



Consular Corner

March 2012

by: Liam Schwartz*

Nine Things You Didn't Know About the U.S. Mission in The Bahamas*

- 1) With 60 officers in-country, Customs and Border Protection (CBP) is the largest single contingent in the U.S. mission.
- 2) Citizens of The Bahamas do not require visas to the U.S. for tourism or business – but only if they depart through the Customs and Border Protection (CBP) preclearance facilities in Nassau or Freeport and are in possession of a valid passport and police clearance.
- 3) John Armstrong, the new consular chief, is "a positive force both for improving morale and for reviewing procedures." (OK, you knew this one.)
- 4) Embassy Nassau processed 24,000 nonimmigrant visa cases in FY 2011. Just 40% of the applicants were Bahamians; the rest were Haitians, Cubans, Jamaicans and other applicants from more than 100 countries.
- 5) The consular section processed 234 limited emergency passports in the past year. The reason: Seriously ill or injured travelers admitted to local hospitals are often left behind by cruise ships. If they leave the cruise, and were traveling without a passport, they must obtain passports from the consular section or get a waiver from the preclearance facilities.
- 6) An unusual number of visa applicants at Embassy Nassau have criminal records, previous overstays in the United States or other ineligibilities for visa-free entry. In FY 2011 the consular section submitted almost 450 requests for waivers, ranking Nassau among the top 10 waiver processors of all U.S. visa-issuing posts.
- 7) 35,000 American citizens call The Bahamas home.
- 8) The U.S. Ambassador was absent from post for 276 days in less than 2 years, an average of 12 days per month. The Ambassador resigned her position and departed post in November 2011.
- 9) Legal or medical problems can leave Americans in financial difficulties, and the consular section frequently deals with destitute people. While we don't know him personally, the new Deputy Chief of Mission, John Dinkelman, seems like that rare kind of person who would open his door to a destitute stranger, offering him a bowl of soup, a blanket and a couch to sleep on for the night. It's possible

that as DCM, Mr. Dinkelman will become jaded from the frequent dealings with destitute people, but it's much more likely that we'll see a surge in embassy procurement orders of blankets and soup mix.

*Thanks to the recently-published Inspection Report of Embassy Nassau, The Bahamas by the State Department's Office of Inspector General (OIG).
<http://oig.state.gov/documents/organization/184725.pdf>

J-1 Exchange Visitor Visas: Lots of Updates and a Peek into the Future, Too.

The future of FAM updates is here!

New-look Notes to the J-1 Exchange Visitor classification (9 FAM 41.62) contain dozens of hyperlinks to related topics, making the FAM a truly interactive source for visa information.

Click on the "exchange visitor program" hyperlink in 9 FAM 41.62 N1 and you're brought to the Bureau of Educational and Cultural Affairs' J-1 webpage. Click on "SEVIS" in N3.1 and you're transported to the DHS/ICE Student and Exchange Visitor Program page.

Regrettably, at this time most the hyperlinks – those relating to Department guidance elsewhere in the FAM and to Department of State forms - are broken or otherwise inoperative. The future will have to wait just a bit longer...
<http://www.state.gov/documents/organization/87379.pdf>

In addition to the change in format, a number of important updates to the substance of the J-1 FAM Notes, including lengthy new guidance on eligibility for the Summer Work Travel (SWT) program, are offered this month. A summary of these updates follows:

J-1 Residence Abroad Requirement

The Department clarifies the residence abroad requirement applying to applicants for J-1 visas. Thanks to this clarification, consular officers will no longer feel compelled to take out their crystal balls and divine the future intent of J-1 applicants several years down the line:

"The INA requires that the applicant possess a residence in a foreign country he or she has no intention of abandoning. The regulations require that the consular officer be satisfied that the alien has present intent to depart the United States upon completion of their exchange visitor program." (Emphasis added.)

Eligibility for the Summer Work Travel Program:

An SWT participant must be "a bona fide post-secondary student in the applicant's own or another foreign country." Further: "An applicant must have completed at least one semester, or the quarter or trimester equivalent, of postsecondary education to be eligible to participate in this program."

Students enrolled in on-line studies are ineligible for the SWT program:

"On-line study, though it may be full time and may lead to a degree, does not qualify a student as a full time student for purposes of participation in the Summer Work Travel program."

Students attending vocational schools are "generally not eligible for participation in the Summer Work Travel program."

