

Faisal Shahzad: So Easy, Anyone Can Do It

By Jessica M. Vaughan

Below is a synopsis of the information that has been released on Times Square bomber Faisal Shahzad's immigration history. It reveals a familiar pattern of a terrorist easily taking advantage of weak spots in America's immigration system. Shahzad was admitted long before 9/11, but the openings he exploited are still in place today. Until policymakers move to shrink them, they offer a sobering guarantee of job security for counter-terrorism and security personnel for the foreseeable future. The Center for Immigration Studies also offers several policy recommendations that would reduce the risks inherent in U.S. visa and immigration programs.

Contrary to what some news media have stated, it is not completely clear that Shahzad always maintained legal status. In addition, there are aspects of his immigration history that indicate his possible awareness of how to work our system, suggesting this was neither a case of "home grown" terrorism, nor a case of "a legal immigrant's failed American Dream," as suggested by a CBS newscaster. Consider the following chronology, based on reporting by the *New York Times*.

- **June 30, 1979 — Born in Pakistan.**
- **December 22, 1998 — Issued student visa in Islamabad.** It is difficult to justify the issuance of this student visa. Shahzad certainly failed to demonstrate that he had "sufficient academic preparation to pursue the intended course of study" at the University of Bridgeport, as the regulations required. He was applying as a transfer student, and his transcript from his correspondence course with Southeastern University, a now defunct fourth-rate academic program, showed a GPA of 2.78, including several Ds and an F (in statistics). Moreover, during the 1990s, the University of Bridgeport was financially and academically troubled, with its accreditation and reputation in serious jeopardy, and actively seeking foreign students to compensate for plummeting U.S. enrollment. Not only was the visa a mistake, but the visa officer appears to have erred in giving Shahzad a four-year visa when two would have sufficed to complete the program that Shahzad reportedly told officials he wanted to complete. Many news accounts have asserted that Shahzad underwent a "criminal background check" in order to qualify for the visa. Not exactly — in 1998 this would have been a check of CLASS, the consular database with information on prior refusals, ineligibilities, and derogatory information such as federal arrest warrants, and TIPOFF, which was a watchlist of known and suspected terrorists. Today's watch lists and databases are far more comprehensive, but still would not have provided grounds for refusal, as Shahzad apparently had no serious criminal history. Under the law, however, the mere absence of a criminal or terrorist history is not enough by itself to qualify for a U.S. visa. For more on temporary visas, see "Shortcuts to Immigration" and "No Coyote Needed."
- **Fall 2000 — Graduates from University of Bridgeport, Conn.** Several media reports have noted that Shahzad was flagged by border officials for carrying large sums of cash into the United States and for

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his repeated visits home to Pakistan. Even though foreign students are supposed to pay their own way, private papers uncovered by an intrepid local newspaper reporter revealed that Shahzad had been awarded a grant of \$6,700 from the University of Bridgeport to help cover his tuition.

