



## SEPTEMBER 2017 IMMIGRATION UPDATE

*Posted on September 5, 2017 by Cyrus Mehta*

### Headlines

1. **DHS Cancelled Deferred Action for Childhood Arrivals (DACA)** – Trump has rescinded DACA and issued a winding down process.
2. **[USCIS Denies Pending Advance Parole Applications for H-1B, L Applicants Traveling Outside the United States](#)** – Immigration lawyers are advising their H-1B and L clients to avoid traveling internationally while their advance parole applications are pending.
3. **[U.S. Nonimmigrant Visa Operations Suspended/Reduced in Russia](#)** – The U.S. embassy in Russia has announced that all nonimmigrant visa operations across Russia were suspended as of August 23, 2017, and will resume on a "greatly reduced scale."
4. **[President Trump Pardons Controversial Former Arizona Sheriff Joe Arpaio](#)** – President Donald Trump announced that he has pardoned controversial former Maricopa County, Arizona, sheriff Joseph Arpaio. Reaction was swift and widespread.
5. **[USCIS To Expand In-Person Interview Requirements for Certain Permanent Residence Applicants](#)** – USCIS announced that effective October 1, 2017, it will begin expanding in-person interviews for certain immigration benefit applicants.
6. **[ICE Seeks Private Help in Gathering Data on 500,000 Undocumented Immigrants Per Month](#)** – The draft Statement of Work says a contractor is sought that will track daily address changes and credit activities of targeted persons (e.g., new aliases, new addresses, new jail bookings, insurance claims, date-of-birth changes, Social Security numbers) using information available from open sources and commercial data sources.
7. **[USCIS Alerts Hurricane Harvey Survivors to Available Immigration Services](#)** – USCIS said that those making a request should "explain how

the impact of Hurricane Harvey created a need for the requested relief."

8. [GSA Announces New Lease Agreement for USCIS Headquarters in Camp Springs, Maryland](#) – Under the new lease agreement, USCIS will consolidate its headquarters from five leased locations and one federal asset to one facility.
9. [Juan Osuna, Former EOIR Director, Dies](#) – Juan P. Osuna, who was Director of the Executive Office for Immigration Review until his resignation in May 2017, died suddenly on August 15, 2017, at the age of 54.
10. **Firm In The News...**

#### **Details:**

##### **1. DHS Cancelled Deferred Action for Childhood Arrivals (DACA)**

On September 5, 2017, the DHS cancelled DACA, but has created a winding down process as follows:

- Will adjudicate—on an individual, case-by-case basis—properly filed pending DACA initial requests and associated applications for Employment Authorization Documents that have been accepted as of the date of this memorandum.
- Will reject all DACA initial requests and associated applications for Employment Authorization Documents filed after the date of this memorandum.
- Will adjudicate—on an individual, case-by-case basis—properly filed pending DACA renewal requests and associated applications for Employment Authorization Documents from current beneficiaries that have been accepted as of the date of this memorandum, and from current beneficiaries whose benefits will expire between the date of this memorandum and March 5, 2018 that have been accepted as of October 5, 2017.
- Will reject all DACA renewal requests and associated applications for Employment Authorization Documents filed outside of the parameters specified above.
- Will not terminate the grants of previously issued deferred action or revoke Employment Authorization Documents solely based on the directives in this memorandum for the remaining duration of their validity periods.

- Will not approve any new Form I-131 applications for advance parole under standards associated with the DACA program, although it will generally honor the stated validity period for previously approved applications for advance parole. Notwithstanding the continued validity of advance parole approvals previously granted, U.S. Customs and Border Protection will—of course—retain the authority it has always had and exercised in determining the admissibility of any person presenting at the border and the eligibility of such persons for parole. Further, U.S. Citizenship and Immigration Services will—of course—retain the authority to revoke or terminate an advance parole document at any time.
- Will administratively close all pending Form I-131 applications for advance parole filed under standards associated with the DACA program, and will refund all associated fees.
- Will continue to exercise its discretionary authority to terminate or deny deferred action for any reason, at any time, with or without notice.

The link to the announcement is at

<https://www.dhs.gov/topic/deferred-action-childhood-arrivals-daca>.

