

Siskind's Immigration Bulletin
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SSHD serves immigration clients throughout the world from its offices in the US,
Canada and the People's Republic of China. To schedule a telephone or in-person
consultation with the firm, go to <http://www.visalaw.com/intake.html>. Editor: Greg
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1. Openers

Dear Readers:

This week we have an article that is "off the beaten path." Usually we just publish the news and the occasional opinion piece on immigration law. But a couple of weeks ago I wrote a short opinion piece in this column describing what I thought was an unfair story on CNN about the H-1B visa. The publisher of an anti-H-1B visa web site and newsletter mentioned (in a not so kind light) my comments, and I received several letters from people holding similar views. I responded to one letter which was copied to the said publisher and we ended up having an online debate on the H-1B visa. Our discussion is included - uncensored - in this newsletter. Despite having to respond to several personal attacks, the discussion was relatively civil and I think readers will find it interesting.

In this week's ABCs of Immigration feature we describe the new US VISIT entry/exit system. The new program, scheduled to go into effect next year, will revolutionize how visitors to the US are screened and tracked after entering this country.

In firm news, I received word today that I am being appointed by Palma Yanni, the President-elect of the American Immigration Lawyers Association, to chair the organization's Physicians Committee. In this position, I'll head up a committee charged with addressing immigration issues affecting foreign medical graduates in this country. I know that a significant number of AILA members read this publication as well as others who may have an interest in the work of this committee and I welcome feedback on what you think the committee's priorities should be this year. I'm looking forward to a busy year working on this important AILA committee.

We also learned that in her testimony before Congress, AILA President-elect Yanni also cited one of our cases as an example of the extreme difficulties small businesses are facing today as a result of long backlogs at the BCIS and State Department. We'll be reporting more on those hearings in our next issue.

Finally, as always, we remind readers that we're lawyers who make our living representing immigration clients. We would love to discuss becoming your law firm. Just go to <http://www.visalaw.com/intake.html> to request an appointment or call us at 800-748-3819 or 901-682-6455.

Regards,

Greg Siskind

2. The ABC's Of Immigration – US VISIT

Q: What is the U.S. Visit Program?

A: US VISIT stands for United States Visitor and Immigrant Status Indicator Technology. It is an automated entry/exit system that follows a series of data based model systems intended to track and identify immigrants and non-immigrants who come to work, visit or live in the United States.

As of October 1, 2002, passenger arrival and departure information on individuals entering or departing the U.S. under the Visa Waiver Program has been electronically collected from airlines and cruise lines, through the Bureau of Customs and Border Protection's (CBP) Advanced Passenger information System.

US VISIT combines elements of the Student and Exchange Visitor Information System, or SEVIS, designed to let university officials electronically update the government on changes in the status of their international students and the National Security Entry Exit Registration System (NSEERS).

According to the Department of Homeland Security, when the US VISIT system is fully implemented, it will provide the information necessary to account for nearly all temporary foreign visitors in the U.S. Any remaining elements of NSEERS, such as port of entry arrival registration, will become part of the US VISIT System.

Q: Who created the U.S. Visit Program?

A: The Secretary Department of Homeland Security in consultation with the Secretary of the Department of State.

Q: When will it be effective?

A: It will be effective January 1st of 2004.

Q: How does it work?

A: When a foreign visitor comes to the U.S. through an international airport or arrives at a U.S. seaport, the visitor's travel documents will be scanned. Then once a photo or a fingerprint is taken, the person will be checked against lists of those who are to be denied entry for any reason (terrorist connections, criminal violations or past visa violations). The information required will include immigrant and citizen status, nationality, the country of residence, and the person's address while in the United States.

When the visitor departs, his or her identity will be verified and the Department of Homeland Security will know if that person entered legally or may have stayed illegally.

Q: How will the program be managed?

A: The Department of Homeland Security is establishing a new compliance office. This team of compliance officers will review US VISIT information and refer the information, when appropriate, to criminal investigators. This information will also be made available to inspectors, agents, consular officials and other government officials. Law enforcement will also have access to the information, but only for strictly defined and limited purposes.

Q: What is the purpose of the US VISIT program?

A: According to DHS, one of the main purposes of the US VISIT program is to help the government in its immigration enforcement efforts. Newer visas contain biometric features that will enable the Department of Homeland Security to identify visitors when they arrive at an airport or seaport and to access the information about

that visitor. This information will be available at the ports of entry as well as throughout our entire immigration enforcement system. Through this virtual border the Department of Homeland Security will have an easier time tracking immigration violations.

The US VISIT system was designated to collect, maintain, and share information, including biometric identifiers through a dynamic system to determine if an individual: a) should be prohibited from entering the U.S. b) can receive, change, or adjust their immigration status c) has overstayed his or her visa d) needs special protection.

A fact sheet on the US VISIT program is available on the DHS website at <http://www.dhs.gov/dhspublic/display?content=736>

3. Ask Visalaw.com

If you have a question on immigration matters, write Ask-visalaw@visalaw.com. We can't answer every question, but if you ask a short question that can be answered concisely, we'll consider it for publication. Remember, these questions are only intended to provide general information. You should consult with your own attorney before acting on information you see here.

Q - Hello, I was wondering how long it takes to clear FBI background check after citizenship interview. I had my interview in October and was told that my application is still waiting clearance from the FBI.

A - The backlogs are an enormous problem and we have a large number of cases in our office waiting about as long as yours. The BCIS is silent about this, the American Immigration Lawyers Association is working busily to try and get the system un gummed and Congress is holding hearings to get to the bottom of this. So I really can't give you a clear answer. Sorry about that.

Q - I am from Somalia and I just needed to travel to the USA in order to study there. How can I reach there if I live my country?

A - I'll be honest in telling you that getting a student visa will not be easy. Somalia's ongoing state of chaos will certainly factor negatively when you attempt to convince a consular officer that you will go back to your country when your studies are over. However, if you do wish to try, you would first want to get admitted to an educational program in the US, get an I-20 form and then apply at a US consulate for an F-1 or M-1 student visa. For more information on student visas, read the articles on the subject on our web site at www.visalaw.com/abcs.html.

Q - I am a foreign student who just finished mathematics as a special student. I am accepted by XYZ University, a Jesuit (a Roman Catholic religious order) college for a PhD in Economics. I am also a Jesuit.

My problem is that my transfer from ABC College to XYZ University cannot be made.

1) I was issued I-20 by a American Jesuit School of Theology, to pursue Theology of Ministry which I completed on 17th May 2002. At the moment, I did not keep my own copy of I-20 issued by that school because I threw it away once I got a new I-20 from ABC in June 2002 to study mathematics at ABC.

