

**American Immigration Lawyers Association
Asylum & Refugee National Committee
Meeting with the USCIS Refugee, Asylum &
International Operations Directorate**

General

1. What are current staffing levels? How many open positions do you have to fill? What challenges are you experiencing with staffing?

As of Dec. 3, 2021, RAIO is currently staffed at 76%, with 2,395 authorized positions, of which 1,810 are onboard and 585 are vacancies. We are planning for further position increases and are working diligently within the component to fully fill all vacancies. The number of vacancies has been exacerbated due to a yearlong hiring freeze from Spring 2020 to Spring 2021 due to budget constraints. At this time, we are making good headway in hiring, with over 990 employees at various stages of the recruitment process. Nonetheless, we continue our recruitment process, as historically we have experienced attrition, increased declination of offers at lower grade levels, and approximately 15% of selectees being delayed in the background investigation process.

Section 132 of the 2022 congressional continuing resolution (the Extending Government Funding and Delivering Emergency Assistance Act ([PL 117-43](#))) provided funding for U.S. Citizenship and Immigration Services Operations and Support “for application processing, the reduction of backlogs within asylum, field, and service center offices, and support of the refugee program[.]” Apart from using these funds to address backlog, USCIS will also increase the number of staff who support the U.S. Refugee Admissions Program by over 300 and support necessary travel costs for refugee processing. As of Dec. 23, 2021, USCIS has already announced and made approximately 185 selections for refugee officer positions. However, given the time it takes to onboard staff, have them clear security and medical screenings, and receive the appropriate training, we do not anticipate the additional staff will be able to begin interviewing refugee applicants before the third quarter of Fiscal Year (FY) 2022.

As of Dec. 23, 2021, the Asylum Division is currently staffed at 77%, with approximately 444 vacancies across the Division. In July 2021, USCIS provided an additional 218 positions to the Asylum Division in support of the Asylum Rule, which further increased the number of positions that needed to be filled. The Asylum Division has made tremendous progress and continues to work hard to fill vacancies expeditiously.

2. The USCIS Asylum Vetting Center has now been open since late 2020. How are operations at this new center? Is there any information you would like us to take back to our members about this new center?

The USCIS Asylum Vetting Center (ZGA) continues to operate with an initial cadre of staff in a portion of what will become their permanent space when construction is complete. ZGA is undergoing facilities construction of their permanent space and is in the early stages of hiring and procuring the resources required to be fully operational in the permanent space.

3. Does RAIO plan to restart national asylum stakeholder calls or meetings? If so, when?

The Asylum Division plans to reengage with stakeholders at the national level in calendar year 2022. We are assessing the most effective meeting format for USCIS and our stakeholders.

4. Do you intend to make asylum office statistics public again?

USCIS is currently discussing this, but we do not yet have details to share.

Training

5. How are new officers being trained during the pandemic? In the past, RAIO made its training materials publicly available which was helpful to counsel to understand how the Asylum Offices interpreted various legal issues. Will RAIO make its training materials public again? What training have asylum officers received on Attorney General Garland's decisions in *Matter of A-B-*, 28 I & N Dec. 307 (A.G. 2021), *Matter of L-E-A-*, 28 I & N Dec. 304 (A.G. 2021), and *Matter of A-C-A-A-*, 28 I & N Dec. 351 (A.G. 2021)?

While the method of training delivery shifted to entirely virtual-based training during the COVID-19 pandemic, the topics of study and the rigor of the officer training remained. Over the past year, officers participated in our recently redesigned Foundations Training Program that focuses on systematically preparing officers to adjudicate core RAIO workloads through a series of courses that build off each other. These courses begin by introducing the legal framework and interviewing techniques, then shift focus to practical application of elicitation of testimony and decision-making skills and finally, provide extensive guided and evaluated mock interviews.

Many RAIO and Asylum Lesson Plans are available in the [USCIS Electronic Reading Room](#) and are updated as they are revised.

