



U.S. Citizenship  
and Immigration  
Services

Agenda

## USCIS Asylum Division Quarterly Stakeholder Meeting

Tuesday, August 7, 2018

Tomich Center

111 Massachusetts Avenue, NW

Washington, D.C. 20001

2 – 4 pm EST

### I. Welcome and Introductions

### II. Asylum Division Updates

- a. Regularly Provided Statistics (posted on [uscis.gov](http://uscis.gov))
  - Affirmative Asylum Statistics (April 2018 – June 2018)
  - NACARA Statistics (June 1999 – June 2018)
  - Credible and Reasonable Fear Statistics and Nationality Reports (February 2018 – June 2018)
  - Unaccompanied Alien Children Statistics (April 2018 – June 2018)

*We publish the regularly provided statistics on [uscis.gov](http://uscis.gov) before the quarterly engagement so you can review them prior to the meeting and print a copy if you choose.*

### III. Statistics

- a. What is the number of cases filed before January 29, 2018 currently in the backlog?  
Please explain how that number is calculated.

**Response:** As of July 26, we had 289,739 cases pending with filing dates before February 1, 2018. We calculated this number by counting pending cases (cases with no final decision) with filing dates before February 1, 2018.

- b. Please provide a breakdown of the interviews scheduled since the implementation of the Last In, First Out (LIFO) policy for each asylum office, broken down by First Priority, Second Priority, and Third Priority as designated in the [USCIS announcement](#). For Third Priority cases, please separate those filed before January 29, 2018 from those filed after this date.

**Response:** We are unable to provide such a report because we do not capture data regarding which priority a case was in when it was scheduled for an interview.

- c. Of the number of cases that were filed prior to January 29, 2018 and that have not yet been scheduled for an interview, please provide for each quarter how many cases filed in that quarter remain pending before each asylum office (please answer separately as to each office).

**Response:** We are unable to provide such a report at this time as these reports are still under final review.

- d. Of the number of cases that were filed prior to January 29, 2018 and that have not yet been scheduled for an interview, please provide how many cases remain pending before each asylum office broken down by the ten most numerous nationalities and how many children's cases are currently in each priority (breaking down Third Priority into pre- and post-January 29, 2018 filings).

**Response:** We are unable to provide such a report at this time as these reports are still under final review.

- e. Please provide the number of cases that are now deemed to be Third Priority cases that were filed prior to January 29, 2018 (under FIFO), broken down by each asylum office.

**Response:** Any case filed before January 29 that is still awaiting a first interview is considered to be in the last priority for interview scheduling. We are unable to provide such a report at this time as these reports are still under final review.

- f. Of these cases that are now deemed to be Third Priority cases that were filed before January 29, 2018, please provide how many of these cases have been scheduled for interview since January 29th, broken down by each asylum office for each month since the policy went into effect.

**Response:** We are unable to provide such a report because we do not capture data regarding which priority a case was in when it was scheduled for an interview.

- g. How many of these cases mentioned immediately above were scheduled "out of turn," that is, prioritized over existing cases in Second Priority and Third Priority post-January 29, 2018 filings (aside from urgent scheduling requests)? What policy allows for such prioritization?

**Response:** We do not track interviews scheduled "out of turn," so we cannot provide this information. Asylum offices have discretion to schedule cases outside of the set priority order for urgent and other reasons.

- h. Please provide statistics on the number of asylum applications that have been deemed frivolous, fraudulent, and otherwise non-meritorious, broken down by nationality, for the following fiscal years (FY): FY13, FY14, FY15, FY16, FY17, and FY18.

**Response:** We are unable to provide such a report at this time as these reports are still under final review.

- i. What is the address for the webpage where we can find all of the statistics mentioned in the previous meeting?

