

**HISTORICAL BACKGROUND AND
INTRODUCTION TO THE U.S.
IMMIGRATION SYSTEM**

What is Immigration Law?

**Who Gets to
Come to US**

**Who Gets to
Stay in US**

**Who Has to
Leave the US**



Immigration Law –First Exclusions: 1875-1920

- Open Door Until 1874, although there were restrictions on who could be a citizen
- Restrictions Based on Loyalty, Moral Character, Race and Nationality
- First Targeted Group-Chinese Immigrants: 1882 Chinese Exclusion Act
- Supreme Court Case: Chae Chang Ping V. U.S. (1889)-Holds U.S. Congress has power to override treaties: “Plenary” power to regulate immigration

1901 Cartoon in Judge Magazine

23 years later restrictive laws enacted



1921-1964

- End of Anti-Asian laws but imposed numerical limits on immigration, and favored Western hemisphere and northwestern Europeans who were exempt from quotas. By 1924, only 165,000 immigrants allowed to enter.
- After 1952 some expanded immigration allowed due to war refugees and need to find labor. By 1952 race eliminated as a factor.
- Passage of the first comprehensive immigration law, the Immigration and Nationality Act. (INA)

1965-1996: Relaxing Restrictions

- 1965-85: Abolished discrimination
- 1986: Amnesty-IRCA- and further employment controls
- 1986-1996: General expansion-more diversity

1996: Resumption of Restrictions

- Passage of Welfare Reform Act, Illegal Immigration Reform and Immigrant Responsibility Act (IIRAIRA) and the USA Patriot Act
 - curtailed public benefits to legal immigrants
 - made it very difficult for unauthorized immigrants to legalize in U.S.
 - increased the crimes that allow immigrants to be deported

September 11, 2001

- Broke up the Immigration and Naturalization Service (INS), with its functions now divided into three separate agencies
- Created the Department of Homeland Security
- Tightened restrictions on students and visitors
- Required individuals from certain countries to register.

2001-Present

- Increase in state laws seeking to enforce immigration laws
- Increased enforcement
 - Border fence
 - Large number of removals and deportations
- Push for immigration reform and the Dream Act

Question for Discussion

What parallels do you see between immigration policy and the civil rights movement?

Immigration Law and Division of Powers

- The Congress writes the law
- The Executive Branch writes and interprets regulations. This is done by the Department of Homeland Security
- The Courts/Judiciary decide if an action violates the law or the constitution

Immigration Law Sources

- Constitution of the U.S.
- Immigration and Nationality Act
- Code of Federal Regulations
- Foreign Affairs Manual
- Treaties that have been ratified

Government Agencies Involved with Immigration

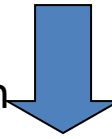
- Department of Homeland Security
 - United States Citizenship and Immigration Services (USCIS)
 - Immigration and Customs Enforcement (ICE)
 - Customs and Border Protection (CBP)
- Department of State/Consular Offices
- Department of Labor
- Department of Justice, Executive Office for Immigration Review (EOIR)

Immigration Agencies Today

Dept. of Justice



EOIR



Immigration Court

Dept. of Homeland Security

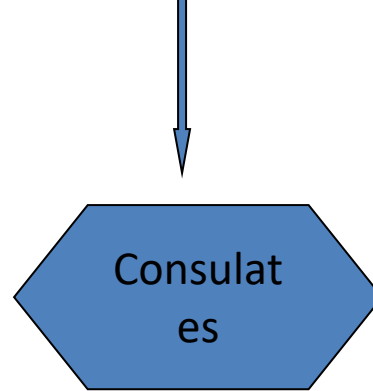
ICE

USCIS

Dept. of State

CBP

Dept. of Labor



Consulates

Some Key Immigration Terms

- Immigrant: a person with lawful permanent resident status
- Lawful Permanent Resident (LPR): person can live and work in U.S. indefinitely, so long as they don't commit certain crimes
- Non-immigrant/Temporary Immigrant: in the U.S. for a particular purpose on short term stay
- Undocumented: lacks immigration status
- Entered Without Inspection (EWI)
- Admissible/Inadmissible

TYPES OF IMMIGRATION STATUS

- CITIZENS through
 - Birth
 - Naturalization
 - Parents (derivation and acquisition)
- IMMIGRANTS – Lawful Permanent Residents through
 - Family
 - Employment

Types of Immigration Status

- REFUGEES/ASYLEES
- NON-IMMIGRANTS – TEMPORARY
 - WORKERS
 - STUDENTS
 - VISITORS
- UNDOCUMENTED
 - No lawful Permission to remain

Sample Immigration Documents

- Old I-94 Card: Card given to each person who enters the US that shows the date of entrance and status

Exemption Number	SAMPLE
742832036 01	U.S. IMMIGRATION 250 WAS
Immigration and Naturalization Service	SEP 13 1991
I-94 Departure Record	ADMITTED <u>B-2</u> UNTIL: <u>July 10, 1993</u> CLASS
14. Family Name DOE	16. Birth Date (Day, Mo, Yr) 11.04.62
15. First (Given) Name JOHN	17. Country of Citizenship U.K.

