

Post I-601A: Helping your clients navigate consular processing to become residents.

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Working with the National Visa Center (NVC)

- NVC is the Department of State agency inside the U.S. that prepares immigrant visa (IV) applications and schedules interviews with U.S. Embassies and Consulates abroad
- The specifics regarding the application process vary by consulate
- Contact the NVC each year!
 - After 1 year of no contact, repay IV fees
 - After 2 years of no contact, I-130 termination
- IV fees are \$445

Notification of NVC and Filing IV application

- USCIS automatically notifies NVC of I-601A approval
 - Note, NVC will not contact you or your client.
- Submit DS260 via www.ceac.state.gov; mail in supporting documentation
- Some supporting documents:
 - Original marriage, birth, divorce certificates
 - Criminal records (certified dispositions)
 - Police clearance letter (**now, necessary for Mexico too!**)
 - I-864 affidavit of support: NVC is very particular
 - Medical exam: usually obtained at the consulate
 - Copy of valid passport

Police Clearances

- Most countries require law enforcement clearance certificates, and now Mexico does as well.
- Need it for each state/country where your client lived after the age of 16.
- In Mexico, best practice is to go to state police (fiscalia general del estado)
 - Every state has a different form
 - Certificates from local cities are unacceptable
 - Talk to Mexican consulate in US for more info – very helpful
- Practice pointer: if your client can't get the certificate prior to filing with NVC, just submit to NVC a letter stating that your client will get the certificate when s/he goes to Mexico.

NVC schedules consular interview

- 1st notice: documents have been reviewed, in queue to be scheduled
 - about 1 month after filing
- 2nd notice: actual interview appointment notice
 - Currently, about 4 months from the date NVC initially receives your submission
 - About 3-5 weeks between interview notice letter and the date of the interview— not much time to plan
- Check lists – and further delays

Preparing pre-interview logistics

- Fingerprint appointment: may be necessary
 - Applies to Ciudad Juarez, Mexico, but not all consulates
 - For Ciudad Juarez, you need to schedule the fingerprint appointment through the DOS webpage
- DHL location: may need to notify consulate of a DHL location for future correspondence.
 - Applies to Ciudad Juarez, Mexico and most consulates
- Medical exam: usually possible to schedule in advance
- Practice tip: put attorney email in consulate website to receive confirmation of fingerprint appointment/ DHL location

Last minute checks before leaving the US

- This step mirrors your screening process that you did prior to filing I-130 and I-601A (which is SO important!)
- Review smuggling issues – 212(a)(6)(E)(i) -- especially relevant if your client has undocumented children in the US
 - Prior to 1990, only smuggling if exchange of money. Now, it is very broad.
 - Need knowledge + affirmative act
 - “Smuggling” is a “priority” for DHS under President Trump
- Check for “reason to believe...engage in other unlawful activity”
 - 212(a)(3)(A)(ii)
 - Especially important in CDJ, Mexico
 - Tattoo + gang related arrests + law enforcement intelligence
 - Do your own research
 - i.e. Publicintelligence.net : search “gang tattoos”

Arrival: When should your client arrive in the city of the consulate?

- Generally several days prior to consular interview:
- In Ciudad Juarez, Mexico: 3-4 days
 - 1st full day: medical exam
 - 2nd full day: fingerprint appointment
 - 3rd full day: consular interview
- Special considerations for minors (under 14):
 - May need medical various days before their consular interview
 - In Ciudad Juarez, the medical must be 4 days prior

What to expect at the medical exam/ fingerprint appointment

- Your client should take:
 - Passport, interview and biometrics appointment letters, DS-260 confirmation page (to all 3 appointments: fingerprint appointment if applicable, medical exam, consular interview)
 - Vaccination records to medical exam
 - Some consulates require additional pictures for the medical exam
- Potential grounds of inadmissibility--common grounds: alcoholism, drug use, security grounds
 - Alcohol:
 - DOS: will refer for evaluation with panel physician if 1 alcohol-related arrest/conviction within 5 years, or 2 in 10 years. Would trigger class A current or past mental or physical disorder with harmful behaviors
 - CDJ is extreme about this. If your client has any DUI arrests, you may want to prepare your client with AA letters, proof of rehabilitation to take
 - Infra-red light to check for removed tattoos
 - Questions on drugs/ alcohol, even one time recreational marijuana use (even if it was legal in place of consumption)

Consular Interview: how to prepare and the day of the interview

- Consular officer discusses contents of application; review DS260 packet with your client and give her a copy.
 - Important to prepare client for interview!
- Take originals to interview
 - Note, NVC only accepts original signatures (on I-864s), but not documents, so all clients will be taking original marriage/ birth/ divorce, 2 passport style photos, etc. certificate to the consular interview
- Warn your clients about scams
 - See e.g., AILA Doc 12121343 regarding Ciudad Juarez, and how your client can avoid scams
- Possibility of denials:
 - Potential finding of additional grounds of inadmissibility
 - I-601A will be revoked.
 - No appeals, but can contest issues of law through advisory opinion

Submitting new waivers

- Is a waiver available?
 - Smuggling: it depends who was “smuggled” and who smuggled
 - INA 212(d)(11)
 - Must be family based petition (but not 4th preference!)
 - Smuggled ONLY their parent, spouse, son or daughter (at time of smuggling)
 - Alcoholism: wait required time before re-filing or file I-601
 - Drug use: wait 1 year before re-filing
 - Security grounds: no waiver available
 - Public charge issues (new FAM guidance as of 3/12/18: 9 FAM 302.8)
- Check the standard:
 - i.e., smuggling: INA 212(d)(11), “humanitarian purpose, assure family unity, in public interest”
- Where to file I-601: check USCIS.gov
- Practice pointer: include content from I-601A waiver, and make sure to ask for waiver of unlawful presence (because I-601A gets revoked)
- Timing: check processing times + 1 – 2 month delay in communication of approval from USCIS to consulate
 - Client will likely need new fingerprints/ clearance letter and medical exam
- Can appeal denial of I-601 waiver to Administrative Appeals Office (AO), on form I-290B, or re-file

IV approved! Waiting for your client's visa

- Consulates will usually mail passport with visa stamp to previously chosen DHL location
 - Check consulate's page for delivery information, with passport number, DOB, and country
 - Usually takes around 3 – 14 days
 - Packet contains client's A#, passport with immigrant visa, and a sealed envelope to give to CBP upon admission to U.S.
- Client must enter the U.S. within allowed time frame on immigrant visa in passport

Immigrant visa fee

- USCIS now requires payment of \$220 to issue the I-551, the actual green card
- CBP often requests proof of payment, but it is not necessary to pay prior to entry in the U.S.
 - Clients do need to submit sealed envelope to CBP
- Practice pointer: clients must have an email address to pay this fee; if they don't have one/ cannot figure out website, they can pay once they are back in the U.S. with someone to help them

Conclusion

- Applications processed through NVC; each consulate has specific and varying requirements. Check the DOS website for current requirements.
- Importance of preparing:
 - Pre-screen your client (before I-130/ 601A, and before interview) to ensure no other grounds of inadmissibility
 - Check the consulate specific website for information on medical exams, whether or not to schedule fingerprint appointments, need extra pictures for medical exam, etc.
 - Arrive in city a few days prior to the consular interview.