



U.S. Citizenship
and Immigration
Services

Questions and Answers

USCIS Asylum Division Quarterly Stakeholder Meeting

Tuesday, January, 28, 2014

Tomich Center

111 Massachusetts Avenue, NW

Washington, D.C. 20001

8:30am to 10:00am ET

I. Welcome and Introductions

II. Presenter: Joanna Ruppel, International Operations Chief

- *I want to introduce Roman Ginzburg who is a Program Manager at International Operations. Roman handles asylee/refugee following-to-join issues for International Operations and works on individual cases that are stuck overseas.*
- *To enhance the integrity of the asylee/refugee following to join process, USCIS plans to implement process changes in a phased approach in order to require completion of an interview of the beneficiary and all security vetting prior to approval of a Form I-730. Under the current process, the interview and security vetting are required prior to issuance of travel documents, but not prior to approval of the petition itself.*
- *At present, if an I-730 is approved, it is sent overseas via the National Visa Center. If USCIS is not present at the overseas location then the petition goes to Consular Affairs. Either a USCIS Officer or a Consular Officer from the Department of State decides on travel eligibility, examining the relationship between the petitioner and the beneficiary, and other eligibility issues. If the officer finds that the person is not eligible, the officer sends the case back to Service Center Operations. The Service Center may say we do think they are eligible and send it back overseas. People can get stuck in this ping pong effect. Another problem is that a person's application is approved before he or she is interviewed and biometrics checks are completed, and thus, before his or her eligibility is verified. This can lead to people believing they are eligible and then they find out they are not.*

- *We have been working to improve the process in a phased approach so that the final approval of the I-730 is made after the biometrics collection and interview overseas. This may be complicated in locations where USCIS does not have an office. Additionally, because this is a new process, we decided to start in China, where USCIS handles all following to join cases, to make sure all the processes work before rolling out to other locations in later phases.*
- *For phase one of this process change, USCIS Service Centers will transfer to the USCIS international field offices in China the Form I-730 of any beneficiary residing in China if 1) the Form I-730 has not been adjudicated by the Service Centers by April 1, 2014, and 2) the I-730 appears approvable. USCIS Service Centers will continue to issue requests for evidence and deny those petitions in which an adjudicator determines, prior to the interview, that the beneficiary is not eligible for following-to-join benefits. However, if the beneficiary appears eligible, pending confirmation of identity, relationship, and other eligibility requirements, the Service Center will forward the petition to the appropriate USCIS international field office in China for final adjudication and, if approved, issuance of a travel document. For these cases, petitioners, and any attorney of record, will receive a transfer notices when the petition is ready to be sent overseas for interview. The approval notice will be delivered to the petitioner, beneficiary and any representative of record after the beneficiary successfully completes the interview and travel documents are ready for issuance. For petitions adjudicated overseas, the petitioner will likely be required to send to the appropriate USCIS international field office any responses to Notices of Intent to Deny or Requests for Evidence issued by the international field office. Reply instructions will be included in the notices. If an international field office denies a Form I-730, it will include in the denial notice instructions for filing a Form I-290B.*
- *Phase two will require completion of an interview of the beneficiary and all security vetting prior to approval of a Form I-730 for all beneficiaries living in other countries with USCIS international field offices. A start date for phase two has not been set.*
- *Phase three will require completion of an interview of the beneficiary and all security vetting prior to approval of a Form I-730 for all beneficiaries living overseas in countries without USCIS offices. Approximately half of the adjudications abroad are currently done by the Department of State and half by USCIS. A determination on how this process will work has not been made at this time. USCIS is considering the use of a circuit ride model or the delegation of authority to the Department of State to approve clearly approvable cases, as is done for certain other USCIS immigration petitions.*
- *To recap, the way the new adjudication model will work for petitions for beneficiaries residing abroad is that petitioners will file a Form I-730 with the appropriate Service Center just like they do now. Service Center officers will verify relationship, timely filing, etc. If the Service Center officer determines the petitioner or beneficiary is not eligible, then the officer*

follows the same process for denying the petition as now. If the Service Center officer finds that the petitioner and beneficiary appear eligible, they follow the same procedures that are in place today except they do not stamp the petition approved. The Service Center will then mail a notice to the petitioner informing him or her when the petition is transferred to an international office. In phase one, only petitions for beneficiaries residing in China will be transferred abroad before approval. In China, USCIS staff will interview the beneficiary, run biometrics checks and approve the case if it is approvable. If USCIS staff finds the person is not eligible then staff will process the petition following the same procedures presently used in the Service Center, by issuing a request for evidence, a notice of intent to deny, or a denial as appropriate. If the case is denied, the petitioner still has an opportunity to file form I-290B.

