



U.S. Citizenship
and Immigration
Services

Agenda

USCIS Asylum Division Quarterly Stakeholder Meeting

Friday, Aug. 11, 2017

Tomich Center

111 Massachusetts Ave. NW

Washington, D.C. 20001

2 – 4 p.m. (Eastern)

I. Welcome and Introductions

II. Asylum Division Updates

- a. The current RAIO-CT and ADOTP classes have enrolled 84 and 47 students, respectively.
- b. Regularly Provided Statistics (posted on USCIS.Gov)
 - Affirmative Asylum Statistics (April 2017 – June 2017)
 - NACARA Statistics (June 1999 – June 2017)
 - Credible and Reasonable Fear Statistics and Nationality Reports (April 2017 – June 2017)
 - Unaccompanied Alien Children Statistics (April 2017 – June 2017)

We publish the regularly provided statistics on the uscis.gov website before the quarterly engagement so you can review them before the meeting and print a copy if you so choose.

III. Asylum Office Jurisdiction Over Affirmative Asylum Applicants with Expedited Removal Orders and/or Notice To Appear (NTAs)

- a. We have a handful of clients who have been released from detention and issued NTAs, but those NTAs have not been filed with the immigration court. Immigration courts will not accept an asylum filing if an NTA has not yet been filed with the court. USCIS also rejects asylum filings for these applicants citing lack of jurisdiction, even though the 2013 Affirmative Asylum Manual states that the asylum office maintains jurisdiction unless an NTA has been served on an applicant and filed with the Executive Office for Immigration Review (EOIR). How can the issue be addressed to allow applicants caught in this “catch 22” to file before the one-year deadline? Does the asylum office consider itself to have jurisdiction when ICE has produced an NTA and served it upon an applicant, but ICE has not filed the NTA with EOIR? If the asylum office does not accept jurisdiction because it wants to give ICE an opportunity to file the NTA, would it make a difference if substantial time has passed without ICE taking any action?

Response: Due to ongoing litigation in *Mendez-Rojas v. Duke*, we are unable to respond to these questions at this time. Please note, if you have specific cases with related concerns and if ICE or CBP issued the NTA, we recommend you contact ICE to request that ICE file the NTA with the immigration court. If an Asylum Office issued the NTA after conducting a credible fear screening, please contact the Asylum Office to request that it file the NTA with the immigration court.

- b. Some practitioners have seen that their local asylum offices are declining jurisdiction over affirmative asylum applications due to the existence of an expedited removal order even if:
- That order was later rescinded/vacated/never effectuated due to the superseding issuance of a Notice to Appear, and
 - No charging document was filed with an immigration court. When the asylum office learns of the expedited removal order, they are administratively closing the case *sua sponte* for lack of jurisdiction.

In many cases practitioners and applicants are not provided notice of the administrative closure, and closure appears to stop the EAD clock and erase the time elapsed on the clock.

Please confirm the Asylum Division's interpretation of regulations and the INA regarding jurisdiction.

Response: See the response to question III.a. above.

IV. **Policy Memorandum PM-602-0137**

- a. USCIS issued a Policy Memorandum PM-602-0137, dated Oct. 5, 2016, "Revised Guidance for Processing Asylum Cases Involving Terrorism-Related Inadmissibility Grounds and Amendment to the Hold Policy for Such Cases." Based on this memo, cases that were previously on hold at HQ due to possible TRIG will be "referred" to EOIR.

Can you please provide an update on how many cases remain at HQ that were previously on hold due to TRIG?

Response: We have approximately 10-15 TRIG cases that were removed from TRIG hold following the October 2016 policy memorandum still pending with HQ.

What is the process to remove these cases from hold for referral to EOIR and how long is this process expected to take?

Response: We cannot provide a timeline for when the processing of these cases will be completed. We are making every effort to review cases and return them to the field in a timely manner.

