The Senate Immigration Bill:
A National Security Nightmare

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Proponents of the Senate's comprehensive immigration bill are attempting to rhetorically recast the massive amnesty proposal as national security legislation. "It's a matter of our national security," insisted Senator Ted Kennedy (D-MA), a sponsor of the legislation. Commerce Secretary Carlos Gutierrez has echoed the point repeatedly: "This is a national security bill. We are fixing a national security problem." The legislation, proponents claim, would encourage or even compel all illegal aliens—terrorists included—to come forward and reveal their true identities as well as any criminal or terrorist connections that they may have. In reality, however, the legislation would actually *create* a national security problem by providing new opportunities and advantages for alien terrorists currently operating on American soil.

The Alien Terrorist Threat. The revelation of the terrorist plot to bomb JFK Airport serves as a timely reminder that alien terrorists are operating in the United States. Terrorists are busy thinking of new ways to kill innocent Americans while the Senate thinks of new ways to grant a massive amnesty to 12–20 million illegal aliens.

The four JFK terrorists include two nationals of Guyana, one of Trinidad, and one former Guyanan who was granted U.S. citizenship. The Fort Dix Islamic terrorists who were arrested in May included five foreign nationals from Yugoslavia and Jordan. A sixth, from Turkey, eventually obtained U.S. citizenship. Of the five aliens, three were illegal aliens who snuck across the southern border years ago near Brownsville, Texas.

It is a certainty that many more illegal alien terrorists are quietly at work in the United States. In fiscal year 2005, the Border Patrol apprehended 3,722 aliens from nations that are designated state sponsors of terrorism or places in which al-Qaeda has operated, and for every one alien whom the Border Patrol apprehended, there were likely three aliens who were not caught. If so, it is probable that more than 10,000 aliens from high-risk, terrorist-associated countries illegally entered the United States in fiscal year 2005 alone. Assuming conservatively that only one in 100 was an actual terrorist, that is still over 100 terrorists who snuck across the border in a single year.

Giving Terrorists Options. Inexplicably, proponents of the Kennedy amnesty bill assume that its enactment will allow the federal government to identify these terrorists. On the contrary, the bill will make it easier for alien terrorists to operate in the United States by allowing them to create fraudulent identities with ease. To understand what will happen if the bill becomes law, assume the perspective of the illegal alien terrorist operating within the United States.

Within 180 days after the President signs the legislation, the Department of Homeland Security *must*

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start handing out amnesties, in the form of "probationary" Z visas. (No border security triggers need to be met; the amnesty comes first, according to Sections 1(a) and 601(f)(2) of the bill.) At that point, the terrorist can choose whichever of three options suits him best.

Terrorist Option #1: Continue to Operate as an Illegal Alien. The terrorist can simply continue engaging in terrorist planning while remaining unlawfully present in the United States.

This option is particularly easy if the terrorist lives in a sanctuary city, in which the police refuse to inform the federal government when they come into contact with illegal aliens. Most major U.S. cities are now sanctuary cities, including New York City, Los Angeles, and, most recently, Detroit. Detroit's huge population of Middle Eastern immigrants provides perfect cover for newly arrived terrorists from the Middle East.

Terrorists know all about sanctuary cities and the concealment that such cities provide. The Fort Dix terrorists are a case in point. The group's three illegal aliens were pulled over a total of 19 times by local police for traffic violations. But because of sanctuary policies, they were never reported to Immigration and Customs Enforcement (ICE).

Sanctuary cities have been prohibited under federal law (8 U.S.C. §§ 1373 and 1644) for more than 10 years. Nevertheless, sanctuary cities defy this federal law with impunity, because the statute does not impose any penalty on cities that adopt sanctuary policies.

If proponents of the Senate bill were seriously concerned about national security, they would include a provision in the bill denying federal law enforcement funds to sanctuary cities. Such a provision would quickly bring the lawbreaking cities back into line.

Moreover, even if an alien terrorist operates in a city that is *not* a sanctuary city, the bill would not impede his operations. Indeed, the Senate immigration bill will make life easier for him by reducing the risk of deportation, because the legislation transforms Immigration and Customs Enforcement (ICE) from a law enforcement agency into an amnesty distribution center.

Under Sections 601 (h)(1) and (5) of the bill, if an ICE agent apprehends any alien who appears eligible for the Z visa (in other words, just about any illegal alien), the agent cannot detain him. Instead, ICE must provide the alien a reasonable opportunity to apply for the Z visa. This stands in stark contrast to the status quo, in which ICE can place the alien in detention and immediately initiate removal proceedings.

Under the Senate amnesty bill, the terrorist suffers no such inconvenience. Instead, being discovered by ICE merely requires him to choose either option #2 or option #3.

Terrorist Option #2: Obtain the Amnesty Using One's Real Name. Seeking amnesty under one's real name is a promising option for any terrorist who has operated completely underground during his terrorist career. This is also a likely choice for a terrorist who has been recruited into Islamic jihad only recently. Such an individual will not have a record of past terrorist activity maintained by any government.