**Response:** The statistics prepared for the previous meeting can be found at <https://www.uscis.gov/outreach/asylum-division-quarterly-stakeholder-meeting-12>. The statistics prepared for all prior meetings can be found at the links for each date on our Notes from Previous Engagements page at [www.uscis.gov/outreach/notes-previous-engagements](http://www.uscis.gov/outreach/notes-previous-engagements). Filter the page by “Refugees and Asylees” and you will see a [list of all previous meetings](#).

#### IV. Scheduling of Asylum Interviews/Processing Times

- a. Is USCIS collecting data on what number and percentage of cases filed since LIFO was instituted are not scheduled within 21 days and thus fall into the backlog? What percentage of LIFO cases have fallen into the backlog?

Has USCIS seen any applications from children in Office of Refugee Resettlement (ORR) custody go into the backlog for failure to be scheduled within 21 days? Would USCIS consider ensuring that placement in government custody is a dispositive factor for expedited scheduling?

**Response:** Of the cases filed between February 1, 2018 and May 31, 2018, 51% were interviewed within 43 days of filing. The Asylum Division does not track cases in which the applicant is in ORR custody. When ORR or another party contacts us to request expedited processing for an applicant in ORR custody, we strive to accommodate those requests.

- b. If an applicant requested rescheduling before the change to last-in first-out scheduling but the interview was not rescheduled before the change, does the applicant remain a priority for rescheduling or does the rescheduling priority refer to cases filed after the change?

**Response:** The applicant will remain in the rescheduled priority regardless of filing date.

- c. What is the timeframe of the process from start to finish? Are the cases worked upon receipt or are they distributed according to the content of the application? Is the backlog a result of too many applications or too few officers or both?

**Response:** The Asylum Division continues to receive high numbers of new affirmative asylum applications as well as referrals for credible fear (CF) and reasonable fear (RF) screenings. While adjudicative resources have increased, Asylum Division staff continues to be utilized to conduct CF and RF screenings, which are required by statute (CF) and regulation (RF), thus contributing to the growth of the backlog.

For asylum applications filed on or after April 1, 1997, the Immigration and Nationality Act (INA) states that the initial interview should generally take place within 45 days after the date the application is filed. A decision should be made on the asylum application within 180 days after the date the application is filed, unless there are exceptional circumstances. See section 208(d)(5) of the INA.

The Asylum Division does not assign cases according to the content of the application. On January 29, 2018, the Asylum Division started scheduling interviews in the following priority order:

- First priority: Applications that were scheduled for an interview but the interview had to be rescheduled at the applicant's request or the needs of USCIS;
- Second priority: Applications that have been pending 21 days or less since filing;
- Third priority: All other pending affirmative asylum applications will be scheduled for interviews starting with newer filings and working back towards older filings.

Workload priorities, including those related to border enforcement, may affect our ability to schedule all new applications for an interview within 21 days.

Asylum office directors may consider, on a case-by-case basis, a request to be scheduled for an interview outside of the priority order listed above. 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.

For asylum applicants who live far from an asylum office or sub-office, asylum offices schedule interviews at USCIS field offices ("circuit ride" locations) as resources permit. Please contact the asylum office with jurisdiction over your case for more detailed information.

- d. At the May 1, 2018 Asylum Division Stakeholder Engagement, Division staff indicated that the standard national practice for asylum offices is to issue decisions two weeks after the interview using the decision pick-up procedure. Does Asylum Division headquarters track the usage of this practice across asylum offices? What percentage of decisions is issued two weeks following the interview?

**Response:** All asylum offices require applicants to pick up their decisions as the default method for serving decisions, and all offices have exceptions to this pick-up requirement. The requirements for circuit ride locations may vary. We are unable to provide such a report at this time as these reports are still under final review.

- e. Are nunc pro tunc filings subject to the current scheduling guidelines? If not, does headquarters provide any guidance to asylum offices on how to schedule these cases?

**Response:** Nunc pro tunc cases are subject to the current scheduling guidelines.

- f. Given experience to date under the last-in, first-out scheduling policy, has there been any change in plans to address the scheduling backlog? If UAC cases filed around November and December 2017, before the last-in, first-out policy took effect, have yet to be scheduled for an interview, what is the best way to request that an interview be scheduled?

