



U.S. Citizenship  
and Immigration  
Services

# Agenda

## **USCIS Asylum Division Quarterly Stakeholder Meeting**

Tuesday, February 6, 2018

Tomich Center

111 Massachusetts Avenue, NW

Washington, D.C. 20001

2:00 pm – 4:00 pm EST

### **I. Welcome and Introductions**

### **II. Asylum Division Updates**

- a. Regularly Provided Statistics (posted on [uscis.gov](http://uscis.gov))  
Affirmative Asylum Statistics (October 2017 – December 2017)  
NACARA Statistics (June 1999 – December 2017)  
Credible and Reasonable Fear Statistics and Nationality Reports (October 2017 – December 2017)  
Unaccompanied Alien Children Statistics (October 2017 – December 2017)

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

### **III. Statistics**

- a. Please provide a recent history comparing the percentage of asylum applications granted and asylum applications denied nationally for the last three reporting periods (whichever may be your standard reporting period).

**Response:** The approval rates for the following time periods are as follows:

FY15: 45%

FY16: 41%

FY17: 34%

FY18 Q1: 26%

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

- a. Please provide estimated processing times for asylum cases at the Chicago Asylum Office.

**Response:** As of January 1, the Chicago Asylum Office was processing local backlog cases filed between April and October 2015.

- b. If an applicant moves multiple times while the asylum application is pending, where will they be in the queue for the asylum interview? Is their place based on the initial filing date, or when the local asylum office receives the file most recently?

**Response:** The transferred case joins the queue at the new asylum office based on the initial filing date.

- c. Can you please share any best practices for requesting that clients be placed on the short list for interviews? For example, could you please share tips on information to provide in the initial email, how often (if ever) to follow up, and how to advise clients when the short list wait extends longer than initially thought?

**Response:** This process is established and governed by local offices. Please contact your local office for guidance. We have forwarded this inquiry to the San Francisco Asylum Office for response at the local stakeholder meeting.

- d. Many affirmative asylum cases interviewed in 2014, 2015, and 2016 have not been adjudicated. Please provide statistics as to length of time from interview until decision, information regarding reasons for delays, and best practices for avoiding delays and intervening when they occur.

**Response:** In calendar year 2017, the average length of time between the interview and receiving a decision was 62 days. New information often arises from additional documents and biographic information that the applicant did not provide until the interview, which can cause delays in completing background and security checks. Applicants and attorneys can help reduce delays by providing complete information and supporting documents at the time they file their application and submitting new/supplemental documents well ahead of the day of the interview. Delays in receiving a decision can also arise based on complexities in individual cases that require additional consultation with headquarters. Contact the asylum office director in writing via fax, mail, or email as described on the office locator on [uscis.gov](http://uscis.gov).

- e. At the last quarterly meeting, there was mention that USCIS was considering reverting to the last-in, first-out process. Can you please provide an update as to whether that policy is still under consideration? If so, how will stakeholders be notified of any change in interview scheduling policies and how are you planning to avoid increasing the delays to the existing applicants in the backlog (as was an issue the last time the LI-FO policy was implemented in 2014)?

**Response:** Yes, we reverted to reform interview scheduling (the “last-in, first-out” process) on January 29, as announced on [uscis.gov](http://uscis.gov). Returning to the reform scheduling priorities that were in place during the 20 year period from 1995 through 2014 allows

USCIS to promptly place those with fraudulent, frivolous, or otherwise non-meritorious claims into removal proceedings. This approach will reduce the incentive to file for asylum solely to obtain employment authorization. It will also allow USCIS to decide legitimate claims more quickly, thus providing more timely protection to qualified asylum applicants.

If the number of new asylum applications decreases significantly, USCIS will be able to devote additional asylum officers to adjudicating the backlog cases. Asylum applications filed before January 8, 2018 that have not yet been scheduled for interviews will be scheduled after new applications as resources permit. Asylum offices may also continue to devote portions of their schedules to backlogged applications, including those requiring expedited handling. Asylum office directors may consider, on a case-by-case basis, an urgent request to be scheduled for an interview outside of the new priorities. Applicants must submit any urgent interview scheduling requests in writing to the asylum office with jurisdiction over their application.

## **V. Credible Fear**

- a. American Immigrant Lawyers Association (AILA) members in San Diego are reporting that during credible fear interviews, asylum officers have been asking asylum seekers for their social media identities and passwords.
  1. Does this reflect current policy?
  2. Under what authority is this information being collected?
  3. How is this information being used?
  4. What safeguards are in place to prevent unwarranted intrusion into the social media accounts of U.S. citizens and others who may be connected to these asylum seekers through social media?

