,000 (Seminara, 2008).

Other types of marriage fraud schemes include cases where the American citizen is doing a favor for a friend or family member, the foreign national fools the citizen into believing it is a legitimate relationship and situations where the American citizen marries the foreign national with the intention of exploiting or trafficking him or her in some way (Seminara, 2008).

Additionally, among the various applications and petitions processed by USCIS, religious worker visas have been considered extremely problematic in terms of immigration fraud (Kephart, 2005). Under this program, foreign nationals can obtain nonimmigrant visas or permanent resident status if a religious organization files a petition to sponsor them (ICE, 2006b). In 1999, GAO conducted a study and found that INS could not quantify the extent of fraud in this visa category. The study found that the nature of the fraud included misrepresentations regarding the beneficiaries' qualifications or the nature of the position offered (Kephart, 2005). Both DOS and INS have expressed concern regarding individuals and organizations exploiting the religious worker program to enable ineligible individuals to obtain entry or remain in the country. The agencies were able to broadly identify that fraud was typically committed in this program by individuals misrepresenting their qualifications as a religious worker; the length of time the individual has been a member of the organization or the true nature of the job duties. Neither agency at that time had data to reflect the extent of problem, nor had they conducted analysis on how much fraud was committed. Any information regarding fraud within the religious worker program was based on previous investigations or the visa screening process (GAO, 1999).

In 2005, USCIS conducted a benefit fraud assessment to determine the nature and amount of fraud in the immigrant religious worker classification (GAO, 2008b). The study was based on a random sample of cases. Out of the 220 cases included in the study, 78 or 33 percent were found to be fraudulent (Savage, 2006). Problems discovered included non-existent organizations, organizations with no indication of functioning as a religious institution and misrepresentations regarding the beneficiary's prior experience or job duties (Savage, 2006). The report also found high fraud rates among petitions filed on behalf of individuals from special interest countries and raised concerns regarding the

potential link to terrorism. There were 11 petitions included in the study filed on behalf of nationals from special interest countries, eight of which were found to be fraudulent. For example, one case included in the study involved an organization that petitioned for a Pakistani national. When the officers attempted to visit the organization, they found it was an apartment complex rather than a mosque. In addition, watch list information revealed that the address provided had been used by individuals suspected of being members of a terrorist organization (Savage, 2006).

Finally, fraud in the asylum program also has been an attractive avenue for terrorists to exploit for several reasons. Generally, asylum claims are based on the oral and written testimony of the applicant. Because corroborating evidence is not required, fraudulent asylum claims can be easy to make. Even if the application is ultimately denied, the individual is able to remain in the country while the case is being reviewed. An individual claiming asylum is automatically protected against removal. Furthermore, due to lack of detention space, applicants are frequently released unless they present a risk to public safety (Kephart, 2005). As a result, fraudulent "political asylum claims usually permit terrorist to do what they seek: buy time to live here freely" (Kephart, 2005, p. 26).

Foreign-born terrorists have manipulated these and other immigration benefit programs because they need operatives who have the ability to enter and reside in the country in order to carry out an attack. The interconnected relationship between the legal immigration system and terrorism has been clearer since the attacks of September 11, 2001. As evidenced by those attacks, terrorists have easily exploited the legal immigration system in order to gain access to the country. They have taken advantage of almost every benefit category and committed numerous violations of immigration law. The following chapter will analyze the immigration histories of the foreign-born terrorists involved in four plots in order to ascertain how they were able to successfully manipulate the immigration system and avoid detection.

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III. CASE STUDIES OF TERRORISTS THAT HAVE EXPLOITED THE LEGAL IMMIGRATION SYSTEM

On September 11, 2001, over 3,000 individuals were killed and approximately 2,300 additional individuals were injured in the attacks on the World Trade Center and the Pentagon (Kephart, 2005). Although they were the most destructive, they were not the first attacks carried out by foreign terrorists living in the United States (Camarota, 2002b). One of key aspects of foreign born terrorists' operational and tactical planning is gaining access to the United States. In order to carry out an attack, the terrorist must use the legal immigration system to facilitate travel. Therefore, immigration enforcement can provide a powerful counterterrorism tool. If their ability to travel is constricted, their ability to execute an attack is diminished. Additionally, criminal violations of immigration law have been used to prosecute terrorists, including the terrorists involved in the September 11, 2001 attacks. Law enforcement and intelligence agencies relied on information provided by immigration officials to locate the September 11, 2001 terrorists and their known associates. For example, immigration violations were used as the basis to arrest and detain Zacarias Moussaoui (War on Terrorism, 2003).

Because no existing single system can provide comprehensive security, a multi-layered approach should be adopted for identifying and screening individuals who pose a threat to homeland security. Immigration reform is merely one component of the overall strategy to protect national security (War on Terrorism, 2003). Although immigration reform alone cannot prevent terrorism, it can help increase the possibility that their activities will be detected and disrupted. It may also help provide a valuable source of intelligence leads. Unfortunately, no amount of policy change or reforms will completely eliminate the possibility that terrorists will successfully evade detection. However, policies implemented to mitigate identified vulnerabilities need not detect every attempt or conspirator. The fact that some of the individuals involved are detected could be enough to uncover or disrupt the plot (Camarota, 2002b).

Analysis into the immigration histories of terrorist operatives working in the United States may provide insight into how terrorist have been able to exploit the

immigration system to further their activities. This information could help identify the necessary reforms needed to minimize terrorists' ability to use the immigration system as a means to help facilitate their operations. This thesis will examine the 1993 attack on the World Trade Center, the 1993 plot to bomb New York City landmarks, the 1998 Embassy bombings in Africa and the 2007 plot to bomb the Fort Dix military base. One study found that there were 17 successful and unsuccessful plots that involved terrorists with immigration violations that occurred between 1993 and 2005 (Kephart, 2005). The three cases included in this study represent approximately 18 percent of the terrorist attacks involving immigration violations. Although one of the examples included in this study falls outside this timeframe, this information provides some context regarding the total universe from which these cases studies were drawn.

These case studies were chosen because they are examples of attacks or plots that occurred prior to the September 11, 2001 attacks and threats that occurred after those attacks; they consist of both successful and unsuccessful attacks or plots and they represent attacks or threats from foreign terrorists that occurred in the continental United States and ones that have occurred outside the United States but where operatives located within the country provided key logistical support. The fact that the case studies are varied in nature should provide a more complete view of how terrorists have successfully manipulated the legal immigration system in order to facilitate their operational planning.

The four case studies illustrate that terrorists have committed numerous and varied violations of immigration laws in order to gain admission into and remain in the United States (Kephart, 2005). Almost every possible avenue available to enter and remain in the country was taken advantage of by the foreign-born terrorists included in the case studies (Camarota, 2002b). Perhaps more alarming "is the ease with which terrorists have moved through U.S. border security and obtained significant immigration benefits, such as naturalization" (Kephart, 2005, p. 7). The individuals involved exploited nonimmigrant visa classifications for students, tourists, and business visitors. They fraudulently obtained legal permanent resident status and became naturalized U.S. citizens by entering into sham marriages or falsifying employment information. Some of the conspirators exploited past amnesties for illegal aliens to obtain legal permanent

resident status. Even humanitarian programs such as asylum were exploited (Camarota, 2002b). Table 1 summarizes the various immigration benefit programs exploited by the 17 terrorists included in the case studies.

Table 1. Summary of Immigration Programs Exploited by Foreign Born Terrorists

Type of Immigration Program	**Number Included in Case Study**	**Individuals Involved**
Asylum Fraud	**4**	Ahmad Ajaj, Ramzi Yousef, Biblal Alkaisi, Sheik Abdel Rahman
Marriage Fraud	**5**	El Sayyid Nosair, Fadil Abdelgani, Matarawy Mohammed Said Saleh, Ali Mohammed, Khalid Abu al Dahab
1986 Amnesty Program Fraud	**3**	Mahmud Abouhalima, Mohammed Salameh, Mohammed Abouhalima
Religious Worker Employment Fraud	**1**	Sheik Abdel Rahman
Temporary Protected Status Fraud	**1**	Biblal Alkaisi

Additionally, the terrorists included in these case studies used a variety of tactics to embed themselves in the country. These tactics include using fraudulent documents and false passports, using photo substituted passports, forging or altering valid or stolen passports, using multiple fraudulent passports and identities to facilitate travel, using aliases or making slight modifications to the name in order to avoid detection, providing false statements or information in support of applications for immigration benefits, overstaying the period of admission authorized pursuant to their nonimmigrant visa, violating the terms and conditions of admission and illegally crossing the border (Eldridge et al., 2004). These activities were concealed through the creation of front companies, false identities and travel documents and lying to authorities (Kushner, 2003).

Table 2 summarizes the types of tactics used by the terrorists included in the case studies to exploit the legal immigration system. Similar tactics would continue to be used by al Qaeda in preparation for the September 11, 2001 attacks (Eldridge et al., 2004).

Table 2. Summary of Terrorists Tactics to Exploit the Legal Immigration System

Tactic	**Number Included in Case Study**	**Individuals Involved**
Use of Fraudulent Documents/ False Passports	**4**	Ahmad Ajaj, Ramzi Yousef, Biblal Alkaisi, El Sayyid Nosair
Use of Alias or False Identity	**6**	Ahmad Ajaj, Ramzi Yousef, Biblal Alkaisi, Sheik Abdel Rahman, El Sayyid Nosair, Matarawy Mohammed Said Saleh
Overstay or Violate Terms of Visa	**5**	Mahmud Abouhalima, Mohammed Salameh, Eyad Ismoil, Mohammed Abouhalima, El Sayyid Nosair, Fadil Abdelgani
Lying on Application or Withholding Material Information	**4**	Nidal Ayyad, Sheik Abdel Rahman, El Sayyid Nosair, Matarawy Mohammed Said Saleh
Illegal Entry	**3**	Dritan Duka, Eljvir Duka, Shain Duka

The focus of this study is to evaluate how comprehensive immigration reform can be used as one of the tools used to combat terrorism. Analysis of the immigration histories of the terrorists included in the following case studies will be used to identify the necessary reforms to the legal immigration system that are needed to mitigate the risk of exploitation by foreign born terrorists. Although immigration reform is an important component of homeland security strategy, it is not the only component. However, it is

outside the scope of this study to evaluate what other elements or tools should be included in an overall strategy to strengthen national security.

The case study examples highlight how general weaknesses in the immigration system have been used to gain entry and remain in the country (Kephart, 2005). Based on the analysis of the immigration histories of the terrorists included in the case studies, it appears that terrorists exploit general vulnerabilities in the legal immigration system. Their methods and techniques do not appear to differ significantly from those used by foreign nationals who do not pose a threat to the safety and security of the country. The fact that terrorists have used a variety of techniques and exploited almost every immigration benefit program is important. It highlights that any strategy implemented to mitigate the vulnerabilities must be multifaceted in its approach and encompasses all aspects of border security. Merely focusing on one method or immigration program would inadequately address the problem (Camarota, 2002b).

A. CASE STUDY 1—THE FEBRUARY 26, 1993 WORLD TRADE CENTER BOMBING

At the time, the February 26, 1993 attack on the World Trade Center was considered the worse terrorist act committed in the United States (Kushner, 2003). The 1993 bombings "marked the beginning of an ugly new phase in terrorism involving the indiscriminate killing of civilians" (Tucker, 2000, p. 185). The primary motive behind the bombings appears to have been to kill or injure as many individuals as possible. The mastermind behind the plot, Ramzi Yousef, told one of the agents involved in the investigation that he intended the explosion to cause one of the towers to fall into the other and inflict over 250,000 civilian casualties (Tucker, 2000).

The terrorists involved used a rental van to detonate 1,200 pounds of explosives in the basement of the south tower of the World Trade Center (Emerson, 2002). The explosion caused a 200 foot by 100 foot wide crater, seven stories deep, in the garage of the building. The toxic smoke generated from the blast rose to the forty-sixth floor. The attack resulted in 6 fatalities, over 1,000 injuries, and caused over $300 million in property damages (Tucker, 2000). However, the consequences of the attack could have

been significantly worse. Approximately 20,000 individuals worked at various businesses located in the World Trade Center complex at that time. In addition, approximately another 80,000 individuals visited or traveled through the complex on a daily basis (Tucker, 2000). Fortunately, the blast occurred during lunch, when many employees were out of the building. Otherwise many more individuals would have likely been injured or killed in the attack (Reeve, 1999).