- *For the petitioner, the new process will look mostly the same except for one thing: when a petition is found to be approvable, the Service Center will no longer send the petitioner an approval notice, but, rather, a notice that the petition was transferred overseas. All approval notices will be coming from International Operations.*

Remember that USCIS International Operations gets involved only after the petition is sent abroad. We work with Department of State as well.

Stakeholder Follow-up: *How do these process changes affect the collection of original documents by the National Visa Center?*

Response: *The National Visa Center (NVC) only collects original documents for beneficiaries residing in select countries where the document collection pilot is running. The process changes announced today will have no impact on the document collection pilots. Furthermore, as discussed, phase one will only involve petitions sent to China, which is not a document collection pilot location. NVC cannot handle the volume of petitions sent to China at this time. Other offices, however, will continue running the document collection pilot. USCIS is working towards having only one entity working on I-730 petitions, and we are looking into the role of the NVC and whether the domestic document collection pilot should be continued.*

III. Presenter: Len Gradowski, Deputy Chief, Customer Service Division

- *When you call the 1-800 number you get the interactive voice response unit (IVR). IVR provides general information. You can order forms, find out where the closest civil surgeon is located, etc. 52% of inquiries in IVR are satisfied. We do our best to make IVR as customer friendly as possible.*
- *If you can't get what you need in IVR, you go to live assistance.*
 - *Tier I is a contractor operated entity. Depending on what day of the week you ask me, we have somewhere between 425 and 525 customer service people taking phone calls.*

We provide scripts that they work from and they should be able to answer a lot of questions. They have more information than IVR and can talk to you about eligibility requirements. The biggest benefit for us is that this is the first place we can do a service request. A lot of times, you have to go into the applicant's file, so Tier I takes the service request electronically and sends it directly to the office where it is researched. This should take 5-15 days depending on the type of request.

- *Tier II is staffed with government trained Immigration Service Officers (ISO). They are jacks of all trades and have access to almost all of our systems. They are typically answering questions about cases that are pending with USCIS. If they can't give you the answer over the phone because the information is not in the system, they are then directed to send a service request to the appropriate office.*
- *We do get busy. We want people to get information in an accurate and friendly way. If you call us early in the morning, you are more likely to get through. We are open from 8am-6pm in each time zone across the country. Therefore, if you are from the east coast, you are the only people calling so you are more likely to get through quickly. Peak times are 11am to 4:30 or 5pm in the afternoon. Monday is always the busiest day. Tuesday is the second busiest and Friday is the least busy.*
- *We are trying to leverage technology. In November we deployed a voice call back system. When there is a 20 minute wait, the system will offer you the option of leaving your contact information with the system and the system will call you back without losing your place in line. If you have a trunk line, make sure to give a direct line or cell phone number so you don't miss the call. Only 50% are taking advantage of this system at this time. We would like it if more people participated.*

Stakeholder Follow-up: *The voice call back system is 80% good.*

- *We do have issues. We have 500 contractors including 100 ISOs. We save everybody's phone call for 90 days. Let us know if something goes wrong and we will listen to random calls and monitor them. If you have a bad experience, we will pull the call, listen to it at the HQ level, and take whatever corrective action is needed, including remedial training if necessary. We have had issues where we have had to let people go for hanging up on customers. If you let us know of any problems, we will take care of it. Let us know by emailing ccemailbox@uscis.dhs.gov. Someone monitors this mailbox constantly.*

Stakeholder Follow-up: *They will not answer questions, especially about I-730s, because they tell us it is confidential information. If you say you are inquiring about an I-589, you cannot get information. There are problems 70% of the time. I have had to do serious battle to get an answer. I just wanted to raise this again.*

Response: *I had been told this was fixed. This was elevated to us last spring. My understanding is that the NCSC cannot give out case status regarding I-589 applications but*

can provide case status about underlying applications –I-485s, I-765s, & I-131s. Asylum did come to our Tier II offices and brief us about what we are allowed to talk to you about over phone and we thought we had it fixed. We were told to refer to SCOPS about how the NCSC should handle I-730s. SCOPS informed us that the NCSC could provide case status of I-730s. We heard rumblings again in October/November and we did another round of training from HQ. Tier II was informed that it may provide case status for I-730, I-765, I-131, and I-485 applicants associated with an I-589, but not the I-589 itself. Those of us in Customer Service had not heard of any other issues.

