



# Questions and Answers

May 6, 2009

## REFUGEE, ASYLUM, INTERNATIONAL OPERATIONS DIRECTORATE Quarterly Meeting with AILA

### Questions and Answers

**Q. It is our understanding that applications for humanitarian parole are administered by the Humanitarian Assistance Branch within USCIS. The GAO issued a detailed report on Humanitarian Parole in 2007 with a diagram showing the Humanitarian Parole and Adjudication Process. Can you state whether or not this accurately represents the process? If not, can you state the specific steps involved in the adjudication process, from when the application is filed through final decision?**

A. Yes, the chart issued with the GAO report accurately represents the process.

**Q. Can you explain which agencies and divisions within agencies, etc., are involved at discrete stages of the humanitarian parole adjudication process?**

A. Both the USCIS Humanitarian Affairs Branch (HAB) and Immigration and Customs Enforcement (ICE) have authority to approve requests for humanitarian and significant public benefit parole. Their jurisdiction of requests for parole is delineated in a Memorandum of Understanding between the two agencies.

HAB is a branch within the International Operations Division of the USCIS Refugee, Asylum and International Operations Directorate (RAIO) and is responsible for adjudication requests for humanitarian parole or significant public benefit parole filed with USCIS. Background checks are conducted on individuals associated with cases that appear approvable, and this may include vetting by a number of agencies, and through the USCIS Fraud Detection and National Security Division, of the National Security and Records Verification Directorate. Recently, asylum officers from the RAIO Asylum Division adjudicated requests for parole to help HAB eliminate its backlog.

**Q. Can you provide us with statistics for the number of humanitarian parole requests received, granted, and denied, in 2008, with a per-country figures, if possible, along with the average processing times for these requests?**

A. We are not able to provide per-country figures at this time or average processing times. However, we can provide the following information. In FY2008, HAB received 1,115, granted 241, and denied 287 cases. To address the backlog that developed when HAB was transferred to USCIS without sufficient staff to keep up with receipts, we trained a team of asylum officers from the Los Angeles Asylum Office to adjudicate parole cases from February to the end of April of this year. As a result, we successfully eliminated the backlog. At this time, we have less than 30 applications ready for consideration and just under 150 awaiting responses to requests for evidence. We will be adding new staff in the coming months that will allow us to remain current with new receipts. Given the urgency of many humanitarian parole requests,

HAB instituted a “triage” process to review cases upon receipt and move the most time sensitive cases to the front of the line. The processing time for urgent, time-sensitive cases is often under a week.

**Q. What is the appeal process for denied requests for humanitarian parole? What is the time frame for adjudication of such appeals?**

A. There is no appeal process; however, the applicant may submit a new application, even if the first application is denied.

**Q. HAB has stated four main reasons to grant humanitarian parole: life-threatening medical emergencies, family reunification of minors in cases of compelling humanitarian reasons, to visit ill family members or resolve matters associated with death of a relative, and "other". Is this accurate? What is the most common reason in the "other" category?**

A. Yes, this is accurate. There are a number of possible “other” cases, but some examples are the evacuation of people in an emergency, such as the recent evacuations of U.S. citizens with their lawful permanent relatives from Gaza, Hague child abduction cases which involve international Hague decisions regarding child custody, and parties to civil law suits that require their presence in the U.S. If the US Government is a party to the law suits, then ICE would have jurisdiction over the parole request.

**Q. HAB adjudicates humanitarian paroles based on standards set forth in its Protocol and SOPs for Humanitarian Parole Requests. Are there any other documents which govern the adjudication process, and if so, what are they? Can you provide us with a copy of these documents, and are they available on-line?**

A. HAB relies on the SOP, which is evolving and in draft form, but also relies on regulations for example examining the impact of inadmissibility criteria. HAB also relies on the expertise of various officials, for example in adoption or custody related cases.

**Q. What documents should be provided in support of an application for humanitarian parole? Is an affidavit of support an absolute requirement in each case? What if the applicant cannot obtain a sponsor in the US to complete the Affidavit of Support, for, e.g., someone coming to visit a dying family member or resolve matters arising from death of a relative?**

A. The applicant for parole should supply all documents that will support the case. There is information on the USCIS website that provides more information on what to include in the packet.

<http://www.uscis.gov/portal/site/uscis/menuitem.5af9bb95919f35e66f614176543f6d1a/?vgnextoid=b04596981298d010VgnVCM10000048f3d6a1RCRD&vgnnextchannel=828807b03d92b010VgnVCM10000045f3d6a1RCRD>

Each case is unique, and should be supported by documents specifically related to the request. Concise requests that define the reason clearly with good documentation of the situation are highly appreciated and allow for the most expeditious adjudication.

