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Senate Judiciary Committee Examines OIG Report on Post-9/11 Detentions

The Senate Judiciary Committee on June 25 held a hearing to consider the Office of Inspector General’s (OIG’s) scathing report (released to the public June 2) on post-9/11 detentions. Testifying before the Committee were: Glenn A. Fine, Inspector General, Department of Justice (DOJ); Michael E. Rolince, Acting Assistant Director in Charge, Federal Bureau of Investigation; Harley Lappin, Director, Federal Bureau of Prisons, DOJ; and David Nahmias, Counsel to the Assistant Attorney General, Criminal Division, DOJ. Several Committee Members voiced displeasure that no higher-ranking DOJ officials testified at the hearing, thereby impeding the Committee’s oversight responsibilities.

The hearing, which was sparsely attended by Members of the Committee, explored very little new ground. Mr. Fine summarized the research, conclusions, and recommendations contained in the Report and responded to questions. Messrs. Rolince, Nahmias, and Lappin broadly defended the government’s detention-related actions. The question and answer session focused largely on three clusters of issues raised in the OIG Report: the criteria (or lack thereof) for designating ‘special interest’ cases; the ‘hold until cleared’ policy and the attendant clearance delays; and the verbal and physical abuse of detainees. Despite some vigorous questioning by Minority Members, Messrs. Rolince, Nahmias, and Lappin all maintained that the policies implemented by DOJ towards post-9/11 detainees were legal and justified under the circumstances. Mr. Fine

reiterated that his office had not rendered an opinion either way as to the legality of the policies in question.

H-1B(II) Category Created in Chile and Singapore Free Trade Agreements

The House Judiciary Committee, on July 10, marked-up the draft implementing legislation for the U.S. Free Trade agreements (FTAs) with Chile and Singapore. During the hearing, the committee adopted a provision that would count against the H-1B cap temporary entrants for business purposes addressed in both agreements.

According to congressional sources, a bipartisan initiative resulted in the H-1B visa category being split into the H-1B(I) and H-1B(II) categories. The H-1B(I) category would encompass the current H-1B program. Within the new H-1B(II) category, 1,400 visa numbers will go to Chile and 5,400 will go to Singapore. These numbers will count against the cap in the 1st year and again in the 7th year, thereby resulting in 6,800 visas (more than 10% of the allotted number of H-1B visas in FY04) being taken away from the general cap. (The H-1B visa category is currently capped at 195,00. However, the cap is set to revert back to 65,000 visas per year absent congressional intervention.)

In addition to counting against the cap, the new H-1B(II) visas will be renewed annually, with attestations required every third year. The prevailing wage requirements and \$1,000 fee currently applied to the H-1B category would also apply to the new H-1B(II) subset.

The Senate Judiciary Committee will hold a hearing to review the temporary entrants provisions under the FTAs on July 14, and is scheduled to mark-up legislation on these trade agreements with Chile and Singapore on July 17. Congress is expected to approve the FTAs in the near future.

Senator Cornyn Introduces Temporary Worker Bill

On July 11 Senator John Cornyn (R-TX) introduced S. 1387, the Border Security and Immigration Reform Act of 2003. The bill would authorize the establishment of guest worker programs with any country that enters into an agreement with the U.S. Workers entered into the program would be eligible for a "W" visa and would be "placed in job openings" in the U.S. The bill also would allow certain undocumented aliens to obtain W status. The bill authorizes the Secretary of the Department of Homeland Security to establish an evaluation system that prioritizes who can adjust their status based on participation in the guest worker program for a continuous 3-year period. This evaluation process is a point-based system that takes into account: whether the alien has an employer sponsor; whether the alien received promotions or pay increases and paid taxes; the alien's proficiency in speaking English; the alien's education; and whether the alien has refrained from illegal activity.

Senator Cornyn is a member of the Senate Immigration Subcommittee and has spoken in the past of the need to reform our immigration system because we have long "failed to address the flaws in our nation's immigration system," a need that is "even more urgent in a post 9/11 world." The Senator also recognizes the vital economic role that immigrants play and the need for reform. As stated, his goals are laudable: to increase homeland security, reestablish respect for our laws and restore dignity to immigrants who work here, and encourage undocumented immigrants to come out of the shadows and work within the law.

However, his solution, a guest worker program, is flawed. AILA believes that only comprehensive immigration reform will solve current problems that need to be addressed in our current immigration system. Since many of the problems with our current system are interrelated, reform must be comprehensive to successfully address our nation's current needs and realities. Such comprehensive reform would include: an earned adjustment for the people who are here and contributing; reduction in backlogs in family and business-based immigration; and a new worker program.

