

Siskind's Immigration Bulletin
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Siskind Susser serves immigration clients throughout the world from its offices in the
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1. Openers

Dear Readers:

This week the Migration Policy Institute, a Washington think tank that studies
immigration matters, released a long-awaited report on American immigration

policies in the post 9-11 era. MPI's report questions not only whether the policies of this Administration are fair and uphold American values, but also whether they are even effective at stopping terrorism. One of the authors of the report is Doris Meissner, the former Commissioner of the Immigration and Naturalization Service. Another is Steve Yale-Loehr, the noted Cornell law professor. Steve also happens to be my co-author on the *J-1 Visa Guidebook*. We report on the MPI study in this week's newsletter.

Speaking of the *J-1 Visa Guidebook*, I'm pleased to announce that the 2003 edition of the book has just been released. The 1600+ book can be ordered online from our publisher LexisNexis by clicking on this link: http://bookstore.lexis.com/bookstore/catalog?action=product&prod_id=12991&cat_id=SR&returnURL=http%3A%2F%2Fbookstore.lexis.com%2Fbookstore%2Fsearch%3Fnull. Just about every important resource relating to J-1 visas is included in this fifth edition of the book.

This week we also include the first of two articles on Social Security numbers and immigration law. We get asked questions all the time about how to get a Social Security Number, what can be substituted if a number is not available, what so-called "Social Security mismatch" letters mean and more. So look for information on this topic in this week's ABC's of Immigration article.

I also want to take the opportunity to welcome the newest contributor to Siskind's Immigration Bulletin. Megan Turngren is a law clerk at our firm and a current student at the University of Memphis Law School. She also is an experienced journalist and we're enjoying the excellent contributions she's making to our little weekly publication. Welcome Megan!

This week I'll be participating in one of my first official tasks as the Chairman of the Physicians Committee of the American Immigration Lawyers Association. I'll be attending a Washington, DC meeting of all of the administrators of the Conrad State 30 J-1 waiver programs as well as the new HHS waiver program. We'll be discussing a variety of J-1 waiver issues in a roundtable format that will also include a few other AILA members who will be representing the thousands of members of our association. In addition to being able to express our concerns regarding the various J-1 programs, the fact that AILA members were invited to attend this meeting is a very healthy sign that program administrators are genuinely interested in keeping the lines of communication open.

Readers of this newsletter may recall my recent review of e-filing with the BCIS. I happen to be participating in the E-Filing Standards for Immigration Group (ESIG), a voluntary consortium of established U.S. immigration law firms and their electronic immigration software and online applications solution-providers. This week we are submitting a comment on the recent Federal Register e-filing notice and I am a contributor to the comment. Next week we will publish that comment. We'll also report on the new online appointment scheduling system being used on a pilot basis at the BCIS office in Miami.

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 – L-1 Visa Flow Chart

This is the first in a series of articles on Social Security numbers for immigrants.

Who can apply for a Social Security number?

The Social Security Administration (SSA) gives cards to individuals who are U.S. citizens or non-citizens who are lawfully admitted to the U.S. for permanent residence, or who have permission from the Department of Homeland Security (DHS) record to work permanently in the United States, such as refugees, asylees, work visa holders and citizens of Compact of Free Association countries.

How can an immigrant apply for a Social Security number while applying for an immigrant visa?

Non-citizens applying to enter the United States can apply for a Social Security as part of the immigrant visa application. In order to do this, the applicant must be 18 or older when they enter the United States and must be a lawfully admitted permanent resident. When filling out Form DS-230, the Application for Immigrant Visa and Alien Registration, the applicant must answer "yes" to questions 33a and 33b. Question 33a simply states that the applicant wants the Social Security Administration to assign a Social Security number and issue a card. Question 33b authorizes disclosure of Form DS-230 to the Bureau of Citizenship and Immigration Services, the Social Security Administration, and any other government agencies that may be needed in order to get a Social Security number.

According to the Social Security Administration, once the applicant arrives in the U.S., a Social Security card should arrive at their mailing address in about three weeks. If the applicant changes their mailing address after arriving but prior to receiving their card, they must call the Social Security Administration.

What if the immigrant does not meet the requirements to apply for a SSN while applying for a visa, or the immigrant simply failed to do so?

