

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:

The average American typically has no idea how our immigration system works. In
the post-9/11 world, that system is even more complicated and the chances for
snags and problems to arise in processing are greater than ever. Occasionally,
however, the public does get a glimpse of what immigration lawyers and their clients
see everyday. That particularly comes up in the arts and sports where athletes and
entertainers from around the world have had to cancel appearances in the US

because of visa delays. Tonight, for example, if you tune into the Latin Grammy Awards, you will probably hear about several performers from Cuba who are absent because they could not get their visas in time. Security clearances are the presumed reason for the delay.

This is not the first and will certainly not be the last event in the US missed because of visa snafus. But our government can certainly do more than shrug its shoulders and blame the hijackers every time this happens. I don't think you will find many people disagreeing with the concept of security clearances. But what the government doesn't tell you is how woefully underfunded the security program is and how overwhelmed the FBI is trying to clear hundreds of thousands of new cases every month. They also don't tell you how much of this work is done manually instead of using technology that could make the process much faster and more effective.

Recently released data from the Department of Homeland Security is showing dramatic declines in the issuance of tourist, student and other visas. While the economy may have a little to do with this, much more has to do with the fact that coming to the us can be a major headache these days. In person interviews at US consulates combined with months-long security clearances simply send the message that we no longer welcome the world to visit our country (and spend much needed dollars as well). The Bush Administration needs to finally take seriously the proposition that having a secure immigration system and having one where processing is fast and efficient are not mutually exclusive concepts.

One item in our news bytes this week is a notice of yet another name change for the immigration bureaus. If you notice some unfamiliar acronyms in this issue, it is because the agencies handling immigration are in the process of dropping "bureau" and adding "United States" to the beginning of their names. Thus the agency known as BCIS will be referred to as USCIS.

This week I am pleased to welcome two new additions to our firm. Jaimie Naimi is a recent graduate of the University of Memphis Law School. Jaimie was an auctioneer in a prior life and brings an energy and enthusiasm to the office that is refreshing. We know clients are going to enjoy working with him. Jaimie can be reached at jnaini@visalaw2.com. Arda Beskardes also joins us this week. Arda, a University of Memphis Law School graduate as well, has been working for the past several years as the in-house immigration specialist for the University of Memphis. Those of you who are members of NAFSA may know his name. He's been very active in that organization for the past few years and brings a depth of expertise in the area of university immigration that will certainly add to our firm's capabilities. Welcome Arda and Jaimie!

In other firm news, I'm quoted this week in a Boston Globe article on abuses in the H-3 program. Most of you have probably never heard about this program, so it's news to many people (myself included) that some people are unhappy. You can find the article on our site at www.visalaw.com/news.

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 – DHS Guidance On I-485 Processing

The Department of Homeland Security recently issued a memorandum to provide field offices with guidance on processing Form I-485, Application to Register Permanent Residence or Adjust Status, when the beneficiary of an approved Form I-140, Petition for Immigrant Worker, is eligible to change employers under § 106(c) of the American Competitiveness in the Twenty-First Century Act of 2000 (“AC21”). The following ABC article is intended to answer questions that may arise under this situation.

1. Are the previous memoranda concerning the American Competitiveness Act still in place?

Three memoranda regarding this topic are still in effect.

- A. “Interim Guidance for Processing H-1B Applications for Admission as Affected by the American Competitiveness in the Twenty-First Century Act of 2002, Public Law 106-313”
- B. “Initial Guidance for Processing H-1B Petitions as Affected by the American Competitiveness in the Twenty-First Century Act (Public Law 106-313) and Related Legislation (Public Law 106-311)”
- C. “Procedures for concurrently filed family-based employment-based Form I-485 when the underlying visa petition is denied”

2. When did the new rule take effect?

The Service published an interim rule allowing, in certain circumstances, the concurrent filing of Form I-140 and Form I-485 on July 31, 2002.

3. How has this new rule changed the law?

Previous Service regulations required an alien worker to first obtain approval of the underlying Form I-140 before applying for permanent resident status on the Form I-485.