- Immigration Reform Needs to Include an Earned Adjustment Program for People in the U.S. without Authorization: People who work hard, pay taxes, and contribute to the U.S. should be allowed to obtain permanent residence. This reform would stabilize the workforce of U.S. employers, encourage people to come out of the shadows to be scrutinized by our government, and allow immigrants to work and travel legally and be treated equally. Many have been here for years, are paying taxes, raising families (typically including U.S. citizen and lawful permanent resident spouses and children), contributing to their communities and are essential to the industries within which they work. In order to unite families and keep them together, appropriate waivers must be available for grounds of admissibility and deportability. It is neither in the best interests of the workers nor their employers for this situation to continue.
- Immigration Reform Must Open Up Legal Channels for Family- and Business-Based Immigration: Our immigration system has been characterized by long backlogs in family-based immigration and long delays in business-based immigration. Illegal immigration is a symptom of a system that fails to reunify families and address economic conditions in the U.S. and abroad. To ensure an orderly future process, our system must reduce bureaucratic obstacles and undue restrictions to permanent legal immigration. Developing an increased legal migration flow will make immigration more orderly and legal. It also will allow more people to reunite with their families and work legally in the U.S., and would facilitate fair, equitable, and efficient immigration law, policy, and processing. It is essential to make legal future immigration that otherwise will happen illegally.
- Immigration Reform Needs to Include a New Worker Visa Program: Current immigration laws do not meet the needs of our economy for short- and long-term employees in those sectors currently experiencing worker shortages and others that will experience shortages in the future. A new worker program would allow workers the opportunity to work in areas of the country where they are needed and give employers experiencing shortages the workforce they need. Current programs often are unusable, and do not accommodate employers facing longer term, chronic labor shortages. The framework for a new temporary worker program must differ significantly from existing programs, and respect both the labor needs of business and the rights of workers, and needs to include: portability; family unity; labor protections; and provisions that enforce the law.

AILA looks forward to working with Senator Cornyn on immigration reform.

Senate Judiciary Committee Vets Nomination of Michael Garcia; Aguirre Confirmed

The Senate Judiciary Committee on July 8 held a confirmation hearing to consider the nomination of Michael Garcia to the post of Assistant Secretary, Bureau of Immigration & Customs Enforcement (BICE). Although only three Committee Members attended the hearing, resulting in an abbreviated question and answer session, five salient issues were raised: coordination between the Bureaus; an Ombudsman for BICE; the recent report from the Justice Department's Office of

the Inspector General (OIG) on post-9/11 detentions; the NSEERS program; and unaccompanied minor children.

Mr. Garcia agreed that policy coordination between the three Bureaus (BICE, the Bureau of Customs and Border Protection (BCBP), and the Bureau of Citizenship and Immigration Services (BCIS)) will be an ongoing challenge. That challenge is all the more difficult given the uneven hierarchical status of the Bureaus, with BCIS arguably on level with the Border and Transportation Security (BTS) Directorate, rather than its sub-bureaus, the BCBP and BICE. Mr. Garcia advised that coordination currently is accomplished through informal working arrangements, heightening AILA's concerns about the lack of a high-level centralized immigration policy office.

On a related topic, the Judiciary Committee's Ranking Member, Senator Edward M. Kennedy (D-MA), reiterated his belief that BICE would benefit from an Ombudsman similar to the office created in the BCIS. Mr. Garcia demurred, maintaining that there was enough interagency oversight to render such an office superfluous.

Senator Kennedy next asked Mr. Garcia for BICE's response to the OIG report. Mr. Garcia praised the report and indicated that he concurred in "if not all, nearly all" of the report's recommendations. He indicated that his office already has begun to develop and implement new bail and detention standards and promised to provide the Committee with a copy of the strategy and compliance report being prepared for submission to the DOJ Inspector General.

In response to questions regarding the effectiveness of NSEERS (the National Security Entry-Exit System)—given its targeting of populations based on religion and ethnicity—Mr. Garcia distinctly hedged. He indicated that the program was successful in terms of results but did not specifically identify any productive counter-terrorism results from the call-in registration program. He also did not answer whether the severely negative impact the program has had on many immigrant communities in the U.S. has undermined the government's law enforcement objectives.

Finally, Mr. Garcia explained that the hold-up in the complete transfer of functions and responsibilities for unaccompanied alien children is a result of the Office of Refugee Resettlement's (ORR) unwillingness to assume the related transportation obligations. He advised that BICE is actively working with ORR to resolve the issue.

In other confirmation-related news, the Senate, on June 19, confirmed Eduardo Aguirre, Jr., as the first Director of the Bureau of Citizenship & Immigration Services. For additional details on Mr. Aguirre's confirmation hearing before the Senate Judiciary Committee, see article #5 in 7 *Washington Update* No. 8 (June 17, 2003).

House Select Committee on Homeland Security Assesses Border Security Initiatives

The House Select Committee on Homeland Security held a June 25 oversight hearing to assess the Department of Homeland Security's (DHS's) initiatives for securing the nation's borders. Asa Hutchinson, Under Secretary for Border and Transportation Security, was the sole witness.

