

WASHINGTON UPDATE

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Votes on Proposed Amendments to DHS Appropriations Bill End in Victory

Immigration advocates scored victories on two recent votes on proposed amendments to the FY 2005 Department of Homeland Security (DHS) appropriations bill (H.R. 4567). The first vote concerned the proposed contracting out of the Immigration Information Officer (IIO) position and the second dealt with the proposed withholding of homeland security funding from communities that prohibit or restrict the sharing of an individual's citizenship or immigration status with the Bureau of Immigration and Customs Enforcement.

The House, on June 18, approved by a vote of 242-163 an amendment offered by Representative Lucille Roybal-Allard (D-CA) that would prevent the ill-conceived contracting out of positions that are inherently governmental at the DHS's Bureau of Citizenship and Immigration Services (USCIS). Specifically, the amendment would prohibit the use of appropriated funds to process or approve a competitive sourcing action under OMB Circular A-76 for a function provided as of January 1, 2004 by employees who are IIOs, Contact Representatives, or Investigative Assistants. Contracting out these functions will not fix the problem-laden immigration benefits system. AILA strongly supported this amendment for the following reasons:

1) These functions are inherently governmental: The workload of IIOs, Contact Representatives, and Investigative Assistants is inherently governmental and therefore must be performed by federal employees.

2) Immigration law is very complicated and inadequate knowledge can lead to dire consequences: Contractors do not have the requisite knowledge and training. Such knowledge cannot be taught through lists and scripts, and the consequences can be severe if inaccurate or incomplete information is given.

3) Past experiences with contracting out have been problematic: Contracting out the 1-800 number system has resulted in problems ranging from the frustrating to the truly damaging.

4) Contracting out these functions raises security concerns: Immigration officers review applications, conduct criminal background checks, and search for fraud. These positions must be filled by federal employees who are clearly accountable to the agency within which they work.

5) Contracting out will damage backlog reduction efforts: In many immigration offices, IIOs also perform basic adjudications functions, freeing adjudicators to handle more complex cases. Contractors cannot perform adjudications. Thus, this important supplement to the adjudications workforce would be lost, further hampering backlog reduction efforts.

6) Contracting out has led neither to efficiencies nor to cost savings: In fact, past and current contracting out has led to increases in inefficiencies and increased costs. Service Centers have had to allocate personnel to deal with contractors' errors and, in many instances, redo their work, and supervisors often have had to spend more time monitoring contracted employees, "shadowing" them to ensure they do not make errors.

For more on this topic, click on the following link to view AILA's sign-on letter of September 4, 2003, urging the USCIS not to contract out the Immigration Information Officer function: <http://www.aila.org/contentViewer.aspx?bc=9,594,623,3628&st=03090540>

In another significant victory, House members defeated by a 259-148 vote an amendment proposed by restrictionist Representative Tom Tancredo (R-CO) that sought to prohibit the use of funds to provide assistance to any state or local government entity or official that prohibits or restricts the sharing of an individual's citizenship or immigration status with the Bureau of Immigration and Customs Enforcement. This amendment essentially mirrored the CLEAR Act (H.R. 2671) and its Senate counterpart (S. 1906) by compelling state and local police officers to become de facto federal immigration agents.

State and local police have worked hard to gain the trust of immigrant residents and convince them that it is safe to contact local law enforcement. By effectively turning all police into immigration agents, the Tancredo amendment would have discouraged immigrants from coming forward to report crimes and suspicious activity, making our streets less safe as a result. The amendment also would have improperly shifted the burden of federal immigration law enforcement onto local police. In these times of scarce local resources, this dramatic restructuring of enforcement responsibilities makes no sense from a financial or public safety perspective. For these reasons, state and local police departments nationwide strongly opposed, and advocated against, a similar Justice Department policy last year. Local law enforcement agencies are in the best position to evaluate and prioritize how they allocate resources, and have publicly stated that this ill-conceived proposal would prevent them from doing their duty.

Unable to concede the sound defeat of his proposal, however, Representative Tancredo, in a June 22 speech on the House floor, vowed to offer a similar amendment "in a short time on the Commerce, Justice, and State bill," and to continue to offer such an amendment "as long as I am able to, as long as I am a Member of the House and until it passes." (150 Cong. Rec. H4752-53 (daily ed. June 22, 2004)).

The House ultimately passed H.R. 4567 by a vote of 400-5 and sent the bill to the Senate for further consideration.