According to the *Staff Report of the National Commission on Terrorist Attacks upon the United States*, all six of the individuals convicted for their direct involvement in the attack received a 240 year sentence (Eldridge et al., 2004). Another conspirator was also convicted in 1997 for helping his brother flee to Egypt after the attack (Camarota, 2002b). The perpetrators were a group of men who had been suspected on terrorism for more than two years (Tucker, 2000); yet many were still able to obtain immigration benefits in order to remain in the country.

The summaries of the immigration histories of the terrorists involved in this attack included below demonstrate that better mechanisms are needed to verify an individual's identity and detect fraudulent applications. Additionally, many of the terrorists involved in the plot had strong connections with one another, yet those connections were not fully explored or detected. Pattern and trend analysis technology designed to detect non-obvious relationships may help the agencies responsible for administering border security to identify similar scenarios and prevent future attacks. Finally, this case study demonstrates that better interior enforcement of immigration laws is needed to prevent foreign born terrorists from remaining in the country past their authorized period of admission.

1. Ahmad Ajaj

Prior to coming to the United States, evidence indicates that Palestinian national Ahmad Ajaj was a petty forger who created fraudulent identity documents such as passports and drivers' licenses for other Islamic extremists. He was arrested in Jerusalem in 1987 for running a counterfeit currency operation in a cemetery. A year later, he was arrested in Jordan for document forgery (Mylroie, 2001). He was also suspected of

having ties to the terrorist sections of Hamas and Al-Fatah (Tucker, 2000). In May 1991, he was deported from Israel to Jordan because he was smuggling weapons into the West Bank. He left Jordan to travel to the United States in September 1991 and applied for political asylum. However, Ajaj failed to attend his hearing. Even though his asylum application was still pending, he traveled to Pakistan in April 2002 (Mylroie, 2001). During this trip, he attended terrorist training in Pakistan and Afghanistan (Camarota, 2002b).

In July 2002, Ahmad Ajaj applied for a visa at the U.S. embassy in Islamabad. However, this request was denied because he had left the country without permission while his asylum application was still pending. Ajaj subsequently met Ramzi Yousef at the Islamabad's Arabic Center. Yousef agreed to help Ajaj return to the United States (Mylroie, 2001). On August 31, 1992 Ajaj and Ramzi Yousef traveled from Pakistan to New York's John F. Kennedy (JFK) airport using aliases. Both men possessed a variety of documents, including bank records, medical records, identification cards and educational records to support their assumed identities. Because they thought they would receive less scrutiny, they purchased first class tickets for the flight. When Ajaj arrived at the port of entry, the immigration inspector noticed that he was traveling on an altered Swedish passport and referred him to secondary inspection for additional screening (Eldridge et al., 2004).

During the screening, inspectors searched Ajaj's luggage and found a partially altered Swedish passport, a Jordanian passport, a plane ticket and British passport under the name of Mohammed Azan and documents to support the aliases (Eldridge et al., 2004). The immigration inspectors found a "cheat sheet" that contained examples of the questions travelers would be asked during a normal encounter at the port of entry (Reeves, 1999). Bomb making manuals also were found in his luggage (Camarota, 2002b). In addition, they found a document that urged violence and terrorist attacks against Islam's enemies. There was a booklet that described the best method to destroy buildings. The booklet also included the chemical formulas needed to build bombs powerful enough for the job. Immigration inspectors also found a videotape of a suicide bombing of what appeared to be a U.S. embassy and videotapes describing how to make

explosives and improvised weapons (Reeves, 1999). Additionally, they found letters that referred to his attendance at terrorist training, instructions on how to forge documents, and two rubber stamp devices used to alter the seal on Saudi passports[5] (Eldridge et al., 2004).

Based on these findings, Ajaj was detained pending a hearing after he informed the inspectors that he had applied for political asylum during a prior entry in February 1992 (Eldridge et al., 2004). Ajaj spent six months in jail for passport fraud. However, he was able to help direct plans for the bombing from jail (Camarota, 2002b). During the time he spent incarcerated, he maintained regular contact with the other conspirators (Tucker, 2000). Telephone records indicate that Yousef and Mohammed Salameh, another conspirator, made frequent phone calls to Ajaj while he was in prison (Emerson, 2002). He even requested that the authorities release his belongs, including the terrorist kit, to the other individuals involved in the plot (Tucker, 2000).

A few days after the bombing, Ajaj was released from prison. However, eight days later he was arrested again for his involvement in the plot (Camarota, 2002b). Ajaj continued to pursue his political asylum claim even after he was arrested. When his request for an exclusion hearing was denied, he submitted a new application for asylum. He continued to attempt to exploit the legal immigration system even after his involvement in terrorist activities was uncovered. Ajaj was convicted for his role in the plot and sentenced to 240 years in prison (Mylroie, 2001).

a. Abuse of Legal Immigration System Summary

Ahmad Ajaj manipulated the immigration system by using an alias, fraudulent passport(s) and false documents to support the false identity. He abused the asylum program in order to remain in the country. When Ajaj entered the country in August 1992, he had bomb making manuals and other terrorism related documents in his luggage. He also had a document that contained examples of the types of questions

[5] *The Staff Report of the National Commission on Terrorist Attacks upon the United States* noted that al Qaeda favored Saudi passports partly due to the fact that irregularities in the Saudi passport issuance system made them more readily available (Eldridge et al., 2004).

travelers are asked during a routine immigration encounter at an airport. This evidence indicates that he entered the country with the intent to engage in terrorist activity and he was aware that he needed to use the legal immigration system to gain admission.

2. Ramzi Yousef

Although they traveled together, Ajaj and Ramzi Yousef were not linked at the time of entry (Eldridge et al., 2004). Yousef, a Pakistani national, was the mastermind behind the attack. He did not have a valid visa to enter the United States (Emerson, 2002). He presented a fraudulent British passport in order to board the plane with Ajaj in Pakistan (Camarota, 2002b). Similar to Ajaj, Yousef was referred to secondary inspection at the port of entry where he presented an Iraqi passport, which he later admitted was fraudulent (Eldridge et al., 2004). He did not present the British passport he used to board the plane in Pakistan. He had given the document along with his plane ticket to Ajaj (Mylroie, 2001). He claimed that he obtained the Iraqi passport by bribing a Pakistani official. The immigration inspectors also found an Islamic Center identity card with his photo on it but under the name of Khurram Khan, which is the name Ajaj used to travel to the United States. Another boarding pass under the name of Mohammed Azan was found among Yousef's belongings. A plane ticket and passport under this name were found in Ajaj's possession (Eldridge et al., 2004).

Between the two of them, Ajaj and Yousef had a total of five fraudulent passports. These documents included a Saudi passport that had signs of alteration, an Iraqi passport purchased from a Pakistani official, a Jordanian passport and photo substituted Swedish and British passports. They also had many documents, including bank records, educational records and medical records, to support their false identities (Eldridge et al., 2004).

Despite the fact that they were both referred for additional screening and their documents were obviously mingled, inspectors did not link the two together (Eldridge et al., 2004). Some authorities believe that Yousef used Ajaj as a diversion in order to avoid detection at the port of entry (Mylroie, 2001). Similar to Ajaj, Yousef applied for

political asylum. He was subsequently paroled into the country due to insufficient detention space (Camarota, 2002b). Like Ajaj, Yousef never appeared for his asylum hearing (Eldridge et al., 2004).

In September 1993, Yousef was indicted for his involvement in the plot. However, he had already left the country using a fraudulent Pakistani passport (Eldridge et al., 2004). He eventually traveled to the Philippines, where he and his associates developed a plot to bomb 12 airplanes en route between the United States and Asia. Forced to abort the operation, Yousef traveled to Pakistan. While there, neighbors contacted local authorities and disclosed his whereabouts (Tucker, 2000). Before he was arrested, he used a Pakistani identity card bearing the name Ali Mohammad to check into a guesthouse (Reeve, 1999). In early 1995 he was captured in Pakistan and returned to the United States (Eldridge et al., 2004). He was convicted in 1996 for his involvement in the plot and sentenced to 240 years in prison (Camarota, 2002b).

Because Yousef used over 12 different aliases while he was engaging in terrorist activity, there is some controversy over his true identity. He claimed to have considered himself Palestinian in one interview (Tucker, 2000). Some reports indicate his nationality and ethnicity was Pakistani Baluch. On November, 9, 1992, he reported that he had lost his passport to Jersey City police. He claimed his name was Abdul Basit Mahmud Abdul Karim and that he was a Pakistani national raised in Kuwait. On December 31, 1992, he took copies of current and previous passports for Abdul Basit to the Pakistani Consulate in New York. As he claimed to the Jersey City police, he told the consular officials that he lost his passport and requested a new one. However, the consular officials were suspicions of his photocopied documents and therefore denied his request. However, they issued him a temporary passport valid for six months. He was instructed to return home in order to correct the matter (Mylroie, 1995/96). After the bombing, he used the Pakistani passport he obtained as Abdul Basit to flee the country (Mylroie, 2001). He had three passports in his possession when he was finally arrested in Pakistan. However, whether nor not any of these identities is his true identity is uncertain (Mylroie, 1995/96).

a. Abuse of Legal Immigration System Summary

Similar to Ajaj, Ramzi Yousef manipulated the legal immigration system by assuming false identities, and using false passports and documents to support those identities. He also applied for political asylum in order to remain in the country. The fact that he failed to appear for his asylum hearing indicates that this was merely used as a means to enable him to enter and remain in the country. Although his documents were co-mingled with Ajaj, immigration authorities did not realize that the two men were in fact connected. Better pattern and trend analysis capabilities may have enabled immigration authorities to establish this connection.

3. Mahmud Abouhalima

Another leader of the 1993 attack on the World Trade Center, Mahmud Abouhalima, may have had ties to extremist groups in Egypt that helped provide funding for the bombing. His involvement in the plot included helping to obtain the ingredients needed to make the bombs (Tucker, 2000). Abouhalima was also responsible for driving the rental truck used in the bombing and driving the conspirators away from the crime scene (Eldridge et al., 2004). He would have been unable to perform these functions if he had been unable to enter and remain in the country.

Abouhalima was born in Egypt in 1959. He became involved with members of the outlawed group al-Jama'a Islamiyya as a teenager. This group considered Sheikh Abdel Rahman as its spiritual leader. In the fall of 1985, Abouhalima entered the United States on a tourist visa. When his visa expired in the spring 1986, he proceeded to remain in the country past his authorized period of admission. After living in the country illegally, in 1987 he fraudulently claimed to qualify under the Seasonal Agricultural Worker (SAW) program,[6] based on his employment for seven months on a farm in South Carolina (Eldridge et al., 2004). However, Abouhalima, like many others who applied

[6] This program was created through the 1986 Immigration Reform and Control Act (IRCA), which included provisions that provided permanent resident status to foreign nationals who worked in agriculture for at least 90 days during the year prior to May 1, 1986. IRCA also combined border enforcement with an amnesty program for illegal aliens who could prove that they had continuously lived in the United States prior to January 1, 1982 (Rudolph, 2006).

under this program, never worked in agriculture[7] (Mylroie, 2001). Abouhalima obtained legal permanent resident status through the SAW program in 1988 (Camarota, 2002b). During this time period when he claimed to have worked on a farm, he was actually in New York working as a taxi cab driver (Mylroie, 2001). His wife even told a reporter that she did not remember Abouhalima taking any trips outside the New York metropolitan area besides one short trip to Michigan (Behar, 1993).

Approximately one week after the attack, Abouhalima fled to Sudan. His fingerprints, along with Yousef's were later found on the bomb making manuals seized from Ajaj at the port of entry. He was eventually arrested by Federal Bureau of Investigation (FBI) agents in Egypt and extradited to the United States for trial (Eldridge et al., 2004). In fact, it was not until after Abouhalima was arrested and subjected to aggressive interrogation did the FBI learn of Yousef's involvement in the plot (Mylroie, 2001). While in prison, Abouhalima attempted to broker a deal with the prosecutors claiming that he was manipulated by Yousef to conduct a crime far greater than he expected (Tucker, 2000). He was convicted for his role in the attack and sentenced to 240 years in prison (Reeve, 1999).

a. Abuse of Legal Immigration System Summary

Mahmud Abouhalima was able to participate in the plot because he abused the legal immigration system by overstaying his authorized period of admission and then subsequently became a permanent resident through a fraudulent application under the SAW program. His status as a legal permanent resident enabled him to travel in and out of the country freely. The ability to travel can be crucial to the operational planning for an attack. Often the conspirator(s) leave the country in order to meet with other members of the organization or individuals involved in the plot in order to finalized plans for the attack, exchange information or receive additional funding (Camarota, 2002b). In fact,

[7] Many officials believe that fraud was pervasive in the SAW program. Illegal aliens could purchase employment letters to provide as evidence that they worked in agriculture from criminal rings (Bombing Probe, 1993). According to Mark W. Everson, who was the Deputy Commissioner of the INS, immigration officials believed that over 50 percent of the applications filed by farm workers in Florida alone were fraudulent or contained indicators of fraud (Pear, 1987).

