

amendment in the underlying legislation.

PUBLIC DIPLOMACY

Mr. BAYH. Mr. President, I commend the Senator from New York for her work on the section of the McCain-Lieberman-Bayh-Specter amendment to the 9/11 legislation that addresses education in the Muslim world. The provision commits the United States to taking a comprehensive approach to universal basic education in Muslim countries and requires our government to develop a cooperative plan to achieve this visionary goal. The 9/11 Commission understood that expanding education that emphasizes moderation, tolerance and the skills needed to compete in the global economy in these countries will create an alternative to hate and will show that the United States is committed to expanding opportunity in countries where we are often competing with our enemies for hearts and minds. It is only through a long-term public diplomacy strategy that we will win the war on terrorism, and modern education is a foundation of that effort. I would like to thank Senator CLINTON for her assistance in drafting the education provisions in this bill. We could not have achieved such a comprehensive approach to education without her involvement, and we appreciate her efforts.

Mrs. CLINTON. I would like to thank Senator BAYH, along with Senators MCCAIN, LIEBERMAN and SPECTER, for stepping forward to ensure that the 9/11 Commission's recommendations on education become a key part of our Nation's anti-terrorism strategy. As you know, I have introduced legislation to promote universal basic education in all of the world's developing countries by 2015. I am pleased that the Senators forging this bipartisan bill have accepted many of these recommendations, including creating, for the first time, a strategy to promote universal basic education in the Middle East and other significantly Muslim countries. The bill also encourages countries to come forward with strong national education plans for quality universal basic education and directs our efforts at providing support for such crucial systemic reform. The provisions included in this 9/11 bill represent an important step toward the goal of universal basic education. I want to thank all the leaders on this amendment for working with me on this issue, and I appreciate their leadership on this bill.

PRIVACY AND CIVIL LIBERTIES

Mr. LEAHY. Mr. President, yesterday, we passed an important bill granting enormous additional authority and tools to the government to fight terrorism. We authorized the creation of a vast information sharing network that will allow officials throughout the U.S. government to search databases containing extensive data about American citizens. We also gave broad authority to implement new technologies, stand-

ardize identification documents and enhance border security. These are great powers that, as the Commission noted, will have substantial implications for privacy and civil liberties.

This bill was also notable because it balanced this grant of power with the creation of a Privacy and Civil Liberties Oversight Board. I thank Senator LIEBERMAN for including this Board as part of the National Intelligence Reform Act, and for working with Senator DURBIN, me and others to make sure the Board had the necessary authority, mandate and tools to ensure that civil liberties and privacy are safeguarded as we enhance our antiterrorism policies and tools.

Mr. LIEBERMAN. I have been pleased to work with Senator DURBIN, Senator LEAHY and others in creating a Privacy and Civil Liberties Board that is in keeping with the Commission's recommendation. The Commission recommended that we create an entity that could "look across the government at the actions we are taking to protect ourselves to ensure that liberty concerns are appropriately considered." Senator COLLINS and I appreciated the contributions of members of the Judiciary Committee. Their longstanding expertise in these issues was very helpful to us in shaping the key provisions of the Board.

Mr. LEAHY. We all recognized that we were giving this Board substantial responsibility. Given the enormous powers we were granting the government, we needed a Board capable of counter-balancing these powers. But we also know that this does not end our duty.

Mr. LIEBERMAN. I agree. Accountability for this Board is essential. As the 9-11 Commission stated, "strengthening congressional oversight may be among the most difficult and important" of our recommendations. We cannot assign the Board such significant responsibilities without regularly reviewing its progress to ensure that its mandates are being met. We have an obligation to exercise vigorous oversight of its actions.

Mr. LEAHY. The Judiciary Committee and the Governmental Affairs Committee have a shared history of working together to preserve privacy and civil liberties, and to promote open and accountable government. Our committee members have developed substantial expertise and experience in these areas, and we have a duty to continue to oversee these concerns. I thank the distinguished Ranking Member of the Governmental Affairs Committee for working with us to ensure that the Board's work on privacy and civil liberties matters be under the jurisdiction of both these committees so that we can continue to provide effective oversight.

Mr. LIEBERMAN. I agree that joint jurisdiction over the Board's work on privacy and civil liberties matters is the most effective and appropriate way to take advantage of our shared exper-

tise and experience. I thank the Ranking Member of the Judiciary Committee for his commitment and dedication to fighting for the rights and liberties that make this country worth preserving. As the Commission stated, "[w]e must find ways of reconciling security with liberty, since the success of one helps protect the other."