**Response:** Asylum Division headquarters has not issued policy directing staff to collect social media account information. We confirmed with our Los Angeles and Arlington Asylum Offices, including FDNS, that they have not issued such policy. If you encounter this in any cases, please bring them to our attention.

## **VI. Unaccompanied Alien Children (UACs)**

- a. Can you provide any updates regarding current policy on which categories of unaccompanied child asylum cases are sent for headquarters review before the decisions are issued? How long is it taking for headquarters to complete these reviews?

**Response:** There have been no changes regarding Asylum headquarters review of UAC cases. UAC cases do not comprise a separate category of cases required to go to headquarters for review. Like all affirmative cases, UAC cases may need to go to headquarters if they fall under another category that requires review, including if they are novel, high profile, likely to be publicized, or involve national security issues. Also, as

mentioned at previous engagements, we have asked offices to submit the following to headquarters for review:

- If the adjudicator proposes to grant asylum but detects indicators of past or current gang affiliation, regardless of whether the applicant is a juvenile or adult; or
- If the adjudicator proposes to grant asylum to an applicant who was previously or is currently being held in a staff-secure or secure Office of Refugee Resettlement (ORR) facility.

We do not have data on how long these cases take to review. However, we currently only have a small number of UAC cases pending with headquarters.

- b. Can you re-confirm that the May 28, 2013 Memorandum on Initial Jurisdiction over asylum applications filed by UAC, and related June 2013 explanatory documents describing this policy, remain in effect?

**Response:** The May 28, 2013 memorandum and related June 2013 explanatory documents remain in effect.

- c. From reports of a November 30, 2017 liaison meeting, the San Francisco Asylum Office director was understood to say that the asylum office would not have jurisdiction to adjudicate an unaccompanied minor's asylum application without an Immigration Court order administratively closing or terminating removal proceedings. We know of no USCIS or EOIR guidance to that effect, and this is not reflective of common practice. Also, the INA states that an asylum officer shall have jurisdiction over any asylum application filed by a UAC. Can you confirm that USCIS has not issued guidance to asylum offices that requires administrative closure or termination of removal proceedings before USCIS adjudicates a UAC asylum application?

**Response:** USCIS has not issued guidance to asylum offices requiring administrative closure or termination of removal proceedings before USCIS can adjudicate a UAC asylum application.

## **VII. I-94s**

Refugee resettlement agencies work with asylees to provide case management, educational services, English as a Second Language instruction, cultural orientation, and job assistance supports. The federal guidelines hold resettlement providers to strict timeframes for providing required services. Delays in clients receiving their identity documents and I-94 cards negatively impact the clients and their ability to restart their lives. I-94s are a critically important document. In order to apply for Medicaid, PA, SNAP (food stamps), Social Security card, or documents from the Department of Motor Vehicles, asylees need their I-94. The I-94 also serves as temporary eligibility to work (as per OSC) while the EAD is pending.

- a. What is the reason for widespread delays on asylees being issued I-94s when granted by a judge or at the asylum office? For example, we have a case that was granted asylum in August 2017, and the family received their I-94s on December 11, 2017.

**Response:** Thank you for bringing the issue with asylum offices to our attention. Please provide us with specific cases so we can follow up with our local offices. USCIS field offices issue I-94 cards for defensive asylees as described on our [Immigration Benefits in EOIR Removal Proceedings](#) page. Please contact them about any delays in issuing I-94s for defensive asylees.

- b. What is the reason that asylees are unable to book InfoPass appointments for many, many weeks in order to obtain their I-94? Is it accurate that a handful of InfoPass slots are opened at midnight? This sometimes seems to work, but other times, appointments are still not available.

**Response:** All domestic InfoPass appointments are released in two week intervals at midnight.

- c. We have seen an increase in errors on I-94s. Information is not correct or does not match with other documents (names misspellings, incorrect country of origin, incorrect dates of birth (DOBs), date of grant not aligning with date on the grant letter, no A-Number written, stamps for parole when the person is an asylee, etc.).

**Response:** If you believe your I-94 was issued incorrectly by a USCIS field office, please make an InfoPass appointment and bring supporting evidence of the error in question.

- d. Clients have been told they need to obtain their I-94 from the state where they were detained or from the immigration officer. This would be a huge burden and a waste of limited financial resources. Please clarify the protocol and process for this.

**Response:** Please tell us the USCIS field office that provided this erroneous information and the Field Operations Directorate will address this issue with that office.

