

9 FAM 40.32 Procedural Notes

(TL:VISA-412; 05-17-2002)

9 FAM 40.32 PN1 Security Advisory Opinion (SAO) Procedures

(TL:VISA-175; 01-15-1998)

a. Requests for security advisory opinions must be submitted by means of a "VISAS DONKEY" telegram directed to CA/VO/L/C, and must include "DIRFBI WASHDC" as an action addressee. SAO requests on PLO officials must also be slugged for NEA and contain "KPAL" and "PLO" on the TAGS line. If the consular officer recommends that the Department seek a waiver of ineligibility from INS, the indicator "CHIPMUNK" should immediately follow VISAS DONKEY". SAO telegrams must provide a summary of all information known to post, including a complete citation of the CLASS entry (if any), as well as the consular officer's evaluation of the case and of the applicant's visa eligibility. If a waiver of ineligibility is recommended, a justification for the recommendation should be included in the SAO request. [For the "VISAS DONKEY" cable format, see 9 FAM Appendix E, 302.]

b. Posts should be aware that the SAO and waiver processes involved with INA 212(a)(3)(B) cases often require extensive coordination that takes time to complete. Once a security advisory opinion has been requested, no visa may be issued until the Department's response has been received. Whenever the Department renders an opinion that an applicant is ineligible for a visa because of terrorist activity, it will enter the applicant's name into CLASS as an INA 212(a)(3)(B) refusal using the post's country code in order to avoid any delay in watchlisting the applicant.

9 FAM 40.32 PN2 Reporting Dates of INA 212(a)(3)(B) Refusals

(TL:VISA-175; 01-15-1998)

When the Department renders an advisory opinion that an applicant falls within the purview of INA 212(a)(3)(B), and when a waiver of ineligibility is either unavailable or is not recommended or granted, the consular officer should expeditiously complete action on the case by formally denying the visa in accordance with the procedures described in 9 FAM 41.121. The officer must then promptly advise the Department of the date the visa was refused to enable the Department to comply with its legislative mandate to report such cases to the appropriate Congressional committees.

9 FAM 40.32 PN3 VISAS VIPER Reporting Procedures

(TL:VISA-182; 12-04-1998)

The Department's objective is to facilitate VISAS VIPER reporting to the extent possible consistent with meeting the following requirements:

- (1) That all available identifying and derogatory information be provided; and
- (2) That the reports receive the distribution necessary for alerting interested agencies and for watchlisting the subjects.

9 FAM 40.32 PN3.1 Preparing VISAS VIPER Telegrams

(TL:VISA-182; 12-04-1998)

a. VISAS VIPER telegrams should be slugged for INR/TIPOFF and CAVO/L/C and must be addressed to the following agencies: "SECSTATE WASHDC, DIRFBI//INTD/CTS//, INS/HQINT WASHDC, US CUSTOMS SERVICE WASHDC/INTEL". Other posts having jurisdiction over the subject's place of nationality or residence, or over the area in which the subject, or the subject's group has been active, should normally be included as info addressees. The VISAS VIPER code indicator should appear in the caption line and the first paragraph of the telegram, and the following TAGS should be used: KVPR, PTER, CVIS, PINR, ASEC, (Country TAG).

b. VISAS VIPER telegrams should ideally be prepared in accordance with the model format provided in 9 FAM Appendix E, 302, although flexibility is permitted. [See 9 FAM 40.32 PN3.3.] At posts' discretion, multiple names may be submitted in a single telegram. The cable should provide all identifying data available regarding the subject(s) as well as a detailed recitation of the derogatory information known to post, including the identification of any terrorist groups with which the subject may be affiliated.

c. Finally, VISAS VIPER telegrams should include a(n):

- (1) Evaluation of the credibility and applicability of the information submitted;
- (2) General description of the source, and
- (3) Assessment of the source's reliability.

9 FAM 40.32 PN3.2 Classification and Handling

(TL:VISA-182; 12-04-1998)

VISAS VIPER telegrams should, of course, be classified at an appropriate level and assigned appropriate telegraphic precedence. In a classified VIPER telegram, the portion containing the subject's name, date and place of birth, nationality, and passport number should remain unclassified. Such data will likely be entered into the unclassified CLASS and IBIS lookout systems. All other information provided is maintained by the Department and protected according to its classification. The use of the ROGER channel should be avoided when sending VISAS VIPER telegrams, since telegrams so transmitted require special handling that delays their processing.

9 FAM 40.32 PN3.3 Dual Purpose Reporting

(TL:VISA-412; 05-17-2002)

The Department recognizes that counterterrorism reporting, particularly that initiated by other sections or agencies, often has purposes other than, or in addition to, watchlisting the individual in question. For this reason, and to obviate the need for duplicate reporting, posts are not required to precisely follow the *VISAS VIPER* model format shown in 9 FAM Appendix E, 302. As long as the telegram contains the "KVPR" TAG and the "VISAS VIPER" code indicator, the addressees listed in 9 FAM 40.32 PN3.1, and provides complete information regarding the suspected terrorist's identity and activities, it will receive appropriate distribution and be processed by the TIPOFF/VIPER staff.