AILA

WASHINGTON UPDATE

Volume 8, Number 3, March 3, 2004

IN THIS ISSUE…

AILA's March 4 Lobby Day Promises to Be Better Than Ever!

AILA's Lobby Day is taking place tomorrow, March 4, and promises to be bigger and better than ever! We have a record number of participants pre-registered and we're primed to get AILA's message out all over Capitol Hill. We will provide a follow-up report on Lobby Day in our next *Washington Update.*

Can't Be in Washington for Lobby Day? Participate in Our March 4 Call-In Day!

If you are unable to come to Washington to participate in Lobby Day, we urge you to take a moment and participate via email or phone. The laws won't change without your help, so make sure your voice is heard. For additional details on our March 4 National Call-In/Contact Congress Day, click on the link below:

http://www.aila.org/fileViewer.aspx?docID=12050&index=1

Senate Immigration Subcommittee Examines Guest Worker Proposals

The Senate Judiciary Committee's Subcommittee on Immigration and Border Security held a hearing on February 12 to evaluate proposals for creating a temporary guest worker program. Testifying at the hearing were: Senators John McCain (R-AZ); Chuck Hagel (R-NE); Larry Craig (R-ID); and John Cornyn (R-TX); Asa Hutchison, the Department of Homeland Security's (DHS's) Undersecretary for Border and Transportation Security; Eduardo Aguirre, Director of U.S. Citizenship and Immigration Services; Steven J. Law, Deputy Secretary of Labor; Demetrios Papademetriou, Co-director of the Migration Policy Institute; Charles Cervantes, General Counsel

of the U.S.-Mexico Chamber of Commerce; Vernon Briggs, Professor of Industrial and Labor Relations; and Richard Birkman, President of Texas Roofing Company.

During the hearing, Subcommittee Chairman Saxby Chambliss (R-GA) focused on what he views as the four requirements necessary for any successful guest worker reform: increasing funding for border security; insuring that any reform does not create incentives for undocumented immigrants; creating a temporary worker program; and insuring that American jobs are protected. Senator Kennedy took issue with the Administration's assertion that undocumented workers would sign up for a temporary worker program that makes no provision for permanent legal status in the U.S. Such a flaw could be corrected by providing a realistic path towards citizenship for those who deserve it, he added. Senator Jeff Sessions (R-AL) voiced the strongest opposition among Subcommittee Members to a guestworker program. He advocated for a federal crackdown on immigration law violators and new laws granting police the power to arrest illegal immigrants and enforce federal immigration law themselves.

The first panel of witnesses was comprised of the four Senators, each of whom took a moment to discuss guest worker legislation he had introduced. Senator McCain began by discussing the Border Security and Immigration Improvement Act of 2003 (S. 1461), legislation that would, among other things, establish a program authorizing undocumented workers who entered and were working in the U.S. before August 1, 2003, to adjust their status to a new nonimmigrant visa classification, H-4B. The bill would also create a new temporary worker visa category (H-4A). The worker's employer would initiate the process by filing a petition on the individual's behalf. Before hiring an H-4A worker, the employer would be required to recruit U.S. workers (citizens and immigrants) exclusively for at least fourteen days through a computerized "job registry" to be established by the Department of Labor. Thereafter, the employer would be obligated to confirm the identity and employment authorization of a foreign worker through an electronic employment eligibility confirmation system.

Senator Hagel next outlined legislation that he cosponsored with Senator Tom Daschle (D-SD). The Immigration Reform Act of 2004: Strengthening America's National Security, Economy, and Families (S. 2010) is the only immigration reform initiative introduced to date that includes all three components necessary for comprehensive immigration reform: family reunification through family backlog reduction; a new temporary worker program; and access to an earned adjustment for eligible people already living and working in the U.S. Senator Hagel described his legislation as an opportunity for immigrants to "become invested like a shareholder" by fulfilling certain residency and employment requirements, paying taxes, meeting English and civic requirements, and passing a background check.

Senator Craig, in his testimony, focused on legislation he introduced with Subcommittee Member Edward Kennedy (D-MA)—The Agricultural Job Opportunity, Benefits, and Security (AgJobs) Act of 2003 (S. 1645). The AgJobs bill would create an earned adjustment program for undocumented farm workers who would be eligible to apply for temporary immigration status based on their past work experience, and could become permanent residents upon satisfying prospective work requirements. The legislation also would streamline the existing H-2A foreign agricultural worker program while preserving and enhancing key labor protections. The bipartisan bill has earned the support of 52 cosponsors to date.

Senator Cornyn concluded the first panel by discussing his legislation, the Border Security and Immigration Reform Act of 2003 (S. 1387). Senator Cornyn focused on the fourth principle contained in President Bush's immigration reform plan, which is to provide incentives for

temporary workers to return to their home country with the capital and skills they acquired in the U.S.