If the applicant did not request a Social Security number as part of the visa application or the applicant did but was under age 18, he or she must apply for a card at a Social Security office. When the applicant has a permanent address, he or she can go to the nearest SSA office. The applicant can go to the SSA website to find an office at www.socialsecurity.gov or can call Social Security's toll-free number, 1-800-772-1213, Monday through Friday between 7 a.m. and 7 p.m. (Eastern time).

When the applicant visits the Social Security office to apply for a Social Security card, he or she should take the following original documents for each family member applying for a number:

1. the passport or travel document
2. Permanent Resident Card (Form I-551), if he or she has received it

3. birth record

Someone at the office will help the applicant complete the application. The applicant should then receive the card in about two weeks after the SSA has everything that it needs to process the application. However, if the SSA has to verify any document with the issuing agency, it may take longer to receive the card.

The applicant was issued a card that says “not valid for employment” when they first applied, but now the Department of Homeland Security has given them work permission. What should they do?

If the Department of Homeland Security (DHS) has granted the applicant permission to work, the applicant needs to apply for a replacement card without the legend “Not Valid for Employment”. The replacement card will have the same number as the current card.

To apply for a replacement card, he or she needs to complete Form SS-5, which is available for download at <http://www.socialsecurity.gov/online/ss-5.html>. The applicant may get a Form SS-5 by calling 1-800-772-1213 or visiting the local Social Security office. The applicant must submit Form SS-5 with evidence of identity and current authorization to work from the DHS. All documents must be either originals or copies certified by the issuing agency. The SSA cannot accept photocopies of documents.

If the applicant is a non-citizen, the SSA must verify the documents with the DHS before issuing a replacement SSN card. The SSA will issue the card within two days of receiving verification from DHS.

How much does a Social Security card cost?

The Social Security Administration does not charge a fee to assign a Social Security number or issue a Social Security card. The SSA will replace the card for free if the card is lost.

Do foreign students who are studying in the U.S. have to have a Social Security number?

Foreign student who are temporarily studying in the United States do not have to have a Social Security number. Schools are not authorized to use the SSN in administering educational programs, so when the student does not have an SSN or prefers not to provide his/her SSN, the school assigns the student an internal number. A school policy to require an SSN to enroll in school or college is not a valid non-work reason to assign an SSN to an individual who does not otherwise meet SSA's requirements for an SSN. Note that an SSN is needed to engage in employment on campus.

If a foreign student works in the U.S. does he or she have to pay Social Security?

Work performed by some non-resident aliens who visit the United States for a limited period of time is not covered by Social Security and, therefore, not subject to Social Security taxes. F-1, J-1 and M-1 visa holders working in connection to their studies or for the purpose of their visit to the U.S. are not covered by Social Security. This

means that there will be no withholding of Social Security or Medicare taxes from the pay received for these services. These types of services are very limited, and generally include only on-campus work, practical training, and economic hardship employment. For more information on taxation, visit the Internal Revenue Service at www.irs.gov.

How can I contact the Social Security Administration?

In the United States, call the telephone number listed for the Social Security office in the local telephone directory under "United States Government" or Social Security's toll-free number, 1-800-772-1213. To locate an office or for more information on Social Security numbers, go to the Social Security Administration's homepage: www.socialsecurity.gov. If you need to contact SSA before you leave for the United States, the SSA is assisted outside the United States by United States embassies and consulates throughout the world.

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 - You always state the processing times for many documents but what about for N-400 "application for citizenship"? What is the processing time for this application for Texas center?

A - Those cases are only filed for data entry at Texas and then shipped off to local BCIS offices. The reported times at the local offices include the Texas part of the case. You can find out these times on our site at www.visalaw.com/localtimes.html.

Q - My college counselor recommended me to contact you regarding my case of obtaining an F-1 visa. Currently, I hold a J-2 visa on a passport from People's Republic of China; my visa will be expired on this September when I reach twenty-one. My visa is subjected to 212 E rules. Do you think it is possible for me to obtain an F-1 visa?

A - I'm assuming that getting a waiver is not going to happen. But you are permitted to get an F-1 visa if you leave the country and apply for the F-1 at a US consulate abroad. You are only prohibited from changing to an F-1 from a J-1 in the US. Of course, qualifying for the F-1 visa is not a given. You might read the articles I've written on F-1 visas on our web site at www.visalaw.com/abcs.html.