4. When will the approval of an I-140 employment-based (EB) immigrant petition remain valid if an alien changes jobs?

The I-140 will remain valid if

- i. Form I-485, Application to Adjust Status, on the basis of the EB immigrant petition has been filed and remained unadjudicated for 180 days or more AND
- ii. the new job is in the same or similar occupational classification as the job for which the certification or approval was initially made.

5. What if the Form I-485 has been pending for less than 180 days?

The approved Form I-140 will not remain valid with respect to a new offer of employment.

6. What if my employer withdraws the approved Form I-140 on or after the date that the Form I-485 has been pending 180 days?

The approved Form I-140 will remain valid under the provisions of §106(c) of AC21 under the assumption that the alien will submit evidence that the new offer of employment is in a same or similar occupational classification as the offer of employment for which the petition was filed.

However, if the approved Form I-140 is withdrawn and the alien has not submitted evidence concerning the new offer of employment, the adjudicating officer must issue of Notice of Intent to Deny the pending Form I-485.

7. Can I still submit evidence after receiving a Notice of Intent to Deny?

If the evidence of a new qualifying offer of employment submitted in response to the Notice is timely filed and it appears that the alien has a new offer of employment in the same or similar occupation, the BCIS may consider the approved Form I-140 to remain valid with respect to the new offer of employment and may continue regular processing of the Form I-485.

If the applicant responds, but does not establish that the new offer of employment is in the same or similar occupation, the adjudicating officer may deny the Form I-485. Also, if the alien fails to respond in a timely manner to the Notice of Intent to Deny, the adjudicating officer may immediately deny the Form I-485.

8. What happens if my employer withdraws my Form I-140 before the Form I-485 has been pending for 180 days?

If approval of the Form I-140 is revoked or the Form I-140 is withdrawn before the alien's Form I-485 has been pending 180 days, the approved Form I-140 is no longer valid with respect to a new offer of employment and the Form I-485 may be denied.

9. Is there any circumstance where the BCIS would have the power to revoke with these conditions being met?

Any type of fraudulent activity on the part of the employee or employer may prevent the alien from receiving these benefits. For example, if the BCIS revokes approval of the Form I-140 based on fraud, the alien will not be eligible for the job flexibility provisions of § 106(c) of AC21 and the adjudicating officer may, in his or her discretion, deny the attached Form I-485.

10. Does the BCIS require that the alien be employed until permanent residence is authorized?

There is no requirement in statute or regulations that a beneficiary of a Form I-140 actually been in the underlying employment until permanent residence is authorized. Therefore, it is possible for an alien to qualify for the provisions of §106(c) of AC21 even if he or she has never been employed by the prior petitioning employer or the subsequent employer under section 204(j) of the Act.

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 studying in India in Master in Pharmacy (last semester). My parents have lived in USA since 2 years & are Green card holders. They have already kept my immigration file last year. I am trying for student visa but is there any problem in getting visa because of my immigration file has already been kept?

A - Actually, having a pending green card application is a problem if you are getting a student visa. An H-1B visa, on the other hand, would not be affected by a green card application. The reason is that student visas are subject to a section of the law called 214(b) which says that a person coming on a student or tourist visa (or several other visa categories) will be presumed to have immigrant intentions unless they can prove otherwise. If you are found to have immigrant intent, you cannot get the student visa. The H-1B visa does not have a 214(b) requirement.

Q - How can a F2 applicant apply for a L1 visa?

A - F-2s can sometimes change to L-1s. You might find the article I've written on L-1 visas at <http://www.visalaw.com/00jan4/12jan400.html> helpful. Also, the flow chart on our site at <http://www.visalaw.com/03jun3/2jun303.html> should help. Good luck.

Q - 1) Is there a faster way for foreign nationals to obtain social security numbers after getting the appropriate visa? I'm finding that the Social security office will not begin the process of giving you a number until they can see all visa documents. This can take anywhere from 3-9 weeks. Any alternatives?

2) I know that obtaining a Bachelor's, Master's, or PhD degree earns F-1 students an extra year of OPT. What about if the student is enrolling in a second graduate degree? Do they get an extra year of OPT?