During his testimony, Deputy Secretary of Labor Steven Law urged lawmakers, in crafting any new guestworker program, to follow several guiding principles contained in the President's immigration reform proposal: protecting the homeland through control of the border; serving the U.S. economy by matching willing workers with willing employers; reflecting compassion by allowing guestworkers to travel in and out of the U.S. freely and providing them the protection of U.S. labor laws; providing incentives for guestworkers to return home; and protecting the rights of legal immigrants.

Mr. Aguirre asked the Subcommittee to consider five main points when evaluating any reform proposal: (1) focusing on enforcement, including fraud prevention and security; (2) protecting the American worker; (3) providing incentives for participation, such as the portability of investments, ability to travel outside of the U.S., family reunification, and elimination of the fear of deportation; (4) ensuring that any program does not come at the expense of legal immigrants; and (5) crafting a program that is effectively administered and includes a fee based on full cost recovery. Mr. Hutchinson emphasized similar goals for any new guestworker program.

Dr. Papademetriou lauded the President for jump-starting the dialogue on immigration reform but called the Administration's proposal incomplete. Any reform proposal should be crafted as a three-pronged approach, opined Dr. Papademetriou. It must provide a means for the unauthorized resident population to earn permanent legal status in order to elicit 100% participation. Any proposal must also address the demand for visas in smart ways, using a mix of categories including both temporary and permanent visas, while placing high emphasis on family reunification. Finally, on the enforcement end, any successful reform proposal must devise "smarter" border and interior controls.

As noted above, AILA believes that any comprehensive immigration reform proposal must contain three necessary components: family reunification through family backlog reduction; a new temporary worker program; and access to an earned adjustment for eligible people already living and working in the U.S.

H-1B Cap Reached Just Five Months Into Fiscal Year

The U.S. Citizenship and Immigration Services (USCIS) announced on February 17 that it had received enough H-1B petitions to reach the 65,000 cap on H-1B numbers for fiscal year (FY) 2004. As a result of the cap being hit, USCIS will stop accepting cap-subject H-1B petitions. The agency will continue to process those cap-subject petitions it received through February 17 and will return, along with the filing fee, petitions received after that date. USCIS will continue to process those H-1B petitions not subject to the cap. The agency plans to begin accepting cap-subject H-1B petitions for FY 2005 in April 2004, though the earliest employment start date that will be issued for FY 2005 visas is October 1, 2004.

The fact that the cap was reached just five months after the H-1B numerical limit reverted back to 65,000 from the previous temporary figure of 195,000 signals a dire need to fix the system. In addition, H-1B visa petitions still pending from the prior fiscal year, together with free trade agreements, have reduced significantly the availability of numbers within the cap. Roughly 12,000 cap-subject H-1B visas remained pending in the processing pipeline at the end of FY 2003. Even though the number of H-1B petitions filed in FY 2003 did not come close to hitting the 195,000 limit, these pending cases were nonetheless counted against this year's 65,000 cap.

In addition, a little over 10% of the allotted numbers were reserved for special H-1B visas for Chile and Singapore, in accordance with free trade agreements between those countries and the U.S. If the two countries do not use all the visas made available to them, the unused numbers should become available. However, it is unclear how USCIS expects to handle that process.

House Science Committee Reviews Impact of Visas Mantis Procedures

The House Science Committee, on February 25, convened a hearing to review the impact of enhanced security measures on the entry into the U.S. of foreign science students and scholars. More specifically, the Committee focused on whether the new measures have enhanced security, whether they have been unnecessarily detrimental to the U.S. scientific enterprise, and how they can be implemented more smoothly. The hearing coincided with the release by the Government Accounting Office (GAO) of a report entitled: "Border Security—Improvements Needed to Reduce Time Taken to Adjudicate Visas for Science Students and Scholars."

Testifying at the hearing were Asa Hutchinson, the Department of Homeland Security's (DHS's) Under Secretary for Border and Transportation Security; Janice Jacobs, Assistant Secretary for the State Department's Office of Consular Affairs; Jess Ford, Director of International Affairs and Trade at the GAO; and Robert Garrity, Jr., Deputy Assistant Director for Record/Information Administration at the FBI.

As background, last March, Science Committee Chairman Sherwood L. Boehlert (R-NY) sent a letter to the GAO, asking the agency to determine how long it took a science student or scholar from another country to obtain a visa. The request also asked the GAO to identify the factors that contributed to visa delays and to review the measures underway to improve the visa process. The GAO reviewed the State Department's visa-related data systems and determined they could not track science applicants within student (F) and exchange visitor (J) visa categories. As a result, the agency was unable to determine the length of time required to adjudicate visas for science students or scholars. However, the GAO did find that visa adjudication time is largely dependent on whether applicants were subject to Visas Mantis reviews. Visas Mantis is a coordinated procedure between intelligence and border security agencies to determine whether the travel of certain foreign students, scientists and businesspersons may jeopardize the safeguarding of critically sensitive technology and information. GAO then sampled Visas Mantis cases involving science students and scholars and determined the following:

- It took an average of 67 days to adjudicate Visas Mantis requests (from the time the U.S. consular office received the visa application to the time the Department of State notified the consulate of the results of the review).

