Exhibit M

U.S. Department of State Foreign Affairs Manual Homepage

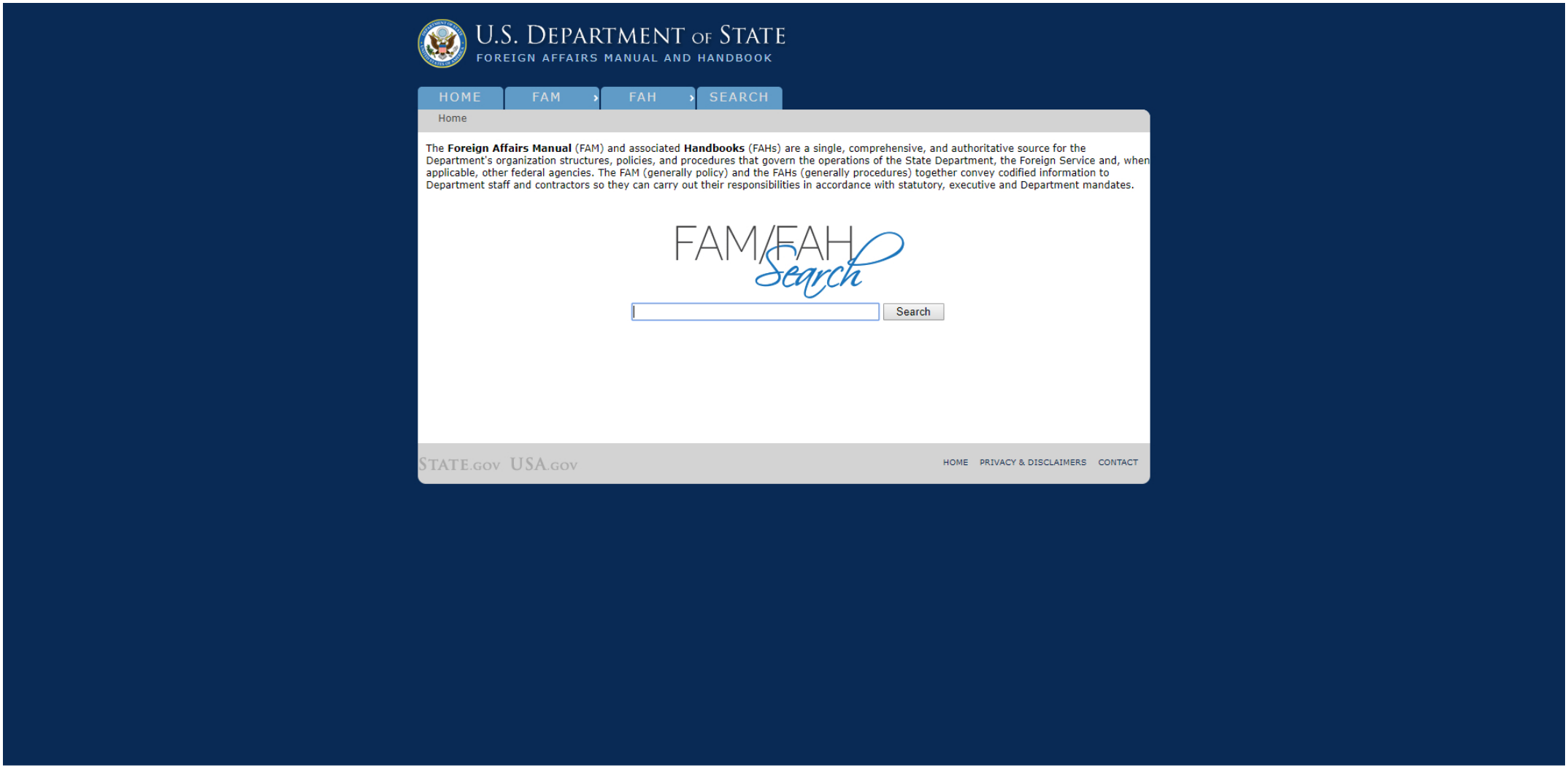

Exhibit N

8 FAM § 301.4 ("Acquisition by Birth Abroad to U.S. Citizen Parent(s) and Evolution of Key Statutes")

UNCLASSIFIED (U)

8 FAM 301.4

ACQUISITION BY BIRTH ABROAD TO U.S. CITIZEN PARENT(S) AND EVOLUTION OF KEY STATUTES

(CT:CITZ-13; 11-07-2018)
(Office of Origin: CA/PPT/S/A)

8 FAM 301.4-1 (U) BASIS FOR DETERMINATION OF ACQUISITION

8 FAM 301.4-1(A) Authority

8 FAM 301.4-1(A)(1) Federal Statutes

(CT:CITZ-1; 06-27-2018)

a. Acquisition of U.S. citizenship by birth abroad to a U.S. citizen parent is governed by Federal statutes. Only insofar as Congress has provided in such statutes, does the United States follow the traditionally Roman law principle of "jus sanguinis" under which citizenship is acquired by descent (see 8 FAM 301.1.

b. Section 104(a) of the Immigration and Nationality Act (8 U.S.C. 1104(a)) gives the Secretary of State the responsibility for the administration and enforcement of all nationality laws relating to "the determination of nationality of a person not in the United States."