- e. Clients missing A-Numbers on arriving derivative I-94 cards causes delays with Social Security processing. Social Security Administration office states they cannot verify immigration status in the system.

**Response:** If an individual was issued an incorrect I-94 by CBP upon arriving in the United States, the individual will need to visit the nearest CBP port of entry or deferred inspection office in person to have the I-94 corrected. For locations and hours of operation, please visit CBP's website at [www.cbp.gov/contact/ports](http://www.cbp.gov/contact/ports).

## **VIII. Employment Authorization**

- a. There have been major delays in processing both initial (c)(8) EADs and renewals. Initial Form I-765 applications submitted more than 150 days have elapsed on the “clock” after filing Form I-589 have often been taking several months to be processed, rather than the 30 days which is proper. Oddly, I have heard anecdotes that they have also on occasion been processed at blinding speed—only to be rejected on the 175th day or thereabouts due to supposedly having been filed too soon.

Although timely sought (c)(8) renewals automatically extend the validity period of the prior EAD by 180 days, this at times been insufficient, as some renewal have taken more than seven months to process. Please explain how attorneys can best avoid problems for their clients and intervene most effectively when problems occur.

**Response:** The Service Center Operations Directorate has referred us to tools at [www.uscis.gov/tools](http://www.uscis.gov/tools) and [my.uscis.gov](http://my.uscis.gov) that may help attorneys avoid problems for their clients and intervene when problems occur. You may:

- Ask our virtual assistant Emma for help: [www.uscis.gov/emma](http://www.uscis.gov/emma)
- Sign up for automatic case updates: [my.uscis.gov/account](http://my.uscis.gov/account)
- Check your case status: [www.uscis.gov/casestatus](http://www.uscis.gov/casestatus)
- Check processing times: [www.uscis.gov/processingtimes](http://www.uscis.gov/processingtimes)
- Update your address: [www.uscis.gov/addresschange](http://www.uscis.gov/addresschange)
- Visit our multilingual resource center: [uscis.gov/multilingual](http://uscis.gov/multilingual)

If you try these tools and still need help, you may submit an online request at [www.uscis.gov/e-request](http://www.uscis.gov/e-request) or call our [USCIS Contact Center](http://www.uscis.gov/contact-center) at 800-375-5283. The USCIS Contact Center will route the service request to the appropriate office for review. Please have your receipt number ready when calling the USCIS Contact Center.

- b. There seems to be an increase in delays with USCIS processing EADs for asylees. What is the reason?

**Response:** If an asylee does not receive an initial EAD within two weeks of receiving notice of a grant of asylum from an asylum office, the asylee should contact the local asylum office to resubmit the (a)(5) EAD request.

If an asylee has not received a renewal EAD, please contact USCIS’ Service Center Operations Directorate as described above.

- c. Regarding initial employment authorization applications for UACs granted asylum, where no EAD was previously issued: In some instances, an EAD has been automatically sent to the child following asylum approval, and in other cases the EAD has not been issued and the UAC has had to submit a Form I-765 in order to obtain one. Please provide guidance on this issue.

**Response:** The Asylum Division automatically generates EADs for asylees within 2 weeks after granting asylum. In order for USCIS to generate the EAD, the asylee,

including children, must have provided biometrics (photo, fingerprint, signature) at the Application Support Center (ASC) and those biometrics must not have expired. If USCIS does not have current biometrics on file, the asylee may receive an appointment to appear at an ASC to provide biometrics.

If the asylee does not receive an EAD within 2 weeks of receiving notice of a grant of asylum and the asylee did not provide biometrics, the asylee should contact the local asylum office for an ASC appointment and to resubmit the (a)(5) EAD request.

- d. Increasingly, requests for evidence (RFEs) for employment authorization applications request government-issued identity documents which, as you know, are sometimes difficult or impossible to obtain for UAC, asylum applicants, and asylees, and were not required in the past for these categories. Can the Asylum Division ensure that EAD adjudicators are aware that government-issued ID documents should not be required from applicants who are applying for employment authorization as UAC or on the basis of a pending or approved Form I-589?

**Response:** The Asylum Division reached out to our Service Center Operations colleagues on this issue to clarify their procedures. They informed us that an RFE for a government-issued ID would be generated only if such ID was not submitted with the initial evidence AND the individual's photograph and identity cannot be confirmed via a USCIS computer system. This scenario is rare because applicants have generally already gone to an ASC appointment by the time a Form I-765 reaches an immigration services officer, and the applicant's information should be in USCIS systems. The form instructions indicate that government-issued IDs must be submitted if no previous EAD has been issued, which means initial EADs could potentially fall into this RFE scenario.