3) What happens if a F-1 student returns to her home country upon obtaining a Bachelor's. Can she return to the US and start an OPT?

A - There is no short-cut for the Social Security number. The SSA will have to clear you through the SAVE system and that takes time. For you to get another OPT you must get a higher degree. Therefore, a second master's will not qualify if you already used an OPT after the first.

As you know, to be eligible for OPT you must apply for it before graduation. If you applied for an OPT, received the card, and then went home for vacation, you can always come back to complete your OPT as long as your return is within the authorized OPT period and as long as your visa is still valid. Perhaps if you can give me more details about what exactly you would like to do, I can be more precise in my advise.

Q - Am I allowed to register a business (corporation) and do business with an H4 visa?

A - You can incorporate a business, but you may not work for the business once it begins to operate lest you be considered to be working without authorization. Note that "work" for immigration purposes is not defined by whether or not you are paid, but, rather, by whether an American worker would typically be paid to perform the kind of services being provided. So while traditional volunteer work would be okay, work for your own business for which you are not paid would not be okay.

Q - My mother is a resident of the U.S. and on April 30, 2001 she submitted an I-130 petition for me with the BCIS. At that time I was single and under 21 years old. Six months later I got married with a CU-6 resident and he submitted and I-130 petition for me, which is still pending. My concern is that I will get divorce soon.

My questions are:

- 1- If I get divorce will the first petition submitted by mom be valid?
- 2- Does my mother needs to submit an I-130 petition for me again?

A - Your mother's petition for you can actually be revived under an obscure provision of the law. Normally, a person who is the beneficiary of a 2B family preference petition (that's where a permanent resident files for a green card for an adult single child) will see his or her petition voided because of a marriage. That is the case since there is no green card category for married children of permanent residents. But if that adult child divorces, then the parent can refile the I-130 and reclaim the original priority date. That means you would likely be able to reclaim your 2001 priority date and save several years on a new petition.

Q - My husband is a green card holder and is living in Florida. In April this year he has applied for my immigration. On this basis i may get the immigration visa within 3 years. In May 2004 he is expected to get US nationality. As it is a long period of wait, so my husband after becoming US national intends to apply to the immigration authorities to shift my case from the green card holders file to the US nationals file. In this way he thinks that the visa will maybe issued within 6 months. Do you think the US immigration allows the shifting of the case from the green card holders file to the US nationals file?

A - Actually, your husband does not need to do anything for you to qualify in the US spouse category once he naturalizes. You will "automatically convert" to the new

category. If you are outside the US, you or your attorney will want to notify the INS/BCIS of your new status if they have not yet approved your I-130 petition. If you are outside the US and your I-130 has been approved, you or your attorney will want to notify the US State Department of your changed status so that they can get the process started to get your green card at a consulate.

Q - When filing the H-1B extension through the premium processing, should the company only pay \$1000 premium processing fee or plus additional \$1000 fee (total of \$2000)? Thank you.

A - The answer depends on whether this is the company's first extension for you or not. If so, then they will typically have to pay the \$1000 extra fee. If they had to pay the extra fee with your initial application, then the company is not exempt and should have to pay again if this is their first extension for you.

Q - I am inquiring regarding a recurrent problem with my mother's citizenship application. She has applied three times for this. Every time after he has been fingerprinted, and even after getting and assurance that a good set of fingerprints have been obtained , FBI rejects those prints, and after months delay, she is asked to go for a new set of prints! She is 71 years of age and has very thin skin on her fingertips and barely visible fingerprint markings. Are there alternate way of identification acceptable in such situations? Is there a waiver form that can be requested if they repeatedly fail to obtain an acceptable set of fingerprints? Thanking you in advance for your helpful suggestion.

A - It is our understanding that if the BCIS tries to take prints 3 times and are unsuccessful, the BCIS can have the applicant sign an affidavit swearing he or she has no criminal record. I think the applicant also has to provide a print out from the local police saying their are no outstanding warrants for them. Ask your local INS how to go about this procedure.

4. Border News

The Federation for American Immigration Reform (FAIR), an anti-immigration group, has released a report titled "State of Insecurity: How State and Local Immigration Policies are Undermining Homeland Security," saying that state and local governments are adopting policies that conflict with national border security measures and providing a "safe haven to illegal aliens."