8 FAM 301.4-1(A)(2) Applicable Statute

(CT:CITZ-1; 06-27-2018)

The law applicable in the case of a person born abroad who claims citizenship is the law in effect when the person was born, unless a later law applies retroactively to persons who had not already become citizens. Instructions in 8 FAM 301.4 will note when a law is retroactive.

8 FAM 301.4-1(A)(3) Delegation of Authority

(CT:CITZ-1; 06-27-2018)

Consular officers may decide cases involving acquisition of citizenship by birth abroad. Designated nationality examiners may also do so in connection with providing passport and related services. If guidance is needed, a case may be submitted to the Department (see 8 FAM 105.1).

8 FAM 301.4-1(B) Prerequisites for Transmitting U.S. Citizenship

(CT:CITZ-1; 06-27-2018)

Since 1790, there have been two prerequisites for transmitting U.S. citizenship at birth to children born abroad:

(1) At least one biological parent must have been a U.S. citizen when the child was born. The only exception is for a posthumous child; and

(2) The U.S. citizen parent(s) must have resided or been physically present in the United States for the time required by the law in effect when the child was born.

8 FAM 301.4-1(C) Adoption By a U.S. Citizen Does Not Automatically Result in U.S. Citizenship for the Child

(CT:CITZ-1; 06-27-2018)

a. Adoption of an alien minor by a U.S. citizen does not, in and of itself, result in U.S. citizenship for the child. Adoption, however, is one way in which a U.S. citizen father may be able to legitimate his biological child born out of wedlock abroad for purposes of transmitting citizenship (see 8 FAM 301.4-3(D)(2)).

b. For provisions that govern the naturalization of adopted children, see 8 FAM 301.6.

8 FAM 301.4-1(D) A Biological Relationship, or Blood Relationship, Is Required for a U.S. Citizen Parent of a Child Born Abroad to Transmit U.S. Citizenship to the Child

8 FAM 301.4-1(D)(1) Establishing Blood Relationship

(CT:CITZ-1; 06-27-2018)

a. The laws on acquisition of U.S. citizenship through a parent have always contemplated the existence of a blood relationship between the child and the parent(s) through whom citizenship is claimed. It is not enough that the child is presumed to be the issue of the parents' marriage by the laws of the jurisdiction where the child was born. Absent a blood relationship between the child and the parent on whose citizenship the child's own claim is based, U.S. citizenship is not acquired. The burden of proving a claim to U.S. citizenship, including blood relationship and legal relationship, where applicable, is on the person making such claim.

b. Applicants must meet different standards of proof of blood relationship depending on the circumstances of their birth:

(1) Section 309(a) INA (8 U.S.C. 1409(a)), as amended on November 14, 1986, specifies that the blood relationship of a child born out of wedlock to a U.S. citizen father must be established by clear and convincing evidence. This standard generally means that the evidence must produce a firm belief in the truth of the facts asserted that is beyond a preponderance but does not reach the certainty required for proof beyond a reasonable doubt. There are no specific items of evidence that must be presented. DNA tests are not required, but may be submitted and can help resolve cases in which other available evidence is

insufficient to establish the relationship. For the procedures for establishing legal relationship to or legitimation by a citizen father once blood relationship has been proven, see 8 FAM 301.4-3(D). (8 FAM 304.2 provides guidance regarding DNA tests.); and

(2) The Immigration and Nationality Act (INA) does not specify a standard of proof for persons claiming transmission of U.S. citizenship based upon birth (a) in wedlock to a U.S. citizen parent or (b) out of wedlock to a U.S. citizen mother. The Department's regulations also do not explicitly establish a standard of proof in these two circumstances. Where no other standard of proof is explicitly required by law, the Department applies the general standard of a preponderance of the evidence. This standard means that the evidence of the biological relationship is of greater weight than the evidence to the contrary. In such a case, the evidence is credible and best accords with reason and probability. Meeting the standard does not depend on the quantity of evidence presented.

c. A man has a biological relationship with his child, or a "blood relationship" as required in the current text of INA section 309(a), when he has a genetic parental relationship to the child. A woman may have a biological relationship with her child through either a genetic parental relationship or a gestational relationship. In other words, a woman may establish a biological relationship with her child either by virtue of being the genetic mother (the woman whose egg was used in conception) or the gestational mother (the woman who carried and delivered the baby). (See 8 FAM 304.3.)

d. Children born in wedlock are generally presumed to be the issue of that marriage. This presumption is not determinative in citizenship cases, however, because an actual biological relationship to a U.S. citizen parent is required. If doubt arises that the U.S. citizen "parent" is biologically related to the child, the consular officer is expected to investigate carefully. Circumstances that might give rise to such a doubt include, but are not limited to:

(1) Conception or birth of a child when either of the alleged biological parents was married to another person during the relevant time period;

(2) Naming on the birth certificate, as father and/or mother, person(s) other than the alleged biological parents;

(3) Evidence or indications that the child was conceived at a time when the alleged father had no physical access to the mother;

(4) If the child was conceived or born when the mother was married to someone other than the man claiming paternity, a statement from the man to whom the mother was married disavowing paternity, a divorce or custody decree mentioning certain of her children but omitting or specifically excluding the child in question, or credible statements from neighbors or friends having knowledge of the circumstances leading up to the birth may be required as evidence bearing on actual natural paternity; and

(5) The child was born through surrogacy or other forms of assisted reproductive technology. (8 FAM 304.3 provides guidance about acquisition of U.S. citizenship by birth abroad and assisted reproductive technology.)

e. In such cases, it is within the consular officer's discretion to request additional evidence pursuant to 22 CFR 51.45.

