



# Immigration Monthly

**November 2006**

- *Fences and Mushrooms Along the Border* by Michael A. Olivas.
- **PERM Workshop, New York City, Dec 1<sup>st</sup>, 2006**

I once had a friend who told me that she just cringed every time a professional woman on campus said or did something stupid. I remember trying to assure her that most men didn't feel that way, but I know better now what she meant. Recently, an undocumented Mexican in Houston was accused of killing a police officer after being apprehended for a traffic stop. When I saw the guy on television and heard he was not only undocumented but a once-deported felon, I just cringed, knowing the immigrant-bashing that was sure to come. And I am not identifying with the guy - I am Mexican American, but my people

have been in the United States since 1695, before there was a United States. (My grandfather, born in territorial New Mexico in the 1890's, used to say that the border crossed our family, not the other way around.) Sure enough, the Houston Police Department amended its policy to ratchet up its immigrant enforcement and apprehension. I surely do not want this guy back in the country, but how will HPD enforce a policy that essentially singles out detainees who look Mexican, and how will immigrant communities respond to police initiatives and law enforcement when they become aware that HPD is taking on immigration duties?

All this came to mind as I saw President Bush signing the "Secure Fence Act of 2006." The bill, passed by the U.S. Senate on September 29, 2006, authorizes the construction of 700 miles of new border fencing along the U.S.-Mexico border. His acquiescing to this bit of political theater makes him just another victim of 9/11, when his then-scheduled bilateral talks with Mexican President Vincente Fox were made impossible. It surely is a sign of his political isolation. But about this fence, I reserve the only proper response: laughing out loud at its absurdity. At election time

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**New York City: December 1st,  
2006 8:30am-5pm**

**Speakers: Joel Stewart, Laura N. Jasinsky,  
Lawrence H. Rudnick, Careen B. Shannon,  
Nathan Waxman & others**

**Registration & Breakfast 8:30am-9:00am**

**Session 1: 9:00am-10:30am**

Mechanics of PERM, Preparation of PERM, Prevailing wage

**Session 2: 10:45am-12:15pm**

The Recruitment Process & Strategy, Regular Recruitment, Review of Resumes, Contacting and Interviewing US Workers, Recruitment Reports & Categorizing Reasons for Rejection, Preparing the Record File and Supporting Documents.

**Lunch Program & Presentation 12:15pm-1:45pm**

**Session 3: 1:45pm-3:15pm**

Restrictive Requirements, Defining Normal Requirements, Audit Proofing, Electronic Filing

**Session 4: 3:30pm-5pm**

Audits, Motions for Reconsideration, Appeals to BALCA, & Federal Court Litigation

THE PERM BOOK, and the June 2006 and September 2006 editions of PQ: The PERM Quarterly are included as the materials. (The materials alone are a \$600 value!)

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these days, the most dangerous place to be is between a candidate and the border, all of them on the side of increased border security in the name of reducing terrorism. Other than the American jihadist, is there anyone who is not for reducing terrorism? Can any serious person believe that fencing ourselves in will work to keep the bad guys out? My colleague at the University of Houston, sociologist Nestor Rodriguez, has demonstrated in his careful scholarship over the last decade that all that enhanced security and border-crossing militarization has achieved has been to drive the border-crossers further into the desert, where more of them die.

I had hoped that the President's time in Texas and experience with Mexicans would lead to more meaningful and comprehensive immigration reform, not just the jingoistic resort to this bandaid. When permanent residents have more than a decade-long wait to reunite with their families, as Mexicans, Filipinos, and others do (due to the per-country limitations and the backlogs), and when federal laws have squeezed out virtually all the ways that Mexicans can legally come to the US, it is little wonder that so many enter without inspection. Reinstating the hated bracero "guest-worker" program will hardly scratch the surface, and such initiatives could only work if they were coupled fairly with more nuanced naturalization and legalization efforts.

Into this gap, local and state efforts have been enacted to do the federal government's job. In Redondo Beach, CA, Farmingdale, NY, Hazelton, PA, Valley Park, MO, Norcross, GA and elsewhere

this failure of federal resolve and singlemindedness about punishing immigrants is playing out, exacting a political tax upon all those who look different from the local population. The first person arrested in Georgia when a township enacted a comprehensive immigration ban in 1999 was Spanish language Christian minister Carlos Guevara, who was prosecuted under the English-only provisions for posting signs for church services in the language of his congregation. Even though this ordinance was struck down, as was the 1996 assault upon immigrants in California, in the guise of Proposition 187, these efforts have increased like mushrooms after a soaking rainfall.

National Conference of State Legislatures data show that over 500 immigration-related bills were introduced in state legislatures in the first half of 2006 alone, and that 79 had been enacted, in 33 states. This hydraulic reaction of local townships and states undertaking the dirty work while the national government fulminates is now beginning to get politicians and policymakers to question the federal preemption powers, including the exclusive role for Congress. And some of these are just demonstrably shortsighted. As one example, by denying the undocumented any means of securing drivers licenses, we have created an entire population of unlicensed and uninsured drivers, who cannot purchase insurance in any circumstances. We are all made less-secure by resorting to the easy solutions, which have such clearly counterproductive results. While earlier cases have struck down state foreign policies and petty nuisance regulations, do we really want

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500 immigration regulators, all of them outracing each other to the bottom?

And restrictionist groups and Fox Channel-racebaiting seem to have won the rhetorical battle, if not the high ground. Who would have thought that the outrageous term “anchor-baby” would have entered the lexicon, as if these citizen children born in the United States somehow can convey immigration benefits to their mothers, when laws preclude any such derivative immigration status until the petitioner is 21 years of age? How clever of these children to have arranged to have been born here! I have waged an unsuccessful battle with the New York Times to purge their pages of the offensive term “illegal alien,” which many other print and film media employ because it is in the Times style manual. Even moderates and progressive legislators have succumbed to the siren song, as Barack Obama and others voted for this chimerical lure of fencing off our borders. If the movie The Graduate were being re-made today, the word would not be “plastics.” In this setting, it would be “Halliburton.”

As with any other such complex issue, a one-sided, enforcement-only measure cannot work, and these policymakers and elected officials know better. Shame on them.

Note: This article originally appeared in [JURIST](http://www.jurist.com) on October 26, 2006.

## About The Author

Michael A. Olivas is William B. Bates Distinguished Chair in Law at the [University of Houston Law Center](#).

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