Stakeholder Follow-up: *It has improved some.*

Response: *Please send us all caller information (telephone number, date and time of the call) so we can retrieve those calls to determine the source of the issue.*

IV. Asylum Division Updates

1. Personnel Announcements.

- Jeddy Hussey, Director, Arlington Asylum Office, EOD 2/10/2014
- John Elliott, Chief of Staff, New York Asylum Office, EOD 12/29/13
- Irvin Gadson, Chief of Staff, Houston Asylum Office, EOD 11/17/13
- Marianne Hong, Chief of Staff, Los Angeles Asylum Office, EOD 12/29/13
- Janna Austin, Asylum Officer, HQASM, EOD 12/29/13
- Daniel Broughton, Asylum Officer, HQASM, EOD 12/15/13
- Angela Gipson, Asylum Officer, HQASM, EOD 12/1/13
- Christopher Gossett, Asylum Officer, HQASM, EOD 12/1/13
- Alejandra Kim, Asylum Officer, HQASM, EOD 12/15/13
- Departure: Marie Hummert, Director, Houston Asylum Office / (Jessica Walters will serve as Acting Director)

2. RAIO Combined Training (RAIO CT) and Asylum Division Officer Training Course (ADOTC).

- Training Dates
 - I. RAIO Combined Training 5
 - Distance Learning: January 17, 2014 to February 7, 2014
 - Residential Training: February 11, 2014 to February 28, 2014
 - ADOTC: March 3, 2014 to March 19, 2014
 - II. RAIO Combined Training 6
 - Distance Learning: March 3, 2014 to March 28, 2014

- Residential Training: April 1, 2014 to April 17, 2014
- ADOTC: April 18, 2014 to May 6, 2014

○ Number of Officers

I. RAIO CT-5

- 49 Asylum Officers
- 0 Refugee Officers
- 3 IO Adjudication Officers

II. RAIO CT-6: Approximately 50 Officers (primarily Asylum Officers)

3. Staffing Update. We currently have approximately 292 asylum officers on board. Approximately 20 of these officers are in the security screening process and approximately 35 are in the process of being selected for the position.

4. Recently Issued Memoranda. Two significant memoranda have been issued since the October Asylum Division Quarterly Stakeholder Meeting. These handouts are provided for your review.

- Issuance of Revised Procedures Regarding Trafficking Victims for the Affirmative Asylum Procedures Manual
- Changes to Case Categories Requiring Asylum Headquarters Review

Stakeholder Follow-up: *Is the Asylum training open to stakeholders?*

Response: *No, this is an eight week residential training. Many of the training modules are available on USCIS.gov at <http://www.uscis.gov/humanitarian/refugees-asylum/asylum/asylum-division-training-programs>.*

Stakeholder Follow-up: *How much training do officers receive on LGBT issues and cultural sensitivity?*

Response: *There is an LGBT training module and they receive training on particular social group and cultural competency. The LGBT training module is available on USCIS.gov.*

Stakeholder Follow-up: *How many of the new Asylum Officers are finished with training?*

Response: *Our earlier staffing level was 272 officers, but we are rarely at full staff. We were at approximately 250 officers going into FY14 and there were also new Supervisory Asylum Officer positions posted, which created additional vacancies when officers were promoted. Right now we have an additional 40 or so on board, but many are in the training process.*

Stakeholder Follow-up: *Are you going to make the revised Quality Assurance Checklist publicly available?*

Response: *The table in the Changes to Case Categories Requiring Asylum Headquarters Review memo reflects the changes to the checklist.*

Stakeholder Follow-up: *With all the new people being hired, how big are the offices?*

Response: *The Los Angeles Asylum Office's staffing level is 73 officers. Houston is the next biggest office and is heading towards 62 officers. Houston has had facilities issues and is looking into temporary facilities in a courthouse downtown while they finish renovating their new facilities, and Los Angeles also has a facilities project underway. New York and Newark are the next biggest. New staff is distributed according to workload.*

Stakeholder Follow-up: *Are officers still being detailed to Houston?*

Response: *On any given day 2-3 officers from other asylum offices are helping Houston with credible fear cases remotely.*

Stakeholder Follow-up: *Have there been any changes to TRIG cases that come to HQ for review?*

Response: *We expect to receive the same TRIG cases. The changes presented in the Changes to Case Categories Requiring Asylum Headquarters Review memo clarify that all cases that would be granted but for the TRIG bar should be reviewed by HQ. In practice, we were already receiving these cases.*

