

		Date
		A-File
Name	Country of Citizenship	
Place and Manner of Arrival	Date of Arrival	

**To immigration judge:**

- 1. The above-named alien has been found inadmissible to the United States and ordered removed pursuant to section 235(b)(1) of the Immigration and Nationality Act (Act). A copy of the removal order is attached. The alien has requested asylum and/or protection under the Convention against Torture and the matter has been reviewed by an asylum officer who has concluded the alien does not have a credible fear of persecution or torture. The alien has requested a review of that determination in accordance with section 235(b)(1)(B)(iii)(III) of the Act and 8 CFR § 208.30(g).
- 2. The above-named alien arrived in the United States as a stowaway and has been ordered removed pursuant to section 235(a)(2) of the Act. The alien has requested asylum and/or withholding of removal under the Convention against Torture and the matter has been reviewed by an asylum officer who has concluded the alien does not have a credible fear of persecution or torture. The alien has requested a review of that determination in accordance with section 235(b)(1)(B)(iii)(III) of the Act.
- 3. The above-named alien arrived in the United States in the manner described below and has requested asylum and/or withholding of removal under the Convention against Torture. The matter is referred for a determination in accordance with 8 CFR § 208.2(c). Arrival category (check one):
  - Crewmember/applicant       Crewmember/refused       Crewmember/landed
  - Crewmember/violator       VWP/applicant       VWP/violator
  - 235(c) order       S-visa nonimmigrant       Stowaway: credible fear determination attached
- 4. The above-named alien has been ordered removed by an immigration officer pursuant to section 235(b)(1) of the Act. A copy of the removal order is attached. In accordance with section 235(b)(1)(C) of the Act, the matter is referred for review of that order. The above-named alien claims to be (check one):
  - a United States citizen       a lawful permanent resident alien
  - an alien granted refugee status under section 207 of the Act       an alien granted asylum under section 208 of the Act.
- 5. The above-named alien has been ordered removed pursuant to section 238(b) of the Act, or the Immigration and Naturalization Service (INS) has reinstated a prior exclusion, deportation, or removal order of the above-named alien pursuant to section 241(a)(5) of the Act. A copy of the removal order and, if applicable, the notice of reinstatement, are attached. The alien has expressed fear of persecution or torture and the claim has been reviewed by an asylum officer who has concluded the alien does not have a reasonable fear of persecution or torture. The alien has requested a review of that determination in accordance with 8 CFR §§ 208.31(f) and (g).
- 6. The above-named alien has been ordered removed pursuant to section 238(b) of the Act, or the INS has reinstated a prior exclusion, deportation, or removal order of the above-named alien pursuant to section 241(a)(5) of the Act. A copy of the removal order and, if applicable, the notice of reinstatement, are attached. The alien has expressed fear of persecution or torture and the claim has been reviewed by an asylum officer who has concluded the alien has a reasonable fear of persecution or torture. The matter is referred for a determination in accordance with 8 CFR § 208.31(e).
- 7. The Commissioner of the INS has determined that the release from custody of the above-named alien who is under a final order of removal would pose a special danger to the public according to the standards set in 8 CFR § 241.14(f)(1). The INS has therefore invoked procedures to continue the alien's detention even though there is no significant likelihood that the alien will be removed from the United States in the reasonably foreseeable future. The matter is referred to the immigration judge for a review of this determination in accordance with 8 CFR § 241.14(g).

NOTICE TO APPLICANT

You are ordered to report for a hearing before an immigration judge for the reasons stated above. Your hearing is scheduled on

\_\_\_\_\_ at \_\_\_\_\_ . You are to appear at \_\_\_\_\_  
(Date) (Time)

\_\_\_\_\_  
(Complete office address)

- You may be represented in this proceeding, at no expense to the government, by an attorney or other individual authorized and qualified to represent persons before an Immigration Court. If you wish to be so represented, your attorney or representative should appear with you at this hearing. In the event of your release from custody, you must immediately report any change of your address to the Immigration Court on Form EOIR-33, which is provided with this notice. If you fail to appear for a scheduled hearing, a decision may be rendered in your absence.
- You may consult with a person or persons of your own choosing prior to your appearance in Immigration Court. Such consultation is at no expense to the government and may not unreasonably delay the process.
- Attached is a list of recognized organizations and attorneys that provide free legal service.

\_\_\_\_\_  
(Signature and title of immigration officer)

CERTIFICATE OF SERVICE

- The contents of this notice were read and explained to the applicant in the \_\_\_\_\_ language.
- The original of this notice was delivered to the above-named applicant by the undersigned on \_\_\_\_\_ and the alien has been advised of communication privileges pursuant to 8 CFR 236.1(e). Delivery was made:
  - in person
  - by certified mail, return receipt requested
  - by regular mail

\_\_\_\_\_  
(Signature and title of immigration officer)

Attachments to copy presented to immigration judge:

- |   |   |
|---|---|
| <input type="checkbox"/> Passport   | <input type="checkbox"/> Form I-860   |
| <input type="checkbox"/> Visa   | <input type="checkbox"/> Form I-869   |
| <input type="checkbox"/> Form I-94  | <input type="checkbox"/> Form I-898   |
| <input type="checkbox"/> Forensic document analysis   | <input type="checkbox"/> Asylum officer's reasonable fear determination worksheet (I-899) |
| <input type="checkbox"/> Fingerprints and photographs   | <input type="checkbox"/> Asylum officer's credible fear determination worksheet (I-870)   |
| <input type="checkbox"/> EOIR-33  |   |
| <input type="checkbox"/> FOR 8 CFR 241.14(f) CASES ONLY: Written statement including summary of the basis for the Commissioner's determination to continue the alien in detention, and description of the evidence relied on in finding the alien specially dangerous (with supporting documents attached). |   |
| <input type="checkbox"/> FOR 8 CFR 241.14(f) CASES ONLY: Written notice advising the alien of initiation of proceedings and informing alien of procedures governing the Reasonable Cause Hearing at 8 CFR 241.14(h).  |   |
| <input type="checkbox"/> Other (specify): _____   |   |

(b)(7)(e) **QUALITY ASSURANCE REFERRAL SHEET** (rev. 6/6/2014)

Tracking number: Z - 201 -	
A#:	Nationality:
Applicant Name:	

	Print Name	Date
Asylum Officer	_____	_____
Approving Supervisory Asylum Officer	_____	_____
Submitting Quality Assurance Officer	_____	_____
If any, FDNS-IO/FDNS-DS Record Number	_____	_____

(b)(7)(e)

(b)(7)(e)

*offered*

**Memorandum**



(b)(5)

HQASY 120/11.35-P

<b>Subject:</b>  Guidance on Compliance with Article 3 of the Convention against Torture	<b>Date:</b>  April 27, 1998
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**To**  
All Asylum Directors  
All Supervisory Asylum Officers  
All Asylum Officers

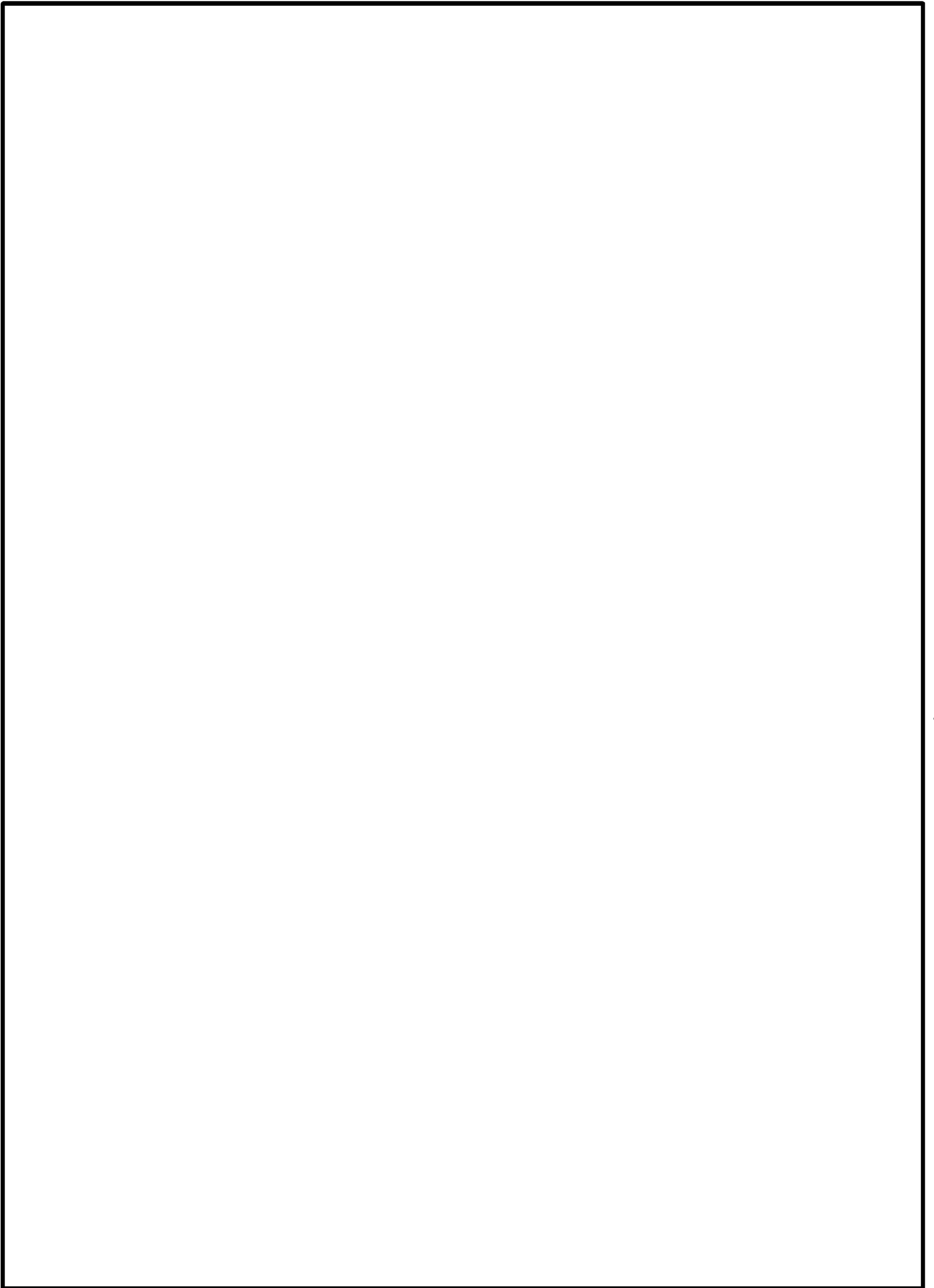
**From**  
Office of International Affairs  
Asylum Division

The INS is currently developing procedures to ensure compliance with Article 3 of the *Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment* ("Convention against Torture"). To ensure compliance with treaty obligations while long-term procedures are being developed, the Asylum Program has been asked to conduct interviews of individuals who have final orders of removal and who raise claims that they will be tortured if removed to the proposed country of removal. We appreciate the efforts of the asylum officers who have already arranged and conducted such interviews at the request of HQASY, without formal procedures set in place. This memo provides interim guidance on procedures and the role of the asylum officer in this process. This memo does not provide substantive guidance on the standards for protection under Article 3 of the Convention against Torture. Substantive guidance will be provided through training.



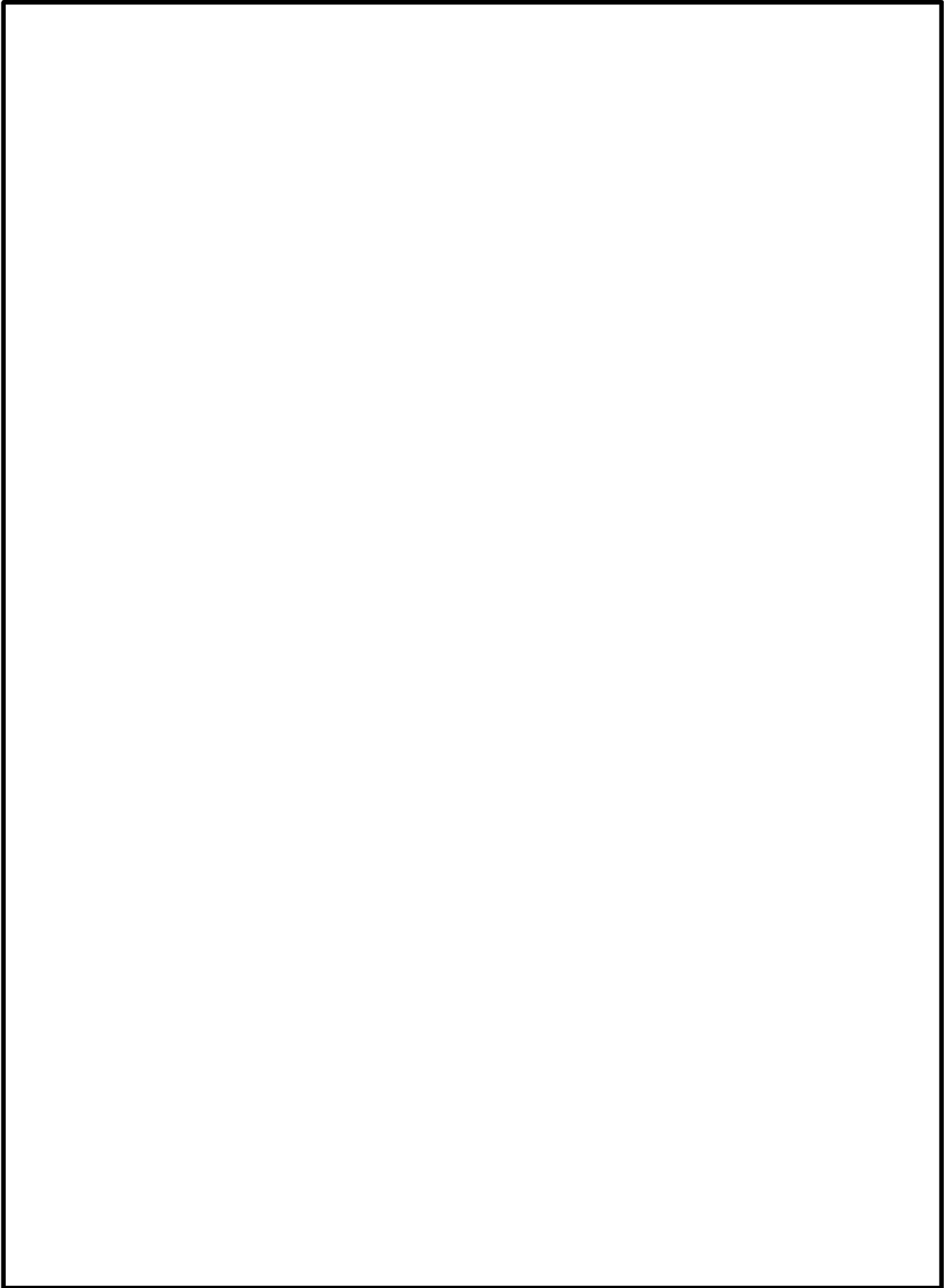
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As indicated above, the procedures are still in the early stages of development and we are treading in new territory. We appreciate your patience and flexibility in working to ensure compliance with our treaty obligations. Please let me know if you have any questions.



Joseph E. Langlois  
Deputy Director

**Attachments:**

1. Torture Convention Recommendation For Consideration By the Office of General Counsel (template)
2. Template for Sworn Statement
3. Memo for File
4. Withdrawal Form

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# U.S. Citizenship and Immigration Services

## CREDIBLE FEAR

July 28, 2014

# The Plan

- What is Expedited Removal and who is subject to it?
- What is the Credible Fear standard?
- How is the standard applied to Persecution and Torture claims?



# Expedited Removal and Credible Fear

- In expedited removal, certain aliens seeking admission to the United States are immediately removable from the United States by the Department of Homeland Security.
- Aliens subject to expedited removal are not entitled to an immigration hearing or further review unless they are able to establish a credible fear of persecution or torture.



# Who is subject to Expedited Removal?

(non-exhaustive)

- Certain aliens who are apprehended within 100 air miles of border and 14 days of illegal entry. (Inland cases)
- Certain arriving aliens coming or attempting to come into the United States at a port of entry.
- Certain aliens who are interdicted in international or United States waters and brought to the United States by any means, whether or not at a port of entry.



# What is credible fear?

The credible fear process tries to identify persons *subject to expedited removal* who **MIGHT** be eligible for asylum under section 208 of the INA or for withholding of removal under the Convention Against Torture pursuant to section 241(b)(3) of the INA.



# The f(x) of the screening

The credible fear process attempts to “to quickly identify potentially meritorious claims to protection and to resolve frivolous ones with dispatch.”

- Regulations Concerning the Convention Against Torture; Interim Rule, 64 Fed. Reg. 8478 (Feb. 19, 1999) (effective Mar. 22, 1999).

The credible fear standard sets “a low threshold of proof of potential entitlement to asylum; many aliens who have passed the credible fear standard will not ultimately be granted asylum.”

- 62 Fed. Reg. 10312, 10320 (Mar. 6, 1997).



# Bottom Line

**An alien in expedited removal who does not claim a fear of return or establish a credible fear is immediately removed from the U.S. without a full immigration hearing.**

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# Burden of proof

- The applicant bears the burden of proof to establish a credible fear of persecution or torture.
- Because of the non-adversarial nature of credible fear interviews, APSOs share an aspect of this burden:

*APSOs have an affirmative duty to elicit all information relevant to the legal determination.*



# Standard of proof

- The relevant standard of proof specifies how convincing or probative the applicant's evidence must be.
- A very low standard requires little probative evidence; a higher standard requires highly probative evidence.

*What is the Credible Fear Standard?*



# **The Credible Fear Standard:**

***“a significant possibility”***



**A “significant possibility” that the applicant could establish eligibility for asylum or withholding of removal under the Convention Against Torture.**

***A positive credible fear determination results in a Notice to Appear***



# The significant possibility standard:

Requires that the applicant 'demonstrate a substantial and realistic possibility of succeeding.' It does not require the applicant to show that he or she is more likely than not going to succeed when before an immigration judge.

A claim that has no possibility, or only a minimal or mere possibility, of success, would not meet the "significant possibility" standard.



**INCREASING LEVEL OF CERTAINTY**

<b>Standard of Proof</b>		<b>Refugee</b>	<b>Asylum</b>
<b>Beyond a Reasonable Doubt</b>	<i>Very high</i>		
<b>Clearly and Beyond Doubt AND Clear and Convincing</b>	<i>Highly probably true  Firm belief or conviction</i>	<b>Admissibility</b>	   <b>Filed within one year</b>
<b>Preponderance of the Evidence AND To the Satisfaction of Adjudicator</b>	<i>More likely than not  More than 50% chance  Probably true</i>	<ul style="list-style-type: none"> <li>• Facts supporting eligibility</li> <li>• Special humanitarian concern</li> <li>• Not firmly resettled</li> <li>• Persecutor bar</li> </ul>	<ul style="list-style-type: none"> <li>• Facts supporting eligibility</li> <li>• Not firmly resettled</li> <li>• Persecutor bar</li> </ul>  <b>Exceptions to 1-year rule</b>
<b>Reasonable Possibility</b>	<i>One in ten chance or less</i>	<b>Well founded fear</b>	<b>Well founded fear Reasonable fear Other serious harm</b>
<b>Significant Possibility</b>	<i>Substantial and realistic possibility of success</i>		<b>Credible fear</b>



**U.S. Citizenship and Immigration Services**

# Making a CF Determination



In making a credible fear determination, asylum officers must “[take] into account the credibility of the statements made by the alien in support of the alien’s claim and such other facts as are known to the officer.”



# Evidence



- This testimony is evidence; it can be sufficient alone.
- Assess the credibility of the testimony.
- Take into account “other facts” that include COI.
- Determine the probative weight of all the evidence.





# Testimony may be sufficient evidence

- According to the INA, the applicant's testimony may be sufficient to sustain the applicant's burden of proof if it is "credible, persuasive, and refers to specific facts."
- Testimony that is generally deemed credible may fail to satisfy an applicant's burden of proof.
- "Specific facts" are distinct from statements of belief. When assessing the probative value of an applicant's testimony, you must distinguish between fact and opinion testimony and determine how much weight to give of the two forms of testimony.



# Important considerations in CF

When there is reasonable doubt regarding the outcome of a credible fear determination, the applicant likely merits a positive credible fear determination.

The questions at issue can be addressed in a full hearing before an immigration judge.



# Important considerations in CF

Asylum officers are required by law to consider whether the applicant's case presents novel or unique issues that merit consideration in a full hearing before an immigration judge.



# Important considerations in CF

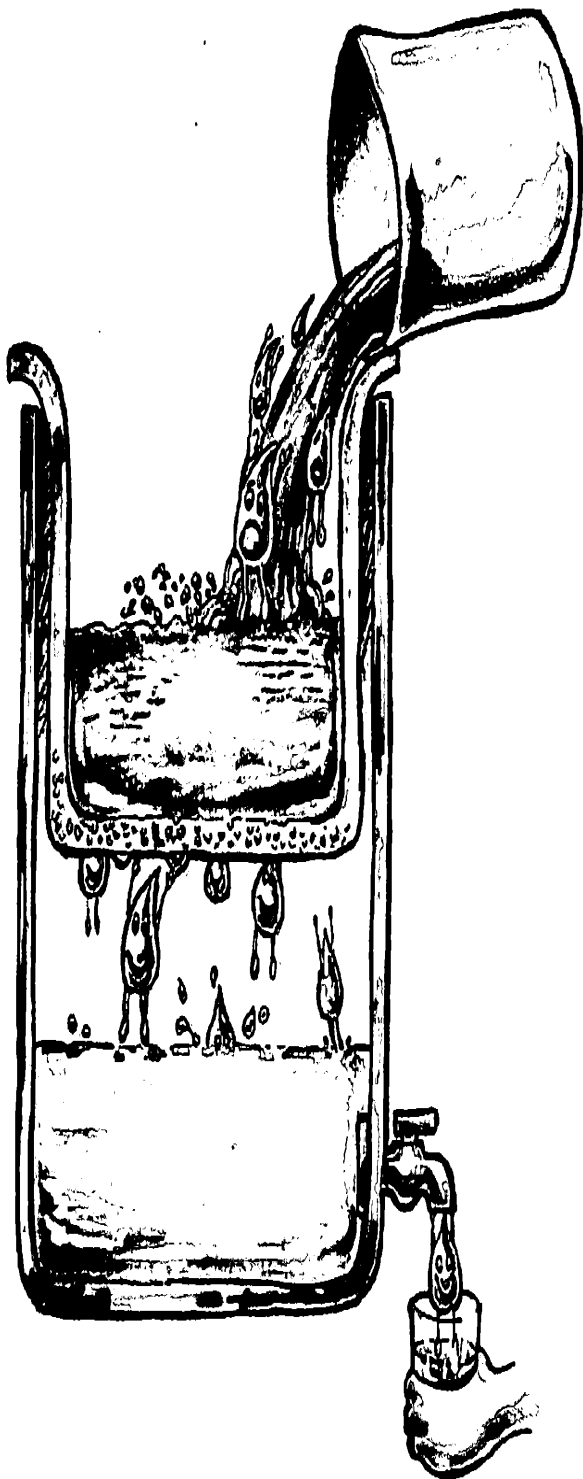
Where there is: (1) disagreement among the United States Circuit Courts of Appeal as to the proper interpretation of a legal issue; or (2) the claim otherwise raises an unresolved issue of law;

AND

There is no DHS or Asylum Division policy or guidance on the issue:

*The interpretation most favorable to the applicant is used.*





- The “significant possibility” standard of proof must be applied in conjunction with the standard of proof required for the ultimate determination on eligibility for asylum or withholding of removal.
- For example, in order to establish a credible fear of torture, an applicant must show a “significant possibility” that it is “more likely than not” that he or she would be tortured if removed to the proposed country of removal.

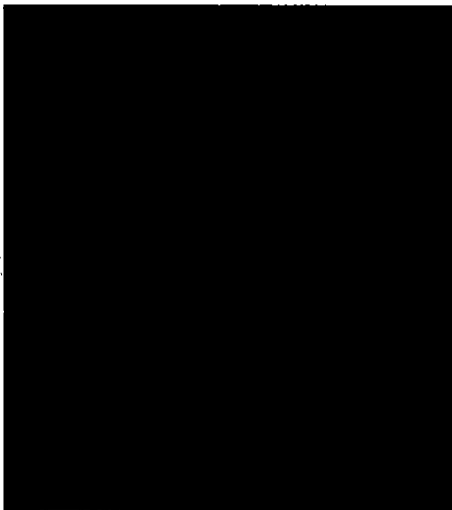


U.S. Citizenship  
and Immigration  
Services



# U.S. Citizenship and Immigration Services

## CREDIBLE FEAR OF PERSECUTION



# To establish a credible fear of persecution:

*There must be a **significant possibility** that the applicant could establish the applicant can establish eligibility for asylum under section 208 of the INA.*



# To establish a credible fear of persecution:

- If the applicant claims to have suffered past harm, you must determine if there is a significant possibility of past persecution on account of a protected characteristic.
- If the applicant does not claim any past harm or the evidence is insufficient to establish a significant possibility of past persecution, you must determine whether there is a significant possibility the applicant could establish a well-founded fear of persecution on account of a protected characteristic.





# Past Persecution

**In general, if there is a significant possibility the applicant experienced past persecution, the applicant satisfies the credible fear standard.**



# Past Persecution

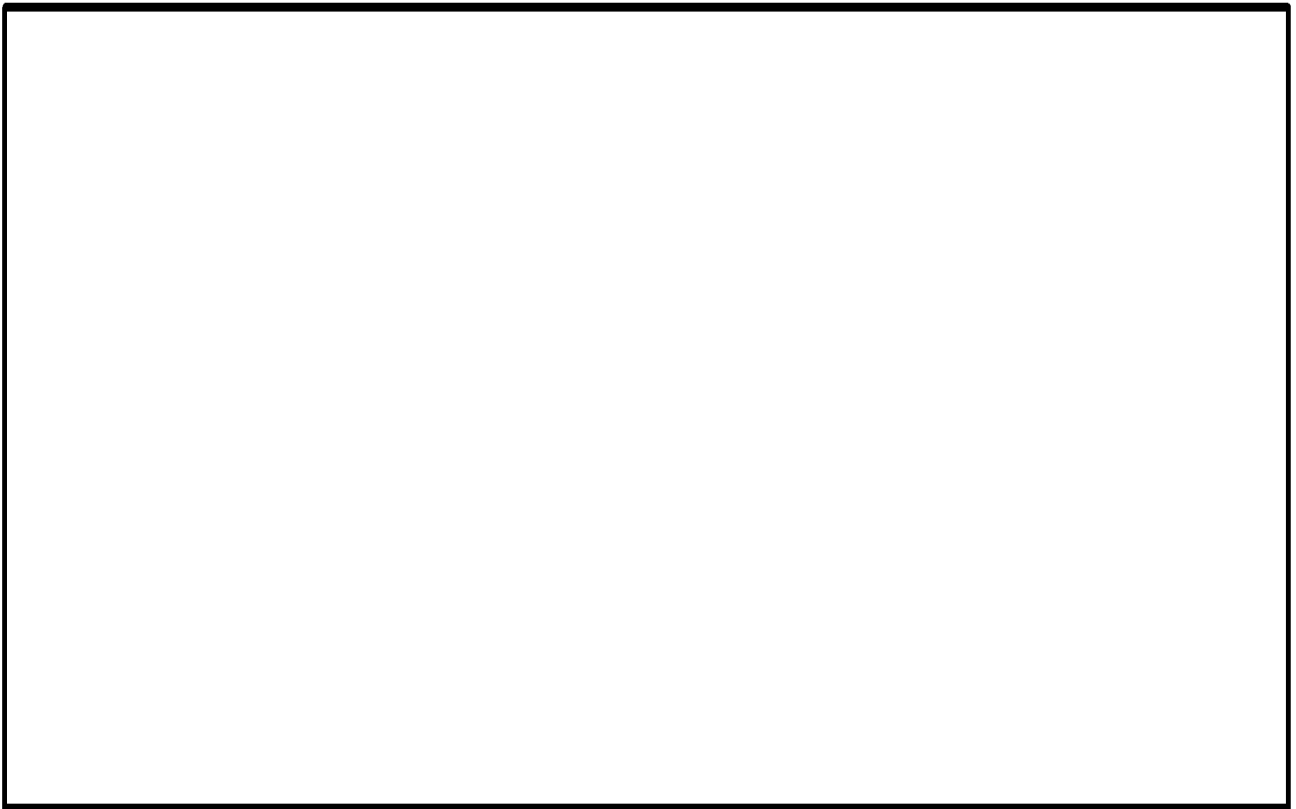
1. **Severity of Harm**: the past or feared harm is serious enough to constitute persecution.
2. **Motivation**: race, religion, nationality, membership in a particular social group, or political opinion was or will be at least one of the central reasons for harming the applicant.
3. **Persecutor**: the government of the country from which the applicant fled is unable or unwilling to control the entity doing the harm (if the persecutor is a non-government entity).



# Motivation

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Nexus analysis requires officers to determine:



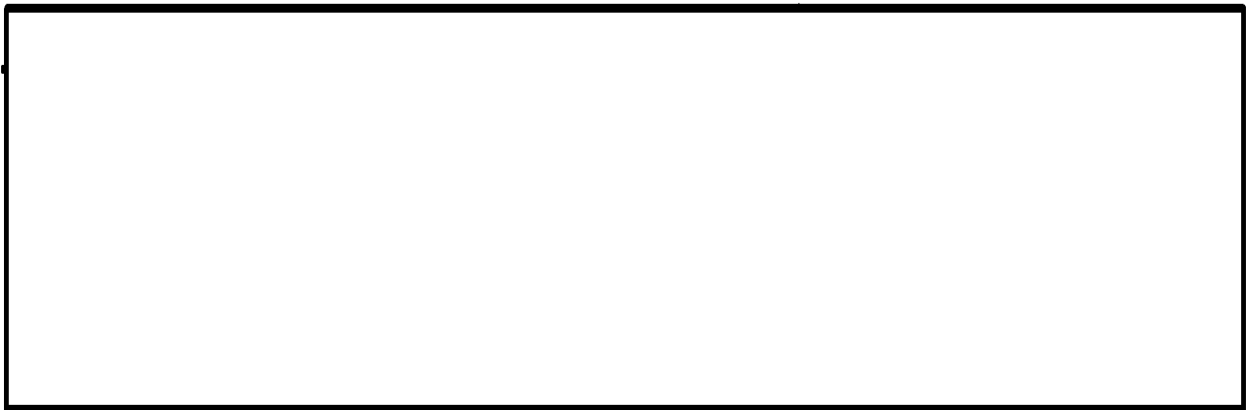
# Remember

1. The applicant does not bear the burden of establishing the persecutor's exact motivation.

(b)(7)(e)

2. Evidence of motive can be either direct or circumstantial.

3.



# Nexus

**Always ask WHY**

**Explore all possible connections to a protected ground**

**Where no nexus to a protected ground is apparent, you should ask questions related to all five grounds**

**Be aware of novel issues that have not been completely developed by case law**



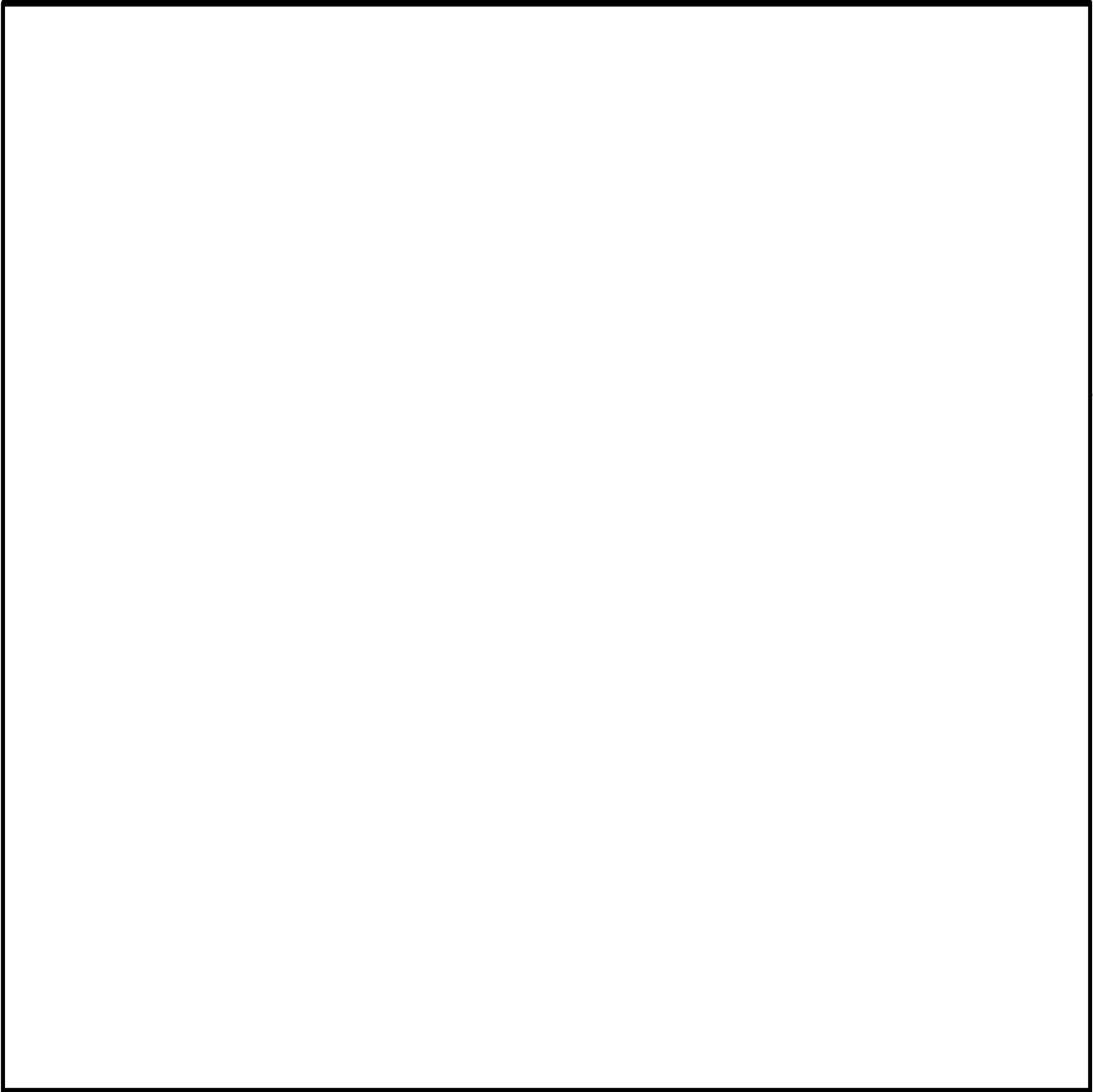
# “At least one central reason”

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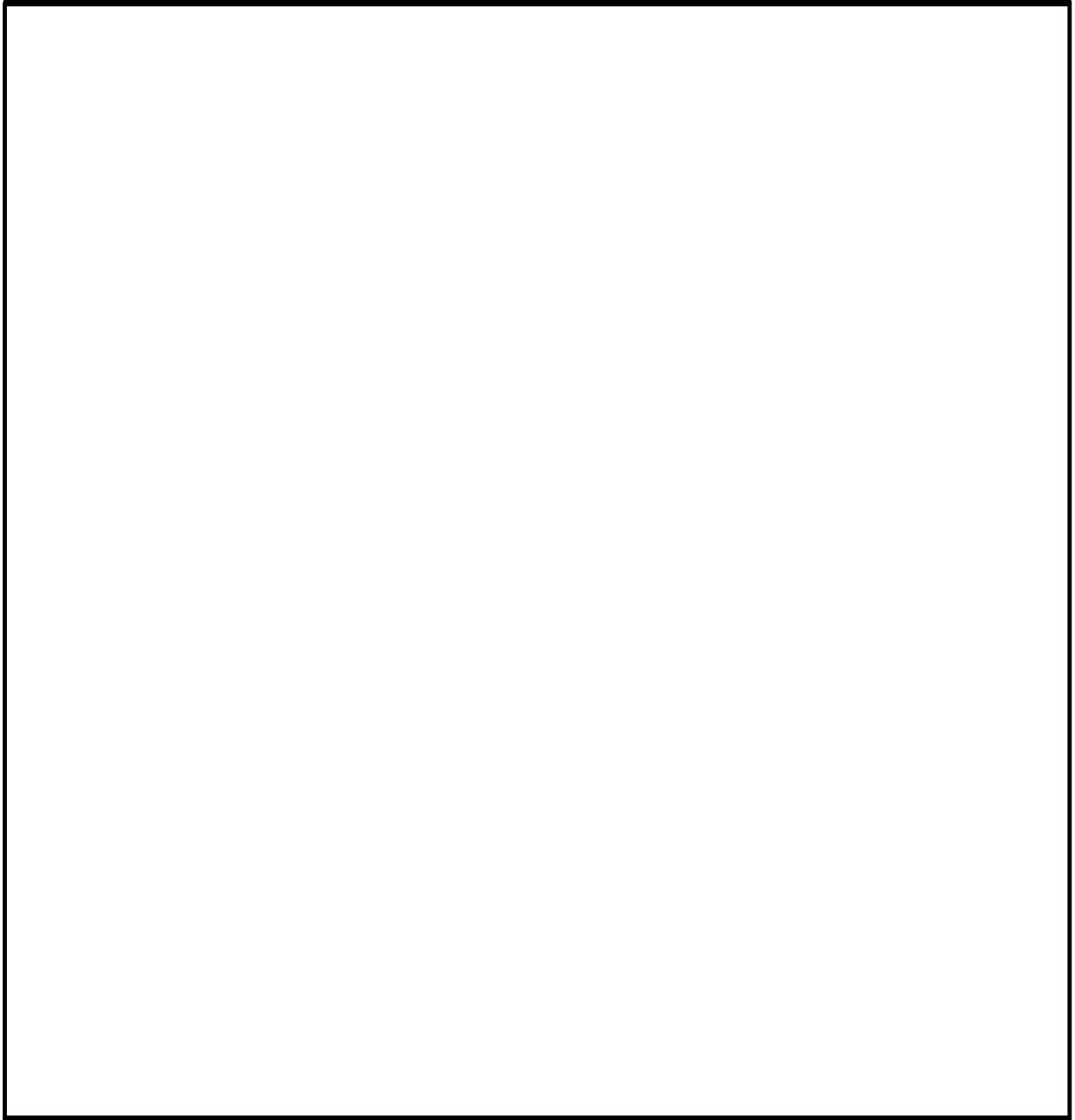


(b)(7)(e)

# Particular Social Groups: BIA Test



# Persecutor: *unable or unwilling to control*





(b)(7)(e)

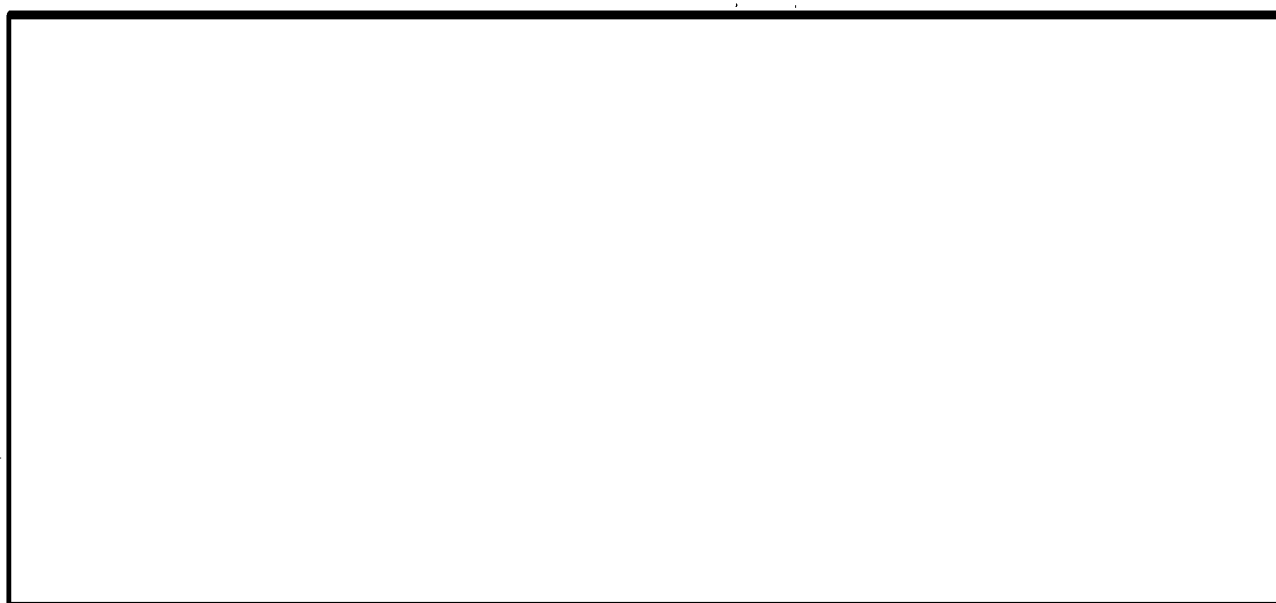
**If there is a significant possibility of past persecution:**

[Empty rectangular box for response]



# Well-founded fear of persecution

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# *Matter of Mogharrabi*

*Possession*

+

*Awareness*

+

*Capability*

+

*Inclination*



(b)(7)(e)

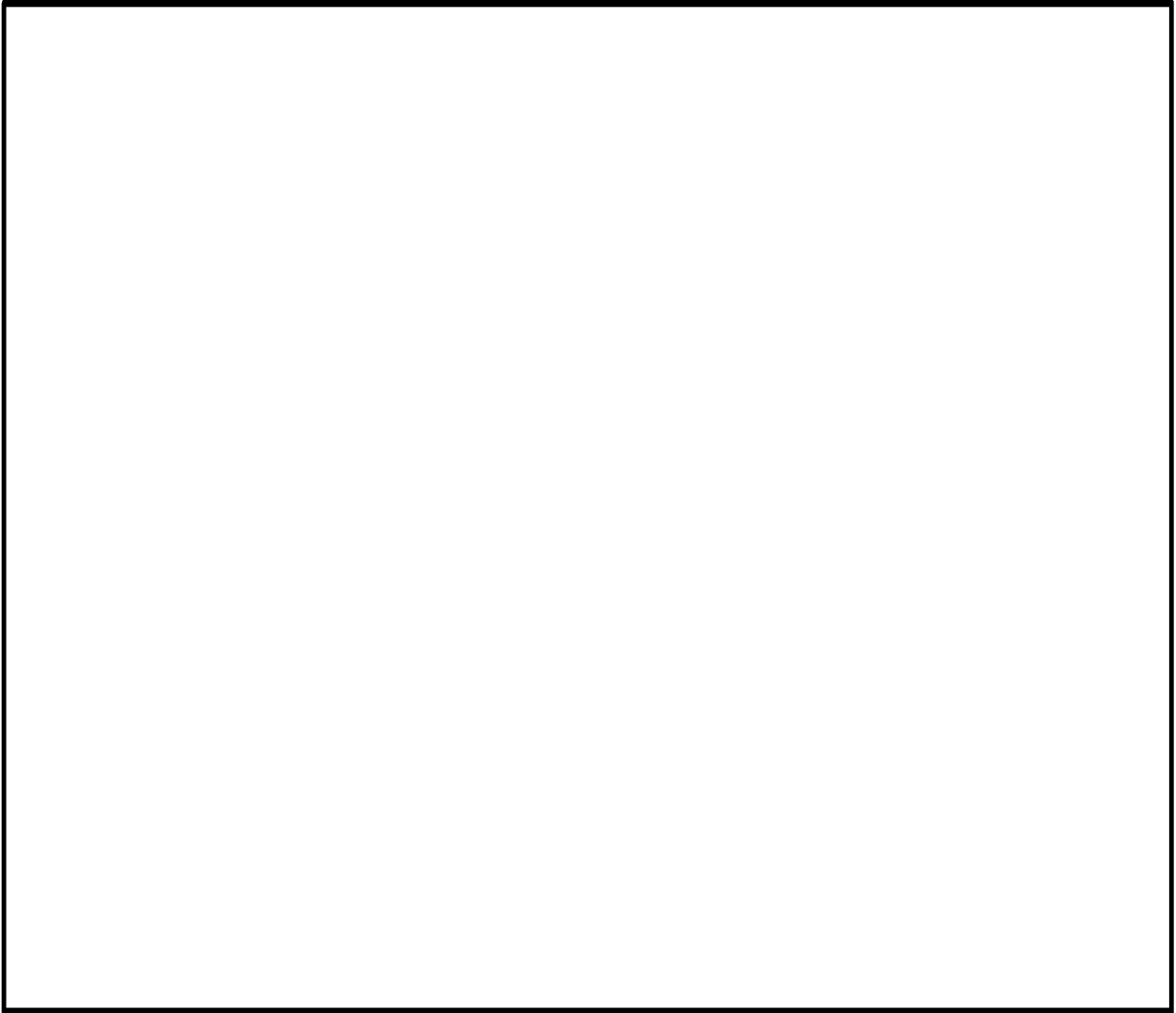
# Possession

- *Similar to Nexus analysis; AO's must determine:  
whether the applicant possesses or is perceived to  
possess a protected characteristic*

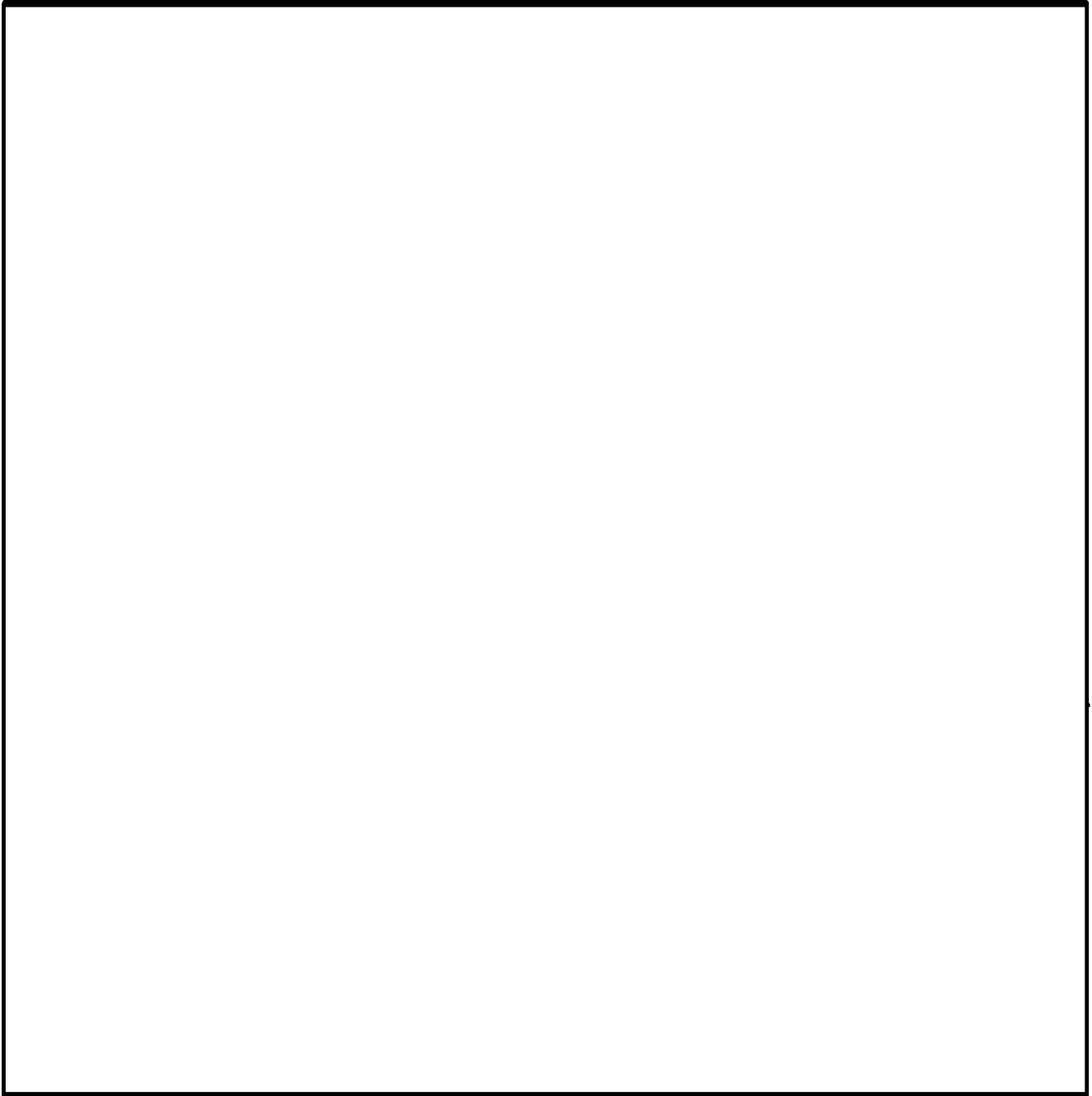


# Awareness

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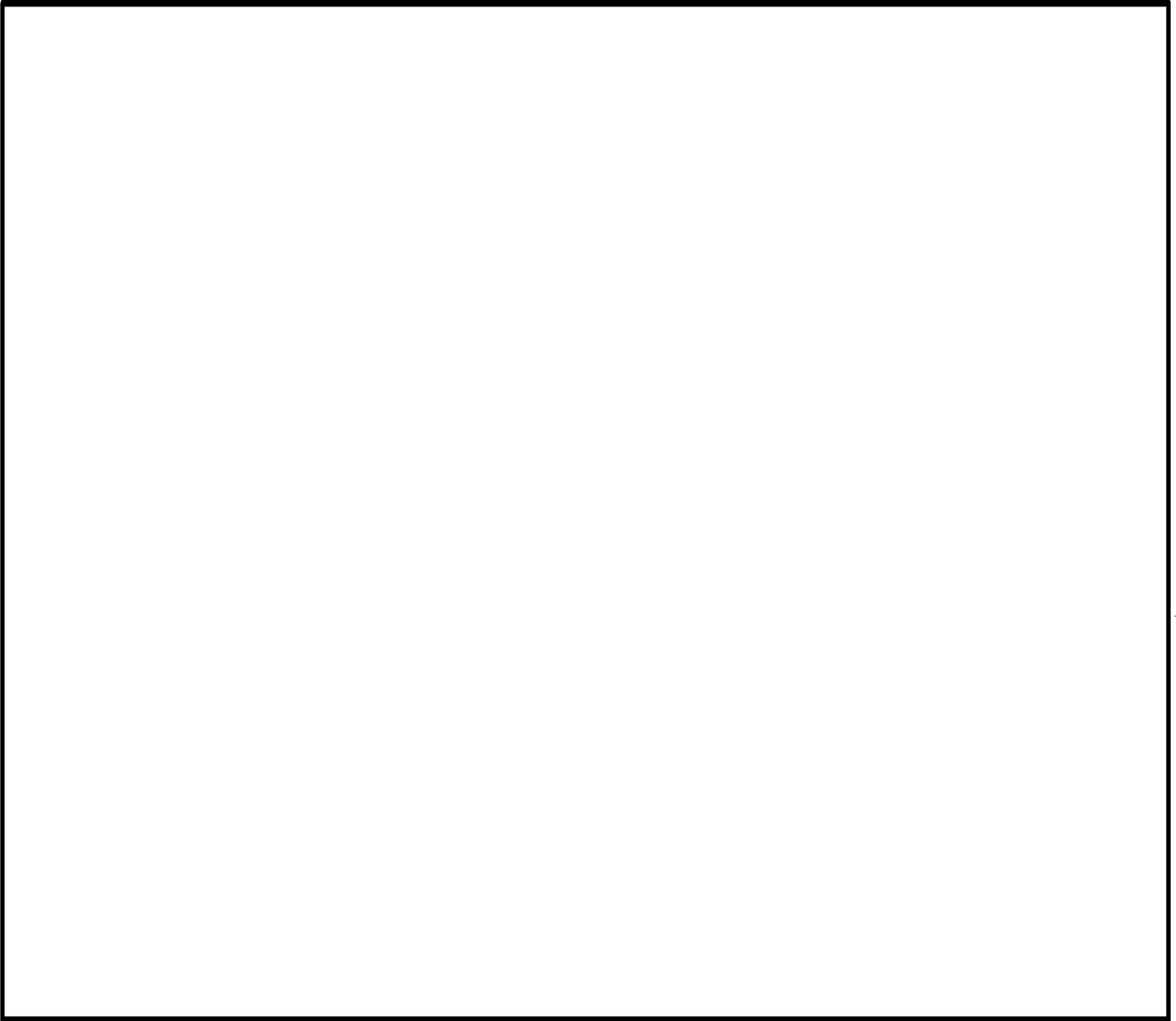


# Capability (b)(7)(e)



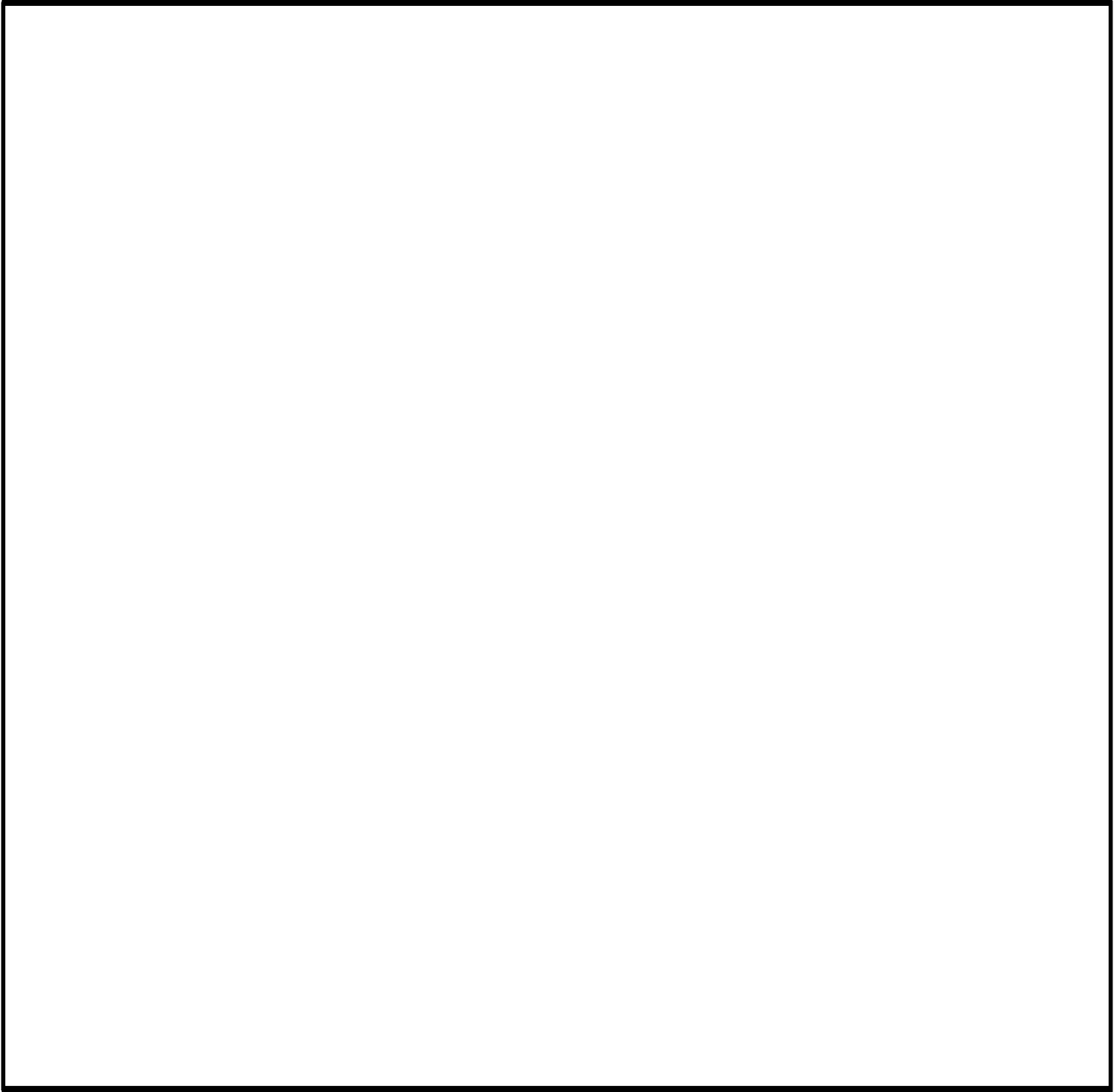
# *Inclination*

(b)(7)(e)



(b)(7)(e)

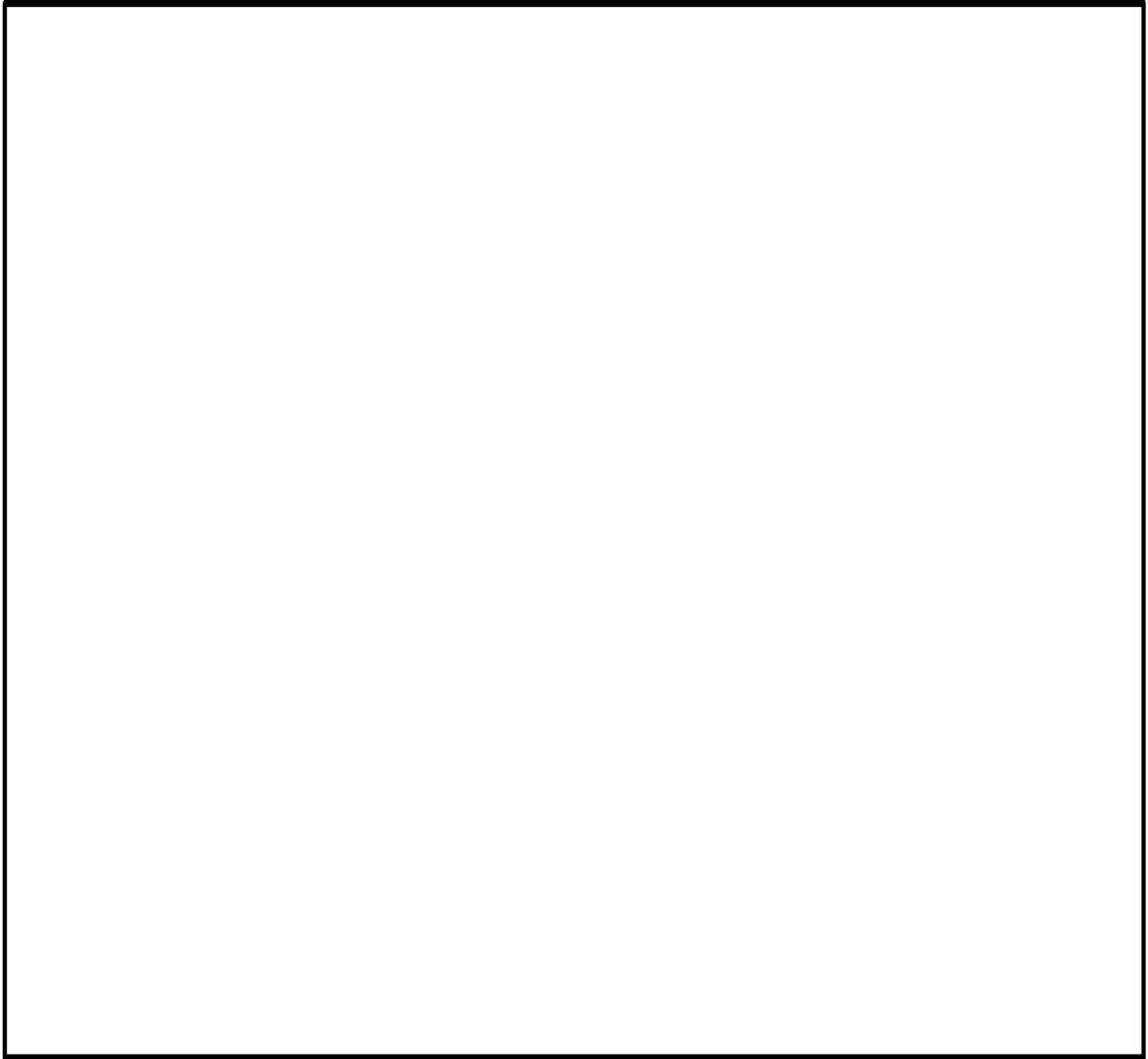
# *Other relevant considerations*





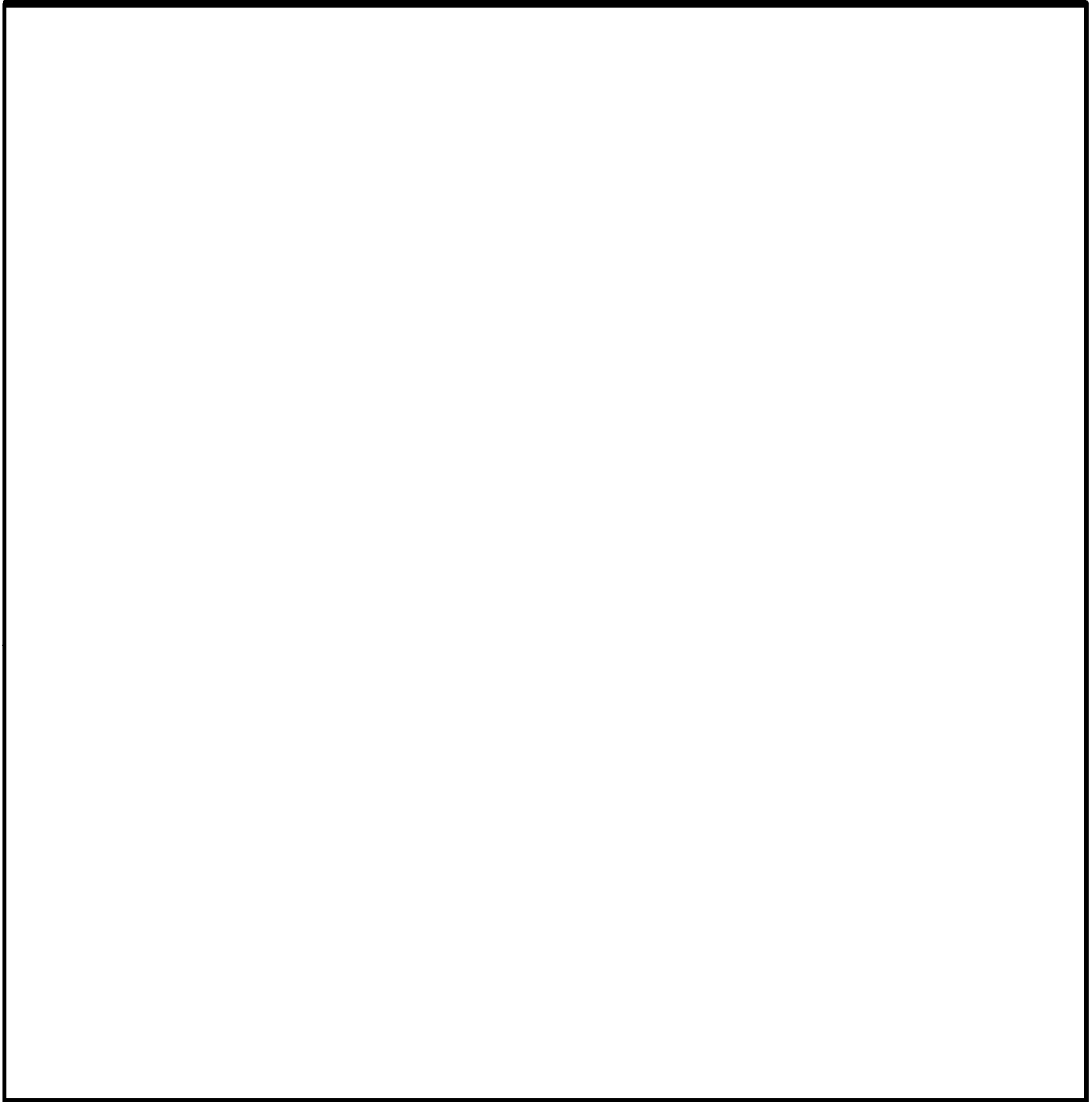
# *Internal Relocation*

(b)(7)(e)



(b)(7)(e)

# *Reasonableness of Internal Relocation*



# Credible Fear of Persecution?

Applicant, a Guatemalan national, was walking by an alley when he saw a man he recognized shoot a friend of his in the head. Applicant reported what he saw to the police and worked with them to arrest the man. He testified at the trial against the shooter. After the trial, Applicant began receiving threats. The caller told him that he would die for working with the police. The Guatemalan authorities said that they could not offer him protection after the trial.

What else do you need to know?



# Credible Fear of Persecution?

Applicant, a Salvadoran national, was abandoned by his family joined a gang in 1994. He remained a member of the gang until 2003, when he came to the United States. Shortly afterward, having become a born-again Christian, he decided that if he returned to El Salvador he could not rejoin the gang without violating his Christian scruples and that the gang would kill him for his refusal to rejoin and the police would be helpless to protect him.

What else do you need to know?



# Credible Fear of Torture

(b)(7)(e)



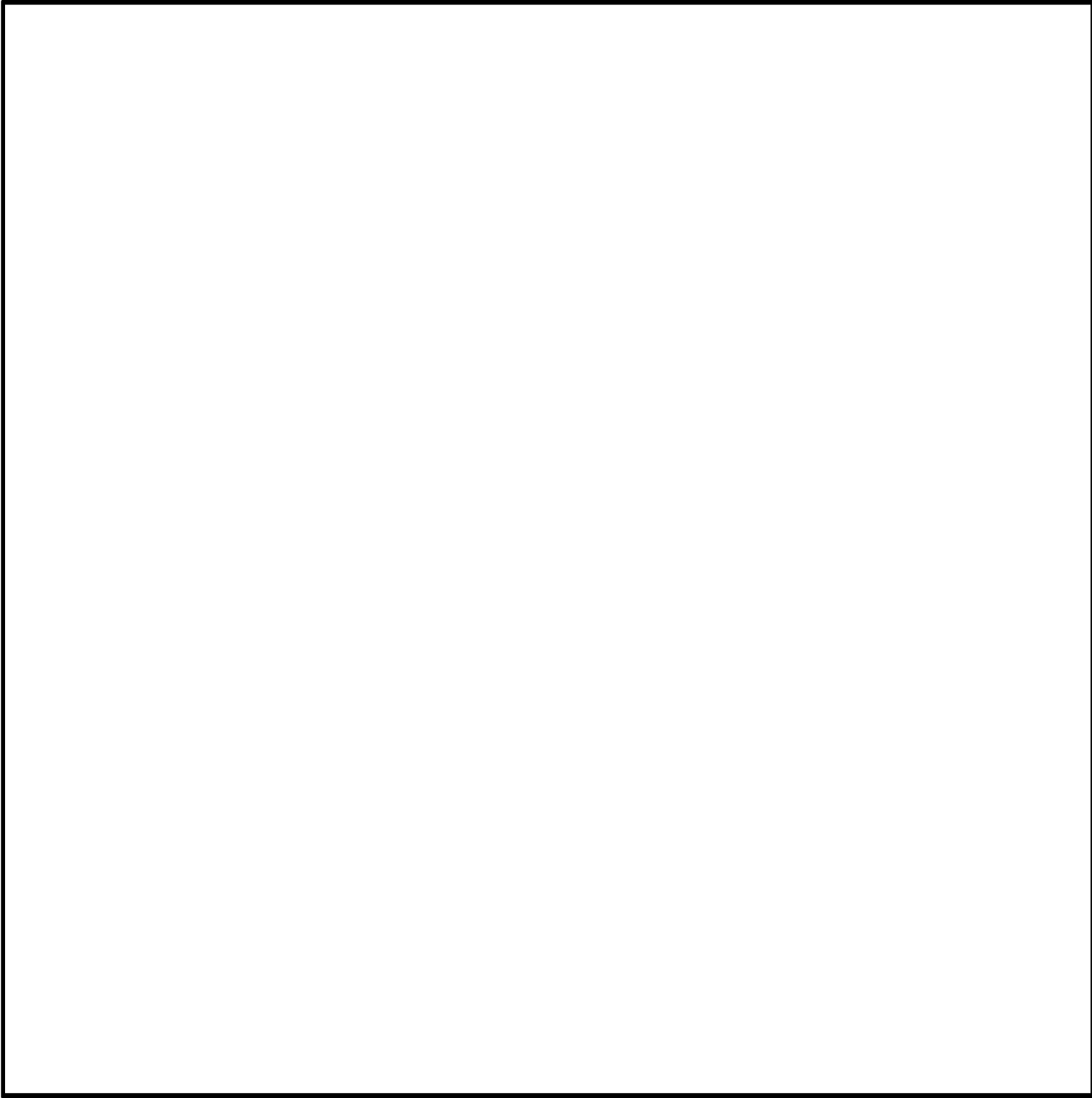
# Definition of Torture

- Consider the full definition of torture as found in 8 C.F.R. § 208.18(a).
- Because credible fear of torture interviews are employed as *“screening mechanisms to quickly identify potentially meritorious claims to protection and to resolve frivolous ones with dispatch,”* parts of the torture definition require complex analysis that may not be appropriate for credible fear.
- However, you can use previously excluded issues such as internal relocation, custody and control, and lawful sanctions.



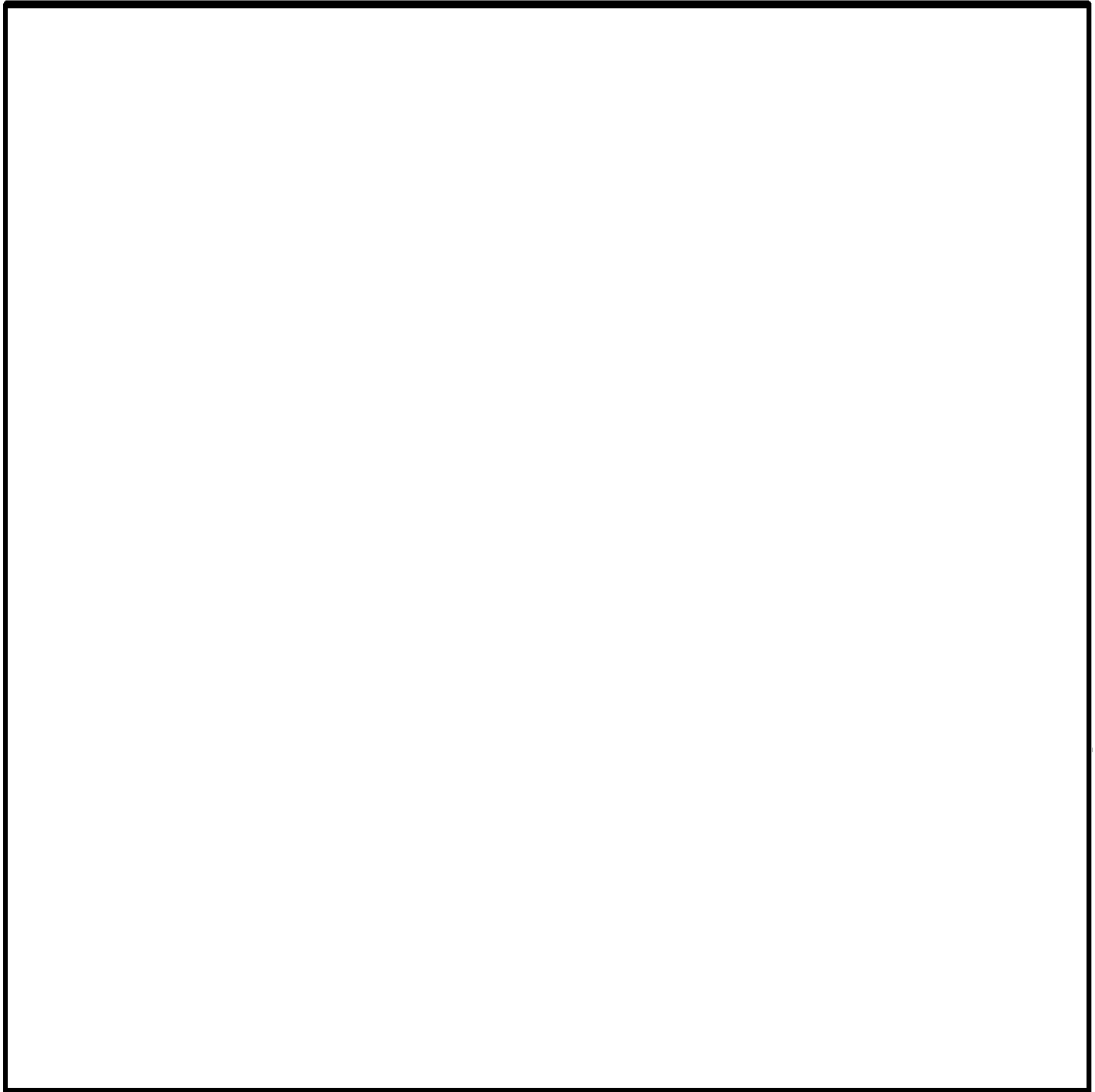
# CAT Requirements

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# *Specific Intent*

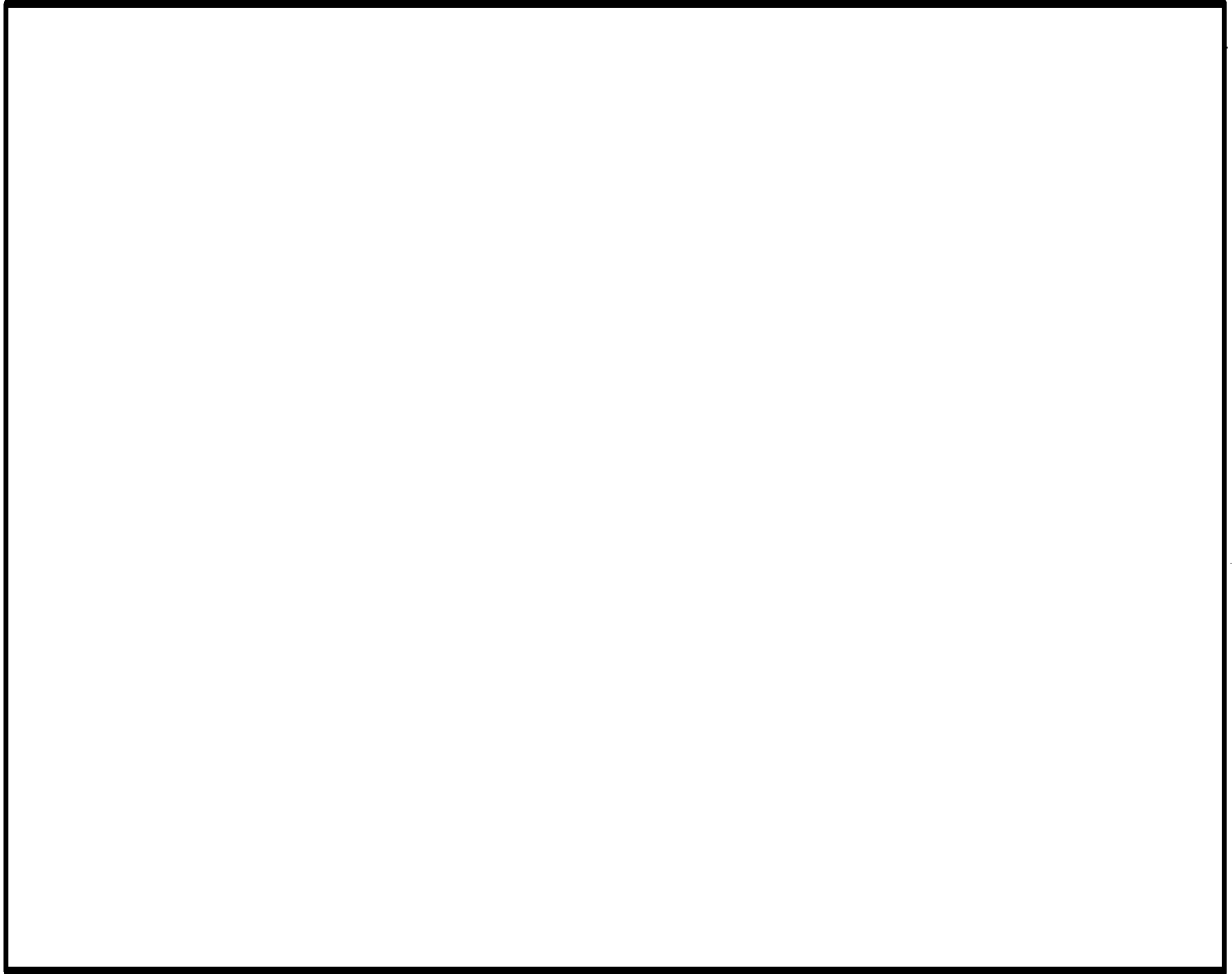
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# *Degree of Harm*

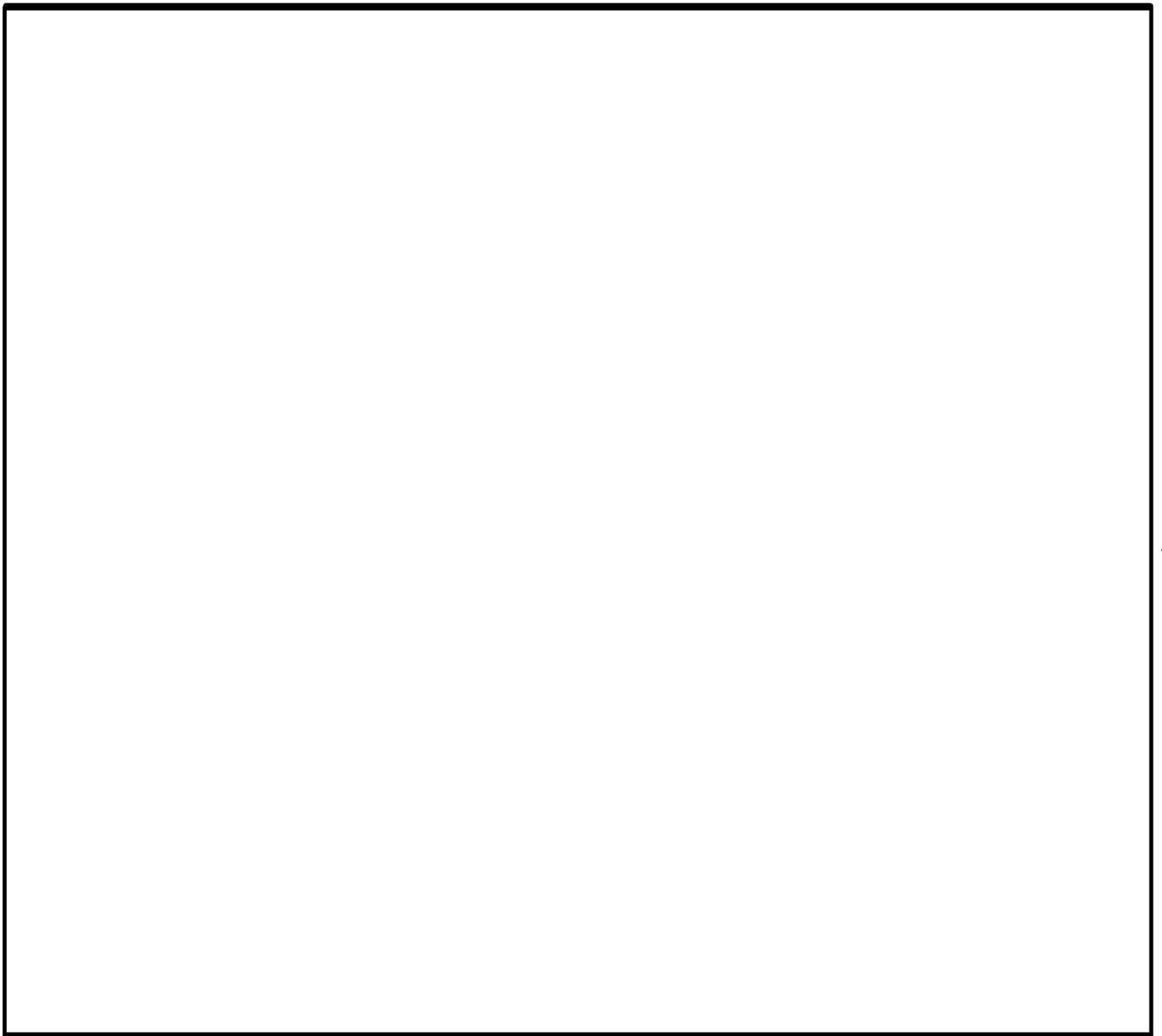
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# Identity of the Torturer

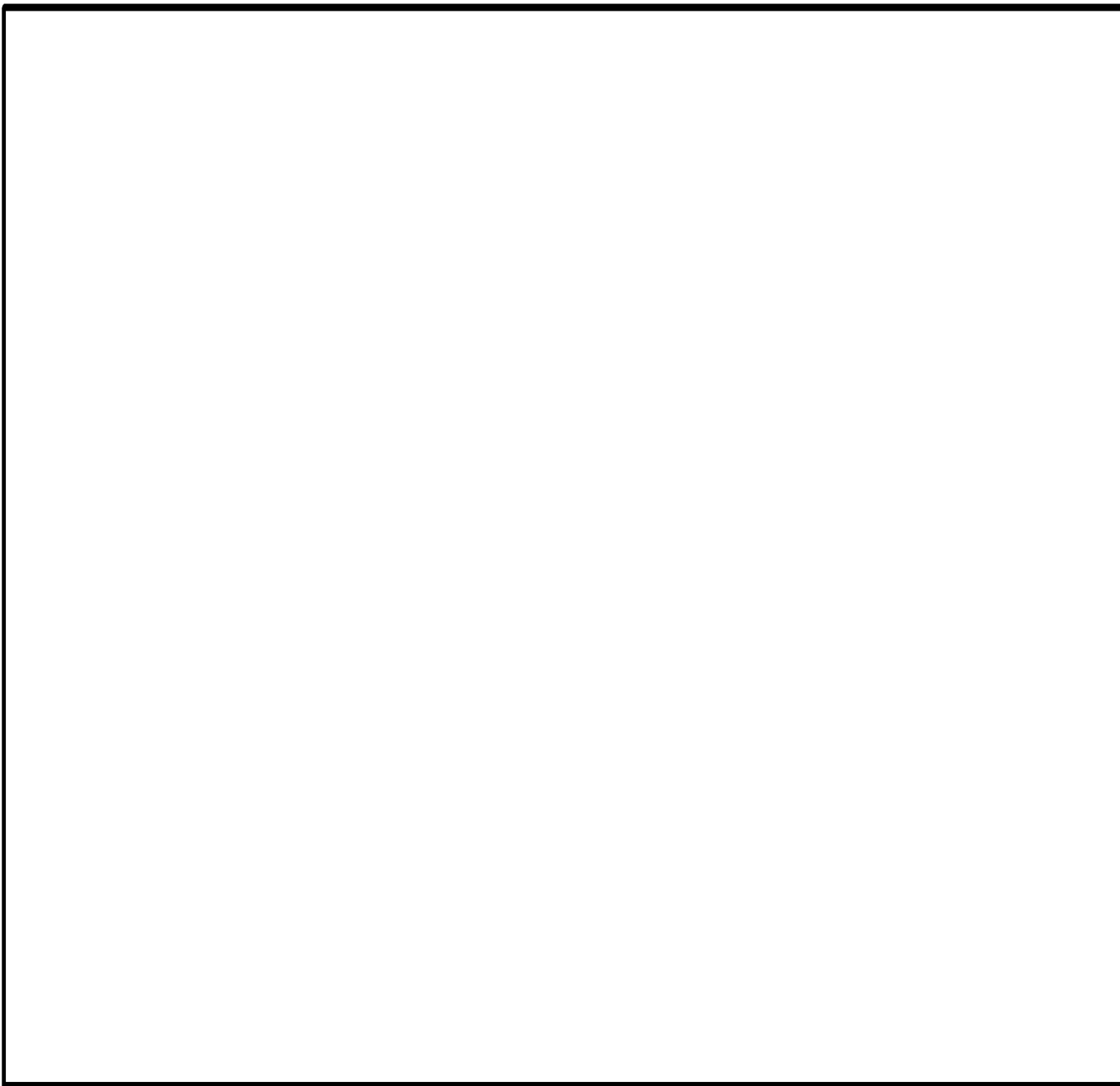
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Two Possible Options:

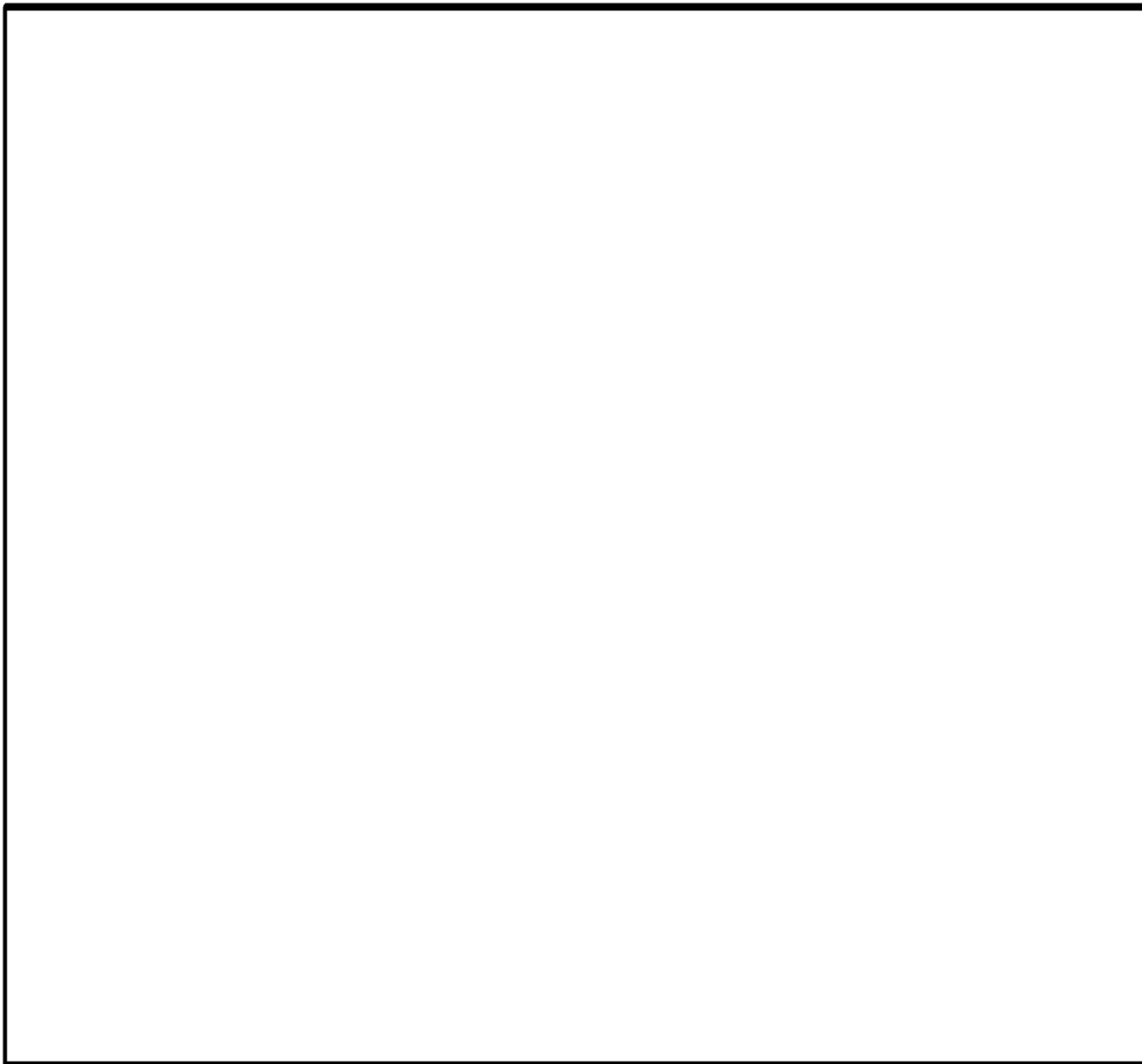


*Public Official*

(b)(7)(e)



*In Official Capacity* (b)(7)(e)



## *In Official Capacity*

*When he misuses power possessed by virtue of law and made possible only b/c he was clothed with the authority of law .*

Ramirez Peyro v. Holder, 574 F.3d 893 (8th Cir. 2009)



*Acts motivated by an officer's personal objectives are 'under color of law' when the officer uses his official capacity to further those objectives.*

Marmorato v. Holder, 376 Fed.Appx. 380, 385 (5th Cir. 2010) (unpublished)



## *In Official Capacity*

If the public official is not acting in an official capacity then treat that public official like a private actor

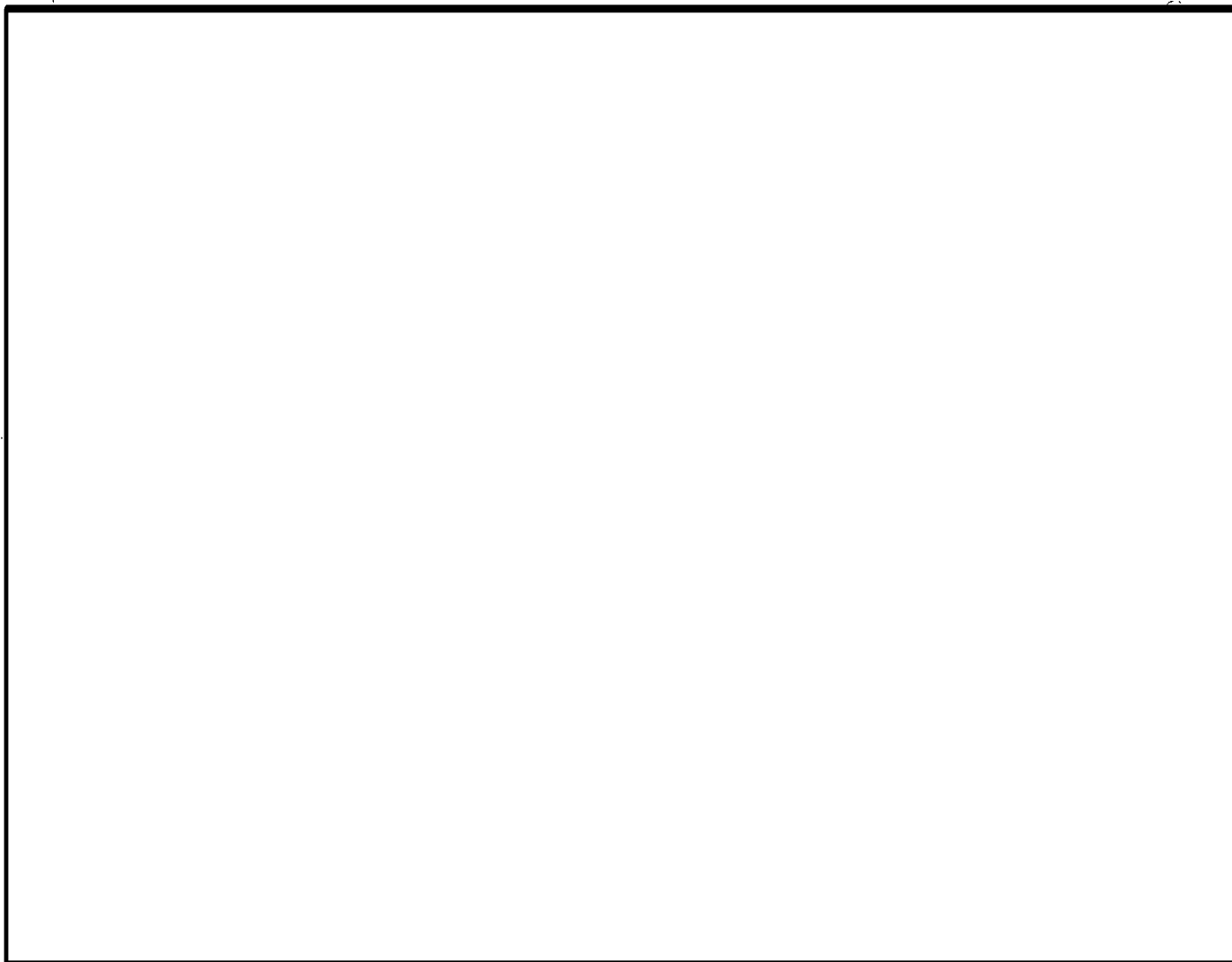
*As two of the CAT's drafters have noted, when it is a public official who inflicts severe pain or suffering, it is only in exceptional cases that we can expect to be able to conclude that the acts do not constitute torture by reason of the official acting for purely private reasons.*

Khouzam v. Ashcroft, 361 F.3d 161, 171 (2d Cir. 2004)



# Identity of the Torturer: *Private Actor*

(b)(7)(e)



# *Acquiescence*

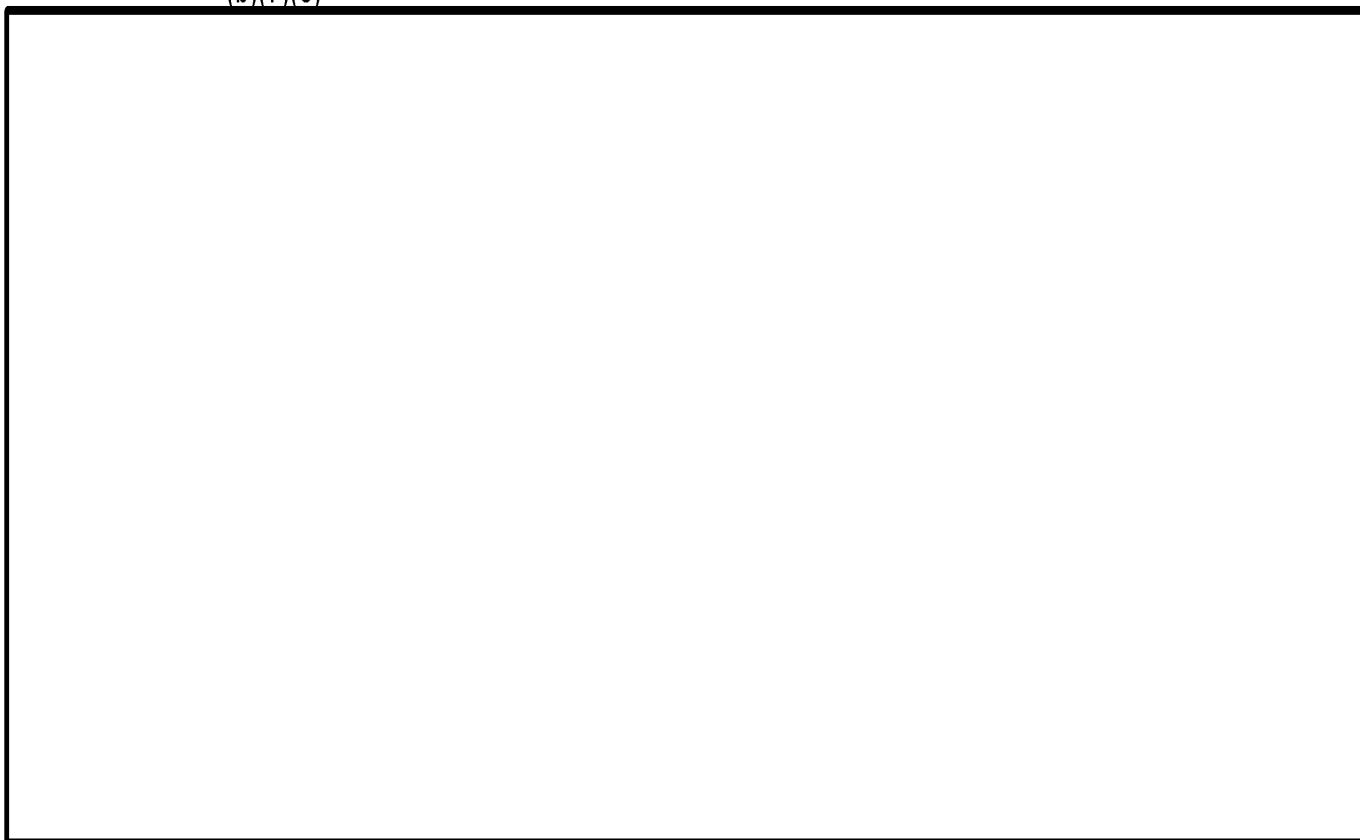
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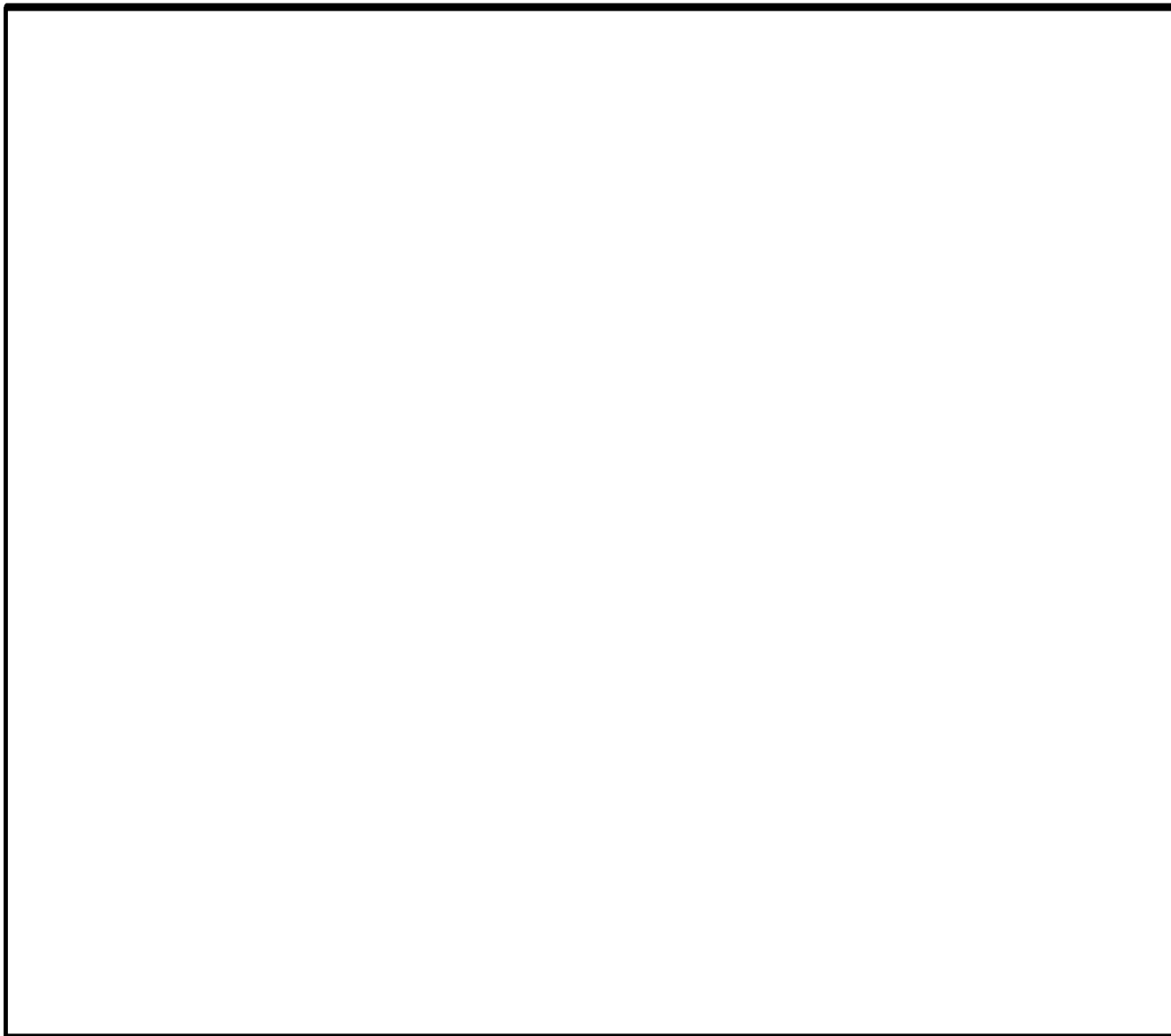
# *Acquiescence – willful blindness*

(b)(7)(e)



# *Acquiescence – breach of duty*

(b)(7)(e)



# Acquiescence

Determination of acquiescence is distinct from the “unable or unwilling” to protect standard used in the definition of a refugee

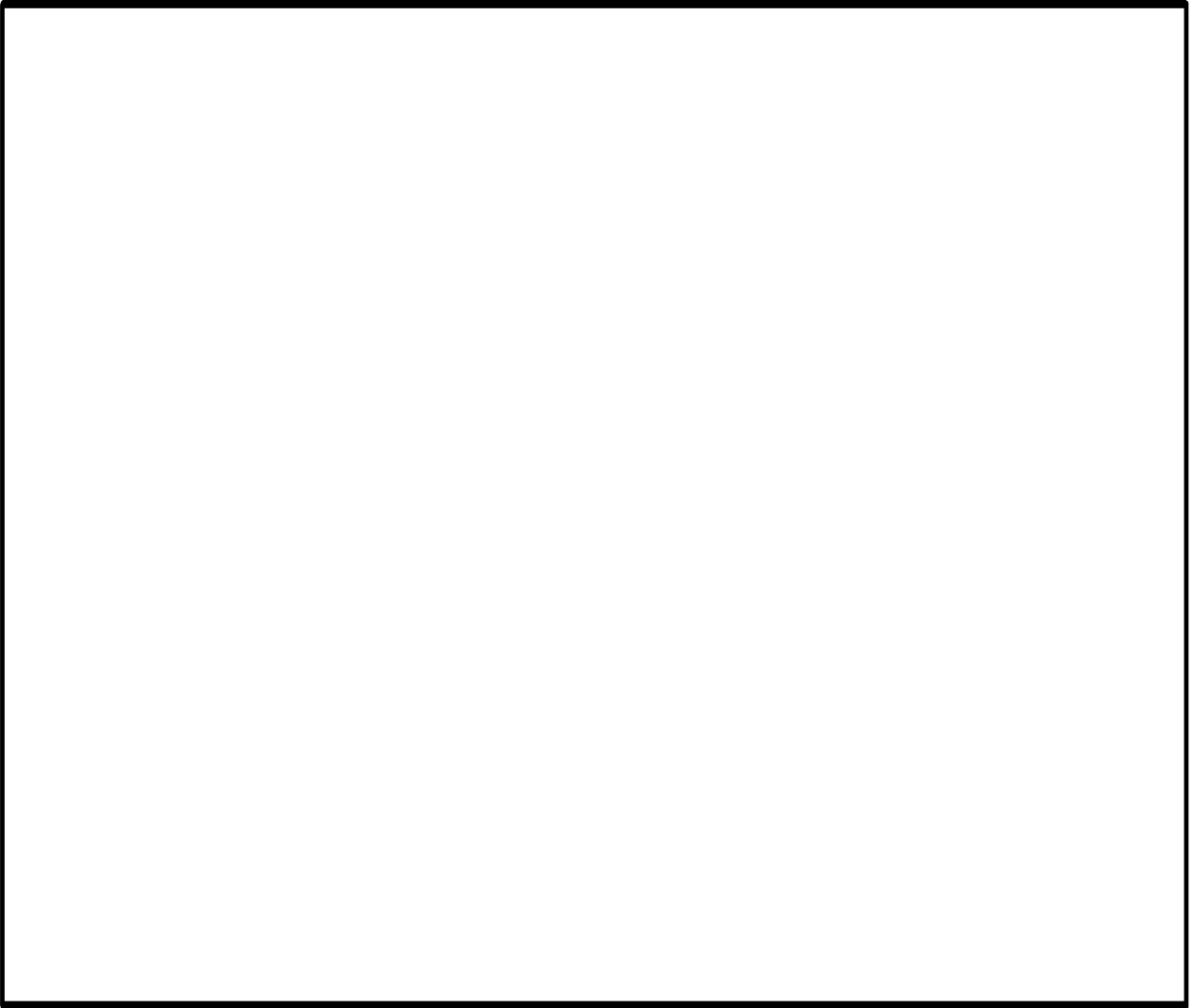
*...A gov't does not acquiesce in torture of its citizens merely b/c it is aware of torture but is powerless to stop it. It does cross the line into acquiescence when it shows willful blindness toward the torture of citizens by a 3<sup>rd</sup> party.*

Ramirez Peyro v. Holder, 574 F.3d 893 (8th Cir. 2009)



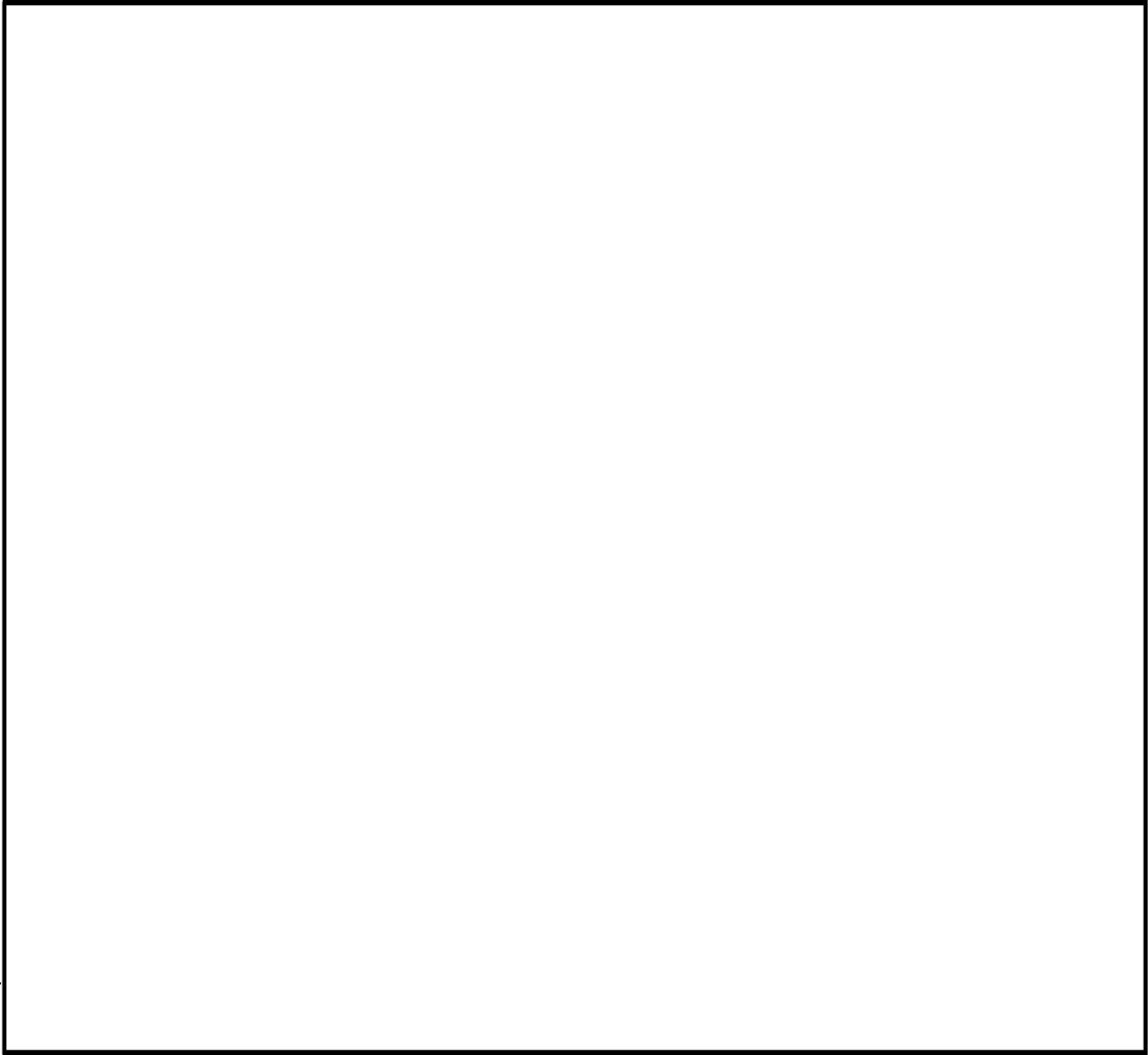
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# Custody and Control



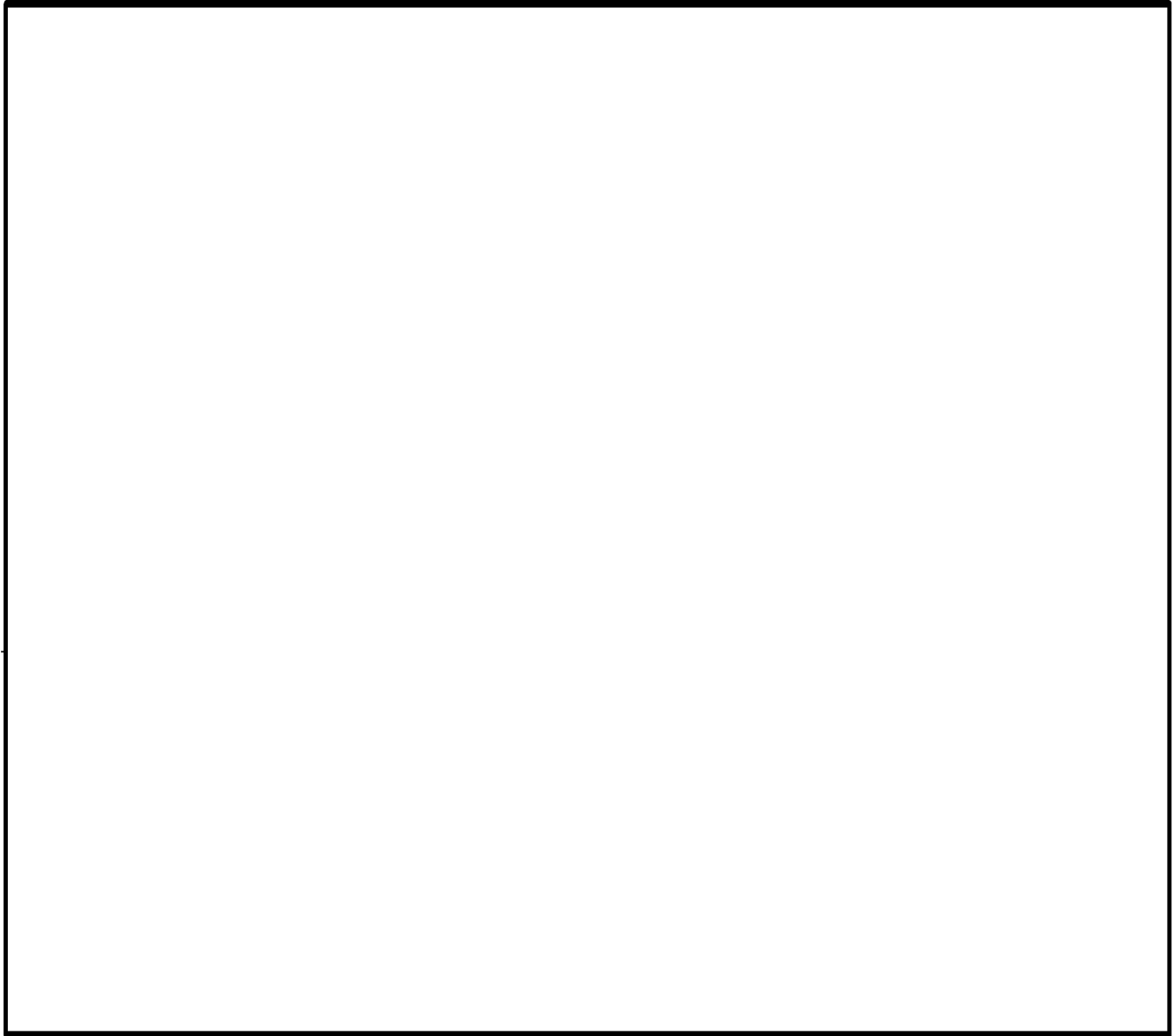
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# Custody and Control



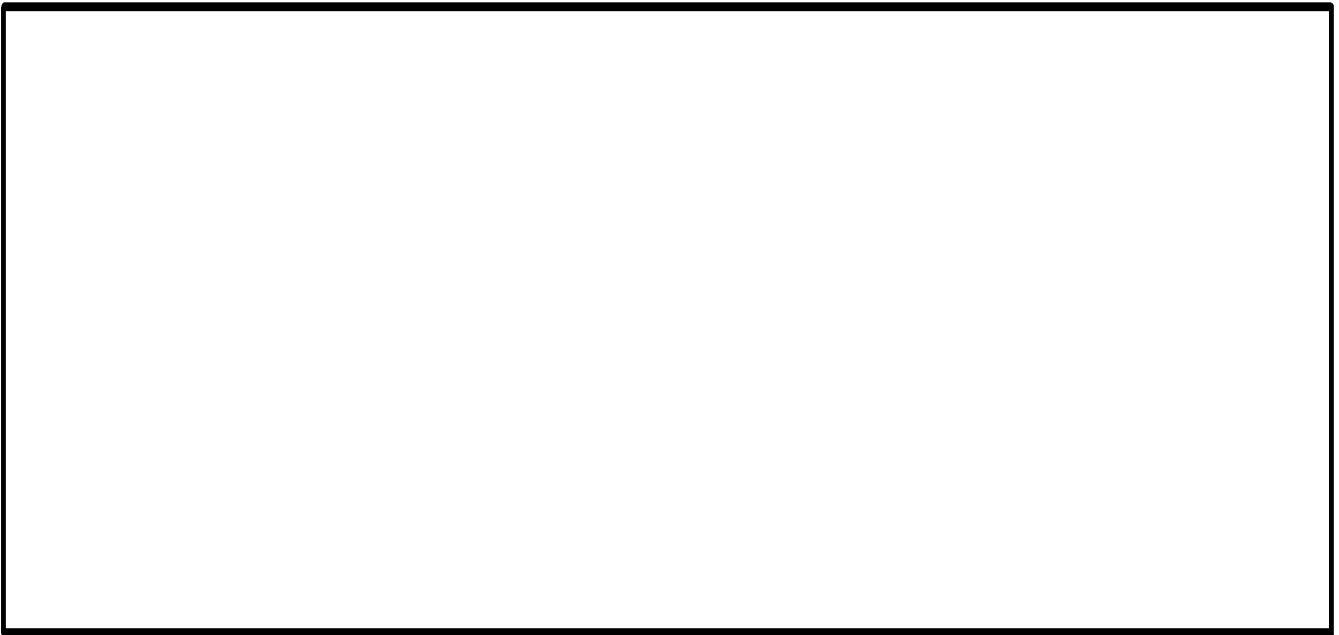
(b)(7)(e)

# Lawful Sanctions

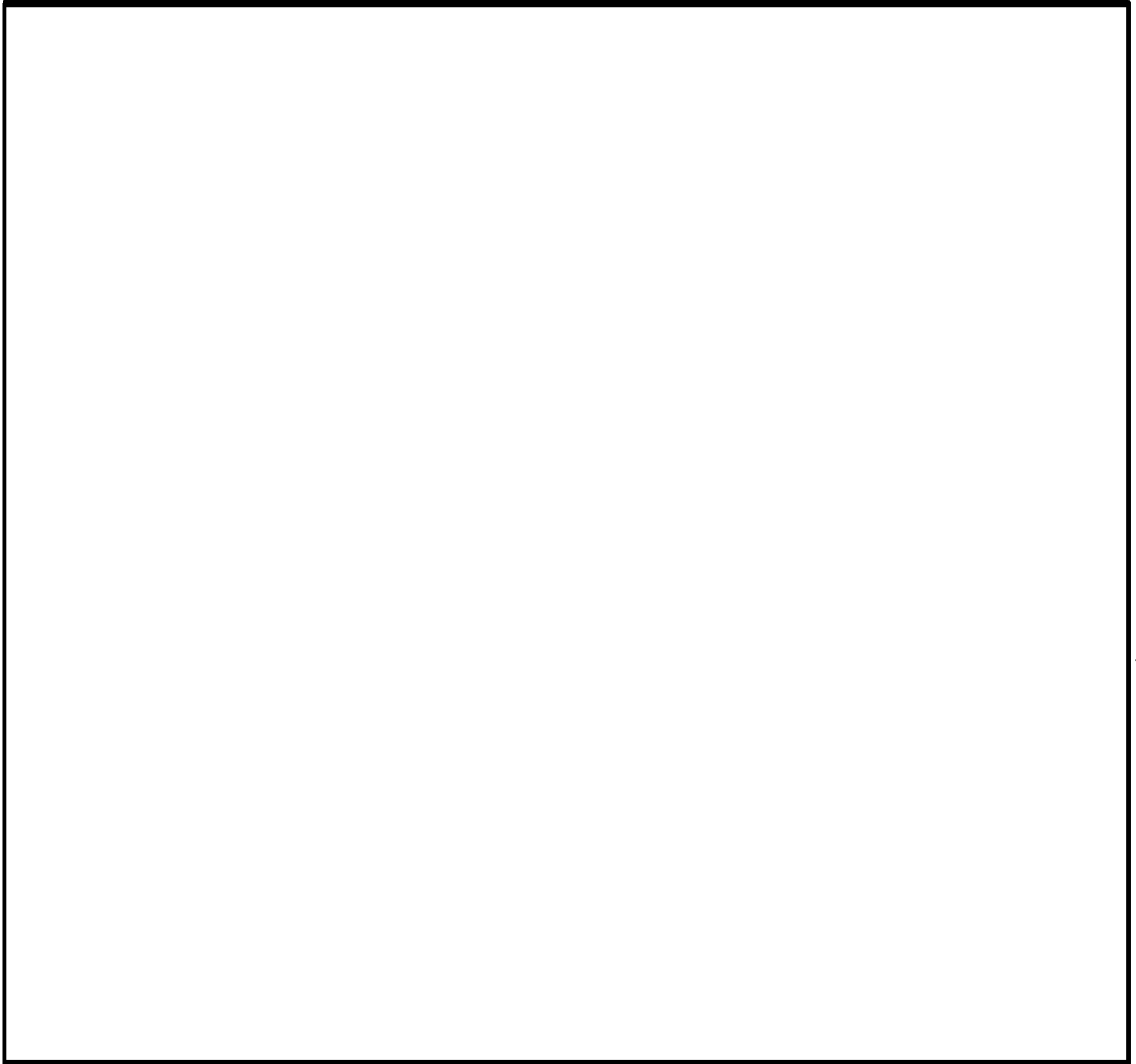


# Past Torture

(b)(7)(e)



# *Internal Relocation* (b)(7)(e)





# Credible Fear of Torture?

Applicant was accused by Egyptian police of committing murder and sentenced to death. He escaped and fled to the U.S. Applicant believes he was framed by local police. In Egypt, he was detained by the police for six months and beaten daily until he signed papers that he was not allowed to read. Applicant believes that one of these papers was a false confession to the alleged murder.

