

# WorldEsquire Law Firm's *Immigration News You Can Use*

Fifth Edition

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## **Many Refugee Children Face Harsh Treatment In INS Detention Facilities**

We would never think of putting a minor child in a coed jail with accused rapists and drug addicts. Yet, for many refugee children escaping a violent homeland or who have been abandoned by their parents, this happens all too often. Many are subjected to strip searches, denied access to anyone via phone or otherwise – basically treated like a common felon.

This should not be occurring, according to a 1996 lawsuit filed by the Center for Human Rights and Constitutional Law, a Los Angeles immigrant rights group, and the National Center for Youth Law, a San Francisco children's rights group. In the settlement the INS agreed to treat the children with "dignity, respect and special concern for their vulnerability as minors." It also agreed to place them in more appropriate settings and, in most cases, jail them only if they were convicted of a crime committed in the U.S., were believed to be an escape risk, or briefly to accommodate an "emergency influx" of children.

However, according to a report issued in 2001 by the Office of the Inspector General, the INS failed to comply with this agreement. Furthermore, the Inspector General concluded that this noncompliance could result in "potentially serious consequences affecting the well-being of the juveniles."

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## **Illegal Arrests Spark Anger/Fear**



Last December, thousands of male immigrants 16 years of age and older, living in the United States from Iraq, Iran, Syria, Sudan, and Libya complied with a new immigration policy and registered with the government. Unfortunately, in doing so more than 550 were illegally arrested in the process. The majority arrested, most from the Los Angeles area were detained for simply having an expired visa. At last count, all of about 20 were released once the INS sorted out their status.

As a result of this injustice, four civil liberty groups: The American-Arab Anti-Discrimination Committee, the Alliance of Iranian-Americans, the Council on American Islamic Relations and the National Council of Pakistani Americans have filed a lawsuit in U.S. District Court in Los Angeles along with four of the individuals arrested in December and two others who the groups say are afraid to register.

The groups claim the government did not have arrest warrants, and that it is illegal to arrest and deport people who are eligible to apply for permanent status. They had asked a federal judge to issue a temporary restraining order halting these types of detentions, however, the request was denied.

Now the damage has already been done. The next round of registrations for male immigrants 16 years or older from 13 countries including Afghanistan, Yemen, Pakistan and Saudi Arabia is approaching. Many males have chosen to take their chances and not register for fear that they too will be arrested and/or deported.

Some summed it up best by saying those who went to register were the good guys, and no terrorist is going to come down and say 'I want to register.' It's only the people who follow the law and love this country that are registering.

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## Many Refugee Children Face Harsh Treatment In INS Detention Facilities

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Now, finally, this disturbing practice has a chance of coming to an end. A section of the Homeland Security Act gives authorities 14 months to remove most of these children from INS custody and place them in the hands of the Office of Refugee Resettlement. It is the hope that the use of jails for detention will be eliminated in favor of more nurturing, open shelters and foster care homes for these children.

This news however has sparked debate between child advocates and immigration authorities. Child advocates hail the decision as they have fought to improve the conditions of children placed in detention. At the same time, however, immigration authorities argue that placing many of the children in foster homes or releasing them on bail to their relatives, who may or may not be in the U.S. legally, would make it even easier for the children to disappear into the country — and it would encourage more of them to enter the U.S. illegally.

As one can see, this will be an ongoing controversial issue. We will keep you posted with any updates on the subject.

## New Rule Announced for the Adjustment Of Status Of Certain Nationals From Vietnam, Cambodia And Laos

Recently, the INS announced that eligible individuals from Vietnam, Cambodia, and Laos that will be able to apply for permanent resident status. The INS began accepting applications for adjustment of status on January 27, 2003.

The decision was made to correct injustices following the Vietnam War, as many individuals from Vietnam, Cambodia, and Laos were paroled into the U.S. and have remained in an indefinite immigration status since.

To qualify for the program, an immigrant must be a national of Vietnam, Cambodia or Laos who was paroled into the U.S. prior to October 1, 1997. In addition, the immigrant must have entered the U.S. from one of three programs: the Orderly Departure Program, a Refugee Camp in East Asia, or a Refugee Camp administered by the United Nations High Commissioner for Refugees in Thailand.