V. Regularly Provided Statistics

1. Affirmative Asylum workload (October 2013 – December 2013)
2. NACARA workload (October 2013 – December 2013)
3. Credible Fear and Reasonable Fear workloads (October 2013 – December 2013)
4. Afghanistan, Iraq, and Libya receipts (FY 1993 – FY 2014)
5. Unaccompanied Alien Children (October 2013 – December 2013)

VI. Additional Requested Statistics

1. Asylum application decisions based on PSG for the following countries:
 - **Russia**
 - **Uganda**
 - **India**
 - **Nigeria**
 - **Iran**
 - **Jamaica**
2. Average/median/range of scheduling time for affirmative asylum interviews
3. Syria receipts (FY 1993 – FY 2014)
4. Average number of days current cases have been pending Interview

5. One-year filing deadline (late submission from October stakeholder meeting)

VII. Questions

1. **Benefits Orientations – Asylum Offices.** Can you share which asylum offices are currently offering "benefits orientation sessions" for asylees? For each office, please share the following information:
 - a. How often are the sessions offered?
 - b. How are the sessions advertised to asylees?
 - c. Is there an agreement with the local immigration court to distribute handouts to grantees?
 - d. Can you share the attendance at the sessions -- what percentage of individuals granted affirmatively are attending? How many defensively granted asylees are attending on average?

Response: *See handout - Asylee Benefits Orientations. San Francisco was the first office to have benefits orientations. Most recently the New York Asylum Office was approached by the International Red Cross and Church World Service to host orientations.*

Typically offices provide notification in the packet of materials with the grant letter. The San Francisco office is allowed to post flyers in the Immigration Court. Other asylum offices have attempted contact with courts in their jurisdiction, but they have had little success.

It is generally best to have monthly benefits orientations because of the short timeline to apply for benefits.

Asylum offices that conduct these orientations enjoy it and it is a good partnership exercise. We can provide space and photocopying and the NGOs bring in experts who can speak to the benefits available. We continue to try and pitch the idea of hosting these orientations to other asylum offices.

2. **Benefits Orientations – Expansion.** Are efforts being made to establish benefits orientation programs at each asylum office? If not, why not?

Response: *We pursue the creation of these programs by actively welcoming the opportunity to partner with organizations to set up benefits orientations at any of the asylum offices.*

3. **Benefits Orientations – EOIR and ICE.** Are efforts being made to liaise with EOIR and the ICE OCC offices to ensure that information about the benefits orientation sessions is given to asylees granted in court?

Response: *We have made efforts to try and liaise with EOIR and ICE with mixed success. See handout - Asylee Benefits Orientations.*

Stakeholder Follow-up: *Is there any movement to make these orientations mandatory?*

Response: *NGOs usually get a grant to provide these orientations so it needs to be a shared endeavor.*

Stakeholder Follow-up: *We have gone to the courts in the Arlington jurisdiction to see if we could post information about the orientation, but they said it had to come from Headquarters. Maybe we can have the Office of Refugee Resettlement provide some pre-approved information?*

Stakeholder Follow-up: *We can also work with trial attorneys. Some trial attorneys feel that it is their duty to provide benefits information.*

4. **Particular Social Group – LGBT.** I was wondering how many asylum claims were filed under particular social group where the particular social group was a lesbian, bisexual, gay, or transgender identity. How many were approved? What were the top countries of origin of the applicants?

Response: *The Asylum Division does not track social groups with any specificity.*

5. **Applications Based on Membership in a Particular Social Group.** How many asylum applications were received from Russia, Uganda, India, Nigeria, Iran, and Jamaica in 2013 based on membership in a particular social group? In 2012?

Response: *See handout – Basis of Claim: Particular Social Group.*

6. **Headquarters Review – LGBT Cases.** Why are some cases, like gender cases, required to be submitted to HQ for a response prior to a decision? Are LGBT cases required to be submitted to HQ for a response prior to service of any decision? If not, why not?

Response: *Gender cases are no longer required to come to HQ and we have told the field to process those cases. The Asylum Division requires HQ review of cases involving complex or novel legal issues, cases that implicate complicated policy considerations, and cases for which the consequences of an incorrect decision are especially serious, such as negative credible fear determinations and national security cases. Generally speaking, LGBT cases do not meet these criteria so they are not reviewed by HQ unless they fit into another category.*

7. **HQ Staffing - TRAQ.** Is Asylum Office headquarters fully staffed for cases sent to headquarters for additional review (e.g., cases involving UAC applicants, reasonable fear decisions, etc.)?