Q - If a woman gives birth to a child here in the US and the child is a citizen, is the woman entitled to any kind of immigration status (I believe she was here illegally when she had the child ten years ago).

A - Until the child turns 21, there is virtually nothing a US citizen can do to help a parent. At that point, the child can apply for the parent's green card. If a person is here ten years continuously and is put in deportation proceedings, having a US citizen child may be enough for a judge to grant cancellation of removal and permit someone to get a green card.

Q - I am currently working on an H1B Visa and I am thinking of applying into graduate school for the fall of 2004. By then I would have used 42 months of my H1B visa. It is it possible for me to change to F1 status, go to graduate school and then change back to H1B status when i graduate and use my remaining 30 months on my H1B visa?

A - Yes. You can still reclaim H-1B time if you switch to F-1 status and switch back.

Q - As permanent resident, can I apply for permanent residency status for my mother?

A - Unfortunately, you can only apply for a parent's green card if you are a US citizen.

Q: I have a legal issue that i was wondering as to whether it will affect my DV-2003 result which is currently being reprocessed after i was not available for the first interview.

I am in Australia and have recently got my police record check back from the state i live in. There were three cases on this. Two of which showed "no conviction" was recorded (one as a minor - intent to steal and the other was offensive behavior and hindering the transit security). The case that i am worried that would affect my application is a minor assault charge (drunk fight at a hotel) that i was convicted and fined. I did not have to goto jail or anything that serious, just had to pay a fine.

My enquiry is: - Will any of these previous charges (especially the conviction) affect my chances of receiving the VISA? Also is an assault charge an act of moral torpitude?

A: A conviction is defined as a formal judgment of guilt entered by a court or if adjudication has been withheld, where all of the following elements are present: 1. a judge or jury has found the alien guilty, or the person entered a plea of guilty or nolo contendere or has admitted sufficient facts to warrant a finding of guilt; and 2. the judge has ordered some form of punishment, penalty or restraint on the person's liberty to be imposed.

If there is no conviction as defined above than there are no immigration consequences. If you received some sort probation or deferred conviction, however, it is a conviction for immigration purposes.

Generally, a conviction for simple assault without any aggravating circumstances is not a crime involving moral turpitude. If it was a petty offense, that is, where the maximum penalty "possible" (not the penalty imposed) was less than one year and the alien was not sentenced to a term of imprisonment of more than six months, regardless of the time actually served, it would not be a conviction for immigration purposes under the petty offense exception.

I could not tell from your e-mail if you were talking about a petty offense or an offense committed while you were a juvenile when you said it was a "minor" assault charge. For what it is worth, juvenile offense are not convictions for immigration purposes.

[Thanks go to Jack Richbourg, our resident deportation expert in our Memphis office]

4. Border News

London-based human rights group Amnesty International has launched a campaign to prevent the deportation of aliens to countries unable to accept them. The question is whether the Bureau of Citizenship and Immigration Services must obtain a receiving country's consent before an alien may be deported there, referencing 8 U.S.C. 1231(b)(2) of the Immigration and Nationality Act. The issue came to a head in two recent court cases - *Ail v Ashcroft* in the 9th Circuit, which ruled that aliens could not be deported to Somalia because the government is incapable of accepting detainees, and *Jama v INS* in the 8th Circuit, which found that Somali-born immigrants can still be deported to that country even if the government is unable to establish Somali "acceptance."

The merger of four federal patrol agencies has already tightened security along the U.S. border without encountering many transitional problems, BCBP officials said this week. The Bureau of Customs and Border Protection includes elements of the old Immigration and Naturalization Service, Customs Service, Border Patrol, and Animal and Plant Health Inspection Service. Inspectors in the field are accepting the combining of the operations and the only details left to work out are different payroll, travel systems, and uniforms.

The changeover, which occurred March 1, has simplified the command process for giving orders and ensuring security. The new organization successfully tested its effectiveness during Operation Liberty Shield, the Department of Homeland Security's effort to prevent terrorism during the war in Iraq.

The FBI's Office of Intelligence Assistant Director, Steven McCraw, told a House panel this week that the FBI believes the controversial Matrícula Consular card is "a threat to vulnerability." McCraw said the cards, issued by the Mexican government to

Mexicans living in the United States, were easy to obtain through fraud and lack adequate security measures to prevent forgery.