The FAQ on the DACA Rescission is available at

<https://www.dhs.gov/news/2017/09/05/frequently-asked-questions-rescission-deferred-action-childhood-arrivals-daca>

## **2. USCIS Denies Pending Advance Parole Applications for H-1B, L Applicants Traveling Outside the United States**

According to reports, U.S. Citizenship and Immigration Services (USCIS) has been denying pending advance parole applications for abandonment when applicants travel outside the United States in H-1B or L status. The reason the agency gives is that the instructions to the Form I-131, Application for Travel Document, state that if the applicant leaves the United States before the advance parole document is issued, his or her application for an advance parole document will be considered abandoned. This is despite the fact that for the past 15 years, USCIS reportedly has approved such applications for such individuals traveling abroad with a valid advance parole document or a valid H-1B or L visa while their adjustment of status applications are pending.

Immigration lawyers are advising their H-1B and L clients to avoid traveling internationally while their advance parole applications are pending.

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### 3. U.S. Nonimmigrant Visa Operations Suspended/Reduced in Russia

As a result of the Russian government's personnel cap imposed on the U.S. Mission, the U.S. embassy in Russia has announced that all nonimmigrant visa (NIV) operations across Russia were suspended as of August 23, 2017, and will resume on a "greatly reduced scale."

Beginning September 1, NIV interviews will be conducted only at the U.S. embassy in Moscow. NIV interviews at the U.S. consulates in St. Petersburg, Yekaterinburg, and Vladivostok are suspended until further notice. As of August 21, the U.S. Mission began canceling current NIV appointments countrywide. The embassy said that NIV applicants who have their interviews canceled should call the number below to reschedule their interviews at the U.S. embassy in Moscow for a later date. NIV applicants originally scheduled for an interview at the U.S. consulates in St. Petersburg, Yekaterinburg, and Vladivostok should call the number below if they wish to reschedule their interviews at the U.S. embassy in Moscow.

The staffing changes will also affect the scheduling of some immigrant visa applicants, the embassy said. Affected applicants will be contacted if there is a change in the time and date of their interviews.

For rescheduling of nonimmigrant visa interviews and other questions, call: +7 (495) 745 3388 or 8 800 100 2554 (ITFN).

The U.S. embassy in Moscow and three consulates will continue to provide emergency and routine services to U.S. citizens, although hours may change. (For U.S. citizen services hours, check the U.S. Mission to Russia website at <https://ru.usembassy.gov/u-s-citizen-services/acs-hours/>.)

Also, the U.S. embassy in Moscow and the U.S. consulate in St. Petersburg will no longer accept new visa applications for residents of Belarus. NIV appointments for Belarussian applicants who have already paid the application fee will be rescheduled. The embassy encourages residents of Belarus to schedule NIV appointments at the U.S. embassies in Warsaw, Kyiv, or Vilnius.

The announcement, which includes questions and answers, is at <https://ru.usembassy.gov/fact-sheet/>.

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#### **4. President Trump Pardons Controversial Former Arizona Sheriff Joe Arpaio**

President Donald Trump announced on August 25, 2017, that he has pardoned controversial former Maricopa County, Arizona, sheriff Joseph Arpaio. President Trump released a statement noting, among other things, that throughout his time as sheriff, Mr. Arpaio "continued his life's work of protecting the public from the scourges of crime and illegal immigration." The statement, noting that Mr. Arpaio had provided more than 50 years "of admirable service to our Nation," said he is a "worthy candidate for a Presidential pardon."

Mr. Arpaio, who had been sheriff of Maricopa County for 24 years, was convicted in July of criminal contempt for violating a court order to stop detaining people unconstitutionally without charges based on Latino ethnicity and a belief that they were in the United States illegally. Mr. Arpaio had vowed to continue detaining people, making various statements over the years that drew publicity along with his actions, such as that he would not "back down" and would "never give in to control by the federal government." He detained hundreds of undocumented immigrants in a jail he called a "concentration camp" and forced them to wear pink underwear.