The Civil Liberties Restoration Act of 2004 Introduced in House and Senate

Legislation introduced on June 8 would address policies implemented since September 11 that have debased our country's fundamental commitment to individual liberties and due process. These policies, including detentions for months without charges, secret hearings, and ethnic profiling, signal a sea change in our government's policies and attitudes towards immigrants. With the introduction of the Civil Liberties Restoration Act of 2004 (CLRA) (S. 2528/H.R. 4591), Senators Kennedy (D-MA), Leahy (D-VT), Durbin (D-IL), Feingold (D-WI), and Corzine (D-NJ) and Representatives Berman (D-CA) and Delahunt (D-MA) take a giant step towards redressing these abuses and reining in executive branch overreaching.

The Civil Liberties Restoration Act would roll back, in a targeted and responsible manner, the excesses of the government's response to the threat of terrorism. The bill includes the following provisions that seek to ensure that immigrants are treated with the fairness and respect that our Constitution requires:

- **End Secret Hearings.** The CLRA would end the government's ability to issue a blanket order closing all deportation hearings to the public and to family members of detainees, while permitting the closure of hearings or a portion of hearings on a case-by-case basis to preserve the confidentiality of asylum applications or when national security interests so require.
- **Ensure Due Process for Detained Individuals.** The CLRA would provide minimum due process safeguards to individuals who are jailed on suspicion of immigration violations by giving them timely notice of the charges against them and assure that immigration authorities and judges make fair, individualized bond determinations.
- **Establish Independent Immigration Court.** The CLRA would establish an independent immigration court within the Department of Justice and promote fair hearings by a competent, independent and impartial tribunal.
- **End Special Registration.** The CLRA would terminate the troubled National Security Entry-Exit Registration System while encouraging fairness and a concentrated focus on those who pose a threat to the national security or safety of Americans.
- **Make Penalties Commensurate with Violations.** The CLRA would assign reasonable penalties, commensurate with the technical nature of the violations, for noncitizens' failure to register or provide timely notification of address changes.
- **Require Accurate Criminal Databases.** The CLRA would facilitate better law enforcement practices by requiring that the National Crime Information Center database relied upon daily by state and local law enforcement comply with minimum accuracy requirements.
- **Ensure Access to Evidence.** The CLRA would ensure that people who are charged with a crime based upon national security surveillance under the Patriot Act would see the evidence against them in the same manner as people charged with a crime based upon other kinds of classified information.
- **Mandate Reports on Data-Mining.** The CLRA would require the government to submit a public report to Congress on data-mining activities in order to protect the privacy and due process rights of individuals and to ensure accurate information is collected and used.

- **Limit Secret Seizures of Records.** The House version of the CLRA would amend the USA PATRIOT Act to limit the secret seizure of private databases and individual records to cases where the government has shown there is a reasonable connection to a suspected terrorist or terrorist group.

We are a nation of immigrants with a long tradition of welcoming newcomers. Government policies that unfairly and inappropriately confuse immigration with terrorism do not make us safer—they tarnish our heritage, and damage our standing abroad. Security experts, government auditors and community leaders have concluded that many of the government’s policies actually undermine our security, while eroding fundamental civil liberties. Measures that make people suspect because of their ethnicity or religion, rather than suspicious activity, alienate immigrant communities, divert valuable resources from finding real terrorists, and ignore this nation’s commitment to freedom from heavy-handed government tactics. In fact, the Department of Justice’s (DOJ) own Inspector General issued a scathing report, identifying “significant problems” and questions of “legality” related to the detention policies the Justice Department implemented during post-9/11 investigations. Many immigrants detained in the post-9/11 sweep were denied access to attorneys and family members, and were held for months without being charged. And, in a number of cases, government guards physically and mentally abused them.

Newly Introduced Bill Would Provide for Overseas Screening of VWP Travelers

Representative Jim Turner (D-TX), Ranking Member of the Select Committee on Homeland Security, on June 14, introduced the Safe, Efficient, Coordinated, Unified, Revitalized, Enhanced (SECURE) Visa Waiver Act (H.R. 4550). This bill would require DHS to ensure that foreign nationals traveling to the U.S. pursuant to the Visa Waiver Program (VWP) are eligible for admission and are checked against terrorist watch lists and security databases prior to their departure to the U.S. (The VWP waives the visa requirement for nationals from 27 countries who visit the U.S. for business or pleasure. In Fiscal Year 2003, roughly 18 million travelers entered the U.S. pursuant to this program. Currently these VWP participants are not subject to security checks until after they arrive at U.S. ports of entry.)