2) I began mathematics at ABC College in June with a new I-20 issued by ABC on 19th June 2002. After the summer session, I planned to travel to Canada, the Niagara Falls in the beginning of August, therefore I asked the assistant dean at ABC whether I needed her signature on the I-20 in order to travel outside the US. She answered that I did not need her because I had a new I-20. It would be not problematic if I went outside the US and came back with a new I-20. So I had been Canada with the new I-20 by ABC, but on the way back to the US, immigration officials did not do anything else on my I-20 (which ends 8/31/2003) and I started my studies of mathematics as a special student which I finished this May, 2003. I did not pay attention to official's negligence at that time since I did not know what it meant.

3) I had another chance to go to Canada last March, 2003, so again I went to visit the ABC assistant dean to get her signature. I mentioned that the immigration official did not take any measure on my I-20 and she found my I-20 ran into a problem. Once my I-20 was not processed, she consulted with her office's lawyers and decided to reissue a new I-20 dated 25th February 2003. She asked me to ask immigration officials on the border to get my I-20 processed. Accordingly I did, but again immigration official did not get my I-20 processed.

4) Last April I got accepted by XYZ for PhD program in Economics starting this August 2003. After finishing my studies at ABC, I asked the assistant dean at ABC to take necessary steps for me to move to XYZ.

5) I completed my studies at ABC and am trying to spend this summer in the US rather than going back to my home country. I have an interview appointment with the American Embassy in Ottawa on 9th June.

6) XYZ will issue me with I-20 next week before my journey to Canada.

My questions are:

1) In this case, am I out of status?

2) Do you think my case is arguable in the Embassy, if necessary? I did not do any wrong, I believe.

3) Which do you suggest to me between application in Canada and in my home country?

4) Do you think it better for me to get a letter of account as to what happened to my I-20 by the ABC international students official for the interview in Canada?

5) Any other suggestions?

A - I don't think you are out of status. I suspect that because you came back on the same I-94 from Canada within 30 days of leaving the US, nothing needed to be done for you to reenter. Not positive about this and I am copying a colleague who deals with these type of student issues daily.

[My buddy Arda Beskardes at the University of Memphis was kind enough to assist with this question]

Mr. Siskind is correct: if your first I-20 matches the school mentioned on your visa, and if you attended that school for at least one semester, then you should be okay, and not out-of-status. The problem is you do not have your initial I-20. You should find at least a copy of that before applying for a visa. Contact your first school in the US as they should have kept a copy.

In situations like yours, it is too hard to determine whether or not you're out of status without seeing your entire file. Therefore, my opinion above is based on the information that you outlined. However, if you're not out-of-status, it really does not matter whether you apply in Canada or your home country. Finally, the advisors at XYZ are very experienced, and because they are more familiar with your immigration history, you really should rely on their advice.

Q - What is the difference between H-1B labor condition applications (LCA) and the permanent labor certifications for green card petition?

A - They are completely different applications that have similar sounding names. The LCA is only to verify the wage and general working conditions with the employer. The labor certification application is the form that is used when documenting that American workers are not available to fill a particular position.

Q - 1. Visa status of husband:f1; visa status of spouse:f2. I would like to know that if the baby is born as an American citizen [and is few months old] and then stays in parents home country what are the legal requirements to be fulfilled to maintain its American citizenship status?

2. If the baby is an American citizen can the mother apply for a green card and what are the chances of its acceptance?

A - If the baby is born in the US, the baby is always going to be a US citizen and need only apply for a passport. But the mother will get no immigration benefits until the child turns 21.

Q - Regarding a question in your May 30th issue...

"Q - Hi! I am currently a H1 B holder whose green card application is in process. My question is once I get my EAD am I restricted to working with my current employer or do I have the option to change jobs before I get my Green Card?"

"A - The law allows someone who has had an adjustment application pending for more than 180 days to switch employers if the new job is in the same or a very similar occupation. That sounds straightforward, but there are no BCIS guidelines here so you will want to be VERY cautious lest you get a BCIS examiner who takes a very narrow view of the law."

Does this answer only pertain to employer-sponsored adjustment of status cases? My wife is an H1B adjusting status to legal permanent resident. I am sponsoring her. She has not left her company, but I thought that when she got her EAD should could work any job for any company. Is that incorrect?

A - For family-based adjustment cases, this does not apply. She can work for any employer she likes on her EAD and need not stay with one for any particular length of time.

Q - I was on J1 visa then moved to F1 visa. I am waiting now to get my J1 waiver. My question is do I have to go out of the USA to change my status to H1B after I get my waiver. I am now F1 visa type but I was on J1.

A - Once you have the waiver, you can change to H-1B status from within the US.

Q - I hope you can give me an answer to this scenario. A U.S. citizen father petitions for his married daughter. The daughter has three children that can also benefit from the petition, as derivative beneficiaries, just like the spouse.

One of the three daughters marries, and three years later becomes an American Citizen by virtue of being married to an American Citizen. She wants to immigrate her parents as immediate relatives but is concerned that the her brother and sister will loose their chance to immigrate.

What do you suggest she should do? The priority date for her mother, based on her fathers petition will probably take another three years to become available. Her mother is from the Philippines.

A - The married daughter's concerns are valid. A child who petitions for her parents cannot bring her siblings in under the same petition. So you will have to either stick to the current petition (assuming the kids will remain under 21 until the priority date becomes current) or find another visa strategy.

Former Immigration and Naturalization Service Commissioner James Ziglar said the US VISIT program, designed to track the arrival and departure of foreign visitors to the country, would have little impact on national security.

"If the idea is that this is going to stop terrorists from coming into the country, it's not going to accomplish that - although it may have some beneficial deterrent effect," Ziglar said.

Government raids such as the recent one at Champion Safe are not a high priority of the Department of Homeland Security, according to Steve Branch, Utah's top BICE officer. The Bureau of Immigration and Customs Enforcement held an outreach meeting last week to explain the agency's priorities to the community. Branch said if an employer is found to have workers with fraudulent documents, a raid is not necessarily imminent. Fighting terrorism and promoting national security are BICE's highest priorities, Branch said, but employers will be expected to comply with federal laws by releasing workers when violations are discovered.

The bodies of three Mexican nationals were found this week inside a rail car in Texas' Harris County. Officials said the dead were among a group of five or six who jumped into the empty rail car, a "hopper" that loads from the top, and were too weak to escape. The others fashioned a rope out of clothing and climbed out. The discovery brought the total of immigrants' bodies found this year along the Southwest border to 120. Border officials said the government will dispatch 150 additional Border Patrol agents and a new surveillance aircraft in order to help prevent such tragedies and perform rescue operations when necessary.