Abouhalima was only able to travel abroad and receive terrorist training after he received his green card. His travels included several trips to the Afghanistan/Pakistan border, where he received training on making bombs (Camarota, 2002b).

Additionally, Abouhalima had connections with other suspect individuals. He met Ramzi Yousef in 1988 during the war in Afghanistan. In fact, Yousef quickly reconnected with Abouhalima after entering the country (Reeve, 1999). Abouhalima frequently visited the apartment used by the other conspirators to prepare the chemical mixture used to make the bomb (Tucker, 2000). He is also implicated as a conspirator of the 1993 plot to bomb New York City landmarks (Camarota, 2002b). He was a devoted follower of Sheik Rahman's preachings (Tucker, 2000). Abouhalima stated to reporters that he worked as the Sheik's bodyguard and driver (Behar, 1993). Additionally, he was supposed to drive the getaway car for El Sayyid Nosair after he assassinated Rabbi Meir Kahane (Eldridge et al., 2004), who was the American-Israeli leader of the Jewish Defense League in 1990 (Camarota, 2002b). However, he was unable to perform this responsibility because he was asked to move his car because it was blocking the entrance to the hotel. Along with several others, he was arrested that night but was released due to insufficient evidence (Eldridge et al., 2004). The ability to use technology to identify non-obvious patterns or connections among potential threats may help border security agents to identify these types of relationships and uncover plots in the future.

4. Mohammed Salameh

Mohammed Salameh, a Palestinian/Jordanian national, rented the truck that was used in the 1993 World Trade Center bombing (Camarota, 2002b). His mother's family had a long history of connections to terrorist activity. His grandfather joined the Palestinian Liberation Organization (PLO) as an old man. Israeli authorities arrested his uncle in 1968 for terrorist activity. His uncle served 18 years in prison before he was released and deported. He later moved to Baghdad, Iraq where he became the number two operative in a PLO unit under Iraqi influence (Mylroie, 1995/96).

In April 1984, Salameh was issued a Jordanian passport. Ramzi Yousef's fingerprints were subsequently found on this passport (Eldridge et al., 2004). In 1987, he

was issued a five year visa and entered the United States (Reeve, 1999). However, because he was only 19 years old and reported that he made only $50 a month, it is questionable why his visa application was approved. Generally individuals who are young, unmarried and have low income fit the profile of an intending immigrant.[8] Despite that fact, Salameh was issued a tourist visa in Jordan and entered the country in 1988. Once his six month period of admission expired, he remained in the country illegally (Camarota, 2002b).

Like Abouhalima, in September 1992 Salameh submitted an application pursuant to the 1986 Seasonal Agricultural Worker program (Eldridge et al., 2004). Salameh applied under this program despite the fact that he did not enter the country until after the qualifying time period (Bombing Probe, 1993). He claimed that he planted tomatoes and picked green beans in Crawford, Texas (Eldridge et al., 2004). He was allowed to remain in the country while his fraudulent application was being processed. The application was ultimately denied three years after he had applied. He also submitted an application under the other amnesty program, which was designed to legalized workers who had been in the country before 1982. After another 15 months, immigration officials denied this fraudulent application as well (Bombing Probe, 1993).

The night of the bombing, Salameh drove both Yousef and another conspirator, Eyad Ismoil, to JFK airport. Yousef used a false passport to escape to Pakistan, and Ismoil fled to Jordan. However, Salameh appears to have been left behind intentionally. He was not provided adequate funds to purchase a plane ticket (Mylroie, 1995/96). Approximately one week after the bombing, Salameh was arrested while trying to obtain a $400 refund on the rental truck (Eldridge et al., 2004). He apparently needed the money in order to flee the country (Tucker, 2000). He was charged with criminally violating immigration laws and for his involvement with the bombing. In March 1994, he was

[8] Any individual who is likely to overstay his or her visa and remain permanently in the United States is considered an intending immigrant. Section 214(b) of the Immigration and Nationality Act states that all individuals will be presumed to be intending immigrants until they prove that they are otherwise entitled to nonimmigrant status. Consular officers are instructed not to issue a visa unless the applicant can establish that he or she has a permanent residence in his or her country of origin, that the visit to the U.S. will be temporary in nature and that the applicant has the financial means to return home (Camarota, 2002b).

convicted on all counts, including charges pertaining to fraud and misuse of visas, permits and other documents. He was sentenced to 240 years in prison (Eldridge et al., 2004).

a. Abuse of Legal Immigration System Summary

Similar to Mahmud Abouhalima, Mohammed Salameh abused the immigration system by overstaying his authorized period of admission and then subsequently submitting a fraudulent application under both amnesty programs. Even though his applications were ultimately denied, he was able to continue to live and work in the United States illegally because there was no mechanism to require individuals who were denied permanent status to leave the country (Camarota, 2002b). Under the SAW program, illegal aliens whose applications were denied could not be deported based on that application unless there was evidence of criminal fraud (Bombing Probe, 1993). He would not have been able to participate in the plot if he had been required to depart the country once his status expired or his applications were denied.

Salameh also had connections to other suspect individuals. He attended Sheik Rahman's mosque in New Jersey and also had ties to El Sayyed Nosair (Tucker, 2000). The night that Nosair killed Rabbi Kahane, Salameh was arrested at one of the addresses used by Nosair. He admitted he was with Nosair at the shooting. However, authorities released him the next day due to insufficient evidence (Eldridge et al., 2004). Salameh also conspired with Abouhalima to free Nosair from prison (Tucker, 2000).

5. Biblal Alkaisi

Another conspirator, Jordanian national Biblal Alkaisi, filed for temporary protected status[9] (TPS) using the name Bilal El Qisi in August 1991. Because he could not get TPS as a citizen of Jordan, Alkaisi applied claiming to be a Lebanese national because Lebanon was a designated TPS country at that time. He stated that he was born

[9] TPS can be granted to eligible nationals of designated countries who cannot return safely to their home country due to ongoing armed conflict, environmental disaster or other extraordinary events (Eldridge et al., 2004).

in Lebanon and entered the country in New York in September 1988. The INS Forensic Document Laboratory determined that the Lebanese birth certificate provided by Alkaisi in support of his application was made from a color copier. Additionally, the English translation of the document was incorrect. Finally, the immigration entry record he submitted was also determined to have been altered to change the country of birth (Eldridge et al., 2004).

Alkaisi subsequently applied for asylum in May 1992 (Kephart, 2005). On his application, he claimed that he was from Jordan and entered the country in October 1987 through New York. He stated that immigration officials did not inspect him. Because they did not connect the asylum application with his TPS application, INS created another file for Alkaisi. His asylum claim was terminated in 1992 because he failed to appear for his asylum interview. However, he remained in the country illegally (Eldridge et al., 2004).

On March 25, 1993, Alkaisi was arrested for his involvement in the bombing. The subsequent investigation revealed that all of the employment and residence information provided in support of his asylum application were fraudulent. He was indicted with five other conspirators in August 1993. However, the U.S. Attorney later severed him from the indictment due to insufficient evidence. In May 1994, he pled guilty to making false statements to INS and was sentenced to 20 months in prison. He was deported to Jordan immediately after he was released from prison (Eldridge et al., 2004).

a. Abuse of Legal Immigration System Summary

Biblal Alkaisi utilized a variety of tactics to exploit the legal immigration system, including submitting fraudulent documents in support of his applications, submitting fraudulent claims for two immigration benefit programs and using aliases. Better capability to verify identity may have enabled immigration officials to connect Alkaisi's two immigration files. This may have helped them discover the contradictory information he provided on his applications.

Biblal Alkaisi also had connections to other terrorists that were not fully recognized. In November 1990 he accompanied Nosair to a rally held by Rabbi Meir Kahane. Nosair shot and killed Kahane at this event. Alkaisi was later questioned regarding Kahane's shooting but was released by the police (Eldridge et al., 2004).

6. Eyad Ismoil

Eyad Ismoil, a Jordanian national, had been acquainted with Yousef since childhood (Reeve, 1999). He was issued a student visa from the U.S. consulate in Kuwait (Eldridge et al., 2004). He entered the country 1989 to study English at Wichita State University. He left school after only three semesters, thereby violating the terms of his admission. He remained in the country illegally and eventually moved to New York (Camarota, 2002b).

Ismoil was responsible for driving the van loaded with explosives used in the bombing (Camarota, 2002b). He would have been unable to have performed this function if there had been better mechanisms employed to prevent illegal aliens from remaining in the country. He claimed that he believed the van was carrying boxes of shampoo, not boxes of explosives (Mylroie, 2001). After the bombing, Ismoil immediately fled to Jordan. In September 1994, he was indicted for his role in the bombing. Almost a year later, he was extradited from Jordan and returned to the United States for prosecution. On November 13, 1997, Ismoil was convicted, sentenced to 240 years in prison and ordered to pay $10 million in restitution (Eldridge et al., 2004).

a. Abuse of Legal Immigration System Summary

Eyad Ismoil violated the terms of his student visa by dropping out of school after only three semesters. He subsequently remained in the country without lawful status. Better interior enforcement of immigration law would have prevented Ismoil from remaining in the country and engaging in acts of terrorism.

7. Mohammed Abouhalima

Similar to his brother Mahmud, Mohammed Abouhalima, an Egyptian national, entered the country through New York on a tourist visa in July 1985. He was authorized to remain in the country until August 15, 1985. After his authorized period of admission had expired, he submitted an application to INS to extend his status. His request was denied and he was ordered to voluntarily depart the country by December 5, 1985. He did not comply with this order and remained in the country illegally for several years (Eldridge et al., 2004). He obtained temporary resident status by fraudulently claiming to be an agricultural worker in order to qualify under the 1986 Amnesty (Camarota, 2002b). His application to become a permanent resident was denied in 1992 once it was determined that he never worked in agriculture picking beans. In fact, the employer that petitioned on Abouhalima's behalf eventually pled guilty in federal court to providing 260 fraudulent employment records used by aliens to support their applications under the SAW program (Eldridge et al., 2004). Abouhalima was convicted in 1997 for being an accessory to the crime by helping his brother flee the country (Camarota, 2002b). He was sentenced to 96 months in prison and was ordered deported after his time was served (Eldridge et al., 2004).

a. Abuse of Legal Immigration System Summary

Similar to his brother, the fact that Mohammed Abouhalima overstayed his authorized period of admission enabled him to participate in the plot. Additionally, he was able to remain in the country because he was able to obtain temporary resident status by submitting a fraudulent application under the SAW program.

8. Nidal Ayyad

Nidal Ayyad was the best educated member of the conspiracy. He graduated from Rutgers University and worked as a chemical engineer (Tucker, 2000). He provided the expertise in explosives for the attack (Camarota, 2002b). His role included helping to obtain and mix the chemicals used to make the bomb (Tucker, 2000). In May 1994, he was convicted and sentenced to 240 years in prison for his involvement (Eldridge et al., 2004).

Ayyad was born in Kuwait but has Jordanian citizenship. His father filed the petition to allow him to come to the United States. He was granted lawful permanent resident status as an unmarried son or daughter of a U.S. citizen in October 1985. He became a naturalized citizen in March 1991 (Eldridge et al., 2004). On May 28, 1996, the INS office in Newark, New Jersey recommended to the Regional Director, INS Eastern Region that Ayyad's citizenship be revoked based on his membership in a terrorist group before and after he naturalized. This recommendation was based on several sections of the Immigration and Nationality Act including Section 340(a)(2), which pertains to withholding a material fact; Section 340 (c), which pertains to reopening naturalization proceedings and Section 313(3), which pertains to membership in an organization that advocates the violent overthrow of the government. It is unclear whether action was taken to revoke his citizenship based on this recommendation. According the *Staff Report of the National Commission on Terrorist Attacks Upon the United States: 9/11 and Terrorist Travel,* the 9/11 Commission staff were prevented from reviewing his immigration file due to Privacy Act constraints (Eldridge et al., 2004).

a. Abuse of Legal Immigration System Summary

Nidal Ayyad violated immigration laws by withholding his membership in a terrorist group when he applied for naturalization. His ability to obtain citizenship enabled him to remain in this country in a legal status and engage in terrorist activity.