Response: *We are regularly reviewing our staffing levels to see if they need to be adjusted. As more people are hired, more people are assigned to case review.*

Like the rest of the Asylum Division, Headquarters has been making personnel adjustments to respond to the influx of credible fear cases. Practically speaking, there are more reviewers of credible fear and reasonable fear cases than there have been in the past.

We are still trying to trim down the number of cases that need to come to Headquarters for review.

8. **Scheduling.** Can you provide the average/median/range of scheduling time for affirmative asylum interviews at each asylum office?

Response: *See handout – Number of Days Between Filing and Interview Date.*

The range of numbers is extreme. We do have cases in the backlog that were filed in the 1980s and the 1990s. When we process these cases, they have a significant impact on the average processing time. Earlier cases in the backlog were in the single or double digits, but in 2010 and 2011 these numbers started growing. Currently, the majority of cases pending are from 2012 or 2013. We have been actively discussing case scheduling issues to ensure we have a mechanism for expedited processing. We are also trying to find ways to get older cases into the schedule. We try to process cases within the 180-day statutorily mandated timeframe. Hopefully by the end of the fiscal year we will be in a better position.

Stakeholder Follow-up: *Are there any offices where the backlog is not moving at all and only current cases are being heard?*

Response: *We continue to get more affirmative cases than we can adjudicate in every office. In accordance with our scheduling priorities, we are scheduling newer cases. However, we are taking the little capacity we have to try and get to older cases and we will consider requests to expedite.*

Stakeholder Follow-up: *There is a short list at ZAR.*

Response: *Yes, we view this as a positive and will encourage other offices to do this if they are not already doing so.*

Stakeholder Follow-up: *We have heard some concerns in Los Angeles about applicants, usually those without counsel, cancelling their interviews and then having the clock stop.*

Response: *Reschedules are being prioritized by offices. In the past we have reminded offices of this and we will reemphasize this priority. Offices should be prioritizing cases when we know the clock has stopped. They are the number one priority. We don't want them to have to go to the back of the line.*

Stakeholder Follow-up: Does each office have the power to schedule cases on their own? I'm talking about Memphis.

Response: Circuit ride cases are different. Offices can only process these cases when the office is able to send an officer to the circuit ride location unless the applicant wants to travel to Houston. The system will automatically schedule cases based on priorities, but offices can manually override the system if they think it is necessary. See the Affirmative Asylum Procedures Manual, which has a section about scheduling priorities.

9. **Jurisdiction and the Clock.** We previously alerted you of cases in the Northeast region where a change of address would result in an automatic change of jurisdiction from the Newark to New York Asylum office of vice versa, and sometimes even would result in a stop of the clock counting the days to EAD eligibility. We are getting mixed messages as to whether this is USCIS policy or individual office policy, and our previous attempts to bring the issue to the attention of HQ have only resulted in cases being scheduled for interviews. This does not solve the problem of the denied EAD or lost time due to the clock being stopped especially if the case is referred to EOIR. **Can USCIS HQ issue an advisory to Newark and New York not to change venue without consent from the applicant or their attorney, and not to stop the clock when and if an address change necessitates a change in venue?**

Response: The movement between Asylum Office jurisdictions by an asylum applicant is considered a delay requested or caused by the applicant under 8 CFR 208.7. Therefore the clock is stopped. When the applicant moves to a new jurisdiction, a scheduled interview is cancelled at the original jurisdiction and rescheduled in the new jurisdiction, causing a delay in the adjudication of the case. What is happening is that system does this automatically based on the address change. If you have a request to make about the applicant's interview, please submit it in writing to the local office.

10. **Backlogs.** In the Anaheim office, there are still extensive delays in getting an interview. Our colleague in the area currently has almost 6 cases pending almost 1 year or more. And when we do an inquiry for update, they just say that no interview has been scheduled and they'll alert us two weeks before the interview date. Several applicants received recommended approval over a year ago, but still have no interview date. **Is there any update on eliminating/minimizing these delays, being able to provide case updates, how USCIS is dealing with new hires, and scheduling for the New Year with new filings?**

Response: The Asylum Division schedules asylum interviews as soon as resources permit. Currently, our resources are stretched, as we have received a significant increase in all caseloads over the last three years, which has led to longer processing times for the affirmative asylum caseload. We are currently hiring and training additional personnel to address the increased workload. Regarding our Los Angeles Office, they also have not been able to keep up with receipts, but they are making progress. They have close to 70 officers now, up from around 60 last year. They just sent approximately 15 officers to training. Q1

has not seen as much of a workload as last year so Los Angeles is using this opportunity to dig into affirmative cases. We should see a difference in the next few months, but it all depends on what happens on credible fear front.