Norman Manroe, a Jamaican native and associate of DC-area sniper suspect John Allen Muhammad, was sentenced to 15 months in prison on immigration and passport violations. Manroe pleaded guilty to passport fraud and illegal re-entry, and officials say they believe he may have provided Muhammad with information on illegally obtaining passports.

Mexican Interior Minister Santiago Creel said police would continue to crack down on smuggling rings and work together with US agents to stop human trafficking. This week Mexican police at the Arizona border arrested 27 "coyote" suspects and 581 migrants attempting to cross into the United States.

"We will not, of course, let our guard down at any time or in any part of our national territory," Creel said. "We cannot forget we are talking about organized crime."

State Department officials who oversee the refugee program say more than 20,000 refugees approved for resettlement in the US remain stranded in holding camps overseas as they wait on a backlogged security clearance process. Officials say they

are working to speed things up for the refugees and say, although admission numbers are up over last year, they are still far below normal. In the last fiscal year, only 27,000 of the 70,000 expected refugees actually arrived.

"It's proving to be an immensely slow process and it is taking a tremendous toll in human terms," said Kathleen Newland, a director of the Migration Policy Institute advocacy group. "There are literally tens of thousands of people who have been accepted to the United States who are living in limbo in very harsh conditions."

Two illegal immigrants pleaded guilty last week to using fake documents to obtain jobs at a Sikorsky Aircraft Corp. subcontractor. Yaddy Agudelo and Omaira Hincapie are among 20 people who were named in a federal investigation of the company's workforce. Another man, Rafael Nava, was sentenced to five years probation for using fake alien registration cards.

5. News From The Courts

Jorge Esparza-Mendoza, a national of Mexico, filed a motion to suppress under the Fourth Amendment, seeking to suppress his identification card and his identity and all information related to his prior deportation. He also sought to suppress incriminating comments he made to the arresting officer and the Immigration and Naturalization Services (INS) agent. The United States District Court for the District of Utah, Northern Division, found that Esparza-Mendoza was not in the community protected by the Fourth Amendment and denied the motion.

Esparza-Mendoza entered the United States illegally around March 1997. He was convicted of felony possession of cocaine in a state court in Utah on April 19, 1999. He waived an opportunity to contest the deportation and the INS ordered that he be removed with instructions that his return to the country would result in criminal consequences.

Later, Esparza-Mendoza again entered the country illegally. Following an altercation between two other people, an officer requested to see Esparza-Mendoza's identification although she did not believe that he had committed any crime. He reluctantly offered his identification. A quick check led the officer to realize his status and that there was a warrant on him if he re-entered the country. The officer then detained Esparza-Mendoza and the United States charged him with illegal entry.

The court rejected the government's claim that Esparza-Mendoza was not detained. Following *INS v. Delgado*, 466 U.S. 210, 217 (1984), when the Supreme Court stated it would find a detention "if the [questioned person] refuses to answer and the police takes additional steps...to obtain an answer." The court held that here, Esparza-Mendoza refused to answer and the police officer took the additional step of directing him to answer. The court also held that there was no reasonable suspicion by the officer, which is the only appropriate reason for detention. The court found that Esparza-Mendoza was detained without reasonable suspicion, and therefore, in violation of his Fourth Amendment rights.

Since ruling on the suppression of individual claims would not fully resolve the case, the court confronted the threshold issue raised by the United States of whether Esparza-Mendoza, as a previously removed illegal alien and aggravated felon who illegally re-entered the United States, belongs to the community of person covered by the phrase “the people” in the Fourth Amendment. The Amendment protects “the rights of the people to be secure in their persons, houses, and effects, against unreasonable searches and seizures...”

The Supreme Court precedent, United States v. Verdugo-Urquidez, 494 U.S. 259 (1990), determined that “the people...refers to a class of persons who are part of a national community or who have otherwise developed sufficient connection with this country to be considered part of that community.” Yet, the decision was not without controversy, with some courts feeling that the language of the opinion was too broad to follow. However, the court said that the language was so intertwined in the controlling opinion that it must apply the “sufficient connection” test to determine the rights of Esparza-Mendoza.

The court then differentiates between “the people” and other references to persons in other amendments. To back up this theory, the court relies on a law review article by Akhil Reed Amar, which indicates that “the people” is a reference to prospective jurors, voters, and others who are sufficiently attached to the political community. Akhil Reed Amar, The Second Amendment: A Case Study in Constitutional Interpretation, 2001 Utah L. Rev. 889, 892-93; see also Akhil Reed Amar, The Bill of Rights: Creation and Reconstruction 64-77 (1998).

Esparza-Mendoza chose to not present any evidence, such as employment records, at the trial to indicate his ties to the country. The court therefore held that he was not “sufficiently attached” to the community to gain Constitutional rights, including those guaranteed under the Fourth Amendment.

6. Government Processing Times

There are no new processing times available this week.

7. News Bytes

Wednesday was the deadline for eligible immigrants to apply for an adjusted immigration status under the Legal Immigration Family Equity Act (LIFE) legislation. The Bureau of Citizenship and Immigration Services said 412,000 people had applied by the end of April. The BCIS approved 300,000 applications and denied 61,000.

As reported this week in the New York Times, the government has used fees collected from H-1B visa applications since 1998 to fund \$228.5 million in grants given to educational institutions and work force programs training American workers to fill the positions for which foreigners are recruited. Employers of foreign workers

are charged a \$1,000 fee for each H-1B visa application, and the money goes to a national pool that funds educational training programs.

Last year the government issued 63,000 H2B visas, just under the 66,000 yearly limit, according to a report in the Philadelphia Inquirer. The H2B program provides temporary or seasonal visas for unskilled, nonagricultural jobs, such as landscaping and construction.

The BCIS is seeking comments from the public on four application forms: Form I-191, application for advance permission to return to unrelinquished domicile; Form I-566, interagency record of individual requesting change/adjustment to or from A or G status or requesting A, G or NATO dependent employment authorization; Form I-352, immigration bond; and Form N-470, application to preserve residence for naturalization. For more information or to review the requests, you can view the section of the June 4 issue of the Federal Register dealing with the BCIS online at http://www.access.gpo.gov/su_docs/fedreg/a030604c.html#Citizenship%20and%20Immigration%20Services%20Bureau

The American Immigration Lawyers Association has issued what it calls a "new jargon alert" to inform members that the Department of Homeland Security is using the term "legacy INS" to describe the agency that was known as the Immigration and Naturalization Service and to denote employees who were formerly INS officials.