8 FAM 301.4-1(E) Suspected False or Fraudulent Citizenship Claim of Minor Child

8 FAM 301.4-1(E)(1) General Guidance

(CT:CITZ-1; 06-27-2018)

Questions of possible parentage fraud must be handled sensitively. Necessary efforts to enforce the citizenship laws may result in the Department being accused of threatening the family unit and of jeopardizing the welfare of the child. Cases of this kind often have public relations ramifications or give rise to congressional interest. All such cases must be handled in a timely manner with consideration for the family. Posts may provide information on visa eligibility in cases where it has been proven that the child has no claim to U.S. citizenship and the parents wish to take the child to the United States. Posts should suggest that parents consult a lawyer knowledgeable in family law and U.S. immigration law.

8 FAM 301.4-1(E)(2) Paternity Issues

(CT:CITZ-1; 06-27-2018)

a. Issues of false or fraudulent paternity claims: Paternity fraud is an intentionally-filed claim to citizenship filed on behalf of a child said to have been born to a U.S. citizen father who is not, in fact, the biological father of the child. Paternity fraud is most commonly found in cases where the claimed biological mother is an alien. In some cases, the alleged father believes that he is the biological father in which case the claim is properly considered false rather than fraudulent. In other cases, he knows that he is not the father, and intentional fraud is involved. Circumstances that might indicate false or fraudulent claim to paternity include, but are not limited to:

(1) The child was conceived at a time when there is doubt that the alleged father had physical access to the mother;

(2) The mother admits, or there is other evidence, that she had physical relationships with other men around the time of conception;

(3) The child allegedly was born prematurely, but its weight at birth appears to indicate that it was a full-term baby;

(4) The physical characteristics of the child and of the alleged father do not seem compatible; or

(5) There are discrepancies in the birth records.

(6) The record contains a DNA test that demonstrates that the putative father is not genetically related to the child.

(7) The record contains a court order that indicates that another man is the child's father.

b. How to resolve doubts: To ascertain the true circumstances surrounding the child's conception and birth, the consular officer may wish to:

(1) Obtain available records showing periods of time when the alleged father had physical access to the mother;

(2) Interview the parents separately to determine any differences in their respective stories as to when and where the child was conceived. Often, in separate

interviews, one party will admit that the U.S. citizen is not the parent;

(3) Interview neighbors and friends to determine the facts as understood within the local community; and

(4) Advise DNA testing if the couple continues to pursue the claim even though the facts as developed seem to disprove it. The propriety of requesting DNA testing is discussed in 8 FAM 304.2. If post disapproves the application, enter the "N" lookout in the Consular Lookout and Support System (CLASS) using the Passport Lookout Tracking System (PLOTS) as explained in 8 FAM 1204.1 and forward the application to Passport Services for scanning and record keeping in accordance with 8 FAM 501.5.

8 FAM 301.4-1(E)(3) Maternity Issues

(CT:CITZ-1; 06-27-2018)

a. Indications of fraudulent maternity claims: Cases in which a U.S. citizen woman intentionally and falsely claims a child as her biological child for citizenship purposes are relatively rare but can occur. The U.S. citizen woman, alone or in collaboration with her spouse, claims that a foreign-born child is her biological child, when instead she has adopted the child or otherwise, obtained physical custody of the child. The false claim that the child is hers is made to avoid full legal adoption and/or visa procedures and to instead fraudulently document the child as a U.S. citizen. Circumstances that might indicate a possibility of maternity fraud include, but are not limited to:

(1) The alleged mother arrived in the foreign country a few days before the child's birth;

(2) The alleged mother is beyond normal child-bearing years;

(3) The child was born in a private home with the alleged mother unattended or with only a midwife present;

(4) The alleged mother claims to have had no prenatal care and not to have known the baby's due date;

(5) The alleged mother claims that the child was born prematurely in cases where the documentation does not suggest a premature birth (e.g. due to height/weight at birth) or the child's appearance suggests otherwise; and

(6) The physical characteristics of the child and of the alleged parents do not seem compatible.

b. How to resolve doubts: If the post has any doubts about the child's parentage, further inquiry and documentation are required. Posts should take any of the following steps that seem appropriate or necessary:

(1) Establish that pregnancy did exist by, for example, requesting copies of prenatal and post-natal records;

(2) Request any authorization letter given to the woman by her physician stating that she could fly without endangering her health. Airlines may refuse to assume responsibility for a woman who has reached an advanced stage of pregnancy and may request such a letter before allowing a pregnant woman on board;

(3) Investigate the clinic or hospital where the birth allegedly occurred to determine if it is a legitimate medical facility. Request medical records to determine whether

the woman was a patient, and is the biological mother of the child;

(4) When the consular officer strongly suspects that a newborn child is not the gestational child of the alleged mother, yet the alleged mother claims a gestational (but not genetic) relationship, was adopted, request that the woman undergo a physical examination as soon as possible by a physician whom the post believes to be reliable. Physical evidence of pregnancy and childbirth may be obvious for only a few weeks after the birth;

(5) Contact the midwife or doctor who attended the birth to confirm statements given by the alleged parents; and

(6) If doubts remain about the child's blood relationship to the alleged parents, DNA tests might be useful (see 8 FAM 304.2.)

