

WorldEsquire Law Firm's Immigration News You Can Use

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Special Report: INS Comes to an End

Part 1

INS Absorbed Into Department of Homeland Security

As of March 1, 2003 the INS (Immigration and Naturalization Service) ceased to exist. Now, its services have been incorporated into three entities of the Department of Homeland Security:

- ✍ The Bureau of Citizenship and Immigration Services, aka "BCIS". This is the entity that most immigrants and those servicing them will be communicating with. The BCIS will be responsible for providing information to the public and processing applications for citizenship, legal residency, work permits, political asylum and other such services. The BCIS can be reached at 1-800-375-5283, or www.BCIS.gov for any questions, forms or information.
- ✍ The Bureau of Customs and Border Protection will focus on the movement of people and goods through land borders, airports and seaports. Their responsibilities will include the Border Patrol and inspectors from the INS, Customs

Service and Department of Agriculture.

- ✍ The Bureau of Immigration and Customs Enforcement emphasis will be on actions in the U.S. interior, including finding and expelling illegal immigrants. This entity joins the enforcement and investigative arms of the INS, Customs Service and the Federal Protective Services, which now provides security in federal buildings.

Part 2

INS' Restructuring Causes Fear/Concern

Most agree the INS was seriously mismanaged and overwhelmed. Communication was poor, paperwork was lost or misplaced and processing was slow. Despite this, most immigrants, those servicing them, as well as the agency's some 35,000 workers have grown anxious. The government's plans for how the new agency will work seem too vague and have raised fears that service and efficiency could deteriorate even further.

Most reports paint an uneven picture as some senior-level INS officials have been given little information on how the new entities are supposed to work. However, in other public statements, managers of the Department of Homeland Security have remained positive about the new restructuring. "I'm confident we can use this new structure to do things better, and to provide a safer America, and at the same time provide better services for the immigrant population," said Asa Hutchinson, the former Drug Enforcement Administration chief who heads the new Border and Transportation Security Directorate.

During the last days of February, the INS launched a public relations campaign aimed at easing concerns of the new changes taking place. "Yes, the INS technically ceases to exist at the end of this month, but we are committed to making this transition as seamless and smooth as possible," said Acting INS Commissioner Michael Garcia.

continued on page 2

Inside This Issue...

Special Report:: INS Comes to an End	1 - 2
BCIS to Develop New Citizenship Test	2
INS Withdraws Proposed B Nonimmigration Rule	2
Attorney General Terminates Protected Status for Nationals of Angola	2
U.S. State Department Issues Worldwide Public Caution	3
H1-B Visas Spark Controversy in Labor Market	3
Ashcroft Widens Rules on Detention	3
Free Citizenship Classes Offered	3
Immigrants Take Advantage of IRS Tax ID Numbers	back
Domestic Abuse Reviewed in Political Asylum Cases	back

Part 2 Continued

INS' Restructuring Causes Fear/Concern

Not everyone is reassured. Some panicked immigrants are worried that pending paperwork — some of which has been in the pipeline for years — could be tossed aside or that their green cards expired on February 28, 2003. Neither case is true, as all paperwork will simply be transferred from one agency to another. Checks made out to the INS before March 1, 2003 are still valid (after March 1, checks should be made out to BCIS).

Former INS employees, now BCIS employees were put at ease by officials claiming they will be “doing the same work for the same supervisor, in the same office, doing the same job, for some time yet.”

INS Withdraws Proposed B Nonimmigrant Rule

For years many visitors have enjoyed using their B Visa for stays for up to one year. In fact this type of visa had been widely used by business travelers and for extended family visits. This very popular visa had been under threat of being amended to reduce the stays to six months. However, thanks to a significant lobby this threat has been removed, at least for the time being.

Attorney General Terminates Protected Status for Nationals of Angola

As a result of the cessation of armed conflict in Angola the Department of Justice has determined that it was no longer necessary to grant fleeing Angolan's Temporary Protected Status. This move will affect about 300 Angolan's currently staying in the U.S.