How will cases in which a TRIG exemption is authorized be processed under the new policy?

Response: Cases involving a TRIG exemption continue to receive two levels of review prior to decision service.

- b. What is the date of the next of the next TRIG Quarterly Stakeholder Meeting?

Response: The next meeting has not been scheduled at this time. Please address inquiries on the scheduling of the next engagement to Karen Sohrakoff, chief of the RAO TRIG Unit.

V. Conflicts While Awaiting Adjustment

- a. Normally, a person who entered as a nonimmigrant, but has become in violation of his status, will be allowed to adjust status through the petition of a U.S. citizen immediate relative. If such a person has an I-130 and I-485 pending, and is awaiting his adjustment interview, upon the non-grant of an affirmative asylum application, would the asylum office refer the case to the EOIR, or allow the person to continue to await his adjustment interview? What would be the result of a non-grant of a person awaiting a TPS application adjudication, referral to the EOIR or allow the person to await adjudication of the TPS application?

Response: Asylum offices are required by regulation to issue Notices to Appear to affirmative asylum applicants who are not in valid immigration status and are not found eligible for asylum, but asylum offices may be willing to coordinate on a case-by-case basis with other USCIS components to delay issuance of an NTA if the adjudication of a concurrently pending application and/or petition is imminent.

VI. Changes of Address

- a. If an asylum applicant lives in the jurisdiction of an asylum office, for example New Jersey, and moves to the jurisdiction of another office, for example New York, does the applicant need to do anything other than file an AR-11 to ensure that the case is transferred to the correct office? For example, should she write a letter to one or both offices?

Concerning the above example, does the transferred case join the asylum office queue based on the date of application? For example, in the example above, if the applicant filed in January 2015 and moved from the NJ jurisdiction to the NY jurisdiction, she should now be “current” for a NY interview. Should she expect to be interviewed immediately or are case transfers added to the queue in some other way?

Response: Asylum offices are notified of a change of address automatically, if the customer follows the directions in the uscis.gov website under [File a Change of Address Online](#), including answering “yes” to the question: “Is this change of address for an application or petition currently in progress?” These steps must be taken to notify the asylum office where the application is pending of the change of address.

The Change of Address Online system captures the data provided by a customer or the representative in one central location to fulfill two processes: 1) notifying USCIS that a customer has changed his/her address and 2) in the case of a customer with a pending benefit request, informing the specific USCIS office of the change of address to ensure that asylum offices send mail to the proper address.

The applicant may also submit a change of address through the mail by sending one copy to the address on the website and one copy to the asylum office where the application is currently pending. Both steps must be taken if completing the change of address by mail.

Yes, the transferred case joins the asylum office queue at the new office based on the filing date.

- b. Asylum adjudication jurisdiction—if an applicant changed address while asylum is pending, does the case follow to respective jurisdiction or stay with the initial jurisdiction?

Response: Generally, if the applicant has not been interviewed before the move, the applicant will be interviewed in the new asylum office jurisdiction. If the applicant was interviewed before moving to a new asylum office jurisdiction, generally the case will be adjudicated by the asylum officer in the old jurisdiction unless an additional interview is required.

VII. Biometrics Notices

- a. During the call in January (I believe) there was mention that the biometric notices were going to be for date/time specific appointments. Notices arriving still have the two week window. Is this going to change?

Response: Yes. As of Aug. 3, the Asylum Division began to issue biometric notices for date/time specific appointments for all cases. However, applicants may continue to receive biometrics notices with two-week windows that were scheduled before the change for a short time during the transition.

- b. What should practitioners do when the USCIS notification for asylum interview arrives before biometrics notification? Who should we contact to initiate fingerprints? Should we alert USCIS?