"While the federal government has not yet slammed shut the doors to illegal immigration it is the states and local governments that are rolling out the welcome mat for illegal aliens once they are here," said FAIR Executive Director Dan Stein.

FAIR's study cites a variety of factors that led to its criticisms, including local governments instructing police not to question or arrest suspected illegal aliens, communities publicly condemning the USA Patriot Act, states granting driver's

licenses to undocumented aliens, and local governments formally accepting matricula consular cards as identification.

The report is available online at http://www.fairus.org/html/911report_2003.html.

Mexican officials have begun posting information on the windows of border cities as part of a new campaign warning immigrants of the dangers the desert will bring them if they try to cross into the U.S.

Officials said August was a good time to reinforce the information campaign started in April, which at the time was meant to warn immigrants of the coming summer months and to deter them from crossing illegally.

Fueling the campaign is the tragedy that more illegal immigrants have died so far this year in the Yuma sector of the U.S. Border Patrol than did in all of 2002.

US Border Patrol Spokesman William Robbins said the number of apprehensions so far this year is up 33 percent from this time in 2002, totaling 51,384. According to a report in the Yuma Sun, "the Tucson sector has seen 123 illegal immigrants die so far this year, but has also apprehended more than 300,000 attempting to cross."

The Mexican government is demanding a probe into recent incidents in which vigilantes on the U.S. side of the border detained illegal immigrants at gunpoint. Mexican Consul Miguel Escobar said his office received complaints from 47 migrants who said they were detained at gunpoint or assaulted by civil militia groups in southern Arizona.

"One of the main concerns of the Mexican consulate and of the government of Mexico is that there is always the possibility of this growing out of proportion into a bloodletting that everyone would lament. There have already been migrants wounded by people who fire shots," Escobar said.

Last Friday was the grand opening of the newest and largest US Border Patrol station, in Douglas, Arizona, but officials said it wasn't the brick and mortar that is important, but rather the 500 agents working out of the facility. Tucson Sector Chief Patrol Agent David Aguilar said the new station was needed as Southeastern Arizona has become an "avenue for massive amounts for illegal immigrants crossing the border," and the smaller and older station in Douglas could not handle the influx of new agents or the number of people apprehended. The Border Patrol's Assistant Chief Patrol Agent Randy Gallegos said the station's original plan was designed for 100 agents, but it had to be redesigned to handle a large increase in the number of immigrants coming across the border. So far this fiscal year, Douglas Station agents have apprehended 63,857 illegal immigrants of the 303,336 taken into custody in the Tucson Sector.

According to a report in Fort Worth's Star-Telegram, the Bureau of Immigration and Customs Enforcement is cracking down on illegal immigrants who have been convicted of a crime in the United States and have returned to the United States after being deported. The immigrants will face prison sentences if they return to the US and are caught. Nuria Prendes, the interim field director who launched the effort last year, said, "it is important to prosecute because it's a deterrent."

The punishments have ranged from six months to 15 years in federal prison, but in one case a 20-year sentence was handed down to an immigrant who returned to the United States after being deported for theft, resisting arrest, burglary and forgery.

5. News From The Courts

Ogbudimkpa v. Aschcroft

U.S. Court of Appeals, Third District

The Third U.S. District Court of Appeals has ruled that the federal district courts have jurisdiction to consider claims alleging violations of the United Nations Convention Against Torture.

Christopher Ogbudimkpa, a Nigerian citizen, entered the U.S. in 1982 on a non-immigrant student visa. In 1985, an immigration judge ordered Ogbudimkpa's deportation because he had overstayed his visa and had worked without government authorizations. INS did not immediately remove him. In 1994, Ogbudimkpa was convicted on state drug charges. In 1996, he was paroled into INS custody. In 1999, the Board of Immigration Appeals (BIA) granted Ogbudimkpa's request to reopen his removal proceedings so he could seek protection under the Convention Against Torture (CAT). Ogbudimkpa argued that he would be tortured and possibly executed by his extended family members if he returned to Nigeria. The judge found that Ogbudimkpa had not shown how it was "more likely than not" that he would be tortured. Ogbudimkpa then filed for an emergency stay of removal, arguing that the Attorney General was mistaken in not granting him relief from removal.