**Response:** There has not been any change in plans to address the scheduling backlog. Asylum office directors may consider, on a case-by-case basis, a request to be scheduled for an interview outside of the set priority order. 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.

- g. Previously, the USCIS Affirmative Asylum Scheduling Bulletin webpage listed “Applications filed by children” as the second priority after adjourned cases. The new priorities on the current USCIS webpage no longer list children as a category for prioritization. Please explain why children’s asylum cases are no longer deemed to be a priority for the Asylum Division.

**Response:** The Asylum Division returned to the process of scheduling cases established under asylum reform (in place from 1995 to 2014) in order to focus on deterring those who might try to use the existing backlog solely as a means to obtain employment authorization. Returning to a “last in, first out” interview scheduling process will allow the Asylum Division to identify frivolous, fraudulent, or otherwise non-meritorious asylum claims earlier and place those individuals into removal proceedings. Prioritizing the cases of unaccompanied minors who are already in removal proceedings over all other new filings would detract from the overall goals of this scheduling change, but we note again that asylum office directors may consider, on a case-by-case basis, a request to be scheduled for an interview outside of the set priority order.

- h. Please provide the Asylum Division’s current plan and system to schedule the Third Priority cases in the backlog for interview (e.g., first-in, first out basis; at random; chronological order; or some other basis).

**Response:** As announced, any case older than 21 days is viewed as a third priority case. The Asylum Division will schedule third priority cases as resources permit starting with newer filings and working back towards older filings.

- i. Aside from urgent requests, what is the policy for scheduling Third Priority cases that have been filed since January 29, 2018? How does this policy differ from the Asylum Division’s policy for scheduling interviews for cases that are deemed to be Third Priority but were filed prior to January 29, 2018?

**Response:** As announced, any case older than 21 days is viewed as a third priority case. The Asylum Division will schedule third priority cases as resources permit starting with

newer filings and working back towards older filings. There is no difference in scheduling policy between third priority cases filed before or after January 29, 2018.

- j. Aside from urgent interview scheduling requests, are there any other mechanisms that applicants can utilize to ensure that their cases that were filed prior to January 29, 2018 will be scheduled in a reasonable timeframe and outside of the new priority order?

**Response:** The only way to have a case in the backlog scheduled outside of the new priority order is to request to be scheduled for an interview outside of the set priority order for urgent reasons.

- k. Is this interview scheduling policy uniform for all asylum offices, sub-offices, and circuit ride locations, or do local asylum offices have discretion? If local asylum offices have discretion, please describe the parameters of this discretion.

**Response:** The general approach to interview scheduling is explained in our announcement from January 2018 at <https://www.uscis.gov/humanitarian/refugees-asylum/asylum/affirmative-asylum-interview-scheduling>. Asylum offices have always had discretion to schedule cases outside of the listed priorities for urgent or other reasons.

- l. During a recent local stakeholder meeting, the asylum office explained that a significant portion of LIFO cases are being scheduled in Atlanta. What is the interview scheduling policy for circuit ride locations? Is the policy uniform for all circuit ride cities?

**Response:** Offices schedule circuit rides when there is space available at the USCIS field offices based on local agreements with Field Operations management. Circuit ride cases are scheduled according to the current scheduling priorities.

- m. The January 26, 2018 policy guidance states that the purpose of the updated scheduling policy is to “deter individuals from using asylum backlogs solely to obtain employment authorization by filing frivolous, fraudulent, or otherwise non-meritorious asylum applications.”

1. Describe how the Asylum Division determines the volume of applications identified in the statement above.
2. What analysis did the Asylum Division utilize in order to determine that such applications were filed solely for the purpose of obtaining employment authorization?
3. Are asylum officers and supervisors provided with standards and factors in order to determine when an asylum application is frivolous, fraudulent, or otherwise non-meritorious? Is this determination made only after an interview or on the basis of Form I-589 and any related submissions?