The SECURE Visa Waiver Act also would extend the October 2004 biometric passport deadline by one year and allow for additional extensions of up to one year for countries completing their biometric passport program. This biometric passport requirement, as set forth in the Enhanced Border Security and Visa Entry Reform Act of 2002 (Pub. L. No. 107-173), requires VWP participants to present machine-readable, tamper-resistant passports that incorporate biometric and document authentication identifiers if the passport is issued after October 26, 2004. If an individual from a VWP-eligible country obtains his or her passport after this date and it does not contain the above-described safeguards, the individual will be unable to participate in the VWP and will instead need to obtain a visa from the U.S. consulate before attempting entry to the U.S. Estimates from the State Department indicate that a failure to extend the statutory deadline could result in a 70 percent increase in the U.S. consulates’ nonimmigrant visa workload.

The SECURE Visa Waiver Act offers a good first step towards enhancing our security by “pushing out” our nation’s borders. AILA long has advocated that DHS implement pre-screening activities to increase our security and facilitate the entry of low-risk travelers. Clearing travelers before their voyage to the United States should give inspectors more time to scrutinize each applicant for entry, reduce delays at the border, and provide international travelers with a sense of certainty that they will be admitted into the U.S.

In conjunction with the program proposed in the SECURE Visa Waiver Act, AILA also supports efforts to increase the interoperability of the DHS database systems and other agencies' database systems to give inspectors a more thorough review of each applicant requesting entry into the U.S. A complete and accurate database system would also include a mechanism for correcting database errors, which is currently extremely difficult to achieve. Having incorrect information only serves to hinder the inspections process, discredit the reliability of the security checks, and affect detrimentally legitimate travelers' ability to enter the United States.

House Passes Bill to Extend Biometrics Deadline

The House on June 14 approved legislation that would amend § 303 of the Enhanced Border Security and Visa Entry Reform Act of 2002 (Pub. L. No. 107-173) to extend for another year the deadline for: (1) installing at all U.S. ports of entry equipment and software capable of processing machine-readable, tamper-resistant entry and exit documents and passports that contain biometric identifiers; (2) Visa Waiver Program (VWP) countries to certify that they are issuing machine-readable, tamper-resistant passports that contain biometric and document authentication identifiers comporting with specified standards; and (3) VWP participants who are issued passports on or after the new deadline to present passports that comply with such requirements. The new deadline would be October 26, 2005.

House lawmakers approved the bill (H.R. 4417) under suspension of the rules. The legislation now moves to the Senate for further consideration.

House Immigration Subcommittee Holds Hearings on USCIS Backlogs

The House Judiciary Committee's Subcommittee on Immigration, Border Security and Claims recently held two hearings that focused on the backlogs that have plagued the Bureau of Citizenship and Immigration Services (USCIS) and the Administration's plans to reduce them.

USCIS Director Eduardo Aguirre testified at the first hearing on June 17. His testimony focused on the Administration's goal of "eliminat[ing] the backlog and ensur[ing] a six-month or less processing time by the end of 2006." Mr. Aguirre testified that the backlog elimination plan has three basic elements: "(1) Achieve a high-level of performance by establishing clear, concrete milestones and actively monitoring progress towards these milestones; (2) transform business practices by implementing significant information technology improvements and identifying processing improvements to transform the current way of doing business; and (3) ensure integrity by instituting comprehensive quality assurance measures." This latest backlog reduction plan, while much welcomed, must contend with a history of failed plans to reduce the backlog.

Mr. Aguirre also pointed to the progress the agency has made in the 15 months since USCIS was created. He listed the "on-line filings for eight application forms, representing over 50% of the total volume of benefit applications annually," and the creation of the Infopass, the web-based information appointment system, to name a few accomplishments. Although questioned about the relatively small budget earmarked for backlog reduction, in stark contrast to that for immigration enforcement, Mr. Aguirre repeatedly denied the need for additional funds to accomplish backlog reduction goals.

The second hearing, entitled "Families and Business in Limbo: the Detrimental Impact of the Immigration Backlog," was held on June 23. Testifying at the hearing were: Department of Homeland Security (DHS) Ombudsman Prakash Khatri; AILA President Paul Zulkie; and Elizabeth Stern, Managing Partner at the law firm of Shaw Pittman.

