



March 11, 2011

Agenda Items

USCIS Asylum Division Quarterly Stakeholder Meeting

October 19, 2010

111 Massachusetts Avenue, NW

Washington, DC

2:00pm to 4:00pm

1. Asylum Division Updates

- a. Asylum Division staffing changes

Former Asylum Deputy Chief Jeddy Hussey is now working as the new Chief of Training and Career Development within the USCIS Office of Human Capital and Training. We do not yet know who will be taking the position of Deputy Chief.

- b. Memo: Asylum Officer Timing Survey and Asylum Officer Staff Survey
- c. Memo: Issuance of Revised Procedures Regarding RAPS HOLD

Please refer to the attached memos.

The first memo contains information on two online surveys that asylum officers (AOs) are encouraged to complete. As you may be aware, a 2008 Government Accountability Office (GAO) study recommended that the Asylum Division devise a cost effective method to collect empirical data on the time it takes AOs to thoroughly complete the steps in the asylum adjudication process. The USCIS Office of Policy and Strategy currently is conducting two online surveys of AOs to determine how long it takes them to complete the adjudication of an asylum case. The survey is voluntary. During the data collection period, 1.5 hours per week will be allocated for survey completion.

The second memo contains information on a change of the RAPS HOLD function. In the past, asylum field offices could put cases on headquarters (HQ) hold. As of July 22, 2010, RAPS will no longer permit asylum field offices to place cases on HQ hold.

- d. New meeting format

We would like to continue holding the stakeholder meetings at the beginning of every quarter so we can provide the previous quarter's statistics at the meeting. A date later in the month permits us to provide the previous month's statistics.

In the future, we'd like to consider posting all handouts and statistics online and not distributing them at the meeting. Please let us know what you think. We realize that you may like us to post the handouts before the meetings so you may review them in advance.

2. Statistics

- a. Affirmative Asylum statistics: May – Sept 2010
 - a. Asylum Office Workload
 - b. Asylum Applications Filed
 - c. Top Ten Nationalities
 - d. Asylum Interviews Conducted
 - e. Asylum Cases Completed
 - f. Asylum Applications Pending
- b. NACARA Stats: June – Sept 2010
- c. Credible Fear statistics: June – Sept 2010
 - a. Credible Fear Workload Report Summary – Total Caseload
 - b. Credible Fear Workload Report Summary – POE Caseload
 - c. Credible Fear Workload Report Summary – Inland Caseload
 - d. Credible Fear Completions by Month
- d. Reasonable Fear statistics: June – Sept 2010
- e. Monthly CF and RF Nationality Report – Top 5 Nationalities
- f. Afghanistan and Iraq Statistics: June – Sept 2010
 - a. Asylum Applications Filed by Nationals of Afghanistan (by month)
 - b. Asylum Applications Filed by Nationals of Afghanistan (FY93 – FY10)
 - c. Asylum Applications Filed by Nationals of Iraq (by month)
 - d. Asylum Applications Filed by Nationals of Iraq (FY93 – FY10)

Please refer to the attached statistics.

3. Question. Please respond to the following questions related to unaccompanied children.

- a. Similar to what you provide for various nationalities, please provide:
 - i. Statistics on UAC adjudications for the last 3 months, including cases resolved for lack of jurisdiction because the child was determined not to be a UAC.
 - ii. Charts for the period since the effective date of the TVPRA on UAC cases (and those resolved for lack of jurisdiction because the child was determined not to be a UAC) bringing it up to date for this fiscal year.
 - iii. Numbers of *pro se* UACs.

We are providing statistics on UAC adjudications for the last two fiscal years, FY09 and FY10. The statistics cover all Minor Principal Applicants (MPA) including MPAs applying affirmatively (who may not be UACs) and MPAs in removal proceedings applying under the initial jurisdiction provision of the TVPRA. These statistics are not normally run as part of a standard report. However, we would like to regularly report these statistics. We welcome your feedback on the statistics and your suggestions on ways to present them.

Information related to the discussion and description of UAC statistics will be posted once the report format has been finalized.