In July 2021, the Nexus – Particular Social Group Lesson Plan was updated to reflect *Matter of A-B-*, 28 I & N Dec. 307 (A.G. 2021), and *Matter of L-E-A-*, 28 I & N Dec. 304 (A.G. 2021). This updated lesson plan was made available to RAIO adjudicators, as well as posted in the [USCIS Electronic Reading Room](#). You can access through searching “Particular Social Group” or by using the direct link:

[https://www.uscis.gov/sites/default/files/document/foia/Nexus -
Particular Social Group PSG LP RAIO.pdf](https://www.uscis.gov/sites/default/files/document/foia/Nexus_-_Particular_Social_Group_PSG_LP_RAIO.pdf)

The primary changes to the lesson plan can be found in the “Important Note about Updated Case Law” textbox (pages 9-10). The disclaimer notes that RAIO officers should no longer rely on the decisions that were vacated by the above two decisions or the associated USCIS Policy Memoranda from July 11, 2018 (*Matter of A-B-*) and Sept. 30, 2019 (*Matter of L-E-A-*). Instead, officers are directed to rely on applicable precedent before *Matter of A-B-*, 27 I&N Dec. 316 (A.G. 2018), including *Matter of A-R-C-G-*, 26 I&N Dec. 388 (BIA 2014), which held that “married women in Guatemala who are unable to leave their relationship” can constitute a cognizable particular social group. Officers are also directed to follow applicable precedent before *Matter of L-E-A-*, 27 I&N Dec. 581 (A.G. 2019), which includes *Matter of L-E-A-*, 27 I&N Dec. 40 (BIA 2017). The issues discussed in these decisions are addressed in more detail in Sections 4.1, Family Membership, 4.2, Clan Membership, and 4.6, Domestic Violence, in the current lesson plan. The “Required Reading” section (page 4) has also been updated to reflect the currently binding decisions.

I-589 Backlog and Interview Issues

6. The recent Congressional continuing resolution included money for USCIS backlog reduction. How do you anticipate RAIO will use this funding? How do you plan to use the Congressional funding for Afghan cases? For example, the funding directs USCIS to complete cases within 45 days. Will RAIO expedite these cases as a result?

Yes, pursuant to Section 2502(c) of the 2022 congressional continuing resolution, the Asylum Division is expediting the interview and adjudication of asylum applications filed by certain Afghan nationals as described in Section 2502(a) of the CR.

USCIS has requested \$345 million in appropriated funds from Congress as part of the FY 2022 Homeland Security Appropriations Bill to support, in part, asylum backlog reduction and refugee processing. The RAIO Directorate is expected to receive \$109 million of which \$41.7 million will be for the Asylum Division and \$67.2 million will be for the International Refugee Affairs Division once the bill is signed into law.

Under the continuing resolution, \$250 million of the \$345 million was made available to USCIS. The RAIO Directorate was approved \$72.2 million of which \$24.5 million will be for the Asylum Division and \$47.6 million for the International Refugee Affairs Division. Allotment of these funds is pending final congressional approval of the USCIS spending plan. The Asylum Division's portion of this funding will be used to reduce the current level of affirmative asylum cases pending in the backlog.

The continuing resolution also provided USCIS \$193 million for Operation Allies Welcome. USCIS anticipates using funding to offset payroll, interpreter costs, background check processing, overtime, and adjudicative travel for this population. USCIS is also exploring the feasibility of setting up temporary interview sites to increase concurrent capacity in any high-volume locations.

7. Can you provide an overview of the affirmative asylum application scheduling system? Given the long backlogs, practitioners are hesitant to prepare filings with full evidence that will become outdated and/or moot by the time of the interview. Interview scheduling has also been inconsistent and unpredictable. If notices of interview are only mailed 3-4 weeks in advance, and updated evidence must be submitted at least seven days in advance, this leaves as little as a week for attorneys/applicants to submit additional evidence. Is there a way to either give advance notification electronically before mailing and/or issue notices with more lead time before the interview?

The first scheduling priority for affirmative asylum processing includes any cases that were rescheduled from a prior interview. For practitioners who reschedule a case for any reason, that rescheduled case will be placed within the first priority for future interview scheduling. Overall, the Asylum Division schedules 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.

All scheduled interviews are provided notice by mail. Currently, there is no established way to send a notification of an expected scheduling action for a new interview prior to the time that the interview is scheduled. In addition, there is not a reliable way to determine the volume and makeup of future scheduling activities because of the need to frequently reassign staffing between workloads.