During the hearing, Committee Members expressed an interest in several immigration issues overseen by Mr. Hutchinson. First, Chairman Christopher Cox (R-CA) asked for Mr. Hutchinson's views on the enforcement of immigration laws by state and local law enforcement officials. Despite the general resistance by most local law enforcement officials to assuming an

immigration enforcement role, Mr. Hutchinson reiterated his support for such a role by local and state authorities. He noted that Florida was the first state to enter into an agreement whereby 40 of its law enforcement officials enforce immigration laws, and that DHS currently is talking with officials from Los Angeles and the state of Alabama about immigration training programs for those areas.

AILA strongly opposes the use of state and local police departments for the enforcement of civil immigration laws. Not only do state and local law enforcement officials lack experience and adequate training in immigration law, but such a requirement also would strip local police departments of valuable resources, and would undermine community relationships that have taken decades to build.

Several Committee Members expressed concern with continuing problems in the development of the SEVIS student tracking system. For example, it was pointed out that, by August 1, 2003, all new and continuing foreign students must be entered into SEVIS. However, due to current problems with the system, there is a concern that SEVIS will be unable to handle the additional entries. Representative Zoe Lofgren (D-CA) noted that, if SEVIS is to be the model for the U.S. VISIT entry-exit system, then the problems and technical difficulties that continue to plague SEVIS could doom to failure the much larger U.S. VISIT program.

Committee Members also raised questions about DHS's efforts to enhance interior enforcement and deport individuals who overstay their visas. Mr. Hutchinson indicated that DHS is taking a two-pronged approach to improving this process. One approach is the development of the U.S. VISIT entry-exit program. AILA has noted its deep concerns about U.S. VISIT's implementation including the overly ambitious timeframe that is likely to result in a deeply flawed program; inadequate funding; inadequate data integration; and biometric data being collected at the ports of entry that would result in serious delays in DHS' ability to clear incoming flights.

The other approach, according to Mr. Hutchinson, is to generate data on individuals who overstay their visas. The Office of Compliance within the Bureau of Immigration and Customs Enforcement (BICE) was created to monitor and assess this information. This office will evaluate the information surrounding a foreign national's overstay and will determine when it needs to be referred to the enforcement arm of DHS. The second prong of the enforcement initiative, according to Mr. Hutchinson, "is to target everyone who intersects with our criminal justice system, or our justice system in any way, so that information comes to us. It triggers that they are an overstay. And we're capable of handling that information."

Several Committee Members also posed questions concerning visa backlog reductions and interview policies at the consular offices abroad. While these issues do not fall under the jurisdiction of the Border and Transportation Security Directorate, they highlight the overlapping nature of our newly restructured immigration and visa functions, now divided among three separate bureaus within the DHS, with actual visa processing remaining within the Department of State.

House Judiciary Subcommittee Studies Use of Consular ID Cards

The House Judiciary Committee's Subcommittee on Immigration, Border Security and Claims held an oversight hearing on June 26 to examine "The Federal Government's Response to the Issuance and Acceptance in the U.S. of Consular Identification Cards." Subcommittee Chairman John Hofstetter (R-IN), Ranking Member Howard Berman (D-CA), and Representatives Jeff

Flake (R-AZ), Marsha Blackburn (R-TN), Lamar Smith (R-TX), Elton Gallegly (R-CA), and Linda Sanchez (D-CA) attended the hearing.

Among the witnesses testifying were Roberta Jacobson, Acting Deputy Assistant Secretary of State for the Bureau of Western Hemisphere Affairs; Steve McCraw, Assistant Director, Office of Intelligence, Federal Bureau of Investigation; C. Stewart Verdery, Assistant Secretary for Policy and Planning, Border and Transportation Security Directorate; and Elizabeth Davison, Director, Department of Housing and Community Affairs, Montgomery County, Maryland.

Ms. Jacobson noted the State Department's concern with how documents given to U.S. citizens abroad will be viewed by foreign governments if the U.S. begins to restrict the acceptance of the Mexican consular ID card, also known as the *Matricula Consular*. She added that the "Vienna Convention on Consular Relations allows for sending States to perform "consular functions" to help, assist, and protect their nationals."

Mr. McCraw voiced concern over the security of the *Matricula*, noting specifically the lack of a centralized database to coordinate the issuance of consular ID cards. However, when questioned as to whether there was a centralized database to coordinate the issuance of passports in Mexico, Mr. McCraw testified that he did not know.

AILA strongly supports the use of the *Matricula Consular* because it is a secure form of identification that allows Mexican immigrants a safe avenue by which to enter the financial mainstream. More importantly, the *Matricula* provides law enforcement officials with a reliable means to identify members of their community.

