

MEMORANDUM FOR THE RECORD

(R)

EVENT: Interview of Inspector [redacted] (secondary inspector for Al Shehhi entry)
JFK International Airport

DATE: March 22, 2004

Special Access Issues: None

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Team Number: 5

Location: U.S. Customs and Border Protection, Ronald Reagan Building,
14th & Pennsylvania Ave. NW, Washington, DC

Participants: Non-Commission: [redacted] Customs Inspector, JFK Intl. Airport
Alex Damen, Customs & Border Protection Counsel's Office

Participants: Commission – Janice Kephart-Roberts, counsel

Joanne M. Accolla, Staff Assistant

Background:

B.A. in Political Science, SUNY Stony Brook. Started with INS June of 1978 (GS5), WAE (when actually employed) (intermittent for number of years);(back then, job was seasonal worked in summer full time; some years worked on reduced schedules in winter and would be on part-time schedules) became permanent in 1990 – went through academy IOBTC (immigration officers border training course at FLTECO) journeyman training in 1992; special ops in grade 11; special ops school – 2 weeks of training in 194-95. For 25 years at JFK primarily in inspections; some details in training; collaterals in adjudications in I-90s I-31s etc. In early years, adjudication work sent to airport – have done some brief details.

Training in 1978 – 2-3 weeks orientation; then IOBTC (GS9) in April-Aug. 1990; 1992 special ops school – prior to 1992 grade was GS 9 program created special ops – competitive position for GS11 – training class associated with that position – 2 weeks -14 days – training in Artesia, New Mexico. Basically, did not touch on law, touched on special topics – terrorism, interviewing techniques, firearms, drug interdiction, law enforcement oriented.

FLETC

Section of terrorism training at FLETC – day or less. Goal of class – explain what terrorism was, overview of terrorist organizations, Muslim brotherhood, etc., pointed out

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this is a real threat; hijackings, attacks on airports in Rome and Milan. Course was interesting but as a practical tool for someone on primary didn't give very much in the way of tools- point was awareness, goals of groups, role of nation states supporting them, travel patterns.

Special Ops training course core did not change but added more recent terrorist attacks -

J - Ramsey Youseff brought up

- yes, it was brought up- I was at the airport when this happened; I knew the inspector involved.

J - do you recall seeing "Redbook" -filled with caches

- a book of faces of terrorists - remember seeing that - I recall it was put out by the CIA

J - travel documents in it

- yes - I remember 2 books - one with faces I think put out by CIA - in the 1980s.
There was also -

J - another book - one for most wanted terrorists - and another one we know as the Redbook that had caches from known terrorists.

- yes, I've seen that - and others from the FDL, and stuff from the CIA.
Hard pressed to know when = I think late 1980s.

J - Special ops training - interviewing techniques focus:

- not a very big section I think 4 hours don't recall it being terrible useful - more helpful to people who have not done this at all. Not an advance course on body language.

J - did you ever get impressive course on interviewing techniques

- frankly, no

J - write well and think clearly can write good sworn statements.

J - document fraud - where and when training

- quite a bit - basic academy and in journeyman and special ops classes. Bad documents - continuing process;

J - databases - did you get training and the variety available

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- yes big database user - training at FLETC at journeyman and special ops - it is best hands on - for the most part to be good at databases you have to be in front of the computer and use it. I use it - pre and post 9/11 - couldn't function in secondary without using this stuff.

J - question about special ops - firearms training - how many hours

- I would say it was considerable - about a week - maybe total of 14 hours.

J - why is that important for an inspector

- I think the inspection program for a number of years, many people in Washington who felt inspectors should be a covered (law enforcement) position. My personal opinion - for most of my career, did not wear a weapon at work. Only senior inspectors who are law enforcement wear - about 42 of them at JFK. Feeling on part of agency that this should be a covered job - you are handcuffing people, searching people - so for many years, I qualified with weapon but did not bring it to work. Emphasis on firearms was an attempt to up our law enforcement profile so that one day we would be covered people. I think that was the reason why. After 911, everyone was told to bring arms to work.

J - mock secondary inspections -

- did those in IOBTC - but difficult to do
Writing and structuring sworn statements. Widely diverse student body

J - behavioral training

- some - I think IOBT did -

J - language training

- Spanish in IOBTC. I'm not fluent; big part of the training; currently it is dropped from curriculum.