Ogbudimkpa's habeas corpus petition, which alleged that his removal would violate CAT, was shuffled back and forth between jurisdictions. The Government moved to dismiss Ogbudimkpa's case for lack of jurisdiction in the District Court, followed by the Circuit Court. Finally, the Court of Appeals Circuit Judge held that the provision of the Foreign Affairs Reform and Restructuring Act (FARRA), which limited judicial review of a final order of removal, did not deprive the District Court jurisdiction to review Ogbudimkpa's habeas corpus petition and that the District Court had jurisdiction to consider whether the BIA misapplied FARRA.

Hermilo Bravo and Maria Bravo-Rubio v. John Ashcroft, U.S. Attorney General and Anne Estrada, INS District Director

U.S. Court of Appeals, Fifth Circuit

Hermilo Bravo and Maria Bravo-Rubio, husband and wife Mexican citizens, entered the U.S. in 1985. In 1997, they were placed in deportation proceedings for having entered the U.S. without inspection. They conceded removability and applied for

cancellation of removal under 8 U.S.C. § 1229b(b)(1). The immigration judge accepted evidence that the Bravos had been physically present in the U.S. for a continuous period of ten years, were persons of good moral character and had not been convicted of any offenses. However, the judge also found that the Bravos failed to prove the final requirement of the statute, that their child, a USC, would be subject to "exceptional and extremely unusual hardship" if returned to Mexico. Due to the child's age and fluency in Spanish, the judge found that the child would not suffer hardship. The judge therefore denied the Bravos' application. He did accept their application for voluntary departure.

The Bravos appealed to the BIA, which affirmed the judge's decision. Citing *St. Cyr*, 533 U.S. at 308, 121 S.Ct. 2271, the Bravos then filed a habeas corpus petition, which challenged their deportation order. INS moved to dismiss the petition, arguing that the district had no jurisdiction to review the decision. The district court agreed with INS and declared that *St. Cyr* did not apply. The Bravos appealed the denial of their habeas petition to the Fifth Circuit. They argued that the District Court for the Eastern District of Texas was mistaken when it dismissed the petition for lack of jurisdiction. The Fifth Circuit affirmed the decision of the district court.

6. Government Processing Times

This week there are new times to report for the following service centers:

Nebraska (August 15, 2003): <http://www.visalaw.com/nebraska.html>

Vermont (September 1, 2003): <http://www.visalaw.com/vermont.html>

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

7. News Bytes

Daniel Kowalski, editor of Bender's Immigration Bulletin, has found that the Department of Homeland Security's three immigration bureaus will be undergoing another name change. According to Kowalski, "Dan Kane, press officer with DHS, says all three immigration entities are undergoing a gradual evolution in name change, dropping the "Bureau" and adding "United States" to their respective titles." Thus, the BCIS will become USCIS, BCBP will become USCBP, and BICE will become USICE.

United States Citizenship and Immigration Services has revised eight immigration forms recently and will require their use beginning October 1. The newly revised forms include the I-102, Application for Replacement / Initial Nonimmigrant Arrival / Departure Record; I-129S, Nonimmigrant Petition Based on Blanket L Petition; I-140, Immigrant Petition for Alien Worker; I-526, Immigrant Petition by Alien Entrepreneur; I-824, Application for Action on an Approved Application or Petition; I-

829, Petition by Entrepreneur to Remove Conditions; N-336, Request for a Hearing on a Decision in Naturalization Proceedings under Section 336 of the Act; and N-470, Application to Preserve Residence for Naturalization Purposes.

A memo from USCIS Acting Associate Director for Operations William Yates to Regional Directors, Regional Counsels and Service Center Directors has recently been made available that extends the validity of civil surgeon endorsements on Form I-693 for certain adjustment of status applicants. The policy memorandum allows for an extension on the validity period of the civil surgeon endorsement until the adjustment of status application can be adjudicated because some adjustment of status applications are pending for more than the one-year validity period. A similar memo last year authorized the policy through January 1 of this year; the new memorandum is in effect until January 1, 2004.