- Personal interviews with consular officers also contributed to visa delays (generally taking two to three weeks at American consulates in China, India and Russia).

- Many consular staff were concerned that they were contributing to the wait because they lacked clear guidance on when to seek Visas Mantis checks and on whether the checks provided enough background information.

The GAO report recommended that the Secretary of State, in coordination with the FBI Director and the Secretary of Homeland Security, develop and implement a plan to improve the Visas Mantis process. In developing this plan, GAO urged the Secretary to consider actions to: (1) establish milestones to reduce the current number of pending Visas Mantis cases; (2) develop performance goals and measurements for processing Visas Mantis checks; (3) provide additional

information, through training or other means at consular posts, to clarify guidance on the overall operation of the Visas Mantis program, including when Mantis clearances are required, what information consular posts should submit to enable the clearance process to proceed as efficiently as possible, and how long the process takes; and (4) work to achieve interoperable systems and expedite transmittal of data between agencies.

In response to the GAO findings, the Department of State and the FBI reported that they have several measures underway to improve the visa process. To improve transparency, both agencies have set up public inquiry desks to answer questions about the status of pending visa applications. To reduce the time it takes to process Visas Mantis cases, the agencies indicated that they are working together on a case-by-case basis to identify and resolve Visas Mantis cases that have been outstanding for several months to a year (estimated at nearly 1,000 cases). In addition, the State Department has invested $1 million to upgrade its technology for transmitting Visas Mantis requests and expects the upgraded system to be fully operable later this year.

Ms. Jacobs also reported that the State Department has made a number of changes to staffing and procedures to increase the efficiency of the Visas Mantis process. For example, the agency has created a stand-alone Mantis team that has five full-time employees who are dedicated to processing only Mantis cases. In addition, she said, the agency has extended the validity of Mantis clearances, and routinely moves students and researchers to the front of the Mantis queue.

Mr. Hutchinson noted that, prior to the establishment of the DHS, there was some preliminary development of IPASS, a proposed interagency panel that would scrutinize students and exchange visitor applicants who intended to study certain sensitive science and technology fields. He said that the DHS intends to review the Mantis process with the intent of incorporating the best elements of the IPASS concept without creating an additional layer of review.

In response to questions from Committee members on the progress of SEVIS, Mr. Hutchinson responded that the system "is really working very, very well" and the schools are taking their SEVIS obligations seriously. He noted that, to date, participating institutions have reported some 25,000 SEVIS compliance violations. Of these, he continued, only about 1,000 have been deemed actionable.

Ranking Member Bart Gordon (D-TN), during his round of questioning, noted: "We learned in our hearing last spring that excessive delays and uncertainty in the visa program have made the U.S. less attractive as a destination for scientific training and for research collaborations. That's bad news for science. But just as importantly, it's bad news for America because our nation has benefited from welcoming the infusion of scientific and engineering talent from abroad. We need to find that place where the need to protect America's homeland security interests is balanced against the well-being of the nation's science and technology enterprise."

Chairman Boehlert, prior to adjourning the hearing, noted his intention to call a follow-up hearing within approximately six months at which time he plans to question the various agencies about their progress implementing the GAO's report's recommendations. He also reiterated the need to balance U.S. security interests with facilitating the entry of foreign students and scholars who enrich our country through their presence, urging the agencies to "use as much dispatch as possible" in moving these individuals through the visa adjudication/security check process. "We're part of the problem," he acknowledged, referring to congressional appropriators, adding that many of the current interoperability issues were the result of the agencies being forced to operate with "yesterday's technology." "We've got to get your more resources," he said.

Judge Calls Treatment of Asylees a "National Embarrassment"

The American Immigration Law Foundation (AILF) hailed the February 12 ruling by a federal judge that condemned the former Immigration and Naturalization Service for "widespread, egregious and plainly harmful" violations of law that "constitute nothing short of a national embarrassment." The ruling was issued in a national class action lawsuit filed on behalf of more than 150,000 asylees in the United States. The case, *Ngwanyia v. Ashcroft*, No. 02-502(RHK/AJB) (D. Minnesota), was brought by AILF, the Massachusetts Law Reform Institute in Boston, and the law firm Dorsey and Whitney in Minneapolis, Minnesota.