8 FAM 301.4-1(F) Nature of Citizenship Acquired by Birth Abroad to U.S. Citizen Parents

8 FAM 301.4-1(F)(1) Status Generally

(CT:CITZ-1; 06-27-2018)

Persons born abroad who acquire U.S. citizenship at birth by statute generally have the same rights and are subject to the same obligations as citizens born in the United States who acquire citizenship pursuant to the 14th Amendment to the Constitution. One exception is that, if born prior to October 10, 1952, persons who acquired U.S. citizenship at birth by birth abroad to a U.S. citizen(s) may be subject to citizenship retention requirements described in 7 FAM 1100 Appendix L.

8 FAM 301.4-1(F)(2) Not Citizens by "Naturalization"

(CT:CITZ-1; 06-27-2018)

Section 201(g) NA and section 301(g) INA (8 U.S.C. 1401(g)) (formerly 301(a)(7) INA) both specify that naturalization is "the conferring of nationality of a state upon a person after birth." Accordingly, U.S. citizens who acquire U.S. citizenship at birth by birth abroad to a U.S. citizen parent(s) are not considered "naturalized" citizens under either act.

8 FAM 301.4-1(G) Citizenship Retention Requirements

(CT:CITZ-1; 06-27-2018)

a. Persons who acquired U.S. citizenship by birth abroad were not required to take any affirmative action to keep their citizenship until May 24, 1934, when a new law imposed retention requirements on persons born abroad on or after that date to one U.S. citizen parent and one alien parent.

b. Retention requirements continued in effect until October 10, 1978, when section 301(b) INA was repealed. Because the repeal was prospective in application, it did not benefit persons born on or after May 24, 1934, and before October 10, 1952 (see 7 FAM 1100 Appendix L).

c. Persons born abroad on or after October 10, 1952, are not subject to any conditions beyond those that apply to all citizens.

d. Persons whose citizenship ceased as a result of the operation of former section 301(b) were provided a means of regaining citizenship in March 1995 by an amendment to section 324 INA (8 U.S.C. 1435). A more detailed discussion of the retention requirements and remedies for failure to comply with them is provided in 7 FAM 1100 Appendix L.

8 FAM 301.4-1(H) Report on Applicant Who Has Not Acquired U.S. Citizenship

(CT:CITZ-1; 06-27-2018)

When the post determines that a person applying for documentation as a U.S. citizen has no claim to U.S. citizenship at birth, the post should enter an "N" looking in CLASS via PLOTS in accordance with 8 FAM 1204.1. A discussion of the various types of lookouts is found in 8 FAM 501.5.

8 FAM 301.4-1(I) Birth in Panama; Special Provisions

(CT:CITZ-1; 06-27-2018)

a. Congress has enacted special legislation governing the conditions under which U.S. citizenship may be acquired by birth in Panama (see also 8 FAM 302.1 for legislation relating to the Canal Zone). This legislation does not apply to all children born in Panama, but only to those born to U.S. citizens employed by the U.S. Government or the Panama Railroad Company. Section 303(b) INA (8 U.S.C. 1403(b)) states that: "Any person born in the Republic of Panama on or after February 26, 1904, and whether before or after the effective date of this Act, whose father or mother or both at the time of birth of such person was or is a citizen of the United States employed by the Government of the United States or by the Panama Railroad Company, or its successor in title, is declared to be a citizen of the United States."

b. This provision is the same as those in section 203(b) NA and section 2 of the Act of August 4, 1937 (50 Stat. 558). Because it applies retroactively, it is not necessary to refer to the prior versions for citizenship adjudication purposes; they are of historical interest only. Under all three sections, a child born in Panama on or after February 26, 1904, to a U.S. citizen employee of the U.S. Government or the Panama Railroad Company is automatically a U.S. citizen at birth even if the citizen parent had never previously resided or been physically present in the United States. The child is not required to take any particular steps in order to retain citizenship.

c. Legitimation is required for a child born out of wedlock to a male U.S. citizen engaged in qualifying employment. A child born out of wedlock to an American woman employed by the U.S. Government or the Panama Railroad Company acquires U.S. citizenship at birth.

d. Until August 4, 1937, there was no special law relating to Americans born in Panama. Acquisition of citizenship was governed by Section 1993, Revised Statutes which on May 24, 1934, was amended to include retention requirements. Those retention requirements were superseded by the August 4, 1937 Act, however, because it applied retroactively, as does its modern version, section 303(b) INA.

e. In cases outside the scope of section 303(b) INA, the general laws that govern the acquisition of U.S. citizenship by birth abroad apply.

f. Evidence to prove a claim to U.S. citizenship under section 303(b) INA would include:

(1) The child's Panamanian birth certificate or other proof of the child's birth to a U.S. citizen (the blood relationship must be established);

(2) The parents' marriage certificate, if applicable; and

(3) Proof of the citizen parent's employment by the U.S. Government or the Panama Railroad Company at the time of the child's birth.