SWT participants must have proficiency in English: "It is appropriate to conduct SWT visa interviews in English in order to assess the applicant's proficiency."

Prohibited SWT Jobs:

The FAM update emphasizes that SWT participants may not be placed in the following jobs:

1) Any position in the adult entertainment industry; 2) In sales positions that require participants to purchase inventory that they must sell in order to support themselves; 3) In domestic help positions in private homes (e.g. child care, elder care, gardener, chauffeur); 4) As pedicab or rolling chair drivers or operators; 5) As operators of vehicles or vessels that carry passengers for hire and/or for which commercial drivers licenses are required; 6) In any position related to clinical care that involves patient contact or 7) In any positions, occupations, or businesses that could bring the Exchange Visitor Program or the Department into notoriety or disrepute.

Bad news for all those young J-1 visa-wielding bicycle rickshaw drivers we saw at last year's AILA conference in San Diego!

SWT Dependents:

The Department adds the following provision regarding applicants for J-2 visas as dependents of SWT program participants:

"Participants in the Summer Work Travel, camp counselor, au pair, trainee, intern, or high school exchange program are not expected to be accompanied by dependents. Should you receive ...a J-2 visa application from an individual claiming such status, contact CA/VO/F/P and ECA for guidance immediately."

More on the J-1 Summer Work Travel Plan (SWT)

Why all the new FAM guidance on the Summer Work Travel Program? The answer likely lies with the stiff public criticism of the program which was described in an OIG report released this month.

According to the report, SWT was established in the early 1960's and "intended as an opportunity to allow foreign university students with limited means to travel to the United States during their summer vacations and work in seasonal jobs." The SWT program has grown from fewer than 20,000 participants in 1990 to some 120,000 in 2010.

The report continues:

"Despite the intent that SWT participants fill only seasonal jobs, sponsors have expanded the program to include a wide variety of year-round employment in many unskilled jobs.... Within the past few years, growing law enforcement concerns about the types and location of some SWT employment and related activities exposed serious deficiencies in the quality of job 'vetting' undertaken by designated sponsors. Although not responsible for SWT program management, the Bureau of Consular Affairs' Kentucky Consular Center staff and consular officers at embassies overseas have contributed substantially to efforts to screen out inappropriate or fraudulent jobs and employers.

In summer 2011, a visiting human rights delegation of academics and immigration law experts reported that some 200 of the 400 SWT participants sponsored by an organization based in Oregon walked off their jobs at a Hershey plant in Pennsylvania, claiming they had paid as much as \$6,000 for what was to have been a cultural exchange experience. Although not all SWT participants went on strike, those who did alleged abusive labor conditions, exorbitant rents for substandard employer-arranged housing, and no cultural exchange activities. The participants claimed that when they complained, their sponsor organization threatened them with deportation. The Department of Labor is currently investigating these allegations.

In October, the Secretary of State ordered a thorough review to determine how to return the SWT program to its original intent, with cultural exchange at its core, and to develop significant adjustments in SWT's design and governing regulations."

The full OIG Inspection Report on the Bureau of Educational and Cultural Affairs can be accessed here: <http://oig.state.gov/documents/organization/186048.pdf>

**Six Things You May Already Know
about the U.S. Mission in Beirut, Lebanon***

- 1) Nearly three decades after the bombing of the U.S. Embassy in 1983, the embassy still occupies an overcrowded and functionally obsolete compound.
- 2) Embassy Beirut personnel operate in an extremely challenging environment that demands expert diplomatic skills as well as personal fortitude.
- 3) The U.S. citizen population in Lebanon is estimated to be approximately 100,000.
- 4) The nonimmigrant visa unit processed about 20,000 applications in FY 2011.
- 5) Beirut is a difficult and dangerous nontraditional assignment. Danger pay is set at 25 percent and only adult family members can accompany employees to post.
- 6) The Americans currently serving in Beirut, from entry-level officers to senior section chiefs, are talented and committed.

