

Siskind's Immigration Bulletin
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1. Openers

Dear Readers:

Immigrants have learned to roll with the punches over the last year and a half. Procedures change every day. The agencies that regulate immigration have been carved up and moved around. Rights have been curtailed. Now we have a major war. Already we're seeing more major changes. Asylees are automatically being detained. The FBI has been granted the power to arrest people for immigration violations. Iraqis are being rounded up. Twenty consulates around the world are closed and visa processing has ground to a halt. And this is all in the last few days!

Immigration in a time of war is clearly not the same as at other times. This week we provide an overview of the changes in our ABC's of Immigration feature. We can all hope that the conflict ends quickly and with as little carnage as possible. I am also hopeful that a quick end to the war, further progress in the war on Al Qaeda and steady improvements in the US economy will also contribute to an improvement in the lot of immigrants in this country. Maybe we are turning a corner? Let's hope that is the case.

We occasionally report on immigration developments in other countries. This week we're pleased to report on an important victory in the courts in Canada by our own Leonard Pearl. Leonard practices in our Toronto affiliate office and writes this week on the finding that the Ministry that handles visas has been dragging its heels in issuing visas. Well done Leonard!

For immigration lawyers out there, be on the look out for your next Immigration Law Today magazine from the American Immigration Lawyers Association. I'll be co-writing a technology and the law column with David Jones, an attorney at our Memphis office. The first story contains a review of our favorite immigration research sites on the web.

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 – War-Time Immigration Policies

On Wednesday, the United States began Operation Iraqi Freedom, which is intended to disarm the Iraqi Regime, to liberate the Iraqi people and to further the war against terrorism. Before launching the war in Iraq, the United States launched

Operation Liberty Shield, a domestic security operation. Now that the war has begun, immigrants will now begin to realize the effects of various related government policies. The U.S. government believes that the possibility of terrorist attacks on U.S. soil or against its interests abroad will be increased as the war with Iraq develops. Department of Homeland Security Secretary Tom Ridge warned that the nation must prepare for the inevitability of suicide attacks in the United States.

According to the Department of Homeland Security, Operation Liberty Shield is a multi-department, multi-agency, national team effort. The protective operation will increase security at the U.S. borders, strengthen transportation sector protections, enhance security at critical infrastructure points, increase public health preparedness and make sure all federal response assets can be deployed quickly. Bureau of Customs and Border Protection officers will increase the screening of vehicles and cargo crossing U.S. land borders. Port of Entry inspection officers are conducting more interviews and detailed screenings as people enter and leave the United States. More federal agents have been assigned to U.S. borders, the Coast Guard has increased the number of ships and aircraft deployed at seaports, and health officials have been placed on special alert to watch for a possible chemical or biological attack. Many of the ongoing operations to disrupt threats against the United States will affect immigrants.

US interest abroad

The Department of State has ordered the departure of personnel at many U.S. embassies and consulate offices due to security concerns related to the military action in Iraq. Non-emergency personnel and their families were ordered to immediately leave the countries.

U.S. embassies and consulates in the following cities are closed to the public:

1. Amman, Jordan
2. All posts in Australia
3. Bucharest, Romania
4. Buenos Aires, Argentina
5. Cairo, Egypt
6. Caracas, Venezuela,
7. Damascus, Syria
8. Istanbul, Turkey
9. Kabul, Afghanistan
10. Lagos, Nigeria
11. Paris, France
12. Nairobi, Kenya
13. Oslo, Norway
14. All posts in Pakistan
15. Riyadh, Saudi Arabia
16. Savanna, Yemen
17. Skopje, Macedonia
18. All posts in South Africa
19. Surabaya, Indonesia
20. Tel Aviv and Jerusalem, Israel
21. Almaty, Kazakhstan

These embassies and consular posts, having been ordered closed to the public and having many of their personnel ordered to depart, will likely not be processing visas except in absolute emergencies. This list is likely to expand.

FBI Granted Unprecedented Powers to Arrest People for Immigration Violations

The Federal Bureau of Investigation (FBI) has dispatched 5,000 agents to help guard against terrorist acts in the United States. They will be monitoring and arresting suspected militants. Any immigration violators found during interviews and sweeps may be detained. An FBI official said, "we're prepared for the worst and hoping for the best." They have a checklist of more than 48 steps to be taken by FBI field offices and joint terrorism task forces.

As the war with Iraq gets under way, the FBI will move to arrest Iraqis who do not have status rather than keeping them under surveillance. Officials said that Iraqis who are not known to pose any imminent or specific threat are living in Miami, Detroit, New York and Washington. The FBI, working with the Department of State and immigration officials, has identified 50,000 Iraqi-born individuals in the U.S. that may be invited to participate in voluntary interviews to root out any potential terrorist attacks planned by Iraqi operatives or sympathizers. Officials say that valuable information has already been gathered from interviews that have taken place. They are hoping to have the interviews completed in a few weeks.

The FBI and other government agencies are now attempting to locate several thousands Iraqis who entered the United States on valid visas that have since expired. Teams of FBI and immigration officials have been arresting a number of Iraqis who are in the United States illegally, mainly for visa violations. A statement from the Bureau of Immigration and Customs Enforcement said the operation was aimed at "taking individuals off the street who might pose a threat to the safety and security of the American people" and said they were targeted based on intelligence information.

DHS said the Iraqis targeted as part of the effort were identified using a range of intelligence criteria and all are in the country illegally. Government officials say that they maintain the belief that most Iraqis in the United States are unlikely candidates for terror and are hostile to Saddam Hussein. The government does fear that President Hussein might have leverage over uncooperative Iraqi citizens living in the United States by holding their families living in Iraq hostage. The FBI has also expressed an interest in protecting Iraqis from hate crimes as the war in their home country gets underway.

Detention of asylum seekers

The Department of Homeland Security now requires that anyone from 33 countries with known terrorism presences seeking political asylum at a port of entry in the United States be detained while the government considers claims that they face political persecution at home. The goal of detention is to prevent terrorists or spies from using America's willingness to accept refugees as a pretext for entering the country. The countries on the list are nations where al Qaeda, al Qaeda sympathizers, and other terrorist groups are known to have operated.