J - Arabic speakers who did not speak language

- same thing we do with people from Senegal, rely on ground agents of airline; in early days a problem; because there wasn't a coherent language bank available. Now we have Spanish speakers, Arabic speakers; in early days it was tough to find someone who spoke the language; later on -9 years ago - language bank you can call - 26 federal plaza - and they have interpreters from 8-5; after hours, you could call and get a referral to language specialist.

Lot of inspections that take place with the inspectors not speaking to person -

J - how many years only primary

- probably from 1978 to 1984 probably exclusively primary. Later on, split between primary and secondary. After academy, it was almost exclusively secondary.

J - on primary inspection - basic procedures employed, i.e. questions, databases checked, etc

- the only thing you could access was TEXT includes all of CLASS, a name check system ; run the name through TEXT - would give you previously deported, LOOKOUT person; previously expedited removal any number of immigration actions; you run it by name and passport number and searches both independently. Wouldn't take very long especially if it was machine readable passport or visa. Ask for passport, ticket I-90; look at person and picture - make sure it matches; look at passport for [REDACTED]

[REDACTED] ask person purpose of trip and how long you wish to stay; often end of inspection. If you are dealing with European countries, passports not stamped on exist from US so you can't gauge how long they have stayed. We were given handout on how to interpret Arabic - late 1980s. There was inspector [REDACTED] did this on his own - took class in Arabic - tried to break down Arabic alphabet so you could recognize month, date and years (since deceased) - he was the first and only person that I know of to do this - for awhile I could - not really -

J - looked at passport, I94 and customs - sometimes the ticket?

- you have to tailor primary - if a person is from GB, middle class here for 2 weeks, you might not look at ticket - depending how many people on line and time of day - certain countries who became notorious [REDACTED]

[REDACTED] - fraud. [REDACTED] for overstaying - a country that is poor - much higher chance of encountering bad documents. Egyptians, also, Jordan, Yemen - frankly Persian gulf countries - you looked at Saudi Arabians of being made of money.

J - length of stay for B1 pre 9/11

- yes typically 3 months- you had some discretion -

J - port policy?

- not sure

J - did you have a stamp for 3 months

- yes but prior to getting visa waiver stamps, we had only one admission stamp and you would stamp 3 months for B1 and visa waiver program; then we got separate visa wavier stamp.

J - so if someone says they are attending a conference for 3 weeks

- they get stamped 3 months

J - on b1s, if you gave less than 3 months any repercussions

- hard question to answer, I don't think - not 100% sure

J - on B2s

- we were told 6 months

J - any discretion that you were aware of giving B2s less than 6 months

- yes in secondary, inspector could limit your stay with supervisory approval, and that was a policy. There was a time when inspectors had absolute discretion on how long to admit -

J - length of stay for vocational students - your understanding of rule

- one year was maximum for M1 - if course was less than a year it was a total of 12 months

J - standard processing time at JFK? Disembarking from plane; through booth?

- there was a 30 minute than 45 minute rule to some extent - don't remember time frames. When I started few permanent inspectors, period in early 1980s when things got insane - sometimes took 2 1/2 hours on a Saturday in July. Resulted in massive hiring. At one point, Sandy Schumer got involved. Airline industry was complaining - people missing connecting flights. In recent years waiting time much less. Inspectors cannot control time - sometimes 4/5 flights ahead of you. You were expected to complete primary inspection in 2 minutes -(checking papers - performance appraisal record from 2002) one of the things on appraisal was a time "subject admits aliens at the rate of . . ." to make highest grade you would have to process quickly). It measures performances by mistakes = negatively system - causes problems. A lot of inspectors afraid of being in secondary because afraid of making mistakes.

J - in 2001, your understanding of time frame at the booth was 2 minutes?

- I don't think at that point - much of this is not enforced -

Performances standards in 2002 - hasn't changed yet since agencies have merged.

Excellent - 30-59 aliens/hour

Rates as fully successfully 26/30 aliens/hour and error rate of

J - if that's the case you are rating you on this but you are not working in primary?

- a bit of an absurdity, also rated on maritime but haven't worked maritime since 1991. It needs adjustment.