Credible Fear of Torture?

What else do you need to know?



# Credible Fear of Torture?

Applicant, a Honduran national, is a ticket vendor who sells tickets on local busses. He was ordered by gang members to turn over his ticket money to the gang. If he refused, the gang told him they would kill him. Applicant knows other vendors who were killed for not giving up their money. A union representative lobbied the local police for protection, but the police responded that they are not able to control what happens on busses. Applicant believes police are bought by the gangs because he often sees bus drivers make payments to police to get through random roadblocks. COI corroborates rampant police corruption.

Credible Fear of Torture?

What else do you need to know?



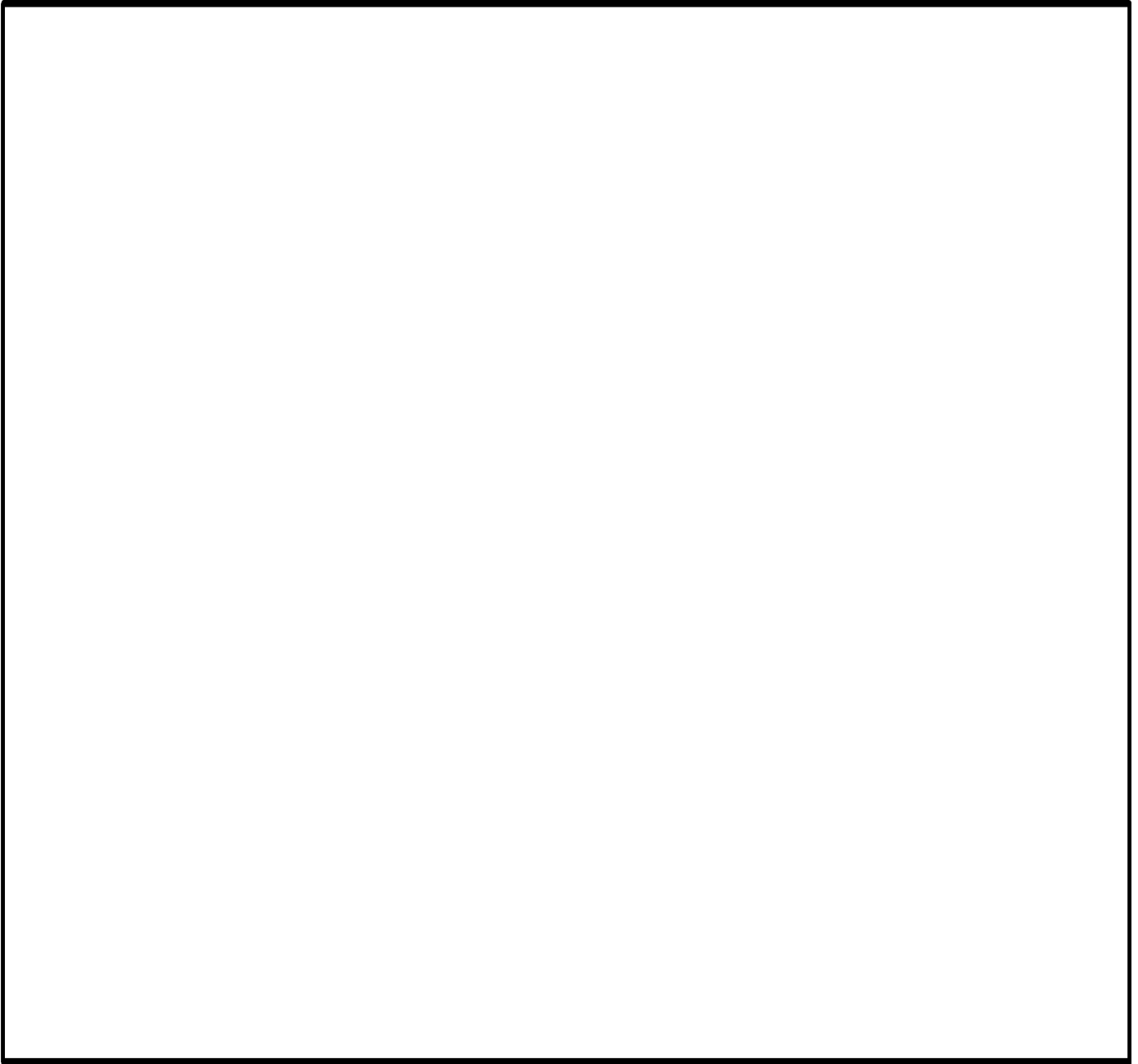
# Credibility

- Review the RAIO Credibility Training Module
- Identify the adverse credibility factor, inform the applicant, and give him or her a chance to explain.
- Demeanor, candor, and responsiveness are of limited reliability in credible fear screenings.



(b)(7)(e)

# Credibility in Credible Fear



(b)(7)(e)

# CBP Sworn Statement

[Empty box for CBP Sworn Statement content]



# Other Issues

- **IDENTITY:** An applicant must establish his or her identity with a reasonable degree of certainty.
- **MANDATORY BARS:** Do not apply in credible fear.
  - **BUT** you must elicit and make note of all information relevant to any bars to asylum.
- **“Consultant”**
  - A consultant may be a relative, friend, clergy person, attorney, or representative. Consultants are not required to file any documents at any time during the credible fear process.
- **Factual summaries: REQUIRED.**



# Consultant Issues

**You should determine whether or not an applicant wishes to have a consultant present at the credible fear interview.**



# Factual Summary

**For each credible fear interview, the asylum officer must create a summary of material facts as stated by the applicant.**





# Dependents

- An applicant may include a spouse or child in their credible fear evaluation, if the dependent:

1. Arrived in the U.S. with the principal alien; and

2. Desires to be included in the principal alien's determination.



# Dependents

**USCIS maintains discretion under this regulation not to allow a spouse or child to be included in the principal's credible fear request.**



# Competency

- Is the applicant sufficiently competent to be interviewed?
- If no, communicate your SAPSO.
- The asylum office will issue an Notice to Appear with an additional allegation that the alien is a “Public Charge”.
- Prepare a memo to file and forward to HQ for review.
- Document your attempts to interview the applicant and obtain any relevant mental health documentation from the detention facility.



# Detention

- The place of detention, not his or her place of entry, determines which asylum office will process the CF claim.
- Detention is mandatory while credible fear case is pending (unless medical emergency or law enforcement objective. After positive CF determination made, ICE has discretion to parole applicant from detention.



# *Multiple Citizenship or Nationality*

- If the country of removal indicated is different from the applicant's country of citizenship or nationality, any fear from the indicated country of removal must also be evaluated.
- If the applicant was firmly resettled in another country prior to arriving in the United States, any fear from the country of firm resettlement must also be evaluated.



# Top 10 Nationalities

## Credible Fear Nationality Report FY10, FY11, FY 12, FY13

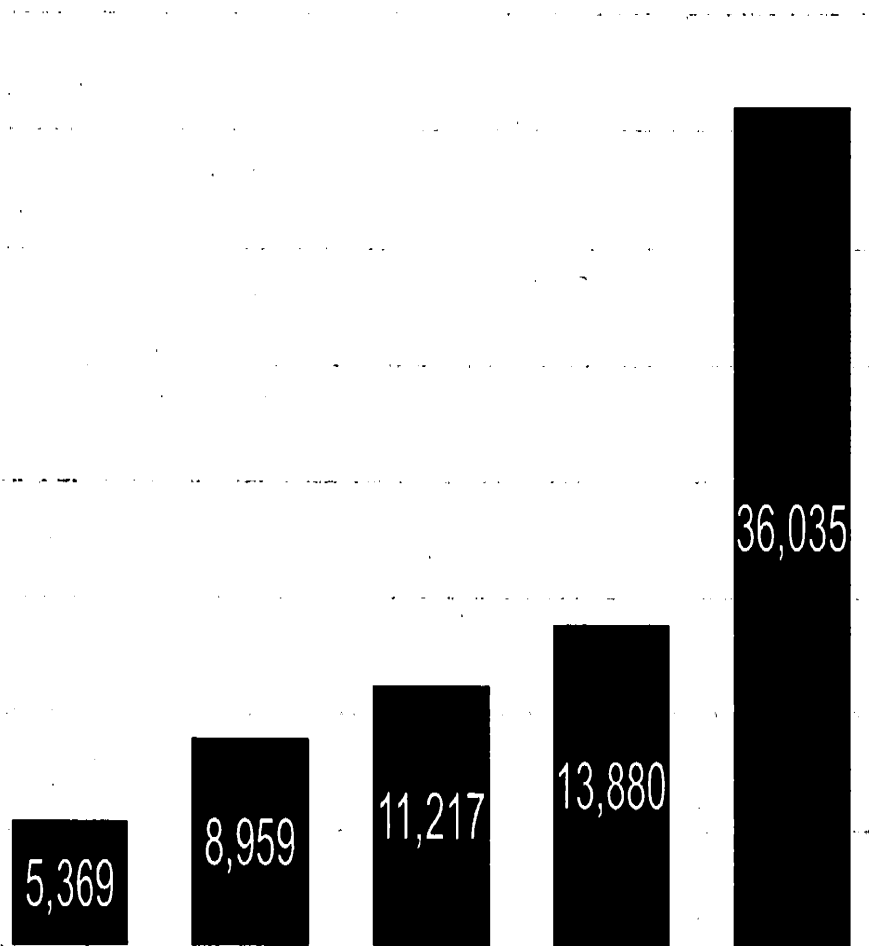
Total FY12 Receipts			13,931	%	Total FY13 Receipts			36,026	%
1	EL SALVADOR	4087		29.3	EL SALVADOR	10,935		30.4	
2	HONDURAS	2405		17.3	HONDURAS	6871		19.1	
3	GUATEMALA	2015		14.5	GUATEMALA	5573		15.5	
4	MEXICO	1299		9.3	INDIA	2974		8.3	
5	ECUADOR	863		6.2	MEXICO	2612		7.3	
6	CHINA, PEOPLE	737		5.3	ECUADOR	2154		6.0	
7	INDIA	426		3.1	CHINA, PEOPLE	895		2.5	
8	DOMINICAN REP	208		1.5	NICARAGUA	472		1.3	
9	NICARAGUA	188		1.3	NEPAL	323		0.9	
10	SRI LANKA	167		1.2	PERU	320		0.9	

Total FY11 Receipts			11,337	%	Total FY10 Receipts			9,014	%
1	EL SALVADOR	2040		18.0	EL SALVADOR	1951		21.6	
2	INDIA	1940		17.1	CHINA, PEOPLE	870		9.7	
3	MEXICO	1205		10.6	HONDURAS	844		9.4	
4	GUATEMALA	1164		10.3	INDIA	735		8.2	
5	HONDURAS	984		8.7	MEXICO	653		7.2	
6	CHINA, PEOPLE	836		7.4	GUATEMALA	616		6.8	
7	HAITI	691		6.1	ERITREA	463		5.1	
8	ERITREA	378		3.3	DOMINICAN REP	429		4.8	
9	ECUADOR	359		3.2	SOMALIA	387		4.3	
10	SRI LANKA	205		1.8	HAITI	333		3.7	



U.S. Citizenship  
and Immigration  
Services

# Increase in CF Cases



# Receipts by Office

## Credible Fear Referrals by Asylum Office FY 2008 - FY 2013

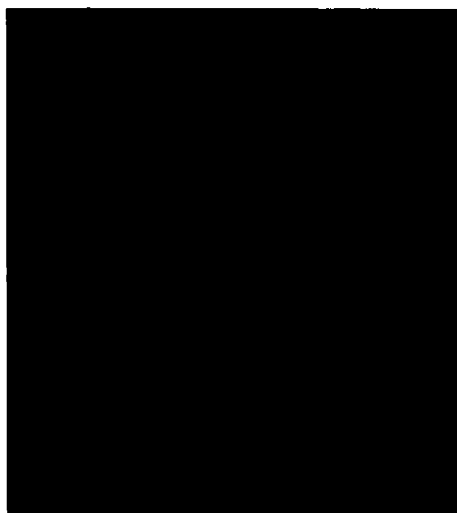
Asylum Office	FY 2013 Cases Received	FY 2012 Cases Received	FY 2011 Cases Received	FY 2010 Cases Received	FY 2009 Cases Received	FY 2008 Cases Received
<b>Total</b>	<b>36,026</b>	<b>13,931</b>	<b>11,217</b>	<b>8,959</b>	<b>5,369</b>	<b>4,995</b>
Arlington	1,137	312	90	53	69	79
Chicago	466	87	73	54	58	57
Houston	21,225	9,859	7,672	6,002	3,932	3,448
Los Angeles	8,217	2,654	2,697	2,040	814	842
Miami	1,083	260	202	285	179	252
Newark	2,485	486	314	346	242	271
New York	78	0	0	0	0	0
San Francisco	1,344	273	169	179	75	46







**ASYLUM-QA-CREDIBLE-FEAR@uscis.dhs.gov**





U.S. Department of Justice  
Immigration and Naturalization Service

HQASM 120/10.19

ULLICO Bldg., 3<sup>rd</sup> floor  
425 I Street NW  
Washington, DC 20536

December 8, 2000

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

FROM: Joseph E. Langlois, Acting Director /s/  
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 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.

[NOTE: The original Attachment 1: Draft Credible Fear Procedures Manual (rev. Dec 2000)  
has since been superseded by:  
Attachment 2: Draft Credible Fear Procedures Manual (rev. April 2002)]

[NOTE: The original Attachment 2: Credible Fear Lesson Plan (rev. 3/22/99)  
has since been superseded by:  
Attachment 2: Credible Fear Lesson Plan (rev. 11/30/01)]

[NOTE: The original Attachment 3: Revised Form I-870 (rev. 3/22/99)  
has since been superseded by:  
Attachment 3: Revised Form I-870 (rev. 01/19/01)]

**United States Department of Justice**  
**Immigration and Naturalization Service**  
*Office of International Affairs*  
*Asylum Division*

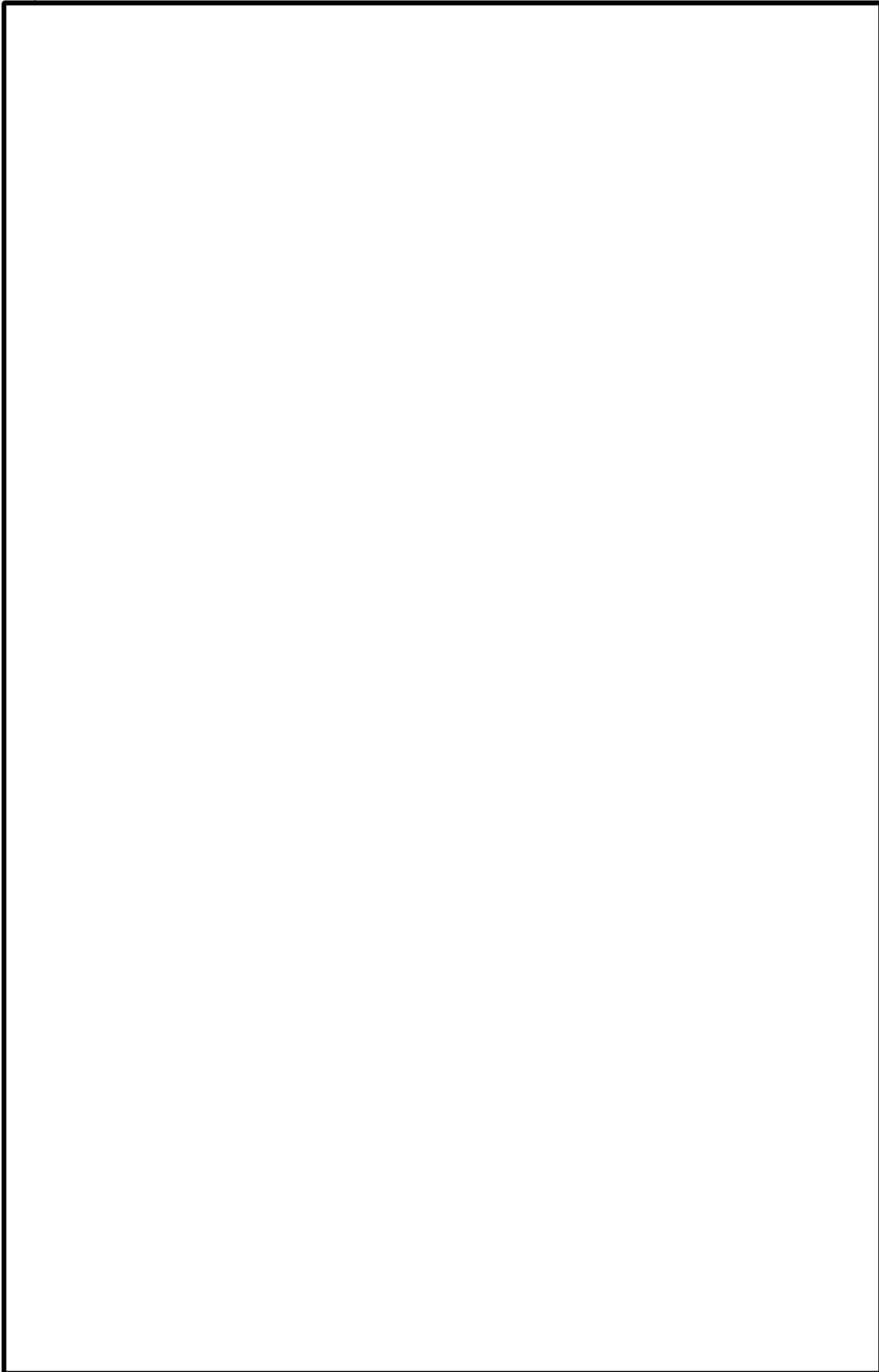
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**CREDIBLE FEAR PROCEDURES MANUAL**

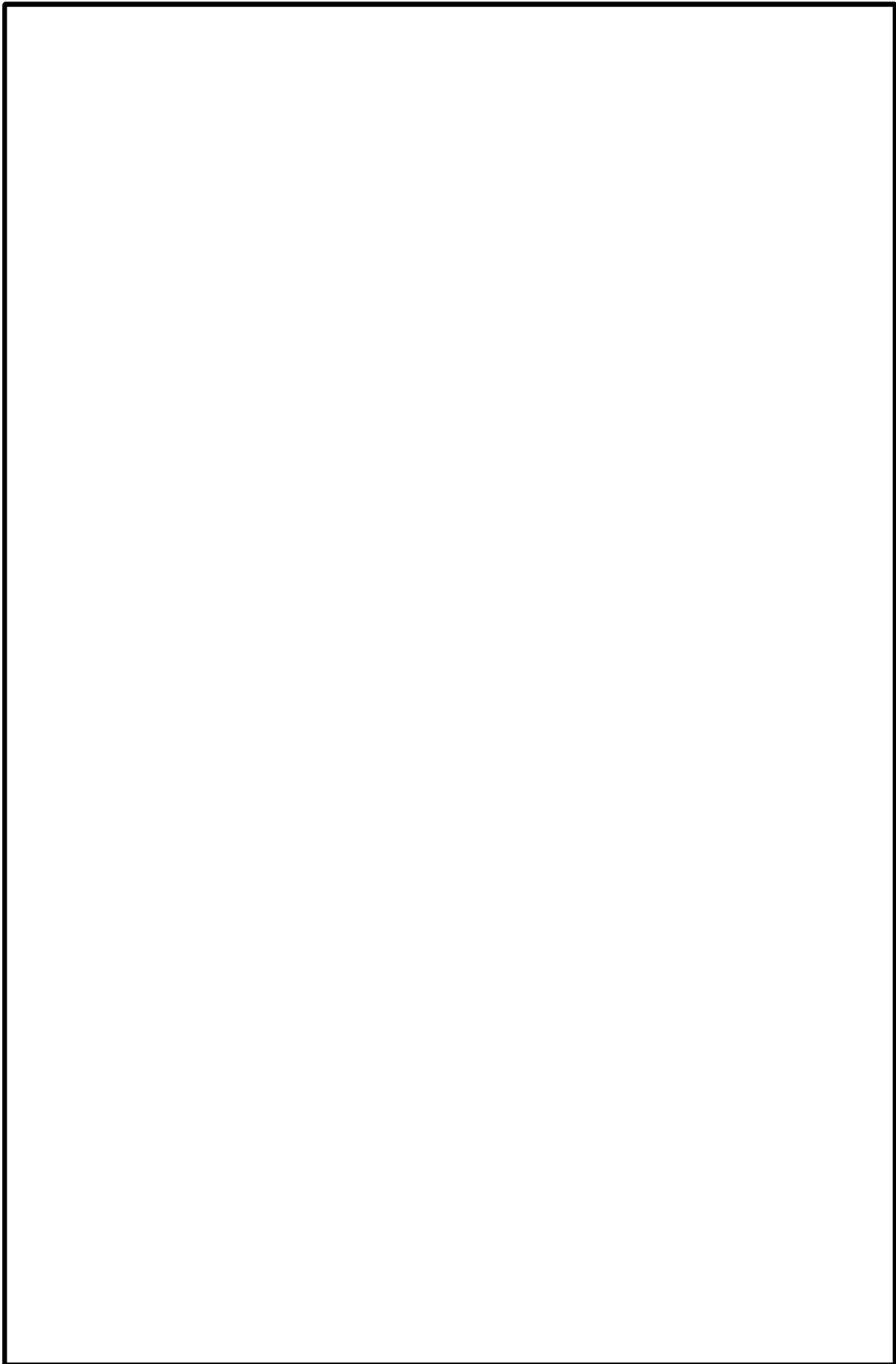
**DRAFT (APRIL 2002)**

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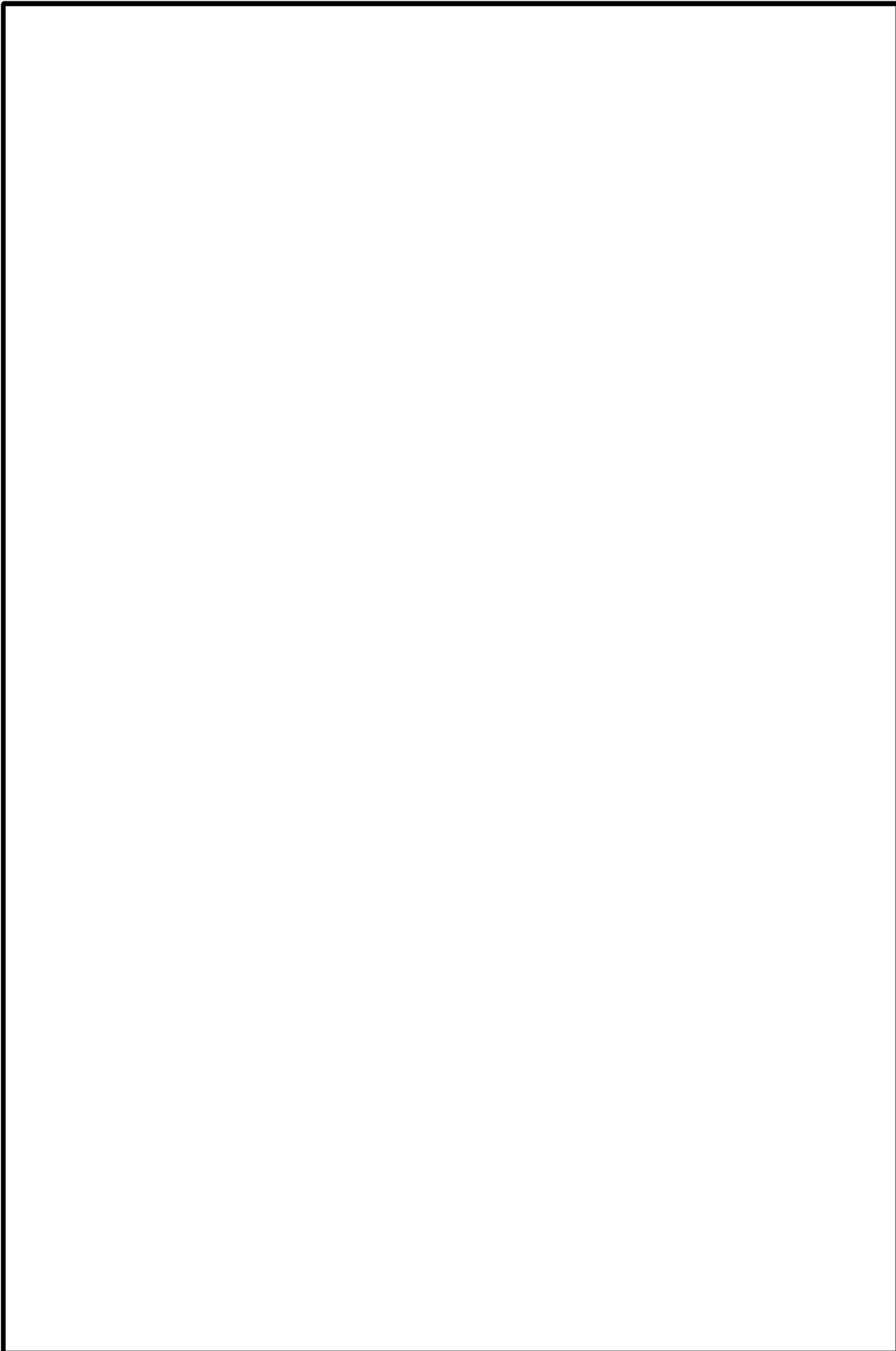
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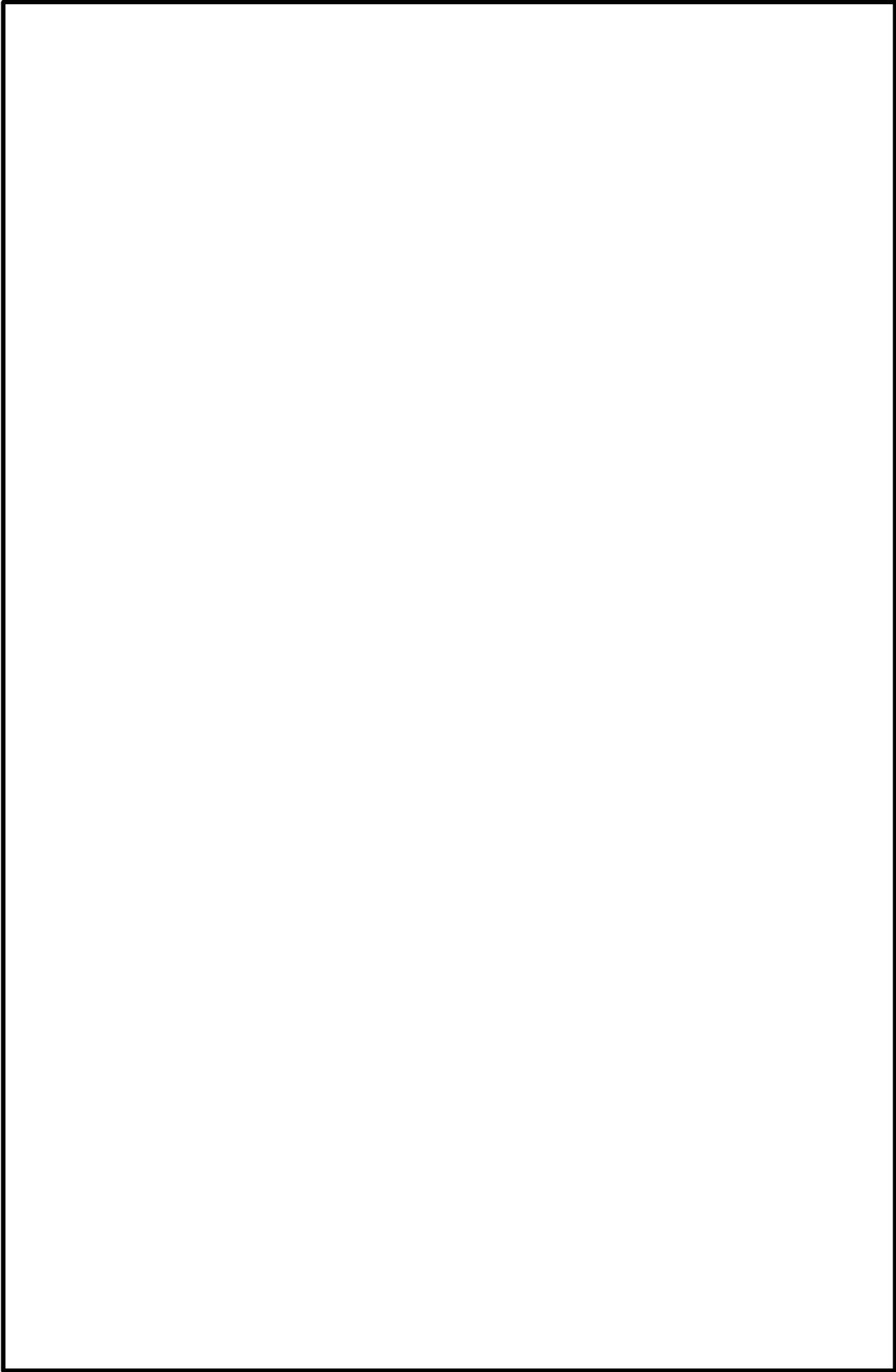


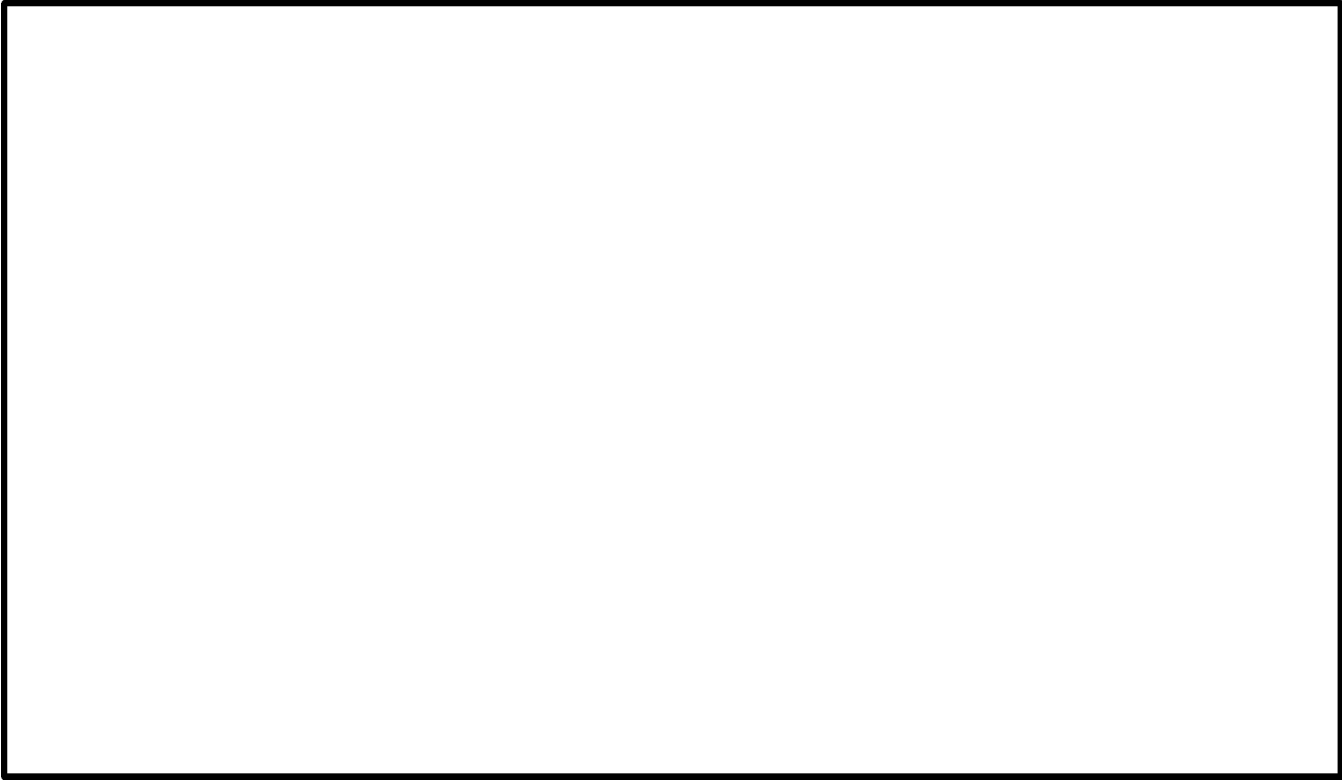
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## **I. BACKGROUND INFORMATION**



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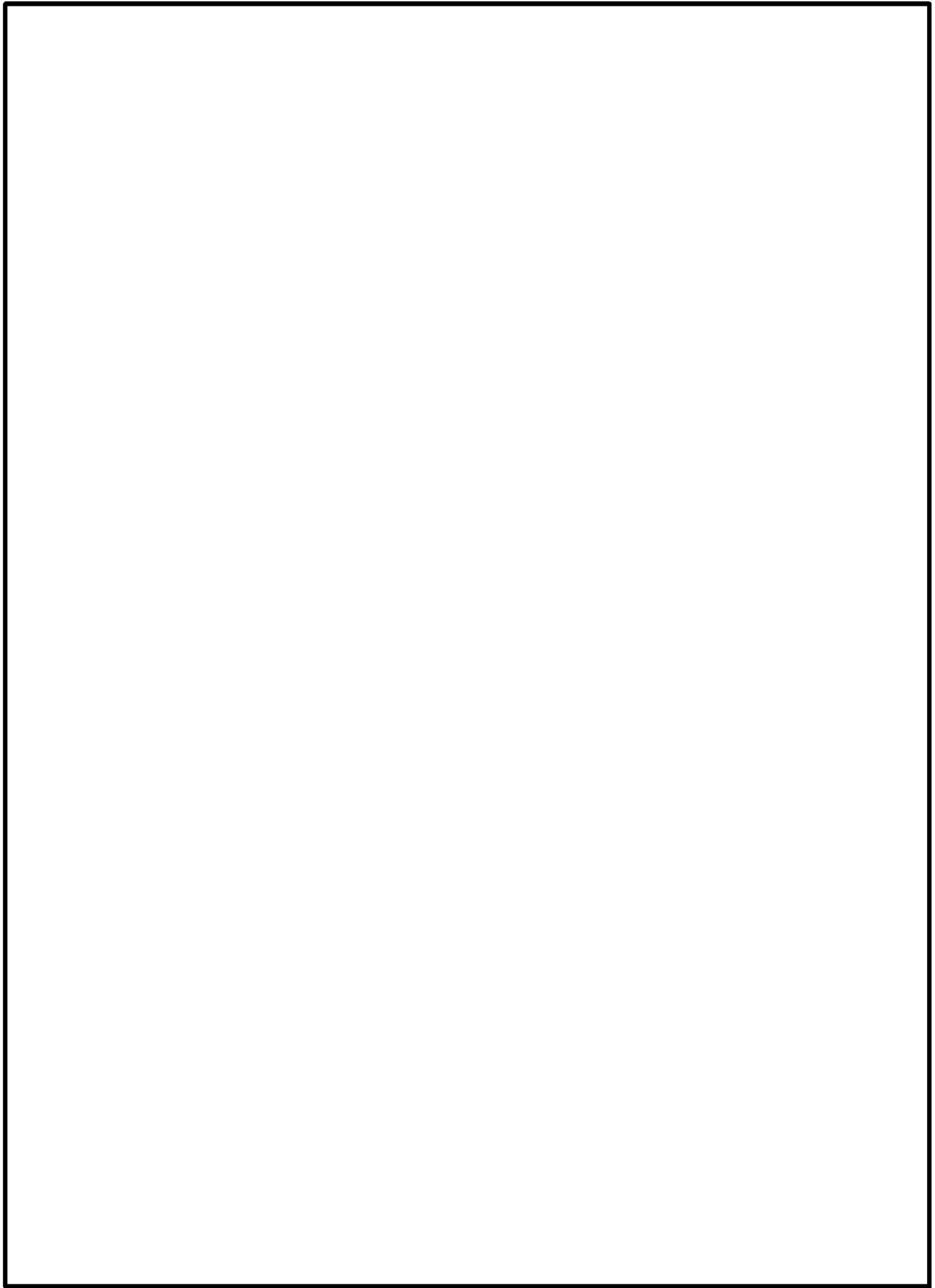


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## **II. THE EXPEDITED REMOVAL PROCESS**



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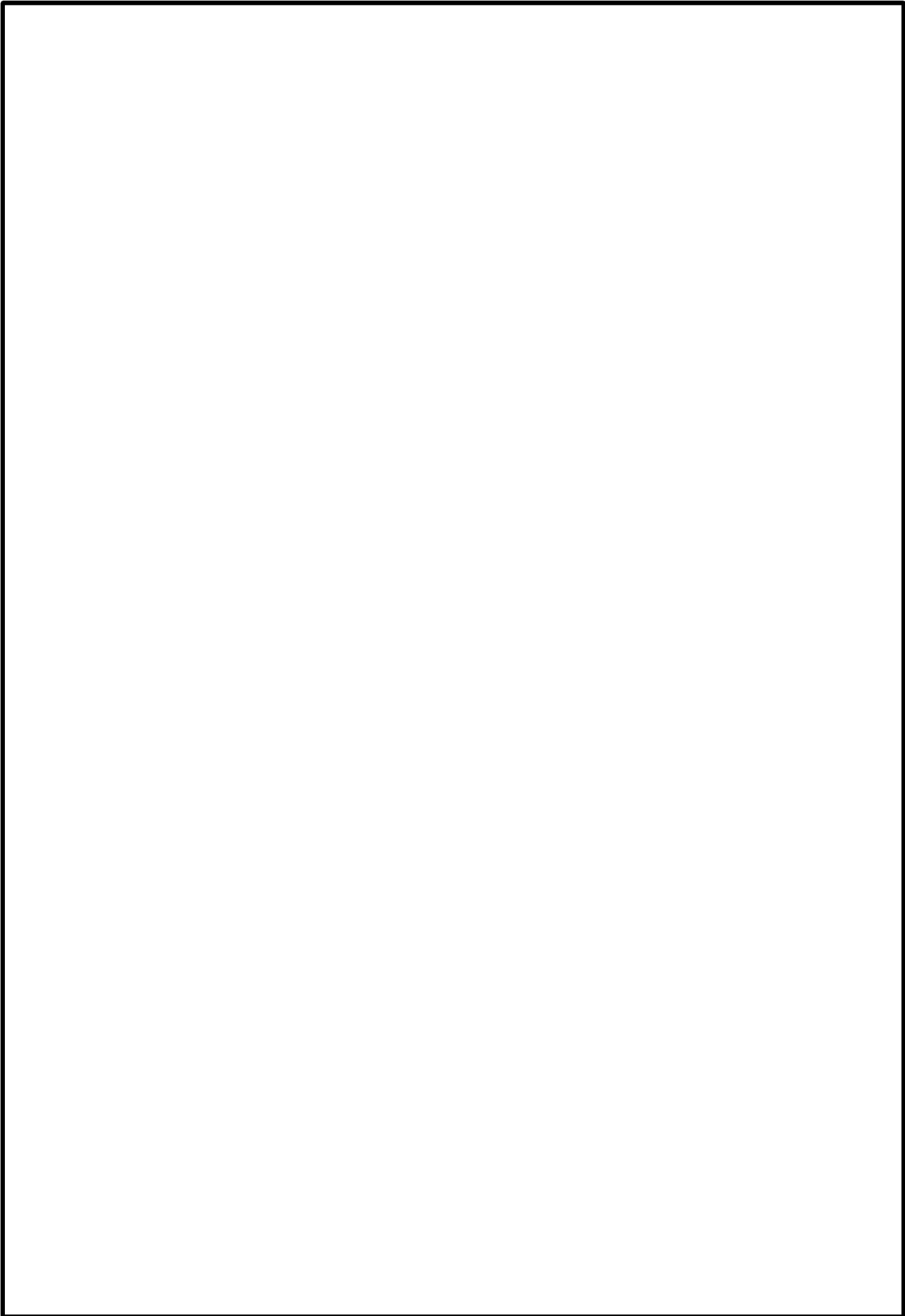
### **III. THE CREDIBLE FEAR PROCESS**



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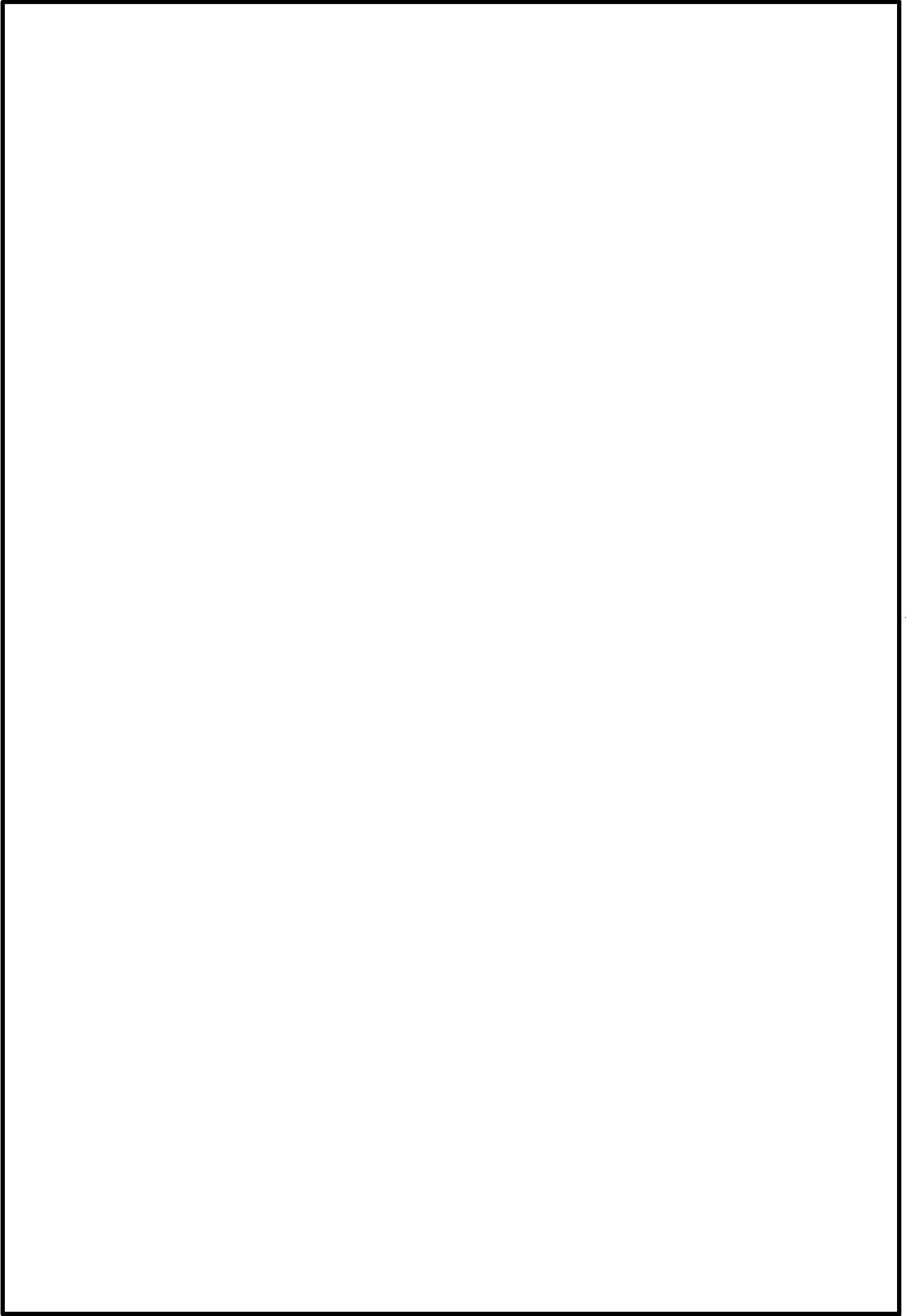


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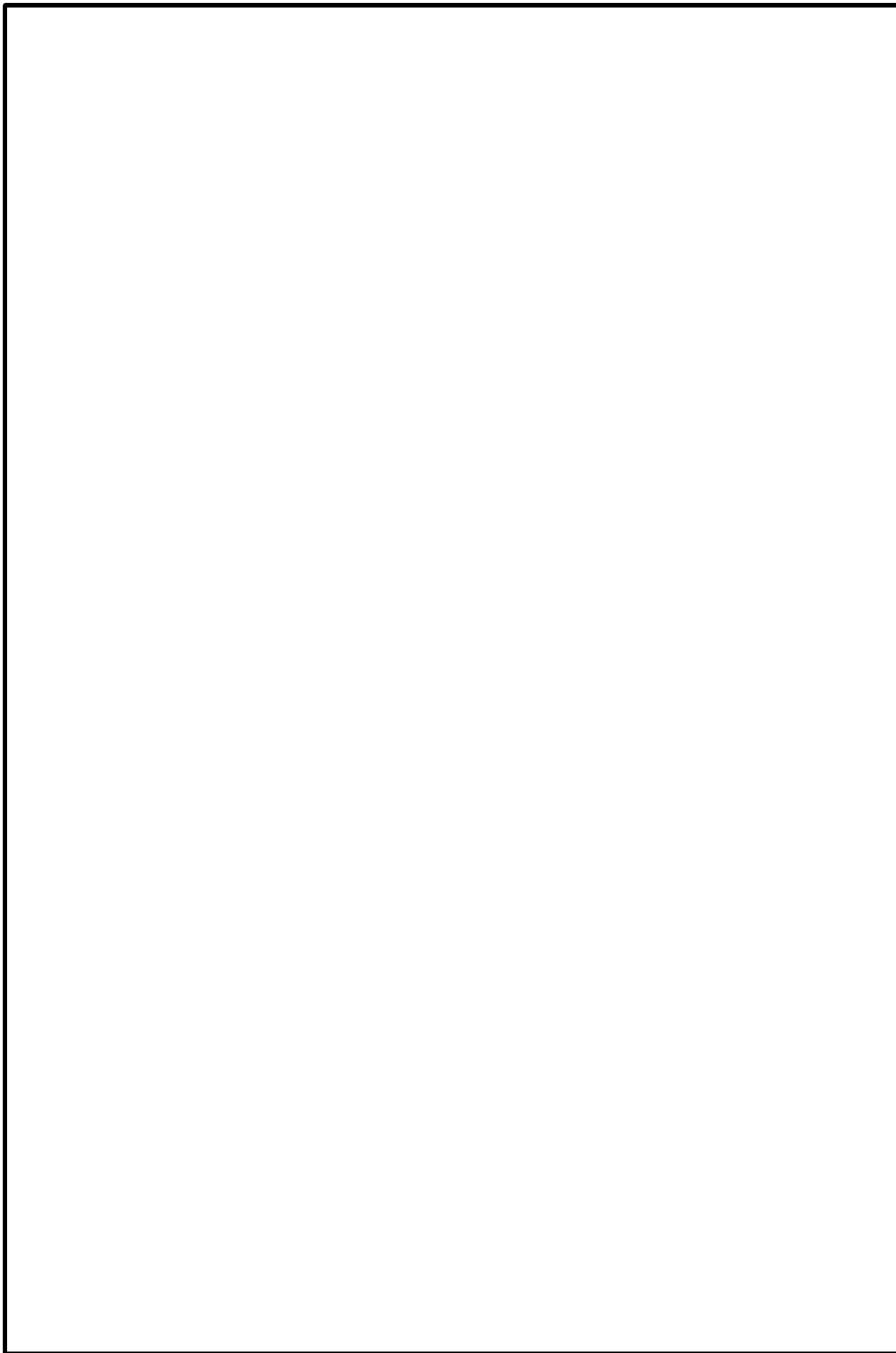
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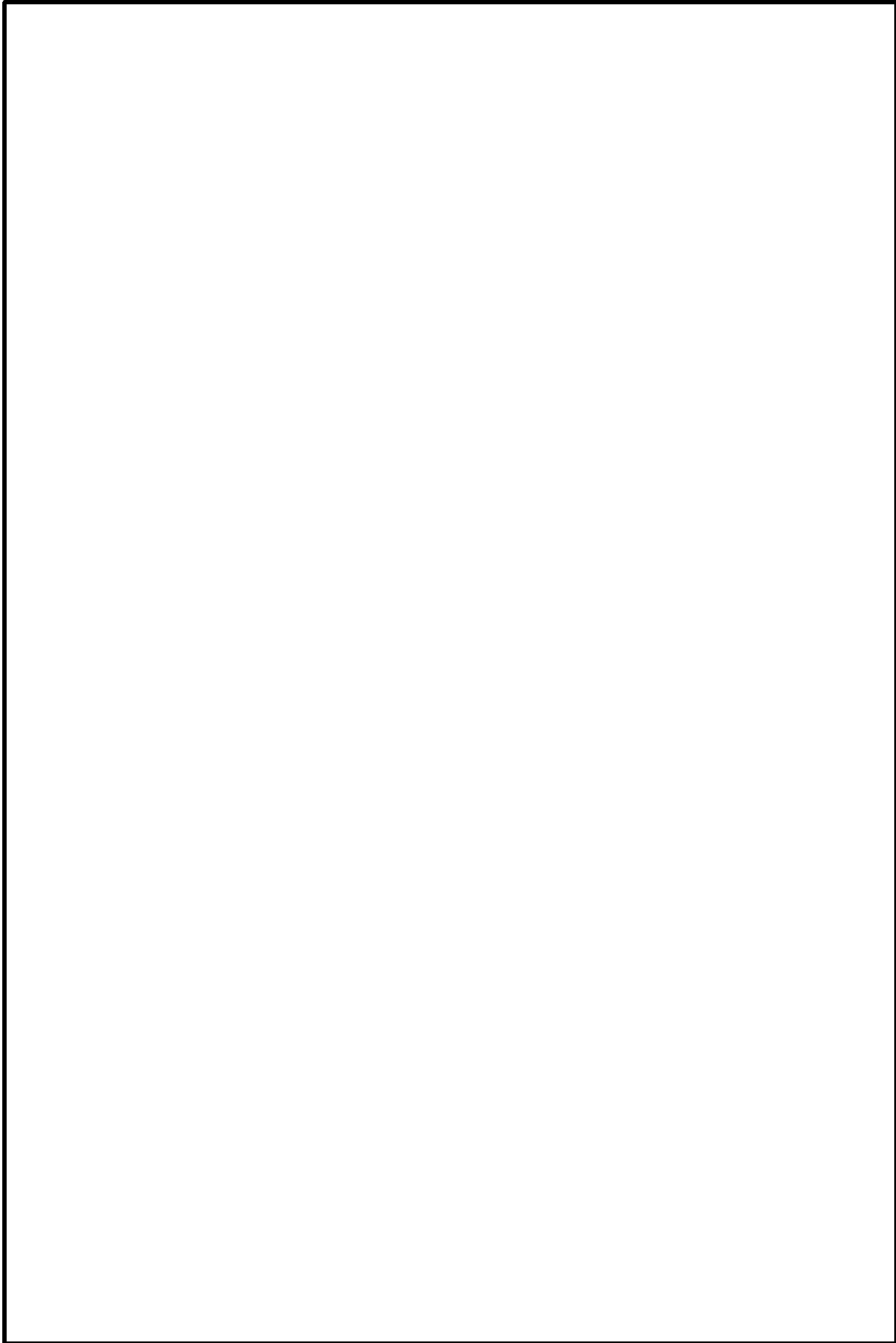
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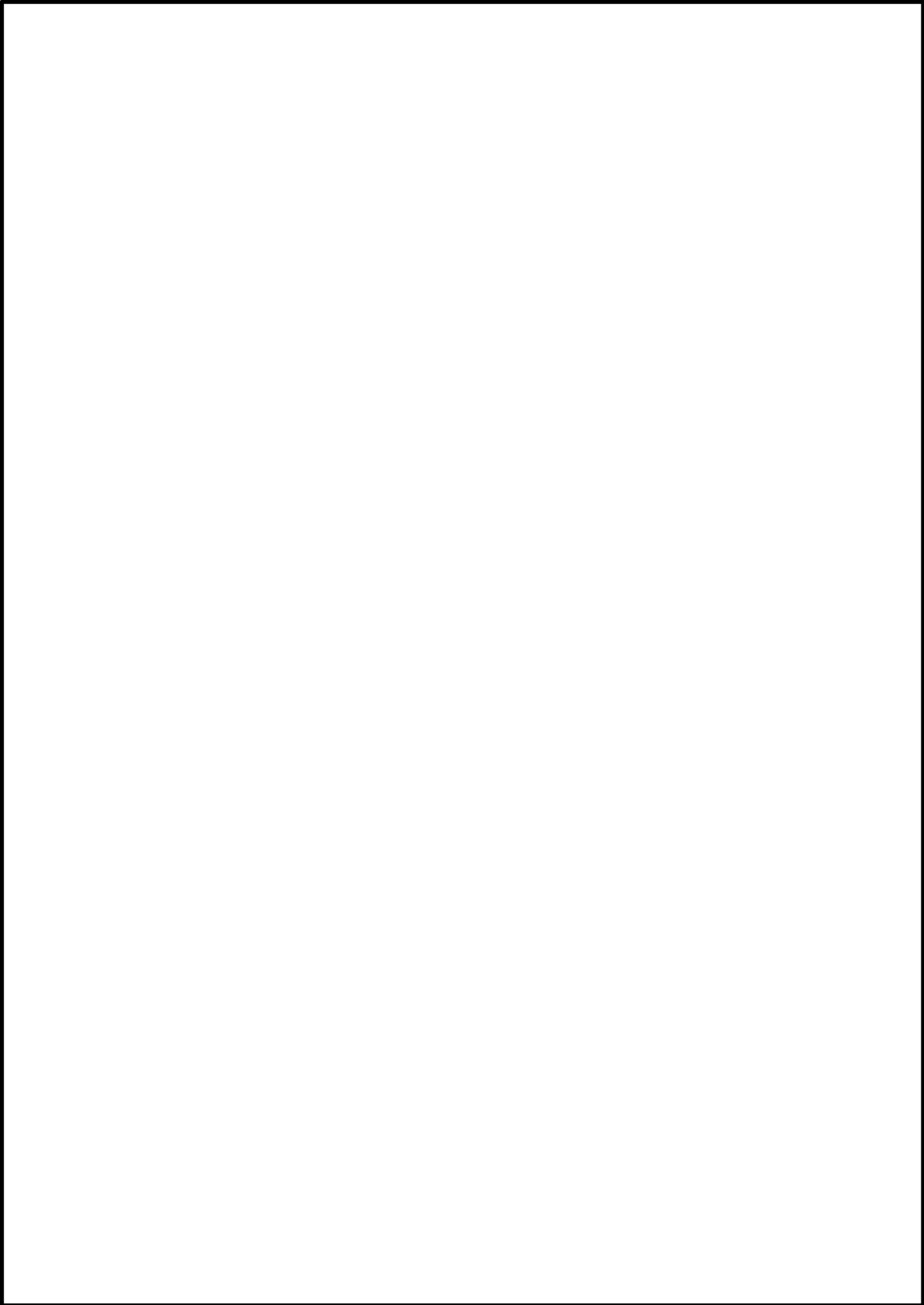


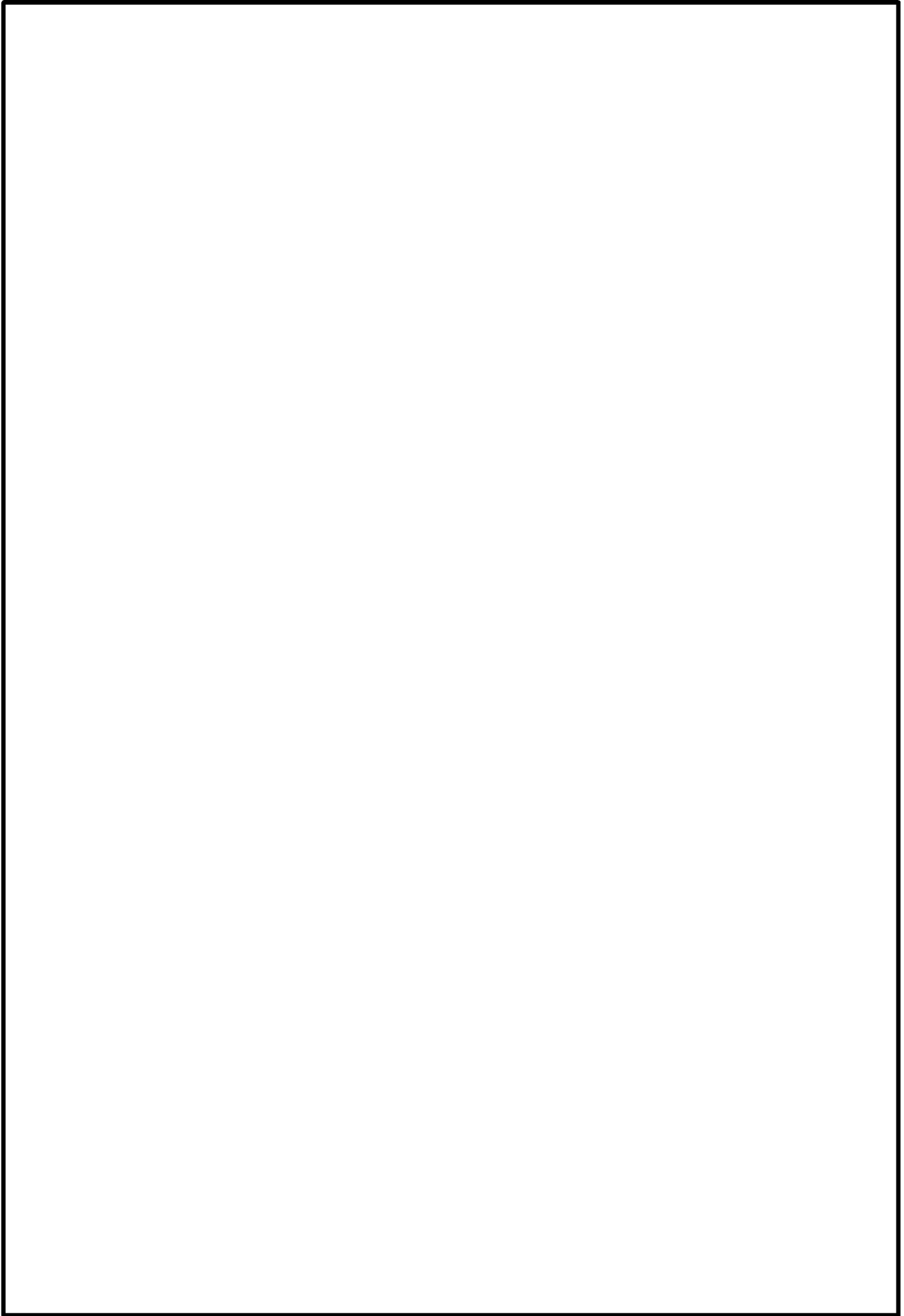
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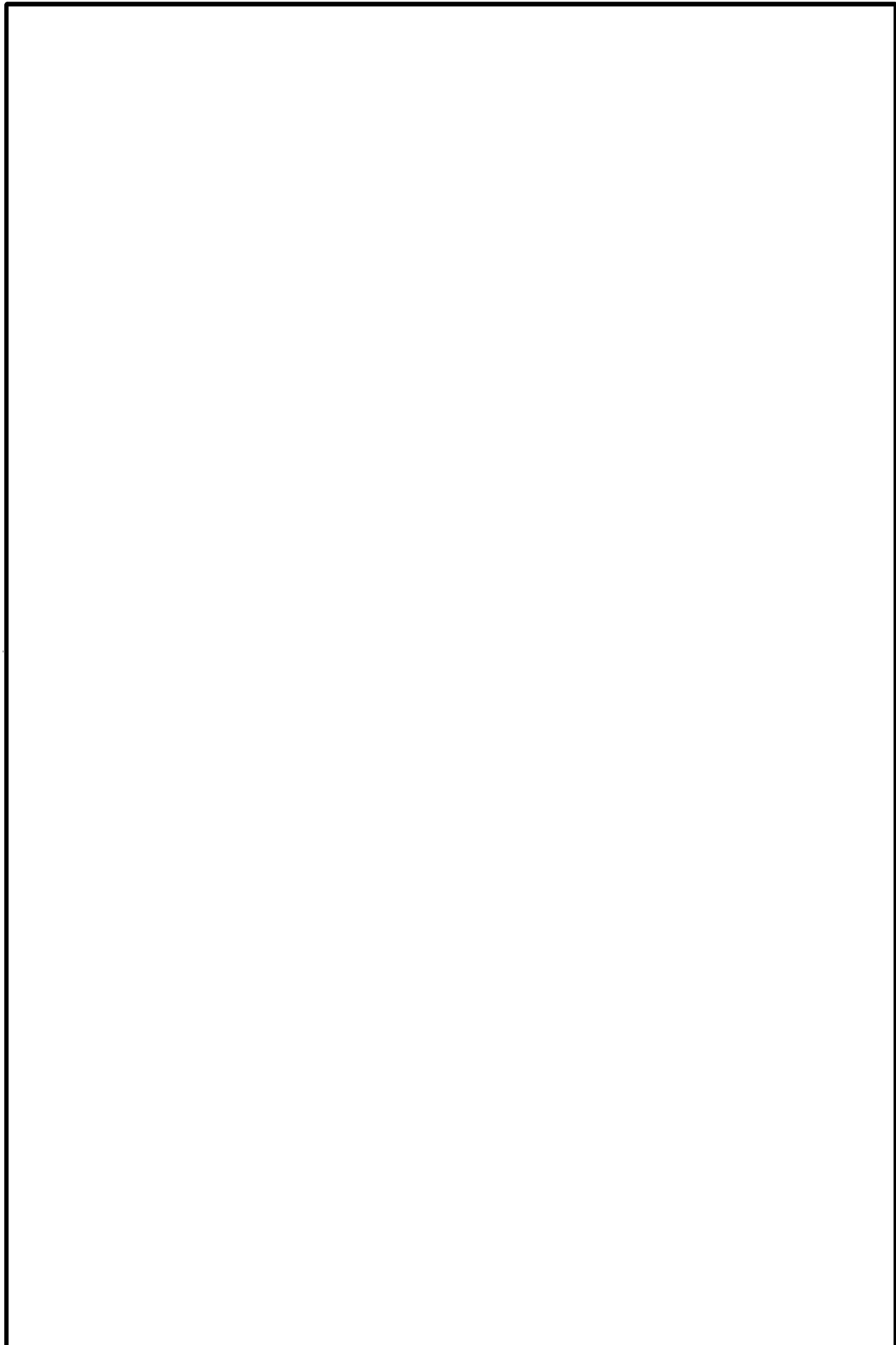


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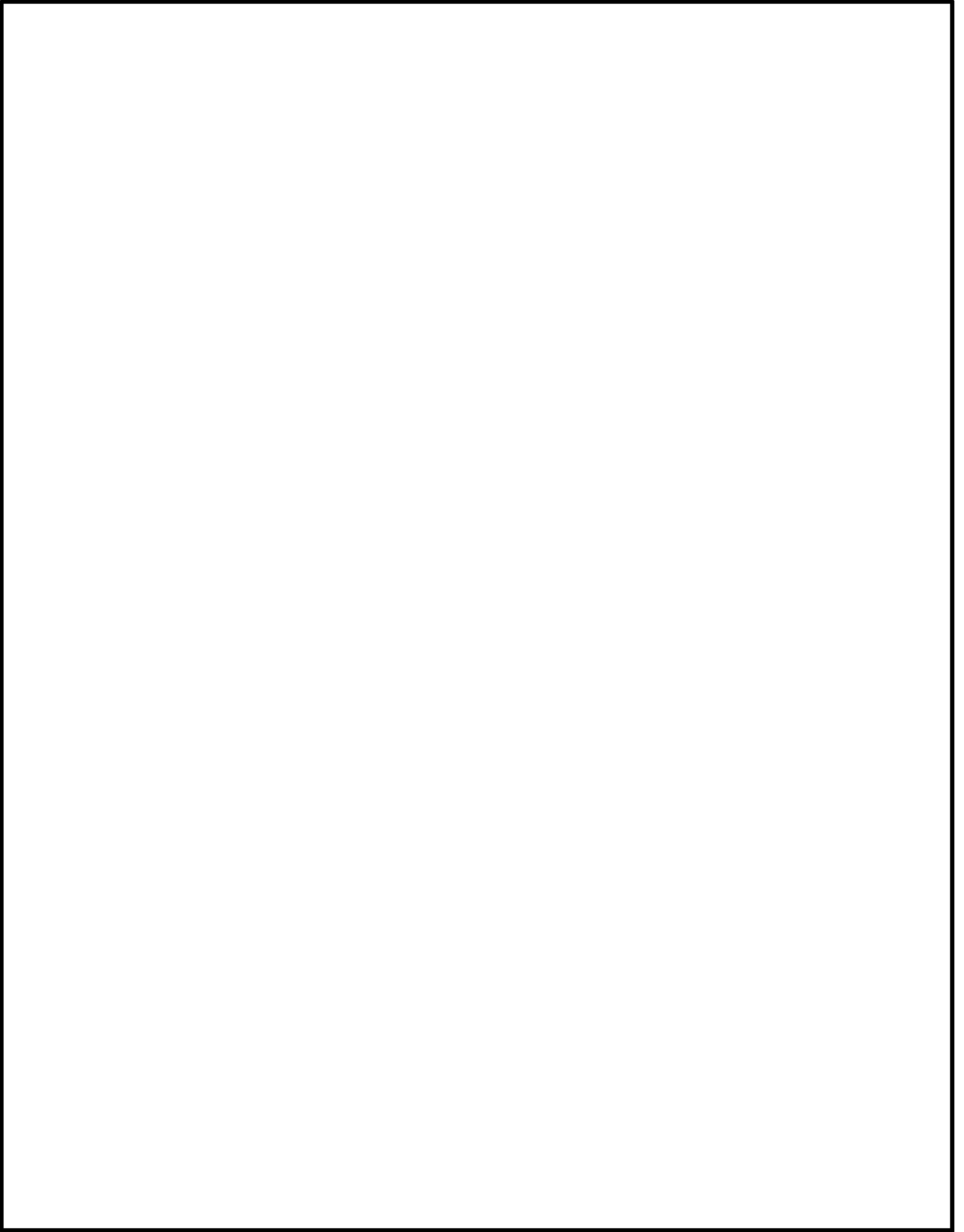




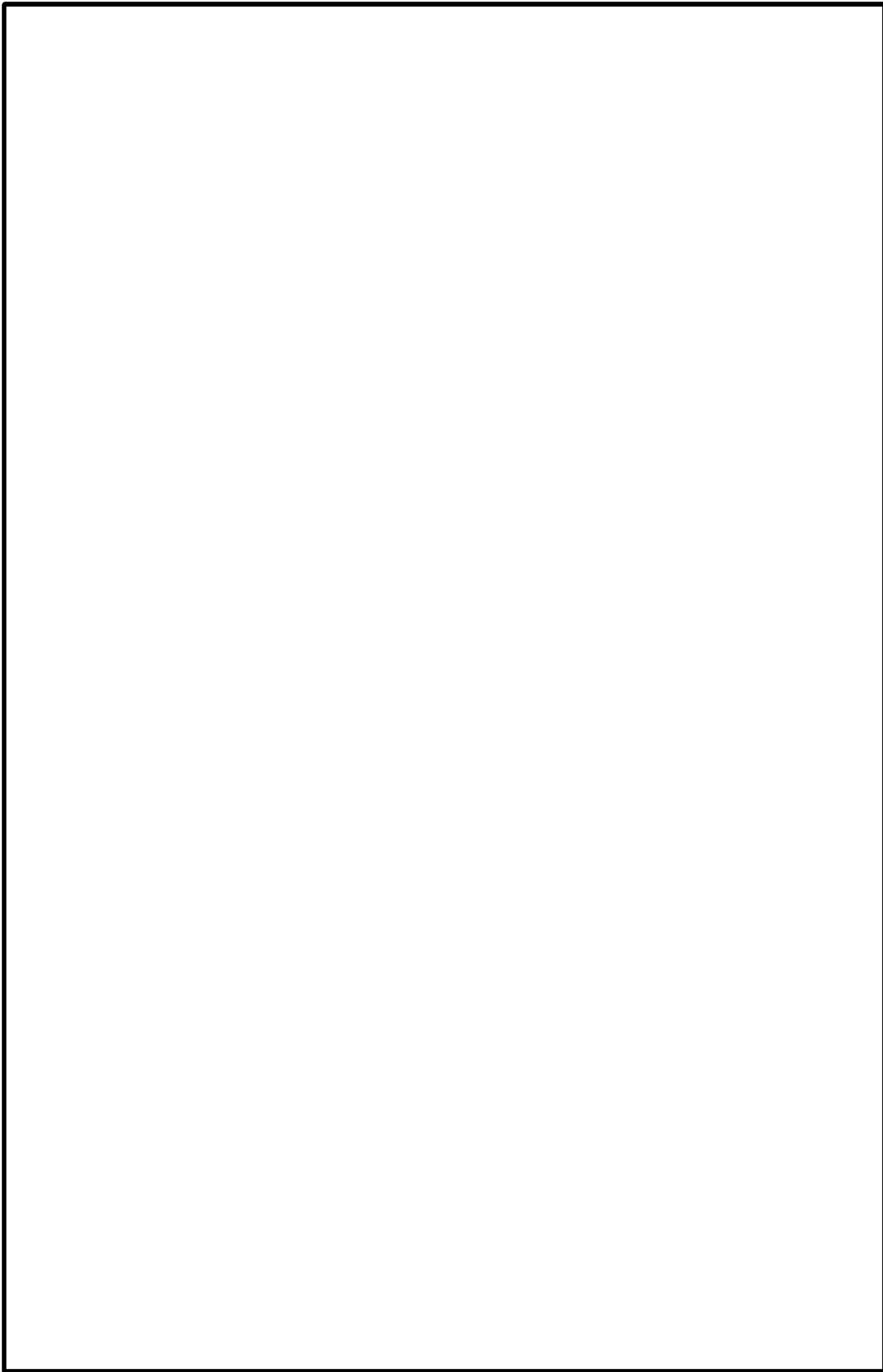




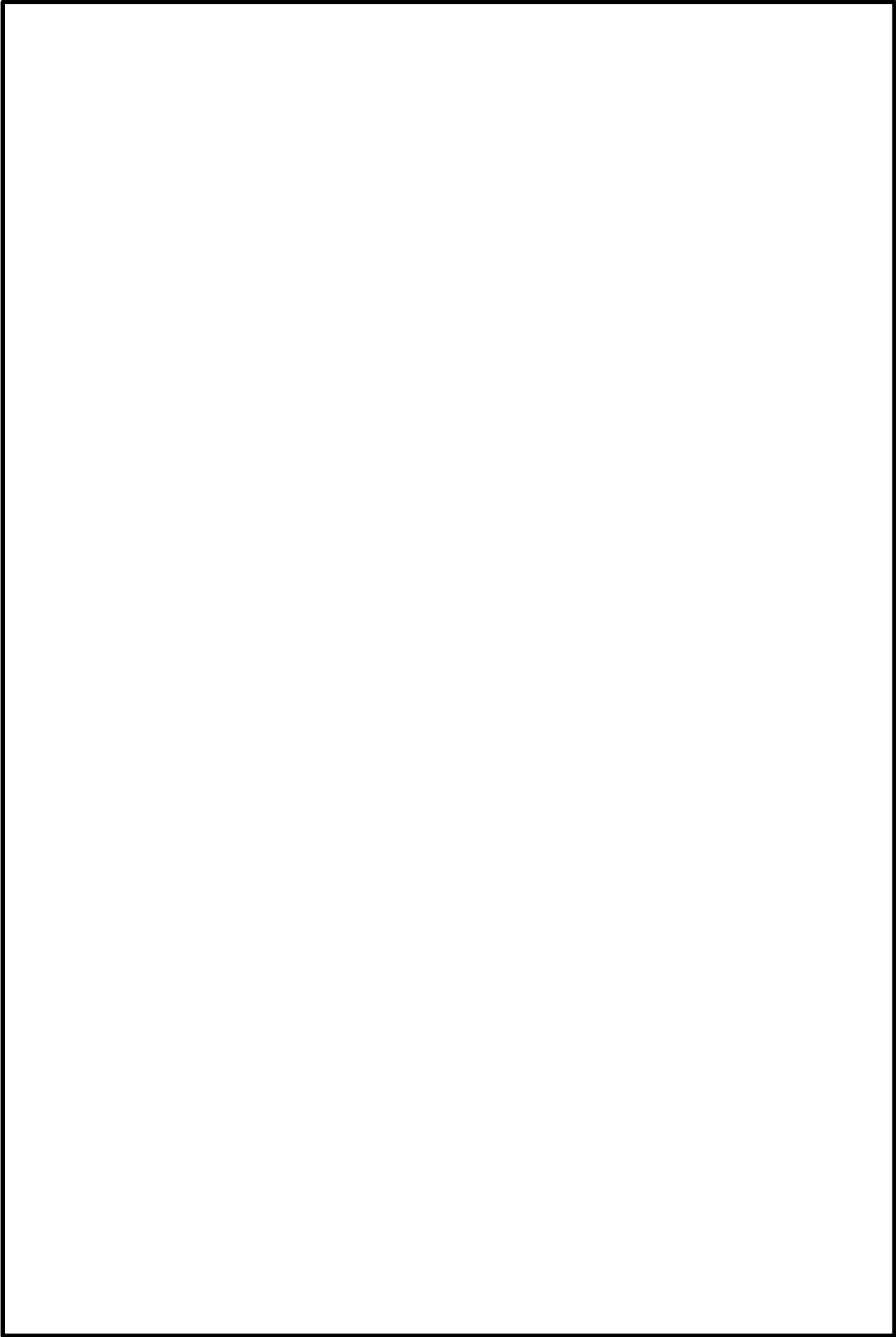
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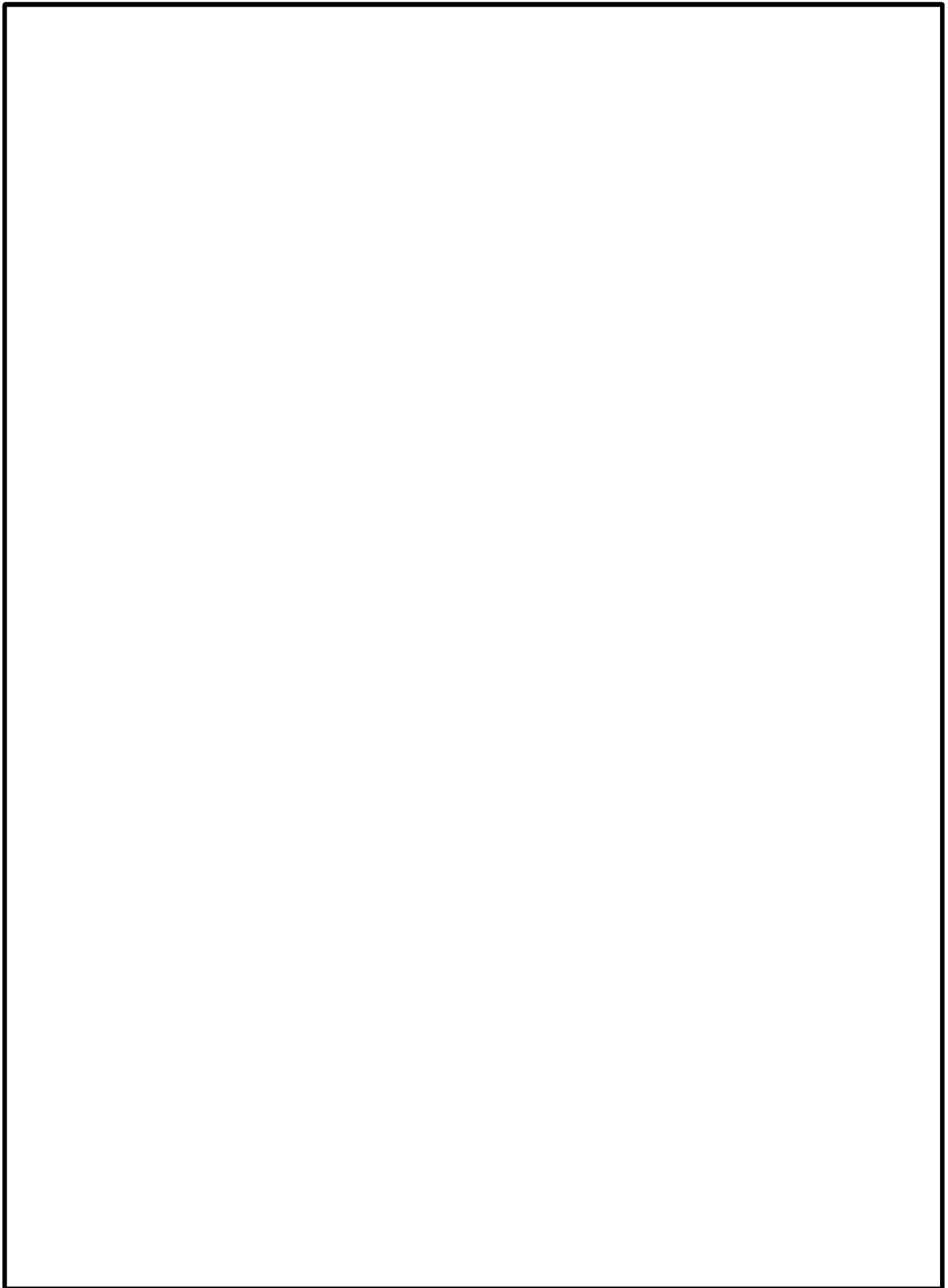


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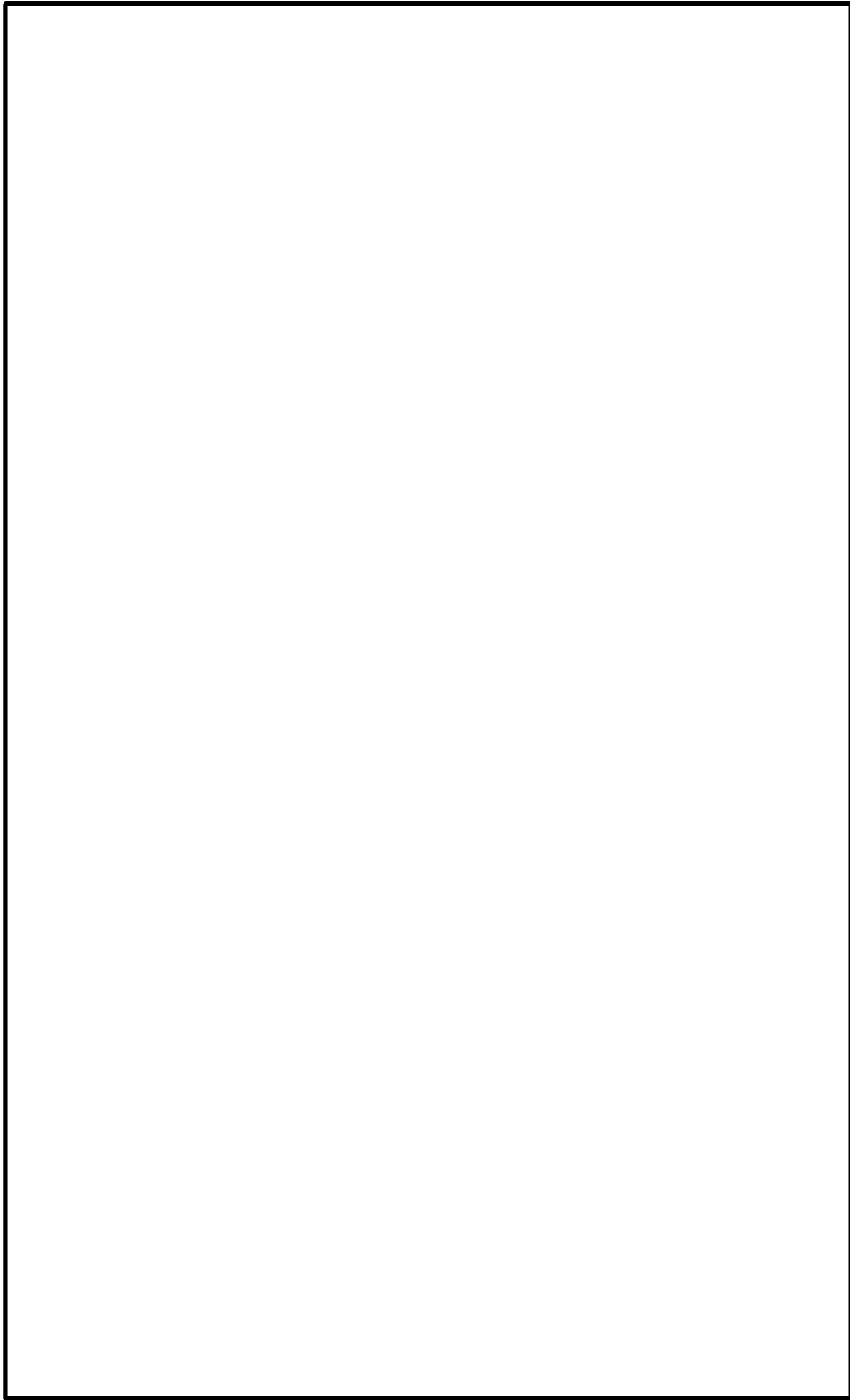


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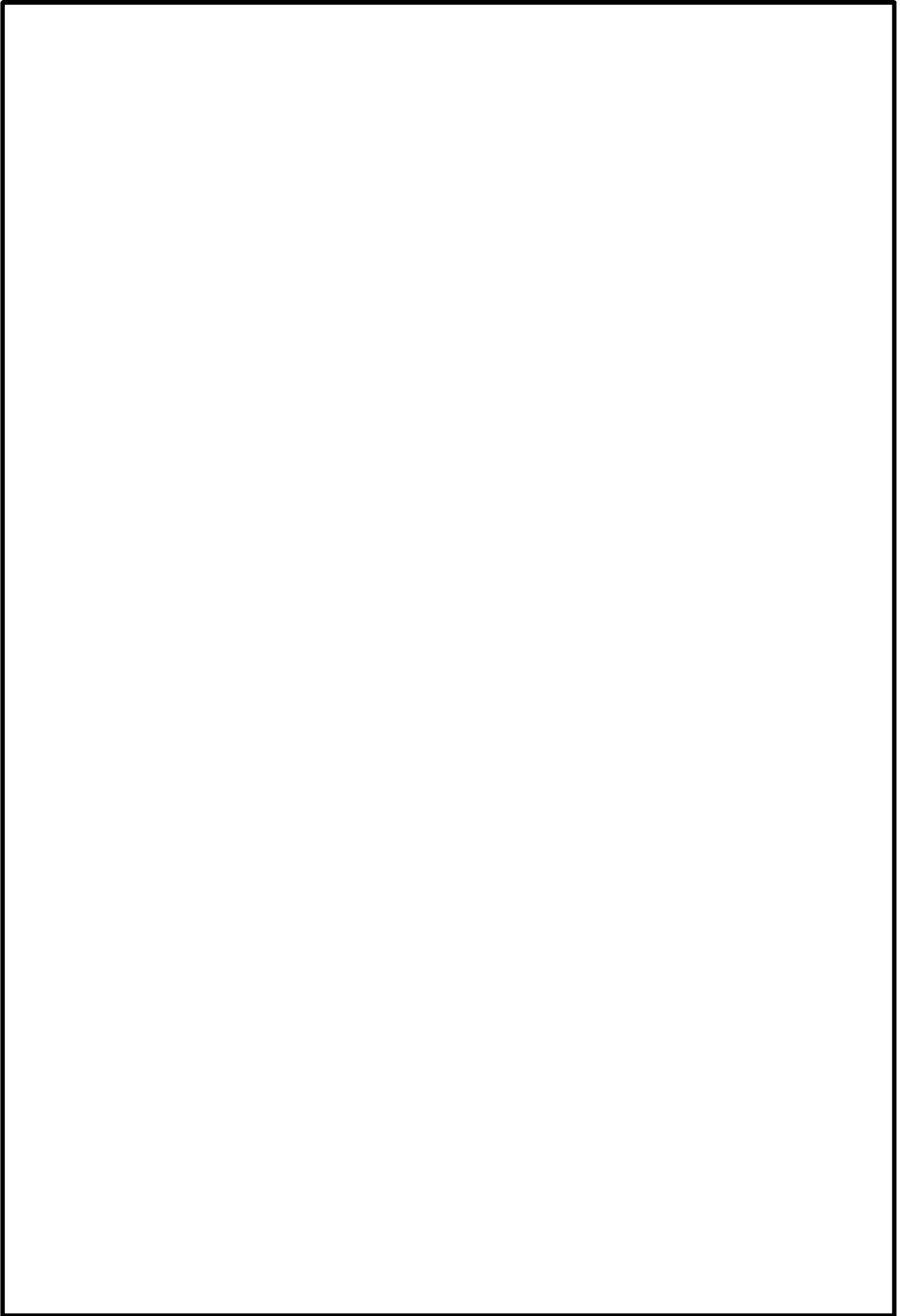
## G. RESEARCHING A CASE



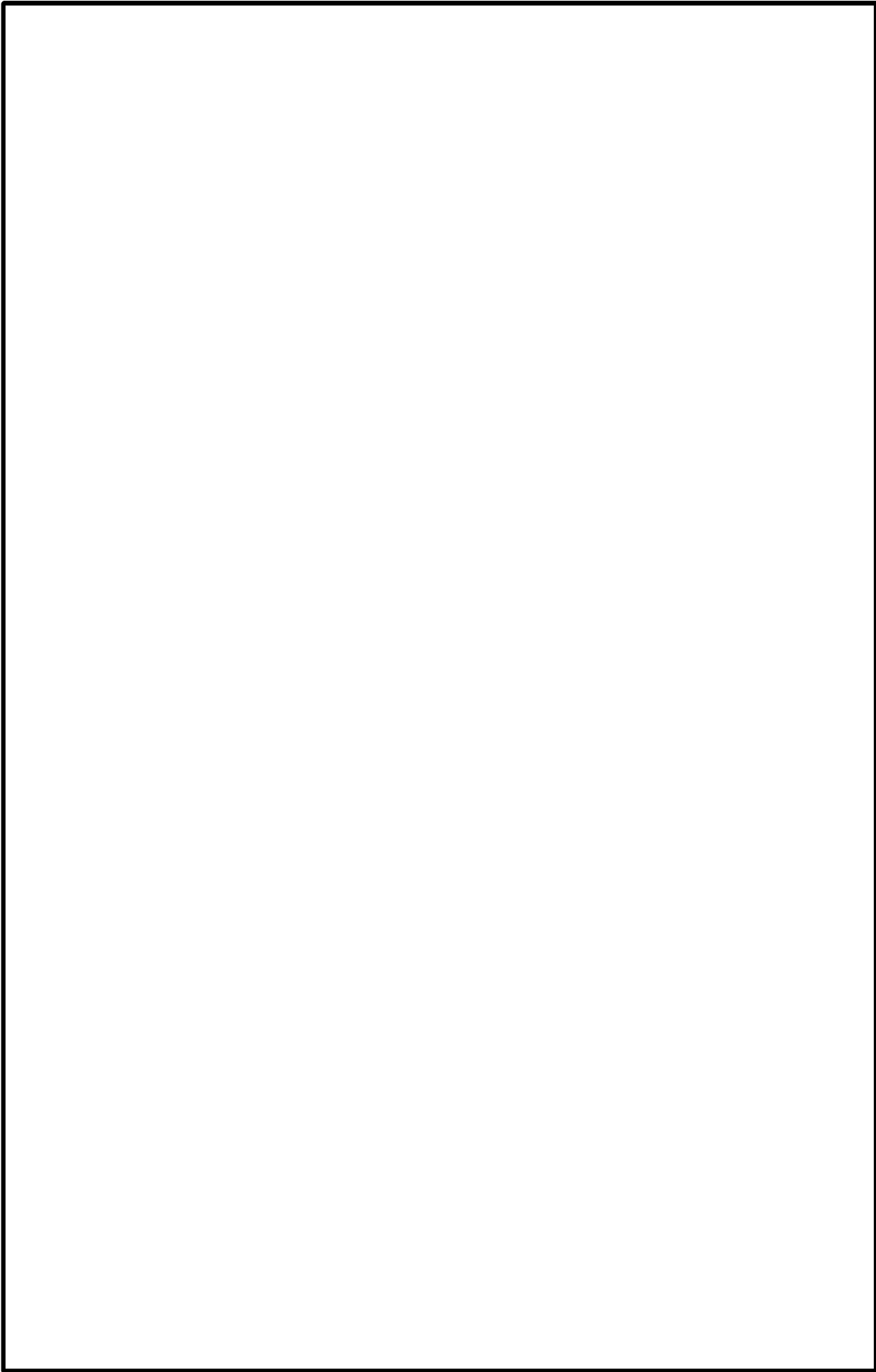
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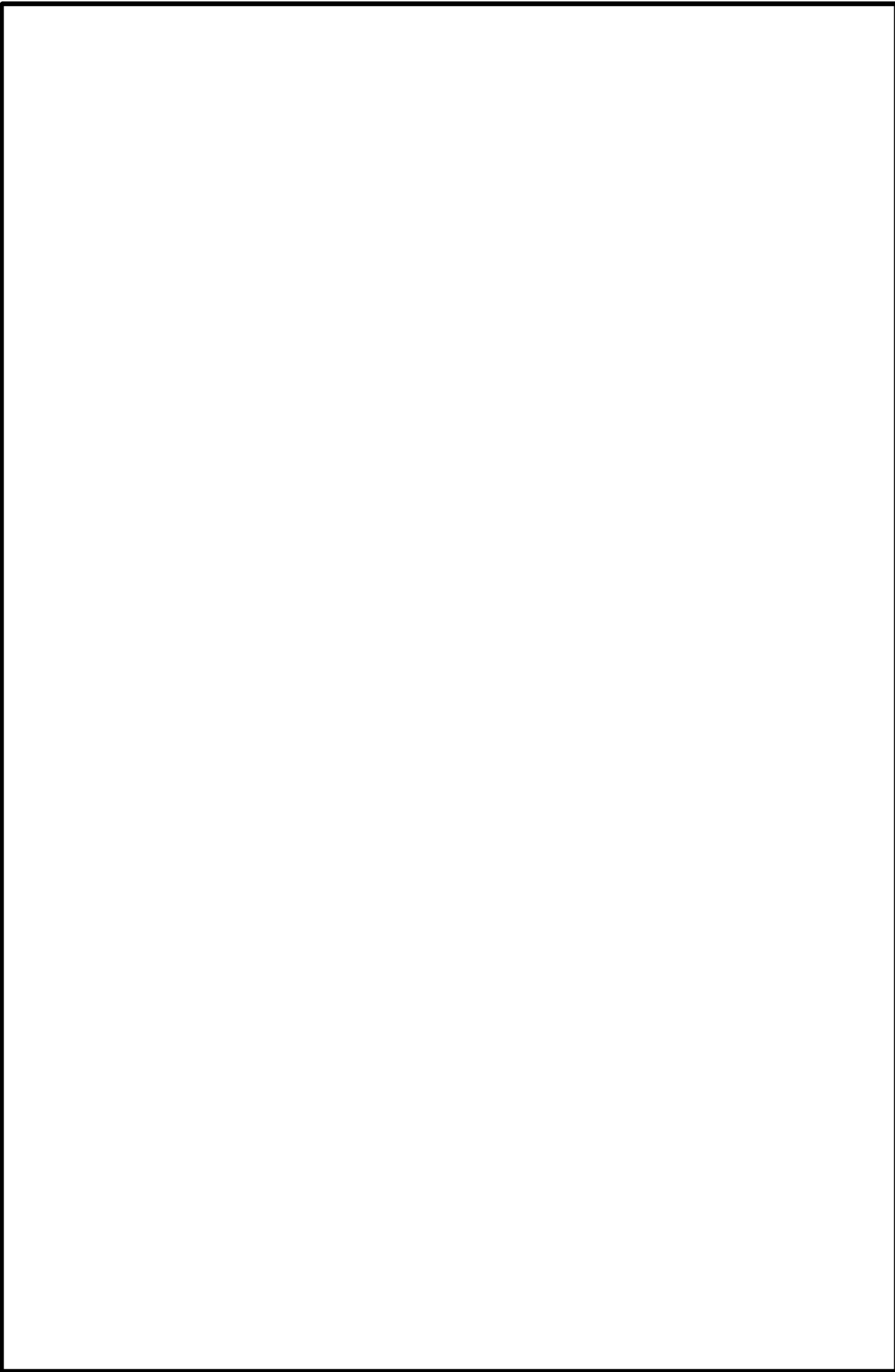




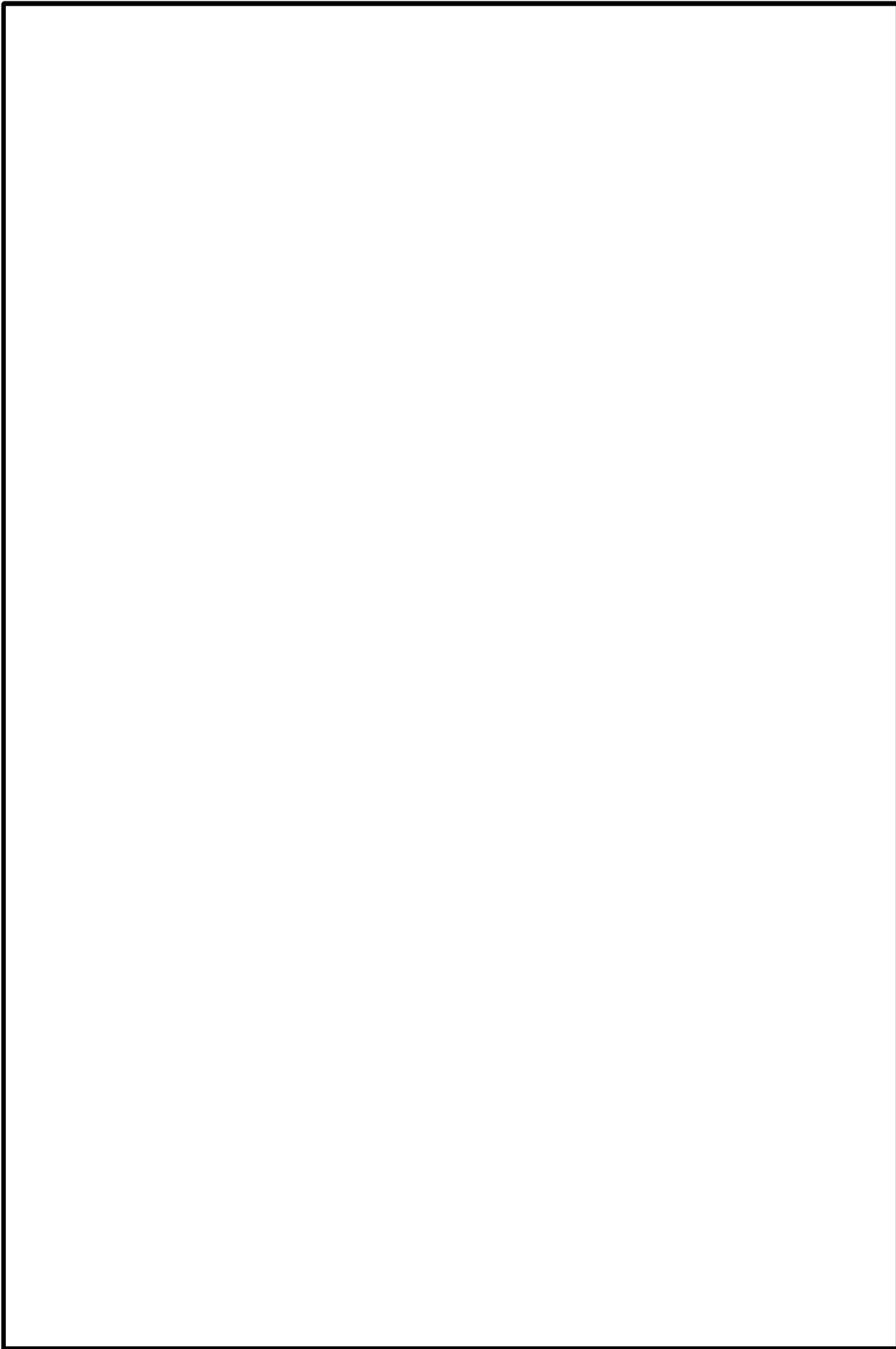


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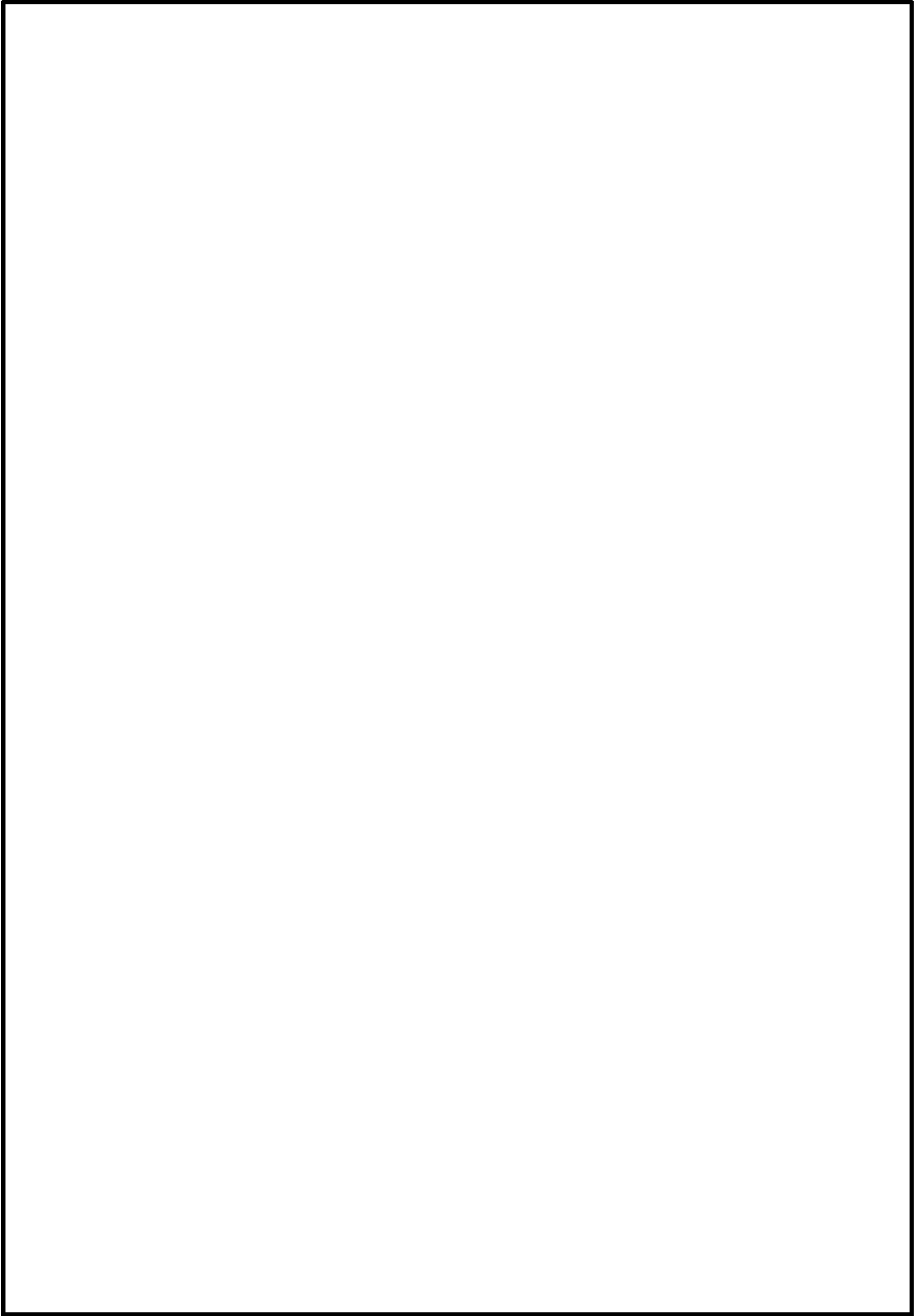
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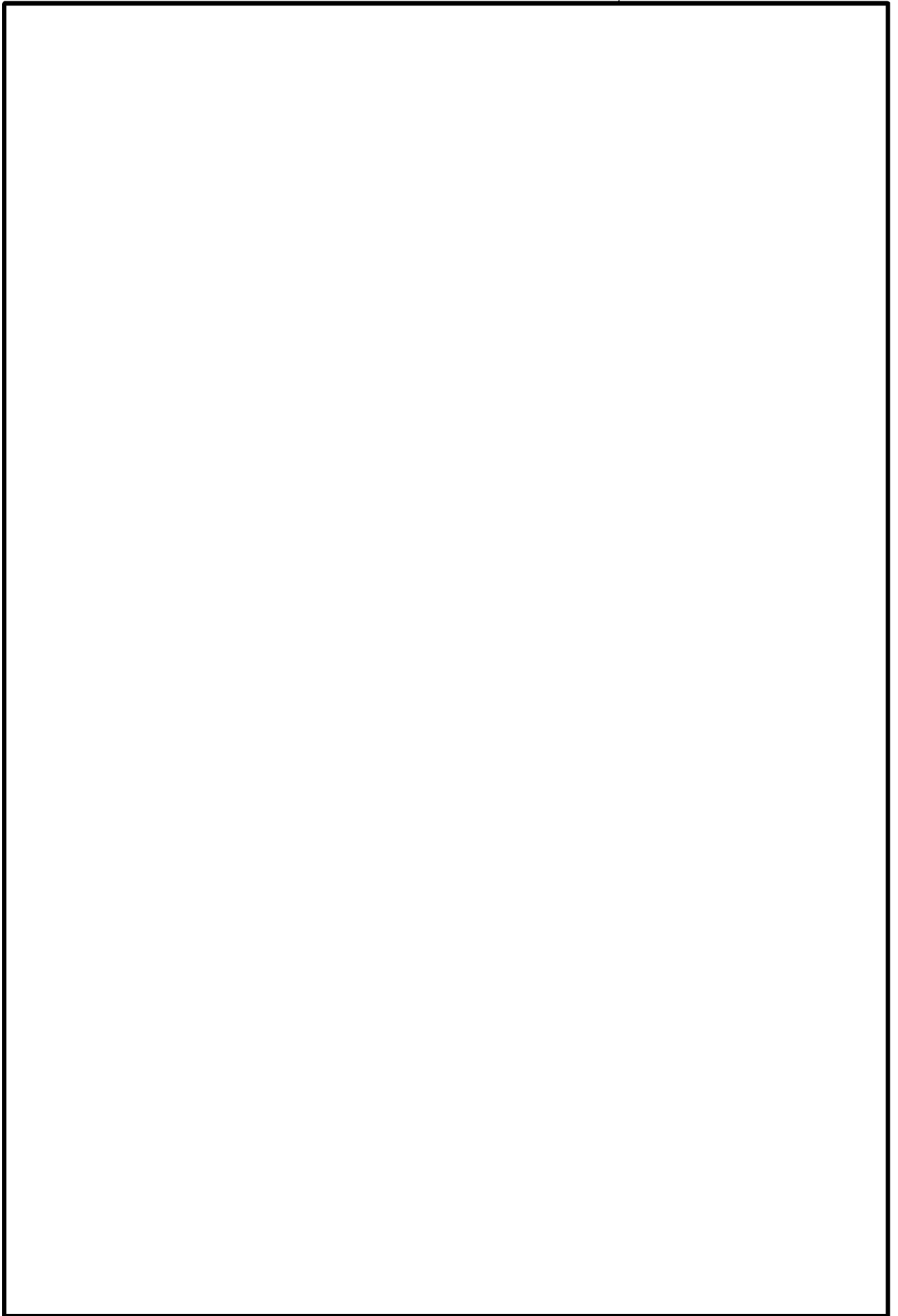
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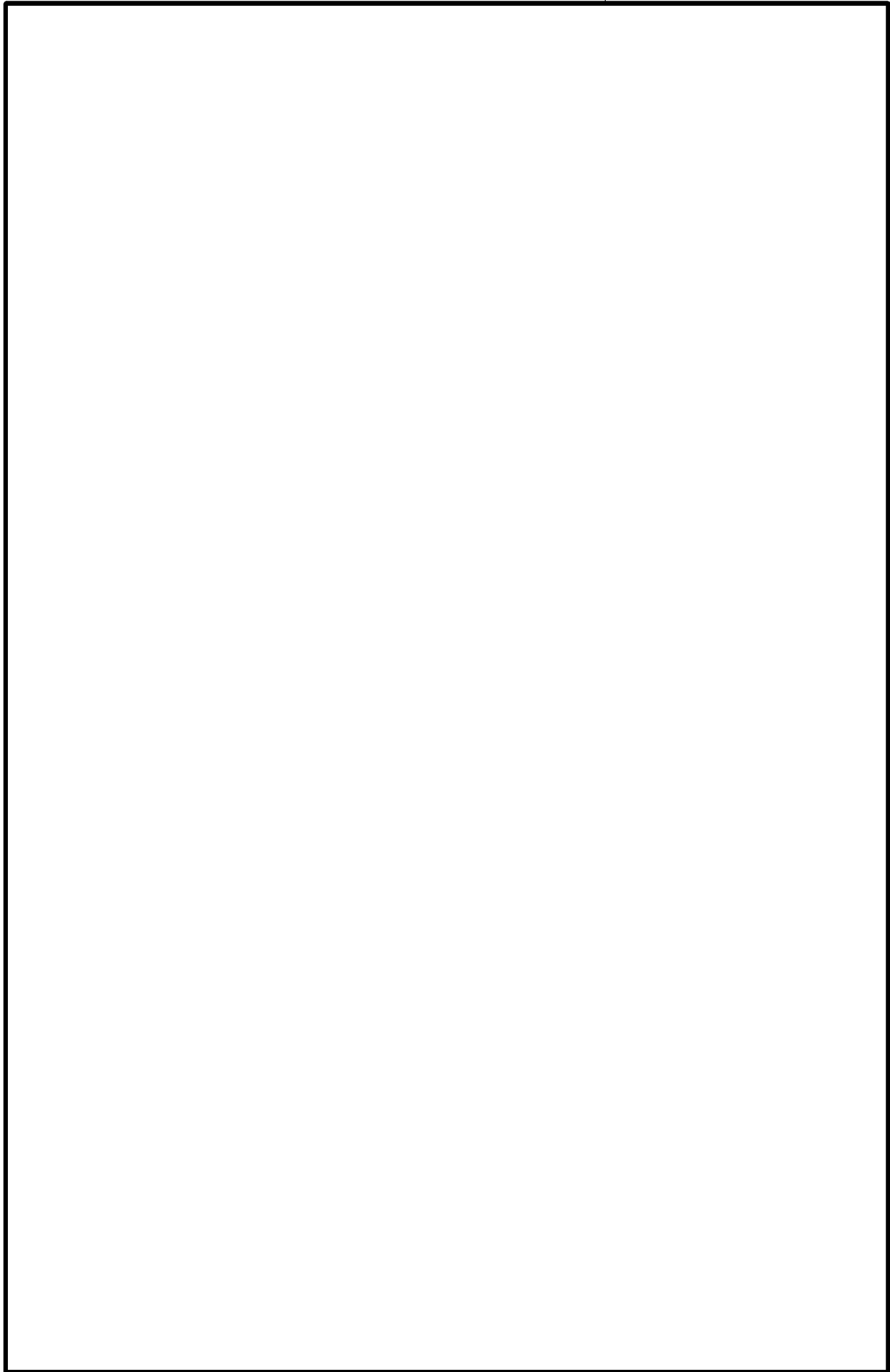


