

AILA / CHICAGO ASYLUM OFFICE LIAISON MEETING
JUNE 27, 2019 · 10:00 A.M.

TVPRA

1. How many TVPRA asylum applicants have you interviewed since October 1, 2018?

See attached statistics.

2. How many TVPRA asylum cases have you adjudicated since October 1, 2018?

See attached statistics.

3. How many TVPRA asylum cases are currently pending a decision?

See attached statistics.

4. Are there any procedural changes in light of the new Executive Orders or due to new Headquarter directives with regard to TVPRA cases that you can share with the chapter?

No, there are no procedural changes due to either new Executive Orders or HQ directives to report to the chapter.

5. Has new guidance been issued related to the scheduling of TVPRA asylum applicants? Since TVPRA asylum applicants are not priorities within the LIFO scheduling paradigm, how are those cases being scheduled?

TVPRA cases are now fully integrated into the LIFO scheduling paradigm and are not treated any differently for interview scheduling purposes.

6. Can the Asylum Office provide information as to how it will be implementing the May 31, 2019 Memorandum from John Lafferty regarding “Updated Procedures for Asylum Applications Filed by Unaccompanied Alien Children?”

- a. Will the Asylum Office review applicants’ status as unaccompanied children (“UC”) if their asylum applications were filed before the May 31, 2019 memo goes into effect? In other words, does the memo apply retroactively to pending asylum applications filed by applicants who were previously determined to be UC?

The May 31, 2019 memorandum will apply to all case decisions made on or after July 1, 2019. This includes cases where interview was completed before July 1, 2019 and decisions are still pending.

- b. How will this memo affect applications of previously determined UC who have already been interviewed and are waiting for a decision?

See previous response.

- c. Will the status of UC, who have asylum applications pending before the Chicago Asylum Office and are currently waiting for interviews, be reviewed at the interview or before interviews are scheduled?

Asylum officers will review the file, once assigned, and address any questions as to whether the applicant remains a UC during the interview. In cases where the applicant has completed interview and questions as to UC status require additional testimony, the AO may re-call the applicant for interview at their discretion.

- d. What kind of process will take place at the interview to review an applicant's status as a UC?

UC determinations will be made through document review and interview testimony. The interview questions will largely center on whether the applicant is "unaccompanied" pursuant to the May 31, 2019 memorandum. Family members may provide relevant testimony, where appropriate. Chapter members should be advised that in cases where family member testimony is relevant to UC status, the family member must be present on the day of the interview.

- e. The May 31, 2019 memo indicates that a child will not be considered unaccompanied if, at the time of filing the asylum application, he or she has a parent or legal guardian in the United States who is available at that time to provide care and physical custody.
 - i. Will children who have parents/legal guardians in the United States but who are not living with their parents/legal guardians at the time of filing be considered unaccompanied?

The standard set forth in the May 31, 2019 memorandum is whether the parent or legal guardian is be unable or unwilling to provide care/physical custody for the child. This is a very case specific process. The AO will not make any predeterminations of UC status and will rely on the documents in the file and testimony elicited during the interview to make an individual determination considering the facts of the specific case.

- ii. Will children who file their asylum applications while in ORR custody but who have parents/legal guardians in the United States continue to be considered unaccompanied?

The AO will make case-by-case determinations for applications filed, interviewed, and decided while children are in ORR custody.

REASONABLE/CREDIBLE FEAR

7. How many credible fear interviews have you conducted since October 1, 2018?

See attached statistics.

8. How many reasonable fear interviews have you conducted since October 1, 2018?

See attached statistics.

9. How many individuals are currently waiting to receive a credible/reasonable fear interview?

See attached statistics.

10. How many individuals are currently waiting to receive a credible/reasonable fear decision?

See attached statistics.

11. Are there any procedural changes in light of the new Executive Orders or due to new Headquarter directives?

No, there are no procedural changes due to either new Executive Orders or HQ directives to report to the chapter.

12. If an individual who claimed fear at the border is not given a credible fear hearing (reasonable fear for those with prior removals), is subsequently released from detention and ICE claims that there was no fear claimed at the border and refuses to create the initiating documents to forward to the Asylum Office, how can an individual request the credible fear/reasonable fear hearing? Chapter members report receiving pushback from Asylum Office staff when requesting the credible fear or reasonable fear hearing without the forms from ICE.