Testimony of AILA's President: AILA President Paul Zulkie focused his testimony on the impact on individuals and businesses of the USCIS backlogs and on initiatives that would reduce the backlog. He cited two examples, from the many possible, that highlight the tragic dimensions of the backlog:

The first example concerned a Rwandan woman who witnessed the torture and killing of her parents and siblings and had to wait seven years to be scheduled for an asylum interview. She suffers from post-traumatic stress disorder, and lives in constant fear of being sent back to Rwanda. She had been brought here from a refugee camp by a trafficker who attempted to enslave her into prostitution. But because she never received an interview and has been uncertain of her future here, she never went to the police with information about this sex trafficker. The evidence is now lost, and this perpetrator is still at large.

In the second example, one of the top 10 U.S. medical centers had to lay off one of its best surgeons because the USCIS was taking five months to renew his work authorization card, even though USCIS's own regulations require that these cards be processed within 90 days. The hospital, the surgeon and his patients all suffered from his forced unavailability.

Mr. Zulkie emphasized that the backlogs "not only harm the people directly caught in their web, they undermine public trust in the immigration system," and differentiated the "primary" backlog from the "secondary" backlog, in contrast to the definition of the backlog provided by Director Aguirre, one that is based on cycle times. The primary backlog is the time that the case spends on the shelf with no review by an adjudicator. The secondary backlog, or "hidden" backlog, so named because the agency does not take account of it, occurs due to security checks, when an adjudicator requests additional evidence, or when a case is shifted to the Administrative Appeals Office (AAO) for review. Individuals stuck in the backlog are victims of both.

Mr. Zulkie applauded the USCIS for taking some steps in the right direction, including: issuing instructions about not needing to readjudicate established facts; storing biometrics on file; creating Infopass, the on-line appointment system that has been implemented in three of USCIS' busiest districts; allowing applicants to check the status of their cases on line; the soon to be issued regulation that will allow the agency to issue work authorization cards for validity periods that are more in line with the actual time needed; and initiating pilot programs, in conjunction with the Ombudsman, that could elicit information about processes that could help backlogs from developing in the future.

Mr. Zulkie also pointed to some steps that USCIS has taken in the wrong direction that have not helped or will hurt backlog reduction efforts. These include: electronic filing which has shown negligible impact on the backlog; the 1-800 number system, the contracted out customer service system through which the public has been given misguided and sometimes harmful advice; a recent guidance to the field that encourages denial of cases that formerly would have merited requests for additional information; and the proposed contracting out of the Immigration Information Officer function.

To address the backlogs, AILA proposes: providing adjudicators with adequate guidance and training; integrating into backlog reduction efforts the secondary backlogs noted above; improving coordination between USCIS and its sister bureaus, Immigration and Customs Enforcement (ICE) and Customs and Border Protection (CBP); and, importantly, adequately funding the agency through direct Congressional appropriations to supplement the user fees. The

“800-pound gorilla sitting in the hearing room,” according to Mr. Zulkie, is the need for resources above and beyond the user fees.

Ombudsman Presents Annual Report: During his testimony, Mr. Khatri detailed the mission of the office of the Ombudsman: assist individuals and employers in resolving problems with the USCIS; identify areas where individuals and employers are having problems with USCIS, with an eye toward developing systemic changes that will benefit citizens and immigrants; and propose changes in the administrative practices of USCIS to avoid and mitigate problems. Mr. Khatri also outlined his views of the most pervasive and significant issues identified to date: prolonged processing times; limited availability of case status information to applicants and beneficiaries; immigration benefit fraud which contributes to processing delays; insufficient standardization in processing among the different USCIS district offices and regional service centers; and inadequate technology and facilities. In response to recommendations from Mr. Khatri’s office, USCIS has developed and implemented four pilot programs. One of these programs is being tested in Dallas and is meant to transform the current process of adjudicating applications for “green cards.”

Testimony of Elizabeth Stern: Ms. Stern focused her testimony on the negative impacts of delays in the processing of immigration benefits, especially the negative impacts on commercial operations, the imposition of undue costs on companies, and the compromise of our nation’s ability to attract top tier international talent. She noted that a recent study by eight business associations indicated that visa delays alone are responsible for about \$31 million in lost dollars to U.S. business. She also opined that backlog reduction could be achieved by: adopting a commercial management approach and developing clear legal standards and policies, along with clear lines of communication created within the agency; training USCIS personnel on the key categories of immigration benefits; streamlining the system for efficient application processing; implementing quality control initiatives; and undertaking an analysis of the ability of current resources to match demands.

