



**Consular Corner**  
**December 2011**  
by: Liam Schwartz\*

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**Happy 2012**

*Consular Corner* wishes its readers a happy and healthy new year. To the Foreign Service Officers out there: Thank you for your service!

**Background Note: Israel**

The Department of State published its newly revised Background Note on Israel earlier this month. Comprising 6,890 words, this publication offers a description of the history and people of Israel from the 1800's to the present.

One word is conspicuously absent from the Background Note: "Holocaust."

6,890 words – without the one single word which most informs the modern-day history and people of Israel.

To the drafters of this Background Note: Use the word "Holocaust" and you've expressed a central theme of modern Israel. Use the word "Holocaust" and you've remembered that it happened. Use the word.

<http://www.state.gov/r/pa/ei/bgn/3581.htm>

**Diplomatic Ties**

Standard attire for American diplomats used to be a [blue gold-embroidered coat](#), white breeches and stockings, and a sword. Today, most foreign service officers working a busy visa line would probably feel a bit awkward in this wardrobe (although some might opt for the sword).

While the State Department no longer has an official dress code, it does urge its employees to comply with certain common-sense fashion guidance:

"...as the leading U.S. foreign affairs agency, the Department of State is in the front line of customer service to the public at home and abroad. This mission requires that our employees project competence and professionalism. Therefore, the appearance of employees should also be professional in a way that conveys respect for colleagues, customers, and the work environment and should not pose a safety or health hazard or distraction from work. "

[http://careers.state.gov/uploads/02/5b/025ba550e78552f99d70834077adef67/4.0\\_Student\\_Intern\\_brochure\\_Oct272011.pdf](http://careers.state.gov/uploads/02/5b/025ba550e78552f99d70834077adef67/4.0_Student_Intern_brochure_Oct272011.pdf)

In the absence of a formal dress code, how can an incoming foreign service officer decide which attire best projects competence and professionalism in his or her new job? One officer received some good on-line fashion advice:

"After about a 1.5 year process, I've been offered (and accepted) a position with the US State Department as a Foreign Service Officer. I am 38 and have worked all my life in the information technology field in Silicon Valley. Current work wear is chinos, oxford shirts and perhaps a sweater, loafer shoes.

I've had very little occasion to wear a suit - I own exactly one - a charcoal Calvin Klein that is my wedding / funeral / interview suit. It is a 3 button and fits well. In my new career, I am going to need a new wardrobe - I figure at a minimum 3 more suits (navy, navy pin, grey and / or black), as well as some shirts and ties. I like 3 button suits, so will shop for those.

So my question is this - where should I go to buy these suits? I'm ready (and somewhat prepared financially) to spend what's required. Judging from Brooks Brothers prices, I will need about 3 to 4k \$ for 3 suits and 6 or 7 shirts with ties. Should I shop at Brooks Brothers? I want suits that will last a good while, both in terms of wear as well as fashion. I would like to shop locally (Silicon Valley) as I find it very hard to mail order clothing - my body doesn't lend itself well to 'off-the-rack' clothing. I need a store that I can trust will put me into suits that are appropriate and fit well.

Most of my work initially at State will be seated (visa adjudication) with some American citizen services work mixed in (births, deaths, etc.). There will be official meetings, parties, etc. to attend. In other words, I need a good all-around formal wardrobe.

Am I correct in my wardrobe calculations? Frankly, I am a dope when it comes to buying a suit - I don't want to buy something that will fall apart in a few days, I also don't want to look like Ambassador Dufflebag when I get to post. Any suggestions would be much appreciated. My report date is March 29th in DC. I need to have everything wrapped up well before that time.

**First Reply:** Congratulations. Don't go hog wild on the clothes until you find out where you are posted. Many places will afford the opportunity for bespoke. DOS (and the whole interagency team) dress like the rest of the USG, average or below. If you can do better, that's great. Men's Wearhouse is probably good enough.

**Second Reply:** Don't make the navy pinstripe too bold, it will definitely stand out. Most government employees will be in solid colors. I would recommend a navy and two grey scale colors. Welcome to Foggy Bottom.

**Third Reply:** You're going to spend your first year stuck in Arlington at A100 and other courses before going anywhere. While it will still be important to make a good first impression, you don't have to go all out for training. I recommend

getting a suit or two before you arrive, then take a look around before buying the rest. Also, as others have said, you'll probably want to find out where you'll be moving before buying a complete wardrobe."