The new detention policy includes asylum seekers from the following countries:

1. Iraq
2. Iran
3. Sudan
4. Somalia
5. Eritrea
6. Afghanistan
7. Algeria
8. Egypt
9. Eritrea
10. Uzbekistan
11. Morocco
12. Malaysia
13. Pakistan
14. Bangladesh
15. Bahrain
16. Djibouti
17. Kazakhstan,
18. Kuwait
19. Lebanon
20. Libya
21. Oman
22. Qatar
23. Syria
24. Tunisia
25. Thailand
26. Yemen
27. Gaza and the West Bank

Department of Homeland Security has indicated that it is preparing a fact sheet that will address the change. There are some indications that DHS will not apply this policy to people filing affirmative asylum application (applications filed in the United States after entering the US rather than at the time of entry).

Asylum seekers from those countries will be detained while their applications are being processed even if there is no suspicion that the individuals have any terrorist links. In 2002, of the almost 10,000 individuals that arrived in the United States seeking asylum, about 600 were from the designated countries and two thirds of that number were Iraqis. Civil libertarians and immigration-law specialists said the wording of the administration's policy is so broad that it could ultimately require the imprisonment of thousands of asylum seekers. "This sends a message to people who are the victims of human rights abuses that we are going to put you into detention if you come from the very countries that the U.S. has identified — that President Bush has identified — as having torture chambers and committing egregious human rights abuses," said Bill Frelick, director of the refugee program for Amnesty International USA.

"It's a shocking development," Ibrahim Hooper, spokesman for the Council on American-Islamic Relations, a Muslim civil-rights group, said of the asylum policy. "Many asylum applications can take years. It seems unfair to put people in jail who are escaping persecution and who have done nothing wrong just because they are from certain countries." Secretary Ridge defended the policy as a prudent and

temporary measure to allow U.S. officials to keep track of asylum applicants while the government investigates their claims that they were in danger in their native lands. Asylum seekers would ordinarily go free while their claims were being processed which could last several months to over a year. Officials say that they will not detain asylum seekers already living in the United States.

Non-citizens in the Military

More than 30,000 resident aliens are serving on active duty in the U.S. military, which constitutes about 2 percent of 1.4 million soldiers. President Bush has made it easier for immigrants in the military to obtain citizenship by eliminating a three-year wait they had faced before they could apply. The president's executive order applied to any member of the military serving after September 11, 2001. It essentially allows them to apply for citizenship immediately and is described as a gesture to thank the soldiers for their service in defending the country. Sgt. Joel Chaviano supports the executive order saying, "these guys are serving our country. They swore to defend the Constitution. They deserve to be citizens."

The federal government says that it is ready and is going to do everything possible to minimize disruption to people and commerce during the new security alert.

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 - I am in the process of filing a renewal for my EAD and advance parole - I am told this takes 90 days to do but things are slow now. Is there a way to pay additional fee and get an expedited processing done?

A - You cannot get an employment authorization document (EAD) expedited, but you can get a local INS office to issue you an interim work authorization document if a service center takes more than 90 days. Most local INS offices have their own procedures for issuing interim employment documents, so be sure to check on this.

Q - I have an h-4 visa, because my father has an h-1 visa, but unfortunately i am going to be 21 on sept '03, so does this mean I have to make my own visa? I was thinking of changing to f-1 visa since I am currently attending a university, what do you think? Is there any other way other than changing to f-1?

A - Yes, once you turn 21 you are no longer eligible to be an H-4 visa holder. Many

H-4 people in situations like you choose to change to F-1 status. Unless you have a university degree, you are probably going to have few options for other visas.

Q - Can a person who TPS status file for a advance parole?

A - It is sometimes possible to travel, but you will need permission from the local INS office and you need to make sure you are not subject to a reentry bar. Below is the INS' policy on traveling for TPS recipients:

An individual granted TPS must remain continuously physically present in the United States. The grant of TPS status does not mean that you have permission to travel abroad, though permission to travel may be granted by the district director according to the Service's advance parole provisions. There is no appeal to a denial of advance parole. Failure to obtain advance parole prior to traveling abroad may result in the withdrawal of your TPS and/or the institution or re-calendar of removal proceedings.

Q - I have a quick question. The company I work for is going to relocate. I have H1-B through this company. I am just wondering if I decide not to move with this company, should I change my status to B-1 or H-4 (My husband is on H1-B as well) in order to keep my H-1B portability? I want to have the opportunity to look for a new employer and be able to start work right after the new employer file for H1-B. Thanks for your advice!

A - I would switch to H-4 status since this is much easier to get approved than B-1 status. To remain portable, you will need to apply for a new H-1B approval within 30 days of leaving the first H-1B employer.

Q- I came to know that IELTS scores are valid visa screen certification program. Is it true that both general and academic IELTS scores are valid for the visa screen certification program and the score required is 6 overall with 7 spoken band?

A - Here are the scores you need for nurses:

Option #1: TOEFL: 540 (or 207 computerized) TWE: 4.0 TSE: 50

Option #2: TOEIC: 725 TWE: 4.0 TSE: 50

Option #3: IELTS (Academic Module ONLY): 6.5 IELTS Spoken Band: 7.0

Option #4: MELAB (Overall): 79 MELAB (Oral Component): 3+

Q - I have a pending 1-485 case under employment. I have an EAD and currently working to my employer who sponsored me. I just have a new address. Do I need to notify the INS for this and if ever what form I am going to file?

A - Yes, you always need to notify the INS when you move even after you get the green card. You should go to www.immigration.gov and download the AR-11 form and send it in to the BCIS.

Q - A friend has given birth during her stay in Iran. She is a US citizen by birth. Her husband is a naturalized US citizen. He has been a citizen for 20+ years. Her husband is in the US and was unable to go with her to Iran. A family emergency led her to make this trip. She has not been able to get through to an embassy to find out the steps she needs to take to insure her child's US citizenship and to fly back to the US with her child. Please advise me of the steps she needs to take to take her child back home with her.