**Response:** We have seen a 30% decrease in applications filed since the implementation of LIFO, including a decrease in applications filed by individuals who have been in the United States for 10 years or more. Please see the news release issued January 31, 2018

and available at <https://www.uscis.gov/news/news-releases/uscis-take-action-address-asylum-backlog>.

- n. What is the waiting time for applications filed in 2016 as compared to cases filed now?

**Response:** We are unable to determine when a case filed in 2016 will be interviewed. This depends on the number of new cases filed under the office's jurisdiction and how many cases that were filed in 2017 are also pending at that office.

## V. Unaccompanied Alien Children (UACs)

- a. Can you confirm that the May 28, 2013 memorandum on initial jurisdiction over asylum applications filed by UACs and related June 2013 policy documents remain in effect?

**Response:** The May 28, 2013 memorandum on initial jurisdiction over asylum applications filed by UACs and the related June 2013 policy documents remain in effect.

## VI. Employment Authorization and the Clock

- a. In July 2017, USCIS updated Form I-765 to allow applicants to request a Social Security card along with their applications for employment authorization without going to the local Social Security Administration (SSA) office. For people granted asylum, is it possible for USCIS to also notify SSA to send new or updated Social Security cards to asylees along with the auto-requested EAD?

**Response:** No, because such disclosures to SSA would require affirmative consent from the asylee. Because individuals granted asylum do not initially file Form I-765, on which they would provide such consent, doing so would delay the automatic issuance of EADs following grants of asylum.

- b. Currently, the backlogs for applicants with pending asylum cases and asylees seeking adjustment of status are growing. Applicants wait years for an asylum interview and some asylees' adjustment of status delay is more than 21 months. Thus, many applicants need to renew their EADs beyond the initial 2-year validity, some multiple times. Could USCIS consider extending the validity of EADs issued and/or waive the EAD renewal fee for the (C)(8) and (A)(5) categories?

**Response:** Thank you for your suggestion. The Asylum Division contacted the Service Center Operations Directorate for further information on this issue.

Individuals must submit renewal applications to ensure that they continue to remain eligible for employment authorization under the same category. On October 4, 2016, USCIS extended the validity of employment authorization documents (EADs) for pending asylum applicants from one year to two years. In addition, under the American Competitiveness in the 21<sup>st</sup> Century Act (AC21), applicants also receive a 180-day automatic extension period from the date of their EAD expiration, as long as they:

1. Filed a renewal application based on the same employment authorization category as the previously issued EAD (or the renewal application is for an individual approved for Temporary Protected Status (TPS) whose EAD was issued under [8 CFR 274a.12\(c\)\(19\)](#));
2. Filed the renewal application before their EAD expired (or according to the applicable Federal Register notice regarding procedures for renewing TPS-related employment documentation) and the application remains pending; and
3. Remain eligible for employment authorization beyond the expiration of their EAD and USCIS is not required to independently adjudicate their eligibility again before extending their employment authorization.

While there is a filing fee for Form I-765 (c)(8) renewal applications, a waiver is available under 8 CFR 103.7(c). Further information about requesting a fee waiver is available on the USCIS [Form I-765 landing page](#) as well as on the Form I-765 instructions. Please note that asylees are authorized to work based on their asylum status. Therefore, they are not required to have an (A)(5) asylee EAD to demonstrate that they are eligible to work as long as they meet the other Form I-9 requirements.

- c. Some F-1 student visa holders apply for asylum. Designated school officials (DSOs) are not aware that the student applied for asylum, and this makes it very difficult to advise the student about employment rules when the student seems to be holding two statuses at the same time. If a student applied for asylum and has a work authorization card, how does this affect the F-1 status if the student is working full time, which violates the F-1 status? Does applying for asylum cancel out the F-1 visa? Why can't DSOs see that the student is applying for asylum in SEVIS?