House Committee Focuses on Globalization of Workforce

On June 18, the House Small Business Committee held a hearing entitled "The Globalization of White-Collar Jobs: Can America Lose these Jobs and Still Prosper?" The theme of the hearing was based on the February 3, 2003, cover story of *BusinessWeek*, which appeared under the dramatic headline "Is Your Job Next?" In keeping with the tenor of this headline, the hearing was devoted largely to painting an alarmist portrait of white-collar job loss in the United States, primarily through the movement of jobs overseas, but also via the purported 'taking of American jobs' by H-1B and L-1 visa holders.

Despite the attacks made on the L and H visa categories, the facts demonstrate that these visa categories have been vital components of our country's economic growth and development. In fact, many believe that these visas have done more to foster foreign investment in the U.S. than any other nonimmigrant status. For example, the L-1 visa is the principal immigration vehicle foreign companies use to build U.S. factories, open offices, and hire thousands upon thousands of U.S. workers to staff their U.S. operations.

In addition, the H-1B visa provides employers with access to professional labor whenever there is a shortage in a particular profession, or when employers are in need of professionals with unique knowledge and specific expertise who can provide insight for business expansion, and aid companies in the development of new innovative products and services. Furthermore, money from the H-1B visa fees has totaled more than \$962 million over the past five years. These fees have helped provide training to more than 55,600 U.S. workers and have funded scholarships for more than 12,500 U.S. students in science and engineering.

The hearing began with statements by Committee Chairman Donald A. Manzullo (R-IL) and Ranking Member Nydia M. Velázquez (D-NY), followed by testimony from Representative Nancy L. Johnson (R-CT); Bruce P. Mehlman, Assistant Secretary of Commerce for Technology Policy; Pete Engardio, Asian Edition Editor for *BusinessWeek* and co-author of the story that served as the inspiration for the hearing; Ron Hira, Chairman of the Research and Development Policy Committee at the Institute of Electrical and Electronics Engineers, Inc.; John Challenger, CEO of Challenger, Gray & Christmas, Inc. in Chicago; John Palatiello, Administrator of the Council on Federal Procurement of Architectural and Engineering Services; Christopher Kenton, President of Cymbic, Inc. in San Rafael, CA; and Paul Almeida, President of the Department for Professional Employees at the AFL-CIO.

Chairman Manzullo set the tone of the hearing with the statement that: “the U.S. economy is growing and creating jobs, but Americans are not filling them. These jobs have been moved overseas where foreigners will work for a lot less.” Similarly, Representative Velázquez warned that, in a repeat of what occurred in the manufacturing sector beginning in the 1980s, “high-end service work such as writing software code, and processing credit card receipts, is being moved to developing countries like India, China, Russia and Eastern Europe.” She segued to the topic of immigration by arguing that abusing immigration policy to bring cheap labor into the United States is one factor contributing to the loss of American jobs. Representative Johnson continued the immigration theme, testifying that “unemployed information technology workers” among her constituents have told her “that their former employers were replacing them with cheaper workers brought in from overseas on H1-B and L-1 visas.” She called for “a thorough and detailed reevaluation of the various guest worker programs.”

Mr. Hira argued that H-1B and L-1 visa holders have “accelerated movement of work offshore as temporary workers in management positions outsource work to overseas colleagues, and as temporary workers who have returned home use their knowledge and connections in the U.S. market to competitively bid for outsourced work.” However, he said that “a policy shift away from reliance on guest workers and towards permanent immigration would help minimize this problem.”

Mr. Challenger, although not addressing immigration, provided some of the few comments during the hearing that sought to place the issue of globalization in an historical context. He argued that: “to try and stop the globalization of the workforce is futile. It is a natural force.” He also observed that: “out of fear, people misidentify the issue as permanent job loss,” even though there is no such thing as a “fixed number of jobs.” He pointed out that over two million jobs were created each year during the 1990s, so it is logical that jobs would be lost during the current economic downturn. He summarized this point succinctly by noting that: “as the economy expands and contracts, so do jobs.”

TPS for El Salvador Extended

The Department of Homeland Security (Bureau of Citizenship and Immigration Services) announced on July 10 that it would extend the Temporary Protected Status (TPS) designation for El Salvador for an additional 18 months, until March 9, 2005. This extension, covering an estimated 290,000 Salvadoran registrants, will take effect on September 9, 2003. Re-registration applications will not be accepted before the registration program officially begins.

The TPS program initially was offered after two earthquakes devastated El Salvador in 2001. Salvadoran officials report that immigrants from El Salvador remitted about \$2 billion last year.

Migration Policy Institute Issues Report on Security and Civil Liberties in the Post-9/11 Era

The Migration Policy Institute (MPI) held a panel briefing on June 26, 2003 to discuss its new report on how domestic security initiatives have impacted civil liberties in the post-9/11 era. Distinguished panelists presenting the report included: Vincent Cannistraro, former Chief of Operations and Analysis at the CIA's Counter-terrorism Center; David Cole, professor at Georgetown University Law Center; James Zogby, founder and President of the Arab American Institute; Muzaffar Chishti, co-director of MPI; Doris Meissner, former Commissioner of INS; and Demetrios Papademetriou, co-founder and director of MPI and former Director of Immigration Policy and Research at the U.S. Department of Labor. The 165-page report, which contains extensive findings and recommendations, concludes that the government's harsh policies towards immigrants since the terrorist attacks have "failed to make us safer, have violated our fundamental civil liberties, and have undermined national unity."