11. **Syrian Statistics.** We are interested to receive updates on current statistics on Syrian asylum seekers.

Response: *See handout – Asylum Applications Filed by Nationals of Syria.*

12. **Number of Required I-589 Copies.** How many copies of an asylum application should be mailed to the Service Center? In the past, the CIS sent one copy of the application to the Department of State. However, in the year 2009, 8 CFR 208.11(a) was amended, to delete this requirement. So, CIS does not need this extra copy, correct? If the CFR was amended, shouldn't the instructions to Form I-589 also be amended, to reduce the number of copies that the applicant must mail?

Related Agenda Item: At the October Stakeholders Meeting, AILA submitted an agenda item asking if USCIS would consider amending page 7 of the instructions of the I-589 to reflect the April 2009 change to the Code of Federal Regulations (8 CFR § 208.11(a)) that removed the requirement that two extra copies of asylum applications be submitted with each application. In response, USCIS answered that it was considering updating the I-589 and its instructions soon, and that it would take this suggestion into consideration. Are there any updates in this regard?

Response: *The I-589 is undergoing a formal revision process and the number of copies required is under discussion at this time. This revision will take approximately 11 months and we hope that the new form will be released towards the end of the year.*

13. **Backlog Statistics.** Could you please provide any updates or statistics regarding affirmative asylum case backlogs (and approximate wait time for interview) at the various asylum offices nationwide?

Response: *See handouts - Cases Pending Interview and regularly provided statistics (Asylum Office Workload).*

Most offices have processed all cases filed in 2011. San Francisco tried to complete all their cases filed before 2013. Overall, the vast number of cases pending were filed in 2012 or 2013 at this point.

14. **CF and RF Statistics.** Could you please provide any updates or statistics regarding the processing of Credible and Reasonable Fear interviews? Do receipts continue to rise for either or both? What are the approximate wait times between referral and interview, and then from interview to decision (for CFIs as well as RFIs)?

Response: See handout for receipt numbers – regularly provided statistics (Credible Fear and Reasonable Fear Workload Reports)

We are on track to get 44,000 credible fear receipts and if you take into account seasonality, it could be up to 55-60,000. Reasonable fear is also on the rise. Last year we received 7,700 cases and this year we are projecting about 9,000.

Credible Fear

Overall, we have improved our processing times this year. As noted at previous stakeholder meetings, we have also moved to an even more aggressive processing target, attempting to reach an average 8-day processing time (instead of our 85% of cases processed in 14 days). Since we began this 8-day goal (beginning on June 10), the offices have adapted with their usual diligence and we are currently processing credible fear at an average of 7.9 days.

Prior to implementation of the 8-day average processing time goal, average processing times were:

- Clock in to interview – 8 days (range of 3-13 days by office)
- Interview to Service of Decision – 6 days (range of 4-23 days)
- Clock in to Service – 14 days (range of 9-36 days)

Average processing times from October 2013 to January 2014:

- Clock in to interview – 4.7 days (range of .7-9.8 days by office)
- Interview to Service of Decision – 3.3 days (range of 1.7-4.7 days)
- Clock in to Service – 7.9 days (range of 4.4-13.5 days)

Reasonable Fear

The Asylum Division closely monitors the following timeframes in FY2014:

- Clock in to interview – 43.9 days (range of 21-57.6 days by office)
- Interview to Service of Decision – 23.8 days (range of 11.4-58.3 days)
- Clock in to Service – 67.7 days (range of 39.3-115.9 days)

The Asylum Division is continuing to prioritize detained individuals in credible fear and reasonable fear over affirmative receipts. When we must, we prioritize credible fear over reasonable fear. We are continually trying to improve our processing times, but our ability to do so depends on receipt levels.

15. **AAPM.** At the last quarterly meeting, it was mentioned that the Affirmative Asylum Procedures Manual was being reviewed and a new version would be issued in the new year. Can you give us the progress on that, or an approximate date of release?

Response: *The revised AAPM has been uploaded to the Asylum Division website and can be found at*

http://www.uscis.gov/sites/default/files/files/nativedocuments/Asylum_Procedures_Manual_2013.pdf. We will be making ongoing changes to the AAPM and we will update the website 1-2 times per year.