A - Because she is a US Citizen, her child will qualify for US citizenship. She will need to certify the birth by a Consular report. After that, she can apply for a US passport at the Consulate. There are several American Consulates in the region. All consulates provide services to American Citizens. However, because she will provide Iranian documentation (birth certificate, etc.) it may be a good idea to apply at a Consulate that deals with Iranians frequently. Most of the traffic in that region goes to the consulate in Ankara. Below is a link to their citizenship through birth information:

<http://ankara.usembassy.gov/Consular/ACSBRTH.HTM>

There is a check list of documents there that she use to establish citizenship.

[Thanks to Arda Beskardes of the University of Memphis for assistance with this question]

Q - If someone with only a working visa (L1?) has a child in the U.S., the child is by-birth a U.S. citizen. What is the status of the parents? Can they be denied the right to stay in the U.S.?

A - The status of the child is US citizen. The status of the parents remains unchanged. They are not permitted to remain in the US just because the child is a citizen. A citizen child can only sponsor the parent when the child is 21.

Q - Is it lawful if I have an H-1B visa for me to work at another professional jobs at the same time?

A - You can have two H-1B approvals to simultaneously work for more than one employer. The H-1B visa is one of the only work visa categories that allows for this.

The 108th Congress has introduced more than 90 immigration-related bills so far, and advocates on both sides of the immigration debate are watching to see if national security can be tightened while protecting the rights of legal immigrants. Many of the proposals focus on border security. Representative Sheila Jackson Lee has sponsored several bills, including one that calls for a study of traffic stops along the border. Several bills would increase monitoring of the borders, including one introduced last week by Senator Pete Domenici, which boosts funding for border infrastructure and personnel.

* * *

President Bush has ordered increased security at U.S ports of entry in an effort to reduce the threat of terrorism while American forces are at war in Iraq. The stepped-up activity is part of Operation Liberty Shield, a plan introduced by the Department of Homeland Security. Border Czar Asa Hutchinson said that 140 new federal agents will be assigned to the US-Mexico border in Arizona to protect against the threat of terrorism and to combat the flow of illegal immigrants. Mexico has also increased security along the shared border, with 18,000 troops deployed at strategic points, such as electricity installations and water plants.

* * *

A Filipino crew of 20 was denied shore leave upon arrival at a Georgia port this week, forcing them to remain aboard their ship after a five-week journey across the Pacific Ocean. Since the terrorist attacks on Sept 11, 2001, immigration authorities have been hesitant to give the usual permission granted to merchant mariners. Nearly 300,000 merchant mariners visit U.S. ports each year, delivering cars, grain, electronics and other merchandise.

* * *

According to an article in the Washington Post yesterday, Attorney General John Ashcroft has issued orders allowing FBI agents and U.S. marshals to detain foreign nationals for alleged immigration violations when there is not enough evidence to hold them on criminal charges. The new regulations were released in December but were not made public. The change is said to signal an attempt by the Justice Department to involve police in immigration matters traditionally handled by INS officers and immigration courts.

* * *

Asa Hutchinson, the undersecretary for border and transportation security, said the Department of Homeland Security might not have enough time to complete an entry-exit system to track foreigners coming into the United States. The deadline, December 2005, was legislated by the USA Patriot Act, the Enhanced Border Security Act and the Visa Entry Reform Act. In testimony before Senate subcommittees, Hutchinson told Congress that immigration officials would have no problem meeting a December 31 deadline for putting a system in place to track foreigners entering and leaving the country by commercial flight or sea-going vessel. But he said other

related deadlines would be "a greater challenge," because new systems and infrastructure would be needed.

US officials said the government will detain new asylum seekers who arrive in the United States from 33 nations thought to have ties to Al Qaeda or other terrorist groups. Authorities said they would not detain asylum seekers already in the United States. Most asylum seekers are not detained and are allowed to live in the country while their request for asylum is processed, which can take up to six months.

5. News From The Courts

United States of America v. John William Fry
United States Court of Appeals for the Ninth Circuit

John William Fry, a Canadian citizen, sought habeas relief under 28 U.S.C. § 2255, arguing that his counsel had ineffectively assisted him by not informing him that he could be deported if convicted, and by not objecting to the district court's use of a preponderance of the evidence standard instead of the clear and convincing standard at sentencing. The court held that Fry's counsel's failure to advise him of collateral immigration consequences of the criminal process did not amount to ineffective assistance of counsel.

In 1997, Fry was convicted by a jury of conspiracy to commit wire fraud, of wire fraud and of aiding and abetting. At sentencing, the district court found by a preponderance of the evidence that \$4 million of loss was attributable to Fry. The court sentenced him to 46 months in prison. In 2000, Immigration and Naturalization Services began deportation proceedings against Fry based on the conviction for an aggravated felony. He petitioned the court on the grounds that his counsel ineffectively represented him, thus violating his Sixth Amendment right to effective assistance of counsel.

On review, the court stated that to establish ineffective assistance of counsel, Fry must show (1) that counsel performance was deficient (fell below an objective standard of reasonableness), and (2) that the deficient performance prejudiced his defense. Strickland v. Washington, 466 U.S. 668, 687 (1984). The court found that deportation is a collateral, not direct, consequence of the criminal process, Fruchtman v. Kenton, 531 F.2d 946, 949 (9th Cir.1976); United States v. Amador-Leal, 276 F.3d 511, 513-17 (9th Cir. 2002), and counsel failure to advise a defendant of a collateral penalty is not objectively unreasonable. Torrey v. Estelle, 842 F.2d 234, 237 (9th Cir. 1988).

The court further found that Fry demonstrated no prejudice from his counsels' failure to object to the standard of proof used at sentencing. Normally, the government must prove sentence-enhancing factors by only a preponderance of the evidence. United States v. Romero-Rendon, 220 F.3d 1159, 1160 (9th Cir. 2000). To prevent an extremely disproportionate effect in sentencing, the government may have to satisfy a clear and convincing standard. United States V. Hopper, 177 F.3d 824, 833 (9th Cir. 1999). The court held that Fry did not affirmatively prove prejudice, Strickland, 466 U.S. at 693, because he did not demonstrate how the weight of

evidence precluded the government from meeting the clear and convincing standard. Further, the court affirmed the district court's conclusion in the habeas hearing that the evidence against Fry did meet the clear and convincing standard anyway.