8 FAM 301.4-2 EVOLUTION OF KEY ACQUISITION STATUTES

8 FAM 301.4-2(A) March 26, 1790

(CT:CITZ-1; 06-27-2018)

a. The First Congress enacted "An Act to Establish an Uniform Rule of Naturalization" (1 Stat. 103,104) that stated, in part, that: the children of citizens of the United States, that may be born beyond the sea, or out of the limits of the United States, shall be considered as natural born citizens; Provided, That the right of citizenship shall not descend to persons whose fathers have never been resident in the United States.

b. This Act was repealed by the Act of January 29, 1795.

8 FAM 301.4-2(B) January 29, 1795

(CT:CITZ-1; 06-27-2018)

a. This act (1 Stat. 414) repealed the Act of March 26, 1790, but in section 3, adopted essentially the same provision for acquiring U.S. citizenship by birth abroad.

b. This act was repealed by the Act of April 14, 1802.

8 FAM 301.4-2(C) April 14, 1802

(CT:CITZ-1; 06-27-2018)

a. Section 4 of this act (2 Stat. 153,155) stated, in part, that: "the children of persons who now are, or have been citizens of the United States, shall, though born out of the limits and jurisdiction of the United States, be considered as citizens of the United States: Provided, That the right of citizenship shall not descend to persons whose fathers have never resided within the United States."

b. This act's formula of permitting transmission of citizenship by "persons who now are, or have been citizens" raised a question whether persons who subsequently became citizens by birth or naturalization could transmit citizenship to their children born abroad. The right of such persons to transmit was clearly provided in the act of February 10, 1855.

8 FAM 301.4-2(D) February 10, 1855

(CT:CITZ-1; 06-27-2018)

a. On this date, Congress enacted "An Act to Secure the Right of Citizenship to Children of Citizens of the United States Born Out of the Limits Thereof," (10 Stat.604).

b. It stated, in part, that: "persons heretofore born, or hereafter to be born, out of the limits and jurisdiction of the United States, whose fathers were or shall be at the time of their birth citizens of the United States, shall be deemed and considered and are hereby declared to be citizens of the United States: Provided, however, that the rights of citizenship shall not descend to persons whose fathers never resided in the United States."

c. The act of February 10, 1855 did not repeal the act of April 14, 1802.

8 FAM 301.4-2(E) Section 1993, Revised Statutes of 1878

(CT:CITZ-13; 11-07-2018)

a. The provisions of the act of 1802 and the act of 1855 were codified as Section 1993 of the Revised Statutes of 1878. From 1878 to 1934, Section 1993, Rev. Stat., stated that: All children heretofore or hereafter born out of the limits and jurisdiction of the United States, whose fathers were or may be at the time of their birth citizens thereof, are declared to be citizens of the United States; but the rights of citizenship shall not descend to children whose fathers never resided in the United States.

b. Section 1993 permitted the transmission of citizenship only by U.S. citizen fathers until it was amended prospectively on May 24, 1934, to permit transmission by U.S. citizen mothers. (The similar rights of women were also addressed by the 1994 amendment to section 301 INA (see ~~8 FAM 301.7-2(B)~~).

8 FAM 301.4-2(F) May 24, 1934

(CT:CITZ-1; 06-27-2018)

a. Section 1993 (48 Stat. 797) was amended by the act of May 24, 1934, to permit U.S. citizen women to transmit U.S. citizenship to their children born abroad, regardless of the father's citizenship.

b. The amended section 1993 was in effect from May 24, 1934, at noon eastern standard time until January 12, 1941. The text of the amended law is shown in 7 FAM 1135.6-1. It was repealed, and superseded by the Nationality Act of 1940.

8 FAM 301.4-2(G) January 13, 1941

(CT:CITZ-13; 11-07-2018)

a. The Nationality Act of 1940 (NA) (54 Stat. 1137) went into effect on January 13, 1941. Section 201 NA addressed acquisition of citizenship by birth abroad. The pertinent text of section 201 NA is shown in 8 FAM 301.6-2.

b. The NA was repealed and superseded by the Immigration and Nationality Act of 1952.

8 FAM 301.4-2(H) December 24, 1952

(CT:CITZ-1; 06-27-2018)

a. The Immigration and Nationality Act (INA) of 1952, the current law, has been in effect since December 24, 1952.

b. For original and amended provisions of this act, see ~~8 FAM 301.4-3(B)(1)~~ and 8 FAM ~~301.4-3(B)(2).~~

8 FAM 301.4-2(I) 1986, 1988, 1994, and 1997 Amendments of INA

(CT:CITZ-1; 06-27-2018)

a. The citizenship provisions of the INA have been amended by the following significant Public Laws:

(1) The Immigration and Nationality Act Amendments of 1986 (Public Law 99-653), effective November 14, 1986;

(2) The Immigration Technical Corrections Act of 1988 (Public Law 100-525), effective October 24, 1988;

(3) The Immigration and Nationality Technical Corrections Act of 1994 (Public Law 103-416), effective October 25, 1994; and

(4) Public Law 105-38 of August 8, 1997, which amended Section 102 of Public Law 103-416.

b. The relevant parts of these statutes:

(1) Reduced the amount of U.S. physical presence required to transmit citizenship to children born abroad;

(2) Changed the procedures by which children born abroad out of wedlock to a U.S. citizen father can acquire citizenship;

(3) Enabled children born abroad prior to May 24, 1934, to acquire U.S. citizenship through U.S. citizen mothers;

(4) Provided a means for persons whose citizenship ceased through failure to comply with the retention requirements to have their citizenship restored; and

(5) Specified the effective dates of various amended provisions.

