

Fall 2006 Immigration Update 4

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Denver Among Ten Cities Testing New Naturalization Exam

In 2007, U.S. Citizenship and Immigration Services is piloting a new naturalization exam designed to focus more on concepts in citizenship and history rather than on facts.

According to a December 1 story in the *Denver Post*

(http://test.denverpost.com/headlines/ci_4752786), development of the new test was spurred by a 2000 congressional review that raised issues about the current exam. One of those issues was that applicants for naturalization might be memorizing answers without really understanding U.S. government. Thus, the new test is designed to assess understanding rather than simple recall.

To illustrate, the *Post* provided the following examples:

Current test question: What are the duties of the Supreme Court?

Answer: To interpret and explain the laws.

New test question: What does the judicial branch do?

Answer: Reviews and explains laws, resolves disputes between parties, and decides if a law goes against the Constitution.

The new test has generated controversy. Some immigrant advocacy groups fear that the new test will be a barrier to citizenship, especially for those who are still struggling with English and may have difficulty giving a complex answer in English.

The USCIS has also proposed raising the application fee from \$400 to \$600 and requiring that the application be filed on line. Immigration advocates feel these changes would also make becoming a citizen more difficult for many.

More information about the new exam is available at

<http://www.uscis.gov/portal/site/uscis>. Sample questions from the current exam are available at http://www.uscis.gov/files/article/Flashcard_questions.pdf.

Immigrants and Crime: What's the Relationship?

In debates on immigration, one topic often mentioned as a reason for clamping down on the number of unauthorized migrants is crime. Highly publicized and sensational crimes, such as the murder of Denver police officer Donny Young, fuel many Americans' perception of cities and neighborhoods with a high percentage of immigrants as crime-riddled. But what do the data say?

In a *New York Times Magazine* article on December 3, entitled "Do Immigrants Make Us Safer?", Eyal Press reported on several studies that indicate that crime rates are actually

lower in immigrant communities. For example, Robert Sampson of Harvard University studied crime in Chicago from 1995-2002, finding that the rate for violent crimes was lower among Mexican Americans than about American-born whites and African Americans. Other researchers have hypothesized that immigrants' settling into inner city neighborhoods are an important reason for the recent downturn in crime rates.

While these findings are positive, the picture is not entirely rosy. Alejandro Portes of Princeton and Ruben G. Rubaut of Michigan State studied immigrant children in Miami and San Diego and found that while first-generation immigrants were less likely to be incarcerated than American born whites, members of the second generation (except for Filipinos and Chinese) were more likely to be in jail. A study in New York seems to contradict those findings.

None of the researchers have hard evidence for the reasons behind the trends they noted, but considering those reasons—as well as for the public perception of the link between crime and immigration—would be excellent topics for classroom discussion.

Supreme Court Rules in Immigrant Drug Case

Tuesday, December 5, the U.S. Supreme Court issued an 8-1 ruling in a case (*Lopez v. Gonzales*) involving a legal immigrant who was deported to Mexico as a result of a conviction for aiding and abetting possession of drugs. The defendant, Jose Antonio Lopez, who operated a grocery store in Sioux Falls, South Dakota, told someone where they could obtain cocaine. Under South Dakota law, the crime was a felony; however, such crimes are usually punished as misdemeanors under the federal Controlled Substances Act.

The crux of the Supreme Court case was whether conviction of a crime that is a felony under state law but a misdemeanor under federal law would make the criminal eligible for deportation under the Immigration and Nationality Act. Under that act, a conviction for an aggravated felony triggers deportation.

The Court held that an act that is a felony under state law but not under federal law is not a felony for purposes of immigration. Writing for the court, Justice David Souter said that treating such an act as a felony "would be so much trickery." Justice Clarence Thomas dissented.

Lopez could still be deported, but deportation would not be automatic; that is, the immigration judge would have discretion.

Another immigration case was argued at the Supreme Court on December 5. This case, *Gonzales v. Duenas-Alvarez*, deals with whether unlawful driving or taking of a vehicle, in violation of the California Vehicle Code, is a deportable "theft offense" under federal immigration law.

First Charges Brought Under New Human Smuggling Law

In summer 2006, the Colorado legislature passed two bills making human smuggling and trafficking in humans class 3 felonies. The first charges under the human smuggling charges were filed on Monday, December 4. The charges involve Jose Franco-Rodriguez, who was driving a minivan that crashed on Interstate 70 November 28. Four of the van's fourteen passengers were killed.

Franco-Rodriguez faces 43 charges, 14 involving human smuggling. Each of the human smuggling charges carries a possible 12 years in prison and \$750,000 fine.

Online Immigration Resources

Three law professors at the University of California Davis Law School—Kevin R. Johnson, Bill O. Hing, and Jennifer Chacon—maintain a blog called Immigration Prof Blog. Found at <http://lawprofessors.typepad.com/immigration/>, the blog provides up-to-the-minute news on immigration and immigration law.

The Center for Immigration Studies, a think tank with a “pro-immigrant, low-immigration vision which seeks fewer immigrants but a warmer welcome for those admitted,” maintains two listservs providing immigration-related news, one daily and one weekly. For information about subscribing, see <http://www.cis.org/immigrationnews.html>.