16. **Staffing and Training.** Could you provide a status update regarding staffing, and/or hiring or training of additional asylum office staff?

Response: *See above for training/staffing update.*

17. **FOIA Consent Agreement Regarding Asylum Officer Notes.** The Lawyers' Committee for Civil Rights of the San Francisco Bay Area and their co-counsel at Davis Wright Tremaine LLP have recently reached a settlement, signed by the presiding judge, in the matter of Martins v. USCIS, which challenged the agency's withholding of asylum officer interview notes, taken by asylum officers to document the content of the interviews of asylum applicants. The lawsuit, filed earlier in 2013, challenged the withholding of the notes under the Freedom of Information Act (FOIA) in the cases of ten individual clients represented by the plaintiff, immigration attorney Jeffrey Martins, and also challenged the agency's policy and practice of withholding the notes as a categorical matter. In July, the plaintiff won its motion for a preliminary injunction, and the government then produced the notes – without any redactions – for all ten of the asylum seekers whose notes were specifically at issue in the litigation. The November 2013 settlement brought an end to the underlying policy and practice that has affected asylum applicants and their legal representatives across the country. Under the settlement agreement, USCIS must instruct all officers, employees, and agents involved in the processing of FOIA requests that asylum officer interview notes – the records reflecting information, instructions, and questions asked by officers and responses given by applicants in asylum interviews – are not by their nature and status protected by the deliberative process privilege as a general matter and thus are to be produced under FOIA. This training must be completed within three months, and USCIS must then demonstrate its compliance with the settlement.

- a. It is AILA's understanding that the government is supposed to report back to the court sometime in February regarding its progress in implementing the settlement agreement. Is USCIS able to provide a description of its efforts thus far at implementing this agreement?
- b. This settlement will help many individuals, in particular those who have been referred to the Immigration Courts who have several months, sometimes over a year, to prepare for

their Individual Hearings. However, since the settlement only applies to officers handling FOIA requests, it will not help individuals who are not represented, individuals who retain representation shortly before their hearings, or individuals whose representatives do not file FOIA requests. Would USCIS be open to establishing a policy of providing copies of these interview notes (other than those exempted under the settlement for national security reasons of course) to the asylum applicant along with his/her referral notice? This practice would be consistent with the settlement and consistent with issuance of other USCIS decisions, which usually state the specific reasons why the applications were not approved.

Response: *Historically, asylum officer notes have been considered exempt from FOIA under the deliberative process privilege. Per this settlement agreement, these notes will now be releasable under FOIA, though parts of the notes may be exempt and redacted if they meet one of the 9 FOIA exemptions. HQASM has advised our field offices of the changes in USCIS FOIA processing.*

We have worked with RAIO to amend the Note-Taking Lesson Plan to reflect this change for new trainees.

This is a new procedure and we will take your suggestion under advisement.

Stakeholder Follow-up: *Can we ask for the notes if it is a denial?*

Response: *Currently, you have to request the notes through FOIA.*

Stakeholder follow-up: *How long will it take FOIA to get this to you?*

Response: *They have statutory timelines they must adhere to.*

18. **One-Year Filing Deadline Review.** In March of 2013, AILA submitted an agenda item regarding inconsistencies in the adjudications of the one-year filing deadline at Asylum Offices. The regulations and the asylum officers' training materials provide numerous examples of changed and extraordinary circumstances exempting an applicant from the one-year rule. In addition, the training materials contemplate that a reasonable period for filing an application can be, depending on the factual circumstances, more than the presumptive six-month period. AILA members continue to report that in some asylum offices, in particular the Houston Asylum Office (where attempts to resolve this locally have failed), officers are not meaningfully considering evidence of changed and extraordinary circumstances, but are instead referring applications filed outside the one-year period as a matter of course. This also seems to be true when the applicant is unrepresented. Practitioners report that in many of these cases, immigration judges ultimately find that changed or extraordinary circumstances have been demonstrated and grant asylum. We believe that more thorough review of potential exceptions to the one-year rule and, in some cases, requests by asylum officers for additional evidence relating to these exceptions, would ultimately preserve administrative resources by decreasing the

immigration courts' caseload. We understand that USCIS does train its officers on adjudicating one-year deadline issues, and that there has been an increase in training on this issue at every office in the last couple of years. However, it seems that, despite those admirable efforts, many officers, particularly in the Houston Asylum Office, are not following the training. Rather, they are avoiding the complicated analysis that these issues require by referring these cases as a matter of course.