Mr. KYL. Mr. President, I ask unanimous consent that two letters, which I sent to 9/11 Commission member Slade Gorton, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,

Washington, DC, May 13, 2004.

Hon. SLADE GORTON,

Member, National Commission on Terrorist Attacks Upon the United States, Washington, DC.

DEAR SLADE: Thank you for sending me the two 9/11 Commission staff statements in response to my April 23 letter to you about the visa-processing policies of the State Department. As you and the other Commissioners prepare to write your final report, I offer what I hope will be taken as constructive criticism of the statements.

What the Commission staff did not note is the most important point of all: if the law had been followed, at least 15 of the 19 9/11 terrorists would not have been in the country on September 11. The visa applications of the hijackers were so flawed that no reasonable person could have believed that they met the standards for entry imposed by the law for all visa applicants. Making matters worse, no matter how deficient the paper applications, most of the Saudi applicants were granted visas without an oral interview, clearly contrary to both the spirit and intent of the law, which makes clear that applicants for nonimmigrant visas are considered ineligible for a visa until they prove their own eligibility. In other words, our law creates a presumption against granting the visa by putting the burden of proof on the applicant.

Under Section 214(b) of the Immigration and Nationality Act an alien applying to enter the U.S. shall be "presume[d] to be an immigrant until he establishes to the satisfaction of the consular officer, at the time of application for admission, . . . that he is entitled to a nonimmigrant status." In other words, the law is intentionally designed to force applicants to prove eligibility for a nonimmigrant visa. For Saudi nationals, however, visas were all but guaranteed to be issued—directly in conflict with the spirit and intent of the law.

All 15 of the Saudi's applications contained inaccuracies or omissions that should have prevented them from obtaining visas; and, despite initial indications by the State Department that almost all of the Saudi applicants had been interviewed, only two of the 15 Saudi applicants were interviewed by State.

The errors in the applications weren't trivial mistakes, such as punctuation or spelling. Visas were granted to young, single Saudi males who omitted fundamental information such as: means of financial support (and it appears none of the 15 hijackers whose applications survived provided supporting documentation), home address, and destination or address while in the U.S. The October 28, 2002 National Review article by Joel Mowbray, "Visas for Terrorists: They were ill-prepared. They were laughable. They were approved," provides the details about these mistakes.

In his article, Mowbray writes that, "For almost all of the applications, the terrorists

filled out the 'Present Occupation' field with 'Student.' Salem al Hamzi boldly wrote 'unemployed,' while Khalid al Mihdhar described himself as a 'businessman.' Only on three forms was the area marked 'Name and Address of Present Employer or School' even filled out. In answering the question, 'Who will furnish financial support,' most of them listed 'Myself,' while the rest cited family—despite a complete failure in most applications to demonstrate the requisite financial means." Mowbray goes on to write, "Unclear destination in the United States. On the visa form, the applicant must identify the address where he will be in the United States . . . But, only one of the 15 applicants lists an actual address, with the rest stating locations . . . such as 'California,' 'New York,' 'Hotel.' Not one of these woefully lacking answers warranted so much as a correction by a consular officer, let alone an outright denial."

Allowing for such incomplete attention to the visa applicants was not uncommon practice in the State Department, particularly in Saudi Arabia. The GAO's October 2002 report, "Border Security: Visa Process Should be Strengthened as Antiterrorism Tool," said, "At some posts we visited, [consular officers] faced pressures to issue visas." In its report the GAO concluded, "A lack of clear guidance . . . resulted in wide discrepancies among posts in the level of scrutiny of visa applications and in factors used to refuse visas to questionable applicants." In fact, the State Department's written guidelines and resulting practices, as outlined in the GAO report, allowed for widespread discretionary adherence among consular officers in adhering to the burden of proof requirements included in Section 214(b). As stated in the GAO report, the State Department's "Consular Best Practices Handbook" gave consular managers and staff the discretion to:

"waive the personal appearance and interviews for certain nonimmigrant visa applicants, and give the authority to use third parties, such as travel agencies, to help persons complete application. The written guidance did not specify what documentation, if any, consular managers or officers needed [to provide] support about their decisions to waive personal appearances or interviews."

This is exemplified by then-Assistant Secretary for Consular Affairs Mary Ryan's cables and other written notices to embassies telling them that eliminating the visa process wherever possible was "a very worthy goal," and the State Department's design and implementation, under her watch, of "Visa Express," which formalized lax, expedited visa policies for the first and only time for an entire nation, Saudi Arabia.