Senators Introduce Homeland Security Civil Rights and Civil Liberties Protection Act

Senators Ron Wyden (D-OR) and Susan Collins (R-ME), on June 17, introduced the Homeland Security Civil Rights and Civil Liberties Protection Act of 2004 (S. 2536). This bipartisan bill seeks to ensure that the Department of Homeland Security (DHS) Officer for Civil Rights and Civil Liberties and the DHS Inspector General (IG) have a clear statutory mandate and the necessary authority to effectively protect civil rights and liberties. Among other provisions, the bill guarantees that the Officer for Civil Rights and Civil Liberties and the Privacy Officer will continue to figure prominently in the agency’s hierarchy by specifying that they shall report directly to the Secretary. Furthermore, the bill instructs the DHS IG to designate a senior official within the IG’s office to focus on civil rights and civil liberties matters with authority to initiate investigations of alleged abuses of civil rights and liberties by employees or officials of the DHS and employees or officials of independent contractors or grantees of the DHS. Somewhat symbolically, the bill also amends the DHS’s statutory mission statement to emphasize the agency’s role in protecting civil rights and liberties.

ICE Pilot Project Provides Alternatives to Detention

U.S. Immigration and Customs Enforcement (ICE) unveiled a new pilot program on June 21 that would provide alternatives to detention while seeking to minimize in absentia rates and maximize removal rates. The Intensive Supervision Appearance Program (ISAP) will debut in eight cities: Baltimore, Philadelphia, Miami, St. Paul, Denver, Kansas City, San Francisco, and Portland

(Oregon). ISAP will include the use of tools such as curfews, electronic monitoring devices, telephonic reporting, home visits, work visits, etc. To participate in the program individuals must not be subject to mandatory detention, must maintain a local address within the jurisdiction of the ISAP field office, and must not be a violent offender or threat to public safety. In addition, prospective participants must volunteer for the program. The pilot project will be managed by ICE's Detention and Removal Operations office in partnership with contractor Behavioral Interventions, Inc.

AILA commends the agency for seeking less restrictive alternatives to detention for noncitizens who are in removal proceedings, but is concerned about several issues related to implementation of this fledgling program, including: whether the program eventually will apply to individuals who would not otherwise have been detained; the contracting company's lack of experience in non-criminal alternative detention programs; the absence of training requirements for the contracting entities' employees (e.g. sensitivity training regarding interaction with torture survivors); and the lack of employment authorization for individuals released under the program (unless otherwise employment authorized).

DOS to End Revalidations in U.S., Except for Certain Diplomatic and Official Visas

The Department of State (DOS), in a June 23 Federal Register notice, announced the discontinuation of its domestic visa reissuance service for certain nonimmigrant visas in the United States. (69 FR 35121, June 23, 2004). AILA issued a public advisory to clarify the confusion created by this change. To view the advisory, click on the following link: <http://www.aila.org/newsViewer.aspx?bc=273&docID=13386>.

As background, 22 CFR 41.111(b) authorizes the Deputy Assistant Secretary for Visa Services or any other person he or she designates to reissue nonimmigrant visas, in their discretion. The original purpose of this authority was to provide nonimmigrant services to foreign government officials and to international organization employees. Over time, the authority was extended to include reissuances in the C, E, H, I, L, O and P visa classifications. According to the Federal Register notice, the DOS is discontinuing the domestic reissuance of visas in these categories because of increased interview requirements and the requirement of Section 303 of the Enhanced Border Security and Visa Entry Reform Act (Pub. L. 107-173, 116 Stat. 543) that U.S. visas issued after October 26, 2004, include biometric identifiers. It is not feasible for the Department to collect the biometric identifiers in the United States, the notice states.

So what does the notice mean for you?

If you do not plan to leave the United States, this change does not affect you. Specifically:

Who is not impacted: If you are in a work-authorized nonimmigrant category like H-1B or L-1 or others, or you are the spouse or child of someone in one of those categories, and you do **not** travel outside the United States, nothing has changed for you. When your current admission, as reflected on your I-94 card (either a white card you were given when you entered the U.S. or a slip of paper from the bottom of a Notice of Action you received from Citizenship & Immigration Services or the Immigration & Naturalization Service) expires, you will apply to Citizenship & Immigration Services to have it extended, if you are eligible. You do not need to leave the United States to do this.