A summary of the Student and Exchange Visitor Information System (SEVIS) government update session at the NAFSA conference in Salt Lake City has been posted on the NAFSA SEVP web site at <http://www.nafsa.org/content/ProfessionalandEducationalResources/ImmigrationAdvisingResources/sevisupdateSLC.pdf>

This week the Senate held a confirmation hearing for Michael J. Garcia, who is Acting Assistant Secretary of the Bureau of Immigration and Customs Enforcement (BICE) and was nominated to fill the permanent position. Garcia was formerly designated Acting Commissioner of the Immigration and Naturalization Service (INS) and was named Acting Assistant Secretary of DHS for Immigration and Customs Enforcement during the transfer of INS functions to the Department of Homeland Security. In 1993, Garcia held the office of Assistant U.S. Attorney and was one of the prosecutors assigned to lead the investigation into the 1993 attack on the World Trade Center.

"If confirmed, I will continue to implement the [Homeland Security] Act, consistent with its intent, and will remain focused on its overarching mission of providing greater security to our country," Garcia said.

BICE announced the appointment of interim field managers for local offices this week. Below we list the local areas and the names of those appointed.

Detroit Area

Investigations Office Special Agent-in-Charge - Michael Hodzen
Interim Field Office Director for Detention & Removal - Roy Bailey

Buffalo Area

Investigations Office Special Agent-in-Charge - Peter Smith
Interim Field Office Director for Detention & Removal - Bill Cleary

Atlanta Area

Investigations Office Special Agent-in-Charge - John Chakwin
Interim Field Office Director for Detention & Removal - Fred Alexander

Tampa Area

Investigations Office Special Agent-in-Charge - Steven Trent

New Orleans Area

Investigations Office Special Agent-in-Charge - Michael Holt
Interim Field Office Director for Detention & Removal - Craig Robinson

San Juan Area

Investigations Office Special Agent-in-Charge - Roberto Medina

Newark Area

Investigations Office Special Agent-in-Charge - John Torres
Interim Field Office Director for Detention & Removal - John Carbone

Baltimore Area

Investigations Office Special Agent-in-Charge - Allan Doody
Interim Field Office Director for Detention & Removal - Calvin McCormick

Miami Area

Investigations Office Special Agent-in-Charge - Jesus Torres
Interim Field Office Director for Detention & Removal - John Mata

New York Area

Investigations Office Special Agent-in-Charge - Martin Ficke
Interim Field Office Director for Detention & Removal - Edward McElroy

Washington, DC Area

Investigations Office Special Agent-in-Charge - Kevin Delicolti
Interim Field Office Director for Detention & Removal - George Sullivan

Investigations Office Special Agent-in-Charge - Robin Avers
Interim Field Office Director for Detention & Removal - Bruce Chadbourne

In the Netherlands, seven of 12 immigrant men acquitted Thursday of recruiting volunteers for Islamic jihad are still being detained because they were illegal residents at the time of their arrest. The government said the men would be deported. The prosecutor in the trial alleged that the suspects were members of a criminal gang helping to recruit and train volunteers for holy war against the West.

Canada's Immigration Department has asked the cabinet to give the agency exemption from provisions of the country's access-to-immigration law. Immigration officials want greater ability to keep information secret by obtaining "investigative body" designation for its enforcement and intelligence branches, authorizing them to keep records off-limits for 20 years. In his annual report issued this week, Information Commissioner John Reid said the Immigration Department's request was just another barrier to public access, and that it would contribute to "a deeply imbedded governmental culture of secrecy."

The United Arab Emirates have informally extended general amnesty for illegal immigrants following a request by embassies. It is the second extension of amnesty and would pardon those in the country illegally and allow them to leave without punishment until the end of the month. The original deadline was April 30 and was pushed back 30 days in order to process a last minute rush.

Australian Immigration Minister Philip Ruddock has been under intense scrutiny this week, answering questions about three separate cases of migrants who were granted visas after giving money to the Liberal Party. The latest story involves Dante Tan, a Filipino, who gave \$10,000 to Ruddock's 2001 election campaign and was later granted reinstatement of his business visa. Tan is wanted a wanted man in his native Philippines on insider-trading allegations that contributed to the resignation of Filipino President Joseph Estrada.

9. Legislative Update

The following bill was recently introduced in Congress:

- HR 2364, sponsored by Rep Eliot Engel [NY-17] (introduced 6/5/2003), to amend the Immigration and Nationality Act in regard to Caribbean-born immigrants.

<http://thomas.loc.gov/cgi-bin/query/z?c108:H.R.2364:>

To see what immigration-related legislation is pending in Congress, visit our legislative chart at www.visalaw.com/advocacy.html.

10. BCIS Announces New Change-of-Address Telephone Service

Naturalization applicants can now convey their change-of-address to BCIS through a new toll free number—1-800-375-5283. BCIS, the Bureau of Citizenship and Immigration Service, claims to be working on improving customer service and naturalization processing and has indicated that the new toll-free number is one example of this effort. The BCIS believes it will ensure that applicants for naturalization who change addresses will still receive information about their cases in a timely manner.

This new service will reduce the workload caused by written change-of-address forms sent to BCIS. At times, applicants do not receive a BCIS notice because it was sent to the old, wrong address. This results in applicants losing their place in the processing queue or being denied naturalization because they did not respond to a BCIS notice. Use of the toll-free number will allow change-of-address information to be sent to BCIS more expeditiously.

Applicants who have previously submitted a written change-of-address should call the new number in order to confirm that BCIS has the correct address on file. If BCIS has the wrong address, it will rectify any past actions—such as rescheduling an interview, fingerprinting, oath ceremony, reopening a case that was denied, etc. — that were based on an incorrect address.

The new automated service is available Monday through Friday from 8:00 a.m. to 6:00 p.m. at the caller's local time (except for Alaska, which is operated from 8 a.m. to 5 p.m.; Hawaii, which is offered from 8 a.m. to 4 p.m.; and Puerto Rico and the Virgin Islands, which are available from 9 a.m. to 6 p.m.), and is accessible for both English and Spanish speakers. Callers will need to give their name, alien number, date and country of birth, as well as their old and new mailing address.

11. Inspector General Report Criticizes Justice Department's Treatment Of Immigrants After 9-11

The Office of the Inspector General criticized the Department of Justice this week with the release of a report describing the problems encountered by illegal immigrants after the Sept. 11 attacks.

The detailed report made fears into reality for some members of Congress and civil rights groups who worried about the extent of the post-Sept. 11 roundup and the individual rights that may have been trampled.

"While our review recognized the enormous challenges and difficult circumstances confronting the Department in responding to the terrorist attacks, we found significant problems in the way the detainees were handled," said Inspector General Glenn Fine.

In the 11 months after the attacks, 762 aliens were detained in connection with various immigration offenses, including overstaying their visas and entering the country illegally. The inspector general examined the treatment of these detainees,

including their processing, bond decisions related to them, the timing of their removal from the United States or their release from custody, their access to counsel, and the conditions of their confinement.