- a. At the meeting in March of 2013, USCIS stated that its quality assurance trainers would communicate this issue to all Asylum Offices. Has this happened? What additional training or guidance has been provided since then to address this issue?
- b. Would USCIS consider providing supervisory review on all one-year issues to (1) ensure that asylum officers are actually exercising their authority to grant cases that meet the exceptions to the one-year rule, and (2) ensure that the law and training is applied uniformly throughout the country?

Response:

We have forwarded these concerns to the Houston Asylum office.

Since March 2013 the Asylum Division has further addressed adjudication of the one-year filing deadline as follows:

- 1. The TRAQ Branch regularly identifies issues for training including the one-year deadline.*
- 2. The One-Year Filing Deadline Lesson Plan was updated on May 6, 2013 and was made available to all asylum officers and supervisory asylum officers.*
- 3. During FY13 all asylum offices scheduled a mandatory weekly training session for their officers with Georgetown Law Professors, Andrew Schoenholtz & Philip Schrag. This involved a presentation of their findings after studying 383,000 cases in the Refugee Asylum and Parole System (RAPS) database to observe patterns of adjudication within the different regional offices and nationwide. During the course of their research, the professors examined changing patterns of asylum adjudication (including the effects of the gender guidelines, the one-year deadline, the 9/11 attacks, and the REAL ID Act); officers' perceptions of certain characteristics of applicants (e.g., gender, manner of entry, dependents, and representation) and correlations between officers backgrounds and case outcomes.*

The following offices received this training after March 2013: Houston Asylum Office; Chicago Asylum Office; New York Asylum Office. The other offices received the training prior to March 2013. During the presentation the professors exchanged ideas with the Houston

Asylum Office on questions raised by the study. At the Chicago Asylum Office the audience included invited guests from the local academic and legal community.

4. New asylum officers receive 4 hours of classroom instruction on the lesson plan guidance, with sample written assessments. Additionally the new officers write a one-year filing deadline legal analysis and receive individualized written feedback from Decision Writing instructors on their work.

The Asylum Division requires 100% supervisory review of all asylum decisions.

Stakeholder Follow-up: *Regarding LGBT cases, I heard one officer say you need surgery to qualify for the one-year. Can you tell me if this is true?*

Response: *I would have to look at the individual case. Please raise this issue to management if you have concerns. Please also note that both the RAIO CT Guidance for Adjudicating LGBTI Refugee and Asylum Claims and the One-Year Filing Deadline lesson plan can be found on USCIS.gov.*

19. **Denial of Credible Fear Interviews.** In March of 2013, AILA submitted an agenda item regarding the denial of credible fear interviews at the border and at ports of entry. Many practitioners are continuing to see clients who have been stopped and questioned by CBP and/or ICE officers and denied the opportunity for credible fear interviews in one of two situations: either the person (1) was never asked about fear of return and was issued an expedited removal order; or (2) expressed a fear of return, but the officer recorded erroneously that there was no fear of return and issued an expedited removal order. When this issue was raised with USCIS in March of 2013, USCIS suggested liaison with CBP and ICE to ensure proper training. USCIS also indicated that CBP and ICE will provide additional training upon request if a problematic trend comes to light. Despite AILA's efforts at solving this problem, CBP and ICE continue to fail to follow established procedures for the credible fear process. We understand that this is an ongoing question for CBP and ICE. However, is the USCIS Asylum Division willing to address this again with CBP and ICE to make sure that the agencies are aware of this problem and that their officers are being properly trained to provide a reasonable opportunity for credible fear interviews?

Response: *Please provide specific examples. Have you raised this with ICE and CBP?*

Stakeholder Follow-up: *We have a list of 20 case examples that we have given to ICE/CBP.*

20. **Reducing Backlog of Affirmative Asylum Applications.** AILA understands that USCIS has been deeply impacted by an increase in credible fear and reasonable fear interviews, which has resulted in significant backlogs in the affirmative asylum process. Does USCIS have any updates on its efforts made to reduce backlogs, in particular for affirmative asylum applications?

Response: *HQASM is aware of this problem as it is currently impacting all of our offices and we are looking for solutions for both the short and long term. This has involved increased hiring and training efforts. And we are looking very closely at statistics and our processes to identify streamlining efficiencies that may be available. Our ability to reduce this backlog is highly dependent on how many credible fear cases we receive.*

Please contact Public.Engagement@uscis.dhs.gov with any follow-up questions.

***Next Meeting: **Wednesday, April 23, 2014**