Immigrating Foreign Family Members

• Petition Process
  - I-130 Petition
  - I-485 Adjustment of Status
  - Consular Processing

• Fiancé Visas (K-1 or K-3)

• Immediate Relatives vs. Preference Categories
  - Immediate Relatives: Spouses of USC; Unmarried children under 21 yrs; Parent of son/daughter >21 yrs

• Visa Bulletin-Backlogs and Processing Times
Conditional Permanent Residents

- CPR Status: Married couple for less than 2 years when residency is granted by USCIS.

- CPR Card = Valid for 2 years.

- Must file I-751 Petition to Remove the Conditions of Residence within 90 days prior to 2nd anniversary of CPR grant.

- Filed jointly by both spouses or waiver options:
  - Good faith marriage terminated by divorce;
  - Good faith marriage but CPR was subject to extreme cruelty or abuse by USC spouse; or
  - Extreme hardship.

- Violence Against Women Act Protection
Parole-in-Place

• INA §212(d)(5)(A)

• Case-by-case basis for “urgent humanitarian reasons” or “significant public benefit”

• Request made to local USCIS District or Field Office for qualified military dependents.

• If PIP is granted it can eliminate the need for beneficiary to return to home country for consular processing. Important to avoid 3/10 year bars pursuant to INA §§212(a)(9)(B) & (C).

• Results of Requests = Mixed
Parole-in-Place Application

- Submit to local USCIS Field Office
- Check with local USCIS office on procedure and what is required (some require I-131).
- Signed hardship statement from service member why PIP is necessary.
  - Supporting documents:
    - Service Member’s birth certificate and/or proof of citizenship;
    - Family member’s birth certificate;
    - Birth certificate for any children;
    - If foreign national is spouse, marriage certificate & bona fides of marriage;
    - Evidence of military membership;
    - 2 passport photos for family member; and
    - Any additional military documents (deployment orders, etc)
Military Naturalization

- **INA §§ 328 and 329**: military naturalization
- **INA § 328: Peace-Time Naturalization**
  - Lawful Permanent Resident
  - Service in the U.S. Armed Forces
  - Aggregate service of one year
  - No actual physical presence or continuous presence
  - If separated from service, must be honorable
  - Application must be filed during service or within 6 months of separation
- N-400/G-325B are filed with the Nebraska Service Center.
- Certified form N-426 is required or uncertified N-426 with Form DD-214.
Military Naturalization

- **INA § 329: Military Service During Hostilities**
  - Must serve or have served in the U.S. Armed Forces during certain hostilities.
  - Must continue to be in Armed Forces or was honorably discharged.
  - No physical presence or residency requirements.
  - N-426 is required or N-426 with DD Form 214.
  - Applicant does not have to be a permanent resident.


- Filing fees are waived for both §§ 328 and 329.
Standard Naturalization

- **INA § 316: Naturalization**
  - Permanent Resident for at least 5 years on date of application (90 days prior).
  - Continuous residence during statutory period.
  - Actual physical presence in U.S. for at least 30 months.
  - Reside in state/district for 3 months prior to filing.
  - Must possess GMC for at least 5 years
  - Must take oath; No requirement for honorable service.

- **INA § 319(a): Naturalization as Spouse of U.S. citizen**
  - Residency requirement is 3 years.
  - Must be married to U.S. citizen spouse for 3 years.
  - Must be living in marital union for 3 years.
  - Also qualifies for some VAWA beneficiaries.

- Must pay filing fee with N-400 when filing under 316 or 319.
Continuity of Residence

• In general, an absence between 6 months and one year raises a rebuttable presumption of interruption of continuity of residence. § 316(b)

• Absence of one year or more disrupts the continuity of residence = Abandonment.

• Exemption, Military Service Abroad (§ 328)

• Time spent abroad by the spouse or child of a member of the Armed Forces residing with their military spouse or parent is deemed to be time in the U.S. for residency and physical presence purposes. (§ 319(e))
Expedited Naturalization

- **INA § 319(b):** Expedited naturalization for permanent residents who are married to U.S. citizens.
  - U.S. citizen is stationed abroad.
  - U.S. citizen is employee of U.S. government.
  - Permanent resident spouse wants to accompany U.S. citizen abroad.
  - Waiver of the residency and physical presence requirements.

- N-400 application.

- Must be in U.S. at time of naturalization. Must declare intent to return to U.S. at end of deployment.

- Overseas naturalization is permitted for applicants who are married to U.S. military members stationed overseas
  - Must be authorized to accompany military member.
Posthumous Naturalization

- **INA § 329A**: Provides for grants of posthumous U.S. citizenship.

- Honorary status commemorating the bravery and sacrifice of an individual:
  - Filed by next-of-kin or Secretary of Defense.
  - Served honorably in active-duty status.
  - Died as a result of injury/disease of service.
  - Waiver of the residency and physical presence requirements.
  - Filed on Form N-644.
Posthumous Benefits

• Spouses, parents and minor children of U.S. citizens who are killed in combat, or who die from a combat-related injury, can retain their status as “immediate relatives” of the U.S. citizen.
  - U.S. citizen must have served in the military.
  - Must interfile an I-360 in place of I-130 petition.
  - Once permanent resident, spouse can immediately file for naturalization under INA § 319(d).
  - Also applies to spouses of U.S. citizen employees of private contractors who formerly served in U.S. military but who died in combat while employed by private contractor.
  - Must file within 2 years.
Court Martial and Immigration Consequences

• Crim. convictions may cause removal/affect GMC

• Two (2) types of Discharge
  – Administrative Discharge: May affect GMC
  – Punitive Discharge: May affect GMC and/or lead to removal proceeding

• Three (3) Types of Punishment
  – Article 15 (Basic Level of Punishment): No real consequences for GMC or removal.
  – Administrative Discharge Board: May affect GMC.
  – Court Martial: Is a “conviction” leading to removal.
Special Immigrant Visas

  - Annual cap of 50 visas each FY.
  - Must be interpreter or translator for 12 months.
  - Must obtain favorable written recommendation from unit supported.
  - Must undergo background check/screening.
  - Must meet all other eligibility requirements for immigrant visa.
  - Must file I-360 with filing fee.
Special Immigrant Visas

- Section 1244 of NDAA 08
  - 5,000 special immigrant visas for Iraqi employees and contractors.
  - Until FY 2012.
  - Includes spouses and children.
  - Must have been Iraqi national who worked for or were contractors of the U.S. government in Iraq for at least one year after March 20, 2003.
  - Must file I-360. No fee is required.
Important Contacts/Resources

• AILA Military Assistance Program (partnership with DOD)
  − www.aila.org/military
  − Susan Timmons at stimmons@aila.org
• USCIS military e-mail address: militaryinfo.nsc@dhs.gov
• Army’s Human Resources Command: The Soldier’s Guide to Citizenship
• Local Davis-Monthan-USCIS Immigration Office Contacts:
  − Jaime Yslas, Jaime.yslas@dhs.gov, 520-620-7539
  − Supervisor: Julie Hashimoto at 520-620-7291
  − Clinics by USCIS
Questions/Answers

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THANK YOU FOR LISTENING!!