Mary Ryan believed in the importance of interviews, but not for purposes of screening out those who shouldn't be receiving visas. She wrote in a 2001 cable, "When it comes to judging credibility, there is simply no substitute for a personal interview." Sounds good, but Ryan's emphasis was on admitting more people. She went on to write, "Consular officers should avoid keeping out 'qualified aliens' who appeared weak on paper but could have overcome [that appearance] with a strong showing of credibility." Mary Ryan explains further that the intent of Consular Affairs' policy is to "permit a waiver of the interview when it is clear that the alien is eligible for the visa and an interview would be an unnecessary inconvenience." (Emphasis added)

Rather than criticize State's policies, 9/11 Commission staff statements excuse the actions of the State Department, stating the Department followed its own policies. The Commission report remarks, "To our knowledge, State consular officers followed their standard operating procedures in every

case." But that begs the question of whether that policy was (a) allowed by the law, and (b) sensible under the circumstances. The State Department should not be judged on whether or not its policies were followed, but on whether its policies followed the law, and whether the 9/11 terrorists, who did not qualify for visas under the law, should have been granted visas to enter the United States. The Commission staff's second report essentially adopts the State Department's assertion that better watchlisting by intelligence agencies would have been the best prevention measure. But this obscures the larger point—if the State Department had followed immigration law, 9/11 would not have happened. The terrorists would have had to find another way to get into the country.

In addition to its silence about Consular Affairs' dereliction of duty with respect to complying with immigration law, that the Commission members did not comment on why the Consular Affairs office of the State Department, the lead agency before 9/11 on terrorism matters, believed that it needed to be "informed . . . that Saudi citizens could pose security risks," is very troubling.

Either blatant disregard, or ignorance of the facts surrounding Saudi Arabia (even though it was the Department's responsibility to know the issues) allowed for the creation of the now-defunct Visa Express program specifically for Saudi Arabia. The formal exemption of Saudis from the interview process and the acceptance of nearly all Saudi applications through travel agents (with a financial interest in the applicants' approval) gave non-governmental agents the de facto ability to shape U.S. immigration policy. Three of the hijackers, in late summer, entered the country through this program.

The Commission staff, however, practically defends the Saudi Visa Express program in its comments by stating that it "was established in part to keep crowds of people from congregating outside the posts, which was a security risk to the posts . . ." The Commission report goes on to say that it "found no evidence that the Visa Express program had any effect on the interview or approval rates for Saudi applicants . . . or reduced scrutiny . . ." "Maybe not, but it certainly took everything bad about visa processing policy and rolled it into a formal program for Saudi Arabia, home to many Islamic militants and to 15 of the 19 terrorists. Secretary Lehman and Mr. Ben-Veniste, your Commission members, pointed out during their exchange with Mary Ryan on January 23, that it was common knowledge that Saudi Arabia was home to many radical Islamists and some al Qaeda operatives specifically, and by inference that a program formalizing weak visa processing policies was wrong."

Mary Ryan's lack of common knowledge about the hostility of many Saudi citizens toward the U.S., and, at the least, the Saudi government's complacency about such fanaticism, caused much concern for Lehman and Ben-Veniste. That these exchanges, or at least their implications, did not warrant even a mention from the Commission staff is disturbing.

On January 23, Ben-Veniste asked Mary Ryan the following, "Here, in the summer of '01 and somewhat before, you have recognized that a crowd control at the embassy or at the consular office, offices in Saudi Arabia posed a problem because of the potential harm to individuals from those who meant the United States and its interests harm. If we take that just one step further, would you agree that the individuals in the Kingdom of Saudi Arabia who might pose such a threat to cause harm to individuals at or about the embassy would be Saudis rather than foreigners?"

"[O]nce you acknowledge that there is certainly a number of Saudis who might be in a position to do us harm through violence against individuals at or near our consular offices, it doesn't take a whole lot to go to the next step, even without specific information from our intelligence agencies, that such individuals who mean us harm might in fact wish to come to the United States. So the notion, would you not agree, of Saudis not posing a particular threat being taken out of that threat matrix really doesn't stand up even on the basis of cursory information that you had available?"

"Saudis mean us harm in Saudi Arabia because they might blow up the embassy or harm individuals in the vicinity of the embassy but the Saudis who might seek entrance to the United States were not considered a problem?"

In her response, Ryan continues to refuse to acknowledge that for a number of reasons, the visas of Saudi citizens should not have automatically been approved. She said, "You know, in the absence of information that someone is a threat to the nation, we are dependent on the information that we have in our system developed by intelligence and law enforcement agencies about people who mean us harm."