**Response:** Under federal regulations at 8 CFR 208.6 protecting the confidentiality of asylum applications, DSOs are considered third parties to the asylum application. Third parties cannot obtain asylum application information from SEVIS. There are several variables that impact whether an F-1 visa holder remains in status after filing an asylum application as well as additional considerations regarding work authorization. We defer to ICE on the general matter of compliance and to individual attorneys and representatives representing asylum applicants who entered on F-1 visas to consider their client's circumstances and advise accordingly.

- d. A recent stakeholder call clarified that in reviewing Forms I-765 filed by asylum applicants, requests for evidence (RFEs) seeking government-issued photo identification would not issue unless USCIS did not have biometrics data available to confirm identity. However, RFEs have continued to issue on this basis. How should applicants proceed? Relatedly, how should applicants proceed when biometrics have not yet been collected in connection with the asylum application and the applicant wishes to file Form I-765?

**Response:** The Asylum Division contacted the Service Center Operations Directorate for further clarification on this issue.

The Form I-589 requirements and the Form I-765 requirements are separate. People filing Form I-589 must submit biometrics; however, people filing Form I-765 are NOT required to submit biometrics. Instead, people filing Form I-765 must submit a government-issued identity document. This requirement applies to all Form I-765 applicants, not just individuals with a pending asylum application.

Service centers can sometimes confirm an applicant's identity using government systems instead of examining a government-issued identity document. However, USCIS reserves the right to issue an RFE for the Form I-765 if the applicant does not submit the required documentation, regardless of whether the applicant's biometrics have been collected for the Form I-589.

Please refer to page 13 of the Form I-765 instructions for additional information. Please contact the Service Center Operations Directorate with any additional questions regarding EAD procedures. Applicants may contact a service center through the USCIS Contact Center at 1-800-375-5283.

- e. For UAC cases, how does the clock work? Cases receiving a Notice to Appear are indicating "no clock" at EOIR. Does the 180 days start after USCIS receives the filing? Is there any way to check the clock for UAC cases at EOIR?

**Response:** Please see the March 31, 2017 memorandum from John Lafferty titled, "Jurisdiction and EAD Clock Procedures for Unaccompanied Alien Children (UACs)," posted on the [Minor Children Applying for Asylum by Themselves page of uscis.gov](#).

## VII. Asylum Interviews

- a. Can you clarify whether attorneys are allowed to type notes or use smartphones to search something online during an asylum interview? If not, why not? What are the concerns with attorneys being able to take notes on laptops or other electronic devices during the asylum interview?

**Response:** The Asylum Division does not have a national policy on typing notes or the use of smartphones to conduct online searches. Applicants, attorneys, interpreters, and other accompanying individuals may not use electronic devices for audio or visual recording purposes during an asylum interview. Asylum office directors may, at their discretion, allow the use of electronic devices for note-taking or other purposes.

- b. Asylum officers used to emphasize the non-adversarial nature of asylum interviews and would largely welcome attorney input during an interview. This serves the integrity of the proceedings very well because attorneys are often able to clarify issues and prevent time-consuming misunderstandings from developing. Has this policy changed? What latitude do attorneys have to correct what they see as misunderstandings during the interview?

**Response:** This policy has not changed. Asylum officers receive training on conducting a non-adversarial interview and interacting with applicants' representatives. Specifically, asylum officers are taught that they may allow a representative to comment or ask questions during the interview to clarify specific points. However, because of the non-adversarial nature of the interview, the role of the representative during the interview is different than the role the representative plays in the adversarial process before an immigration judge. The asylum officer controls the interview and will ask most of the questions. After the asylum officer's last question, the asylum officer should give the representative an opportunity to offer a closing statement.

- c. Asylum officers are asking asylum applicants during the interview how much they pay for their documents filed, but if the attorney is present, they do not ask this question. Is this a kind of discrimination or intimidation? Is this legal? What provision or memo supports this action?