The case was brought on behalf of immigrants who were granted asylum in the United States but who are waiting in a long queue to become lawful permanent residents. Plaintiffs successfully argued that over the last decade, the INS (now known as the U.S. Citizenship and Immigration Services) unlawfully failed to adjust the status of almost 22,000 asylees through simple mismanagement. The INS's failures lengthened the individuals' wait to become U.S. citizens and extended the waiting list for all asylees in the queue by more than two years.

U.S. District Judge Richard H. Kyle, of the District Court of Minnesota, ordered the government to adjust the status of nearly 22,000 waiting asylees now that plaintiffs have uncovered the INS's past failures.

In his order, Judge Kyle also railed against the INS's "Kafkaesque" procedures for asylees to obtain work permits. He held that the defendants improperly required individual asylees to reapply for a work permit every year at a cost of $120. Months of delay and mounds of unnecessary paperwork resulted. The law requires the government to grant a work permit automatically and to keep it valid as long as an asylee remains an asylee: "not a minute shorter, and not a minute longer," the Judge held.

Judge Kyle condemned the INS for the agency's "one-law-for-for-Tuesdays-and-another-law-for-Wednesdays" mismanagement, including practices that varied office-by-office and day-by-day. He criticized a liberalized but "stealth" policy regarding work permits, as a policy announced for the litigation but never communicated to anyone in the field.

The practical effect of the ruling is that 22,000 unused slots for adjustment must now be used. However, due to the asylee adjustment cap of 10,000 adjustments annually, an individual granted asylum today will still be unable to become a permanent resident for at least thirteen years, and will be ineligible to naturalize for at least eighteen years.

AILA strongly supports the elimination of the annual cap on the adjustment of status of asylees.

Bush's 2005 Budget Request Would Extend SSI Payments to Refugees & Asylees

Among the items in the Bush Administration's fiscal year (FY) 2005 budget request, sent to Congress on February 2, was a provision that would extend for an additional year Supplemental Security Income (SSI) eligibility for refugees and asylees. Under changes made by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Pub. L. No. 104-193), refugees and asylees who entered the U.S. after August 22, 1996 (the law's enactment date) lose eligibility for SSI after seven years in the U.S. unless they become naturalized citizens within that time. Recognizing the problems with the current seven-year deadline, the President's FY 2005 budget request proposes a short-term fix in the form of a one-year extension of eligibility. The proposal would allow refugees and asylees to receive SSI for their first eight, rather than the current seven,

years in the U.S. The change would take effect in FY 2005 and would sunset at the end of FY 2007. In proposing the change, the Administration acknowledged that "some individuals have been unable to obtain citizenship within seven years due to a combination of processing delays, and for asylees, statutory caps on the number who can become permanent residents."

According to estimates from the Social Security Administration (SSA), as of September 30, 2003, more than 1,500 refugees were ineligible for SSI as a result of the seven-year deadline, and several thousand more will likely lose SSI eligibility this year.[1] The President's proposal, if enacted by Congress, would offer short-term relief to this vulnerable population, but would do nothing to resolve the problem in the long-term. Moreover, those individuals who already have lost SSI eligibility because they hit the seven-year limit prior to September 30, 2003, will have lived in the U.S. for more than eight years by the beginning of FY 2005 (the proposed effective date for the one-year extension) and thus would not be helped by the proposal. Those who would be helped would benefit for the short-term, only, and after FY 2007, the seven-year deadline would be reinstated.

Making SSI eligibility contingent on citizenship was recognized as bad policy by the bipartisan U.S. Commission on Immigration Reform. In a 1997 report entitled "U.S. Refugee Policy: Taking Leadership," the Commission called the time limits on the eligibility of humanitarian immigrants for public benefits "inappropriate" and stated that:

> [M]any elderly and some disabled persons will have great difficulty passing the naturalization requirements. Refugees are not subject to public charge grounds for exclusion and many do not have family sponsors to provide support. Providing continuing coverage under SSI, food stamps, and other means-tested federal benefit programs to elderly and disabled refugees would strengthen the U.S. capacity to offer resettlement to some of the world's most vulnerable refugees — the aged and disabled.

Indeed, Congress lifted a similar seven-year time limit on Food Stamp eligibility in the 2002 Farm Bill.

SSI benefits constitute the sole source of income for most of these individuals, many of whom do not have family sponsors to provide support. It is virtually impossible for most of these individuals to become citizens within the seven-year time limit due to a combination of immigration backlogs, processing delays, statutory caps on the number of asylees who can adjust their status, as well as language and other barriers. Moreover, the imposition of a naturalization requirement for maintenance of SSI eligibility is particularly egregious, given that SSI benefits are only available to elderly or disabled individuals—a population much more likely than other immigrant populations to experience hardship in naturalizing.

For a previous report on the President's FY 2005 budget request, see Vol. 8, No. 2 *Washington Update* (Feb. 6, 2004).