Reaction was swift and widespread. Sen. John McCain (R-Ariz.) tweeted that "POTUS's pardon of Joe Arpaio, who illegally profiled Latinos, undermines his claim for the respect of rule of law." A spokesperson for Paul Ryan (R-Wis.), Speaker of the House of Representatives, said that Rep. Ryan "does not agree with this decision. Law enforcement officials have a special responsibility to respect the rights of everyone in the United States. We should not allow anyone to believe that responsibility is diminished by this pardon." House Minority Leader Nancy Pelosi (D-Cal.) said Democrats are "sick to our stomach." Phoenix mayor and Democrat Greg Stanton said, "Pardoning Joe Arpaio is a slap in the face to the people of Maricopa County, especially the Latino community and those he victimized as he systematically and illegally violated their civil rights."

Mr. Arpaio said he was grateful to President Trump, tweeting his thanks to the President "for seeing my conviction for what it is: a political witch hunt by holdovers in the Obama justice department!"

A copy of the pardon is at <http://bit.ly/2wdYkst>.

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## 5. USCIS To Expand In-Person Interview Requirements for Certain Permanent Residence Applicants

U.S. Citizenship and Immigration Services (USCIS) announced that effective October 1, 2017, it will begin expanding in-person interviews for certain green card applicants. USCIS said this change complies with Executive Order 13780, "Protecting the Nation From Foreign Terrorist Entry Into the United States," and "is part of the agency's comprehensive strategy to further improve the detection and prevention of fraud and further enhance the integrity of the immigration system."

Effective October 1, USCIS will begin to phase in interviews for:

- Adjustment of status applications based on employment (Form I-485, Application to Register Permanent Residence or Adjust Status); and
- Refugee/asylee relative petitions (Form I-730, Refugee/Asylee Relative Petition) for beneficiaries who are in the United States and are petitioning to join a principal asylee/refugee applicant.

Previously, applicants in these categories did not require an in-person interview with USCIS officers for their applications for permanent residence to be adjudicated. This policy change appears to be part of the Trump administration's "extreme vetting" plan, referenced in the President's executive order instituting the travel ban (Executive Order Protecting the Nation from Foreign Terrorist Entry into the United States, issued in January and revised in March). The revised order requires the "development of a uniform baseline for screening and vetting standards and procedures, such as in-person interviews." According to attorneys, the result will likely be more than 100,000 more USCIS in-person interviews per year, which is expected to lengthen wait times for permanent residence applications.

Beyond the immediately affected categories, USCIS said it is planning an incremental expansion of interviews to other benefit types.

USCIS said that conducting in-person interviews will provide USCIS officers with "the opportunity to verify the information provided in an individual's application, to discover new information that may be relevant to the adjudication process, and to determine the credibility of the individual seeking permanent residence in the United States." USCIS said it will meet the additional interview requirement through enhancements in training and

technology as well as transitions in some aspects of case management.

The USCIS notice is at

<https://www.uscis.gov/news/news-releases/uscis-to-expand-in-person-interview-requirements-for-certain-permanent-residency-applicants>.

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## **6. ICE Seeks Private Help in Gathering Data on 500,000 Undocumented Immigrants Per Month**

U.S. Immigration and Customs Enforcement (ICE)'s Enforcement and Removal Operations (ERO) Targeting Operations Division (TOD) is seeking commercial subscription data services to conduct customized analysis, screening, and monitoring of Department of Homeland Security (DHS) priority criminal alien information. According to a recent notice, the TOD will provide targeting information for the provider to set up in a continuous monitoring and alert system to track 500,000 identities per month for specified new data, arrests, and activities.

According to the notice's draft Statement of Work (SOW), the continuous monitoring and alert system must be able to securely process and return information and addresses using the following types of specified data: FBI numbers; state identification numbers; real-time jail booking data; credit history; insurance claims; phone number account information; wireless phone accounts; wire transfer data; driver's license information; vehicle registration information; property information; payday loan information; public court records; incarceration data; employment address data; Individual Taxpayer Identification Number (ITIN) data; and employer records.

The draft SOW states that the contractor will track daily address changes and credit activities of targeted persons (e.g., new aliases, new addresses, new jail bookings, insurance claims, date-of-birth changes, and Social Security numbers) using information available from open sources and commercial data sources.

The contractor will securely return to ICE any information that identifies the possible location of the target and changes in the target's identifiers.