**Response:** Asylum officers receive training on conducting non-adversarial interviews, and they should not discriminate against or intimidate an applicant during an interview. Asylum officers have a duty not only to provide protection to those individuals who qualify but also to uphold the integrity of the asylum program. Questions about who helped prepare an individual's application and the circumstances of that applicant/preparer relationship may be relevant to the proper adjudication of a claim and may provide pertinent background information about areas requiring further investigation, particularly those relating to unauthorized practice of law or large scale fraud schemes. If an applicant or representative has concerns or complaints about an asylum officer's conduct during the interview, please contact the asylum office director, who will address the complaint.

- d. During asylum interviews, asylum officers are not allowing expert witnesses in country conditions and human rights to be present. Is there any legal reason why this is happening? Could you please provide the memo stating that experts in country conditions and human rights cannot testify? If this document does not exist, could you please spread the information to all asylum officers so that such witnesses can testify?

**Response:** Under immigration regulations, an asylum applicant may present witnesses to testify on his or her behalf. There are no restrictions on witnesses with regard to the number of witnesses, age, their own asylum or immigration status, or the relationship to the applicant, except that an interpreter of record or the representative of record may not act as a witness.

An asylum officer may not refuse a witness the opportunity to testify; however, an asylum officer may place a reasonable limit on the length and subject matter of a witness's statement and may request a witness's statement in writing. See 8 C.F.R. 208.9. This guidance is also contained in section II.J.6 of the Affirmative Asylum Procedures Manual, which is available on [uscis.gov](https://www.uscis.gov) at <https://www.uscis.gov/sites/default/files/USCIS/Humanitarian/Refugees%20%26%20Asylum/Asylum/AAPM-2016.pdf>.

The Asylum Division asks a great deal of our asylum officers, and they do not have an unlimited amount of time to take evidence on a case. If an organization is going to consistently want to bring in a witness or witnesses that the organization considers to be experts on conditions in a particular country, it may be appropriate for the organization to have the witnesses prepare and submit a written statement on behalf of the applicant that can accompany the application at the time of filing.

## VIII. One-Year Filing Deadline

- a. Asylum offices fail to recognize in Chinese Christian cases that if the Form I-589 was filed within 6 months of baptism or conversion, this is timely. All cases beyond one year of entry are routinely sent to court. When will the Asylum Office apply the law and reform itself?

**Response:** Under section 208(a)(2)(D) of the INA, an application for asylum may be considered even if the applicant applied more than one year after arriving in the United States if the applicant can demonstrate the existence of changed circumstances that materially affect the applicant's eligibility for asylum or extraordinary circumstances relating to the delay in filing of the application. With regard to any change in circumstance, the applicant must file the asylum application within a reasonable period of time after the changed circumstance. What constitutes a reasonable period of time to file following a changed or extraordinary circumstance depends upon the particular facts of the case. There is no period of time that is automatically considered reasonable or unreasonable.

## IX. Training

- a. Since the last quarterly stakeholder meeting in May, has asylum office staff received recent training or guidance regarding the referral of cases in which an applicant describes being persecuted by a gang on account of a family relationship?
- b. Since the last quarterly stakeholder meeting in May, has asylum office staff received recent training or guidance regarding eligibility for asylum on the basis of severe domestic abuse by a persecutor the government is unable or unwilling to control?

**Response:** Headquarters has not issued new training or guidance on the topic of persecution by a gang on account of a family relationship. On June 13, 2018, the Asylum Division issued general instruction to asylum officers regarding the Attorney General's decision in *Matter of A-B*, reminding asylum officers of what issues to cover in cases involving particular social groups and non-governmental actors. On July 11, 2018, USCIS issued a [USCIS Policy Memorandum](#) providing guidance to USCIS officers on the application of the Attorney General's decision while processing asylum, refugee, credible fear, and reasonable fear claims. This new guidance replaced the interim guidance issued on June 13, 2018.