Please contact USCIS' Service Center Operations Directorate with any additional questions regarding EAD procedures. Applicants may contact a USCIS service center by calling the USCIS Contact Center at 800-375-5283.

- e. How can EAD applicants clarify with USCIS that they have met the 150-day requirement for filing an EAD application, where this is disputed by USCIS?

**Response:** Please see the "180-Day Asylum EAD Clock Notice" on the [USCIS ABT Settlement Agreement](#) webpage. USCIS service centers adjudicate the Form I-765. Applicants may contact a USCIS service center by calling the USCIS Contact Center at 800-375-5283. Inquiries that cannot be resolved by a customer service representative will be routed to the service center where the Form I-765 was filed. Applicants should receive a response from the service center within 30 days. If more than 30 days pass without a response, applicants may email the appropriate USCIS service center. If applicants do not receive an email response within 21 days, applicants may email the USCIS headquarters office of Service Center Operations at [SCOPSSCATA@uscis.dhs.gov](mailto:SCOPSSCATA@uscis.dhs.gov).

If you believe there is an error in the calculation of the time on your 180-Day Asylum EAD clock and your asylum application is pending with USCIS, contact the point of contact at the local asylum office with jurisdiction over your case. If your case is pending in immigration court, address your question to the immigration judge during the hearing, or in writing to the court administrator.

## **IX. Biometrics Notices for Defensive Asylum Applicants**

- a. What is being done to remedy the Nebraska Service Center's chronic failure to issue biometrics notices for defensive asylum applicants who comply with all requirements and send in the first 3 pages of the Form I-589 with instructions? I am personally aware of tens of cases in North Carolina alone where this has happened. The ASC centers are being extremely uncooperative and are not accepting walk-ins, even where individual (merits) hearings are imminent. I even had an immigration judge pretermite an asylum application and order a client of mine removed just because she did not get biometrics taken before her individual (merits) hearing.

**Response:** The Asylum Division plays a supporting role in the process to schedule biometrics appointments for defensive asylum cases. In August 2017, the Asylum Division transitioned to using a new software application known as the National Appointment Scheduling System (NASS) for scheduling biometrics appointments. NASS allows us to schedule a specific appointment date and time to appear at an ASC to submit biometrics, centralize printing and mailing of ASC appointment notices, and generate digital archived copies of appointment notices.

Before August 2017, the Asylum Division used an older system to generate biometrics notices giving asylum applicants a 14-day window in which to appear at an ASC. In October 2016, we became aware of several cases that pointed to recurring issues with how the old system was generating biometrics notices. Together with the USCIS service centers, Office of Information Technology, and Biometrics Division, we identified several thousand individuals who did not receive ASC appointment notices. We resubmitted these individuals for biometrics notices using the old system. However, the old system did not allow us to track the actual printing and issuing of notices. Upon transitioning to the NASS in August 2017, we gained the ability to track the centralized generation of biometrics appointment notices for both affirmative and defensive asylum applicants and to maintain digital copies of those notices. These improvements in the new system should address concerns about how we generate biometrics appointment notices moving forward.

For applicants in removal proceedings, we recommend that you carefully follow the instructions given to you in removal proceedings and published on our [Immigration Benefits in EOIR Removal Proceedings](#) page. Representatives will only receive receipt notices and ASC appointment notices if they properly submit a Form G-28 with the initial submission submission to the NSC. If USCIS already has biometrics on record, the applicant will receive a Form I-797C stating that it is not necessary for the applicant to appear at an ASC for a biometrics appointment.

For cases where the first three pages of the Form I-589 have been filed with the Nebraska Service Center before August 1, 2017, please contact the nearest asylum office to request assistance in scheduling a biometrics appointment if you have not received a notice. We are also evaluating methods to identify defensive cases that appear to have not received a biometric notice under the old system, as well as options to address those cases without generating unnecessary ASC appointments for applicants who no longer have a pending asylum case before EOIR. Do not contact an asylum office for appointment rescheduling requests or any other matter pertaining to biometrics notices for defensive cases. To reschedule a biometrics appointment, please follow the instructions on the notice.

If you submitted a defensive filing on or after August 1, 2017, please contact the Nebraska Service Center at [nscfollowup.ncsc@uscis.dhs.gov](mailto:nscfollowup.ncsc@uscis.dhs.gov).

Anyone who has had problems in court with specific cases because of these issues should contact us through the Public Engagement email box.