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## Supreme Court Weighs In On Imprisoning Immigrant Criminals

It is standard practice to continue imprisoning immigrants convicted of certain crimes — even after their sentence has been completed, until a deportation hearing is held. This process can take months, or even years. Many advocates argue this is unjust and unfair to immigrants who have served their time.

Now, for the first time since September 11<sup>th</sup>, civil rights attorneys argued before the Supreme Court last month to remove this law from the books and give these immigrants a second chance.

Many Supreme Court justices are against the idea. Their concern is about public safety and immigrants who break the law and should no longer have a right to be in America. "That doesn't strike me as terribly unreasonable. Just don't do the felony," Justice Antonin Scalia was quoted as saying.

However, American Civil Liberties

Union attorney Judy Rabinovitz argued in court that not all immigrants jailed are a danger to society. She also pointed out that not all immigrants who are detained end up being deported. As an example, the ACLU's cited its South Korean client, Hyung Joon Kim who was convicted of breaking into a tool shed and shoplifting. After serving his prison sentence, Kim was immediately jailed without bond by the INS. Kim however, was able

to fight his unfair imprisonment, claiming it was a violation of his Fifth Amendment rights not to be "deprived of life, liberty or property without due process of the law". He won his case in lower courts. Now having turned his life around, Kim is a student at San Jose State University. Many of the justices were understanding and sympathetic to Kim's story, which is just one of many.

This summer, the justices will decide if the government can continue this practice. We will keep you posted.



## INS Announces New Fee Changes For 2003

Last year, the INS increased its filing fees – some by as much as 20%. This raised concern from many immigrants and immigration advocates as they believed it to be unreasonable and unfair. Now, this year, this INS has reconsidered its previous decision and announced that as of January 24, 2003, many fees have been reduced. See below for complete listing of the newly reduced fees.

INS Form Number	Title	Filing Fee
I-17	Petition for Approval of School for Attendance by Nonimmigrant Student	\$167
I-90	Application to Replace Permanent Resident Card	\$95
I-102	Application for Replacement/Initial Nonimmigrant Arrival/Departure Record	\$73
I-129	Petition For A Nonimmigrant Worker	\$96 base fee, plus \$1000 additional for H-1B petitions.
I-129F	Petition for Alien Fiance(e)	\$81
I-130	Petition for Alien Relative	\$96
I-140	Immigrant Petition for Alien Worker	\$99
I-191	Application for Permission to Return to an Unrelinquished Domicile	\$142
I-192	Application for Advance Permission to Enter as Nonimmigrant	\$142
I-193	Application for Waiver of Passport and/or Visa	\$142
I-212	Application for Permission to Reapply for Admission into the U.S. After Deportation or Removal	\$142
I-485	Application to Register Permanent Residence or to Adjust Status	\$186 14 years and older. \$160 under 14 years of age.
I-526	Immigrant Petition By Alien Entrepreneur	\$290
I-539	Application to Extend/Change Nonimmigrant Status	\$102
I-600	Petition to Classify Orphan as an Immediate Relative	\$332
I-600A	Application for Advance Processing of Orphan Petition	\$332
I-601	Application for Waiver of Grounds of Excludability	\$142
I-612	Application for Waiver of the Foreign Residence Requirement	\$142
I-751	Petition to Remove the Conditions on Residence	\$105
I-765	Application for Employment Authorization	\$88
I-817	Application for Family Unity Benefits	\$102
I-824	Application for Action on an Approved Application or Petition	\$103
I-829	Petition by Entrepreneur to Remove Conditions	\$286
N-400	Application for Naturalization	\$188
N-565	Application for Replacement Naturalization Citizenship Document	\$113
N-600	Application for Certification of Citizenship	\$134
N-643	Application for Certificate of Citizenship in Behalf of an Adopted Child	\$105

## A Closer Look at H-1B's

### ***What is an H-1B?***

An H-1B is a visa used by an immigrant who will be employed temporarily in the U.S. in a "specialty occupation".

### ***What is a "specialty occupation"?***

A specialty occupation requires specific knowledge in a particular filed of practice along with at least a bachelor's degree or its equivalent. For example, architecture, engineering, mathematics, physical sciences, social sciences, medicine and health, education, business specialties, accounting, law, theology, and the arts are specialty occupations.

### ***Is there an annual limit to the number of H-1B visa issued?***

Yes. In 2003, the number of immigrants who can be issued a visa will be 195,000. However, in 2004, the number of immigrants who can be issued an H-1B visa or be provided H-1B status will drop dramatically to 65,000.