## **X. Travel**

- a. If asylum applicants with lawful status such as H-1B or F-1 apply for advance parole (which they do not need in order to be admitted into the United States with valid visa stamps) and are then paroled into the United States, they will lose their current lawful status and generally will not be eligible for change of status and/or adjustment of status within the United States. However, current regulation requires a principal asylum applicant to apply for advance parole if the applicant wants to travel outside the United States regardless of current status. Could USCIS provide guidelines on how such applicants should travel outside the United States while their asylum cases are pending?

**Response:** Thank you for your suggestion. We will explore providing more specific guidance regarding this scenario. We note, however, that Section III. D. of the Affirmative Asylum Procedures Manual, [which is available on uscis.gov](https://uscis.gov), already addresses travel outside the United States by asylum applicants and how the regulatory presumption of abandonment (found at 8 C.F.R. section 208.8) may be overcome.

- b. In Matter of N-A-I-, 27 I&N Dec. 72 (BIA 2017), the BIA held that asylee status is terminated when the asylee adjusts status to that of an alien lawfully admitted for permanent residence pursuant to section 209(b) of the Act. This seems to conflict with USCIS's current policy to continue issuing refugee travel documents to asylum-based LPRs. Could USCIS consider issuing another form of travel document (such as a Return Document at lower cost) for asylum-based LPRs in light of the BIA decision?

**Response:** Thank you for your suggestion. We sent this suggestion to the Service Center Operations Directorate, which adjudicates applications for refugee travel documents, and the Office of Policy and Strategy. These entities may respond to you in writing.

## **XI. Adjustment of Status**

- a. At the May 1, 2018 Asylum Division Stakeholder Engagement, Division staff disclosed that while the average processing time for asylee adjustment of status applications at the Texas Service Center (TSC) was 11 months for "adjudication-ready" applications, the TSC was seeing a number of pending asylee adjustment applications that needed additional vetting.

Please address whether this additional vetting is being conducted pursuant to Executive Order 13780, "Protecting the Nation from Foreign Terrorist Entry Into the United States", and/or the Presidential Memorandum, "Implementing Immediate Heightened Screening and Vetting of Applications for Visas and Other Immigration Benefits, Ensuring Enforcement of All Laws for Entry into the United States, and Increasing Transparency among Departments and Agencies of the Federal Government and for the American People", 81 Fed. Reg. 16279. Are these applications being referred to the National Vetting Enterprise (Center)?

**Response:** The asylum-based Form I-485s that needed additional vetting at the Texas Service Center are not a result of Executive Order 13780. The previously referenced applications at the Texas Service Center are generally undergoing additional vetting relating to resolution of a large-scale fraud scheme.

## **XII. Headquarters Quality Assurance Review**

- a. Does USCIS continue to refer the following categories of cases for headquarters review: (1) where asylum grant sought but there are indicators of current or past gang affiliation; and (2) children currently or previously held in secure or staff secure ORR detention? If so, how many cases are currently pending at headquarters for review? What is the average processing time for these cases referred for headquarters review? When reviewing these cases, how does headquarters take into account the *Saravia v. Sessions* litigation and the fact that in the majority of those cases the government's evidence of gang affiliation was found to be unsubstantiated?

**Response:** Both categories of cases currently come to headquarters for review. We only have eight cases pending, and the average length of review was 29 days. Asylum Division Headquarters conducts an individualized review of each submitted case. All evidence is reviewed in alignment with Asylum Division policy and procedure. Officers consider the purpose for any records and the circumstances under which these records were produced, in order to appropriately weigh their evidentiary value. The Asylum Program does not have a policy of taking into account pending or ongoing litigation when making these determinations.

## **XIII. Miscellaneous Questions**

- a. What is the policy regarding affirmative asylum applications by nationals of the countries listed in the most recent Executive Order? Are they processed differently than nationals of other countries? Are they granted asylum if they otherwise qualify?

**Response:** The affirmative asylum application process was not affected by Executive Order 13780, "Protecting the Nation from Foreign Terrorist Entry Into the United States."

- b. Are refugee officers conducting asylum interviews involved in the final recommendation on those cases? Is coverage by refugee officers part of why it is taking longer to receive decisions?