I-94 Arrival/Departure Record

DOCUMENTS THAT MAY BE IN YOUR CLIENT'S POSSESSION

- Arrival/Departure Record, Form I-94.

DEPARTMENT OF HOMELAND SECURITY
U.S. Customs and Border Protection

CBP Form I-94 (REV. 11-15-14)

Admission Number: **302225689-20** *Welcome to the United States*

I-94 Arrival/Departure Record - Instructions

This form must be completed by all persons except U.S. Citizens, returning resident aliens, aliens with immigrant visas, and Canadian Citizens visiting in or en route.

Type or print legibly with pen in ALL CAPITAL LETTERS. Use English. Do not write on the back of this form.

This form is in two parts. Please complete both the Arrival Record (Items 1 through 13) and the Departure Record (Items 14 through 17).

When all items are completed, present this form to the CBP Officer.

Item 7 - If you are entering the United States by land, enter LAND in this space. If you are entering the United States by ship, enter SEA in this space.

Admission Number: **302225689-20**

CBP Form I-94 (REV. 11-15-14)

Arrival Record

1. Family Name		3. Birth Date (Day/Mo/Yr)	
2. First (Given) Name		5. Sex (Males or Female)	
4. Country of Citizenship		7. Airline and Flight Number	
6. Passport Number		9. City Where You Boarded	
8. Country Where You Were Born		11. Date Issued (Day/Mo/Yr)	
12. Address While in the United States (Number and Street)			
13. City and State			

Departure Number: **302225689-20**

CBP Form I-94 (REV. 11-15-14)

I-94 Departure Record

14. Family Name		16. Birth Date (Day/Mo/Yr)	
15. First (Given) Name		17. Country of Citizenship	

See Other Side STAPLE HERE

CBP Form I-94 (REV. 11-15-14)

NEW I-94 CARD



U.S. Customs and Border Protection
Securing America's Borders

OMB No. 1651-0111
Expiration Date: 11/30/2014

[Get I-94 Number](#)

[I-94 FAQ](#)

Admission (I-94) Number Retrieval

Admission (I-94) Record Number: 68523424920

Admit Until Date (MM/DD/YYYY): D/S

Details provided on Admission (I-94) form:

Family Name:

First (Given) Name:

Birth Date (MM/DD/YYYY):

Passport Number:

Passport Country of Issuance: **India**

Most Recent Date of Entry (MM/DD/YYYY): **06/04/2013**

Class of Admission: **F1**

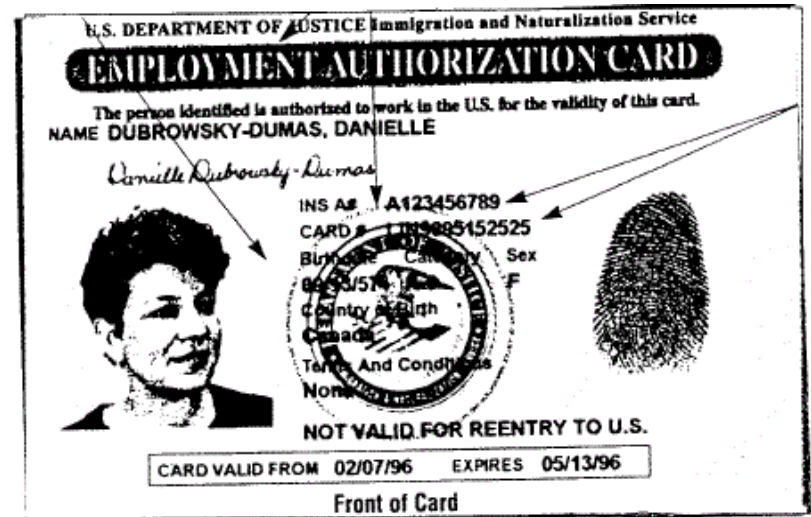
▶ Effective April 26, 2013, DHS began automating the admission process. An alien lawfully admitted or paroled into the U.S. is no longer required to be in possession of a preprinted Form I-94. A record of admission printed from the CBP website constitutes a lawful record of admission. See 8 CFR § 1.4(d).

▶ If an employer, local, state or federal agency requests admission information, present your admission (I-94) number along with any additional required documents requested by that employer or agency.

▶ Note: For security reasons, we recommend that you close your browser after you have finished retrieving your I-94 number.

Sample Immigration Documents

- Work Permit or Employment Authorization Document (EAD), Form I-688 (A or B).



DOCUMENTS THAT MAY BE IN YOUR CLIENT'S POSSESSION

- Other documents showing DHS has received an application for status..