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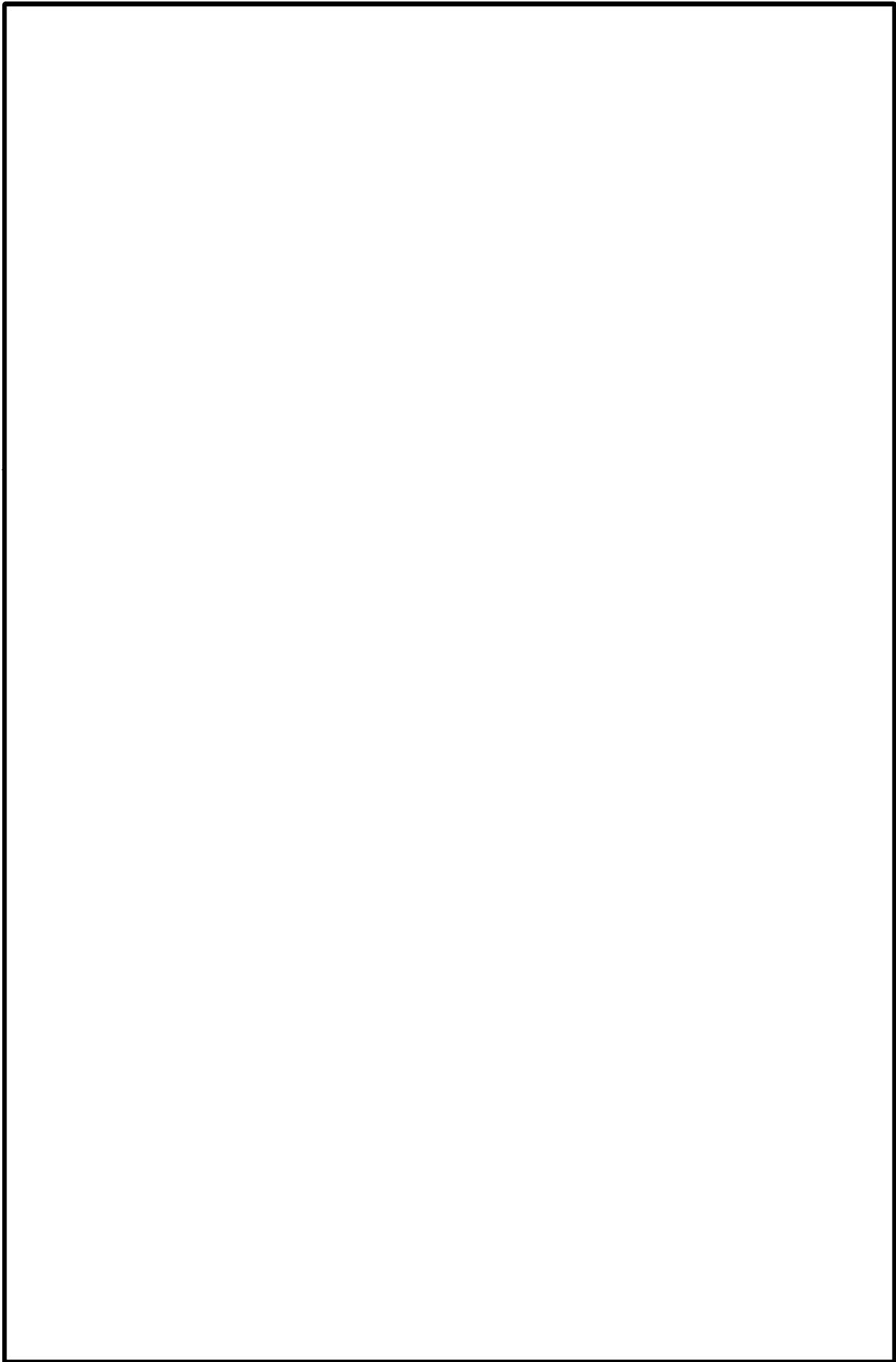


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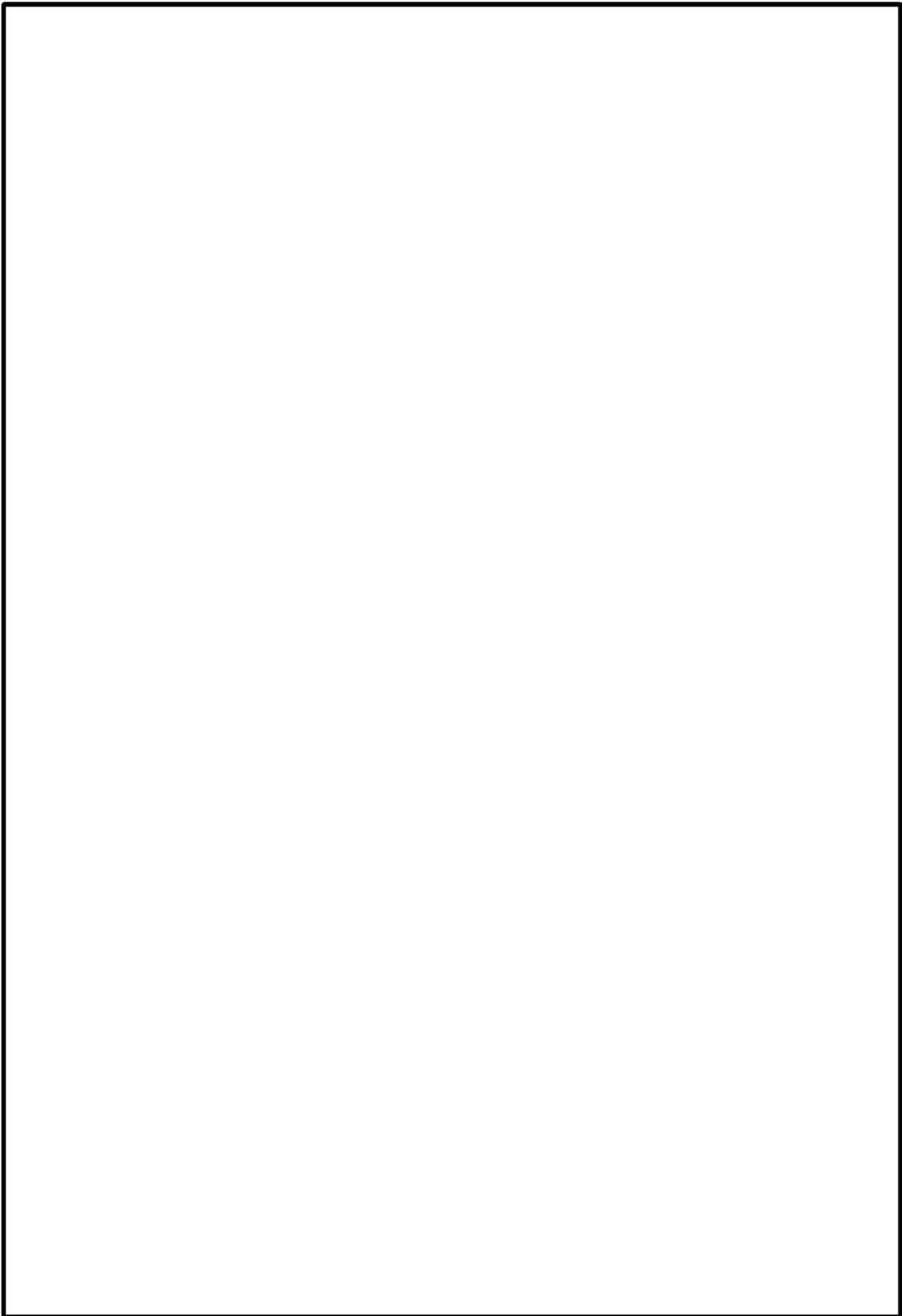


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**1. Positive Credible Fear Determination**

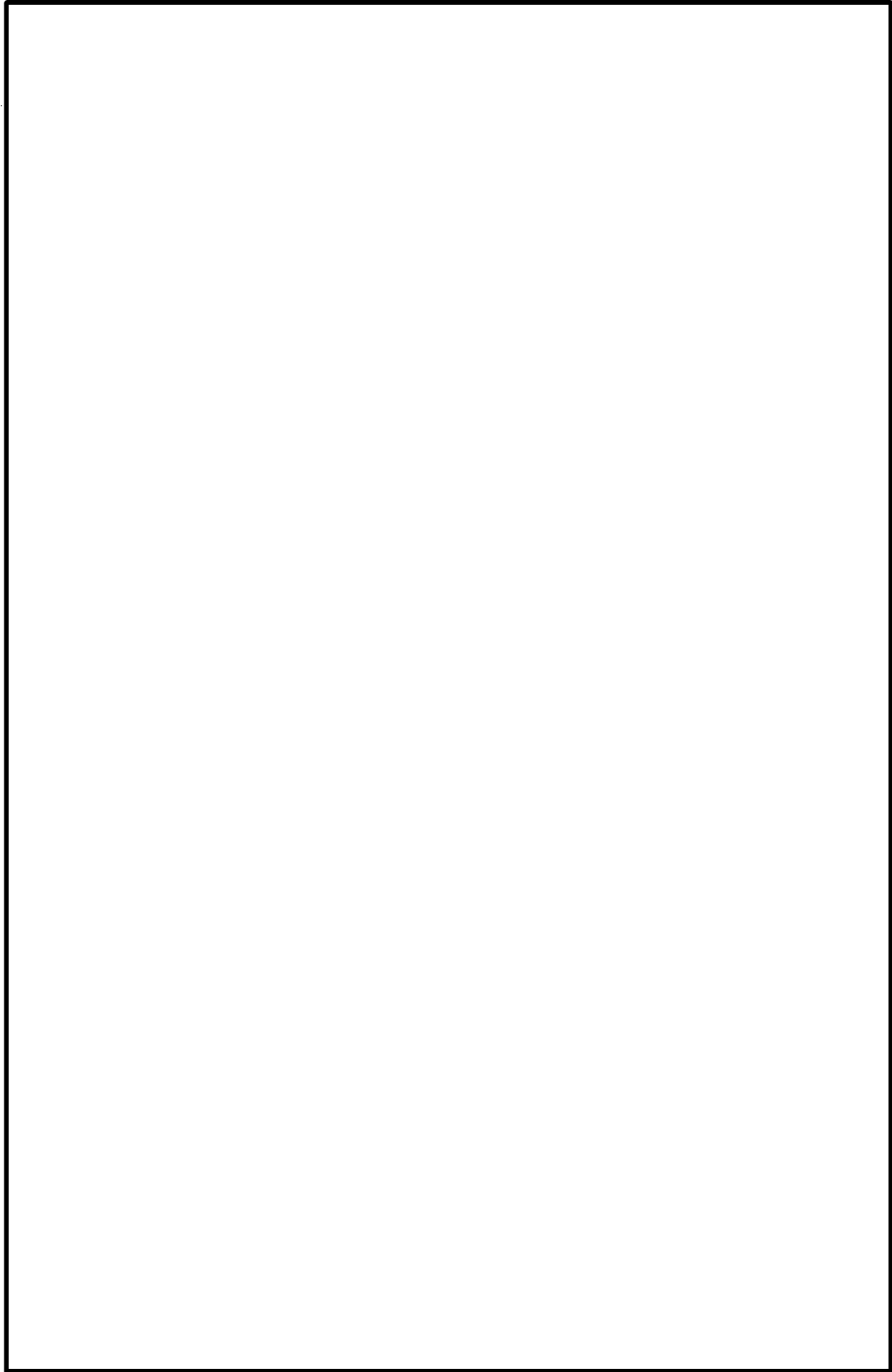




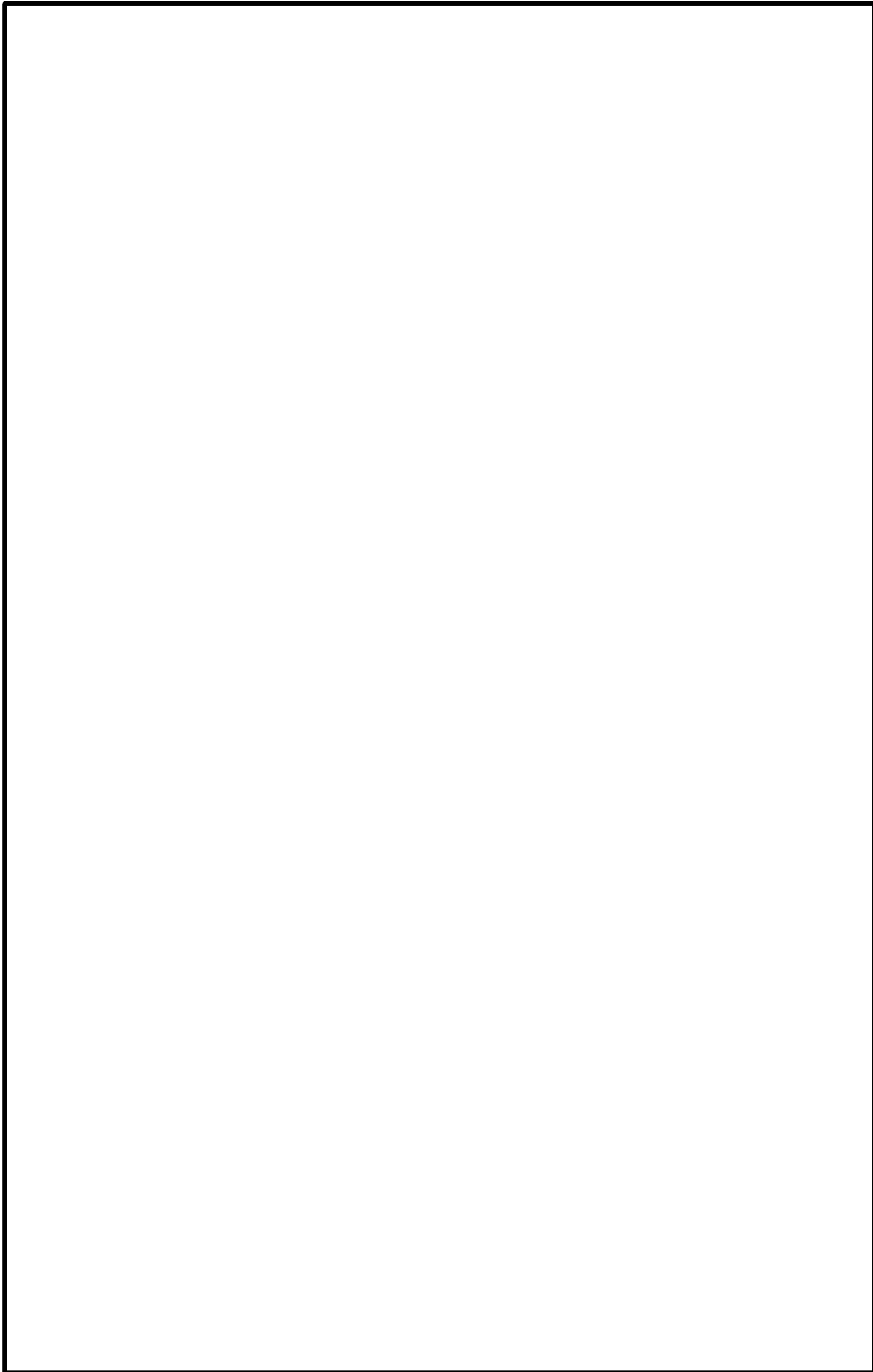
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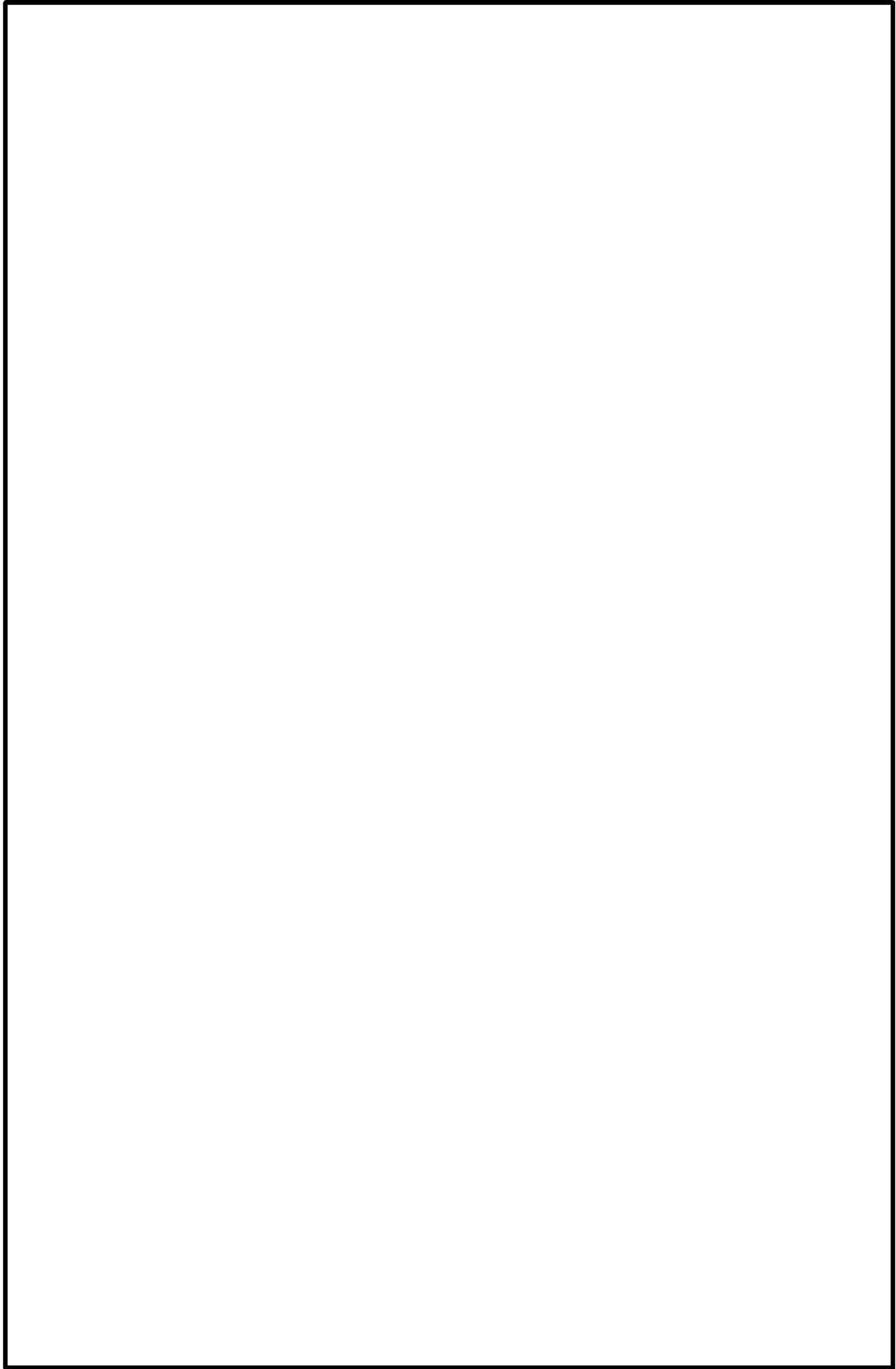
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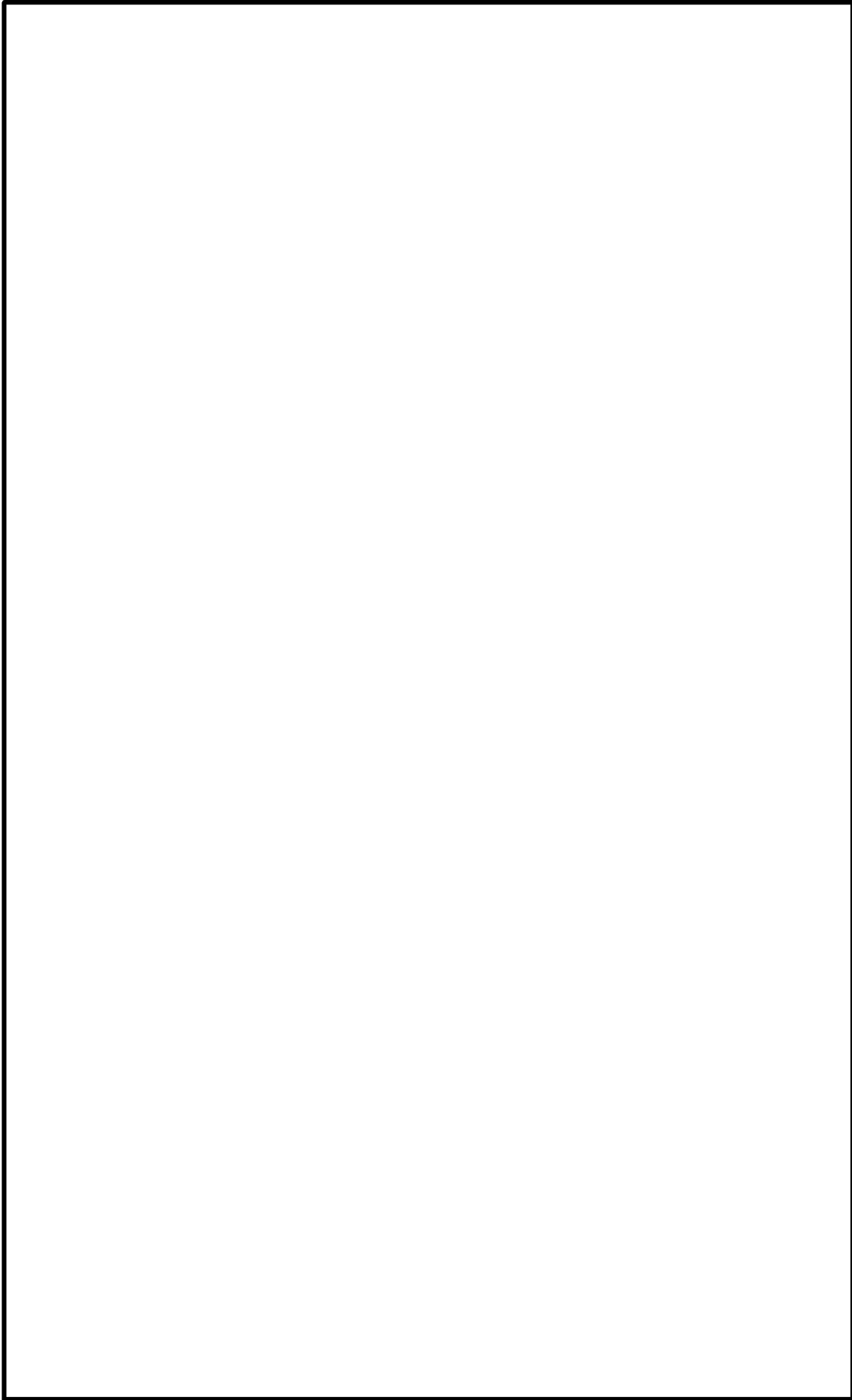
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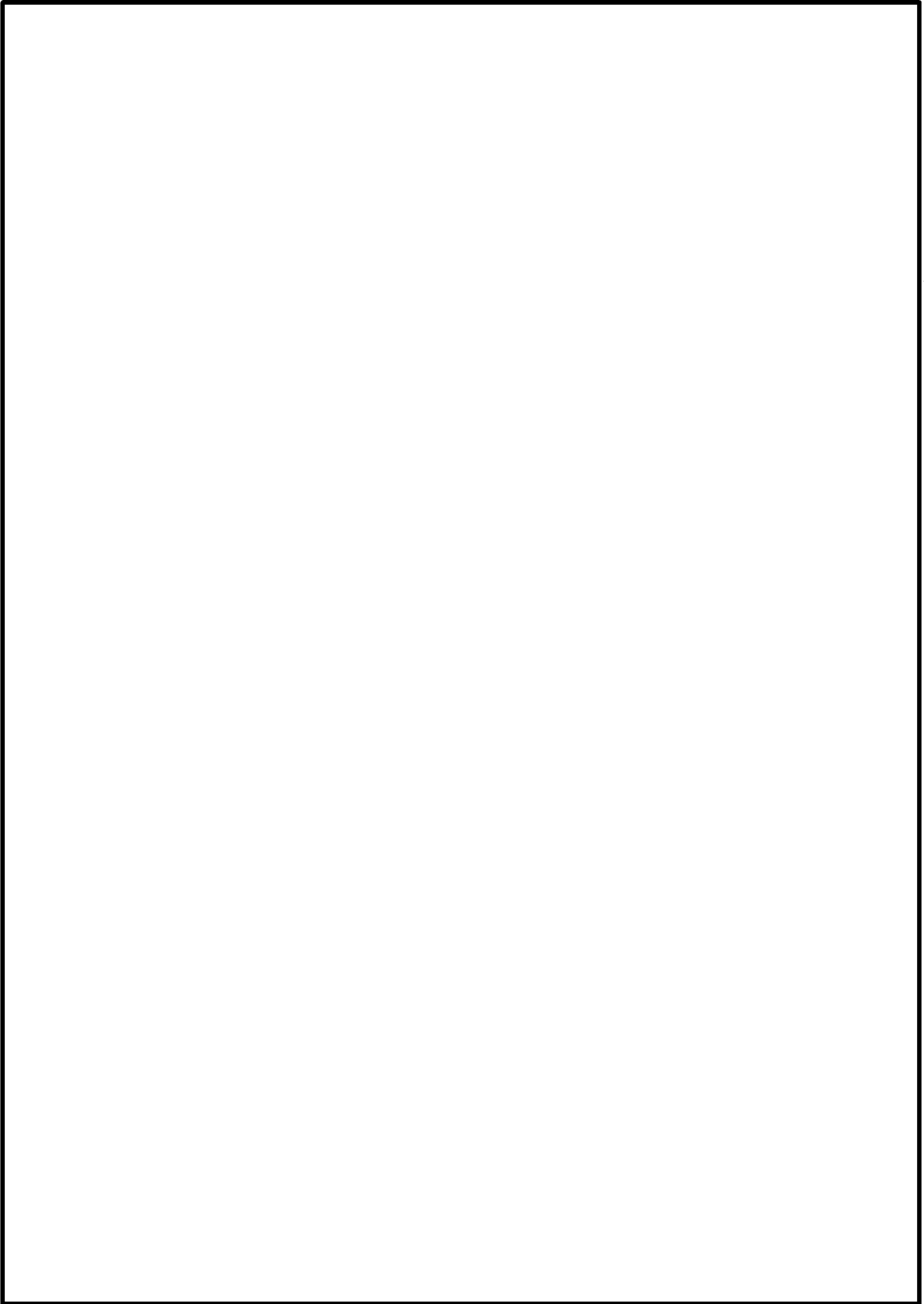
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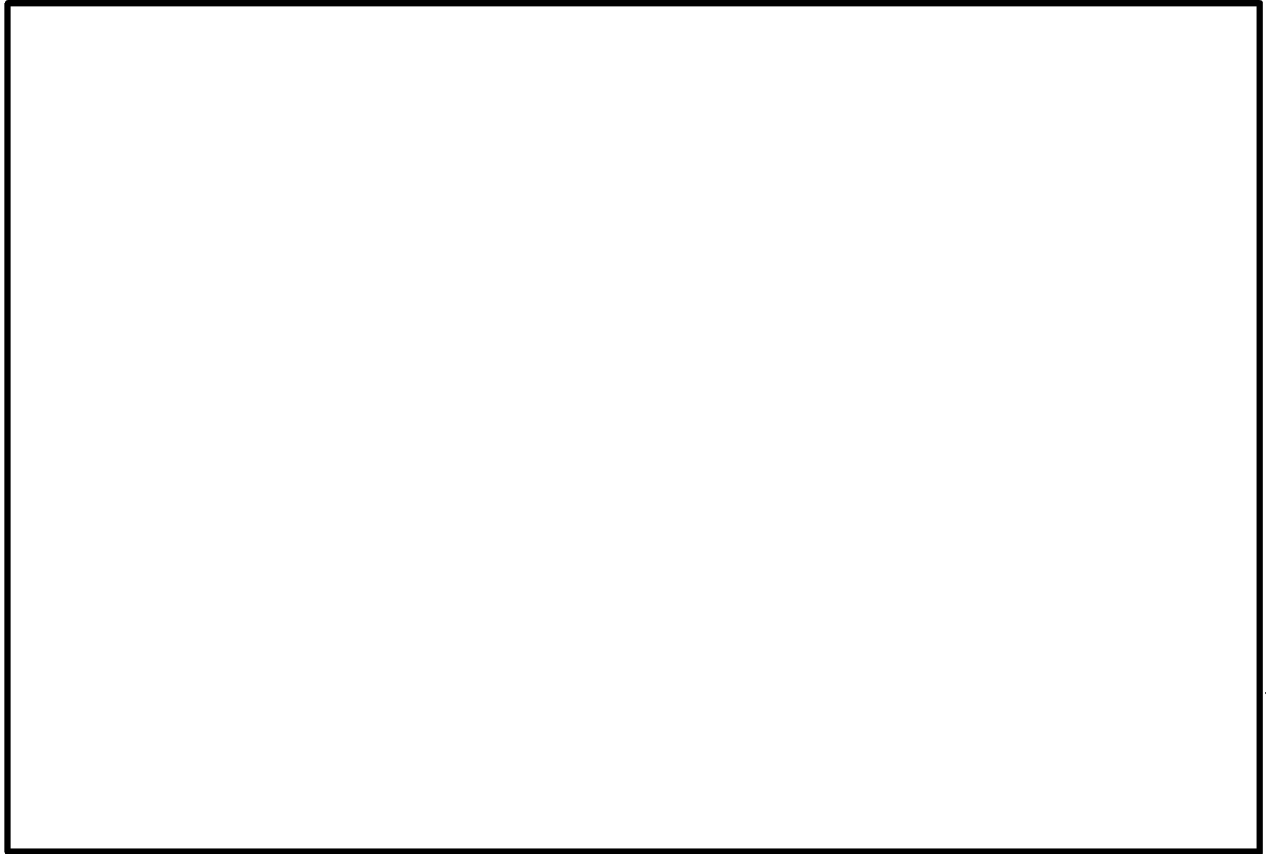


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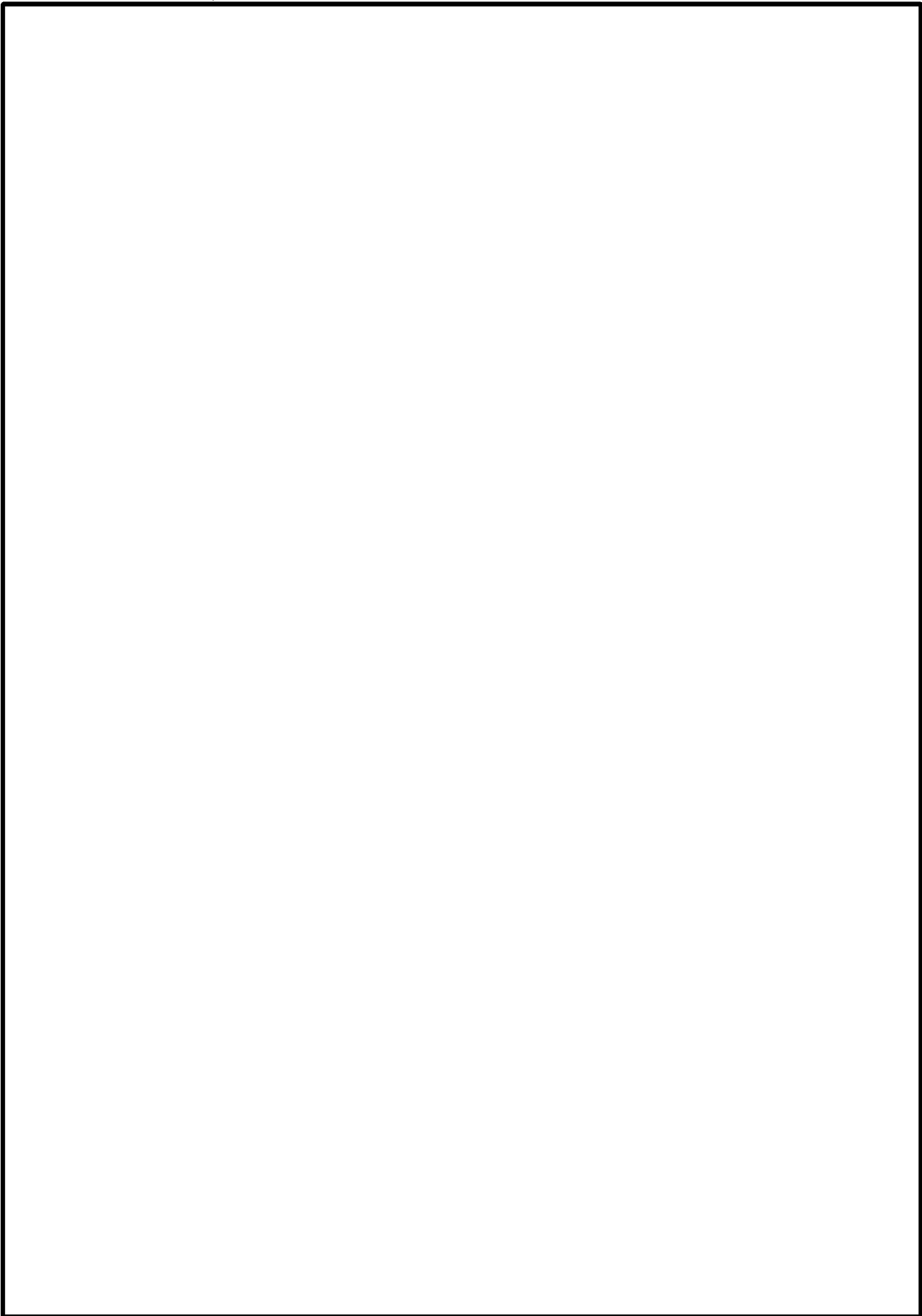
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**2. Asylum Office Prepares a Form I-275**



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## Table of Appendices





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## Table of Appendices





**U.S. Citizenship  
and Immigration  
Services**

JUN 11 2014

HQRAIO 120/16

## Memorandum

TO: Asylum Office Directors and Deputy Directors  
Supervisory Asylum Officers  
Quality Assurance/Training Asylum Officers  
Asylum Officers

FROM: John Lafferty  
Chief, Asylum Division

A handwritten signature in black ink, appearing to read "John Lafferty", written over the printed name and title.

SUBJECT: Changes to Credible Fear and Reasonable Fear Cases Requiring Quality Assurance Review

### Purpose

The Headquarters Asylum Division (HQASM) is implementing changes to the categories of Credible Fear (CF) and Reasonable Fear (RF) cases requiring Quality Assurance (QA) review. HQASM now requires pre-decisional QA review of a random sampling of CF and RF determinations, both positive and negative.

### Background

HQASM has undertaken an evaluation of the QA processes throughout the Asylum Division's programs. As part of that evaluation, on January 27, 2014, the Asylum Division revised the categories of affirmative asylum cases that require QA review by HQASM. More recently, we have evaluated the categories of CF and RF cases requiring QA review. HQASM has historically reviewed negative CF and RF determinations. In a Congressionally-mandated February 2005 report on asylum seekers in expedited removal, the U.S. Commission on International Religious Freedom (USCIRF) concluded, "[t]he credible fear process would be much more effective by subjecting negative and positive determinations to similar quality assurance procedures to ensure against bias built into the credible fear decision-making process."<sup>1</sup> The current CF QA procedures are virtually the same as those reviewed by USCIRF. We are now revising our CF and RF QA categories in order to provide a uniform process for review of CF and RF determinations, whether positive or negative.

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<sup>1</sup> USCIRF, Report on Asylum Seekers in Expedited Removal, p. 172, at [http://www.uscirf.gov/sites/default/files/resources/stories/pdf/asylum\\_seekers/ERS\\_RptVolII.pdf](http://www.uscirf.gov/sites/default/files/resources/stories/pdf/asylum_seekers/ERS_RptVolII.pdf).

**These changes to CF and RF QA will give HQASM broader oversight and insight into all CF and RF determinations. This revised QA model will also permit the HQASM QA Branch to develop broad guidance and training based on the trends identified by reviewing CF and RF cases that are representative of the field's caseload. This will help us improve the quality of CF and RF determinations as a program, rather than limiting quality improvement to the individual case in which QA review is conducted.**

### **Implementation**

**Under the revised QA review model, the Asylum Offices will send a random sampling of CF and RF determinations – both positive and negative – to HQASM for pre-decisional QA review. HQASM has established a statistically valid sample size that facilitates a thorough review of each case and maintains a high confidence level.**

**In addition to this submission structure, HQASM continues to require pre-decisional QA review for any CF determinations involving high-profile claims or novel legal issues. HQASM is also now requiring that RF determinations involving high-profile claims or novel legal issues be submitted to HQASM for pre-decisional QA review. HQASM continues to accept for pre-decisional QA review any CF or RF case in which the Asylum Office Director seeks such review.**

**Asylum Offices must receive a final response from HQASM on each case submitted for pre-decisional QA review before the final determination can be served on the alien, including on cases pending QA review prior to implementation of this revised QA review model.**

**If you have any questions, please contact the Asylum Division Quality Assurance Branch Chief and/or email the Asylum QA – Credible Fear mailbox or Asylum QA – Reasonable Fear mailbox.**

# Memorandum



<b>Subject:</b>  Interpreters In The Credible Fear Process	<b>Date:</b>  [signed February 10, 1998]
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**To:**  
All Asylum Directors  
All Supervisory Asylum Officers  
All Asylum Officers

**From:**  
Office of International Affairs  
Asylum Division  
[Joseph E. Langlois /s/ by Jeff Weiss - see page 4]

The Asylum Division is committed to providing the highest available quality interpretation to applicants in the credible fear interview process. The guidelines below are intended to encourage asylum officers, consultants, and interpreters to work cooperatively to ensure that the credible fear process works as fairly and effectively as possible:

- The Asylum Division is currently working with three interpreter services, AT&T, LSA, and LLE-Link. If asylum officers, consultants, or non-governmental organizations are aware of other sources of high quality interpretation, they are strongly encouraged to bring them to the attention of headquarters asylum. Headquarters is willing to explore using any commercial service that offers telephonic interpretation, accepts payment by the government Visa card, certifies its interpreters, and offers its services to the general public. We are discussing with the Executive Office of Immigration Review and Berlitz the possibility of adding Berlitz to our available choices, and would welcome other suggestions as well.
- Asylum officers are encouraged to make every effort to accommodate special requests for male or female interpreters, for a specific interpreter (if the consultant provides the interpreter's identification code), or for interpreters who do (or don't) speak certain dialects or have certain accents. Requesting that the commercial interpreter be physically present at the interview for applicants who might otherwise have difficulty presenting a claim is an option asylum officers may use, with concurrence from a supervisory asylum officer. LSA and LLE-Link currently offer in-person

interpretation, as would Berlitz for Service Processing Centers with an immigration court.

- The Asylum Division encourages consultants to monitor the quality of interpretation applicants receive. A consultant may bring a "co-consultant" fluent in English and the applicant's language to the interview to monitor the quality of interpretation, and consultants who understand the applicant's language may also comment on the quality of interpretation. While asylum supervisors are instructed to be flexible in scheduling interviews to ensure that the applicant's primary consultant is present, interviews should not be postponed or rescheduled to accommodate participation by "co-consultants." Below are general guidelines for addressing the consultant's concerns about the quality of interpretation available:
  - Consultants may keep records of which interpreters they consider most, and least, appropriate for interpreting credible fear interviews. Consultants may request that a certain interpreter be used (or not used) when setting up the interview with the asylum supervisor. All reasonable requests will be accommodated unless they result in unacceptable delays (generally more than 24 hours beyond the standard 48 hours). Such requests will not be accommodated if the asylum officer does not consider the requested interpreter to be competent or neutral.
  - "Co-consultants" who are fluent in English and the applicant's language, or consultants who understand the applicant's language, may interrupt the interview to point out problems with interpretation. The asylum officer may need to remind the consultants that such interruptions should only occur if the problems could directly affect the applicant's ability to present a claim.
    - If the consultant or "co-consultant" states that the interpreter is leaving out portions of the applicant's testimony, or is editorializing or otherwise failing to provide a verbatim interpretation,<sup>1</sup> the asylum officer should remind the interpreter of his/her role in the credible fear interview, and should offer to change interpreters if the problem persists.
    - If the consultant or "co-consultant" states that the interpreter is not competent or not neutral (citing, for example, serious mistakes in how concepts or words are being translated), the asylum officer should ask the consultant and applicant if they would like to switch interpreters. If the consultant and applicant choose to remain with the same interpreter, the offer and response should be recorded in the Questions

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<sup>1</sup> See the Immigration and Naturalization Service, Asylum Division, "Interviewing Part VI: Working with an Interpreter," *Asylum Officer Basic Training Course* (Washington, DC: February 1998 [preliminary draft]), for a discussion of the term "verbatim," as well as additional guidance on working with interpreters.

and Answers. If a consultant finds more than one interpreter unacceptable, and the consultant is fluent in the applicant's language and English, or has brought a "co-consultant" fluent in the applicant's language and English to the interview, the asylum officer should ask the consultant and/or "co-consultant" and the applicant if they would like the consultant or "co-consultant" to act as the interpreter. If the consultant and/or "co-consultant" declines, the suggestion and response should be included in the Questions and Answers. If the consultant and/or "co-consultant" accept, the interview should be monitored by a telephonic interpreter. The asylum officer should attempt to obtain as a monitor a different telephonic interpreter from those rejected by the applicant or consultant as not competent.

- A consultant may bring an interpreter to provide interpretation during the credible fear interview, provided the following guidelines are met:
  - An interpreter from one of the commercial telephonic interpreter service must monitor the entire interview. No exceptions can be made without specific permission from headquarters.
  - Requests from the applicant or consultant that the telephonic interpreter monitoring the conversation be either male or female, or speak (or not speak) certain dialects, should be accommodated where possible.
  - While asylum supervisors should be flexible in scheduling interviews to ensure that the applicant's consultant is present, interviews should not ordinarily be postponed or rescheduled to accommodate the interpreter's schedule. The consultant may arrange to have an interpreter participate by telephone, as long as the consultant's interpreter is available at the scheduled interview time, and any costs involved are paid by the consultant. (At present, all three interpreter services offer conference calling at no additional charge.)
  - The telephonic interpreter should receive clear, detailed instructions about the role she or he is expected to play in the interview. Much like the "co-consultant," the telephonic interpreter should only interrupt the interview if problems with competency or neutrality could directly affect the applicant's ability to present a claim.
  - The consultant's interpreter should receive clear, detailed instructions about the role she or he is expected to play in the interview. In particular, the importance of interpreting verbatim, without adding or omitting any information, should be emphasized before the interview occurs. If translations of forms are available in the applicant's language, and if the consultant's interpreter is physically present in the interview room, or can easily receive a fax, the interpreter should have copies of translations of the forms.

- If the telephonic interpreter notes problems with the competence or neutrality of the consultant's interpreter, and the consultant's interpreter has been informed of the problems and appears unable or unwilling to correct them, the asylum officer may, in his or her discretion, decide that the telephonic interpreter will complete the interview, and the consultant's interpreter will act as a "co-consultant" to monitor the quality of interpretation provided by the telephonic interpreter service.
- A consultant may request to act both as consultant and interpreter, or may request that a person fluent in the applicant's language act both as an interpreter and "co-consultant," or as an interpreter and a witness. While such arrangements are not acceptable in the affirmative asylum system [see 8 CFR 208.9(g)], they may be accommodated in the credible fear process if they assist the applicant in presenting his or her claim. If dual or multiple roles are proposed, the asylum officer should explain to the consultant and/or "co-consultant"/ interpreter/ witness, and telephonic interpreter that the consultant's interpreter should limit any statements or comments about the claim, the applicant's cultural background, or country conditions, to a closing statement after the interview has been completed. During the interview, the consultant's interpreter must interpret verbatim and not omit or add information, or provide editorial comments about the information. There may be exceptional circumstances in which it is appropriate for the consultant's interpreter to interrupt the interview to provide information, but the consultant's interpreter should be instructed to state, in English and the applicant's language, that he or she has stopped interpreting and is providing background information. Such interruptions should only be allowed when the applicant is unable to provide such information.
- Guidelines provided in the November 14, 1997 memorandum "Role of Consultants in the Credible Fear Interview" should be followed if a consultant, "co-consultant," or the consultant's interpreter is disruptive, or in any way impedes the applicant's ability to present his or her claim. Asylum officers should also review relevant lesson plans, such as "Interviewing Part VI: Working with an Interpreter," to address any problems in working with either the telephonic interpreters or interpreters provided by the consultant.

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Joseph E. Langlois /s/ by Jeff Weiss  
Deputy Director



**U.S. Citizenship  
and Immigration  
Services**

March 9, 2012

HQRAIO 120/16b

## Memorandum

**TO:** Asylum Office Directors  
Asylum Office Deputy Directors  
Supervisory Asylum Officers  
Quality Assurance/Trainers  
Asylum Officers

**FROM:** Ted Kim, Acting Chief /s/  
Asylum Division

**SUBJECT:** Department of Homeland Security (DHS) Guidance on *Demiraj v. Holder*, 631 F.3d 194 (5<sup>th</sup> Cir. 2011)

Please review the attached memorandum from the USCIS Office of Chief Counsel explaining the Department's interpretation of the recent Fifth Circuit decision in *Demiraj*. This memorandum provides guidance to adjudicators on interpreting this decision and sets out the current USCIS interpretation of the nexus requirement in asylum, credible fear and reasonable fear adjudications, regardless of circuit court jurisdiction.

Should you have any questions related to this guidance, please contact the Training and Quality Branch (TRAQ) Chief or other members of TRAQ through the proper chain of command.

Attachment

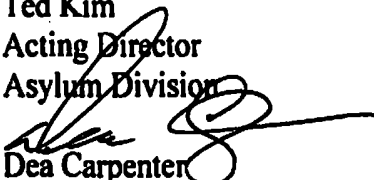




**U.S. Citizenship  
and Immigration  
Services**

February 23, 2012

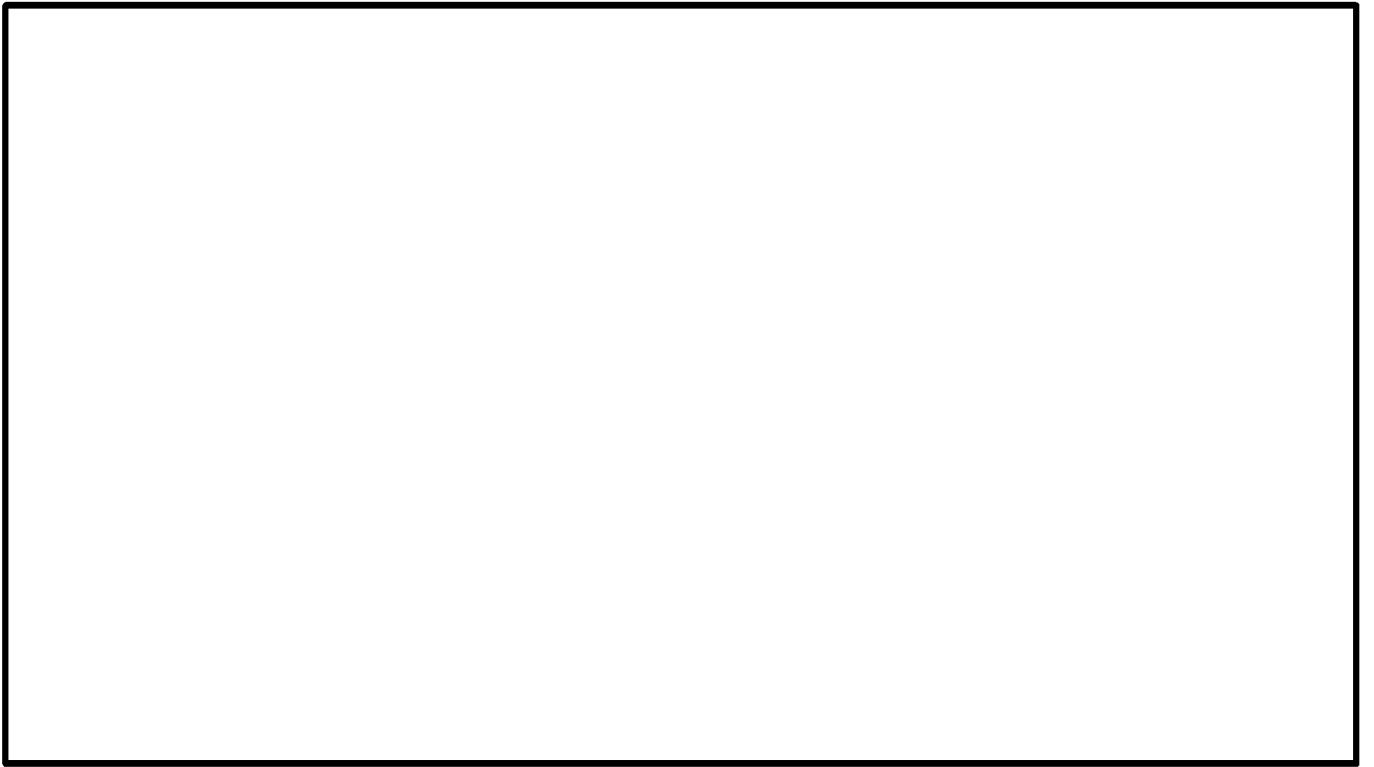
MEMORANDUM TO: Ted Kim  
Acting Director  
Asylum Division

FROM:   
Dea Carpenter (b)(5)  
Deputy Chief Counsel



(b)(5)

(b)(5)



(b)(5)

# Request for Dissolution of Credible Fear Process

## -- DECLARATION OF ALIEN --

I, \_\_\_\_\_, A-number \_\_\_\_\_, have decided to stop pursuing protection from removal through the credible fear process, and to leave the United States as soon as travel arrangements can be made. I have made this decision freely and voluntarily based upon my understanding of the following, which was explained to me by an asylum officer:

- I was placed into the credible fear process upon seeking admission to the United States, because I expressed a fear of harm upon return my country.
- I have the right to ask for protection from removal based on fear of return through the credible fear process.
- If I do not ask for protection from removal at this time, the Immigration and Naturalization Service (INS) will either permit me to withdraw my application for admission, or issue an order of removal against me and bar me from reentering or seeking admission to the U.S. for five (5) years or more. If I have engaged in fraud or misrepresentation of a material fact, or a false claim to U.S. citizenship, I will be permanently inadmissible to the United States.
- If I change my mind at any time prior to my final departure from the United States, I can again ask for protection from removal through the credible fear process by immediately notifying an INS officer that I wish to seek asylum, even if I stop pursuing my request for protection at this time.
- The reason that I have decided to not to ask for protection at this time is:  
(A stated reason must be recorded below. Attach extra pages if necessary)

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\_\_\_\_\_  
Alien's Last Name/Family Name (Print)      Alien's First Name (Print)      Alien's Signature

\_\_\_\_\_  
Asylum Officer's Name (Print)      Asylum Officer's Signature      Date \_\_\_\_/\_\_\_\_/\_\_\_\_

\_\_\_\_\_  
Supervisory Asylum Officer's Name (Print)      Supervisory Asylum Officer's Signature      Date \_\_\_\_/\_\_\_\_/\_\_\_\_

The contents of this form were read and explained to the alien in the \_\_\_\_\_ language.

Interpreter Used (if any):

By telephone: (list interpreter service/ID number of interpreter) \_\_\_\_\_

In person: I, \_\_\_\_\_, certify that I am fluent in both the \_\_\_\_\_ and English languages. I interpreted the above information completely and accurately to the alien.

\_\_\_\_\_  
Interpreter's Signature      Date \_\_\_\_/\_\_\_\_/\_\_\_\_



U.S. Department of Justice  
Immigration and Naturalization Service

120/9.8

*Signed 7/26/00*

MEMORANDUM FOR: All Asylum Office Directors  
All Deputy Directors  
All Supervisory Asylum Pre Screening Officers

FROM: Joseph E. Langlois  
Acting Director, Asylum Division

SUBJECT: Dissolution of Credible Fear Claims

This memorandum establishes procedure for the dissolution of credible fear claims and replaces all pre existing guidance. This procedure has been developed as a result of consultation with the Expedited Removal Working Group, the Government Accounting Office and the Office of General Counsel to more consistently document and review the dissolution of credible fear claims.

Aliens who are placed in Expedited Removal, or who are Stowaways, and who indicate an intention to apply for asylum or a fear of persecution or torture, are referred to an asylum officer for a credible fear interview.<sup>1</sup> Certain aliens who have been referred for a credible fear interview decide to stop pursuing protection from removal through the credible fear process. When an alien decides to stop pursuing protection, an asylum officer must interview him or her. The asylum officer will question the alien about his or her reason for deciding to stop pursuing protection, will explain the process of removal and the ability of that alien to pursue protection at any time prior to removal. The dissolution interview will be a recorded on the Request for Dissolution of Credible Fear Process form. A copy of the form is attached to this memorandum.

The original Request for Dissolution of Credible Fear Process form is to be placed in the alien's A file. A copy is to be kept with any work folder materials that are maintained at the asylum office.

Attachment:  
Dissolution of Credible Fear Process form.

<sup>1</sup> INA Section 235(b)(1)(A)(ii) applies to aliens arriving in the United States and INA Section 235(a)(2) applies to stowaways.

cc: OFFICIAL FILE;  
HQASM:WBIRD:wb:353-  
8167:07/21/00:K\Asylum.ops\ExpeditedRemovalCredibleFear\memos\Cfdissolvejul00

## Jowett, Haley L

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**From:** Scott, Elizabeth M  
**Sent:** Wednesday, July 02, 2014 3:30 PM  
**To:** Donis, Antonio  
**Cc:** Kim, Ted H; Stone, Mary M  
**Subject:** family processing  
**Attachments:** Family Processing.zip

Hi Antonio,

Ted asked me to send you our procedures on processing families and other documents that may be helpful for processing families in Artesia. I'm attaching:

- 2002 draft CFPM (in case you don't have it)
- 6-27-14 memo, "Guidance on Immediate Family Members in CF"
- APSS Guide updated 6-27-14
- CF briefing paper
- UAC briefing paper
- CFPM section III.E.2., "Family Members Arriving Concurrently with the Applicant". This section is cut off in some versions so I'm including it in its entirety. We recently considered revising this section but after discussions with OCC and Lori S. we decided to keep it as it is.

The family processing procedures are somewhat confusing. Basically, 8 CFR 208.30 provides that a spouse and/or child (unmarried and under 21) may be included in a CF determination if the spouse and/or child arrived concurrently with the applicant and desire to be included. USCIS OCC has found that ASM has discretion whether or not to include family members who are eligible to be included and wish to be included. This issue has come up more often lately so we included guidance in the 6-27-14 memo about using this discretion and when immediate family members may be included on the claim and linked together in APSS.

If the principal applicant is found positive for CF then the other immediate family members are also found positive and all receive NTAs. For negative determinations, if the principal applicant doesn't have a claim but an immediate family member does and is found positive, then the rest of the immediate family members also receive a positive determination based on that claim. All would receive an NTA with credible fear found. If none of the immediate family members in the family group have a CF then all would be issued a negative determination.

Please let me know if you have any questions. Hope you're doing well!

Liz

Elizabeth Scott  
Tel: (202) 272-1227






U.S. Citizenship  
and Immigration  
Services

HQRAIO 120/9.15a

JUN 27 2014

## Memorandum

TO: Asylum Office Directors and Deputy Directors  
Supervisory Asylum Officers  
Quality Assurance/Training Asylum Officers  
Asylum Officers

FROM: John Lafferty  
Chief, Asylum Division 

SUBJECT: Guidance on Immediate Family Members in Credible Fear

### Purpose

The purpose of this memorandum is to issue guidance on who is considered an immediate family member in the credible fear process, credible fear determinations for immediate family members, and linking related family members in the Asylum Pre-Screening System (APSS).

### Immediate Family Members

In the credible fear process, immediate family members are the spouse and any unmarried child under 21 years of age who arrive in the United States concurrently with the principal applicant.<sup>1</sup>

### Credible Fear Determinations for Immediate Family Members

A family member's claim may provide the basis for all the immediate family members' credible fear determinations if the immediate family members: (1) arrived in the United States concurrently; and (2) desire to be processed together.<sup>2</sup> Even if those two requirements are met, Asylum Offices retain the discretion to process immediate family members together or separately. In addition, immediate family members may opt to present separate credible fear

<sup>1</sup> "The term [terms] "spouse," "wife," or "husband" do not include a spouse, wife or husband by reason of any marriage ceremony where the contracting parties thereto are not physically present in the presence of each other, unless the marriage shall have been consummated." INA § 101(a)(35). It is the applicants' burden to show that they were recognized as legally married in their country of origin in order to be treated as a spouse for purposes of the credible fear determination. The applicants also have the burden to establish that they arrived in the United States concurrently.

<sup>2</sup> 8 C.F.R. 208.30(b)

claims, even if they do meet the above requirements, and even if they are physically located together.

Immediate family members may be separated after their concurrent arrival in the United States. If immediate family members are in different locations, Asylum Officers do not have an affirmative duty to attempt to locate those family members. However, Asylum Officers may, in their discretion, attempt to locate family members if doing so does not unreasonably delay the credible fear process.

**APSS Procedures**

Immediate family members should be linked together in APSS whenever one family member's claim provides the basis for all the immediate family members' credible fear determinations. They may be linked in APSS even if they are not physically together. Immediate family members who choose to present their own credible fear claims should not be linked together in APSS because they will receive credible fear determinations based on their individual claims.

The APSS Guide has been updated with detailed instructions on how to link immediate family members in the system.

For questions, please contact Credible Fear Program Manager, HQ Operations Branch.

**Attachment**

1. APSS Guide (revised June 27, 2014)

### **III.E.2. Family Members Arriving Concurrently with the Applicant**

Each applicant for admission to the United States is considered to have made that application for admission independently. Each applicant for admission subject to expedited removal who has been referred for a credible fear interview has the right to have his or her credible fear claim considered independently. The regulations do provide, however, that

[a] spouse or child of an alien may be included in that alien's credible fear evaluation and determination if such spouse or child:

- (1) Arrived in the United States concurrently with the principal alien; and
- (2) Desires to be included in the principal alien's determination.

A "principal/dependent" relationship can ensure that each immediate family member is treated in the same manner. APSOs should remember that it is the choice of the individual alien whether he or she is to be included in a principal alien's application. It is also important that potential asylees be given the opportunity to be heard regardless of which parent is the principal. The procedures that follow have been designed to preserve the right to individual choice and protect all potential asylees.

For all credible fear cases involving more than one immediate family member, an APSO meets with the family to determine whether a spouse or (unmarried) child[ren] under 21 wishes to be included as dependent[s] in the credible fear determination of the spouse or parent. The APSO must not attempt to influence the decision. If a principal/dependent relationship is established, the APSO then interviews the principal.

If the principal is found to have a credible fear of persecution or torture:

No separate credible fear determination is made for the other immediate family members.

The Form I-870 is updated with information about dependent family members. The APSO fills out the appropriate information in Section 2.13 through 2.18 on the principal's Form I-870.

The APSO photocopies the principal's Form I-870 and places the copies in the file(s) of the other immediate family member(s) who are dependents.

The APSO prepares, serves, and processes each individual's credible fear documentation according to relevant procedures set forth in this Manual for a positive credible fear determination.

If the principal is found not to have a credible fear of persecution or torture:

The APSO determines if any dependent family member who has articulated a fear of return has a claim separate from that of the principal.

Special attention should be paid to the privacy of each family member and the possibility that victims of domestic abuse, rape and other forms of persecution might not be comfortable speaking in front of other family members.

If any member of the immediate family is found to have a credible fear (either a spouse or child of the principal), the principal and any other immediate family members who choose may be included in the positive finding and will not need separate credible fear determinations. For those cases where the principal does not have a credible fear but another immediate family member (either his or her spouse, or one of his or her children) does:

The immediate family member with the positive credible fear becomes the principal applicant, for purposes of the credible fear determination.

The positive finding is used as the basis for finding credible fear for the entire immediate family that arrived concurrently, including any immediate family member unable to establish credible fear in his or her own interview.

The APSO photocopies the I-870 and case analysis of the family member found to have a credible fear and places it in the file of the other family member[s].

The APSO prepares, serves, and processes each individual's credible fear documentation according to relevant procedures set forth in this Manual for a positive credible fear determination. For those cases where no family members are found to have a credible fear of persecution or torture, the APSO follows procedures for preparing, serving, and processing each family member's decision for a negative credible fear determination as set forth in this Manual. 8 CFR 208.30(b).

Note: "Family," or "immediate family" as used in this section of the Manual, refers to an alien, and any spouse and/or children who arrived concurrently with that alien.

Also see section IV.A, Aliens who Do Not Receive a Credible Fear Determination, for information about minors.

If an APSO questions the bona fides of any relationship, he or she should notify the SAPSO and the SAPSO should notify the credible fear program manager at HQASM.



**U.S. Department of Justice  
Immigration and Naturalization Service**

HQIAO 120/15.20b

*425 I Street, NW  
Washington, DC 20536*

Signed 3/26/02

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

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

**SUBJECT:** Filing Notices to Appear (NTAs) with the Executive Office for  
Immigration Review (EOIR) after Credible Fear Interviews

This memorandum establishes a consistent programwide policy concerning the responsibility for filing NTAs with EOIR in cases in which a credible fear has been found. It also directs Asylum Offices to follow-up on the cases on the attached list to ensure that the NTAs are filed with EOIR for the cases decided by their respective offices.

Effective immediately, asylum staff is responsible for filing NTAs with EOIR directly in credible fear cases. No NTAs are to be forwarded to the Districts to accomplish filing with EOIR, except in rare circumstances necessitating District service with EOIR, to be determined on a case-by-case basis. In those rare cases, the Asylum Office is responsible for tracking the A-number in ANSIR to ensure the filing with EOIR.

The Draft Credible Fear Procedures Manual of December 2000 contained language that could be interpreted to require the Asylum Office to file the NTA with EOIR or to allow Asylum Office the flexibility to make arrangements for District Office staff to file the NTA with EOIR. It provided at page 27 the following:

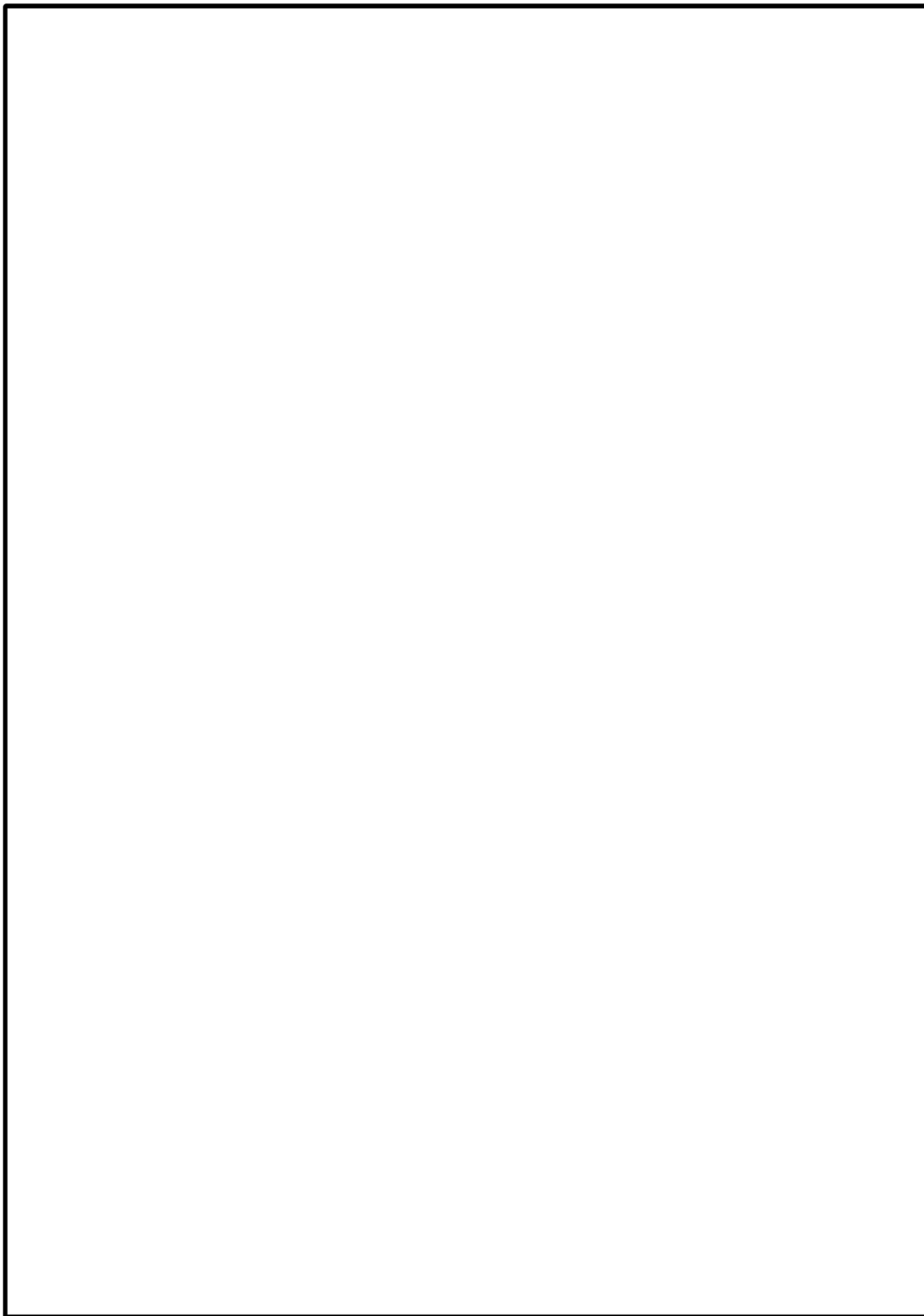


(b)(5)

Memorandum to Asylum Office Directors

(b)(5)

Subject: Filing NTAs with EOIR after Credible Fear Interviews



(b)(5)

Memorandum to Asylum Office Directors

Subject: Filing NTAs with EOIR after Credible Fear Interviews



**The Draft Credible Fear Procedures Manual has been amended to resolve ambiguities and clearly require asylum staff to directly file NTAs with EOIR in credible fear cases.**

## **Information about How to Seek Release from Detention: Parole Eligibility and Process for Certain Asylum Applicants**

USCIS has determined that you have a credible fear of persecution or torture.

- You may be eligible for parole (release from detention) while you await a final determination of your case.
- Your case will be referred to Immigration Court where you will file an application for asylum in front of an Immigration Judge.

The purpose of this notice is to explain how you might be released from detention. This type of release is called parole. Immigration and Customs Enforcement (“ICE”) officials are responsible for your custody. They will interview you and decide if you will be released from detention based upon your ability to satisfy the requirements described below. ICE will provide you with an interview notice, a *Parole Advisal and Scheduling Notification* that will tell you when you will be interviewed. If you do not receive this parole interview notice within 5 days, you should contact an ICE official in your detention location.

At your parole interview, you may be represented, at no expense to the government, by an attorney or other individual who is authorized to represent persons before ICE. A list of free legal service providers has been given to you; if you cannot afford an attorney, the organizations on this list may be able to represent you. Even if you cannot find an attorney or representative, ICE will still interview you and consider your case for release from detention.

Under ICE policy, you may be granted parole if you establish: (1) your identity; (2) that you are likely to appear for all scheduled hearings and enforcement appointments; and (3) that you do not present a security risk to the United States or a danger to the community.

You may establish these three points through oral statements at the interview and/or documents you present before the interview. Before the interview, you should gather documents that will help you at your interview. Helpful documentation may include:

**1) Identity:** Documents such as a passport, national identity card or birth certificate. If you did not arrive with these types of documents, you may want to ask relatives and other people who know you to get these documents for you. If you are unable to get these documents, you may want to ask relatives and other people who know you to provide you with sworn statements confirming your identity. If ICE took your identity documents from you, the ICE officer should have these documents in your file already and you will not need to provide them. You may want to provide a list of the identification documents that should be in your file in order to be certain they are considered.

**2) Appearance at Hearings and Appointments:** You must show that you will appear for all immigration hearings and appointments, including reporting for removal if you are eventually ordered removed from the United States. In order to show that you will appear for all immigration hearings and appointments, you may want to provide information on your ties to the community. This could include names, addresses and relationship to family and



community in the United States including close friends, religious groups and membership in professional societies. These are especially helpful where these individuals have legal immigration status. If there is someone who is willing to let you live with him or her, you may want to provide a letter or sworn declaration from that person and include the person's full name, relationship to you, legal status in the United States, address and any other relevant information.

3) *Security Risk*: ICE will generally assess this criteria based on any evidence of past criminal history. If you have past criminal history, you may want to submit any evidence of rehabilitation you may have or other evidence showing why you do not pose a danger to the community.

If you do not understand English, you may request a qualified interpreter assist you at your parole interview. Please notify ICE that you need an interpreter for your interview as soon as possible. ICE will then provide an interpreter for your parole interview at no cost to you.

Within seven days of your interview, ICE will give you a written decision as to whether you will be released from detention, including any reason for denying release. If you do not receive a decision within seven days, then you should contact ICE officials at your current location. If you are denied release, you may ask for ICE to review the decision by providing additional information or documents to establish your identity, that you are likely to appear for all scheduled hearings and enforcement appointments and that you do not present a security risk to the United States or a danger to the community. A written request may be made for an additional review of the decision based on changed circumstances or additional information.

If ICE decides to release you from detention, it is very important that you follow any conditions relating to your parole. These conditions can include the payment of a bond, certain reporting requirements, and/or enrollment in an alternative-to-detention program.

Do you understand everything I have told you today? Your signature below indicates your understanding.

Date: \_\_\_\_\_ A Number: \_\_\_\_\_

Language used: \_\_\_\_\_ Interpreter Service & ID No. \_\_\_\_\_

Signature of Applicant: \_\_\_\_\_

Cc: A-file and applicant

**U.S. Department of Homeland Security**  
U.S. Citizenship and Immigration Services  
Refugee, Asylum and International  
Operations Directorate  
Washington, DC 20529



**U.S. Citizenship  
and Immigration  
Services**

May 14, 2010

HQRAIO 120/9.15a, 12.16a

**MEMORANDUM**

**TO: ASYLUM OFFICE DIRECTORS  
ASYLUM OFFICE DEPUTY DIRECTORS  
SUPERVISORY ASYLUM OFFICERS  
QUALITY ASSURANCE/TRAINING ASYLUM OFFICERS  
ASYLUM OFFICERS**

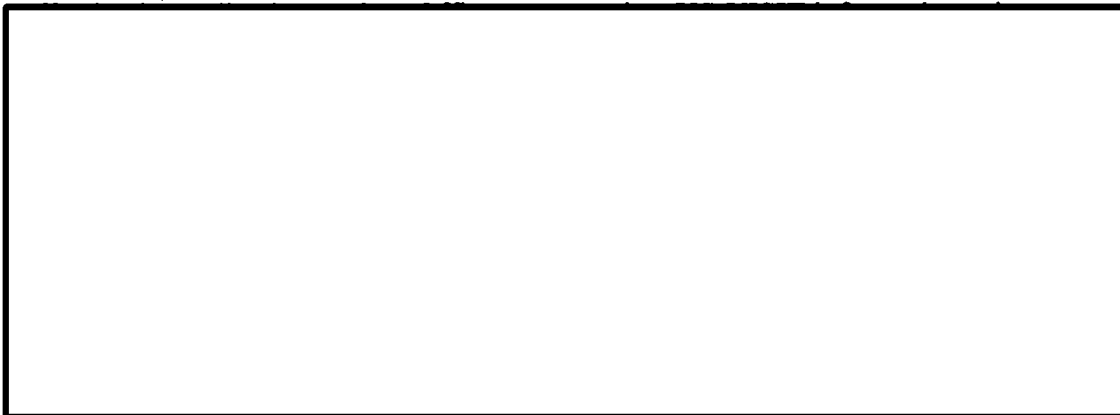
**FROM: Joseph E. Langlois /s/  
Chief, Asylum Division**

(b)(5)

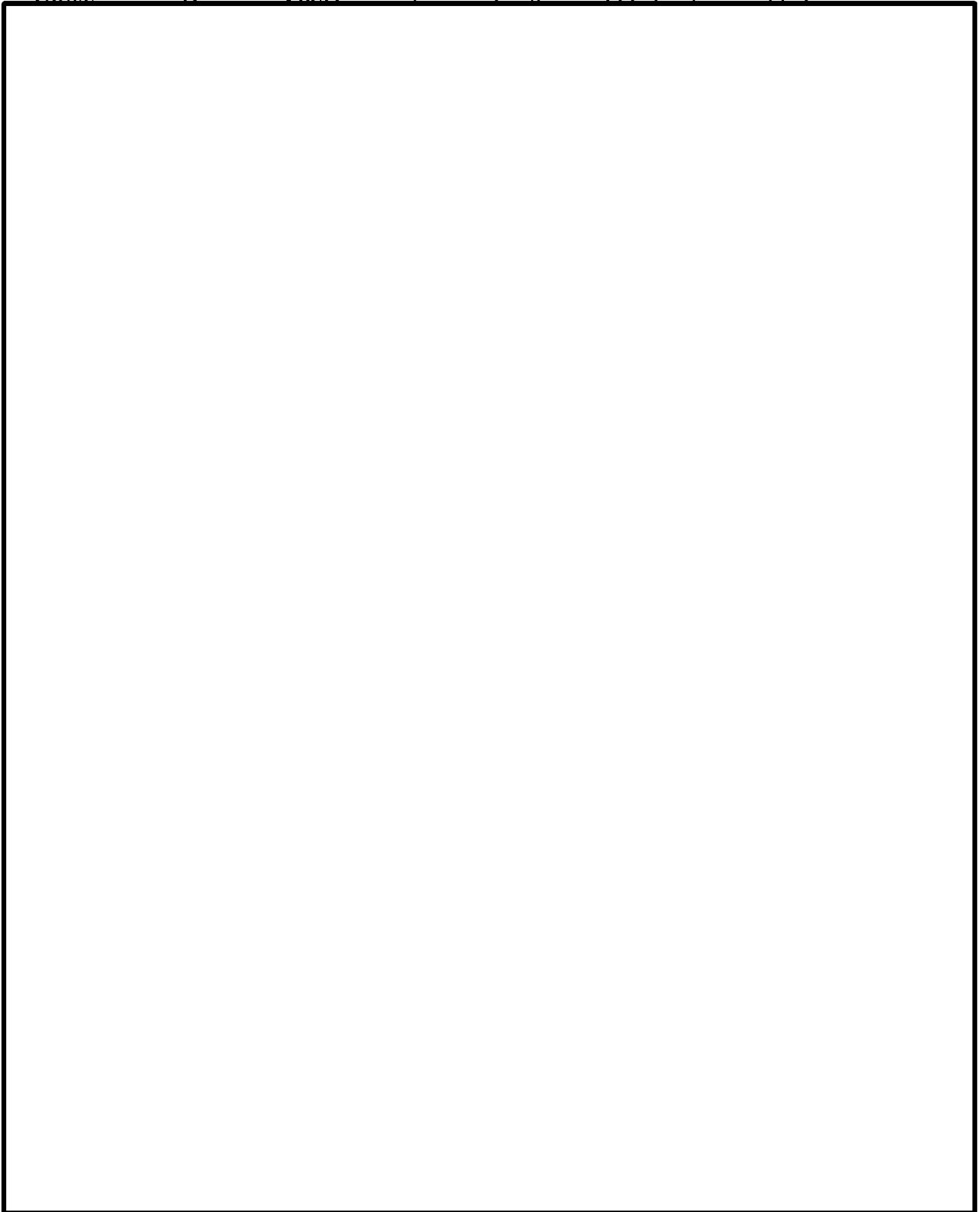
**SUBJECT: Issuance of Updated Credible and Reasonable Fear Procedures**

The purpose of this memorandum is to announce the issuance of the Asylum Division's updated procedures and security checklist for credible fear and reasonable fear. The new procedures replace the current procedures found in Chapters IX and X of the Identity and Security Checks Procedures Manual (ISCPM).

Requirement to review US-VISIT records in the credible and reasonable fear process



(b)(5)



Please direct any questions regarding these procedures to the Asylum Operations Branch.

Attachments (3)



**U.S. Department of Justice,  
Immigration and Naturalization Service**

**FILE NUMBER:**

**DATE:**

**PLEASE COME TO THE OFFICE SHOWN BELOW AT THE TIME AND PLACE INDICATED IN CONNECTION WITH AN OFFICIAL MATTER.**

<b>LOCATION</b>	<b>ROOM NO. FLOOR NO.</b>
<b>DATE &amp; HOUR</b>	
<b>ASK FOR</b>	
<b>REASON FOR APPOINTMENT</b>	<b>CREDIBLE FEAR INTERVIEW</b>
<b>BRING WITH YOU</b>	<b>CONSULTANT AND ANY WITNESSES AND EVIDENCE IMPORTANT TO YOUR CASE</b>

**IT IS IMPORTANT THAT YOU KEEP THIS APPOINTMENT AND BRING THIS LETTER WITH YOU.**  
If you are unable to do so, please call the APSO Supervisor or notify the Detention Officer to request a change in interview schedule.

Very truly yours,

**I am unable to keep this appointment because:**

**SIGNATURE**

**DATE**

# Notice and Order of Expedited Removal

## DETERMINATION OF INADMISSIBILITY

File No: \_\_\_\_\_

Date: \_\_\_\_\_

In the Matter of:

Pursuant to section 235(b)(1) of the Immigration and Nationality Act (Act), (8 U.S.C. 1225(b)(1)), the Immigration and Naturalization Service has determined that you are inadmissible to the United States under section(s) 212(a) 9 (6)(C)(i); 9 (6)(C)(ii); 9 (7)(A)(i)(I); 9 (7)(A)(i)(II); 9 (7)(B)(i)(I); and/or 9 (7)(B)(i)(II) of the Act, as amended, and therefore are subject to removal, in that:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Name and title of immigration officer (Print)

\_\_\_\_\_  
Signature of immigration officer

## ORDER OF REMOVAL UNDER SECTION 235(b)(1) OF THE ACT

Based upon the determination set forth above and evidence presented during inspection or examination pursuant to section 235 of the Act, and by the authority contained in section 235(b)(1) of the Act, you are found to be inadmissible as charged and ordered removed from the United States.

Name and title of immigration officer (Print)

\_\_\_\_\_  
Signature of immigration officer

\_\_\_\_\_  
Name and title of supervisor (Print)

\_\_\_\_\_  
Signature of supervisor, if available

9 Check here if supervisory concurrence was obtained by telephone or other means (no supervisor on duty).

## CERTIFICATE OF SERVICE

I personally served the original of this notice upon the above-named person on \_\_\_\_\_  
(Date)

\_\_\_\_\_  
Signature of immigration officer

DEPARTMENT OF HOMELAND SECURITY

NOTICE TO APPEAR

In removal proceedings under section 240 of the Immigration and Nationality Act:

File No: \_\_\_\_\_

In the Matter of:

Respondent: \_\_\_\_\_ currently residing at:

(Number, street, city and ZIP code)

(Area code and phone number)

- You are an arriving alien.
- You are an alien present in the United States who has not been admitted or paroled.
- You have been admitted to the United States, but are removable for the reasons stated below.

The Department of Homeland Security alleges that you:

On the basis of the foregoing, it is charged that you are subject to removal from the United States pursuant to the following provision(s) of law:

- This notice is being issued after an asylum officer has found that the respondent has demonstrated a credible fear of persecution or torture.
- Section 235(b)(1) order was vacated pursuant to:  8CFR 208.30  8CFR 235.3(b)(5)(iv)

YOU ARE ORDERED to appear before an immigration judge of the United States Department of Justice at:

\_\_\_\_\_  
(Complete Address of Immigration Court, including Room Number, if any)

on \_\_\_\_\_ at \_\_\_\_\_ to show why you should not be removed from the United States based on the  
(Date) (Time)

charge(s) set forth above.

\_\_\_\_\_  
(Signature and Title of Issuing Officer)

Date: \_\_\_\_\_

\_\_\_\_\_  
(City and State)

**Notice to Respondent**

**Warning:** Any statement you make may be used against you in removal proceedings.

**Alien Registration:** This copy of the Notice to Appear served upon you is evidence of your alien registration while you are under removal proceedings. You are required to carry it with you at all times.

**Representation:** If you so choose, you may be represented in this proceeding, at no expense to the Government, by an attorney or other individual authorized and qualified to represent persons before the Executive Office for Immigration Review, pursuant to 8 CFR 1003.16. Unless you so request, no hearing will be scheduled earlier than ten days from the date of this notice, to allow you sufficient time to secure counsel. A list of qualified attorneys and organizations who may be available to represent you at no cost will be provided with this notice.

**Conduct of the hearing:** At the time of your hearing, you should bring with you any affidavits or other documents, which you desire to have considered in connection with your case. If you wish to have the testimony of any witnesses considered, you should arrange to have such witnesses present at the hearing.

At your hearing you will be given the opportunity to admit or deny any or all of the allegations in the Notice to Appear and that you are inadmissible or removable on the charges contained in the Notice to Appear. You will have an opportunity to present evidence on your own behalf, to examine any evidence presented by the Government, to object, on proper legal grounds, to the receipt of evidence and to cross examine any witnesses presented by the Government. At the conclusion of your hearing, you have a right to appeal an adverse decision by the immigration judge.

You will be advised by the immigration judge before whom you appear of any relief from removal for which you may appear eligible including the privilege of departure voluntarily. You will be given a reasonable opportunity to make any such application to the immigration judge.

**Failure to appear:** You are required to provide the DHS, in writing, with your full mailing address and telephone number. You must notify the Immigration Court and the Department of Homeland Security immediately by using Form EOIR-33 whenever you change your address or telephone number during the course of this proceeding. You will be provided with a copy of this form. Notices of hearing will be mailed to this address. If you do not submit Form EOIR-33 and do not otherwise provide an address at which you may be reached during proceedings, then the Government shall not be required to provide you with written notice of your hearing. If you fail to attend the hearing at the time and place designated on this notice, or any date and time later directed by the Immigration Court, a removal order may be made by the immigration judge in your absence, and you may be arrested and detained by the DHS.

**Mandatory Duty to Surrender for Removal:** If you become subject to a final order of removal, you must surrender for removal to your local DHS office, listed on the internet at <http://www.ice.gov/contact/ero>, as directed by DHS and required by statute and regulation. Immigration regulations at 8 CFR 1241.1 define when the removal order becomes administratively final. If you are granted voluntary departure and fail to depart the United States as required, fail to post a bond in connection with voluntary departure, or fail to comply with any other condition or term in connection with voluntary departure, you must surrender for removal on the next business day thereafter. If you do not surrender for removal as required, you will be ineligible for all forms of discretionary relief for as long as you remain in the United States and for ten years after departure or removal. This means you will be ineligible for asylum, cancellation of removal, voluntary departure, adjustment of status, change of nonimmigrant status, registry, and related waivers for this period. If you do not surrender for removal as required, you may also be criminally prosecuted under section 243 of the Immigration and Nationality Act (the Act).

**Request for Prompt Hearing**

To expedite a determination in my case, I request this Notice to Appear be filed with the Executive Office of Immigration Review as soon as possible. I waive my right to a 10-day period prior to appearing before an immigration judge and request my hearing be scheduled.

Before:

\_\_\_\_\_  
(Signature of Respondent)

Date: \_\_\_\_\_

\_\_\_\_\_  
(Signature and Title of Immigration Officer)

**Certificate of Service**

This Notice To Appear was served on the respondent by me on \_\_\_\_\_, in the following manner and in compliance with section 239(a)(1) of the Act.

in person     by certified mail, returned receipt # \_\_\_\_\_ requested     by regular mail

Attached is a credible fear worksheet.

Attached is a list of organization and attorneys which provide free legal services.

The alien was provided oral notice in the \_\_\_\_\_ language of the time and place of his or her hearing and of the consequences of failure to appear as provided in section 240(b)(7) of the Act.

\_\_\_\_\_  
(Signature of Respondent if Personally Served)

\_\_\_\_\_  
(Signature and Title of officer)

Statement by: \_\_\_\_\_

In the case of: \_\_\_\_\_

Date of Birth: \_\_\_\_\_ Gender (circle one): Male Female

At: \_\_\_\_\_ Date: \_\_\_\_\_

Before: \_\_\_\_\_

In the \_\_\_\_\_ language. Interpreter \_\_\_\_\_ (Name and Title) Employed by \_\_\_\_\_

I am an officer of the United States Immigration and Naturalization Service. I am authorized to administer the immigration laws and to take sworn statements. I want to take your sworn statement regarding your application for admission to the United States. Before I take your statement, I also want to explain your rights, and the purpose and consequences of this interview.

You do not appear to be admissible or to have the required legal papers authorizing your admission to the United States. This may result in your being denied admission and immediately returned to your home country without a hearing. If a decision is made to refuse your admission into the United States, you may be immediately removed from this country, and if so, you may be barred from reentry for a period of 5 years or longer.

This may be your only opportunity to present information to me and the Immigration and Naturalization Service to make a decision. It is very important that you tell me the truth. If you lie or give misinformation, you may be subject to criminal or civil penalties, or barred from receiving immigration benefits or relief now or in the future.

Except as I will explain to you, you are not entitled to a hearing or review.

U.S. law provides protection to certain persons who face persecution, harm or torture upon return to their home country. If you fear or have a concern about being removed from the United States or about being sent home, you should tell me so during this interview because you may not have another chance. You will have the opportunity to speak privately and confidentially to another officer about your fear or concern. That officer will determine if you should remain in the United States and not be removed because of that fear.

Until a decision is reached in your case, you will remain in the custody of the Immigration and Naturalization Service.

Any statement you make may be used against you in this or any subsequent administrative proceeding.

Q: Do you understand what I've said to you?

A.

Q: Do you have any questions?

A.

Q: Are you willing to answer my questions at this time?

A.

Q: Do you swear or affirm that all the statements you are about to make are true and complete?

A.



**Jurat for Record of Sworn Statement in  
Proceedings under Section 235(b)(1) of the Act**

Q: Why did you leave your home country or country of last residence?

A.

Q. Do you have any fear or concern about being returned to your home country or being removed from the United States?

A.

Q. Would you be harmed if you are returned to your home country or country of last residence?

A.

Q. Do you have any questions or is there anything else you would like to add?

A.

I have read (or have had read to me) this statement, consisting of \_\_\_\_\_ pages (including this page). I state that my answers are true and correct to the best of my knowledge and that this statement is a full, true and correct record of my interrogation on the date indicated by the above-named officer of the Immigration and Naturalization Service. I have initialed each page of this statement (and the corrections noted on page(s) \_\_\_\_\_).

Signature: \_\_\_\_\_

Sworn and subscribed to before me at \_\_\_\_\_  
on \_\_\_\_\_.

\_\_\_\_\_  
Officer, United States Immigration and Naturalization Service

Witnessed by: \_\_\_\_\_

# Record of Negative Credible Fear Finding and Request for Review by Immigration Judge

Alien File \_\_\_\_\_  
Number \_\_\_\_\_

**1. To be explained to the alien by the asylum officer:**

The INS has determined that you do not have a credible fear of persecution or torture pursuant to 8 CFR 208.30 for the following reason(s):

- A. You have not established a credible fear of return to your country of nationality or country of last residence because:
- You have not indicated that you were harmed in the past and you have not expressed fear of future harm.
  - There is no significant possibility that you could establish in an asylum hearing that the harm you experienced and/or the harm you fear is on account of one or more of the five grounds for asylum (race, religion, nationality, political opinion, or social group).
  - You have not indicated that you were harmed in the past, and there is no significant possibility that you could establish in an asylum hearing that the harm you fear is well founded.

**AND**

- You have not expressed a fear that you would be intentionally subjected to serious physical or mental harm in a country to which you may be removed.
  - There is no significant possibility you could establish that the harm you fear would be inflicted by, or at the instigation of, or with the consent or acquiescence of, a government official or other person acting in an official capacity.
- B. There is no significant possibility that your claim is credible because your testimony was inconsistent or lacked detail on material issues. When you were given an opportunity to explain you were unable to give a reasonable explanation about the following issues:
- Your testimony was internally inconsistent on material issues.
  - Your testimony was not consistent with country conditions on material issues.
  - Your testimony lacked reasonably sufficient detail on material issues.

Therefore, you are ordered removed from the United States. You may request that an Immigration Judge review this decision.

If you request that an Immigration Judge review this decision, you will remain in detention until an Immigration Judge reviews your case. That review could occur as long as 7 days after you receive this decision.

If you do not request that an Immigration Judge review the decision, you may be removed from the United States immediately.

**2. To be completed by the alien:**

- Yes, I request Immigration Judge review of the decision that I do not have a credible fear of persecution or torture.
- No, I do not request Immigration Judge review of the decision that I do not have a credible fear of persecution or torture.

\_\_\_\_\_  
Applicant's Last Name/ Family Name (Print)      Applicant's First Name (Print)      Applicant's Signature

\_\_\_\_\_  
Asylum Officer's Last Name (Print)      Asylum Officer's First Name, (Print)      Date

The contents of this form were read and explained to the applicant in the \_\_\_\_\_ language

Interpreter used:

By telephone (list interpreter service /ID number used \_\_\_\_\_).

In person (I, \_\_\_\_\_, certify that I am fluent in both the \_\_\_\_\_ and English languages. I interpreted the above information completely and accurately to the alien.)

\_\_\_\_\_  
Interpreter's Signature      Date

District Office Code	Asylum Office Code	Alien's File Number	Alien's Last/ Family Name
Asylum Officer's Last Name	Asylum Officer's First Name	Alien's Nationality	

*All statements in italics must be read to the applicant*

**SECTION I:**

**INTERVIEW PREPARATION**

- 1.1 \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_ 1.2 \_\_\_\_\_  
Date of arrival [MM/DD/YY] Port of arrival
- 1.3 \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_ 1.4 \_\_\_\_\_  
Date of detention [MM/DD/YY] Place of detention
- 1.5 \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_ 1.6 \_\_\_\_\_  
Date of AO orientation [MM/DD/YY] If orientation more than one week from date of detention, explain delay
- 1.7 \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_ 1.8 \_\_\_\_\_  
Date of interview [MM/DD/YY] Interview site
- 1.9  Applicant received and signed Form M-444 and relevant *pro bono* list on \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_  
Date signed [MM/DD/YY]
- 1.10 Does applicant have consultant(s)?  Yes  No
- 1.11 If yes, consultant(s) name, address, telephone number and relationship to applicant  
\_\_\_\_\_  
\_\_\_\_\_
- 1.12 Persons present at the interview (check which apply)
- 1.13  Consultant(s)
- 1.14  Other(s), list: \_\_\_\_\_
- 1.15  No one other than applicant and asylum officer
- 1.16 Language used by applicant in interview:
- 1.17 \_\_\_\_\_  Yes  No \_\_\_\_\_  
Interpreter Service, Interpreter ID Number. Interpreter Has Forms Time Started Time Ended
- 1.18 \_\_\_\_\_  Yes  No \_\_\_\_\_  
Interpreter Service, Interpreter ID Number. Interpreter Has Forms Time Started Time Ended
- 1.19 \_\_\_\_\_  Yes  No \_\_\_\_\_  
Interpreter Service, Interpreter ID Number. Interpreter Has Forms Time Started Time Ended
- 1.20  Interpreter was **not** changed during the interview
- 1.21  Interpreter was **changed** during the interview for the following reason(s):
- 1.22  Applicant requested a female interpreter replace a male interpreter, or *vice versa*
- 1.23  Applicant found interpreter was not competent 1.24  Applicant found interpreter was not neutral
- 1.25  Officer found interpreter was not competent 1.26  Officer found interpreter was not neutral
- 1.27  Bad telephone connection
- 1.28  Asylum officer read the following paragraph to the applicant at the beginning of the interview:

**Alien's File Number:**

*The purpose of this interview is to determine whether you may be eligible for asylum or protection from removal to a country where you fear persecution or torture. I am going to ask you questions about why you fear returning to your country or any other country you may be removed to. It is very important that you tell the truth during the interview and that you respond to all of my questions. This may be your only opportunity to give such information. Please feel comfortable telling me why you fear harm. U.S. law has strict rules to prevent the disclosure of what you tell me today about the reasons why you fear harm. The information you tell me about the reasons for your fear will not be disclosed to your government, except in exceptional circumstances. The statements you make today may be used in deciding your claim and in any future immigration proceedings. It is important that we understand each other. If at any time I make a statement you do not understand, please stop me and tell me you do not understand so that I can explain it to you. If at any time you tell me something I do not understand, I will ask you to explain.*

**SECTION II: BIOGRAPHIC INFORMATION**

2.1 \_\_\_\_\_  
Last Name/ Family Name [ALL CAPS]

2.2 \_\_\_\_\_ 2.3 \_\_\_\_\_  
First Name Middle Name

2.4 \_\_\_\_/\_\_\_\_/\_\_\_\_ 2.5 Gender  Male  Female  
Date of birth [MM/DD/YY]

2.6 \_\_\_\_\_  
Other names and dates of birth used

2.7 \_\_\_\_\_ 2.8 \_\_\_\_\_  
Country of birth Country (countries) of citizenship (list all)

2.9 \_\_\_\_\_  
Address prior to coming to the U.S. (List Address, City/Town, Province, State, Department and Country).

2.10 \_\_\_\_\_ 2.11 \_\_\_\_\_ 2.12 \_\_\_\_\_  
Applicant's race or ethnicity Applicant's religion All languages spoken by applicant

2.13 Marital status:  Single  Married  Legally separated  Divorced  Widowed

2.14 Did spouse arrive with applicant?  Yes  No

2.15 Is spouse included in applicant's claim?  Yes  No

2.16 If currently married (including common law marriage) list spouse's name, citizenship, and present location (if with applicant, provide A-Number):

2.17 Children:  Yes  No

2.18 List any children (Use the continuation section to list any additional children):

Date of birth (MM/DD/YY)	Name	Citizenship	Present location (if w/PA, list A-Numbers)	Did child arrive with PA? <input type="checkbox"/> Yes <input type="checkbox"/> No	Is child included in PA's claim? <input type="checkbox"/> Yes <input type="checkbox"/> No
_____	_____	_____	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
_____	_____	_____	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
_____	_____	_____	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No

**Alien's File Number:**

_____	_____	_____	_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Yes	<input type="checkbox"/> No
_____	_____	_____	_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Yes	<input type="checkbox"/> No
_____	_____	_____	_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Yes	<input type="checkbox"/> No

Alien's File Number:

2.19 Does applicant claim to have a medical condition (physical or mental), or has the officer observed any indication(s) that a medical condition exists? If YES, answer questions 2.20 and 2.21 and explain below.  Yes  No

2.20 Has applicant notified the facility of medical condition?  Yes  No

2.21 Does applicant claim that the medical condition relates to torture?  Yes  No

2.22 Does the applicant have a relative, sponsor or other community ties, including spouse or child already listed above?  Yes  No

2.23 If YES, provide information on relative or sponsor (use continuation section, if necessary):

Name

Relationship

Address

Telephone Number

Citizen  Legal Permanent Resident  Other

**SECTION III:**

**CREDIBLE FEAR INTERVIEW**

**The following notes are not a verbatim transcript of this interview.**

**These notes are recorded to assist the individual officer in making a credible fear determination and the supervisory asylum officer in reviewing the determination.**

**There may be areas of the individual's claim that were not explored or documented for purposes of this threshold screening.**

The asylum officer must elicit sufficient information related to both credible fear of persecution and credible fear of torture to determine whether the applicant meets the threshold screening. Even if the asylum officer determines in the course of the interview that the applicant has a credible fear of persecution, the asylum officer must still elicit any additional information relevant to a fear of torture. Asylum officers are to ask the following questions and may use the continuation sheet if additional space is required. If the applicant replies YES to any question, the asylum officer must ask follow-up questions to elicit sufficient details about the claim in order to make a credible fear determination.

3.1 a. Have you or any member of your family ever been mistreated or threatened by anyone in any country to which you may be returned?

Yes  No

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

b. Do you have any reason to fear harm from anyone in any country to which you may be returned?

Yes  No

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

c. If YES to questions a and/or b, was it or is it because of any of the following reasons? (Check each of the following boxes that apply).

Race  Religion  Nationality  Membership in a particular social group  Political Opinion

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Alien's File Number:

3.2  At the conclusion of the interview, the asylum officer must read the following to applicant:

If the Department of Homeland Security determines you have a credible fear of persecution or torture, your case will be referred to an immigration court, where you will be allowed to seek asylum or withholding of removal based on fear of persecution or withholding of removal under the Convention Against Torture. The Field Office Director in charge of this detention facility will also consider whether you may be released from detention while you are preparing for your hearing. *If the asylum officer determines that you do not have a credible fear of persecution or torture, you may ask an Immigration Judge to review the decision. If you are found not to have a credible fear of persecution or torture and you do not request review, you may be removed from the United States as soon as travel arrangements can be made. Do you have any questions?*

3.3  At the conclusion of the interview, the asylum officer must read a summary of the claim, consisting of the responses to Questions 3.1 a-c and information recorded in the Additional Information/Continuation section, to applicant.

\*\*\*\*Typed Question and Answer (Q&A) interview notes and a summary and analysis of the claim must be attached to this form for all negative credible fear decisions. These Q&A notes must reflect that the applicant was asked to explain any inconsistencies or lack of detail on material issues and that the applicant was given every opportunity to establish a credible fear.

**SECTION IV:**

**CREDIBLE FEAR FINDINGS**

**A. Credible Fear Determination:**

Credibility

- 4.1  There is a significant possibility that the assertions underlying the applicant's claim could be found credible in a full asylum or withholding of removal hearing.
- 4.2  Applicant found **not** credible because (check boxes 4.3-4.5, which apply):
  - 4.3  Testimony was internally inconsistent on material issues.
  - 4.4  Testimony lacked sufficient detail on material issues.
  - 4.5  Testimony was not consistent with country conditions on material issues.

Nexus

- 4.6  Race    4.7  Religion    4.8  Nationality    4.9  Membership in a Particular Social Group
- (Define the social group): \_\_\_\_\_
- 4.10  Political Opinion    4.11  Coercive Family Planning [CFP]    4.12  No Nexus

Credible Fear Finding

- 4.13  Credible fear of **persecution** established.
- OR**
- 4.14  Credible fear of **torture** established.
- OR**
- 4.15  Credible fear of persecution **NOT** established and there is not a significant possibility that the applicant could establish eligibility for withholding of removal or deferral of removal under the Convention against Torture.

**B. Possible Bars:**

- 4.16  Applicant could be subject to a bar(s) to asylum or withholding of removal (check the box(es) that applies and explain on the continuation sheet):
  - 4.17  Particularly Serious Crime    4.18  Security Risk    4.19  Aggravated Felon
  - 4.20  Persecutor    4.21  Terrorist    4.22  Firmly Resettled
  - 4.23  Serious Non-Political Crime Outside the United States
- 4.24  Applicant does **not** appear to be subject to a bar(s) to asylum or withholding of removal.





## INFORMATION ABOUT CREDIBLE FEAR INTERVIEW

### **Purpose of this notice**

The purpose of this notice is to explain what will happen while you are in detention, what rights you have, and what may happen to you as a result of statements you make. It is important that you understand your rights and what will happen.

**PLEASE READ THIS NOTICE CAREFULLY.**

You have been detained because the U.S. Immigration and Naturalization Service (INS) believes that you may not have the right to stay in the United States. You have indicated an intention to apply for asylum or a fear of persecution or return to your country. You will be interviewed by a specially-trained asylum officer to determine if you have a "credible fear of persecution" or a "credible fear of torture." You will be detained until that interview takes place. If the INS finds that you have a credible fear of persecution or torture, the INS will consider whether to release you.

### **Right to consult with other persons**

Normally, the interview will not take place sooner than 48 hours after you arrive at the detention facility. You may use this time to rest and consult with family members, friends, or other representatives. In unusual circumstances, you may be given additional time to contact someone. If you need this additional time, you should inform an INS officer. You may request that the interview take place sooner if you are prepared to discuss your fears or claim immediately.

You may consult with a person or persons of your choosing, provided that such consultation is at no expense to the government and does not delay the process. A person of your choice can be present with you at your interview. A list of representatives who may be able to speak to you free of charge is attached to this notice. You may use the telephone while you are in detention to call a representative, friend or family member in the United States, collect or at your own expense. If you wish to call someone, you should ask an INS officer for assistance. You also may contact the United States Office of the United Nations High Commissioner for Refugees, at (202) 296-5191 from 9:00 a.m.-5:00 p.m. (eastern standard time), Monday through Friday.

### **Description of credible fear interview**

The purpose of the credible fear interview is to determine whether you might be eligible to apply for asylum or for withholding of removal under the Convention against Torture before an immigration judge. This interview is not your formal asylum or withholding of removal hearing. It is only to help us determine whether there is a significant possibility that you may qualify as a refugee or for protection from removal under the Convention against Torture.

At your interview, you will have the opportunity to explain to the asylum officer why you think you should not be returned to your home country or any other country where you fear harm. If you want to apply for asylum in the United States, or think you will be harmed, persecuted or tortured if you return to your home country or another country, you must show an asylum officer that you have a credible fear of being harmed or persecuted because of your race, religion, nationality, membership in a particular social group or political opinion, or a credible fear of being tortured. The officer will take written notes.

If the officer determines that you have a credible fear of persecution or torture if you are returned to your home country or another country where you fear harm, you may be eligible to remain in the United States or to be granted withholding of removal, which provides that you would not be removed to the country where you fear harm.

It is very important that you tell the officer all the reasons why you have concerns about being removed. United States law provides strict rules to prevent disclosure of what you tell an asylum officer about the reasons you fear harm. The information you provide about the reasons for your fear will not be disclosed to your government, except in exceptional circumstances.

It is also very important that you tell the truth during your interview. Although the purpose of this interview is not to gather evidence against you, failure to tell the truth could be used against you in this or in any future immigration proceeding.

**Need for interpreter or special consideration**

If you do not speak English well or if you prefer to be interviewed in your own language, INS will provide an interpreter for the interview. The interpreter has been told to keep the information you discuss confidential. If the interpreter is not translating correctly or you do not feel comfortable with the interpreter, you may request another interpreter.

You may request a female officer and female interpreter, or a male officer and male interpreter, if this would make it easier for you to tell the asylum officer about information that is very personal or difficult to discuss. The INS will provide them if they are available. You will also have the opportunity to speak with the asylum officer separately from your family if you so desire.

**Consequences of failure to establish credible fear and review of determination**

If the asylum officer determines that you do not have a credible fear of persecution or torture you may request to have that decision reviewed by an immigration judge. If you do not request such review, you may be removed. If you request review, the immigration judge's review will be in person or by telephone or video connection. The review will happen as soon as possible, to the maximum extent practicable within 24 hours, but in no case later than 7 days from the date of the asylum officer's decision. You may consult with a person or persons of your choosing before the review by the immigration judge, provided it does not cause unreasonable delay. You will be given a copy of the asylum officer's record of determination to examine prior to the review by the immigration judge. If any of the information is incorrect, you should notify the immigration judge. If the immigration judge agrees that you do not have a credible fear of persecution or torture, you may be removed from the United States. The immigration judge may decide that you do have a credible fear and that you are eligible for a full asylum and withholding of removal hearing before an immigration judge. After such a hearing, the immigration judge will either grant you protection, if you are eligible, or will order you removed, if you are not. If you are ordered removed, you may be barred from reentry to the United States for a period of 5 years or longer.

**Interpreter Certification**

I \_\_\_\_\_ (name of interpreter) certify that I am fluent in both the \_\_\_\_\_ and English languages, that I interpreted the above information from English to \_\_\_\_\_ completely and accurately, and that the recipient appeared to have understood my interpretation.

\_\_\_\_\_  
(Signature of interpreter)

\_\_\_\_\_  
(Date)

**Alien Acknowledgment of Receipt**

I acknowledge that I have been given notice concerning my credible fear interview. I understand that I may consult with a person or persons of my choosing prior to the interview as long as it does not unreasonably delay the process and is at no expense to the government.

\_\_\_\_\_  
(Signature of person being referred)

\_\_\_\_\_  
(Date)

(b)(5)

**Jowett, Haley L**

---

**From:** Tanner, Rebecca S  
**Sent:** Tuesday, August 19, 2014 7:59 AM  
**To:** Lafferty, John L; Kim, Ted H  
**Cc:** Kim, Alejandra; Broughton, Daniel A; Gossett, Christopher R; Kochman, Jane; Kilaru, Lakshmi S  
**Subject:** Fw: Unable/unwilling cases from ZHN

**Attachments:**



(b)(6)

Hi John and Ted,

FYI - I reached out to Rob and Bryan yesterday concerning



Rebecca

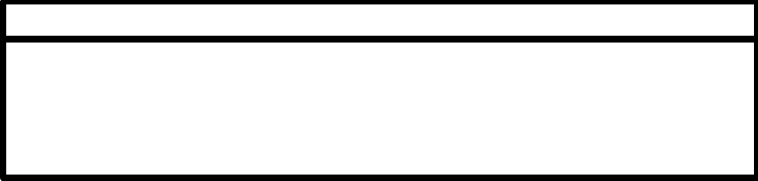
(b)(5)

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**From:** Tanner, Rebecca S  
**Sent:** Monday, August 18, 2014 09:37 PM  
**To:** Daum, Robert L <[Robert.L.Daum@uscis.dhs.gov](mailto:Robert.L.Daum@uscis.dhs.gov)>; Hemming, Bryan D <[Bryan.D.Hemming@uscis.dhs.gov](mailto:Bryan.D.Hemming@uscis.dhs.gov)>  
**Subject:** Unable/unwilling cases from ZHN

Hi Rob and Bryan,

As part of the new QA model, we are trying to provide more tailored guidance to each Asylum Office on common issues that we have encountered during our review of cases.






If it would be useful, my team members would be happy to set up a time to discuss this further with ZHN.

Best,  
Rebecca

(b)(5)

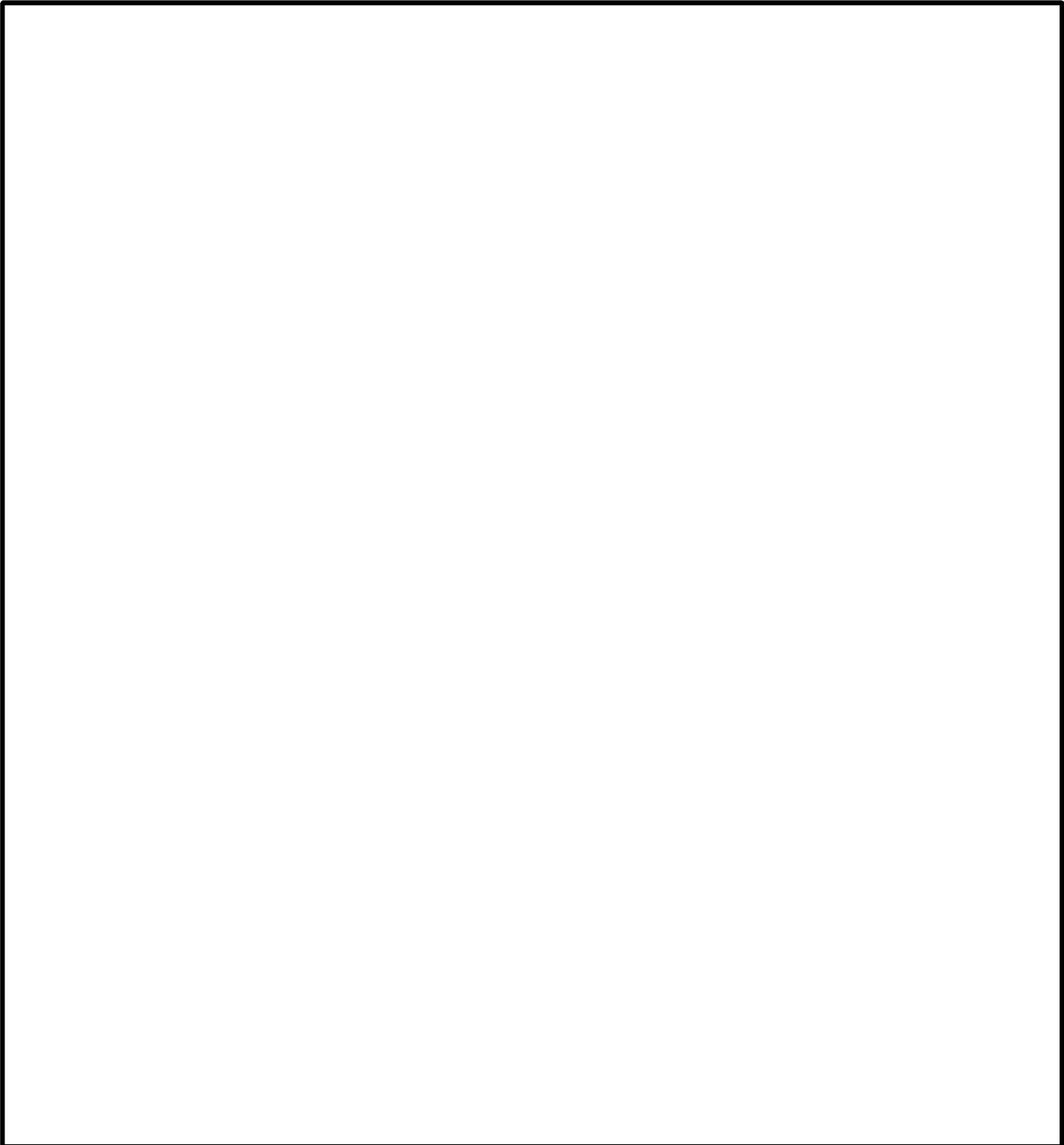
Rebecca Tanner  
Branch Chief for Quality Assurance  
Asylum Division  
U.S. Citizenship and Immigration Services  
U.S. Department of Homeland Security  
202-272-8128 (office)  
 mobile)  
[Rebecca.S.Tanner@uscis.dhs.gov](mailto:Rebecca.S.Tanner@uscis.dhs.gov)

(b)(6)

**Jowett, Haley L**

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**From:** (b)(6) ASYLUM QA - CREDIBLE FEAR  
**Sent:** Monday, August 11, 2014 2:56 PM  
**To:** Lynn, Mallory L  
**Cc:** (b)(5) Donis, Antonio; Littlepage, Ryan L; ASYLUM QA - CREDIBLE FEAR; Robinson, Michelle Y  
**Subject:** [REDACTED]





Thank you for all your work on this case. Please revise the checklist and resubmit the case.