6. Government Processing Times

These are not official INS times, nor are they endorsed by the Central Office.
Source: [American Immigration Lawyers Association](#)

Vermont Service Center Processing Time Report		
Form		We are now processing cases with these receipt dates:
I-90	to replace lost, damaged or destroyed I-551	2/1/2002
I-102	for replacement/initial nonimmigrant arrival/departure form	Current
I-129	Petition for Nonimmigrant Worker H1B Cap	12/24/2002
I-129	Petition for Nonimmigrant Worker H1B Ext	12/9/2002
I-129	Petition for Nonimmigrant Worker H2A	Current
I-129	Petition for Nonimmigrant Worker (H2B, H3, O, P, Q, R)	1/22/2002
I-129	Nonimmigrant Worker L (not based on a blanket petition)	1/24/2003
I-129	Nonimmigrant Blanket L	1/24/2003
I-129F	(Fiancée)	2/6/2003
I-212, I-601, I-612	Waivers	Current
I-130	Immediate Relative Classes	8/22/2002
I-130	Preference Classes	2/8/1999
I-131	Application for Travel Document	2/14/2003
I-140	Immigrant Petitioner for Alien Worker E11	4/1/2002
I-140	Immigrant Petitioner for Alien Worker E12	4/3/2002
I-140	Immigrant Petitioner for Alien Worker	7/10/2002

	E13	
I-140	Immigrant Petitioner for Alien Worker E21 (National Interest Waivers: 4/5/2002)	7/27/2002
I-140	Immigrant Petitioner for Alien Worker E31. E32 EW3 (Nurses: current)	7/1/2002
I-360	Petition for Widowed/Special Immigration	8/9/2002
I-360	VAWA	8/17/2002
I-485	Application to Register Permanent Residence or to Adjust Status	11/15/2001
I-539	Application to Extend/Change Nonimmigrant Status	2/10/2003
I-687		N/A
I-698	Application to Adjust Status from Temporary to Permanent Resident	N/A
I-751	Petition to Remove Conditions on Residence	12/28/2001
I-765	Employment Authorization (C) (8)	2/10/2003
I-765	Employment Authorization (C) (9)	2/11/2003
I-765	Employment Authorization Other	1/24/2003
I-817	Application for Family Unity Benefits	N/A
I-821	Application for Temporary Protected Status – El Sal	4/4/2001
I-821	Application for Temporary Protected Status – Nicaragua/Honduras	Current
I-824	Application for Action on an Approved Application or Petition	2/27/2002
I-914	Application for T Non-immigrant Status	Current
N-470, N-565, N-643		10/2/2002
N-600		9/13/2002

7. News Bytes

The U.S. State Department of State has unveiled "Secure Borders. Open Doors," a new effort to better communicate changes in U.S. visa procedures. Heightened concerns about security in the wake of the September 2001 terrorist attacks and subsequent United States government reorganization to address homeland security

have led to a variety of changes in the visa policies. The program will initially utilize a new web site (www.UnitedStatesVisas.gov) and a customizable brochure. Additional materials will be developed in consultation with U.S. embassies and consulates around the world.

The following organizations have been barred from applying for immigrant and nonimmigrant visas for periods up to two years. As a result, immigrant and nonimmigrant petitions filed by them will not be approved.

1. Academy of Chinese Culture & Health Sciences - Oakland, California
2. View Systems Inc. - Baltimore, Maryland
3. Global Infonet International, Inc. - Woodbridge, New Jersey
4. Verma Labs, Inc - Woodbridge, New Jersey
5. Integrated Mental Health Service, S.C. - Marinette, Wisconsin
6. Steeltech 2000 - Covina, California
7. Yano Enterprises d/b/a Shogun Japanese Steakhouse - Lakeland, Florida
8. Millennium Worldwide Consulting - Westerville, Ohio
9. Deftcom, Inc. - Tucson, Arkansas
10. Green Master, Inc. - Apopka, Florida
11. ACI Manufacturing Company LP d/b/a/ AAA Furniture Wholesale, Inc. - Houston, Texas
12. Plutus Environmental Technologies, Inc. - Sevierville, Tennessee
13. Sunfresh, Inc. - Royal City, Washington

The Department of Homeland security will no longer waive the I-90 and Form I-551 photograph requirements for religious reasons. On February 14, 2003, The Department of Justice issued a field memorandum stating that in light of national security related to the events of September 11, 2001, there will no discretionary waivers of the photograph requirement except for those specifically provided to accommodate advanced aged or physical infirmity.

Effective April 1, 2003, legal immigrants with 5 years of residence in the United States will be eligible for food stamps. On October 1, 2003, legal immigrant children will be eligible for food stamps without a waiting period.

On March 21, 2003, the Department of Justice officials say that former U.S consulate employees in Nuevo Laredo, Mexico have plead guilty to conspiracy to commit visa fraud. More information on the case can be found in our February 7, 2003 newsletter at <http://www.visalaw.com/03feb1/13feb103.html>.

U.S. District Judge R. Allen Edgar, in the Tyson Foods immigrant case, has dismissed the immigrant smuggling charges against the company. Other serious immigration charges, however, remain outstanding against the food company.

8. International Roundup

Japan: Relatives of Slain Detainee Demand Investigation

Relatives of an Iranian man who died while in a Japanese detention facility in 1997 are demanding an investigation into why prosecutors chose not to charge eight bureau officials with assault resulting in death. The man was detained for staying in Japan illegally. He died after being locked in a room and bound with leather and metal handcuffs; bruises and wounds were found on his body. In March 1998, The Tokyo District Public Prosecutor's Office decided not to indict the officials alleged to have beaten the man to death. Another detainee witnessed the event, and he gave a description of the man's attackers. A lawyer in the case described the witness' testimony as credible and concrete.