*Thanks to the recently-published Inspection Report of Embassy Beirut, Lebanon by the State Department's Office of Inspector General (OIG).
<http://oig.state.gov/documents/organization/185574.pdf>

From the Facebook Community

This past month the Consular Corner Facebook Community discussed a wide range of topics, including the following:

1) Volunteers from U.S. Consulate General Lagos work after hours, weekends and holidays to build and equip a medical clinic which will now provide basic medical care to the 30,000 residents of an impoverished island community in Nigeria. How's that for American Exceptionalism?
http://nigeria.usembassy.gov/pe_03192012_3.html

2) Acting Assistant Secretary Michael A. Hammer conducted the State Department's first press briefing in Spanish. While the briefing provided a substantive dialogue on global issues, we especially loved this from Mr. Hammer: "Yo si lo sigo, por cierto, felicidades a Argentina. Messi marco cinco goles, y eso lo digo aunque yo soy del Real Madrid!"
<http://www.state.gov/documents/organization/185745.pdf>

3) Embassy Kyiv starts processing Diversity Visas; Ukrainian DV applicants no longer need to travel to Embassy Warsaw to attend their interviews as was the previous policy.
http://ukraine.usembassy.gov/events/nec_opening.html

4) Customs and Border Protection (CBP) has issued "strong recommendations" for how to facilitate admission to the U.S. when a child is traveling with only one parent – or with someone who is not a parent or legal guardian.

https://help.cbp.gov/app/answers/detail/a_id/268/~travelling-with-children---child-traveling-with-one-parent-or-someone-who-is-not

5) Assistant Secretary of State for Consular Affairs Janice Jacobs, visiting New Delhi, unveiled the local version of the visa interview waiver program to be piloted at U.S. consular posts in India.

<http://newdelhi.usembassy.gov/iwp.html>

6) Department of State Spokesperson Victoria Nuland remarked: "They are all able to walk and chew gum at the same time." To whom she was referring? (The answer: the Chiefs of U.S. Missions.)

<http://www.state.gov/r/pa/prs/dpb/2012/03/185696.htm>

We welcome you to join the discussion! www.facebook.com/ConsularCorner

Changes to the Foreign Affairs Manual (FAM) Monthly Report

Crimes of Moral Turpitude (9 FAM 40.21(a))

This month brings two updates regarding inadmissibility due to crimes involving moral turpitude.

(1) Intentional distribution of controlled substances

A new section has been added to the FAM's guidance on crimes involving moral turpitude: N2.3-4, entitled "Intentional Distribution of Controlled Substances." According to this new section:

"The Board of Immigration Appeals has determined that a conviction for the intentional distribution of a controlled substance or a conviction for drug trafficking is now considered to a crime involving moral turpitude."

This new section adds:

"The mere possession or use of a controlled substance is not a crime involving moral turpitude."

(2) Possession of child pornography

Possession of child pornography has been added to the list of crimes committed against the person, family relationship, and sexual morality, which constitute moral turpitude.

<http://www.state.gov/documents/organization/86942.pdf>

Visa Issuance Notations (9 FAM 41.113 N2)

The Department has tweaked the language of its existing guidance to consular officers about entering notes into the Consular Consolidated Database (CCD) concerning visa issuances. As per the new language:

"Issuance notes may assist travelers at the port of entry (POE). In the event the Department of Homeland Security/Customs Border Protection (CBP) refers a traveler for secondary inspection, the issuance notes may provide CBP with an understanding of why the traveler was found to be eligible for a visa."

Other related guidance has been left "as is:" (1) Clear and concise CCD notes assist the Visa Office's Public Inquiries Division in responding to inquiries about individual visa cases; and (2) Good case notes facilitate consular managers' NIV adjudication review.

<http://www.state.gov/documents/organization/87502.pdf>

Poverty Income Guidelines 2012 (9 FAM 40.41 Exhibit I)

The Department has published the 2012 version of the poverty guidelines prepared annually by the Department of Health and Human Services (HHS). These poverty guidelines remain in effect for use with Form I-864, Affidavit of Support, until new guidelines go into effect in 2013.

This year, the poverty guideline for a family of four in the 48 contiguous states and Washington, D.C. is \$23,050. This constitutes an increase of \$700 in the poverty threshold over 2011.

<http://www.state.gov/documents/organization/86991.pdf>

Consular Corner Quiz

- 1) Piper Campbell was recently named U.S. Ambassador to the world's coldest capital city. Where will Ambassador Campbell serve?

- 2) Funding of Department of State activities represents approximately what percentage of the federal budget?

- 3) May a Consular Officer deny an immigrant visa on public charge grounds to an applicant who clearly meets the poverty guidelines?

4) In her youth, what was the first country Secretary Clinton visited outside North America?

5) Which visa category is generally used by the accompanying spouse and children of a Q-1 international cultural exchange visitor?