Response: In the fall of 2016, the Asylum Division began to “refresh or re-submit” existing asylum-related fingerprints for applicants such that the applicant no longer had to attend an appointment for biometrics collection. This provides better customer service to the applicants and also allows the Application Support Centers (ASC) to better handle increasing new asylum application receipts. If the applicant or dependent was previously fingerprinted for the asylum application and receives the interview notice without receiving a biometrics appointment, the applicant is not required to go to the ASC again for biometrics collection prior to the interview.

If the applicant or dependent has never been fingerprinted for the asylum application and received the interview notice before the biometrics appointment notice, please contact the asylum office where the application is pending so that they can schedule a biometrics appointment before the asylum interview.

- c. After an asylum application is filed, we are receiving a biometrics notice with a range of dates, usually a week during which the applicants need to go to the local ASC office to have their fingerprints done. However, the local ASC office is refusing to fingerprint applicants with this type of notice and is asking them to provide a notice with a specific date and time. What should be done in this case?

Response: Applicants should now receive a biometrics notice with a specific date and time. Please continue to attend biometrics appointments and take your appointment notice. If you need to re-schedule your appointment, follow the instructions on the notice or contact the local asylum office for assistance.

VIII. Affirmative Asylum Scheduling Bulletin and Interview Priorities

- a. Asylum offices have stated at some local liaison meetings that the Affirmative Scheduling Bulletin is not accurate (delays are longer than what the website indicates). Will the bulletin be generally updated for accuracy?

Response: Creating the scheduling bulletin is not a science. It's an estimation based on the number of cases scheduled for interview the previous month and the number of cases that were not scheduled for interview (from a particular filing month). The Asylum Division will look into ways to make the bulletin less manual and more accurate and informative, to include additional priorities and interview locations.

- b. Will the asylum offices continue to prioritize scheduling of children's cases? If so, would they consider issuing a separate scheduling bulletin for children's cases so representatives can better plan for when those cases will be scheduled?

Response: The scheduling priorities currently remain the same. See the response to VIII.a above.

- c. I recall there was a recent announcement that the scheduling bulletin would include circuit rides. When is this likely to be implemented?

Response: See the response to VIII.a above.

- d. Are the asylum offices still scheduling interviews on a first-in-first-out basis? Have there been any changes in the prioritization or scheduling process for asylum interviews or are any such changes anticipated in the future?

Response: Generally, the asylum offices continue to follow the scheduling priorities as described on uscis.gov in the Affirmative Asylum Scheduling Bulletin. The Asylum Division continuously examines scheduling priorities based on receipts, pending caseloads, resources and priorities.

- c. How many cases, as a percentage, typically have an applicant called back in for a follow-up/second interview? Anecdotal reports suggest an uptick in this occurring.

Response: We do not track this information in our case management system.

- e. Can you please tell me how to request an expedited hearing?

Response: Asylum office directors may consider applicants' requests for urgent interview scheduling outside of the prioritization categories on a case-by-case basis. Please submit any urgent interview scheduling requests in writing to the asylum office with jurisdiction over your case. Go to the [USCIS Service and Office](#) locator page for contact information.

- f. On average, how many months does the asylum process take?

Response: The length of time for completing an affirmative asylum application depends on various factors, including but not limited to:

- The date the application was filed;
- The caseload of the asylum office with jurisdiction over the application; and
- Whether the applicant is interviewed at a local asylum office or at a circuit ride interview location.

Please see the [Affirmative Asylum Scheduling Bulletin | USCIS Affirmative Asylum Scheduling Bulletin](#) for more information about interview priorities on uscis.gov/asylum.

IX. Including Updated Information in the Applicant's File in Time for the Interview

- a. Many years go by before one obtains an interview with a two weeks' notice given before the interview. What is the best method to submit updated information or additional evidence to the asylum office? Is it better to do so in person at the time of the interview or should we do so within the two weeks by sending it to the asylum office? My problem with the latter is often times the additional documents do not get placed in the correct file for the officer to find before the interview.