Workload priorities, including those related to border enforcement, may affect our ability to schedule all new applications for an interview within 21 days. We have also lost some of our capacity to conduct interviews due to social distancing necessitated by the COVID-19 public health emergency.

Asylum office directors may consider, on a case-by-case basis, an urgent 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. Jurisdiction and contact information can be found on the [USCIS Service and Office Locator page](#). You can also contact the asylum office with jurisdiction over your case for status updates.

8. How much discretion is retained by local Asylum Offices to decide the order in which cases are interviewed? Does RAIO provide guidance on how to schedule and prioritize interviews?

Approximately 21 days before an interview day, Global, the asylum case management system, fills that day's interview slots with cases eligible for interview scheduling. Cases are eligible for interview scheduling when the applicant and dependents have completed biometrics collection. Global schedules interviews in the following order of priority:

- **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.

Asylum offices can also manually schedule interviews. Asylum office directors may consider, on a case-by-case basis, an urgent 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. Jurisdiction and contact information can be found on the [USCIS Service and Office Locator](#) page.

9. Does RAIO plan to continue using Last In, First Out (“LIFO”) for affirmative asylum interviews? Has RAIO found that LIFO has served its intended purpose of reducing non-meritorious claims? What plans are there to conduct interviews for asylum seekers who have been in the backlog for years?

USCIS prioritizes scheduling new cases for interview under the “Last In, First Out” (LIFO) policy. LIFO is a critical tool in controlling non-meritorious or fraudulent applications filed

only to obtain employment authorization. Without LIFO scheduling, the affirmative asylum backlog would rapidly increase above present levels.

After announcing the end of LIFO scheduling in December 2014, affirmative asylum receipts rose at a rapid rate: annual applications filed per year increased from 56,898 in FY 2014 to 83,197 in FY 2015 (+46%), to 114,965 in FY 2016 (+38%), and to 141,695 in FY 2017 (+23%). The affirmative asylum application backlog grew by 77% in FY 2015, by 79% in FY 2016, and by 49% in FY 2017.

- Other asylum cases are scheduled for interview as resources permit. Asylum offices devote portions of their schedules to backlogged applications, including those requiring expeditious handling.
- USCIS may consider, on a case-by-case basis, an urgent request by an asylum seeker to be scheduled for an interview outside of the LIFO priorities.

In FY 2021, 26% of the interviews conducted were of cases pending for 36 months or more, and 38% of the cases completed were of cases pending for 36 months or more.

10. Many circuit ride locations have not had interviews in over a year, and sometimes longer. Can you confirm when circuit rides will commence? May local Asylum Offices interview applicants who are willing to drive to local offices for their interview? Are there plans to specifically address the backlog in circuit ride locations?

Circuit ride travel was reduced in FY 2021 due to COVID-19 mitigation measures. In November 2021, Asylum Headquarters authorized asylum offices to resume circuit rides as mission-essential activities so long as circuit ride travel and interviews follow applicable USCIS requirements, as well as any capacity constraints necessitated by social distancing requirements, or any other federal, state, and/or local COVID-related mandates. As a result, asylum offices are planning for the resumption of circuit rides throughout FY 2022. The Asylum Division anticipates resuming more circuit ride travel as conditions improve in circuit ride locations.

11. What criteria does RAIO use in deciding whether to expedite interviews for certain affirmative asylum applicants? Do the criteria vary among the Asylum Offices?

An asylum office director may determine that it is in the best interest of USCIS to process an asylum application more expeditiously than usual because the case contains sensitive issues or there is special interest in the case.

Examples include but are not limited to: applicants who are being placed in witness protection programs, applicants who are providing information of national security concern to other agencies within the federal government, and cases in which there is a family member in jeopardy (e.g., the spouse or child of an asylum applicant is in danger of harm in the country of claimed persecution). Asylum office directors have discretion in deciding whether to grant expedited case processing.

COVID-19 Protocols & Extension of Asylum Interview Interpreter Requirement Modification Rule

12. Which Asylum Offices currently allow remote appearances for counsel? Do you have plans to expand the offices using remote appearances? After allowing remote appearances for several months, do you have any concerns?