<http://www.styleforum.net/t/165188/hired-by-us-state-department-into-diplomatic-corps-need-wardrobe-advice>

We at *Consular Corner* also recommend these three important fashion tips to new officers arriving at their designated visa lines:

1. Never wear a short sleeve shirt with a tie. Short sleeve shirts are perceived as lower class apparel. Fine as part of a uniform or if you aspire to be a fast-food manager, not if you want to project a *professional image*.
2. Suit and Sports jackets are symbols of authority.
3. No pens or pocket protectors in your shirt pocket.

<http://www.askandyaboutclothes.com/Clothes%20Articles/ClothesDOMakeTheMan.htm>

Finally, FSOs concerned about projecting a professional appearance might be interested in this analysis of how presidential-hopeful Barak Obama knotted his ties in 2008 (check out the fantastic "how-to" tie-knotting video, too):

<http://www.thedailybeast.com/newsweek/2008/10/13/political-ties.html>

### **Visa Interviews: Showing 'Em How It's Done**

Consular officers are tasked with using "best interviewing techniques to elicit pertinent information in order to assess the alien's qualifications for the visa." (See 9 FAM 41.102).

To mark Mission China's one millionth visa adjudication in 2011, Ambassador Gary Locke showed the minions how it's done:

**"Ambassador Locke:** And why are you traveling to the United States?

**Visa Recipient:** To go to Los Angeles.

**Ambassador Locke:** How long do you plan to visit the United States?

**Visa Recipient:** About one month.

**Ambassador Locke:** Is this your first visit to the United States?

**Visa Recipient:** Yes, the first time to me.

**Ambassador Locke:** Why do you want to visit the United States?

**Visa Recipient:** Actually many Chinese want to travel to the U.S. to have a look, experience the U.S.

**Ambassador Locke:** When you go to the United States, if you go to Los Angeles, are you going to go visit Disneyland?

**Visa Recipient:** Yes, that's one of our destinations because we are with kids.

**Ambassador Locke:** Our family has traveled to Disneyland many, many times and we very much enjoy it. You'll have fun.

[Visa presented.]"

For a lawyer with no formal foreign service training, the Ambassador's a natural! (And BTW, kudos on the million visa adjudications!)

<http://beijing.usembassy-china.org.cn/121411amb.html>

### **Super Canadians**

U.S. immigration law contains no special accommodation for foreign "Seniors" hoping to spend an extended period of time with their American children and grandchildren. Grandparents may apply for multiple-entry B-2 tourist visas at a U.S. consular post and, if the visa is issued, may seek to be admitted to America for a period of up to six months. Those seeking to stay longer must apply for an extension of stay, or depart and re-enter the country, often at great expense and trouble for elderly visitors.

In Canada, the visa situation for grandparents has been virtually identical – until December 1<sup>st</sup> that is, when our neighbors to the north introduced an intelligent and compassionate new visa option which will allow parents and grandparents to visit with their Canadian families for up to two years. Called the "Super Visa," this special status is available to the parents and grandparents of Canadian citizens and permanent residents. The Super Visa, which is issued for multiple-entries, means less expense and greater certainty for parents and grandparents.

In order to ensure that admitting elderly visitors for extended periods of time will not become a burden to Canadian taxpayers, the Super Visa requires the applicant to provide the following evidence of financial and medical support:

1. A written commitment of financial support from a child or grandchild in Canada who meets a minimum income threshold;
2. Proof that they have acquired Canadian medical insurance coverage for at least one year;
3. Completion of an immigration medical exam.

More information on the Super Visa can be found here:  
<http://www.cic.gc.ca/english/visit/supervisa.asp>

The Super Visa is a small step taken by the Canadian government which will contribute hugely to the humaneness of the national visa system. Our modest wish for 2012: Let's create a red-white-and-blue version of the Super Visa.

### **You be the Judge**

Jawid, a Legal Permanent Resident (LPR), was convicted in late 1999 of a crime of violence. He received a 365-day suspended sentence, to be served in the year 2000. DHS began removal proceedings on the basis of the conviction; Jawid requested cancellation of these proceedings.

The applicable statute provides that a non-citizen (like Jawid) who commits a crime of violence (as did Jawid) for which the term of imprisonment is "at least one year" (his was 365 days) has committed an aggravated felony. LPRs convicted of an aggravated felony are ineligible for cancellation of removal.