[1] Fremstad, Shawn, "The President's Proposal to Extend SSI Eligibility for Refugees and Other Humanitarian Immigrants," Center on Budget and Policy Priorities (Feb. 4, 2004).

Recently Introduced Legislation

The following is a brief description of newly introduced, immigration-related legislation, in reverse chronological order and by chamber. AILA will report further on these bills as they move through the legislative process.

House Legislation

H.R. 3867, introduced on March 1 by Representative Peter Deutsch (D-FL), would require the Secretary of Homeland Security to designate Haiti under INA § 244 in order to render nationals of Haiti eligible for temporary protected status in light of recent civil unrest in that country.

H.R. 3809, the Fairness and Individual Rights Necessary to Ensure a Stronger Society: Civil Rights Act of 2004, introduced on February 11 by Representative John Lewis (D-GA), would restore, reaffirm, and reconcile legal rights and remedies under a variety of civil rights statutes. While not an immigration bill per se, section 7 of H.R. 3809 would address legislatively the Supreme Court's 2002 decision in *Hoffman Plastic Compounds, Inc. v. NLRB*, 535 U.S. 137 (2002), in which the Court held that federal immigration policy, as articulated in the Immigration Reform and Control Act of 1986, prevented the NLRB from awarding backpay to an undocumented immigrant who was discharged in violation of the National Labor Relations Act (NLRA) because of his support for union representation at his workplace. The bill, after setting forth a series of congressional findings on the NLRA's guarantees, in general, and on the repercussions from *Hoffman*, in particular, would amend INA § 274A(h) to provide for the continued application of backpay remedies. An identical bill (S. 2088, discussed below) was introduced in the Senate on February 12.

H.Res. 542, introduced on February 26 by Representative Kendrick Meek (D-FL), is a resolution expressing the sense of the House of Representatives that the secretary of Homeland Security should designate Haiti under INA § 244 in order to make nationals of Haiti eligible for temporary protected status in light of recent civil unrest in that country.

H.Res. 535, introduced on February 11 by Representative Nancy Johnson (R-CT), urges the Secretary of Homeland Security and the Secretary of State to designate Poland under the Visa Waiver Program if Poland satisfies the requirements of INA § 217(c)(2) relating to the nonimmigrant visa refusal rates required for participation in the program.

Senate Legislation

S. 2128, the Natural Born Citizen Act, introduced on February 25 by Senator Don Nickles (R-OK), would define the term "natural born citizen" as used in the Constitution of the United States to establish eligibility for the Office of President.

S. 2089, introduced on February 12 by Senator Saxby Chambliss (R-GA), would amend INA § 204(a)(1)(I)(ii) to allow aliens who are eligible for diversity visas to be eligible beyond the fiscal year in which they applied. In addition to providing relief for future diversity applicants, the bill would also authorize qualified diversity applicants who were denied permanent residence as a result of processing backlogs during fiscal years 1998 through 2003 to reopen their cases and continue processing as long as diversity visas for the fiscal year in which they filed remain available.

S. 2088, the Fairness and Individual Rights Necessary to Ensure a Stronger Society: Civil Rights Act of 2004, introduced on February 12 by Senator Edward Kennedy (D-MA), is companion legislation to H.R. 3809, above. Like the House bill, S. 2088 would restore, reaffirm, and reconcile legal rights and remedies under a variety of civil rights statutes. While not an immigration bill per se, section 7 of S. 2088 would address legislatively the Supreme Court's 2002 decision in *Hoffman Plastic Compounds, Inc. v. NLRB*, 535 U.S. 137 (2002), in which the Court held that federal immigration policy, as articulated in the Immigration Reform and Control Act of 1986, prevented the NLRB from awarding backpay to an undocumented immigrant who was discharged in violation of the National Labor Relations Act (NLRA) because of his support for union representation at his workplace. The bill, after setting forth a series of congressional findings on the NLRA's guarantees, in general, and on the repercussions from *Hoffman*, in particular, would amend INA § 274A(h) to provide for the continued application of backpay remedies.

S. 2071, introduced on February 12 by Senator Herbert Kohl (D-WI), would expand the definition of immediate relative for purposes of the Immigration and Nationality Act to include the non-U.S. citizen children of a parent of a U.S. citizen when the parent is being sponsored by his or her U.S. citizen son or daughter and the non-U.S. citizen children are accompanying or following to join the parent.

S. 2069, the International Weapons of Mass Destruction Informant Act, introduced on February 12 by Senator Sam Brownback (R-KS), would expand the "S" visa classification to include aliens who are in possession of critical reliable information with respect to weapons of mass destruction, and would increase to 3,500 the total number of "S" visas available per fiscal year. In addition, S. 2069 would establish a Weapons of Mass Destruction Informant Center within the Department of Homeland Security's Directorate for Information Analysis and Infrastructure Protection.

