



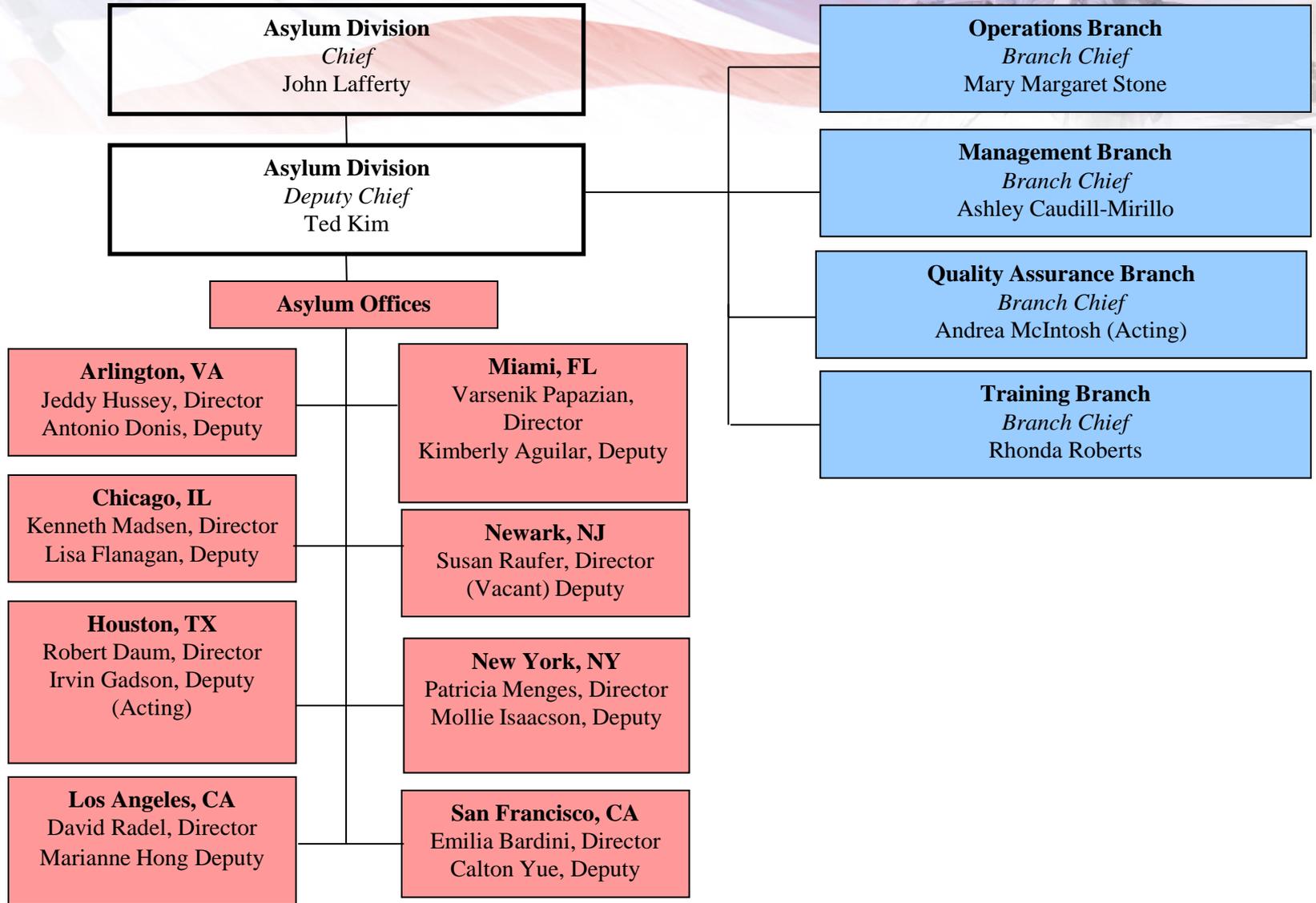
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ASYLUM DIVISION OVERVIEW

April 15, 2015

USCIS Asylum Division



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KEY FUNCTIONS

ASYLUM

The mission of the Asylum Program encompasses the management of four main programs:

- Affirmative asylum applications
- Suspension of deportation or cancellation of removal under the Nicaraguan Adjustment and Central American Relief Act (NACARA 203)
- Credible fear screenings for individuals in expedited removal
- Reasonable fear screenings for certain individuals subject to administrative removal (e.g., aggravated felons and reinstatements.)

Asylum Officers also travel overseas to interview and process refugee applications.