B. CASE STUDY 2—THE JUNE 1993 PLOT TO BOMB NEW YORK CITY LANDMARKS[10]

The 1993 World Trade Center bombing was almost immediately followed by another conspiracy. On June 24, 1993, 10 individuals were arrested for plotting a Day of Terror which included multiple attacks on New York City landmarks including the United Nations Headquarters, the George Washington Bridge, the Lincoln and Holland Tunnels and the Federal Building at 26 Federal Plaza (Emerson, 2002). In total, there

[10] There were several other individuals involved in the plot that are not included in this case study. There is not much information is available regarding their immigration histories. The 9/11 Commission staff were prevented from reviewing their immigration files due to Privacy Act constraints (Eldridge et al., 2004).

were 11 foreign-born terrorists involved in the plot. Three native-born U.S. citizens who had converted to militant Islam were also involved (Camarota, 2002b). Prosecutors claim that the plotters intended to detonate the bombs within 10 minutes of each other (Kushner, 2003). During the sentencing of some of the conspirators, the judge stated that if this plot had been successful, it would have resulted in the death of hundreds or possibly thousands of innocent people. He also stated that the bombs they intended to explode would have caused destruction more significant than anything since the American Civil War. The judge claimed that the blasts that would have resulted if these bombs had been detonated would have made the 1993 World Trade Center bombing pale in comparison (Fried, 1996).

Although there were members of the conspiracy that did not need to abuse the immigration system, this example illustrates that manipulation of the immigration system is an important component in the tactical planning of acts of terrorism by foreign born terrorists. Approximately 79 percent of the conspirators involved needed to engage in some form of immigration fraud or otherwise violate immigration law in order to gain access to the country. Furthermore, as stated previously, the immigration system does not need to identify all of the conspirators involved in a plot in order to be an effective tool in counterterrorism efforts. For example, if the conspirator who has the expertise in explosives is prevented from entering or remaining in the country, the ability to carry out the plot is critically disabled. In this case study, the mastermind behind the plot committed repeated violations of immigration law. Preventing his entry into the country may not have entirely eliminated the threat, but it could have dramatically reduced the conspirators' ability to operate.

Analysis of the immigration histories of the foreign born terrorists involved in the plot included below demonstrate how the lack of sharing vital information regarding potential threats can have detrimental consequences. They also highlight the importance of ensuring watch list information is updated on a routine basis as a means of preventing threats from going undetected. Similar to the 1993 World Trade Center Bombing case study, this example illustrates that increased pattern and trend analysis technology could aid organizations in identifying terrorist plots by establishing previously unidentified

connections among the parties involved. The fact that several of the terrorists involved in this plot obtained significant immigration benefits through fraudulent applicants demonstrates that immigration officials need sound procedures and capabilities to detect and deter immigration benefit fraud. Finally this example also underscores the fact that the organizations responsible for border security need better mechanisms to establish and verify an individual's identity in order to prevent terrorists from using false identities to avoid detection.

1. Sheik Abdel Rahman

Sheik Abdel Rahman, an Egyptian national, led the plot to bomb the landmarks. Rahman is one of the most infamous foreign nationals who was able to obtain a visa. He is considered one of the spiritual leaders who helped inspire al Qaeda. By the 1980s, Rahman was already a well known public figure with direct links to terrorist activity (Camarota, 2002b). He was tried for the attempted assassination of Egyptian president Hosni Mubarak but was ultimately acquitted (Emerson, 2002). He has even been associated with the terrorists involved with assassinating Egyptian President Anwar Sadat. His name has been included on a terrorist watch list since 1987. Despite these facts, he was able to enter the United States using a tourist visa issued in Khartoum, Sudan on at least four occasions in the late 1980s. Although he was on a watch list, Rahman was issued the visa because the consular officer in Khartoum, Sudan did not conduct the check properly (Camarota, 2002b). Additionally, his visa applications were incomplete, misleading and possibly contained material misrepresentations in his answers to questions on the form (Eldridge et al., 2004).

Rahman's tourist visa was revoked in November 1990, six months after it had been issued. However, he had already used that visa to enter the country twice. He entered the country again in December 1990 using the same visa even though it had been revoked because he provided a variation of the name in the passport on his entry documents (Eldridge et al., 2004). In January 1991, he obtained permanent resident status as a minister of religion by using a false name. This status increased his ability to engage in illicit activities because it allowed Rahman to work and travel freely in and out

of the country. That status was revoked in March 1992 because it was discovered that he had provided false statements in support of his application (Camarota, 2002b).

After the 1993 World Trade Center bombing, Rahman was taken into custody for his possible involvement in the plot. INS officials requested that the Board of Immigration Review expeditiously process his deportation case. Reports indicated that this request may have been related to the extradition negotiations between the United States and Egypt concerning Mahmud Abouhalima. At the time, the Department of State declined to comment on whether U.S. authorities pledged to return Rahman to Egypt in exchange for their cooperation in extraditing Abouhalima (DeStefano, 1993). In order to prevent deportation, Rahman applied for asylum. His application for asylum was still pending when he was arrested for his involvement in the New York City landmarks plot (Camarota, 2002b). On January 17, 1996 he was sentenced to life in prison for his involvement in the landmark plot (Eldridge et al., 2004).

a. Abuse of Legal Immigration System Summary

Sheik Abdel Rahman committed several violations of the immigration system. He used variations of his name or false identities to avoid detection. He submitted applications for benefits that were either incomplete or contained material misrepresentations. Similar to some of the other terrorists included in this study, he had connections with other suspect individuals. He is widely believed to have inspired the 1993 attack on the World Trade Center (Camarota, 2002b). At least three of the individuals involved in that plot attended the mosque where Rahman preached (Kushner, 2003). Investigators found telephone records that show that Rahman made several phone calls to the apartment where Yousef lived from 1992-1993. However, the Federal Bureau of Investigation ultimately was unable to directly link Rahman to the 1993 World Trade Center bombing (Emerson, 2002). Better pattern and trend analysis capabilities may have enabled investigators to identify these connections.

2. El Sayyid Nosair

Another conspirator, El Sayyid Nosair, was one of the earliest Islamic extremist terrorists (Camarota, 2002b). Sources indicated that his anti-Western views developed long before he immigrated to the United States. In the 1970s, he became active in extremist movements in Egypt while in college (Sachs & Kocieniewski, 1993). Nosair entered the country on a tourist visa in 1981 (Camarota, 2002b). He overstayed his visa and "candidly admitted that he was looking for an American woman to marry so he could obtain a green card" (Mylroie, 2001, p. 11). In less than a year after his arrival, Nosair met a recent American divorcee through a matchmaker. In June 1982, they were married a few months after they met (Mylroie, 2001). He became a naturalized citizen in 1989 (Camarota, 2002b). Prior to becoming a citizen, the FBI observed him under surveillance shooting a variety of weapons at a gun range with three of the conspirators involved in the 1993 World Trade Center bombing (Mylroie, 2001). However, this information was not provided to INS (Eldridge et al., 2004).

After the World Trade Center bombing, FBI agents searched one of the conspirator's apartments and found Nosair's U.S. passport, five Nicaraguan birth certificates, Nicaraguan drivers' licenses and five Nicaraguan passports issued in July 1991. The foreign documents, intended for Nosair and his family, were issued under false identities (Eldridge et al., 2004). In fact, Nosair routinely utilized a variety of documents. For example, he had been issued three drivers' licenses each listing a different address. He also frequently used different variations of his name. On his application for naturalization, he claimed he was El Sayyd Abdulaziz El Sayyd. He used El Sayyd Nossair on city employment records (Mylroie, 2001).

Nosair was later convicted as part of the conspiracy to bomb New York City landmarks (Camarota, 2002b) and sentenced to life in prison. In May 1996, INS recommended revocation of Nosair's citizenship based on the fact that he lacked good morale character, which is a requirement for naturalization. He was also subject to a violation for having unlawfully obtained citizenship. Because the 9/11 Commission staff

were prevented from reviewing his immigration file due to Privacy Act constraints, it is not clear whether action was taken on this recommendation (Eldridge et al., 2004).

Nosair also was responsible for the assassination of Rabbi Meir Kahane (Camarota, 2002b). In 1991, Nosair was found not guilty of murder or attempted murder but was convicted of carrying a weapon and assault. He was sentenced to eight years in prison (Eldridge et al., 2004). The Kahane assassination was originally believed to be an isolated event (The Associated Press, 1999). After the 1993 World Trade Center bombing and the plot to bomb New York City landmarks, law enforcement officials began to believe that Kahane's murder was part of a much larger terrorist conspiracy. After the shooting, the FBI raided his apartment and found videotapes about the Arab-Israelei conflict, a mercenary magazine, a slab of sheetrock used in target practice, photographs of local landmarks and informational materials about bomb making. Agents even found the formula to make the bomb that was later used in the 1993 World Trade Center attack (Sachs & Kocieniewski, 1993). They found one of Rahman's sermons calling for the destruction of symbols of capitalism (Kushner, 2003). They also found several military documents from Fort Bragg, North Carolina. Some of the documents were classified as "Secret," "Sensitive" or "Top Secret for Training." These included intelligence reports, reports on the locations of U.S. Special Forces stationed in the Middle East, data on the situation in Afghanistan prepared by U.S. Central Command and reports on the Soviets' military strength in Afghanistan (Reeve, 1999). These documents were eventually traced to Ali Mohammed, who was a sergeant in the Army Special Forces. Mohammed was later convicted for his involvement in the 1998 East African embassy bombings (Eldridge et al., 2004).

a. Abuse of Legal Immigration System Summary

El Sayyid Nosair's repeated violations of immigration law enabled him to remain in the country and participate in the planning of this attack. Since he was admitted on a tourist visa, he overstayed his authorized period of admission, utilized a variety of identities, provided false information in support of his applications and entered into a fraudulent marriage in order to obtain permanent resident status.

3. Matarawy Mohammed Said Saleh

Matarawy Mohammed Said Saleh, an Egyptian national, had a minor role in the plot. He was responsible for providing stolen cars to the other conspirators. He became a legal permanent resident though marriage to a U.S citizen (Camarota, 2002b). In fact, he married two American women in an effort to obtain legal immigration status. In 1986, he attempted to obtain permanent residence through his marriage to Evelyn Cortez; this was Cortez's second marriage. Her first marriage was also to a foreign national. In his application, Saleh claimed to be employed as a scuba diver and live at the same address as Cortez. He used the alias Wahid Mohamed Ahmed on this petition. The petition was denied because Cortez failed to provide the divorce decree from her prior marriage. In October, Saleh married Leslie Sonkin in a ceremony in Egypt even though he was still legally married to Cortez. Sonkin filed an immigrant visa petition for Saleh which claimed that he had no prior marriages. In December 1987, he entered the country as a conditional resident based on the petition filed by Sonkin. This status authorized him to remain in the country for two years. At the end of that time period, Sonkin and Saleh could apply to remove the conditions on his status in order to become a permanent resident. However, in August, 1988 he was convicted for selling heroin and sentenced to five years in prison. After two and a half years, he was released on parole and turned over to INS for deportation. INS initiated deportation proceedings, but he was released on bail while the order was still pending (Eldridge et al., 2004).

Despite his outstanding deportation order, illegal immigration status, prior heroin conviction and involvement with credit card fraud and theft, Salaeh was placed on supervised release for three years. In June 1996, he was arrested by INS agents and placed in custody (Eldridge et al., 2004). He eventually pled guilty to his involvement and testified against the other terrorists involved. He was sentenced to time served (Camarota, 2002b). In November 1996, he was released from prison and finally deported to Egypt (Eldridge et al., 2004).

a. Abuse of Legal Immigration System Summary

Matarawy Mohammed Said Saleh was able to remain in the country and engage in terrorist activity because he entered into a fraudulent marriage in order to obtain an immigration benefit. He submitted multiple marriage-based petitions in order to obtain legal permanent resident status, provided false information and used aliases in an effort to circumvent efforts to detect his prior marriages.

4. Fadil Abdelgani

Another conspirator in the plot, Sudanese national Fadil Abdelgani, mixed explosives for the attack. Similar to Rahman, he engaged in immigration fraud in order to remain in the United States. In 1987, he used a tourist visa to enter the United States. He subsequently overstayed his authorized period of admission and remained in the country illegally. In 1991, he obtained legal permanent resident status by entering into a sham marriage with a U.S. citizen (Camarota, 2002b). After his arrest, he admitted that he did not know his wife's whereabouts. He also claimed that he had another wife who was still living in Sudan (Rashbaum, 1993). He was sentenced to 25 years in prison for his involvement in the plot (Fried, 1996).

a. Abuse of Legal Immigration System Summary

Fadil Abdelgani entered into a fraudulent marriage with a U.S citizen and concealed his first marriage in order to obtain legal permanent resident status.