The notice is at

[https://www.fbo.gov/index?s=opportunity&mode=form&id=810708b3d86d8cb49520279f2ff3ee9f&tab=core&\\_cview=0](https://www.fbo.gov/index?s=opportunity&mode=form&id=810708b3d86d8cb49520279f2ff3ee9f&tab=core&_cview=0). The draft SOW is at

[https://www.fbo.gov/index?s=opportunity&mode=form&id=810708b3d86d8cb49520279f2ff3ee9f&tab=core&\\_cview=0](https://www.fbo.gov/index?s=opportunity&mode=form&id=810708b3d86d8cb49520279f2ff3ee9f&tab=core&_cview=0). A related Request for Information is at [https://www.fbo.gov/index?s=opportunity&mode=form&id=810708b3d86d8cb49520279f2ff3ee9f&tab=core&\\_cview=0](https://www.fbo.gov/index?s=opportunity&mode=form&id=810708b3d86d8cb49520279f2ff3ee9f&tab=core&_cview=0).

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## **7. USCIS Alerts Hurricane Harvey Survivors to Available Immigration Services**

USCIS recently issued an alert listing immigration services "that may help people affected by unforeseen circumstances, including disasters such as Hurricane Harvey." USCIS said that those making a request should "explain how the impact of Hurricane Harvey created a need for the requested relief." The alert states that the following measures may be available on a case-by-case basis upon request:

- Changing a nonimmigrant status or extending a nonimmigrant stay for an individual currently in the United States. Failure to apply for the extension or change before expiration of the authorized period of admission may be excused if the delay was due to extraordinary circumstances beyond the person's control;
- Re-parole of individuals previously granted parole by USCIS;
- Expedited processing of advance parole requests;
- Expedited adjudication of requests for off-campus employment authorization for F-1 students experiencing severe economic hardship;
- Expedited adjudication of employment authorization applications, where appropriate;
- Consideration of fee waivers due to an inability to pay;
- Assistance for those who received a Request for Evidence or a Notice of Intent to Deny but were unable to submit evidence or otherwise respond in a timely manner;
- Assistance if the individual was unable to appear for a scheduled interview with USCIS;
- Expedited replacement of lost or damaged immigration or travel documents issued by USCIS, such as a Permanent Resident Card (Green Card); and
- Rescheduling a biometrics appointment.

The USCIS alert is at

<https://www.uscis.gov/news/alerts/uscis-alerts-those-affected-hurricane-harvey-available-immigration-services>.

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#### **8. GSA Announces New Lease Agreement for USCIS Headquarters in Camp Springs, Maryland**

The General Services Administration has announced a new lease agreement to consolidate U.S. Citizenship and Immigration Services (USCIS) headquarters.

Under the new lease agreement, USCIS will consolidate its headquarters from five leased locations and one federal asset to one facility. The new headquarters will occupy 574,767 rentable square feet at One Town Center, One Capital Gateway Drive, Camp Springs, MD 20746 for a term of 15 years.

The notice is at

<https://www.uscis.gov/news/news-releases/gsa-announces-new-lease-agreement-us-citizenship-and-immigration-services-camp-springs-md>.

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#### **9. Juan Osuna, Former EOIR Director, Dies**

Juan P. Osuna, who was Director of the Executive Office for Immigration Review until his resignation in May 2017, died suddenly on August 15, 2017, at the age of 54. He had also served as chair of the Board of Immigration Appeals and adjunct professor at George Mason School of Law and Georgetown Law School. Other positions included Deputy Assistant Attorney General for the Department of Justice's Civil Division and Associate Deputy Attorney General with responsibility for the Department's immigration portfolio. He was a graduate of George Washington University and American University Washington College of Law. He also was editor of Interpreter Releases.

An obituary is at <http://bit.ly/2vrbD7D>. A tribute by Paul Schmidt, retired U.S. Immigration Judge and former chairman of the Board of Immigration Appeals, is at <http://bit.ly/2vGaKe8>. A tribute by Stephen Yale-Loehr, co-author of *Immigration Law and Procedure*, professor at Cornell Law School, and attorney, is at

<http://aila.org/about/announcements/in-memoriam/juan-osuna-a-life-well-lived-but-cut-too-short>.

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10. **Firm In The News**

**Cyrus D. Mehta** published [Immigration and Nationality Act Trumps America First](#) on September 3, 2017.

**Cora-Ann V. Pestaina** published [How Binding Are DOL FAQs?](#) On August 22, 2017.

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