The report provides detailed accounts of how many immigrants were held without being charged for long periods of time, denied bond, prevented from obtaining counsel, and physically and verbally abused.

The main focus of the report was the Federal Bureau of Prisons' Metropolitan Detention Center (MDC) in Brooklyn, NY, and at the Passaic County Jail (Passaic) in Patterson, New Jersey. These two facilities were chosen because they housed the majority of detainees and received most of the complaints of mistreatment.

According to the report, 84 inmates who were held in the Brooklyn detention center were subjected to highly restrictive, 23-hour "lockdown," limited to one phone call a week, and were placed in leg irons and heavy chains any time they moved outside their cells.

The inspector concluded that F.B.I. officials, particularly in New York City, "made little attempt to distinguish" between immigrants who had possible ties to terrorism and those swept up by chance in the investigation. The report also indicated that some lawyers for the Department raised concern over the legality of the tactics being used only to be overridden by senior officials. Also, the report offers the most detailed picture to date of who was held, the delays many faced in being charged or gaining access to a lawyer, and the abuse that some faced in jail.

The report showed that nearly three of every four jailed immigrants were from New York City or New Jersey, many were Pakistanis, and most were arrested within three months of Sept. 11.

Had it not been for the attacks, "most if not all" of the arrest would probably have never been pursued, the report said. Some illegal immigrants were picked up at random traffic stops, others because of anonymous tips that they were Muslims with erratic schedules, officials said.

The spokeswoman for the Department of Justice said, "We make no apologies for finding every legal way possible to protect the American public from further terrorist attacks."

Prior to Sept. 11, the Immigration and Naturalization Service had 24 hours to decide about charging an illegal immigrant, but six days after the attacks, the Department of Justice gave itself an indefinite time period because of the "extraordinary circumstances." The average wait for those housed in Brooklyn to be notified of charges against them was 15 days. Some detainees waited for over a month to find out their charges.

Jeanne Butterfield, Executive Director of the American Immigration Lawyers Association (AILA), said, "The DOJ needs to stand up, explain what it did, and take responsibility. The agency's actions threaten our fundamental Constitutional guarantees and protections that set our nation apart from others. Our government must not trample on the Constitution and on those basic rights and protections that make American democracy so unique."

Attorney General John Ashcroft faced tough questions about the treatment of the detainees at a forum on Capitol Hill. He defended the department's actions and said that any claims of abuse would be investigated.

Ashcroft also called on the committee to allow his department broader powers to fight terrorism by expanding the USA Patriot Act, which some have criticized as an assault on civil liberties. Ashcroft asked for new authority to hold suspected terrorists indefinitely before trials and to let him seek the death penalty or life imprisonment for any terrorist act which kills Americans. He also wanted to ensure that individuals who train with a terrorist organization can be more easily charged with a crime.

A summary of the report can be viewed on the DOJ website <http://www.usdoj.gov/oig/special/0603/press.htm> or the full report can be accessed in pdf format at <http://www.usdoj.gov/oig/special/0603/full.pdf>

12. Point – Counterpoint: Greg Siskind v. Rob Sanchez On The Immigration Debate

Last week in my Openers I said we would print a letter exchange that resulted from recent comments I made criticizing an unbalanced CNN report on the H-1B cap debate. Below you will find my correspondence with Rob Sanchez, the publisher of the anti-H-1B visa website www.ZaZona.com. There is no censorship here and Mr. Sanchez's letter is printed in its entirety. My letter appears first, followed by a transcription of Mr. Sanchez's message.

June 6, 2003

Dear Rob -

Not surprisingly, I disagree with nearly everything you have to say (with a couple of minor exceptions that I discuss below). I'll address your points one by one:

"I'm not sure why you think I discredited you by describing you as a rich immigration lawyer. Being rich is admirable but of course only if the wealth was obtained by noble means. You made your wealth aiding companies to replace American workers with the cheap young blood of indentured foreign labor. You and the rest of your AILA ilk are sorry examples of how to get rich. I hope your kids don't emulate you."

You have no idea what I charge for my services or at what income level I am. Perhaps it would surprise you if I told you that I am making a financial sacrifice practicing immigration law. I graduated from the University of Chicago Law School 13 years ago. Since this is one of the top law schools in the country, it should not surprise you that many of my classmates are partners at some of the most prestigious law firms in the country earning enormous salaries. Most of the immigration lawyers I know are in this practice area because they want to help people and find the work interesting. I started my practice working with a large law firm handling mergers and acquisitions. I left a secure practice and opened up a solo

immigration practice after just four years because I felt immigration law was my calling. I believe immigrants make a net positive contribution to the economy and felt that working in this area was serving the country. I also have specific religious and cultural reasons for doing what I do (more on that below). My passion for this practice area is why I remain a lawyer today. I won't hide that I am interested in making a good living and I'm proud to be an entrepreneur thriving under our free market system.

As for my kids, I'm proud of what I do and would be thrilled if my children one day went into this same profession. One of the biggest thrills I had this year was having the opportunity to go to my child's school and talk to her class about my job.

"Your contention that I'm hostile to capitalism illustrates your confusion about the rules of capitalism. The formation of the corporation or company is a right given to individuals by governments. Governments have an inherent right to control the conduct of those businesses. Companies are required to have a "license" to do business in the USA, which is granted, by an individual state. Conducting business without a license is illegal or unlawful behavior and is banned behavior. Businesses are not free in any nation in the world to do whatever conduct it wants without accountability to the government entity."

Actually, you are the one confused about capitalism and liberty.

Capitalism's one basic rule is that market forces rule. Every time a government imposes limits on the free market, they are diluting capitalism. Libertarianism represents one end of the spectrum. Socialism is at the other. The more governments interfere in free markets, the further you move along the spectrum toward socialism. Certain limits are imposed on the market (even under libertarianism) such as regulating pollution or barring the export of weapons to terrorists. But what you advocate is protectionism for US labor markets. As a libertarian, I find this abhorrent. There is no national security justification for imposing domestic content rules in the labor market. We have been moving away from such rules for decades in terms of the amount of American-made content in goods produced in this country. Labor is another component of production just like raw materials.

By the way, licensing businesses is done in order to tax businesses. I personally think we should keep taxes and the regulation of business by the government to a minimum. You apparently think businesses are there to be punished.

America has the world's most successful economy because our markets are freer than in any other country. Just compare it to the economies of Europe. European companies are much more regulated than their American counterparts. And their historical rates of unemployment and their costs of living are much higher than in the US. Any economist worth their salt will confirm that freer economies thrive and overregulated economies lag. The goal of your organization is to protect American workers. But your willingness to impose more limits on American companies will only result in higher overall unemployment. You are cutting off your nose to spite your face.