Response: Check with the asylum office with jurisdiction over your case for local procedures for submitting supplemental documentation. Generally, you should submit the supplemental documents before or immediately after you receive the interview notice (within two weeks before the interview date). If you cannot submit the supplemental documents before two weeks, bring extra copies for the interviewing officer. You may drop them off earlier in the week with the interviewing officers at your circuit ride location.

X. Post-Interview Delays

- a. We have experienced high number for asylum seekers approaching our agency asking for assistance. Could you please explain the delays in processing asylum applications, more specifically for clients from Syria? Some of these clients have been interviewed by an asylum officer more than once, and yet their cases are still pending for over two years. Is there a way for an applicant's attorney to advocate for an expedited decision following an asylum interview, for example, in the case where a client's family is in danger as they wait for the decision? How might an applicant find out how long a decision might take if they have been waiting for a year or longer for an interview decision?

Response: We are not aware of delays specific to Syrian asylum cases. Asylum office directors have the discretion to consider applicants' requests for urgent post-interview processing on a case-by-case basis. Please submit your request to the asylum office with jurisdiction over your case.

- b. Does USCIS have any estimates of how much longer the additional screening of applicants will add to current waiting times? Is there anything in particular that stakeholders who work with the affected populations can do to help USCIS with the new and expanded processes?

Response: See the [Executive Orders on Protecting the Homeland](#) page on DHS's website for information outlining the impact of the executive orders.

- c. Is there any policy change regarding asylum issues?

Response: There are no changes regarding affirmative asylum issues.

XI. I-94s for Defensive Asylees

- a. There is a problem around I-94s which has taken up so much time—yours, mine, and the new asylees! The problem is that sometimes new asylees are not handed an I-94 when they are released from detention, following a grant of asylum. Some are able to obtain one when they reach their destination and contact the local USCIS office. How do I resolve this problem?

Response: The procedures for requesting and receiving an I-94 card after a grant of asylum by an immigration judge are available online at [Immigration Benefits in EOIR Removal Proceedings](#). At the final hearing, you will receive orally and in writing the "Post-Order Instructions," which explain you must make the request to the local USCIS Field Office. The Asylum Offices do not provide I-94 cards to individuals granted asylum by an immigration judge.

XII. Unaccompanied Children

- a. Is there any new or anticipated guidance on circumstances under which unaccompanied children will be re-designated as accompanied? Likewise, is there guidance or procedures for when those designated as unaccompanied children turn 18?

Response: Under Executive Order 13767 and the DHS implementation memo for Executive Order 13767, DHS is currently developing uniform guidance and procedures on applications for asylum filed by UACs for adjudication by USCIS under the “initial jurisdiction” provision of the TVPRA. However, the May 2013 USCIS memo, *Updated Procedures for Determination of Initial Jurisdiction over Asylum Applications Filed by Unaccompanied Alien Children*, is still in effect. The memo has not been rescinded nor replaced with new procedures for determining initial jurisdiction.

- b. Are the asylum offices still following the 2013 memo that says they will not do an independent analysis of UAC status for individuals who were designated UACs and never affirmatively “re-designated”? In other words, will the AO still treat an I-589 as filed by a UAC even if the applicant is now over 18 or appears to have reunified with a parent, so long as there was no re-designation?

Response: The May 2013 USCIS memo, *Updated Procedures for Determination of Initial Jurisdiction over Asylum Applications Filed by Unaccompanied Alien Children*, is currently still in effect. At this time, the memo has not been rescinded or replaced with new procedures for determining initial jurisdiction. Under Executive Order 13767 and the DHS implementation memo for Executive Order 13767, however, DHS is currently developing new uniform guidance and procedures on applications for USCIS adjudication of asylum applications filed by UACs under the “initial jurisdiction” provision of the TVPRA.

- c. Does the Asylum Office have jurisdiction over cases filed by a UAC who was in court even if the UAC took prosecutorial discretion and the case was admin closed or terminated? If they were designated as UACs and never re-designated, would the Asylum Office have jurisdiction even if several years have passed and the individual is no longer a minor?