Best,  
Allie

(b)(6)

(b)(5)

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**From:** Lynn, Mallory L  
**Sent:** Wednesday, August 06, 2014 11:28 AM  
**To:** ASYLUM QA - CREDIBLE FEAR  
**Cc:** Donis, Antonio; Littlepage, Ryan L  
**Subject:**

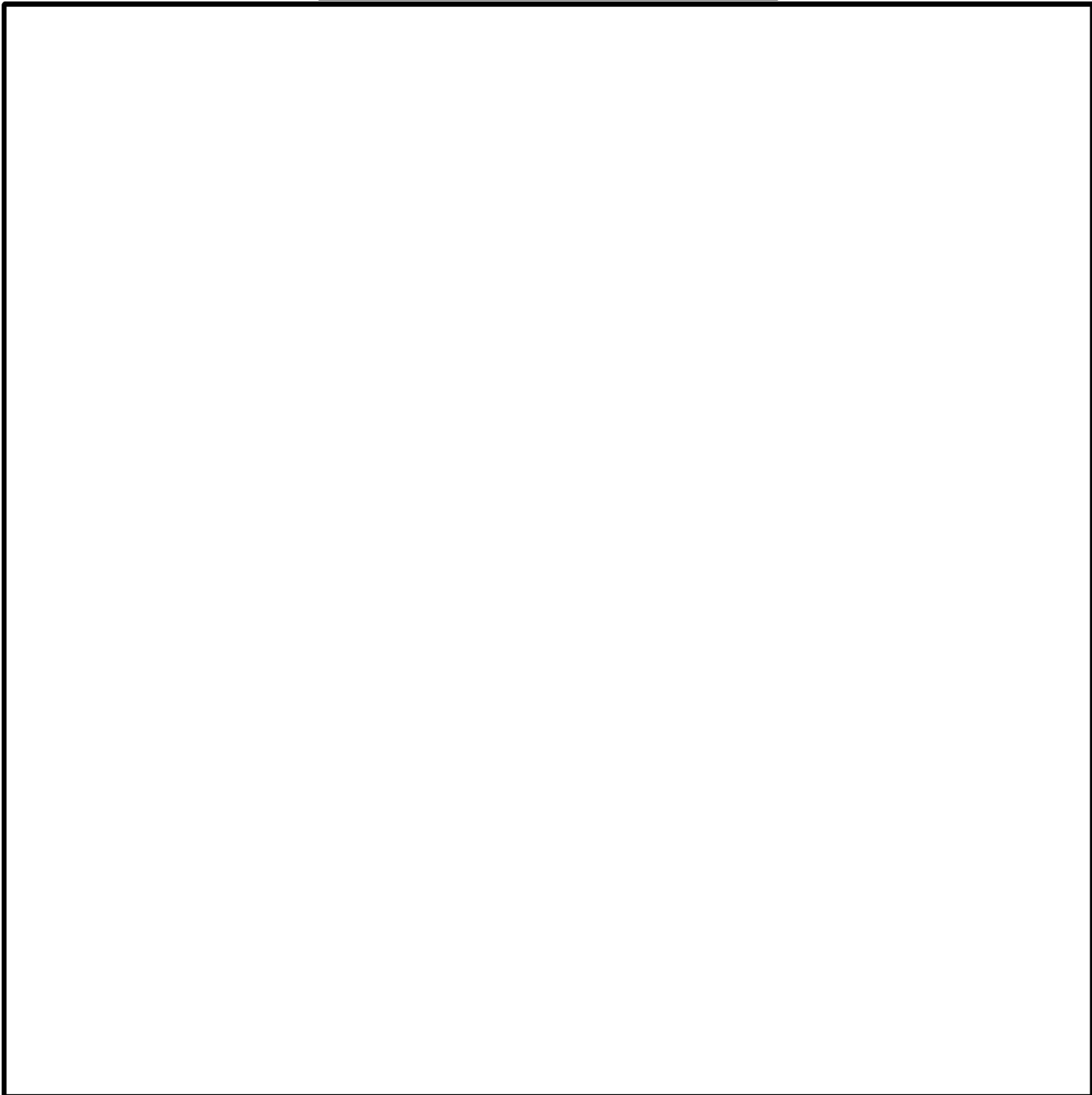


(b)(6)

**Jowett, Haley L**

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**From:** ASYLUM QA - CREDIBLE FEAR  
**Sent:** Monday, August 11, 2014 2:53 PM  
**To:** (b)(6) Lynn, Mallory L; ASYLUM QA - CREDIBLE FEAR  
**Cc:** Donis, Antonio; Littlepage, Ryan L; Robinson, Michelle Y  
**Subject:** (b)(5)



Thank you for your work on this case, and please let us know if you have any questions as you address the issues mentioned above.

Dan

---

**From:** Lynn, Mallory L  
**Sent:** Wednesday, August 06, 2014 6:36 PM  
**To:** ASYLUM QA - CREDIBLE FEAR  
**Cc:** Donis, Antonio; Littlepage, Ryan L  
**Subject:** [REDACTED]

Hi QA:

We are sending up a few cases today with these issues we've been discussing for your review. After today we will have sent our 4 CF cases for the week – do you all think we need to keep sending more this week for randomized review?

Thanks again!  
Mallory



(b)(6)



(b)(6)

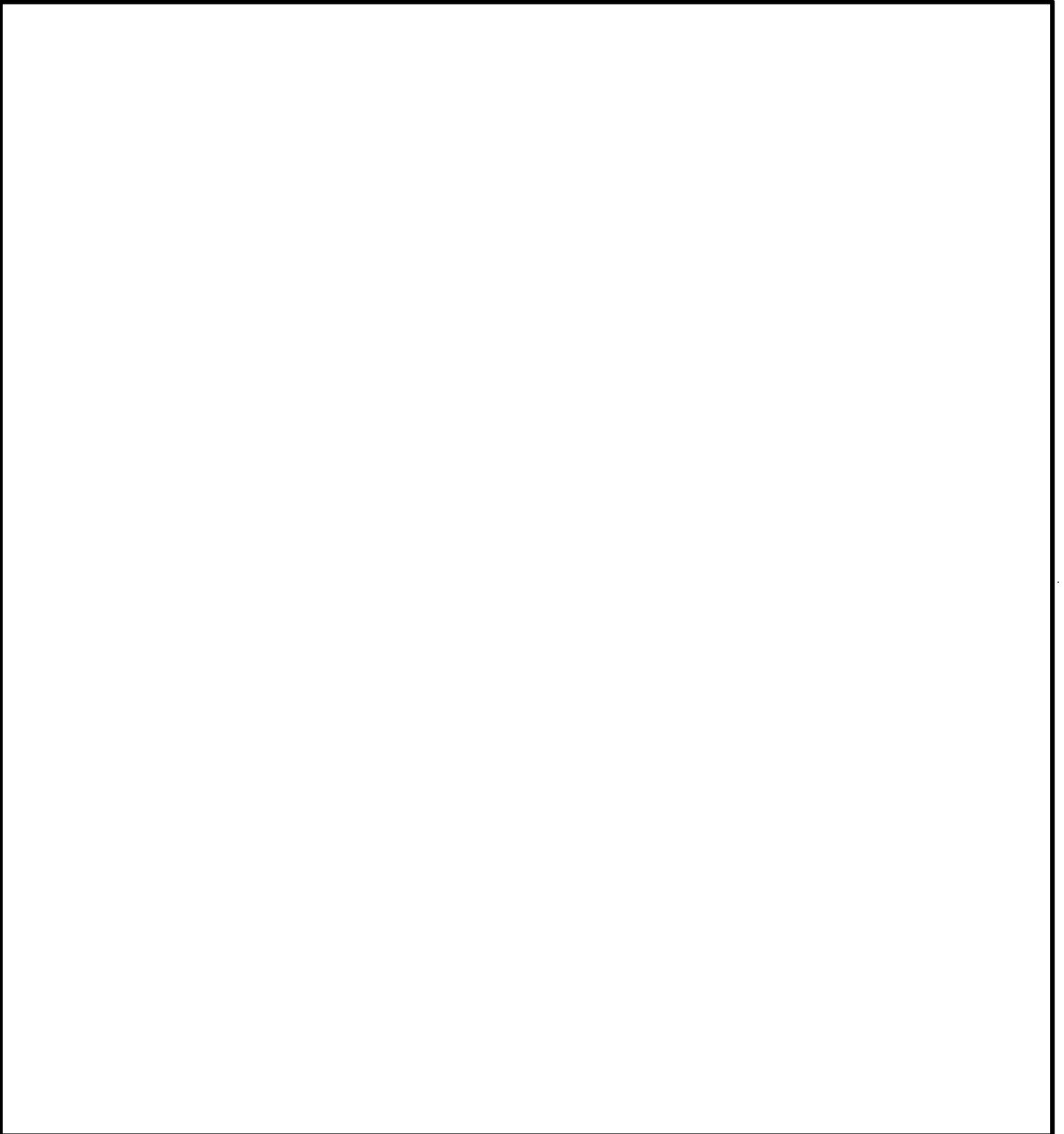
(b)(5)

**Jowett, Haley L**

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**From:** Broughton, Daniel A on behalf of ASYLUM QA - CREDIBLE FEAR  
**Sent:** Monday, August 11, 2014 10:52 AM  
**To:** Lynn, Mallory L; ASYLUM QA - CREDIBLE FEAR  
**Cc:** Donis, Antonio; Littlepage, Ryan L; Tanner, Rebecca S; Robinson, Michelle Y  
**Subject:**

Hi Mallory and Ryan,





Thanks,

Dan

(b)(5) (b)(6)

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**From:** Lynn, Mallory L  
**Sent:** Thursday, August 07, 2014 7:53 PM  
**To:** ASYLUM QA - CREDIBLE FEAR  
**Cc:** Donis, Antonio; Littlepage, Ryan L  
**Subject:** RE [REDACTED]

Resubmission attached.

Thanks!

---

**From:** Broughton, Daniel A **On Behalf Of** ASYLUM QA - CREDIBLE FEAR  
**Sent:** Thursday, August 07, 2014 10:23 AM  
**To:** Lynn, Mallory L; ASYLUM QA - CREDIBLE FEAR  
**Cc:** Donis, Antonio; Tanner, Rebecca S  
**Subject:** [REDACTED]

Hi Mallory,

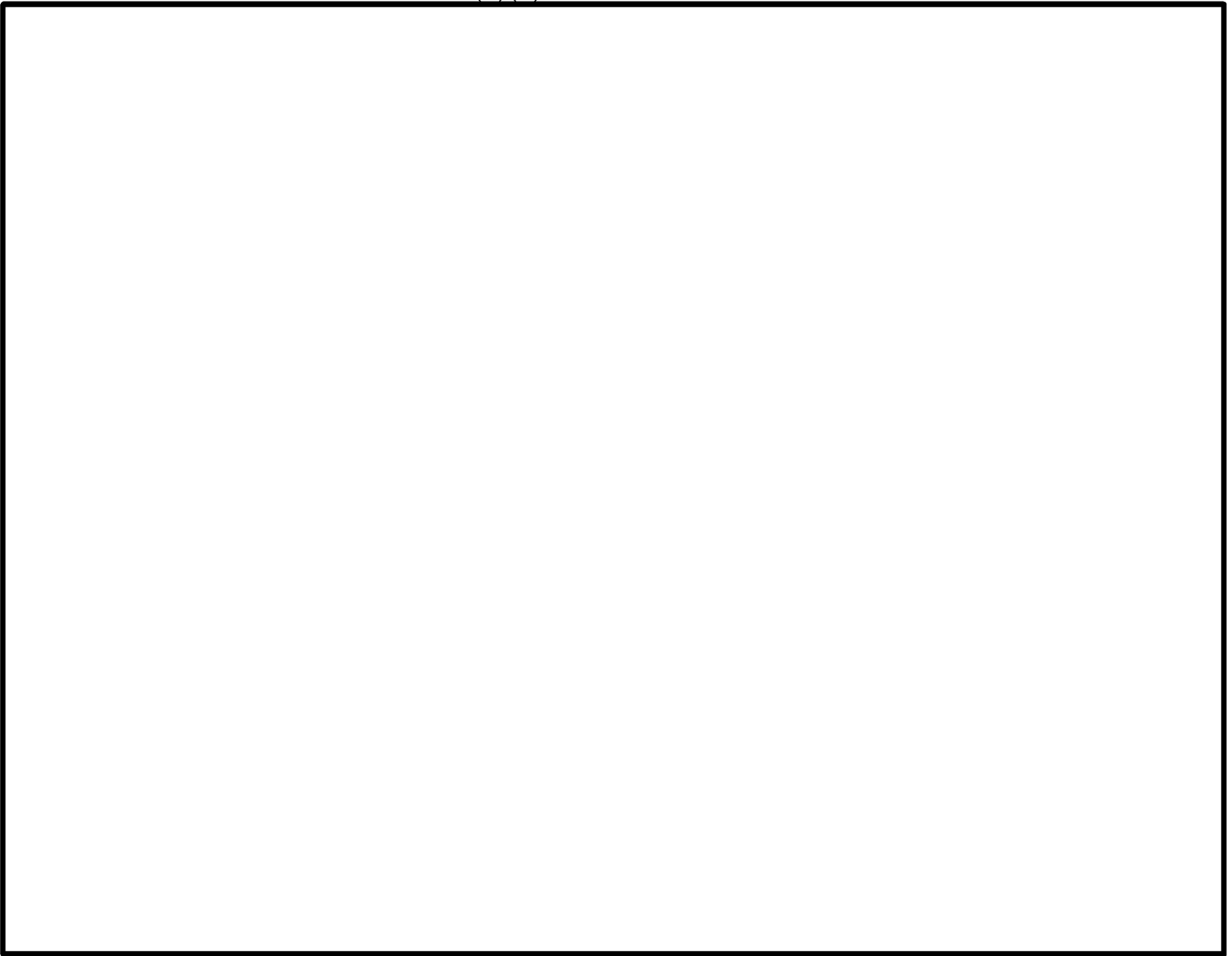


(b)(5)

(b)(6)

(b)(6)

(b)(5)



Thank you, again, for your inquiries, and please reach out if you would like to request further guidance,

Dan, on behalf of the QA Team

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**From:** Lynn, Mallory L

**Sent:** Monday, August 04, 2014 10:38 AM

**To:** ASYLUM QA - CREDIBLE FEAR

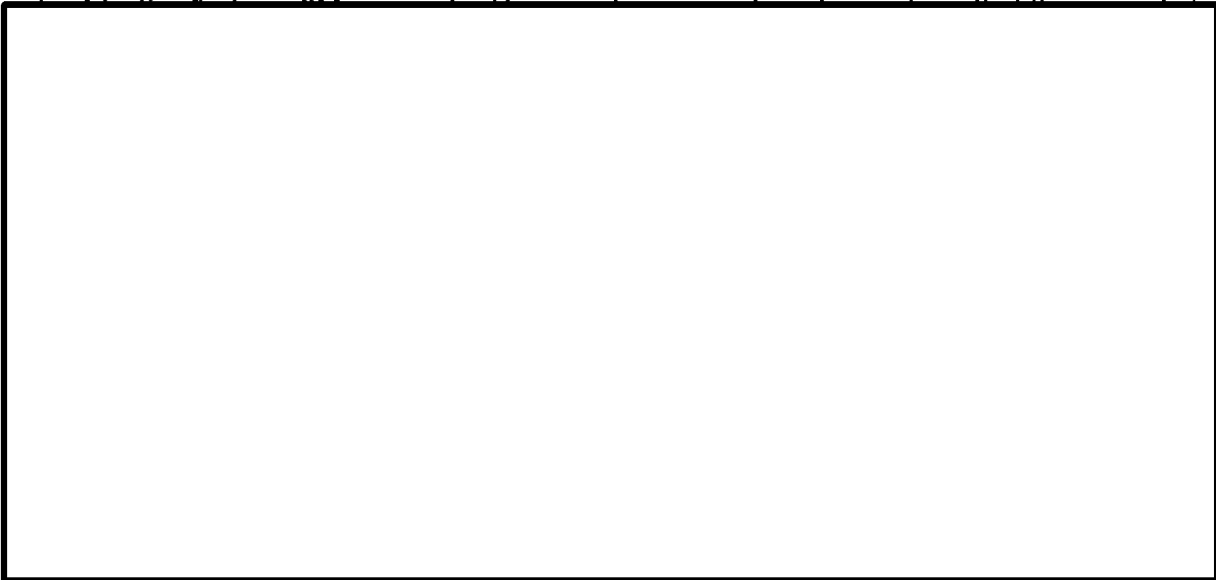
**Cc:** Donis, Antonio; Tanner, Rebecca S

**Subject:** FW: 




(b)(5)

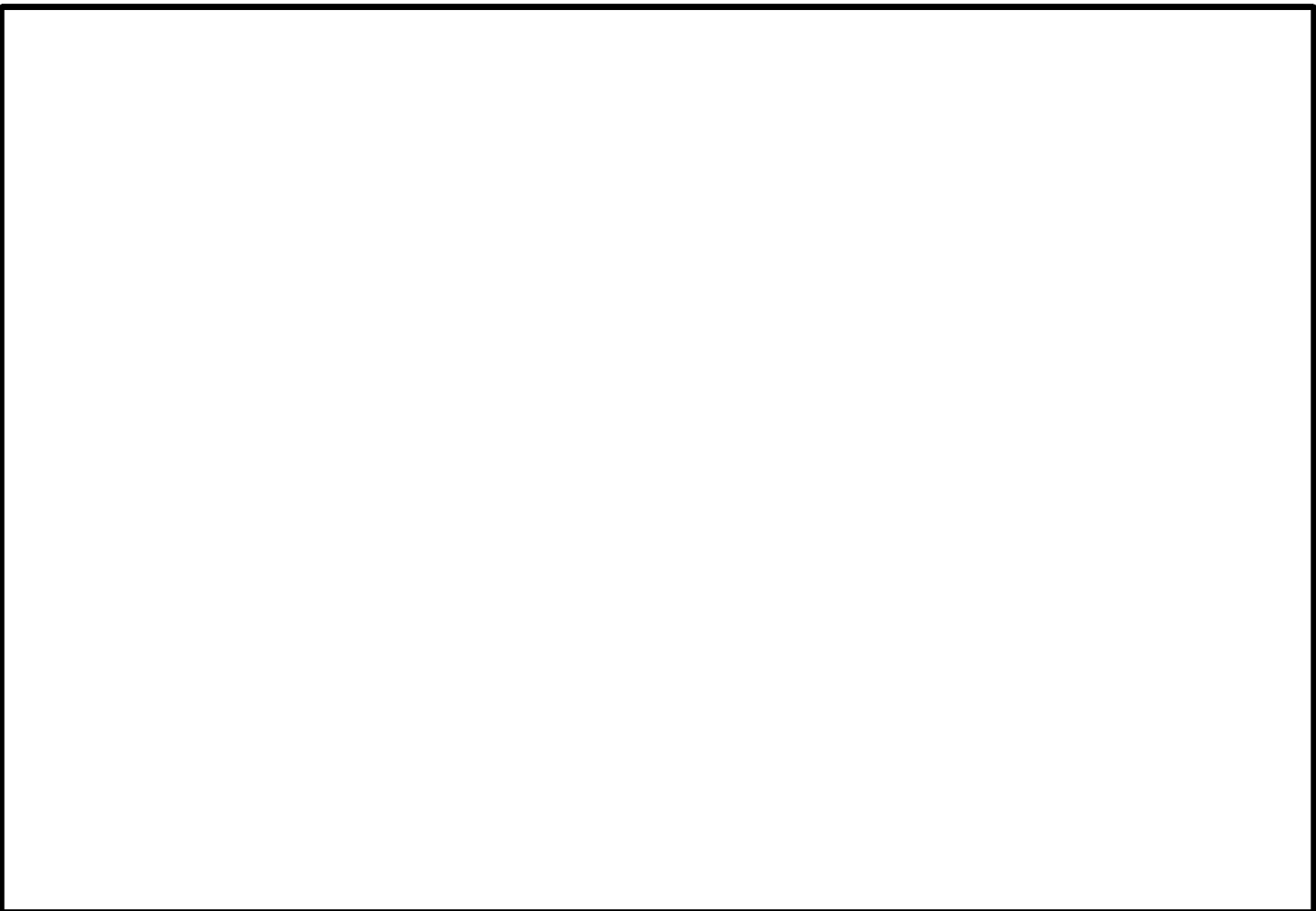
(b)(6)



Thanks again!  
Mallory

---

**From:** Lynn, Mallory L  
**Sent:** Saturday, August 02, 2014 3:06 PM  
**To:** ASYLUM QA - CREDIBLE FEAR  
**Cc:** Donis, Antonio; Tanner, Rebecca S  
**Subject:** 



V

Thank you,

Mallory

(b)(6)

(b)(5)

Mallory Lynn  
Supervisory Asylum Officer  
Los Angeles Asylum Office  
(714) 808-8003

---

**From:** Broughton, Daniel A **On Behalf Of** ASYLUM QA - CREDIBLE FEAR

**Sent:** Friday, August 01, 2014 3:41 PM

**To:** Lynn, Mallory L; ASYLUM QA - CREDIBLE FEAR

**Cc:** Donis, Antonio; Zee, Dona; Tanner, Rebecca S; Robinson, Michelle Y

**Subject:** [REDACTED]

Hi Mallory,

(b)(5) (b)(6)

(b)(6)

(b)(5)



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**From:** Lynn, Mallory L  
**Sent:** Wednesday, July 30, 2014 3:09 PM  
**To:** ASYLUM QA - CREDIBLE FEAR  
**Cc:** Donis, Antonio; Zee, Dong  
**Subject:** ZHN CF, [REDACTED] clock in 07/18/14

(b)(6)

[REDACTED]  
(b)(6)

Expedite request: case is overdue

Please note that this CF case is being submitted as a high profile/publicity case because the attorney of record is an outspoken critic of processing in Artesia and her views are being published on national websites.

Thanks!  
Mallory

DHS-027-0000201

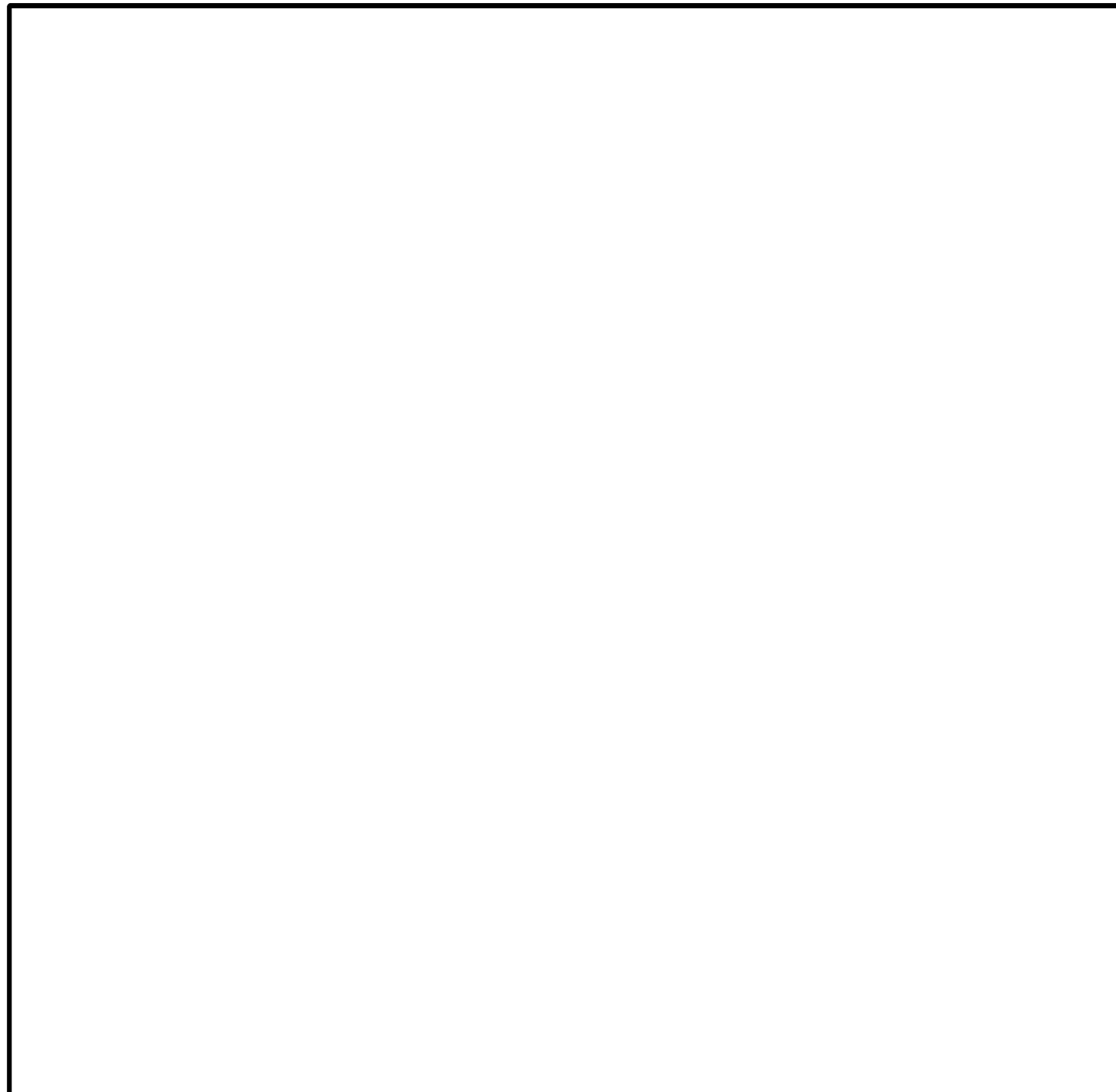
**Jowett, Haley L**

---

**From:** ASYLUM QA - CREDIBLE FEAR  
**Sent:** Thursday, August 07, 2014 3:20 PM  
**To:** Wills, Kirk R; ZHN, HQ Concur CF  
**Cc:** Hemming, Bryan D; McMillan, Jill; Mcdonnell, Audrey V; Curphey, Patrick R; Dabrah, Jacqueline; ASYLUM QA - CREDIBLE FEAR; Robinson, Michelle Y; Penel, Renata Q  
**Subject:** (b)(5)

(b)(6)

Hi Kirk,



Best,  
Allie

---

**From:** Wills, Kirk R

**Sent:** Tuesday, August 05, 2014 8:52 AM

**To:** ASYLUM QA - CREDIBLE FEAR; ZHN, HQ Concur CF

**Cc:** Hemming, Bryan D; McMillan, Jill; McDonnell, Audrey V; Curphey, Patrick R; Dabrah, Jacqueline

**Subject:** [REDACTED]

(b)(6)

(b)(5)

Please find attached a NEG CF case from ZHN for your review and concurrence.

Applicant's name	[REDACTED]
A number	
Country of citizenship	
APSO	
SAPSO	
Reason for Request to Expedite, if applicable	

Thank you,

Kirk

(b)(5) (b)(6)

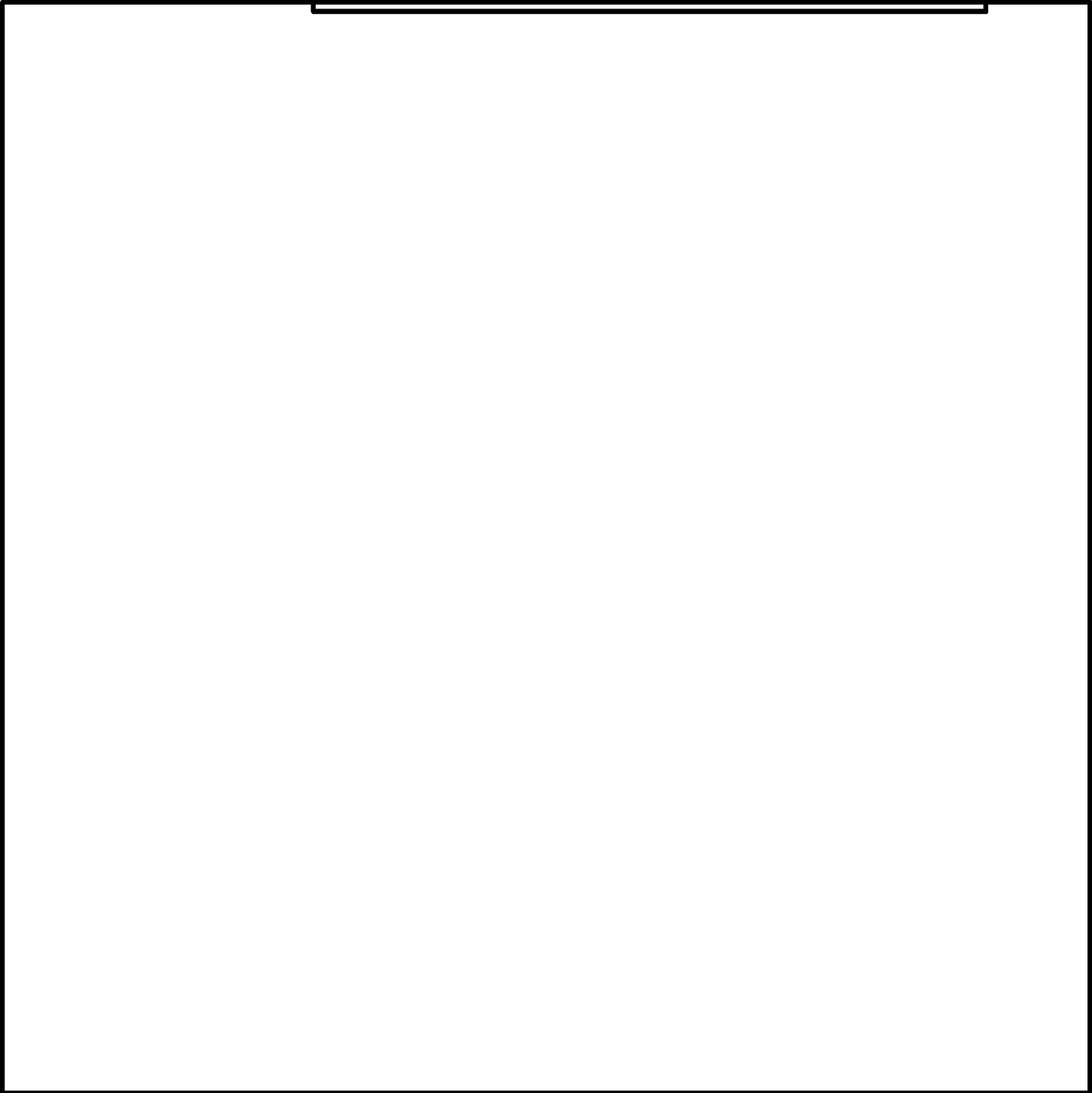
**Jowett, Haley L**

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**From:** ASYLUM QA - CREDIBLE FEAR  
**Sent:** Friday, August 01, 2014 11:43 AM  
**To:** Talamantes, Eudelia A  
**Cc:** Hemming, Bryan D; Mcdonnell, Audrey V; Crisp, Aaron S; ASYLUM QA - CREDIBLE FEAR; Robinson, Michelle Y

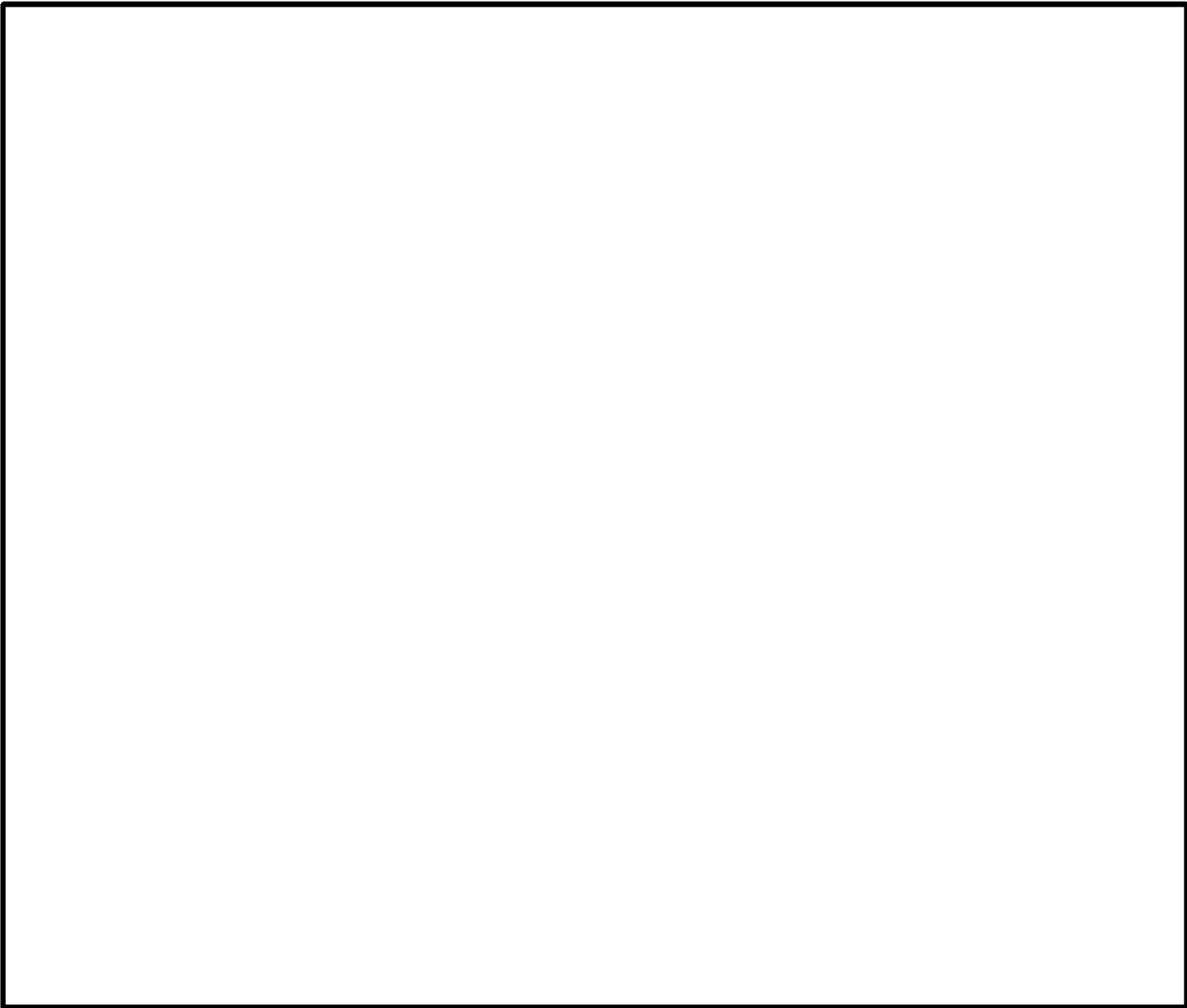
**Subject:**

**Attachments:**



(b)(6)

(b)(5)



Thanks,

(b)(5)

(b)(6)

Sunil

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**From:** Talamantes, Eudelia A

**Sent:** Thursday, July 24, 2014 10:33 AM

**To:** ASYLUM QA - CREDIBLE FEAR

**Cc:** ZHN, HQ Concur CF; Berger, Jack S; Telfer, Lee W; Hemming, Bryan D; Talamantes, Eudelia A; Crisp, Aaron S; Mcdonnell, Audrey V; McMillan, Jill

**Subject:**



Applicant's Name		
A Number		
Country of Citizenship		
APSO		

SAPSO	
Reason for request to Expedite if applicable	

2<sup>nd</sup> of 2 cases from Coastal Bend Detention Center for random review. Even numbered case was not available next up.

(b)(6)

**Jowett, Haley L**

---

**From:** Talamantes, Eudelia A  
**Sent:** Thursday, July 31, 2014 10:16 AM  
**To:** ASYLUM QA - CREDIBLE FEAR  
**Cc:** Hemming, Bryan D; Mcdonnell, Audrey V  
**Subject:** Sending revised docs on now [REDACTED]  
**Attachments:** [REDACTED].pdf (b)(6)

-----Original Message-----

**From:** ASYLUM QA - CREDIBLE FEAR  
**Sent:** Wednesday, July 30, 2014 9:51 AM  
**To:** Talamantes, Eudelia A; ASYLUM QA - CREDIBLE FEAR  
**Cc:** Hemming, Bryan D; Mcdonnell, Audrey V; Tanner, Rebecca S  
**Subject:** RE: Internet status @ cbd (b)(6)

Thanks for the update, Eudelia. Please, continue processing [REDACTED] as a positive CF determination, and send us the modified checklist and service documentation once systems are up and running again.

Bryan, because technical issues at Coastal Bend are making CF QA submissions unfeasible, could ZHN redistribute this portion of the daily submission requirement among the other sites and home base until the issues are resolved?

Thanks!

Dan

-----Original Message-----

**From:** Talamantes, Eudelia A  
**Sent:** Wednesday, July 30, 2014 10:13 AM  
**To:** ASYLUM QA - CREDIBLE FEAR  
**Cc:** Hemming, Bryan D; Mcdonnell, Audrey V  
**Subject:** Internet status @ cbd

Good morning,

The internet is still down. Part is on the way and they anticipate it will be up at 3 pm. As a result we r still unable to send the 2 cases from cbd for random review.

Eudelia



(b)(5)

[Large empty rectangular area for case details]

Asylum Officer

Approving Supervisory Asylum Officer

Submitting Quality Assurance Officer

If any, FDNS-IO/FDNS-DS Record Number

Print Name

Aaron Cusp  
Edelia Palamonte  
\_\_\_\_\_  
\_\_\_\_\_

Date

7/24/14  
7/24/14  
\_\_\_\_\_  
\_\_\_\_\_

DEPARTMENT OF HOMELAND SECURITY

**NOTICE TO APPEAR**

(b)(6)

In removal proceedings under section 240 of the Immigration and Nationality Act:

File No

In the Matter of:

### Notice to Respondent

**Warning:** Any statement you make may be used against you in removal proceedings.

**Alien Registration:** This copy of the Notice to Appear served upon you is evidence of your alien registration while you are under removal proceedings. You are required to carry it with you at all times.

**Representation:** If you so choose, you may be represented in this proceeding, at no expense to the Government, by an attorney or other individual authorized and qualified to represent persons before the Executive Office for Immigration Review, pursuant to 8 CFR 1003.16. Unless you so request, no hearing will be scheduled earlier than ten days from the date of this notice, to allow you sufficient time to secure counsel. A list of qualified attorneys and organizations who may be available to represent you at no cost will be provided with this notice.

**Conduct of the hearing:** At the time of your hearing, you should bring with you any affidavits or other documents, which you desire to have considered in connection with your case. If you wish to have the testimony of any witnesses considered, you should arrange to have such witnesses present at the hearing.

At your hearing you will be given the opportunity to admit or deny any or all of the allegations in the Notice to Appear and that you are inadmissible or removable on the charges contained in the Notice to Appear. You will have an opportunity to present evidence on your own behalf, to examine any evidence presented by the Government, to object, on proper legal grounds, to the receipt of evidence and to cross examine any witnesses presented by the Government. At the conclusion of your hearing, you have a right to appeal an adverse decision by the Immigration Judge.

You will be advised by the Immigration Judge before whom you appear of any relief from removal for which you may appear eligible including the privilege of departure voluntarily. You will be given a reasonable opportunity to make any such application to the Immigration Judge.

**Failure to appear:** You are required to provide the DHS, in writing, with your full mailing address and telephone number. You must notify the Immigration Court and the Department of Homeland Security immediately by using Form EOIR-33 whenever you change your address or telephone number during the course of this proceeding. You will be provided with a copy of this form. Notices of hearing will be mailed to this address. If you do not submit Form EOIR-33 and do not otherwise provide an address at which you may be reached during proceedings, then the Government shall not be required to provide you with written notice of your hearing. If you fail to attend the hearing at the time and place designated on this notice, or any date and time later directed by the Immigration Court, a removal order may be made by the Immigration Judge in your absence, and you may be arrested and detained by the DHS.

**Mandatory Duty to Surrender for Removal:** If you become subject to a final order of removal, you must surrender for removal to your local DHS office, listed on the internet at <http://www.ice.gov/contact/ero>, as directed by DHS and required by statute and regulation. Immigration regulations at 8 CFR 1241.1 define when the removal order becomes administratively final. If you are granted voluntary departure and fail to depart the United States as required, fail to post a bond in connection with voluntary departure, or fail to comply with any other condition or term in connection with voluntary departure, you must surrender for removal on the next business day thereafter. If you do not surrender for removal as required, you will be ineligible for all forms of discretionary relief for as long as you remain in the United States and for ten years after departure or removal. This means you will be ineligible for asylum, cancellation of removal, voluntary departure, adjustment of status, change of nonimmigrant status, registry, and related waivers for this period. If you do not surrender for removal as required, you may also be criminally prosecuted under section 243 of the Immigration and Nationality Act (the Act).

### Request for Prompt Hearing

To expedite a determination in my case, I request this Notice to Appear be filed with the Executive Office of Immigration Review as soon as possible. I waive my right to a 10-day period prior to appearing before an Immigration Judge and request my hearing be scheduled.

Before:

\_\_\_\_\_  
(Signature of Respondent)

Date: \_\_\_\_\_

\_\_\_\_\_  
(Signature and Title of Immigration Officer)

### Certificate of Service

This Notice To Appear was served on the respondent by me on \_\_\_\_\_, in the following manner and in compliance with section 239(a)(1) of the Act.

In person     by certified mail, returned receipt # \_\_\_\_\_ requested     by regular mail

Attached is a credible fear worksheet.

Attached is a list of organization and attorneys which provide free legal services.

The alien was provided oral notice in the \_\_\_\_\_ language of the time and place of his or her hearing and of the consequences of failure to appear as provided in section 240(b)(7) of the Act.

\_\_\_\_\_  
(Signature of Respondent if Personally Served)

\_\_\_\_\_  
(Signature and Title of officer)

(b)(5)

(b)(6)

**CREDIBLE FEAR DETERMINATION CHECKLIST**

**FILE #** [REDACTED]

**OFFICER: AARON CRISP ZHN 0207**

**DA** [REDACTED]

- *The factual summary (required by 8 CFR § 208.30) must be included at the end of the Q/A notes for each interview.*
- *Torture: If there is a significant possibility of torture, complete Part A and Part C.*
- *Credibility: If there is no significant possibility assertions could be found credible, complete Part A and Part D.*

[Large empty rectangular box for notes and completion]

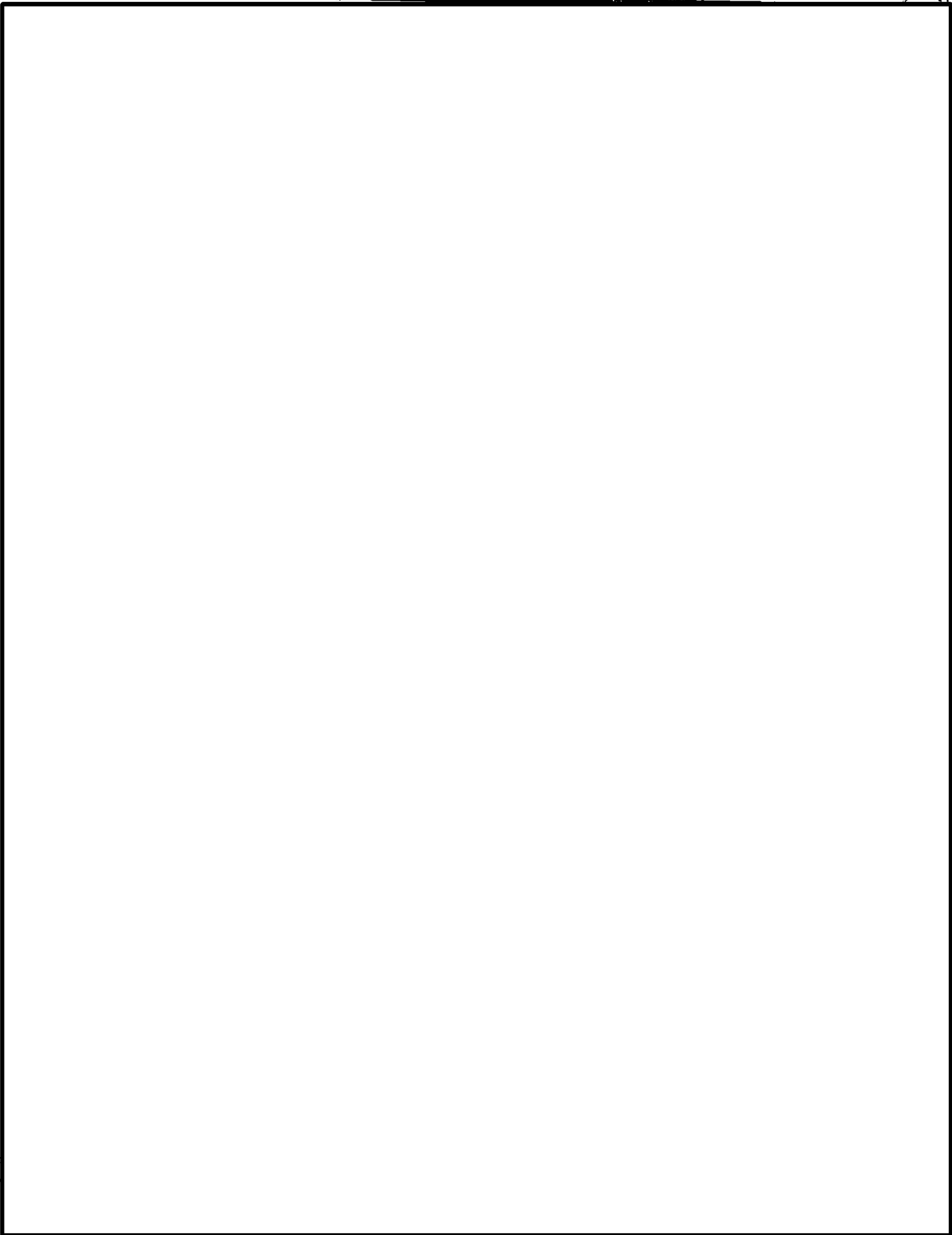
**C. Torture**

[Redacted area]

**D. Credibility**

- 1) Explain each credibility issue in detail:
- 2) Explain materiality of each issue:
- 3) Provide the applicant's response for each material credibility issue:
- 4) Assess the reasonableness of applicant's response as to each material credibility issue:

**Record of Determination/Credible Fear Worksheet**



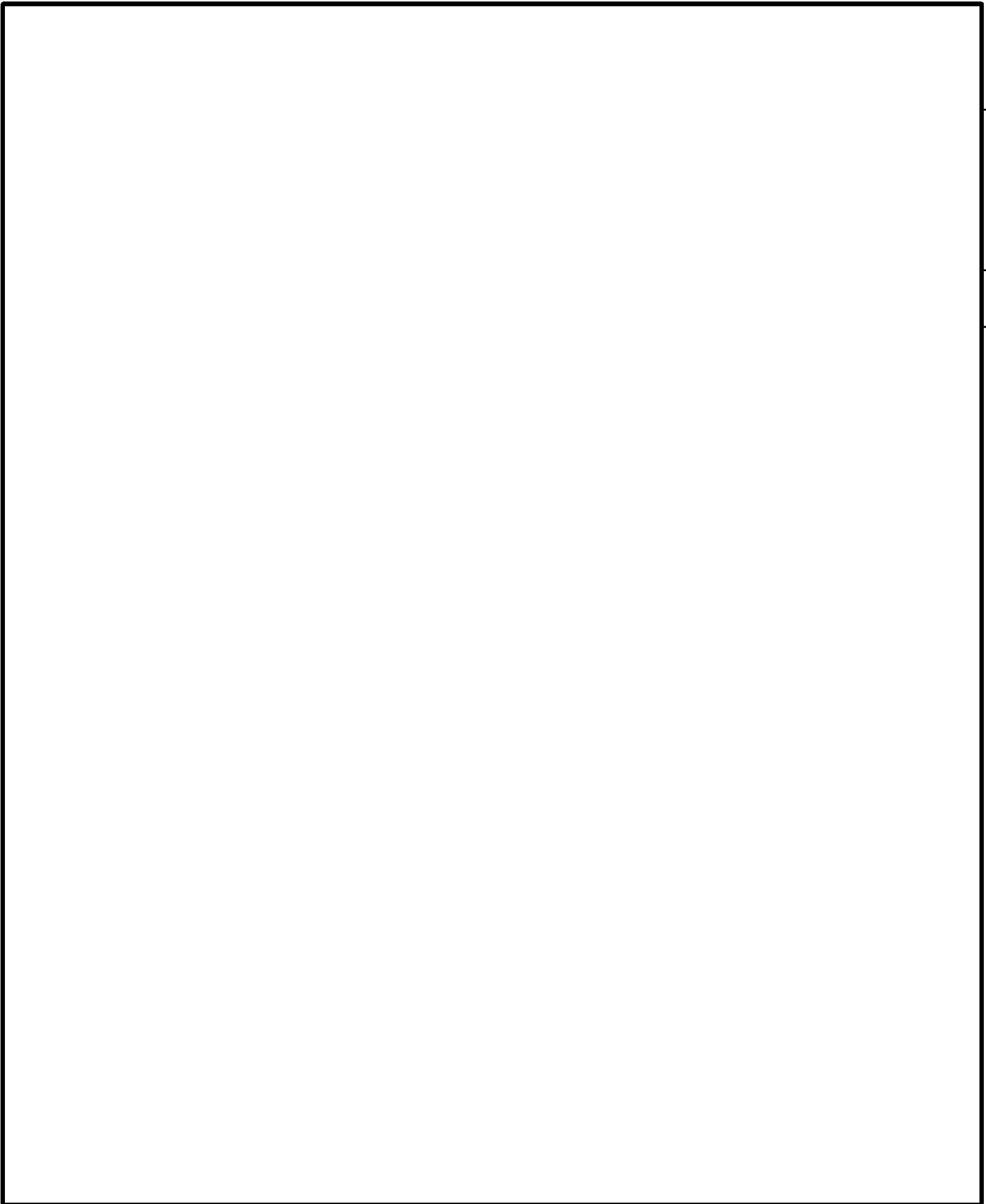
(b)(6)

**SECTION II:**

**BIOGRAPHIC INFORMATION**

[Redacted content]

(b)(6)



32  At the conclusion of the interview, the asylum officer must read the following to applicant:



(b)(5) (b)(6)

If the Department of Homeland Security determines you have a credible fear of persecution or torture, your case will be referred to an immigration court, where you will be allowed to seek asylum or withholding of removal based on fear of persecution or withholding of removal under the Convention Against Torture. The Field Office Director in charge of this detention facility will also consider whether you may be released from detention while you are preparing for your hearing. *If the asylum officer determines that you do not have a credible fear of persecution or torture, you may ask an Immigration Judge to review the decision. If you are found not to have a credible fear of persecution or torture and you do not request review, you may be removed from the United States as soon as travel arrangements can be made. Do you have any questions?*  YES  NO

---

**SECTION V:**

**ASYLUM OFFICER / SUPERVISOR NAMES AND SIGNATURES**

5.1 Aaron Crisp ZHN 0207  
Asylum officer name and ID CODE (print)

5.2

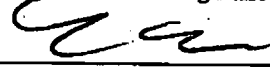
  
Asylum Officer's Signature

5.3

7/29/17  
~~7/23/2014~~  
Decision date

5.4 Lucella Talamantes  
Supervisor, Asylum Officer

5.5

  
Supervisor's Signature

5.6

7/29/17  
Date Supervisor Approved decision

**ADDITIONAL INFORMATION/CONTINUATION**

See Notes & Assessment

**Jowett, Haley L**

---

**From:** ASYLUM QA - CREDIBLE FEAR  
**Sent:** Thursday, August 14, 2014 3:27 PM  
**To:** Broughton, Daniel A  
**Subject:** [REDACTED]  
**Attachments:** [REDACTED]

(b)(6) (b)(5)

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**From:** Vu, Christopher T  
**Sent:** Thursday, August 14, 2014 4:26 PM  
**To:** ASYLUM QA - CREDIBLE FEAR; ZHN, HQ Concur CF  
**Cc:** Hemming, Bryan D; Mcdonnell, Audrey V; McMillan, Jill; Curphey, Patrick R; Gordon, Jonathan; Robinson, Michelle Y  
**Subject:** RE: [REDACTED]

Please find attached a POS CF case from ZHN for your review and concurrence. This is resubmission, based on a prior non-concurrence. [REDACTED]

Chris Vu

---

**From:** Broughton, Daniel A on behalf of ASYLUM QA - CREDIBLE FEAR  
**Sent:** Thursday, August 14, 2014 2:17 PM  
**To:** Vu, Christopher T; ASYLUM QA - CREDIBLE FEAR; ZHN, HQ Concur CF  
**Cc:** Hemming, Bryan D; Mcdonnell, Audrey V; McMillan, Jill; Curphey, Patrick R; Gordon, Jonathan; Robinson, Michelle Y

[REDACTED]

Thanks, again, and let me know if you have any additional questions!

Dan

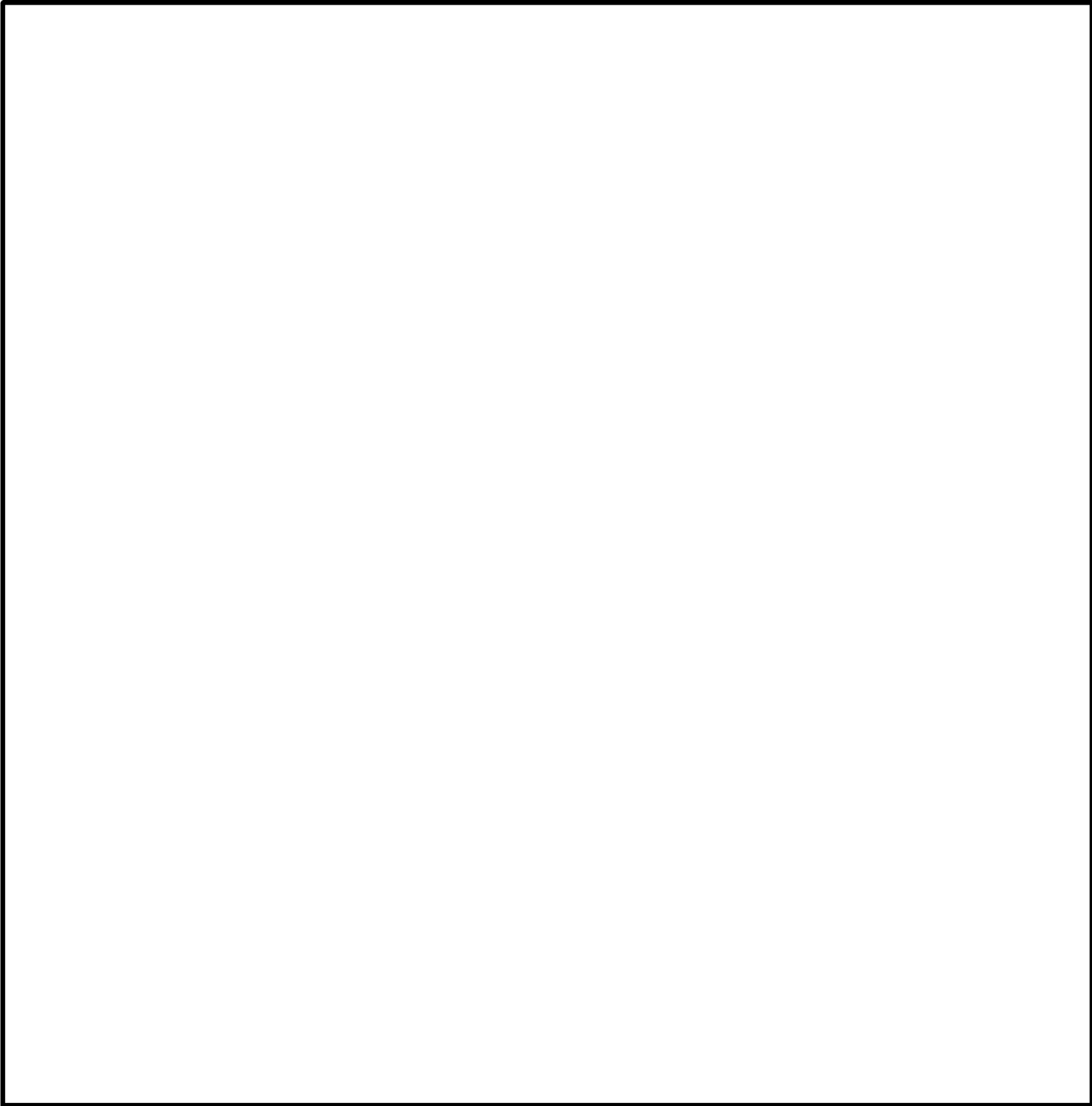
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**From:** Vu, Christopher T  
**Sent:** Thursday, August 14, 2014 1:44 PM  
**To:** ASYLUM QA - CREDIBLE FEAR; ZHN, HQ Concur CF  
**Cc:** Hemming, Bryan D; Mcdonnell, Audrey V; McMillan, Jill; Curphey, Patrick R; Gordon, Jonathan; Robinson, Michelle Y  
**Subject:** [REDACTED]

Hi Dan,

(b)(5)

(b)(6)



Thanks,

Chris Vu

---

**From:** Broughton, Daniel A on behalf of ASYLUM QA - CREDIBLE FEAR

**Sent:** Thursday, August 14, 2014 11:44 AM

**To:** Vu, Christopher T; ASYLUM QA - CREDIBLE FEAR; ZHN, HQ Concur CF

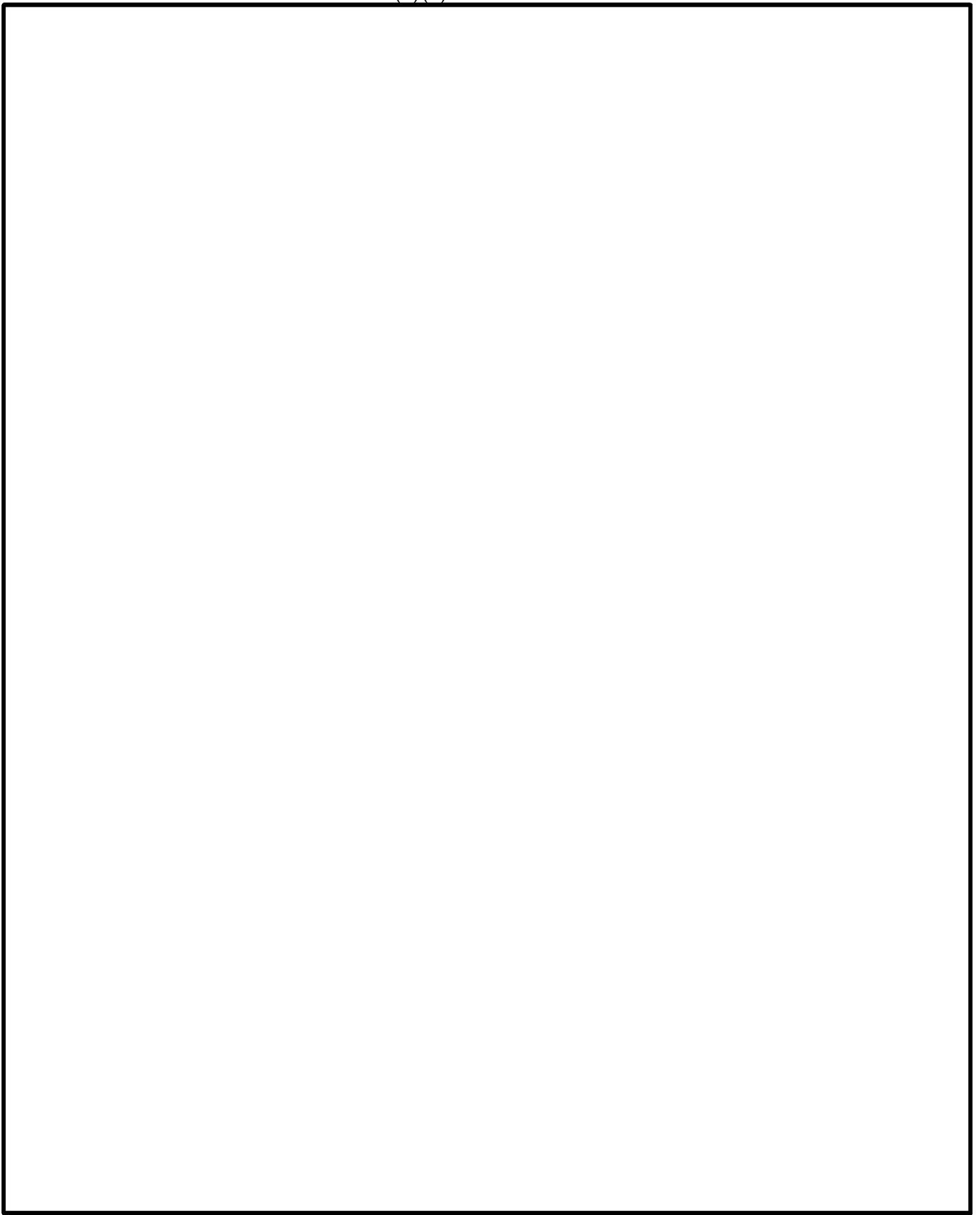
**Cc:** Hemming, Bryan D; Mcdonnell, Audrey V; McMillan, Jill; Curphey, Patrick R; Gordon, Jonathan; Robinson, Michelle Y

**Subject:** [REDACTED]

Hi Chris,

(b)(6)

(b)(5)



Thanks, again,

Dan

**From:** Vu, Christopher T (b)(5) (b)(6)  
**Sent:** Tuesday, August 12, 2014 6:00 PM  
**To:** ASYLUM QA - CREDIBLE FEAR; ZHN, HQ Concur CF  
**Cc:** Hemming, Bryan D; Mcdonnell, Audrey V; McMillan, Jill; Curphey, Patrick R; Gordon, Jonathan  
**Subject:** [REDACTED]

Thanks,

Chris

---

**From:** Vu, Christopher T  
**Sent:** Tuesday, August 12, 2014 12:18 PM  
**To:** ASYLUM QA - CREDIBLE FEAR; ZHN, HQ Concur CF  
**Cc:** Hemming, Bryan D; Mcdonnell, Audrey V; McMillan, Jill; Curphey, Patrick R; Gordon, Jonathan  
**Subject:** [REDACTED]

Please find attached a ZHN NEG CF case for your review and concurrence.

Applicant's name	[REDACTED]
A number	
Country of citizenship	
APSO	
SAPSO	
Reason for Request to Expedite, if applicable	

Thanks,

Chris Vu

QUALITY ASSURANCE REFERRAL SHEET (rev. 6/6/2014)

Tracking number: \_\_\_\_\_

Nationality: \_\_\_\_\_

**Categories Requiring Submission and Response from HQ/QA Prior to Service of Decision**

(b)(5) (b)(6)

[Large empty rectangular box for submission and response]

**National Security:**

This case includes classified information

No NS concern     Resolved NS concern (BCAA included)     Unresolved NS concern (BCAA included)     N/A (APSO only)

Print Name

Date

Asylum Officer

Jonathan Gordon \_\_\_\_\_

8/11/2014 \_\_\_\_\_

Approving Supervisory Asylum Officer

CHRIS VL \_\_\_\_\_

8/12/14 \_\_\_\_\_

Submitting Quality Assurance Officer

\_\_\_\_\_


\_\_\_\_\_

If any, FDNS-IO/FDNS-DS Record Number

\_\_\_\_\_

\_\_\_\_\_

(b)(6)





(b)(6)

**SECTION II:**

**BIOGRAPHIC INFORMATION**

A large, empty rectangular box with a black border, occupying most of the page. It is intended for biographic information but is currently blank.

(b)(6)

(b)(6)

If the Department of Homeland Security determines you have a credible fear of persecution or torture, your case will be referred to an immigration court, where you will be allowed to seek asylum or withholding of removal based on fear of persecution or withholding of removal under the Convention Against Torture. The Field Office Director in charge of this detention facility will also consider whether you may be released from detention while you are preparing for your hearing. *If the asylum officer determines that you do not have a credible fear of persecution or torture, you may ask an Immigration Judge to review the decision. If you are found not to have a credible fear of persecution or torture and you do not request review, you may be removed from the United States as soon as travel arrangements can be made. Do you have any questions?*  YES  NO

---



**CREDIBLE FEAR DETERMINATION CHECKLIST**

file #:

**OFFICER: Jonathan Gordon 208**

**Date: 8/11/2014**

- *The factual summary (required by 8 CFR § 208.30) must be included at the end of the Q/A notes for each interview.*
- *Torture: If there is a significant possibility of torture, complete Part A and Part C.*
- *Credibility: If there is no significant possibility assertions could be found credible, complete Part A and Part D.*

If yes, STOP HERE and complete Form I-870

(b)(6)

**D. Credibility**

- 1) Explain each credibility issue in detail:
- 2) Explain materiality of each issue:
- 3) Provide the applicant's response for each material credibility issue:
- 4) Assess the reasonableness of applicant's response as to each material credibility issue:

(b)(6)

DEPARTMENT OF HOMELAND SECURITY

**NOTICE TO APPEAR**

In removal proceedings under section 240 of the Immigration and Nationality Act:

[Empty rectangular box for case details]

(City and State)

**Notice to Respondent**

**Warning: Any statement you make may be used against you in removal proceedings.**

**Alien Registration:** This copy of the Notice to Appear served upon you is evidence of your alien registration while you are under removal proceedings. You are required to carry it with you at all times.

**Representation:** If you so choose, you may be represented in this proceeding, at no expense to the Government, by an attorney or other individual authorized and qualified to represent persons before the Executive Office for Immigration Review, pursuant to 8 CFR 1003.16. Unless you so request, no hearing will be scheduled earlier than ten days from the date of this notice, to allow you sufficient time to secure counsel. A list of qualified attorneys and organizations who may be available to represent you at no cost will be provided with this notice.

**Conduct of the hearing:** At the time of your hearing, you should bring with you any affidavits or other documents, which you desire to have considered in connection with your case. If you wish to have the testimony of any witnesses considered, you should arrange to have such witnesses present at the hearing.

At your hearing you will be given the opportunity to admit or deny any or all of the allegations in the Notice to Appear and that you are inadmissible or removable on the charges contained in the Notice to Appear. You will have an opportunity to present evidence on your own behalf, to examine any evidence presented by the Government, to object, on proper legal grounds, to the receipt of evidence and to cross examine any witnesses presented by the Government. At the conclusion of your hearing, you have a right to appeal an adverse decision by the immigration judge.

You will be advised by the immigration judge before whom you appear of any relief from removal for which you may appear eligible including the privilege of departure voluntarily. You will be given a reasonable opportunity to make any such application to the immigration judge.

**Failure to appear:** You are required to provide the DHS, in writing, with your full mailing address and telephone number. You must notify the Immigration Court and the Department of Homeland Security immediately by using Form EOIR-33 whenever you change your address or telephone number during the course of this proceeding. You will be provided with a copy of this form. Notices of hearing will be mailed to this address. If you do not submit Form EOIR-33 and do not otherwise provide an address at which you may be reached during proceedings, then the Government shall not be required to provide you with written notice of your hearing. If you fail to attend the hearing at the time and place designated on this notice, or any date and time later directed by the Immigration Court, a removal order may be made by the immigration judge in your absence, and you may be arrested and detained by the DHS.

**Mandatory Duty to Surrender for Removal:** If you become subject to a final order of removal, you must surrender for removal to your local DHS office, listed on the internet at <http://www.ice.gov/contact/erg>, as directed by DHS and required by statute and regulation. Immigration regulations at 8 CFR 1241.1 define when the removal order becomes administratively final. If you are granted voluntary departure and fail to depart the United States as required, fail to post a bond in connection with voluntary departure, or fail to comply with any other condition or term in connection with voluntary departure, you must surrender for removal on the next business day thereafter. If you do not surrender for removal as required, you will be ineligible for all forms of discretionary relief for as long as you remain in the United States and for ten years after departure or removal. This means you will be ineligible for asylum, cancellation of removal, voluntary departure, adjustment of status, change of nonimmigrant status, registry, and related waivers for this period. If you do not surrender for removal as required, you may also be criminally prosecuted under section 243 of the Immigration and Nationality Act (the Act).

**Request for Prompt Hearing**

To expedite a determination in my case, I request this Notice to Appear be filed with the Executive Office of Immigration Review as soon as possible. I waive my right to a 10-day period prior to appearing before an immigration judge and request my hearing be scheduled.

Before: \_\_\_\_\_  
(Signature of Respondent)

\_\_\_\_\_  
(Signature and Title of Immigration Officer)

Date: \_\_\_\_\_

**Certificate of Service**

This Notice To Appear was served on the respondent by me on \_\_\_\_\_, in the following manner and in compliance with section 239(a)(1) of the Act.

in person     by certified mail, returned receipt # \_\_\_\_\_ requested     by regular mail

Attached is a credible fear worksheet.

Attached is a list of organization and attorneys which provide free legal services.

The alien was provided oral notice in the \_\_\_\_\_ language of the time and place of his or her hearing and of the consequences of failure to appear as provided in section 240(b)(7) of the Act.

\_\_\_\_\_  
(Signature of Respondent if Personally Served)

\_\_\_\_\_  
(Signature and Title of officer)



(b)(5)

**Jowett, Haley L**

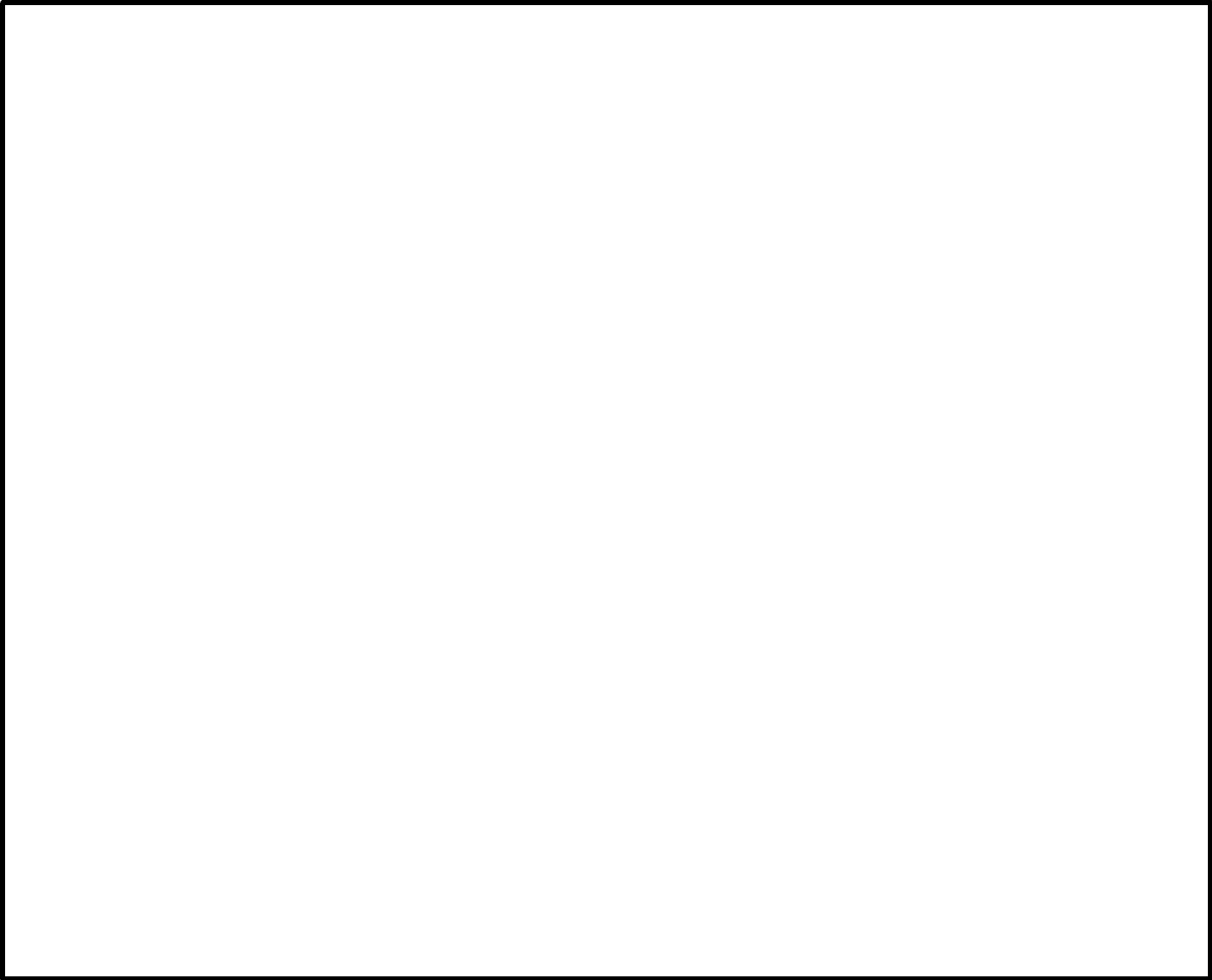
---

**From:** (b)(6) Tanner, Rebecca S  
**Sent:** Monday, August 18, 2014 8:36 PM  
**To:** Tanner, Rebecca S  
**Subject:** [REDACTED]

**Attachments:** [REDACTED]

---

**From:** Potts-Hansen, Stephanie N  
**Sent:** Tuesday, August 12, 2014 4:52 AM  
**To:** Maule, William T; Jablonsky, Jennifer E; #ZHN-RF Submissions; Walters, Jessica S  
**Cc:** ASYLUM OA - REASONABLE FEAR  
**Subject:** [REDACTED]



Thank you,  
Stephanie

(b)(5) (b)(6)

Stephanie Potts Hansen  
Special Assistant  
Refugee, Asylum and International Operations  
(202) 368-7152

(b)(5) (b)(6)

**Jowett, Haley L**

---

**From:** Potts-Hansen, Stephanie N  
**Sent:** Thursday, August 14, 2014 3:53 AM  
**To:** Maule, William T; Penel, Renata Q; #ZHN-RF Submissions; Walters, Jessica S  
**Cc:** ASYLUM QA - REASONABLE FEAR  
**Subject:** [REDACTED]

APSO: William Maule

SAPSO: Renata Penel

Please continue processing the case.

Thank you,  
Stephanie

Stephanie Potts Hansen

Special Assistant  
Refugee, Asylum and International Operations  
(202) 368-7152

**Jowett, Haley L**

---

**From:** Tanner, Rebecca S  
**Sent:** Wednesday, November 19, 2014 7:13 PM  
**To:** ASYLUM QA - AFFIRMATIVE; ASYLUM QA - CREDIBLE FEAR; ASYLUM QA - REASONABLE FEAR  
**Subject:** Fw: ZHN trends in domestic violence PSG cases

**Attachments:**



(b)(6)

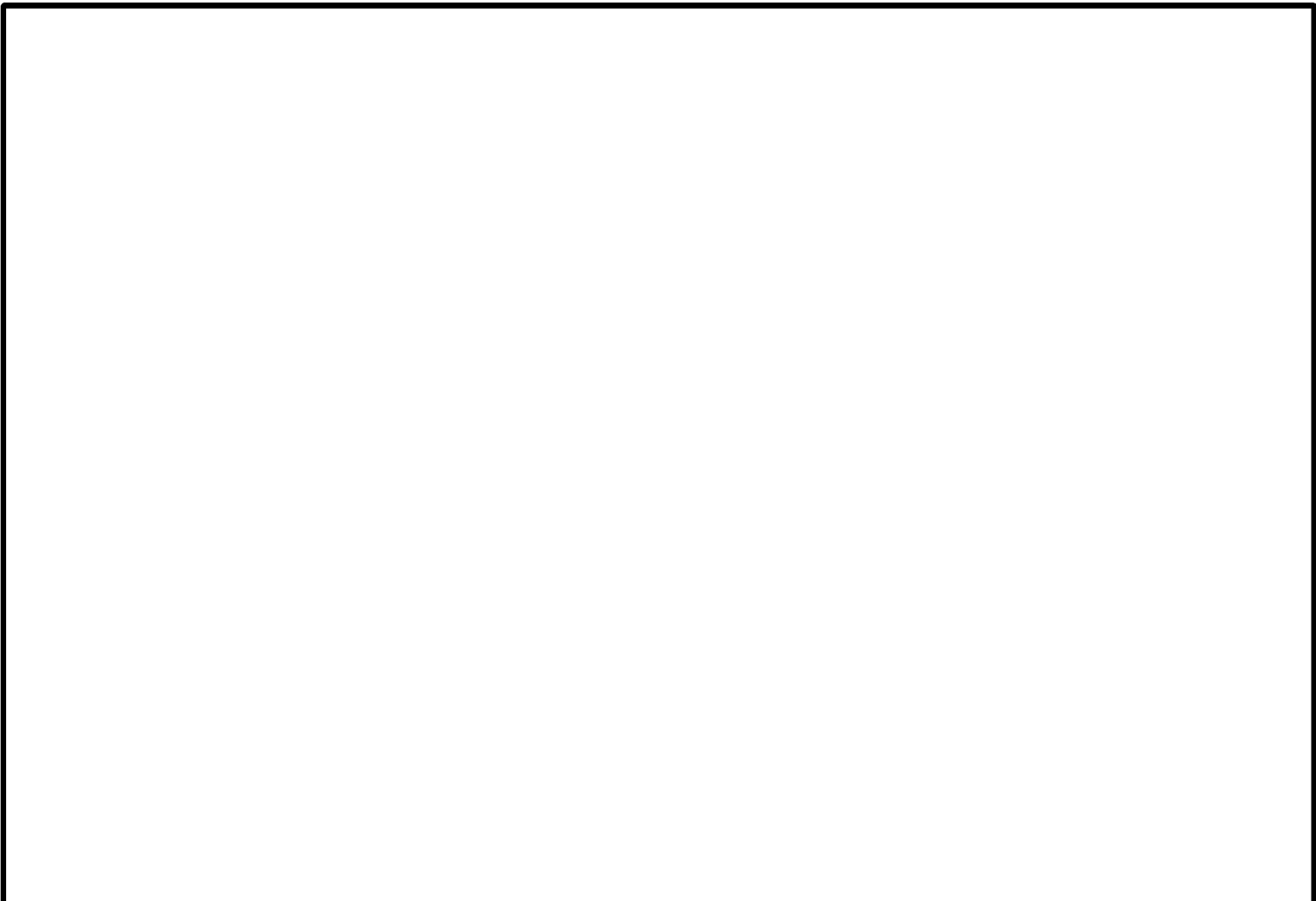
(b)(5)

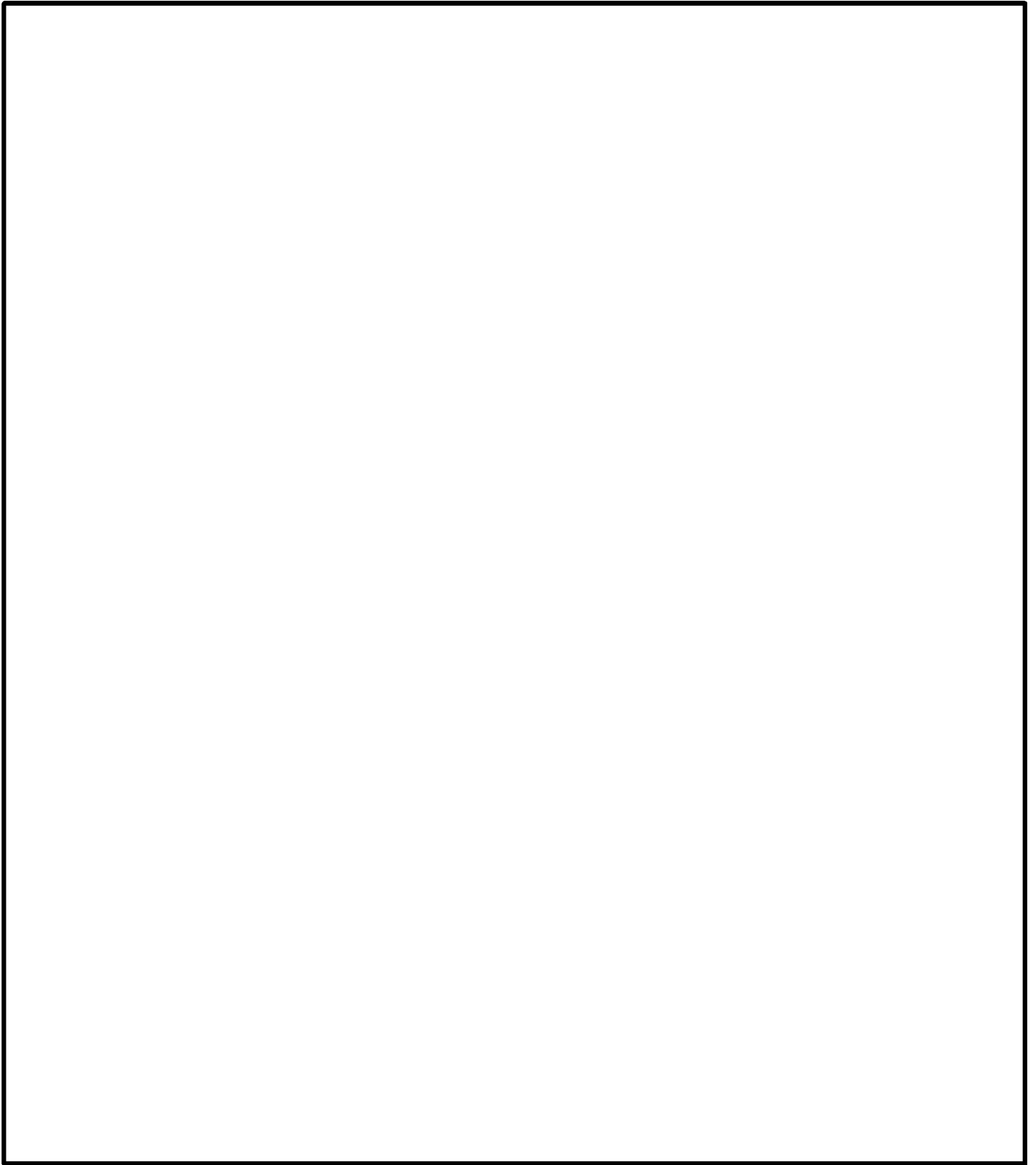
FYI.

---

**From:** Tanner, Rebecca S  
**Sent:** Wednesday, November 19, 2014 12:11 PM  
**To:** Daum, Robert L <Robert.L.Daum@uscis.dhs.gov>; Gadson, Irvin C <Irvin.C.Gadson@uscis.dhs.gov>  
**Subject:** ZHN trends in domestic violence PSG cases

Hi Rob and Irvin,





If it would be useful, my team members would be happy to set up a time to discuss this further with ZHN.

Best,  
Rebecca

(b)(5)

Rebecca Tanner  
Branch Chief for Quality Assurance  
Asylum Division  
U.S. Citizenship and Immigration Services  
U.S. Department of Homeland Security

202-272-8128 (office)

[redacted] mobile)

Rebecca.S.Tanner@uscis.dhs.gov

(b)(6)

**Jowett, Haley L**

---

**From:** Trinker, Farrah L on behalf of ASYLUM QA - CREDIBLE FEAR  
**Sent:** Tuesday, September 16, 2014 1:14 PM  
**To:** Telfer, Lee W; ASYLUM QA - CREDIBLE FEAR  
**Cc:** Hemming, Bryan D; Mcdonnell, Audrey V; McMillan, Jill; Thompson, April M; Robinson, Michelle Y  
**Subject:** (b)(6) (b)(5) RE: HQ CF CASE REVIEW






Thank you for your work on this case. Please revise and resubmit.

Sincerely,

Farrah (b)(5) (b)(6)

Farrah Trinker  
Detailed to Asylum HQ QA

---

**From:** Telfer, Lee W  
**Sent:** Monday, September 15, 2014 11:41 AM  
**To:** ASYLUM QA - CREDIBLE FEAR  
**Cc:** Hemming, Bryan D; Mcdonnell, Audrey V; Telfer, Lee W; McMillan, Jill; Thompson, April M  
**Subject:** HQ CF CASE REVIEW 

Good morning,

This is a Negative credible fear determination for your review and concurrence.

Case is due Sept 17.

Name:

Country:

A#:

A0: APRIL THOMPSON

SAO: LEE TELFER

Thanks for your help,

Lee

(b)(6)

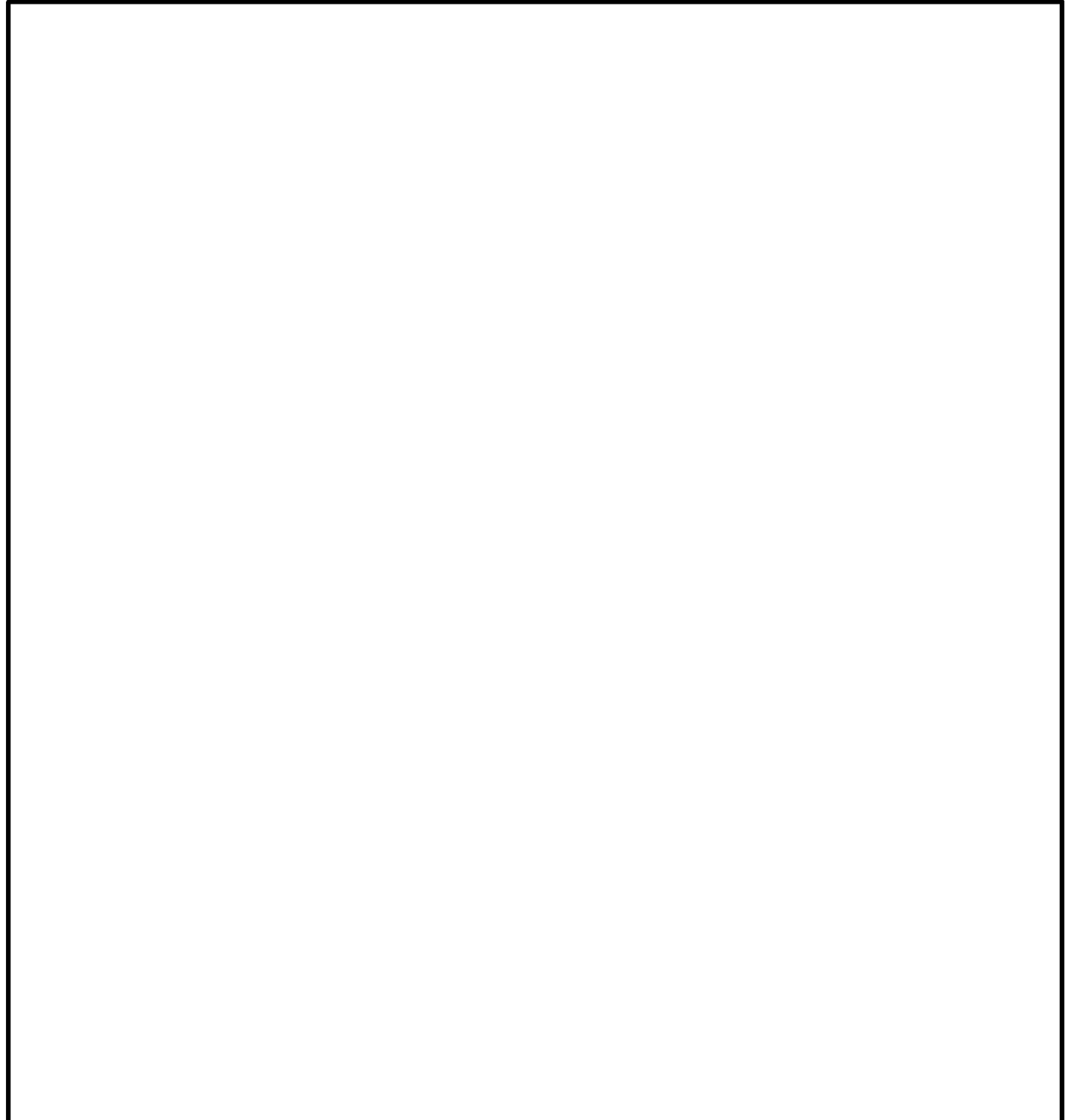
(b)(5)

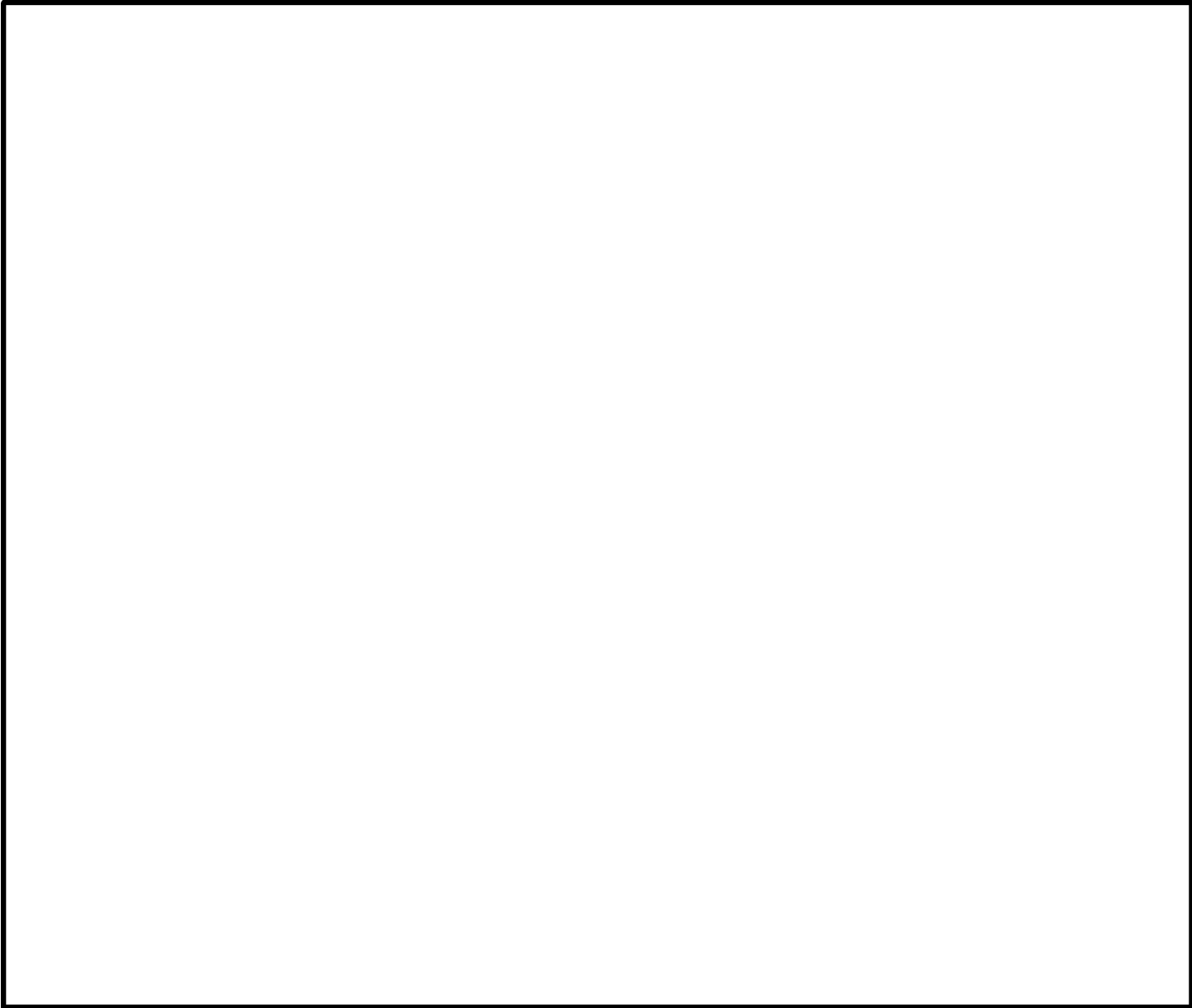
**Jowett, Haley L**

---

**From:** Cappelloni, Corey  
**Sent:** Monday, August 25, 2014 8:57 AM  
**To:** ASYLUM QA - CREDIBLE FEAR; Berger, Jack S; Thomas, Mark E  
**Cc:** Cappelloni, Corey; Kochman, Jane; Robinson, Michelle Y; Hemming, Bryan D; McDonnell, Audrey V; McMillan, Jill; Telfer, Lee W  
**Subject:**

Hi Jack,





Thank you for your work.

(b)(6)

Corey

(b)(5)

---

**From:** Berger, Jack S

**Sent:** Friday, August 22, 2014 9:36 AM

**To:** ASYLUM QA - CREDIBLE FEAR

**Cc:** Mcdonnell, Audrey V; McMillan, Jill; Telfer, Lee W; Hemming, Bryan D; Thomas, Mark E

**Subject:**

Applicants Name	<input type="text"/>	<input type="text"/>
A Number		<input type="text"/>
Country of Citizenship		<input type="text"/>

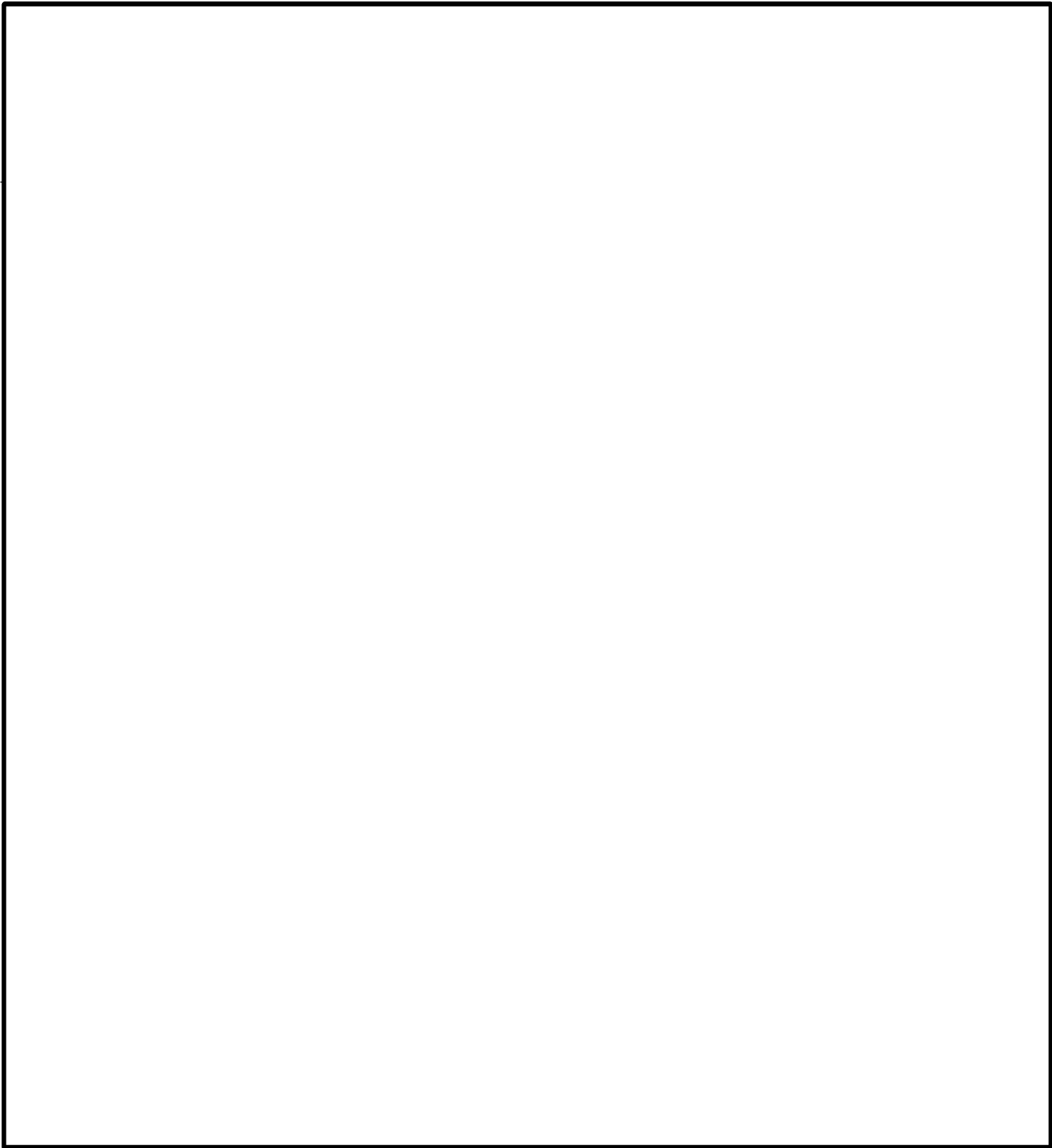
APSO	Mark Thomas
SAPSO	Jack Berger
Reason for request to expedite, if applicable	

Jack Berger  
Supervisory Asylum Officer  
Houston Asylum Office  
281-931-2934

**Jowett, Haley L**

---

**From:** (b)(5) ASYLUM QA - CREDIBLE FEAR  
**Sent:** Monday, August 11, 2014 2:28 PM  
**To:** (b)(6) Wills, Kirk R; ASYLUM QA - CREDIBLE FEAR; ZHN, HQ Concur CF  
**Cc:** Hemming, Bryan D; McMillan, Jill; Lluch, Martin G; Penel, Renata Q; Robinson, Michelle Y; Vu, Christopher T  
**Subject:** RE:



Sincerely,

Lakshmi

(b)(5)

(b)(6)

Lakshmi Kilaru

Detailed to Asylum HQ QA

---

**From:** Wills, Kirk R

**Sent:** Thursday, August 07, 2014 10:48 AM

**To:** ASYLUM QA - CREDIBLE FEAR; ZHN, HQ Concur CF

**Cc:** Hemming, Bryan D; McMillan, Jill; Lluch, Martin G

**Subject:** [REDACTED]

Please find attached a NEG CF case from ZHN for your review and concurrence.

Applicant's name	[REDACTED]	
A number		
Country of citizenship		
APSO		
SAPSO		
Reason for Request to Expedite, if applicable		

Thank you,

Kirk

(b)(6) (b)(5)

**Jowett, Haley L**

---

**From:** ASYLUM QA - CREDIBLE FEAR  
**Sent:** Friday, August 22, 2014 7:58 AM  
**To:** Littlepage, Ryan L  
**Cc:** Penel, Renata O; Tanner, Rebecca S; ASYLUM QA - CREDIBLE FEAR; Donis, Antonio; Hemming, Bryan D; Robinson, Michelle Y  
**Subject:** [Redacted]

Dear ZHN/Artesia Team,

[Redacted]

Please have the SAPSO sign and date the updated I-870 indicating approval of the decision at section 5.5 and 5.6.

Thank you for all of your hard work on this case. Please continue processing and have a great weekend.

Sincerely,

Lakshmi

Lakshmi Kilaru  
Detailed to Asylum HQ QA

---

**From:** Littlepage, Ryan L  
**Sent:** Thursday, August 21, 2014 4:38 PM  
**To:** ASYLUM QA - CREDIBLE FEAR  
**Cc:** Penel, Renata O; Tanner, Rebecca S  
**Subject:** [Redacted]

[Redacted]

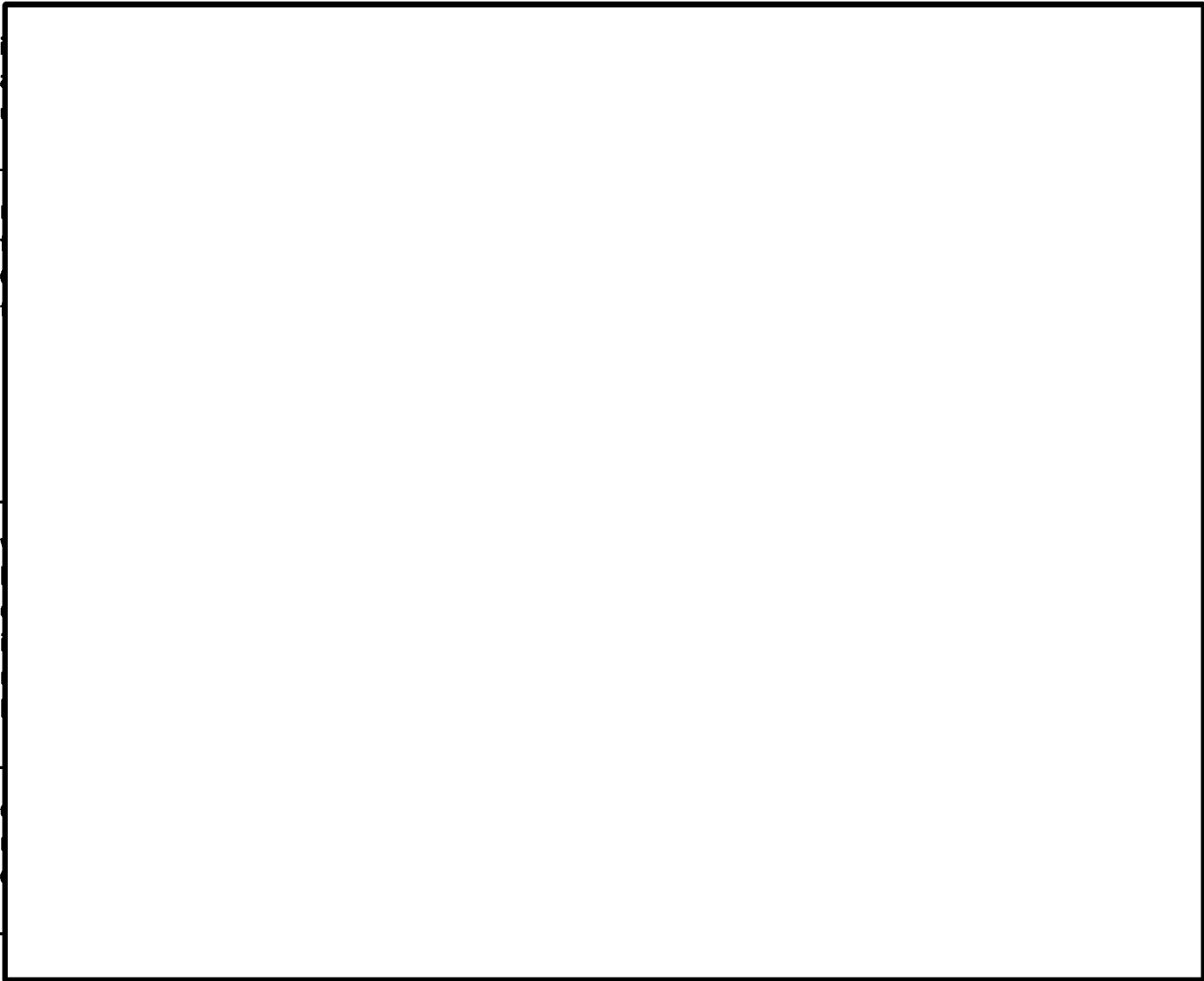
Ryan

---

**From:** ASYLUM QA - CREDIBLE FEAR  
**Sent:** Wednesday, August 20, 2014 9:49 AM  
**To:** Littlepage, Ryan L  
**Cc:** Donis, Antonio; Penel, Renata O; ASYLUM QA - CREDIBLE FEAR; Tanner, Rebecca S  
**Subject:** R [Redacted]

Dear ZHN/Artesia Team,

[Redacted]



Sincerely,

Lakshmi

(b)(5)

(b)(6)

Lakshmi Kilaru  
Detailed to Asylum HQ QA

---

**From:** Littlepage, Ryan L  
**Sent:** Wednesday, August 20, 2014 10:05 AM  
**To:** ASYLUM QA - CREDIBLE FEAR  
**Cc:** Donis, Antonio  
**Subject:** R [redacted]

HQ QA,



Thank you,  
Ryan



---

**From:** ASYLUM QA - CREDIBLE FEAR

**Sent:** Monday, August 18, 2014 2:00 PM

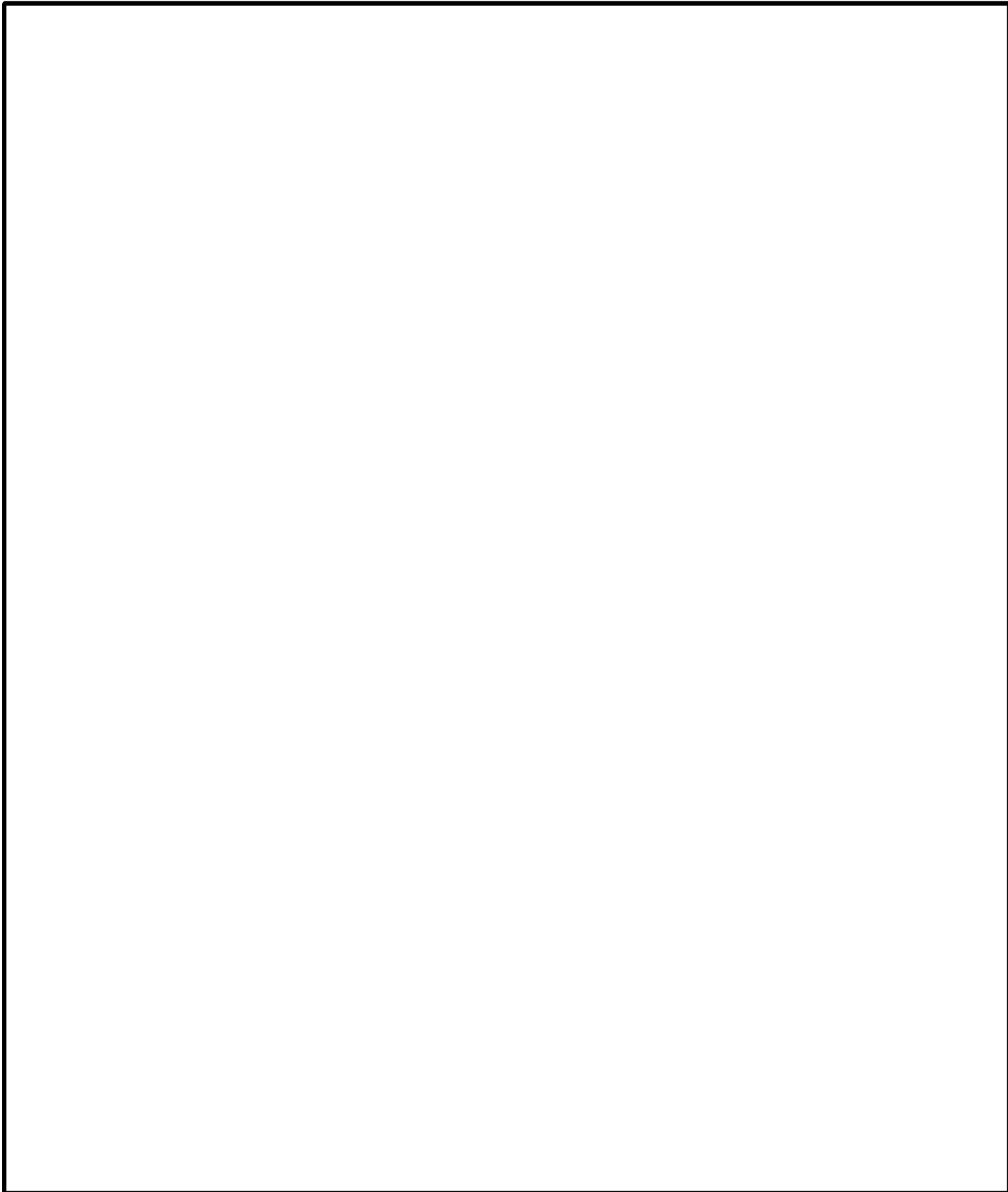
(b)(5)

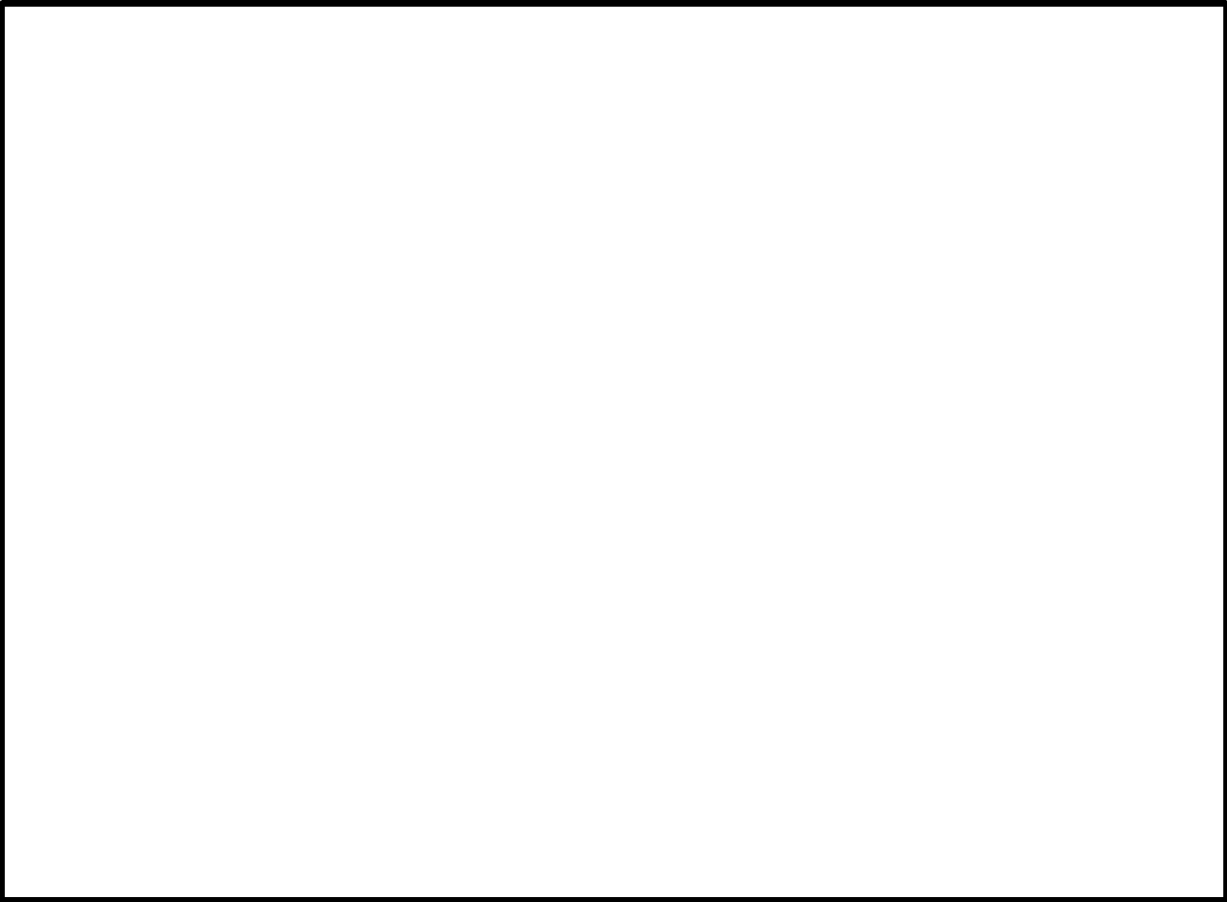
**To:** Littlepage, Ryan L; ASYLUM QA - CREDIBLE FEAR (b)(6)

**Cc:** Donis, Antonio; Penel, Renata Q

**Subject:** RE:

Dear ZHN/Artesia Team,





Thank you for your hard work on this case. Please resubmit upon completion.