"Capitalism doesn't give you a license to get rich. Laissez-faire capitalism without restraints from national governments was severely discredited long ago as being brutal, inhumane, and immoral by major religions such as your

own Jewish faith. Without restraints from nation states, economic systems are almost entirely outside democratic control, meaning that most people end up having almost no self-determination, vulnerable to the whims of the tiny few in the world who hold the power and the money. Capitalism and free-market systems have been wonderful advances for human kind, but only when they are fettered by democratic control by the people of nations."

Actually, capitalism does give you a "license" to get rich. The dream of getting wealthy is what is at the heart of being an entrepreneur in this country. When a government takes away the incentive of getting rich, economies spiral downward. That is the reason why the Soviet Union fell. It is the reason why the entire country of North Korea is starving.

As for my Jewish faith, I am offended by your lecturing me on this subject and would suggest you stick to what you know. Immigration restrictionists like yourself had the influence to get this country to shut down its border in the 1920s. And that is why dozens of my family members and my wife's family members were unable to escape murder by the Nazis during the Holocaust simply because they were Jewish.

My great-grandparents were fortunate enough to escape the oppression of the czars and come to this country with the dream of living in freedom and providing a refuge from generations of poverty. They came to America because they wanted good jobs in a free country. Their siblings who decided to stay on and care for older relatives or simply to wait to earn more money lost their lives when it was too late to get a visa to come to this country after the Nazis came to power.

My wife's father and grandparents came to this country as refugees immediately after the war. In fact, they entered as some of the first refugees under the UN Refugee Convention which was passed in order to ensure that the world would never again close its borders like they did during the Holocaust. I consider my work to be important in order to ensure that we never go back to those awful days when we slammed our doors on those seeking the refuge of our shores or simply a better life in this country.

My family and I attend an Orthodox synagogue, we keep Kosher, my children attend a Jewish day school, and I am on the board of our community's Jewish Family Service as well as my synagogue. I don't need you lecturing me about being Jewish and being pro-immigration. My rabbi made a point of telling our synagogue's congregants from the alter during my wedding ceremony that he considered my work to be one of the most important jobs a Jew could have. The Torah tells us to "welcome the stranger" and most clergymen - Jewish or not - recognize this as G-d's commanding us to not only be tolerant toward immigration, but to aid people who have immigrated.

And, aside from the Holocaust, the Jewish people have suffered for thousands of years because of restrictions on their ability to live in peace where they liked. The exile in Egypt, the destruction of the First Temple and the scattering of the 12 Tribes of Israel, the rescue of the Jewish refugees in Babylonia by Queen Esther and the expulsion of the Jews of Spain are only a few examples of the wanderings of my people. We have survived as a people because whenever we have been expelled from a nation, another nation has opened its doors. Today, the country of Israel embodies this history. It has a Ministry of Absorption whose mission it is to ensure that new immigrants to the Jewish state are met with a hearty welcome and are

given the support necessary to get off to a good start in their new country. Not exactly what we see in this country. Over the last twelve years, Israel has welcomed one million new immigrants. That is equivalent to our admitting 60 million people - roughly the population of France or the United Kingdom. In Israel, this is celebrated. You would never see groups advocating for lesser immigration. That would be a "shanda" - an embarrassment - to our people.

On a more contemporary note, the work visas you condemn are used by my children's Jewish day school to bring in Hebrew and Judaic teachers from Israel. You may be surprised that this "greedy lawyer" handles these cases without charge. And I have yet to hear a protest from an American Jew complaining about these "foreigners" coming in to take jobs away a US worker.

You are also wrong in saying that Judaism is somehow hostile to the concept of free markets. Quite the opposite is true. A typical Jewish child will be taught that going into business is something of which he or she can be proud. And that same child will be taught that they have a personal obligation to ensure the welfare of those in their local and extended communities. This is borne out by the American Jewish historical experience. Jews disproportionately played a role in establishing this country's largest companies. And as a group, Jews donate more to charity than just about any other ethnic community in this country.

The lesson here is that rather than shutting down the country's borders to protect the economic well-being of the few, we should take responsibility as members of the community to help people in need. I mentioned above that I am on the board of my community's Jewish Family Service. One of the functions of our JFS is to assist people in need to obtain job training and to aid them in finding work. Members of our board get on the phone and call around to help people find jobs. Members of our community often hire someone referred by JFS hire even before there is a real need for a particular worker because helping someone in need is a "mitzvah" - a good deed.

President Bush has said - and I believe - that the answer to every social problem in this country is not always more government. Private charities can solve many problems and should be encouraged in doing so. Helping displaced H-1B workers is one more example where that is the case.

"H-1B and other NIVs are a socialist programs that attempt to equalize white-collar wages with that of the third world. The U.S. government allows immigration lawyers to import workers in order to artificially manipulate the supply, and therefore the price of workers. Don't fool yourself; you have learned to milk the cow of corporate socialism. You would probably be a web-based quickie-divorce attorney if it wasn't for the H-1B cash cow."

I actually agree with you that H-1Bs and other work visas are socialist programs. I would be happy to hang a "going out of business" sign in exchange for our country liberalizing our immigration laws. I think any limits on a company's ability to hire the workers of its choice are wrong. But if there are to be such rules - and, let's be honest in recognizing that they are not going anywhere - then I can at least play a useful role in helping companies navigate this highly regulated minefield. Unlike you and your "ilk" - you seem to like that term - I'm not afraid of open competition. I consider myself smart enough and resourceful enough to thrive in a free economy.

Go ahead and put me out business by opening up immigration. I'll be the first to congratulate you on a job well done.

By the way, I'm surprised you would be against "web-based quickie-divorce attorneys." They are actually making life tough for the rich divorce attorneys out there "milking the divorce cash cow."

"Milton Friedman, the high priest of libertarianism, said that H-1B is a corporate subsidy. Friedman would probably say that you are a hypocrite instead of a libertarian. In a true libertarian society, there would be free flows of people in and out of the country, and thus no need for immigration lawyers. The more complex immigration law is the more un-libertarian it is, and the more money you make. Libertarians are your worse enemy so be very careful about adopting them to your cause."

Maybe you should do some more research on libertarianism. Libertarians almost uniformly favor open immigration - certainly more so than Democrats or Republicans. Check out the Libertarian Party's platform from the 2000 Presidential election which states the following:

"We welcome all refugees to our country. Furthermore, immigration must not be restricted for reasons of race, religion, political creed, age, or sexual preference. We therefore call for the elimination of all restrictions on immigration, the abolition of the Immigration and Naturalization Service and the Border Patrol, and a declaration of full amnesty for all people who have entered the country illegally."