Who is impacted: If you are in one of the affected nonimmigrant classifications (C, E, H, I, L, O and P) and you travel outside the United States, you will no longer have the option, after July 16,

2004, of asking the State Department to renew your visa stamp here in the United States. Instead, you will have to go to a U.S. embassy or consulate outside the United States to get a new visa stamp.

Those nonimmigrants who routinely travel outside the United States should take special note of this change, and consult your attorney as to its impact.

As an aside, it is important to note the difference between admission, as reflected on an I-94, and a visa in your passport. A visa is simply a document giving you permission to apply to be admitted to the United States. Most people coming to the United States in a working status must have a visa in a passport to be allowed into the country.

Once you are in the United States, it is the I-94 that you were given on entry that governs your lawful immigration status and ability to remain in the United States. An expiring I-94, not the visa, needs to be extended for you to remain legally in this country once you are here. You do not need to leave to extend your I-94; you instead apply to Citizenship & Immigration Services. If you are in the United States and your visa stamp in your passport expires, you do not need to renew it unless you will travel abroad and need to be re-admitted to the United States. Note that, in many instances, you will need to have your employer apply to Citizenship & Immigration Services on your behalf first to have your nonimmigrant classification re-approved before you can apply for a visa overseas.

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 if and when they move through the legislative process.

House Legislation

H.R. 4530, the Federal Election Integrity Act of 2004, introduced on June 9 by Representative Henry Hyde (R-IL), would amend the National Voter Registration Act of 1993 to require any individual who desires to register or re-register to vote in an election for Federal office to provide the appropriate State election official with proof that the individual is a citizen of the United States.

H.R. 4532, introduced on June 9 by Representative Eni Faleomavaega (D-AS), would amend title 10 of the United States Code to allow a national of the United States to attend military service academies and receive Reserve Officers' Training Corps (ROTC) scholarships on the condition that the individual naturalize under INA § 325 before graduation. Representative Faleomavaega introduced similar legislation (H.R. 3928) in March.

H.R. 4550, the Safe, Efficient, Coordinated, Unified, Revitalized, Enhanced Visa Waiver Act, introduced on June 14 by Representative Jim Turner (D-TX), would require the DHS to ensure that foreign nationals traveling to the U.S. pursuant to the Visa Waiver Program (VWP) are eligible for admission and are checked against terrorist watch lists and security databases prior to their departure to the U.S. For additional information on this legislation, see the third article in this *Update*.

H.R. 4561, introduced on June 14 by Representative Zoe Lofgren (D-CA), would amend the INA to modify the treatment of adopted children.

H.R. 4591, the Civil Liberties Restoration Act of 2004, introduced on June 16 by Representative Howard Berman (D-CA), would restore civil liberties under the First Amendment, the Immigration and Nationality Act, and the Foreign Intelligence Surveillance Act. For additional details on this legislation, see the second article in this *Update*. Senator Edward Kennedy (D-MA) introduced companion legislation in the Senate (S. 2528).

H.R. 4644, the Parental Responsibility Obligations Met through Immigration System Enforcement (PROMISE) Act, introduced on June 22 by Representative Nancy Johnson (R-CT), would make aliens ineligible to receive visas and exclude aliens from admission into the United States for nonpayment of child support.

H.R. 4668, introduced on June 23 by Representative Eliot Engel (D-NY), would designate the third floor of the Ellis Island Immigration Museum, located on Ellis Island in New York Harbor, as the “Bob Hope Memorial Library.”

Senate Legislation

S. 2528, the Civil Liberties Restoration Act of 2004, introduced on June 16 by Senator Edward Kennedy (D-MA), would restore civil liberties under the First Amendment, the Immigration and Nationality Act, and the Foreign Intelligence Surveillance Act. For additional details on this legislation, see the second article in this *Update*. As noted above, Representative Howard Berman (D-CA) introduced companion legislation in the House (H.R. 4591).

S. 2536, the Homeland Security Civil Rights and Civil Liberties Protection Act of 2004, introduced on June 17 by Senator Susan Collins (R-ME), seeks to ensure that the Department of Homeland Security (DHS) Officer for Civil Rights and Civil Liberties and the DHS Inspector General (IG) have a clear statutory mandate and the necessary authority to effectively protect civil rights and liberties. For more on this legislation, see article No. 6 in this *Update*.