**Response:** Generally, the refugee or asylum officer who interviews an applicant also adjudicates the asylum application. Refugee officers conducting asylum interviews have been cross-trained on asylum procedures and received the necessary training to conduct such interviews. If there are individual cases for which decision issuance has been delayed, please contact the asylum office with jurisdiction over the case. Go to the [USCIS Service and Office Locator](#) page for contact information.

- c. What is the likelihood of receiving asylum for an extreme domestic violence assault (i.e., an acid attack)?

**Response:** We do not have data on what the likelihood is of receiving asylum based on specific types of harm. Each asylum application is adjudicated on a case-by-case basis.

- d. Our office has seen several recent errors on I-94 cards and asylee EADs. These errors have included name order and country of origin. Who is responsible for issuing these documents?

**Response:** If an asylum office issued the I-94 card and asylee EAD after granting an affirmative asylum application, contact the asylum office that granted the case. If an immigration court granted asylum, contact the USCIS field office that issued the I-94 card. If the EAD was issued after a defensive grant of asylum or was a renewal, follow the Form I-765 instructions.

Please note that on June 21, 2018, USCIS began recalling approximately 800 EADs that were issued to asylees. The EADs contain a production error that transposed the first and last names of the individuals receiving the EADs. These cards were mailed to recipients in April and May 2018.

USCIS is sending notices to individuals who received the incorrect EADs, as well as to their attorneys or accredited representatives if a Form G-28 was submitted with the corresponding Form I-589. The affected individuals should return their incorrect EADs to USCIS in the provided pre-paid envelope within 20 days of receiving the notice. Recipients may also return their EADs to a USCIS field office. Replacement EADs will be sent within 15 days of receiving the incorrect card. The recall does not affect these individuals' employment authorization since they are authorized for employment without needing an EAD.

- e. Our organization serves asylees through the Office of Refugee Resettlement's Matching Grant program. Many asylees in our program were detained until they received asylum. We have observed a sharp increase in asylum appeals over the last several months. While an asylum case continues through the appeal process, asylees are not eligible to access our services even though they are in desperate need of housing, food, and other assistance. Currently, how long on average does an appealed asylum case take to receive a final decision?

**Response:** USCIS does not adjudicate defensive asylum applications filed with the Department of Justice's Executive Office for Immigration Review (EOIR) immigration courts, and there is no appeal from USCIS asylum decisions. Please contact your local EOIR immigration court for processing time information. The website is: <https://www.justice.gov/eoir>.

- f. What should a person do if he or she is denied asylum, the applicant is from Venezuela, and the applicant cannot return to Venezuela?

**Response:** If the individual does not have valid immigration status in the United States and USCIS does not grant asylum to the individual, the individual has an opportunity to apply for asylum again before an immigration judge in the Department of Justice's Executive Office for Immigration Review (EOIR). The individual may also pursue protection through withholding of removal before the immigration judge. If the immigration judge does not grant asylum, the individual can appeal that decision to the Board of Immigration Appeals (BIA), also within EOIR. If the BIA does not sustain the appeal, the individual can appeal to a federal appellate court and ultimately to the U.S. Supreme Court. If the individual is not successful in any of these appeals, the individual may be ordered removed from the United States. Individuals should also consult a reputable immigration attorney to determine whether there is any other form of immigration benefit or relief for which they may qualify. Additionally, USCIS has information about various immigration options on its [Explore My Options](#) web page.

- g. What happens to a child in the United States if the mother's case is denied?

**Response:** If the mother does not have valid immigration status in the United States and USCIS does not grant asylum to the mother, the mother has an opportunity to apply for asylum again before an immigration judge in the Department of Justice's Executive Office for Immigration Review (EOIR). Generally, if the child does not have valid immigration status in the United States and was included in the mother's asylum application before USCIS, the child will be referred as a derivative asylum applicant to EOIR along with the mother. The child can also file his or her own asylum application as a principal applicant.