## **X. One-Year Filing Deadline**

- a. The asylum office sends all Chinese Christian cases to the court, saying it was not done within one year, and we always win in court (change in personal circumstances). The asylum office is just the means to get to court to get justice. The NY approval rate in the asylum office is very low...and in the court, around 65% overall. The asylum office should limit itself to NTAs. It is not very productive and passes the buck to the Immigration Judges.

Why does the asylum office not recognize a change in personal circumstances to excuse the requirement to file within one year? This is the law and without exception ignored in the asylum office.

**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. All asylum officers receive training on the one-year filing deadline and should be familiar with these exceptions.

- b. Does USCIS consider the fact that the applicant maintained Temporary Protected Status, lawful immigrant or nonimmigrant status, which was **still valid** (instead of already expired) when the asylum application was submitted under extraordinary circumstances in regards to an exception to the 1-year filing deadline under INA 208(a)(2)(D) and 8 CFR § Sec. 208.4 (a)(5)?

**Response:** Maintaining Temporary Protected Status (TPS) or lawful immigrant or nonimmigrant status may qualify as an extraordinary circumstance under to INA 208(a)(2)(D) and 8 CFR § 208.4 (a)(5). This exception would be considered for applicants who continue to maintain TPS or lawful immigrant or nonimmigrant status at the time of filing.

## **XI. Training/Lesson Plans**

- a. At the August 2017 engagement, it was stated that USCIS would work with the FOIA office to make the remainder of officer lesson plans available in the Electronic Reading Room. When will these materials become available?

**Response:** The material is in the Electronic Reading Room in a posted FOIA response. We will work with the FOIA office to make the material easier to locate and use.

- b. Please give a brief but comprehensive description of the training which asylum adjudicators receive, both initially and ongoing in-service training.

**Response:** All asylum officers are required to attend and complete the Refugee, Asylum and International Operations (RAIO) Combined Training Program (RAIO CTP), which is a national training course that is required for all RAIO component officers. RAIO CTP covers subjects that are common to officers from all three divisions: Refugee, Asylum, and International Operations. After completing RAIO CTP, asylum officers complete the division specific training, Asylum Division Officer Training Program (ADOTP). ADOTP builds on the material covered at RAIO CTP in greater depth with a focus on the procedural guidance specific to the Asylum Division and also addresses topics unique to asylum adjudications. All asylum officers are required to successfully complete both RAIO CTP and ADOTP. After completing RAIO CTP and ADOTP, new asylum officers receive additional training in their home offices, which includes local procedures.

The training courses in RAIO CTP and ADOTP include, but are not limited to, topics such as international refugee law and the U.S. Asylum Program's role in worldwide refugee protection, U.S. asylum law and its interpretation by the Board of Immigration Appeals and federal appellate courts, interviewing techniques, researching country of origin information, and decision-making/writing. Separate training sessions address techniques and procedures for interviewing and adjudicating cases that involve survivors of torture, victims of trafficking, children, LGBTI applicants and claims that may be specific to women. The asylum specific training course also includes lessons regarding the Asylum Program's processes and procedures. Other topics covered include fraud identification and evaluation techniques and national security concerns.

The Asylum Division requires that each field asylum office hold a weekly training session of up to four hours. Training officers located at the field offices coordinate and provide the weekly in-service training. The topics are determined by the needs of the particular office and range from procedural issues to country of origin information to case law updates. All officers are required to attend these weekly trainings. Additionally,

headquarters may request that all asylum offices provide training on a particular issue, such as new case law or new procedures. These requested trainings may be developed and presented in part or whole by headquarters.

Asylum officers also complete periodic mandatory DHS and USCIS trainings as assigned. Such topics include human trafficking, equal employment opportunity (EEO), privacy, and security issues.

## **XII. Miscellaneous Questions**

- a. If an alien marries a U.S. citizen and files an adjustment of status application with USCIS while her asylum application is pending, is there any policy that prevents the asylum office from entertaining the alien's request for the asylum case to be placed on hold while she awaits a decision on her adjustment of status application?

It appears that Arlington Asylum Office has now started rejecting such requests on the ground that this is the policy of USCIS.

**Response:** The Asylum Division does not have a policy to place cases on hold in this scenario.

- b. Please list the countries that the Asylum Division and its overseeing agencies currently deem it SAFE TO RETURN TO (deport/remove to) for those who are denied permission to remain in the United States.
- c. In addition, may you please list the countries that the Asylum Division and its overseeing agencies deem it UNSAFE TO RETURN TO (deport/remove to) for those who are denied permission to remain in the United States.

**Response:** The Asylum Division does not maintain such lists. If this question relates to which countries individuals can be removed to, the Asylum Division defers to U.S. Immigration and Customs Enforcement (ICE).