C. CASE STUDY 3—THE AUGUST 1998 EMBASSY BOMBINGS IN AFRICA

On August 7, 1998, two truck bombs exploded almost simultaneously at the U.S. embassies in Dar es Salaam, Tanzania and Nairobi, Kenya (Camarota, 2002b). That morning terrorists drove a truck filled with explosives and aluminum nitrate into the rear entrance of the U.S. embassy in Nairobi. The explosion caused significant structural damage and even tore the back of the building off. Although the embassy remained standing, the seven story building located next to it collapsed. One survivor was buried

under the rubble for two days. Approximately 10 minutes later, another truck loaded with explosives and canisters of oxygen and acetylene gas was exploded in front of the U.S. embassy in Dar es Salaam. The blast caused debris to be thrown approximately 600 yards from the bomb's center (Kushner, 2003). The explosion was so powerful it cut the body of the suicide bomber in two and flung the top half of his torso, which was still holding the steering wheel, into the embassy building (Reeve, 1999). The August 1998 attacks on the U.S. embassies in Kenya and Tanzania resulted in 301 fatalities and left 5,007 individuals injured (Kephart, 2005). The terrorists involved claimed that the attack was designed to force the evacuation of all American forces from Muslim territory (Kushner, 2003).

Although these attacks occurred outside of the continental United States, operatives located within the country were instrumental in facilitating the attacks. For example, Osama bin Laden used operatives located in the United States to purchase and provide him with the satellite phone used to plan the attacks on the embassies (Emerson, 2002). There were a total of four foreign-born terrorists who traveled to the United States who were involved in the plot.[11] At least three of the conspirators were naturalized U.S. citizens who worked for al Qaeda while living and working in the United States (Camarota, 2002b). The weaknesses in the legal immigration system that were exploited allowed the terrorists to remain in the United States to help facilitate the tactical planning for this plot. The primary lesson to be learned from this case study is how valuable obtaining significant immigration benefits such as citizenship can be to the operational planning of attacks. The below individuals involved used the freedom to travel their fraudulently obtained status as United States citizens provided to engage in the operational planning for this and other terrorist attacks. Therefore, denying terrorists access to these benefits by enhancing the ability to detect and deter fraudulent applications is an important component of protecting national security.

[11] However, there were several additional conspirators involved. Approximately 20 members of al Qaeda are believed to have been involved in the attacks (Camarota, 2002b).

1. Ali Mohammed

Ali Mohammed, an Egyptian national, was considered one of bin Laden's top lieutenants at the time (Kushner, 2003). He is believed to have written a significant portion of al Qaeda's organizational handbook which provided instructions on how to formulate plans for an attack, select targets and avoid detection while operating in the West (Camarota, 2002b). He admitted that in 1992 he provided military and explosives training to al Qaeda operatives in Afghanistan. He also instructed the operatives in how to create cells and intelligence operations. He was involved in establishing an al Qaeda cell in Kenya in the early 1990s. Mohammed also helped to establish a car business to help raise money for the organization and helped to create a refugee charity program used to provide fraudulent identity documents to terrorist operatives (Williams & McCormick, 2001). He frequently traveled to Pakistan and Afghanistan to help oversee the terrorist camps. He was responsible for arranging bin Laden's move from Afghanistan to Sudan in 1991. He also was named as one of the potential conspirators who were not indicted in the 1993 World Trade Center bombing (Emerson, 2002).

Despite the fact that Ali Mohammed was included on a watch list of terror suspects in 1984, he was able to obtain a visa from the American Embassy in Cairo in 1985. At that time, the watch lists were not automated. In addition, the fact that he had a common Egyptian name could explain why he was issued the visa (Camarota, 2002). He obtained permanent resident status by marrying a U.S. citizen he met on the airplane during his first visit to the country (Eldridge et al., 2004). He contacted the woman within a few days of arriving in the country. They were married after only six weeks. Acquaintances of the couple stated they felt his wife seemed genuinely interested in the relationship. However, they suspected for Mohammed it was merely a means to obtain permanent status (Williams & McCormick, 2001). He eventually became a U.S. citizen and lived in the United States for many years (Camarota, 2002b).

In 1986, Mohammed joined the U.S. military. He became a sergeant assigned to the U.S. Army Special Operations at Fort Bragg (Emerson, 2002). While in the army he appeared in training videos on the Middle East. He also was involved in conducting

training for soldiers being deployed in the Middle East (Risen, 1998). During the three years he worked for the U.S. Army, he also worked for al Qaeda, helping to recruit new members, provide training in Afghanistan and Sudan and plan several attacks (Camarota, 2002b). Records from the 1993 World Trade Center bombing indicate that Mohammed began to conduct guerilla warfare training in New Jersey for Islamic extremists in 1989. Nosair and Mahmud Abouhalima were among the attendees (Emerson, 2002). Mohammed traveled to Kenya in 1993 to conduct surveillance on several potential targets, including the U.S. embassy (Eldridge et al., 2004). According to the indictment, he even used his U.S. passport to enter the embassy in Nairobi in February 1994 (The Associated Press, 1999). During his trial, he admitted he conducted surveillance as early as 1993 on the embassy in Nairobi (Kushner, 2003). He was finally arrested for being an al Qaeda operative in 1998 (Emerson, 2002). Mohammed was charged with participating in other terrorist related activities in addition to the African embassy bombings in the 1998 indictment (Kushner, 2003). On October 20, 2000, he pled guilty to his role in the embassy bombings (Emerson, 2002).

2. Khalid Abu al Dahab

Khalid Abu al Dahab is believed to have participated in approximately half a dozen terrorist attacks, including the bombings of U.S. embassies in Africa (Camarota, 2002b). Al Dahab met Ali Mohammed while he was a medical student in Egypt in 1984 (Williams, 2001). Ali Mohammed recruited al Dahab into what would later become al Qaeda. In 1986, he entered the United States by obtaining a student visa to study medicine. Once admitted, he quickly tried to marry an American citizen in order to obtain legal permanent resident status (Camarota, 2002b). Shortly after arriving in California, he married a woman he met through Ali Mohammed's wife (Williams, 2001). His first marriage only lasted one month. He subsequently married another American, but that marriage also only lasted a short time. The court investigator concluded that al Dahab's second marriage was based on convenience. Al Dahab ultimately obtained permanent resident status through his third marriage and eventually became a naturalized citizen (Camarota, 2002b).

During his 12 years in the United States, al Dahab transported fraudulent passports and money to terrorists worldwide from his home in California (Camarota, 2002b). He and Ali Mohammed used fake passports and identity documents to smuggle in one of bin Laden's chief deputies into the United States to help raise funds. He traveled to terrorist training camps in Afghanistan and conducted training for terrorist operatives. He also worked as a communications specialist for al Qaeda. He was sentenced to 15 years in prison for his involvement with al Qaeda (Williams, 2001).

a. Abuse of Legal Immigration System by Ali Mohammed and Khalid Abu al Dahab Summary

Ali Mohammed's and Khalid Abu al Dahab's ability to obtain permanent legal status contributed to their ability to engage in illicit activities. Because a U.S. passport enables the holder to travel freely throughout the world, recruiting U.S. citizens was one of bin Laden's major policy objectives (Emerson, 2002). Therefore, the immigration system was exploited in order to obtain access to U.S. passports in order to facilitate the free travel of terrorist operatives, which can be essential for tactical planning of an attack. Al Dahab admitted that al Qaeda leaders were attracted to U.S. citizens because of the flexibility a U.S. passport gives the individual to travel. He recruited 10 U.S. citizens into al Qaeda during the 12 years he lived in the United States. After his arrest, he stated that bin Laden personally congratulated him for his successful efforts to recruit U.S. citizens. He further stated that in the mid 1990s, he traveled with Ali Mohammed to Afghanistan to brief bin Laden on their recruitment efforts. Al Dahab stated that bin Laden wanted access to the recruits' U.S. passports for use by other operatives. Ali Mohammed admitted he gave his passport and driver's license to another operative in order to facilitate his entry into the country from Canada (Williams, 2001).

D. CASE STUDY 4—THE 2007 PLOT TO ATTACK FORT DIX MILITARY BASE

In May 2007, six individuals were arrested for plotting to attack New Jersey's Fort Dix military base (Russakoff & Eggen, 2007). The base is currently primarily used to train reservists being deployed to Iraq (Mulvihill, 2009a). The terrorists attempted to

kill the approximately 14,000 solders stationed at Fort Dix using assault riffles and grenades. The group of foreign-born terrorist trained for the operation by practicing at a shooting range in Pennsylvania (Russakoff & Eggen, 2007). Five of the plotters were convicted of weapons charges and conspiracy to kill military personnel (Mulvihill, 2009a). The sixth conspirator was charged with helping the conspirators illegally obtain firearms (Russakoff & Eggen, 2007). Two of the conspirators were arrested while trying to buy seven rifles from an FBI informant. The other conspirators were arrested in different locations around the same time (Department of Justice [DOJ] 2008).

According the FBI and the Department of Justice (DOJ), the arrests were the product of a 16-month investigation into the group. The FBI first learned of the threat in January 2006. A video store clerk alerted police to a video that showed several young men firing assault weapons (Russakoff & Eggen, 2007). The clerk contacted law enforcement after he watched the videotape the suspects gave him to dub onto a DVD. The tape included images of 10 men shooting weapons at a firing range whiling calling for jihad (Temple-Raston, 2009). During the course of the investigation, the FBI paid two informants to follow the suspects and record conversations (Ryan, 2009b).

Three of the terrorists involved in this plot were illegal immigrants from the former Yugoslavia. While here, they studied jihadist videos and lectures and became more devote in their religious beliefs (Ryan, 2009a). Authorities did not find any connection between the organization and al Qaeda or any other international terrorist organization. It appeared to be a self-directed operation. The group was considered a homegrown terror cell or leaderless group that united based on a shared fascination with images of jihad found on the internet (Russakoff & Eggen, 2007). Homegrown terrorists bring an added dimension to border security. They often are as dangerous as known groups and can easily operate under the radar (Temple-Raston, 2009).

The primary lesson learned from this case study is the important role sustained and effective interior enforcement of immigration laws can play in enhancing border security. Three brothers involved in the plot, Dritan, Eljvir and Shain Duka, were ethnic Albanians from the former Yugoslavia living in the United States illegally. The fact that their illegal status went undetected enabled them to engage in illicit activities in this

country. It is believed that they entered the country by illegally crossing the border near Brownsville, Texas with their family in 1984 (Krikorian, 2007). The family lived in Texas and Brooklyn, New York before they moved to Cherry Hill, New Jersey in 1996 (Moroz, 2007) The Duka family applied for asylum five years after crossing the border. However, their case remained pending for nearly 20 years. Because their asylum claim was still being processed, efforts to deport the family were suspended (Krikorian, 2007). The family was never given permanent legal status (Appezzato, 2007). After their arrest, the father was detained based on immigration violations and was placed in deportation proceedings (Ripley, 2007). His wife was also issued a summons for immigration violations but was not detained because the couple had a 16 year old son. Although there was no evidence that their parents were involved in the plot, law enforcement officials stated that their illegal status could not be ignored (Appezzato, 2007).

The Duka brothers' lack of legal status restricted their capabilities. They complained that they could not legally obtain firearms for use in the attack because they did not have legal permanent resident status. Dritan Duka admitted that he owned a black gun and a shotgun but was aware that this was illegal because he did not have permanent resident status (Krikorian, 2007). Agron Abdullahu, an ethnic Albanian who had acquired legal permanent resident status, was charged with helping the Duka brothers obtain firearms illegally (Russakoff & Eggen, 2007). He pled guilty to the charges and was sentenced to 420 months in prison (DOJ 2008). During his plea hearing, he admitted that he knew that the Duka brothers were living in the country illegally. Abdullahu also admitted that on at least two occasions he provided them with firearms and ammunition to possess and use at a firing range. He also admitted that he purchased approximately 2,500 rounds of ammunition for the brothers and others (DOJ, 2007).

In December 2008, the Duka brothers and two other conspirators were convicted of conspiracy to murder members of the U.S. military. Dritan Duka and Shain Duka were convicted on possession of weapons in furtherance of a crime of violence. Additionally, all three Duka brothers were convicted for possession of firearms by an illegal alien (DOJ, 2008). They were sentenced to life in prison and will not be eligible for parole (Mulvihill, 2009b). Dritan and Shain Duka were sentenced to an additional 30

years in prison due to the weapons charges. The judge also ordered each of the Duka brothers to pay $125,000 to increase security at Fort Dix (Ryan, 2009b).