**Q. There is no legal requirement that a family relationship exist in order for a humanitarian parole to be granted, yet attorneys report that HAB routinely issues a RFE requiring a DNA test to prove the existence of the claimed family relationship. These tests**

**are both costly and time-consuming, and given the exigent nature of HP requests, may defeat the purpose. Are such RFEs issued routinely, and if so, why? Is there a concern that most family-based HP requests are fraudulent? If these RFEs are not issued routinely, what circumstances are likely to trigger an RFE seeking DNA testing?**

A. DNA requests are almost always requested when an adult and minor child would be traveling to the United States. In a very small number of cases, when the parental relationship is known to HAB through other government agencies, DNA might not be necessary. The reason for DNA testing is to protect children.

**Q. There have been reports of significant delays in administering detained credible/reasonable fear interviews at the following locations: Port Isabel Detention Center, Texas, Willacy Processing Center, Texas, Hutto, Texas, South Texas Detention Complex, including Pearsall, Texas (delays of approximately 2 to 4 months), York, PA County Prison, Buffalo, NY, Massachusetts (6 month delays). What is the reason for these delays, and what steps are being taken to resolve them?**

A. This item was removed from the agenda given previous discussion at quarterly NGO meeting. If AILA is aware of specific case examples where delays have been encountered, we request that those be brought to the Asylum Division's attention directly so that we can examine reasons for delay in the credible fear or reasonable fear context, if any.

**Q. The March 25, 2009, TPVRA memo (which we greatly appreciate) from Joseph Langlois states that interpretation/procedures were being developed regarding UACs in removal proceedings with an appeal before the BIA or PFR before federal court. What is the status of these procedures and can we have input into their development?**

A. The Asylum Division, with US Immigration and Customs Enforcement, is working closely with the Department of Justice (both EOIR and OIL) on the development of these procedures. We welcome AILA input on these procedures.

**Q. We welcome the swift implementation of the TPVRA provisions regarding affirmative filings of asylum applications with USCIS for UACs in removal proceedings. In the same vein, and in order to reduce the burden on the Immigration Courts and facilitate faster adjudication of asylum applications by trained asylum officers in the first instance, would RAIO be open to allowing all affirmative asylum applications which are being filed by individuals in removal proceedings, and where there are no statutory bars to asylum other than the one-year deadline, to be filed instead with USCIS, and for adjournment or administrative closure of removal proceedings pending adjudication of the asylum application? If not, how can we change your mind about this? Would RAIO be willing to participate in a working group on this issue along with representatives from EOIR?**

A. We understand this proposal to refer to a possible change in procedure for defensive filings that are made before EOIR in the first instance. We would like to hear more from AILA on this idea. RAIO is not in a position to comment at this time.

**Q. The procedure for filing waivers of inadmissibility at Ciudad Juarez has been changed, and now applicants must wait until after the consular interview has been completed to schedule an appointment to file the I-601. This has resulted in a significant increase in wait time to file a waiver once the applicant has been found inadmissible, from weeks to months. This seems particularly unnecessary for those individuals whose waivers are going to be granted immediately. What prompted this change in procedure, and how can we minimize**

**this wait time?**

A. Field Office Ciudad Juarez instituted a change of procedure on February 9, 2009, that requires an individual to have been found inadmissible at a consular interview before scheduling an appointment to file an I-601, *Application for Waiver of Ground of Inadmissibility*.

This change was made to ensure fairness of access to I-601 filing appointments in light of the large volume of cases and the wait times involved as a result. We found that Individuals who knew they would be found inadmissible before the consular interview were scheduling I-601 appointments in advance of their consular interviews, giving them a scheduling advantage over those who did not know to pre-schedule or did not know they would be found inadmissible. We believe it is a better practice and more fair to allow those who have already had their consular interviews to have priority access to the next available spaces for I-601 filing appointments. We have expanded our resources in Ciudad Juarez in response to the growing caseload in an effort to minimize waiting times for applicants.

**Q. What is the progress, if any, on the plan to allow people to file waivers in advance of the consular interview?**

A. USCIS continues internal deliberation about the possibility of allowing a simultaneous filing of an I-130, *Petition for Alien Relative*, and an I-601, *Application for Waiver of Ground of Inadmissibility*, in cases where the petitioner knows in advance that the beneficiary will be found inadmissible. This change in procedure may require regulatory change. If the agency ultimately seeks to pursue this change in procedure, the potential regulatory changes needs would add significantly to the time needed for implementation.

**Q. What is the progress on the opening of the LA waiver office?**

A. We are pleased to announce the official opening of the new USCIS International Operations Branch in Los Angeles, effective Monday, May 4, 2009. We already have a Branch Chief and 7 Adjudications Officers on staff for the Branch. We anticipate beginning to process I-601 cases from Ciudad Juarez at the LA Branch by the beginning of June. Please note that the LA Branch is not a USCIS Field Office but rather a part of USCIS International Operations Division Headquarters. The Branch will not be open to the public.