- **2001 — Begins working for a temporary staffing agency.** Shahzad entered on a student visa, which does not include permission to work. It has been reported that he was granted Optional Practical Training status, which allows foreign students to stay and work after graduating (the “training” label is a complete charade; it’s just a work permit). If so, there would be an application and a work permit on file with the school and with USCIS. The details are a little sketchy; it is not clear from the timing of his employment that this was feasible, but it could have played out that way. At any rate, the fact that any foreign student can get approval to remain here after graduating to work at a temporary staffing agency under the guise of “practical training” is an illustration of just how absurdly anarchic our immigration system has become.
- **2002 — Issued H-1B visa.** Shahzad was sponsored by Elizabeth Arden to work in a low level accounting job, yet another validation of H-1B critics’ assertions that this controversial visa program brings in mainly ordinary workers, not the best and the brightest IT stars, as H-1B defenders claim.
- **2004 — Obtains mortgage with Huma Anif Mian (U.S. citizen and future spouse).**
- **2004 — Comes under scrutiny of the local Joint Terrorism Task Force.** The JTTFs are local multi-agency units that investigate cases related to national security. No information has been released as to why the JTTF was interested in Shahzad. Some media have reported suspicions that he had ties to Anwar al-Awlaki, the radical Muslim cleric who inspired several of the 9/11 hijackers, the Ft. Hood murderer, and the Christmas Day underwear bomber.
- **February 2005 — U.S. citizen wife files green card petition.** Neighbors of Shahzad’s bride have told reporters that he had visited her in Colorado just once before she left to marry him.
- **January 2006 — Green card approved.** USCIS was apparently unconcerned about either the suddenness of the marriage or the JTTF investigation. Immigration benefits adjudicators have little time or incentive to review cases closely. This case demonstrates the basic reality that the green card application process is firmly rigged in the alien’s favor, with few applications refused or challenged, especially those involving marriage to a U.S. citizen. Marriage to a U.S. citizen is one of the easiest and most popular ways for illegal aliens (and terrorists) to obtain a green card. See Dave Seminara’s report on the marriage visa process.
- **October 2008 — Applies for citizenship.** Shahzad wasted no time applying for U.S. citizenship, which can happen after three years of marriage to a U.S. citizen, compared with five years of residency for other legal immigrants. Shahzad’s alacrity in submitting his citizenship application was not normal. The average immigrant is in no such hurry and waits six to 10 years before applying, according to DHS statistics. For one thing, the process is expensive (\$675) and includes a lot of paperwork and passing a test. But U.S. citizenship is a hot commodity for anyone involved with terrorism, as U.S. citizens face less scrutiny than foreign nationals when coming and going from the country and, unlike green card-holders, can stay overseas indefinitely without losing status. Becoming a U.S. citizen did not require Shahzad to give up his Pakistani passport, which would have been useful in concealing long periods of travel to countries like Pakistan, which would draw the attention of immigration inspectors at U.S. ports of entry upon return.
- **April 17, 2009 — Sworn in as a U.S. citizen.** Again, it appears that USCIS was untroubled by or unaware of the previous JTTF investigation.
- **June 2, 2009 — Departs for Pakistan.**
- **February 3, 2010 — Returns to the United States.**
- **May 1, 2010 — Attempts to set off bomb in Times Square.**

Policy Recommendations

It will always be difficult for visa and immigration officers to identify or predict which applicants pose a security or safety threat. But experience has shown that more effective application of the laws would enhance the integrity of the system overall and make it more difficult for illegitimate visitors to gain access, thus limiting the risk inherent in every visa or immigration program. It is possible to accomplish this without interfering with the flow of legitimate visitors.

1. The State Department should withdraw the current guidance for consular officers that encourages lenience in student visa issuances and develop new guidance that encourages strict application of the law in terms of applicant qualifications, funding, and requiring the applicant to demonstrate a strong likelihood of returning home. This would result in fewer unqualified student visa issuances and reinforce the public diplomacy goals of the student visa program — that foreign students put their U.S. education and positive experience in America to good use back home, thus strengthening ties between the two nations.
2. State and DHS need to move more quickly to post additional DHS Visa Security officers in consulates overseas to help review cases.
3. State should create a corps of consular specialists to supplement the new junior officers now relied upon to adjudicate visas.
4. DHS should review more frequently and more strictly the qualifications of educational institutions that are permitted to host foreign students. Schools whose academic accreditation is non-existent or at risk should not be allowed to admit new foreign students.
5. Congress should eliminate the Optional Practical Training provision because it lacks the oversight necessary to ensure that it provides bona fide training and that is not used merely to prolong U.S. residence. In addition, OPT undercuts the public diplomacy aspects of the student visa program by encouraging students to remain here, and it reduces job opportunities for U.S. graduates.
6. The H-1B program should be reformed to transform it from a cheap labor program that provides a back door to green card status to one that enables U.S. companies to hire only uniquely qualified and well-compensated foreign nationals.
7. The USCIS national security and fraud detection office needs to be transformed from a unit that emphasizes studying security risks and fraud to one that works to identify and deny risky applicants and to prevent, detect, and prosecute fraud.