

**AMERICAN IMMIGRATION LAWYERS ASSOCIATION  
USCIS CHICAGO FIELD OFFICE  
QUESTIONS FOR October 27, 2016 MEETING  
101 W. CONGRESS PARKWAY  
CHICAGO, IL 60605**

**1. Sworn Statements**

During the August 2016 meeting, this office confirmed that sworn statements taken during an interview would be provided upon request of counsel at the conclusion of the interview or shortly thereafter. Members have recently reported that they are still being denied copies of sworn statements. They were provided with the explanation that where parties are not being interviewed contemporaneously, USCIS may make the determination to not provide the statement. Can you clarify this office's policy with regard to providing sworn statements taken during interviews?

In most circumstances, the Field Office will provide a copy of the signed, sworn statement to the person providing the statement. However, in the limited instance where the parties are not being interviewed contemporaneously, USCIS may decide to withhold the statement.

**2. Naturalization**

If a person has an offense (conviction, misrepresentation, etc.) that makes him or her deportable but it occurred outside of the five year period (or three year period) and the person still remains eligible for naturalization, will the application automatically be denied and referred to immigration court or is consideration given to the date and nature of the conviction?

These cases are referred to an NTA panel for consideration of whether prosecutorial discretion may be exercised.

If prosecutorial discretion is a possibility what is your current backlog for these types of cases?

The Citizenship Branch does not track the backlog on these cases. However, NTA panels are convened once or twice a week. Please contact Rose Cavazos, Branch Chief if you are inquiring about a specific case.

**3. I-212 Processing Time**

The US CIS Processing Time Information website does not contain processing time information for the adjudication of Form I-212, Application for Permission to Reapply for Admission, filed with the local Chicago US CIS office.

Can you please provide an estimate of how long your office is taking to process Form I-212?

The Field Office does not keep statistics regarding this processing time.

Additionally, where Form I-212 is submitted in conjunction with Form I-485, might the I-212 processing time equate with the underlying I-485 processing time posted on the US CIS Processing Time Information Website for the Chicago Field Office?

If the Form I-212 is filed together with the Form I-485, and the respective Service Center transfers the file with both applications to Chicago, the application and waiver would be adjudicated simultaneously.

Finally, where there an alien has no A number (in situations where the permanent bar has lapsed), is there a way to ensure that the I-212 is properly matched up with the Applicant's file?

Upon receipt of the Form I-212, USCIS checks to determine if an A-number already exists. If the applicant has an A-number, the Form I-212 will be consolidated into that A-file. If there is no existing A-number, USCIS will create one.

USCIS reiterates that an alien may file Form I-212 with a Form I-485 *only* if the alien is inadmissible under INA 212(a)(9)(A). A Form I-212 cannot be filed in the United States if the alien is inadmissible under INA 212(a)(9)(C).

#### **4. I-130 Transfers After Approval**

Members have reported that there have been issues having approved standalone I-130s forwarded on to the National Visa Center when beneficiaries are in removal proceedings. What is the procedure for requesting that an I-130 approval be sent on to the National Visa Center in these circumstances?

A Petitioner should indicate in the response to question 22 on the Form I-130 that the beneficiary will be pursuing consular processing. An attorney can confirm this information with the USCIS officer at the time of interview. USCIS will forward an approved Form I-130 to National Visa Center (NVC) if the individual has requested it. If this has not occurred, please email [chi-exm-inquiry@uscis.dhs.gov](mailto:chi-exm-inquiry@uscis.dhs.gov) or mail in an inquiry. Upon receipt of the file, USCIS will send the approved I-130 to the NVC.

#### **5. Matter of Silva-Trevino 26 I&N Dec 826 (BIA 2016)**

Members report numerous cases being delayed due to CIMT issues that have been waiting for this decision. What is the plan to implement the new decision? Will those cases now be adjudicated and what is the time frame for said adjudications? (Please see attached decision)

If you are aware of any cases where this is the stated reason for the delay, please bring them to the attention of the Branch Chief.

## 6. Parole in Place

Is Parole in Place for Military Families available for individuals (other than EWIs) whom have entered with any other visa that would bar an AOS filing(C-1, K-1, etc.)? Given the fact that Parole in Place is to be used for “urgent humanitarian reasons” or significant public benefit,” to help alleviate the stress and anxiety cause by their family member’s immigration status, will USCIS provide PIP for these type of individuals?

By statute, USCIS may parole only applicants for admission. INA 212(d)(5). An admitted alien is not an applicant for admission, even if the period of admission has expired or the alien has violated any condition on the admission. The parole authority would not extend to that individual.

## 7. Parole in Place Appointment Notice

Members have reported that Attorneys have not been receiving notices to retrieve their Military Parole in Place. In many cases the notice has only been sent to the applicant. Can officers be reminded to send a copy of the notice to the G-28 counsel of record?

Yes, the staff has been reminded of this requirement.

### Emergency Advanced Parole

What is this office’s policy for issuing Emergency Advanced Parole in cases where a person was already granted parole during the regular process but due to a mailing problem the Advanced Parole Document or combined EAD/Parole Card was never received?

Issuance of an advance parole document is *not* a grant of parole. *Matter of Arrabally*, 25 I&N Sec. 771, 778 fn 6 (BIA 2012). CBP decides whether to parole someone with an I-512 or combo card when the bearer seeks parole at a port-of-entry.

If USCIS has approved issuance of an advance parole document, but the applicant has not received it, USCIS Chicago will consider the request for an emergency advance parole document, and approve it, provided the applicant has an emergent need to travel and submits the required documents. The required documents include the following:

- A completed and signed Form I-131, Application for Travel Document
- The correct I-131 filing fee
- Evidence to support the emergency request (e.g. medical documentation, death certificate)

- Two passport-style photos.

See <https://www.uscis.gov/green-card/green-card-processes-and-procedures/travel-documents/emergency-travel>