J - performance standards for secondary - INS/NY district, inspections branch -

"incumbent is required to process more complex and sensitive cases when referred. Such cases include those related to alien or narcotics smuggling, criminal activity, terrorism and use of fraudulent documents. Incumbent must be able to fully utilize all of the resources within the secondary area including but not limited to all INS accessible computer databases, photophone, intelligence material, microscope and document cameras, etc. Incumbent must be able to complete all cases in an efficient manner . . . clearly and completely summarizing all pertinent facts."

"Inadequacies result when incumbent fails to more complex cases, or fails to do so in a manner that utilizes all of the material resources available in secondary or fails to complete cases with adequate detail, correct grammar, or sufficient development of all information; or fails to process cases in accordance with established guidelines; or fails to maintain awareness of activity in secondary area and keep the supervisor advised of important developments therein."

"Performances EXCELLENT when inadequacies are noted in 2-4 instances, FULLY SUCCESSFUL 5-8 instances; MINIMALLY SATISFACTORY 9-13 instances during the rating period." Rating period is April 1, 2001 - March 31, 2002.

- if you don't have more than 2-4 mistakes in one year, you get excellent rating. This is the performance work plan.

Mine has been outstanding for most years; cash awards

J - cash awards based on?

- sustaining outstanding - doing a lot of work in secondary and doing cases well; takes in consideration knowledge of law, databases, drawing correct conclusions, etc.

Excellent is inspection every 2 minutes; minimally successful zone is 3 minutes;

(Janice getting copy of document)

J - is this national policy or NY >

- I assumed it was nationwide.

J - was there always some available in secondary who was expert in stamps, caches?

- all of some degree of expertise

J - policy to have someone on board?

- no, I don't know if anyone is designated expert - generally if you are in secondary you should have good knowledge of stamps and caches. Most are good, some excellent; some poor. Problem with document fraud, amount of material we get is overwhelming.

We have several volumes of books from FDL, problem in primary is if you have very good visual memories; often best indicators are [redacted] When fraud is a possibility I look at [redacted]

J - did you always ask for return tickets in secondary

- not always, did it when I thought fraud was a possibility

J - treatment of UAE and Saudis -pre 9/11 how viewed

- rich most of them, usually fairly well educated; sometimes arrogant, you would run into princes; basically you didn't say Saudis - terrorists.

J - were they treated any differently

- I would say they were regarded - you couldn't imagine them getting a job in US - these are guys who don't work in their own country - they weren't a problem; here to go to school, visit family - generally not seen as intending immigrant.

J - what about UAE

- frankly we thought of them as a small Saudi Arabia -

J - view of Saudis of UAE - how did it effect adjudication of them

- think if they were in the booth and they had tickets and visas, you admitted them; unless they come up as a LOOKOUT - they were admissible

J - what if you couldn't communicate with them

- happened all the time, you could get Saudia rep - the number of inspectors who speak Arabic are few - used to be 3, now 2

J - option to refer to secondary

- there is, but if Egypt Air comes in - you might refer 30 people to secondary which makes them in essence primary. Certain triage really that comes to these things. If someone thought there was something run, they would refer. You can't use secondary to translate primary questions normally. The system would break down.

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J - profiling , targeting - what unusually characteristics would cause you concern to refer to secondary

[Redacted]

J - what about funding

[] - tough area because huge discrepancy income across the world; in general, most people I encounter - we count money on people we do adverse action on - I find most people don't have more than \$2000 on them. Countries from Africa, have remarkably little money on them; tough to generalize. If Melendez is a standard (\$2500 not enough), then large percentage of aliens should be returned. I could you show flights from Africa that almost no one has a credit card or \$500. Its totality of circumstances.

J - ability to speak English?

[Redacted]

J - rpe/911 seeking training as a pilot?

[] - the idea that I thought, did not buzz us at all. Most of the M1 training for pilots came from Persian gulf; only path for becoming pilot either military or training in US.

J - what if they didn't have correct visa for activity.

[] - I think the problem here is there are some grey areas on non-immigrant visas; policy overruns specifics of law; vocational training - as time went on especially in the 1990s - people come for B1s and B2s - coming for training on a M1 purpose on a B1 or B2. Over time the line that what you could do with B1 or B2 expanded to M1 because courses (certifications) were 2-4 weeks. A blurring of certain types of B1 activities into B2.

J - would choice be made by primary to give B1 or B2 ?