(http://www.issues2000.org/Celeb/Libertarian_Party_Immigration.htm)

On the Libertarian Party's web site you can also find the definitive text explaining why Libertarians favor open immigration. Go to <http://www.lp.org/issues/immigration.html> to read more.

I tend to agree with Milton Friedman on most matters and when I researched his opinion recently on immigration I found I don't really disagree with him on this subject either (By the way, Friedman is a fellow University of Chicago graduate and I have admired his views since I attended U of C).

You are really taking him out of context. He is concerned about immigration because he is against the Welfare state and does not want immigrants to have access to such benefits. In a recent VDARE.com interview, he's quoted as saying "As long as you have a welfare state, I do not believe you can have a unilateral open immigration. I would like to see a world in which you could have open immigration." I personally would favor seeing immigrants restricted further from receiving welfare benefits (which, by the way, is consistent with the Libertarian Party's position). I think few people would be negatively affected by this and it might put to rest the false notion that immigrants come to the US to collect welfare (How ironic it is that the same people who complain about immigrants coming to collect Welfare will then complain that immigrants are coming to take jobs away from Americans!). Mr. Friedman also is unhappy with the H-1B program precisely because there are limits on visa numbers and he believes that the companies that get access to H-1B workers are getting an unfair subsidy since not all companies have such access. Get rid of the H-1B quota altogether and then ask Mr. Friedman what he thinks. I suspect his views will change.

I would also call your attention to someone who actually plays a more important role these days in ensuring that America thrives - Mr. Alan Greenspan, Chairman of the Federal Reserve Board. Greenspan not only states that immigration is good for our economy. He goes so far as saying that immigration will be vital to our long term economic success as our population ages. Specifically, Greenspan told Congress recently

"Our open labor markets can adapt to the differing needs and abilities of our older population. Our capital markets can allow for the creation and rapid adoption of new labor-saving technologies, and our open society has been receptive to immigrants. All these factors put us in a good position to adjust to the [impacts] of an aging population."

Hardly an endorsement for shutting down immigration to this country.

Finally, I absolutely agree with you that it is hypocritical to argue in favor of capitalism and also favor complex immigration laws. That's why I don't. You will never see me argue that we need complex immigration laws for their own sake. I just think that they are a better alternative to no immigration at all. But given a choice, I would dramatically simplify the immigration system and open it up widely. I would simply impose background checks to keep out certain undesirables - terrorists, people with highly contagious dangerous diseases, hardened criminals, etc. Beyond that, the government should stay out. I'll find new work if need be and not blame the government or foreign workers for my troubles.

I tend to believe that by the time people get to the point of supporting an organization like yours, their opinions are already hardened, and I harbor no illusions that I will change any of your readers' minds. But I do at least want to explain that there are other ways to view the immigration question. I appreciate the opportunity to express the pro-immigration viewpoint - which is all I wanted CNN to do in the report that prompted this exchange. Open discussion should always be welcome in a free society!

Kind regards,

Greg Siskind

* * *

May 29, 2003

Mr. Greg Siskind,

You are correct that we value your opinion on nonimmigrant visas. Your website is a valuable resource to learn how lawyers exploit the immigration system. I use some of your research on my own website and I get a lot of traffic from your website link from people who want to know the truth. I'm sure you get traffic from foreigners that accidentally wander into my site so it's a fair trade. You labeled my website "anti-H-1B" but that's a misnomer. I have nothing against H-1B visa holders, it's the program itself that I want abolished. You may want to update your page because my website is now called the "N.I.V. Information Center".

I think it's a good idea to know what the enemy is up to, so put me on your mailing list.

I'm not sure why you think I discredited you by describing you as a rich immigration lawyer. Being rich is admirable but of course only if the wealth was obtained by noble means. You made your wealth aiding companies to replace American workers with the cheap young blood of indentured foreign labor. You and the rest of your AILA ilk are sorry examples of how to get rich. I hope your kids don't emulate you.

Your contention that I'm hostile to capitalism illustrates your confusion about the rules of capitalism. The formation of the corporation or company is a right given to individuals by governments. Governments have an inherent right to control the conduct of those businesses. Companies are required to have a "license" to do business in the USA, which is granted, by an individual state. Conducting business without a license is illegal or unlawful behavior and is banned behavior.

Businesses are not free in any nation in the world to do whatever conduct it wants without accountability to the government entity.

Capitalism doesn't give you a license to get rich. Laissez-faire capitalism without restraints from national governments was severely discredited long ago as being brutal, inhumane, and immoral by major religions such as your own Jewish faith. Without restraints from nation states, economic systems are almost entirely outside democratic control, meaning that most people end up having almost no self-determination, vulnerable to the whims of the tiny few in the world who hold the power and the money. Capitalism and free-market systems have been wonderful advances for human kind, but only when they are fettered by democratic control by the people of nations.

H-1B and other NIVs are a socialist programs that attempt to equalize white-collar wages with that of the third world. The U.S. government allows immigration lawyers to import workers in order to artificially manipulate the supply, and therefore the price of workers. Don't fool yourself; you have learned to milk the cow of corporate socialism. You would probably be a web-based quickie-divorce attorney if it wasn't for the H-1B cash cow.

Milton Friedman, the high priest of libertarianism, said that H-1B is a corporate subsidy. Friedman would probably say that you are a hypocrite instead of a libertarian. In a true libertarian society, there would be free flows of people in and out of the country, and thus no need for immigration lawyers. The more complex immigration law is the more un-libertarian it is, and the more money you make. Libertarians are your worse enemy so be very careful about adopting them to your cause.

Greg, you are getting very rich, but don't kid yourself. You are not a capitalist or a libertarian. You are a crafty attorney that learned how to exploit a corrupt socialist immigration system for your own enrichment.

Rob Sanchez
www.ZaZona.com

P.S. - I would like to use your comments in my next newsletter, with your permission of course. There are several H-1Bs on my mailing list that might need your services once we get the yearly limit down to 65,000.

May 28, 2003

Wow, I'm honored that the anti-immigrant sites think my opinion is important enough to mention.

I got into business immigration law because I am a libertarian at heart. I don't think the government should tell American companies who they should hire, where they can locate, what goods and components they have to buy, etc. We're not like France where employers are told what to do by their government in just about every aspect of their business. We did not win the Cold War only to mimic the communist systems which ensured that everyone had a job (and everyone also starved). Fortunately, President Bush seems to agree.

By the way, the fact that Mr. Sanchez would seek to discredit me by saying I'm "rich" (how does he know what I earn?) is revealing. It is consistent with the anti-H-1B zealots general hostility to capitalism. I'd really like to hear more about how one can reconcile being for a free market system and also for telling employers which workers they have to hire.

Regards,

Greg Siskind

May 28, 2003

Mr Siskind:

Do you support abuse to the holder of H1-B or L1 visas.