Sincerely,

(b)(5) (b)(6)

Lakshmi

Lakshmi Kilaru  
Detailed to Asylum HQ QA

---

**From:** Littlepage, Ryan L  
**Sent:** Thursday, August 14, 2014 4:25 PM  
**To:** ASYLUM QA - CREDIBLE FEAR  
**Cc:** Donis, Antonio  
**Subject:** 



(b)(6)

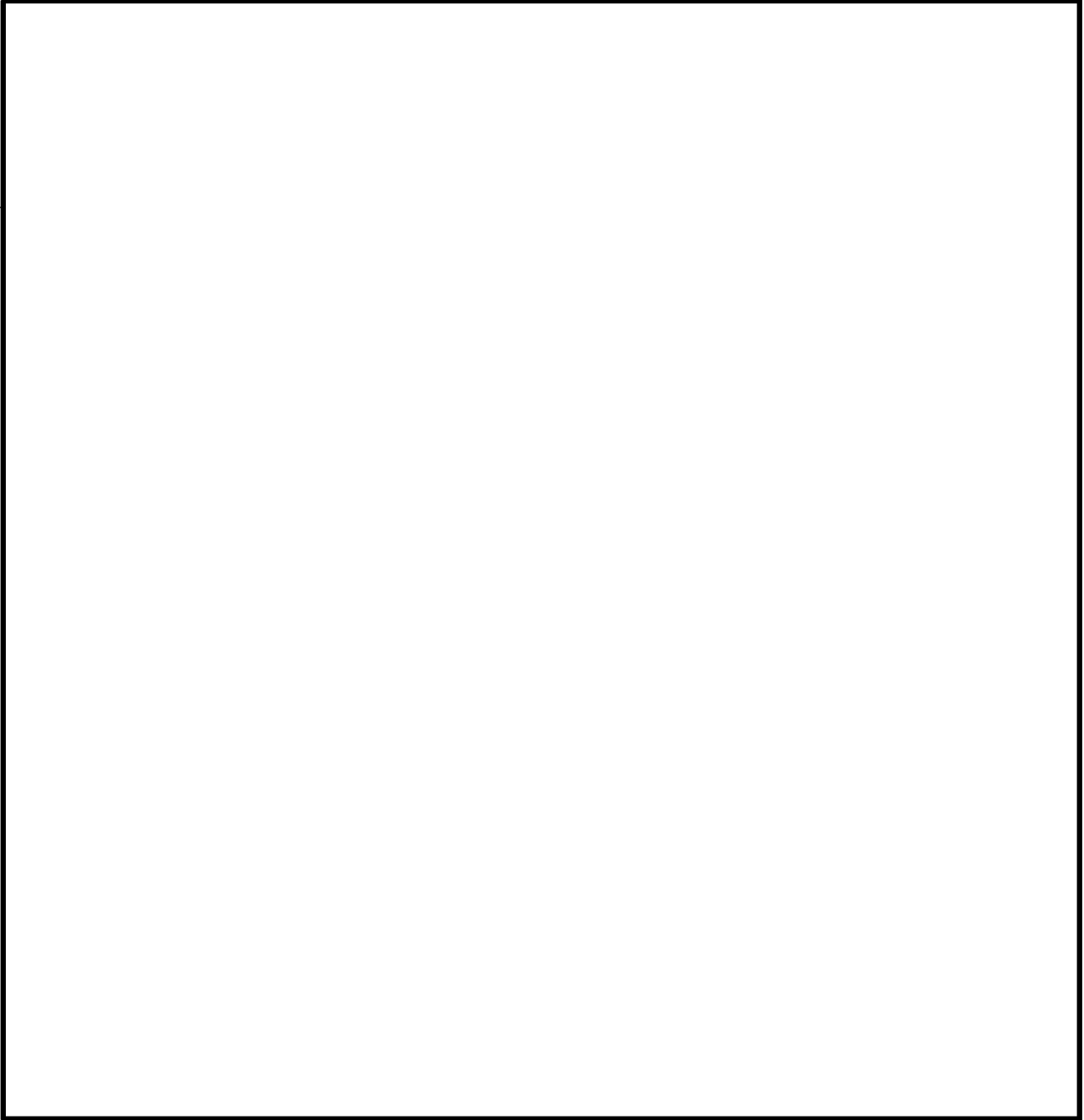
(b)(5)

HQ QA Response (RF):



APSO: Chris Hensleigh

SAPSO: Mathew Varghese



Best regards. Jane

(b)(5) (b)(6)

HQ QA Response (R

APSO: Chris Hensleigh

SAPSO: Mathew Varghese

(b)(5)



Thank you for your work on this case.

Best regards. Jane

(b)(5)

(b)(6)

**Jowett, Haley L**

---

**From:** ASYLUM QA - CREDIBLE FEAR  
**Sent:** Tuesday, September 23, 2014 10:13 AM  
**To:** ASYLUM QA - CREDIBLE FEAR  
**Subject:** FW: HQ QA # [REDACTED]

---

**From:** Gossett, Christopher R **On Behalf Of** ASYLUM QA - REASONABLE FEAR  
**Sent:** Friday, September 05, 2014 1:51 PM  
**To:** Berger, Jack S  
**Cc:** #ZIN-RE Submissions; Burch, David W; ASYLUM QA - REASONABLE FEAR; Gossett, Christopher R  
**Subject:** [REDACTED]

[REDACTED]

APSO: David Burch (Interview/Determination)

SAPSO: Jack Berger

[REDACTED]



Thank you,

Chris

(b)(6)

(b)(5)

**Christopher R. Gossett**

Asylum Officer – HQ Asylum Division

USCIS - RAIO

20 Massachusetts Ave, NW, Suite 6030

Washington, DC 20529

Tel: (202) 272-1255

Fax: (202) 272-1682

**Confidentiality Notice and Warning:**

The above communication and attachments are covered by Federal and state laws and regulations governing electronic communication. The communication and attachments may contain confidential or privacy protected information that is legally privileged or operationally sensitive and remains the property of the United States Government. If you are not an addressee or it is apparent that you have received this communication in error, you are hereby notified that any dissemination, distribution, copying, or other use of this message is strictly prohibited. Regardless of how you received the information contained in this communication and accompanying attachments, any use by you must be for official purposes only and misuse may subject you to Federal prosecution. If you have received this communication in error, you should immediately notify the sender of this circumstance and delete or destroy this communication and all attachments.

**Jowett, Haley L**

(b)(5)

(b)(6)

---

**From:** Gaffney, Maureen E  
**Sent:** Thursday, August 28, 2014 4:23 PM  
**To:** White, Alicia; Curphey, Patrick R; Penel, Renata Q  
**Cc:** Daum, Robert L; Hemming, Bryan D; Tanner, Rebecca S; ASYLUM QA - AFFIRMATIVE  
**Subject:** [REDACTED]

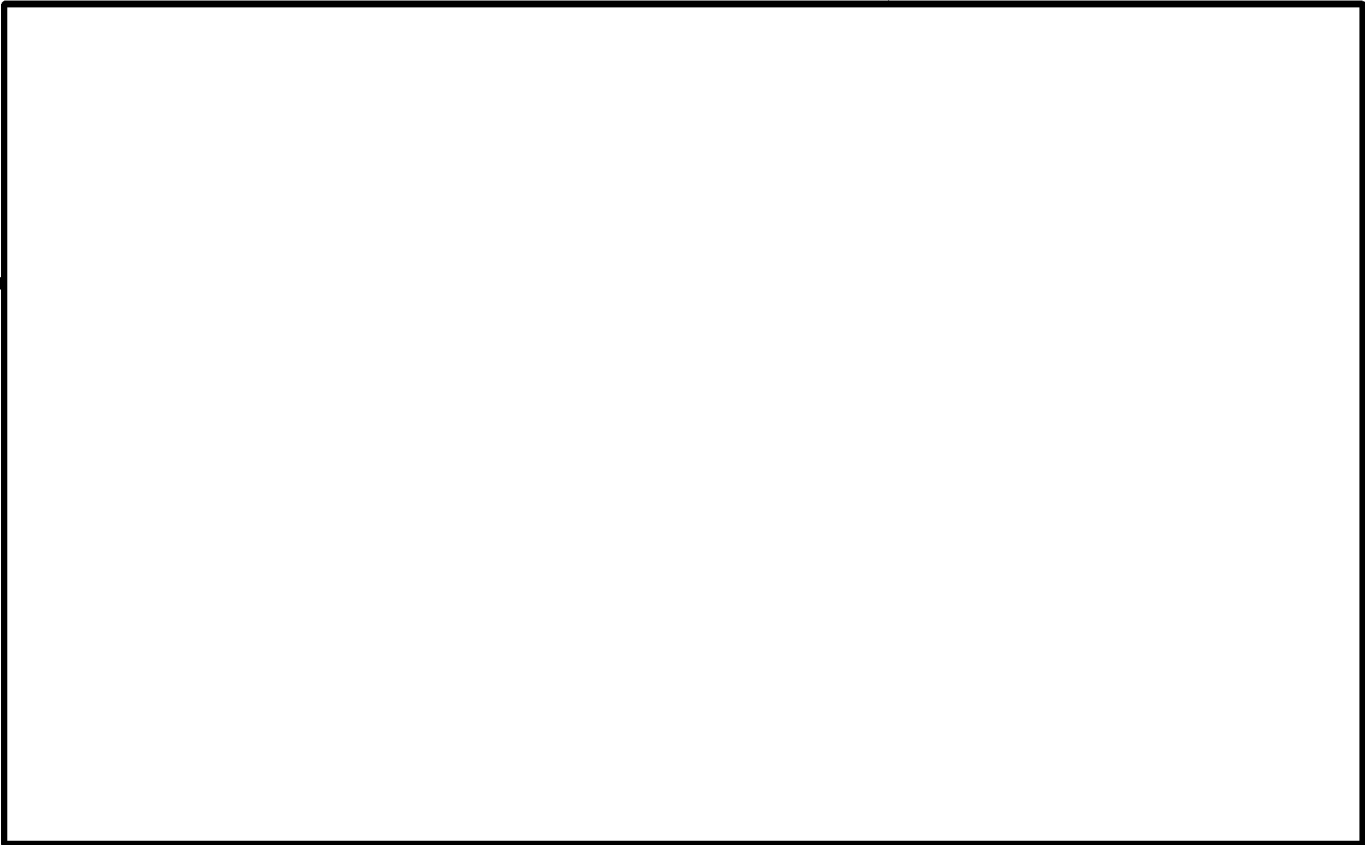
HQ QA Response [REDACTED]

AO: Alicia White

SAO: Patrick Curphey

Referred to HQ in the juvenile category (UAC-PRL)





Thanks for your continued work on this case.

Regards,  
Maureen

(b)(6) (b)(5)

**Maureen Gaffney**  
Asylum Officer  
U.S. Citizenship and Immigration Services  
202-272-1619  
[Maureen.E.Gaffney@dhs.gov](mailto:Maureen.E.Gaffney@dhs.gov)

(b)(5)

(b)(6)

**Trinker, Farrah L**

**Subject:**

[Redacted]

**From:** Gaffney, Maureen E

**Sent:** Tuesday, September 23, 2014 12:00 PM

**To:** White, Alicia; Curphey, Patrick R; Penel, Renata Q; Ahmed, Syed H (Harun)

**Cc:** Daum, Robert J; Hemming, Bryan D; Tanner, Rebecca S; ASYLUM QA - AFFIRMATIVE

**Subject:**

[Redacted]

HQ QA Response

AO: Alicia White

SAO: Patrick Curphey

Referred to HQ in the juvenile category (UAC-PRL) (RESUBMISSION)

[Redacted]

[Redacted]



Thank you for your continued work on this case.

(b)(6)

(b)(5)

Regards,  
Maureen

**Maureen Gaffney**  
Asylum Officer  
U.S. Citizenship and Immigration Services  
202-272-1819  
[Maureen.E.Gaffney@dhs.gov](mailto:Maureen.E.Gaffney@dhs.gov)

**From:** Scott, Elizabeth M  
**Sent:** Monday, August 18, 2014 3:53 PM  
**To:** Allen, Leticia; Arbelaez, Bibiana L; Berger, Jack S; Boyle, Meghann; Bundy, Kelsey D; Castaldi, Amarilde F; Catalanotto, Teri A; Curphey, Patrick R; Dragan, Mariusz; El-Hage, Rabia S; FLANAGAN, Lisa M; Gadson, Irvin C; Greene, Shevon; Hale, Arthur A; Hammitt, Kenneth A; Hemming, Bryan D; Hooks, Karin M; Irons, Darice; Kelly, Brooke A; Kim, Hannah X; Klayman, Amy S; Komis, Dimitris S; Leigh, Francis W; Lewis, Victoria E; Maalona, John L; Mcdonnell, Audrey V; Mekjian, Gerard J; Michaelis, Katy M; Orendain, Amada R; Parent, Jessica L; Puschel, Tracy W; Robinson, Laurie J; Rosich, Nicole M; Sachdev, Nina K; Schoser, Joseph R; Schouvieller, Mary M; Talamantes, Eudelia A; Taubes, Ethan J; Telfer, Lee W; Trinker, Farrah L; Ulloa, Stephen; Varghese, Mathew C; Varghese, Sunil R; Vasquez, Porcia M; Wills, Kirk R; ZCH APSO; Lynn, Mallory L  
**Cc:** Saunier, Jon-Paul; Picciotto, Giacomo A; Stone, Mary M  
**Subject:** G-28s and service of CF determination

Hi CF SAPSOs,

I've received a few clarification questions from you about serving the CF determination on an attorney with a "properly executed" G-28. Here are your questions and answers from OCC. Please let me know if you have any additional follow-up questions.

1. What does "properly executed" mean?  
A "properly executed" G-28 is a G-28 that has been properly signed by both the alien and the attorney/representative.
2. Are we required to provide a service copy of the CF determination to an attorney/representative with a G-28 on file?  
Yes. In cases where there is a properly executed G-28 on file a copy must be served on the attorney/representative (independent of service upon the alien). This is based upon 8 CFR section 292.5(a), which states that service "shall be given by or to, served by or upon, made by, or requested of the attorney or representative of record," and the opinion of bar counsel that the regulatory requirements would continue to apply regardless of whether there is an application or petition pending (the CF interview would still clearly be a matter pending before the agency).

The Asylum Division may continue the current practice of providing two copies of the CF determination to an alien where there is not a properly signed G-28 on file.

3. When there is a properly executed G-28 is it permissible to follow current practice and provide two copies of the CF determination to the alien if the attorney agrees to this method of service?  
Potentially, but only if the Asylum Office has approval in writing from the attorney/representative and the alien. As noted above, if there is a properly executed G-28, the applicable regulation, 8 CFR 292.5(a), requires that we serve the attorney/representative and that is the preferable approach. The regulation doesn't include any language allowing for an exception to this requirement. However, if Asylum has approval in writing from the attorney/representative and from the alien to serve two copies on the alien instead of directly serving the attorney/representative, it would be permissible to do so. However, at that point it would likely be easier to just serve the attorney/representative and the alien according to the regulation.
4. Is there is a specific way we need to provide the service documents to the attorney? Is it permissible to email or fax the documents to the attorney or must they be mailed?

Generally, the service documents should be mailed. When serving the attorney or representative who has a properly executed G-28, Asylum must follow the regulation for service of documents at 8 CFR 103.8. This provision provides for routine service of documents by regular mail, but permits delivery by e-mail if requested by the person receiving service. The regulation does not provide for service by fax.

5. Do we need to provide a copy of the service docs to the attorney when the G-28 is filed after service of the CF determination?

Asylum Offices are not obligated to provide a copy of the service documents to an attorney/representative who was not the attorney/representative of record at the time of service. Asylum Offices could provide a copy to an attorney/representative who filed a properly executed G-28 after service as a courtesy and upon request.

Kind regards,

Liz

Elizabeth Scott  
Asylum Officer, Operations Branch, Asylum Division  
Refugee, Asylum and International Operations Directorate | USCIS | DHS  
Tel: (202) 272-1227



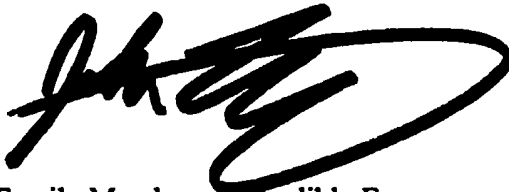
U.S. Citizenship  
and Immigration  
Services

HQRAIO 120/9.15a

JUN 27 2014

## Memorandum

TO: Asylum Office Directors and Deputy Directors  
Supervisory Asylum Officers  
Quality Assurance/Training Asylum Officers  
Asylum Officers

FROM: John Lafferty  
Chief, Asylum Division 

SUBJECT: Guidance on Immediate Family Members in Credible Fear

### Purpose

The purpose of this memorandum is to issue guidance on who is considered an immediate family member in the credible fear process, credible fear determinations for immediate family members, and linking related family members in the Asylum Pre-Screening System (APSS).

### Immediate Family Members

In the credible fear process, immediate family members are the spouse and any unmarried child under 21 years of age who arrive in the United States concurrently with the principal applicant.<sup>1</sup>

### Credible Fear Determinations for Immediate Family Members

A family member's claim may provide the basis for all the immediate family members' credible fear determinations if the immediate family members: (1) arrived in the United States concurrently; and (2) desire to be processed together.<sup>2</sup> Even if those two requirements are met, Asylum Offices retain the discretion to process immediate family members together or separately. In addition, immediate family members may opt to present separate credible fear

<sup>1</sup> "The term [terms] "spouse," "wife," or "husband" do not include a spouse, wife or husband by reason of any marriage ceremony where the contracting parties thereto are not physically present in the presence of each other, unless the marriage shall have been consummated." INA § 101(a)(35). It is the applicants' burden to show that they were recognized as legally married in their country of origin in order to be treated as a spouse for purposes of the credible fear determination. The applicants also have the burden to establish that they arrived in the United States concurrently.

<sup>2</sup> 8 C.F.R. 208.30(b)

## **Guidance on Immediate Family Members in Credible Fear**

**Page 2**

claims, even if they do meet the above requirements, and even if they are physically located together.

Immediate family members may be separated after their concurrent arrival in the United States. If immediate family members are in different locations, Asylum Officers do not have an affirmative duty to attempt to locate those family members. However, Asylum Officers may, in their discretion, attempt to locate family members if doing so does not unreasonably delay the credible fear process.

### **APSS Procedures**

Immediate family members should be linked together in APSS whenever one family member's claim provides the basis for all the immediate family members' credible fear determinations. They may be linked in APSS even if they are not physically together. Immediate family members who choose to present their own credible fear claims should not be linked together in APSS because they will receive credible fear determinations based on their individual claims.

The APSS Guide has been updated with detailed instructions on how to link immediate family members in the system.

For questions, please contact Credible Fear Program Manager, HQ Operations Branch.

### **Attachment**

1. APSS Guide (revised June 27, 2014)



**U.S. Citizenship  
and Immigration  
Services**

120/9.15

November 8, 2007

## Memorandum

**TO:** Asylum Office Directors  
Asylum Office Deputy Directors

**FROM:** Joseph E. Langlois, Chief /s/  
Asylum Division

**SUBJECT:** Guidelines for Partnerships between Asylum Offices and Non-Governmental Organizations to Provide Access to Legal Consultation for Applicants in the Credible Fear Process

The purpose of this memorandum is to provide general guidance for Asylum Offices in establishing partnerships with non-governmental organizations (NGOs) to facilitate access to pro bono consultants for individuals in the credible fear process. Asylum Offices are encouraged to establish partnership arrangements with NGOs pursuant to the terms of this memorandum, using internal procedures appropriate to each individual office.

### **Background**

Since 2000, the Arlington Asylum Office and the Capital Area Immigrants' Rights (CAIR) Coalition, comprising a network of thirty NGOs, have partnered to provide access to pro bono consultants for applicants in the credible fear process. The Arlington Asylum Office's internal procedures address determining whether an applicant would like access to a pro bono consultant and referring the CAIR Coalition to the applicant. During the credible fear orientation, the Asylum Pre-Screening Officer (APSO) confirms whether the applicant would like to meet with a consultant if there is not an attorney of record. The APSO notifies the CAIR Coalition that a consultant is requested for the credible fear interview and provides the gender, country of nationality and age of the applicant. The Arlington Asylum Office does not provide any identifying information or potential claim of the applicant.

Generally, on the date of the credible fear interview, the APSO introduces the consultant to the applicant, and allows them to privately confer for a short period of time prior to the interview. The



Arlington Asylum Office also established a similar partnership with the Atlanta Bar Asylum Project to facilitate access to consultants to applicants in the credible fear process within the jurisdiction of Arlington's Atlanta Office.

In 2005, the United States Commission on International Religious Freedom (CIRF) issued a *Report on Asylum Seekers in Expedited Removal*.<sup>1</sup> CIRF referenced the Arlington Asylum Office's partnership with the CAIR Coalition and concluded that the access to consultants was a factor in its higher dissolve rate. CIRF also noted that legal consultation may contribute to the efficiency of the credible fear process since an applicant may dissolve his or her claim if advised by a consultant that the claim does not meet the criteria for asylum.<sup>2</sup> The CIRF report recommended an expansion of the Arlington Asylum Office's pro-bono partnership program to all eight Asylum Offices.

### **General Guidelines for Partnerships with Non-Governmental Organizations**

Pursuant to 8 C.F.R. § 208.30(d)(4), applicants in the credible fear process are entitled to:

consult with a person or persons of the alien's choosing prior to the interview or any review thereof, and may present other evidence, if available. Such consultation shall be at no expense to the Government and shall not unreasonably delay the process. Any person or persons with whom the alien chooses to consult may be present at the interview and may be permitted, in the discretion of the asylum officer, to present a statement at the end of the interview. The asylum officer, in his or her discretion, may place reasonable limits on the number of persons who may be present at the interview and on the length of the statement.<sup>3</sup>

Consultation generally facilitates the credible fear process and helps to ensure that asylum seekers' claims are fully elicited in the credible fear interview. Partnerships with NGOs further facilitate the credible fear process by assisting applicants gain access to consultants to discuss legal options, explore potentially valid claims, or dissolve claims that do not appear to have a legal basis for a grant of asylum or withholding of removal.

An Asylum Office may enter into informal partnerships with an NGO or multiple NGOs, if the Asylum Office is approached by the NGOs. **Asylum Offices may not in any way create the appearance that the Asylum Office favors specific NGOs.** Therefore, Asylum Offices may not

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<sup>1</sup> See <http://www.uscirf.gov/mediaroom/press/2005/february/02072005%5Fuscirf.html>.

<sup>2</sup> In the first part of fiscal year 2007, approximately 25% percent of the applicants in the credible fear process within the jurisdiction of the Arlington Asylum Office chose to dissolve their credible fear claims, giving the Arlington Asylum Office a higher credible fear dissolve rate than other asylum offices. The twenty-five percent dissolve rate for the Arlington Asylum Office includes the credible fear statistics from October to May 2007. In fiscal years 2005 and 2006, the Arlington Asylum Office's credible fear dissolve rates were 35.71% and 31.78%, respectively, giving it the highest rate of credible fear dissolves of any Asylum Office in the country for those fiscal years.

<sup>3</sup> See also Joseph E. Langlois Memorandum to Asylum Directors, Supervisory Asylum Officers, and Asylum Officers, *Role of Consultants in the Credible Fear Interview*, (Washington, DC: 17 November 1997), accessed at <http://z02rscow12:8080/docushare/dsweb/View/Collection-10364>.

approach NGOs to enter into a partnership, as such actions may appear as favoritism by the government to a specific group or counsel.

Consistent with the regulations, the consultations must be at no expense to the government. Therefore, NGOs should be made aware that they are responsible for securing any funding for creating a program to provide pro bono legal consultation to applicants in the credible fear process. NGOs must also provide interpreters, if necessary, to facilitate communications between the consultants and the applicants. USCIS will continue to provide interpreter services for the orientation, interview, and service of the decision. However, government contract interpreters may not be used for the purpose of facilitating communication between the NGOs and the applicant, outside of the course of the regular credible fear orientation and interview process.

Also consistent with regulations, informal partnerships with NGOs to facilitate access to consultants may not cause unreasonable delay to the credible fear process. Any policies developed at the local asylum offices to facilitate consultation should be consistent with regulations and take into account the timeliness goals of the program. However, every effort should be made to ensure that a consultant is present at the interview, if the applicant desires such a person's presence, as long as it does not unreasonably delay the process.<sup>4</sup>

Finally, any process entered into with an NGO for the purpose of providing pro bono legal consultation to applicants in the credible fear process must incorporate confidentiality restrictions provided by the federal regulations at 8 CFR § 208.6. The regulations generally prohibit the disclosure to third parties of information contained in or pertaining to asylum applications, credible fear determinations and reasonable fear determinations, including information contained in RAPS or APSS, except under certain limited circumstances.<sup>5</sup>

The Asylum Division encourages the Asylum Offices to establish informal partnerships to provide pro bono legal consultation to applicants in the credible fear process if approached by reputable NGOs. Asylum Offices are encouraged to coordinate the outreach of information to the NGO community, including sharing this memorandum with NGOs, so that the community is aware of these guidelines. NGOs should also be made aware of confidentiality concerns regarding asylum seekers and the limited amount of information that will be related to them by the Asylum Office before the credible fear interview.

Asylum Division Headquarters is available to provide support in establishing partnerships with the NGO community. Please contact Jedidah Hussey at 202-272-1614 to discuss any issues regarding partnerships with NGOs.

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<sup>4</sup> See *Credible Fear Procedures Manual*, at <http://z02rsccow12:8080/docushare/dsweb/View/Collection-12202>.

<sup>5</sup> See *Fact Sheet on Confidentiality: Federal Regulations Protecting Confidentiality of Asylum Applicants*, at <http://z02rsccow12:8080/docushare/dsweb/View/Collection-10131>.



**Call TOLL FREE:**



(b)(5)

- Once greeted by a coordinator, the officer will be asked for their location account code. Please find your code from the list..
- The coordinator will then ask for the officer's ID code.
- Next describe the type of call (decision, credible fear interview, etc.), and then request the language needed.
- The officer will be put on hold while the coordinator locates an available cleared interpreter.
- The coordinator will then return to the line with the interpreter and introduce them to the officer with their 6-digit ID code.

**Location Account Code:**

- Los Angeles
- Arlington
- Chicago
- Houston
- San Francisco
- Newark
- Miami
- New York





U.S. Department of Justice  
Immigration and Naturalization Service

HQIAO 120/15.20b

425 I Street, NW  
Washington, DC 20536

APR 15 2002

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

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

SUBJECT: International Religious Freedom Act Requirements Affecting Credible  
Fear and Reasonable Fear Interview Procedures

This memorandum modifies credible fear and reasonable fear interview procedures concerning the oath administered to telephonic interpreters. This change stems from the Asylum Division's mandate under the International Religious Freedom Act of 1998 (IRFA). Specifically, section 603(a) of IRFA provides:

The Attorney General and the Secretary of State shall develop guidelines to ensure that persons with potential biases against individuals on the grounds of religion, race, nationality, membership in a particular social group, or political opinion, including interpreters and personnel of airlines owned by governments known to be involved in practices which would meet the definition of persecution under international refugee law, shall not in any manner be used to interpret conversations between aliens and inspection or asylum officers.

Effective immediately, Asylum Pre-Screening Officers (APSOs) will read the following question to telephonic interpreters, and receive a response thereto, before each credible fear and reasonable fear interview:

Do you affirm that you will truthfully, literally, and fully interpret the questions asked by the asylum officer and the answers given by the applicant; that you will not add to, delete from, comment on, or otherwise change the matter to be interpreted; and that you will immediately notify the officer in this case if you become aware of

your inability to interpret in a neutral manner on account of a bias against the applicant or the applicant's race, religion, nationality, membership in a particular social group, or political opinion?

The foregoing question and the interpreter's response will be interpreted for the applicant, so the applicant is aware of it. If an interpreter answers in the negative to any part of the foregoing question, the APSO will inform the interpreter that the interpreter is ineligible to perform interpreter services in that case and will request a different interpreter from Language Services Associates.

If an interpreter acknowledges during the interview that he or she may have a bias against a particular applicant that affects his or her ability to interpret in a neutral manner, or if the APSO has a serious, articulable reason to believe that such a bias exists, the APSO will stop the interview to request a different interpreter from Language Services Associates. The APSO also should note the reason for requesting a different interpreter on the Form I-870, section B, by checking boxes 1.21 (Interpreter was changed) and 1.26 (Officer found interpreter was not neutral), pursuant to current procedures. The interpreter's admission or the APSO's determination would not necessarily render the interpreter ineligible to interpret in other, unrelated cases. However, the Supervisory Asylum Pre-Screening Officer will notify the credible fear coordinator whenever an interpreter has recused himself or herself on account of his or her ability to interpret in a neutral manner or whenever an APSO has requested such recusal. The credible fear coordinator will maintain records of such incidents.

The Draft Credible Fear Procedures Manual has been amended to reflect this change in procedures concerning telephonic interpreters.

**IRFA Requirements Affecting Credible Fear  
and Reasonable Fear Interview Procedures**

cc: OFFICIAL FILE;

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A OGC

**Donis, Antonio**

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**From:** Donis, Antonio  
**Sent:** Wednesday, July 30, 2014 12:24 PM  
**To:** Daum, Robert L; Hemming, Bryan D  
**Subject:** Essential Questions

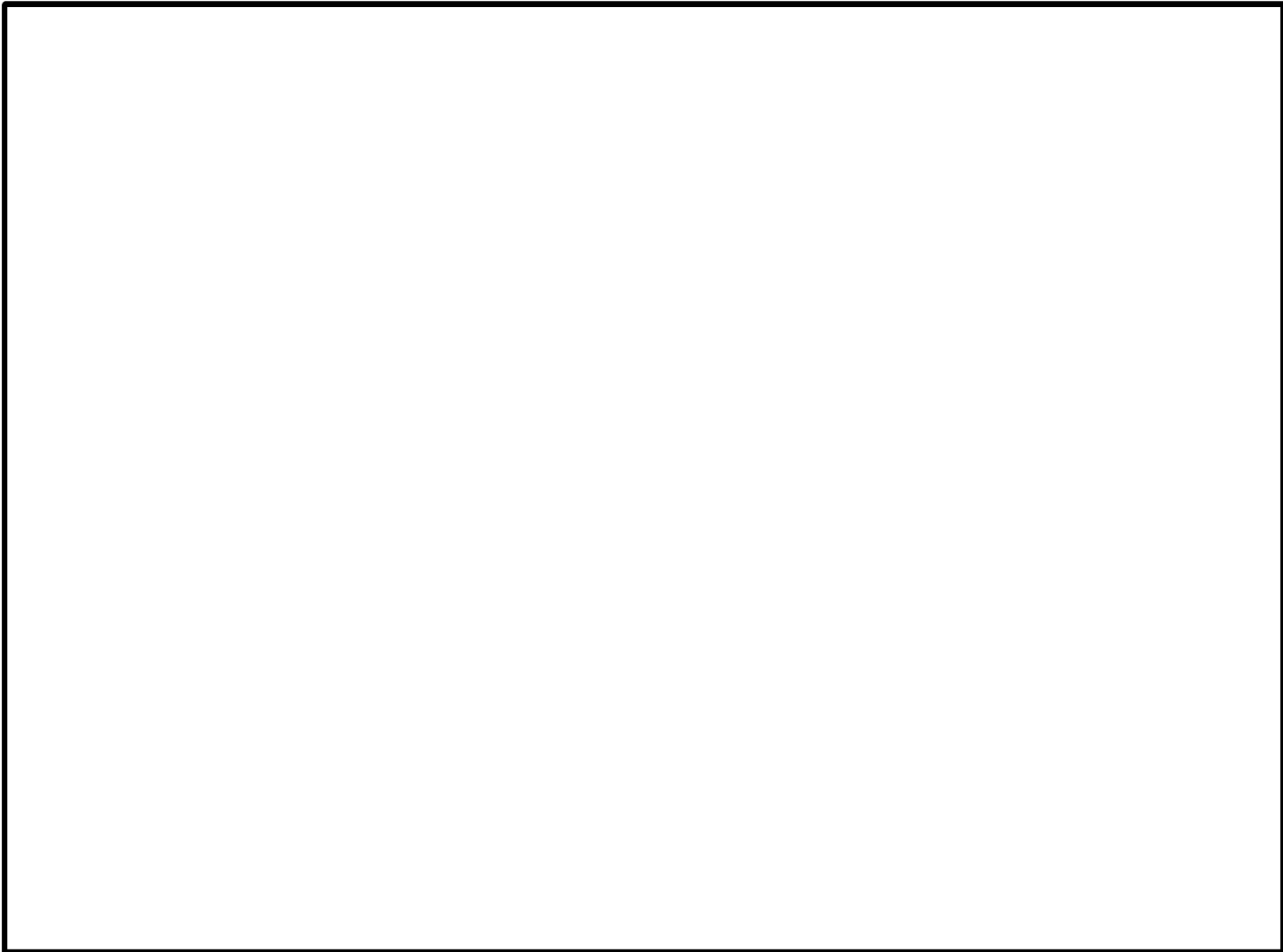
Rob and Bryan,

Below is a draft of the essential questions I believe AOs should ask in every Artesia interview.

Can you help me finesse them so I can put them into circulation today?

Thanks, (b)(5)

Antonio\_\_



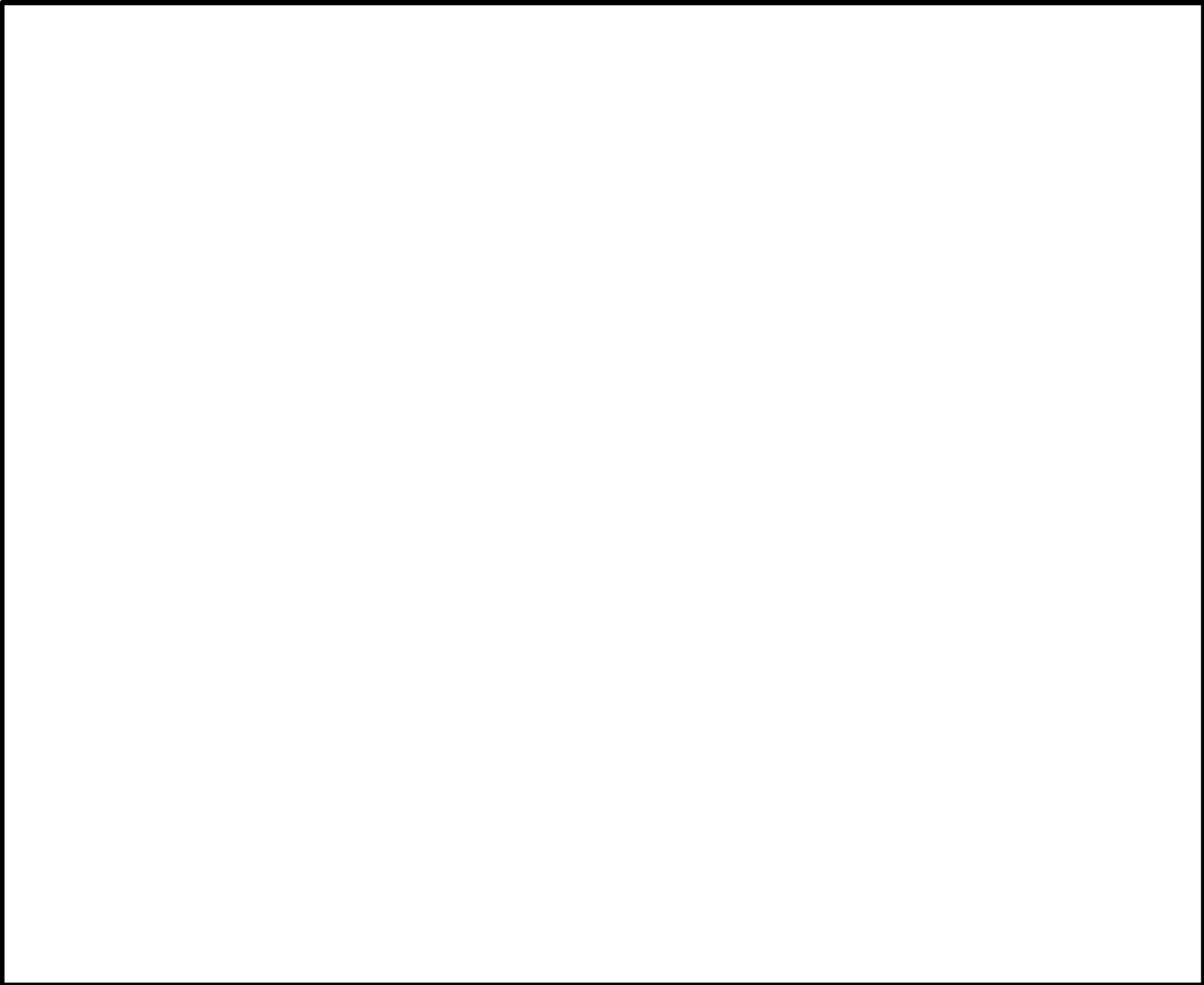
**Donis, Antonio**

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**From:** Donis, Antonio  
**Sent:** Sunday, July 20, 2014 6:30 PM  
**To:** Kim, Ted H; Hemming, Bryan D; Daum, Robert L  
**Cc:** Stone, Mary M; Tanner, Rebecca S; Lafferty, John L  
**Subject:** RE: CF screening

Thanks for sending this Ted. (b)(5)

I plan on training the Artesia AOs on the nuances of conducting credible fear interviews in a residential setting tomorrow afternoon. However, I was hoping to get answers to a few lingering questions before I do.



Thanks for your time and clarification,

Antonio\_\_

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**From:** Kim, Ted H  
**Sent:** Friday, July 18, 2014 4:31 PM



**To:** Donis, Antonio; Hemming, Bryan D; Daum, Robert L  
**Cc:** Stone, Mary M; Tanner, Rebecca S; Lafferty, John L  
**Subject:** FW: CF screening

(b)(5)

Rob/Bryan/Antonio: Thanks for all of the yeoman's work you are doing out in Artesia. It can't be easy setting up shop, dealing with TB+, rodents, etc.

Anyway, I think we spoke about this to Antonio when I was there,

Thanks,  
Ted

---

**From:** Groom, Molly  
**Sent:** Friday, July 18, 2014 7:51:41 PM  
**To:** Lafferty, John L  
**Cc:** Kim, Ted H; Stone, Mary M  
**Subject:** RE: CF screening

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**From:** Lafferty, John L  
**Sent:** Thursday, July 17, 2014 5:53 PM  
**To:** Groom, Molly  
**Cc:** Kim, Ted H; Stone, Mary M  
**Subject:** RE: CF screening

Molly,

My apologies for the delay. Here is the excerpt from our CF Procedures manual, with the most relevant sentence underlined:

**Family Members Arriving Concurrently with the Applicant**

Each applicant for admission to the United States is considered to have made that application for admission independently. Each applicant for admission subject to expedited removal who has been referred for a credible fear interview has the right to have his or her credible fear claim considered independently. The regulations do provide, however, that

[a] spouse or child of an alien may be included in that alien's credible fear evaluation and determination if such spouse or child:

- (1) Arrived in the United States concurrently with the principal alien; and
- (2) Desires to be included in the principal alien's determination.

A "principal/dependent" relationship can ensure that each immediate family member is treated in the same manner. APSOs should remember that it is the choice of the individual alien whether he or she is to be included in a principal alien's application. It is also important that potential asylees be given the opportunity to be heard regardless of which parent is the principal. The procedures that follow have been designed to preserve the right to individual choice and protect all potential asylees.

For all credible fear cases involving more than one immediate family member, an APSO meets with the family to determine whether a spouse or (unmarried) child[ren] under 21 wishes to be included as dependent[s] in the credible fear determination of the spouse or parent. The APSO must not attempt to influence the decision. If a principal/dependent relationship is established, the APSO then interviews the principal.

If the principal is found to have a credible fear of persecution or torture:

- No separate credible fear determination is made for the other immediate family members.
- The Form I-870 is updated with information about dependent family members. The APSO fills out the appropriate information in Section 2.13 through 2.18 on the principal's Form I-870.
- The APSO photocopies the principal's Form I-870 and places the copies in the file(s) of the other immediate family member(s) who are dependents.
- The APSO prepares, serves, and processes each individual's credible fear documentation according to relevant procedures set forth in this Manual for a positive credible fear determination.

If the principal is found not to have a credible fear of persecution or torture:

- The APSO determines if any dependent family member who has articulated a fear of return has a claim separate from that of the principal.
- Special attention should be paid to the privacy of each family member and the possibility that victims of domestic abuse, rape and other forms of persecution might not be comfortable speaking in front of other family members.

If any member of the immediate family is found to have a credible fear (either a spouse or child of the principal), the principal and any other immediate family members who choose may be included in the positive finding and will not need separate credible fear determinations. For those cases where the principal does not have a credible fear but another immediate family member (either his or her spouse, or one of his or her children) does:

- The immediate family member with the positive credible fear becomes the principal applicant, for purposes of the credible fear determination.
- The positive finding is used as the basis for finding credible fear for the entire immediate family that arrived concurrently, including any immediate family member unable to establish credible fear in his or her own interview.
- The APSO photocopies the I-870 and case analysis of the family member found to have a credible fear and places it in the file of the other family member[s].

The APSO prepares, serves, and processes each individual's credible fear documentation according to relevant procedures set forth in this Manual for a positive credible fear determination. For those cases where no family members are found to have a credible fear of persecution or torture, the APSO follows procedures for preparing, serving, and processing each family member's decision for a negative credible fear determination as set forth in this Manual.

Let me know if you have any questions.

John

---

**From:** Groom, Molly  
**Sent:** Wednesday, July 16, 2014 11:54 PM  
**To:** Lafferty, John L  
**Cc:** Kim, Ted H; Stone, Mary M  
**Subject:** Re: CF screening

Thanks so much, John. I am hopefully going to get more details and will share. Just hoping to understand procedures with regard to family processing more fully. Any information is appreciated. Molly

---

**From:** Lafferty, John L  
**Sent:** Wednesday, July 16, 2014 11:47 PM  
**To:** Groom, Molly  
**Cc:** Kim, Ted H; Stone, Mary M  
**Subject:** RE: CF screening

(b)(5)

Molly,



John

John

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**From:** Groom, Molly  
**Sent:** Thursday, July 17, 2014 2:33:41 AM  
**To:** Lafferty, John L  
**Subject:** CF screening

John,



Thanks for any insight you can provide. Molly



U.S. Department of Justice  
Immigration and Naturalization Service

HQINS 70/21.3

Office of the Executive Associate Commissioner

425 I Street NW  
Washington, DC 20536

January 29, 2002

MEMORANDUM FOR MICHAEL A. PEARSON  
EXECUTIVE ASSOCIATE COMMISSIONER  
FIELD OPERATIONS

FROM: Michael D. Cronin /s/  
Acting Executive Associate Commissioner  
Office of Programs

SUBJECT: Aliens Seeking Asylum at Land Border Ports-of-Entry

This memorandum sets out the Immigration and Naturalization Service (INS) policy regarding the processing of third-country nationals who present themselves at land border ports-of-entry and seek asylum in the United States.

**Background**

In the last few years, there has been a significant increase in the number of third-country nationals (for purposes of this memo, aliens who are not citizens of either Canada or Mexico) arriving at land border ports-of-entry and requesting asylum. This situation occurs on both borders, but is more prevalent on the southern border. In some cases, the alien actually seeks admission, sometimes using fraudulent documents or making a false claim to U.S. citizenship. In other cases, the alien simply approaches the primary inspector and requests asylum without appearing actually to seek admission at that time. In either situation, the alien may or may not have valid, legal status in Canada or Mexico.

Because no formal guidance has existed for these situations, ports-of-entry have been handling these cases in a variety of ways. Some ports automatically place all asylum seekers into the expedited removal process and refer them for a credible fear interview. Other ports give the aliens an Application for Asylum and for Withholding of Removal (Form I-589) and advise them to return with the completed application. These ports would then schedule a full asylum interview with an asylum officer at the port-of-entry in a process similar to an affirmative asylum application filed within the United States. This situation has resulted in inconsistent treatment of asylum applicants along the borders and a severe strain on the resources of some asylum offices.

Various groups outside the government have raised concerns that aliens who are sent back to Canada or Mexico to complete the asylum application risk removal from that country, or they may attempt to enter the United States illegally and by dangerous routes. Another concern is that some aliens may not speak either English or Spanish, and experience difficulty understanding the asylum application or obtaining assistance in completing it. Some aliens have no money or means of sustaining themselves in contiguous territory, and may face extortion or abuse to avoid discovery and deportation.

The INS has concluded that the practice of allowing arriving aliens to apply for asylum affirmatively at a port-of-entry is inconsistent with the statutory scheme established by Congress. Section 208(a)(1) of the Immigration and Nationality Act (INA) provides that an alien physically present in the United States, or who arrives in the United States, may apply for asylum "in accordance with this section or, where applicable, section 235(b)." Because section 235(b) of the INA provides for the inspection of arriving aliens, it governs how their claims for asylum must be processed. Section 235(b) provides for either the credible fear process or a removal proceeding under section 240 of the INA, depending on whether the case is appropriate for expedited removal. Section 235(b) does not provide for an affirmative asylum application process at a port-of-entry.

### **Guidance**

All aliens who arrive at a land border port-of-entry and seek asylum are considered to be applicants for admission by operation of law. Even in cases where a fraudulent document is not presented or a formal request for admission is not made, an alien who seeks asylum in the United States at a port-of-entry in most cases is inadmissible as an intending immigrant and therefore potentially subject to expedited removal. Except as noted below, such aliens, if otherwise subject, will be placed in expedited removal proceedings and referred for a credible fear interview in accordance with procedures described in Chapter 17.15 of the Inspector's Field Manual (IFM).

If, during the course of the inspection, the alien decides that he or she does not wish to pursue his or her asylum claim, officers may, at INS' discretion and in accordance with section 235(a)(4) of the INA, permit such an alien to voluntarily withdraw the application for admission and the asylum claim in lieu of placing the alien in expedited removal. The decision to permit withdrawal of an application for admission must be properly documented by means of a Form I-275, Withdrawal of Application for Admission/Consular Notification, to include the facts surrounding the voluntary withdrawal of the application for admission and the withdrawal of the asylum claim. Under no circumstances may the alien be pressured into withdrawing his or her application for admission or asylum request. Officers must provide adequate interpretation to ensure that the alien understands the process and any repercussions of the alien's decision to pursue or withdraw the asylum claim or withdraw the application for admission.

The Form I-275 should also indicate the alien's status in Canada or Mexico and the basis for determination of that status. This determination may be based on contacts with Canadian or

Mexican authorities, stamps in the alien's passport, or other available documentation. The narrative should also indicate that the alien has not expressed concern about returning to Canada or Mexico. If the alien expresses any concern or reluctance about returning to Canada or Mexico and wishes to pursue the asylum claim in the United States, the alien should be advised that he or she will be placed in the expedited removal process and will be detained pending the credible fear determination. The alien should not be given the Form I-589, Application for Asylum and for Withholding of Removal, nor should an affirmative asylum interview be scheduled at the port-of-entry.

Aliens at land border ports-of-entry who are subject to expedited removal and who claim a fear of persecution or torture or an intention to apply for asylum must be detained pursuant to section 235(b)(1)(B)(iii)(IV) of the INA and 8 CFR 235.3(b)(4)(ii) pending determination of a credible fear of persecution or torture. Once it has been determined that an alien has a credible fear, districts may continue to detain the alien or may parole from custody, as appropriate.

In a memorandum issued by the Deputy Commissioner on March 31, 1997, entitled Implementation of Expedited Removal, the INS stated that if there was insufficient detention space available to detain an alien in expedited removal arriving at a land border port-of-entry, the alien could be required to wait in Canada or Mexico pending a final determination of his or her claim of fear of persecution. That option is now rescinded. Similarly, 8 CFR 235.3(d) permits the INS, in its discretion, to require inadmissible aliens to remain in foreign contiguous territory while awaiting a removal hearing. Officers will not exercise this option with respect to aliens in the expedited removal process. Officers should contact the District Detention and Removal Division to locate available detention space either in the district or region.

This policy will be incorporated into IFM Chapters 17.15 and 21.2 in a future release of INSERTS. Please ensure that all districts and ports-of-entry are aware of and comply with this policy.



U.S. Department of Justice  
Immigration and Naturalization Service


HQINS 70/21.3

Office of the Executive Associate Commissioner

425 I Street NW  
Washington, DC 20536

FEB 6 2002

MEMORANDUM FOR REGIONAL DIRECTORS  
EXECUTIVE ASSOCIATE COMMISSIONER, MANAGEMENT  
DEPUTY EXECUTIVE ASSOCIATE COMMISSIONER,  
IMMIGRATION SERVICES  
DIRECTOR, INTERNATIONAL AFFAIRS

FROM:   
Michael A. Pearson  
Executive Associate Commissioner  
Office of Field Operations

SUBJECT: Aliens Seeking Asylum at Land Border Ports-of-Entry

The attached memorandum clarifies the Immigration and Naturalization Service (INS) policy regarding the processing of third-country nationals who present themselves at land border ports-of-entry and seek asylum in the United States. The INS has concluded that all such aliens are applicants for admission and should therefore be processed in accordance with section 235(b). This memorandum provides guidance for such processing.

Please ensure that all immigration inspectors performing these tasks are aware of this memorandum.

Attachment

Languages and number of cleared interpreters with LSA InterpreTalk as of Tuesday, June 19, 2007:

<u>Albanian</u>	<u>1</u>
<u>Arabic</u>	<u>1</u>
<u>Bengali</u>	<u>2</u>
<u>Burmese</u>	<u>1</u>
<u>Georgian</u>	<u>2</u>
<u>Haitian Creole</u>	<u>1</u>
<u>Hindi</u>	<u>1</u>
<u>Hunan</u>	<u>1</u>
<u>Karen</u>	<u>1</u>
<u>Mandarin</u>	<u>2</u>
<u>Portuguese</u>	<u>1</u>
<u>Punjabi</u>	<u>1</u>
<u>Russian</u>	<u>3</u>
<u>Spanish</u>	<u>9</u>
<u>Turkish</u>	<u>1</u>
<u>Ukrainian</u>	<u>1</u>
<u>Urdu</u>	<u>1</u>





U.S. Department of Justice  
Immigration and Naturalization Service

120/9.8

NOV - 8 1999

MEMORANDUM FOR: All Asylum Office Directors  
All Deputy Directors  
All Supervisory Asylum Pre Screening Officers

FROM: Joseph E. Langlois  
Acting Director, Asylum Division

SUBJECT: Lawyers Committee for Human Rights "Political Asylum and Expedited Removal" Discussion Document

I attended a discussion chaired by the Lawyers Committee for Human Rights on Tuesday, November 2. This discussion focussed on issues presented in the fourteen-page document included as an attachment to this memorandum. The document is a draft, and should not be viewed as the official policy of the Lawyer's Committee.

Please review the document with careful attention to the arguments that are presented. These arguments are representative of recent Non Governmental Organization criticism of Expedited Removal.

Please contact Wally Bird if you have questions or concerns.

Thank you.

Attachment:  
Discussion Document

10/28/99

## POLITICAL ASYLUM AND EXPEDITED REMOVAL<sup>1</sup>

From the earliest days of the Republic, the United States has provided safe haven for people fleeing persecution. George Washington declared that "[t]he bosom of America is open to receive not only the opulent and respectable stranger, but the oppressed and persecuted of all nations and religions," and established the principle that the United States would not send people back to face persecution.<sup>1</sup> In our own century, U.S. concern for the plight of refugees during and after the Second World War was instrumental in the development of treaties affirming the right of asylum and laying the groundwork for the modern international refugee protection system.

The persecuted look to the United States for hope, just as other nations look to the United States for leadership. Although only a tiny fraction of the world's refugees come directly to America's shores, our treatment of those who do sets an important example for the entire world and determines whether we are in compliance with treaty standards. Yet the laws and regulations that govern how the U.S. Immigration and Naturalization Service (INS) processes arriving asylum seekers have undergone drastic changes in recent years that undermine America's proud tradition of welcoming refugees.

The rights to seek asylum from persecution and to protection as a refugee are established in two of the earliest international human rights documents—the Universal Declaration of Human Rights and the 1951 Convention Relating to the Status of Refugees respectively. The term *asylum seeker* is used for individuals who apply for this status upon or after arriving in the

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<sup>1</sup> See Stanley Elkins & Eric McKittrick, *The Age of Federalism: The Early American Republic, 1788-1800* (1993), at 372-73.

U.S. In the technical jargon, those who are processed abroad in advance for resettlement here are called refugees, though it will be used here to indicate anyone with a legitimate claim to asylum.

A new immigration law enacted by the Congress raised significant -- for some insurmountable -- barriers that asylum seekers must in order to seek protection in the United States. The Illegal Immigration Reform and Immigrant Responsibility Act of 1996, which took effect on April 1, 1997, established an "expedited removal" process, which is so summary in nature that genuine refugees are at risk of being sent back to persecution without a meaningful opportunity to present their asylum claims.

Studies by the Lawyers Committee and others of expedited removal's first two years have shown it to be a fundamentally flawed system that must be repealed. By investing INS airport inspectors with the power to deport new arrivals on the spot, this new process puts genuine refugees at risk of erroneously being deported--sometimes, we must assume, to their great peril. Expedited removal short-circuits the screening of those who arrive here; with its mandate to look for illegal immigrants, it unfairly catches refugees in its over-broad net.

Because the current policy is out of step with international standards, the U.S. has come under pressure from the UN High Commissioner for Refugees, the agency responsible for upholding those standards. America's failure to fully protect arriving refugees undercuts our national interest in ensuring that other nations continue to host much larger refugee populations. When we press other governments to fulfill their responsibilities, as we often do, our case is greatly weakened by our own failings. It undermines the ability, for example, to persuade others to host Kosovar Albanians when INS officers have been known, in at least one case, to deport them in the middle of the Serb crackdown.

Though the stakes in terms of physical safety are highest when expedited removal is wielded against refugees, refugees are not the only ones who have suffered under this new regime. Expedited removal has been used unjustifiably against others, including business travelers. Businesspeople attempting to travel here with valid travel documents, including corporate board members, have been treated like criminals, with INS officers barring them from entering the U.S. on the grounds—yet without any objective evidence—that their stated purposes are fraudulent. This comes at a time when the uncertain world economy has made international commerce increasingly competitive.

Congress should end expedited removal, and the sooner the better. Doing so would not change the rules governing who is eligible for asylum, nor would it create new openings for illegal migrants to stay in America. Rather, it would ensure, consistent both with our international obligations and with core American values, that asylum seekers have a meaningful opportunity to apply for refuge. And, most important, it will reduce the risk that refugees entitled to protection are deported back to face repression, torture, and worse.

#### **A SYSTEM BASED ON ERRONEOUS ASSUMPTIONS**

Responding to perceptions that the asylum process was being abused by non-refugees, Congress included as part of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 a radical revision of the procedure under which arriving asylum seekers may raise a claim for protection. Under the new process, low-level INS inspectors at U.S. ports of entry may summarily deport anyone who arrives in the United States without valid travel documents, such as a passport or visa. The process may also be, and has been, used to deport individuals with facially valid papers that the INS inspector believes were obtained under false pretenses. Those

expressing a fear of persecution back in their country are, even under the new law, supposed to proceed to the next step of a more detailed interview. Yet inspectors have been known to dismiss out-of-hand the claims of asylum seekers (or failed to recognize indications of an asylum claim), and summarily deport them.

Many of the problems with the new asylum regime can be traced back to a misdiagnosis of the previous system. First was a belief that the asylum system had become undisciplined and was being exploited by non-refugees as a "back door" to illegal immigration. There is widespread agreement among observers that inadequate resources and bureaucratic inefficiencies in the asylum system in the early 1990's encouraged abuse. At that time, for instance, asylum seekers received virtually automatic permission to work while their applications were being processed, which often dragged on for years as a result of a serious backlog.

But by the time the reform bill was being debated in Congress, the INS had instituted broad ranging regulatory reforms that streamlined the asylum system and accelerated the processing of cases. These new regulations established strict INS processing deadlines and eliminated the automatic work permit provision. Significant additional resources were directed toward the hiring of more asylum officers. Applications numbers plummeted and, by 1996, with the INS processing applications more efficiently and no longer overwhelmed by its caseload, a major premise of the reform bill—that illegal immigrants were slipping through—was no longer true.

Though its impact on individuals is severe, expedited removal has been applied to a comparatively small number of arrivees, only 76,000 in the first year of operation. This is a tiny fraction of the total number of foreign nationals who enter the country. More than 90 per cent of

expedited removal cases in the first year were Mexican nationals; again, this 70,000 represents a small portion of the total flow of Mexicans. Because it is applied to people arriving at official points of entry, expedited removal is of little relevance to the problem of illegal immigration over the southern border. The vast majority of illegal immigrants crossing the land border are attempting to avoid any contact with officials; when they succeed, of course, they are beyond the reach of expedited removal. Moreover, U.S. immigration law provides an alternative to expedited removal; people arriving across a contiguous land border can be sent back, short of deportation and the associated five-year bar on re-entry, pending later interviews to determine their status.

Given these low numbers, expedited removal has clearly not been applied to enough people for it to be claimed as a major weapon against illegal immigration. Meanwhile, there have been legitimate refugees among these numbers (for instance the 6,000 non-Mexicans from the first year) deported to potentially devastating harm.

The United States has a strong and legitimate interest in preventing the immigration of individuals who pose a threat to public safety, another concern raised by proponents in the expedited removal debate. The new process, however, offers no significant help with this problem either. Expedited removal is a blunt instrument to deport some of the newly arrived—not a procedure for identifying terrorists or other criminals. Rather, the 1996 law established criteria for deportation, failure to possess valid travel documents, that were bound to catch legitimate refugees in the dragnet.

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**Sidebar – Legislative History**

Expedited removal was a product of a House-Senate conference after the two bodies passed very different provisions. When the Senate voted on its version, a bipartisan majority limited the use of expedited removal to immigration emergencies. In the House, expedited removal never received a separate vote. Much to the dismay of the Senate sponsors, the House-Senate conference removed the limitations on the use of expedited removal. These critics of the new process then mandated that the General Accounting Office evaluate the impact of expedited removal, particularly on asylum seekers. For its part, the GAO declined to audit the quality of decisions under expedited removal, restricting itself to merely verifying whether the INS followed its own procedures (though even the GAO's limited evaluation pointed up significant failings, see p. X).

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**Sidebar – How Expedited Removal Works**

The first hurdle for an arriving asylum seeker is "secondary inspection." Any individual who arrives at a port of entry without valid documents—or even with facially valid ones that the INS suspects may have been obtained through false pretenses—must pass through this process. He is referred by the first INS officer he encounters, the primary inspector, to another INS officer who conducts the secondary inspection.

This relatively low-level INS official can order the person deported, subject only to a supervisor's approval. There is no further review of the secondary inspector's removal order. No

judge, no court, nobody outside the airport reviews its validity. Moreover, a removal order includes a five-year bar to entering the United States.

The secondary inspector is required by law to refer anyone who claims a fear of persecution, or even expresses an intent to apply for asylum, for a "credible fear" interview. But if the secondary inspector fails to do so, the asylum seeker has no recourse. This stage of expedited removal is the most dangerous for asylum seekers, because it occurs without any monitoring by outside groups.

Credible fear interviews are conducted by specially trained INS asylum officers, whom the applicant (in an interview that takes place as soon as 48 hours after arrival) must convince that he has a "credible fear of persecution" if he returns to his country, intended to be a relatively easy screening standard. These interviews take place within days of arrival, during which time the asylum seeker is jailed, leaving little time or opportunity to gather evidence either about country conditions or about the applicant's individual case. If the Asylum Officer decides that the asylum seeker does not have a credible fear, the individual is subject to immediate deportation. If and only if he requests it, the negative determination will be reviewed by an Immigration Judge, an administrative judge employed by the Department of Justice. This review must by law be conducted within seven days.

#### **How the 1996 Act Changed the Process**

Before the 1996 law took effect, all arriving asylum seekers presented their claims for asylum directly to an immigration judge at an evidentiary hearing. The applicant could present



witnesses and documentation for his claim and was permitted to be represented by a lawyer.

Decisions by the immigration judge were subject to administrative and judicial review.

The expedited removal empowers INS inspectors at the airport to issue a final and unreviewable order of deportation that may be executed immediately, a power that previously rested only with judges. Such orders carry with them severe immigration penalties as well; individuals ordered removed under the new procedure are barred for five years from seeking to enter the United States for any reason. By giving what amounts to judicial power to low-level INS officials, the new process invites mistakes and abuse, yet the stakes for some refugees can be literally life-or-death.

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Expedited removal can be set in motion whenever someone arriving at a port of entry fails to present valid travel documents. The law presumes that those arriving without documents cannot be refugees and therefore bars them, at least initially, from applying for asylum. This premise has an Alice-in-Wonderland quality to it. Far from indicating an invalid claim, the failure to produce valid documents is often a direct result of the repression that the asylum seeker is trying to escape. In fact, asylum seekers whose documents are entirely in order invariably are asked during the adjudication process to explain how this official sanctioning of their escape squares with their claims of persecution. In fact, merely applying for a passport or visa would, in many countries, attract unwanted notice from local authorities. In other places—Kosovo recently, for instance—identity papers and other key documents of ethnic Albanians were confiscated by repressive officials or forces. One of this century's heroes of refugee protection,

Raoul Wallenberg, is hailed precisely because he gave false documents to refugees fleeing the Nazi genocide.

Proponents of expedited removal also fail to understand that the vast majority of arriving refugees are either unaware of or confused by the asylum process, and are often unable to relate their experiences and fears of persecution immediately upon arrival. Most are ill-equipped to prepare and present a claim for asylum even within twelve months of arrival, yet expedited removal requires them to within days articulate their claims.

### **REQUESTING REFUGE IN A CLIMATE OF INTIMIDATION AND FEAR**

While many INS inspectors no doubt perform their duties in a commendable manner, others treat arriving asylum seekers with suspicion and fail to act in accord with U.S. law, regulations, and policy. At root, the problem is that inspectors are enforcement officers, and expedited removal gives them such broad discretion, free of any review or scrutiny, that it is simply too easy to abuse. The process effectively makes them judge and jury. Also symptomatic of the built-in danger of overzealous enforcement is the frequency with which asylum seekers are kept in detention long after they have established a significant possibility of winning asylum.

The process is extremely difficult to navigate for even for the well-educated, English-speaking asylum-seeker. For others, it is rife with danger:

- Arrivees are not given adequate notice prior to the secondary inspection interviews that the interview will be an arriving individual's only opportunity to inform U.S. authorities that he needs protection;
- Secondary inspection interviews frequently occur in open, public spaces with no provision for confidentiality;

- Arrivees are prohibited from contacting outside agencies, family, or friends before the secondary inspection interviews;
- If they request the opportunity to speak to a lawyer, they are informed that they have no such right;
- There is no requirement for the provision of qualified interpreters bound by confidentiality throughout the expedited removal process;
- Review of a negative credible fear determination may take place without the right to any meaningful participation of counsel.

#### **DOCUMENTING THE EFFECTS OF EXPEDITED REMOVAL**

One of the greatest obstacles in evaluating the impact of the 1996 law is the paucity of publicly available data tracking the results of its implementation. As it considered the legislation, Congress itself was sufficiently concerned about the dangers of expedited removal that it mandated the General Accounting Office to conduct a study detailing the costs and effectiveness of the new procedures. Congress explicitly required that the study include an evaluation of "the accuracy of credible fear determinations."<sup>2</sup>

While the GAO observed only a handful of expedited removal proceedings, its report identified some disconcerting problems. INS inspectors failed to follow their own procedures up to 20 percent of the time and at four of the five locations surveyed, including failing to have supervisors approve summary deportations and failing to ask specific questions about an applicants fear of return.

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<sup>2</sup> Cong. Rec. H11797 (September 28, 1996).

The report also found that asylum officers err in their judgments about credible fear in about 17 percent of cases; have failed to inform applicants of their right to request review of a negative credible fear finding; and have failed to ask applicants questions regarding fear of torture. These findings, combined with the shroud of secrecy over the expedited removal process, dramatizes the extreme vulnerability of asylum seekers. Nothing is known about those who are immediately deported. They never see a lawyer. They never see an assistance agency. No court reviews their cases.

In the case of an ethnic Albanian from Kosovo, his case is only known because he succeeded in a second attempt to come to the United States. In the winter of 1998 "Arben" traveled to an East Coast airport. Even though the vicious persecution of Albanian Kosovars by Serbian authorities was then receiving prominent news coverage, the INS inspector did not recognize that he should refer the individual to a credible fear interview. First, Arben had to insist on being provided an Albanian language interpreter after a Serbo-Croatian one was provided. Then, when Arben told the interpreter that he was afraid to return home, the interpreter said he had been instructed only to tell Arben that he was being sent back. The asylum seeker's statement, which he reiterated to another person in halting German, that he feared return was ignored and he was summarily deported.<sup>3</sup>

Another case demonstrating the inherent danger presented by expedited removal involves two Ecuadorans who fled to the United States after receiving death threats for exposing police corruption. According to news reports, they requested asylum at a U.S. airport. But secondary inspectors accused them of lying. After being handcuffed to a hotel bed overnight, the men were

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<sup>3</sup> The asylum seeker has asked for confidentiality reasons that his real name not be used. Source: interview of his attorney by C. Randolph Ross.

sent back to Ecuador. After being forced to return to Ecuador, the men, fearing for their lives, immediately went into hiding.<sup>4</sup>

### DETENTION OF ASYLUM SEEKERS

Among the provisions of the 1996 law is a requirement that any asylum seeker arriving without valid travel documents be held in mandatory detention until they pass out of the expedited removal process by establishing a credible fear of persecution before an asylum officer or immigration judge. Yet despite INS guidelines confirming that asylum seekers who have cleared this hurdle are eligible for parole, many such applicants have been held in detention for several months or even a period of years.

The Expedited Removal Study of the University of California Hastings College of Law<sup>5</sup> found average periods of detention (based on a very small sample of reports from attorneys in the absence of official figures) of between two and three months for individuals for whom credible fear of persecution had been determined by an INS asylum officer.<sup>6</sup>

This is not to suggest that detention is an invalid option for anyone arriving at America's borders. For individuals about whom there may be genuine suspicions, holding them in custody may be an important prerogative to protect public safety. But those who have established that

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<sup>4</sup> Barbara Bradley and Bob Edwards, National Public Radio, Morning Edition, Transcript #97101408-210 (October 14, 1997).

<sup>5</sup> The Expedited Removal Study, Center for Human Rights and International Justice, University of California Hastings College of Law, *Report on the Second Year of Implementation of Expedited Removal*, May 1999, at 35-37.

<sup>6</sup> Detention periods may be longer than these averages indicate. First, anyone still in custody when the information was gathered would not be counted. And significant differences in the length of detention depending on place of origin and point of entry mean that, for instance, if one is unlucky enough to have come from Africa or some Asian countries or arrived at JFK Airport, the average period was three to five months.

they are credible asylum claimants and present no threat should not be considered a threat and should not be imprisoned.

This practice is inconsistent with international norms for the protection of refugees, and the ongoing discussions of the issue within the UNHCR are a source of some diplomatic embarrassment for the United States. Not only does such detention, often in appalling conditions run counter to America's traditional sense of fairness, on a practical level it inhibits the asylum seeker's ability to prepare and present his case. Freed from detention, an asylum-seeker has access to physicians and psychiatrists to document the aftermath of torture and trauma. He also has much better access to counsel and much greater ability to select new counsel if necessary.

And there are practical consequences also for the American taxpayer, who foots the bill for unnecessary incarceration when family and friends have offered to support the applicant. But what makes detention so wasteful, and unjust, is that many of those detained are ultimately proven legitimate refugees and granted asylum—as could have been anticipated after their credible fear determination.

### **RECOMMENDATIONS**

An important part of who we are as a nation is represented by the Statue of Liberty lifting her torch "beside the golden door." Through the generations, America has offered refuge to those fleeing persecution and torture, as a matter of principle and with a spirit of generosity. Expedited removal unduly sacrifices that part of our national identity. The following steps should thus be taken:

- *The Congress should repeal expedited removal at the earliest possible date.*

- *Most urgently, the INS must allow regular monitoring of all stages of expedited removal, including secondary inspection, by NGOs and by the United Nations High Commissioner for Refugees and must also regularly release statistical information on the process.*
- *The INS should immediately direct all districts to implement fully its parole program and follow up this directive with regulations formally standardizing the policy.*
- *To the extent that the INS may be restructured, care should be taken that no bureaucratic gaps are created that could undermine the rights of asylum seekers.*



**U.S. Citizenship  
and Immigration  
Services**

HQRAIO 120/9.15

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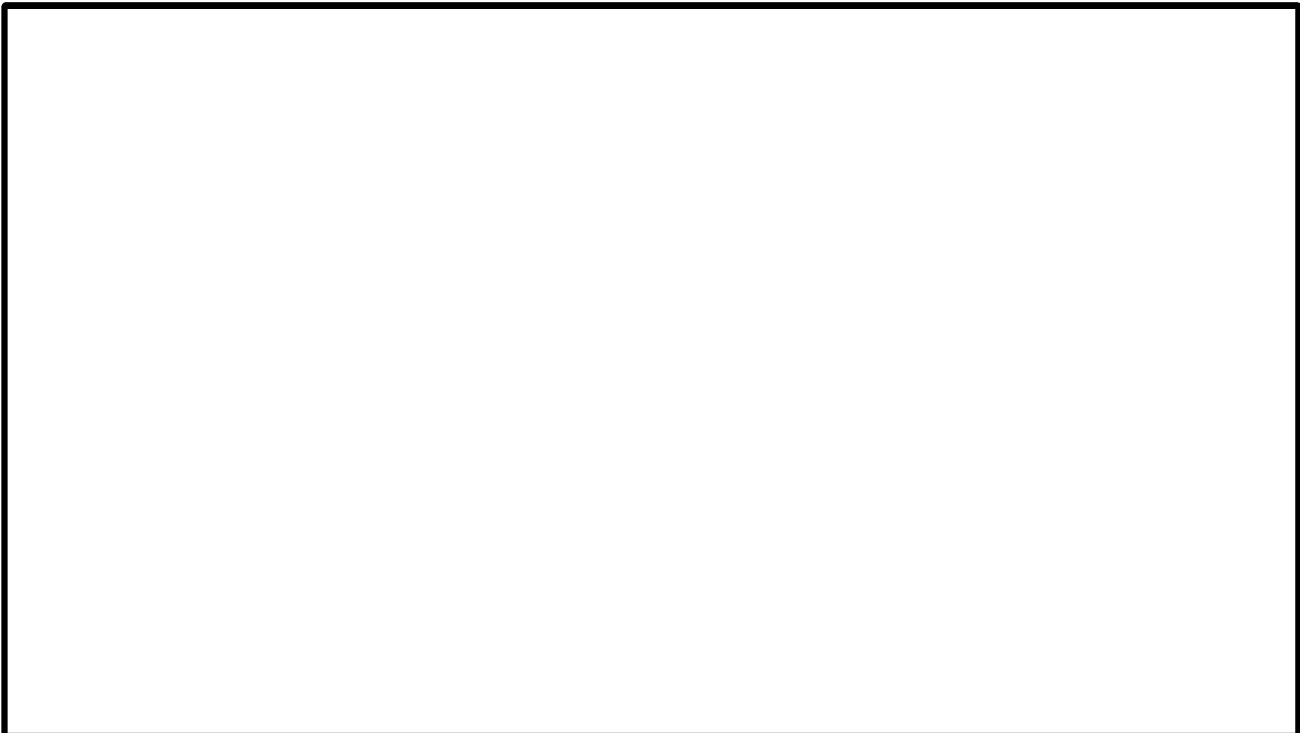
**APR 11 2013**

## Memorandum

**TO:** Asylum Office Directors  
Asylum Office Deputy Directors  
Supervisory Asylum Pre-Screening Officers  
Asylum Pre-Screening Officers  
Quality Assurance/Training Asylum Officers

**FROM:** Ted H. Kim  
Acting Chief, Asylum Division

**SUBJECT:** Expansion and Extension of Credible Fear Determination Checklist Pilot





(b)(5)



**U.S. Citizenship  
and Immigration  
Services**

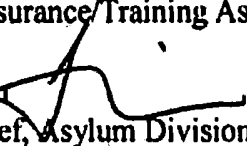
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HQRAIO 120/9.15

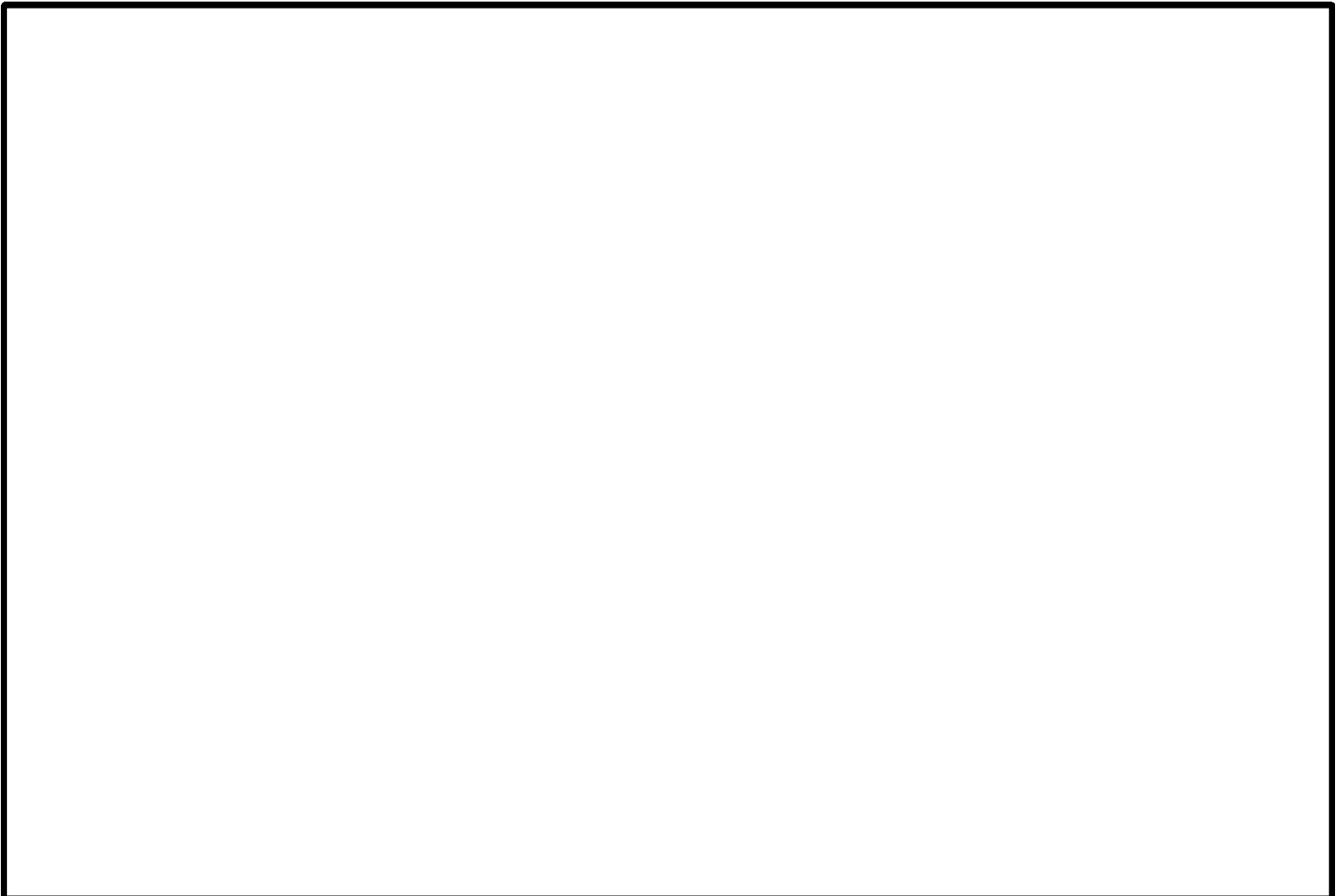
## Memorandum

**JAN 14 2013**

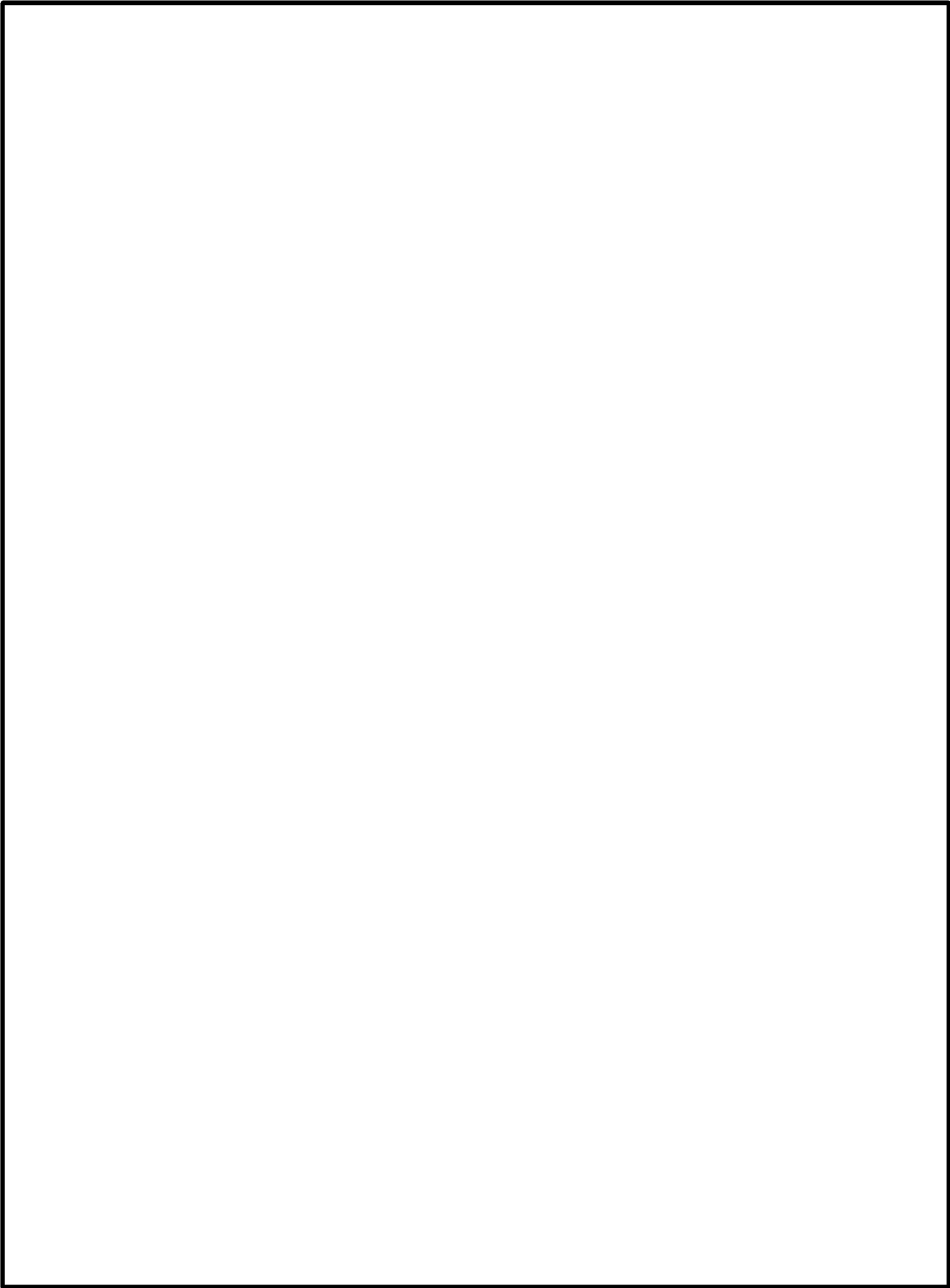
**TO:** Asylum Office Directors  
Asylum Office Deputy Directors  
Supervisory Asylum Pre-Screening Officers  
Asylum Pre-Screening Officers  
Quality Assurance/Training Asylum Officers

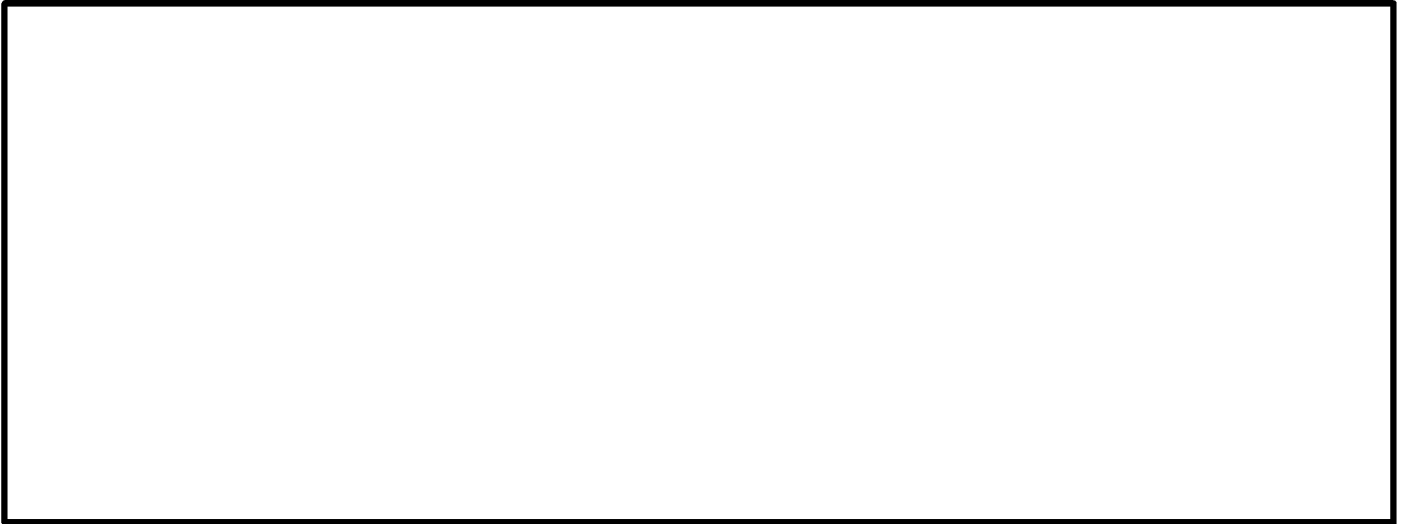
**FROM:** Ted H. Kim   
Acting Chief, Asylum Division

**SUBJECT:** Implementation of Credible Fear Determination Checklist Pilot



(b)(5)







U.S. Department of Justice  
Immigration and Naturalization Service

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425 I Street NW  
Washington, DC 20536

SEP 20 2001

MEMORANDUM FOR Asylum Office Directors  
Deputy Directors  
Supervisory Asylum Officers  
QA/Trainers  
Asylum Officers

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

SUBJECT: Mentally incompetent aliens in the credible fear process

The instructions in this memorandum amend the Credible Fear Procedures Manual (Draft 12/00), as it pertains to aliens unable to testify on their own behalf. Asylum officers are neither trained nor expected to evaluate an asylum seeker's mental competency and shall not make any determinations to that effect. However, there may be cases in which a credible fear applicant manifests behavior that leads an asylum officer to question the applicant's ability to provide competent testimony.

Cases in which an asylum officer and supervisory asylum officer are concerned that the applicant is not mentally competent should be processed as follows. First, the asylum officer should notify the supervisory asylum officer of his or her concerns. If the supervisory asylum officer believes there are reasonable grounds to question the competency of the applicant to provide testimony, the supervisor should notify public health through proper channels, pursuant to local procedures.

After an initial attempt to interview the applicant has concluded, the following documents should be sent by facsimile (202-305-0827), to the credible fear program manager for review:

**Forms:** I-870 *Record of Determination/Credible Fear Worksheet*, I-867A & B *Record of Sworn Statement in Proceedings under Section 235(b)(1) of the Act and Jurat*, I-860 *Notice and Order of Expedited Removal* (if applicable);

**Notes and Memos:** Interview notes, any memoranda in the A-file from Inspections or Detention staff pertaining to the applicant's mental well-being, a memo written by the supervisory asylum officer documenting efforts to notify the Public Health Service, the result of those efforts, and the reasons the asylum officer and supervisor have concerns regarding the applicant's mental competency.

Charging documents and any credible fear determination may be issued only after Headquarters completes its review of the case. Headquarters will consult with the supervisory asylum officer to determine whether a public-charge charge is appropriate, or whether a credible fear determination may be made based on the applicant's responses and conditions in any country to which he or she may be returned.

Headquarters intends to follow up with additional guidance after further evaluation of these types of cases and consulting with the Office of General Counsel. Please forward any comments or suggestions about this matter to

(b)(6)

(b)(5)













## **Jowett, Haley L**

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**From:** Lafferty, John L  
**Sent:** Wednesday, June 25, 2014 6:55 PM  
**To:** Jones, Rendell L; Scialabba, Lori L; Langlois, Joseph E  
**Cc:** Kim, Ted H  
**Subject:** Processing of CF family cases

In discussing our coverage for Artesia in Lori's office, we briefly discussed our handling of family CF cases. The CF regs say that the spouse and child can be included in a person's CF "evaluation and determination," if they arrived in the US concurrently with the principal, and they desire to be included on the principal's CF determination. They can get separate CF determinations if that is what they prefer.

If they request to all be on one case, under our current CF procedures the AO first interviews the principal applicant to determine if that person has a credible fear of persecution or torture. If the principal applicant does not have a credible fear of persecution or torture, the APSO interviews any other dependents (spouse or child who arrived concurrently with applicant that desired to be included in the principal's credible fear determination) who have articulated a fear of return to determine if any of them have a claim separate from that of the principal. If any dependent does have a credible fear of persecution or torture, then that person becomes the principal applicant for purposes of the credible fear determination. This positive finding is used as the basis of finding credible fear for the entire immediate family that arrived concurrently, including any immediate family members who were unable to establish a credible fear on their own. This is the case even if it is the child who is determined to have the credible fear. This process has been in place for many years, though we've had only limited occasion to use it until recently.

If there are any concerns about our current procedures, we will need to revise them in the next couple of days in order to have them in place prior to the start of our processing early next week.





**Jowett, Haley L**

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**From:** Lafferty, John L  
**Sent:** Tuesday, September 02, 2014 4:28 PM  
**To:** Daum, Robert L; Hemming, Bryan D; Mcdonnell, Audrey V  
**Cc:** Kim, Ted H; Stone, Mary M; Tanner, Rebecca S  
**Subject:** RE: Karnes

ZHN colleagues,

AILA has raised some concerns about Karnes processing with the Serena Hoy, the DHS Counselor to the Secretary who just recently visited Artesia. Please give your take on the following concerns that were raised:

- Credible fear interviews are being held before the detainees are given an LOP, much less before they have a chance to see a lawyer. Probably as a result, at least anecdotally, the CFI grant rate seems unusually low.
- Unfortunately, it appears that the asylum officers are refusing to re-interview in these cases. An asylum officer said the following in response to a request for re-interview: *"Standard procedure is that the IJ must review the case, if the alien requests IJ review, after a negative CF determination. We cannot take a re-interview request at this time. Please present any additional evidence you may have collected to the judge, at the time of the review."* This is contrary to what John Lafferty at HQ told us. Though there is no formal process, when we asked about this in the Artesia context, he basically said that they always want to make the right decision and that if there is new information it would be helpful to submit a statement and any supporting docs to the AO supervisor on the ground or to the Houston Asylum Office which has jurisdiction over Artesia and they would consider a re-interview. AOs in Artesia have been reinterviewing detainees in certain cases. The same rules should apply to Karnes.
- Finally, some of the CFIs are being conducted telephonically. We realize that this is not that unusual a practice, but it is not an effective method for this population.

On the last item, we may get pushed to have boots on the ground there to conduct all the interviews in person.

John

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**From:** Langlois, Joseph E  
**Sent:** Tuesday, September 02, 2014 5:02 PM  
**To:** Lafferty, John L  
**Cc:** Higgins, Jennifer B  
**Subject:** FW: Karnes

John,

Your take on this?

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**From:** Hoy, Serena  
**Sent:** Tuesday, September 02, 2014 4:12 PM  
**To:** Langlois, Joseph E  
**Subject:** FW: Karnes





**Jowett, Haley L**

(b)(5)

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**From:** Lafferty, John L  
**Sent:** Tuesday, August 05, 2014 11:58 AM  
**To:** Kim, Ted H  
**Subject:** RE: Possible Call to Discuss AILA Pro Bono Efforts at Artesia?  
**Attachments:** How many staff.docx

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**From:** Kim, Ted H  
**Sent:** Tuesday, August 05, 2014 12:43 PM  
**To:** Lafferty, John L  
**Subject:** FW: Possible Call to Discuss AILA Pro Bono Efforts at Artesia?

[Redacted]

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**From:** Donis, Antonio  
**Sent:** Friday, August 01, 2014 11:26 AM  
**To:** Daum, Robert L; Lafferty, John L; Hemming, Bryan D; Kim, Ted H; Stone, Mary M; Scott, Elizabeth M  
**Subject:** RE: Possible Call to Discuss AILA Pro Bono Efforts at Artesia?

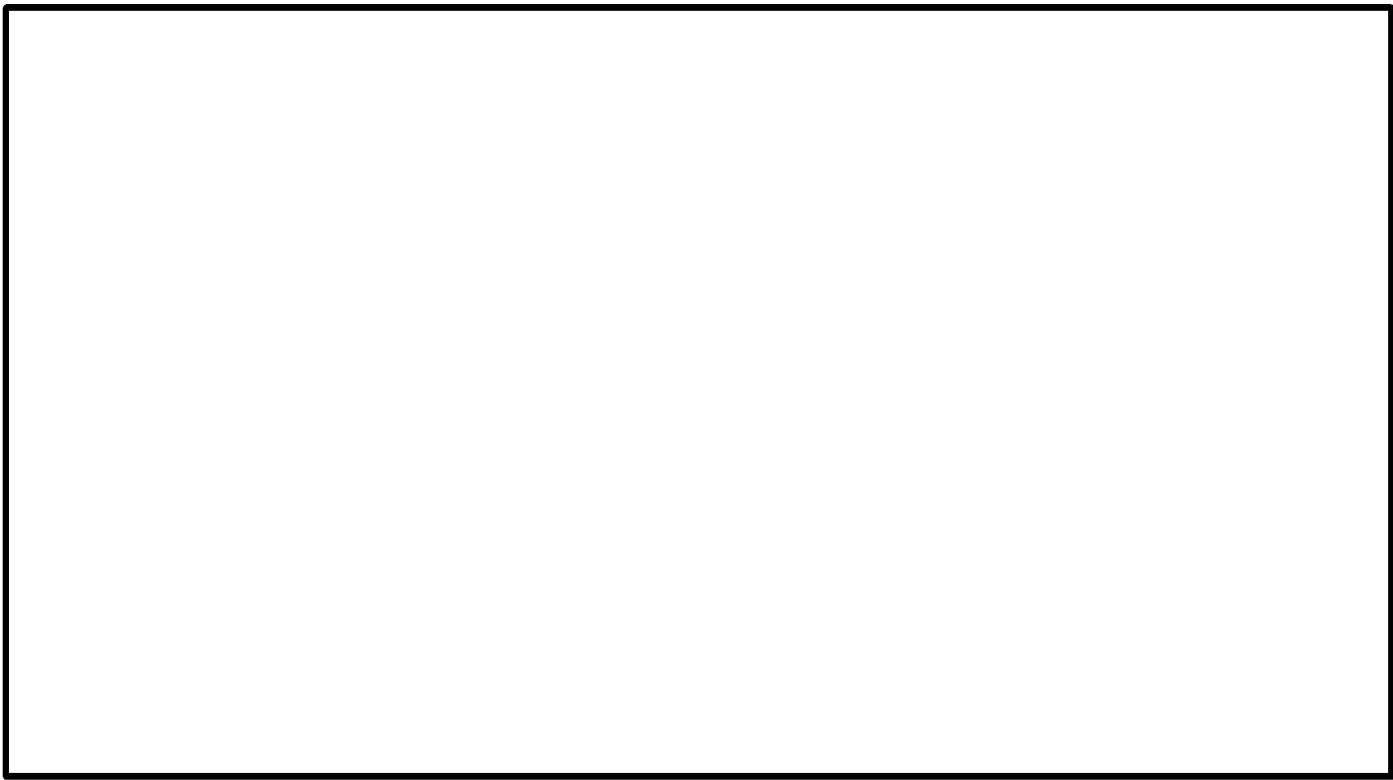
[Redacted]

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**From:** Daum, Robert L  
**Sent:** Friday, August 01, 2014 10:02 AM  
**To:** Lafferty, John L; Hemming, Bryan D; Donis, Antonio; Kim, Ted H; Stone, Mary M; Scott, Elizabeth M  
**Subject:** RE: Possible Call to Discuss AILA Pro Bono Efforts at Artesia?

Our edits are below in red:

[Redacted]



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**From:** Lafferty, John L  
**Sent:** Thursday, July 31, 2014 5:01 PM  
**To:** Hemming, Bryan D; Donis, Antonio; Kim, Ted H; Stone, Mary M; Scott, Elizabeth M; Daum, Robert L  
**Subject:** FW: Possible Call to Discuss AILA Pro Bono Efforts at Artesia?

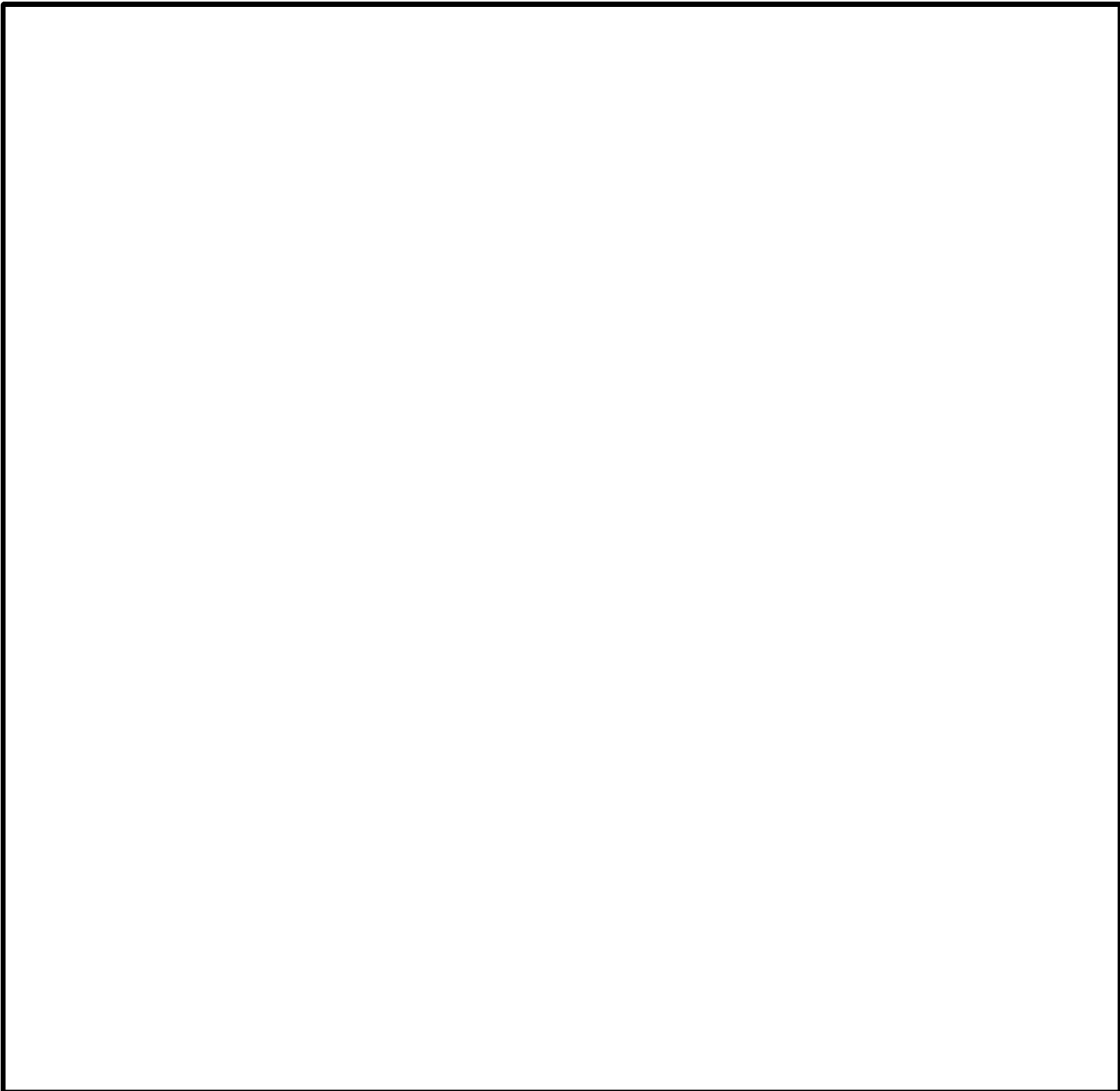
Can you please look at my quick short responses to AILA's questions and please revise/correct as needed? Thanks!

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**From:** Betsy Lawrence [<mailto:BLawrence@aila.org>]  
**Sent:** Tuesday, July 29, 2014 3:29 PM  
**To:** Lafferty, John L  
**Cc:** Dree Collopy ([dcollopy@benachragland.com](mailto:dcollopy@benachragland.com)); Kate Voigt (b)(5)  
**Subject:** Possible Call to Discuss AILA Pro Bono Efforts at Artesia?

Dear John –





Best Regards,

Betsy

**Betsy Lawrence**

*Director of Liaison*

Direct: 202.507.7621 | Email: [blawrence@aila.org](mailto:blawrence@aila.org)

**American Immigration Lawyers Association**

Main: 202.507.7600 | Fax: 202.783.7853 | [www.aila.org](http://www.aila.org)

1331 G Street NW, Suite 300, Washington, DC 20005



(b)(5)

(b)(5)

(b)(5)

**Jowett, Haley L**

---

**From:** Lafferty, John L  
**Sent:** Tuesday, August 12, 2014 9:20 AM  
**To:** Donis, Antonio  
**Cc:** Kim, Ted H; Daum, Robert L; Stone, Mary M; Hemming, Bryan D; Littlepage, Ryan L  
**Subject:** RE: problem with notice of CFIs at Artesia

Antonio,

Thanks for the e-mail. I'm happy to step out of this and let Houston and Artesia handle this issue. If ZHN and Artesia will let me know what time you would be available for a call (and phone-in information, if you have it), I will pass on the information to AILA and let you work this out with them. Let me know how you want to proceed.

Thanks!

(b)(5)

John

---

**From:** Donis, Antonio  
**Sent:** Tuesday, August 12, 2014 9:54 AM  
**To:** Lafferty, John L  
**Cc:** Kim, Ted H; Daum, Robert L; Stone, Mary M; Hemming, Bryan D; Littlepage, Ryan L  
**Subject:** RE: problem with notice of CFIs at Artesia

John

Let me know if you need any more info and I can be on the call.

Antonio\_\_

(b)(5)

**From:** Lafferty, John L

**Sent:** Monday, August 11, 2014 8:42 PM

**To:** Daum, Robert L; Donis, Antonio; Hemming, Bryan D; Littlepage, Ryan L

**Cc:** Kim, Ted H; Stone, Mary M

**Subject:** RE: problem with notice of CFIs at Artesia

[Redacted]

---

**From:** Karen Lucas

**Sent:** Tuesday, August 12, 2014 12:14:23 AM

**To:** Lafferty, John L

**Cc:** Robert Deasy

**Subject:** problem with notice of CFIs at Artesia

[Redacted]

Best,  
Karen

KAREN SICILIANO LUCAS, ESQ. | LEGISLATIVE ASSOCIATE  
**AMERICAN IMMIGRATION LAWYERS ASSOCIATION**  
1331 G STREET NW SUITE 300 | WASHINGTON DC 20005  
202 507 7645 DIRECT | 202 507 7600 MAIN  
[KLUCAS@AILA.ORG](mailto:KLUCAS@AILA.ORG) | [WWW.AILA.ORG](http://WWW.AILA.ORG)



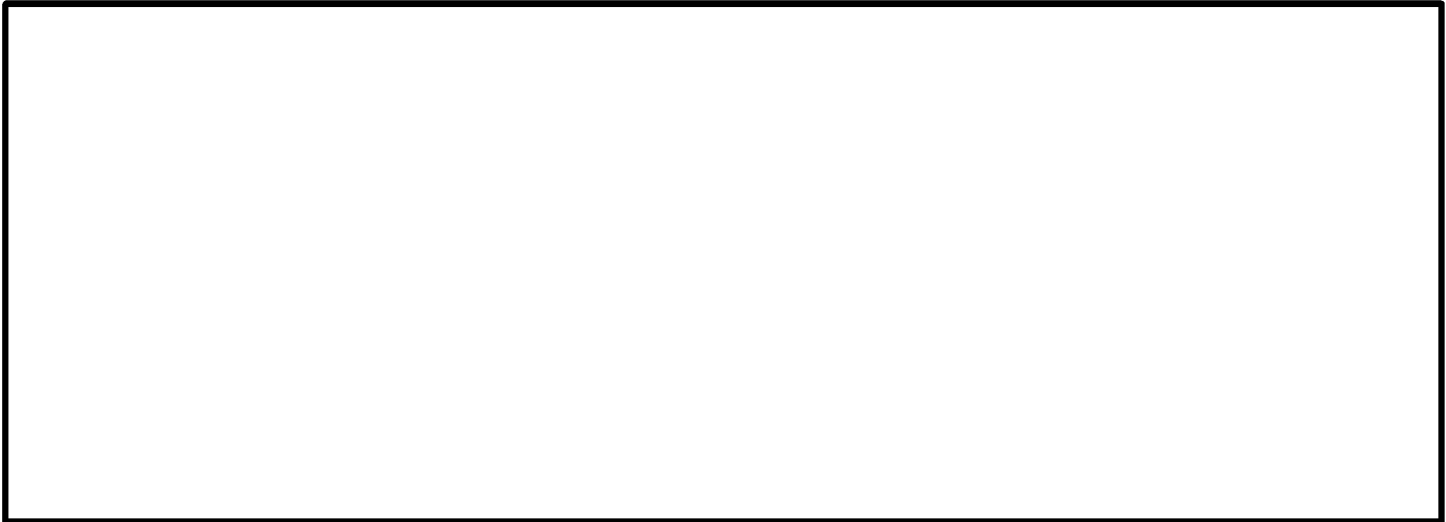
**Jowett, Haley L**

---

**From:** Lafferty, John L  
**Sent:** Monday, November 10, 2014 5:55 PM (b)(6)  
**To:** 'Kate Voigt'  
**Cc:** Betsy Lawrence  
**Subject:** RE: Statistics and Request for Conference Call  
**Attachments:** Artesia + Karnes updates thru 10-2014.pdf

Kate,

(b)(5)



We look forward to seeing you at this week's Stakeholders' meeting. If you want to speak on these issues before this Friday, let me know.

John

---

**From:** Kate Voigt [mailto:KVoigt@aila.org]  
**Sent:** Monday, October 27, 2014 1:14 PM  
**To:** Lafferty, John L  
**Cc:** Betsy Lawrence  
**Subject:** RE: Statistics and Request for Conference Call

Hi John,



Again, thank you very much for taking the time to talk through these issues with us.

Thanks again,  
~Kate

**Kate Voigt, Esq.**  
*Senior Liaison Associate*  
Direct: 202.507.7626 | Email: [kvoigt@aila.org](mailto:kvoigt@aila.org)

(b)(5)

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1331 G Street NW, Suite 300, Washington, DC 20005



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**From:** Lafferty, John L [<mailto:John.L.Lafferty@uscis.dhs.gov>]  
**Sent:** Tuesday, October 21, 2014 4:12 PM  
**To:** Betsy Lawrence  
**Cc:** Kate Voigt  
**Subject:** RE: Statistics and Request for Conference Call

Betsy,

Thanks for the update! We'll continue to wait for your response. I have also been discussing options with our staff on the ground.

John

---

**From:** Betsy Lawrence [<mailto:BLawrence@aila.org>]  
**Sent:** Tuesday, October 21, 2014 3:05 PM  
**To:** Lafferty, John L  
**Cc:** Kate Voigt  
**Subject:** FW: Statistics and Request for Conference Call

Hi John –

Best,

Betsy

---

**From:** Betsy Lawrence  
**Sent:** Friday, October 17, 2014 5:53 PM  
**To:** 'Lafferty, John L'; Lynn, Mallory L  
**Cc:** Kate Voigt  
**Subject:** RE: Statistics and Request for Conference Call

John –

Thanks so much for the quick response! Let me float this past Stephen and Christina and get their feedback. I'll be back in touch soon.

Best,

Betsy

(b)(5)

---

**From:** Lafferty, John L [<mailto:John.L.Lafferty@uscis.dhs.gov>]  
**Sent:** Friday, October 17, 2014 5:13 PM  
**To:** Betsy Lawrence; Lynn, Mallory L  
**Cc:** Kate Voigt  
**Subject:** RE: Statistics and Request for Conference Call

Betsy,

Thanks for organizing the meeting.

Thanks, and have a great weekend!

John

---

**From:** Betsy Lawrence [mailto:BLawrence@aila.org]  
**Sent:** Friday, October 17, 2014 4:27 PM  
**To:** Lafferty, John L; Lynn, Mallory L  
**Cc:** Kate Voigt  
**Subject:** RE: Statistics and Request for Conference Call

Hi John and Mallory –

I just wanted to again convey my thanks to you both for taking the time to speak to us today. We greatly appreciate it. We will follow up with you both in the coming days. In the meantime, if there is anything that you need from us, please do not hesitate to ask.

Have a great weekend.

Best,

Betsy

**Betsy Lawrence**  
*Director of Liaison*  
Direct: 202.507.7621 | Email: [blawrence@aila.org](mailto:blawrence@aila.org)

**American Immigration Lawyers Association**  
Main: 202.507.7600 | Fax: 202.783.7853 | [www.aila.org](http://www.aila.org)  
1331 G Street NW, Suite 300, Washington, DC 20005



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**From:** Betsy Lawrence  
**Sent:** Thursday, October 16, 2014 10:16 PM  
**To:** Lafferty, John L  
**Cc:** Betsy Lawrence; Kate Voigt; Lynn, Mallory L  
**Subject:** Re: Statistics and Request for Conference Call

Hi John --

Thank you! We will speak to you then. Looking forward to speaking with you too, Mallory--hope you are able to make it.

All the best,

Betsy

Sent from my iPad

On Oct 16, 2014, at 7:32 PM, Lafferty, John L <[John.L.Lafferty@uscis.dhs.gov](mailto:John.L.Lafferty@uscis.dhs.gov)> wrote:

Betsy,

3 PM EST will work for us. I'm copying in Mallory in case she can make the call.

John

---

**From:** Betsy Lawrence  
**Sent:** Thursday, October 16, 2014 2:16:24 PM  
**To:** Lafferty, John L  
**Cc:** Kate Voigt; Betsy Lawrence  
**Subject:** RE: Statistics and Request for Conference Call

(b)(5)

Good morning John –



Thanks again,

Betsy

---

**From:** Betsy Lawrence  
**Sent:** Wednesday, October 15, 2014 7:12 PM  
**To:** Lafferty, John L  
**Cc:** Betsy Lawrence; Kate Voigt  
**Subject:** Re: Statistics and Request for Conference Call

Hi John--



Have a good evening,

Betsy

Sent from my iPad

On Oct 15, 2014, at 6:59 PM, Lafferty, John L <[John.L.Lafferty@uscis.dhs.gov](mailto:John.L.Lafferty@uscis.dhs.gov)> wrote:

Betsy,

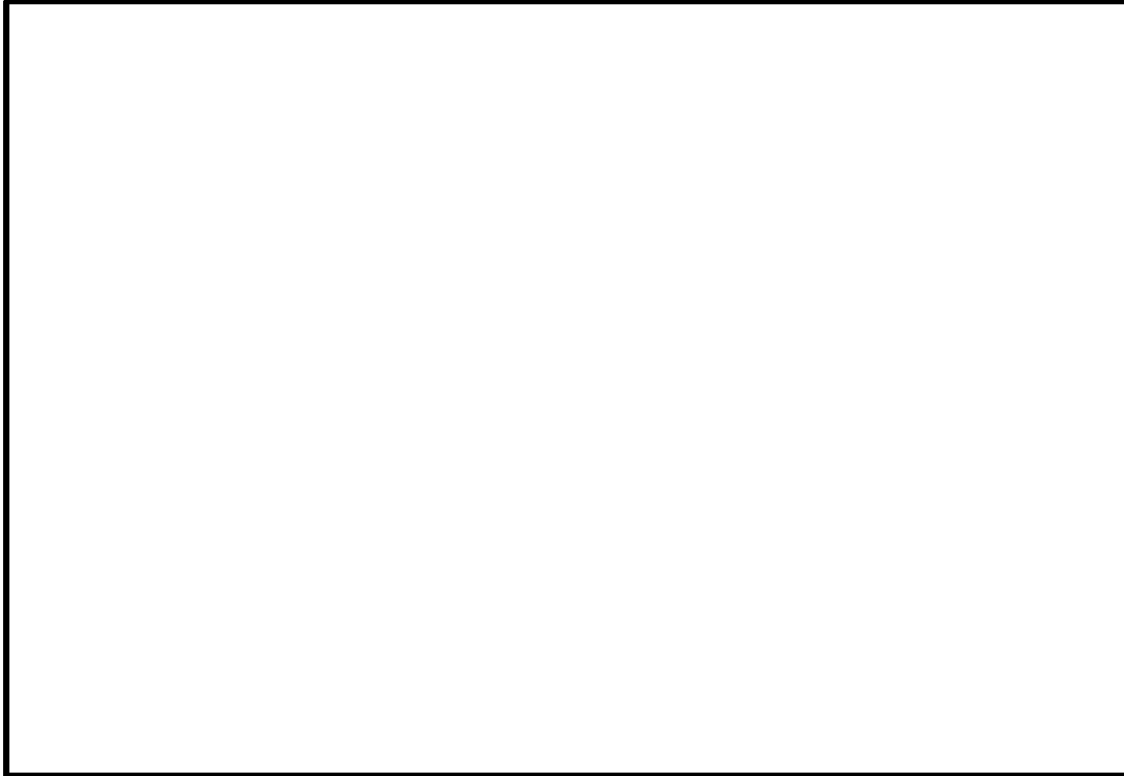


John

---

**From:** Betsy Lawrence [<mailto:BLawrence@aila.org>]  
**Sent:** Tuesday, October 14, 2014 5:14 PM  
**To:** Lafferty, John L  
**Cc:** Kate Voigt; Betsy Lawrence  
**Subject:** Statistics and Request for Conference Call (b)(5)

Hello John –



Please let us know your availability. As always, we thank you for your time.