Mexico has argued that applicants must arrive in person before they are issued a card, and they must show a form of identification, such as a birth certificate. The FBI counters that such documents are easy to forge, and that Mexican officials are not enforcing the standards.

Several agencies and organizations in the US accept Matricula Consular cards as a form of identification, and the State Department has shown a greater tolerance of their use than has the Department of Homeland Security. Some immigrants are allowed to use them to open bank accounts and gain access to certain state and local services. Other countries, such as Brazil and Poland, are planning to introduce similar cards to their nationals living in the United States.

* * *

Thomas Homan, the Bureau of Immigration and Customs Enforcement's interim Associate Special Agent-in-Charge in San Antonio, testified before Congress this week about the agency's strategies to combat human trafficking. Homan told a House subcommittee that ICE is working to bring together the "once-fragmented" divisions of enforcement agents in order to break up smuggling rings, such as the one that claimed the lives of 19 aliens in Victoria, Texas. Fourteen individuals were charged in that case.

"The successes that we achieved in this operation are a direct result of fully integrating ICE special agents and other personnel, equipment and methodologies into a unified law enforcement effort," Homan said.

ICE has proposed the implementation of Critical Incident Response Teams that would "deploy resources, equipment and manpower in key geographic areas nationwide."

5. News From The Courts

9th Circuit Holds That Alien Applicants for Citizenship Are Not Nationals

On June 23, the Ninth Circuit Court of Appeals decided the issue of whether an alien could be classified as a national of the United States when he signs a statement of allegiance to the United States as part of the naturalization application process.

The petitioner, Jose Luis Perdomo-Padilla, is a citizen of Mexico. He was convicted of conspiracy to distribute marijuana and placed in removal proceedings pursuant to 8 U.S.C. § 1227(a)(2)(iii), which calls for the automatic removal of any alien convicted of an aggravated felony.

The petitioner argued that since attaining permanent residency and prior to the conviction, he applied for naturalization and completed a statement of allegiance to the United States. The petitioner argued that because he pledged allegiance to the United States, he must be considered a national of the United States and therefore may not be removed.

The court held that the filing of an application for naturalization does not change the status of an alien to national status. The court found that one may only become a national through birth or once the naturalization process is complete.

The second circuit found in *Oliver* that "the term nationals came into use in this country when the United States acquired territories outside its continental limits whose inhabitants were not at first given full political equality with citizens. Yet they were deemed to owe permanent allegiance to the United States and were entitled to our country's protection. The term national was used to include these noncitizens in the larger group of persons who belonged to the national community and were not regarded as aliens." *Oliver v. INS*, 517 F.2d 426, 428 n.3 (2d Cir. 1975).

In this case, the court's reasoned that naturalization applicants have not pledged permanent allegiance to the United States as required by the statute since their application may be denied or withdrawn. As a result, naturalization applicants do not owe permanent allegiance until they are naturalized.

* * * *

Zeba Moin, et al, v. John Ashcroft, U.S. Attorney General
United States Court of Appeals for the Fifth Circuit

Zeba Moin and her son, Moiz Ullah, appealed a ruling of the Board of Immigration Appeals (BIA), which affirmed an immigration judge's holding that Zeba Moin abandoned her lawful permanent resident status, and is therefore subject to exclusion and deportation. The Fifth Circuit affirmed the decision of the BIA.

Zeba Moin, a native and citizen of Pakistan, was admitted into the United States as the unmarried daughter of a Legal Permanent Resident (LPR). Two months later, she left the U.S. to return to Pakistan. For the next four and a half years, Moin made several trips between Pakistan and the U.S. Her total stay in the U.S. was about six months. In 1996, she returned to the U.S., presenting her permanent resident card and Pakistani passport to immigration officials. She was referred to secondary inspection to process her son for admission. The secondary officer deferred her inspection to the INS District Office in Houston because of the amount of time she had spent outside of the U.S. An INS inspector determined that Moin had abandoned her LPR status and was therefore inadmissible to the U.S. An immigration judge agreed with the INS inspector and ordered Moin and her son to be excluded and deported from the U.S., and the BIA affirmed the opinion of the immigration judge.