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ASYLUM OFFICES

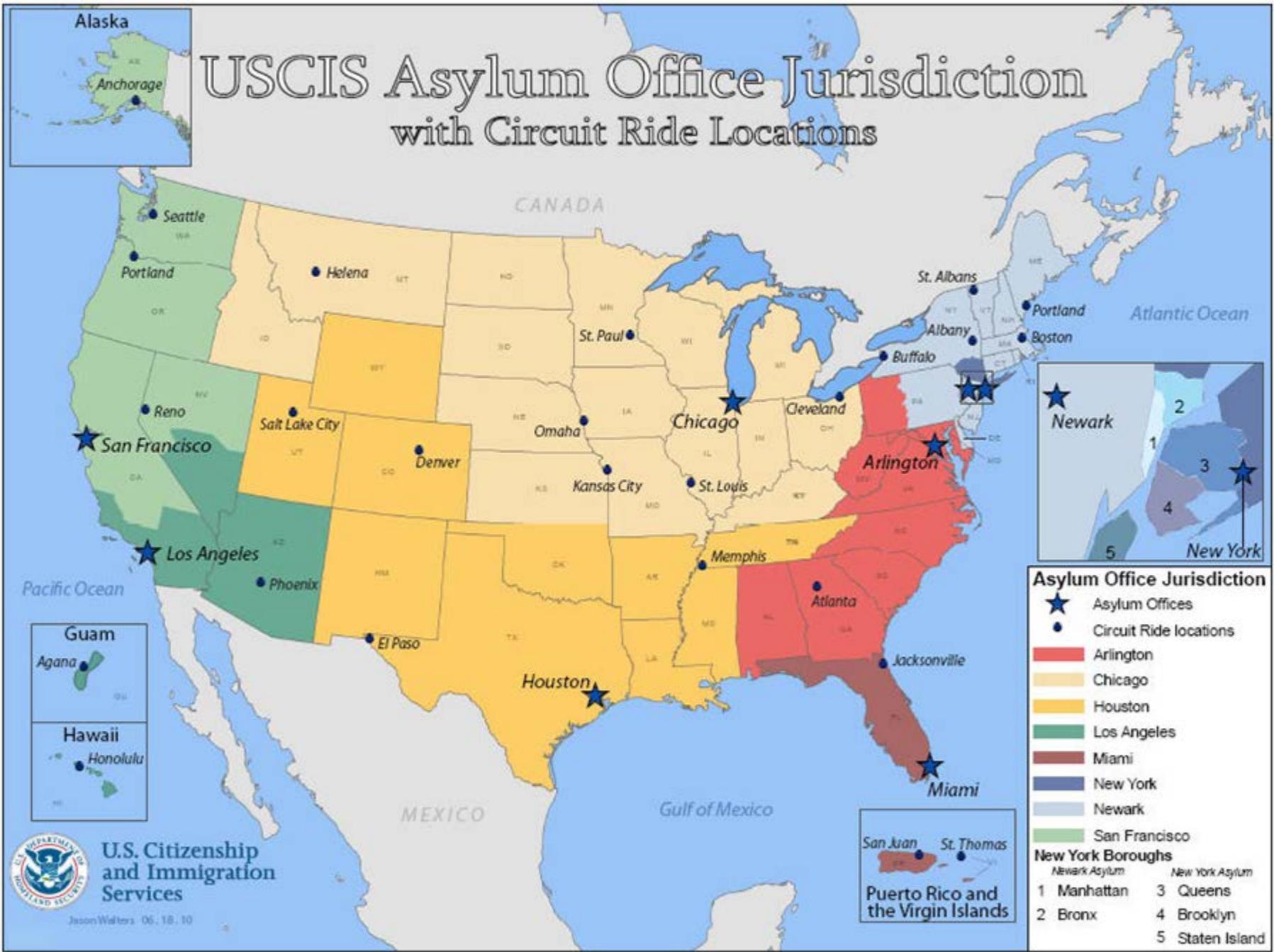
The Asylum Division has eight Field Offices located at the following locations (corresponding circuit ride locations are listed in parentheses):

- Arlington, VA (Atlanta, GA)
- Chicago, IL (Cleveland, OH; Helena, MT; Kansas City, MO; Omaha, NE; St. Paul, MN; St. Louis, MO)
- Houston, TX (Denver, CO; El Paso, TX; Memphis, TN; Salt Lake City, UT)
- Los Angeles (Anaheim), CA (Agana, GU; Honolulu, HI; Phoenix, AZ)
- Miami, FL (Jacksonville, FL; San Juan, PR; St. Thomas, VI)
- Newark, NJ (Buffalo, NY; Portland, ME; St. Albans, VT) – recently opened a Boston sub-office
- New York City (Rosedale), NY
- San Francisco, CA (Portland; OR; Reno; NV; Seattle, WA)



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USCIS Asylum Office Jurisdiction with Circuit Ride Locations



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Jason Walters 06.18.10



Who May Be Granted Asylum?