In her next interchange, with Secretary Lehman, Ryan's response is similar. Secretary Lehman asked, "In some of the interviewing of some of your officials that were doing the actual consular functions in Saudi Arabia at the time, they said in so many words, gosh, if we only knew. If someone had told us that Saudi Arabia was a threat. We thought that they were our friends and all we were looking for were people who were trying to immigrate and we weren't looking for terrorists. Well, hello. I mean, did anybody read the newspapers? I mean there were books. The literature was rife, you know, books like "Among the Believers" that catalogued this tremendous proselytizing of hatred and of fundamentalism around the world, sourced in Saudi Arabia, with many Saudi Arabian institutions and clerics the source of it. . . . So, I don't think the record supports your view."

Ryan responded, "Before September 11, and I think even after September 11th, until now, I think that this government, our government, does regard Saudi Arabia as an ally. In the current issue of Foreign Affairs, the deputy secretary says that we have every confidence in the crown prince of Saudi Arabia to carry out the reforms that he is trying to carry out. I mean, that doesn't sound like we regard Saudi Arabia as a state sponsor of terrorism. It was never so identified before September 11, it was never so identified after September 11." But the obvious fault in Ryan's logic is that even if one considers the Saudi government an ally, that does not mean that its nationals pose no security threat to the United States.

The State Department has repeatedly claimed that its visa policies in Saudi Arabia were reasonable since it lacked specific intelligence to determine that it should have acted otherwise. This claim, however, is dubious at best, considering that pre-9/11, the State Department was considered the lead agency on counterterrorism. While it is often said that pre-9/11 actions can be excused because terrorism was not deemed a primary concern, the fact is that the top agency for counterterrorism before 9/11, the State Department, knew, or should have known, the risks in deliberately reversing the presumption in the immigration law in order to make it as easy as possible for people to obtain visas in a country with known terrorist elements. Even long after State learned that 15 of the 19 terrorists were Saudi nationals—

and that their visas applications were clearly not sufficient under the law—the Department adamantly refused to tighten visa procedures and only began interviewing all non-immigrant applicants between the ages of 12 and 70, including Saudi citizens, in July of 2002—a full ten months after the terrorist attacks.

Although Saudi Arabia was and is considered a U.S. ally, it was the responsibility of the Consular Affairs assistant secretary to know, even before 9/11, the Saudi-terrorism connection and how it might have been present among individuals trying to get into the U.S. The Commission report should have made this connection, but it did not. It found no real fault of Consular Affairs in this regard.

As I mentioned at the outset, I hope you will use my findings to advance constructively the final report of the 9/11 Commission. I believe that if you are going to provide an accurate picture to the American public about what caused the tragic events of September 11, you must place greater emphasis on our government's approach to visa processing and its compliance with immigration law in this regard, and on processing in Saudi Arabia in particular. As important as it is to examine the intelligence failures before 9/11, it is no less important to discuss how simple enforcement of the law would have prevented at least 15 of the 19 9/11 terrorists from being in the United States on that tragic day.

Sincerely,

JON KYL,
U.S. Senator.

U.S. SENATE,

Washington, DC, April 23, 2004.

The Hon. SLADE GORTON,
Member National Commission on Terrorist Attacks Upon the United States, Washington, DC.

DEAR SLADE: I write to convey how important I believe it is that the 9/11 Commission focus on the State Department's, and to a lesser degree, Immigration and Naturalization Service's, contribution to the dysfunction of our government before September 11.

It is clear to me that the State Department's Office of Consular Affairs, headed then by Mary Ryan, was utterly ineffective in making sure U.S. security interests were protected. Having read Ms. Ryan's January 24, 2004 testimony before the Commission and her responses to its questions, I have concluded, that, even today, she does not understand that, if U.S. laws related to the processing and approving of visa applications had been followed, September 11 could have been prevented.

Section 214(b) of the Immigration and Naturalization Act presumes that an alien who applies for a temporary visa actually intends to stay here permanently "until [the alien] establishes to the satisfaction of the consular officer" that he only intends to come here temporarily. The State Department should not deem an applicant as having established his intent until all processes related to the visa are complete and until a face-to-face interview has been conducted. Before September 11, consular officers were allowed to regularly approve temporary visa applications even when applications were incomplete and no face-to-face interviews were conducted.

On January 24, in response to a question from Commissioner Gorelick about "how and in what circumstances the hijackers got into this country," Mary Ryan declared that consular officials "adjudicated the visas correctly." This is simply false. At a minimum, the applications of the hijackers were incomplete. All 19 had omissions and inconsistencies on their visa applications that should

have raised concerns about why they wanted visas (see Mowbray article enclosed). Additionally, personal interviews should, in my view, have been required of all intending immigrants in order for the State Department to have been in compliance with 214(b). Consular Affairs, contrary to its initial statements about this matter, failed to personally interview 13 of the 15 terrorists who were from Saudi Arabia.