So Jawid's request to prevent his removal is doomed to failure, right?

Maybe not. How many days are there in a year?

365, except for leap years, which have 366 days.

Jawid was sentenced to a term of imprisonment of 365 days in a leap year.

You be the Judge: Does the fact that Jawid was sentenced to 365 days in a 366 day-year mean that, per the applicable statute, he did not commit an aggravated felony?

### **Keep it Current**

The Department of State maintains an [internet page](#) dedicated to informing the public about new visa policy guidance transmitted to U.S. Embassies and Consulates. In the years 2001 - 2010, the Department published 156 such Visa Policy Updates. That's an average of more than 15 updates per year.

In 2011, the Department made just 1 Visa Policy Update available to the public.

This sole update was published in January, meaning there has been an 11 month public blackout on Visa Policy Guidance updates.

The DOS Visa Policy Guidance internet page informs us of the following:

"From time to time, the Visa Office transmits policy guidance to U.S. Embassies and Consulates around the world, with selections listed on this webpage. Following government website best practices, we've streamlined the formatting of these updates."

The government website best practices followed by the Visa Office are described at length [here](#).

One such best practice ("Keep Content Current") provides as follows:

"The public trusts U.S. Government websites to provide current and accurate information. Are you doing all you can to ensure that trust is well-deserved?"

In a year replete with procedural and substantive visa developments - unprecedented visa demand from Brazil to India to China, introduction of the Global Support Services program and centralization of certain types of visa applications to name just a few - we're not sure how the Department would respond to this last question.

### **You be the Judge – The Actual Case**

The Ninth Circuit clarified that a legal year is twelve consecutive calendar months, although the length of an astronomical year may vary. Thus, for purposes of the applicable statute, a sentence of 365 days qualifies as a term of imprisonment of at least "one year," even when the sentence is served during a leap year. To rule differently, the Court said, would lead to "an inconsistent and absurd result, subjecting aliens to a different set of rules depending on whether or not they were sentenced in a leap year."

Accordingly, Jawid was convicted of an aggravated felony and was ineligible for cancellation of removal.

<http://www.ca9.uscourts.gov/datastore/opinions/2011/09/14/06-72111.pdf>

PS: The Court's decision means that Jawid should not expect to return to the United States anytime soon. As per 9 FAM 40.91 N1.4 ("Permanent Bar"):

"If an alien who has been removed has also been convicted of an aggravated felony, the alien is permanently inadmissible for a visa under INA 212(a)(9)(A)(i) or 212(a)(9)(A)(ii), as appropriate."

<http://www.state.gov/documents/organization/87034.pdf>

### **Changes to the Foreign Affairs Manual (FAM) Monthly Report**

Personal Interview of Immigrant Visa Applicants (9 FAM 42.62 N1)

The techniques for good visa interviewing deserve careful attention. In a recent FAM update, the Department provides consular officers with enhanced guidance regarding these techniques in the context of immigrant visa interviews:

- Make every effort to conduct visa interviews professionally
- Avoid any semblance of aggressive cross-examination
- Applicants should be given sufficient time to answer questions without interruption.
- Officers must make a thorough and carefully written record of the interview so that the basis for the final action can be fully documented.
- The demands of visa interviews requires the consular officer's composure, judgment and diplomatic skills.

We hope this doesn't sound rude, but does conducting interviews "professionally" mean that consular officers have to act like [Judith Martin](#) in carrying out one of their most demanding duties? Consular officers are on the front lines of homeland security, tasked with using the visa interview to identify potential security concerns. As this new FAM update suggests, politeness is a virtue – but we hope officers feel free to aggressively question visa applicants and interrupt their answers, if that's what it takes.

<http://www.state.gov/documents/organization/87877.pdf>

### **Consular Corner Quiz**

1. What is the Internet-based application for monitoring international students, exchange visitors, and their dependents in the United States?
2. How long does DOS require visa applicants to wait before making inquiries about the status of cases undergoing administrative processing?
3. Who is America's "Protecting Power" in Tehran, Iran?
4. Can an applicant withdraw his or her pending visa application in order to avoid a refusal?
5. What is the official articulation of directives that apply to the activities of the Department of State, including visa processing?