Australian Asylum Centers Close

Just one week after announcing intentions to close the Woomera asylum camp in the South Australian desert, Australia will shut down another detention center for asylum seekers on Christmas Island, according to Immigration Minister Philip Ruddock.

Ruddock said the center was no longer needed, and that the seven remaining people held there had been sent back to Afghanistan and Nauru. Australia has witnessed a sharp decline in the number of asylum seekers reaching the country by boat, fleeing Afghanistan, Iraq and Iran, since instituting tough new immigration measures to reduce the flow of illegal migrants.

Last week, the Immigration Ministry said that the Woomera detention center would close in April for financial and logistical reasons, and the asylum seekers kept there would be moved to another nearby location.

UAE Organizes Raids In Advance Of Amnesty Deadline

United Arab Emirates immigration authorities have enlisted the help of local police to crack down on illegal immigrants thought to be hiding out throughout the country. Foreigners in the country illegally face severe penalties if they do not leave before a period of amnesty ends. Officials say raids on residences, shops and farms would help the government avoid complications and huge crowds at the end of the grace period.

Comic Book Warns Mexican Youth Of Border Crossing Dangers

The State Office for Attention to Migrants in Mexico's southern state of Oaxaca has published a comic book with cautionary tales based on true stories of border

crossings. "What Are You Betting When You Migrate, Oaxacan?" is the story of a young man in the fictional village of San Gumer who has big dreams of U.S. dollars, the Statue of Liberty, hamburgers and fancy cars. The 20-page book contains heroes and villains, as well as grieving widows and family. On the cover is a picture of smugglers, bandits and a US Border Patrol agent.

"We came up with the comic book because we wanted to demystify the idea that everything goes great for the migrant," said Aida Ruiz, director of Oaxaca's migrant office.

9. Canadian Immigration News: Immigration Ministry Found by Court to Have Dragged Heels on Visa Processing, By Leonard Pearl

Leonard Pearl is a lawyer in SSHD's Toronto office and specializes in Canadian immigration law.

According to a Federal Court of Canada ruling the Citizenship & Immigration Canada Minister misled and ignored parliament last year. The Immigration Ministry was found to have dragged its heels on processing a backlog of immigration applicants desperate to get to Canada before strict new standards were imposed. Justice Kelen's decision directly affects 102 applicants who will now have a fresh chance to enter Canada. But the ruling refused to consider the 100,000 other immigrants who were disadvantaged by Citizenship & Immigration Canada.

The Minister announced last year that the government would extend the deadline for the processing of applicants under the old law from December 31, 2002 to March 31, 2003. The extension followed the recommendation of a parliamentary committee, which said the department didn't have enough time to process all the applicants who had entered the system before tough new immigration standards were imposed in legislation announced in December 2001.

But the committee based its recommendation for a three-month extension on the testimony of a senior bureaucrat, CIC assistant deputy minister Joan Atkinson, on March 12, 2002.

The deputy minister told the committee that the department anticipated a backlog of 30,000 applicants by January 1, 2003, and she indicated that the department could find ways to accelerate their processing during the extension period.

Justice Kelen wrote "Based on the evidence before this court, which was subject to cross-examination, it is clear that the [department] provided the committee with significantly incorrect numbers...rather than the 30,000 such applications expected to be outstanding as of December 31, 2002, the evidence established that there will be 80,000 to 120,000 such applications expected to be outstanding as of March 31, 2003."

Kelen further wrote that the department "did not inform Parliament of this error when it became evident."

He also wrote that the Immigration Department ignored the recommendations from the committee calling the department to make efforts to expedite application

processing in foreign missions. He stated "[the department] ignored the legislative purpose and intent of extending the time frame for assessing such applications, failed to adopt the reasonable advice and recommendations from the parliamentary committee...and ignored the objective of [the new immigration act] which requires 'prompt processing' of visa applications."

The court application was brought by 7 Canadian lawyers on behalf of 102 clients. Justice Kelen refused to expand his decision to those lawyers and clients that did not bring the court challenge. Leonard Pearl of Siskind, Susser, Hass & Pearl was one of the 7 lawyers.

The Minister has appealed the decision to the Federal Court of Appeal. The Immigration parliamentary committee has called the Minister to appear before them on March 20, 2003.

10. Acceptance of Foreign Identification Cards Causes Controversy

Mexico's government has been offering national ID cards to their citizens around the world for 130 years. Last year, the Mexican government started issuing higher security national identity cards through their consulate offices in the United States. The Matricula Consular de Alta Seguridad is a credit card size document that identifies a person as a national of Mexico, but it does not indicate their immigration status. The cards, intended to be used to help with events like opening bank accounts, cashing checks, getting a drivers' license, accessing buildings and law enforcement, are digitally coded and cost \$29. Controversy over government agencies and companies accepting them has risen as a number of Latin American countries have begun or will soon begin issuing similar identification cards to their nationals.

Some local government agencies are beginning to accept the cards. To help provide social services and law-enforcement protection, the Palm Beach County sheriff's deputies are starting to accept the Matricula Consular de Alta Seguridad ID as a valid form of identification for their county's 31,000 Mexican nationals, both legal and illegal. A sheriff's spokesman said, "We're not delving into their status as immigrants. The reality is that there are undocumented people throughout Florida, and we've had tragedies where people are killed in accidents and we have difficulties identifying them and notifying their loved ones." The sheriff's department also seeks to aid the immigrant workers who are victims of crime and are reluctant to report crime or cooperate with police. The sheriff's office has ordered 1,500 decoders and deputies will be trained on verifying the cards. In California, Napa's Police Chief hopes to follow the lead of Los Angeles, Oakland and Los Angeles in accepting the ID card. Several municipalities near Phoenix, Arizona now accept the ID cards for city programs.