Question 3 (cont).

- b. Regarding the issue of when a UAC has an application for relief in addition to the I-589 and the frequent desire of attorneys to hold the asylum interview in abeyance, we acknowledge and appreciate your discussion about this topic at our previous meeting in June. Given that this continues to be a problem in some cases, we are wondering what progress has been made in your coordination efforts with USCIS Field Ops and Office of Police and Strategy. Also, your remarks at the last meeting referenced draft interim guidance to the field offices that had been issued and invited suggestions to this draft guidance. Has this guidance been finalized? Could you provide us with a copy of this document for our review and feedback?

We issued draft interim guidance in March 2010. The guidance has not yet been finalized. We are providing a copy of the draft guidance for your review and feedback. On the second page, "DOMO" refers to the Field Operations Directorate (formally Domestic Operations) which adjudicates the I-360 petitions.

As the guidance indicates, USCIS does not have a policy to hold applications in abeyance and there is no regulatory mechanism that allows us to do so. Normally, both adjudications will proceed at the same time. Asylum field offices may raise questions regarding UAC guidance in the UAC conference call. We have not received many questions on this topic lately from the field offices. As far as we know, our draft procedures are working well and any issues that have come up have quickly been resolved.

- c. Some attorneys practicing before a number of offices are concerned about what they perceive as an interrogation-like approach in the determination of whether a child is unaccompanied. Often, many of the questions seem to go beyond the scope of whether there is a parent present and available to provide care, such as focusing on a parent's immigration status and migration history. In addition, these questions are typically asked at the outset of the interview with the result, in some attorneys' view, of engendering fear in the children for their parents' safety and well-being. This can create an adversarial atmosphere in the interview room that is not conducive to an often-traumatized child answering these and the subsequent asylum-related questions. This is disheartening since practitioners generally applaud the Asylum Office's efforts over the years to address the special needs of children seeking asylum. Related to this, can you please provide information related to the following:
 - i. What are the key factors that you use to determine unaccompanied status? How do you weigh them?
 - ii. What guidance or requirements regarding this inquiry are provided to the field offices from HQ?
 - iii. What is the purpose of obtaining information that is beyond the scope of whether there is a parent present and available to provide care for the child?

We consistently instruct AOs to conduct non-adversarial interviews and are concerned to hear reports that AOs are conducting interrogation-like interviews. We take allegations of abuse seriously and do not want AOs engaging in adversarial interviews. If you believe that an AO is conducting an adversarial interview, please contact the local asylum office director and deputy director and provide them with

specifics so that they can follow up with the particular AO. Please let us know if you see this happening in multiple offices. We welcome your suggestions on how to improve asylum interviews.

As part of the adjudication AOs must determine whether USCIS has jurisdiction over the case. To do this, they determine whether the applicant meets all elements of the unaccompanied alien child definition found in 6 U.S.C. §279(g)(2). According to the statute, a child is a UAC if: 1) the child is under 18 years of age; and 2) there is no parent or legal guardian in the U.S. or no parent or legal guardian in the U.S. is available to provide care and physical custody. AOs may ask questions regarding the immigration status of the applicants' parents and guardians towards determining jurisdiction. However, AOs should not be asking these questions in an adversarial manner. If you have concerns regarding the manner in which an AO is asking questions, please take note of the questions during the interview and follow up with the office director or deputy director following the interview. AOs are not asking questions regarding immigration status of the applicants' parents or guardians in order to facilitate removal of the parent or guardian, but to gather information about the parent or guardian's availability to provide care and physical custody for the child.

We provide the following guidance to the field offices: AOBTC Lesson 29 Guidelines for Children's Asylum Claims; Memo on Updated Procedures for Minor Principal Applicant Claims Including Changes to RAPS; Memo on Implementation of the Initial Jurisdiction Provision of the TVPRA for Unaccompanied Alien Children. All are available on the USCIS.gov website at [USCIS - Minor Children Applying for Asylum By Themselves](#).