- Any individual who has properly applied for asylum and is determined to be a refugee under section 101(a)(42)(A) of the Immigration and Nationality Act (INA).
- Definition of a refugee according to section 101(a)(42)(A) of the INA:
 - An individual who is unable or unwilling to return to his or her country of nationality, or country of last habitual residence if stateless, because of
 - Past persecution or a well-founded fear of future persecution
 - On account of (one of five protected grounds)
 - Race,
 - Religion
 - Nationality
 - Membership in a Particular Social Group
 - Political Opinion





Reasons Why Individuals Can Be Barred from Receiving Asylum

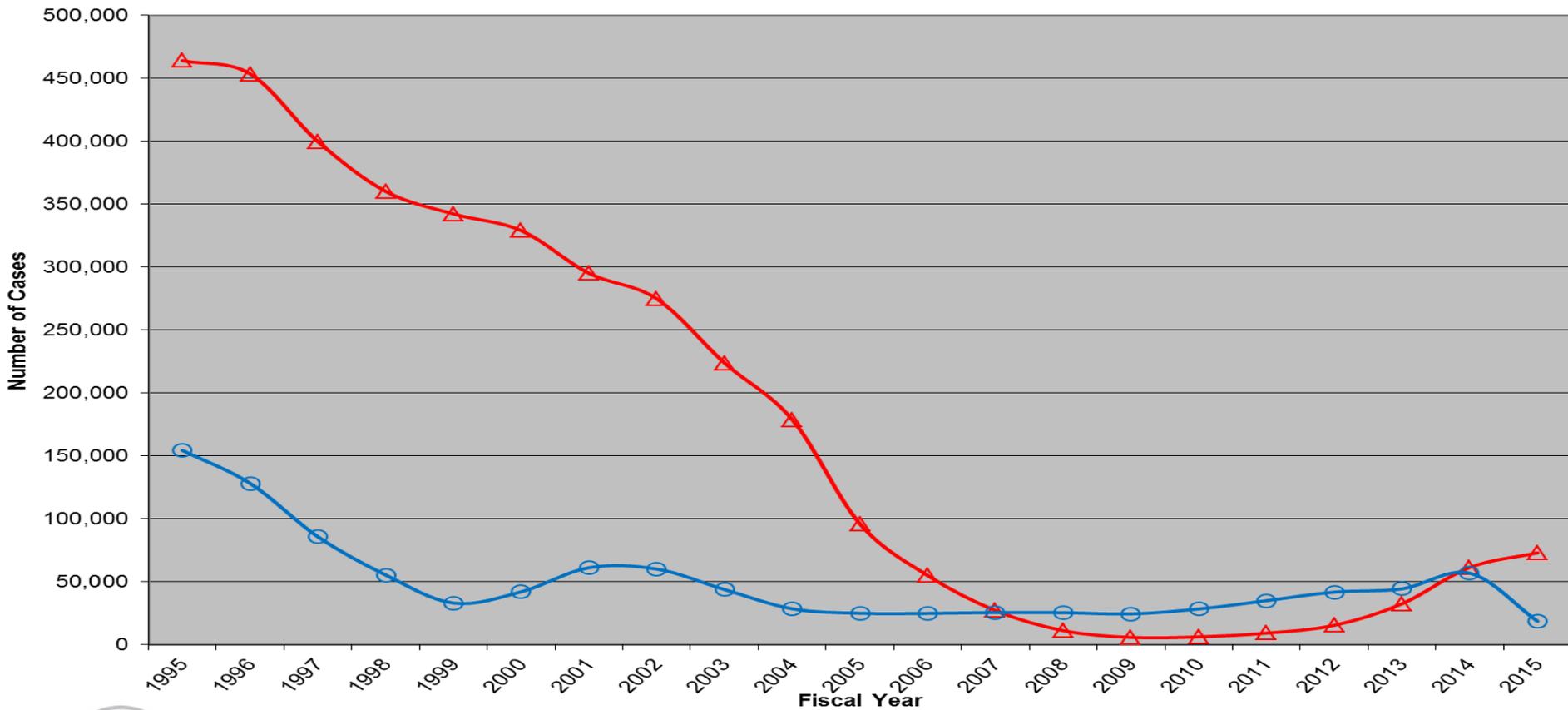
- Persecution of others
- Conviction of a particularly serious crime
- Commission of a serious nonpolitical crime outside the U.S. prior to arrival
- Danger to national security and terrorist activity
- Firm resettlement in another country prior to arrival



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Historical Receipts of New Asylum Filings and Pending Asylum Workload - All Offices