Specifically, the report finds that immigration enforcement is of limited usefulness as an anti-terrorism measure and the government's overemphasis of that strategy has created a false sense of security. Based on their extensive research, the authors argue that the government's major successes in apprehending terrorists and preventing future subsequent attacks resulted from, not the post-9/11 immigration initiatives, but rather other efforts "such as international intelligence activities, law enforcement cooperation, and information provided by arrests made abroad." Not only were the immigration initiatives ineffective, they also violated fundamental civil liberties. Among other practices, the government held and detained individuals without charge, denied individuals meaningful access to legal counsel, and subjected them to closed hearings.

Just a sample of the many sound recommendations from the report include: expanding congressional oversight of the newly assumed executive powers; unifying and automating government watch lists and establishing clear procedures for adding and deleting names from the list; eliminating the practice of criminalizing minor immigration violations; stopping blanket closures of hearings; prohibiting prolonged detentions without charges; ensuring individualized bond hearings; and rescinding the automatic stay regulation.

AILA Criticizes Recent Center for Immigration Studies 'Policy Paper' on Local Law Enforcement

On June 26, the immigration restrictionist group, Center for Immigration Studies (CIS), presented a policy paper on the subject of using state and local law enforcement officers to enforce federal immigration laws. AILA has long opposed this practice based on a panoply of persuasive policy arguments. The CIS paper fails to dilute the strength of those arguments. First, local law enforcement agencies lack the experience and training required to properly enforce complex federal immigration laws. Second, relying on local law enforcement agencies to enforce federal immigration law undermines community-based policing initiatives, which are widely considered one of the most powerful law enforcement tools available. Third, having local law enforcement agencies enforce federal immigration laws will only drain those agencies of scarce resources, at a time when states are experiencing the most severe budget crises in half a century. Fourth, a substantial question exists regarding whether state and local law enforcement agencies possess inherent legal authority to enforce federal civil immigration laws. The authority reportedly cited by the Department of Justice - a 1984 Tenth Circuit case, *United States v. Salinas-Calderon* - in support of its legal opinion that state and local authorities possess inherent authority to enforce immigration law fails to hit the mark. The Department of Justice tellingly refuses to release this opinion to the public.

Among the panelists at the CIS event were Senator Jeff Sessions (R-AL); Representative Charlie Norwood (R-GA); Mark Krikorian, CIS Director; James Edwards, the author of the paper; and Harlan Lowe, Assistant Attorney General for the Alabama Department of Public Safety. Summarizing his policy paper, Mr. Edwards stated that there were three major issues to consider: (1) authority; (2) information; and (3) resources. On the subject of the legal authority that state and local police officers have to enforce federal immigration laws, Mr. Edwards vaguely stated that, because local police often make arrests in cases concerning federal offenses, they should likewise have the authority to conduct arrests for violations of immigration law. This analysis fails to acknowledge the difference between federal *criminal* laws and federal *civil* immigration laws. It also fails to recognize that the federal criminal code and state criminal codes are fairly similar in both substance and principles; by contrast, the federal immigration laws are of a different ilk entirely. Mr. Edwards further argued in favor of expanding the information available to local police to encompass all immigration violations, not simply absconders. This argument once again fails to acknowledge the incredibly complex nature of the immigration laws and the costly, intensive, and on-going training that would be necessary for local officers to appropriately enforce those laws. Although Mr. Edwards recognizes resource deficiencies as a problem for detention and transportation of aliens, he fails to adequately credit the resources needed for comprehensive training of local officers.

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. 2702, introduced on July 10 by Representative Rosa DeLauro (D-CT), would amend the Immigration and Nationality Act (INA) with respect to the admission of L-1 intracompany transferee nonimmigrants.

H.R. 2688, introduced on July 9 by Representative Tom Tancredo (R-CO), would amend the INA to completely repeal the provisions relating to the H-1B visa program for temporary workers.

H.R. 2630, the Commercial Alien Smuggling Elimination Act of 2003, introduced on June 26 by Representative Sheila Jackson Lee (D-TX), would provide up to 400 nonimmigrant visas per year for aliens who possess information concerning a commercial alien smuggling organization and who are willing to supply, or have supplied, such information to a federal or state court. The bill would also provide for increased criminal penalties for certain alien smuggling offenses.

H.R. 2600, introduced on June 25 by Representative Eni F.H. Faleomavaega (D-Am. Samoa), would amend the INA to simplify the requirements for United States nationals to become citizens.