Response: Under current procedures, if a UAC’s removal proceedings were administratively closed, the NTA is still active in the case. Therefore, the Asylum Office may have jurisdiction over an asylum application pursuant to the “initial jurisdiction” provision of the TVPRA. If a UAC’s removal proceedings were terminated, the Asylum Office would have jurisdiction over an asylum application as an affirmative asylum application since the applicant is no longer in removal proceedings, regardless of whether the application was filed by a UAC.

Under the 2013 memo currently still in effect, if CBP or ICE determined that an applicant was a UAC, and, as of the date of initial filing of the asylum application, that UAC status determination was still in place, USCIS will take initial jurisdiction over the case.

Under Executive Order 13767 and the DHS implementation memo for Executive Order 13767, however, DHS is currently developing new uniform guidance and procedures on

USCIS adjudication of applications for asylum filed by UACs under the “initial jurisdiction” provision of the TVPRA.

- d. Sponsors and other adult caregivers are expressing increasing fear of attending child asylum interviews as witnesses or “trusted adults” because of increased immigration enforcement efforts. Does the Asylum Division have a policy regarding the sharing of witness and other adults’ information with Immigration and Customs Enforcement? Will asylum officers be encouraged to give more weight to written declarations given these concerns?

Response: Asylum officers continue to be instructed to elicit testimony on all relevant eligibility requirements. Asylum interview notes are part of the record in the A-File. If the application is not approved, the asylum office transfers the file to ICE OPLA for removal proceedings. If the asylum application is approved, USCIS informs ICE so that appropriate arrangements may be made to terminate proceedings. Asylum officers will consider written declarations.

- f. We have learned of a situation in which the SF Asylum Office denied a UAC’s asylum claim based on evidence from ICE’s EARM (Enforcement Alien Removal Module) system. Counsel for the UAC was not provided with the evidence or given an opportunity to address it at any time during the application process. Has USCIS implemented a new policy permitting asylum officers to issue denials without giving an applicant the opportunity to respond to the evidence used to deny the case? Please provide a copy of any written agency guidance regarding this practice.

Response: No, there is no new or revised policy. Please direct case specific inquiries and concerns to the interviewing office.

XIII. Gang-Related Questions

- a. Are there new policies or practices on sending gang-related cases to Headquarters for review? If so, does this apply to victims of gang activity? Does the policy/practice apply to minors as well as adults? Advocates have also heard that any unaccompanied minors that are or were previously in a “staff-secure” or “secure” Office of Refugee Resettlement facility will have their cases sent to Headquarters for review. Is there a new policy in place on this?

Response: The Asylum Division has always maintained and exercised the ability to request certain cases be submitted to Headquarters for review before decision issuance, even if for only a short period of time, in order to get a better understanding of the types of cases being seen in the field. Recently, there has been significant reporting on gang activity in the United States associated with Central American gangs. As such, we believe it is prudent at this time to ensure that we understand what cases may be coming through the affirmative asylum process in which there are indications that the applicant has a history of violent criminal activity or gang affiliation or involvement. Therefore, we have asked offices to submit proposed grants to Headquarters for review if the adjudicator detects indicators of past or current gang affiliation regardless of whether the applicant is a juvenile or an adult.

Under ORR rules for placement, this type of history may be a factor considered when determining placement in these facilities. Therefore, as part of this request, we have requested to review proposed grants where the applicant was previously or is currently being held in a “staff-secure” or “secure” ORR facility. We may conduct a similar review of proposed referrals/denials in the future. We have not asked to see cases based on whether an applicant is a victim of gang activity.

- b. Advocates have observed an increase in the number and detail of questions on whether unaccompanied minors had ever associated with gangs, or been victim of a gang. We have also noted an increase in questions relating to the child’s journey to the United States and specifically who bore any costs associated with the journey. Can you comment on the purpose or intention of such questions?