MEDIA SPOTLIGHT: Members and Staff in the News

Rolando Velasquez (Upstate New York) was quoted in a June 22 *Associated Press* article about the increased use of the Canadian border for entry by undocumented immigrants. **Victoria Campos** (New York) was quoted in a June 22 *Newsday* article about 27 Peruvians, including children, who were smuggled here and living in a 10-by-10 foot shack. **Angelo Paparelli** (Southern California) was a featured guest on the June 22 *KDOC* broadcast. **Rosalba Pina** (Chicago) was quoted in a June 21 *Chicago Tribune* article about mixed-status families and how a parent’s deportation affects the U.S. citizen children. **Sam Shihab** (Ohio), **Angela Plummer** (Ohio), and **Marshall Fitz** (National) were quoted in a June 21 *Columbus Dispatch* article about how U.S. law limits the number of asylees given permanent resident status to 10,000 a year, leaving approximately 160,000 nationwide in limbo and unable to fully integrate into American society or reunite with family members left behind who may continue to endure persecution. **Robert Divine** (Mid-South) was featured in a June 20 *Chattanooga Times Free Press* article about his recent appointment by President Bush as the principal legal adviser to U.S. Citizenship and Immigration Services. An op-ed by **Judith Golub** (National) in the June 20 edition of *La Opinion* focused on the misplaced zeal of the Bush Administration to enforce dysfunctional immigration laws, and the need for immigration reform.

The New York Times quoted **David Sperling** (New York) in a June 19 article about his client, a recent high school graduate, who cannot accept a four-year scholarship to college because she is

an undocumented student. **Linda Osberg-Braun** (Southern Florida) was quoted in a June 19 *Associated Press* article about her client who was arrested, after testifying on behalf of his uncle, on suspicion he may have targeted dissidents opposed to Fidel Castro. **Ms. Osberg-Braun** was also quoted in the June 19 edition of the *Miami Herald* on the same topic. **Daryl Buffenstein** (Atlanta) and **Natalie Sullivan** (Atlanta) were quoted in a June 18 *Atlanta Journal-Constitution* article about the fact that the wait in Atlanta for permanent residency is an average of 2 1/2 years—longer than in any other U.S. city.

David Leopold (Ohio) was quoted in a June 18 *Los Angeles Times* article about a 34-year-old Saudi immigrant who has been detained because he roomed with an acquaintance of two of the 9/11 hijackers. **Tammy Fox-Isicoff** (Southern Florida) and **Susan Hahn** (Southern Florida) were quoted in a June 18 *Miami Herald* article about USCIS' plan to reduce the immigration application backlog by 2006. **Dan Torres** (Northern California) was quoted in a June 18 *Sacramento Bee* article about a pilot program announced by ICE (the Intensive Supervision Appearance Program) that will offer immigrants alternatives to jail that include electronic monitoring devices, home visits, work visits and reporting by telephone. **Angela Bean** (Northern California) and **Carol Dvorkin** (Northern California) were quoted in a June 18 *San Francisco Chronicle* article on the same topic.

The Los Angeles Daily News quoted **Jessica Dominguez** (Southern California) in a June 17 article about the Border Patrol sweeps in Southern California. **Judy Golub** (National) was quoted in a June 17 *Gannett News Service* article about USCIS' plan to reduce the immigration application backlog by 2006. **Don Lemon** (Colorado) was featured in a June 16 *Rocky Mountain News* article about his efforts to reunite an Ethiopian boy with his aunt so he could get the necessary medical care in the U.S. **Susana DeLeon** (Minnesota/Dakotas) was quoted in a June 16 *Pioneer Press* article about the influx of Mexican Americans to Minnesota. **Margaret Stock** (Upstate New York) was quoted in a June 16 *Associated Press* article about the introduction of the Civil Liberties Restoration Act. **Kathleen Campbell Walker** (Texas) was quoted in a June 16 *Congressional Quarterly* article about the poor marks the Homeland Security inspector general gave the US-VISIT program. **Crystal Williams** (National) and **Judy Golub** (National) were quoted in a June 16 *Congressional Quarterly* article about the introduction of the Civil Liberties Restoration Act.