- 4. Question.** Are all minor cases reviewed by HQ Asylum? Why? Reviewing all minor cases may slow down their adjudication.

All minor principal applicant cases, no matter whether the minor applicant is a UAC or not, are subject to a mandatory HQ review for quality assurance purposes. HQ reviews all minor applicant cases to ensure that this vulnerable population's cases are handled properly. We understand your concern that the HQ review process may hinder the adjudication process. However, we have determined that it is more important to ensure that our adjudicators are correctly following the Children's Guidelines and handling the cases according to our procedures. We may decide to stop reviewing all minor cases at HQ at a later date, after TVPRA has been in effect longer and we determine that the AOs consistently adjudicate the cases according to guidance and procedures.

- 5. Question.** Are you working with NGOs to develop a program to find representation for unaccompanied children?

This idea is under discussion. Now that we are more accustomed to our UAC workload we will continue to explore ways to improve the program.

- 6. Question.** Are unaccompanied children in court proceedings treated differently from unaccompanied children who are not in court proceedings in terms of scheduling interviews?

Asylum has a statutory obligation to adjudicate and process all cases within 180 days. If an I-589 and an I-360 are filed simultaneously then both adjudications will proceed at the same time. However, we have not seen many cases with concurrent filings and will add this item for discussion to the agenda for the next UAC conference call. If we see that our policy of not holding cases in abeyance is affecting a large

number of cases then we may consider issuing revised guidance or addressing the situation through the regulation development process.

We have not heard of any I-360s being filed for unaccompanied children who are not in court proceedings.

- 7. Question.** Is it possible to instruct AOs to ask questions regarding the parents' or guardians' immigration status at the end of the interview as opposed to the beginning of the interview?

We instruct the AOs to develop rapport with the applicants but we do not instruct them to ask questions in a certain order or specify that certain questions must be asked at the beginning or end of the interview. AOs may intersperse questions relevant to jurisdiction throughout the interview. However, it may be easier to adjudicate the case if the AO considers jurisdiction questions upfront so that the AO knows who the child is and why the child is at the asylum office before getting into the merits of the asylum claim. HQ asylum officers conduct quality assurance reviews of all minor cases prior to issuance of a decision and review the interview notes as part of the review. If the HQ reviewer sees any issues with the interview s/he will contact the field office and alert them to any problems.

- 8. Question.** Are the AOBTC Lesson Plans available on the USCIS website?

The Lesson Plans are no longer available on the website. However, the Asylum Division is working to put them back on.

- 9. Question.** Why is the approval rate for ZNK double that of ZNY? Do you find that troubling?

HQ Asylum has never engaged in a study of the approval rates of different offices. However, supervisory asylum officers review 100 % of cases for legal sufficiency. In addition to the 100 % supervisory review, cases are also reviewed by HQ asylum officers. Each case is different and all cases are adjudicated on a case by case basis. We do not track what happens to the individual cases once they are referred to EOIR.

- 10. Question.** Please explain why attorneys do not always receive a copy of the Notice of Intent to Deny but they always receive a copy of the NTA.

Attorneys with a G28 on file should receive copies of the NOID and/or the NTA. It is possible that attorneys may not be receiving copies of the NOIDS due to human error. Asylum officers generate the NOIDS manually – the AO has to remember to copy the attorney. However, NTAs and referrals are automatically generated using the RAPS Forms Generation Module (RFGM). We will contact the office directors and deputies and ask them to remind the supervisors to monitor the process. If you have any specific examples of this occurring please let us know and we will follow up with the field office. Please also let us know if you have specific recommendations for procedures to handle cases where the attorney has not received a copy of the NOID or NTA.

- 11. Question.** At the last meeting, attendees were told they could contact Jeddy Hussey about TRIG cases. Who should they contact now that she is no longer with the Asylum Division?

Please contact Ron Rosenberg.

12. Question. Would the Asylum Division consider allowing telephone participation in asylum stakeholder meetings?

We are weighing this option.

The next meeting is scheduled for 2pm Tuesday, January 25, 2011.