Best,

Betsy

**From:** Kate Voigt <[KVoigt@aila.org](mailto:KVoigt@aila.org)>  
**Date:** September 30, 2014 at 5:37:05 PM EDT  
**To:** "Lafferty, John L" <[John.L.Lafferty@uscis.dhs.gov](mailto:John.L.Lafferty@uscis.dhs.gov)>  
**Subject:** RE: Statistics Request



Best,  
~Kate

---

**From:** Lafferty, John L [<mailto:John.L.Lafferty@uscis.dhs.gov>]  
**Sent:** Monday, September 29, 2014 12:11 PM

**To:** Kate Voigt  
**Subject:** RE: Statistics Request

(b)(5)

Kate,



Take care!

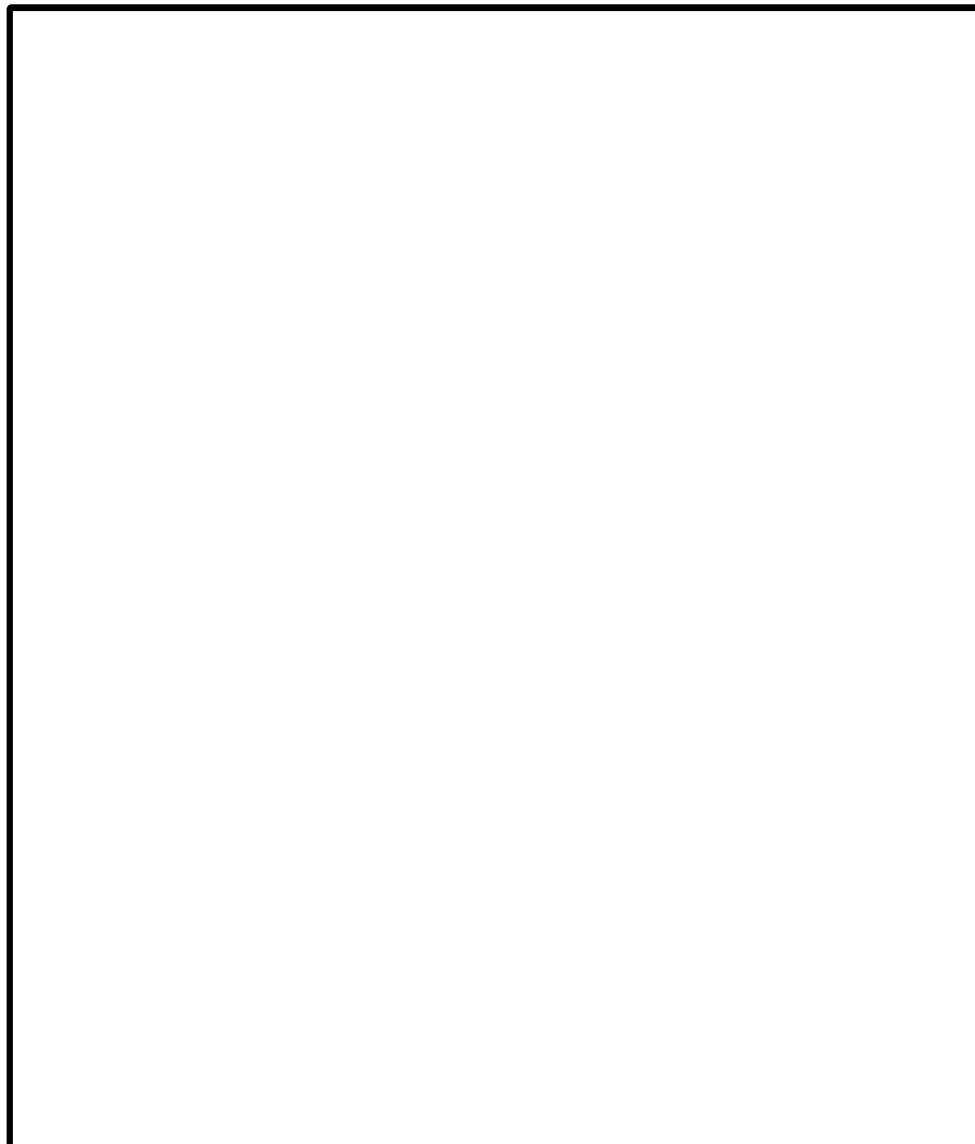
John

---

**From:** Kate Voigt [<mailto:KVoigt@aila.org>]  
**Sent:** Friday, September 26, 2014 4:04 PM  
**To:** Lafferty, John L  
**Subject:** Statistics Request

(b)(5)

Hi John,



Thanks in advance for your help, and please feel free to let me know if you have questions.

Best,  
~Kate

**Kate Voigt, Esq.**  
*Senior Liaison Associate*  
Direct: 202.507.7626 | Email: [kvoigt@aila.org](mailto:kvoigt@aila.org)

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1331 G Street NW, Suite 300, Washington, DC 20005



USCIS Asylum Div. - Artesia, Karnes, National Stats (through October 2014)

Credible fear	Artesia July-Oct	Karnes Aug-Oct	National July-Oct
Receipts*	939	710	18,256
Interviews Conducted	923	686	16,049
All Decisions	900	687	18,161
Fear Established (Y)	558	450	11,104
Fear Not Established (N)	278	173	4,884
Closings	64	64	2,173
Fear Found Rate	62%	66%	61%

Reasonable fear	Artesia July-Oct	Karnes Aug-Oct	National July-Oct
Receipts*	12	28	3,141
Interviews Conducted	12	24	2,099
All Decisions	12	23	3,267
Fear Established (Y)	5	10	883
Fear Not Established (N)	6	11	1,011
Closings	1	2	1,373
Fear Found Rate	42%	43%	27%

\* individuals

Avg. process. time from clock in to service/close	Artesia	Karnes
Credible fear	9.6 days	6.0 days
Reasonable fear	64.7 days	44.4 days

CF Requests for reconsideration**	Artesia
Fear established after reconsideration	20
Fear not established after reconsideration	4

\*\* Denotes cases. Data through Oct. 20. This table includes Requests for Reconsideration received and considered by USCIS after an Immigration Judge (IJ) has upheld USCIS' previous negative credible fear finding on the case. This is separate from IJ review of negative CF findings. 8 CFR 208.30(g)(2)(iv)(A).

Sources: USCIS Asylum Division, Asylum Pre-Screening System (APSS), APCWKL, daily Artesia and Karnes reports and RFR log.

**Jowett, Haley L**

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**From:** Lafferty, John L  
**Sent:** Tuesday, September 02, 2014 6:59 PM  
**To:** Daum, Robert L; Hemming, Bryan D; Donis, Antonio; Littlepage, Ryan L; McDonnell, Audrey V  
**Cc:** Kim, Ted H; Stone, Mary M; Tanner, Rebecca S  
**Subject:** RE: Thursday

We have received the following additional questions about our CF processing in Artesia and Karnes:

- In addition to any updated numbers you may have on credible fear rates at Artesia and Karnes, it would also be helpful to know how many Motions to Reconsider of credible fear determinations have been filed at Artesia and Karnes and what percentage of credible fear determinations were overturned as a result of the Motions.
- Also, would you be able to get us the data on credible fear passage rates of families at the Berks detention center? It would be helpful to see both recent and historical data.
- We had previously asked Ruth E. Tintary about USCIS asylum officer policy on interviewing children separately from their parents for potential individual credible fear claims. She responded that USCIS asks children over the age of 14 whether they want to be interviewed separately. She explained that the 14 year old benchmark was taken from existing CBP policy which finds that a child under the age of 14 cannot voluntarily withdraw their claim for admission. Does USCIS have any written guidance or legal memos on this policy? We're trying to figure out how this policy corresponds to 8 C.F.R. Sec. 1208.30(b)(2) which finds that a spouse or child of an alien may be included in that alien's credible fear evaluation and determination, if such spouse or child, "desires to be included in the principal alien's determination. However, any alien may have his or her credible fear evaluation and determination made separately, if he or she expresses a desire." The regulations say nothing about an age requirement for a separate credible fear interview and we're seeing in the case of the unaccompanied minors that many very young children have asylum claims that may be separate and apart from their parents. It would be helpful to understand how USCIS interprets this regulation.

---

**From:** Lafferty, John L  
**Sent:** Tuesday, September 02, 2014 5:34 PM  
**To:** Daum, Robert L; Hemming, Bryan D; Donis, Antonio; Littlepage, Ryan L; McDonnell, Audrey V  
**Cc:** Kim, Ted H; Stone, Mary M; Tanner, Rebecca S  
**Subject:** FW: Thursday

I am scheduled to participate in a briefing for some House and Senate staffers on Thursday morning regarding ER/CF processing at Karnes and Artesia. For those of you who have been involved in the processing at these two locations, please take a look at the long list of questions below and provide any information that you have to HQ ASAP. We are interested in any information that you may have about the parts of the process that we do not control, such as the LOP. I understand that Rob may want to have all of this funneled through ZHN before coming to HQ.

Thanks!

---

**From:** Brown, Katherine H  
**Sent:** Tuesday, September 02, 2014 2:58 PM  
**To:** Lafferty, John L; Kim, Ted H; Langlois, Joseph E; Stone, Mary M; Owens, Jessica D; Ahmedani, Mariam

**Cc:** Tintary, Ruth E; Rodriguez, Miguel E  
**Subject:** Fw: Thursday

FYI - I just got this from DHS Leg Affairs about the Thursday meeting.  
Katherine Brown  
USCIS Office of Legislative Affairs  
202.272.1951 (office)  
(bb) (b)(6)

---

**From:** Lovett, Edward  
**Sent:** Tuesday, September 02, 2014 02:44 PM  
**To:** Brown, Katherine H  
**Subject:** Thursday

Hi Kate –

We have information that was passed to our F/O with respect to the briefing Thursday – here’s what the lead staff have indicated they hope to discuss/question:

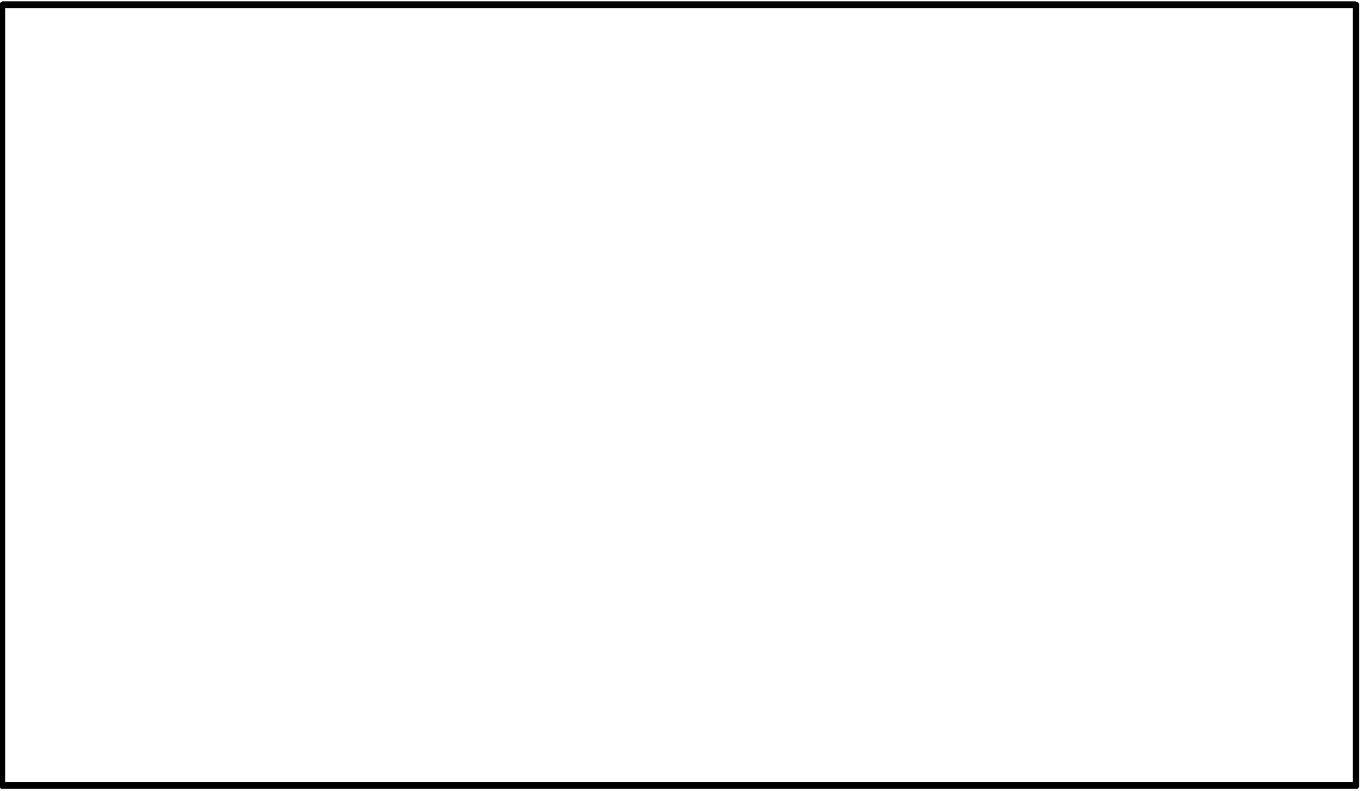
LOP presentations:

- What efforts are taken to provide the LOP presentations in a timely manner and under conditions that allow individuals to understand the information provided?
  - What percentage of individuals actually receive LOP presentations before their credible fear interviews (CFI) are scheduled?
  - How often do LOP presentations occur and how many individuals attend each presentation? How much time and what kind of space is provided for those presentations?
  - Is there an opportunity to conduct follow-up screenings?
- Has an LOP provider been identified for Karnes? What is the timeline for commencing an LOP at Karnes, how frequently will LOPs occur, and will the LOP presentations occur in a timely manner for all detainees, before a credible fear interview?

CFI process:

- Have any instructions been provided to asylum officers on how to conduct CFIs for cases from Artesia and Karnes in particular?
- How much notice are individuals given before their CFI is conducted? What is the average time between arrival at each facility and the CFI?
- How many CFIs are done daily by each asylum officer?
- What efforts are taken to allow individuals interested in doing so to meaningfully consult with a lawyer or seek other assistance prior to the CFI? (i.e., information regarding available legal services, time to use the phone, private space to talk)
- What happens if an individual states that she would like to talk to a lawyer before the CFI commences or needs more time to continue the consultation before the CFI?
- What steps are taken to ensure that counsel can meaningfully participate, if desired by the individual (i.e., notice to counsel, time to prepare with client in confidential space, ability to ask questions, etc)
- What efforts are taken to ensure that the CFIs are conducted under conditions that allow the individual to concentrate and meaningfully participate (i.e., child care, confidential space, sufficient time provided)
- Do negative credible fear findings receive any kind of supervisory or Headquarters review?

(b)(5)



Thanks- Ted

(b)(5)

**Curphey, Patrick R**

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**From:** Curphey, Patrick R  
**Sent:** Monday, July 07, 2014 11:33 AM  
**To:** Castaldi, Amarilde F  
**Subject:** Artesia

Hi Francesca, (b)(5) (b)(6)

Hope your travels are going well this morning. I'm sorry I didn't have time to sit down and collect my thoughts in a longer email but I think we covered most of the topics I wanted to cover with you over the phone. I did have a couple of additional thoughts:



Here are the main contacts that I worked with:

Kaevan Lichine  
SDDO-ERO

He is located in the other hall in the same trailer where our offices are located

Juanita Hester  
DFOD  
Juanita.P.Hester

Greg Brawley  
Gregory.S.Brawley

Both Mr. Brawley and Ms. Hester usually set up in the command center. I also left a folder with your name on it in the filing cabinet in our office that has the ICE/FLETC contact sheet.

Finally, I'm sure you have heard by now but a team from HQ will arrive with you today and Antonio Donis will be the main POC for asylum while you are down there. Antonio and I went to Nepal together and he is a great guy and I already talked to him some too. Anyway, I'm sure things will go much more smoothly for you but please feel free to reach out if you have any questions once you arrive.

Good luck!  
Patrick















## Curphey, Patrick R

---

**From:** Mcdonnell, Audrey V  
**Sent:** Thursday, June 26, 2014 11:28 AM  
**To:** Orendach, Janette  
**Cc:** Curphey, Patrick R; Hemming, Bryan D  
**Subject:** Quick Train documents - ZHN TDY  
**Attachments:** B. I870 with NTA.doc; D. Negative I863 and I869 (Blue).doc; CF Determination Checklist - 04112013 - Version 3 0.docx; CREDIBLE FEAR Cheat Sheet.docx

Good morning JaNette:

Thank you for volunteering to come to ZHN to assist with our credible fear cases. It is my understanding that you're new to CF. SAO Patrick Curphey will be your POC there, and he will have you sit in and make sure you get up to speed when you're on the ground.

In the meantime, our materials, forms and information, including the most recent lesson plans, are attached above. In addition, more information regarding CF can be found at the ECN site at:

<http://ecn.uscis.dhs.gov/team/raio/Asylum/AsylumPII/CF/Shared%20Documents/Forms/AllItems.aspx>.

**Amber Miller is the POC for your travel arrangements. Please email her, with a copy to Kirk Bell and Supervisory Support Specialist Rebecca Ross, with any questions regarding your travel.**

Thanks again for volunteering, and we look forward to working with you.

Audrey McDonnell  
Supervisory Asylum Officer  
USCIS-Houston Asylum Office  
16630 Imperial Valley Dr, Ste 200  
Houston, TX 77060-0626  
281-931-2128 (desk)

[REDACTED] (b)(6)



Marta

Marta Rothwarf  
Associate General Counsel  
EOIR  
703-305-1041 (Direct)  
703-305-0470 (General)  
703-305-0443 (Fax)  
[marta.rothwarf2@usdoj.gov](mailto:marta.rothwarf2@usdoj.gov)

---

**From:** Stone, Mary M [<mailto:Mary.M.Stone@uscis.dhs.gov>]  
**Sent:** Friday, June 27, 2014 4:54 PM  
**To:** Rothwarf, Marta (EOIR); Sogocio, Rico (EOIR)  
**Cc:** Kim, Ted H; Mura, Elizabeth E; Daum, Robert L; Gadson, Irvin C; Hemming, Bryan D; Walters, Jessica S  
**Subject:** FW: NTA Filings - Artesia

Hi Marta and Rico,

We've received an inquiry from our Houston Asylum Office as they are preparing to interview credible fear cases in Artesia next week. Would you be able to answer this inquiry or forward it to the OCU? For cases determined to have a positive credible fear, should our Asylum Officers issue NTAs to the Denver Court or the El Paso Court?

Thanks for your help,  
Mary Margaret

Mary Margaret Stone  
Chief of Operations, Asylum Division  
Refugee, Asylum and International Operations Directorate  
US Citizenship and Immigration Services  
Department of Homeland Security  
Tel: 202.272.1651

---

**From:** Gadson, Irvin C  
**Sent:** Friday, June 27, 2014 4:27 PM  
**To:** Kim, Ted H; Stone, Mary M  
**Cc:** Daum, Robert L; Hemming, Bryan D; Walters, Jessica S  
**Subject:** NTA Filings

Ted/MM

We have reached out to El Paso in regards to the NFTS issue. The ELP ERO POC is checking on the possibility of establishing an NFTS code for Artesia-FLETC. They are also currently looking into this.

Also, please be advised we have been told that the Artesia Facility will be using the Denver EOIR (Immigration Judges) via VTC for EOIR Hearings conducted over VTEL. However, there appears to be considerable confusion of the appropriate EOIR for NTA filings and referrals. Our SAO was told by the Artesia ERO POC to file NTAs with the Denver Court. The issue is whether the Denver Court will accept filings for detainees housed in New Mexico which is in El Paso EOIR's jurisdiction. Can HQ clarify the correct court, Denver or El Paso? Thanks

Respectfully,

**Irvin Gadson | Chief of Staff | USCIS | Department of Homeland Security | ✉: 16630 Imperial Valley Drive, Suite 200, Houston, TX 77060 | ☎: (281) 931-2139 Fax: (281) 931-4181**





U.S. Department of Justice  
Immigration and Naturalization Service

HQASM 120/15.20B

425 I Street, NW  
Washington, DC 20536

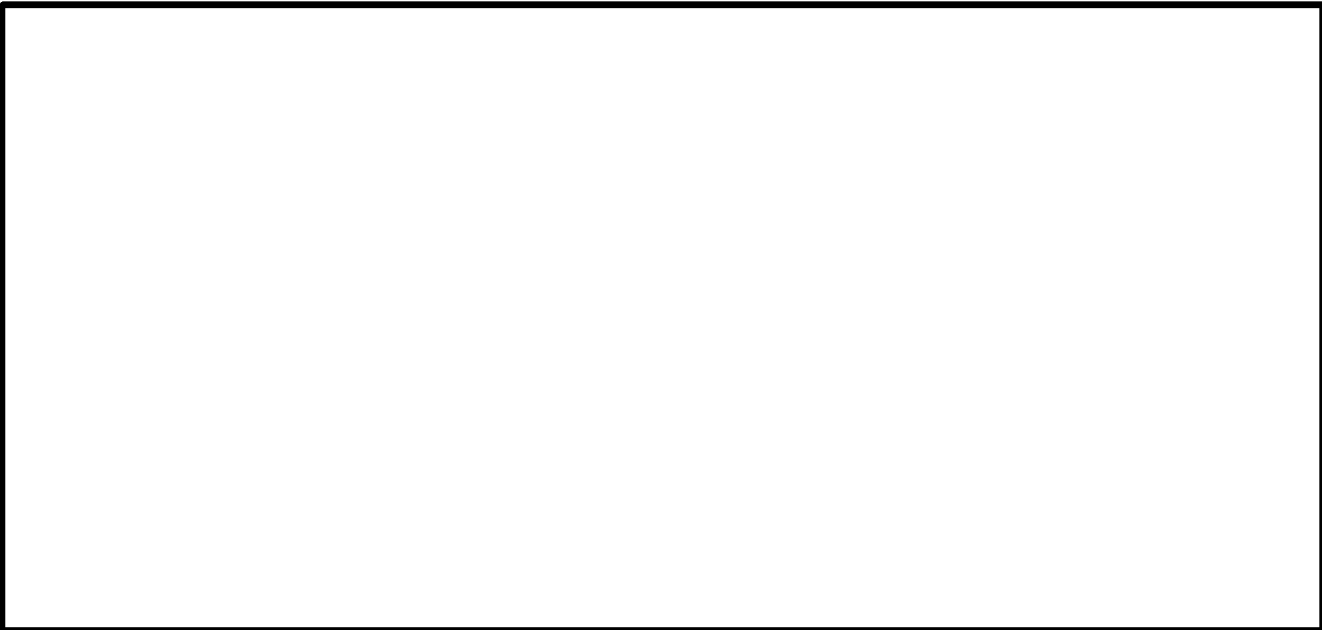
Signed 11/21/03

MEMORANDUM FOR: Asylum Office Directors  
Deputy Directors  
Supervisory Asylum Officers  
Quality Assurance Trainers  
Asylum Officers

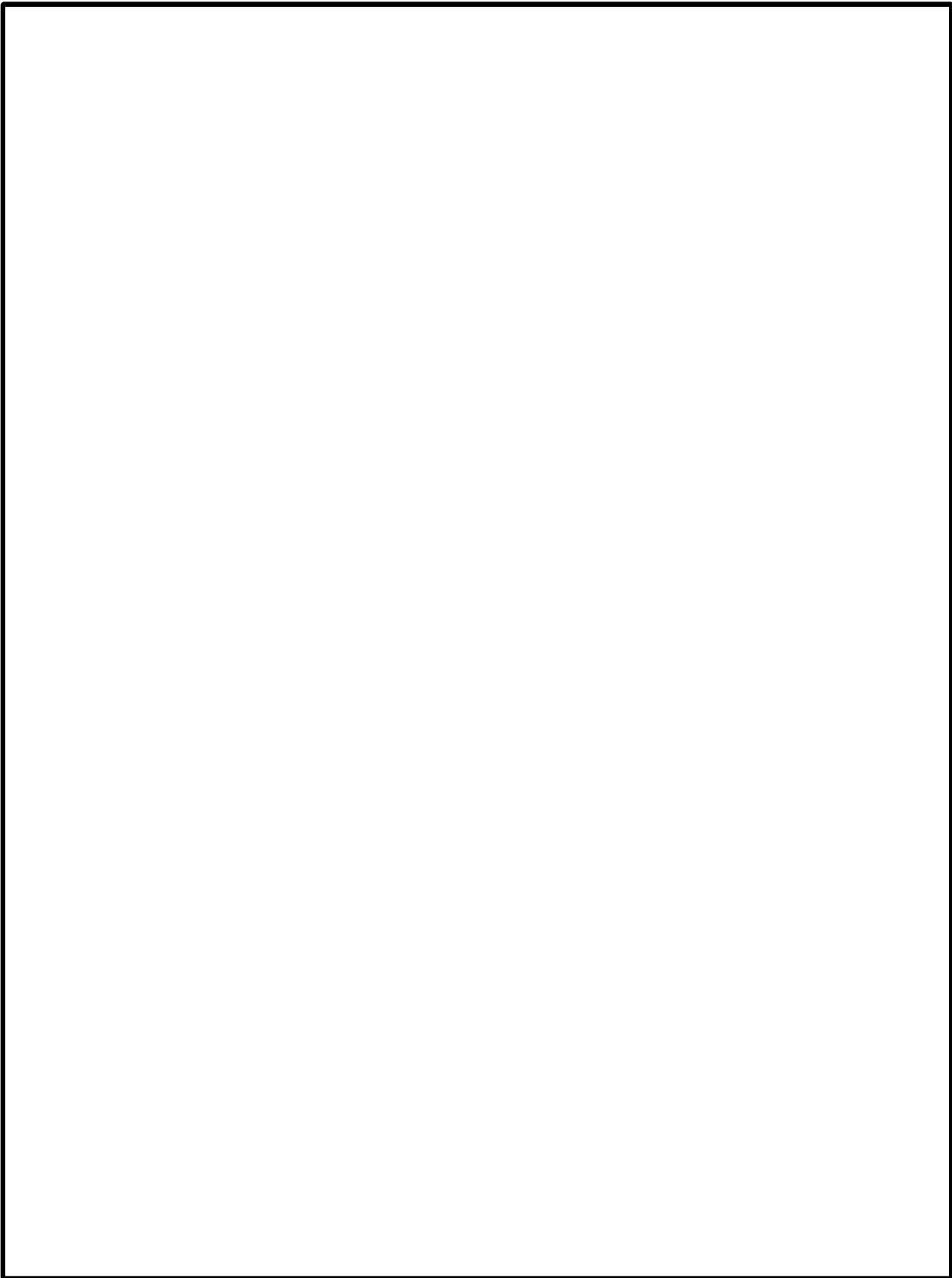
FROM: Joseph E. Langlois, Director /S/  
Asylum Division  
Office of Refugee, Asylum and International Operations

SUBJECT: (b)(5) Draft Credible Fear Procedures Manual Amendments

This memorandum introduces supplementary guidance, to be incorporated into the draft Credible Fear Procedures Manual, concerning notes taken in question-and-answer ("Q&A") format, the requirement of reading back Q&A notes to the asylum seeker in negative credible fear cases, and documents distributed to immigration judges in positive credible fear cases. It also introduces a new version of Form I-870, *Record of Determination/Credible Fear Worksheet*.



(b)(5)



Please direct any questions you have about these revised procedures to Georgia Papas.

Attachments:

I-870 (revised 11/21/03)  
Amendment to section III.E.8  
Amendment to section III.F  
Amendment to section III.K.1

cc: OFFICIAL FILE;  
HQASM:GPAPAS:gp:5146029:11/21/03:K\Asylum.ops\ExpeditedRemovalCredibleFear\memo  
s\drafts\procedures supplement.doc



**U.S. Citizenship  
and Immigration  
Services**

December 30, 2009

HQRAIO 120/9.15a

## Memorandum

**TO:** ASYLUM OFFICE DIRECTORS  
ASYLUM OFFICE DEPUTY DIRECTORS  
SUPERVISORY ASYLUM OFFICERS  
QUALITY ASSURANCE/TRAINING ASYLUM OFFICERS  
ASYLUM OFFICERS

**FROM:** Joseph E. Langlois /s/  
Chief, Asylum Division

**SUBJECT:** Providing Notification of ICE's Parole Guidelines to arriving aliens found to have a credible fear of persecution or torture

Asylum Offices will begin providing the attached "Information about How to Seek Release from Detention: Parole Eligibility and Process for Certain Asylum Applicants" to arriving aliens ("POE case")<sup>1</sup> who have been found to have a credible fear of persecution or torture. The implementation of this notification is effective on January 4, 2010 to correspond with ICE's implementation of new policy guidelines for parole of arriving aliens found to have a credible fear of persecution or torture.

The attached information sheet will be included in the service of a positive credible fear decision of an arriving alien ("POE case").<sup>2</sup> It should be read to the applicant in his or her native language using the contract interpreter service. The applicant should sign the information sheet. The corresponding interpreter ID number and language used should be written on the information sheet together with the date of service. The completed original information sheet should be forwarded to ICE officials having jurisdiction of the applicant's case to be included in the A-file and a copy given to the applicant and to the attorney of record, if applicable.

Attachments (6)

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<sup>1</sup> Please note that at this time, the parole guidelines do not include cases of individuals apprehended between ports of entry ("inland cases").

<sup>2</sup> At this time, the Asylum Offices will provide this parole information sheet only in cases where the Asylum Office finds a positive credible fear determination of an arriving alien.

**Jowett, Haley L**

---

**From:** Donis, Antonio  
**Sent:** Friday, August 01, 2014 2:32 PM  
**To:** Kim, Ted H  
**Cc:** Daum, Robert L; Lafferty, John L; Hemming, Bryan D  
**Subject:** RE: A-files

It's also part of our normal referral packet, which includes the I-860, I-213, I-867A/B, and M-444

-----Original Message-----

**From:** Kim, Ted H  
**Sent:** Friday, August 01, 2014 3:29 PM  
**To:** Donis, Antonio  
**Cc:** Daum, Robert L; Lafferty, John L; Hemming, Bryan D  
**Subject:** Re: A-files

How would you know if someone has filed a G-28 for the applicant through ICE?

Sent by Blackberry

----- Original Message -----

**From:** Donis, Antonio  
**Sent:** Friday, August 01, 2014 03:26 PM  
**To:** Kim, Ted H  
**Cc:** Daum, Robert L; Lafferty, John L; Hemming, Bryan D  
**Subject:** RE: A-files

A-files are right down the hall from us. We can easily access them, but usually don't in the CF context.

I have six A-files in my possession right now. We are using these to prep for our 6 RF cases, which we intend to interview in the coming weeks.

-----Original Message-----

**From:** Kim, Ted H  
**Sent:** Friday, August 01, 2014 3:21 PM  
**To:** Donis, Antonio  
**Cc:** Daum, Robert L; Lafferty, John L; Hemming, Bryan D  
**Subject:** A-files

AD--Do you have access to the A-files there at Artesia? This question has come up on the AILA call b/c any G-28 that is submitted to ICE is routed to the A-file, and AILA wants to make sure we have access to those A-files. Thanks, Ted

Sent by Blackberry

**Jowett, Haley L**

---

**From:** Munoz-Acevedo, Carlòs  
**Sent:** Friday, August 01, 2014 5:58 PM  
**To:** Kim, Ted H; Higgins, Jennifer B; Langlois, Joseph E; Scialabba, Lori L; Choi, Juliet K; Alfonso, Angelica M; Rogers, Debra A  
**Cc:** Salas, Bryan F; Ellis, Rachel H; Sohonyay, Simon P; Stone, Mary M; Lafferty, John L; McCament, James W  
**Subject:** Re: Artesia CFI concerns

Thank you Ted. I too think it was a useful and informative call.

FYI I confirmed with counterparts at ICE that they met in-person with a group of stakeholders this AM, including AILA, to receive feedback on the recent NGO visit to Artesia, including due process and conditions concerns.

Carlos Muñoz-Acevedo  
Deputy Chief (Acting)  
Public Engagement Division  
Customer Service & Public Engagement Directorate  
U.S. Citizenship and Immigration Services  
U.S. Department of Homeland Security (b)(5)

---

**From:** Kim, Ted H  
**Sent:** Friday, August 01, 2014 05:27 PM  
**To:** Higgins, Jennifer B; Langlois, Joseph E; Scialabba, Lori L; Choi, Juliet K; Alfonso, Angelica M; Rogers, Debra A  
**Cc:** Salas, Bryan F; Ellis, Rachel H; Sohonyay, Simon P; Stone, Mary M; Munoz-Acevedo, Carlos; Lafferty, John L  
**Subject:** RE: Artesia CFI concerns



Please let us know if you have any questions and for those of you who were on the call, please feel free to chime in with any other thoughts.

Thanks and have great weekend,  
Ted

---

**From:** Munoz-Acevedo, Carlos  
**Sent:** Friday, August 01, 2014 10:50 AM  
**To:** Lafferty, John L  
**Cc:** Kim, Ted H; Rogers, Debra A; Salas, Bryan F; Ellis, Rachel H; Sohonyay, Simon P; Stone, Mary M  
**Subject:** RE: Artesia CFI concerns

Thanks John.

---

**From:** Lafferty, John L  
**Sent:** Friday, August 01, 2014 10:21 AM  
**To:** Munoz-Acevedo, Carlos  
**Cc:** Kim, Ted H; Rogers, Debra A; Salas, Bryan F; Ellis, Rachel H; Sohonyay, Simon P; Stone, Mary M  
**Subject:** RE: Artesia CFI concerns

Carlos,

AILA is hosting the call at 3 PM. Here is the call-in information that they have provided:

1-800-704-9804  
Passcode: 239764#

We will be taking the call in the RAIO conference room up in the Asylum Division's 6<sup>th</sup> Floor Suite at 20 Mass. You are welcome to join us.

John

---

**From:** Munoz-Acevedo, Carlos  
**Sent:** Friday, August 01, 2014 10:00 AM  
**To:** Lafferty, John L  
**Cc:** Kim, Ted H; Rogers, Debra A; Salas, Bryan F; Ellis, Rachel H; Sohonyay, Simon P; Stone, Mary M  
**Subject:** RE: Artesia CFI concerns

John and team,

When you get a chance would you share the call-in info or the logistics for the call (i.e. join you at the office?). If there is a call-in, who is hosting the call - AILA or us?

Carlos Muñoz-Acevedo  
Deputy Chief (Acting)  
Public Engagement Division  
Customer Service & Public Engagement Directorate  
U.S. Citizenship and Immigration Services  
U.S. Department of Homeland Security  
Phone: (202) 272-9294

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---

**From:** Rogers, Debra A  
**Sent:** Friday, August 01, 2014 9:31 AM  
**To:** Salas, Bryan F; Munoz-Acevedo, Carlos; Lafferty, John L; Higgins, Jennifer B; Langlois, Joseph E  
**Cc:** Sohonyay, Simon P; Ellis, Rachel H; McCament, James W; Alfonso, Angelica M; Bentley, Christopher S  
**Subject:** RE: Artesia CFI concerns

Thanks Bryan,

John and I just spoke about this. I let him know that Simon would join the call and take notes. John plans to address these issues with the larger stakeholder group at the Asylum quarterly meeting on Monday so the notes will be helpful when preparing for that event. We will publish our normal recap notes on the web after the quarterly so this important information will be accessible to all interested parties.

Thanks for the call John!

Debbie

*Debra A. Rogers*  
*Deputy Associate Director*  
*Customer Service and Public Engagement*  
*USCIS*  
*111 Mass Ave, NW*  
*Washington DC 20529*  
*202-272-8532*

---

**From:** Salas, Bryan F  
**Sent:** Friday, August 01, 2014 9:17 AM  
**To:** Munoz-Acevedo, Carlos; Rogers, Debra A; Lafferty, John L; Higgins, Jennifer B; Langlois, Joseph E  
**Cc:** Sohonyay, Simon P; Ellis, Rachel H; McCament, James W; Alfonso, Angelica M; Bentley, Christopher S  
**Subject:** RE: Artesia CFI concerns

John –

In the interest of transparency and fairness to other stakeholders and possible congressional equities, recommend we publish written answers to the discussion points listed below. Simon can assist.

With kind regards,

Bryan F. Salas

Chief, Public Engagement Division  
Customer Service and Public Engagement Directorate  
U.S. Citizenship and Immigration Services  
Department of Homeland Security  
111 Massachusetts Avenue NW Suite 6000  
Washington DC, 20529  
Office: (202) 272-9682  
Mobile: [REDACTED]  
Email: [Bryan.F.Salas@uscis.dhs.gov](mailto:Bryan.F.Salas@uscis.dhs.gov)

(b)(6)



---

**From:** Munoz-Acevedo, Carlos  
**Sent:** Thursday, July 31, 2014 4:06 PM  
**To:** Rogers, Debra A; Lafferty, John L; Higgins, Jennifer B; Langlois, Joseph E  
**Cc:** Salas, Bryan F; Sohonyay, Simon P; Ellis, Rachel H  
**Subject:** RE: Artesia CFI concerns

John,

Thank you for letting us know about the call. We are happy to join the call, either on the phone, or at your office, whichever you prefer. We are also available to help with any coordination or resources.

As COS Choi mentioned, we are coordinating a meet and greet between AILA HQ and D1 on Monday. We spoke yesterday and they did not mention discussing asylum during the meet and greet. We will make sure to let you know if anything changes.

Best,

Carlos

Carlos Muñoz-Acevedo  
Deputy Chief (Acting)  
Public Engagement Division  
Customer Service & Public Engagement Directorate  
U.S. Citizenship and Immigration Services  
U.S. Department of Homeland Security  
Phone: (202) 272-9294

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---

**From:** Rogers, Debra A  
**Sent:** Thursday, July 31, 2014 2:14 PM  
**To:** Lafferty, John L; Higgins, Jennifer B; Langlois, Joseph E; Scialabba, Lori L; Choi, Juliet K; Alfonso, Angelica M  
**Cc:** Munoz-Acevedo, Carlos; Salas, Bryan F; Sohonyay, Simon P  
**Subject:** RE: Artesia CFI concerns

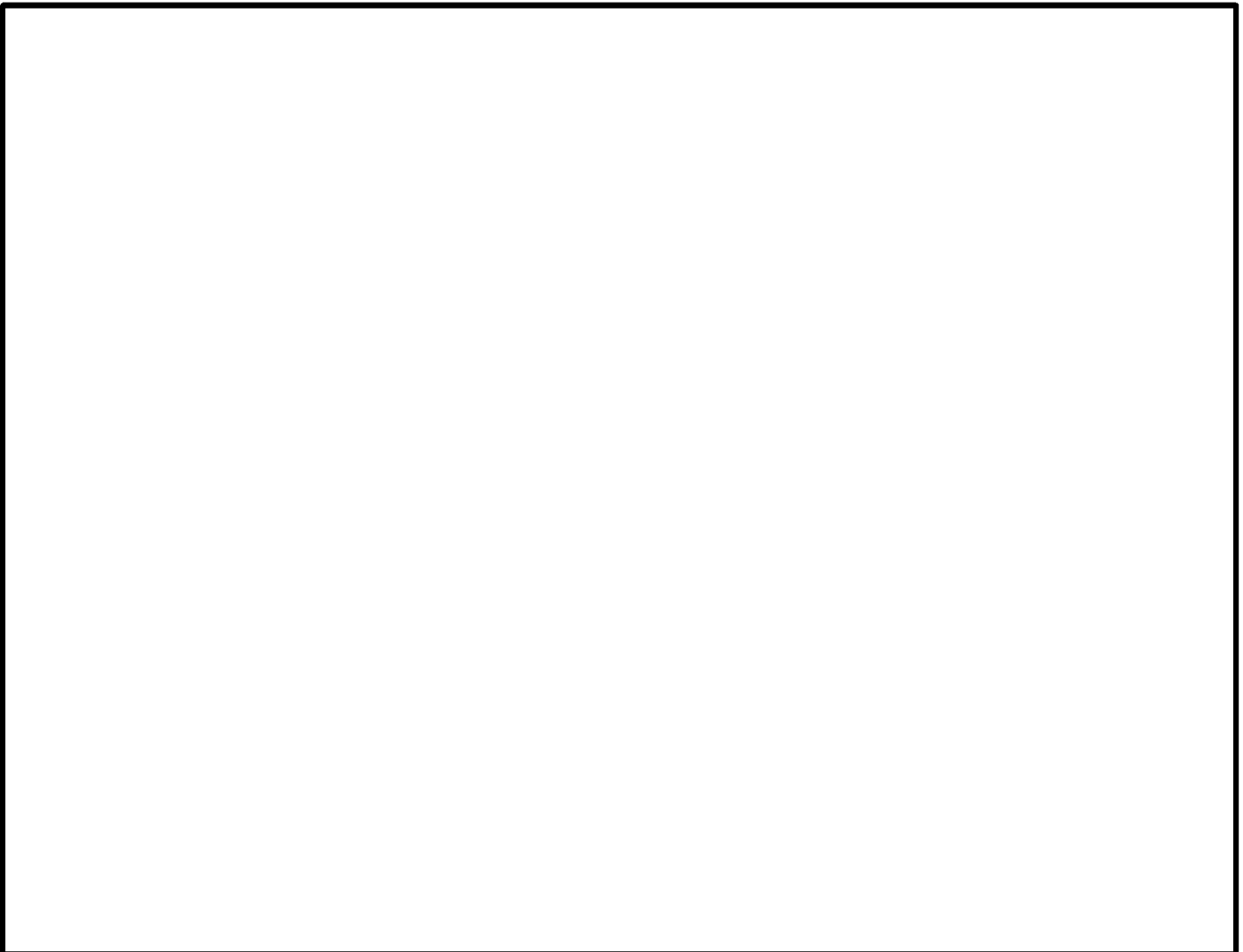
Hi John, We are happy to support you with the call. I am copying Bryan, Carlos and Simon so they can become familiar with the issues. We can also give you a call at your convenience to prep for the meeting. Debbie

Debra Rogers  
Deputy Associate Director  
Customer Service and Public Engagement  
USCIS  
202-272-8532

(b)(5)

---

**From:** Lafferty, John L  
**Sent:** Thursday, July 31, 2014 5:53:32 PM  
**To:** Higgins, Jennifer B; Langlois, Joseph E; Scialabba, Lori L; Choi, Juliet K; Alfonso, Angelica M; Rogers, Debra A  
**Subject:** RE: Artesia CFI concerns



Please let me know if you have any questions.

Thanks!!

**From:** Lafferty, John L

**Sent:** Thursday, July 24, 2014 7:44 PM

**To:** Higgins, Jennifer B; Langlois, Joseph E; Scialabba, Lori L; Choi, Juliet K; Alfonso, Angelica M; Rogers, Debra A

**Subject:** FW: Artesia CFI concerns

The AILA press release was as follows:

**AILA: Artesia Detention Center a Due Process Failure**

**Cite as "AILA InfoNet Doc. No. 14072449 (posted Jul. 24, 2014)"**

**FOR IMMEDIATE RELEASE**

**Thursday, July 24, 2014**

**Washington, DC - On Tuesday, representatives from the American Immigration Lawyers Association (AILA) along with other immigration advocacy organizations visited the Artesia detention facility in New Mexico housing 400 Central American women and children. AILA observed such severe due process violations at the facility that AILA is now calling for the suspension of all deportations from there until fundamental improvements can be made.**

**"The lives of children and families are at risk. I was shocked to hear of immigrant families -- including mothers with young children, some still nursing, being sent right back into the danger from which they fled with no meaningful chance to contact a lawyer," said Karen Lucas, AILA Legislative Associate, who was on the site visit. "A woman who speaks no English and has no knowledge of the American legal system can't possibly make a successful asylum claim with no lawyer and no time even to get her bearings. This is truly heartbreaking and a travesty of justice that families are in effect being denied access to asylum and other protection."**

**Access to counsel at Artesia consists of little more than DHS handing out a single slip of paper with three names, as if these few service providers can represent hundreds of people. No thought has been given to how to provide access to counsel, even though planeloads of people already have been removed. Hundreds of AILA members stand ready to provide pro bono legal assistance. However, there is no effective way as of yet to match them with those who want representation but don't know how or where to ask.**

**"Women are being asked to share intimate details about past persecution and violence right in front of their children because DHS has not created a safe and separate interview space," said Lucas. "Years ago DHS learned a hard lesson that detention of families is unacceptable. It was sued for bad conditions and abuses at a Texas facility that ultimately was forced to shut down. It should not be going down this path again, and absolutely should not escalate family detention to the level of 6350 more beds that the president is requesting of Congress."**

**"This has to stop," said Crystal Williams, AILA's Executive Director. "We recognize that the government stood up this facility quickly, but it cannot deport people from it until due process has been provided. And Artesia is just not prepared for that. AILA calls upon the Administration and the Department of Homeland Security (DHS) to suspend these unconscionable and blanket deportation practices until they can ensure a fair and safe process."**

**More than 57,000 unaccompanied children and tens of thousands more Central Americans traveling as families have crossed the border since October with most fleeing from conditions of extreme violence and poverty. The Artesia Center was opened in barracks of the Federal Law Enforcement Training Center. It now holds about 400 people but eventually will hold about 700 women and children.**

**Jowett, Haley L**

---

**From:** Tintary, Ruth E  
**Sent:** Tuesday, August 19, 2014 2:37 PM  
**To:** Kim, Ted H; Lafferty, John L; Stone, Mary M; Kirkland, Brooke A; Mura, Elizabeth E; Scott, Elizabeth M; Hammill, Hunter A; Lay, Dorothea B; Whitney, Ronald W; Tanner, Rebecca S  
**Cc:** Brown, Katherine H; Atkinson, Ronald A  
**Subject:** Re: CF nationality and Artesia statistics

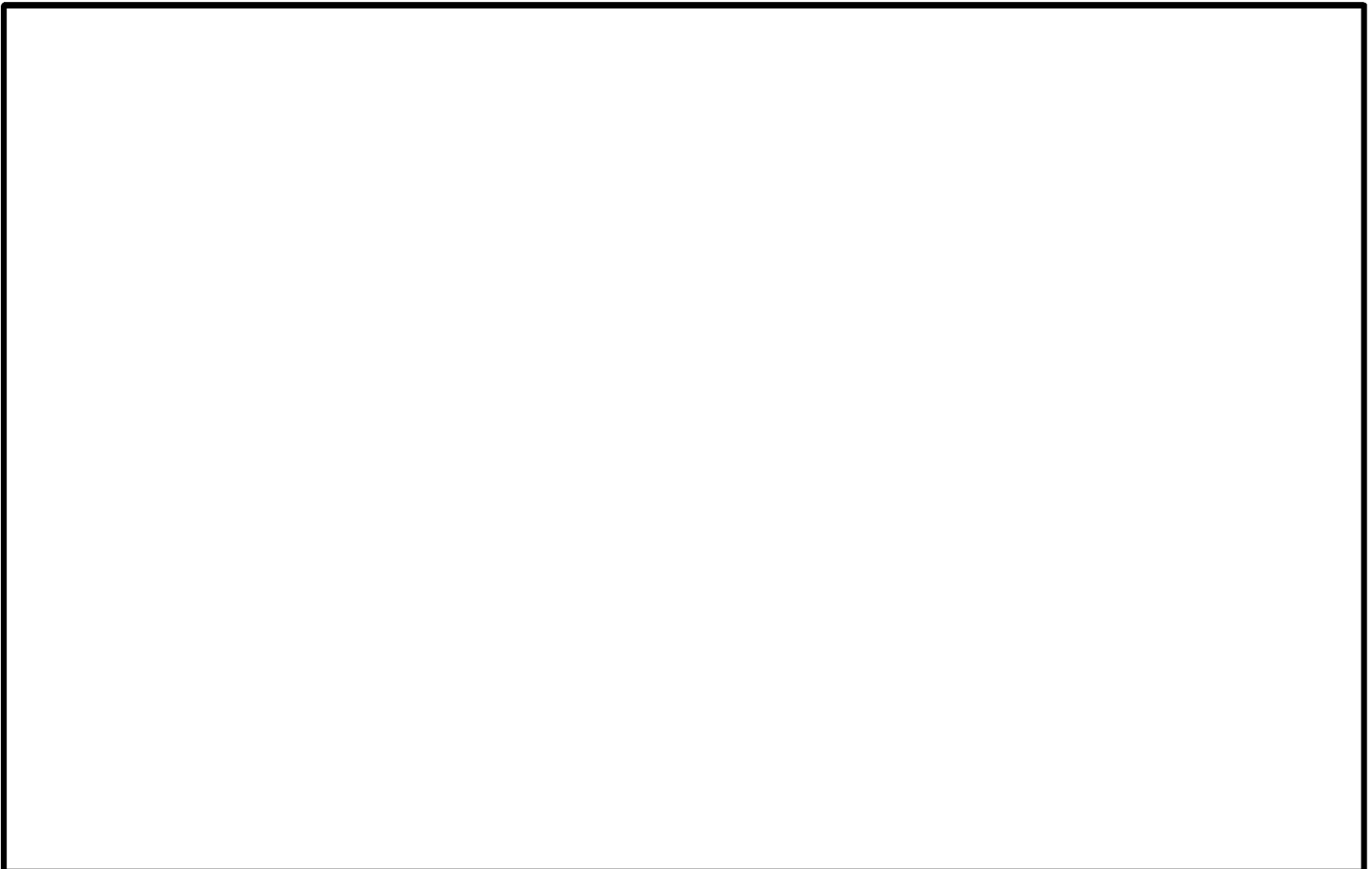
Thanks!

Ruth E. Tintary  
Associate Chief, Legislative Branch  
Office of Legislative Affairs  
USCIS-DHS  
202-272-1947

(b)(5)

---

**From:** Kim, Ted H  
**Sent:** Tuesday, August 19, 2014 03:35 PM  
**To:** Tintary, Ruth E; Lafferty, John L; Stone, Mary M; Kirkland, Brooke A; Mura, Elizabeth E; Scott, Elizabeth M; Hammill, Hunter A; Lay, Dorothea B; Whitney, Ronald W; Tanner, Rebecca S  
**Cc:** Brown, Katherine H; Atkinson, Ronald A  
**Subject:** RE: CF nationality and Artesia statistics



Ted

(b)(5)

**From:** Tintary, Ruth E

**Sent:** Tuesday, August 19, 2014 3:03 PM

**To:** Kim, Ted H; Lafferty, John L; Stone, Mary M; Kirkland, Brooke A; Mura, Elizabeth E; Scott, Elizabeth M; Hammill, Hunter A; Lay, Dorothea B; Whitney, Ronald W

**Cc:** Brown, Katherine H; Atkinson, Ronald A

**Subject:** RE: CF nationality and Artesia statistics



Thanks,

***Ruth E. Tintary***

Associate Chief

Legislative Branch

Office of Legislative Affairs

U.S. Citizenship and Immigration Services

Dept. of Homeland Security

(202) 272-1947

[ruth.e.tintary@uscis.dhs.gov](mailto:ruth.e.tintary@uscis.dhs.gov)

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**From:** Kim, Ted H (b)(5)  
**Sent:** Tuesday, August 19, 2014 2:20 PM  
**To:** Tintary, Ruth E  
**Cc:** Brown, Katherine H; Atkinson, Ronald A; Lafferty, John L; Stone, Mary M; Kirkland, Brooke A; Mura, Elizabeth E; Scott, Elizabeth M; Hammill, Hunter A  
**Subject:** RE: CF nationality and Artesia statistics



**From:** Tintary, Ruth E  
**Sent:** Tuesday, August 19, 2014 9:56 AM  
**To:** Kim, Ted H; Stone, Mary M; Kirkland, Brooke A; Mura, Elizabeth E; Scott, Elizabeth M  
**Cc:** Brown, Katherine H; Atkinson, Ronald A  
**Subject:** RE: CF nationality and Artesia statistics



---

**From:** Tintary, Ruth E  
**Sent:** Monday, August 18, 2014 10:39 AM  
**To:** Kim, Ted H; Stone, Mary M; Kirkland, Brooke A; Mura, Elizabeth E; Scott, Elizabeth M  
**Cc:** Brown, Katherine H; Atkinson, Ronald A  
**Subject:** RE: CF nationality and Artesia statistics

Thanks! I also sent you a briefing request from the same folks asking these questions, so I am sure that we will have to repeat this response then too with the larger congressional staff briefing.

---

**From:** Kim, Ted H  
**Sent:** Monday, August 18, 2014 10:37 AM  
**To:** Tintary, Ruth E; Stone, Mary M; Kirkland, Brooke A; Mura, Elizabeth E; Scott, Elizabeth M  
**Cc:** Brown, Katherine H; Atkinson, Ronald A  
**Subject:** Re: CF nationality and Artesia statistics

Nothing to add. MM captures it. Thanks, Ted

Sent by Blackberry

---

**From:** Tintary, Ruth E  
**Sent:** Monday, August 18, 2014 10:35 AM  
**To:** Stone, Mary M; Kirkland, Brooke A; Mura, Elizabeth E; Kim, Ted H; Scott, Elizabeth M  
**Cc:** Brown, Katherine H; Atkinson, Ronald A  
**Subject:** RE: CF nationality and Artesia statistics

[Redacted]

---

**From:** Stone, Mary M  
**Sent:** Friday, August 15, 2014 5:30 PM  
**To:** Tintary, Ruth E; Kirkland, Brooke A; Mura, Elizabeth E  
**Cc:** Kim, Ted H; Scott, Elizabeth M  
**Subject:** Re: CF nationality and Artesia statistics

(b)(5)

Ruthie,

[Redacted]

\*\*\*\*\*

Mary Margaret Stone  
Chief of Operations  
Asylum Division  
RAIO/USCIS  
Tel: 202.272.1651



Sent by Blackberry

---

**From:** Tintary, Ruth E  
**Sent:** Friday, August 15, 2014 05:10 PM  
**To:** Kirkland, Brooke A; Stone, Mary M; Mura, Elizabeth E  
**Subject:** RE: CF nationality and Artesia statistics

(b)(5)

Thanks,

***Ruth E. Tintary***

Associate Chief  
Legislative Branch  
Office of Legislative Affairs  
U.S. Citizenship and Immigration Services  
Dept. of Homeland Security  
(202) 272-1947  
[ruth.e.tintary@uscis.dhs.gov](mailto:ruth.e.tintary@uscis.dhs.gov)

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---

**From:** Kirkland, Brooke A  
**Sent:** Thursday, August 14, 2014 12:43 PM  
**To:** Tintary, Ruth E  
**Cc:** Stone, Mary M  
**Subject:** CF nationality and Artesia statistics

Hi Ruthie,

Per our discussion yesterday, I'm attaching the CF nationality trends and Artesia, NM statistics.

Thanks,

Brooke

Brooke Kirkland  
Asylum Officer  
Management Branch  
Office of Refugee, Asylum, and International Operations  
U.S. Citizenship & Immigration Services  
Department of Homeland Security  
Phone: (202) 272-1181  
Email: [Brooke.Kirkland@uscis.dhs.gov](mailto:Brooke.Kirkland@uscis.dhs.gov)

**Jowett, Haley L**

---

**From:** Miller, Philip T  
**Sent:** Tuesday, July 15, 2014 5:46 PM  
**To:** Stone, Mary M  
**Cc:** Kim, Ted H; Bonales-Garibay, Norma; Davis, Mike P; Mura, Elizabeth E; Scott, Elizabeth M  
**Subject:** RE: EOIR Priority Case Code Annotations (DRAFT SOP OPLA 071114)

Mary Margaret,

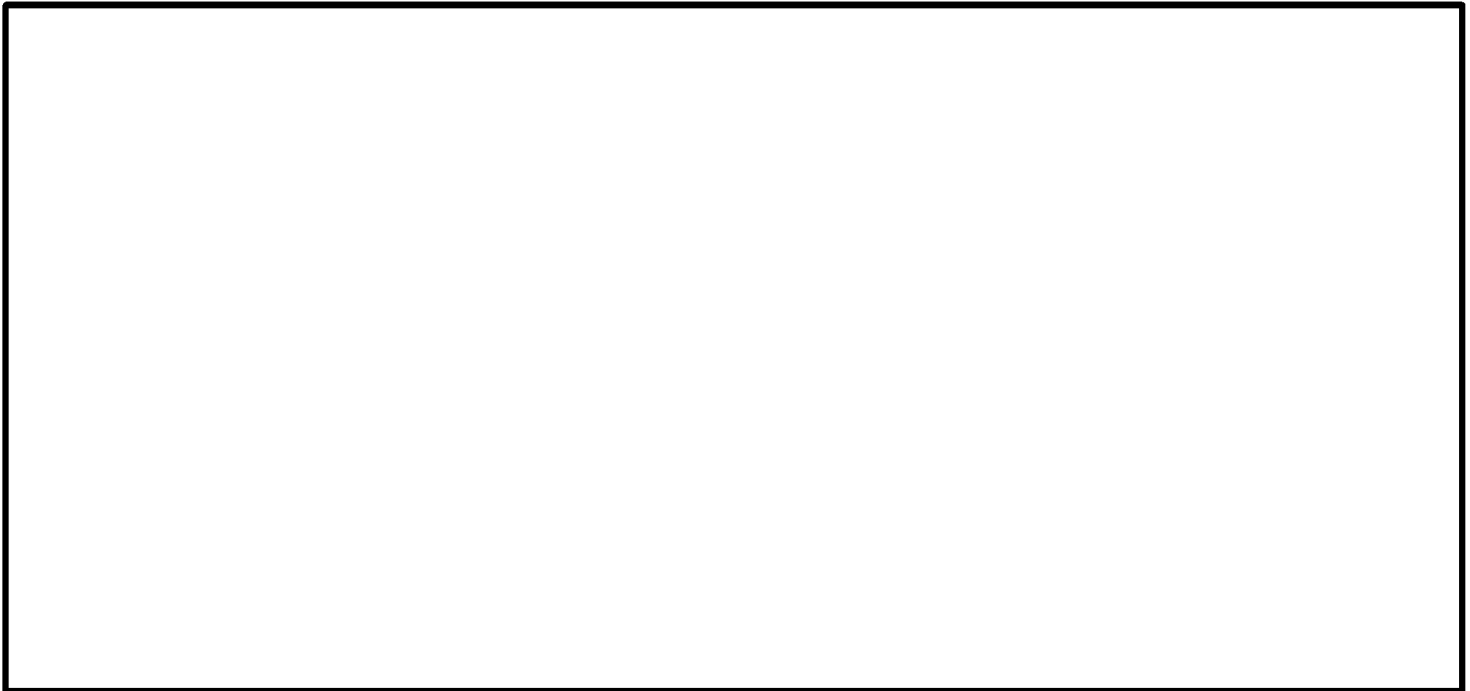
Thank you for your quick response. I will check in with OPLA Field Legal Ops for responses to your questions.

I'll keep you posted,  
Phil

---

**From:** Stone, Mary M  
**Sent:** Tuesday, July 15, 2014 2:28 PM  
**To:** Miller, Philip T  
**Cc:** Kim, Ted H; Bonales-Garibay, Norma; Davis, Mike P; Mura, Elizabeth E; Scott, Elizabeth M  
**Subject:** FW: EOIR Priority Case Code Annotations (DRAFT SOP OPLA 071114)

Phil,



Regards,  
Mary Margaret

Mary Margaret Stone  
Chief of Operations, Asylum Division  
Refugee, Asylum and International Operations Directorate  
US Citizenship and Immigration Services  
Department of Homeland Security  
Tel: 202.272.1651

(b)(5)



**Jowett, Haley L**

---

**From:** Donis, Antonio  
**Sent:** Thursday, August 14, 2014 5:23 PM  
**To:** Stone, Mary M  
**Cc:** Lafferty, John L; Kim, Ted H; Tanner, Rebecca S; Daum, Robert L; Hemming, Bryan D  
**Subject:** RE: Re-interviews in APSS  
**Attachments:** Entering a Reinterview SOP.docx

Hi MM,

It's funny you mention that. We just finished writing a re-interview SOP for Artesia (see attached).

I assigned one officer the responsibility of rekeying all of our re-interview data in APSS.

Our records should be totally accurate by noon tomorrow.

Have a good night,

Antonio\_\_

---

**From:** Stone, Mary M  
**Sent:** Thursday, August 14, 2014 3:52 PM  
**To:** Donis, Antonio  
**Cc:** Lafferty, John L; Kim, Ted H; Tanner, Rebecca S; Daum, Robert L; Hemming, Bryan D  
**Subject:** Re-interviews in APSS

Antonio,

We're getting some inquiries on the Artesia numbers – I think because some of the decisions may have changed after re-interview. If they have not already been doing this, please make sure your team records re-interview cases in APSS according to the guidance in the APSS manual:

### **The Interview Capture (INTC) Screen**

The INTC is the first screen in a processing "chain." Each interview record contains information from an INTC, and information from the subsequent APSO decision (ADEC) screen. The decision screen is linked back to the INTC screen by the interview date, forming a decision chain; users cannot enter information on the decision screen until all of the mandatory fields on the previous screen are filled in. For applicants with multiple interviews, the officer should enter re-interview information on the NOTES screen by pressing F9.

Thanks, MM

Mary Margaret Stone  
Chief of Operations, Asylum Division  
Refugee, Asylum and International Operations Directorate  
US Citizenship and Immigration Services  
Department of Homeland Security  
Tel: 202.272.1651

## Entering a Re-Interview in APSS [Guidance from APSS User Manual]

- INTC
  - Original interview record remains in the INTC screen
  - Any Re-interview is entered in the RECORD NOTES screen
    - Go to Applicant's INTC
    - Press F9
    - Enter Re-interview information
    - Press Enter
    - Enter a Y in Record Notes field
- CSTA
  - Notes can only be viewed in the CSTA screen
    - Go to Applicant's CSTA
    - Press F11
- ADEC
  - Original interview date remains
    - ADEC is linked to INTC by interview date so this cannot be changed
    - The original APSO and SAPSO will display as well because it is linked to interview date
    - New APSO/SAPSO information is entered in Record Notes screen
  - Enter new information
    - Go to Applicant's ADEC
    - Enter any changes to decision fields
    - Update the *Date* field with new decision date
    - Remove the old *Decision Served Date* field and *Date forwarded to DO* field
      - Record will not save if this is not done
    - Press Enter
      - If *Case Delay* field is required enter reason code
        - I – Re-interview
        - O – Other
        - A – Attorney
        - R – Lack of resources

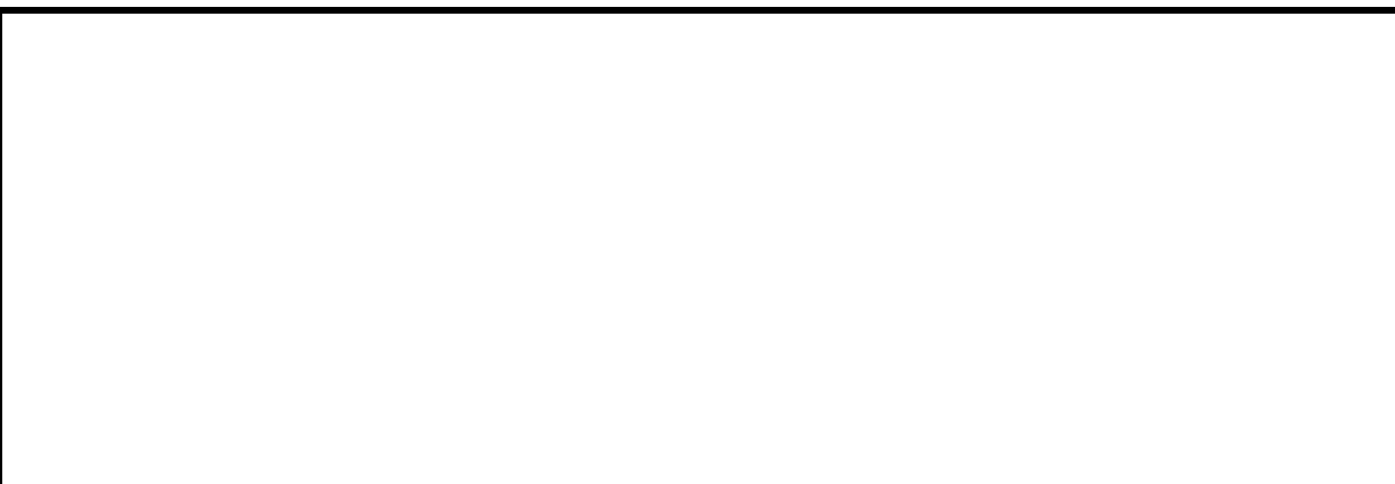
**Jowett, Haley L**

---

**From:** Littlepage, Ryan L  
**Sent:** Monday, August 18, 2014 5:53 PM  
**To:** Hemming, Bryan D; Ooi, Maura M; Hammill, Hunter A  
**Cc:** Donis, Antonio; Daum, Robert L  
**Subject:** RE: G-28s, MTRs, and Credible Fear

(b)(5) (b)(6)

Yes. Sorry for the delay.



Ryan

---

**From:** Hemming, Bryan D  
**Sent:** Monday, August 18, 2014 4:21 PM  
**To:** Ooi, Maura M; Littlepage, Ryan L; Hammill, Hunter A  
**Cc:** Donis, Antonio; Daum, Robert L  
**Subject:** Re: G-28s, MTRs, and Credible Fear

Ryan-  
Can you provide the answers to the below?  
Thanks!  
Sent by Blackberry

---

**From:** Ooi, Maura M  
**Sent:** Monday, August 18, 2014 05:13 PM  
**To:** Littlepage, Ryan L; Hemming, Bryan D; Hammill, Hunter A  
**Cc:** Donis, Antonio; Daum, Robert L  
**Subject:** RE: G-28s, MTRs, and Credible Fear

Hi Bryan.-

Just wanted to follow up on these questions so I can look into this.

Thanks,  
Maura

---

**From:** Ooi, Maura M  
**Sent:** Monday, August 18, 2014 2:08 PM  
**To:** Littlepage, Ryan L; Hemming, Bryan D; Hammill, Hunter A

**Cc:** Donis, Antonio; Daum, Robert L  
**Subject:** RE: G-28s, MTRs, and Credible Fear

I'm assuming the second G-28s are being filed with the second MTR, and not separately, correct? If so, are these cases where you have already responded to the initial MTR, or do you end up with both pending before you?

---

**From:** Littlepage, Ryan L  
**Sent:** Monday, August 18, 2014 1:57 PM  
**To:** Hemming, Bryan D; Ooi, Maura M; Hammill, Hunter A  
**Cc:** Donis, Antonio; Daum, Robert L  
**Subject:** RE: G-28s, MTRs, and Credible Fear

In the case where we have an attorney complaint about AILA, the AILA G28 is NOT signed by the applicant, the signature section is marked "detained". I can't confirm if the private attorney has a signed G28 because it went to the Houston inbox, Bryan if you want to check it is A#206 783 964 sent last Friday at 12:53.

In other cases we do have two signed G28s.

---

**From:** Hemming, Bryan D  
**Sent:** Monday, August 18, 2014 11:42 AM  
**To:** Ooi, Maura M; Hammill, Hunter A  
**Cc:** Donis, Antonio; Daum, Robert L; Littlepage, Ryan L  
**Subject:** RE: G-28s, MTRs, and Credible Fear

I believe so. Ryan, can you confirm?  
Thanks,

---

**From:** Ooi, Maura M  
**Sent:** Monday, August 18, 2014 12:42 PM  
**To:** Hemming, Bryan D; Hammill, Hunter A  
**Cc:** Donis, Antonio; Daum, Robert L; Littlepage, Ryan L  
**Subject:** RE: G-28s, MTRs, and Credible Fear

Thanks, Bryan. In this scenario, do you also have two G-28s, both signed by the applicant?

---

**From:** Hemming, Bryan D  
**Sent:** Monday, August 18, 2014 1:38 PM  
**To:** Hammill, Hunter A  
**Cc:** Donis, Antonio; Daum, Robert L; Ooi, Maura M; Littlepage, Ryan L  
**Subject:** RE: G-28s, MTRs, and Credible Fear

I believe we're experiencing both scenarios. It seems that there is beginning to be a bit of a turf war between the private bar and AILA. We are receiving multiple MTRs for the same applicant and the arguments in the MTRs can be similar or completely different (many including the "form" Artesia MTR that does not really present any new evidence).

I am also including Ryan Littlepage, the SAO on the ground in Artesia, who is all too familiar with the contents of the motions.  
Thanks,

---

**From:** Hammill, Hunter A  
**Sent:** Monday, August 18, 2014 12:36 PM  
**To:** Hemming, Bryan D

**Cc:** Donis, Antonio; Daum, Robert L; Ooi, Maura M  
**Subject:** RE: G-28s, MTRs, and Credible Fear

Also, I'm adding Maura Ooi, one of our RALD attorneys who is going to be looking at this question, to the chain, and she may be asking for some more follow-up information.

---

**From:** Hammill, Hunter A  
**Sent:** Monday, August 18, 2014 1:31 PM  
**To:** Hemming, Bryan D  
**Cc:** Donis, Antonio; Daum, Robert L  
**Subject:** RE: G-28s, MTRs, and Credible Fear

[Redacted]

**From:** Hemming, Bryan D  
**Sent:** Monday, August 18, 2014 1:17 PM  
**To:** Hammill, Hunter A  
**Cc:** Donis, Antonio; Daum, Robert L  
**Subject:** G-28s, MTRs, and Credible Fear

(b)(5)

Hi Hunter:

[Redacted]

We appreciate any guidance OCC can provide.

Thanks,  
Bryan



**Jowett, Haley L**

---

**From:** Littlepage, Ryan L  
**Sent:** Wednesday, August 20, 2014 11:26 AM  
**To:** Reza, Naushad; Zee, Dong; Donis, Antonio; Gonzalez, Martha; Hook, Garland R; Orendach, Janette  
**Subject:** RE: Question

We just revisited this issue. The no laptop policy will continue, in accordance with the local ICE facility's policies.

---

**From:** Reza, Naushad  
**Sent:** Wednesday, August 20, 2014 10:22 AM  
**To:** Zee, Dong; Donis, Antonio; Littlepage, Ryan L; Gonzalez, Martha; Hook, Garland R; Orendach, Janette  
**Subject:** RE: Question

Just wanted to verify, thanks.

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**From:** Zee, Dong  
**Sent:** Wednesday, August 20, 2014 10:22 AM  
**To:** Reza, Naushad; Donis, Antonio; Littlepage, Ryan L; Gonzalez, Martha; Hook, Garland R; Orendach, Janette  
**Subject:** RE: Question

I thought we are not.

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**From:** Reza, Naushad  
**Sent:** Wednesday, August 20, 2014 10:21 AM  
**To:** Donis, Antonio; Littlepage, Ryan L; Zee, Dong; Gonzalez, Martha; Hook, Garland R; Orendach, Janette  
**Subject:** Question

Are we allowing laptops in interviews?



**U.S. Citizenship  
and Immigration  
Services**

FEB 28 2014

HQRAIO 120/9.15b

Memorandum

TO: Asylum Office Directors / Deputy Directors  
Supervisory Asylum Officers  
Quality Assurance/Training Asylum Officers  
Asylum Officers

FROM: John Lafferty  
Chief, Asylum Division

A handwritten signature in black ink, appearing to read "John Lafferty", written over the printed name and title.

SUBJECT: Release of Updated Asylum Division Officer Training Course (ADOTC)  
Lesson Plan, *Credible Fear of Persecution and Torture Determinations*

This memorandum announces the release of a revised version of the ADOTC Lesson Plan, *Credible Fear of Persecution and Torture Determinations*, dated February 28, 2014 (the revised Credible Fear Lesson Plan) and describes the major changes in the lesson from previous versions.

I. Background

Credible fear referrals to the Asylum Division in fiscal year (FY) 2013 surpassed total receipts for credible fear referrals over the five-year period from FY 2007 to FY 2011 and rose from FY 2012 by more than 250%. In light of the increased allocation of resources devoted to credible fear adjudications and the attention on these adjudications, the Asylum Division undertook a comprehensive review of the previous credible fear lesson plan, which was most recently revised on March 7, 2013 and last underwent significant changes on April 14, 2006. As part of this review, we met with representatives from each Asylum Office and shared draft versions of the revised Credible Fear Lesson Plan with U.S. Immigration and Customs Enforcement and U.S. Customs and Border Protection. Attached is the revised Credible Fear Lesson Plan, dated February 28, 2014. The lesson plan is also available electronically through the Asylum Division's Enterprise Collaboration Network ("ECN") site at:

<http://ecn.uscis.dhs.gov/team/raio/PerMgt/Training/Lesson%20Plans/Forms/ASYview.aspx>.

## II. The Revised Credible Fear Lesson Plan

Because revisions were made throughout the revised Credible Fear Lesson Plan, this memorandum will not describe all the changes from previous versions. The significant changes to the lesson plan focus on three major areas.

First, the revisions to the lesson plan seek to reinforce the Asylum Division's interpretation of the statutory "significant possibility" standard as requiring that the applicant "demonstrate a substantial and realistic possibility of succeeding."<sup>1</sup> In light of concerns that the application of the "significant possibility" standard has lately been interpreted to require only a minimal or mere possibility of success, the revised Credible Fear Lesson Plan clearly states that a claim that has no possibility or only a minimal or mere possibility does not meet the "significant possibility" standard.

Second, the revised Credible Fear Lesson Plan incorporates substantive updates to the Refugee, Asylum and International Operations Combined Training Lesson Plans (RAIO Lesson Plans) from recent years and examines the application of this guidance to credible fear determinations. The revised Credible Fear Lesson Plan is not meant to be viewed in isolation; Asylum Officers must continue to refer to the latest applicable RAIO Lesson Plans for the most recent guidance on determining asylum eligibility. The revised Credible Fear Lesson Plan, however, adopts the analytical framework of various RAIO Lesson Plans to ensure that credible fear of persecution determinations apply the correct substantive law through the "significant possibility" lens. For example, *Section VII. Establishing a Credible Fear of Persecution* now discusses separately the issues of Past Persecution and Well-Founded Fear of Persecution. Both sub-sections follow their RAIO Lesson Plan equivalent as viewed in the credible fear context. This provides the opportunity to discuss areas of law that were omitted from previous versions of the lesson plan, such as the role of internal relocation in the well-founded fear of persecution analysis.

Finally, the revised Credible Fear Lesson Plan modifies guidance on credible fear of torture screenings to hue more closely to the regulations implementing the Convention Against Torture (the Convention or CAT).<sup>2</sup> Asylum Officers screening for viable CAT claims must now consider all the elements of the Convention definition of torture, such as consideration of the issues of custody and control, and lawful sanctions as falling outside of the definition; these were previously omitted from the credible fear analysis. Moreover, the severity and specific intent requirement is modified to reflect the Convention definition: an act must be specifically intended to inflict severe physical or mental pain or suffering. Previous versions of the lesson plan required only that the feared offender intend to take some action that would result in serious harm to the applicant. The modifications also describe when mental pain or suffering can constitute torture. Instruction involving the Convention's state action requirement is expanded to detail when a public official acts in an official capacity and to shed further light on the issue of acquiescence. Lastly, the revised Credible Fear

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<sup>1</sup> Joseph E. Langlois, Asylum Division, Office of International Affairs, *Increase of Quality Assurance Review for Positive Credible Fear Determinations and Release of Updated Asylum Officer Basic Training Course Lesson Plan, Credible Fear of Persecution and Torture Determinations*, Memorandum to Asylum Office Directors, et al. (Washington, DC: Apr. 17, 2006).

<sup>2</sup> 8 C.F.R. §§ 208.16 -.18.

Lesson Plan instructs that the regulatory requirement that internal relocation be considered when evaluating the possibility of future torture is applied to credible fear determinations. These modifications to how relief under CAT is analyzed in the credible fear context do not change the “significant possibility” standard or alter the screening function of the credible fear process. The intention, rather, is to focus on the “significant possibility” standard, taking into account regulatory requirements for CAT claims.

### III. Implementation

The revised Credible Fear Lesson Plan is effective immediately. Headquarters staff will travel to each Asylum Office to provide training on the revised Credible Fear Lesson Plan. This lesson plan will also be used at the upcoming ADOTC. Furthermore, we will examine whether any conforming changes to the ADOTC Lesson Plan, *Reasonable Fear of Persecution and Torture Determinations* and the Credible Fear Determination Checklist are necessary and issue a revision to those documents as appropriate.

Please contact the Asylum Division Quality Assurance Branch Chief and/or email the Asylum QA – Credible Fear mailbox if you have any questions.

Attachment (1): ADOTC Lesson Plan, Credible Fear of Persecution and Torture Determinations

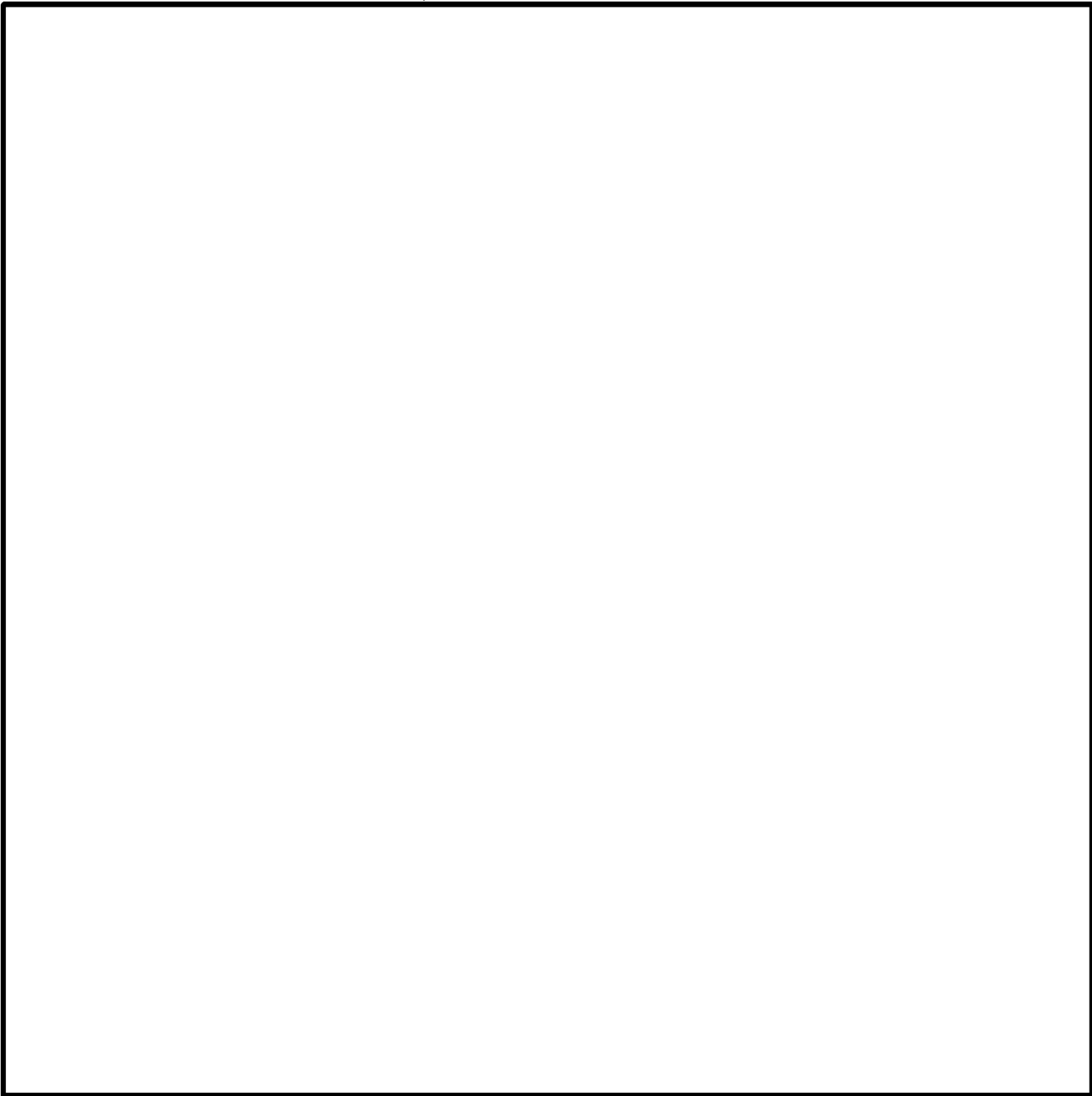
Name / A#:

Country: Nepal

Date of Interview:

(b)(5) (b)(6)

Summary



ALIEN NUMBER: \_\_\_\_\_ DATE: \_\_\_\_\_  
NAME: \_\_\_\_\_ ASYLUM OFFICER: ZHN  
COUNTRY: Nepal  
ASYLUM OFFICE: \_\_\_\_\_

INTERPRETER: Language: Nepalese Lionbridge #

**OATH ADMINISTERED**

**PARAGRAPH 1.28, FORM I-870, READ TO APPLICANT *Background and 1-870 Information***

Q. What is your full name?

A.

Q. Have you ever been known by any other names or aliases?

A. No

Q. Do you have an attorney / consultant to represent you?

A. No

Q. Do you have any medical conditions or concerns?

A. No

Q. Where were you born?

A. Nepal

Q. What is your date of birth?

A.

(b)(6)

Q. What country are you a citizen of?

A. Nepal

Q. Are you a citizen of any other countries? A.

No

Q. Do you speak any other languages?

A. I can understand Hindi.

Q. What is your race or ethnicity?

A. The tribe is Newar, Ethnicity: Aryan

Q. What is your religion?

A. Buddhist

ALIEN NUMBER

NAME:

DATE: ASYLUM OFFICER:

COUNTRY: Nepal

ASYLUM OFFICE: ZHN

(b)(6)

Q. When did you last enter the United States?

A. [REDACTED]

Q. Where did you enter the United States?

A. Brownsville, TX

Q. When were you apprehended by the Border Patrol?

A. [REDACTED]

Q. Where were you apprehended?

A. Mifflin, TX

Q. Was this the first time you entered the United States? A.

Yes

Q. Are you married, single, living with a partner?

A. Yes, married. My wife is in [REDACTED] Nepal

Q. Do you have any children? (Names, date of birth). A.

I have two girls, w/ mother

1 [REDACTED]  
2 [REDACTED]

Q. Do you have any family in the US? (Name / Address / Relationship / Telephone/status?)

A. I have some friends in Houston, TX

Q. Have you lived in any other countries?

A. I was living in [REDACTED] India.

Q. When did you live in India? How long?

A. I was there in 2004. I year.

Q. So, you were there in 2004 and then did you return to Nepal?

A. Yes.

Q. What type of work did you do in Nepal? A.

[REDACTED] too.

Q. Have you ever served in the military?

A. No

Q. Have you ever been threatened or harmed in Nepal?

ALIEN NUMBER: \_\_\_\_\_ DATE: \_\_\_\_\_  
NAME: \_\_\_\_\_ ASYLUM OFFICER: ZHN  
COUNTRY: Nepal  
ASYLUM OFFICE: ZHN

A. Yes, they did. (b)(6)

Q. Ever physically harmed?

A. Yes, they beat me during the election time.

Q. Who are they?

A. They are the Maoists.

Q. How many times did they beat you?

A. They threatened me a couple of times, beat me once.

Q. When did they beat you?

A. April 8, 2008. [Based on interpreter conversion.]

Q. Why did they beat you?

A. I support the National Democratic Party and b/c I was participating in the party, they threatened me to stop doing that and participate and they told me I had to leave my party. I did not listen to them and they beat me.

Q. Who was the candidate for your party?

A. Asoketapa

Q. How did you become involved in politics?

[Redacted]

Q. When was the election held?

A. April 10, 2008.

Q. Please describe what happened when you were beaten?

[Redacted]

Q. Sir, I appreciate the background, but I would like more specific details on what happened the day you were beaten.

[Redacted]

Q. Do you recall what time of the day this occurred?

A. 11 am.



ALIEN NUMBER: \_\_\_\_\_ DATE: \_\_\_\_\_  
NAME: \_\_\_\_\_ ASYLUM OFFICER: ZHN  
COUNTRY: Nepal  
ASYLUM OFFICE: ZHN

Q. About how many people were in the crowd of the villagers? A.  
Around 175 or 180.

Q. How many people do you recall beating you?  
A. About 15 or 16 belonging to the YCS.

Q. How exactly were they beating you?  
A. They beat me with bamboo sticks, they used their hands and with their legs they kicked me.

Q. How is it that they stopped beating you, what happened to stop the beating?  
A. After they started beating me, I lost my senses and fell down, and the village elders came and they pleaded with them to stop beating me and took me away.

Q. Did you go to the hospital?  
A. I didn't go to the hospital, it was far. People threw water on me. I went to the local private clinic.  
[Note: interpreter is difficult to understand; officer's notes are as clear as possible considering officer's difficulty understanding translation.]

Q. Did you report this attack to the police?  
A. The police were afraid and they never took action against Maoists. Police will take up Maoists side out of fear.

Q. Can you tell me again what day you were attacked?  
A. It was April 8, 2008.

Q. You told me you were threatened on two other occasions, when were you threatened? A.  
The first incident was March 22, 2008, and March 29, 2008.

Q. Where were you threatened on the 22 and 29 of March?  
A. The first one I was home and the second time when I was walking in the street asking for the vote.

Q. What did they say to you when they threatened you?  
A. They say if you want to be in this village, we don't want you to walk on behalf of the king. We will kill you and throw you in the river.

Q. When did you leave Nepal?  
A. I left on June 2, 2008.

Q. What made you leave in June?  
A. Election results came out; as it happened, the voters said we will not keep the king and keep the king's supporters here. I left and came here.

Q. Do you fear being returned?  
A. Yes, I am really afraid. If I was not afraid I would have gone back.

ALIEN NUMBER: \_\_\_\_\_ DATE: \_\_\_\_\_  
NAME: \_\_\_\_\_ ASYLUM OFFICER: ZHN  
COUNTRY: Nepal  
ASYLUM OFFICE: ZHN

Q What do you think will happen if you go back?

A. Now the elections, the Maoist won, and I was a supporter of the king, and the king is already out. I think they will kill us.

Q. Do you fear the government of Nepal?

A. No. But they can't help me.

Q. Do you fear harm from anyone not in the government but who is connected with the government of your country?

A. No. I fear the Maoists and to the extent they get control of the government, I fear that.

Q. Have you ever persecuted (harmed, or hurt) another human being?

A. No.

Q. Have you ever been arrested for anything (in any country)?

A. No.

(b)(6)

Q. Have you ever been affiliated with, supported, or assisted a group that has been accused of using violence to realize its goals?

A. No

Q. Is there anything else that you would like to add that you think we have not covered today?

A. No, I don't have anything to say. My date of birth should be  We have heard America is a country ...I think my life would be saved here if I am allowed to stay here.

**PARAGRAPH 3.2, FORM I-870, READ TO APPLICANT.**

**APSO SUMMARIZED THE CASE TO THE APPLICANT AS REQUIRED BY SECTION 3.3, FORM I-870.**



**U.S. Citizenship  
and Immigration  
Services**

HQRAIO 120/9.15

## Memorandum

TO: Asylum Office Directors  
Asylum Office Deputy Directors  
Supervisory Asylum Officers  
Quality Assurance/Training Asylum Officers  
Asylum Officers

FROM: Joseph E. Langlois  
Chief, Asylum Division /s/

DATE: December 23, 2008

SUBJECT: Revised Credible Fear Quality Assurance Review Categories and Procedures

The purpose of this memorandum is to modify the categories of credible fear determinations that must be sent to the Asylum Division Training, Research, and Quality (TRAQ) Branch for quality assurance (QA) review prior to the issuance of a final determination. In addition, the memorandum announces new procedural requirements for all determinations. These changes will be effective as of December 23, 2008.<sup>1</sup>

These modifications result from a review of the revised QA framework that was implemented in response to the 2005 Report on Asylum Seekers in Expedited Removal by the U.S. Commission on International Religious Freedom (USCIRF Report).<sup>2</sup> More than three years of increased review of credible fear cases has indicated that QA review of both positive and negative determinations has contributed to the quality of the reviewed cases, as well as the overall work product of the offices. The level of quality in decision-making indicates that most positive credible fear determinations do not require QA review by TRAQ before issuance of a final decision. Instead, certain categories of positive determinations will be identified for TRAQ QA review, but will not require holding service of a decision pending a TRAQ response. This post-decision review will inform training efforts by

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<sup>1</sup> . This memorandum supersedes the guidance set forth in Section I of the memorandum entitled "Increase of Quality Assurance Review for Positive Credible Fear Determinations and Release of Updated Asylum Officer Basic Training Course Lesson Plan, *Credible Fear of Persecution and Torture Determinations*," dated April 17, 2006.

<sup>2</sup> [http://www.uscirf.gov/countries/global/asylum\\_refugees/2005/february/index.html](http://www.uscirf.gov/countries/global/asylum_refugees/2005/february/index.html).

providing information and guidance on common issues, trends, and areas for improvement. The procedural changes announced in section II of this memorandum are designed to remove the potential for procedural bias in favor of positive determinations noted by the USCIRF Report.

## **I. Quality Assurance Review of Credible Fear Determinations**

### **Background**

During initial implementation of the expedited removal process, mandatory Headquarters Asylum Division (HQASM) QA review of positive credible fear determinations was limited to a few categories of cases (e.g., claims involving domestic violence, high profile cases, and cases involving a possible mandatory bar). Upon expansion of expedited removal to certain individuals apprehended between ports of entry (“inland” cases), HQASM initially required QA review of all inland positive credible fear determinations. Following further expansion of the expedited removal process to all border patrol sections and issuance of revised credible fear guidance in the AOBTC lesson plan, HQASM reduced the mandated QA review to half of all positive inland cases (i.e., positive inland determinations with an odd-numbered A-number). HQASM later required review of positive credible fear determinations from ZAR, ZCH, and ZMI with an odd-numbered A-number.

The USCIRF Report noted that the QA and other procedures for negative determinations were more onerous than the procedures for positive determinations, creating a potential bias toward positive determinations. Accordingly, USCIRF recommended applying similar QA procedures to both positive and negative determinations. The Asylum Division implemented this recommendation by increasing QA review of positive determinations. After two years of increased QA review of determinations based on the revised lesson plan, HQASM notes a high level of quality of the credible fear work product in all categories of cases.

Under the new QA review framework, HQASM will continue to review certain key positive determination categories and a sampling of *post-decisional* positive determinations, as discussed below. However, most positive credible fear determinations will not require HQASM review before service of the decision. HQASM will continue to review all negative credible fear determinations to ensure that bona fide asylum seekers are not returned to countries where they may face persecution or torture.

### **Cases that Require TRAQ Quality Assurance Review Prior to Issuance of a Determination**

TRAQ will continue to review all negative credible fear of persecution and torture determinations prior to the service of a determination. Pre-decision review will also continue for high-profile cases (e.g., high-ranking foreign government officials or their family members, or any person whose case has been or is likely to be publicized) and claims involving novel legal issues (as identified by the local office or meeting fact patterns provided by HQASM). Also, the Supervisory Asylum Pre-Screening Officer (SAPSO), Deputy Director, or Director, in his or her discretion, may request TRAQ review of any other cases.

The following is a comprehensive list of credible fear cases that require TRAQ QA review and concurrence **prior** to issuance of a decision:

- Negative credible fear of persecution and torture determinations;
- High-profile cases (e.g., high-ranking foreign government officials or their family members, or any person whose case has been or is likely to be publicized);
- Claims involving novel legal issues (as identified by the local office or meeting fact patterns provided by HQASM); and
- Any case a SAPSO, Deputy Director, or Director believes should be reviewed by TRAQ.

#### Cases that No Longer Require TRAQ Quality Assurance Review Prior to Issuance of a Determination

Mandatory pre-decision TRAQ QA review is no longer required for other categories of cases. For instance, positive determinations based upon domestic violence, positive determinations based on a credible fear of torture only (negative for persecution), and positive determinations with possible mandatory bars will not require TRAQ review and concurrence before issuance of a decision. In the last two years of QA review of these categories, HQASM has observed closely the asylum office determinations and is confident that all offices appropriately apply existing law and policy.

The following is a list of credible fear cases that no longer require TRAQ QA review and concurrence prior to issuance of a decision:

- Positive inland credible fear of persecution determinations with odd-numbered A-numbers;
- Positive credible fear of persecution determinations with odd-numbered A-numbers within the jurisdiction of ZAR, ZCH, and ZMI;
- Claims based upon domestic violence (e.g., spousal abuse, child abuse, or violence between family members not in a spousal relationship);
- Positive torture claims;
- Positive credible fear determinations that involve a possible mandatory bar.

#### Procedures for Post-Decision TRAQ Quality Assurance Review of a Sampling of Cases

In addition to negative credible fear of persecution and torture determinations, high-profile applicants, and requested reviews, HQASM will require *post-decisional* review of a sampling of positive credible fear determinations in order to gain an overview of the interviews and to ensure quality and consistency among the offices. For example, the HQASM Credible Fear Quality Assurance Program Manager may request all, or a specific subset, of the credible fear determinations made by a given office during the previous month. The Quality Assurance Program Manager may also request a random sampling of cases generated by APSS, or may request that all offices submit a number of cases falling into a certain category (i.e., all cases with possible mandatory bars).

The selected asylum office(s) and case categories will be announced at the monthly SAPSO conference call and emailed to all SAPSOs. The information will be reflected in the conference call minutes, which will be distributed to the Directors, Deputy Directors, and SAPSOs of each asylum office. After the post-decision review, the Quality Assurance Program Manager will provide feedback to the local asylum office(s) regarding any trends, issues on which follow-up training is

needed, or any HQASM comments or concerns. The asylum office should use this feedback to discuss issues with staff and to inform training programs.

### Contact Information

Credible fear determinations requiring TRAQ review should be scanned and sent to the Asylum QA - Credible Fear e-mail address, consistent with current procedures. Please contact the Credible Fear Quality Assurance Program Manager in the TRAQ Branch<sup>3</sup> by telephone prior to submitting any case documentation by fax. Questions concerning quality assurance review of credible fear cases should be submitted to the Asylum QA – Credible Fear inbox.

## **II. Procedural Requirements for Credible Fear Determinations**

As discussed above, the USCIRF report on expedited removal expressed a concern that the Asylum Division QA requirements and procedures for negative determinations may create an unintended bias toward positive determinations. Through our extensive review of positive credible fear determinations, HQASM has identified certain procedural issues that may contribute to this real or perceived bias. In response to this concern, and in an effort to remove any possible bias toward positive determinations, this memorandum implements two procedural changes, which include identical note-taking formats for positive and negative cases, as well as brief written analyses for both positive and negative cases. These new procedures will assist in minimizing any potential bias in the future. Additionally, these new procedures will provide the best record of the case to assist with meaningful supervisory review.

### Credible Fear Notes

Previously, the Credible Fear Procedures Manual required Question & Answer (Q&A) notes for negative credible fear of persecution and torture determinations, but did not require a specific format for positive determinations. This memorandum requires that Q&A notes accompany all credible fear interviews. Interview notes must accurately reflect what transpired during the interview so that a reviewer can reconstruct the interview by reading the interview notes. In addition, the interview notes should substantiate the asylum officer's decision.

Although Q&A notes are not required to be a verbatim record of everything said at the interview, they must provide an accurate record of the specific questions asked and the applicant's specific answers to demonstrate that the APSO gave the applicant every opportunity to establish a credible fear. In doing so, the Q&A notes must reflect that the APSO asked the applicant to explain any inconsistencies as well as to provide more detail concerning material issues. This type of record will provide the SAPSO with a clear record of the issues that may require follow-up questions or analysis, as well as assist the asylum officer in the identification of issues related to credibility and analysis of the claim after the interview. This memorandum does not require that the Q&A notes be reviewed with the applicant as a sworn statement; however, the APSO still must provide to the

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<sup>3</sup> The Asylum Division Contact List is on the AVL at <http://z02rscow12:8080/docushare/dsweb/View/Collection-9872>.

applicant a summary of the applicant's claim. This summary may be documented in the Q&A notes with a statement such as the following:

“APSO summarized the case to the applicant as required by Section 3.3 of Form I-870.”

Any corrections or clarifications made by the applicant at that point must be documented in the notes.

### Brief Assessment

Previously, the Credible Fear Procedures Manual required summaries of the decision for both positive and negative credible fear of persecution and torture determinations, but only required a written analysis for negative credible fear of persecution and torture determinations. This memorandum requires a brief written analysis of the case under the applicable standard for all credible fear determinations. The analysis should not be as thorough as an affirmative asylum assessment, but should include a short summary of the facts relevant to the credible fear determination, as well as a discussion of the reasons supporting the determination. This written analysis will allow the reviewer to determine that the decision was based on neutral, objective factors, and that the law was properly applied.

A sample of the required Q&A notes for a positive credible fear determination, as well as a sample analysis, are attached. The Credible Fear Procedures Manual soon will be updated and posted to the AVL to reflect the changes discussed in this memo.

### Contact Information

Questions concerning credible fear procedures should be submitted to the Credible Fear Procedures Program Manager in the Operations Branch.<sup>4</sup>

### **III. Implementation Date**

The new submission categories and procedural requirements set forth in this memorandum will be effective December 23, 2008. The first request for post-decision review will be issued at the end of January, 2009.

Attachment

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<sup>4</sup> The Asylum Division Contact List is on the AVL at <http://z02rscow12:8080/docushare/dsweb/View/Collection-9872>.

## ASYLUM OPS-VIRTUAL LIBRARY

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**From:** Kim, Ted H  
**Sent:** Wednesday, August 30, 2006 1:33 PM  
**To:** Bardini, Emilia; Cauller, Erich J; Dedvukaj, Mick; Fatica, Erin K; Hummert, Marie; Jackson, Patricia A; Kramar, John; Logan, Jim; Madsen, Kenneth S; Mihalko, George S; Radel, David M; Rauffer, Susan; Yue, Calton; Zeleke, Aster  
**Cc:** (b)(5) Langlois, Joseph; Ruppel, Joanna; Hussey, Jedidah M; Walters, Jessica S; Christian, Bryan P; Zwicker, Trina M; Sohrakoff, Karen A; Ho, Cheri L  
**Subject:** Service of Credible Fear Determinations and Conducting Orientations

The above procedural amendment regarding the service of positive credible fear and clarification of orientation procedures will be incorporated in the next release of the Credible Fear Procedures Manual.

Please let me know if you have any questions regarding these procedures.

Thank you,  
Ted

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Ted Kim  
Operations Branch Chief, Asylum Division  
Office of Refugee, Asylum, and International Operations  
US Citizenship & Immigration Services  
Department of Homeland Security  
t: 202.272.1615  
f: 202.272.1681





U.S. Citizenship  
and Immigration  
Services

JUN 04 2013

HQRAIO 120/9.15a

## Memorandum

TO: ASYLUM OFFICE DIRECTORS  
ASYLUM OFFICE DEPUTY DIRECTORS  
SUPERVISORY ASYLUM PRE-SCREENING OFFICERS  
ASYLUM PRE-SCREENING OFFICERS  
QUALITY ASSURANCE/TRAINING ASYLUM OFFICERS

FROM: Ted H. Kim  
Acting Chief, Asylum Division

SUBJECT: Telephonic Interviews in Negative Credible Fear Determinations

### I. Purpose

This memorandum suspends the requirement to terminate the telephonic credible fear interview and conduct a follow-up interview in-person or by video-teleconference (VTEL), if the Asylum Pre-Screening Officer (APSO) finds that the alien does not have a credible fear of persecution or torture. Until further notice, these guidelines supersede the procedures contained in Section III.E.1 of the draft Credible Fear Procedures Manual (CFPM).

### II. Background

Under current credible fear procedures, Asylum Office Directors are authorized to exercise their discretion to choose the mode of interview—in-person, telephonic, or VTEL—after considering a number of factors. If the telephonic mode is chosen, however, current procedures require the APSO to terminate the telephonic interview and conduct an interview in-person or by VTEL if there is any indication that the alien does not understand the process, or if the APSO finds that the alien does not have a credible fear of persecution or torture. This procedure typically requires rescheduling the interview and therefore delays case processing times.

In order to address the recent surge in credible fear referrals, which have nearly tripled over the last three years, and support current Department of Homeland Security efforts to relieve

pressure on the detention system, the Asylum Division has been implementing measures to gain efficiencies in the credible fear process. To this end, over the last year, Asylum Offices have been expanding the use of telephonic interviewing so that they can reach more credible fear applicants more quickly while also minimizing travel costs. To maximize the efficiency of telephonic interviewing, the Asylum Division is suspending the procedural requirement for APSOs to switch from the telephonic mode to an in-person or VTEL mode if they do not find a credible fear of persecution or torture.

### **III. Implementation**

Effective immediately, where credible fear interviews are initiated over the telephone<sup>1</sup>, APSOs should complete their interviews over the telephone, including those that may lead to a negative determination. In such instances, APSOs should no longer terminate the telephonic interview in order to schedule a live or VTEL follow-up interview.

Asylum Office Directors or their management designee(s) may exercise their discretion to authorize exceptions to this new policy on a case-by-case basis.

Questions regarding the contents of this memorandum may be directed to the HQASM Operations Branch, Credible Fear Program Manager.

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<sup>1</sup> The APSO should still terminate the telephone or VTEL interview and schedule an in person interview if there is any indication that the alien does not understand the process.



**U.S. Citizenship  
and Immigration  
Services**

HQRAIO 120/9.15a

June 9, 2011

## Memorandum

**TO:** ASYLUM OFFICE DIRECTORS  
ASYLUM OFFICE DEPUTY DIRECTORS  
SUPERVISORY ASYLUM OFFICERS  
QUALITY ASSURANCE/TRAINING ASYLUM OFFICERS  
ASYLUM OFFICERS

**FROM:** Joseph E. Langlois /s/  
Chief, Asylum Division

**SUBJECT:** Updated Information Notification of ICE's Parole Guidelines to arriving aliens found to have a credible fear of persecution or torture and translations

On January 3, 2010, Asylum Offices were instructed to provide "Information about How to Seek Release from Detention: Parole Eligibility and Process for Certain Asylum Applicants" to arriving aliens ("POE cases") found to have a credible fear of persecution or torture. (See Memorandum, *Providing Notification of ICE's Parole Guidelines to arriving aliens found to have a credible fear of persecution or torture*, December 30, 2009.) Since that time, the Information Notification has been amended and updated. Asylum Offices should be using the Information Notification dated March 18, 2011.

At this time, the Information Notification has been translated into 8 languages that have been determined to encompass a large portion of the credible fear applicants in POE cases. Those languages are Amharic, Arabic, Chinese (Mandarin-simplified), Creole, French, Somali, Spanish and Tigrinya. Asylum Offices should immediately begin to provide a copy of the translated information notification to those applicable credible fear applicants. Copies of the updated Information Notification and the translations are attached to this memorandum and also are available on the RAIQVL.

Attachments (9)



U.S. Department of Justice  
Immigration and Naturalization Service

HQIAO 120/15.20b

425 I Street, NW  
Washington, DC 20536

FEB 11 2002

MEMORANDUM FOR: Asylum Office Directors  
Deputy Directors  
Supervisory Asylum Officers

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

SUBJECT: Updated Translations of Form M-444, Information about Credible Fear Interview and Form M-488, Information about Reasonable Fear Interview

Please distribute and begin using the attached translations of Form M-444, *Information about Credible Fear Interview*, and Form M-488, *Information about Reasonable Fear Interview*, which have been updated to include references to an applicant's ability to seek protection under the Convention against Torture. The M-444 translations currently are limited to the Mandarin, Arabic, Haitian Creole, French, and Albanian languages. The M-488 has been translated into Spanish. In addition to the hard copies sent to each asylum office, these translations are available as PDF files, accessible through the Adobe Acrobat Reader program. They will be forwarded to each asylum office as cc:mail attachments.

Supervisory asylum pre-screening officers should instruct asylum staff responsible for conducting credible fear and reasonable fear orientations that these versions replace all earlier versions of the M-444 and M-488 in the above-referenced languages.

The M-444 will be translated into several other languages: Spanish, Somali, Russian, Tamil, Serbo-Croatian (Cyrillic), Serbo-Croatian (Latin), Portuguese, and Urdu. These translations and revised videotaped readings of both forms are forthcoming.

# Waiver of the 48-Hour Period

---

A-number: \_\_\_\_\_

Name: \_\_\_\_\_

## -- DECLARATION OF ALIEN --

- I was placed into the credible fear process upon seeking admission to the United States because I expressed a fear of harm upon return my country, or because I was unable to communicate with the inspecting officer at the time I applied for admission.
- I understand that I will be interviewed by a specially-trained asylum officer to determine if I have a “credible fear of persecution” or a “credible fear of torture.” I also understand that I may have 48 hours to rest and consult with family members, friends or other representatives before this interview takes place.
- I request to waive the 48-hour period, and have an interview with an asylum officer at the earliest possible time.

-----

\_\_\_\_\_  
Alien's Last Name/Family Name (Print)      Alien's First Name (Print)      Alien's Signature

\_\_\_\_\_  
Asylum Officer's Last Name (Print)      Asylum Officer's First Name (Print)      Date    /    /   

The contents of this form were read and explained to the alien in the \_\_\_\_\_ language.

Interpreter Used (if any):

By telephone: (list interpreter service/ID number of interpreter) \_\_\_\_\_

In person: I, \_\_\_\_\_, certify that I am fluent in both the \_\_\_\_\_ and English languages. I interpreted the above information completely and accurately to the alien.

\_\_\_\_\_  
Interpreter's Signature      Date    /    /

## Gossett, Christopher R

---

**From:** Gossett, Christopher R  
**Sent:** Monday, October 06, 2014 3:58 PM  
**To:** Rellis, Jennifer L  
**Subject:** FW: ZHN Local Quality Assurance Pilot Program  
**Attachments:** ZHN Quality Assurance Program Cover Sheet.docx

FYI

**From:** Lynn, Mallory L  
**Sent:** Tuesday, September 30, 2014 10:04 AM  
**To:** Gossett, Christopher R  
**Subject:** FW: ZHN Local Quality Assurance Pilot Program

FYI – there's this. It's in addition to the 1 case to HQ by 9 am local time M, Tu, Th, Fri.

Thanks!

Mallory

**From:** Donis, Antonio  
**Sent:** Tuesday, September 23, 2014 2:13 PM  
**To:** Lynn, Mallory L  
**Subject:** FW: ZHN Local Quality Assurance Pilot Program

**From:** Ahmed, Syed H (Harun)  
**Sent:** Monday, September 15, 2014 2:47 PM  
**To:** #ZHN-SAO Only; Littlepage, Ryan L; Donis, Antonio; Greene, Shevon; Lynn, Mallory L  
**Cc:** Penel, Renata Q  
**Subject:** ZHN Local Quality Assurance Pilot Program

### **Effective immediately:**

Programs for Credible Fear Pre-Screening, Reasonable Fear Pre-Screening, and Affirmative Asylum will be subject to in-house quality assurance review. Following supervisory review, but before a decision is served, several cases from each program will be reviewed by ZHN Training Officers.

### **Action Items:**

During each week, we ask that **each SAO submit 2 cases** for quality assurance review prior to service of a decision. These cases should not include cases already requiring Headquarters QA review.

SAOs should submit: **one positive** determination or grant of asylum; and **one negative** determination or referral/denial.

**PROCEDURES:**

**For Staff onsite at ZHN:**

Attach a ZHN Quality Assurance Program to the front of the physical file, and fill in the date of submission to a TO, A#, AO name, and SAO name. Place the physical case file at a designated location in Renata's office. Cases will be returned to you, once they have been reviewed.

**For CF Tiger Teams:**

Scan all case documents and email the case to [QA.ZHN@uscis.dhs.gov](mailto:QA.ZHN@uscis.dhs.gov). Please let us know if the scanning becomes too much, and we can adapt.

**Credible Fear Timeline:**

Please submit **Credible Fear** cases for review **Wednesday through Friday**. Credible Fear cases will be returned to the supervisor by COB one day after submission. Please consider this turnaround time when selecting cases for review. We ask that **each supervisor submit only one CF case in a given day**.

If you have questions or concerns, please let Renata and me know.

Harun Ahmed,  
Training Officer, Houston Asylum Office  
U.S. Citizenship and Immigration Services  
U.S. Department of Homeland Security  
[syed.h.ahmed@uscis.dhs.gov](mailto:syed.h.ahmed@uscis.dhs.gov)

# ZHN Quality Assurance Program

<b>Date of Submission:</b>	
<b>A#:</b>	
<b>AO:</b>	
<b>SAO:</b>	
<b>Due Date:</b>	

**Circle one:**

**QA Concurrence – Proceed with processing**

**- OR -**

**Revisions Required**

**Date Resubmitted:**

**Notes:**



(b)(6)

**Castaldi, Amarilde F (Francesca)**

---

**From:** Curphey, Patrick R  
**Sent:** Wednesday, July 02, 2014 4:05 PM  
**To:** Castaldi, Amarilde F  
**Subject:** RE: internet / network

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

The guest rooms have wireless for a small fee (I haven't tried it yet tbh). There is free internet in the student center.

We have been able to connect to the network here. We have had a lot of laptop issues (I'll try to detail later) but mine has worked fine and other people with VPN. There are no desktop computers though so support staff should come with their own too and I think it would be good for everyone to come to have a working printer and VPN token if possible.

Also I remember you asking earlier about referrals from ICE. The ICE agents have been walking over copies of the all the referral paperwork with the orientation documents so everything is ready to go at input/intake.

---

**From:** Castaldi, Amarilde F  
**Sent:** Wednesday, July 02, 2014 4:33 PM  
**To:** Curphey, Patrick R  
**Subject:** internet / network

Is there access to the internet / network? I seem to remember someone saying that ICE had provided a wireless router. Also, what type of connectivity do we have at the dorms? Thanks.

A. Francesca Castaldi  
Supervisory Asylum Officer  
DHS | USCIS | Houston Asylum Office  
16630 Imperial Valley Dr., Suite 200  
Houston, TX 77018  
281.931.2129 direct

281.931.1309 fax

**Castaldi, Amarilde F (Francesca)**

---

**From:** Castaldi, Amarilde F  
**Sent:** Monday, July 07, 2014 11:24 AM  
**To:** Orendach, Janette  
**Subject:** Re: Question regarding work

I've heard the same with an ETA of the end of the week, possibly. We'll know more today.

---

**From:** Orendach, Janette  
**Sent:** Monday, July 07, 2014 11:10 AM Eastern Standard Time  
**To:** Castaldi, Amarilde F  
**Subject:** RE: Question regarding work

We were just told wiring is being completed for the phones. Also someone came to make a list of needed supplies and said they will be bringing PCs, printers, and scanners, but we were not given ETAs on any of it.

---

**From:** Castaldi, Amarilde F  
**Sent:** Monday, July 07, 2014 9:02 AM  
**To:** Orendach, Janette  
**Subject:** Re: Question regarding work

Thank you for the update.

---

**From:** Orendach, Janette  
**Sent:** Monday, July 07, 2014 10:49 AM Eastern Standard Time  
**To:** Castaldi, Amarilde F  
**Subject:** RE: Question regarding work

We have not heard anything more on phones since Thursday when Patrick told us they were working on them. Trial attorneys from ICE have been given one of our rooms and they have desktops set-up, but they are using their cell phones.

---

**From:** Castaldi, Amarilde F  
**Sent:** Monday, July 07, 2014 8:40 AM  
**To:** Orendach, Janette  
**Subject:** Re: Question regarding work

OK. I can't assign you anything from here. Just sit tight and we'll get things going again once we are all together. BTW, you mentioned no phones, any word on the iPhones from ICE?

---

**From:** Orendach, Janette  
**Sent:** Monday, July 07, 2014 10:34 AM Eastern Standard Time  
**To:** Castaldi, Amarilde F  
**Subject:** RE: Question regarding work

There was nothing assigned to US. We finished Thursday what was asked. We have no printers to do security checks. There are services which need to be completed, but we have no phones.

---

**From:** Castaldi, Amarilde F  
**Sent:** Monday, July 07, 2014 8:34 AM

**Castaldi, Amarilde F (Francesca)**

---

**From:** Castaldi, Amarilde F  
**Sent:** Wednesday, July 09, 2014 9:50 AM  
**To:** Storch, Susan B  
**Subject:** RE: Delays with Spanish Interpreters for both LB & LL

Understood. You are not the only one. Keep trying. And let us know how it goes.