8 FAM 301.4-3 THROUGH 301.4-9 UNASSIGNED

UNCLASSIFIED (U)

Exhibit O

8 FAM § 304.1 ("Birth in Wedlock, of Wedlock, Void and Voidable Marriages")

UNCLASSIFIED (U)

8 FAM 304
EVIDENCE OF RELATIONSHIP TO U.S. CITIZEN/NON-CITIZEN U.S. NATIONAL PARENT(S)

8 FAM 304.1
BIRTH IN WEDLOCK, OF WEDLOCK, VOID AND VOIDABLE MARRIAGES

(CT:CITZ-1; 06-27-2018)
(Office of Origin: CA/PPT/S/A)

8 FAM 304.1-1 REBUTTABLE PRESUMPTION OF PATERNITY

(CT:CITZ-1; 06-27-2018)

a. All presumptions of paternity are rebuttable in appropriate circumstances. (Uniform Parentage Act (1973), Prefatory Note, 9B U.L.A. 379 (2001).)

b. Many states have enacted paternity statutes establishing a rebuttable presumption of paternity where genetic test results report a paternity equal to or greater than a designated percentage. (See 8 FAM 304.2 for guidance about DNA testing.)

c. When the mother is living with her husband at the time of the child's conception, and the husband is not impotent or sterile, there is a conclusive presumption under the laws of some states that the husband is the father of the child. However, DNA tests along with other credible evidence can possibly result in a finding of non-paternity.

d. If there are indications that call into question the filiations, despite the existence of a marriage, the consular officer must consult the fraud prevention manager and CA/FPP (see 8 FAM 301.4 and 8 FAM 304.2). If doubt arises that the citizen putative "parent" is related by blood to the child, the consular officer is expected to investigate carefully. Circumstances that might give rise to such a doubt include:

(1) Conception or birth of a child when either of the alleged biological parents was married to another;

(2) Naming on the birth certificate, as father and/or mother, person(s) other than the alleged biological parents; and

(3) Evidence or indications that the child was conceived at a time when the alleged father had no physical access to the mother.

e. If the child was conceived or born when the mother was married to someone other than the man claiming paternity, a statement from the man to whom the mother was married disavowing paternity, a divorce or custody decree mentioning certain of her children but omitting or specifically excluding the child in question, or credible statements from neighbors or friends having knowledge of the circumstances leading up to the birth may be required as evidence bearing on actual natural paternity. If Consular Affairs (CA) is not satisfied by a preponderance of the evidence that filiation exists, the putative parent(s) may submit DNA evidence following procedures in 8 FAM 304.2 and the CA Internet page on DNA and parentage testing. See 8 FAM 303.1-4 for further guidance on adjudication.

> **NOTE**:
>
> CA/FPP's CAWeb Intranet Relationship Fraud feature.
>
> CA/FPP's Intranet Fraud Digest includes other information about relationship fraud. For example: Relationship Fraud in Yemen; Marriage Fraud Dangerous and Pervasive.

8 FAM 304.1-2 "IN WEDLOCK" AND "OF WEDLOCK"

(CT:CITZ-1; 06-27-2018)

a. The term "birth in wedlock" has been consistently interpreted to mean birth during the marriage of the biological parents to each other.

b. This includes a child conceived before the marriage but born during the marriage.

c. To say a child was born "in wedlock" means that the child's biological parents were married to each other at the time of the birth of the child.

d. In the case of a marriage terminated by dissolution, death, or annulment, the term "of wedlock" still includes a biological child conceived during the marriage and born within 300 days after termination of the marriage.

e. If a married woman and someone other than her spouse have a biological child together, that child is considered to have been born out of wedlock. The same is true for a child born to a married man and a person other than his spouse.

8 FAM 304.1-3 VOID AND VOIDABLE MARRIAGES

(CT:CITZ-1; 06-27-2018)

a. A marriage that does not conform to the laws of the country or state in which it was performed generally is voidable and may be declared void by an appropriate authority, usually a court in the jurisdiction where the marriage occurred.

b. Prior to such a declaration, the marriage usually is considered valid for all purposes. Even after a marriage is voided, the children's status usually is not affected. In the United States, for example, every state considers children of a void marriage to be legitimate.

c. Some marriages are considered void ab initio (from the beginning), as opposed to voidable. 8 FAM 303.1-4 provides further guidance about adjudication. Questions about this subject must be referred to AskPPTAdjudication@state.gov.

d. Except where Federal statute provides to the contrary, the U.S. Supreme Court held that marriages (not polygamous or incestuous, or otherwise declared void by statute) if valid by the law of the state where entered into, will be recognized as valid in every other jurisdiction (Meister v. Moore, 96 U.S. 76 (1878); Travers v. Reinhardt, 205 U.S. 423, 440 (1907).

