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America Goes Global

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judges, attorneys, and staff in many courts and agencies can make a court or administrative agency experience incomprehensible and seemingly unfair. Immigrants who are stopped, picked up, or who otherwise run afoul of the law, particularly after 9/11, may face deportation or long periods of detention in jails and other holding facilities. If they are young, their noncitizen or permanent resident parents may be afraid to contact the authorities. Demographic changes make these issues much more complex and pressing.

In the early 1900s, most immigrants came from Italy, Austria, Hungary, Russia, Canada, and England. During the 1920s, Mexico emerged as a significant contributor and today accounts for the greatest flow of immigrants entering the United States. After Mexico, the largest number of immigrants to the U.S. today come from the Philippines, China, and India.

According to University of Virginia Professor Daphne Spain, “recent immigrants are twice as likely to be poor as earlier arrivals or native-born citizens.” Spain, Daphne. “The Debate in the United States Over Immigration.” *U.S. Society & Values*. Electronic Journals of the U.S. Information Agency. Vol. 4 Bureau of Information/U.S. Information Agency/No. 2, Washington, D.C. (June 1999) at pg 20. Such statistics on economic well-being reflect different employment and education patterns. Further, people of color and white people do not draw equally from the well of opportunity and access. And, people of color and white people do not see themselves equally represented in schools, the workplace, the bar, or on the bench.

Culturally aware, competent, and sensitive attorneys, judges, and court personnel are always important. But, in light of the growing racial and ethnic diversity of the American population, that need is more desperate and appropriate than ever. There is little, however, to suggest that the lack of access and parity of opportunity will change in the near future. Thus, the big challenge for family lawyers, in conjunction with judges and court personnel, is to create and maintain a justice system that with fairness and equity serves all.

By 2050, total population of the United States will be approximately 392 million.

- 52% White
- 14% African American
- 10% Asian
- 22% Hispanic
- 2% Other

By 2010, with a total U.S. population of more than 300 million, people of color are expected to be the majority in the most populous U.S. cities and states.

America Goes Global

By Daniel Kanstroom

The label “foreign-born” takes on new meaning in a post-9/11 world

Nobody knows for sure how many foreign-born people actually live in our “nation of immigrants,” but, no doubt, it is a large number. As importantly, they live in many respects without the rights U.S. citizens routinely accept as constitutional heritage.

Noncitizens in the United States do retain important constitutional rights, including versions of equal protection and free speech rights that are analogous, but not identical, to those of citizens. But when they are subject to deportation or when they travel outside the United States, these rights become minimal and in many situations nonexistent. Noncitizens may be deported by operation of retroactive laws. They may be incarcerated upon mere accusation with no right to bail—potentially for many months or years—while their cases wend their way through an underfunded, Kafkaesque system. They may be permanently separated from home and family by agency orders.
without judicial review. The realm of the potentially "rightless" is bigger than you might suspect. The now-defunct U.S. Immigration and Naturalization Service (dissolved as of March 1, 2003, when its functions were transferred to the newly-created Department of Homeland Security (DHS), calculated that more than 11 million people immigrated legally to the United States from 1991 through 2002. Many millions more have entered legally as temporary nonmigrants. Most have left as required by law, but many have not. By best estimates, between seven and eight million people now live in the U.S. without legal status. In 2000, the INS estimated the number of undocumented persons in this country at seven million. The Pew Hispanic Study Center offered a mid-range estimate of 7.8 million in 2001.

**Foreign born**
The foreign-born—some of whom are naturalized citizens—comprise a significant percentage of the total U.S. population. In March 2002, the U.S. Census Bureau calculated a total U.S. population of some 282 million people, of whom more than 32.5 million were foreign-born, representing approximately 11.5 percent of the U.S. population. More than 20 million foreign-born people were counted as noncitizens, but this may reflect undercounting of the undocumented population.

The contemporary foreign-born population of the United States is mostly non-European and mostly people of color. The largest number of foreign-born persons in the U.S.—52.2 percent—were born in Latin America, with 25.5 percent born in Asia, and 14 percent from Europe. The foreign-born population also is on the whole much younger and more urban than the native-born. More than 80 percent of the foreign-born are between 18 and 64 years of age. Among the native-born population, the number is 59.9 percent. Some 45 percent of the foreign-born are in the 25 to 44 age bracket, compared with 23 percent of the native-born.

**Newcomers**
The vast majority of foreign-born residents in the U.S. are relative newcomers. Some three quarters of noncitizens in this country have arrived in the last quarter century, and nearly half (48 percent) have entered the United States since 1990. Many have become U.S. citizens, but this tendency seems to have slowed significantly in the 1990s.

Naturalization records show that 45 percent of those who entered the U.S. in the 1980s had naturalized by 2002, whereas only 12.7 percent of those who entered in 1990 or later had done so. Proponents of "family values" may be interested to learn that family households with a foreign-born member were twice as likely to contain five or more people than native-born households.

Place of birth and citizenship status are strongly related to poverty in the United States. In 2001, 16.1 percent of the foreign-born lived below the poverty level, compared with 11.1 percent of natives. Naturalization makes a huge difference in the prospects of the foreign-born, however. Those foreign-born persons who remained noncitizens were twice as likely to be poor as those who naturalized.

These data are striking in that they demonstrate the existence of a large, discrete population that, when compared with the majority native-born population is: young, mostly people of color, newly arrived, and relatively poor. Also a generally accepted conservative estimate is that more than one in five residents of the United States is either foreign-born or a native-born child of immigrant parents. In 1999, The Urban Institute determined that 9 percent of all U.S. families were of "mixed status," meaning that they contained at least one noncitizen parent and one citizen child. All Under One Roof: Mixed Status Families in an Era of Reform (Urban Institute, June 1999). The percentage was estimated at 27 percent in California. As Donald Kerwin has noted, "Measures designed to impact the undocumented can and do have an impact on [lawful permanent residents] and U.S. citizens, and those individuals are often children." Donald S. Kerwin, "How Our Immigration Laws Divide, Depopulate, and Undermine American Families," 76 Interpreter Releases, 31, 1213 (Aug. 16, 1999). Thus, many more than 32.5 million people in the United States are personally affected by the conditions of the foreign-born population.

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