Recent Rulemaking and Other Activity in the Federal Agencies

Federal agencies have issued several new regulations and other notices in recent weeks, impacting, among other things, H-1B processing and affidavit of support income levels. A brief summary of these items follows.

Department of Homeland Security

DHS Publishes Notice Regarding H-1B Processing Now that the Cap is Reached: The Department of Homeland Security's (DHS's) Bureau of Citizenship and Immigration Services (USCIS), in a February 25 notice, explains how the agency will process H-1B petitions for new employment for the remainder of fiscal year (FY) 2004 now that it is clear that the demand for H-1B workers has exceeded the statutory numerical limit for H-1B petitions for FY 2004. Petitions that were filed after February 17 will be returned, all petitions in the pipeline will be adjudicated in the order they were received, and premium processing will not be suspended. Also included in the notice is information on restoration of numbers, withdrawal procedures, and appeals. The notice took effect on February 25. (69 FR 8675, 2/25/04, see AILA InfoNet Doc. No. 04022560).

DHS Issues Proposed Rule for New Human Resources Management: The Department of Homeland Security (DHS) and the Office of Personnel Management issued proposed regulations on February 20 to establish a new human resources management system within the DHS, as authorized by the Homeland Security Act of 2002. The affected subsystems include the systems governing basic pay, classification, performance management, labor relations, adverse actions (e.g., disciplinary actions), and employee appeals. The preamble to the proposed rule states that

the changes are designed to ensure that DHS's human resources management system aligns with the Department's critical mission requirements and protects the civil service rights of its employees. Comments are due by March 22. (69 FR 8029, 2/20/04, see AILA InfoNet Doc. No. 04022361).

Department of Health and Human Services

HHS Updates Poverty Guidelines for 2004: The Department of Health and Human Services (HHS) has published its annual update of the federal poverty guidelines to reflect last year's increase in prices as measured by the Consumer Price Index. A notice announcing the 2004 update includes information on the guidelines and their many uses, which include determining ability to provide support in connection with the affidavit of support. The new guidelines took effect upon publication on February 13. (69 FR 7336, 2/13/04, see AILA InfoNet Doc. No. 04021764).

MEDIA SPOTLIGHT: Members and Staff in the News

The Columbus Ledger-Enquirer quoted **Mills Fleming** (Atlanta) in a March 1 article about his client who has an H-1B visa and is awaiting a security clearance to come back to the U.S. **Jeff Joseph** (Colorado) was quoted in a March 1 *Associated Press* article about the DHS's initiative, "Operation Predator." **Tammy Fox-Isicoff** (Southern Florida) was quoted in a March 1 *Miami Herald* article about the one-year anniversary of the Department of Homeland Security and an assessment of its successes and failures. **Harlan Karp** (Ohio) was quoted in a *Cleveland Plain Dealer* article on February 29 about the "culture of no" at DHS. **Allan Wernick** (New York) was featured in a February 29 *Sun-Sentinel* question and answer column about immigration. **Miryam Antunez de Mayolo** (Iowa/Nebraska) was quoted in a February 29 *Des Moines Register* article about her client, a high school track coach, who is facing deportation to war-torn Uganda. **Miryam** was also featured in a February 26 *Associated Press* article on the same subject.

Jeffery Goldman (New England), **Robert Deasy** (Pittsburgh) and **Crystal Williams** (National) were quoted in a February 28 *Los Angeles Times* article about the one-year anniversary of DHS. *The Miami Herald* quoted **Cheryl Little** (Southern Florida) in a February 28 article which highlighted immigration advocates' criticism of the Bush administration policy of turning back Haitian refugees in the wake of the Haitian crisis. **Cheryl** also was quoted in a February 27 *Associated Press* article and a February 26 *Sun-Sentinel* article on the same topic. **Carlo Jean-Joseph** (Southern Florida) was quoted in a February 28 *Miami Herald* article about the disruption to Florida businesses caused by the Haitian uprising.

Ira Kurzban (Southern Florida) was quoted in February 27 articles in both the *New York Times* and *Newsday* concerning the Haitian crisis. **Philip Brutus** (Southern Florida) was quoted in a February 27 *Palm Beach Post* article, also on the Haitian crisis.

The San Jose Mercury News quoted **Jessica Dominguez** (Southern California) in a February 27 article about her client, an immigrant imprisoned for 22 years and who now faces deportation for her role in the beating of a man who bought her as a sex slave. **Jessica** was also quoted in a February 26 *Associated Press* article and a February 26 *Post-Enterprise* article about the same client**. Gene McNary** (Missouri/Kansas) was featured in a February 27 *St. Louis Post-Dispatch* article about his bid to run for St. Louis County executive.

