



U.S. Department of Justice  
Immigration and Naturalization Service

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MEMORANDUM FOR: Asylum Office Directors  
Deputy Directors  
Supervisory Asylum Officers  
Asylum Officers

FROM: Joseph E. Langlois, Acting Director  
Asylum Division  
Office of International Affairs

SUBJECT: Streamlining the Credible Fear Process

**INTRODUCTION:**

This memorandum introduces new procedures designed to streamline the credible fear process and provides guidance for implementing those procedures. The memorandum is designed to provide an overview of streamlining. The draft Credible Fear Procedures manual (attached) should be referred to for a more specific discussion of the streamlining procedures. The Credible Fear Lesson Plan (attached) remains the primary source for instruction on the legal standard.

**BACKGROUND:**

Asylum Officers have been conducting expedited removal credible fear interviews since April 1997. Since that time, there have been two GAO reports, several studies by NGOs, and visits by INSpect teams that have, in various ways, examined our effectiveness in implementing the credible fear process. Within the asylum program, there has been headquarters review of all negative decisions, high profile cases, gender related cases, and cases involving possible terrorists and persecutors, in addition to a sampling of positive decisions from each office. The HQ Expedited Removal team has visited each asylum office and many remote interview locations, observed interviews, met with district personnel and reviewed the quality and efficiency of the office APSO programs.

With the information from the various examinations of the program in mind, a team met in Washington in February to evaluate the program, consider possible areas for improvement, and devise a strategy to make suggested improvements. Attendees included Asylum Division Director (Acting) Joseph Langlois, HQ Branch Chiefs Christine Davidson and Joanna Ruppel, ZLA Director Robert Looney, ZCH Director Robert Esbrook, and the HQ expedited removal team. The group consensus was that the asylum program has been effective in carrying out the credible fear standard

mandated by Congress in a consistent manner. National and local training, training material developed by asylum officers with credible fear interview experience in consultation with the Office of General Counsel, strict field and HQ decision review requirements, regular conference calls, and the flexibility and expertise of field asylum officers have fostered consistent decision making.

The group voiced some concern about the efficiency of the credible fear process, a concern which has often been voiced by the asylum officers and supervisory asylum officers in the field. Discussion centered on whether it would be possible to speed up the process, while maintaining substantive and procedural rights of applicants and preserving decision-making integrity. As a result of that meeting, and consultations with the INS Offices of Policy and Planning, Field Operations and General Counsel, Headquarters Asylum developed a more streamlined Credible Fear process.

### **STREAMLINED PROCESS**

The nuts and bolts of the streamlined process are described in the attached Credible Fear Procedures manual, and are supported by the revised Form I-870 (attached). The manual should be reviewed in its entirety, with special focus on the sections entitled "APSO Conducts A Credible Fear Interview," (Pages 11-20) and "APSO Concludes A Credible Fear Interview," (Pages 20-21). The only changes being made to the credible fear process are procedural. The credible fear standard is unchanged. The AOBTC Credible Fear Lesson Plan, also attached, continues to be the primary source of instruction for asylum officers when determining whether an applicant has met the credible fear standard. Asylum pre-screening officers (APSOs) and Supervisory asylum pre-screening officers (SAPSOs) should review the lesson plan, as it puts the procedural changes in proper context. The lesson plan also serves as a reminder that the credible fear interview is a "screening" interview and that, generally, the credible fear interview will be briefer than the asylum interview, because asylum officers generally do not need to gather as much detailed information for a credible fear determination as for an asylum adjudication.

#### *Negative Determinations – No Procedural Changes*

Experience has shown that current procedural requirements for negative decisions are justified. Those procedures were developed to preserve the right of potential refugees to be heard, and to assure reviewing organizations that the credible fear process protects all potential refugees. The procedures ensure that all possible bases of asylum eligibility are explored in interviews, and documents that those bases of eligibility have been explored before a negative decision is made. The credible fear process allows, at the applicant's request, Immigration Judge review of all negative decisions. At EOIR's request, to ensure accuracy of review, the interview question and answer notes must be typed when a negative decision is made. Thus, the decision-making process for negative credible fear decisions, including typed question and answer notes and mandatory HQ review, is unchanged. Note that the revised Form I-870 eliminates extraneous information gathering requirements for negative as well as positive decisions.