Opponents of accepting the cards as a valid form of identification believe this would legitimize the illegal immigrant population and encourage its growth. They purport that this is an attempt by foreign governments to make an end run around U.S. law. U.S. Congressman Tom Tancredo (R-CO) has proposed a bill that would require that federal agencies only recognize identification documents issued by federal or state authorities. In Colorado, a bill has won tentative approval in the state senate that would prohibit state and local authorities from recognizing identification not issued

by the federal or state government. For humanitarian reasons, the proposed legislation will allow the cards to be used by law enforcement and the state Health Department because children born to pregnant women using these cards will be citizens. The Colorado Senate President recently gave an example where a local Mexican consulate had issued as many as three cards in different names to the same person. State Senator Ron Tupa believes that state is interfering in federal responsibilities to police the nation's borders.

Proponents of the card state that the cards do not give immigrants more rights, imply legal residency, or give voting or driving privileges.

The Mexican government reports that more than 1 million cards were issued last year and were accepted by 74 banks, 13 states, 90 cities and 800 police agencies. Guatemala has issued 32,000 since its programmed debuted last August. The Peruvian consulates plan to start issuing ID card to their nationals in two months through a pilot program in New York, and the Honduran embassy is anticipating permission from its government to begin issuing ID's.

11. Special Registration Deadline for Pakistanis and Saudi Arabians Passes

The Bureau of Citizenship and Immigration Services required all Pakistanis and Saudi Arabian citizens to submit to Special Registration by today, March 21, 2003. There is no indication yet whether this deadline will be extended. This is the third group of required registrant whose deadline has passed. The program covers men over the age of sixteen who are citizens of 25 Middle Eastern, North African and Central Asian countries in addition to North Korea and Indonesia. The countries are those classified by the US Justice Department as bases for terrorist groups.

By April 25th, men from Bangladesh, Egypt, Indonesia, Jordan and Kuwait must register. More specifically, male citizens or nationals of these countries who were born on or before February 24, 1987, who were inspected and last *admitted* to the U.S. as *nonimmigrants* on or before September 30, 2002 and who will remain in the U.S. after March 28, 2003 should register.

The Special Registration interview includes questions such as the alien's place of birth and the names, addresses and birth dates of his parents. They are also asked for other identifying numbers such as credit card numbers and bank accounts numbers. These are just a few questions that the men may have to answer about their immigration status, their families and their finances and interviews can go on for as long as an hour. The men also have to produce their passports and should be prepared to document their legal status. Every registrant is fingerprinted, photographed and given a registration stamp. The motivation for asking for information on one's parents is believed to be tied to the government's desire to track individuals after they return home.

A complete summary of the special registration process can be found online at <http://www.aif.org/lac/911PA.htm>

12. DHS Issues 2003 Poverty Guidelines

The Department of Homeland Security issued updated poverty guidelines for 2003. These guidelines are used for many things and in the immigration context are used to determine the required level of income for a valid I-864 Affidavit of Support. To be a qualifying sponsor, the petitioner must earn 125% of the federal poverty level.

For 2003, the federal poverty guidelines are as follows:

48 Contiguous States and the District of Columbia

Size of family	Poverty guideline	125%
2.	\$12,120	\$15,150
3.	15,260	19,075
4.	18,400	23,000
5.	21,540	26,925
6.	24,680	30,850
7.	27,820	34,775
8.	30,960	38,700

For family units with more than 8 members, add, \$3,140 for each additional person and \$3,925 to meet the 125% level.

Alaska

2.	\$15,140	\$18,925
3.	19,070	23,837
4.	23,000	28,750
5.	26,930	33,662
6.	30,860	38,575
7.	34,790	43,487
8.	38,720	48,400

For family units with more than 8 members, add, \$3,930 for each additional person and \$4,912 to meet the 125% level.

Hawaii

2.	\$13,940	\$17,425
3.	17,550	21,937
4.	21,160	26,450
5.	24,770	30,960
6.	28,380	35,475
7.	31,990	39,987
8.	35,600	44,500

For family units with more than 8 members, add, \$3,610 for each additional person and \$4,512 to meet the 125% level.

13. State Department Visa Bulletin for April 2003

The Department of State has released the Bulletin for April 2003, which summarizes the current availability of immigrant numbers.

Family Numbers

	All Chargeability Areas Except Those Listed	MEXICO	PHILIPPINES
1st	01AUG99	01JUL93	22APR90
2A*	01FEB98	15AUG95	01FEB98
2B	15AUG94	08NOV91	15AUG94
3rd	08MAR97	22APR93	08DEC89
4th	22APR91	22APR91	15DEC81

Employment Numbers

	All Chargeability Areas Except Those Listed	MEXICO	PHILIPPINES
1st	C	C	C
2nd	C	C	C
3rd	C	C	C
Other Workers	C	C	C
4th	C	C	C
Certain Religious Workers	C	C	C
5th	C	C	C
Targeted Employment Areas/Regional Centers	C	C	C

Diversity Visa Numbers

Region	All Chargeability Areas Except Those Listed Separately	
Africa	AF 16,500	

Asia	AS 10,400	Except: Bangladesh 7,950
Europe	EU 26,250	
North America (Bahamas)	NA 13	
Oceania	OC 410	
South America (Caribbean)	SA 1,140	

14. Study Shows Increase in Immigrant Welfare

Recently, the Center for Immigration Studies (CIS) reviewed the Census Bureau figures for four major welfare programs and reported that immigrant welfare usage has increased since 1996, when legislation was passed to curtail their usage. The CIS is a think tank that supports curtailing immigration to the United States. Section 212(a)(4) of the Immigration and Nationality Act makes inadmissible any person who is likely to become a public charge. This is one of the oldest parts of the United States immigration statutory scheme. The four major programs examined were Temporary Assistance for Needy Families (TANF), Supplementary Security Income (SSI), food stamps and Medicaid. In 2001, immigrant-headed households accounted for 18 percent of all households on welfare, compared with 14 percent in 1996.

In 1996, Congress passed the legislation to deny immigrants' access to various welfare programs. Some states have decided to cover some restricted immigrants with their own funds. In every major category except Medicaid, the number of immigrants on welfare has dropped since 1996. The study shows that Medicaid is the most common program used by immigrants. Michael Fix, a researcher who specializes in immigration at the Urban Institute in Washington, explained that while the number of cash benefits has been reduced by half, states aggressively sought to connect the working poor and their children with health coverage. He added that more immigrants are likely to receive Medicare during an outreach effort because immigrants are disproportionately represented among the working poor. Medicaid is the most expensive program offered to low-income residents.