### ***How does one apply?***

An immigrant seeking H-1B status needs to be sponsored by a U.S. employer. The employer must file all necessary applications and pay all fees to the Department of Labor. For specifics log on to the Department of Labor's website at: [www.doleta.gov/business/dfc.asp](http://www.doleta.gov/business/dfc.asp).

### ***How long is the H-1B visa good for?***

An immigrant may stay for a maximum of six years at a time. After that time the immigrant must remain outside the U.S. for one year before another H-1B petition can be approved, unless he/she files for permanent residency, then a one-year extension can be granted.

### ***What if work the status changes?***

As long as the immigrant continues to work for a U.S. employer, his/her status will be fine. If the immigrant has a new employer, Form I-129 must be filed. If the immigrant's employer has merged or the business was sold, the immigrant need not do anything. However, it is a violation if the immigrant is working in a different position other than the specialty occupation for which they applied.

### ***Must an immigrant be employed at all times?***

In general, the immigrant may work full or part-time. However, the immigrant may also be on vacation, sick/maternity/paternity leave, on strike, or otherwise inactive without it affecting his or her status.

### ***Can an immigrant travel outside the U.S.?***

Yes. An H-1B visa allows an immigrant to reenter the U.S. as long as the visa is still valid.

### ***Can an immigrant intend to immigrate permanently to the U.S.?***

Yes. An immigrant may have an H-1B visa and also at the same time apply for permanent resident status.

## Congressman Argues To Stop The Use Of Mexican ID Cards

Last month, congressman Thomas G. Tancredo of Colorado began a campaign to block the growing acceptance of Mexican ID cards or "matricula consular" issued by Mexican consulates to immigrants in the U.S.

The photo ID cards, issued to more than 1 million Mexican immigrants last year alone and accepted by Los Angeles and many other local governments, are helping the undocumented stay in America, said Tancredo. He further went on to state he knows of cases in which criminals have used the cards and he questioned whether Mexican consulates in the United States adequately check the backgrounds of applicants. "This is a card with no use, except by those living illegally in the United States," Tancredo said. "It should not be accepted as proof of identification by state, local or federal agencies."

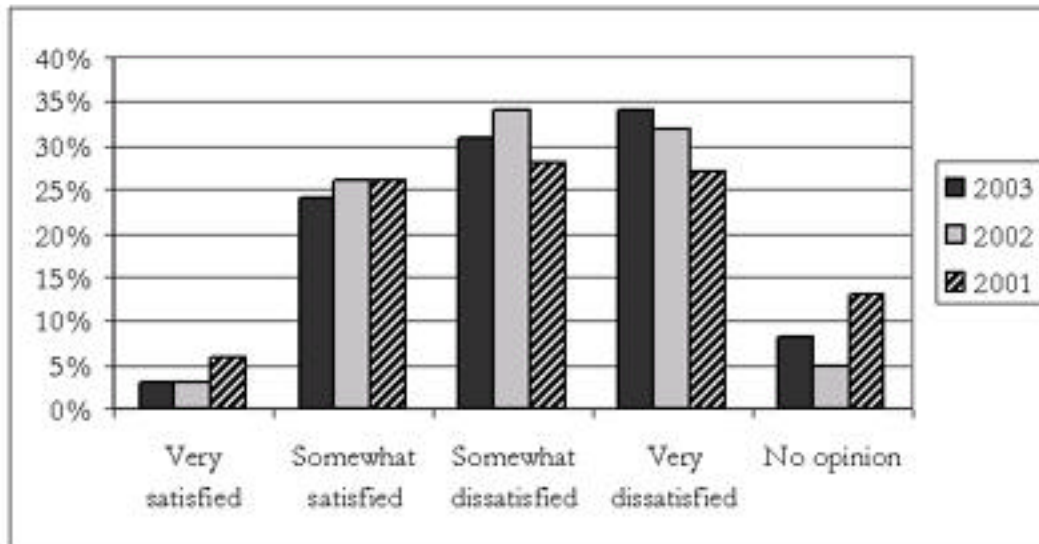
However, a spokesman for the Mexican Embassy in Washington disagrees. Miguel Monterrubio said the cards are a safe and valid means of identification. Consulates verify the identity information given by applicants and the cards themselves have features that would make them difficult to counterfeit. "There is nothing in the matricula consular that will change a person's migratory status in any country," Monterrubio added. "A consular ID does not violate any federal law."