Citing *Matter of Huang*, 19 I. & N. Dec. 749, 753 (BIA 1988), the fifth circuit ruled that Moin had abandoned her status: "[T]o qualify as a returning resident alien, an alien must have acquired lawful permanent resident status in accordance with our laws, must have retained that status from the time that [she] acquired it, and must be returning to an unrelinquished lawful permanent residence after a temporary visit abroad." The court ruled that Moin's trips to Pakistan were not "temporary visit[s] abroad."

Moin argued that her trips to Pakistan were in fact "temporary visit[s] abroad." First, she said that no trip exceeded two years and that she had been given a reentry permit valid for two years. She cited *Saxbe v. Bustos*, 95 S. Ct. 272, 277-278 (1974) that an alien who is granted LPR status has the privilege of living in the U.S. but is

not required to do so. Second, she argued that she had always intended to reside permanently in the U.S.

The court responded that first, " 'temporary visits' are not defined in terms of elapsed time alone." Also, having a reentry permit does not guarantee that an alien will be found admissible upon seeking return to the U.S. The *Saxbe* case involved alien commuters who lived abroad but returned to the U.S. for work either on a daily or seasonal basis. "Alien commuters have established business affiliations in the United States that demonstrate their 'intent to return...within a relatively short period.'" Moin did not have such business affiliations.

Second, while Moin may have intended to ultimately reside permanently in the U.S., the relevant intent is the intent to return to the U.S. within a relatively short period of time. The immigration judge had ruled that based on the evidence supplied by Moin and her relatives, she was a resident of Pakistan who took a few short trips to the United States.

The Fifth Circuit agreed: "The alien's intent must be supported by her actions." Moin's ultimate intent to permanently reside in the U.S. was unsupported. The perceived intent is that she would return to Pakistan as she had purchased a round-trip airplane ticket from Pakistan to the U.S. Moin also had a husband and child living in Pakistan and while she owned property in Pakistan, she did not own any property in the U.S.

6. Government Processing Times

There are no new processing times available this week.

7. News Bytes

This week the Senate confirmed Eduardo Aguirre Jr. as the first Director of the Bureau of Citizenship and Immigration Services (BCIS), following his appointment by President Bush earlier this year.

Aguirre was born in Cuba and is a naturalized U.S. citizen. He received his bachelor's degree from Louisiana State University and is a graduate of the National Commercial Lending Graduate School at the University of Oklahoma.

Mr. Aguirre was appointed and confirmed to serve as vice chairman and Chief Operating Officer of the Export-Import Bank of the United States in 2001. From December 2001 to December 2002, he served as acting Chairman of the bank. Mr. Aguirre is credited with shaping the bank into a result-oriented organization and improving customer service. Prior to this position, Mr. Aguirre served as President of International Private Banking for Bank of America for twenty-four years.

In 1995, then Governor George W. Bush appointed Aguirre to serve as Chairman of the Board of Regents of the University of Houston System for a six-year term.

The Supreme Court of Texas appointed Mr. Aguirre as a non-attorney director for the State Bar. He also became the first non-attorney chair of the Texas Bar Foundation.

Mr. Aguirre is considered to be one of the most influential Hispanics in the U.S., according to *Hispanic Business Magazine*. He has traveled through Latin America, Europe and Asia to promote economic growth, international trade and business opportunities.

Eduardo Aguirre's bio is online at http://www.bcis.gov/graphics/aguirre_bio.htm

This week a Capital Hill panel discussion sponsored by the Center for Immigration Studies (CIS) was held to discuss the role of local and state law enforcement in immigration enforcement and national security. The panel included two members of Congress, Senator Jeff Sessions of Alabama and Representative Charlie Norwood of Georgia, who are both in support of legislation that includes a role for America's police in assisting the federal government with immigration law enforcement. Also on the panel was the author of a CIS paper titled "Officers Need Backup: The Role of State and Local Police in Immigration Law Enforcement" as well as Haran Lowe, Assistant Attorney General in the Alabama Department of Public Safety and the Executive Director of CIS, Mark Krikorian. We will report on the panel's findings as soon as a transcript is made available.