[] - very often it is. Some would be admitted B1 or B2 - lot of inspectors would give them the B1.

J - forgot to ask you - who else has interviewed you re Al Shehhi admittance.

[] - OIG once -- for about 2 hours March 25, 2002 at JFK.

J - FBI?

[] - no

J - DHS -

[] - no, outside of the OIG this is the first time anyone has asked me to speak about this

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J - January 18, 2001 - entry of Al Shehhi - have your notes from DOJ IG

What was your admission stamp

- 2886 then.

J - I will show you nonimmigrant system print out, INS inspection print out - looks like they have your number - also showing the I94 for Marwan Al Shehhi and the customs declaration as well as the best photocopies from I539 application which show visa page and I-94 and basic passport information.

- have reviewed this stuff - secondary disposition, 3 admissions; claims matter - May 29, 2000, Jan 18, 2001 (mine); and third time; application for adjustments/extensions - was available at the time.

J - your admission stamp was 2886 and your positive

- this is my handwriting

Admission stamp on (I94 and customs declaration for the January 18, 2001 application.

J - do you have memory of this interview.

- yes I do - I remember where I was in secondary, 6 - 6/12;

J - did you recall him before you learned that you processed him

- no but when OIG came and I pulled this up I remembered

J - head dress, mustache

- no headdress - conventional western clothes; glasses; facial hair.

J - overall demeanor

- he was in secondary; not aggressive, 10-12 minutes I inspected him; he waited he was called; he answered questions; he spoke English well; I remember essentially problem was - did e liver here, changing that - asked purpose of trip; offered more information than I could obtain from computers - said he was here for flight training had been here before _ Huffman Aviation - and essentially my memory - he was finished with flight school - but wanted to log more hours in sky - he conveyed the idea he was finished with classes

J - did he say he had commercial license

don't remember that might have assumed that

- I remember he was from UAE, impression he had money - looked up first 2 admission - confirmed overstay - (Janice said her documents don't say that)(his admission time was until end of November, he didn't leave until January 11 and comes back January 18 - may be information didn't make it into system quickly

J - was first entry in May of 2002 b1 or b2

- b2

J - what do you do with confirmed overstay

- if I can prove it, you're going home.

J - so if that said confirmed overstay, you would have sent him home?

- Big but - here he apparently came in May 2 - he come in May 29, 2000 and is admitted until January and files for application to change status to M1 - By September he files for change of status - now at JFK and you are admitted and you file to change of status or extension of stay, you are allowed to stay until the services you a decisions - if you leave prior to decision, he would have been overstay.

J - you weren't familiar with headquarters letter that came out in August 2000, I believe by Tom Cook, that said if i539 and it is abandoned,

- does it mean you overstayed? Murky area - strange part about that ruling says here's a guy who could stay months more and would have been legal, but by leaving early becomes a 7A1.

J - that's the problem with backlog

So your caveat was that there was appending application there.

- going back before you have to in my mind is someone - argues against you being immigrant without immigrant visa. People who go back that worked in your favor because they are not aware of law.

J - not sure about that part -

you applied for extension - he said I waited months - and I went back.

Seemed reasonable to me. By seeing that he left before, and I noted that it was granted 7A1 (immigrant without immigrant visa).

J - so you took primary inspection - INS inspection results was primary inspector and she said "subject left one week ago after entry in May has extensions and now returning for a few more months."

she doesn't have access to that system - Toggling between systems (primary inspectors not supposed to do that)

J - so were basically looking to verify what was saying - looking at him as possible intending immigrant

- yes correct - checked to see if he filed extension -

Here 's somebody who filed timely, he had right to stay months more than he did; he returned to (don't remember checking to see) remember looking at his passports - in and out of his country, trip to Germany, Saudi Arabia, can't recall other European stamps. I remember asking how much money he had - had substantial amount of money - 3 credit cards - seems he had more than \$2000 maybe \$3000 (stopped counting after 2000. - didn't go through his suitcase - someti

J - do you recall looking I-94 (stamp was not and address

- I remember forms were filled out

J - did you see return ticket, flight itinerary

- no specific memory of this - if I went as far as XCLAIMS I would have looked at return ticket.