Response: We are not aware of an increase in the number or type of questions being asked about gang association, being a victim of gang violence, the applicant’s journey to the U.S., or those who bore the costs for this journey. Adjudicators are trained to develop the record as necessary to make a legally sufficient determination, which could include asking about any of the issues raised in this question, depending on the facts of the case.

- c. Which unaccompanied child asylum case decisions are currently being sent to Headquarters for review before the decisions can be issued? How long is it taking for Headquarters to complete these reviews? What percentage of UAC cases requires Headquarters review now?

Response: We do not ask that UAC cases come to Headquarters categorically. They may be submitted for review if they are subject to the review discussed above, involving potential gang affiliation, or for other reasons, such as if they are novel, high profile, likely to be publicized, or involve national security issues. We do not have data on how long these cases take to review or what percentage of UAC cases receive Headquarters review.

- d. AILA has received reports that asylum officers have implemented new procedures related to the adjudication of cases that may have possible MS-13 connections or possible gang-related issues. Has Headquarters provided any new guidance to the field concerning the adjudication of asylum cases with possible MS-13 connections or gang-related issues? If yes, please specify what these changes are. Are there written policies on these changes? Will USCIS provide stakeholders with a copy of these written policy changes?

Response: Other than the steps mentioned above to require that certain proposed grants come to Headquarters for review, no additional guidance has gone to the field concerning the adjudication of asylum cases with possible MS-13 connections or gang-related issues.

- e. Please identify which categories of asylum cases are now being sent to Headquarters for review. Will USCIS provide stakeholders with a copy of this updated written policy guidance?

Response: Cases that currently come to Headquarters include those described above in XIII.a. and c., including cases that may be likely to be publicized or are otherwise high profile, as well as any that involve national security issues.

XIV. Publication of Lesson Plans and Training Modules

- a. Why does the Asylum Division publish just some, but not all, lesson plans and training modules? Why not publish all of them?
- b. Will the Asylum Officer Basic Training Course lesson plan materials be made available in the USCIS Electronic Reading Room or in any other public location? If not, please explain.
- c. When will USCIS guidance and officer training materials on children's asylum claims, such as the RAIO training materials, be available on the website again?

Response: Most training materials used to train new officers at RAIO are no longer available on RAIO's public website. The Asylum Division's lesson plans that are used to train asylum officers have been removed completely from the website and we are working to remove the remaining lesson plans because they will be posted for the public to access elsewhere.

In response to a series of recent Freedom of Information Act (FOIA) requests, all of our current lesson plans have been submitted to the USCIS FOIA office. The FOIA office will determine whether the materials are subject to any exceptions to disclosure. Any materials deemed sensitive or subject to a FOIA exception will be redacted by the FOIA office as appropriate. The FOIA office will post the remaining lesson plans, which we expect to be the majority of the lesson plans, in the [USCIS Electronic Reading Room](#). Some of the materials have already been posted there, including training materials on adjudicating children's asylum claims and gender-related claims. We are working with the USCIS FOIA office to determine when the remaining materials will be posted.

XV. Staffing

- a. How are the overall staffing levels for asylum officers? Are there many openings? Are there plans to increase the workforce at this time?

Response: The Asylum Division is currently authorized 625 field asylum officers. As of July 10, there are 516 field asylum officers onboard with an additional 102 individuals selected to fill some of the remaining vacancies. USCIS is currently engaged in its annual staffing needs assessment. No additional information is available at this time.

- b. Please provide the current number of asylum officers currently on staff.

Response: See response to XVII.a above.

- c. Please provide the average number of asylum officers assigned to conduct affirmative asylum interviews from January to August 2017, broken down by month.

Response: We do not capture the requested data.