The CIS reports states that the decline in TANF and food stamp use has not resulted in a significant savings for taxpayers because it has been almost entirely offset by increases in the costs of providing Medicaid to immigrant households. They believe that the only way to significantly reduce immigrant welfare use in the future is to admit fewer unskilled immigrants, because it is impossible to exclude immigrants and their children from the welfare system once they have been allowed into the country. In 2001, 23 percent of immigrant-headed households used at least one major welfare program, compared to 15 percent of native households.

Their report shows that the usage of welfare is not explained by immigrants' unwillingness to work, but, rather, because the modern American market has limited opportunities for a large number of immigrants having little education. Native-born welfare recipients are among the most employable welfare to work candidates because they speak English. Jon Blazer, with Community Legal Services in Philadelphia, said that when the native-born leave the welfare list, immigrants represent an increased proportion of whose is left. In 2001, almost 80 percent of immigrant households using welfare had at least one person working.

In 2001, 2.4 million of the 3 million immigrant-headed households using welfare were legal residents. Illegal immigrant-led residences were able to receive welfare because of their U.S. born children's eligibility. Some immigrant advocate groups say that the studies do not take into account the amount of state and federal taxes legal and illegal immigrants pay, as well as their contribution to revenue from spending.

15. Many Fearing Special Registration Seek Asylum in Canada

As word spreads that the US government is detaining and placing into deportation a large number of men participating in the Special Registration program, thousands of others are abandoning their homes and lives in the United States to seek asylum in Canada. The NSEERS Special Registration program requires men over the age of 16 to register at local Department of Homeland Security offices because they are citizens of 25 mostly Arabic and Islamic countries. Immigrants who entered the United States illegally, or whose visa expired or has been violated, can be deported or detained when they register.

Many of the men and families who are going to Canada are being sheltered in refugee sanctuaries and run-down motels on the United States side of the border. Some are being assisted by U.S. government-funded agencies until their hearing with Canadian immigration officials. The United States government reportedly believes that the refugee services benefits outweigh their harboring of the undocumented immigrants.

The sanctuaries have generally been charged with helping people get asylum in the United States, but are now helping people gain asylum in Canada. These men know that going before the DHS means being locked up in jail while they wait to be deported. Canada is generally believed to have more lenient immigration policies than its neighbor to the south, and it has not enacted post-September 11th regulations similar to those of the United States requiring stricter monitoring of men from the listed countries. Canadian immigration officials generally do not detain asylum seekers and such individuals are often allowed to work.

Some immigration restriction advocates oppose U.S. agencies assisting illegal immigrants in circumventing the law. Immigration restriction advocacy groups like the Center for Immigration Studies believe that illegal immigrants should not have assistance in hiding from American immigration authorities. According to the Safe Third Country Agreement, an accord between the United States and Canada that goes into effect later this year, an immigrant can only seek asylum in the country he originally entered. There are many who believe that this accord would put an end to the situation.

Freedom House in Detroit is a nonprofit charity that has helped nearly 300 people seek asylum in Canada since January. David Koelsch, an attorney at Freedom House, believes that many of these refugees would have been eligible for asylum in the United States if they had had money for a lawyer or understood the application deadlines. Some fleeing families did not believe that they needed to apply, thinking that if they were working and paying taxes, no one would bother them. But that was before the September 11 turning point. The Canadian government will issue the refugees vouchers for an apartment and a lawyer to help with their asylum case.

Canada had once processed asylum applicants in a day and the United States had assured its government that they would not detain immigrants seeking asylum in Canada. But since the recent backlog of asylum-seekers has grown, the United States has not stuck to the agreement and is now detaining those they find. A Canadian official says that their system is working and is in keeping with their two goals: The safety of Canada and to maintain their humanitarian tradition. Pakistanis are one of Canada's largest immigrant groups.

One refugee fleeing to Canada said, "Just because I don't have status does not make me a criminal." Many who believe that they were just being apart of the American dream hold this position.

16. CGFNS Approves New English Exams for Foreign Health Care Workers

The Commission on Graduates of Foreign Nursing Schools (CGFNS), the organization charged with certifying nurses immigrating to the US, has announced that it will now accept test scores from both the Test of English for International Communication (TOEIC) and the International English Language Testing System (IELTS). The new exams may be used for the CGFNS Certification Program and the VisaScreen credentials assessment program.

Until the announcement was made, only the Educational Testing Service's Test of English as a Foreign Language (TOEFL), Test of Written English (TWE) and the Test of Spoken English (TSE) were accepted. Many people complained about the lack of competition and substandard testing conditions in some locations.

Applicants can contact these organizations at the following addresses:

TOEFL, TWE and TSE
Educational Testing Service
P.O. Box 6151
Princeton, NJ 08541-6151 USA
Telephone: (609) 771-7100i
Email: toefl@ets.org or web at www.ets.org

The Chauncey Group International, Ltd.
664 Rosedale Road
Princeton, NJ 08540-2218 USA
Telephone: (609) 734-1550
Website: www.toeic-usa.com or web at www.toeic-usa.com

IELTS Administrator
Cambridge Examinations and IELTS International
100 East Corson Street, Suite 200
Pasadena, CA 91103 USA
Telephone: (626) 564-2954
Email: ielts@ceii.org
Website: www.ielts.org

Scores must be as follows:

Registered Nurses (RN), Speech Language Pathologists and Audiologists, Clinical Laboratory Scientists (Medical Technologists) and Physician Assistants

Option #1: TOEFL: 540 (or 207 computerized) TWE: 4.0 TSE: 50

Option #2: TOEIC: 725 TWE: 4.0 TSE: 50

Option #3: IELTS (Academic Module ONLY): 6.5 IELTS Spoken Band: 7.0

Option #4: MELAB (Overall): 79 MELAB (Oral Component): 3+

For VisaScreen, Registered Nurses would be required to complete any of the options listed above, as listed. For the Certification Program, Registered Nurses would be required to pass either the TOEFL, the TOEIC or the IELTS as listed above (NOT the TWE, TSE or the MELABs).