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▲ Pending ● New Receipts

TWO PATHS TO ASYLUM

DEFENSIVE

Immigration Judge with
EOIR/ DOJ

- Applicant is in removal proceedings via
 - affirmative asylum process,
 - credible fear process, or
 - DHS enforcement action
- Proceedings are adversarial
- Interpreter provided

AFFIRMATIVE

Asylum Officer with
USCIS

- Applicant is not in removal proceedings (unless an unaccompanied alien child)
- Non-adversarial interview
- No interpreter provided
- Telephonic interpreter monitor is provided



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THE AFFIRMATIVE PROCESS

- Mails application to USCIS Service Center
- Notice to go to ASC for biometric collection (14-day window)
- Notice to appear for interview
- Dependents included in the application must appear for the interview
- Applicant may bring attorney or accredited representative
- Applicant must bring qualified interpreter if not fluent in English (interpretation will be monitored)
- Interview is “non-adversarial” (Asylum Officer has affirmative duty to elicit all relevant facts)



DECISION

- Most applicants required to return to Asylum Office 2-weeks after interview to pick-up decision in person.
- Types of Decisions:
 - Asylum granted
 - Notice of Intent to Deny with opportunity to rebut, if in valid status. If rebuttal fails to overcome reasons for denial, application denied; No appeal
 - Referral to Immigration Judge for *de novo* determination



BENEFITS OF ASYLUM

- Cannot be removed unless asylum status terminated
- Authorized to work incident to status
- Can request derivative asylum status for spouse and child
- May apply for unrestricted social security card
- Assistance Services through HHS, Office of Refugee Resettlement
- Employment Assistance
- Can apply for adjustment of status after 1-year



Children's Asylum Cases

The Asylum Division receives children's asylum applications in two ways:

1. The minor affirmatively files an asylum application as a principal applicant. The minor may or may not be accompanied.
2. The minor is an unaccompanied alien child (UAC)* under the Trafficking Victims Protection and Reauthorization Act of 2008 (TVPRA).

*UACs have no lawful immigration status, are under 18 years of age, and have no parent or legal guardian available in the U.S. to provide care and physical custody.



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Children's Asylum Claim

Trafficking Victims Reauthorization Act (TVPRA)

- Passed by Congress on December 23, 2008
- Law took effect on March 23, 2009
- Includes provisions on UACs because they may be at a heightened risk of being trafficked
- Gives initial jurisdiction to USCIS on any asylum application filed by an unaccompanied alien child (UAC)
- UACs in removal proceedings file their initial application for asylum with USCIS



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Children's Asylum Claims

Every Asylum Officer receives training on adjudicating children's claims.

When interviewing a child, an Asylum Officer:

- Uses child-sensitive interviewing techniques
- Takes account of a child's age when assessing
 - Credibility
 - Persecution
- Considers a child's:
 - Stage of development
 - Possible limited knowledge of conditions
 - Special vulnerability



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EXPEDITED REMOVAL

- In general, applies to those who:
 - Attempt entry at port of entry by fraud or misrepresentation or without proper documents
 - Apprehended within 100 air miles of the border and within 14 days following an illegal entry
 - Arrive by sea without proper documents
- May be ordered removed without seeing an immigration judge, unless ask for asylum or expresses a fear of return



CREDIBLE FEAR SCREENING

- If asylum seeker subject to expedited removal asks for asylum or expresses fear of return, referred to USCIS asylum officer for credible fear screening.
- Asylum Officer will interview asylum seeker in detention center.
- Those who establish a significant possibility of being found eligible for asylum, withholding of removal, or protection under the Convention Against Torture (“credible fear”) are placed in removal proceedings before IJ.
- Currently, the Asylum Division is processing credible fear referrals within 7.8 days on average.
- The number of aliens referred for credible fear screening increased 850% between FY09 to FY14 from 5,369 to 51,001 cases.



REASONABLE FEAR SCREENING

- If alien in reinstatement or administrative removal proceedings expresses a fear of persecution or torture, he or she is referred to a USCIS Asylum Officer for reasonable fear screening.
- Asylum Officer will interview alien in detention center.
- Those who establish a reasonable fear of persecution or torture (applying the well-founded fear standard used in affirmative asylum adjudications) are referred to an IJ for full consideration of eligibility for withholding of removal or protection under the Convention against Torture.
- The number of aliens referred for reasonable fear screening increased 719% between FY09 to FY14 from 1,109 to 9,084 cases.





Questions?



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About this Presentation

- Author: USCIS OLA
- Date of last revision: May 11, 2015
- This presentation is current only as of the date of last revision.
- This presentation contains no sensitive Personally Identifiable Information (PII).
- Any references in documents or text, with the exception of case law, relate to fictitious individuals.



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