E. CONCLUDING REMARKS

The four case studies included in this review provide a broad view of the nature and type of threat that exists from foreign terrorists abusing the legal immigration system to embed themselves in the country. They exploited a variety of benefit programs by submitting fraudulent applications to obtain status. They also used several different tactics such as using fraudulent documents, false passports, creating false identities or aliases to avoid detection, providing false statements or information in support of applications for immigration benefits and overstaying the period of admission authorized pursuant to their nonimmigrant visa. Therefore, the cases are useful in evaluating the country's vulnerability and the types of corrective action needed. The following chapter will outline several key recommendations to mitigate the risks identified through this analysis.

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IV. POLICY RECOMMENDATIONS TO ENHANCE THE LEGAL IMMIGRATION SYSTEM

A. CHANGES TO DOMESTIC SECURITY POLICY IMPLEMENTED AFTER SEPTEMBER 11, 2001

Immediately after the September 2001 attacks, the country reevaluated its strategy and laws designed to combat terrorism giving a greater focus to the connection between immigration and security (Brinkmann, 2004). Perhaps the most significant change was the dissolution of the INS and the relocation of its functions under the umbrella of the newly created Department of Homeland Security (Martin & Martin, 2004). Changes to the legal immigration system in response to the September 11, 2001 attacks included measures to strengthen the student visa program. Colleges and universities were required to report on the enrollment of foreign students. A special registration program for nationals from specific countries called the National Security Entry-Exit Registration System was mandated. Foreign nationals subject to the special registration had to present themselves for personal interviews with immigration officials[12] (Cornelius, 2004).

The Department of Justice (DOJ) also implemented procedures to use immigration status violations as the basis to interview, detain or even deport suspected terrorist (Eldridge et al., 2004). Specifically, DOJ could detain individuals for seven days without charges. The individual must remain in detention until he or she is removed if the Attorney General certifies that the foreign national is deportable based on immigration or criminal grounds. Furthermore, even if removal is not possible, the individual can remain in custody until the Attorney General determines that his or her release does not pose a threat to safety and security. The government has typically relied on using minor immigration violations such as overstaying a visa rather than using terrorism specific provisions to charge suspect individuals. In contrast to charges

[12] Initially, only five countries were included: Iran, Iraq, Libya, Sudan and Syria. The program was later expanded to include an additional 13 countries (Cornelius, 2004).

pertaining to terrorism, which often rely on insufficient or classified information, immigration charges are usually easier to prove (Martin, 2004).

Additionally, Congress passed the USA PATRIOT Act, which was the primary legislative package designed to enhance domestic counterterrorism and intelligence efforts (Martin, 2004). Among other things, the USA PATRIOT Act expanded the definition of terrorist activity to include:

> …persons who have used positions of prominence within any country to endorse or espouse terrorist activity, or to persuade others to support terrorist activity or a terrorist organization, in a way that the Secretary of State has determined undermines the United States efforts to reduce or eliminate terrorist activities. (Martin, 2004, p. 5)

The Immigration and Nationality Act was broadened after September 11, 2001 to include provisions to deny entry to representatives of organizations that endorse terrorism, prominent figures who endorse terrorism and, in some cases, the spouse or children of individuals who are removable based on terrorist grounds (Garcia & Wasem, 2008). The USA PATRIOT Act expanded the grounds for detaining foreign nationals who have been denied entry into the country or those who can be removed based on suspected ties to terrorist activity or organizations (Martin, 2004).

Under the USA PATRIOT Act, the Federal Bureau of Investigations was required to share its criminal databases with immigration officials and Department of State officers responsible for visa issuance. This level of information sharing was mandated prior to September 11, 2001 but was never implemented (Cornelius, 2004). The USA PATRIOT Act also required the development of a technology standard based on biometric data that could be used to verify the identity of individuals applying for a visa or seeking to enter the United States by October 2003. This technology standard was intended to be used across governmental agencies to achieve a fully interoperable method of sharing intelligence and law enforcement information. The intention was to have this system readily available to law enforcement and intelligence officers, border agents, immigration officials and consular officers responsible for verifying the identity and criminal history of individuals seeking admission into the country (GAO, 2008a).

In January 2004, DHS implemented the US-Visit program to provide consular offices overseas and ports of entry with biometric technology that would establish and verify an individual's identity when they enter the United States (DHS, 2008). During an individual's first encounter with immigration officials, a unique identifier, referred to as an enumerator, is assigned to the individuals record. At that time, the individual's biometrics, i.e., fingerprint and digital photograph, are captured and linked to the enumerator (GAO, 2008a). This process normally begins overseas when the individual's biometrics are captured at the DOS consular office that processes the visa. The biometrics are then checked against a watch list pertaining to known suspected terrorists or criminals. If the visa is issued, the same biometrics are checked again when the individual arrives at the port of entry in order to verify that it is the same person that was issued the visa (DHS, 2008). Additional information about the individual is also made available to the screener, which enhances the ability to make proper risk or eligibility determinations (GAO, 2008a).

Despite these improvements, there still remain significant vulnerabilities in the adjudication of immigration benefits, the enforcement of immigration laws, and the overall sharing of data between those responsible for administering immigration policy and the law enforcement and intelligence communities (Kephart, 2008). In particular, adequate and timely sharing of information regarding potential threats across organizations continues to present significant challenges. Because multiple agencies have overlapping responsibility for domestic intelligence activities, ensuring that these efforts are coordinated and integrated can be complicated (Jackson & Schaefer, 2009). Furthermore, many agencies or organizations that are not traditionally considered to be law enforcement entities may have information that could prove valuable to counterterrorism investigations (Jackson, 2009). Immigration officials and border security officers "can stop terrorists if they have been told for whom to look by intelligence and law enforcement agencies; they should not be told to guess who is a danger on the basis of crude ethnic stereotypes" (War on Terrorism, 2003, p. 30).

The case of Sheik Rahman illustrates the detrimental impact inadequate information sharing can have on counterterrorism investigations. By 1987, the political

section in the Cairo Embassy had a developed a file on Rahman documenting his subversive activities. The information that had been collected was sufficient grounds to deny his visa application. However, due to poor information sharing, the derogatory information was not shared with the section responsible for issuing visas. Furthermore, throughout the 1990s, the FBI gathered significant information on terrorist travel tactics obtained through several investigations, raids and seizures of terrorist hard drives. However, this information was not widely shared. Information was only culled when it pertained to a specific case (Eldridge et al., 2004). The attacks of September 11, 2001 further highlight problems with interagency cooperation (Jackson & Schaefer, 2009). After the attacks, senior DOS officials discovered that the Central Intelligence Agency (CIA) knew of the existence of two of the terrorists but they had failed to provide the information to DOS (Eldridge et al., 2004). Unless these information-sharing problems are overcome, no policy designed to provide border security can truly be effective (War on Terrorism, 2003).

Additionally, better mechanisms to share information regarding known or suspected terrorist must be established in order to prevent terrorist who are denied access from this country from engaging in illicit activities in another country (Camarota, 2002b). Merely denying an operative access into this country addresses the immediate threat domestically, but it does not prevent the same operative from being deployed to another country to attack U.S. interests or nationals overseas, nor does it reduce the risk that the terrorist will launch an attack against one of nation's, allies. Homeland security efforts "can't stop at a nation's borders. The same threats are present for all of us and we must work together to meet them...No one country can truly be safe without the cooperation and like-minded commitment of others'" (Rudolph, 2006, p. 213).

Unfortunately, information sharing between the United States and its foreign allies is still inadequate when the magnitude of the threat is taken into consideration. Information regarding suspect terrorists is not shared on a consistent or regular basis (Martin, 2004). The failure of foreign governments and federal agencies within the United States to share information may have helped facilitate terrorist travel. The problems created by inadequate information sharing between the United States and its

foreign allies are illustrated by the cases of Zacarias Moussaoui and Mahmud Abouhalima, who were both known to have links to terrorism by foreign intelligence services. Abouhalima was involved with a banned extremist organization as a teenager. He had been under surveillance by Egyptian authorities. Before he left Egypt for Germany, many of his associates had been arrested. He was granted a visa to come to the United States in Germany in 1985 because there was no information included on a watch list. Similarly, Moussaoui was a suspected terrorist by French authorities. This information was not shared, and his name was not included a U.S. watch list. Because the information was never shared, both men were able to easily gain admission into the country (Camarota, 2002b).

Increased cooperation and data sharing can help bring those who have engaged in acts of terrorism to justice and prevent foreign terrorists from moving easily between countries. International collaboration can also help detect smuggling, or trafficking networks that potentially could be used by terrorists to gain access to the country (Martin, 2004). Joint international efforts played a significant part in the arrest of Ramzi Yousef. A local informant contacted the U.S. Embassy in Pakistan and provided officers there with information regarding Yousef's whereabouts. Several U.S. government agencies were involved in vetting the information and planning the operation to arrest him. The Pakistani government provided full cooperation in the investigation, arrest and removal of Yousef. Additionally, within a week of the 1998 African Embassy bombing, the FBI arrested two suspects in the Nairobi bombing with the cooperation of Kenyan police (Kushner, 2003). Finally, beginning in October 2006, the United States began intercepting suspect email correspondence between Pakistan and Germany. Critical information pertaining to this activity was shared with German officials through an investigation that was conducted by a joint task force located in Berlin. As a result, a plot to use three car bombs to attack a U.S. military base in Germany, a major airport and a nightclub was discovered, and three suspects were arrested. Rather than a tragic event, the attack was prevented with only a single shot being fired. According to reports, the United States provided the most important pieces of information to German officials used

to uncover the plot (Kaiser, Rosenbach & Stark, 2007). These examples illustrate that information obtained by foreign intelligence or law enforcement could be vital to preventing an attack domestically.

B. PROPOSED RECOMMENDATIONS

In order to reduce the nation's vulnerability, all facets of the immigration system must be reformed. Rather than rely on one mechanism, the strategy should encompass a broad range of activities to reduce risk associated with the manipulation of the legal immigration system. This includes increasing information sharing regarding known or suspected terrorists, enhancing border security and screening, identifying suspect applications prior to the approval, improving the processing of visas overseas and better enforcement of immigration laws within the United States (Camarota, 2002b). The following eight procedural recommendations should be implemented in order to address the systemic loopholes identified through the case study analysis. The recommendations include efforts to improve the ability to detect threats to national security through increased information sharing and proactive efforts to detect fraud. They also include aspects that focus on holding those who engage in illicit activities accountable, such as by expanding administrative penalties for committing immigration benefit fraud. Both components are essential if the overall strategy is to be effective.

1. Ensure Watch List Information is Consolidated and Updated Regularly

The consolidation of watch lists must become a priority for all agencies that have a role in border security (Camarota, 2002b). Although the operation of watch lists is not without some flaws, it is one of the central ways immigration and counterterrorism investigations are interrelated (Leiken, 2004). The careful screening of individuals who apply for immigration benefits or appear at a port of entry is one of the main methods used to identify terrorists (Camarota, 2002b). Watch lists or lookout systems are the primary tool used to identify terrorists and consist of a composite of information relating to several million individuals denied visas or entry into the country. The information included generally consists of names, dates of birth, country of origin and passport

numbers. The names of individuals who apply for immigration benefits including visas are checked against the watch list data (Camarota, 2002a).

However, as the case studies illustrate, technological issues or procedural failures have enabled individuals to avoid detection (Camarota, 2002a). Ali Mohammed and Sheik Abdel Rahman should not have been issued visas because their names were included on terrorist watch lists (Camarota, 2002b). Two of the terrorists involved in the September 11, 2001 attacks were on watch lists for being suspected associates of bin Laden. This should have precluded their entry into the country (Mylroie, 2001). At least three of the terrorists involved in the September 11, 2001 attacks had entries in the information systems of the intelligence community. If the derogatory information collected had been updated into terrorist watch lists, their connections to terrorist activity could have been discovered when they applied for a visa or appeared for inspection at the port of entry (Eldridge et al., 2004).

The failure to check names properly or update information in a timely manner causes a critical breakdown in security when officials are making eligibility and risk determinations regarding foreign nationals seeking admission into the country (Camarota, 2002b). As late as January 2004, law enforcement officials, congressmen and counterintelligence experts did not feel the United States had an accurate and up to date watch list pertaining to known or suspected terrorists. Federal agencies and state and local law enforcement were still using at least 12 different databases to check watch list information. These efforts were often incompatible and uncoordinated (Leiken, 2004). The FBI did not even provide written instructions on how its employees should collect and disseminate information regarding terrorist for inclusion in watch lists prior to September 11, 2001 (Eldridge et al., 2004). The nation's vulnerability will be reduced if all information pertaining to known or suspected terrorists is consolidated in one central database that is readily accessible by all agencies that play a role in border security, including non-law enforcement entities like USCIS (Leiken, 2004).