The Immigrant Services Network of Austin (ISNA) has released an alert announcing a Department of Homeland Security rule change that could negatively affect self-petitioners under the immigration provisions of the Violence Against Women Act (VAWA). Under the new rules, only the Bureau of Immigration and Customs Enforcement may grant deferred action, meaning the Vermont Service Center no longer has that authority. ISNA is urging activists to send letters to DHS officials to inform them of the seemingly unforeseen consequences of the rule change. More information on this campaign is available at ISNA's website, online at <http://www.immigrantconcerns.org/>.

An immigration lawyer in Texas has reported that some of his clients have received a visit from a DHS officer at their home or business. In most cases, the officer asked for verification of the clients' home address or work information. The majority of those who received a visit had special registered, but Mexican and Central American clients have reported similar visits. If you are an immigration attorney with any information regarding this matter, please contact us by email at info@visalaw.com.

8. International Roundup

Mexico Attorney General Rafeal Macedo de la Concha told the Associated Press this week that foreign fugitives are being captured and deported at an "unprecedented rate." According to Government figures, 200 foreigners were arrested for deportation last year, up from 160 the year before, but already this year 117 have been

captured. Deputy Attorney General Alejandro Ramos said more than 90 percent of the fugitives would be returned to the United States.

The Netherlands has opened its first deportation centers, where illegal immigrants and rejected asylum seekers will be detained pending their removal. The two centers will hold up to 600 detainees, but none have been assigned to them yet. Immigration Service spokesmen said the detainees would not be able to leave the complex, but the facilities will not be like a prison. Detainees will have access to outdoor recreation, telephones, visitors and legal advisors.

EU Government leaders have announced plans to equip passports from all member states with biometric data, under pressure from the United States. Leaders included the plan in its final declaration following a recent summit in Porto Carras. Spokesmen said the US threatened to require mandatory visas from EU citizens if Europe does not adopt the new data collection policy.

An official of Taiwan's Council of Labor Affairs said foreign laborers should be allowed to work on major industrial projects in order to speed the country's economic development and rejuvenate the domestic labor market. The CLA said the relaxed restrictions on foreign workers would be coupled with plans to protect domestic laborers, introducing a plan to issue one work permit for every two domestic workers on the payroll.

9. Legislative Update

The following bills were recently introduced in Congress:

- HR 2525, sponsored by Rep Bob Filner [CA-51] (introduced 6/19/2003), to amend the Immigration and Nationality Act to permit certain Mexican children, and accompanying adults, to obtain a waiver of the documentation requirements otherwise required to enter the United States as a temporary visitor.

http://thomas.loc.gov/cgi-bin/t2GPO/http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=108_cong_bills&docid=f:h2525ih.txt.pdf

- HR 2555, sponsored by Rep Harold Rogers [KY-5] (introduced 6/23/2003), making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2004, and for other purposes.

http://thomas.loc.gov/cgi-bin/t2GPO/http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=108_cong_bills&docid=f:h2555rh.txt.pdf

- HR 2585, Rep Barney Frank [MA-4] (introduced 6/24/2003), to amend the Immigration and Nationality Act to permit certain long-term permanent

resident aliens to seek cancellation of removal under such Act, and for other purposes.

http://thomas.loc.gov/cgi-bin/t2GPO/http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=108_cong_bills&docid=f:h2585ih.txt.pdf

- HR 2590, sponsored by Rep Frank Pallone (introduced 6/24/2003), to amend the Immigration and Naturalization Act to permit the admission to the United States of nonimmigrant students and visitors who are the spouses and children of United States permanent resident aliens, and for other purposes.

The text of this bill has not yet been received.

- HR 2594, sponsored by Rep Silvestre Reyes [TX-16] (introduced 6/24/2003), to establish an Adult Job Corps demonstration program for the United States-Mexico border area.

http://thomas.loc.gov/cgi-bin/t2GPO/http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=108_cong_bills&docid=f:h2594ih.txt.pdf

- HR 2600, sponsored by Rep Eni Faleomavaega (introduced 6/25/2003), to amend the Immigration and Nationality Act to simplify the requirements for United States nationals to become citizens.

The text of this bill has not yet been received.

- S. 1336, sponsored by Sen Sam Brownback (introduced 6/25/2003), a bill to allow North Koreans to apply for refugee status or asylum.

The text of this bill has not yet been received.