Senate Legislation

S. 1387, the Border Security and Immigration Reform Act of 2003, introduced on July 10 by Senator John Cornyn (R-TX), would authorize the establishment of guest worker programs on both a seasonal and non-seasonal basis, the number of participants in which would be adjusted annually based on changes in U.S. economic conditions.

S. 1362, the Secure and Fast Entry at the Border Act of 2003, introduced on June 26 by Senator Barbara Boxer (D-CA), would authorize the Port Passenger Accelerated Service System (Port PASS) as a permanent program for land border inspection under the INA.

S. 1353, the Widows and Orphans Act of 2003, introduced on June 26 by Senator Sam Brownback (R-KS), would add a new INA § 101(a)(27)(N) to establish a new Special Immigrant category for certain women and children at risk of harm.

Agencies Issue a Variety of New Regulations

Federal agencies have issued a variety of new regulations in recent weeks, impacting everything from nonimmigrant visa interview policies to SEVIS procedures. A brief summary of these regulations follows.

Department of Homeland Security:

A June 13 Department of Homeland Security (DHS) final rule added and revised definitions, redefined powers and authorities of certain agents and officials, and amended the internal review process for alleged violations of enforcement activity standards. The rule took effect upon publication. (68 FR 35273, 6/13/03, see AILA InfoNet Doc. No. 03061742).

The DHS issued a final rule on June 12 that addressed parole authority under INA § 212(d)(5), by amending the titles of the officers given parole authority, to conform to the DHS reorganization. The rule took effect upon publication. (68 FR 35151, 6/12/03, see AILA InfoNet Doc. No. 03061240).

The Department of Homeland Security published its semi-annual regulatory agenda in the May 27 issue of the Federal Register. The agenda outlines current and projected rulemaking efforts by the Department and provides an estimated timetable for each item. (68 FR 30280, 5/27/03, see AILA InfoNet Doc. No. 03052745).

State Department:

Reduction of Waivers of In-Person Interviews and Centralization of Interview Policy Authority. The State Department, on July 7, issued an interim rule codifying the Department's post-9/11 change of policy on visa interviews, bringing the regulations "into line with, and allow[ing] further expansion of, post-9/11 policy guidance issued by the Department that has increasingly restricted the number of instances in which the interview of a nonimmigrant visa applicant may be waived." The regulation significantly reduces the number and kind of situations in which the usual requirement that a nonimmigrant visa applicant appear before an officer for a personal interview may be waived by the consular officer, while making express the Department's authority to set interview policies centrally. The rule will take effect on August 1 and comments must be received by September 5. (68 FR 40127, 7/7/03, see AILA InfoNet Doc. No. 03070940).

A June 26 State Department interim rule amended the Department's regulations by adding a new 'T' nonimmigrant visa category. The amendment implements § 107(e) of the Trafficking Victims Protection Act of 2000, which provides nonimmigrant status to certain victims of severe forms of human trafficking, and in circumstances involving extreme hardship, to their immediate relatives. The rule takes effect on August 25 and comments are also due on that date. (68 FR 37963, 6/26/03, see AILA InfoNet Doc. No. 03062641).

A May 30 Department of State final rule added INTELSAT to the list of “international organizations” for purposes of the Immigration and Nationality Act. The new rule also clarifies the status of INTELSAT and its international personnel in the wake of the organization’s privatization. The rule took effect upon publication. (68 FR 32359, 5/30/03, see AILA InfoNet Doc. No. 03053040).

The Department of State published its semi-annual regulatory agenda in the May 27 issue of the Federal Register. The agenda outlines current and projected rulemaking efforts by the Department and provides an estimated timetable for each item. (68 FR 30598, 5/27/03, see AILA InfoNet Doc. No. 03052747).

A May 23 State Department interim rule added the requirement that consular officers verify SEVIS-generated I-20s and DS-2019s in the Consolidated Consular Database, and verify the payment of applicable SEVIS fees. The new rule also makes Border Commuter Students subject to SEVIS requirements. The rule took effect upon publication. (68 FR 28129, 5/23/03, see AILA InfoNet Doc. No. 03052341).

Department of Health and Human Services:

The Department of Health and Human Services (HHS), on June 12, announced the availability of applications to request HHS to act as an interested government agency in connection with applications to request waiver of the two-year foreign residence requirement for physicians with J-1 visas who agree to deliver health care services for three years in primary care or mental health Professional Shortage Areas (HPSAs) or medically underserved area or populations ((MUA/Ps). (68 FR 35226, 6/12/03, see AILA InfoNet Doc. No. 03061210).

Department of Labor:

The Department of Labor, on May 29, published policy guidance to Federal Financial Assistance Recipients, including State Workforce Agencies, regarding Title VI’s prohibition against national origin discrimination as it affects limited English proficient people. (68 FR 32289, 5/29/03, see AILA InfoNet Doc. No. 03052944).