Stephen Yale-Loehr was quoted in a February 26 *Sun-Sentinel* article about a Haitian refugee who twice was granted asylum but remained in detention and who finally was freed on bond. *The*

St. Louis Post-Dispatch featured **Warren Hoff, Jr.** (Missouri/Kansas) in an article about his client, an 82-year-old former Nazi concentration camp guard, who was stripped of his citizenship. **Taher Kameli** (Chicago) was quoted in a February 26 *Chicago Tribune* article about his client who is fighting deportation.

Cletus M. Weber (Washington) was quoted in a February 26 *Seattle Times* article about the trend toward releasing detained immigrants via an electronic monitoring "tethering" system. **Neha Chandola** (Washington) was quoted in a February 26 *Seattle Times* article about a new Tacoma facility to house people targeted for deportation. **Mirna E. Adjami** (Chicago) was quoted in a February 26 *Chicago Daily Law Bulletin* article about the cases of the alleged Taliban soldiers and others held at the Guantanamo Bay military facility.

Edna Yang (Texas) was quoted in a February 25 *Austin American-Statesman* article about a 52-year-old grandmother who was deported to Mexico. *The Associated Press* quoted **Ira Kurzban** (Southern Florida) in a February 25 article about allegations that Haitian President Aristide controlled the drug trafficking in Haiti. **Adan Vega** (Texas) was featured in a February 24 *Houston Chronicle* article about a conference for Houston-based Hispanic business owners that highlighted President Bush's proposed immigration reforms. *The Los Angeles Times* quoted **Judy Golub** (National) in a February 24 article on the H-1B cap.

The Minnesota Lawyer quoted **Amy Schroeder Ireland** (Minnesota/Dakotas), **Kim Hunter** (Minnesota/Dakotas), and **Michael Davis** (Minnesota/Dakotas) in a February 23 article about the decision in *Ngwanyia v. Ashcroft*, in which a federal judge called the U.S. Citizenship and Immigration Service's procedures toward asylees so harmful as to "constitute nothing short of a national embarrassment."

Palma Yanni (Washington, DC) and **John Perez** (New Jersey) were quoted in a February 23 *New Jersey Law Journal* article about a New Jersey resident who soon may be deported. The *Times-Picayune* quoted **Lawrence Fabacher** (Mid-South) in a February 23 article about his client whose sister was denied a nonimmigrant visa. **Lynn Susser** (Mid-South) was quoted in a February 23 *USA Today* article defending her clients who are seeking custody of their daughter.

John Estrella (National) was quoted in a February 22 *St. Petersburg Times* article about giving undocumented immigrants driver's licenses. **Robert Hill** (Washington, DC) was featured in a February 20 *Daily News* article about his clients, the Yankees, who hired him to assist the family of team member Jose Contreras in immigrating to the U.S. The *New York Times* quoted **Jonathan E. Avirom** (New York) and **Julian Lowenfeld** (New York) in a February 19 article about old deportation orders leading to injustices. **Scott Pollock** (Chicago) was quoted in a February 19 *Boston Globe* article about gender-based asylum claims.

Joren Lyons (Northern California) was quoted in a February 18 *San Franscio Chronicle* article about a family that has lived in the U.S. for the past 19 years, has tried without success to legalize its status, and now faces deportation. *The Associated Press* quoted **Paul Zulkie** (Chicago) on the H-1B cap. **Judy Golub** (National) was quoted in a February 17 *La Opinion* article about US VISIT.

On February 16, *The Los Angeles Times* quoted **Judy Golub** (National) and **Bernard Wolfsdorf** (Southern California) in an article about the H-1B visa cap. **Mario Ramos** (Mid-South) was quoted in a February 16 *Tennessean* article about a Volunteer Income Tax Assistance site and the needs of immigrants when doing their taxes. A February 16 *Computerworld* article quoted **Vic Goel** (Washington, DC) about firms that are preparing for the H-1B hiring freeze. In a February

16 *Connecticut Law Tribune* article**, Anthony Collins** (New England) was quoted about his client who was released from jail only to be re-arrested pending deportation.

Judy Golub (National) was quoted in a February 15 *News & Observer* article about immigrants forced to endure long waits and inappropriate behavior by immigration officers. *The Hartford Courant* quoted **Philip Berns** (New England) in a February 15 article about the DREAM Act and the implications for undocumented children. **Philip** also had an op-ed published in the *Greenwich Times* about the DREAM Act. **Anita Delegado** (New York) was quoted in a February 15 *Journal News* article about the effects of 9/11 on legislation that would give legal status to millions of immigrants.

A February 14 *Sun-Sentinel* article quoted **Jeanne Butterfield** (National) concerning temporary protection for nationals of countries experiencing civil unrest, most notably Haitians. The *Sun Sentinel* quoted **Charles Kuck** (Atlanta) in a February 13 article about a federal judge's ruling that immigration officials must issue an additional 22,000 green cards that should have been granted previously to asylum applicants who have been forced to endure long backlogs. **Angelo Paparelli** (Southern California) was quoted in a February 13 *Orange County Register* article about women being smuggled across the border and forced into prostitution. **Carl Shusterman** (Southern California) was quoted in a February 13 *Argus* article about his clients who face deportation.