Physical Therapists and Occupational Therapists

ONLY Option: TOEFL: 560 (or 220 computerized) TWE: 4.5 TSE: 50

Licensed Practical/Vocational Nurses (LPN/LVN) and Clinical Laboratory Technicians (Medical Technicians)

Option #1: TOEFL: 530 (or 197 computerized) TWE: 4.0 TSE: 50

Option #2: TOEIC: 700 TWE: 4.0 TSE: 50

Option #3: IELTS (General Training Module): 6.0 IELTS Spoken Band: 7.0

Option #4: MELAB (Overall): 77 MELAB (Oral Component): 3+

17. LEGISLATIVE UPDATE

The following bills were recently introduced in the Congress:

- S.236, sponsored by Senator Bill Nelson [FL] (introduced 1/29/2003), would require background checks of alien flight school applicants without regard to the maximum certificated weight of the aircraft for which they seek training, and to require a report on the effectiveness of the requirement.
Latest Major Action: 1/29/2003 Referred to Senate committee. Status: Read twice and referred to the Committee on Commerce, Science, and Transportation.

http://thomas.loc.gov/cgi-bin/t2GPO/http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=108_cong_bills&docid=f:s236is.txt.pdf

- H.R.1353, sponsored by Representative Susan Davis (introduced 3/19/2003), would authorize the Port Passenger Accelerated Service System (PortPASS) as a permanent program for land border inspection under the Immigration and Nationality Act.
Latest Major Action: 3.19.2003: Referred to the House Committee on the Judiciary.
- H.R.1333, sponsored by Representative Frank Pallone, Jr. [NJ] (introduced 3/18/2003), would clarify the citizenship eligibility for certain members of the Tohono O'odham Nation of Arizona, and for other purposes.
Latest Major Action: 3/18/2003 Referred to House committee. Status: Referred to the House Committee on the Judiciary.

http://thomas.loc.gov/cgi-bin/t2GPO/http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=108_cong_bills&docid=f:h1333ih.txt.pdf

- H.R.1275, sponsored by Representative Martin Frost [TX] (introduced 3/13/2003), would amend the Immigration and Nationality Act to change the requirements for naturalization to citizenship through service in the Armed Forces of the United States.
Latest Major Action: 3/13/2003 Referred to House committee. Status: Referred to the House Committee on the Judiciary.

http://thomas.loc.gov/cgi-bin/t2GPO/http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=108_cong_bills&docid=f:h1275ih.txt.pdf

- H.R.1238, sponsored by Representative Rick Larsen [WA] (introduced 3/12/2003), would authorize the Attorney General to carry out a program, known as the Northern Border Prosecution Initiative, to provide funds to northern border States to reimburse county and municipal governments for costs associated with certain criminal activities, and for other purposes.
Latest Major Action: 3/12/2003 Referred to House committee. Status: Referred to the House Committee on the Judiciary.

http://thomas.loc.gov/cgi-bin/t2GPO/http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=108_cong_bills&docid=f:h1238ih.txt.pdf

- H.R.300, sponsored by Representative Peter T. King, [NY] (introduced 1/8/2003), would provide that Executive Order 13166 shall have no force or effect, and to prohibit the use of funds for certain purposes.
Latest Major Action: 1/8/2003 Referred to House committee. Status: Referred to the House Committee on Government Reform.

http://thomas.loc.gov/cgi-bin/t2GPO/http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=108_cong_bills&docid=f:h300ih.txt.pdf

- H.R.322, sponsored Representative Edolphus Towns [NY - 10] (introduced 1/8/2003), would amend title XIX of the Social Security Act to assure coverage for legal immigrant children and pregnant women under the Medicaid Program and the State children's health insurance program (SCHIP).
Latest Major Action: 2/3/2003 Referred to House subcommittee. Status: Referred to the Subcommittee on Health.

http://thomas.loc.gov/cgi-bin/t2GPO/http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=108_cong_bills&docid=f:h322ih.txt.pdf

- H.R.687, sponsored by Representative Elton Gallegly [CA] (introduced 2/11/2003), would prohibit the Federal Government from accepting a form of identification issued by a foreign government, except for a passport that is accepted for such a purpose on the date of enactment of this Act.
Latest Major Action: 2/11/2003 Referred to House committee. Status: Referred to the Committee on Government Reform, and in addition to the Committees on House Administration, and the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

http://thomas.loc.gov/cgi-bin/t2GPO/http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=108_cong_bills&docid=f:h687ih.txt.pdf

- H.R.690, sponsored Representative Luis V. Gutierrez [IL-4] (introduced 2/11/2003), would amend title XIX of the Social Security Act to provide for coverage under the Medicaid Program of organ transplant procedures as an emergency medical procedure for certain alien children.
Latest Major Action: 2/26/2003 Referred to House subcommittee. Status: Referred to the Subcommittee on Health.

http://thomas.loc.gov/cgi-bin/t2GPO/http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=108_cong_bills&docid=f:h690ih.txt.pdf

- H.R.1071, sponsored Representative Silvestre Reyes [TX] (introduced 3/4/2003), would establish the Southwest Regional Border Authority.
Latest Major Action: 3/4/2003 Referred to House committee. Status: Referred to the Committee on Transportation and Infrastructure, and in addition to the Committee on Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

http://thomas.loc.gov/cgi-bin/t2GPO/http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=108_cong_bills&docid=f:h1071ih.txt.pdf

- H.R.1088, sponsored by Representative Henry Bonilla [TX-23] (introduced 3/5/2003), would enhance the capacity of organizations working in the United States-Mexico border region to develop affordable housing and infrastructure and to foster economic opportunity in the colonias.
Latest Major Action: 3/5/2003 Referred to House committee. Status: Referred to the Committee on Financial Services, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

http://thomas.loc.gov/cgi-bin/t2GPO/http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=108_cong_bills&docid=f:h1088ih.txt.pdf

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