e. U.S. embassies and consulates abroad must have available a copy of the consular district's local laws on marriage and legitimation:

(1) If for any reason a marriage does not appear to have been valid, legitimation is a determining factor in the citizenship claim and a U.S. domicile cannot be identified, the consular officer will consult local law in an attempt to determine if children born of a void marriage are considered legitimate (see the Foreign Legitimation Law Chart on the CAWeb);

(2) If the child is not considered legitimate, the consular officer must determine that the marriage was declared void by an appropriate authority before denying the child's claim;

(3) A post considering a case involving legitimation in a third country must seek information on the laws of that country from the embassy of that country or from the U.S. embassy or consulate in that country; and

(4) If any of the above inquiry are inconclusive or questionable, posts and passport agency/center management must consult AskPPTAdjudication@state.gov. 8 FAM 303.1-4 provides further guidance about adjudication.

f. A law that declares legitimate a child born during a void marriage presumes that the marriage ceremony took place before the child's birth unless the law specifically mentions children born before the marriage. Cases that involve void marriages occurring after a child's birth must be referred to AskPPTAdjudication@state.gov.

8 FAM 304.1-4 ADJUDICATION

(CT:CITZ-1; 06-27-2018)

a. In most acquisition of U.S. citizenship by birth abroad cases, adjudication of whether a citizenship claim comes within the scope of the Nationality Immigration Act (INA) 301 (8 U.S.C. 1401) or rather INA 309 (8 U.S.C. 1409) will be clear. The parents will present a marriage certificate certified by the civil registry authority responsible for maintaining marriage certificates as proof of marriage, and adjudication will proceed in a straightforward way.

b. On rare occasions, you may be confronted with an acquisition of citizenship adjudication in which a child is born during the course of a marriage but one or both the spouses advise that the biological father is another person not married to the biological mother. The following documents must be submitted:

(1) The child's birth certificate certified by the civil registry authority responsible for maintaining birth certificates;

(2) Form DS-5507 notarized Affidavit of Parentage, Physical Presence and Support executed by the mother and the person she claims is the father;

(3) An notarized affidavit executed by the husband denying paternity;

(4) Evidence of access by the putative father at probable time of conception including, for example, entry/exit stamps in passports, airline/hotel receipts, travel orders, etc.;

(5) Evidence of lack of access by the husband at probable time of conception. For example, evidence that the husband was not in the country such as overseas military assignment, imprisonment, etc.; and

(6) In addition, the family may submit DNA tests in accordance with procedures set forth in 8 FAM 304.2.

c. For posthumous children, see 8 FAM 304.4.

d. If there is indication of fraud, consular officers must consult post's Fraud Prevention Manager and CA/FPP. Passport agencies and centers must consult their fraud program managers.

e. If a spouse contacts a post denying paternity after a passport or Consular Report of Birth of a U.S. citizen abroad has been issued, obtain a sworn statement from the individual and contact AskPPTAdjudication@state.gov) for guidance.

f. If the foreign birth certificate lists the husband, post must include in analysis of the case whether it is possible to obtain an amended birth certificate. This is not feasible in all cultures. For example, in some cultures a woman could be killed for such an admission.

g. Questions about void and voidable marriages, polygamy, and common law marriage are extremely rare but usually complex. They may be brought to the attention of AskPPTAdjudication@state.gov.

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Exhibit P

8 FAM § 304.3 ("Acqusition [sic] of U.S. Citizenship at Birth - Assisted Reproductive Technology")

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8 FAM 304.3

ACQUSITION OF U.S. CITIZENSHIP AT BIRTH - ASSISTED REPRODUCTIVE TECHNOLOGY

(CT:CITZ-1; 06-27-2018)
(Office of Origin: CA/PPT/S/A)

8 FAM 304.3-1 (U) BIRTH ABROAD TO A U.S. CITIZEN GESTATIONAL MOTHER WHO IS ALSO THE LEGAL MOTHER AT THE TIME SHE GIVES BIRTH (BIRTH MOTHER, BUT NOT GENETIC MOTHER)

(CT:CITZ-1; 06-27-2018)

a. A child born abroad to a U.S. citizen gestational mother who is also the legal parent of the child at the time of birth in the location of birth, whose genetic parents are an anonymous egg donor and the U.S. citizen husband of the gestational legal mother, is considered for citizenship purposes to be a person born in wedlock of two U.S. citizens, with a citizenship claim adjudicated under the Immigration and nationality Act (INA) 301(c).

b. A child born abroad to a U.S. citizen gestational mother who is the legal parent of the child at the time of birth in the location of birth, whose genetic parents are an anonymous sperm donor and the U.S. citizen wife of the gestational legal mother, is considered for citizenship purposes to be a person born in wedlock of two U.S. citizens, with a citizenship claim adjudicated under INA 301(c).

c. A child born abroad to a U.S. citizen gestational mother who is the legal parent of the child at the time of birth in the location of birth, whose genetic parents are an anonymous egg donor and the non-U.S. citizen husband of the gestational legal mother, is considered for citizenship purposes to be a person born in wedlock of a U.S. citizen mother and alien father, with a citizenship claim adjudicated under INA 301(g).

d. A child born abroad to a U.S. citizen gestational mother who is the legal parent of the child at the time of birth in the location of birth, and who is not married to the genetic mother or father of the child at the time of the child's birth, is considered for citizenship purposes to be a person born out of wedlock of a U.S. citizen mother, with a citizenship claim adjudicated under INA 309(c).