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

10. Migration Policy Institute Report Criticizes Post 9-11 Treatment Of Immigrants, Offers Alternative Security Solutions

The Migration Policy Institute released a report this week detailing the problems for immigrants following Sept. 11 and the steps that may be taken to avoid these consequences in the future. "America's Challenge: Domestic Security, Civil Liberties and National Unity After September 11" integrates both civil liberties and national security to show a possible solution for the new situation that the United States government is facing.

The report states that the blanket measures implemented by the U.S. government, such as roundups and arrests, intimidating interviews, lengthy detention, and special registration, were ineffective tools for preventing terrorism. In fact, the report concludes that despite the use of these tools, many of the Sept. 11 terrorists would

probably be admitted to the United States today since most had no previous criminal, terrorist, or immigration record.

MPI was able to compile information on more than 400 of the Sept. 11 detainees through interviews with lawyers and community leaders and through a survey of press reports, largely in local media. The report details the violations of due process and harsh law enforcement measures that were directed solely at males from Arab and Muslim countries. Unlike the hijackers, the majority had significant ties to the United States and roots in their communities. Of the 400, over 46 percent had been in the U.S. for at least six years and almost half had spouses, children, or other family relationships in the U.S.

This information comes during a wave of criticism concerning the post-Sept. 11 measures. Last week there was a conference hosted by the Center for Migration Studies (CMS) and the Catholic Immigration Network, Inc. (CLINIC) where national security experts questioned the effectiveness of the immigration restrictions.

At the conference, Vincent Cannistraro, a consultant on intelligence and terrorism for ABC World News with Peter Jennings and the former chief of operations and analyst in the CIA's Counter-Terrorism Center, said, "When we attach the blunt instrument of immigration policy and enforcement to the [select immigrant] communities, we undercut the basis of any cooperation with the FBI and local law enforcement. And that's the problem that I see...we're using immigration policy as a proxy for law enforcement and it is a poor proxy because it alienates the very communities that we need to depend on for early warning. The FBI needs to be able to collect intelligence on imminent threats in the United States. To do that, it needs to work with immigrant communities."

The same concerns are described in detail in the report, along with possible solutions to avoid a similar situation again. The report states that any success that the government has had in apprehending terrorists have not come from immigration initiatives, but from international intelligence breakthroughs, law enforcement cooperation, informed from arrests made abroad, and interagency information sharing. This highlights the fact that for a counterterrorism program to be effective, intelligence and immigration policy have to work together.

"The America's Challenge report offers many practical recommendations," said Stephen W. Yale-Loehr, teaches immigration law at Cornell Law School and is the co-author of *Immigration Law and Procedure*, a 20-volume immigration law treatise. "If Congress and the administration implement those recommendations, we can improve immigration policy and make the United States safer at the same time."

"America's Challenge" examines the government's post-Sept. 11 immigration measures from three distinct perspectives: their effectiveness in fighting terrorism; their impact on civil liberties; and their effect on America's sense of community as a nation of immigrants. While delving in deeper than the recent report by the Justice Department's inspector general, the MPI identifies weaknesses in interagency coordination that are hampering counterterrorism efforts and damaging other key national interests.

The report also reviews how immigrant groups have been targeted during national security crises throughout American history and investigates the impact of current measures on America's communities of Arabs and Muslims. By using programs such

as special registration to sweep up those with minor immigration violations, the government has discouraged compliance by raising fears that deportation could be the price of participation and cooperation.

However, the fear has led to a newfound sense of pride in many communities. "The experience of Muslim and Arab communities post-September 11 is, in many ways, an impressive story of a community that first felt intimidated but has since started to assert its place in the American body politic," said Muzaffar Chishti, Senior Policy Analyst at MPI and a co-author of the report.

In addition to the co-authors mentioned above, the authors who prepared the report were from a broad range of backgrounds with a focus on immigration concerns. Doris Meissner is a Senior Fellow at the Migration Policy Institute and the former commissioner of the Immigration and Naturalization Service. Demetrios C. Papdemetriou is a Co-Director of the Migration Policy Institute. Jay Peterzell is a former national security reporter for Time magazine. Michael J. Wishnie is an Associate Professor of Clinical Law at the New York University School of Law.

To order a copy of the report, visit www.migrationpolicy.org or call 1-202-266-1940.