- d. During the May 2, 2017 Asylum Stakeholder meeting, the Asylum office indicated that asylum officers had been assigned to conduct CFIs and RFIs at the following detention centers: Cibola, Eloy, Florence, Adelanto, Imperial, Otay Mesa, Pearsall, Polk, Dilley, and Karnes. Please provide an updated list of the detention centers where asylum officers have been assigned to conduct CFIs and RFIs. Please provide the current number of asylum officers assigned to each facility.

Response: The facilities have not changed. The number of asylum officers assigned to these locations fluctuates weekly and, at times, daily. During the week of July 24, a total of 46 asylum officers were assigned to the above mentioned sites.

XVI. CBP and Transgender Asylum Seekers

- a. I'm concerned about reports I've heard from Human Rights First and the Transgender Law Center that asylum seekers, including a number of transgender women fleeing violence in Central America, are being told by CBP at the border that they can't seek asylum and whether USCIS is working with CBP on addressing this issue. I would like to know if USCIS is working with CBP to address reports of CBP officers turning asylum seekers away at the border.

Response: The issue of CBP actions at the border related to asylum seekers is subject to litigation. Due to the litigation, we are unable to respond to this question.

XVII. Initiation of Removal Proceedings

- a. Has there been any change in the past eight months to the policy or procedure for initiating removal proceedings against asylum applicants who have applied for asylum affirmatively and whose affirmative asylum cases have yet to be adjudicated by the asylum office?

Response: No, the Asylum Division has not made such changes in the past eight months.

- a. For FY 2016 and 2017, how many cases have removal proceedings been initiated against people who had affirmative applications for asylum pending without decision at the time the NTA was issued? Please provide a breakdown by (a) asylum office, and (b) nationality of applicant. In how many of these cases had the affirmative asylum applicant been (a) charged with a criminal offense; (b) convicted of a criminal offense?

Response: USCIS Asylum does not track this information in our case management system.

- c. If a case looks improbable, inconsistent with country conditions, or just falsified, is the interview process speeded up, to throw the person in court? Cases in the asylum office now take 27 months to be heard.

Response: USCIS schedules the affirmative asylum interview and considers the evidence on a case-by-case basis. If the individual does not establish eligibility for asylum and is not in lawful immigration status, the asylum office places the individual in removal proceedings.

XVIII. Detention and Affirmative Asylum

- a. I have heard of those asylum applicants who have been stopped at checkpoints where CBP agents are present. The applicants have informed agents that they filed their asylum application before the expiration of their six months of their I-94 and are still being detained.

The ICE agent or CBP agent are saying that an asylum applicant has no legal status even if they filed before the six months of the expiration of their I-94, which is troubling, because if they detain every person who is awaiting an asylum interview, it would be contradictory to the acknowledgement of receipt that they receive after they file their I-589, which states you're allowed to remain in the United States while your asylum application is pending.

Therefore, perhaps further clarification is necessary to the CBP or to ICE agents so that a memo can be sent out that asylum applicants should not be detained, since they have an asylum application pending and it is not their fault that the USCIS has a backlog of asylum applications and they cannot have their interview conducted within six months so they should not have to bear the consequence of their asylum application not being processed for an interview and thus being detained saying that they're under no lawful status and that asylum applicants have no lawful status.

Even though they do not have a lawful status they are an asylum applicant and their I-797 acknowledgement of receipt states that you are allowed to remain in the United States while your asylum application is pending. Therefore, my question is whether there is any clarification to ICE agents or to CBP agents, so they are aware that those asylum applicants with pending asylum applications before the USCIS, should not be detained if their six months have expired and their I-589 is pending before USCIS.

Response: ICE and CBP have the legal authority to determine whether to take aliens into custody when they encounter them at the border or inside the United States, and to determine whether to place them into removal proceedings. If ICE or CBP places them into removal proceedings, USCIS loses jurisdiction over the application and they may apply for asylum or other protection as a defense to removal while in detention.