The AO does not have jurisdiction to take any action unless or until ICE serves documents upon the AO. Chapter members can contact the AO to coordinate communication with the ICE officer to facilitate the filing of documents to trigger AO jurisdiction.

13. If a minor turns 14 years old while waiting for the credible fear interview to be scheduled and needs to be fingerprinted, what is the correct procedure to get the biometrics appointment created when ICE refuses to schedule an appointment for biometrics?

The scheduling of biometrics collection appointments is completely controlled by ICE while the applicant is detained and after release. The AO has no mechanism to schedule biometrics collection appointments for these individuals.

ASYLUM

14. How many asylum cases have you adjudicated since October 1, 2018?

See attached statistics.

15. How many grants/denials/referrals?

See attached statistics.

16. Any new trends in asylum cases? Has the asylum office seen an influx of cases from any particular region of the world?

See attached statistics.

17. Are there any procedural changes in light of the new Executive Orders or due to new Headquarter directives?

No, there are no procedural changes due to either new Executive Orders or HQ directives to report to the chapter.

18. Chapter members report receiving interview cancellation notices by mail just days before the interview is set to take place. In some cases, the notices are dated about a week before they are actually received by the attorney. In light of the extensive amount of time it takes to prepare for an asylum interview, can Asylum Office staff notify attorneys by phone of interview cancellations when cancellation notices are generated so as to avoid preparing clients and filing for interviews that have already been cancelled?

Interviews are cancelled for many reasons including inability to get the file and high numbers of officers detailed to duty outside the Chicago AO. The AO does everything in its power to avoid cancelling interviews and makes every attempt to provide ample notice of cancellations when they cannot be avoided.

19. Chapter members report that when their cases are referred to EOIR, they have been receiving Notices to Appear (NTA) with incorrect times and dates for a future hearing. Most of these NTAs state that the respondent must appear before Chicago EOIR at 8 am or 8:30 am on a given day, often Fridays. However, Chicago EOIR does not begin

holding hearings until 9 am. Additionally, EOIR has often confirmed that there is no such hearing scheduled in individual cases, despite what is written in the respondent's NTA. This causes great confusion and, in many cases, financial strain for applicants who must travel long distances or take off work for a hearing that is not going forward. What is the process for Asylum Office staff to confirm the hearing dates on NTAs served on applicants referred to EOIR are actual hearing dates that will go forward?

The AO does not choose dates, times, or judge assignments for referred cases. The AO enters the case data into the AO system and then re-enters the same case data into the EOIR system. The EOIR system then assigns a hearing date/time.

20. Chapter members report that recently, in cases that are referred to the immigration court, only the primary, or primary and one minor derivative had their NTAs filed with the court, while the spouse derivative's NTA was not. Is there a reason why the derivative spouse's NTAs are not being filed with the court?

Where a derivative on a case has also filed an application as a principal the applicant must be entered as an independent principal to proceed on their own claim. As a result, they would not be included on the NTA as a derivative and may receive a different court date.

21. In the past, the asylum office has referred cases where a NTA is found in the file. However, will the asylum office assume jurisdiction over an application that is filed with the asylum office after a case has been terminated?

Yes, the asylum office will assume jurisdiction over an application if removal proceedings have been terminated.

22. A chapter member has reported receiving an EAD under the asylee category without having received the asylum approval notice or I-94. After following up with the Asylum Office, the chapter member learned that the client was granted asylum, but still has not received the approval notice or I-94. Who should chapter members contact in this situation?

Chapter members should contact Darice Alvertos – Branch Chief at (312) 849-5208.

NACARA

23. How many NACARA applications are currently pending with the Chicago Asylum Office?

See attached statistics.

24. How many grants/denials?

See attached statistics.

MISCELLANEOUS

25. Can you provide an update on any new staff and supervisory positions?

The AO hired 26 news officers in May/June 2019 who will be entering on duty over the next several months and expects to hire 15 more officers this year. In addition to new officers, the AO has hired a significant amount of support staff and continues to hire for both officer and support staff positions.

In July 2019 Edward Jeszka is retiring from service and Darice Alvertos will replace him as Branch Chief.

The next AILA-AO Liaison Meeting will be held on August 22, 2019 at 10:00 a.m. The meeting is open, but all questions must be submitted in advance to Amanda Crews Slezak at acrews@heartlandalliance.org by August 16, 2019 at 3:00 p.m.