The Houston Chronicle quoted **Gordon Quan** (Texas) in a February 12 article about verbal abuse that an immigrant cabdriver received from a Metro police officer. **Marshall Fitz** (National) was quoted in a February 12 *Philadelphia Inquirer* article about the unauthorized practice of law and how it affects immigrants. **Alberto Benitez** (Washington, DC) and **Crystal Williams** (National) were quoted in a February 11 *Washington Post* article about the backlog at the U.S. Citizenship and Immigration Services. **Margaret S. Choi** (Colorado) and **Catherine Olson Brown** (Colorado) were quoted in a February 11 *Rocky Mountain News* article about the prospective increase in immigration application fees.

M**arshall Fitz** (National) was quoted in a February 10 *United Press International* article about Homeland Security Secretary Tom Ridge's proposal to use local law enforcement officials to enforce immigration laws. A February 10 *Scripps Howard News Service* article quoted **Joye Wiley** (Northern California) and **Karen Musalo** (Northern California) about a woman who is seeking asylum because she was a battered spouse. **Tamar French** (Michigan) and **David Koelsch** (Michigan) were quoted in a February 10 *Detroit News* article about Iraqis being indefinitely held pending deportation because immigration officials can't get permission to return them to the war-torn country. **Palma Yanni** (Washington, DC) was quoted in a February 10 *Park-Record* article about visa delays.

Jeff DeVore (Southern Florida) was quoted in a February 9 *Broward Daily Business Review* article concerning the reporting of undocumented child immigrants to the U.S. Border Patrol by Palm Beach County juvenile court judge, Roger B. Colton. **Marshall Fitz** (National) and **Mazen Sukkar** (Southern Florida) were quoted in a February 5 *Broward Daily Business Journal* article on the same subject. A February 8 *Newsday* question and answer article quoted **Naomi Schorr** (New York) about immigration issues. **Steve Miller** (Washington) was quoted in a February 8 *Seattle Times* article about his $1 billion proposal on behalf of the League of Education Voters that would change the nature of education funding in Washington State. **Michael Muñiz** (Oregon) was quoted in a February 9 *Statesman-Journal* article about President Bush's immigration proposal.

Mario Ramos (Mid-South) was quoted in a February 6 *Tennessean* article about the Governor's proposed plan to issue a driver's "certificate" instead of a standard driver's license to immigrants who cannot prove they entered the country legally. *The Atlanta Journal-Constitution* quoted **Glen Prior** (Washington) in a February 6 article in which he defended his client, an undocumented immigrant, who served with the Army in Iraq and who is on track to become a U.S. citizen.

Kathleen Campbell Walker (Texas) was quoted in a February 5 *Congressional Quarterly* article about ICE's focus on apprehending terrorists. *The Sun-Sentine,* in a February 5 article, quoted **Linda Cahill** (Southern Florida) on immigrants who have been trying to come to the U.S. since the 1980s. **Margaret Stock** (Upstate New York) was quoted in a January 30 *Newsday* article about how frequently immigrant soldiers miss immigration filing deadlines. **Alice Yardum-Hunter** (Southern California) was featured in the January *LA Lawyers Magazine* on being among the top immigration lawyers in Los Angeles and Orange Counties.

Note: Please submit all articles, letters-to-the-editor, etc. for inclusion in "Members in the News" to Julia Hendrix of the AILA Advocacy Department (jhendrix@aila.org).

Did You Know?

"What should be done? The rules need a major overhaul and the entry system needs more or better personnel. There has to be a way to differentiate between a Bulgarian soprano who's been invited to sing at the Pittsburgh Opera and an aspiring terrorist coming to learn how to fly but not land an airplane."

--*Pittsburgh Post-Gazette* Op-Ed, February 27, 2004 (referring to the news that Bulgarian soprano Alexandrina Pendatchanska won't be able to sing the role of Cleopatra in the Pittsburgh Opera's new production of "Julius Caesar" as a result of a USCIS adjudications foul-up).

CONTRIBUTORS

Judith Golub, Senior Director of Advocacy and Public Affairs
Marshall Fitz, Associate Director of Advocacy
Danielle Polen, Legislative Associate
Joanna Carson, Business Immigration Associate
John Estrella, Senior Policy Associate
Julia Roane Hendrix, Media Relations Associate
Rossana Lo, Advocacy Assistant
Alexis Ivory, Law Student Intern
Alfonso Lievano, Law Student Intern

American Immigration Lawyers Association
918 F Street, N.W.
Washington, D.C. 20004
202-216-2403

47AU4002