The Department of Labor published its semi-annual regulatory agenda in the May 27 issue of the Federal Register. The agenda outlines current and projected rulemaking efforts by the Department and provides an estimated timetable for each item. (68 FR 30552, 5/27/03, see AILA InfoNet Doc. No. 03052746).

MEDIA SPOTLIGHT: Members and Staff in the News

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).

On July 8, **Mark Koestler** (New York) was quoted by *Newsday* in an article about one of his clients who petitioned for his four brothers and their families to come to the U.S., only to have one of his brothers die before receiving his visa, leaving his wife and child unable to immigrate. **Harry Gee** (Texas) was quoted in a July 7 *Houston Chronicle* article about the new U.S. Attorney for the Southern District of Texas who will be prosecuting the immigrant smuggling case that occurred earlier this year in Victoria, Texas.

On July 6, **Stephen Tills** (Upstate New York) was quoted in a *Charleston Gazette* article about a Cuban asylum-seeker who has been unjustly jailed since mid-March. **Allan Wernick** (New York) was quoted in a July 6 article in the *New York Daily News* about New York City's policy of not asking a person's immigration status. Also, on July 6, **Elizabeth Gervais-Gruen** (Carolinas) and **Ann Robertson** (Carolinas) were quoted by the *Raleigh News and Observer* in an article about the tougher new immigration policies post-September 11th and their effects on immigrants. In addition, **Jack Pinnix** (Carolinas) was quoted by the *Raleigh News and Observer* in an op-ed published July 6 about the need for immigration reform. On July 6, **Mark Koestler** (New York) was quoted by *Newsday* in a question and answer column about immigration. **Kamal Nawash** (Washington, DC) was featured in a July 6 article in the *Washington Times* about his campaign to be a delegate to the Virginia General Assembly.

Jeff Ross (New England) was quoted in a July 5 *Boston Globe* article about the unlicensed practice of law, particularly how it affects Latinos. On July 4, **Hans Linnartz** (Carolinas) was quoted by the *Durham Herald-Sun* in an article about the need for immigrants to know that they can be deported or subject to criminal prosecution if they obtain, use or sell guns.

Marshall Fitz (National) was quoted in a July 3 article in the *Jersey Journal* about the difficulties facing immigrants as they try to become U.S. citizens. A July 3 letter to the editor by **Jeffrey Goldman** (New England) about honoring our immigrant soldiers on Independence Day was published by the *Boston Herald*. On July 2, **Jim Benzoni** (Iowa/Nebraska) was featured in a *Des Moines Register* article about a client who is being deported because of a past criminal record.

On June 29, **Brian Sullivan** (New England) wrote an op-ed for the *Burlington Free-Press* on the benefits that immigrants bring to a community. **Nawaz Wahla** (Connecticut) was quoted in a June 29 article in the *Hartford Courant* about his client who is being deported because he switched universities and as a foreign student, he was required to report to the authorized school and seek clearance for the switch. A June 29 article in the *Orlando Sentinel* quoted **Stephen Tills** (Upstate New York) about the case of his client, who is being detained while seeking asylum under the Cuban Adjustment Act.

Tammy Fox-Isicoff (Southern Florida) and **Charles Serfaty** (Southern Florida) were quoted in a June 27 *Palm Beach Business Review* article about how new national security measures are scaring off potential foreign real estate buyers. The *San Jose Mercury News* quoted **Kelly McCown** (Northern California) in a June 25 question and answer article on immigration.

A June 24 letter to the editor by **Brent Poirier** (Texas), correcting misinformation about H-1B visas, was published in the *El Paso Times*. **Alan Goldfarb** (Minnesota/Dakotas) wrote an op-ed in the June 24 edition of the *Hennepin Lawyer* on why driver's licenses are not an immigration document. **Crystal Williams** (National) was quoted by the *Fort Worth Star-Telegram* in a June 23 article about the use of contractors to replace employees of BCIS.

Daryl Buffenstein (Atlanta) was quoted in a June 22 *Atlanta Journal-Constitution* article about the growing pressure to restrict the use of L-1 visas. **Mark Koestler** (New York) was quoted in a June 22 question and answer article in *Newsday*.

Paul Zulkie (Chicago) was featured in a June 21 segment on *CBS Evening News* about the controversy over L-1 visas. **Judy Golub** (National) and **Crystal Williams** (National) were quoted in a June 21 article in the *Pittsburgh Post-Gazette* on the detention of a local student who failed to register for special registration.

On June 20, **Crystal Williams** (National) was quoted in a *Broward Daily Business Review* article about how the practice of immigration law is not always the most profitable. **Carl Shusterman** (Southern California) was quoted in the June 20 edition of *IT Services Business Report* in an article on L-1 visas. **Mira Mdivani** (Kansas/Missouri) and **Jim Austin** (Kansas/Missouri) were quoted in a June 20 *Business Journal* article about the increased bureaucracy and frustration involved in practicing immigration law since September 11th.