---

**From:** Storch, Susan B  
**Sent:** Wednesday, July 09, 2014 9:46 AM  
**To:** Castaldi, Amarilde F  
**Subject:** Delays with Spanish Interpreters for both LB & LL

FYI --- I have been on hold for almost 10 mins.

Sue -  
ZNK - 201.508.6176 (b)(6)  
Cell

## Donis, Antonio

---

**From:** Donis, Antonio  
**Sent:** Thursday, August 21, 2014 4:45 PM  
**To:** Hook, Garland R; Orendach, Janette; Gonzalez, Martha; Zee, Dong; Reza, Naushad; Bradford, Laura M; Larson, Kimberly B; Littlepage, Ryan L  
**Cc:** Littlepage, Ryan L; Hemming, Bryan D; Daum, Robert L  
**Subject:** Memo from DHS Secretary  
**Attachments:** S1 Memo Illegal migration RGV 08.11.14.pdf

Hey team,

Attached is a memo from Secretary Johnson outlining our department's efforts along the southern border.

Thanks for everything you are doing to support this vastly important mission.

Antonio\_\_





**Jowett, Haley L**

---

**From:** Lafferty, John L  
**Sent:** Tuesday, September 02, 2014 5:55 PM  
**To:** RAIO - Asylum Field Office Managers  
**Cc:** Kim, Ted H; Stone, Mary M; Tanner, Rebecca S; Roberts, Rhonda J; Pilotti, David A  
**Subject:** Reminder - Consultant's Role in the CF process  
**Attachments:** Role of Consultant.pdf

Directors/Deputies,

I am attaching a copy of a memo from Joseph Langlois, issued soon after the start of credible fear screening back in 1997, which outlines the proper role of consultants in the CF process. The instructions provided in this memo remain in force. Please share this memo with your supervisors, trainers and officers, and take appropriate steps to ensure that they continue to follow the instructions contained in the memo.

Please let me know if you have any questions.

John

# Memorandum



HQASM 120/16.12 - P

<b>Subject:</b>  Role of Consultants in the Credible Fear Interview	<b>Date:</b>  [signed November 14, 1997]
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**To:**  
All Asylum Directors  
All Supervisory Asylum Officers  
All Asylum Officers

**From:**  
Office of International Affairs  
Asylum Division  
[Joseph E. Langlois /s/ - see page 2]

The purpose of this memo is to provide additional guidance on the role of consultants during the credible fear interview in the context of expedited removal. We are developing further guidance on working with consultants and representatives, including guidance on the documents that may be released to them. That guidance will follow shortly.

The INS encourages the use of consultants by persons who are subject to expedited removal and have been referred for a credible fear interview. Consultation generally facilitates the credible fear process and helps to ensure that asylum seeker's claims are fully elicited. The role of the consultant in the credible fear interview is basically the same as the role of the representative in the affirmative asylum interview. While the asylum officer maintains control of the interview, the consultant and the asylum officer should share a cooperative role in developing and clarifying the merits of the applicant's claim. The consultant should generally be given the opportunity to make a statement at the end of the interview and to ask the applicant additional questions.

Pursuant to 8 C.F.R. § 208.30, applicants in the credible fear process are entitled to consultation with a person or persons of their choosing:

The alien may consult with a person or persons of the alien's choosing prior to the interview or any review thereof, and may present other evidence, if available. Such consultation shall be at no expense to the Government and shall not unreasonably delay the process. Any person or persons with whom the alien chooses to consult may be present at the interview and may be permitted, in the discretion of the asylum officer, to present a statement at the end of the interview. The asylum officer, in his or her discretion, may place reasonable limits on the number of such persons who may be present at the interview and on the length of statement or statements made. 8 C.F.R. §208.30(b)

"Consultant" is not defined in the INA or the regulations. The consultant may be a paid attorney, a *pro bono* attorney, a staff member at a non-government organization, a friend, a relative, or any other person



of the alien's choosing. The alien may have more than one consultant at the interview. However, the asylum officer may reasonably limit the number of consultants present during an interview based on available space considerations and to prevent disruption of the interview.

As noted above, the regulations governing the expedited removal process provide that, *in the asylum officer's discretion*, the consultant may make a statement or comment at the end of the interview. Therefore, the asylum officer has discretion to prevent the consultant from making a statement or comment. However, the asylum officer must have solid reasons to exercise discretion to disallow a consultant from making a statement or comment. Only in extremely unusual circumstances should the asylum officer exercise discretion to prevent the consultant from making a statement or comment.

Generally, the consultant should be allowed to make a closing statement, comment on the evidence presented, and/or ask the asylum seeker additional questions. This should be explained to the consultant and the applicant at the beginning of the interview. The asylum officer may place reasonable limits on the amount of time allotted to the consultant, if it appears that the consultant is using the time in an unhelpful or disruptive manner. It is appropriate for the consultant to clarify issues or statements that were made during the interview, to summarize the case and to make arguments regarding the merits of the case, and to ask additional relevant questions that have not been asked by the asylum officer. It is not appropriate for the consultant to reconduct the interview. The asylum officer must record the consultant's statements in the Q & A's, if the statements are material or relevant to the claim. In some cases, the asylum officer may find it necessary to ask the applicant additional follow-up questions based on issues or information presented by the consultant at the end of the interview. This should also be recorded in the Q & A's.

In most cases, the consultant should hold comments or questions until the end of the interview. In certain instances, however, it will be appropriate for the consultant to comment during the course of the interview to avoid confusion or misunderstandings. Such comments may be helpful and should not be discouraged. At the same time, it is important that the asylum officer retain control of the interview. If the consultant repeatedly interrupts or otherwise disrupts the interview, the asylum officer should ask the consultant to refrain from interrupting the interview and explain that the consultant will be given an opportunity at the end of the interview to ask questions and make comments. Absent unusual circumstances (for example when the asylum seeker has a mental disability), the consultant should not be permitted to answer for the applicant.

There may be times when the asylum officer needs to discuss certain issues with the consultant (e.g., the consultant's role). The asylum officer should ensure that what is discussed is translated to the applicant so that the applicant is aware of all that transpires during the interview.

As noted above, further guidance on this issue will be forthcoming. Please direct any questions you have regarding the role of the consultant during the expedited removal process to Charlie Fillinger or Lorraine Eide.

---

Joseph E. Langlois /s/  
Deputy Director





(b)(5)







**Lynn, Mallory L**

---

**From:** Lynn, Mallory L  
**Sent:** Wednesday, September 24, 2014 9:26 AM  
**To:** Roeschke, Joseph E; Beighley, Tracy L; Lawton, Vanessa G  
**Cc:** Kilaru, Lakshmi S  
**Subject:** attorneys

**Importance:** High

Hi team,

As you all know, it is the applicant's decision whether or not to proceed with a consultant, who may be an attorney. There were some issues with the ALDF this morning. Please let me know immediately if you have a case in which they have previously submitted a G-28 but then tell us they are not ready, as we have been providing them with notice of the interview 2 days in advance.

Also, we are continuing to see cases in which the ALDF attorney who filed a G-28 is no longer here in Artesia. In those cases, you should inquire with the applicant if they would like a consultant or attorney and if so, whom. (Well, that should happen in all cases.) When this happens, ALDF has been sending other volunteer attorneys, who have provided a new G-28 at the time of the interview. If this occurs, please confirm with the applicant that this is the person they would like to have in the interview. For example, if you go over to get the attorney and a different attorney responds that this is his/her case, just be sure that this is the person the applicant wants. It's always the applicant's choice.

Again, please continue to keep me apprised of any issues you have with any attorneys.

Thanks,

Mallory



**Lynn, Mallory L**

---

**From:** Lynn, Mallory L  
**Sent:** Wednesday, September 24, 2014 8:04 AM  
**To:** Kilaru, Lakshmi S  
**Subject:** RE: everything work out okay?

I spoke with Christina Brown. Thanks for letting me know!

---

**From:** Kilaru, Lakshmi S  
**Sent:** Wednesday, September 24, 2014 9:03 AM  
**To:** Lynn, Mallory L  
**Subject:** RE: everything work out okay?

Yeah Vanessa and I spoke to the applicant and she wanted another attorney so we took her back there after she requested to be switched out with whoever asked for her. Vanessa ended up taking the case cause I swapped out with her one of her afternoon ones. Sorry about the hassle.

---

**From:** Lynn, Mallory L  
**Sent:** Wednesday, September 24, 2014 9:02 AM  
**To:** Kilaru, Lakshmi S  
**Subject:** everything work out okay?

**Lynn, Mallory L**

---

**From:** Lynn, Mallory L  
**Sent:** Friday, September 26, 2014 9:39 AM  
**To:** Kilaru, Lakshmi S  
**Subject:** RE: What is the email address for the artesia mail?

[Artesia.asylum@uscis.dhs.gov](mailto:Artesia.asylum@uscis.dhs.gov)

---

**From:** Kilaru, Lakshmi S  
**Sent:** Friday, September 26, 2014 10:35 AM  
**To:** Lynn, Mallory L  
**Subject:** What is the email address for the artesia mail?

An attorney faxed a G-28 to the deportation officer but it's nto routed to the file, can he email it?

**Lynn, Mallory L**

---

**From:** Lynn, Mallory L  
**Sent:** Tuesday, September 30, 2014 1:58 PM  
**To:** Baker, Dana S  
**Subject:** RE: Free attorneys on site

I believe they send a request and the attorneys put them on a list to call out for the following day.

---

**From:** Baker, Dana S  
**Sent:** Tuesday, September 30, 2014 2:55 PM  
**To:** Lynn, Mallory L  
**Subject:** Free attorneys on site

How do residents get access to the pro bono attys on site? Do they need an appointment? Do they ask an officer to take them to the Law Library and see if anyone is available, at any point during the day?

**Lynn, Mallory L**

---

**From:** Lynn, Mallory L  
**Sent:** Thursday, October 30, 2014 12:13 PM  
**To:** DeLeon, Abraham  
**Cc:** Rellis, Jennifer L; Gordon, Jonathan  
**Subject:** [REDACTED]

Hi Abraham,

I think this family is on your docket. I just wanted to let you know that during a credible fear interview, this applicant told the asylum officer that [REDACTED]

[REDACTED]

Thanks,  
Mallory

(b)(6)

(b)(5)

(b)(5)

(b)(6)

**Lynn, Mallory L**

---

**From:** Garcia, Manuel M <Manuel.M.Garcia@ice.dhs.gov>  
**Sent:** Wednesday, October 29, 2014 8:13 AM  
**To:** Lynn, Mallory L  
**Cc:** Nelson, Tami J  
**Subject:** RE: [REDACTED]

Mallory,

Thanks for the notification. I will follow up on this.

Manuel Garcia  
Deportation Officer  
Artesia Family Residential Center  
Cell 520-561-3651

"This email and any files transmitted with it are confidential and intended solely for the use of the individual or entity to whom they are addressed. The content of this email is not to be disseminated without ICE/ERO consent. If you have received this email in error please notify the system manager. This message contains confidential information and is intended only for the individual named. If you are not the named addressee you should not disseminate, distribute or copy this e-mail. Please notify the sender immediately by e-mail if you have received this e-mail by mistake and delete this e-mail from your system. If you are not the intended recipient you are notified that disclosing, copying, distributing or taking any action in reliance on the contents of this information is strictly prohibited."

---

**From:** Lynn, Mallory L  
**Sent:** Wednesday, October 29, 2014 8:53 AM  
**To:** Garcia, Manuel M  
**Cc:** Rellis, Jennifer L  
**Subject:** [REDACTED]

Hi Manuel – I just wanted to give you a heads up about this case. This resident indicated to the asylum officer that

Thanks,  
Mallory

(b)(5)

(b)(6)

**Lynn, Mallory L**

---

**From:** Lynn, Mallory L  
**Sent:** Thursday, August 07, 2014 2:42 PM  
**To:** Hook, Garland R  
**Subject:** RE: dissolution

[Redacted]

---

**From:** Hook, Garland R  
**Sent:** Thursday, August 07, 2014 3:34 PM  
**To:** Lynn, Mallory L  
**Subject:** RE: dissolution

YES

---

**From:** Lynn, Mallory L  
**Sent:** Thursday, August 07, 2014 3:34 PM  
**To:** Hook, Garland R  
**Subject:** RE: dissolution

These are [Redacted]

---

**From:** Hook, Garland R  
**Sent:** Thursday, August 07, 2014 3:28 PM  
**To:** Lynn, Mallory L  
**Subject:** dissolution

[Large Redacted Area]

---

**From:** Lynn, Mallory L  
**Sent:** Thursday, August 07, 2014 2:32 PM  
**To:** Hook, Garland R  
**Subject:** NTAs

Hey Reagan, please make sure the NTAs have the address. Thanks!



## Donis, Antonio

---

**From:** Donis, Antonio  
**Sent:** Wednesday, September 17, 2014 1:40 PM  
**To:** Perez, Susan A; Johnson, Robert L; Beighley, Tracy L; Roeschke, Joseph E; Kilaru, Lakshmi S; Schell, Claire S; Cardona, Rene  
**Cc:** Littlepage, Ryan L; Daum, Robert L; Hemming, Bryan D  
**Subject:** Great Example of Attorney Reschedule

Hey team,

Attached is a great example of how to handle attorney reschedules at ZART.

**Q. You have the right to have an attorney or consultant. Would you like to stop this interview so that you can have time to find an attorney or consultant?**

**A. No**

**Q. Do you know that attorneys are here for you, and they don't charge you anything?**

**A. Yes.**

**Q. Do you know that attorneys in the law library are there for you?**

**A. That I did not know.**

**Q. Do you want to go to the law library and talk to an attorney and we will continue your case? If you choose get an attorney it will not affect your case at all.**

**A. It won't then I would like to look for an attorney.**

**Q. Like I stated before they are free, and this will not affect your case at all.**

**A. Ok.**

Not only did the officer let the resident know that there are free attorneys onsite (without specifying a particular attorney or group) but he also assured the resident that there were no consequences to briefly continuing her case.

Great job Robert!

Antonio\_\_





## **Ongoing Attorney Access and Due Process Issues at Artesia (as of August 20, 2014)**

### **Facilitating Access to Counsel/Logistics:**

- **The initial intake process should include a question as to whether residents either (1) have an attorney; or (2) would like to speak to an attorney.** The intake process does not currently include questions regarding right to counsel. A list of individuals who do not have an attorney but would like to speak to one should be provided to the LOP service provider (DMRS) so that they can be matched with a pro bono attorney.

*This is not happening as of yet, but the need for it has been greatly reduced as the volunteer attorneys (and detainees) have found work around systems to communicate their interest in speaking with a pro bono attorney. This includes boxes that have been put in the dorm rooms, word of mouth, access to attorneys while waiting for court proceedings due to the space issues, and the LOP. However, it would still be helpful if ICE gave DMRS the full list of detainees entering Artesia, particularly since ICE has told the volunteer attorneys that they may not distribute flyers to detainees with instructions on how to seek pro bono assistance.*

- **Need clear instructions for the admission of interpreters and paralegals to Artesia.** There has been no clear instruction from the facility as to whether interpreters and paralegals can accompany an attorney to facilitate communication and case preparation. Note: We understand and appreciate that at least one individual was admitted this morning (July 28, 2014) to assist an attorney, but clear guidelines must be issued.

*This has been resolved by our attorneys on the ground working with ICE staff. As of now, the volunteer attorneys have been able to bring in support staff including interpreters and paralegals.*

- **The process for attorney/LOP admission to Artesia must be streamlined and consistent.** The amount of time it takes for an attorney to gain admission to the facility varies wildly. It can take anywhere from 15 minutes to an hour or more (sometimes much more) for individuals to be admitted once they have arrived at the facility. As a result, LOP meetings are being cut drastically short and attorneys are missing interviews and hearings, even though they arrive 30 minutes or more prior to the scheduled event. This morning, a group of attorneys arrived at 6:45 am to accompany clients to 7:30 am credible fear interviews. The attorneys were advised that they would not be admitted until 8:00 am. After AILA called the facility, the attorneys were admitted, albeit late for the interviews.

*While this has greatly improved, it is by no means perfect. The attorneys still often wait long periods of time to either enter the facility and/or to have clients delivered to the law library. We have been assured by ICE that they are working on a separate entrance for the facility, but understand that as of today, that is not operational.*

- **The facility must provide at least two hours for each LOP presentation.** We have been informed that LOP presenters were delayed for approximately one hour at the Artesia gate and as a result, the normal two-hour LOP presentation was cut-off by facility staff after 20 minutes. If delays at the gate, a head count, or other facility scheduling issue conflicts with a prescheduled LOP presentation, two hours must still be provided.

*Following up with LOP provider, not sure if this is still an issue.*

- **Additional confidential spaces must be established for attorney meetings with detainees.** At present, we understand that 2-3 attorneys can be accommodated in the current visitation space, but this is not sufficient to meet the demand for legal services and the current space is partitioned with dividers that do not protect the confidentiality of attorney-client communications. Furthermore, residents and staff regularly come and go through these areas to access an adjoining room. Additional spaces must be established and such spaces must be sufficiently private so that confidentiality and the attorney-client privilege are not compromised. Attorneys must also have reasonable access to phones, fax, computers, Internet and a copy machine/scanner.

*ICE has been very accommodating in the use of electronics by our attorneys in the facility, which we greatly appreciate. However, the lack of adequate space to meet the demand for legal services continues to be an issue. Although ICE has provided additional tables and chairs, the physical space of the law library has not changed. This means that an ever growing number of attorney-client meetings are happening in a cramped, sometimes chaotic, and decidedly non-confidential environment. That being said, the attorneys have made the space work as best as they can.*

- **Attorneys must be able to interview clients without their children (or parent) present if needed.** The attorney frequently will need to elicit information from a parent that she does not wish the child to hear. Similarly, a child may have an independent basis for relief and needs to be able to speak candidly to the attorney.

*The last update that AILA received was that managed child care would be forthcoming, but was not yet available. We are checking with our attorneys on the ground for updates.*

- **Need clear instructions permitting attorneys to bring cell phones, laptops, and wifi hotspots into the facility.** Some attorneys have been told that they cannot bring their cell phones into the facility. This means, among other things, that attorneys are unable to call their offices or ICE or EOIR officers on the site if needed, and that pro bono attorneys who are not experts in the specific immigration issues that arise are unable to consult with volunteer mentors. Moreover, phones can be damaged from the extreme heat because they must be locked in enclosed automobiles. Attorneys must also have Internet access, either through their own wifi hotspots or through wifi at the facility. There needs to be improved access to technology at Artesia and clear guidelines must be provided.

*After initial problems and resistance by ICE, this was successfully negotiated at the local level.*

- **Attorneys must have a quick and reliable method for contacting their clients by telephone.** At present, attorneys who need to get in touch with their clients are instructed to call the main Artesia phone line and ask an ERO officer to give a message to their client and have the client call them back. If the attorney does not receive a call back, they are instructed to contact the Artesia ICE Office of Chief Counsel. That number often just rings and rings, with no answer. Given the difficulties accessing telephones, a better system must be created to allow attorneys to contact their clients by telephone.

*Access to clients by telephone, or vice versa, is still highly problematic. Because the AILA volunteer attorneys are in the facility, everyday workarounds have been developed. However, as*

*cases continue to merits hearings and more attorneys who are not physically present in Artesia continue with cases, this will be an ongoing issue.*

- **The ability to conduct video interviews should be established so that Artesia residents can meet remotely with pro bono lawyers.** This could be done through Skype or other technology and would greatly increase the pool of pro bono lawyers.

*This has not been discussed at the local level yet with ICE.*

- **Residents must have better access to telephones and the ability to make calls in private rooms.** At present, residents have access to cell phones which are carried by ICE officers. Though we are told access is unrestricted, residents report that they have been told they are allowed only one call per day, or they do not seem to understand that they may use the phone at any time. Moreover, residents may easily be intimidated by the prospect of asking for a cell phone from a law enforcement officer. Residents should have unrestricted access to telephones that are not in the personal possession of ICE officers and should be informed that they may use the phones at any time (including to call an attorney).

*We have been told that a phone system is in the process of being installed, and that detainees will be able to use these phones confidentiality. We were advised that it would take 2-3 weeks for the system to be in place but understand that it is not yet functioning.*

- **An Artesia-specific EOIR list of free legal services providers must be created and widely distributed.** At present, the only EOIR list of free legal services providers that is being circulated at Artesia is the El Paso list. The El Paso list consists of only three providers, one of which does not accept refugee or asylum cases. A revised list of Artesia-specific free legal services providers must be created and widely distributed. The list must be provided to Artesia residents prior to the credible fear interview and at the time a negative credible fear finding is communicated to the resident. The list should also be posted in common areas and in the individual dormitories. The list should include the following language in both Spanish and English: "Free legal services may be available."

*We have not heard of any movement to expand the free legal service provider list offered to Artesia detainees.*

- **The law library should have printed pro se legal information and preparation materials in Spanish.** The Florence Project and other nonprofit legal service organizations have developed these materials already. Access to Lexis/Nexis alone is insufficient.
- *This has not happened.*

#### **Necessary Steps to Ensure Adequate Due Process Protections**

- **Artesia residents must have meaningful opportunities to obtain counsel.** Nobody should be removed unless and until they are afforded an opportunity to attend an LOP presentation and have an individualized consultation with the LOP provider or other legal service provider, where the right to claim fear (and the process for doing so) is explained and facilitated, if needed. The KYR video that residents view during the intake process, by itself, is inadequate. Moreover, per the *Orantes* injunction, Artesia residents from El Salvador should be advised in writing and orally of their right to apply for asylum, to be represented by counsel, and to request a deportation hearing.

*It is still unclear if all detainees have access to LOP.*

- **Proceedings before the Asylum Officer or IJ should not take place without the presence of the attorney if the individual is represented.** If an attorney has filed a G-28 or EOIR-28, no credible fear interview or IJ proceeding may take place without the attorney's presence or knowledge, unless the represented party knowingly and intentionally waives representation. We have been informed of instances where scheduled proceedings for represented individuals were moved without ever notifying the attorney, even in at least once instance where the attorney was actually onsite at the Artesia facility.

*This process has been greatly improved, and asylum officers do what they can to inform attorneys of interviews as soon as possible; however, the rushed nature of the proceedings still makes it very difficult for attorneys to meet with clients before they go into interviews or proceedings.*

- **A fair and reasonable process for quickly filing stays of removal and optional fee waivers with ICE must be established.** At present attorneys are instructed that stays of removal (Form I-246) must be filed in-person with the \$155 filing fee at the Midland, Texas ICE office or, though reports conflict, possibly at the El Paso ICE office or other remote offices. We also have been informed that fee waivers are not being granted. Midland, Texas is the closest ICE office and that is an approximate 3 hour drive from Artesia. Attorneys must have a clear, straightforward method for filing a stay request with ICE either on-site at the Artesia facility or via facsimile to another office, including the ability to file a stay request without the signature of the detained client. Given the vulnerability of this population and the fact that many of them have no access to funds, ICE must give due consideration to fee waiver requests or create a method whereby fees can be accepted remotely. Attorneys must also have a means of receiving proof of filing, such as a date stamp.

*We are checking on filing procedures and issues.*

#### ***Credible Fear Interviews***

- **Attorneys and residents must be provided sufficient notice of credible fear interviews.** Attorneys and residents must be provided sufficient written notice (at least 3 days) of a credible fear interview that has been scheduled. Residents must receive such notice in their native language and the notice must include language regarding the right to counsel. Given the speed with which proceedings are taking place, regular mail is not an adequate means of providing notice to attorneys.

*The asylum officers are providing detainees and attorneys (where there is a G-28 on file) on average, 48 hours' notice before interviews take place.*

- **Residents must be afforded adequate time to obtain counsel if they request it.** We have been informed that at present, individuals who express the desire to consult with an attorney prior to the commencement of the credible fear interview are given 48 hours to obtain counsel. An individual who states that he or she would like to speak to an attorney prior to a credible fear interview should be permitted adequate time to locate and consult with an attorney without the imposition of artificial and unrealistic time limits.

*Detainees are still generally only given 48 hours to find counsel.*

- **Accommodations must be made to conduct credible fear interviews in private, without the presence of children or parents, if that is the interviewee's wish.** Currently, Asylum

Officers are conducting credible fear interviews of mothers with their children present. Accommodations must be made to conduct credible fear interviews in private. Providing distractions or headphones while the child remains in the room is not sufficient. Interviewers must always ask a parent if they would like to speak privately; it should not be left up to the individual to affirmatively request a private interview. In addition, children must also be asked if they would like to speak to an interviewer without their parent.

*We are grateful for the efforts the asylum officers have made to provide child care during the credible fear interview when necessary. However, we note that we were recently informed that the Asylum Office granted a motion filed by an attorney requesting re-interview of a detainee who was issued a negative credible fear finding when she was unable to explain that people were threatening to kill her children while her children were sitting in the room with her. Though it is unclear how long ago the initial interview took place, it is possible that problems persist in this area.*

- **Children, in appropriate circumstances, must also be interviewed for credible fear.** We understand that currently, Asylum Officers are only interviewing the mother for credible fear and are not interviewing any children unless the officer is unable to make a determination and the child is 14 or older. When a parent expresses fear, all children who are capable of understanding should also be asked if they are afraid and if they want to be interviewed separately from their parents. Even children under 14 may have very serious and valid fears that they do not wish to discuss in front of their mother. If current training practice does not provide the expertise to interview young children, suitable experts must be provided. Any child who divulges trauma in the interview should be provided with appropriate mental health services and a child advocate and attorney.

*This issue has been resolved.*

- **Attorneys must be afforded meaningful opportunities to represent the client in the credible fear interview process.** We understand that some attorneys are being informed that they are not permitted to speak during the credible fear interview and that their role is as a mere "observer." While understanding that attorneys are not permitted to answer questions for their client or otherwise disrupt the interview, attorneys must be permitted to provide meaningful representation during the credible fear interview. Under no circumstances should an attorney be barred from speaking at the interview.

*This issue has been resolved.*

- **Asylum officers must understand the comprehension level of the individuals they are interviewing.** We have received reports of mothers being asked questions like "to what particular social group do you belong?" These are not the kinds of questions that the average migrant will understand. Interviewers should be able to ask questions in terms that the interviewee will understand, and/or allow the attorney in represented cases to clarify the question for the client.

*We are following-up with the volunteers at Artesia on this issue.*

## **IJ Proceedings**

- **Attorneys and residents must be provided sufficient notice of IJ proceedings.** Attorneys and residents must be provided sufficient written notice (at least 5 days) of IJ proceedings to review a negative credible fear determination, master calendar hearing, or bond



redetermination hearing. Residents must receive such notice in their native language and the notice must include language regarding the right to counsel. Given the speed with which proceedings are taking place, and the fact that the court, attorney, and client may be in up to three different locations around the country, regular mail is not an adequate means of providing notice to attorneys. Electronic notice should be considered.

*We are following-up with the volunteers at Artesia on this issue, however it does not appear that attorneys are receiving notice of hearings electronically.*

- **ICE and EOIR must give due consideration to reasonable requests for release on bond following a positive credible fear determination.** We have heard from attorneys on the ground at Artesia that ICE and/or IJs are not granting bond to Artesia detainees, even in cases where a positive credible fear determination has been made. Artesia detainees who will be presenting a full claim for asylum in proceedings, who have demonstrated that they are not a flight risk or a danger to the community, must be considered for and granted release on bond while they pursue their claims.

*This continues to be a high priority issue. ICE is still not setting bond for individuals who have demonstrated a credible fear of persecution. . Bond has been set by immigration judges in some cases, but the amount of the bond varies wildly, and has been as high as \$36,000. Two of the IJs hearing cases have not approved any bonds. It appears only one judge at Artesia is setting bond amounts that are comparable to the national average. In order for these families to make effective asylum cases they must be able to access resources not available to them while in detention.*

DHS - 027 - 0000 - 425

**Hemming, Bryan D**

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**From:** Ooi, Maura M  
**Sent:** Wednesday, August 20, 2014 4:50 PM  
**To:** Hemming, Bryan D; Littlepage, Ryan L; Hammill, Hunter A  
**Cc:** Donis, Antonio; Daum, Robert L  
**Subject:** RE: G-28s, MTRs, and Credible Fear

(b)(5)

Hi Bryan and Ryan –

Thank you for providing additional details on this issue.

Let us know if you have any questions.

Thanks,  
Maura

Maura Ooi  
Associate Counsel  
Refugee and Asylum Law Division  
Office of the Chief Counsel  
U.S. Citizenship and Immigration Services  
(p) 202.272.8160  
[Maura.M.Ooi@uscis.dhs.gov](mailto:Maura.M.Ooi@uscis.dhs.gov)

**From:** Hemming, Bryan D  
**Sent:** Monday, August 18, 2014 2:11 PM

**To:** Littlepage, Ryan L; Ooi, Maura M; Hammill, Hunter A  
**Cc:** Donis, Antonio; Daum, Robert L  
**Subject:** RE: G-28s, MTRs, and Credible Fear

(b)(5)

(b)(6)

This one does have a signed G-28.

Thanks,

**From:** Littlepage, Ryan L  
**Sent:** Monday, August 18, 2014 12:57 PM  
**To:** Hemming, Bryan D; Ooi, Maura M; Hammill, Hunter A  
**Cc:** Donis, Antonio; Daum, Robert L  
**Subject:** RE: G-28s, MTRs, and Credible Fear

**From:** Hemming, Bryan D  
**Sent:** Monday, August 18, 2014 11:42 AM  
**To:** Ooi, Maura M; Hammill, Hunter A  
**Cc:** Donis, Antonio; Daum, Robert L; Littlepage, Ryan L  
**Subject:** RE: G-28s, MTRs, and Credible Fear

I believe so. Ryan, can you confirm?

Thanks,

**From:** Ooi, Maura M  
**Sent:** Monday, August 18, 2014 12:42 PM  
**To:** Hemming, Bryan D; Hammill, Hunter A  
**Cc:** Donis, Antonio; Daum, Robert L; Littlepage, Ryan L  
**Subject:** RE: G-28s, MTRs, and Credible Fear

**From:** Hemming, Bryan D  
**Sent:** Monday, August 18, 2014 1:38 PM  
**To:** Hammill, Hunter A  
**Cc:** Donis, Antonio; Daum, Robert L; Ooi, Maura M; Littlepage, Ryan L  
**Subject:** RE: G-28s, MTRs, and Credible Fear

**From:** Hammill, Hunter A  
**Sent:** Monday, August 18, 2014 12:36 PM

**To:** Hemming, Bryan D (b)(5)  
**Cc:** Donis, Antonio; Daum, Robert L; Ooi, Maura M  
**Subject:** RE: G-28s, MTRs, and Credible Fear

[Redacted]

**From:** Hammill, Hunter A  
**Sent:** Monday, August 18, 2014 1:31 PM  
**To:** Hemming, Bryan D  
**Cc:** Donis, Antonio; Daum, Robert L  
**Subject:** RE: G-28s, MTRs, and Credible Fear

[Redacted]

**From:** Hemming, Bryan D  
**Sent:** Monday, August 18, 2014 1:17 PM  
**To:** Hammill, Hunter A  
**Cc:** Donis, Antonio; Daum, Robert L  
**Subject:** G-28s, MTRs, and Credible Fear

Hi Hunter:

We've got a question concerning G-28s in Credible Fear. In a nutshell (question posed by Antonio in Artesia):

[Redacted]

We appreciate any guidance OCC can provide.

Thanks,  
Bryan

**Jowett, Haley L** (b)(5)

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**From:** Littlepage, Ryan L  
**Sent:** Wednesday, August 20, 2014 10:44 AM  
**To:** Hemming, Bryan D  
**Subject:** RE: Attorney Laptops

[REDACTED]

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**From:** Hemming, Bryan D  
**Sent:** Tuesday, August 19, 2014 3:43 PM  
**To:** Littlepage, Ryan L  
**Subject:** Re: Attorney Laptops

[REDACTED]

Sent by Blackberry

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**From:** Littlepage, Ryan L  
**Sent:** Tuesday, August 19, 2014 03:57 PM  
**To:** Hemming, Bryan D  
**Subject:** Attorney Laptops

Bryan,

[REDACTED]

Ryan

(b)(5)

**Jowett, Haley L**

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**From:** Littlepage, Ryan L  
**Sent:** Wednesday, September 03, 2014 2:38 PM  
**To:** Daum, Robert L  
**Cc:** Donis, Antonio; Hemming, Bryan D  
**Subject:** RE: Thursday



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**From:** Daum, Robert L  
**Sent:** Wednesday, September 03, 2014 12:56 PM  
**To:** Littlepage, Ryan L  
**Cc:** Donis, Antonio; Hemming, Bryan D  
**Subject:** FW: Thursday

Ryan:



Thanks.

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**From:** Stone, Mary M  
**Sent:** Wednesday, September 03, 2014 11:18 AM  
**To:** Daum, Robert L; Hemming, Bryan D; Littlepage, Ryan L; Donis, Antonio; McDonnell, Audrey V  
**Cc:** Saunier, Jon-Paul  
**Subject:** FW: Thursday

Hi Houston,

Should we schedule a quick call to discuss these questions – call or writing – which would be easier? Let me know what works, I'm just trying to pull everything together for John now. The briefing is tomorrow – 10a. MM

Mary Margaret Stone  
Chief of Operations, Asylum Division  
Refugee, Asylum and International Operations Directorate  
US Citizenship and Immigration Services  
Department of Homeland Security  
Tel: 202.272.1651

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**From:** Stone, Mary M  
**Sent:** Tuesday, September 02, 2014 11:53 PM  
**To:** Lafferty, John L; Daum, Robert L; Hemming, Bryan D; Donis, Antonio; Littlepage, Ryan L; McDonnell, Audrey V  
**Cc:** Kim, Ted H; Tanner, Rebecca S; Mura, Elizabeth E  
**Subject:** RE: Thursday

ZHN,



DHS-027-0000430

(b)(5)







**Lynn, Mallory L**

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**From:** Lynn, Mallory L  
**Sent:** Monday, September 29, 2014 2:49 PM  
**To:** Lawton, Vanessa G  
**Subject:** the interpreters/law students

I talked to the ZHN leadership about these consultants – they pointed out that if there is an interpretation issue during the interview, it's better that they let us know then rather than later. Also, if they object to the adequacy of the interpretation, we can also always get a new interpreter on the phone.

Thanks!  
Mallory

**Lynn, Mallory L**

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**From:** Lynn, Mallory L  
**Sent:** Monday, November 03, 2014 5:21 PM  
**To:** Tremont, Robert L  
**Subject:** RE: contract interpreter services

No comprende

(b)(5)

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**From:** Tremont, Robert L [<mailto:Robert.L.Tremont@ice.dhs.gov>]  
**Sent:** Monday, November 03, 2014 6:19 PM  
**To:** Lynn, Mallory L  
**Subject:** RE: contract interpreter services

[Redacted]

Robert Tremont  
AOIC-Removal Management  
Artesia Family Residential Center  
520-483-9423

---

**From:** Lynn, Mallory L  
**Sent:** Monday, November 03, 2014 6:18 PM  
**To:** Tremont, Robert L  
**Subject:** RE: contract interpreter services

[Redacted]

---

**From:** Tremont, Robert L [<mailto:Robert.L.Tremont@ice.dhs.gov>]  
**Sent:** Monday, November 03, 2014 6:17 PM  
**To:** Lynn, Mallory L  
**Subject:** RE: contract interpreter services

[Redacted]

Robert Tremont  
AOIC-Removal Management  
Artesia Family Residential Center  
520-483-9423

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**From:** Lynn, Mallory L  
**Sent:** Monday, November 03, 2014 6:15 PM  
**To:** Tremont, Robert L  
**Subject:** RE: contract interpreter services

For rare languages? Like indigenous Guatemalans?

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**From:** Tremont, Robert L [<mailto:Robert.L.Tremont@ice.dhs.gov>]  
**Sent:** Monday, November 03, 2014 6:15 PM

**To:** Lynn, Mallory L  
**Subject:** RE: contract interpreter services

About any language barrier, they're asking.

Robert Tremont  
AOIC-Removal Management  
Artesia Family Residential Center  
520-483-9423

(b)(5)

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**From:** Lynn, Mallory L  
**Sent:** Monday, November 03, 2014 6:03 PM  
**To:** Tremont, Robert L  
**Subject:** contract interpreter services



**Donis, Antonio**

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**From:** Donis, Antonio  
**Sent:** Thursday, September 04, 2014 8:24 PM (b)(6)  
**To:** Daum, Robert L; Hemming, Bryan D.  
**Cc:** Littlepage, Ryan L  
**Subject:** Acateka Interview

Rob and Bryan,

We've arranged an acateka interpreter for that  case on Monday at 9:00am.

We will let you know the outcome of that re-interview before rendering a decision.

Have a good night,

Antonio\_\_

**Jowett, Haley L**

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**From:** Littlepage, Ryan L  
**Sent:** Thursday, August 21, 2014 11:08 AM  
**To:** [REDACTED]  
**Subject:** RE: Question about random dialects

Here's the correct address for Houston – [Houston.asylum@uscis.dhs.gov](mailto:Houston.asylum@uscis.dhs.gov)

I'll stop by to discuss this and the scheduling issue with you in about an hour.

Ryan

**From:** [REDACTED]  
**Sent:** Thursday, August 21, 2014 10:05 AM  
**To:** [Houston.asylum@dhs.gov](mailto:Houston.asylum@dhs.gov); Littlepage, Ryan L  
**Subject:** Fwd: Question about random dialects

RE: ARTESIA

----- Forwarded message -----

(b)(6)

**From:** [REDACTED]  
**Date:** Thu, Aug 21, 2014 at 11:39 AM  
**Subject:** Question about random dialects  
**To:** [ryan.l.littlepage@uscis.dhs.gov](mailto:ryan.l.littlepage@uscis.dhs.gov)

Good morning, Ryan -

We have a question about some of the random languages (dialects) that we are seeing here.

Chuj is a Mayan dialect spoken by about 50,000 people in Chiapas, Mexico and Huehuetenango, Guatemala.

Q'anjob'al (or Kanjobal) is spoken by about 78,000 people in Huehuetenango

Akatek (also called Acatan or Acateco) is spoken by about 58,000 people in Chiapas MX and Huehuetenango Guatemala.

Mam is spoken by about 480,000 in Quetzaltenango, Huehuetenango, San Marcos, Retalhuleu.

K'iche' (or Quiche) is spoken by over 1 million people in El Quiche, Quetzaltenango, Huehuetenango, Suchitepéquez, Totonicapán and Solola.

[REDACTED]

Please let me know your thoughts.

(b)(5)

[REDACTED]

(b)(6)

**Lynn, Mallory L**

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**From:** Lynn, Mallory L  
**Sent:** Saturday, August 09, 2014 6:56 AM  
**To:** Zee, Dong; Reza, Naushad; Gonzalez, Martha; Orendach, Janette; Hook, Garland R  
**Cc:** Littlepage, Ryan L; Donis, Antonio  
**Subject:** updating APSS

**Team:** when updating APSS, please be sure to input any additional necessary information in PREC. If PREC is not properly updated, you cannot update INTC. You may need to add arrival date and you should add religion, if any, once you find out at the interview. I'm seeing cases where most of the info in APSS is correct for PA, but dependent is missing INTC although it has been ADEC'd.

I know not everyone is used to having to add so much information into APSS and we really appreciate your willingness to get things done ZART-style ☺

Thanks!  
Mallory



**Lynn, Mallory L**

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**From:** Lynn, Mallory L  
**Sent:** Friday, August 08, 2014 12:06 PM  
**To:** Reza, Naushad; Hook, Garland R; Zee, Dong; Gonzalez, Martha; Orendach, Janette  
**Subject:** ZART

Hey guys, the district office code is ART. ZART isn't *official* official.

**Lynn, Mallory L**

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**From:** Lynn, Mallory L  
**Sent:** Thursday, August 07, 2014 9:44 AM  
**To:** Reza, Naushad; Hook, Garland R; Orendach, Janette; Zee, Dong; Gonzalez, Martha  
**Cc:** Donis, Antonio; Littlepage, Ryan L  
**Subject:** RE: updating APSS

Also, if the arrival date is not entered into PREC for PA and dependents, I believe INTC may not work right – please watch for that. Like even if you get it in for the PA, INTC on dependents may not work right. Please add the additional info on the PREC screen if you need to in order to INTC. Thanks!

---

**From:** Lynn, Mallory L  
**Sent:** Thursday, August 07, 2014 10:38 AM  
**To:** Reza, Naushad; Hook, Garland R; Orendach, Janette; Zee, Dong; Gonzalez, Martha  
**Cc:** Donis, Antonio; Littlepage, Ryan L  
**Subject:** updating APSS

Hey guys – please be sure to update APSS fully (including INTC & ADEC) for both applicants and dependents.

**Lynn, Mallory L**

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**From:** Lynn, Mallory L  
**Sent:** Wednesday, August 06, 2014 4:18 PM  
**To:** Donis, Antonio  
**Subject:** MTR question

Are we accepting MTRs prior to the IJ's review?

**8 CFR 1208.30(g)(2)(iv)(A):** If the immigration judge concurs with the determination of the asylum officer that the alien does not have a credible fear of persecution or torture, the case shall be returned to the Service for removal of the alien. The immigration judge's decision is final and may not be appealed. The Service, however, may reconsider a negative credible fear finding that has been concurred upon by an immigration judge after providing notice of its reconsideration to the immigration judge.

DHS - 027 - 0000 - 443

## **Lynn, Mallory L**

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**From:** Lynn, Mallory L  
**Sent:** Tuesday, August 05, 2014 9:45 AM  
**To:** Reza, Naushad; Gonzalez, Martha  
**Subject:** FW: Changing Dependent to principal

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**From:** Guerrero, Ramon A  
**Sent:** Tuesday, July 29, 2014 9:12 AM  
**To:** Donis, Antonio; Lynn, Mallory L  
**Cc:** Agullar, Rafael; Burnett, Yolanda M; Hook, Garland R; Stawar, Andrew X; Hensleigh, Chris J; Zee, Dong; Orendach, Janette  
**Subject:** Changing Dependent to principal

1. In APPS go to PREC input dependent's A# first
2. Tab over to where it says PRIN on top right corner, enter the dependent A# again and press enter
3. Now go to the original principal (Mother) A# and tab over to where it says PRIN and enter the dependent A# (Child) and now they should be switched

**These Are the Instructions for switching principals in APPS**

**Lynn, Mallory L**

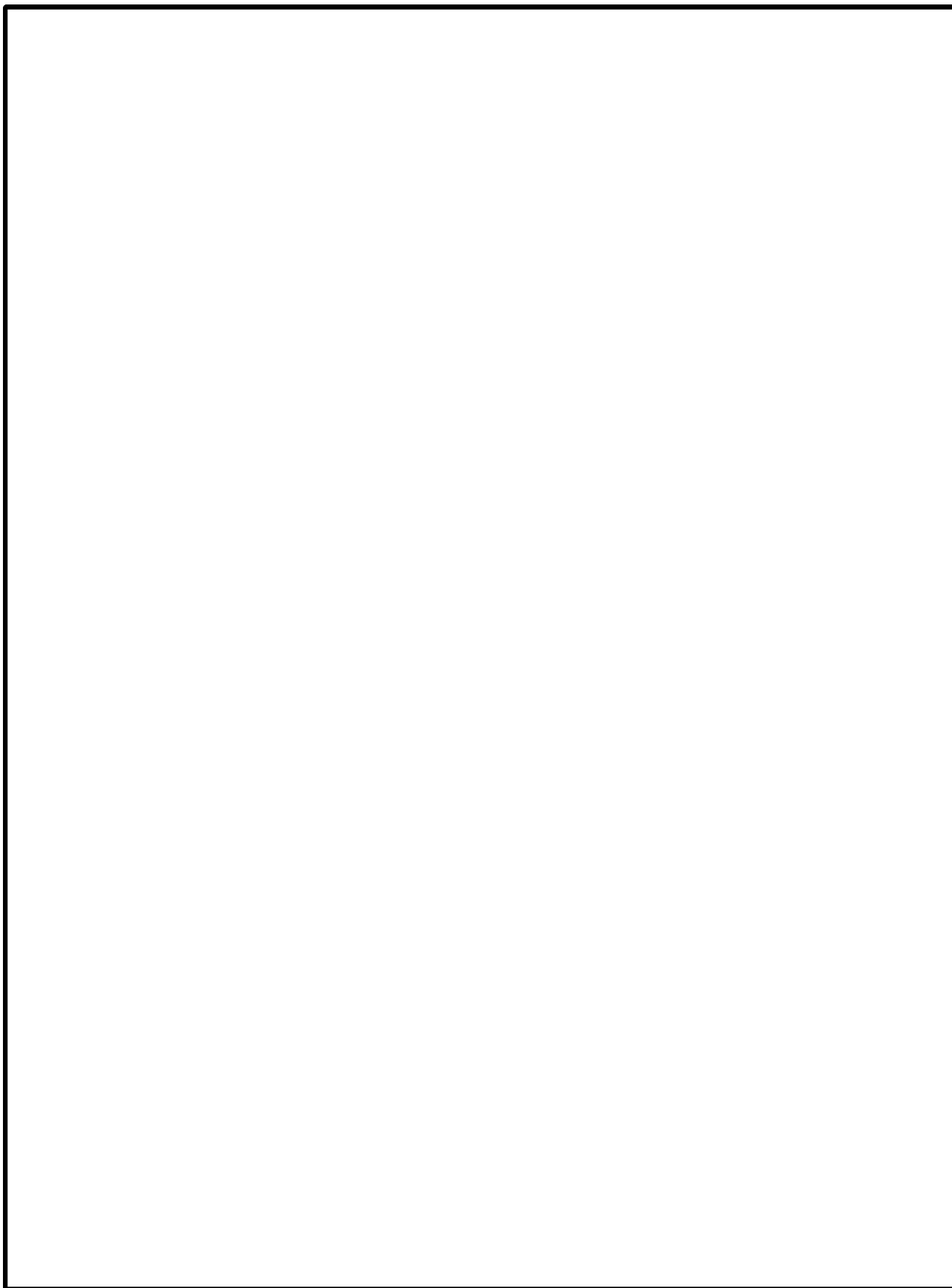
---

**From:** Lynn, Mallory L  
**Sent:** Tuesday, August 05, 2014 8:47 AM  
**To:** Gonzalez, Martha; Zee, Dong  
**Subject:** FW: Essential Qs @ ZART  
**Attachments:** Essential Questions to Ask in Every ZART Interview.docx

Guys – these are draft Qs we have developed for ZART (these particularly relate to CF). Thanks!

(b)(5)

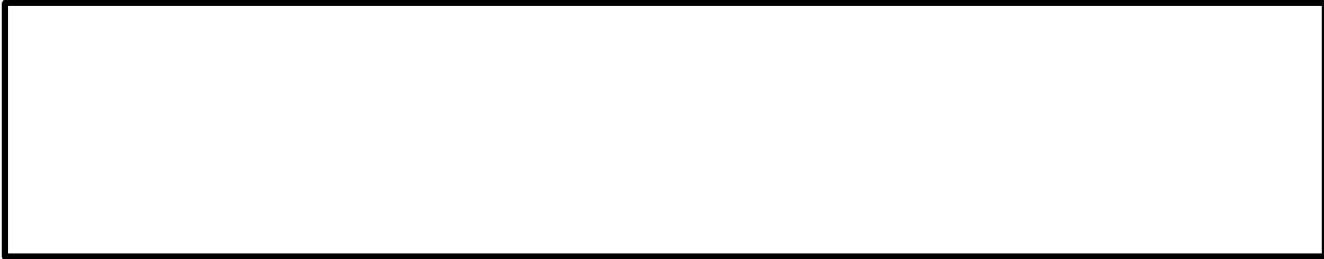
## **Essential Questions to Ask in Every ZART Interview**



**Lynn, Mallory L**

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**From:** Donis, Antonio  
**Sent:** Sunday, August 03, 2014 10:03 AM  
**To:** Lynn, Mallory L (b)(5)  
**Subject:** RE: Essential Qs @ ZART  
**Attachments:** Essential Questions to Ask in Every ZART Interview.docx



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**From:** Lynn, Mallory L  
**Sent:** Sunday, August 03, 2014 12:00 PM  
**To:** Donis, Antonio  
**Subject:** Essential Qs @ ZART.

**Lynn, Mallory L**

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**From:** Lynn, Mallory L  
**Sent:** Tuesday, September 23, 2014 9:51 AM (b)(5)  
**To:** Donis, Antonio  
**Subject:** new essential Q



**Or something like that in order to get at DV claims specifically. What are your thoughts?**



**Lynn, Mallory L**

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**From:** Lynn, Mallory L  
**Sent:** Wednesday, October 15, 2014 7:40 AM  
**To:** Cindrich, Amanda K; Butler, Erin M; Sung, Virginia K; Lluch, Martín G; Kim, Peter S  
**Subject:** NTA with Dropboxes  
**Attachments:** NTA with Dropboxes.docx

DEPARTMENT OF HOMELAND SECURITY

NOTICE TO APPEAR

In removal proceedings under section 240 of the Immigration and Nationality Act:

File No: A XXX XXX XXX

In the Matter of:

Respondent: \_\_\_\_\_ currently residing at: \_\_\_\_\_

AFRC, 1300 West Richey Ave., Artesia, NM 88210

(Number, street, city and ZIP code)

(Area code and phone number)

- You are an arriving alien.
- You are an alien present in the United States who has not been admitted or paroled.
- You have been admitted to the United States, but are removable for the reasons stated below. The Department of Homeland Security alleges that you:
  - 1) You are not a citizen or national of the United States.
  - 2) You are a native of El Salvador and citizen of El Salvador.
  - 3) You entered the United States at or near Hidalgo, TX on 6/25/2014.
  - 4) You did not then possess or present a valid immigrant visa, reentry permit, border crossing identification card, or other valid entry document.
  - 5) You were not then admitted or paroled after inspection by an immigration officer.

On the basis of the foregoing, it is charged that you are subject to removal from the United States pursuant to the following provision(s) of law:

Section 212(a)(7)(A)(i)(I) of the Act, as amended, as immigrant who, at the time of application for admission, is not in possession of a valid unexpired immigrant visa, reentry permit, border crossing card, or other valid entry document required by the Act, and a valid unexpired passport, or other suitable travel document, or document of identity and nationality as required under the regulations issued by the Attorney General under section 211(a) of the Act.

This notice is being issued after an asylum officer has found that the respondent has demonstrated a credible fear of persecution or torture.

Section 235(b)(1) order was vacated pursuant to:  8CFR 208.30  8CFR 235.3(b)(5)(iv)

YOU ARE ORDERED to appear before an immigration judge of the United States Department of Justice at:

Artesia Immigration Court, 1300 West Richey Ave., Bldg. 169, Artesia, NM 88210

(Complete Address of Immigration Court, including Room Number, if any)

on To Be Determined at To Be Determined to show why you should not be removed from the United States based on the  
(Date) (Time)

charge(s) set forth above.

Supervisory Asylum Officer

(Signature and Title of Issuing Officer)

Date: \_\_\_\_\_

Artesia, NM  
(City and State)

**Notice to Respondent**

**Warning:** Any statement you make may be used against you in removal proceedings.

**Allen Registration:** This copy of the Notice to Appear served upon you is evidence of your alien registration while you are under removal proceedings. You are required to carry it with you at all times.

**Representation:** If you so choose, you may be represented in this proceeding, at no expense to the Government, by an attorney or other individual authorized and qualified to represent persons before the Executive Office for Immigration Review, pursuant to 8 CFR 1003.16. Unless you so request, no hearing will be scheduled earlier than ten days from the date of this notice, to allow you sufficient time to secure counsel. A list of qualified attorneys and organizations who may be available to represent you at no cost will be provided with this notice.

**Conduct of the hearing:** At the time of your hearing, you should bring with you any affidavits or other documents, which you desire to have considered in connection with your case. If you wish to have the testimony of any witnesses considered, you should arrange to have such witnesses present at the hearing.

At your hearing you will be given the opportunity to admit or deny any or all of the allegations in the Notice to Appear and that you are inadmissible or removable on the charges contained in the Notice to Appear. You will have an opportunity to present evidence on your own behalf, to examine any evidence presented by the Government, to object, on proper legal grounds, to the receipt of evidence and to cross examine any witnesses presented by the Government. At the conclusion of your hearing, you have a right to appeal an adverse decision by the Immigration Judge.

You will be advised by the Immigration Judge before whom you appear of any relief from removal for which you may appear eligible including the privilege of departure voluntarily. You will be given a reasonable opportunity to make any such application to the Immigration Judge.

**Failure to appear:** You are required to provide the DHS, in writing, with your full mailing address and telephone number. You must notify the Immigration Court and the Department of Homeland Security immediately by using Form EOIR-33 whenever you change your address or telephone number during the course of this proceeding. You will be provided with a copy of this form. Notices of hearing will be mailed to this address. If you do not submit Form EOIR-33 and do not otherwise provide an address at which you may be reached during proceedings, then the Government shall not be required to provide you with written notice of your hearing. If you fail to attend the hearing at the time and place designated on this notice, or any date and time later directed by the Immigration Court, a removal order may be made by the immigration judge in your absence, and you may be arrested and detained by the DHS.

**Mandatory Duty to Surrender for Removal:** If you become subject to a final order of removal, you must surrender for removal to your local DHS office, listed on the internet at <http://www.ice.gov/contact/ero>, as directed by DHS and required by statute and regulation. Immigration regulations at 8 CFR 1241.1 define when the removal order becomes administratively final. If you are granted voluntary departure and fail to depart the United States as required, fail to post a bond in connection with voluntary departure, or fail to comply with any other condition or term in connection with voluntary departure, you must surrender for removal on the next business day thereafter. If you do not surrender for removal as required, you will be ineligible for all forms of discretionary relief for as long as you remain in the United States and for ten years after departure or removal. This means you will be ineligible for asylum, cancellation of removal, voluntary departure, adjustment of status, change of nonimmigrant status, registry, and related waivers for this period. If you do not surrender for removal as required, you may also be criminally prosecuted under section 243 of the Immigration and Nationality Act (the Act).

**Request for Prompt Hearing**

To expedite a determination in my case, I request this Notice to Appear be filed with the Executive Office of Immigration Review as soon as possible. I waive my right to a 10-day period prior to appearing before an Immigration Judge and request my hearing be scheduled.

Before: \_\_\_\_\_ (Signature of Respondent)

\_\_\_\_\_  
(Signature and Title of Immigration Officer) Date: \_\_\_\_\_

**Certificate of Service**

This Notice To Appear was served on the respondent by me on \_\_\_\_\_, in the following manner and in compliance with section 239(a)(1) of the Act.

- In person       by certified mail, returned receipt # \_\_\_\_\_ requested       by regular mail
- Attached is a credible fear worksheet.
- Attached is a list of organization and attorneys which provide free legal services.

The alien was provided oral notice in the \_\_\_\_\_ language of the time and place of his or her hearing and of the consequences of failure to appear as provided in section 240(b)(7) of the Act.

\_\_\_\_\_  
(Signature of Respondent if Personally Served)      \_\_\_\_\_  
(Signature and Title of Officer)

**Lynn, Mallory L**

---

**From:** Lynn, Mallory L  
**Sent:** Wednesday, October 15, 2014 7:48 AM  
**To:** Lluch, Martin G; Kim, Peter S; Sung, Virginia K; Butler, Erin M; Cindrich, Amanda K  
**Cc:** Rellis, Jennifer L; Guerrero, Ramon A  
**Subject:** G-28s

Hi team:

Please be sure that any G-28s are on top on the left side of the file. You can leave your notes, NTAs, 870, etc. loose, but the G-28 should always be clipped on the top left so it is easy to tell if an applicant is represented.

Thanks,  
Mallory

**Lynn, Mallory L**

---

**From:** Lynn, Mallory L  
**Sent:** Friday, October 17, 2014 12:22 PM  
**To:** Sung, Virginia K; Kim, Peter S; Breznai, Matthew J; Gordon, Jonathan  
**Cc:** Rellis, Jennifer L  
**Subject:** RE: orientation

Also, if the applicant indicates she has not been properly oriented, we can offer a reschedule after a re-orientation if the applicant needs more time to prepare.

Thanks,  
Mallory

---

**From:** Lynn, Mallory L  
**Sent:** Friday, October 17, 2014 1:19 PM  
**To:** Sung, Virginia K; Kim, Peter S; Breznai, Matthew J; Gordon, Jonathan  
**Cc:** Rellis, Jennifer L  
**Subject:** orientation

Hi team:

Please be sure that you confirm the applicant has been properly oriented for CF (did they receive M-444) and if they do not understand, please re-orient them.

Thanks,

Mallory

**Lynn, Mallory L**

---

**From:** Lynn, Mallory L  
**Sent:** Thursday, October 23, 2014 1:32 PM  
**To:** Sung, Virginia K; Kim, Peter S; Breznai, Matthew J; Gordon, Jonathan  
**Cc:** Rellis, Jennifer L  
**Subject:** (b)(5) bars Qs

Hi team – please be sure to pose the bars Qs to the children aged 14+. For children younger, you can pose the bars questions like, “have you or your children ever...”

Thanks,  
Mallory

## **Lynn, Mallory L**

---

**From:** Lynn, Mallory L  
**Sent:** Monday, October 27, 2014 10:21 AM  
**To:** Breznai, Matthew J; Gordon, Jonathan; Adams, Joyce V; Weintraub, Phillip H; Celentano, Peter S  
**Cc:** Rellis, Jennifer L  
**Subject:** reschedules & work schedules  
  
**Importance:** High

Hi team:

Just a couple of things:

- First, please ensure that you obtain a clear attorney waiver in your notes when an applicant chooses to proceed without her/their representative. Confirm 2 or 3 times that they understand their right to have a consultant or attorney present but that they wish to proceed today by themselves. Please be sure that your notes clearly reflect this Q&A exchange (as opposed to showing a summary).
- Secondly, please let me know ASAP if you are willing to work on a modified later work schedule, such as 9-6 or 8-5. We have an immediate need to schedule more interviews in the afternoons and this is one option to accomplish this. We may also be able to offer morning OT. Alternatively, please let me know if you would like to continue a 7 am start time but take on an extra PM interview as needed on OT. Hard stop at ZART remains at 7 PM.
- Finally, please do not hesitate to get a supervisor any time you need us. Jennifer and I are here to help. Please continue consulting us if you have problems getting your interview started due to the attorneys or for any other reason.

Thanks for all of your hard work and your willingness to do family processing here in Artesia. This is a challenging assignment and we appreciate your willingness to come here despite the difficulties of the work and the relatively austere living conditions. I think it is important work and I think everyone here can learn something – about family processing, legal issues, eliciting testimony, remaining cool under pressure, etc. We appreciate your commitment to family processing and to tackling these tough issues every day.

Mallory

**Lynn, Mallory L**

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**From:** Lynn, Mallory L  
**Sent:** Tuesday, October 28, 2014 4:32 PM  
**To:** Gordon, Jonathan; Adams, Joyce V; Breznai, Matthew J; Weintraub, Phillip H; Celentano, Peter S  
**Cc:** Rellis, Jennifer L  
**Subject:** attorneys

Hi team:

As a general rule, I give 2 days' notice to attorneys of scheduled CF interviews. I print the email and include it in the file at the time of scheduling if I see the G-28. If there is a G-28 in one of your cases but no scheduling email, please let me know prior to calling the applicant for the interview – the case will most likely be rescheduled.

Thanks,  
Mallory



**Lynn, Mallory L**

---

**From:** Lynn, Mallory L  
**Sent:** Monday, November 03, 2014 6:39 AM  
**To:** Hook, Gariand R  
**Subject:** FW: Artesia Forms  
**Attachments:** Artesia CF Interview Template.doc; I-870 CF Master Template (Kilaru)(ZART).docx; Memo to Flip Dependent to Principal.doc; NTA I-862 Template.doc

**From:** Rellis, Jennifer L  
**Sent:** Tuesday, October 28, 2014 12:01 PM  
**To:** Celentano, Peter S; Weintraub, Phillip H; Adams, Joyce V  
**Cc:** Lynn, Mallory L  
**Subject:** Artesia Forms

As we discussed, here are some of the forms you need. I will send the M-444 language later.

Thanks,  
Jennifer

Jennifer Rellis  
Supervisory Asylum Officer – detailed to Artesia, NM

A#:  
NAME:  
COUNTRY:

DATE:  
AO: ZHN  
OFFICE: Artesia, NM

<b>PHONE INTERVIEW INITIATED:</b>	<b>Interpreter#</b>
-----------------------------------	---------------------

**Artesia Suggested CF Interview Template:**

*INSTRUCTIONS TO ASYLUM OFFICER: Questions highlighted in red must be asked during the interview. Other questions are suggestions. Red text indicates instructions to the Asylum Officer*

**CREDIBLE FEAR NOTES**

Applicant's name: LN, First

Applicant/Interpreter Monitor Oaths administered

Paragraph 1.28, Form I-870 read to the applicant

DATE: Click here to enter a date.

COUNTRY:

ASYLUM OFFICER: \_\_\_\_\_, ZHN

<b>INTERVIEW INITIATED: XX:XX MST</b>
---------------------------------------

INTERPRETER: Language: Spanish Lionbridge # XXXXXX

Call Interpreter

Hello interpreter. This is a credible fear interview. Please have form I-870 available for reference. I'm going to place you under oath.

Administered Interpreter Oath

Officer	Interpreter
Do you affirm that you will truthfully, literally and fully interpret the questions asked by the asylum officer and the answers given by the applicant; that you will not add to, delete from, comment on, or otherwise change the matter to be interpreted; and that you will immediately notify the officer in this case if you become aware of your inability to interpret in a neutral manner on account of a bias for or against the applicant or the applicant's race, religion, nationality, membership in a particular social group, or political opinion?	Yes
Do you affirm that you understand that the matters discussed during this interview are confidential?	Yes

**INTERPRETER: Interpreter, please introduce yourself to the applicant.**

**Introduction:** Hello. My name is Officer \_\_\_ and I will be conducting your interview today through an interpreter. We are having this interview today because you have expressed a fear of returning to your country and today we will discuss what those fears may be.

Q: What is your best language?

A:

A#:  
NAME:  
COUNTRY:

DATE:  
AO: ZHN  
OFFICE: Artesia, NM

Q: Do you speak any other languages?

A:

Q: Would you like to proceed today in the \*\*\*\*\* language?

A:

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

**[Interview notes should indicate whether attorney was present in person or telephonically and name of attorney.]**

[REDACTED]

Q: Does this health issue affect your memory?

A:

Q: Have you informed the facility of these health issues?

A:

Q: Will your/your child's condition affect your ability to talk to me today?

A:

A#:  
NAME:  
COUNTRY:

DATE:  
AO: ZHN  
OFFICE: Artesia, NM

[REDACTED]

**IF APPLICANT WANTS TO PROCEED WITHOUT CHILD IN THE ROOM:**

[APSO should escort all residents/attorney to the child supervision area and wait until the child is situated in the room. Interview notes should reflect that child was taken to the supervision room and not present for the interview. As necessary (depending on the age and knowledge of the child), APSO should take testimony from the children later on in the interview after the mother finishes her substantive testimony.]

[REDACTED]

Q. Now the interpreter will now explain to you the purpose of this interview.

Interpreter read Section 1.28 (Form I-870) to applicant  
Interpreter, please read Paragraph 1.28 to the Applicant.

[REDACTED]

[REDACTED]

Applicant received and signed M-444 before interview

[Confirm that the applicant received and understood the M-444 before commencing the interview.]

Complete interpreter information

Administered Applicant Oath

Before we begin, I need to place you under oath. Please raise your right hand.  
Do you swear to tell the truth, the whole truth and nothing but the truth?

A.

Thank you, you may place your hand down. The interpreter has been sworn in by me earlier and s/he has promise to keep everything we discuss today confidential. Please speak loudly and clearly into the phone and please speak in short sentences. I'm just going to start by asking some questions about your background information.

***NOTE: THE FOLLOWING NOTES ARE NOT A VERBATIM TRANSCRIPT OF THIS INTERVIEW. THESE NOTES ARE RECORDED TO ASSIST THE INDIVIDUAL OFFICER IN MAKING A CREDIBLE FEAR DETERMINATION AND THE SUPERVISORY ASYLUM OFFICER IN REVIEWING THE DETERMINATION. THERE MAY BE AREAS OF THE INDIVIDUAL'S CLAIM THAT WERE NOT EXPLORED OR DOCUMENTED FOR PURPOSES OF THIS THRESHOLD SCREENING.***

Q. Do you still fear return to your country?

A.

A#:  
NAME:  
COUNTRY:

DATE:  
AO: ZHN  
OFFICE: Artesia, NM

Q. Records indicate you entered the United States on \*\*\*\*\*, through \*\*\*\*\* is that correct?

A.

Q. When was the first time you entered the United States?

A.

Q. Did you ever reside in the US or were you ever here for short periods of time?

A.

Q. Do you remember approximately how many times you have come to the US before?

A.

Q. Did you ever apply for any legal status in the United States before, such as TPS or for asylum?

A.

Q. Where are your parents?

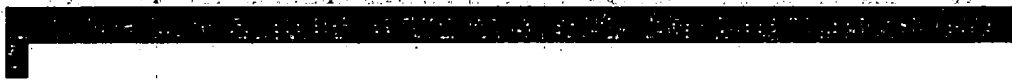
A.

Q. Have they ever been to the US?

A.

Q. Have your parents ever applied for asylum in the US before?

A.



[If applicant identifies other family members, obtain names, dates of births, and A# of the family member.]

Q. What is your full name?

A.

Q. Have you ever been known by any other names or aliases?

A.

Q. Where were you born?

A.

Q. What is your date of birth?

A.

Q. Have you used any other dates of birth?

A.

Q. Are you a citizen of \_\_\_\_\_?

A.

Q. Are you a citizen of any other country?

A.

A#:  
NAME:  
COUNTRY:

DATE:  
AO: ZHN  
OFFICE: Artesia, NM

Q. Have you lived in any other countries?

A.

Q. Do you speak any other languages besides Spanish?

A.

Q. Do you identify as Hispanic, Indigenous, Mixed, white, black, etc.?

A.

Q. Do you have a religion; if so, what is it?

A.

Q. When did you enter the US?

A:

Q. Is this the first time you tried to enter into the United States?

A:

Q: Do you remember when you were apprehended by immigration officials?

A:

Q. Where did you enter the US?

A.

Q. Are you married, single, living with a partner? (Full name, citizenship, and location please)

A.

Q. Do you have any children? (Names, date of birth, and locations please).

A.

Q. What type of work did you do in your country?

A.

Q. Do you have any family, friends, or relatives in the US with whom would stay, if released? (Name / Address / Relationship / Telephone / Status?)

A.

Q. How are you being treated at the detention facility?

A.

### **CREDIBLE FEAR INTERVIEW - CLAIM**

**We are about to begin discussing the substance of your claim for asylum. It is in your best interest to keep your responses short with plenty of pauses so that the interpreter can accurately translate your responses. If what you say is too long for the interpreter to interpret, s/he will stop you. Please listen to my questions carefully and answer directly.**



A#:  
NAME:  
COUNTRY:

DATE:  
AO: ZHN  
OFFICE: Artesia, NM

■  
[During any part of the testimony that becomes graphic or sensitive APSO should ask the applicant: Would you be more comfortable talking to me with your children in another room?]

**PERSECUTION**

Q. Have you ever been threatened or harmed in your country? Yes or No?

A.

Q. Who threatened/harmed you?

A.

Q. Has anyone else threatened/harmed you for any reason?

A.

Q. How were you threatened/harmed? (in person, over the telephone, through a letter, etc)?

A.

Q. Why were you threatened/harmed?

A.

Q. What exactly did they say to you?

A.

Q. Did they say anything else to you?

A.

Q. Why do you think they chose you?

A.

Q. Are there any specific reasons that they chose you?

A.

Q. Does [persecutor] do [harm] to other people like you/in your area?

A.

Q. Did you report the incident(s) to the police? If no, why did you not report to the police?

A.

Q. What happened at the police station?

A.

Q. How did the police respond to you?

A.

**WELL-FOUNDED FEAR**

Q. What do you think will happen to you if you return to your country?

A#:  
NAME:  
COUNTRY:

DATE:  
AO: ZHN  
OFFICE: Artesia, NM

A.

Q. Who would harm you?

A.

Q. Why would [persecutor] still want to harm you?

A.

Q. Does [persecutor] want to harm you for any other reasons?

A.

Q. Could the police or government protect you from the people you fear?

A.

Q. Could you live in a different part of your country and be safe?

A.

Q. If not, why not?

A.

#### **CHILDREN'S CLAIMS**

Q. Have your children ever been threatened or harmed by anyone in the past?

A.

Q. Would anyone harm your children if you returned to your country?

A.

[APSO must explore and elicit children's full asylum claim, particularly if the mother's claim appears to be negative. In order to flip the case, APSO must establish all elements of persecution or CAT claim for the child on the record. APSO can elicit the child's claim from the mother and/or take testimony from the child as appropriate.]

#### **OTHER NEXUSES**

Q. Have you ever been threatened and/or harmed or do you fear harm/threats on account of your religion in your country?

A.

Q. Have you ever been threatened and/or harmed or do you fear harm/threats on account of your race/skin color in your country?

A.

Q. Have you ever been threatened and/or harmed or do you fear harm/threats on account of your nationality, in your country?

A.



A#:  
NAME:  
COUNTRY:

DATE:  
AO: ZHN  
OFFICE: Artesia, NM

Q. Have you ever been threatened and/or harmed or do you fear harm/threats on account of your political opinion in your country?

A.

Q. Is there any characteristic you have or anything about you that would make people in your society want to harm you? Is there any characteristic you have that people in your area would not approve of?

A.

Q. Do you fear being threatened or harmed for any other reasons if you were to return?

A.

### CAT

Q. Have you ever experienced any mistreatment in the past by government officials, the police or persons associated with the government?

A.

Q. Do you fear the authorities or police in your country?

A.

Q. Torture means that someone is trying to cause severe intentional physical harm or severe intentional mental suffering? Do you fear torture from any public official/police/government in your country?

A.

Q. Have you ever been tortured by anyone for any reason?

A.

Q. Is there any connection between the people you fear in your country and the government of your country?

A.

Q. What makes you think that?

A.

Q. Are there any specific reasons that make you believe the people you fear are associated with the government or authorities?

A.

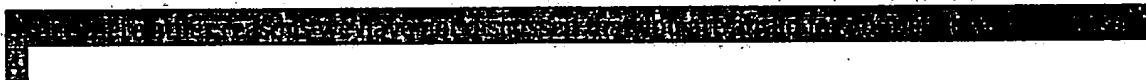
Q. Do you think [persecutor] would be able to harm you with the consent or permission of the police?

A.

Q. If the [insert country] authorities were standing there next to you while the people you fear were threatening/harming you, would the authorities help you?

A.

### CONCLUSION



A#:  
NAME:  
COUNTRY:

DATE:  
AO: ZHN  
OFFICE: Artesia, NM



**BARS**

Q. Have you or your children ever harmed anyone for any reason?

A.

Q. Have you or your children ever committed a crime in any country?

A.

Q. Have you or your children ever been convicted of a crime in any country?

A.

Q. Have you or your children ever committed an armed act or an act that could be considered a terrorist act?

A.

Q. Have you or your children ever been a member of an armed group or a group that could be considered a terrorist group?

A.

Q. Have you or your children ever provided any type of support, like food, housing, money, weapons transportation, to a person or group who commits armed acts?

A.

**RUNWAY**

Q. Records indicate that on XX/XX/XX, you told the Immigration Officers that your purpose of entering the US was \_\_\_\_\_. Is this correct?

A.

Q. Why didn't you tell the Immigration Officers that you were afraid to return to your country?

A.

**LAST CHECK FOR UNDERSTANDING**

Q: Did you understand the questions that I asked?

A:

Q: Did you understand your interpreter?

A:

Q: Interpreter, did you understand the applicant?

A:

**REVIEW OF SUMMARY OF TESTIMONY**

**APSO SUMMARIZED THE CASE TO THE APPLICANT AS REQUIRED BY SECTION 3.3, FORM I-870**

A#:  
NAME:  
COUNTRY:

DATE:  
AO: ZHN  
OFFICE: Artesia, NM

Summary of testimony

**Q: Is this summary correct?**

**A:**

**Q: Are there any changes or additions you would like to make?**

**A:**

**Q: Is there anything else that is important to your claim that we have not yet discussed?**

**A:**

[If attorney is present, APSO should give the attorney an opportunity to ask questions of the applicant or to make a closing statement. Attorney's Q&A and/or statement should be recorded in the notes.]

**INTERVIEW CLOSING**

Interpreter Please Read Section 3.2 (I-870) to applicant

**Q: Do you understand what was read to you?**

**A:**

**Q: Do you have any comments or questions?**

**A:**

That concludes the interview today.

<b>INTERVIEW CONCLUDED: XX:XX MST</b>
---------------------------------------

ART	ZHN 280	000	LN
District Office Code	Asylum Office Code	Alien's File Number	Alien's Last/ Family Name
Kilaru	Lakshmi	Country	
Asylum Officer's Last Name	Asylum Officer's First Name	Alien's Nationality	

*All statements in italics must be read to the applicant*

**SECTION I:**

**INTERVIEW PREPARATION**

- 1.1 Click here to enter a date.  
Date of arrival [MM/DD/YY]
- 1.2 San Ysidro, CA  
Port of arrival
- 1.3 Click here to enter a date.  
Date of detention [MM/DD/YY]
- 1.4 Artesia Family Detention Center  
Place of detention
- 1.5 Click here to enter a date.  
Date of AO orientation [MM/DD/YY]
- 1.6 Lack of Resources  
If orientation more than one week from date of detention, explain delay
- 1.7 Click here to enter a date.
- 1.8 ZHN-INP  
Date of interview [MM/DD/YY] Interview site
- 1.9  Applicant received and signed Form M-444 and relevant *pro bono* list on \_\_\_\_\_  
Click here to enter a date.  
Date signed [MM/DD/YY]
- 1.10 Does applicant have consultant(s)?  Yes  No
- 1.11 If yes, consultant(s) name, address, telephone number and relationship to applicant  
None
- 1.12 Persons present at the interview (check which apply)
- 1.13  Consultant(s)
- 1.14  Other(s), list: Lionbridge Interpreter
- 1.15  No one other than applicant and asylum officer
- 1.16 Language used by applicant in interview: Choose an item.
- 1.17 Lionbridge # 260  Yes  No 1:08 AM 1:08 AM  
Interpreter Service, Interpreter ID Number. Interpreter Has Forms Time Started Time Ended
- 1.18 \_\_\_\_\_  Yes  No \_\_\_\_\_  
Interpreter Service, Interpreter ID Number. Interpreter Has Forms Time Started Time Ended
- 1.19 \_\_\_\_\_  Yes  No \_\_\_\_\_  
Interpreter Service, Interpreter ID Number. Interpreter Has Forms Time Started Time Ended
- 1.20  Interpreter was not changed during the interview
- 1.21  Interpreter was changed during the interview for the following reason(s):
- 1.22  Applicant requested a female interpreter replace a male interpreter, or vice versa
- 1.23  Applicant found interpreter was not competent
- 1.24  Applicant found interpreter was not neutral
- 1.25  Officer found interpreter was not competent
- 1.26  Officer found interpreter was not neutral
- 1.27  Bad telephone connection
- 1.28  Asylum officer read the following paragraph to the applicant at the beginning of the interview:

*The purpose of this interview is to determine whether you may be eligible for asylum or protection from removal to a country where you fear persecution or torture. I am going to ask you questions about why you fear returning to your country or any other country you may be removed to. It is very important that you tell the truth during the interview and that you respond to all of my questions. This may be your only opportunity to give such information. Please feel comfortable telling me why you fear harm. U.S. law has strict rules to prevent the disclosure of what you tell me today about the reasons why you fear harm. The information you tell me about the reasons for your fear will not be disclosed to your government, except in exceptional circumstances. The statements you make today may be used in deciding your claim and in any future immigration proceedings. It is important that we understand each other. If at any time I make a statement you do not understand, please stop me and tell me you do not understand so that I can explain it to you. If at any time you tell me something I do not understand, I will ask you to explain.*

**SECTION II: BIOGRAPHIC INFORMATION**

2.1 LN

Last Name/ Family Name [ALL CAPS]

2.2 Click here to enter text. 2.3

First Name Middle Name

2.4 Click here to enter text. 2.5 Gender  Male  Female

Date of birth [MM/DD/YY]

2.6

Other names and dates of birth used

2.7 Mexico 2.8 Mexico

Country of birth Country (countries) of citizenship (list all)

2.9 Apatzingan, Michoacan, Mexico

Address prior to coming to the U.S. (List Address, City/Town, Province, State, Department and Country).

2.10 Choose an item. 2.11 Choose an item. 2.12 Choose an item.  
 Applicant's race or ethnicity Applicant's religion All languages spoken by applicant

2.13 Marital status:  Single  Married  Legally separated  Divorced  Widowed

2.14 Did spouse arrive with applicant?  Yes  No

2.15 Is spouse included in applicant's claim?  Yes  No

2.16 If currently married (including common law marriage) list spouse's name, citizenship, and present location (if with applicant, provide A-Number):

Choose an item.

2.17 Children:  Yes  No

2.18 List any children (Use the continuation section to list any additional children):

Date of birth (MM/DD/YY)	Name	Citizenship	Present location (if w/PA, list A-Numbers)	Did child arrive with PA?	Is child included in PA's claim?
Choose an item.	Click here to enter text.	Choose an item.	Choose an item.	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
Click here to enter text.	Click here to enter text.	Choose an item.	Choose an item.	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No

Alien's File Number: XXX XXX XXX

Click here to enter text.	Click here to enter text.	Choose an item.	Choose an item.	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Click here to enter text.	Click here to enter text.	Choose an item.	Choose an item.	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Click here to enter text.	Click here to enter text.	Choose an item.	Choose an item.	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Click here to enter text.	Click here to enter text.	Choose an item.	Choose an item.	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Yes	<input type="checkbox"/> No

2.19 Does applicant claim to have a medical condition (physical or mental), or has the officer observed any indication(s) that a medical condition exists? If YES, answer questions 2.20 and 2.21 and explain below.  Yes  No

None

2.20 Has applicant notified the facility of medical condition?  Yes  No

2.21 Does applicant claim that the medical condition relates to torture?  Yes  No

2.22 Does the applicant have a relative, sponsor or other community ties, including spouse or child already listed above?  Yes  No

2.23 If YES, provide information on relative or sponsor (use continuation section, if necessary):

Click here to enter text.	Choose an item.
Name	Relationship
Click here to enter text.	Click here to enter text.
Address	Telephone Number
<input type="checkbox"/> Citizen	<input type="checkbox"/> Legal Permanent Resident
<input type="checkbox"/> Other	

**SECTION III:**

**CREDIBLE FEAR INTERVIEW**

The following notes are not a verbatim transcript of this interview.

These notes are recorded to assist the individual officer in making a credible fear determination and the supervisory asylum officer in reviewing the determination.

There may be areas of the individual's claim that were not explored or documented for purposes of this threshold screening.

The asylum officer must elicit sufficient information related to both credible fear of persecution and credible fear of torture to determine whether the applicant meets the threshold screening. Even if the asylum officer determines in the course of the interview that the applicant has a credible fear of persecution, the asylum officer must still elicit any additional information relevant to a fear of torture. Asylum officers are to ask the following questions and may use the continuation sheet if additional space is required. If the applicant replies YES to any question, the asylum officer must ask follow-up questions to elicit sufficient details about the claim in order to make a credible fear determination.

3.1 Have you or any member of your family ever been mistreated or threatened by anyone in any country to which you may be returned?

Yes  No See Q&A Testimony

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b. Do you have any reason to fear harm from anyone in any country to which you may be returned?

Yes  No

See Q&A Testimony

---

Alien's File Number: XXX XXX XXX

c. If YES to questions a and/or b, was it or is it because of any of the following reasons? (Check each of the following boxes that apply).

Race  Religion  Nationality  Membership in a particular social group  Political Opinion

3.2  At the conclusion of the interview, the asylum officer must read the following to applicant:

If the Department of Homeland Security determines you have a credible fear of persecution or torture, your case will be referred to an immigration court, where you will be allowed to seek asylum or withholding of removal based on fear of persecution or withholding of removal under the Convention Against Torture. The Field Office Director in charge of this detention facility will also consider whether you may be released from detention while you are preparing for your hearing. *If the asylum officer determines that you do not have a credible fear of persecution or torture, you may ask an Immigration Judge to review the decision. If you are found not to have a credible fear of persecution or torture and you do not request review, you may be removed from the United States as soon as travel arrangements can be made. Do you have any questions?*

No Questions

3.3  At the conclusion of the interview, the asylum officer must read a summary of the claim, consisting of the responses to Questions 3.1 a-c and information recorded in the Additional Information/Continuation section, to applicant.

\*\*\*\*Typed Question and Answer (Q&A) interview notes and a summary and analysis of the claim must be attached to this form for all negative credible fear decisions. These Q&A notes must reflect that the applicant was asked to explain any inconsistencies or lack of detail on material issues and that the applicant was given every opportunity to establish a credible fear.

**SECTION IV:**

**CREDIBLE FEAR FINDINGS**

**A. Credible Fear Determination:**

Credibility

4.1  There is a significant possibility that the assertions underlying the applicant's claim could be found credible in a full asylum or withholding of removal hearing.

4.2  Applicant found not credible because (check boxes 4.3-4.5, which apply):

4.3  Testimony was internally inconsistent on material issues.

4.4  Testimony lacked sufficient detail on material issues.

4.5  Testimony was not consistent with country conditions on material issues.

Nexus

4.6  Race 4.7  Religion 4.8  Nationality 4.9  Membership in a Particular Social Group

(Define the social group):

4.10  Political Opinion 4.11  Coercive Family Planning [CFP] 4.12  No Nexus

Credible Fear Finding

4.13  Credible fear of persecution established.

OR

4.14  Credible fear of torture established.

OR

4.15  Credible fear of persecution NOT established and there is not a significant possibility that the applicant could establish eligibility for withholding of removal or deferral of removal under the Convention against Torture.

**B. Possible Bars:**

- 4.16  Applicant could be subject to a bar(s) to asylum or withholding of removal (check the box(es) that applies and explain on the continuation sheet):
- 4.17  Particularly Serious Crime      4.18  Security Risk      4.19  Aggravated Felon
- 4.20  Persecutor      4.21  Terrorist      4.22  Firmly Resettled
- 4.23  Serious Non-Political Crime Outside the United States
- 4.24  Applicant does not appear to be subject to a bar(s) to asylum or withholding of removal.

**C. Identity:**

- 4.25  Applicant's identity was determined with a reasonable degree of certainty (check the box(es) that applies):
- 4.26  Applicant's own credible statements. (If testimony is credible overall, this will suffice to establish the applicant's identity with a reasonable degree of certainty).
- 4.27  Passport which appears to be authentic.
- 4.28  Other evidence presented by applicant or in applicant's file (List): \_\_\_\_\_
- 4.29  Applicant's identity was not determined with a reasonable degree of certainty. (Explain on the continuation sheet.)

**SECTION V: ASYLUM OFFICER / SUPERVISOR NAMES AND SIGNATURES**

5.1 <u>Lakshmi Kilaru ZHN 280</u> Asylum officer name and ID CODE (print)	5.2 _____ Asylum officer's signature	5.3 ____/____/____ Decision date
5.4 _____ Supervisory asylum officer name	5.5 _____ Supervisor's signature	5.6 ____/____/____ Date supervisor approved decision

**ADDITIONAL INFORMATION/CONTINUATION  
Q&A Testimony and Credible Fear Determination Worksheet**





U.S. Citizenship  
and Immigration  
Services

(b)(6)

**MEMORANDUM**

**TO: FILE**  
**FROM: ZHN 286**  
**RE:** [REDACTED]

The principal applicant in this case is [REDACTED] mother,  
[REDACTED] is considered a dependent on this case.

NOTICE TO APPEAR

In removal proceedings under section 240 of the Immigration and Nationality Act:

File No

In the Matter of

Respondent:

c/o

currently residing at:

(Number, street, city and ZIP code)

(Area code and phone number)

- You are an arriving alien.
- You are an alien present in the United States who has not been admitted or paroled.
- You have been admitted to the United States, but are removable for the reasons stated below.

The Department of Homeland Security alleges that you:

- 1) You are not a citizen or national of the United States.
- 2) You are a native of Honduras and a citizen of Honduras
- 3) You entered the United States at or near Hildago, TX on 10/11/2014
- 4) You did not then possess or present a valid immigrant visa, reentry permit, border crossing identification card, or other valid entry document.
- 5) You were not then admitted or paroled after inspection by an immigration officer.

On the basis of the foregoing, it is charged that you are subject to removal from the United States pursuant to the following provision(s) of law:

Section 212(a)(7)(A)(i)(I) of the Immigration and Nationality Act(Act), as amended, as immigrant who, at the time of application for admission, is not in possession of a valid unexpired immigrant visa, reentry permit, border crossing card, or other valid entry document required by the Act, and a valid unexpired passport, or other suitable travel document, or document of identity and nationality as required under the regulations issued by the Attorney General under section 211(a) of the Act.

This notice is being issued after an asylum officer has found that the respondent has demonstrated a credible fear of persecution or torture.

Section 235(b)(1) order was vacated pursuant to:  8CFR 208.30 (f)(2)  8CFR 235.3(b)(5)(iv)

YOU ARE ORDERED to appear before an immigration judge of the United States Department of Justice at:

Artesia Immigration Court, 1300 W. Richey Ave., Bldg. 169, Artesia NM, 88210

(Complete Address of Immigration Court, including Room Number, if any)

on To Be Determined at To Be Determined to show why you should not be removed from the United States based on the  
(Date) (Time)

charge(s) set forth above.

Supervisory Asylum Officer

(Signature and Title of Issuing Officer)

Date: \_\_\_\_\_

Artesia, NM

(City and State)

**Notice to Respondent**

**Warning:** Any statement you make may be used against you in removal proceedings.

**Alien Registration:** This copy of the Notice to Appear served upon you is evidence of your alien registration while you are under removal proceedings. You are required to carry it with you at all times.

**Representation:** If you so choose, you may be represented in this proceeding, at no expense to the Government, by an attorney or other individual authorized and qualified to represent persons before the Executive Office for Immigration Review, pursuant to 8 CFR 1003.16. Unless you so request, no hearing will be scheduled earlier than ten days from the date of this notice, to allow you sufficient time to secure counsel. A list of qualified attorneys and organizations who may be available to represent you at no cost will be provided with this notice.

**Conduct of the hearing:** At the time of your hearing, you should bring with you any affidavits or other documents, which you desire to have considered in connection with your case. If you wish to have the testimony of any witnesses considered, you should arrange to have such witnesses present at the hearing.

**At your hearing** you will be given the opportunity to admit or deny any or all of the allegations in the Notice to Appear and that you are inadmissible or removable on the charges contained in the Notice to Appear. You will have an opportunity to present evidence on your own behalf, to examine any evidence presented by the Government, to object, on proper legal grounds, to the receipt of evidence and to cross examine any witnesses presented by the Government. At the conclusion of your hearing, you have a right to appeal an adverse decision by the immigration judge.

You will be advised by the immigration judge before whom you appear of any relief from removal for which you may appear eligible including the privilege of departure voluntarily. You will be given a reasonable opportunity to make any such application to the Immigration judge.

**Failure to appear:** You are required to provide the DHS, in writing, with your full mailing address and telephone number. You must notify the Immigration Court and the Department of Homeland Security immediately by using Form EOIR-33 whenever you change your address or telephone number during the course of this proceeding. You will be provided with a copy of this form. Notices of hearing will be mailed to this address. If you do not submit Form EOIR-33 and do not otherwise provide an address at which you may be reached during proceedings, then the Government shall not be required to provide you with written notice of your hearing. If you fail to attend the hearing at the time and place designated on this notice, or any date and time later directed by the Immigration Court, a removal order may be made by the immigration judge in your absence, and you may be arrested and detained by the DHS.

**Mandatory Duty to Surrender for Removal:** If you become subject to a final order of removal, you must surrender for removal to your local DHS office, listed on the internet at <http://www.ice.gov/contact/ero>, as directed by DHS and required by statute and regulation. Immigration regulations at 8 CFR 1241.1 define when the removal order becomes administratively final. If you are granted voluntary departure and fail to depart the United States as required, fail to post a bond in connection with voluntary departure, or fail to comply with any other condition or term in connection with voluntary departure, you must surrender for removal on the next business day thereafter. If you do not surrender for removal as required, you will be ineligible for all forms of discretionary relief for as long as you remain in the United States and for ten years after departure or removal. This means you will be ineligible for asylum, cancellation of removal, voluntary departure, adjustment of status, change of nonimmigrant status, registry, and related waivers for this period. If you do not surrender for removal as required, you may also be criminally prosecuted under section 243 of the Immigration and Nationality Act (the Act).

**Request for Prompt Hearing**

To expedite a determination in my case, I request this Notice to Appear be filed with the Executive Office of Immigration Review as soon as possible. I waive my right to a 10-day period prior to appearing before an immigration judge and request my hearing be scheduled.

Before:

\_\_\_\_\_  
(Signature of Respondent)

Date: \_\_\_\_\_

\_\_\_\_\_  
(Signature and Title of Immigration Officer)

**Certificate of Service**

This Notice To Appear was served on the respondent by me on \_\_\_\_\_ in the following manner and in compliance with section 239(a)(1) of the Act.

in person     by certified mail, returned receipt # \_\_\_\_\_ requested     by regular mail

Attached is a credible fear worksheet.

Attached is a list of organization and attorneys which provide free legal services.

The alien was provided oral notice in the \_\_\_\_\_ language of the time and place of his or her hearing and of the consequences of failure to appear as provided in section 240(b)(7) of the Act.

\_\_\_\_\_  
(Signature of Respondent if Personally Served)

\_\_\_\_\_  
(Signature and Title of officer)

**Lynn, Mallory L**

---

**From:** Lynn, Mallory L  
**Sent:** Monday, November 03, 2014 1:55 PM  
**To:** Fairbank, Christina; Weintraub, Phillip H; Adams, Joyce V; Hook, Garland R  
**Cc:** Parent, Jessica L  
**Subject:** Notes

Hi team: just a quick word about notes. Please be sure that the highlighting in your notes templates is removed, as it is difficult to read, particularly since we make copies and serve those on the applicants. Also, just another reminder to be sure that anything that did not take place in the interview (such as instructions to the APSO in the template) should not appear in the version you print for the working folder.

Thanks!  
Mallory

## **Lynn, Mallory L**

---

**From:** Lynn, Mallory L  
**Sent:** Monday, November 03, 2014 2:23 PM  
**To:** Fairbank, Christina; Weintraub, Phillip H; Adams, Joyce V; Hook, Garland R  
**Cc:** Parent, Jessica L  
**Subject:** RE: Notes

One more follow up – on the I-870, please state with specificity the identity of the consultant (e.g., please don't just write "Artesia Legal Defense Team" – please use the name on the G-28/person who appeared at the interview). Also, if there is a G-28, it must be clipped on the top left in the blue folder. This ensures that we properly notice the attorney in the future. The G-28 should never be underneath other documents or buried in the paperwork.

Also, the asylum office code on the I-870 is just ZHN – no need to put your ZHN#.

Thanks again for all of your hard work!

Mallory

---

**From:** Lynn, Mallory L  
**Sent:** Monday, November 03, 2014 2:55 PM  
**To:** Fairbank, Christina; Weintraub, Phillip H; Adams, Joyce V; Hook, Garland R  
**Cc:** Parent, Jessica L  
**Subject:** Notes

Hi team: just a quick word about notes. Please be sure that the highlighting in your notes templates is removed, as it is difficult to read, particularly since we make copies and serve those on the applicants. Also, just another reminder to be sure that anything that did not take place in the interview (such as instructions to the APSO in the template) should not appear in the version you print for the working folder.

Thanks!  
Mallory

**Lynn, Mallory L**

---

**From:** Lynn, Mallory L  
**Sent:** Tuesday, November 04, 2014 6:41 AM  
**To:** Fairbank, Christina  
**Cc:** Parent, Jessica L  
**Subject:** suggested Artesia Forms  
**Attachments:** Artesia CF Interview Template.doc; I-870 CF Master Template (Kilaru)(ZART).doc;  
Memo to Flip Dependent to Principal.doc; NTA I-862 Template.doc

**Lynn, Mallory L**

---

**From:** Lynn, Mallory L  
**Sent:** Tuesday, November 04, 2014 10:49 AM  
**To:** Adams, Joyce V; Weintraub, Phillip H; Hook, Garland R; Fairbank, Christina  
**Cc:** Parent, Jessica L  
**Subject:** 48 hour waiver

Hi team – we are expecting more new arrivals soon – please always be sure to get a 48 hour waiver if necessary.

Thanks,  
Mallory

**Lynn, Mallory L**

---

**From:** Lynn, Mallory L  
**Sent:** Thursday, November 06, 2014 4:04 PM  
**To:** Christina Brown  
**Cc:** Tremont, Robert L  
**Subject:** orientation

Hi Christina,

Yes, ICE is still doing the orientation/service of the M-444. I just confirmed with them.

Please send me those A#s when you get a chance! We are meticulously careful, but I will follow up on it to be sure. Also, I followed up with HQ, including the data request.

Feel better!

Mallory



## **Lynn, Mallory L**

---

**From:** Lynn, Mallory L  
**Sent:** Friday, November 07, 2014 4:06 PM  
**To:** Adams, Joyce V; Fairbank, Christina; Hook, Garland R  
**Cc:** Parent, Jessica L  
**Subject:** attorney waivers

**Hi team: please be very careful to document applicants' decisions to proceed without an attorney. It's okay to have them confirm a couple of times to be sure they're confident in their decision. -Mallory**

**Jowett, Haley L**

---

**From:** Stone, Mary M  
**Sent:** Thursday, June 26, 2014 10:56 AM  
**To:** Hemming, Bryan D; Kim, Ted H; Gadson, Irvin C  
**Cc:** Mura, Elizabeth E  
**Subject:** RE: Artesia contacts

AFRC

I just pulled up the tables...looks like they've added it. It says, "Artesia Family Residential Unit" – the very first code!

Mary Margaret Stone  
Chief of Operations, Asylum Division  
Refugee, Asylum and International Operations Directorate  
US Citizenship and Immigration Services  
Department of Homeland Security  
Tel: 202.272.1651

---

**From:** Hemming, Bryan D  
**Sent:** Thursday, June 26, 2014 7:37 AM  
**To:** Kim, Ted H; Gadson, Irvin C  
**Cc:** Stone, Mary M  
**Subject:** RE: Artesia contacts

Hi all:

Audrey just asked about APSS codes for Artesia. Do we have those yet?

Thanks,  
Bryan

---

**From:** Kim, Ted H  
**Sent:** Monday, June 23, 2014 4:31 PM  
**To:** Hemming, Bryan D; Gadson, Irvin C  
**Cc:** Stone, Mary M  
**Subject:** Artesia contacts

I've been given the following POCs for on-the-ground coordination in Artesia:

--To coordinate interview offices, please contact:

Laura Hernández-Winkelmann  
Special Assistant  
Office of the Deputy Executive Associate Director  
Enforcement & Removal Operations  
(a) 202 722 2520

(b)(6)

--To coordinate lodging at the facility for our own folks, please contact Ángel Cata (his email is listed in Outlook).

Please let me know if you run into any obstacles.

Thanks,  
Ted

---

Ted Kim  
Deputy Chief, Asylum Division  
U.S. Citizenship & Immigration Services  
Department of Homeland Security

**Jowett, Haley L**

---

**From:** Gadson, Irvin C  
**Sent:** Friday, June 27, 2014 12:36 PM  
**To:** (b)(6) Kim, Ted H; Hemming, Bryan D  
**Cc:** Stone, Mary M; Lafferty, John L  
**Subject:** RE: NFTS Code + CODEL issue

Thanks for the information Ted. Our local records managers advise that they are only able to create NFTS codes for ZHN location(s). We can reach out to USCIS-ELP records to see if they can assist. Thanks

Respectfully,

**Irvin Gadson | Chief of Staff | USCIS | Department of Homeland Security |** ✉: 16630 Imperial Valley Drive, Suite 200, Houston, TX 77060 | ☎: (281) 931-2139 Fax: (281) 931-4181

---

**From:** Kim, Ted H  
**Sent:** Friday, June 27, 2014 12:20 PM  
**To:** Gadson, Irvin C; Hemming, Bryan D  
**Cc:** Stone, Mary M; Lafferty, John L  
**Subject:** RE: NFTS Code + CODEL issue

Thanks, Irvin, for looking into the NFTS code.



Let's discuss more on today's call. We may need to push it back to 5:30, as we have an NGO meeting at 4, which may go long.

Thanks,  
Ted

---

**From:** Gadson, Irvin C  
**Sent:** Friday, June 27, 2014 12:33 PM  
**To:** Kim, Ted H; Hemming, Bryan D  
**Cc:** Stone, Mary M  
**Subject:** RE: NFTS Code

Ted,

We will see if our local records managers can create one. We will keep you posted.



Respectfully,

**Irvin Gadson | Chief of Staff | USCIS | Department of Homeland Security |** ✉: 16630 Imperial Valley Drive, Suite 200, Houston, TX 77060 | ☎: (281) 931-2139 Fax: (281) 931-4181

---

**From:** Kim, Ted H  
**Sent:** Friday, June 27, 2014 11:27 AM  
**To:** Gadson, Irvin C; Hemming, Bryan D  
**Cc:** Stone, Mary M  
**Subject:** FW: NFTS Code

Irvin/Bryan: Is this something you can assist with? Thanks, Ted

---

**From:** Bowman, Sharlene [<mailto:Sharlene.R.Bowman@ice.dhs.gov>]  
**Sent:** Friday, June 27, 2014 12:25 PM  
**To:** Kim, Ted H  
**Cc:** Hester, Juanita P.; Hermosillo, Jose L  
**Subject:** RE: NFTS Code

Hi Ted

Just following up on this message.

Thank you very much.

Sharlene

---

**From:** Bowman, Sharlene  
**Sent:** Thursday, June 26, 2014 7:48 PM  
**To:** Kim, Ted H  
**Cc:** Hester, Juanita P.  
**Subject:** NFTS Code

Hi Ted

Mr. Phil Miller asked that I reach out to you for your assistance. El Paso ERO is having problems with obtaining NFTS codes for the Artesia Family Residential Center (AFRC) location from local CIS. Can you please assist in getting this resolved?

Many thanks

Sharlene Bowman  
Special Assistant  
Field Operations  
202-652-8430

## Donis, Antonio

---

**From:** Donis, Antonio  
**Sent:** Saturday, July 19, 2014 4:26 PM  
**To:** Hook, Garland R; Orendach, Janette; Zee, Dong; Stawar, Andrew X; Hensleigh, Chris J  
**Cc:** Castaldi, Amarilde F; Guerrero, Ramon A; Aguilar, Rafael  
**Subject:** Common I-870 Mistakes

Hey team,

I added a few bullets to the list below and am resending for everyone's awareness.

Thanks for your time and help,

Antonio\_\_

---

**From:** Donis, Antonio  
**Sent:** Tuesday, July 15, 2014 9:31 AM  
**To:** Clements, Cory S; Hook, Garland R; Gordon, Jonathan; Orendach, Janette; Zee, Dong  
**Cc:** Castaldi, Amarilde F; Hassan, Alice M; Guerrero, Ramon A  
**Subject:** Common I-870 Mistakes

Hey team,

Below are some common mistakes Francesca and I are seeing on the **Credible Fear Worksheet (I-870)**.

Please take a moment to review and incorporate these changes into future submissions.

- **ART is the District Office Code in the Header on Page 1.**
- **Please write "lack of resources" in Section 1.6 if the CF orientation took place more than one week from the date of detention and there is no other reason for the delay.**
- **Please include any family members who were present during a CF interview in Section 1.12. You can either write in the family member's names or "applicant's child". Both methods are acceptable.**
- **Please include the interpreter service and interpreter ID number in Section 1.17 but do not include the words "in person" or "telephonic". That information is confusing and extraneous.**
- **Please indicate that the Interpreter was changed in Section 1.21 if an applicant was interviewed more than once. Then write "re-interview" where it asks for a reason.**
- **Please write "See Q&A" not "See Q&A and Checklist" in Section 3.1 as we do not issue CF checklists to applicants, attorneys, and the court.**
- **Please specify the Social Group that the applicant belongs to if you check the PSG box in Section 4.9.**
- **Don't forget to include your name, ZHN #, signature, and date at the end of the worksheet.**

Thanks for your time and keep up the good work!

# ZART



## DAILY OPERATIONS HANDBOOK

Contributors:

Antonio Donis, Reagan Hook, Ja Nette Orendach, Ramon Guerrero, Dong Zee, Mallory Lynn, Yolanda Burnett, Rafael Aguilar, Drew Stawar, Chris Hensleigh, Reza Naushad Ryan Littlepage, Martha Gonzalez, Laura Bradford, Kimberly Larson, Mimi Chang, Kara Hill, Susan Perez, Lakshmi Kilaru, Tracy Beighley, Eli Roeschke, Claire Schell, Rene Cardona, Chris Gossett

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## INTRODUCTION

Thank you for volunteering to support the Asylum Division's family processing efforts at the Artesia Residential Family Center (ARFC). The ARFC has been set up along the corner of the FLETC campus in Artesia, NM.

FLETC Artesia is located in southeastern New Mexico, midway between Roswell and Carlsbad on the grounds of a former private college purchased in 1989. It is one of three residential family centers in the United States and can house up to 672 mothers and children.

FLETC Artesia trains law enforcement personnel from over 90 federal and state agencies, with as many as 1,000 students per day. The Federal Air Marshals train at FLETC Artesia, as do many CBP officers. The Bureau of Indian Affairs Indian Police Academy is headquartered here, as is the BIA Memorial to fallen BIA and tribal officers.

The Artesia asylum office (or ZART for short) is co-located in a series shared trailers with ICE ERO and OPLA, making intra-agency communication fast and friendly. ICE and USCIS employees are detailed for up to 90 days and are lodged in FLETC dormitories with shared bathrooms.

Other FLETC amenities include:

- Mess Hall – huge dining hall offering basic cafeteria food, large salad bar, inexpensive government-subsidized prices
- Physical Techniques Building – 108,000 square feet of the most serious workout facilities you will ever see, including gymnasium, cardio room, weight rooms, mat rooms, a huge indoor lap pool, and outdoor running tracks. Facilities are generally available before and after normal business hours but are subject to officer training. You may be required to use FLETC gym uniforms, and use of the pool requires signing out a key and swimming with a buddy as there is no lifeguard.
- Post office, bank, laundry, convenience store, and gift shop

## 1 HOURS AND OVERTIME (OT)

Working hours are 7:00 a.m. – 4:00 p.m. with a one-hour lunch break.

Office working hours “soft stop” at 4:00 p.m.; however, Overtime (OT) may be available. Check with your Supervisor to see if there are OT hours available no later than 4:00 p.m. OT is allocated on a day-to-day basis and must be approved by your Supervisor before you work extra time or enter it onto your timesheet. (b)(7)(e)

If OT is available, complete the “OT Slip Houston Asylum Office 45 Act Bill” (Appendix A). The OT Code String for Artesia is

Office working hours “hard stop” at 7:00 p.m. All work, including interviews, must stop at this time. You may continue unfinished interviews another day, as necessary.

## 2 FILE RECEIPT AND CREATION OF A WORKING FILE (W-FILE)

### 2.1 Receiving the Referral Packet

CIS receives credible and reasonable fear referral packets from ICE. These packets are placed in the ICE Referrals box, located in building 131.

### 2.2 Creating the Working File (W-file)

The support staff creates a Working File (W-File) for each individual on a case. The W-File consists of the below forms on the left side of the file in the following order:

#### LEFT SIDE-- CREDIBLE FEAR

- G-28 (if any)
- I-213
- I-860 (must include apprehension location and arrival date)
- I-867 A/B
- M-444
- List of Free and Low Cost Legal Service Providers

#### LEFT SIDE-- REASONABLE FEAR

- G-28 (if any)
- I-213
- I-871 (double-check jurisdiction)
- I-867 A/B
- M-488
- List of free and Low Cost Legal Service Providers

The W-File will consist of the below forms on the right side of the file in the following order:

#### RIGHT SIDE-- CREDIBLE AND REASONABLE FEAR

- The Credible Fear/Reasonable Fear Background Identity and Security Checklist (generally printed on yellow paper)
- US Visit print-out of resident data
- EARM page (printed from the EARM tab that reads *Person*)

### 2.3 PRECing the Case

(b)(7)(e)



Common Encounter location codes (ENCOUNTER LOC) for Artesia include:

- Hidalgo, TX: HID
- El Paso, TX: ELP
- Progreso, TX: PGR
- La Joya, TX: MCI



**2.3.1 Notes on PRECing**



Cases are clocked in the same day that they are received, as long as it is a business day and the packet is placed in the box by Close of Business (i.e. 4:00 pm).

Things to Avoid When PRECing



**2.4 Creating the Cover Sheet**

Staple a “Detained Family” cover sheet (**Appendix G**) on the outside of the Principal’s W-file and fill in the following information: PREC Date, Due Date, Principal A# and Last Name, Dependent(s) A#, and Last Name, and the attorney’s information, if applicable.

Place the W-file into the “To be scheduled” box located in Building 131.

**3 INTERVIEW PREPARATION FOR APSOS**

**3.1 AM and PM Interviews**

Cases are divided into AM and PM interviews to better facilitate locating and transporting residents around the Artesia Family Residence Center.

- AM interviewees are staged in the dayroom between 7:00 a.m. – 7:30 a.m.
- PM interviewees are staged in the dayroom between 12:00 p.m. – 12:30 p.m.



**3.2 Prepping the W-File**

Always read through the I-860 or I-871 to determine if a case is POE or INL (note: ZART does not use a color coding system like many other offices). Also read through the I-867A/B and the I-213 to ascertain other relevant information prior to the interview.

### 3.3 Security Checks

Refer to **Appendix H**: “How-To Guide: Completing the Credible/Reasonable Fear Background Identity and Security Checklist and Flowchart.”

## 4 THE INTERVIEW

### 4.1 Retrieving the Resident and their Attorney/Consultant

Residents are normally staged in the Dayroom or, if the Resident has an attorney, he or she may be in the Law Library or Visitation area. If there is a G-28 on file, check for the attorney in the Law Library/Visitation areas first and let him or her know you are about to begin the interview.

Attorneys are juggling a lot of cases and sometimes pass cases off to one another. Be prepared for delays as they may need a little time with their client prior to the interview. This practice is discouraged; however, depending on the circumstances the SAPSO or Team Lead may authorize a short delay.

**RESIDENTS AND ATTORNEYS MUST BE ESCORTED AT ALL TIMES.** When escorting Residents to your office, let the ICE officer in the dayroom know who you are, whom you are escorting, and why (e.g., “I am taking Ms. Lynn and her child/children for their asylum interview”).

### 4.2 Child Supervision

Each mother must be asked whether they want their children present for the interview. Please record the answer to this question in your notes and escort the mother and child to the child supervision room. See “Childcare Recommendations” (**Appendix I**).

**LAP CHILDREN MUST REMAIN IN THE INTERVIEW.** ICE will not assume responsibility for supervising very young children. In these cases, the children must remain with the mother during the interview.

**DO NOT LEAVE ANY RESIDENT OR ATTORNEY ALONE IN YOUR OFFICE.** If a situation arises where a Resident must be alone in your office (e.g., if the Resident needs to nurse an infant child and would like privacy), first seek guidance from your SAPSO.

### 4.3 Attorney Reschedule Policy

If a Resident’s attorney is not present for the interview, explain to the Resident that he or she may proceed with the interview without an attorney if he or she would like to do so. If the Resident insists on the attorney being present for the interview, inform him or her that the interview will be rescheduled.

If the resident arrives at the interview without an attorney, but would like more time to find one, inform the resident that the interview will be rescheduled and that he or she has 48 hours to find an attorney. You may also let them know that there are free attorneys on site, but do not specify who those attorneys are or which organizations they represent.

DECISION SERVICES WILL NOT BE RESCHEDULED FOR ATTORNEYS.

**4.4 Essential Questions to ask in Every ZART Interview**

In addition to the regular CF/RF interview questions, also ask the following “Essential Questions”:

**4.4.1 CF Interviews**

Introduction/After Reading 1.28:

1. Do you have any questions about what was just read to you? Would you like me to explain it in a different way?
2. Do you have an attorney or consultant?
  - *If NO:* An attorney is not required for this interview, but it is your right to have an attorney or consultant present if you would like one. Would you like to have your interview today by yourself, or would you like to reschedule so that you can have more time to find an attorney?
    - *If reschedule:* We will reschedule your interview in two days. Here is a list of free legal service providers that may be able to help you. Please be sure to start looking so that you will be ready next time.
  - *If YES:* Contact attorney.
    - *If attorney is unavailable:* Would you like to have your interview today without your attorney, or would you like to reschedule?
    - *If reschedule:* (obtain attorney contact information if no G-28) Okay, we will reschedule your interview.
3. **Any** of you can talk to me today about a fear you have. Do you understand? (Record answers for all family members old enough to communicate with APSO.)
4. Are you comfortable proceeding with your child(ren) here in the room?
5. Do you or any of your children have any health problems?
  - *If YES:* Have you let the facility know? Will you/your child’s condition affect your ability to talk to me today?
6. Which family member(s) arrived with you (including those housed elsewhere)?

Substance of Claim:

7. *During any part of the testimony that becomes graphic or sensitive:* Would you be more comfortable talking to me with your child(ren) in another room?
8. Have you ever been threatened or harmed, or do you fear being harmed or threatened, by a family member or someone you have had a relationship with?
9. Are there other reasons we have not discussed that you are afraid for your child(ren) or yourself?
10. Is there anything else **any of you** would like to add? (This question must be posed to children old enough to communicate with APSO. Record all answers.)

Summary of Testimony/Conclusion:

11. Always read the Summary of Testimony back to the resident.
12. Always ask, "Is this correct?"

#### 4.4.2 RF Interviews

Introduction/After Reading 1.28:

1. Do you have any questions about what was just read to you? Would you like me to explain it in a different way?
2. Do you have an attorney?
  - *If NO:* An attorney is not required for this interview, but it is your right to have an attorney present if you would like one. Would you like to have your interview today by yourself, or would you like to reschedule so that you can have more time to find an attorney?
    - *If reschedule:* We will reschedule your interview in two days. Here is a list of free legal service providers that may be able to help you. Please be sure to start looking so that you will be ready next time.
  - *If YES:* Contact attorney.
    - *If attorney is unavailable:* Would you like to have your interview today without your attorney, or would you like to reschedule?
    - *If reschedule:* (obtain attorney contact information if no G-28) Okay, we will reschedule your interview.
3. Are you comfortable proceeding with your child(ren) here in the room?
4. Do you or any of your children have any health problems?



- *If YES:* Have you let the facility know? Will you/your child's condition affect your ability to talk to me today?

Substance of Claim:

5. *During any part of the testimony that becomes graphic or sensitive:* Would you be more comfortable talking to me with your child(ren) in another room?
6. Have you ever been threatened or harmed, or do you fear being harmed or threatened, by a family member or someone you have had a relationship with?
7. Are there other reasons we have not discussed that you are afraid for your child(ren) or yourself?