For the undocumented Mexican immigrant, the card has many advantages. For example, more than 70 U.S. banks -- including Wells Fargo and Bank of America -- accept the matricula consular as identification for opening an account. Also, the ID cards often times keep traffic stops and other routine encounters with local police from escalating into arrests. More than 800 police departments in the U.S. now accept the matricula consular, according to the Mexican government. "This prevents Mexicans from being subject to abuses or being forced to use false documents," said a recent Mexican government statement on the program.

Presently, it is uncertain weather Tancredo's legislation will have a chance of passing. Many Republicans are in favor of restrictions on immigration and may favor Tancredo's ideas. However, it is believed most Democrats will vote against this sort of legislation.

## How Do Americans Feel About Increased Immigration?

*New Gallup Poll Details Results*



Last month, The Gallup Organization released a poll asking Americans their opinions about rising immigration levels. The following summarizes the results:

When asked “How do you feel about the level of immigration into the country today” 27% of Americans said they were satisfied while 65% of Americans said they were dissatisfied. Since 2001, the number of Americans dissatisfied with the level of immigration has steadily increased. At first glance, these numbers can be taken to mean that Americans think there is too much immigration, and that immigration numbers need to be reduced. However, when the numbers are broken down and the specifics are closely evaluated, a new picture emerges. Ac-

ording to the Gallup Poll “Attitudes toward immigration differ by age: 40% of 18 to 29 year-olds are satisfied with the level of immigration today, but this drops to about 25% among the middle-aged groups, and to 18% among those 65 and older.”

In other words, younger Americans are more supportive of our current levels of immigration, while older Americans are not. Why is this so? Some have theorized that while older Americans are threatened by increased immigration, younger Americans realize that the Social Security system towards which their taxes are being withheld will probably not exist when they retire unless immigration continues.

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## Two INS Workers Found Guilty Of Shredding Documents

Last month, a federal grand jury indicted two INS workers charged with destroying tens of thousands of documents to eliminate a backlog of paperwork.

The shredded documents, estimated to be as many as 90,000, all came from the INS' California Service Center in Laguna Niguel. Many documents destroyed included applications for asylum, citizenship, visas and work permits, and supporting documents such as U.S. and foreign passports and birth and marriage certificates. The INS center receives paperwork from

Arizona, California, Nevada, Hawaii and Guam.

It is unclear when the shredding initially began – INS officials first discovered the activity on April 4, 2002.

The INS opened a hot line for people who suspected their paperwork had been destroyed and gave applicants the benefit of the doubt if they could not replace documents. Furthermore, the INS was quite certain it had rebuilt the majority of the lost files.

## U.S. Tightens Travel Rules For Immigrants Living In Canada

Presently, immigrants living in Canada can cross the border into the U.S. as freely as Canadian citizens. However, beginning March 17, 2003, that will change, as immigrants from more than 50 commonwealth countries will need a valid passport and non-immigrant visa in order to enter. Visas will cost \$100.00.

This new rule will apply to Immigrants from more than 50 commonwealth countries including:

Antigua & Barbuda	Grenada	Namibia	South Africa
Australia	Guyana	Nauru	Sri Lanka
Bahamas	India	New Zealand	Swaziland
Bangladesh	Ireland	Nigeria	Tanzania
Barbados	Jamaica	Pakistan	Tonga
Belize	Kenya	Papua New Guinea	Trinidad & Tobago
Botswana	Kiribati	Samoa	Tuvalu
Brunei	Lesotho	St. Kitts & Nevis	Uganda
Cameroon	Malawi	St. Lucia	United Kingdom (its colonies, territories, and dependencies)
Cyprus	Malaysia	St. Vincent & the Grenadines	Vanuatu
Dominica	Maldives	Seychelles	Zambia
Fiji	Malta	Sierra Leone	Zimbabwe
Gambia	Mauritius	Singapore	
Ghana	Mozambique	Solomon Islands	

The rational behind this new rule is the need to further increase security and target people from countries with a high rate of document fraud and abuse.

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### In Closing...

At WorldEsquire Law Firm, our goal is to make our newsletter informative, easy to understand and a pleasure to read. We appreciate your comments and suggestions. Don't forget to visit our website, as we have a multitude of information and links available to you.

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