Angolan's who believe that it would be dangerous or unsafe for them return to Angola will be given leave of the court to seek an alternative basis for staying. Protections under Article 3 of the Torture Convention or Political Asylum are certainly two possibilities.

The Department of Justice ruling provided that the Temporary Protected Status would end March 29, 2003. Persons who remain in the U.S. for extending periods without making alternative visa applications could well find themselves barred from making a late application. Indeed, such persons could be denied re-entry.

BCIS to Develop New Citizenship Test

Last month, the Bureau of Citizenship and Immigration Services (BCIS) announced it will implement a new pilot program to standardize the English, government, and United States history tests administered to citizenship applicants.

“The long-range goal is to devise a test that will be fair, consistent, and meaningful for naturalization applicants nationwide,” said William R. Yates, Acting Associate Director for Operations, BCIS. “The priority at the new Bureau of Citizenship and Immigration Services is ensuring that we not only meet but exceed our customers' expectations and that includes creating a level playing field for those seeking to become new Americans.”

The first test to be re-worked will be the English language portion. Citizenship applicants will be asked to answer one test question at the end of their regularly scheduled naturalization interview. The pilot will include questions designed to measure reading, writing, and speaking skills. The applicant's response will not affect the outcome of the interview.

To start, five cities will participate in this first phase of this program — Los Angeles, Sacramento, San Antonio, Atlanta, and Newark. Over the next three weeks or so, a team of professionals will travel to each designated city to implement the pilot program.

To qualify for U.S. citizenship, applicants must demonstrate a basic understanding of English, which includes the ability to read, write, and speak the language. They must also be able to show that they know basic U.S. history and government facts.

Currently, citizenship applicants are quizzed on these topics as part of the naturalization examination interview. The test questions are usually gathered from a large pre-approved list, but there is no standardized testing format or method for administering the questions. As a result, the test content and process can vary from officer to officer and from office to office.

“Whether you're a citizenship applicant in Sacramento or San Antonio, you should have the same set of expectations about what kind of test you will experience,” said Gerri Ratliff, the BCIS project director for the test redesign effort. “Not only is it a matter of fairness, but it will also help ensure that applicants come into the test fully prepared.”

The BCIS hopes to complete this pilot program and have a new standardized naturalization test in place by late 2004.

U.S. State Department Issues Worldwide Public Caution

On March 19 2003 the US State Department issued another alert for U.S. Citizens at home and abroad. In light of the on going war in Iraq Americans are being advised to be extra vigilant.

The State Department alert reminds U.S. Citizens that the terrorist makes no distinction between civilians and military targets. Terrorists will use any means available to harm Americans, this could include the use of explosives, chemical weapons and kidnappings to name but a few. We should be especially vigilant at public facilities such as churches, sports arenas and clubs.

Many overseas government facilities considered at risk due to the war have been scaled down or closed. However, Consular information will be posted regularly on the government website <http://travel.state.gov>. Also you may call for information toll free at 1-888-407-4747 in the U.S. and Outside the U.S. and Canada on a regular toll line 1-317-472-2328.

Ashcroft Widens Rules on Detention

A lot has changed since September 11, 2001. Traditionally, illegal immigrants have been encouraged to report crime because the police and federal law enforcement would not take this as an opportunity to an arrest them on their illegal status. Only INS Immigration Officers had the power to detain illegal immigrants.

This is all changing. Attorney General John D. Ashcroft has issued new orders that authorize Federal Agents to detain illegal immigrants when "...the public safety requires prompt action before [Homeland Security] agents can arrive".

To emphasize the change in government policy towards immigration, the INS this month has been officially placed under the auspices of Homeland Security and is no longer called the INS. Some would argue that it almost implies that Immigration is now linked to terrorism.

Bill Frelick, an immigration policy expert at Amnesty International is quoted as saying "it's part of a pattern we're seeing in which what may be minor violations of immigration law are used as a pretext for preventive detention".

Given these changes, resolving any minor immigration violation before it can be detected must be encouraged.