XIX. Credible Fear and Reasonable Fear Cases

- a. USCIS revised its Credible Fear of Persecution and Torture Determinations and Reasonable Fear of Persecution and Torture Determinations on Feb. 13, 2017. These new lesson plans

are effective as of Feb. 27, 2017. Has any additional guidance been issued to the field concerning CFIs and RFIs?

Response: No.

- b. During the May 2, 2017, Asylum Stakeholder meeting, the Asylum Office stated that there is a random review process for CFI and RFI cases. Please identify any categories of CFI and RFI cases that are required to be reviewed by Headquarters.

Response: Headquarters does not review any specific categories of CFI or RFI cases. Cases are selected at random for submission to Headquarters for review.

XX. Attorney Interaction with the Asylum Officer at the Interview

- a. Under the current training model, what exactly are new asylum officers trained to expect from their interactions with attorneys representing asylum applicants at the asylum interview? Interactions with asylum officers still vary substantially from officer to officer. Some welcome attorney participation to clear up obvious confusion so the interview is not needlessly sidetracked for 15-20 minutes because something is lost in translation. Others clearly do not want the attorney to open her mouth. What does the asylum division consider to be appropriate in terms of an attorney speaking during an asylum interview? I know that the older Asylum Officer Basic Training Course stated: "In certain instances, it may be appropriate for the representative to comment during the course of the interview to avoid confusion or misunderstandings. Such comments may be helpful and should not be discouraged."

This issue was also raised in the May 2, 2017, Stakeholder Meeting. However, I recently experienced the variance in asylum officer attitudes toward attorney participation in the asylum interview in interviews on June 7 and June 14. I feel it is necessary to continue to raise this issue until the problem has been rectified. Is the Asylum Division taking steps to assure that all asylum officers are familiar with the desired role that attorneys should play in an asylum interview? This seems particularly important as there are over 270,000 (likely tens of thousands more by the time the stakeholder meeting takes place) pending applications in which interviews will be necessary.

Response: All asylum officers receive training on non-adversarial interview techniques. The training materials emphasize the role of the asylum officer to manage the interview.

"Because of the non-adversarial nature of the process, described below, the role of the representative during the interview is minimal. You [the asylum officer] control the interview and will ask most of the questions. You may allow the representative to comment or ask questions during the course of the interview to clarify specific points. After your last question, you should give the attorney an opportunity to offer a closing statement. You have the discretion to limit the length of the closing statement, or in rare circumstances, require that a statement be submitted in writing instead." *Interviewing – Intro to the Non-Adversarial Interview.*

We have shared your concerns with the Arlington Asylum Office. The Arlington Asylum Office encourages attorneys to engage with local office management, by asking for a supervisor, after the completion of the interview if you have a particular concern regarding the officer's conduct in an interview. Also, all asylum offices have regular local stakeholder engagements and we encourage you to submit your questions to be discussed at those engagements. Contact the local asylum office management for the details regarding these engagements.

XXI. Information Provided at the Waiting Room Window

- a. Some applicants report that when they inquire at the asylum office window, they are told their exact position on the short notice list (for example: "You are number 245."). Others are told that no information can be shared on that topic. For applicants that eagerly await their interviews because they seek to be reunited with their loved ones after receiving asylum, it helps when they can receive at least some information about where they are in the process. However, for those that are turned away with no information, it causes them confusion and frustration. Many have heard from friends that they were provided information when they inquired at the office window, so the applicant will wonder why she was not treated the same way. I would encourage the open sharing of this kind of information... but at the very least, there should be a consistent policy of dealing with these inquiries. Does such a policy already exist?

Response: The Asylum Division has general national customer access standards which establishes multiple means for applicants to contact asylum offices while also protecting their confidentiality under 8 C.F.R. § 208.6. Asylum office management may also develop local procedures which meet the national standards. We have shared your concerns with Arlington Asylum management, and they will endeavor to provide standardized responses to this question.