2. Strengthen Information Sharing with Federal, State and Local Law Enforcement Entities

Although useful in identifying threats, counterterrorism efforts should not rely solely on the use of watch lists. They will not prevent a previously unknown subject from gaining admission into the country (White House, 2007). Although no system or policy can completely eliminate the problem of previously unknown subjects evading detection, agencies responsible for border security should seek to create strong partnerships with federal, state and local law enforcement entities though participation in fusion centers to foster better information sharing (Surdin, 2006). Because the agencies responsible for administering this nation's immigration policies rely on information provided by outside entities, individuals and organizations must strive to increase access to accurate and timely intelligence regarding terrorists' activities. Past experience illustrates that foreign terrorists often live in local communities and engage in suspicious or criminal activities while they are planning their attack (White House, 2007). Terrorists:

> …routinely commit immigration and document fraud, and often sustain their operations with petty crime. The routine enforcement of laws, including those not specifically related to terrorism, can therefore raise obstacles for and in some cases have a deterrent effect on individuals intending to commit terrorist attacks. (Eldridge et al., 2004, p. 160)

Fusion centers can play a role in facilitating the exchange of information across organizational lines because they allow law enforcement officials to share information in separate databases and receive training on subjects not normally provided by their agencies (Surdin, 2006). Information that is acquired for one purpose, such as combating immigration benefit fraud, may provide additional insights when combined with information collected for another purpose, such as an investigation into suspected terrorist activity. For example, information regarding suspect financial transactions or lost or stolen passports could lead to information on individuals with links to terrorist activity (White House, 2007). Because fusion centers are designed to maximize the ability to detect criminal and terrorists acts by bringing all relevant partners together to

share intelligence, they can play a crucial role in closing intelligence gaps that have hindered counterterrorism efforts in the past (DOJ & DHS, 2005).

By creating strong partnerships with federal, state and local law enforcement entities though participation in the fusion centers, agencies involved in border security can facilitate the sharing of vital information and enhance their ability and the ability of other organizations to achieve the nation's homeland security objectives. In order to increase its collaboration with law enforcement and the intelligence community, but minimize the impact on existing limited resources, USCIS should implement a plan to co-locate one officer in each fusion center located throughout the country on a limited basis. This assignment would be a collateral duty for the individuals selected. Initially, the officers should devote no more than 50 percent of their time to working in the fusion centers. Although there are those who are concerned with increased information sharing between immigration authorities and law enforcement, this strategy would enable USCIS to take advantage of an additional mechanism to exchange information, analyze data from a variety of sources and improve its ability to identify suspect filings or threats to national security without placing a significant burden on resources (DOJ & DHS, 2005). This would also give USCIS the ability to evaluate the quality and utility of the intelligence acquired before devoting a significant level of resources to the program.

3. Increase Information Sharing with Foreign Partners

The United States should expand on existing international information sharing initiatives and increase the number of mutual legal assistance treaties between the U.S. and its foreign allies. Since the September 11, 2001 attacks, there has been increased awareness of the importance of international cooperation. As a result, there has been an increase in bilateral and multilateral programs. For example, through an initiative named "Global Justice", the FBI and Department of Justice intend to significantly expand their role in international counterterrorism efforts. This program involves having FBI agents participate more heavily in investigations overseas by questioning suspects and gathering evidence in an effort to obtain criminal prosecutions as much as possible (Meyer, 2009). In July 2009, DHS Secretary Janet Napolitano signed an agreement formalizing the

Immigration Advisory Program with Spain. This program is designed to help prevent the use of fraudulent travel documents, counter alien smuggling and prevent terrorists or other criminals from entering the country. It will help identify high-risk foreign travelers before they are allowed to board a plane heading to the United States (DHS, 2009). DOJ also has increased the number of FBI Legal Attaché offices in foreign countries from 44 to over 60 offices and placed analysts in eight of these locations (DOJ, 2006). Through these initiatives, the United States has shared information pertaining to threats with foreign partners, responded to hundreds of requests from foreign governments for assistance in counterterrorism investigations through the mutual legal assistance treaties and exchanged critical evidence needed in terrorism related prosecutions (DOJ, 2006).

Additionally, the United States should establish greater connectivity between its terrorist related lookout systems and the European lookout system (Martin, 2004). Long-term efforts should include the establishment of a shared database that contains information pertaining to known or suspected terrorists from all available sources. This type of database could help enhance the United States' and its foreign partners' efforts to identify and apprehend terrorists, as well as prevent their travel between countries (Miko & Froehlich, 2004).

However, although some steps have been taken to share previously restricted information, there are still a number of challenges that must be overcome before connectivity between the United States and European lookout systems can be established. For example, differences in privacy standards create obstacles for information sharing. Additionally, the inherent reluctance of intelligence agencies to share information even domestically will need to be overcome before connectivity between lookout systems can be achieved (Martin, 2004). Officials in the United States have security concerns regarding sharing sensitive information with foreign law enforcement and intelligence officials. Conversely, foreign officials have expressed concerns that the United States' desire for information from foreign allies is not matched by its willingness to share information on an equal basis. They also have concerns that authorities in the United States will use information provided to the U.S. in ways that conflict with the foreign countries' policies regarding protecting civil liberties and the death penalty (Miko &

Froehlich, 2004). The United States and its foreign allies should actively engage in negotiations to resolve these differences in order to foster greater information sharing.

4. Use Biometrics to Verify Identity

Due to its limited ability to verify identity, USCIS may provide benefits to ineligible aliens or fail to notify law enforcement when a criminal alien is encountered (DHS OIG, 2005). USCIS should implement a system that uses biometrics to verify identity for all benefit categories. Associating biographical and biometric data to individuals encountered by immigration officials increases the ability of officials to make eligibility determinations and risk assessments regarding individuals applying for immigration benefits (GAO, 2008a). In order to address fraud:

> …immigration benefits adjudicators must have access to comprehensive biometrically based immigration histories that include information from the moment an individual first applies for a visa at a U.S. consulate or presents a passport at a port of entry through every subsequent request for an immigration benefit. (Kephart, 2005, p. 29)

In the past, immigration officials had to rely on the names provided to them by the alien and check the names against agency paper records and databases. There are inherent vulnerabilities in conducting name-based background checks. After conducting a review of USCIS' security checks, the DHS Office of the Inspector General (OIG) concluded that these checks were overly dependent on the integrity of the biographic information and the supporting documents provided by the applicants (DHS OIG, 2005).

The DHS OIG found that there are several reasons why USCIS has little assurances that the information provided is accurate and related to the identity of the individual seeking the benefit. The accuracy of name-based checks is dependent on the accuracy of the biographic information provided by the individual. Because the information is self-reported, individuals with a criminal history have an incentive to falsify or withhold information that may lead to the prior record being revealed during the screening process. For example, if the individual used an alias when he or she was arrested, there is an incentive to withhold disclosing that name when applying for an immigration benefit. If that name is withheld, the prior record will not be uncovered if

the only checks conducted are name-based checks. Also, if an individual changes names, such as after a marriage, name-based searches may miss a record that is associated with the prior name. Misspelled names or typographical errors also can cause a related record not to be identified. Names with hyphenated spellings or the transliteration of non-English names further complicate name-based searches and could also cause records to be missed. Finally, common names often generate false hits that do not actually relate to the individual (DHS OIG, 2005).

In contrast, security checks based on biometric information, which includes fingerprints, photographs and iris scans, offers a more reliable mechanism to verify identity and screen for criminal history. Checks based on biometric identification would reveal any prior arrest or conviction even if the individual were arrested under a different name. Therefore, using biometric data to screen individuals limits fraud and reduces the likelihood of false positive or negative results (DHS OIG, 2005). If biometric data had been used to verify Sheik Rahman's identity, his true identity would have been discovered and his access to immigration benefits would have been denied. Instead, he was allowed to re-enter the country after his was linked to the assassination of Egyptian President Anwar Sadat and his name was entered into a lookout system for possible links to terrorism because he used an alias (Peddie & Laikin, 2001).

Although USCIS collects fingerprints and photographs from many applicants, in most cases the biometrics are used to generate cards that are used as evidence of an immigration status or for criminal history checks. Typically, they are not compared electronically to verify identity. This presents a significant vulnerability for identity fraud. However, for certain benefit categories, the agency supplements its name-based checks with biometric checks to verify identity. For example, USCIS asylum offices have used the Automatic Biometric Identification System (IDENT) to screen individuals since 1998. Applicants for asylum are enrolled in the IDENT system to compare them against previous applicants, immigration lookout databases pertaining to criminal aliens and the immigration recidivist database (DHS OIG, 2005). Their biometrics are captured and compared to verify the applicant's identity when he or she appears at an asylum office for an interview. The Asylum Division is able to "lock in" an applicant's identity

by comparing the applicant's biometrics at several points during the process. This use of technology has enabled the division to combat and reduce imposter fraud, identify individuals who have applied under more than one name and link multiple files to the same individual. For example, in 2004, the asylum division identified 2,000 confirmed hits through screening against the IDENT databases (DHS OIG, 2005).

Outside of the asylum program, USCIS does not routinely check IDENT to verify identity. For example, in 2004 only approximately two percent of all applications completed that year were screened against IDENT. When other security checks reveal derogatory information and the individual's identity is in question, some offices outside of the asylum division will screen an applicant's fingerprints against the IDENT system on a case-by-case basis. However, this is an ad-hoc process rather than an official procedure. Local district offices do not capture, store and check fingerprints against IDENT on a routine bases to "lock in" in the identity like the asylum offices (DHS OIG, 2005). USCIS should expand the use of IDENT to all benefit programs in order to help verify the identity of applicants. Absent these checks, USCIS may grant status to individuals when they should be removed from the country.

5. Utilize Pattern and Trend Analysis Technology

In response to concerns raised regarding the adequacy of efforts to detect immigration fraud, USCIS established the Office of Fraud Detection and National Security (FDNS) in May 2004. FDNS is responsible for developing, coordinating and overseeing the agency's anti-fraud efforts. Officers in the anti-fraud units use government and commercial database checks, perform internet searches and conduct interviews and on site inspections to detect fraud or material misrepresentations. They also conduct benefit fraud assessments to measure the level of fraud in certain benefit categories (DHS OIG, 2008). The agency's anti-fraud program could be enhanced if it combined its existing process with proactive pattern and trend analysis to screen incoming receipts in order to identify suspect cases at the time of submission.

One of the lessons learned from the September 11, 2001 attacks was the impact that the failure to share and analyze intelligence had on domestic security. Improving the

gathering and synthesizing of information pertaining to foreign nationals could enhance efforts to detect and deter immigration benefit fraud or identify terrorist travel patterns. Many of the terrorists included in the case studies had links with one another. They shared addresses, were associated with similar organizations or had known connections with one another. The terrorists involved in the September 11, 2001 attacks also "did not take significant steps to mask their identities or obscure their activities. They were hiding in plain sight" (Jonas & Harper, 2006, p. 3). They lived together, shared P.O. boxes, and used the same credit card, address and phone number to make flight reservations (Jonas & Harper, 2006).

Current technological advances in pattern and trend analysis software allow organizations to identify unknown patterns by searching existing data. Pattern and trend analysis involves using tools to discern previously unknown trends or relationships among large sets of data. This information can then be used to make predictions regarding future actions (Jonas & Harper, 2006). Products such as IBM's Entity Analytics and identity resolution software can provide real-time data matches (TSA's Secure Flight, 2009). Entity Analytics name recognition software was designed to detect fraud or other threats. It can help organizations manage data in the new global environment because it takes into account alternative spellings and other linguistic and cultural variations (IBM Entity, 2006). The software can compare data such as name, date of birth and gender to determine likely matches and also identify relationships between people, addresses or entities that are not obvious. It can overcome spelling variations or other attempts to avoid detection and analyze information within multiple information silos (TSA's Secure Flight, 2009). The technology can create linkages among individuals that know each other to discover relationships that are not obvious on the surface, such as common addresses, bank accounts or phone numbers. It can also match identities without using data elements such as social security numbers or national ID card numbers (DB2 Anonymous Resolution, 2005).