Palma Yanni (Washington, DC) was quoted in the *Times-Picayune* in a June 20 article about the AILA national conference.

Cox News Services quoted **Daryl Buffenstein** (Atlanta) in a June 19 article on L-1 visas. **Sohail Mohammed** (New Jersey) was the subject of an in-depth June 19 article in the *Clifton-Journal*. **Stephen Yale-Loehr** (New York) wrote an article on L-1 visas published in the June 19 volume of the *New York Law Journal*.

Judy Golub (National) was quoted in a June 18 *Gannett News Service* article about Senator John Cornyn (R-TX) calling for immigration reform. The *Washington Post* quoted **Elissa McGovern** (Washington, DC) in a June 18 article on no-match letters. **Sohail Mohammed** (New Jersey) was quoted in a June 17 article by the *Associated Press* on the detention of immigrants after special registration.

In a June 14 article in the *Arizona Republic*, **Judy Flanagan** (Arizona) was quoted about the patriotism of new citizens. **Jeanne Butterfield** (National) was quoted by the *Lakeland Ledger* on June 14 about the need for accountability in the actions taken by the Justice Department in detaining immigrants post-September 11th. And, **Banafshe Akhlaghi** (Northern California) was quoted in a June 14 *San Jose Mercury News* article about civil rights and immigrant advocacy groups rallying against the deportation of 13,000 Muslim and Middle Eastern men.

Sophie Feal (Upstate New York) was quoted by the *Buffalo News* in a June 13 article about area construction unions that have taken a vigilante role against illegal immigration. The *El Paso Star-Times* quoted **Hussein Sadruddin** (Texas) in a June 13 article about reports in the Muslim community of people with common names who are often harassed at airports. The *Durham Herald-Sun* quoted **Judy Golub** (National) in a June 13 article about a Pakistani citizen living in the United States on a medical work visa who was denied re-entry to the United States. **Jeanne Butterfield** (National) was interviewed on National Public Radio on June 13 about the deportation of Muslim and Middle Eastern men following special registration.

Immigration Works! From the Grassroots

In a July 3 press release, AILA urged the President and Congress to make serious efforts to reduce the current backlogs in applications for citizenship and permanent residency. (see AILA InfoNet Doc. No. 03070314). The press release stated that “backlogs make it difficult, if not impossible, to reunite with family; certain jobs are off-limits; and travel may be difficult, if not prohibited. The President and Congress also have to get serious about immigration by reforming our out-of-date policies. Promising to throw money at a system that doesn't work is not good enough. We must make the American dream a reality.”

In response to that press release, AILA received the following letters from immigrants:

Hi,

We very much appreciate you raising the issue of delays in processing our immigration papers, to the president and DHS. My EB-based 485 application was filed at CSC in Dec 2001. We have observed that all EB-based 485 processing has been slowed down or practically stopped at CSC since Sept '2002'. We believe it is a change in policy or personnel which is causing this delay. We all hold highly paid, permanent and secure jobs after a struggle of 6-7 years in this country. Purposefully induced delays in the name of "security" are causing a lot frustration, hopelessness and desperation for all aspiring immigrants like us. Hope you will raise this matter of delays at CSC to appropriate levels at Senate Judiciary Committee for Immigration and political levels.

Thanks once again.

From Sunnyvale, California, one immigrant wrote:

Thank you . . . for this article. It gives us all a ray of hope.

Another immigrant wrote:

I really appreciate the press release that AILA issued urging the President and Congress to get serious about Immigration backlog reduction.

I am myself waiting for my 485 to get adjudicated and I can't tell you how much the long waiting time for the Green Card has affected my life. My life is on hold. I want to move to a different apartment but I am scared that the BCIS may not register the address change and send my Green Card to the old address. I can't buy a home because till I get the GC I am not sure how long I can stay in this country.

America is known for fairness but the Immigration process is shrouded in mystery. People who apply later get approved. Why, you don't know. This system has to be reformed ASAP. Otherwise some of the very people that America wants will start looking for places that are better prepared to welcome immigrants.

Thanks for being the voice of the Immigrants.

Finally, an immigrant wrote:

Thanks for Your Note regarding immigration problem. At least somebody is aware about our problem...Thank you very much.

Did You Know?

The unaccompanied children who arrive in the U.S. are not only alone but frequently are traumatized by what they have experienced. It is estimated that around half of the world's refugee population are children, yet their rights and special protection needs as children are often neglected. Refugees typically flee from their homes because they are in danger of being killed, raped, abducted, imprisoned, or tortured, often leaving behind everything they have. Unaccompanied children reportedly represent an estimated 2 to 5 percent of the refugee children population and will have often suffered from similar forms of abuse in the context.

--A report by Amnesty International, released on June 18, 2003

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