H-1B Visas Spark Controversy in Labor Market

H-1B visas are available to applicants who hold at least a four-year Bachelors Degree who seek employment in a specialized or specialty field. Such professions can include doctors, lawyers, hi-tech specialists, teachers and so forth. When business is booming many employers complain that they cannot hire specialty workers fast enough. Shortages inevitably lead to out of control wage hikes. To fill these specialty positions many employers have turned to foreign workers who qualify under the H-1B visa scheme.

Over the years employer funded lobby groups have actively campaigned to Congress to increase the number of H-1B visas that are issued each year. Congress has responded favorably by increasing the permitted number of successful H-1B visa applications from 65,000 in 1990 to 195,000 in 2000. As economies tend to expand and contract, during contraction times many U.S. citizens are finding that they are losing out to H-1B applicants. It now seems that when the going gets tough, the employers get a H-1B.

This claim has sparked off a massive controversy between the employers who want the number H-1B visas available to remain high while unemployed disgruntled specialty workers who blame the H-1B for taking their jobs are joining forces to demand that the number these visas is lowered dramatically.

Both sides are now making their case for Congress to decide.

Free Citizenship Classes Offered

Interested in becoming a U.S. Citizen? You might consider taking a citizenship class. Most classes are designed to give you a basic overview of American History and the American political system to help you pass your exam. Below are some free classes offered in Los Angeles County:

Golden Oak Adult School

23201 Dalbey Drive, Santa Clarita
Call (661) 253-0583 for more information

Los Angeles Southwest College Bilingual and Citizenship Center

Bungalow 425, West Campus
1600 W. Imperial Highway, Los Angeles
Call (323) 241-5281 for more information

Chinatown Service Center

767 N. Hill St., Suite 400, Los Angeles
Call 213-253-0870 for more information

Immigrants Take Advantage of IRS Tax ID Numbers

Many undocumented immigrants who cannot get Social Security numbers are filing their taxes with a tax number issued by the Internal Revenue Service.

Some immigrants believe that by paying taxes, the government will acknowledge their contributions to the economy. It is their hope that in the future, this record will help them in their quest for legal status and eventually citizenship.

The IRS has issued these individual taxpayer identification numbers since 1996. Although most of these nine-digit numbers have been issued to undocumented immigrants, others have been issued to foreign students or researchers who are in the country under temporary, legal visas. Officials have no idea which numbers go to which individuals and by law, the agency cannot share data on taxpayers with federal immigration officials.

The tax numbers also are being used for additional purposes. Some immigrants need them to open bank accounts and, in some states get driver's licenses.

However, this system has sparked controversy. Advocates say allowing undocumented immigrants to get financial services and drive legally makes communities safer for everyone. But critics argue the tax number just makes it easier for undocumented immigrants, who shouldn't be in the United States in the first place, to meld into society.

Utah, Rhode Island and North Carolina are among the states that accept the tax number from people applying for driver's licenses, and New Mexico recently passed a law to accept it starting this summer. Similar proposals are being considered in California and Illinois.

Domestic Abuse Reviewed in Political Asylum Cases

In 1996 a woman by the name of Rodi Alvarado from Guatemala broke new ground in immigration policy by successfully gaining political asylum based on a claim of spousal abuse. Rodi Alvarado claimed that she fled to the U.S. to escape the brutal beating her husband had subjected her to for over ten years. This case arose during the Clinton era, a very different time compared to today.

Ira Mehlman, spokesman for the Federation for American Immigration Reform said, "If we make political asylum based on family issues, sexual preference issues, other general issues, it eventually opens the door to everybody in the world who is unhappy with where they happen to be".

Once again, this attitude appears not to be too out of step with the current mood with regards to the plight of asylum seekers. Indeed, Attorney General John Ashcroft is currently taking steps to review claims such as Rodi Alvarado as having any basis for mounting a claim for political asylum.

"I am very concerned that Atty. Gen. Ashcroft's actions could have a devastating effect on women asylum-seekers," said Rep. Lucille Roybal-Allard (D-Los Angeles).

While no decision has yet been made no doubt this issue will play out in the media battleground of public opinion.