Charles Foster (Texas) was quoted in a June 15 *Houston Chronicle* article about Houston's backlog in which applicants wait anywhere from 18 months to two years to receive permanent residence. **Doug Weigle** (Ohio) was featured in a June 15 *Boston Globe* article about his client, a Somali man, who is accused of plotting to blow up a shopping mall in Ohio. **Mr. Weigle** was also featured in the *Associated Press* and *Newsday* about the same topic. **Angela Ferguson** (Missouri/Kansas) was featured in a June 15 *Associated Press* article about a Bosnian family that was granted political asylum. **Ms. Ferguson** (Missouri/Kansas) was also quoted in a June 15 *Kansas City Star* article about the same issue. **Judy Golub** (National) was quoted in a June 15 *Houston Chronicle* article about backlogs.

Carl Shusterman (Southern California) was quoted in a June 14 *Modern Healthcare* article about the certification requirements that will extend to nurses and other health workers who have been practicing in the U.S. on temporary visas. *The Associated Press* quoted **Mario Ramos** (Mid-South) in a June 14 article about Memphis's new police chief and his crackdown on speeding. **Susana DeLeon** (Minnesota/Dakotas) was quoted in a June 14 *Pioneer Press* article about the visit of Mexican First Lady, Marta Sahagun de Fox. **Lilia Velasquez** (Southern California), **Lucas Guttentag** (Northern California) and **Judy Golub** (National) were quoted in a June 12 *Associated Press* article about Ms. Velasquez' clients who face deportation and who

have U.S. citizen children who may suffer educational hardship if the family is deported to Mexico. **Crystal Williams** (National) was quoted in a June 11 *New York Times* article about immigration backlogs. **Eugene Glicksman** (New York), **Claudia Slovinsky** (New York), and **Deborah Notkin** (New York) were quoted in a June 10 *New York Law Journal* article about a New York Senate bill that would require non-lawyer immigration consultants to post signs stating that they are not lawyers and are not authorized to practice law. **Randall Caudle** (Northern California) and **Ilona Bray** (Northern California) were quoted in a June 9 *San Francisco Chronicle* question and answer article on immigration.

The Miami Herald quoted **Magda Montiel Davis** (Southern Florida) in a June 8 article about the November presidential election in which the key to Florida—the decisive swing state four years ago—could well be the Hispanic vote. **Dolly Hassan** (New York) was featured in a June 6 *Newsday* question and answer article about immigration. **Hoang Huy Tu** (Southern California) was featured in a June 5 *Ithaca Journal* article about his client, a legal permanent resident who may face charges stemming from a school fight. **Marshall Fitz** (National) was quoted in a June 5 *Contra Costa Times* article about visa overstays. **Dennis Muchnicki** (Ohio) was featured in a June 3 *Columbus Dispatch* editorial about his client, an Ethiopian woman who recently won a federal court decision granting her asylum based on her fear for her daughter’s safety.

Al Día featured **Jessica Dominguez** (Southern California) in a May 29 article about her client, Maria Suarez, a trafficking victim and a battered immigrant who has spent the last 22 years behind bars and was granted a T Visa upon her release.

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?

No matter how many initiatives and innovations USCIS undertakes, in the end it’s all about resources. Immigration petitions and applications are individual cases that require a thoughtful human being to consider the merits and reach a decision. No amount of management systems can, in the end, eliminate that factor. And the fact is, there simply are not enough of those human beings in place to accomplish the job. AILA has watched as INS Commissioner after INS Commissioner has been harshly criticized over the backlogs (and, indeed, we have done more than our fair share of the criticizing). We now see a USCIS Director undergo the same experience. Surely not all, or even a majority of, these smart, well-meaning people have been incompetent. Indeed, AILA has seen the opposite—competence and even brilliance—in these offices. But, somehow the backlogs continue.

Perhaps it is time to see, as Julius Caesar pointed out to Brutus, that the fault lies not in the stars, but in ourselves. Or, as a more modern hero, Pogo, said, “we have seen the enemy and he is us.” We have long pretended that with a little more ingenuity and a little better management, the backlogs can be brought under control. Let’s end the pretense here and now: This agency needs more money to do its job. And this funding needs to come from direct Congressional appropriations, not increased user fees.

--excerpted from the June 23, 2004 testimony of AILA President Paul Zulkie before the House Judiciary Committee’s Subcommittee on Immigration, Border Security and Claims on the subject of: “Families and Business in Limbo: the Detrimental Impact of the Immigration Backlog.” To view the testimony in its entirety, click on the following link:

<http://www.aila.org/fileViewer.aspx?docID=13346>

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