The lessons learned from the case studies illustrate that efforts to prevent terrorists from exploiting the legal immigration system must also focus on aggregating the myriad of data contained in immigration databases to discern both obvious and non obvious

connections, threats and patterns of suspect activity (Jonas & Harper, 2006). The example of Sheik Rahman illustrates that slight variations in the way a name is spelled or typographical errors can cause a record to be overlooked. Because these software programs can match names based on sound rather than exact spelling, problems with transliteration or pronunciation that result from working with various cultural naming patterns can be overcome. This type of technological enhancement could overcome some of the challenges USCIS faces when trying to discern those individuals seeking immigration benefits who present a risk to the safety and security of the nation. It would provide USCIS and other organizations involved in administering the legal immigration system additional insight into criminal activities or potential threats (Jonas & Harper, 2006). USCIS would be able to conduct more effective background checks and screen potential threats across its diverse applicant population using this technology (IBM Entity, 2006).

6. Implement a Registration System in the United States

In order to better track and monitor the movement of foreign nationals living in the country, the United States should augment existing registration requirements for foreign nationals. Interior enforcement of immigration laws would be enhanced if foreign nationals could not conduct routine activities such as obtain employment, rent apartments, attend schools, obtain drivers' licenses or maintain bank accounts if the registration requirement and verification of their immigration status had not been completed. In addition to limiting terrorists' ability to live and operate in the United States, this policy would also assist law enforcement in locating suspect terrorists, establishing links between targets, and identifying additional conspirators. In Germany, the restrictions imposed to ensure change of addresses are promptly updated proved to be valuable in locating terrorists because it helped to link addresses to corresponding individuals. German officials were quickly able to locate foreign students after September 11, 2001 because they were able to cross reference residence information with university lists. Furthermore, German authorities were able to establish connections between the members of the Hamburg cell because the members were required to comply

with the existing laws regarding updating residency records. Conversely, because similar measures did not exist in the United States, after the September 11, 2001 attacks authorities for the INS and the FBI were not able to easily locate suspect foreign nationals (Leiken, 2004).

Efforts to enforce immigration law in the interior of the country are inadequate. Once an individual gains admission into the country, the United States does not effectively track the movements of foreign nationals (Martin, 2004). Comprehensive, continued enforcement of immigration laws and policies is a fundamental tool in counterterrorism efforts. Weaknesses in interior enforcement and border security present a significant vulnerability that can be exploited by terrorists. Reports indicate that smuggling networks are extensive (Krikorian, 2007). Strengthening the borders to prevent illegal entry is a crucial element to a sound immigration strategy. If terrorists are unable to obtain visas or other immigration benefits, they will attempt to enter across the borders illegally (Camarota, 2002b). Although the majority of individuals who cross the border illegally do so in search of employment opportunities and do not present a threat to security, the same weaknesses in the system that allow these individuals to enter can be exploited by terrorists (Martin & Martin, 2004). Furthermore:

> …allowing a large illegal population to reside in the United States facilitates terrorism for two reasons. First it has created a large underground industry that furnishes illegals with fraudulent identities and documents that terrorists can (and have) tapped into. Several of the 9/11 terrorists were assisted in getting their Virginia drivers' licenses from someone who specialized in helping run-of-the-mill illegal aliens obtain them. (Camarota, 2002b, p. 53)

An illegal Salvadorian immigrant provided fraudulent residency certificates that claimed that two of the 9/11 hijackers lived at his old address. The terrorists used these certificates to obtain Virginia drivers' licenses. The address provided by the Salvadoran immigrant was used by three of the other terrorists involved to obtain Virginia drivers' licenses (Eldridge et al., 2004).

The ability to track foreign nationals once they have entered the country has presented significant challenges for immigration authorities. Currently, there is no

adequate system in place to track foreign nationals who have overstayed their visas or entered the country illegally (Grimaldi, Fainaru & Gaul, 2001). Section 265.(a) of the Immigration and Nationality Act requires foreign nationals to provide written notification within 10 days of any change of address. However, there is no mechanism in place to ensure compliance with this requirement (Leiken, 2004). The lack of enforcement of the registration requirement results in government officials being unable to determine when many foreign nationals entered the country, where they resided and when, and if, they left the country (War on Terrorism, 2003). This situation is "dangerous and ripe for abuse by aliens wishing to stay below the radar, including terrorists" (War on Terrorism, 2003, p. 2).

Several terrorists included in the cases studies, including El Sayyid Nosair, Fadil Abdelgani, Mahmud Abouhalima, Mohammed Abouhalima, Mohammed Salameh and Eyad Ismoil, took advantage of weak interior enforcement and continued to live and work in the country illegally. Investigations into the terrorists involved in the September 11, 2001 attacks also reveal that although some of them overstayed their visas, they had little difficulty in obtaining drivers' licenses, opening bank accounts or attending flight school (Leiken, 2004). In fact, 14 of the terrorists involved obtained drivers' licenses or identification cards from Virginia or Florida (Eldridge et al., 2004). Furthermore, a study conducted by the Center for Immigration Studies found that 25 percent of the foreign nationals who had been charged, convicted, pled guilty or admitted to involvement in terrorism from 1993 to after the September 11, 2001 attacks were in the country illegally when they committed their crimes (Camarota, 2002b).

The arrests of the terrorists involved in the Fort Dix plot generated criticism of the immigration system that has allowed approximately 12 million illegal aliens to live in this country undetected. The lack of immigration status did not affect the ability three of the terrorists convicted for plotting to attack the Fort Dix military base to function in society and conduct routine daily activities. The Duka brothers were able to live and work in this country without detection. Although a birth certificate or passport is required to register a student, schools in New Jersey are forbidden to verify the immigration status of the student. Shain Duka was able to obtain a driver's license and both Eljvir and Dritan

Duka were able to obtain driving permits. Dritan Duka also obtained a non-driver identification card (Moroz, 2007). They were able to enroll in school, hold jobs and register to own businesses even after they had repeated encounters with law enforcement. According to motor vehicle records, the brothers were stopped by police approximately 12 times and received almost 50 traffic citations. The offences ranged from speeding to careless driving (Moroz, 2007). However, they lived in sanctuary cities where law enforcement officers do not routinely provide information regarding illegal aliens to immigration officials (Brothers Charged in Terror, 2007).

Allowing individuals who are in the country illegally to hold jobs, open bank accounts or receive drivers' licenses provides terrorists the opportunity to violate immigration laws and facilitates their ability to engage in illegal activity. It would be significantly more difficult for terrorists to overstay their visa or remain in this country illegally if they were prevented from engaging in these activities through the enforcement of a registration and status verification requirement. Furthermore, increased interior enforcement could create a deterrent effect; individuals could be discouraged from attempting to evade immigration laws because of the increased potential of being caught (Camarota, 2002b).

7. Require Voice Recognition for Asylum Applicants

In order to combat fraud in the asylum program, USCIS should require voice recordings for asylum applicants to determine the exact country of origin. Because the events that form the basis of an asylum claim occurred overseas, it is difficult for officers to fully investigate the claim. In many cases, "when asylum seekers flee persecution or war in their home countries, they often arrive in a new country seeking asylum, without documentation that can prove their nationality" (Eades, 2005, p. 503). Terrorists seeking entry into the country have easily exploited these weaknesses. Several of the terrorists involved in the case studies, including Ahmad Ajaj, Ramzi Yousef and Sheik Abel Rahman, exploited the asylum program to enter or remain in the country. At least six al Qaeda operatives have manipulated the asylum laws to gain access to this country (Camarota, 2002c). A review conducted by the Center for Immigration Studies examined

the immigration histories of 48 foreign-born terrorists who had been charged, convicted, pled guilty or admitted to involvement in terrorism from 1993 to after the September 11, 2001 attacks. The study found that 6 percent of the individuals included in the review filed for asylum (Camarota, 2002b). These examples illustrate how terrorists have exploited the asylum program and highlight the need for programmatic reform.

Today individuals are fleeing a wide variety of oppressive conditions in even greater numbers. This increased influx of refugees and asylum-seekers creates enormous challenges for the countries receiving them. Officials must discern those that are truly fleeing persecution in their country of origin verses those that merely are fleeing harsh economic conditions or those seeking to exploit loopholes in this humanitarian program in order to engage in criminal activity (Alink, Boin & T'Hart, 2001). Many governments, including New Zealand, Great Britain, Australia, Germany and Belgium, are using language analysis in order to validate asylum seekers' nationality claims. This policy is based on the assumption that speech patterns can provide clues to an individual's country of origin. When the immigration official doubts the veracity of the asylum applicant's claim, he or she can have the individual interviewed for the purpose of language analysis. The applicant can be interviewed in their native language or the applicant can be interviewed in an international linqua franca, such as English (Eades, 2005). Immigration officials in Great Britain found that language analysis has been a valuable tool in identifying cases where the asylum applicant was not from the country or area claimed. It has also helped legitimate applicants validate their claims (Iraqi Refugees to Face Language Checks, 2003). The USCIS Asylum Program could significantly reduce the likelihood of fraud and increase security by implementing a policy requiring voice recordings for asylum applicants to determine the exact country of origin.

8. Expand Existing Bars and Penalties for Committing Immigration Fraud

USCIS should seek a legislative change to extend Section 204(c) of the Immigration and Nationality Act (INA) to cover all individuals or entities that attempt to obtain an immigration benefit through fraudulent means. INA Section 204(c) provides

that if there is evidence that an individual has attempted or conspired to enter into a marriage for the purpose of evading immigration laws, the petition must be denied. Furthermore, all subsequent petitions filed for the foreign national must also be denied. Therefore, if an alien has attempted or conspired to enter into a fraudulent marriage, USCIS would also be barred from approving an employment-based petition filed on his or her behalf. The prior petition does not have to be denied for fraud in order for the marriage fraud bar to apply. However, evidence of the attempt or conspiracy must be contained in the foreign national's immigration file. This recommendation seeks to create a general bar to filing any petition if the petitioner or beneficiary has previously committed immigration fraud.

Additionally, civil monetary penalties and immigration filing debarment authorities should be implemented to deter immigration fraud. The debarment provision should be authorized to prohibit a petitioner and/or beneficiary from participation in various immigrant and nonimmigrant programs for a period of up to 10 years, require the payment of a substantial fine or civil monetary penalty as punishment for the fraud and require the petitioner or beneficiary to apply to USCIS for reinstatement as a prerequisite to future participation in any immigration benefit program. Attorneys who have assisted with or gained knowledge of fraudulent actions on behalf of their clients also should face debarment from practicing law. These provisions could create a deterrent effect and prevent individuals from committing serial violations of immigration law.

C. CONCLUSION

Today, "global terrorism is entwined with immigration" (Leikun, 2004, p. 23). The reality that foreign terrorists seek to exploit loopholes in the international travel system to facilitate the planning and implementation of attacks has become clearer since the attacks of September 11, 2001. The lessons learned from those tragic events illustrate that the United States' legal immigration system has been exploited to further illegal activities that threaten national security, and highlight the importance of improving the monitoring and control of terrorist travel as a means of constraining their activities (National Counterterrorism Center, 2006). Terrorists, "including al Qaeda, clearly

expended considerable effort thinking about travel and engaging in methods intended to facilitate their movement around the globe" (Eldridge et al., 2004 p. 60).

The terrorists involved in the case studies, as well as the 9/11 hijackers, needed to manipulate the immigration system in order to embed themselves in the country and carry out their attacks. As discussed previously, they accomplished these goals by entering into sham marriages with U.S. citizens, filing fraudulent asylum claims and illegitimately obtaining temporary worker status. Often the mere act of filing an application for an immigration benefit was sufficient to allow the foreign national to remain in the country while the case was pending. These actions enabled the terrorists involved to conduct surveillance, obtain funding, acquire the requisite materials, coordinate operations and finally execute their plans (Eldridge et al., 2004).

Because they are interconnected, immigration policy should play a pivotal role in the nation's efforts to combat terrorist threats. Leaders of western nations "must now take into account the export of violence via migration. Al Qaeda and its affiliates depend on immigration to gain entry into the West in order to carry out terrorist plots" (Leiken, 2004, p. 6). However, efforts to reform the immigration system should not overlook the reality that only a few individuals seeking admission have terrorist connections. National security cannot be the sole basis that drives immigration policy. The legal immigration system must continue to function as a means to facilitate migration (Leiken, 2004). The challenge in this age of global terrorism is to detect and prevent those who present threats to national security from gaining access to the country while maintaining an open international travel system (National Commission, 2004).

While seeking to detect and deter threats to national security, reforms to immigration policy should also be balanced with the protection of civil liberties (Martin & Martin, 2004). Acknowledging the nexus between immigration and security does not necessarily require the implementation of more restrictive immigration policies. However, it does require comprehensive reforms like the recommendations presented as a result of this research which are designed to prevent those who intend to do the country harm from entering the country (Rudolph, 2006).

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