Do you support making H1-B or L1 visa holders indent servants

Do you knowingly [sic] support clients who lie about information needed to bring H1-B or L1 visa people into the US.

As an officer of the court, if you know of such issues it job to advice the court of such actions. If you are not aware of such action, I can provide you with hard proof of such actions, so you are aware of them and take legal steps to correct such action and protect the right of H1-B and L1 visa holder and put and end to such abuse.

I can go with more.

If the answer is no to any of the above, I need your help on stopping abuse, the practise [sic] of indent servants and lying on Federal forms.

Thank You

[Name Deleted]

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JOB DESTRUCTION NEWSLETTER
by Rob Sanchez
www.ZaZona.com
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Siskind is a prominent, and very rich, immigration attorney.
<http://www.visalaw.com/>

Siskind takes pot shots at Lou Dobbs and FAIR in his latest bulletin. He whines that CNN didn't interview a skills to explain the virtues of H-1B. Perhaps Dobbs should give Siskind a chance to speak so the American public can see one of these rich immigration attorneys in action. I don't think he will fool anyone.

13. Momentum Gains For Guest Worker Program

Over the past few weeks the possibility that the United States could reach an agreement with Mexico over plans concerning a guest worker program or general amnesty for illegal Mexican migrants has resurfaced. Several influential lawmakers and members of the Bush administration have made comments hinting at a renewed interest in the ideas, including Senator John McCain, New York City Michael Bloomberg and White House Press Secretary Ari Fleisher.

Mexican President Vicente Fox's calls for US-Mexico immigration reform appeared to have been ignored for a time, part of the fallout resulting from a very public disagreement about Iraq. But in the wake of a quick military victory over Saddam Hussein's regime and the tragedy in Texas that cost the lives of 18 Mexican migrants, it seems lawmakers have realized they will again need to address the issue.

This week speculation grew as the State Department issued a report saying the Administration hopes for Congressional action on 245(i), a guest worker program and legalization. In an interview reported by the Associated Press, Secretary of State Colin Powell said it was "unfortunate that we haven't been able to move as quickly as we all would have liked to have moved."

"We don't want to see things happen such as has happened out in the desert [in Texas] where people desperate to get in this country pay smugglers to transport them illegally across the border and put them at such risk," Powell said. "[President Bush] has assured President Fox on a number of occasions that we haven't lost sight of what we want to do, but it has proven hard."

Perhaps the biggest barriers to the advance of a guest worker program were the terrorist attacks on 9-11 and the resulting scrutiny of our immigration laws and the

government services responsible for processing immigrants and patrolling the country's borders. The political upheaval that followed brought about the end of the Immigration and Naturalization Service and the reassignment of immigration functions under the newly created Department of Homeland Security.

Since the attacks, many conservative anti-immigration lawmakers have felt justified in blocking progress on Mexican amnesty and the guest worker program. This week, however, even restrictionist lawmaker Tom Tancredo delivered comments hinting at a possible compromise.

"There can be a legal process in which people can come into this country and work if we truly need workers," Representative Tancredo said during a debate on the House floor. "If there are these jobs, and there may very well be, and there are certain industries where I recognize there is a need, then a legal process has to be developed in order to bring people in to get work and so that their rights can be protected, so they can be protected against the abuses of unscrupulous employers, so people coming in here do not have to sell their souls to the coyotes, do not have to be locked into the back of tractor-trailers."

Tancredo said there could be a guest worker program, as long as those who enter on the program are not allowed to become citizens.

"They can come into this country one of two ways legally, if we have a guest worker program or through immigration; but they cannot be the same thing. People cannot come in here and expect to become a citizen through this guest worker program," he said.

Fox has continued his push for an amnesty agreement, most recently during the Group of Eight summit in France. Secretary Powell said the two leaders would not have much time to discuss during the meeting but said that they are in regular contact by phone. For his part, Powell has been working with Mexican Foreign Affairs Secretary Luis Ernesto Derbez on other aspects of migration reform, specifically a proposal that would allow Mexican nonimmigrants to renew their visas without having to return home.

Fox wants Mexicans to be able to "come to our country legally and be received and have an opportunity to earn a living and take money back to Mexico and take skills back to Mexico. They want to go back to their home," Powell said.

Many advocates now believe that Fox will get his wish, because immigration has become a hot issue for the 2004 campaign. The Hispanic population will play a significant role in determining who will hold the office, and political analysts say President Bush has pinned his reelection hopes on his ability to deliver real progress.

There is also strong support for immigration reform on the Democratic side of the aisle. Senator Joe Lieberman, the former vice-presidential candidate and current Democratic front-runner, was quoted by the Tucson Citizen saying "If I were President today, I would immediately invited President Vicente Fox to the White House to sit and talk. Let's get something done... If it doesn't happen before Jan. 20, 2005, it's one of the first things I'll do when I'm privileged to enter the Oval Office."

Lieberman said he thought the guest-worker program should be accompanied with a legalization program for those already working in the United States.

Immigration law portal ILW.com has been tracking such comments on 245(i) and plans for a guest worker program. Editor Sam Udani recently wrote in ILW.com's Immigration Daily newsletter that, "legalization is surely coming, the question is merely when. The day for legalization will come when the political stars are aligned."

14. House and Senate Vote To Speed Citizenship Process For Immigrants In Military

The House and Senate both passed bills this week that would streamline the naturalization process for legal permanent residents serving in the military. The legislation moved to conference to resolve differences, such as the waiting period reduction - shortened from three years of service to one year in the House and two years in the Senate - and over additional benefits to the families of immigrant soldiers killed in action.

The House bill, HR 1954, which would allow soldiers to take citizenship exams overseas and would waive administrative fees, passed 410-5. Similar legislation passed in the Senate as an amendment to the Defense Authorization bill. The amendment contains language from S. 922, the Naturalization and Family Protection for Military Members Act of 2003.

The bills would affect about 37,500 legal immigrants currently serving in all branches of the armed forces, according to Department of Defense estimates.

American Immigration Lawyers Association President Jack Pinnix said the votes recognized the unique contributions of immigrants in the military.

"The war in Iraq underscores an important reality: Not only do immigrants contribute to our economy, our culture, and our social fabric, they also put their lives on the line for America." Pinnix said.

The bills would make permanent an executive order signed by President Bush that waived the three year waiting period for active duty soldiers during wartime.

"I believe there is no better way to honor the heroism and sacrifice of those who serve than to offer them the American citizenship they deserve," said Senator John Cornyn, a co-sponsor of the Senate amendment.

Pinnix said AILA hoped the final draft would reflect measures in the Senate's version that benefit family members and not include a House provision that would revoke citizenship.