Since these processes were not successfully completed, the visas, by law, should have been denied.

In October 2002, Senator Feinstein and I, as ranking member and chairman of the Judiciary Subcommittee on Terrorism, wrote to Secretary of State Powell to impress upon him that the manifest weaknesses of our nation's visa system contributed, and will continue to contribute, to the risk of terrorism against the United States and its citizens. I enclose for your review our letter, a list of 20 additional questions we submitted to Secretary Powell about visa processing, and the State Department's answers. As you will see from its answers, the Department refuses to acknowledge that, if it had exercised its obligations under the law, and refused visas to the terrorists, September 11 might have been prevented.

Enclosed as well is a copy of the additional views Senator Roberts and I appended to the December 2002 Intelligence Committees' Joint Inquiry Staff Report. In our statement, we make clear that these deficiencies, and an evident unwillingness to make existing State Department security mechanisms work properly, contributed to the tragedy.

I also urge you to review the exchange Ms. Ryan had with Commissioners Ben-Veniste and Lehman wherein she shows a lack of comprehension that special treatment of Saudis seeking U.S. visas simply should not have occurred, given the prevalence in Saudi Arabia of Wahhabism, a virulently anti-American strain of Islam. I enclose, in addition, articles by investigative reporter Joel Mowbray that provide details about State Department activities, and particularly about the issuance of visas to Saudi citizens. The State Department's presumption that most Saudis were eligible for visas was inexcusable and, I believe, definitively contributed to the terrorist attacks on our nation.

Bottom line: 9-11 could have been prevented if State Department officials had done their job. What are we doing to ensure they do so in the future?

Sincerely,

JON KYL,
U.S. Senator.

AMERICAN MUSIC MONTH

Mr. ALEXANDER. A few years ago, a New York Times story reported that "Lamar Alexander grew up in a lower, middle class family in the mountains of East Tennessee." The article so offended my mother I found her reading Thessalonians to help deal with what she regarded as a "slur on our family."

"We never thought about ourselves that way," she told me. "You had a library card from the day you were three and a music lesson from the day you were four. You had everything you needed that was important."

I was 4 years old in Maryville, TN, a town of about 10,000 then, when my mother took me to Maryville College to learn how to play the piano. One of the college professors loaned us a battered upright piano which sat in our living room for several years. Every

day before school, I would bang away on Czerny, Bach, Beethoven and Mozart—and throw in a little Jerry Lee Lewis when I thought no one was around to correct me.

I participated in annual piano contests sponsored by the National Federation of Music Clubs. I played in the Maryville High School band and played piano at revival meetings while my father—who had a beautiful tenor voice—led the singing.

After working during the day as a law clerk in New Orleans for Judge John Minor Wisdom I played trombone, tuba and washboard in the band at Your Father's Moustache on Bourbon Street to earn a little extra money.

When I walked across the State in a winning campaign for Governor I took four students from the University of Tennessee marching band with me. We performed as Alexander's Washboard Band dozens of times from the back of a flatbed truck.

As Governor, I could think of only one way to unify our State that was made up of so many different climates, political beliefs and people, and that was our music. From the Carter family in Bristol, to Music City in Nashville, to the blues and gospel of Beale Street in Memphis. Tennessee can be said to be the home of American music.

As Education Secretary in the first Bush administration I was asked to be the Republican speaker at the annual Gridiron Dinner, a press gathering where public careers are made or broken. When I found that Texas Governor Ann Richards was the Democrat speaker I decided that was not a contest I was likely to win. So instead of speaking, I wrote some lyrics to country music songs and sang and played the piano.

Music has been throughout my life a source of inspiration and joy. I suspect that is true for most Americans. It is a rare American who does not have some story about how music has made our lives richer and more interesting, how it has changed our moods, brought out the best in our character and even sometimes helped us earn a living.

So I am proud to join with the Senator from Illinois and co-sponsor this important resolution declaring American Music Month. Our music is an integral part of the American character, and we should celebrate it.

NO CHILD LEFT BEHIND

Mr. ENZI. Mr. President, I would like to congratulate the educators, administrators, parents, and children of my home State of Wyoming. Since the implementation of No Child Left Behind in 2001, our students have increased their test scores, proving that our schools are taking the adequate steps needed to ensure academic proficiency for all students, including those who are disadvantaged. The basis of No Child Left Behind is simple. It says that every 4th grader should be able to read, and do mathematics at a 4th