11. Supreme Court Declines To Intervene In Immigrant Detention Case

On Monday the Supreme Court refused to consider when the government can indefinitely detain illegal immigrants caught at the borders in a case involving Mariel Boatlift, who fled Cuba in 1980.

In *Snyder V Rosales-Garcia*, the 6th Circuit Court of Appeals in Cincinnati ruled that there must be a reasonable time limitation on the detention of those aliens whose home countries refused to take them back. The American Civil Liberties Union, representing the two refugees in this case, mentioned one spent four years in immigration custody and another was in custody nearly 15 years because the government has nowhere to send them.

The Washington Legal Foundation and others groups urged the court to overturn the appeals court ruling. The lower court "has essentially held that the federal government is powerless to prevent foreign country from dumping all of its undesirable citizens on our shores and then refusing to take them back," said attorney Daniel Popeo.

The Court refused to consider the follow-up case to a 2001 immigration ruling involving legal immigrants that said immigrant criminals with no country to accept them cannot be jailed indefinitely. The latest case includes people who were trying to enter the country illegally.

In a second immigration case, the court also turned away a Bush administration appeal that asked when an immigrant who misses a deportation could challenge the outcome.

12. Congress Defeats Amendment Punishing "Sanctuary Cities"

On Tuesday the House defeated an amendment to a homeland security appropriation bill that would have withheld federal money from cities where local law enforcement officials are free from reporting illegal immigrants.

After 90 minutes of debate, the amendment received votes from only Republicans who have taken a hard line on punishing illegal immigrants, failing 102 to 322. Amendment author Tom Tancredo (R-CO) said it would have simply required cities to enforce existing federal law and warned that the vote would become "an issue at re-election time"

"I really don't know how anybody can defend that vote," Tancredo said.

According to an article in the Washington Times, cities that would have been affected include Seattle, Chicago, Houston and San Francisco, among others known as "sanctuary cities" that do not require police to report illegal immigrants to federal immigration officials, even if they have been arrested or convicted of crimes.

The National Immigration Forum's deputy director, Angela Kelley, said the amendment would have endangered immigrant families.

"If police are made to become immigration agents, it will make it more difficult to catch illegal aliens who commit crimes," Kelley said.

The lengthy debate period revealed the sensitivity of the immigration issue in Congress, and despite being defeated, the legislation is likely to be reintroduced.

"Just before passage of the homeland security bill was not the appropriate time to discuss this," said Rep. Lincoln Diaz-Balart (R-FL).

13. State Department Official Sentenced In Visa Fraud Case

A U.S. Federal District Court in Washington, D.C., sentenced former State Department Foreign Service Officer Alexander J. Meerovich to 24 months in prison and fined him \$5,000. Meerovich pled guilty to one count of visa fraud and admitted to issuing at least 85 visas illegally while serving as a consular officer at the U.S. Embassy in Prague from August 1999 to July 2002.

Meerovich's illegal activities were investigated by the Department of State's Diplomatic Security Service, in coordination with the Bureau of Consular Affairs, the U.S. Embassy in Prague, the Justice Department and local officials.

In a press release, State Department Spokesman Richard Boucher said that the Department is "resolute in its determination to protect the integrity of the U.S. visa. We constantly review visa issuance procedures for improvements and safeguards at embassies and consulates worldwide. We will continue to investigate all allegations of visa fraud vigorously and seek to prosecute and punish those people involved to the fullest extent of the law."

14. Department Of State Releases Diversity Visa Lottery 2004 Results

Winners of the 2004 Diversity Visa Lottery, which makes available 50,000 permanent resident visas, were announced this week by the Department of State. The Kentucky Consular Center registered and notified 111,000 winners, but not all of the applicants are expected to pursue their cases to visa issuance. Officials said the large number of applicants should assure that all the DV-2004 numbers will be used during the next fiscal year. Selected applicants who do not receive visas by September 30, 2004 will derive no further benefit from their DV-2004 registration.

Lottery applicants were selected at random from 7.3 million qualified entries received during the application period (October 7, 2002 through November 6, 2002). Another 2.9 million applications were disqualified for having missed the deadline or for failure to properly follow directions.

The visas are apportioned among six geographic regions (with a maximum of seven percent available to persons born in any single country), and the full results can be found online at the Department of State website:

<http://www.state.gov/r/pa/prs/ps/2003/21864.htm>