8 FAM 304.3-2 BIRTH ABROAD TO A SURROGATE OF A CHILD WHO IS THE GENETIC ISSUE OF A U.S. CITIZEN MOTHER AND/OR U.S. CITIZEN FATHER

(CT:CITZ-1; 06-27-2018)

a. For purposes of this section, the term "surrogate" refers to a woman who gives birth to a child, who is not the legal parent of the child at the time of the child's birth in the location of the birth. In such a case, the surrogate's citizenship is irrelevant to the child's citizenship analysis.

b. A child born abroad to a surrogate, whose genetic parents are a U.S. citizen mother and her U.S. citizen spouse, is considered for citizenship purposes to be a person born in wedlock of two U.S. citizen parents, with a citizenship claim adjudicated under INA 301(c).

c. A child born abroad to a surrogate, whose genetic parents are a U.S. citizen mother and anonymous sperm donor, is considered for citizenship purposes to be a person born out of wedlock to a U.S. citizen mother, with a citizenship claim adjudicated under INA 309(c). This is the case regardless of whether the woman is married and regardless of whether her spouse is the legal parent of the child at the time of birth.

d. A child born abroad to a surrogate, whose genetic parents are a U.S. citizen mother and her non-U.S. citizen spouse, is considered for citizenship purposes to be a person born in wedlock of a U.S. citizen mother and alien spouse, with a citizenship claim adjudicated under INA 301(g).

e. A child born abroad to a surrogate, whose genetic parents are a U.S. citizen father and his non-U.S. citizen spouse, is considered for citizenship purposes to be a person born in wedlock of a U.S. citizen father and alien spouse, with a citizenship claim adjudicated under INA 301(g).

f. A child born abroad to a surrogate, whose genetic parents are a U.S. citizen father and anonymous egg donor, is considered for citizenship purposes to be a person born out of wedlock of a U.S. citizen father, with a citizenship claim adjudicated under INA 309(a). This is the case regardless of whether the man is married and regardless of whether his spouse is the legal parent of the child at the time of birth.

g. A child born abroad to a surrogate, whose genetic parents are a U.S. citizen father and the surrogate (mother) who is not married to the U.S. citizen father is considered for citizenship purposes to be a person born out of wedlock of a U.S. citizen father, with a citizenship claim adjudicated under INA 309(a). Note that in such a case, despite the genetic and gestational connection, the surrogate mother is not the legal parent of the child at the time of birth, usually pursuant to a surrogacy agreement.

8 FAM 304.3-3 ANONYMOUS SPERM/EGG DONORS CANNOT TRANSMIT U.S. CITIZENSHIP TO A CHILD

(CT:CITZ-1; 06-27-2018)

U.S. citizenship cannot be transmitted by an anonymous sperm or egg donor, even if a clinic, sperm bank, or intended parent(s) purport to certify that the sperm or egg was donated by a U.S. citizen. The applicant (or his or her parent, applying on behalf of a minor applicant) bears the burden of demonstrating the donor transmitting parent's U.S. citizenship and fulfillment of each other statutory requirement, and the evidence in support must be verified by the consular officer. This will require cooperation from the donor(s) to establish the possible claim to U.S. citizenship.

8 FAM 304.3-4 ESTABLISHING A BIOLOGICAL RELATIONSHIP IN AN ART CASE

(CT:CITZ-1; 06-27-2018)

a. In most cases involving assisted reproductive technology there is no shortage of documentation, and consular officers are free, as in any case, to ask for appropriate supporting documentation that fits the circumstances of the case.

b. Examples of appropriate supporting documentation would be: certified hospital records or physicians' records where the procedure occurred and a sworn statement from the physician who performed the procedure; medical records documenting pre-natal care of the surrogate or the gestational mother; medical records documenting underlying medical conditions that caused parent to seek assisted reproductive technology (i.e., infertility or injury); insurance documents or other types of receipts documenting the payments made for the various different procedures. DNA testing may be recommended depending on the other medical evidence and circumstances of the case. (See 8 FAM 304.2.)

c. In cases involving surrogacy, in addition to the medical records discussed above, the intended parents are likely to have signed contracts or other legal instruments with any of the following: fertility clinic, physician, laboratories, the surrogate mother, and/or egg / sperm donor. These legal documents should detail the various parties' intentions with respect to future parental rights and also about fees and payments to the various parties.

d. If consular officers are not satisfied with other evidence presented, they may ask to interview the surrogate and/or her spouse or other family members.

e. In cases involving a gestational and legal mother, in addition to the medical and financial records discussed above, an officer could ask for photographs taken during the pregnancy or following the birth or other physical mementos (such as hospital bracelets). If the records are insufficient or the consular officer suspects fraud, the officer may ask for a physical exam of the woman by a panel physician.

f. Questions relating to family/genetic/blood relationships can be considered intrusive and contacts with families in these circumstances may become somewhat emotional. Interviews should always be conducted with consideration for privacy and the sensitivity of the issues. Of course, when there are fraud indicators, posts must ensure that discrepancies are reviewed and resolved.

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