USCIS has released three new Employer Information Bulletins recently, and each is available online on the bureau's website:

Temporary Religious Workers (R-1) -

<http://www.bcis.gov/graphics/services/employerinfo/EIB18.pdf>

Aliens with Extraordinary Ability (O-1) and Accompanying/Assisting Aliens (O-2) -

<http://www.bcis.gov/graphics/services/employerinfo/EIB15.pdf>

U.S. Employment of Canadian and Mexican Professionals under NAFTA -

<http://www.bcis.gov/graphics/services/employerinfo/EIB11.pdf>

The Department of Homeland Security has decided to open the work of Immigration Information Officers and Contact Representatives to competition under the FAIR Act, according to an email USCIS Director Eduardo Aguirre recently sent an email to field officers. The process will begin after the agency makes a formal announcement, but the DHS has scheduled the award date to be June 30, 2004.

According to a DHS news release circulated last week, USCIS has announced that it has approved 56,986 H-1B petitions during the first three quarters of FY 2003 that will be counted against the annual cap of 195,000 workers. USCIS also approved 84,534 H-1B petitions for persons exempt from the congressionally mandated cap. Petitions pending adjudication total 47,813, and one-third of those would count against the cap if approved. Petitions filed were up three percent over last year, and up 15 percent in the third quarter over the same period in FY 2002.

Last week the DHS published a final rule in the Federal Register (Vol 68, No. 167) concerning the Bureau of Customs and Border Protection. The rule revises the title and structure of title 19 of the Code of Federal Regulations to reflect changes caused

by the creation of the DHS and the governmental reorganization. It also adds a chapter under which USICE may issue regulations. With the rule, the Department of Treasury officially delegates some Customs authority to the Department of Homeland Security. The rule became effective August 28.

The Department of State published a public notice in the Federal Register (Vol 68, No. 166) providing information on how to apply for the DV 2005 Program. Entries for the Diversity Immigrant Visa Program for 2005 must be submitted electronically during the 60-day registration period between Saturday, November 1, 2003, and Tuesday, December 30, 2003. Natives of countries that have sent a total of more than 50,000 immigrants to the U.S. in the previous five years are not eligible to apply. This year, those countries include Canada, China, Colombia, Dominican Republic, El Salvador, Haiti, India, Jamaica, Mexico, Pakistan, Philippines, Russia, South Korea, United Kingdom and Vietnam. For the first time, the Department of State will accept only entry forms submitted electronically and will require a digital photo to be submitted online with the EDV Entry Form.

More details about the Green Card Lottery are available on our website at http://www.visalaw.com/lottery_page.html.

8. International Roundup

Canadian immigration judges have ruled that there were sufficient grounds to hold in custody a group of Pakistani men suspected as members of an Al Qaida sleeper cell. The ruling affected seven out of a group of 19 men arrested by a terrorism task force last month appeared before the immigration board. Canadian immigration intelligence officials say the men belong to a network of 31 Muslim men living illegally in Toronto, pretending to be foreign students while plotting attacks against Canada and the United States. The Board ruled that the men can be held while counter-terrorism investigators examine 25 boxes of documents and 30 computers seized during the raids.

"Obviously, it will be necessary for the authorities to sift through that material," said Immigration and Refugee Board Member Dennis Paxton.

British Home Secretary David Blunkett announced that new quarterly asylum figures published last week show that the government is likely to meet its target of halving the number of monthly asylum claims by the end of September. Official figures show new claims are running at under 5,000, compared with 9,000 last October. Blunkett said the Home Office plans to introduce biometric data as a requirement for visa applications, in order to better track illegal immigrants and guard against abuse of the asylum system by reducing the country's "pull factor."

The Refugee Council said tougher entry rules were denying protection to those who need it most and that "severe border controls" were the likely cause behind the fall in asylum numbers, in addition to new restrictions on benefits to applicants already in the country.