6. What percentage of American students are enrolled in college study overseas?

7. True or false: An O-3 accompanying spouse is permitted to study during their stay in the United States.

8. Which of the following will violate legal status in the U.S. if he or she performs skilled or unskilled labor as a B-1 nonimmigrant?

- (a) A Minister on an evangelical tour.
- (b) A member of a Board of Directors of a U.S. corporation
- (c) A personal employee of a U.S. legal permanent resident
- (d) A business person seeking to invest in the U.S.
- (e) An investigator undertaking independent research.

9. According to the DOS Office of Inspector General, it would be "absurd" to deny tourist visas to this group to applicants under the immigrant intent provisions of INA 214(b). To which group of applicants was the OIG referring?

10. Ambassador Gary Locke previously served two terms as Governor of which State?

**Top Ten Visa Wait Times at U.S. Consular Posts, December 2011\***

Deputy Assistant Secretary of State for Visa Services David T. Donahue outlines the Department's plans to achieve low wait times in China and Brazil: New consular positions, shifting existing positions to high-demand locations, adding Limited Non-Career Appointments, and increasing the number of interview windows. <http://www.aci-na.org/sites/default/files/donahuedavid-visaissues.pdf>

#	Country	Consular Post	Visa Wait Time	Increase/decrease from Last Month	Top 10 Position Last Month
1	Cuba	Havana (U.S. Interests Section)	999 days	Unchanged	1

2	Venezuela	Caracas	217 days	+ 15 days	2
3	Nigeria	Abuja	161 days	-2 days	3
4	Nigeria	Lagos	94 days	-26 days	4
5	Brazil	Sao Paulo	86 days	- 12 days	6 (tie)
6	Brazil	Rio de Janeiro	80 days	- 12 days	7
7	Brazil	Recife	75 days	- 6 days	8
8	Mexico	Guadalajara	60 days	+ 55 days	New Listing
9	Guatemala	Guatemala City	59 days	+ 47 days	New Listing
10	Algeria	Algiers	45 days	+ 10 days	New Listing

\*\* Updated to December 7, 2011 and based on published Department of State data. The “visa wait time” is the estimated time in which individuals need to wait to obtain a nonimmigrant visa interview appointment at a given consular post.

### **Top Wait Times by Region**

<b>The Americas (excluding Cuba)</b>	Venezuela/Caracas	(217 days)
<b>Africa</b>	Nigeria/Abuja	(161 days)
<b>Middle East and North Africa</b>	Algeria/Algiers	(45 days)
<b>Europe and Eurasia</b>	Italy/Milan	(43 days)
<b>Central and South Asia</b>	India/Hyderabad	(15 days)
<b>East Asia and Pacific</b>	Burma/Rangoon	(15 days)

### **Answers to Consular Corner Quiz**

- 1) Student and Exchange Visitor Information System ("SEVIS").
- 2) 60 days from the date of the visa interview or the submission of supplemental documents, whichever is later.  
[http://travel.state.gov/visa/a\\_zindex/a\\_zindex\\_4353.html](http://travel.state.gov/visa/a_zindex/a_zindex_4353.html)

- 3) Switzerland. <http://iran.usembassy.gov/about-us.html>
- 4) No. Per 9 FAM 41.103 N12.6: "If an applicant withdraws a visa application while it is pending adjudication, the case should not be deleted but should be refused 221(g)." <http://www.state.gov/documents/organization/87428.pdf>
- 5) The Foreign Affairs Manual. 2 FAM 1115.1  
<http://www.state.gov/documents/organization/84448.pdf>
- 6) 1%  
<http://www.iie.org/Who-We-Are/News-and-Events/Press-Center/Press-Releases/2011/2011-11-14-Open-Doors-Study-Abroad>
- 7) True. <http://www.state.gov/documents/organization/87233.pdf>
- 8) (c) 9 FAM 41.31  
<http://www.state.gov/documents/organization/87206.pdf>
- 9) "Grandparents of limited means who merely wish to see newborn grandchildren." <http://oig.state.gov/documents/organization/126337.pdf>
- 10) Washington State.  
<http://beijing.usembassy-china.org.cn/ambassador11.html>

### **Quote of the Corner**

"We want to issue visas! Really we do!"

Consulate General Jerusalem with a reassuring message to visa applicants.  
<http://jerusalem.usconsulate.gov/fastlane4.html>

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