All asylum offices currently allow for remote appearances by attorneys and accredited representatives who have submitted Form G-28, Notice of Entry of Appearance as Attorney or Accredited Representative, for asylum and NACARA interviews. Instructions and opt-in forms for each office are available on uscis.gov: [Having your attorney or representative participate in your asylum and/or NACARA interview from a remote location via video or telephone.](#)

13. Is there any plan to expand remote appearances to clients to address the lack of interviews available to applicants in circuit ride areas?

The Asylum Division is currently discussing this, but we do not yet have details to share.

14. We understand the use of remote interpreters due to the COVID-19 pandemic but are concerned about the quality of telephonic interpretation, which often deteriorates significantly over the course of hours-long interviews. During a recent ZAR meeting, members were told that verbatim interpretation is not required in asylum interviews, and that a “summary” is sufficient. This concerns us as we’ve witnessed issues recently with some of the USCIS contract interpreters excluding particularly important words, or incorrectly summarizing important aspects of the client’s claim. Is it RAIO policy that interpreters can “summarize” testimony? Are the telephonic language services given the instruction that they can summarize?

The interpreter services contracts do not require word-for-word interpretation, but RAIO policy does not allow interpreters to summarize testimony. Telephonic language service providers are not given instructions to summarize. Applicants and representatives should raise any concerns such as lack of fluency, frequent/inappropriate interjections, apparent bias or prejudice, or unprofessional conduct by the contract interpreters to the

interviewing asylum officer, who will address the concerns and document the issue in both the interview notes and the interpreter log.

If the issue is egregious and requires immediate attention, the officer should raise the issues to their supervisor. The asylum officer may also dismiss the contract interpreter of concern and request another contract interpreter. Asylum officers who have complaints or concerns about the quality of the interpretation record those complaints or concerns in an interpreter log, and that information is communicated to personnel administering the contract at Asylum Division Headquarters.

This information is used by the contract officer representatives both to ensure compliance with RAIO policies and to hold vendors accountable for contract performance. RAIO requires that interpreter services vendors maintain robust training and compliance requirements for language service providers.

I-589 Decisions

15. Pre-COVID, most Asylum Offices would issue in-person decisions in two weeks in most cases. With decisions being mailed out, it is often taking months after an interview for the Asylum Office to issue a decision. Does RAIO set a reasonable expectation on how long it should take to issue a decision?

Currently, the national goal is to issue decisions within 20 days of the affirmative asylum interview. Some cases will require additional processing times following an interview because of the need for further internal review of the decision or case.

16. Which categories of cases currently require headquarters review?

Headquarters' review is required for certain cases involving national security issues or novel legal issues as well as cases that have been or are likely to be publicized.

I-730 Adjudications

17. Are all I-730 petitions being adjudicated by the LA Asylum Office? Are there plans to devote more resources to these cases, many of which have been pending for years and where delays mean ongoing family separation?

No, not all Form I-730 petitions are adjudicated by the I-730 Processing Unit of the Los Angeles Asylum Office. The I-730 Processing Unit of the Los Angeles Asylum Office completes pre-processing of Form I-730 petitions filed by refugees and review of the associated consular-returned Form I-730 petitions. Currently, the I-730 Processing Unit of

the Los Angeles Asylum Office is prioritizing the processing of Form I-730 petitions filed by refugees with Afghan beneficiaries in accordance with Operation Allies Welcome.

In addition to the Los Angeles Asylum Office, there are other U.S. government offices involved in Form I-730 processing:

- The USCIS Service Center Operations Directorate completes pre-processing of Form I-730 petitions filed by asylees and reviews associated consular returned petitions (FTJ-A cases only).
- The USCIS Field Operations Directorate conducts interviews and completes adjudication of Form I-730 petitions where the beneficiary is located in the United States (FTJ-A and FTJ-R cases).
- RAIO's International and Refugee Affairs Division conducts interviews and completes adjudication of Form I-730 beneficiaries located abroad in a USCIS jurisdiction (FTJ-A and FTJ-R cases).
- The Department of State also assists with Form I-730 processing abroad for beneficiaries located outside of USCIS' jurisdiction (FTJ-A and FTJ-R cases).

During routine resource allocation reviews at USCIS, workloads and staffing requirements of Form I-730 processing are considered. Currently, RAIO is completing an internal review of resources allocated to Form I-730 processing and considering proposals for increasing resources dedicated to the workload. Through this process, determinations will be made about allocation of resources to the Form I-730 caseload.