J - do you recall him showing you I-20? Did you ask for I-20 to verify his story

- don't recall if I asked for this - not really sure I saw this

J - did you ask for verification for flight school attendance

- no - I didn't have any doubt he did go to school - I didn't think he was using a change of status to remain here as a B-2. My belief he was coming back for flight 5 hours

J - did you ask him how many flight hours?

- he asked for 4 months - initially I was going to give him 3 - he seemed to have specific

J - did you ask him where he was going to get hours?

- I think I was operating on assumption that he was essentially getting private hours by instructor -

J - any verification

- don't recall asking for it

J - normal process in secondary, do you ask for pocket litter

- not in this case, I saw him open his wallet, I may have looked at business cards in pocket, make habit of looking

J - was it required at JFK to IDENT every secondary

- no - now it would be a different thing - before NSEERS - I would only IDENT if fraudulent document or thought of previous deported

J - if you had SEVIS available then, would you have checked it

- yes I would have checked especially if someone said he was going to school

J - if he said he had completed flight training

- given that, I felt he had means to do what he wanted to do, and willingness to go back to home country before he had to, I probably would have changed anything

J - how do you know of willingness to return?

- if I went as far as to pull up CLIAMS, I would have checked return ticket

J - would it have made difference going somewhere else then UAE

- a return to Frankfurt might have raised questions

J - putting this all he comes in as B2 in May 2000, he applies for I539 in September; his B2 overstays until November; get pilot license in mid-Dec. he then leaves with pending application, Jan. 11 - does not go back to home country to somewhere else - comes back Jan. 18 - pending application is then moot if he finishes schooling -

- I have no way of knowing it - if I had access to those facts - yes pending application moot. When he told me he wanted to log flight hours, I'm finished with school part, I think I presumed private lessons. But implication was that he was finished and wanted more hours. Don't know if all 4 months was for flying, but some touring.

J - so how did you figure out how to admit as B1-orB2

- I made that decision

In my case, it might have been quick way - I- he asked for a finite amount of time - why would someone ask for just a month if

J - did you ever ask whether he had M1 visa -

- I don't recall if I asked - no I believe - was he changing from B1 to M1? - I must have asked - I remember something to the effect - waiting a long time for INS and just when home.

J - anything in this case that would have sought an expedited removal? Where might

- if he had just overstayed, he would have gone for a 275 - port policy, I generally if non-fraud, non-criminal just overstay and cannot prove employment, they allow people the application - I didn't go through suitcase to look for proof of employment - counterfeit social security card - not going to get smoking gun from suitcase of educated person - if there was no extension of stay, I think it would have turned into a 275.

J - its something we are looking at - (i.e. overstaying waiting for hearing form INS)

giving example of Hungarian lady - extension of stay thing is out of control - more and more people stay in US for incredible amount of time. - if there was strict rule about this -

J - what's solution

- I think to drastically reduce the reasons for a 539 - you are hooked up to chem. Drip or in a coma -

J - in other words stay your time, if not you are an overstay

- yes - frankly you need specific guidance - legally define 7A1 - any alien who spends 80% of a 3 year period in the US should be deemed to be a 7A1 - because grey area is growing - you need some kind of rule - 212A 7A1- otherwise it comes down to everyone's judgment.

- shows something from JFK - part of reason 212A - 235A - exception - unlawful presence - comes down to if someone is lawful admitted - re rule of overstay - this language is one of the exceptions passed around JFK in training. "Arriving Aliens" - not dated - some supervisor gave it to me. His interpretation is if you file a non-frivolous application - time you spend in US after filing a 529 is not held against you.

There are some things we should stop doing - application of stay should be extremely limited.

J - is there anything I didn't ask you about this entry

- I think I covered it all - in contract to Melendez - Al Shehhi didn't give impression coming out of boot camp - he filled out forms very well, his demeanor was not aggressive or nervous, he seemed to add extra information -

J - familiar with - 2 documents here - think they came from JFK - what is a waiver
And Initial admissions on M1 Students - familiar before 9/11

- to be frank with you no; essentially waivers were routinely given at JFK (pre9/11

J - if the information you had- he said he was done with flight school and here to log more hours - so no basis for deferred inspection and granting waiver in this particular case - discretionary waiver under 212d3 -

- would he have gone the 193 given the facts? I have spoken to the supervisor -
 - if I had gone to you with these facts - do you think we would have done adverse action - he said no - and I don't think we would have asked for waiver

At JFK over the years, waivers became routine - the only time we didn't give waivers was if there were other reasons.