According to the Sunday Times, an unnamed whistle-blower in the immigration service claims that the administration is telling officers not to arrested suspected illegal immigrants so that the prime minister can meet his asylum target. The officer said staff are being "discouraged" from arresting illegal immigrants in order to deflate the statistics artificially. The tactic could make the number fall because many illegal immigrants file asylum claims only if they are caught, as a means of slowing the deportation process.

The whistleblower claimed that he had been criticized recently for arresting several dozen illegal immigrants. The Home Office said the allegation was "completely false" and denied that there was any instruction issued to immigration staff telling them "not to pick up illegals in case they claim asylum."

A Belgian woman was arrested, given a repatriation order, and kept overnight in jail after being mistaken for an illegal immigrant by federal police and the Foreign Office.

Bicha Monkokole, a twenty year-old Belgian citizen, was arrested last month, despite producing a Belgian identity card, passport, and several other forms of identification.

According to the report, the police "contacted the Foreign Office who, without any further verification, issued Bicha's expulsion orders, citing that she did not have a suitable visa in her passport to visit Belgium... despite having a Belgian passport."

9. Legislative Update

There is no new immigration-related legislation in Congress to report this week. For a review of all the immigration bills introduced this year, visit our legislative chart at www.visalaw.com/advocacy.html.

10. ICE Arrests Haitian Accused Of Human Rights Violations

Last week the Bureau of Immigration and Customs Enforcement announced it had arrested Frantz Douby, a Haitian national "linked to the 1994 Haitian Raboteau massacre." The arrest was made by Miami agents working under ICE's "No Safe Haven" initiative, which targets human rights violators hiding in the United States.

Douby was arrested as the result of a Board of Immigration Appeals decision to remand his case based on new evidence that "proves he was tried and convicted in absentia in Haiti for his involvement in the 1994 massacre," according to officials. According to a DHS news release, Douby was a colonel in charge of logistics for the Haitian military.

Douby's arrest is the fourth arrest tied to the Raboteau massacre; Carl Dorelien, Herbert Valmond and Luc Asmath have already been deported.

ICE said it has arrested 48 human rights violators from around the world since the launch of "No Safe Haven" three years ago.

11. Department Of Homeland Security Announces New Initiatives

Today the Department of Homeland Security announced three initiatives designed to "reorganize and better mobilize" the Department and strengthen the nation's defenses. In a speech at the American Enterprise Institute in Washington, Secretary Tom Ridge detailed plans to add additional federal air marshals, consolidate three separate border inspection functions into one system, and implement a secure communications line linking first-responders and security officials around the nation.

Under the first initiative, Ridge said the Department plans to add 5,000 armed federal law enforcement agents to the skies in order to significantly increase air security. The DHS will also transfer the Federal Air Marshal Service (FAMS) and Explosives Unit from the Transportation Security Administration to USICE, in order to increase coordination and information sharing between federal air marshals and ICE officers.

The second plan, "One Face at the Border," unifies the inspection process by "cross-training CBP inspectors" to perform three different inspection functions – combining the functions of an Immigration inspector, a Customs inspector and an Agriculture inspector. Ridge said the Department hopes to speed up the inspections so that travelers can be processed rapidly and potential risks can be identified and addressed simultaneously. Travelers will now meet a single primary inspection officer who will refer those whose "information, demeanor or actions raise questions" to secondary inspections officers for additional questioning.

According to the DHS news release, the secondary inspection will be operated by units of trained Counter-Terrorism Response inspectors designated to conduct follow-up examinations of "questionable passengers" who could have possible ties to terrorism. The CTR inspectors will be responsible for coordinating with the Passenger Analysis Unit and National Targeting Center to ensure that the referred travelers are researched thoroughly, conduct interviews, and detain travelers found to be in violation of the law.

Ridge also introduced the "Strategic Communications Resources (SECURE) Initiative," designed to provide secure telephone and videoconference equipment to all 50 state Emergency Operations Centers, state governors and local Homeland Security officials around the nation.

Lastly, Ridge said he would be sending a plan to Congress that would centralize emergency preparedness grant programs currently scattered throughout the federal government, putting all of the government's major terrorism preparedness grants in one location so that state and local governments will have a single access point to obtain critical grant funding.