Department of Homeland Security
U.S. Citizenship and Immigration Services

I-797C, Notice of Action

THE UNITED STATES OF AMERICA

RECEIVED DATE June 11, 2007	APPROVAL DATE May 30, 2007	FORM I-130 - IMMIGRANT PETITION FOR RELATIVE, FIANCEE(S), OR ORPHAN CATEGORY GREER, DANIEL C. BENEFICIARY OWB, GRACE T.
SUBJECT NAME October 19, 2007		PAGE 1 of 1
DANIEL C. GREER		Notice Type: Approval Notice Section: Husband or wife of U.S. Citizen, 201(b) INA

The above petition has been approved. We have sent the original visa petition to the Department of State National Visa Center (NVC), 32 Rochester Avenue, Portsmouth, NH 03801-2909. NVC processes all approved immigrant visa petitions that need consular action. The visa services which consular post in the appropriate consular to complete visa processing. NVC will then forward the approved petition to that consulate.

The NVC will contact the person for whom you are petitioning/beneficiary concerning further immigrant visa processing steps.

If you have any questions about visa issuance, please contact the NVC directly. However, please allow at least 90 days before calling the NVC if your beneficiary has not received correspondence from the NVC. The telephone number of the NVC is (603) 334-0700.

The approval of this visa petition does not in itself grant any immigration status and does not guarantee that the alien beneficiary will subsequently be found to be eligible for a visa, for admission to the United States, or for an extension, change, or adjustment of status.

THIS FORM IS NOT A VISA NOR MAY IT BE USED IN PLACE OF A VISA.

Please see the additional information on the back. You will be notified separately about any other cases you filed.

U.S. CITIZENSHIP & IMMIGRATION SVC
CALIFORNIA SERVICE CENTER
P. O. BOX 18111
LAGUNA HILLS, CA 92607-0111
Customer Service Telephone: (800) 375-5283

Form I-797C (Rev. 01/21/05) N

SOURCES OF LAW

Hierarchy of Authority

- Immigration and Nationality Act
- Regulations
- Operating Instructions

SOURCES OF LAW

- **Relationship Between Statute, Regulations, and Internal Immigration Directives:**
 - Statutes provide legal framework
 - SEC. 214, 8 U.S.C. 1184. (a)(1) The admission to the United States of any alien as a nonimmigrant shall be for such time and under such conditions as the Attorney General may by regulations prescribe, including when he deems necessary the giving of bond with sufficient surety in such sum and containing such conditions as the Attorney General shall prescribe, to insure that the expiration of such time or upon failure to maintain the status under which he was admitted, or to maintain any status subsequently acquired under section 248, such alien will depart from the United States... No alien admitted to the United States without a visa pursuant to section 217 may be authorized to remain in the United States as a nonimmigrant visitor for a period exceeding 90 days from the date of admission.

SOURCES OF LAW

- Regulations provide more detail.
- 8 CFR §214.2 (b) Visitors – (1) General. Any B-1 visitor for business or B-2 visitor for pleasure may be admitted for not more than one year and may be granted extensions of temporary stay in increments of not more than six months each, except that alien members of a religious denomination coming temporarily and solely to do missionary work in behalf of a religious denomination may be granted extensions of not more than one year each, provided that such work does not involve the selling of articles or the solicitation or acceptance of donations.

SOURCES OF LAW

- **Operating Instructions Fill in the Gaps in the Regulations:**
- OI 214.2b Visitors. If found admissible, a B-2 shall be admitted for six months. The district director may delegate individual review of the minimum admission period no lower than a supervisory inspector. Referral of individual cases to the supervisor may occur when it is evident that the alien is admissible, but does not have sufficient resources available to maintain a six month visit. The Service does not require that an applicant must demonstrate that he/she has access to sufficient resources. A B-1 shall be admitted for a period of time which is fair and reasonable for the completion of the purpose of the trip. Any decision to reduce a B-1's admission from the time requested shall be authorized by a supervisor.

INA

Citation forms

- Statute
 - INA §245
 - 8 USC §1255
- What is the difference between these provisions?

INA

- INA §245(a)
- 8 USC §1255(a)
- **(a) Status as person admitted for permanent residence on application and eligibility for immigrant visa**
- The status of an alien who was inspected and admitted or paroled into the United States or the status of any other alien having an approved petition for classification as a VAWA self-petitioner may be adjusted by the Attorney General, in his discretion and under such regulations as he may prescribe, to that of an alien lawfully admitted for permanent residence if (1) the alien makes an application for such adjustment, (2) the alien is eligible to receive an immigrant visa and is admissible to the United States for permanent residence, and (3) an immigrant visa is immediately available to him at the time his application is filed.

8 C.F.R.

Regulations

- 8 CFR §245.1
- 20 CFR §655.101(a)(1)
- 22 CFR §42.1(a)

Roberto's Story

- Roberto's Story can be found in ***Underground America: Narratives of Undocumented Lives (Voice of Witness)***, compiled and edited by Peter Ormer (San Francisco: McSweeney's Books), 57-75.

Question for Discussion

What immigration agencies did Roberto and his family interact with?