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I remember typically one a day – 30 a month –

J – looking for ways to get them in?

Yes

I193 given for emergent reasons only - in the last 2 years people who have gotten I1923 in are 10 instead of the hundreds given before.

– policy which has developed contrary to law – “delayed departure” – we have a visa waiver country typically older person, person is 73 and in system for being visa waiver overstay, but they have missed their flight, they have diabetes and high blood pressure – don’t want to keep them at airport for health reasons – so what they do is they do the case – you are refused entry – get visa when you get in country – but we are going to give you 20 days to see your children – technically an adverse action – but nothing in law – a JFK procedure to avoid problem where you have older person and extended family screaming at you. Nothing in the law allowing this. There is an “A” number – a file that says they are visa waiver refused – means basically you are on the next flight out. Sworn statement taken.

J – so instead of (93 waiver you are using “delayed departure” –

– it’s an end run around the I93 rules – done for purely humanitarian reasons.

J – how do you enforce it on the back end –

– basically good faith – sometimes we have had problems if health gets bad

J – Atlanta, LAX, Miami does this?

– don’t know – I believe if management at JFK – I don’t think anyone at headquarters knows of this. It tends to be done for visa waiver countries but not for other nationalities.

Never done for a Jamaican – but for Brits, Italians,

J – what changes do you seem on front line with CBP

– most impressive I have seen – that have mattered most – technology – the other thing – was the decision in 1993-94 to detain as a matter of policy everyone who asks for political asylum –

J – based on Ramsey Yousef

– probably – absurd situation where you had as many as 1000 a month asking for political asylum with bad documents or no documents, given a hearing date 3 months in the future – 95% not showing up for hearing. When they started detaining them, the

number was gong done. That and technology and huge impact on what happens at airport.

J - the guy who inspected Ramsey Youseff

- now at ICE special agent

J - summary of what you recall about incident of letting Ramsey Youseff

- RJ came in with other guy and believe had Swedish passport. Asked for political asylum don't recall details and basically was policy given appointment for a few months for hearing - never showed up - attempted to blow up WTC - and left for Pakistan. And the other guy got prosecuted for state level for bad ID and is in prison in upstate NY.

J - family with National Targeting center -

- yes

J - do you use

- very often -

J - given you info you didn't have before

- at JFK we have passenger analysis unit - a few months ago when we run into TIPOFF we call PAU and they make phone calls to various agencies - wanted to restrict flexibility in the field - call PAU let them handle it - consistent approach to terrorist lookout -

I was working ins secondary the week before I came here - we had 3 or 4 lookouts with TIPOFFs hits - lawful permanent residents - were they terrorist before lawful permanent residents - Yemen, Jordanian and maybe be Egypt? -

J - with these hits have come up - they

- they were not biometric hits they were name hits

NCIC has been available since 1990 at JFK -

J - value of US VISIT

- so far value has been mostly preventive - actually we have been getting USCISIT hits - 65 nationwide - surprising small - I think what happened - on the biometric - most of them in the first 6-7 days - I think word got out - if you are in the US and you have criminal history and immigration history - do not leave US and put your fingers - because you won't get back in - most of our action at JFK was first 5-6 days. Mind-boggling technology. My only case in secondary using it - female from Malawi - terrorist hit - she had been here in Georgia - shoplifting - issued a warrant - she got

arrested under different name and different DOB – but had fingerprints – so she got caught.

J do you use consular database (CCD)

– yes I have – and used it in Malawi case.

J – SWEVIS

– used it – its somewhat awkward – it can be improved design – content was pretty good – but problem a time lag – doesn't coordinate with state dept.

J – anything else you need to add

May need

[REDACTED]

Something which is strange flaw in INS/CBP system – way we issue replacement 551s green cards reentry permits, and refugee documents – scam – someone says illegal – knows a freeing with green card – they have friends information, DOB, etc. – the fill out I90 and submit there own photo and send it as I lost my card – the clerks will check A number – then send out a genuine 551 to illegal alien - What's the point of stopping at border and for the INS to give out –

J – you may find they are working on biomet5ircs

– yes –

on the day Al Shehhi was in secondary, at 13:55 – showed Janice all people who were in secondary on that day/time

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