Unfortunately, it is also a realistic option for a terrorist who is actually known by foreign governments to be involved in a terrorist organization. Under the Senate immigration bill, there is virtually no chance that the federal government will discover his terrorist connections in time. Section 601 (h)(1) of the bill allows the government only one business day to conduct a so-called background check on each applicant. If the U.S. Citizenship and Immigration Services (USCIS) adjudicator does not find any terrorist connection in time, the alien walks out of the building with a probationary Z visa on the next business day, able to work and roam the country at will.

Twenty-four-hour background checks might suffice if the government had a single, readily searchable database of all the world's terrorists, but it does not. Much of the relevant information exists only on paper, while foreign governments are the source for other data. Twenty-four hours is a terrorist's fast track.

Worse, as practical matter, the USCIS adjudicators would not even have 24 hours if the Senate bill were passed. As the Government Accountability

Office (GAO) reported in 2006, the agency is already stretched to the breaking point by the approximately 6 million applications for immigration benefits (asylum, green cards, etc.) that it receives every year. The situation is so bad that an informal "six minute rule" is in place—adjudicators are pressed to spend no more than six minutes looking at any application. The GAO concluded that failure to detect fraud is already "an ongoing and serious problem" at the agency.

Assuming (conservatively) that 12 million illegal aliens apply for the amnesty within the year allowed, it would triple the incoming workload—from 6 million applications to 18 million. Because of the 24-hour time limit, applications for the amnesty would receive only a few minutes of scrutiny. It is a certainty that applications from terrorists would be granted.

Even under the present system—in which there is no time limit on background checks—terrorists have had little difficulty in obtaining amnesties. In one case, Mahmud "the Red" Abouhalima fraudulently obtained legal status under the 1986 amnesty that was supposed to be limited to seasonal agricultural workers. He was actually driving a cab in New York City and was also a ringleader in the 1993 terrorist attacks against the World Trade Center. After receiving legal status, he traveled abroad for terrorist training. His brother Mohammed—a fellow terrorist in the plot—also obtained legal status under the 1986 amnesty.

The above examples are not isolated cases. A 2005 study by Janice Kephart, Counsel to the 9/11 Commission, found that 59 out of 94 foreign-born terrorists (about 2/3) successfully committed immigration fraud to acquire or adjust legal status.

With his newly acquired legal status, a terrorist can operate with a great deal more freedom, secure in the knowledge that a traffic violation will not lead to deportation. He can also exit and re-enter the country, allowing him greater access to international terrorist networks. The Senate immigration bill literally opens up a world of possibilities for illegal alien terrorists.

Terrorist Option #3: Invent a Clean Identity With the Help of the U.S. Government. The third option is perhaps the most troubling. The Senate

bill fails to provide any safeguards against terrorists who invent entirely "clean" identities. Because the bill contains no requirement that the alien produce a secure foreign passport proving his identity, terrorists will have little trouble gaming the system.

A terrorist can walk into a USCIS office and offer a completely fictitious name—one that does not have any negative information associated with it. In other words, a terrorist can declare that his name is "Rumpelstiltskin," or perhaps "Mohammed X," and most likely, walk out the next day with a probationary Z visa, complete with a government-issued ID card backing up his false identity.

The terrorist need only provide two easily forged pieces of paper indicating that a person of that name was in the country before January 1, 2007. A pay stub, a bank receipt, or a remittance receipt would suffice, as does a declaration from one of the terrorist's friends that he was in the country before January 1, 2007.

With this newly minted identity backed up by an ID card issued by the federal government, the alien terrorist will be armed with the perfect "breeder document," allowing him to obtain driver's licenses and just about any other form of identification that he desires. This is essentially what the 19 9/11 hijackers did: They used their passports and visas as breeder documents to obtain 63 driver's licenses. The documents allowed them to travel openly and board airplanes easily.

Congress could close this loophole relatively easily by requiring each applicant for the Z-visa amnesty to produce a secure passport with embedded biometrics. Senator Kennedy and other proponents of the bill are unlikely to fix that loophole, however. The majority of the 12–20 million illegal aliens in the United States do not possess a passport—much less a passport with embedded biometrics (which have been issued only in the last 12 months by most countries). Requiring illegal aliens to present such a passport would disqualify too many aliens for the pro-amnesty crowd. The flaw exposes what a deception the "national security" claim is.

Conclusion. Supporters of the Senate's comprehensive immigration reform bill have revived it

under the guise of national security. However, the new public relations campaign is a farce. The bill offers alien terrorists new pathways to obtain legal status, which will make it easier for them to carry out deadly attacks against American citizens.

The top priority in this bill is extending amnesty as quickly and easily as possible to as many illegal aliens as possible. The cost of doing so is to jeopardize national security.

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