#### *Positive Determinations -- Changes in Decision Documentation Requirements*

Under the streamlined procedures, AOs will no longer be required to prepare typed question and answer interview notes or write detailed assessments. Typed question and answer notes and detailed written assessments are unnecessary to meet the asylum program responsibility of screening in all potential refugees for a hearing on the merits of the asylum claim. Since positive decisions are referred for de novo hearings before immigration judges (IJs), there is no IJ review of the credible fear decision made by the asylum officer, and no requirement that the notes be typed. The revised form I-870 provides basic eligibility questions and provides space to record the applicant's answers. Additional information from the interview may be recorded in legible, handwritten informal notes. The decision is to be documented on the Form I-870, with a brief statement of the facts and

description of the basis for the decision. There is generally no need for a detailed written assessments.

Streamlining can assist asylum officers in quickly processing decisions after the necessary eligibility information is elicited. Since a large percentage of credible fear interviews result in positive decisions, a substantial reduction of the time spent to document positive decisions should significantly improve program efficiency.

#### *Use of Telephonic Interviews*

Conducting credible fear interviews by telephone can also increase program efficiency. Field trials have demonstrated that asylum officers can often obtain the information necessary to make a credible fear decision by telephone. Asylum Office Directors will exercise discretion to determine when to conduct credible fear interviews by telephone. Factors to consider include avoiding travel, and saving financial and personnel resources. When an asylum office is located near to a detention facility, as Krome is to ZMI, or as Elizabeth is to ZNK, credible fear interviews will generally be conducted in person at those facilities. Recognizing that some applicants may have difficulty expressing themselves over the telephone, and to ensure that all applicants have the same opportunity to be heard, a negative decision cannot ever be based solely on a telephone interview. A follow-up, face-to-face interview must be conducted, before a negative decision may be processed. Certain sensitive interviews may also require face-to-face interviews.

Increased use of the telephone interview option, when appropriate, could result in significant savings to the Service without adversely affecting the rights or protection of potential refugees. Applicants as well as the Service will benefit from a faster processing time.

#### **IMPLEMENTATION**

Implementation of streamlining procedures can be accomplished by the field APSO teams. The role of Headquarters in the implementation process is intended to be one of support. Following distribution of this memorandum, I will schedule a conference call to discuss implementation. Directors, deputies, SAPSO's and QA/Trainers should attend. Due to the significant procedural changes being implemented, SAPSOs and QA/T's should present a formal training session on the new procedures as soon as possible after the conference call. Implementation of the new procedures can take place immediately after training. Training is required before an officer may conduct interviews using the new streamlining procedures. Trainers should consult Jim Wyrrough (202/305-2667) if questions arise after reviewing the attached material.

Field offices are asked to stagger training schedules to ensure that HQ is available to provide assistance by telephone, if needed, during scheduled training sessions. Please contact Jim Wyrrough to finalize training schedules.

To follow-up on the in-office training, we intend to schedule an APSO Supervisors Conference at HQ in January. Directors, of course, will have the option of attending. The initial impact of the streamlined credible fear procedures will be on the agenda. The experience gained in implementing the new procedures will enable us to identify any problems and consider further improvements. Before January, SAPSOs should focus on implementation issues so that they can bring questions, issues and ideas about the streamlined procedures to the conference. HQ plans at least two field offices visits prior to the conference to observe interviews and discuss the process with field APSO teams.

The streamlined credible fear process is an attempt to improve a program that has been successful. The new procedures should improve efficiency without affecting the quality of decision-making. I look forward to discussing the streamlined process with you on our upcoming conference call, and to meeting with you in January.