6) A consular officer may issue a B-2 visa to an eligible foreign-born child to facilitate that child's expeditious naturalization pursuant to INA 322. **True or false:** in order to qualify for the B-2 visa that will facilitate his or her becoming a US citizen, that child must not be an intending immigrant to the United States.

7) What is the State Department position held by Edward Ramotowski?

8) What nonimmigrant visa classification is most appropriate for a foreign consular officer coming to work at his or her country's embassy in Washington, DC?

9) What are the only two contexts in which a consular officer should make a formal finding of inadmissibility?

10) What is the name of the analysis of prior visa issuances conducted by consular posts to identify which applicants remained illegally in the United States?

Top Ten Visa Wait Times at U.S. Consular Posts, March 2012*

#	Country	Consular Post	Visa Wait Time	Increase/decrease from Last Month	Top 10 Position Last Month
1	Cuba	Havana (U.S. Interests Section)	999 days	Unchanged	1
2	Venezuela	Caracas	264 days	Unchanged	2
3	Nigeria	Abuja	90 days	+12 days	3

4	Nigeria	Lagos	66 days	Unchanged	5
5 (tie)	Mexico	Guadalajara	35 days	+ 4 days	8
5 (tie)	Yemen	Sanaa	35 days	+ 15 days	New Listing
6	Ecuador	Guayaquil	29 days	Unchanged	10 (tie)
7 (tie)	Canada	Montreal	28 days	+ 5 days	New Listing
7 (tie)	UAE	Abu Dhabi	28 days	- 1 day	10 (tie)
7 (tie)	Saudi Arabia	Jeddah	28 days	+ 8 days	New Listing
8	UAE	Dubai	26 days	+ 2 days	New Listing
9 (tie)	Brazil	Sao Paulo	24 days	- 46 days	4
9 (tie)	Pakistan	Karachi	24 days	+ 14 days	New Listing
9 (tie)	Thailand	Chiang Mai	24 days	+ 3 days	New Listing
10 (tie)	Brazil	Recife	23 days	-31 days	6
10 (tie)	Russia	St Petersburg	23 days	+ 3 days	New Listing

** Updated to March 6, 2012 and based on published Department of State data. The “visa wait time” is the estimated time in which individuals need to wait to obtain a nonimmigrant visa interview appointment at a given consular post.

Top Wait Times by Region

The Americas (excluding Cuba)	Venezuela/Caracas	(264 days)
Africa	Nigeria/Abuja	(90 days)
Middle East and North Africa	Yemen/Sanaa	(35 days)
East Asia and Pacific	Thailand/Chiang Mai	(24 days)

Central and South Asia
Europe and Eurasia

Pakistan/Karachi (24 days)
Russia/St. Petersburg (23 days)

Answers to Consular Corner Quiz

1. Ulan Bator, Mongolia
<http://www.whitehouse.gov/the-press-office/2012/03/02/president-obama-announces-more-key-administration-posts>
2. One percent.
<http://www.state.gov/secretary/rm/2012/02/184847.htm>
3. Yes, absolutely.
<http://www.state.gov/documents/organization/86991.pdf>
4. The United Kingdom.
<http://www.state.gov/secretary/rm/2012/03/185154.htm>
5. B-2. 9 FAM 41.57 N11
6. True. 9 FAM 41.31 N14.6
7. Managing Director, Visa Services, Bureau of Consular Affairs
8. A-1. 9 FAM 41.22 N1.1
9. A visa application or revocation of an existing visa. 9 FAM 40.6N1
10. Validation study. <http://oig.state.gov/documents/organization/8536.pdf>

Quote of the Corner

"I am a number of things, but culturally I am an American. More specifically, I am an American from the state of Texas, with all that it implies. You can, if you wish, hyphenate me, but you cannot make me something I am not. I'm comfortable in that skin. I know who I am, and if those who meet me take the time to get to know me, that will be apparent. It might not make them comfortable that I don't conform to the stereotype they have in their minds, but I only ask that they exercise patience and take me for what I am, rather than bemoaning that I am not what they first take me to be. I think if we all accepted who we really are, and did the same for everyone we encounter, the world would be a less hostile and more welcoming place."

Charles A. Ray, U.S. Ambassador to Zimbabwe

http://blogs.state.gov/index.php/site/entry/african_american_ambassador_zimbabwe

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