Summary of Testimony/Conclusion:

8. Always read the Summary of Testimony back to the resident.
9. Always ask, "Is this correct?"

#### **4.5 Working with Consultants (Attorneys) During the Interview**

##### **4.5.1 Resident's Right to Seek Consultation**

The Resident has a right to seek consultation pursuant to 8 CFR§208.30(d)(4):

"The alien may consult with a person or persons of the alien's choosing prior to the interview or any review thereof, and may present other evidence, if available. Such consultation shall be at no expense to the Government and shall not unreasonably delay the process. Any person or persons with whom the alien chooses to consult may be present at the interview and may be permitted, in the discretion of the asylum officer, to present a statement at the end of the interview. The asylum officer, in his or her discretion, may place reasonable limits on the number of persons who may be present at the interview and on the length of the statement." *See CF Lesson Plan (Rev. 02/28/2014); 8 CFR§208.30(d)(4).*

##### **4.5.2 Role of the Consultant**

The role of a consultant is similar to the role of an attorney or representative in an affirmative asylum interview. An APSO must explain the consultant's role to the consultant and the Resident at the beginning of the interview. A consultant may make a statement, comment on the evidence, or ask the Resident additional relevant questions that the APSO did not ask, at the end of the interview. To avoid misunderstandings, it sometimes will be appropriate for a consultant to make comments during, instead of at the end, of the interview. Only in unusual circumstances, such as mental disability, will a consultant be permitted to answer on behalf of the Resident. A consultant who repeatedly interrupts or otherwise disrupts an interview must be asked to refrain from doing so and be reminded that he or she will have an opportunity at the end of the interview to make comments. An APSO may ask a consultant who continuously fails to abide by the rules of the interview to leave the interview. Should this occur, the APSO will proceed with the

interview. The APSO must clearly outline in the interview notes what transpired during the interview that prompted the consultant's dismissal from the interview. *See Appendix J.*

#### **4.6 Separated Family Members/Families Disbursed to Various Facilities**

During the interview, ask the Resident with whom he or she arrived with to see if there are any family members missing. If it is determined that a missing family member was taken to another facility, get the family member's full name, DOB, COB, DOE, and A# (if available).

Explain to the Resident that if it is possible to locate the missing family member, there are two options available: a) the missing family member can choose to be a Dependent on the Resident's claim *or* b) the Resident can choose to be a Dependent on the missing family member's claim.

After the interview, the supervisors and support staff will use PCQS, CIS, and Enforce/EARM to try to locate the missing family member. If successful, reasonable attempts will be made to ask separated family members whether they would like to be included on their spouses claim. This will usually be done prior to decision service.

#### **4.7 Children with Well-Founded Fear (WFF), Family-Based PSGs and Similarly-Situated Individuals, and Government Unable or Unwilling to Protect Children**

For direction on the situations listed above, see "Issues Related to Family Processing" (Appendix K).

#### **4.8 The Follow-Up Interview (Re-Interview)**

For information on Follow-Up Interviews, see the "ZART Follow-Up Interview Guide" (Appendix L). *See also Appendix M.*

#### **4.9 Rare Languages**

Rare languages commonly encountered among Artesia Residents include Mam, Maya Kanjobal (a.k.a., Konjuval; Q'anob'al), Acateca (a.k.a., Acateco), and K'iche (a.k.a., Quiche). For information on conducting an interview in a rare language, see the "ZART Rare Languages Guide" (Appendix N).

#### **4.10 Plain Language**

ZART APSOs should always interview in plain language. Rephrase questions as necessary to ensure understanding. Avoid questions such as, "Are you a member of a particular social group?" or "Will the government consent or acquiesce to this harm?" Consult the Eliciting Testimony Lesson Plan for further guidance.

## **5 THE WRITE-UP**

## 5.1 NTA Information

On the Notice to Appear (NTA), note that **all residents are residing at:** AFRC 1300 W. Richey Ave, Artesia, NM 88210.

**All residents appear at:** Artesia Immigration Court, 1300 W. Richey Ave, Bldg. 169, Artesia, NM 88210

## 5.2 Completing the Credible Fear Checklist

Where an applicant has multiple claims, number each claim on the checklist. Fully analyze each claim and refer to the numbers in each section for clarity.

Negative determinations must include reasoning for both the principal applicant as well as any dependents' potential claims. Analyze potential persecution and torture claims for all applicants. If a dependent child becomes the principal applicant, include a "flip" memo (**Appendix P**).

Conversely, when making a positive determination, there is no need to analyze family members' claims, regardless if the principal applicant is an adult or a child. If a child has requested to have his or her case separated from the parent's case, discuss the cases with the SAPSO or Team Lead prior to the interview.

## 6 ENTERING THE DECISION INTO APSS

Artesia APSOs must complete the INTC and ADEC screens. Most of the information needed to complete these screens comes from the I-870.

### 6.1 INTC Screen

The RECORD NOTES screen is accessed by key F9 under the INTC screen. Enter new APSO, SAPSO and other relevant information for the re-interview. Press ENTER, then type Y in Record Notes field and hit ENTER again. Return to INTC screen by pressing F10. View notes under CSTA screen (F11).

### 6.2 ADEC Screen

Keep the original interview date along with original APSO and SAPSO. Enter any necessary changes to the decision field and update *Date* field. Remove the old *Decision Served Date* and *Date Forwarded to DO* field, and press ENTER.

### 6.3 Entering Re-Interviews into APSS

Re-interview information **MUST** be recorded in the RECORD NOTES screen of APSS.

#### 6.3.1 Entering New Information

Go to the ADEC screen and enter any changes to Decision field. Update the *Date* field with the new decision date. Remove the old *Decision Served Date* field and *Date Forwarded to DO* field. Hit ENTER.

Note that if the *Case Delay* field is required, enter the reason code as follows: I—Re-interview; O—Other; A—Attorney; R—Lack of Resources.

### 6.3.2 INTC

The original interview record must remain in the INTC screen. Any re-interview information is recorded in the RECORD NOTES screen. Go to the INTC screen and press F9. Enter the re-interview information:

ZHN xxx RE-INTERVIEWED RESIDENT ON xx/xx/xxxx AND MADE A POSITIVE (OR NEGATIVE) DETERMINATION ON xx/xx/xxxx. ZHN xxx SUBMITTED THE CASE TO ZHN xxx ON xx/xx/xxxx.

When you have finished inputting the re-interview information, press ENTER. They type “Y” into the *Record Notes* field.

### 6.3.3 CSTA

Notes can only be viewed from the CSTA screen. To view your NOTE, go to the CSTA screen and press F11.

### 6.3.4 ADEC

The ADEC screen is linked to the INTC screen by the interview date, so the original interview date on the ADEC screen cannot be changed. The original APSO and SAPSO will also display on the ADEC screen, because this information is linked to the original interview date. New APSO/SAPSO information must be entered into RECORD NOTES.

## 7 DECISION SERVICE

### 7.1 AM and PM Services

Cases are divided into AM and PM services to better facilitate locating and transporting residents at the Artesia Family Residence Center.

(b)(7)(e)

- AM services are staged in the dayroom between 7:00 a.m. – 7:30 a.m.
- PM services are staged in the dayroom between 12:00 p.m. – 12:30 p.m.



### 7.2 Preparing the Service Packets

Decision Service Packets are prepared by the CIS support staff. CIS support staff will prepare 4 copies of the Service Packet: 1 for ICE, 1 for APSO (W-file copy), 1 for the Resident, and 1 for the Attorney (if present).

**BEFORE MAKING COPIES, REMOVE THE CREDIBLE FEAR CHECKLIST. THE CREDIBLE FEAR CHECKLIST IS AN INTERNAL DOCUMENT STILL THAT MUST NOT BE GIVEN TO ANYONE OUTSIDE OF USCIS.**

### **7.2.1 Resident/Attorney/APSO Copies**

Prepare the Resident, Attorney and File copies in the following order from top to bottom (you will be making a total of 3 copies of the ORIGINAL packet):

#### **PRINCIPAL RESIDENT'S PACKET (and Attorney, if present):**

- I-862 (positive) or I-869/I-863 (negative)
- I-870/Interview Notes; I-899
- I-860/I-871
- I-867 A/B
- M-444/M-488
- Denver EOIR-33
- List of Free Legal Service Providers (to sign at service)

#### **DEPENDENT RESIDENT'S PACKET (and Attorney, if present):**

- I-862 (positive) or I-869/I-863 (negative)
- I-860
- I-867 A/B
- M-444/M-488
- List of Free Legal Service Providers (to sign at service)
- Denver EOIR-33
- **EXCEPTION:** If a derivative child is the new Principal Resident, include the I-870/Interview Notes and flip memo in ALL the dependents' packets.

### **7.2.2 ICE Copies**

Prepare the ICE copies in the following order from top to bottom:

#### **ICE PACKET:**

ICE will always receive the ORIGINAL NTAs for both the Resident and Dependents, signed in BLUE ink by the SAPSO.

- I-862 (positive) or I-869/I-863 (negative)
- I-870/Interview Notes; I-899
- I-860/I-871
- I-867 A/B
- M-444/M-488
- List of Free Legal Service Providers (to sign at service)
- A copy of the Security Checklist
- A copy of the CSTA screen

- DO NOT GIVE THE CREDIBLE FEAR CHECKLIST TO ICE.

#### 7.2.2.1.1 EOIR Copies

ICE scans and emails the USCIS service packet to the court administrator, who then docketed each case in accordance with DOJ guidelines. There is no need to create a separate packet for the court.

### 7.3 Serving the Decision

Locate the Resident and the attorney (*See* 4.1, *supra*, Retrieving the Resident and Attorney). Utilize the phone service (e.g., Lionbridge or Language Line) to call the appropriate language interpreter. Be sure to ask the interpreter if he or she has form I-862 (if positive) or I-863 (if negative) available in front of him or her for translation purposes. For a script of how to serve a decision, see “Final Decision Service Scripts” (**Appendix O**). Make sure the Resident signs all 4 copies of the packet [I-862 (positive)/I-863 (negative) and the List of Free and Low-Cost Legal Service Providers].

### 7.4 After the Service

Once the service is complete and the Resident and Attorney have been escorted back, go to the ADEC screen for the Primary Resident and enter the *Service Date* and *Date to DO* with the date that the Resident was served. Then enter the same information for all Dependent Residents in the ADEC screen. If the decision was negative, update whether an IJ review was requested with the same date. If the case was flipped, ensure that the Principal Resident is listed correctly for each Resident.

The following documents should be given to ICE:

- The ORIGINAL packet for the Principal and all Dependents
- A copy of the Security Checklist
- A copy of any HIT/TECS Resolution Memos
- A copy of any G-28s in the file
- Any additional paperwork that has been specified by the Supervisor as necessary

### 7.5 Completing the File

Before placing the W-file into the cabinets, make sure the following paperwork is in the correct order, from top to bottom:

#### LEFT SIDE

- G-28 (if present)
- Service Packet
- I-213
- I-860/ I-871
- I-867 A/B
- M-444/ M-488
- List of free and low-cost Legal Service Providers
- EARM page (printed from the EARM tab that reads *Person*)

## RIGHT SIDE

- Security Checklist
- CBP or ICE HIT/TECHS Resolution Memos (if present)
- US Visit
- Credible Fear Checklist
- Miscellaneous notes, emails etc.

W-Files are stored according to their PREC date (since this date seldom changes).

## **8 MISCELLANEOUS INFORMATION**

### **8.1 Ordering Supplies**

The following supplies should always be made available to the Residents and their dependents in your office during the interview: diapers, wipes, toys, non-toxic crayons. The ICE personnel in building 131B should be able to provide you with these items as the need arises. For diaper changes, please return the family to the dayroom, where ICE staff has set up a changing table.

Additionally, you should keep your office well-stocked with pens, paper, printer toner, etc. If you need to order office supplies, let the SAPSOs know and they will email #ZHN-Admin with the request. Kirk Bell will usually be the one responding to this email. Give Kirk the required quantities and adjustments will be made as necessary. You can also request authorization for a local purchase (e.g., Office Depot, located in Roswell, NM).

**APPENDIX A: OVERTIME SLIP HOUSTON ASYLUM OFFICE 45 ACT BILL**

**OVERTIME SLIP  
HOUSTON ASYLUM  
45 ACT BILL**

Entered by: \_\_\_\_\_  
Total Time Entered: \_\_\_\_\_

Date overtime pre-approved: \_\_\_\_\_

Hours approved: \_\_\_\_\_

NAME: \_\_\_\_\_

Date overtime performed: \_\_\_\_\_

<b><u>MORNING</u></b>	<b><u>AFTERNOON</u></b>
Start Time: _____	Start Time: _____
Finish Time: _____	Finish Time: _____
Total Time: _____	Total Time: _____

Assignments:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Employee Signature/Date

\_\_\_\_\_  
Morning OT Supervisor Signature/Date

\_\_\_\_\_  
Afternoon OT Supervisor Signature/Date



**APPENDIX B: PREC SCREEN EXAMPLE**

APXCAS01 PRELIMINARY CASE RECORD ENTRY (PREC) 00/00/00  
CCO: ZHN TIMESTAMP

LAST NAME: LAST NAME A-NUMBER: (WILL AUTO-FILL)  
FIRST NAME: FIRST NAME MIDDLE: MIDDLE NAME PRIN A-NUMBER:  
AKA (LAST): DETENTION FAC: AFRC DATE: SEE I-860/871  
AKA (FIRST): ENCOUNTER LOC: SEE I-860/871 CLK-IN DT: TODAY'S DATE

SEX: F/M COB: SEE I-860/871 DOB (MM/DD/YYYY): SEE EARM SHEET  
RELIG: UNKNO PROVINCE: --- CITZ 1: SAME AS COB CITZ 2:

LANGUAGE (S): SP INTERPRETER REQUIRED (Y/N): Y  
ARRIVAL DATE: POE: UNK SPECIAL GROUP: INL

CHOOSE RF OR CF CREDIBLE FEAR (X) -OR- REASONABLE FEAR (X)  
EXPEDITED REMOVAL: DEPORTATION: - REINSTATEMENT:  
EXCLUSION: STOWAWAY: - ADMIN REMOVAL:

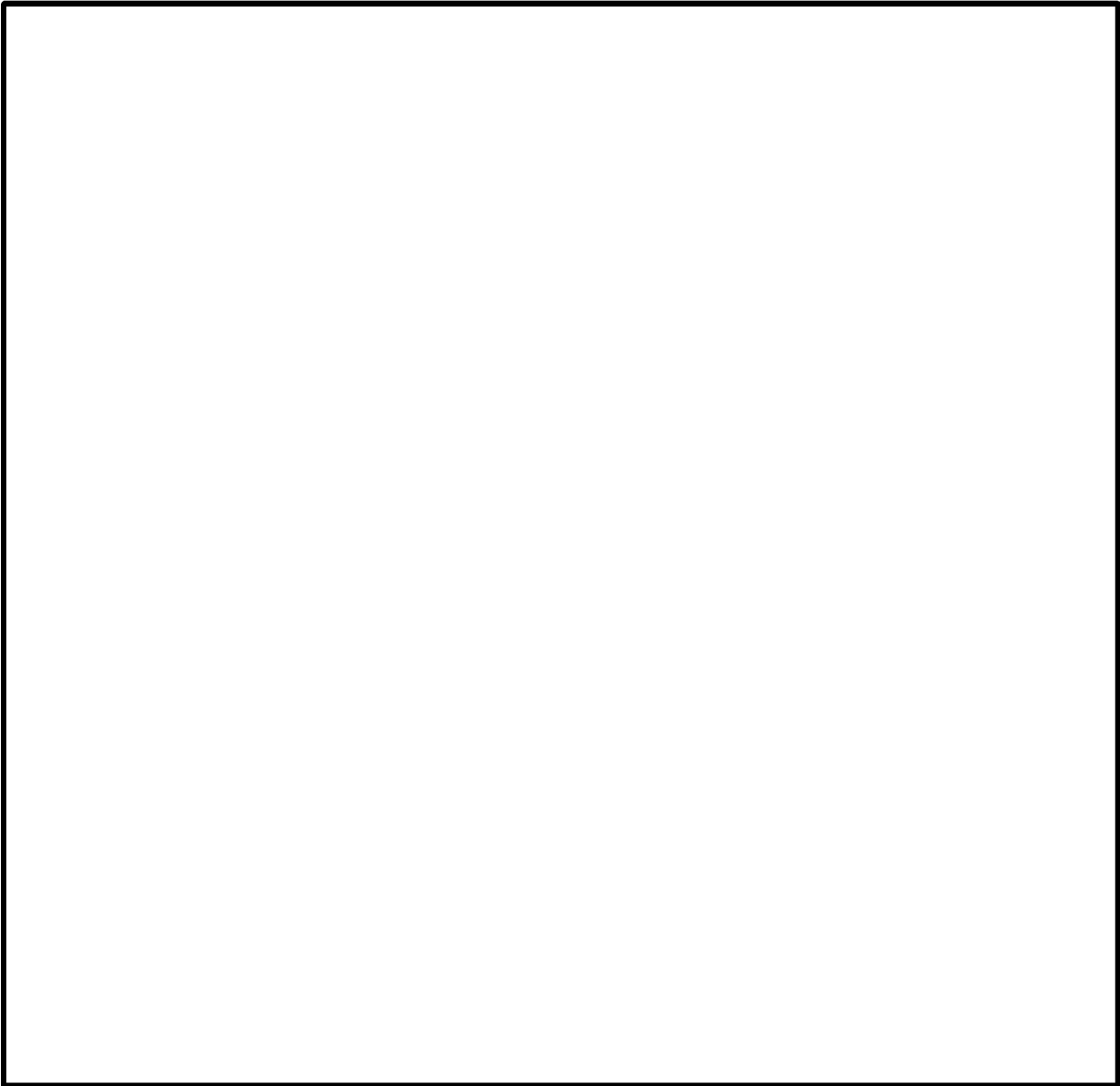
INTERVIEW LOC: ART

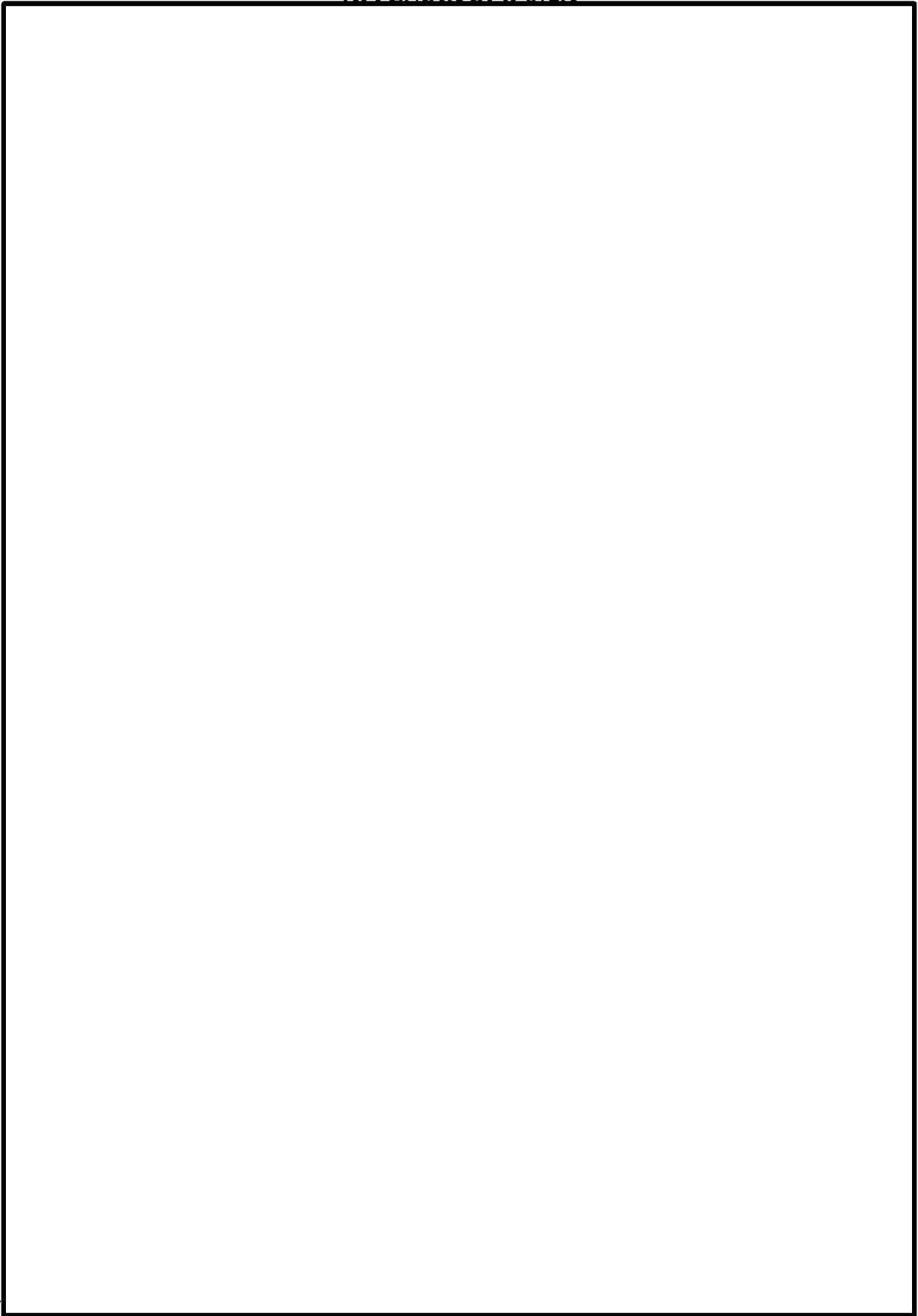
COMMAND: PREC A-NUMBER:

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**APPENDIX C: GAINING ACCESS**

In order to perform your duties at ZART, you will need to gain access to numerous programs, including:

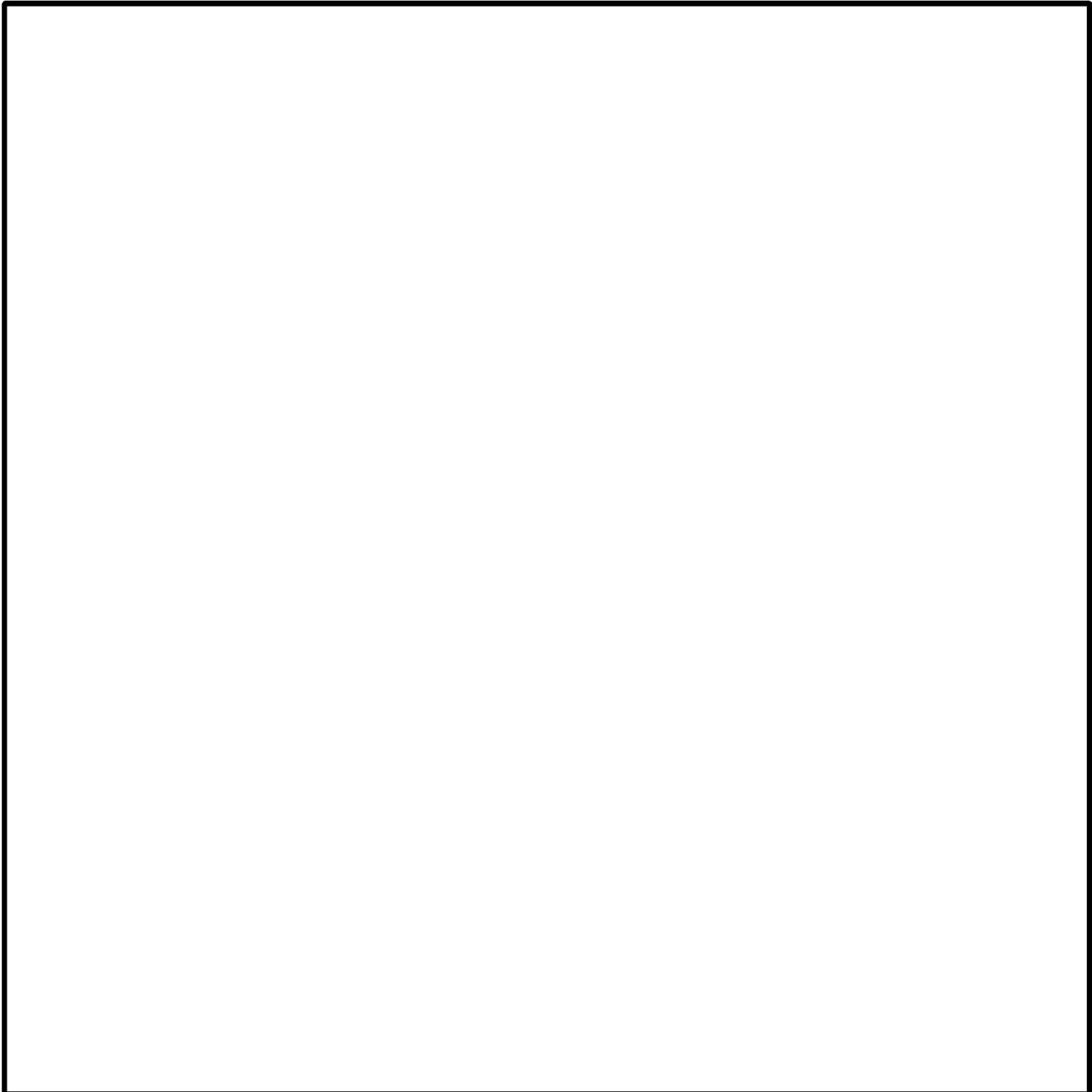




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## REQUEST FOR PICS MAINFRAME APPLICATIONS

THIS FORM IS TO BE USED TO REQUEST ACCESS TO PICS MAINFRAME CIS AND END USER APPLICATIONS ACCESSED THROUGH CA TELEVIEW/NATIONAL SYSTEMS.



# APPENDIX A

## CIS

- 91 SEARCH
  1. 9100 SEARCH MENU
  2. 9101 ID NUMBER
  3. 9102 SOUNDS LIKE NAME
  4. 9103 EXACT NAME
  5. 9104 AKA (ALIAS) NAME
- 92 DATA DISPLAY
  1. 9200 DATA DISPLAY MENU
  2. 9201 PERSONAL DESCRIPTION DATA
  3. 9202 AKA NAMES
  4. 9211 DISPLAY DATA FROM ASIS
  5. 9212 DISPLAY DATA FROM DACS
  6. 9213 DISPLAY DATA FROM LCTS
  7. 9214 DISPLAY DATA FROM NACS
  8. 9215 DISPLAY DATA FROM STSC
  9. 9221 STATUS HISTORY DATA
  10. 9222 ARR/BC CARD DATA (ADIT)
  11. 9224 DATA RELEASE HISTORY LIST
  12. 9225 DATA RELEASE AGENCY LIST
- 93 ADD TRANS
  1. 9300 ADD TRANSACTIONS MENU
  2. 9303 ALIAS NAME
  3. 9311 NATZ STUB
  4. 9312 DERIVATIVE CITIZENSHIP
  5. 9313 FIRST ENTRY CITIZEN CHIL
  6. 9314 EXPATRIATION
  7. 9315 REPATRIATION
  8. 9321 APPL CREWMAN LANDING PMT
  9. 9322 DENIAL CREWMAN LAND PMT
  10. 9323 STOWAWAYS
  11. 9324 CREWMAN DESERTS IN CANADA
  12. 9331 BORDER CROSSING CARD
  13. 9332 DENIAL OF BCC
  14. 9341 APPREHENSION
  15. 9342 CRIMINAL IMM NARC SUBV
  16. 9343 DEPORTATION
  17. 9344 FAILURE TO DEPART
  18. 9345 PROSECUTION
- 94 RECORD MAINTENANCE 9100 SEARCH MENU
  1. 9400 RECORD MAINTENANCE MENU
  2. 9401 A-FILE CONSOLIDATIONS
  3. 9402 INDICATE DUPL RECORDS
  4. 9412 ALIAS MAINTENANCE
  5. 9426 CARD HISTORY UPDATE
  6. 9431 MODIFY DATA FROM ASIS
  7. 9432 MODIFY DATA FROM DACS
  8. 9433 MODIFY DATA FROM LCTS
  9. 9434 MODIFY DATA FROM NACS
- 95 A-FILE TRANSFER
  1. 9500 A-FILE TRANSFER SUBS MENU
  2. 9501 FILE TRANSFER REQUEST
  3. 9502 FILE TRANSFER INDICATION
  4. 9503 FILE TRANSFER CONFIRM
  5. 9504 FILE TRANSFER DISPLAY
  6. 9507 FILE TRANS TO/FR FR

## End User

- APSS - Asylum Prescreening System
- AR-11 - AR11 Portion of NIIS
- CLAIMS - Computer Linked Application Information Management System
- FOIA - Freedom of Information Act
- IRAPS -
- PAS - Performance Analysis System
- RAPS - Refugee Asylum Parole System
- RNACS - Redesigned Naturalization Application Casework System
- TOPS - Table of Organization Position System
- MFAS - Marriage Fraud Application System
- NACS1 -
- XROP -
- ROPES - Remote On-line Printing Executive System

USCIS FORM G-872A (8/18/09)

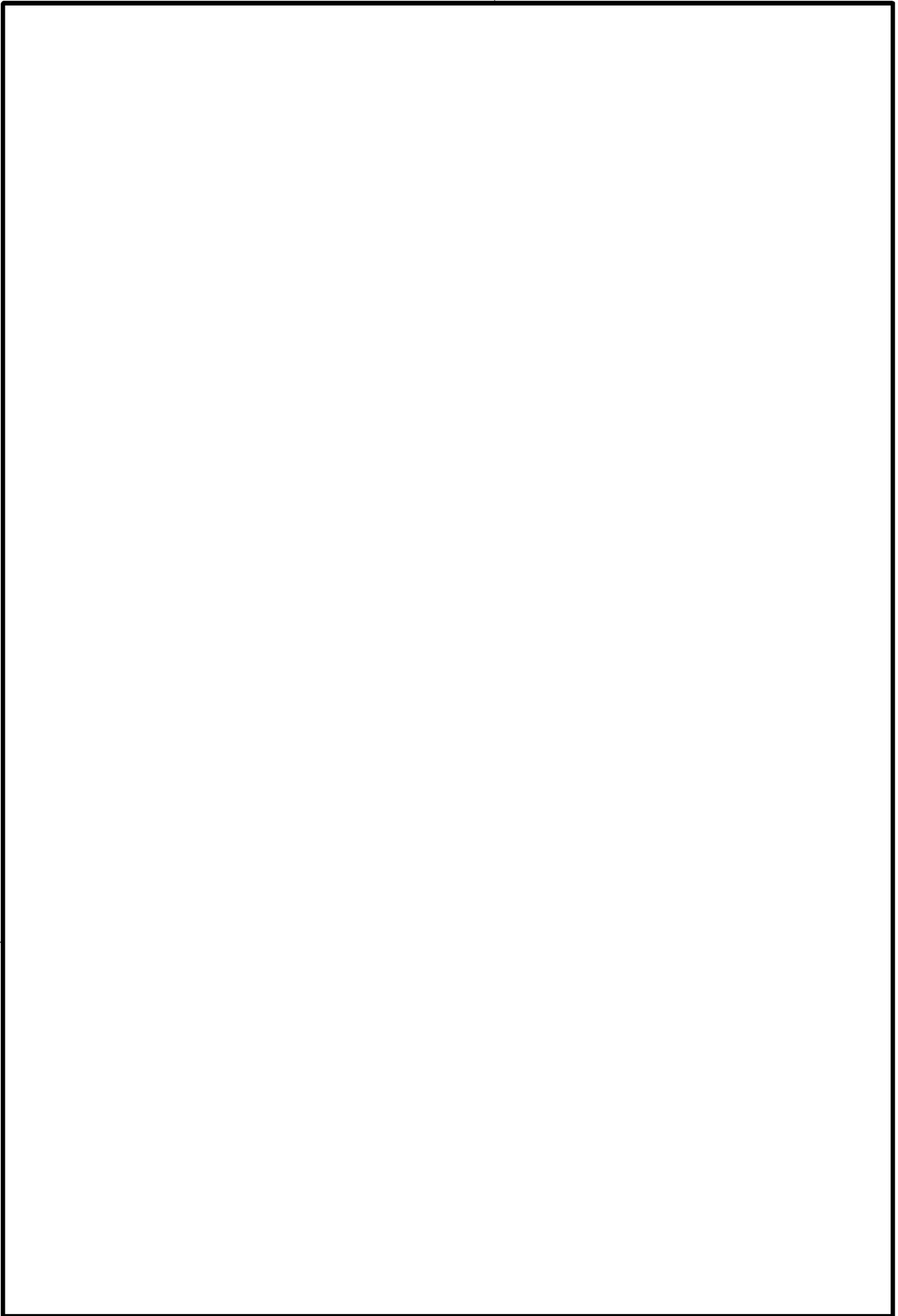
**APPENDIX E: USCIS RULES OF BEHAVIOR**

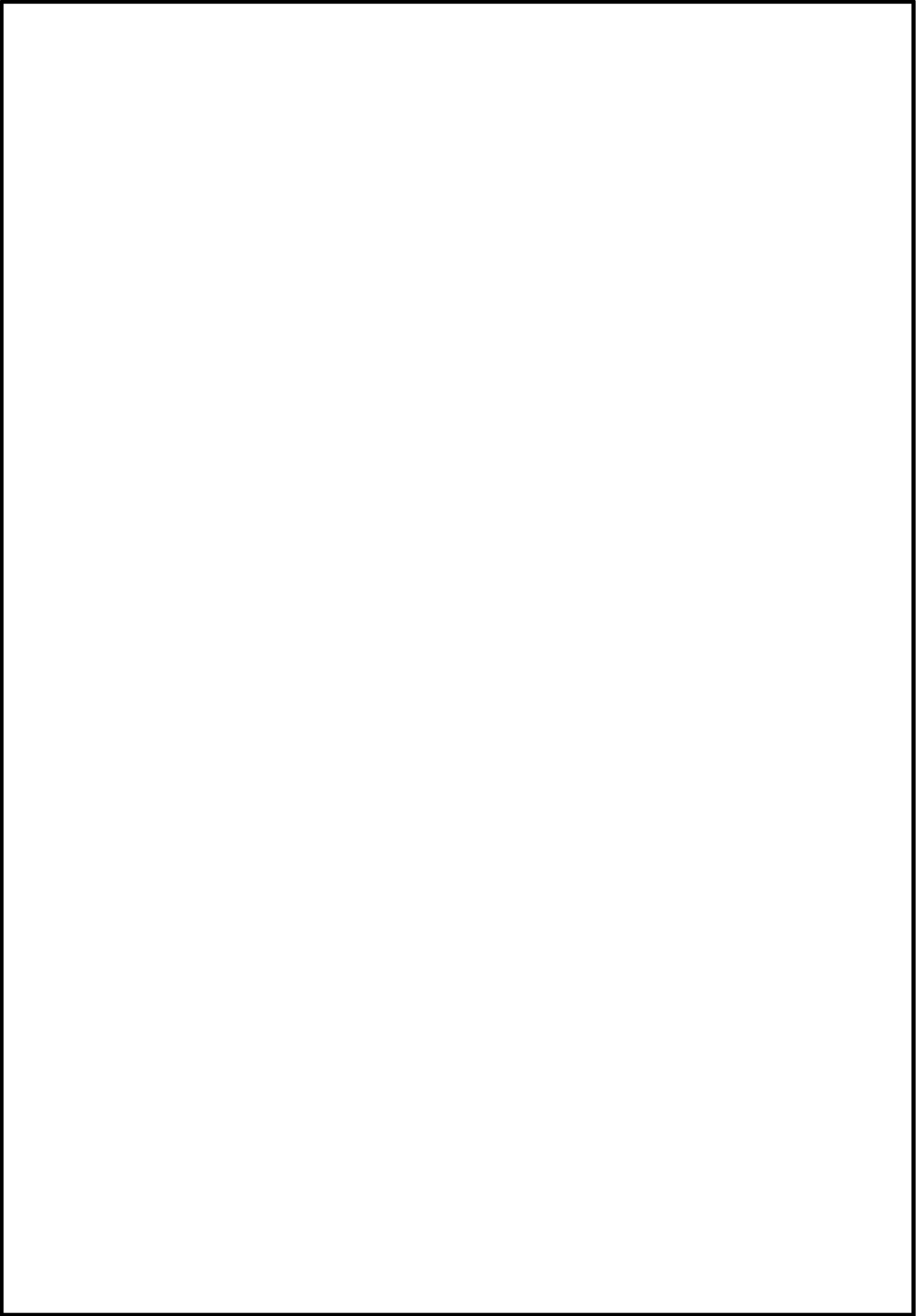
(b)(5)

**U.S. Citizenship and Immigration Services  
USCIS Rules of Behavior**



(b)(5)



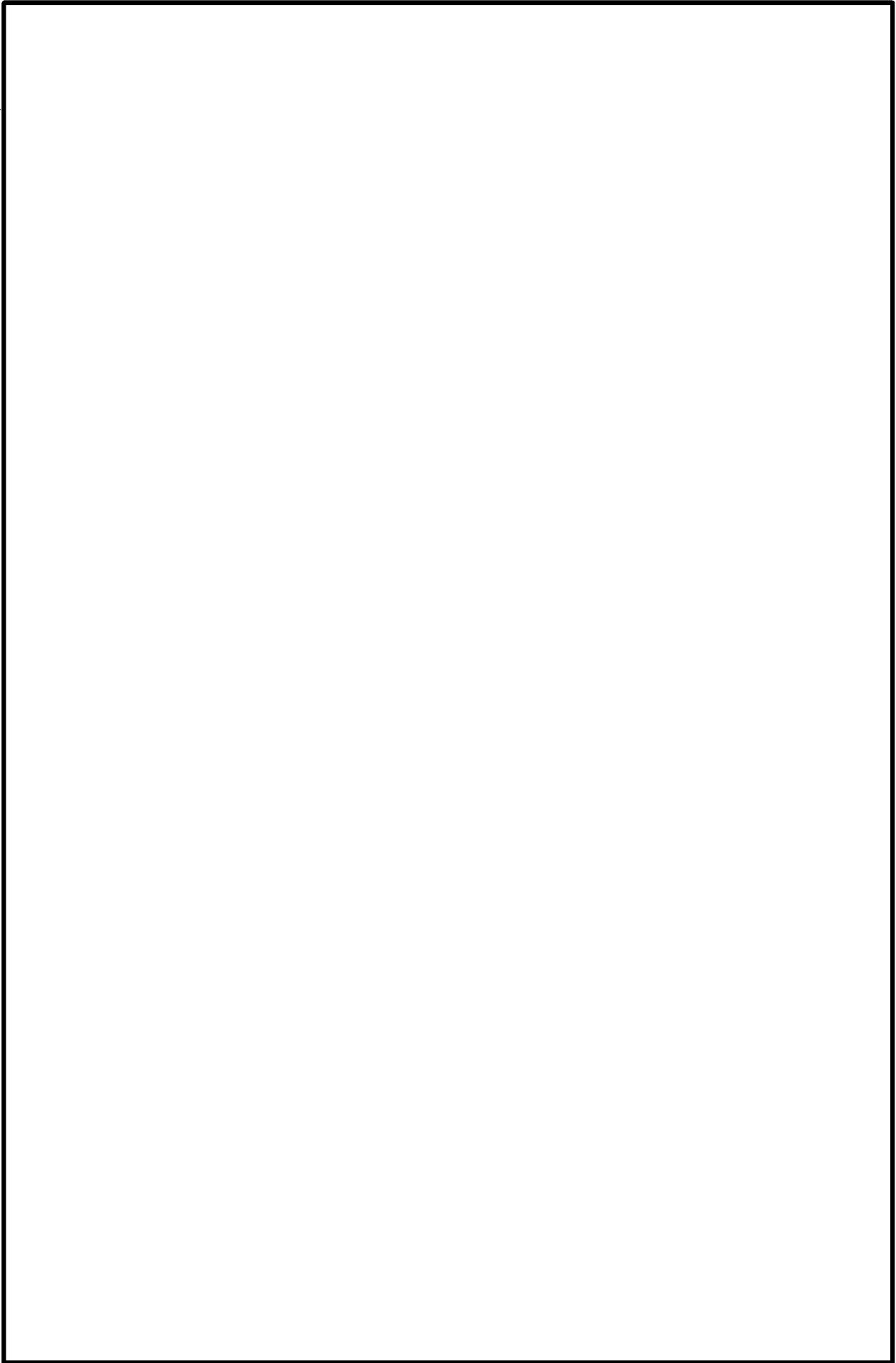




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### Acknowledgment Statement

I acknowledge that I have read the rules of behavior, I understand them, and I will comply with them. I understand that my refusing to sign this agreement renders me ineligible for network access. I understand that failure to comply with these rules may result in oral admonishment, letter of reprimand, short-term suspension, removal or suspension of duties and/or removal of access to GFE.

**Instructions:** Initial the bottom of each page and fill out the fields below. Then, scan the entire form and submit it to  Keep a copy of the ROB for reference and provide a copy to your Human Resource representative and your supervisor or COTR. A copy of the ROB and the signed Acknowledgment Statement must be included in your official employee record.

**Name:** \_\_\_\_\_  
First, Middle Initial, Last

**Phone Number:** \_\_\_\_\_

**E-mail Address:** \_\_\_\_\_

**USCIS Office:** \_\_\_\_\_

**Supervisor's Name:** \_\_\_\_\_

\_\_\_\_\_  
**Signature** **Date**

## **APPENDIX F: SWITCHING PRINCIPALS IN APSS**

In order to switch a Principal to a Dependent in APSS, complete the following steps:

1. In APSS, go the PREC screen and input the Dependent's A#; hit ENTER.
2. Tab over to PRIN A-NUMBER on the top-right corner of the screen and enter the Dependent's A# again; hit ENTER.
3. Go to the PREC screen of the original Principal (e.g., Mother), tab over to PRIN A-NUMBER and enter the Dependent's (e.g., Child) A#; hit ENTER.

**APPENDIX G: DETAINED FAMILY COVER SHEET**

**DETAINED FAMILY**

PREC Date: \_\_\_\_\_ Due Date: \_\_\_\_\_

Interview Date: \_\_\_\_\_

Principal A# and Last Name: \_\_\_\_\_

Dependent(s) A# and Last Name: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Remarks: \_\_\_\_\_

\_\_\_\_\_

Attorney or Consultant: \_\_\_\_\_

\_\_\_\_\_

**DECISION      Pos                      Neg                      Clos**

Things to look out for: \_\_\_\_\_

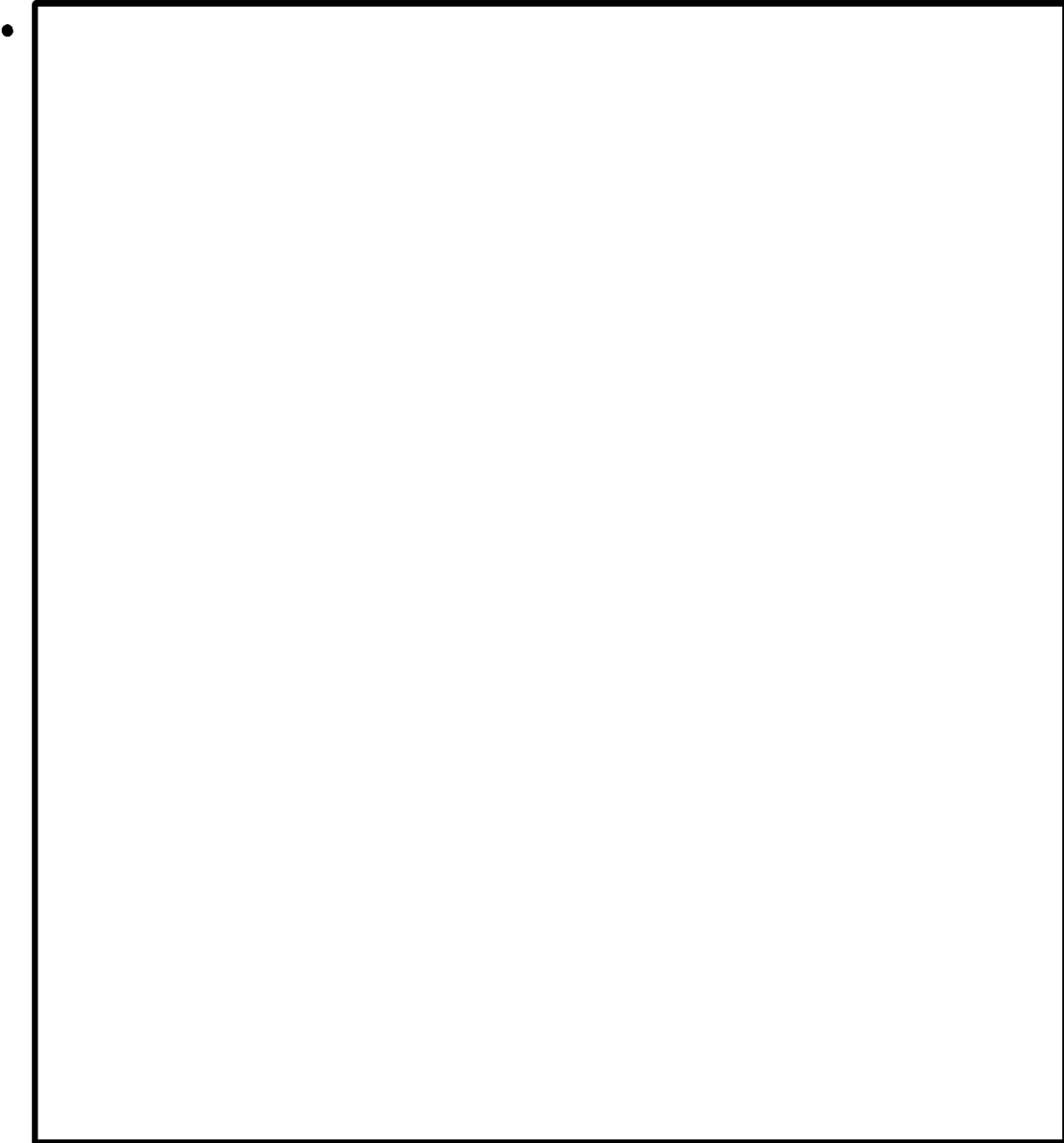
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**DO NOT REMOVE THIS COVERSHEET**

**APPENDIX H: HOW-TO GUIDE: COMPLETING THE CREDIBLE/REASONABLE FEAR BACKGROUND IDENTITY AND SECURITY CHECKLIST AND FLOWCHART**

**HOW- TO GUIDE: COMPLETING THE CREDIBLE FEAR/ REASONABLE FEAR BACKGROUND IDENTITY AND SECURITY CHECKLIST**

1. Fill out the top of the Checklist, including any aliases or alternate names/DOBs located in the file and/or provided by the Resident. (Do not fill out “Date of Decision Service” or “Results Pending at Time of Decision Service.”)
2. IBIS Checks (or see Flowchart below)



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FBI Fingerprints



(b)(7)(e)

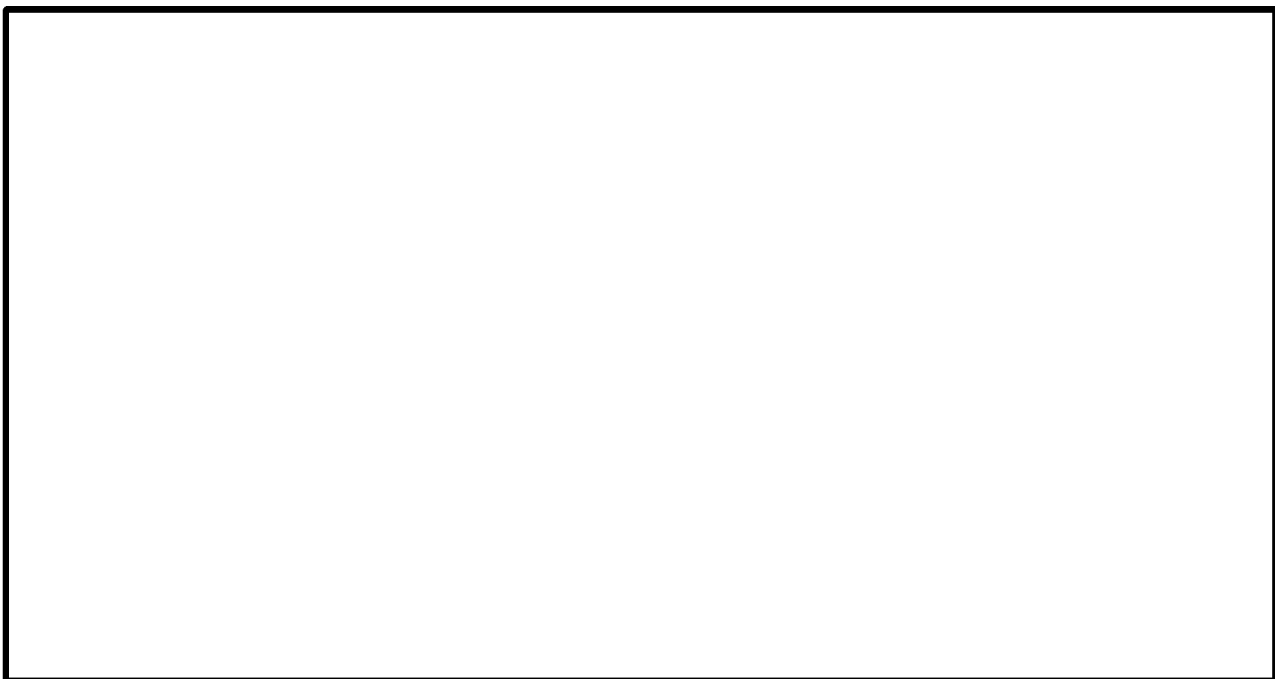


FBI Name Check



US Visit

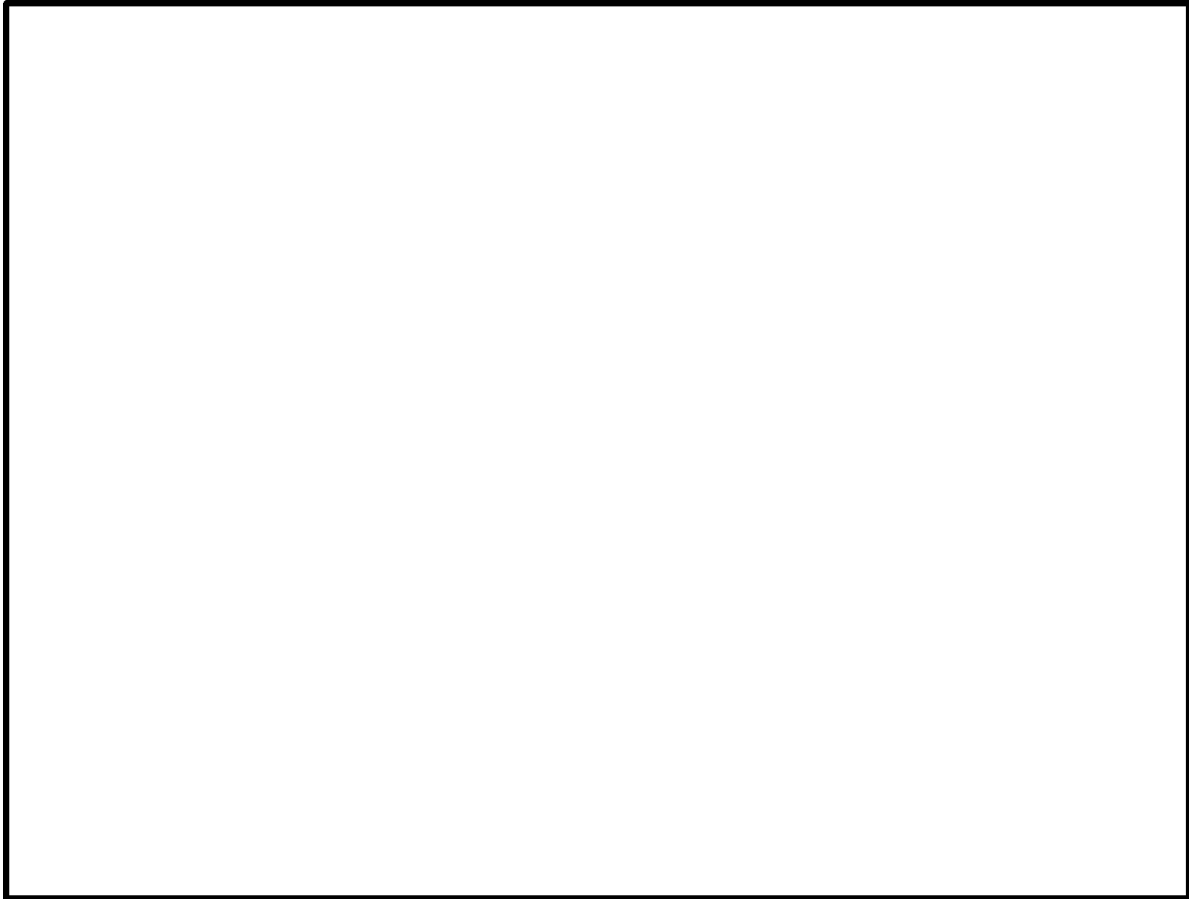
Look at the US Visit print-outs in the file.



- Initial and Date in the left-hand boxes next to each check completed, and at the bottom of the Checklist.

(b)(7)(e)

*Credible Fear/ Reasonable Fear Background Identity and Security Checklist*  
**Flowchart for IBIS Checks**





## APPENDIX I: CHILD SUPERVISION RECOMMENDATIONS

1. It can be time-consuming to walk the Resident to your office and then to the child supervision room and then back to the office for the interview; however, the reasons for doing so include:
  - The Resident may not want her child(ren) separated from her during the interview, so this should always be the Resident's choice and on the record.
  - If the child is older, you need to ask child if he or she would like to be part of mother's claim before dismissing him or her.
  - At this time, a SAPSO or the Team Lead will stay in the child supervision area with the child(ren) and an ICE staff member. Therefore, you must speak to the SAPSO/Team Lead prior to dropping off the child(ren).

### Suggestions on What to Tell the Mother (Resident)

1. You have indicated you would like to interview without your child present.
2. Your child will be watched by government employees in an area specifically for children.
3. We will go get your child as soon as the interview is finished.
4. I will give contact information to the government employee so we can be reached if needed

### Child Supervision Drop-off

1. Sign-in
  - Child's name
  - Time-in/Time-out
  - AO's Name
  - Building#, Office#
  - Email/phone/extension in case something happens
2. Take a few minutes to make sure mother and child are comfortable (show kid toys etc.)

## APPENDIX J: MEMORANDUM ON THE ROLE OF CONSULTANTS

### Memorandum



HQASM 120/16.12 - P

<b>Subject:</b>  Role of Consultants in the Credible Fear Interview	<b>Date:</b>  [signed November 14, 1997]
---	--

**To:**  
All Asylum Directors  
All Supervisory Asylum Officers  
All Asylum Officers

**From:**  
Office of International Affairs  
Asylum Division  
[Joseph E. Langlois /s/ - see page 2]

The purpose of this memo is to provide additional guidance on the role of consultants during the credible fear interview in the context of expedited removal. We are developing further guidance on working with consultants and representatives, including guidance on the documents that may be released to them. That guidance will follow shortly.

The INS encourages the use of consultants by persons who are subject to expedited removal and have been referred for a credible fear interview. Consultation generally facilitates the credible fear process and helps to ensure that asylum seeker's claims are fully elicited. The role of the consultant in the credible fear interview is basically the same as the role of the representative in the affirmative asylum interview. While the asylum officer maintains control of the interview, the consultant and the asylum officer should share a cooperative role in developing and clarifying the merits of the applicant's claim. The consultant should generally be given the opportunity to make a statement at the end of the interview and to ask the applicant additional questions.

Pursuant to 8 C.F.R. § 208.30, applicants in the credible fear process are entitled to consultation with a person or persons of their choosing:

The alien may consult with a person or persons of the alien's choosing prior to the interview or any review thereof, and may present other evidence, if available. Such consultation shall be at no expense to the Government and shall not unreasonably delay the process. Any person or persons with whom the alien chooses to consult may be present at the interview and may be permitted, in the discretion of the asylum officer, to present a statement at the end of the interview. The asylum officer, in his or her discretion, may place reasonable limits on the number of such persons who may be present at the interview and on the length of statement or statements made. 8 C.F.R. §208.30(b)

"Consultant" is not defined in the INA or the regulations. The consultant may be a paid attorney, a *pro bono* attorney, a staff member at a non-government organization, a friend, a relative, or any other person

of the alien's choosing. The alien may have more than one consultant at the interview. However, the asylum officer may reasonably limit the number of consultants present during an interview based on available space considerations and to prevent disruption of the interview.

As noted above, the regulations governing the expedited removal process provide that, *in the asylum officer's discretion*, the consultant may make a statement or comment at the end of the interview. Therefore, the asylum officer has discretion to prevent the consultant from making a statement or comment. However, the asylum officer must have solid reasons to exercise discretion to disallow a consultant from making a statement or comment. Only in extremely unusual circumstances should the asylum officer exercise discretion to prevent the consultant from making a statement or comment.

Generally, the consultant should be allowed to make a closing statement, comment on the evidence presented, and/or ask the asylum seeker additional questions. This should be explained to the consultant and the applicant at the beginning of the interview. The asylum officer may place reasonable limits on the amount of time allotted to the consultant, if it appears that the consultant is using the time in an unhelpful or disruptive manner. It is appropriate for the consultant to clarify issues or statements that were made during the interview, to summarize the case and to make arguments regarding the merits of the case, and to ask additional relevant questions that have not been asked by the asylum officer. It is not appropriate for the consultant to reconduct the interview. The asylum officer must record the consultant's statements in the Q & A's, if the statements are material or relevant to the claim. In some cases, the asylum officer may find it necessary to ask the applicant additional follow-up questions based on issues or information presented by the consultant at the end of the interview. This should also be recorded in the Q & A's.

In most cases, the consultant should hold comments or questions until the end of the interview. In certain instances, however, it will be appropriate for the consultant to comment during the course of the interview to avoid confusion or misunderstandings. Such comments may be helpful and should not be discouraged. At the same time, it is important that the asylum officer retain control of the interview. If the consultant repeatedly interrupts or otherwise disrupts the interview, the asylum officer should ask the consultant to refrain from interrupting the interview and explain that the consultant will be given an opportunity at the end of the interview to ask questions and make comments. Absent unusual circumstances (for example when the asylum seeker has a mental disability), the consultant should not be permitted to answer for the applicant.

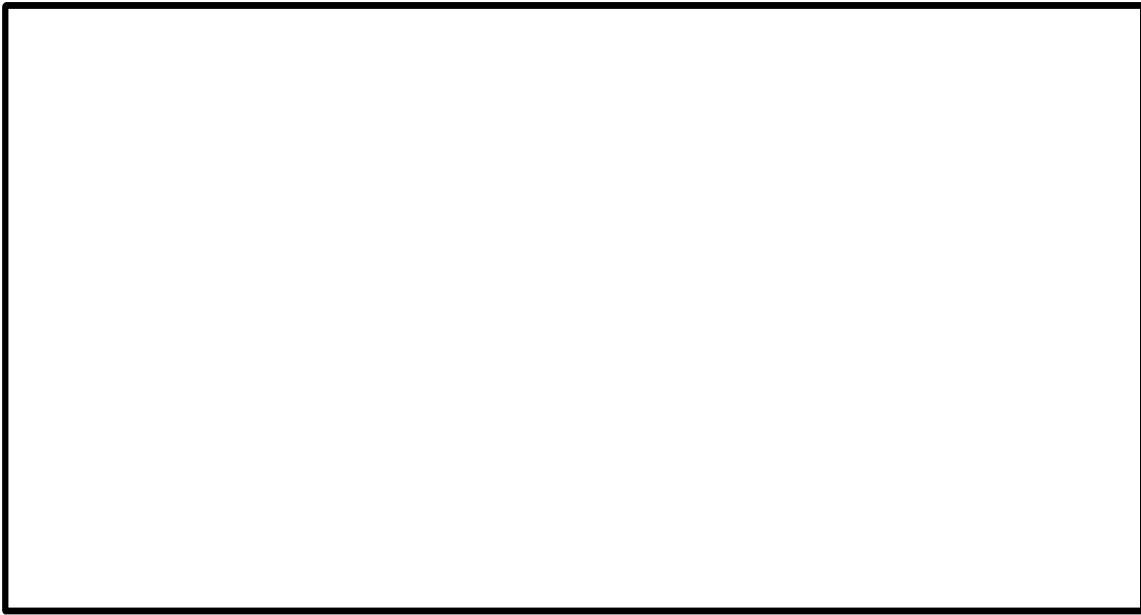
There may be times when the asylum officer needs to discuss certain issues with the consultant (e.g., the consultant's role). The asylum officer should ensure that what is discussed is translated to the applicant so that the applicant is aware of all that transpires during the interview.

As noted above, further guidance on this issue will be forthcoming. Please direct any questions you have regarding the role of the consultant during the expedited removal process to Charlie Fillinger or Lorraine Eide.

\_\_\_\_\_  
Joseph E. Langlois /s/  
Deputy Director

**APPENDIX K: ISSUES RELATED TO FAMILY PROCESSING**

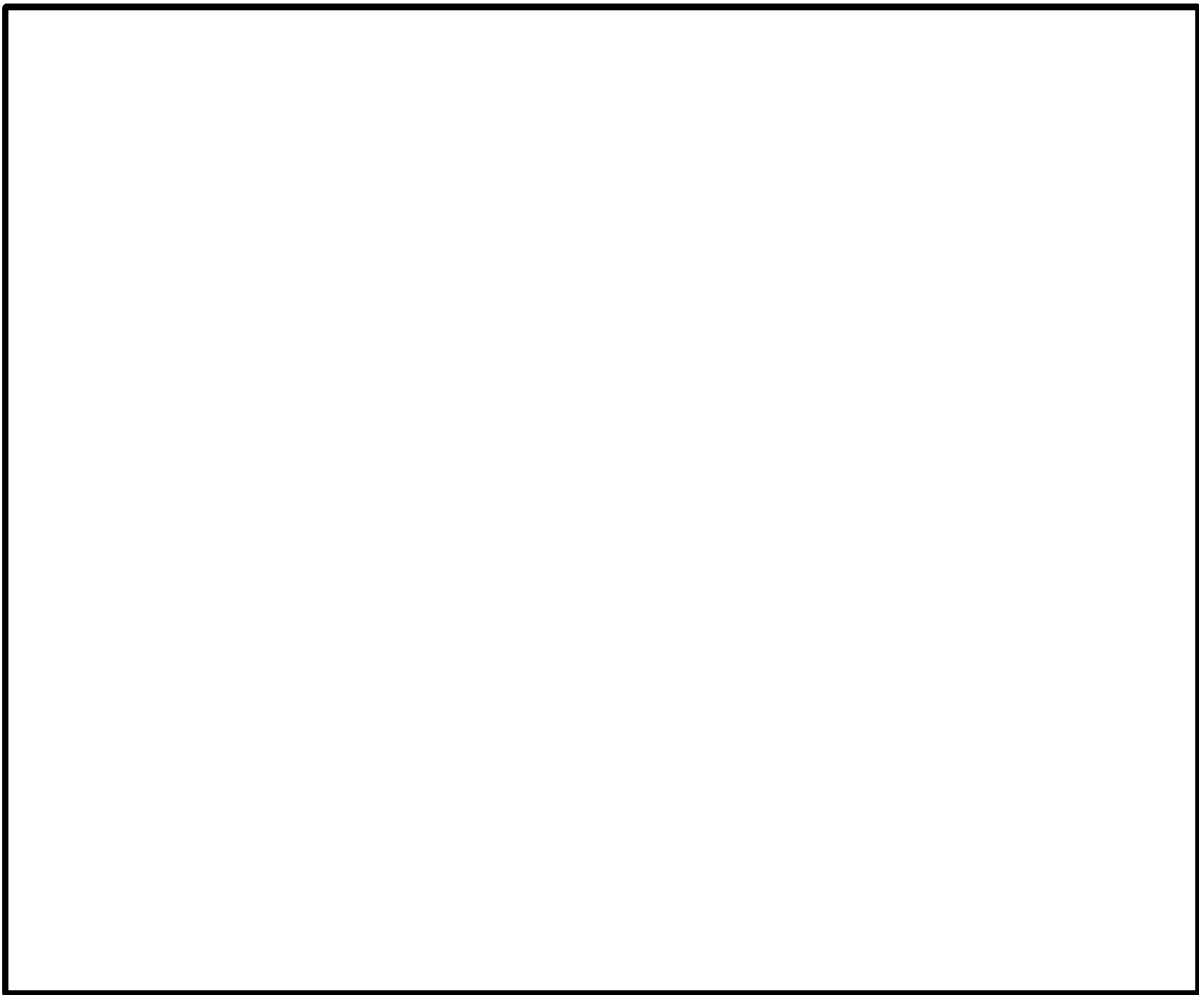
**Children with WFF**

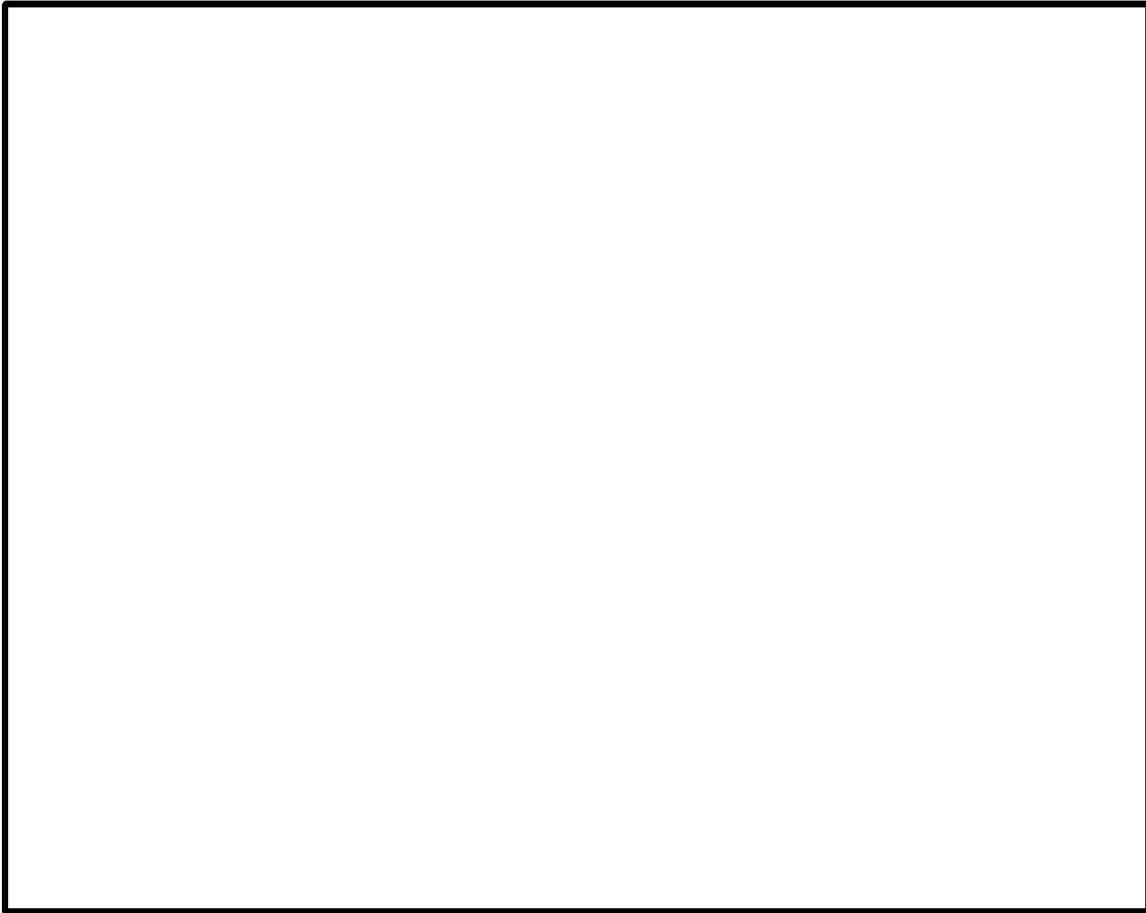


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**Family-Based PSGs and Similarly-Situated Individuals**



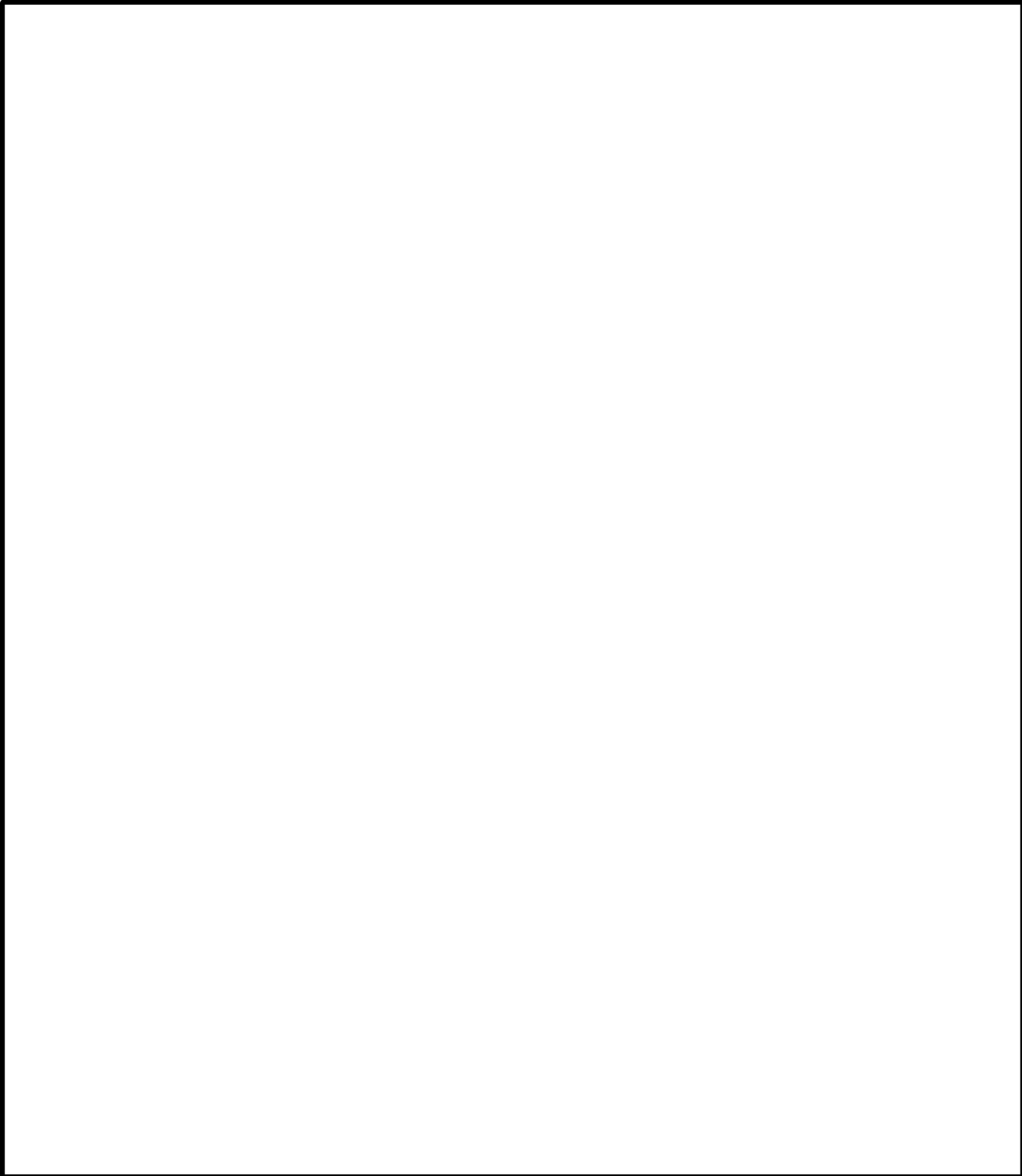


indicating otherwise

**APPENDIX L: FOLLOW-UP INTERVIEW GUIDE**

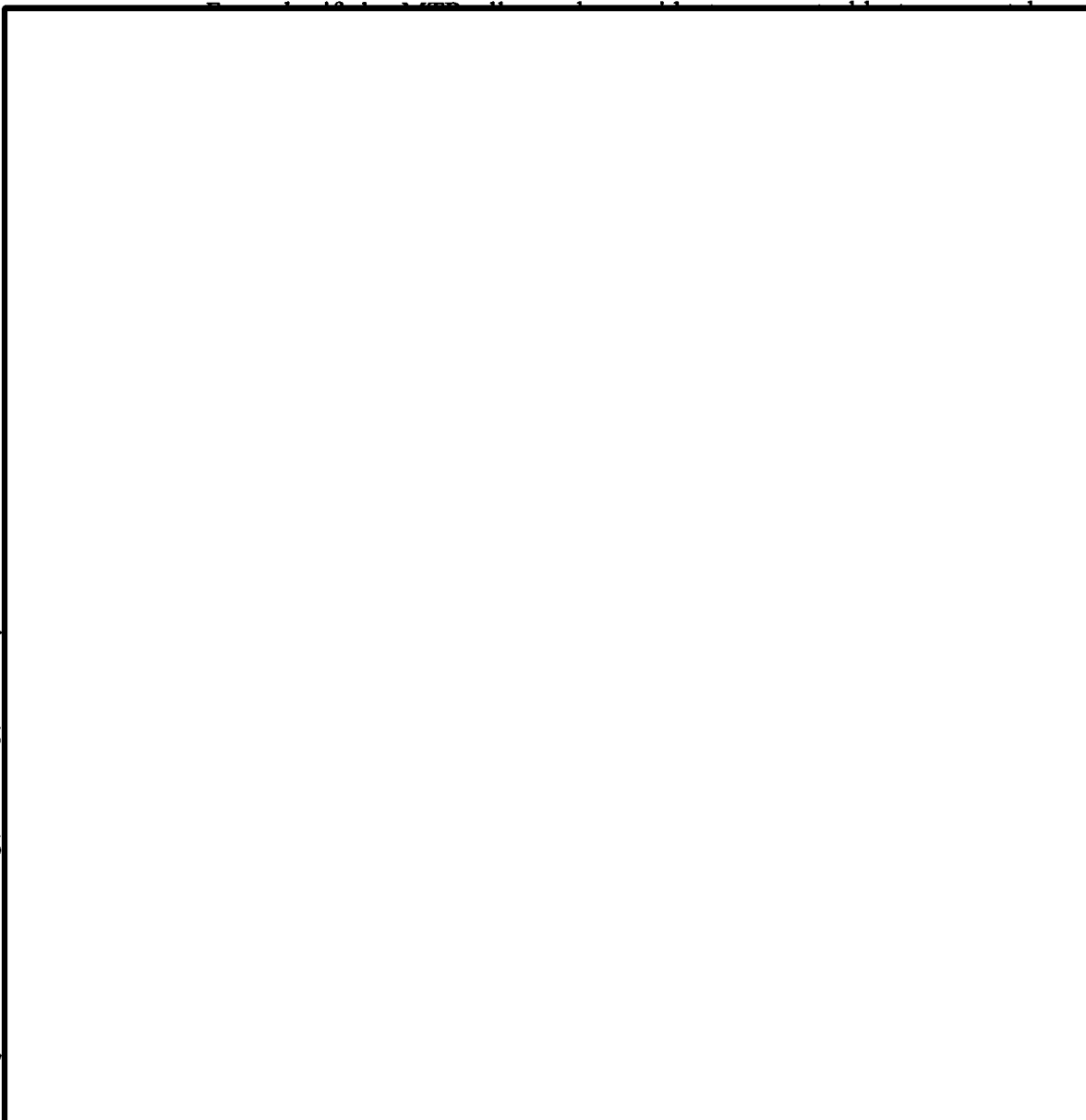
**Purpose**

Given the increasing frequency of follow-up interviews at ZART, this guide has been created to serve as a living document with suggestions, recommendations, and best practices for conducting follow-up interviews. It is essential to remember that procedures at ZART must be fluid in order to adapt to the numerous changes and challenges that confront us on a daily basis. Therefore, an officer should use his or her best judgment and consult with supervisors in any novel or challenging situations.



anything to use or any additional text.

(b)(7)(e)



**Interview**

*Read back summary of testimony, from the previous interview – please write the summary from the first interview verbatim in the notes for the follow-up interview.*

*Ask the resident if they remember testifying to that?*

*Ask the resident if they remember agreeing that that was an accurate summary of their case?*

*Ask resident and each dependent if there is anything they would like to add to the summary. Record each answer.*

*I will now ask you some additional questions that I have. Please remember that I am focusing on information that was not already discussed in the first interview. At the end of my questions I will give you a chance to address anything that I might have missed. At that time your attorney will also ask you a few of his/her own questions or make a statement concerning your case on your behalf.*

*Conduct follow-up interview*

*Ask resident if they would like to add anything.*

*Ask attorney if they would like to add anything.*

*Create summary of old and new testimony and read it back to resident.*

**Read to them modified Paragraph 3.2:** If the Department of Homeland Security determines you have a credible fear of persecution or torture, your case will be referred to an immigration court, where you will be allowed to seek asylum or withholding of removal based on fear of persecution or withholding of removal under the Convention Against Torture. If you are found not to have a credible fear of persecution or torture and you do not request review, you may be removed from the United States as soon as travel arrangements can be made. Do you have any questions?

*Conclude interview.*

**Post-Interview:**

1. **Create new I-870** that reflects information from initial interview as well as the any new information from follow-up interview.
  - a. Include the multiple interview dates, interpreters, and other pertinent information
2. **Create new Assessment Checklist** that reflects any new or additional analysis of the claim.
3. **Create new charging documents** if necessary (keep all previous documentation – even those from a negative determination – in the file).
4. **Update APSS** with new information.
5. **Submit case to SAPSO** for review.

(b)(7)(e)

**Useful tips**

- 1.
  - 2.
  - 3.
- 



## APPENDIX M: DECISION CHANGE MEMORANDUM

### **Filing Change to Determination Paperwork**

When there has been a change to a decision on a case, complete the following steps:

1. **Physical File:** If there has been a change to the decision on a case, complete and print out a Memorandum of Decision Change (see example below). Place the Memo on top of the previous decision documents—always transfer the original charging documents to the new decision packet. Strike each page of the old decision documents and put your ZHN number and date across the strike. Staple together the Memo and all documents pertaining to the previous decision and file UNDER the new decision documents.
2. **In APSS:** Under the PREC screen, hit F9 for NOTES and copy paste the exact Memo wording into the NOTES box. Hit ENTER.

### **MEMORANDUM OF DECISION CHANGE**

**TO:** FILE  
**FROM:** ZHN XXX  
**RE:** Axxx xxx xxx & Axxx xxx xxx

Resident received a NEGATIVE credible fear determination on xx/xx/xx. However, after conducting a re-interview on xx/xx/xx, the initial determination was changed to a POSITIVE. Documents pertaining to the original credible fear determination were CANCELLED and the new determination was served upon the resident and forwarded to ICE.

## APPENDIX N: GUIDE FOR RARE LANGUAGES

### The Importance of Effective Communication

The interview is crucial in the refugee determination process and serves the main purpose of gathering information relating to the Resident's eligibility for refugee status and admissibility to the United States. *See* LP- Introduction to Non-adversarial Interview at 2. Refugee and asylum officers have an affirmative duty to elicit all relevant and useful information to determine an Resident's eligibility for a benefit sought. *See* 8 C.F.R. § 208.9(b); UNHCR Handbook, paras. 196 and 205(b)(i). Some residents do not speak Spanish as a first language and have limited education. A reasonable effort should be made to find an interpreter for the Resident's native language if he or she is unable to provide sufficient detailed testimony in Spanish. *See* LP- Interviewing Working with Interpreters, Asylum Supplement B.

1. Some of the indigenous languages encountered at ZART are:
  - Mam (Guatemala)
  - Maya Kanjobal (a.k.a. Konjuval; a.k.a. Q'anob'al) (Guatemala)
  - Acateca (a.k.a. Acateco) (Guatemala)
  - K'iche (a.k.a. Quiche) (Guatemala)
2. Interpreter Services: Lionbridge has resources for the above languages but due to high demand, an appointment must be made in advance. Normally, you will not have advance knowledge of the need for a rare language interpreter. Call Lionbridge when you realize a rare-language interpreter is needed—on a rare occasion, you may be able to obtain an interpreter. Even though Language Line does not have resources for these languages at the time of writing, you are still required to call and get it on the record that no resources exist for that language.

### Determining the Best Language for the Resident:

Try to determine early in the interview if the Resident might need a rare-language interpreter. After Paragraph 1.28 is read to the Resident, ask the resident if he or she understood and if he or she needs it explained in simpler language. Communicate with the interpreter: let him or her know that you need feedback about the Resident's Spanish-language ability.

#### *Example 1*

Q. What languages do you speak fluently?

A. Spanish, Mam.

Q. Do you feel comfortable doing this interview in Spanish?

A. Yes.

Q. May I ask how many years of education have you completed?

A. 9.

Q. Will you let me know if you do not understanding something?

A. Ok.

Q. (AO to Interpreter): Interpreter, I will need to rely on your judgment about the resident's Spanish ability. Please let me know if you feel she does not understand.

A. (interpreter to AO): Okay.

Here the Resident has indicated willingness to proceed in Spanish. The Resident has completed enough schooling to indicate that he or she is probably proficient in Spanish, but perhaps not familiar with sophisticated terminology. You proceed with interview, advising the interpreter that he or she should let you know if the Resident seems to have difficulties understanding. Inform the interpreter that he or she can adjust the vocabulary to suit the Resident's education level. If communication difficulties occur later in the interview, you have the authority to determine that the Resident cannot adequately express his or her claim and re-schedule with a Mam interpreter. Ask the Resident throughout the interview if he or she understands the interpreter.

*Example 2*

Q. What languages do you speak?

A. Spanish, Mam. But Spanish not so good.

Q. do you feel comfortable doing this interview in Spanish?

A. I don't know.

Q. May I ask how many years of education have you completed?

A. Only 2 years.

Q. Ok, I will try to find a Mam interpreter.

A. Ok .

(You disconnect from the Spanish interpreter, call Lionbridge, dial 0 for the operator, and request a Mam interpreter. If no Mam resources are available for the rest of the day, call Language Line. If no Mam resources are available, call Lionbridge and request a Spanish interpreter.)

Q. There is no Mam interpreter available today. I will have to make an appointment for a Mam interpreter. So, I will reschedule this interview. I hope we can continue this interview in a few days.

(After returning the Resident to the Day Room, call the Lionbridge operator to schedule an appointment for a Mam interpreter. Advise SAPSO/Team Lead as soon as possible of the scheduled appointment time for the case.)

Proceeding in Spanish: Things to Look Out for During the Interview

If while conducting the interview, you notice the following cues, do not let it continue without addressing it according to the examples below:

1. The Resident's answers seem unrelated to the question asked;
2. The interpreter has to repeat/clarify questions frequently; and/or
3. The interpreter and Resident talking between themselves without interpretation.

### *Example 1*

Q. (AO to interpreter): Interpreter, I need to know how the Resident is answering my questions. What did he or she say? (The interpretation provided by the interpreter is puzzling in that it seems unrelated to your question.)

Q. (AO to interpreter) Do you feel it is a simple misunderstanding? Or, do you feel the Resident's Spanish ability is not good enough for this kind of interview?

Based on interpreter's response, you can either proceed with interview or re-schedule with a rare language interpreter.

Be aware that the occurrences above can also signify an incompetent Spanish interpreter. We do not want to use ineffective interpreters: If you decide that an interpreter is not effective, you can dismiss him or her.

### *Example*

Q. (AO to interpreter): I'm sorry, interpreter, but I have to disconnect now because I feel that you and the Resident cannot communicate effectively. (Hang up.)

Call Lionbridge and ask for another interpreter. You should also tell the Lionbridge operator that the prior interpreter was not competent.

### How to Make an Appointment for a Rare Language Interpreter

1. Call Lionbridge, dial 0 for operator, tell the operator the language you need and ask for the soonest available times. Select a time within regular working hours (preferably, the first interview of the day: 8:00 a.m. MTN or 10:00 a.m. EST).
2. Some indigenous languages will require a "Spanish Relay" if the indigenous language interpreter is not fluent in English. This means questions will be interpreted from English-Spanish, then Spanish-indigenous language. This is time consuming. Notify your supervisor that your scheduled interpreter will require a Spanish relay; your supervisor may wish you to close the case rather than spend a long time interviewing a single case. (Cancel the appointment if this is the case).

If you proceed with the Spanish relay, you will make two entries in your interpreter log: one for the indigenous language interpreter, and one for the Spanish interpreter. **Start on time**—if you set the appointment for 8:00 a.m., they start billing us at 8:00 a.m.

### What to Do if There Is No Interpreter Available in the Near Future

Sometimes the Lionbridge operator will inform you that there are no available resources for the "foreseeable future." If an interpreter will not be available within 48 hours, NTA the principal Resident and any dependent(s) and close the case (see instructions below). Then, write a Memo to File (see example below). See Ted H. Kim, "Processing Credible Fear Cases When a Rare Language Interpreter is Unavailable," HQRAIO 120/9.15A (June 14, 2013).

### What to Do if the Indigenous Language Interpreter Cannot Understand the Resident

There can be regional variations/dialects in the Central American languages. If the interpreter is unable to communicate with the Resident for such reasons, stop the interview. Explain to the

Resident that he or she will have an opportunity to present his or her case in immigration court, but the interview cannot continue because we are not able to understand him or her. Close the case and issue an NTA.

#### How to Close a Case for Rare Language

In APSS, go to the 'clos' screen. Close the case; enter the date. Enter code 'TL' (rare language) and hit F9. Write a memo summarizing why you are closing the case. For example, "The Resident is not able to continue interview in Spanish, interpreter service not available within reasonable time, resident will be given an NTA in order to avoid undue delay." Hit ENTER to save the memo to APSS. Write a Memo to File explaining why you have closed the case (see example below). (There is no need to include the I-870 or checklist—just include the Memo to File, notes, and NTA.) \* **DO NOT** check the box on the I-862: "This notice is being given after an asylum officer has found that the respondent has demonstrated a credible fear of persecution or torture."

#### Sample Memo

### MEMORANDUM OF RARE LANGUAGE

**TO: FILE**  
**FROM: AO AWESOME ZHN 007**  
**RE: A 2XXXXXXXX;2XXXXXXXX**  
**DATE: --/-- /--**

The resident in this case, a native and citizen of Guatemala, speaks [language]. The resident is not able to complete her Credible Fear interview with available language services. The primary language service, Lionbridge, was contacted but informed the asylum officer that they did not have an available resource for [language] at the time of interview. The Lionbridge operator informed the officer that due to high demand, a [language] interpreter would not be available in the foreseeable future. The secondary language service, Language Line, indicated that they likewise did not have a resource for [language]. The resident affirmed that she was comfortable using Spanish but demonstrated a lack of comprehension during the interview. It was determined that the resident was unable to express herself sufficiently in Spanish and that the interview should be terminated. As a result, an NTA will be issued in this case, so as to avoid an undue delay in the processing of the case and to afford the resident all possible avenues to have her claim of fear heard.

## APPENDIX O: DECISION SERVICE SCRIPTS

### DECISION SERVICE

#### Consultants and Attorneys During the Decision Service

The manner of decision service is determined by whether the Resident is represented.

2. At the beginning of the service, ask the Resident, “Do you have an attorney or consultant that you want present for your service?”
  - If **NO**: Proceed with decision
  - If **YES**: Contact attorney or consultant according to instruction 2
3. If a G-28 Is in the File:
  - Proceed to the attorney trailer to notify the attorney that the decision service will take place.
  - If the Resident’s Attorney is Not Present:
    - If someone else from the same law firm or legal defense team (e.g., AILA – Artesia Legal Defense Team) wants to be present for the service, you can allow him or her to accompany you to the interview. However, because of attorney-client privilege, do not give out the name of the resident, although it is currently permissible to tell the last 3 digits of the A# if asked by someone who is part of the same law firm or legal defense team.
    - If there is a G-28 in the file, you can conference the attorney in by pressing “Conf” and then “Join” on the telephone.
4. If someone who is not listed on the Resident’s G-28 is in the room, introduce the person to the Resident at the beginning of the interview (e.g., “This is [NAME], who is also part of the same group that represents you”), and ask the Resident, “[NAME] would like to sit here for your decision service. Is that okay with you?”
5. Call Lionbridge (or Language Line if there is an unreasonable delay to reach Lionbridge) to have an interpreter interpret the Decision Service

Preparing the Packets Before Service Follow instructions in Section 7.2 of ZART Daily Operations SOP. Note: **The Credible Fear Determination Checklist is an internal document that remains in the USCIS working file. It should never be served on the resident or given to ICE.**

#### Positive Decision

3. Communicating with the Interpreter:
  - “Interpreter, today is a decision service. Do you have the I-862 available?”

- “Interpreter, can you please introduce yourself to the resident and make sure that you can understand each other?”

#### 4. Communicating with the Resident:

- “My name is \_\_\_\_\_; I am a clerk from the Artesia asylum office. I am here today to give you your decision regarding your credible fear claim.”
- “I will now read you the decision” (*Read the following checked boxes on the I-862*)
- “USCIS has found that there is a significant possibility that you might qualify for refugee status. This is a good thing because now you will have the opportunity to tell your story before an immigration judge.”
- *Read the information of the PA, the checked charge, and the numbered charges:*  
 “You, NAME, are an alien present in the United States who has not been admitted or paroled. You are not a citizen or national of the United States. You are a native of COUNTRY and a citizen of COUNTRY. You entered the United States at or near POE on DATE. You did not then possess or present a valid immigrant visa, reentry permit, border crossing identification card, or other valid entry document. You were not then admitted or paroled after inspection by an immigration officer. On the basis of the foregoing, it is charged that you are subject to removal from the United States”
- “Therefore, you have been ordered to report for a hearing at a time and date here at the Artesia Immigration Court.”
- *Explain “Notice to Respondent” on second page of NTA.*
  - “Do you understand what I told you?”
  - “Do you need me to explain this to you in plain language?”
- “You will have at least 10 days to prepare for your hearing. However, you can ask to have a quicker hearing if you want. This is your choice. What do you want to do?”
  - If resident requests prompt hearing, resident signs/dates in the Prompt Hearing box, and you also sign in the Prompt Hearing box.
  - If resident does not want a prompt hearing, do not sign the box.
- Have the Resident sign the NTA (I-862) and the List of Legal Resources for herself and for any dependents.
- “I am giving you a copy of the I-860, a copy of the I-862, the I-870, and the Asylum Officer’s notes.”
- “Do you have any questions?”

- If a question regarding timing is asked, you can provide the following answer:  
“We do not know what the time-frame for immigration court is.”
5. After service, give ICE the service packet with all original signatures, which includes any correspondence (e.g. MTRs, evidence, etc.), G-28s, and any other relevant documents that need to be included in the A-file
  6. Update ADEC screen in APSS with the date the decision was served along with the date given to ICE (DO)

### Negative Decision

#### 4. Communicating with the Interpreter:

- “Interpreter, today is a decision service. Do you have the I-863 and I-869 available?”
- “Interpreter, can you please introduce yourself to the resident and make sure that you can understand each other.”

#### 5. Communicating with the Resident:

- “My name is \_\_\_\_\_; I am a clerk from the Artesia asylum office. I am here today to give you your decision regarding your credible fear claim.”
- “It has been found by the Artesia Asylum Officers that you do not have a credible fear of persecution or torture if you return to your home country. This is a negative decision which means you do not have an opportunity to tell your story before an immigration judge.”
- “I will now read you the record of your Negative Credible Fear Findings” (Read the following checked boxes on the I-869)
  - “USCIS has determined that you do not have a credible fear of persecution or torture. There is no significant possibility that you could establish in an asylum hearing that the harm you experienced and/or the harm you fear is on account of one or more of the five grounds for asylum (race, religion, nationality, political opinion, or social group). USCIS has also determined that there is no significant possibility you could establish that the harm you fear would be inflicted by, or at the instigation of, or with the consent or acquiescence of, a government official or other person acting in an official capacity.”
  - “Therefore, you are ordered removed from the United States. You may be removed immediately. However, you may also request that an Immigration Officer Judge review this decision. The judge will either choose to keep the decision or might issue a new decision. Would you like an Immigration judge to review your decision?”

- If NO: Check the NO box and have resident sign and date I-869.



- If **YES**: Check the **YES** box and take out the I-863:
  - *Read top of I-863 and first checked box*: “You, NAME, entered at or near POE on DATE. You have been found inadmissible to the United States and ordered removed. A copy of the removal order is attached. You have requested asylum and/or protection under the Convention against Torture and the matter has been reviewed by an asylum officer who has concluded you do not have a credible fear of persecution or torture. You have requested a review of that determination.”
  - “Therefore, you have been ordered to report for a hearing at a time and date here at the Artesia Immigration Court. It could take up to 7 days to review the decision.”
  - Ask the interpreter to read the 3 checked boxes in the Notice (Begins with “You may be represented...”)
- “Do you understand what we told you?”
- “Do you need me to explain this to you in plain language?”
- If the Resident has requested review of the CF determination, you sign on both lines on the I-863. Write the language used during the service and the language service provider ID number (e.g., “Spanish” and “Lionbridge 280000”). Have the Resident sign the Certificate of Service (I-869) and the List of Legal Resources for herself and for any dependents.
- “I am giving you a copy of the I-860, a copy of the I-869, the I-870, and the Asylum Officer’s Notes.” If IJ review requested, also give the PA a copy of the I-863.
- “Do you have any questions?”
  - If a question regarding timing is asked, you can provide the following answers:
    - “We do not know what the timeframe for immigration court is.”
    - “We do not know when flights leave. Travel arrangements will be made as soon as possible.”

### After Service

1. After service, give ICE the service packet with all original signatures, which includes any correspondence (e.g. MTRs, evidence, etc.), G-28s, and any other relevant documents that need to be included in the A-file. *See* Section 7.2.2 of ZART Daily Operations SOP.
2. Update ADEC screen in APSS with the date the decision was served, along with the date given to ICE (DO).

**APPENDIX P: MEMORANDUM TO "FLIP" DEPENDENT TO PRINCIPAL**

**MEMORANDUM**

**TO: FILE**  
**FROM: AO AWESOME ZHN 007**  
**RE: A 2XXXXXXXX;2XXXXXXXX**  
**DATE: --/--/--**

The principal applicant in this case is Daisy DUCK (AXXXXXXXXXX). Her mother, Minnie MOUSE (AXXXXXXXXXX), is considered a dependent on this case. The case was flipped from parent to child as the principal applicant. Dependent Donald DUCK (AXXXXXXXXXX) remains a dependent.

**Donis, Antonio**

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**From:** Donis, Antonio  
**Sent:** Saturday, July 19, 2014 3:44 PM  
**To:** Hook, Garland R; Orendach, Janette; Zee, Dong; Stawar, Andrew X; Hensleigh, Chris J; Burnett, Yolanda M; Aguilar, Rafael; Guerrero, Ramon A  
**Cc:** Castaldi, Amarilde F  
**Subject:** Defective I-860s

Hey team,

Just letting you know that defective I-860s can be remedied very quickly here in Artesia.

Ramon worked with ERO to get one re-issued in a matter of minutes, which allowed us to continue processing a case.

Please examine each I-860 that comes across your desk and let us know if you discover any mistakes so we can resolve them with ERO.

Thanks,

Antonio\_\_  
Asylum Team Lead  
Artesia Family Residence Center

## **Lynn, Mallory L**

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**From:** Lynn, Mallory L  
**Sent:** Thursday, July 31, 2014 11:00 AM  
**To:** Stawar, Andrew X; Hensleigh, Chris J; Hook, Garland R; Orendach, Janette; Zee, Dong  
**Cc:** Donis, Antonio  
**Subject:** notes on interviewing

Hi team,

Here are a couple of notes about interviewing that I would like you to keep in mind:

- Please try to ask questions in plain language. Many of our applicants are very uneducated; we need to make sure that they understand what we are asking. Questions such as, "Were you ever persecuted by agents of the government?" or "Did anyone from the police, government, or military ever consent or acquiesce to your harm?" do not constitute plain language. Rephrase with questions about looking the other way, whether they would allow applicant to be hurt, and so forth.
- Please be mindful of asking for specific examples when discussing consent/acquiescence and unable/unwilling. As I mentioned yesterday, we need to make sure that we are effectively affording applicants the opportunity to provide us with this information. When an applicant says she has heard of the police refusing to get involved "many times," it is a good practice to ask if she can tell you about one.

Thanks and as always, we really appreciate your excellent work on these cases. You guys are a great team.

Mallory

## **Lynn, Mallory L**

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**From:** Lynn, Mallory L  
**Sent:** Saturday, August 09, 2014 2:23 PM  
**To:** Reza, Naushad; Zee, Dong; Gonzalez, Martha; Hook, Garland R; Orendach, Janette  
**Cc:** Littlepage, Ryan L  
**Subject:** one more bit of wisdom

Hi team,

I know we have talked about this before, but I just want to reemphasize it. On negatives, please make 100% clear – even if it is only a brief sentence – that you have examined and rejected any claims by dependent children (and why, for both persecution and CAT). This will make Brian's life easier and also provide a lot of clarity for any second-line reviewers.

Thanks again for all of your great work! You guys are fantastic 😊

Mallory

**Lynn, Mallory L**

---

**From:** Lynn, Mallory L  
**Sent:** Friday, August 08, 2014 6:28 AM  
**To:** Zee, Dong; Reza, Naushad; Hook, Garland R; Gonzalez, Martha; Orendach, Janette  
**Cc:** Littlepage, Ryan L; Donis, Antonio  
**Subject:** current case law

Hi team – please make sure you are citing to up-to-date case law. With regard to the PSG analysis and social distinction, please be sure to take a look at Matter of M-E-V-G-, which is available here:  
<http://www.justice.gov/eoir/vll/intdec/vol26/3795.pdf>

Thanks!  
Mallory

## **Lynn, Mallory L**

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**From:** Lynn, Mallory L  
**Sent:** Wednesday, August 06, 2014 5:06 PM  
**To:** Gonzalez, Martha; Orendach, Janette; Zee, Dong; Reza, Naushad; Hook, Garland R  
**Cc:** Littlepage, Ryan L; Donis, Antonio  
**Subject:** plain language, PSGs, and CAT

**Importance:** High

Dear team:

Please immediately remove any questions from your template that are not in plain language and/or specifically reference legal concepts that our applicants will likely not be able to understand. We have been receiving complaints about these types of questions. In particular, please refrain from posing questions asking an applicant if they are in a "particular social group" or if anyone from the government would "consent or acquiesce" to harm. As we are working through interpreters with a population that is, on the whole, fairly uneducated, it is essential that we elicit testimony by asking questions that they understand. Please come talk to me and Ryan if you would like more ideas about how to elicit this information. Here a couple of (absolutely non-exhaustive) suggestions:

Do people in your country see you as different for any reason?

Are the people you fear connected to the police in any way?

Thanks for all of your hard work. You guys are doing a great job and we really appreciate your dedication to our mission here.

Mallory

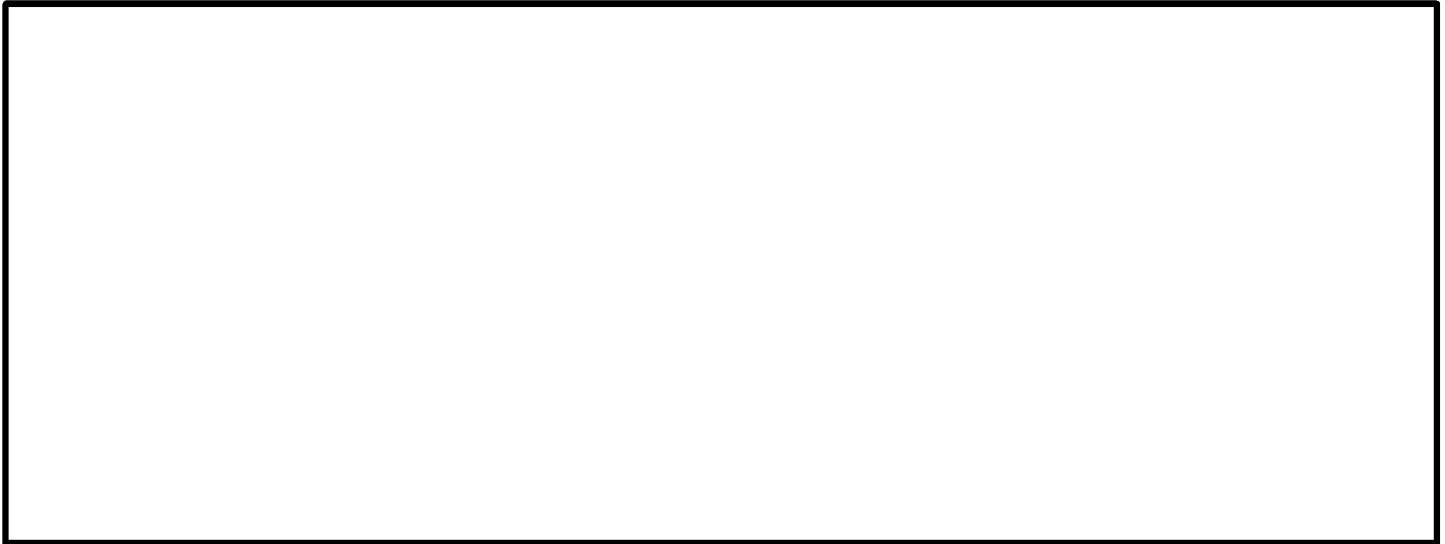
**Lynn, Mallory L**

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**From:** Lynn, Mallory L  
**Sent:** Wednesday, July 30, 2014 10:06 AM  
**To:** Stawar, Andrew X; Hensleigh, Chris J; Hook, Garland R; Zee, Dong; Orendach, Janette  
**Cc:** Donis, Antonio  
**Subject:** unable/unwilling

(b)(5) (b)(7)(e)

Hi guys,



From the persecution LP:

**1.1.1 Efforts to Gain Government Protection or an Explanation of Risk or Futility**



Thanks for all of your hard work on these challenging cases!

Mallory



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<sup>(1)</sup> Roman v. INS, 233 F.3d 1027, 1035 (7th Cir. 2000).

<sup>(2)</sup> See Matter of S-A, 22 I&N Dec. 1328, 1335 (BIA 2000); Ornelas-Chavez v. Gonzales, 458 F.3d 1052 (9th Cir. 2006); and cf. Castro-Perez v. Gonzales, 409 F.3d 1069, 1072 (9th Cir. 2005).

## **Lynn, Mallory L**

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**From:** Lynn, Mallory L  
**Sent:** Friday, August 08, 2014 8:28 AM  
**To:** Zee, Dong; Reza, Naushad; Hook, Garland R; Gonzalez, Martha; Orendach, Janette  
**Cc:** Littlepage, Ryan L; Donis, Antonio  
**Subject:** RE: current case law

As a follow up on this -- please omit citations from Matter of C-A- in your analysis.

---

**From:** Lynn, Mallory L  
**Sent:** Friday, August 08, 2014 7:28 AM  
**To:** Zee, Dong; Reza, Naushad; Hook, Garland R; Gonzalez, Martha; Orendach, Janette  
**Cc:** Littlepage, Ryan L; Donis, Antonio  
**Subject:** current case law

Hi team – please make sure you are citing to up-to-date case law. With regard to the PSG analysis and social distinction, please be sure to take a look at Matter of M-E-V-G-, which is available here:

<http://www.justice.gov/eoir/vll/intdec/vol26/3795.pdf>

Thanks!  
Mallory





## **Lynn, Mallory L**

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**From:** Lynn, Mallory L  
**Sent:** Friday, September 26, 2014 5:33 AM  
**To:** Hemming, Bryan D; Donis, Antonio  
**Cc:** Daum, Robert L  
**Subject:** Re: Daily Operations Handbook

It really is fantastic. I am going to add a section on the checklist, probably this weekend. And I think it would be great to send to incoming staff.

---

**From:** Hemming, Bryan D  
**Sent:** Friday, September 26, 2014 05:55 AM  
**To:** Donis, Antonio; Lynn, Mallory L  
**Cc:** Daum, Robert L  
**Subject:** RE: Daily Operations Handbook

This is a great resource! Would it be okay to send to staff scheduled to travel to ZART?  
Thanks!  
Bryan

---

**From:** Donis, Antonio  
**Sent:** Thursday, September 25, 2014 6:49 PM  
**To:** Lynn, Mallory L  
**Cc:** Daum, Robert L; Hemming, Bryan D  
**Subject:** Daily Operations Handbook

Mallory,

My final parting gift to you is a copy of the ZART Daily Operations Handbook.

23 different officers and support contributed to this handbook, making it the most comprehensive source of institutional knowledge on family processing to date.

May it bring you good fortune during your time here.

Antonio\_\_

**Lynn, Mallory L**

---

**From:** Lynn, Mallory L  
**Sent:** Monday, September 29, 2014 8:15 AM  
**To:** Baker, Dana S  
**Cc:** Gossett, Christopher R  
**Subject:** ZART SOP  
**Attachments:** ZART Daily Operations Handbook (draft).pdf

Hi guys, please find attached the draft version of the ZART Daily Operations Handbook. It is nearly complete. In it you will find a wealth of information that we have learned about family processing here at Artesia. If you have a question, I encourage you to check the guide – it is a truly fantastic resource.

Thanks,  
Mallory

# ZART



## DAILY OPERATIONS HANDBOOK

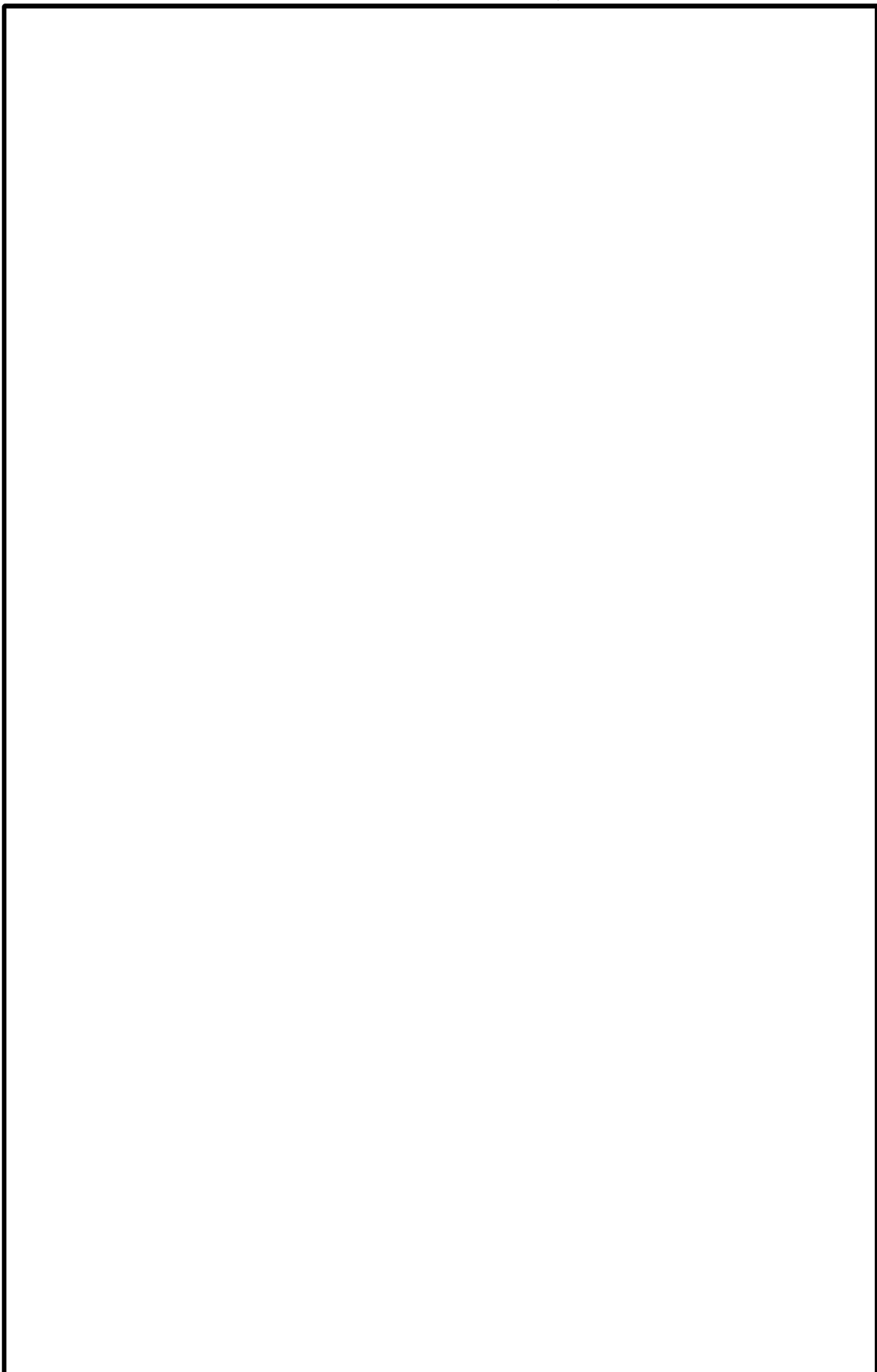
**Contributors: Antonio Donis, Reagan Hook, Ja Nette Orendach, Ramon Guerrero, Dong Zee, Mallory Lynn, Yolanda Burnett, Rafael Aguilar, Drew Stawar, Chris Hensleigh, Reza Naushad Ryan Littlepage, Martha Gonzalez, Laura Bradford, Kimberly Larson, Mimi Chang, Kara Hill, Susan Perez, Lakshmi Kilaru, Tracy Beighley, Eli Roeschke, Claire Schell, Rene Cardona**

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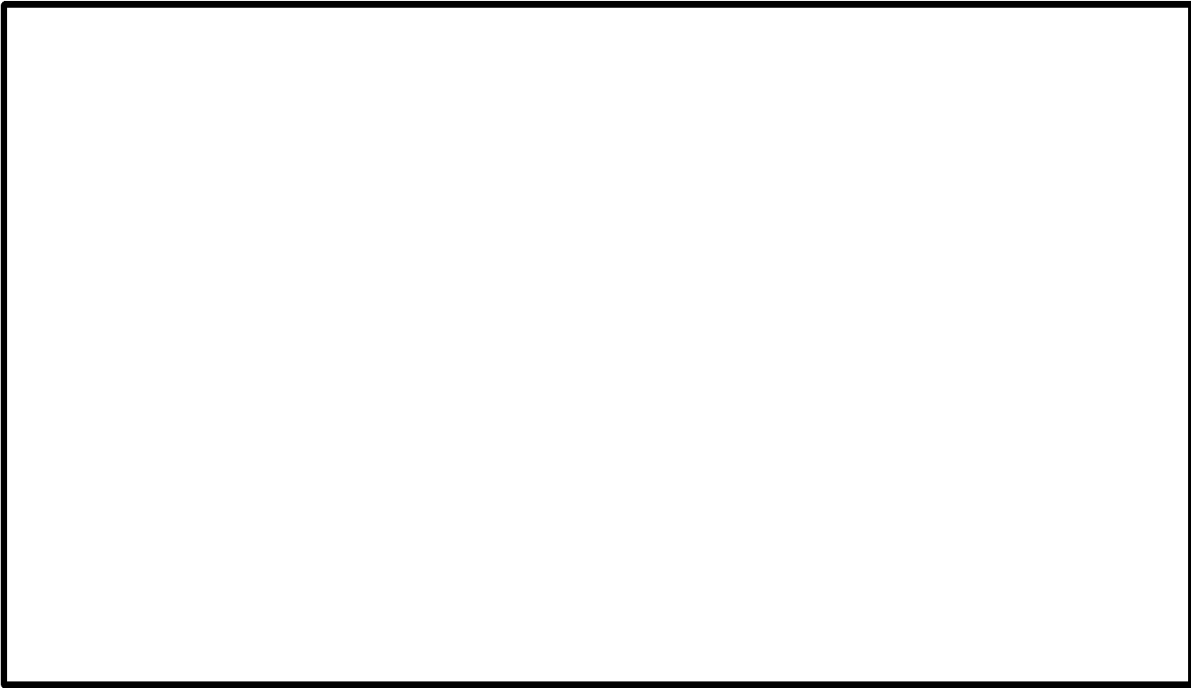
## TABLE OF CONTENTS

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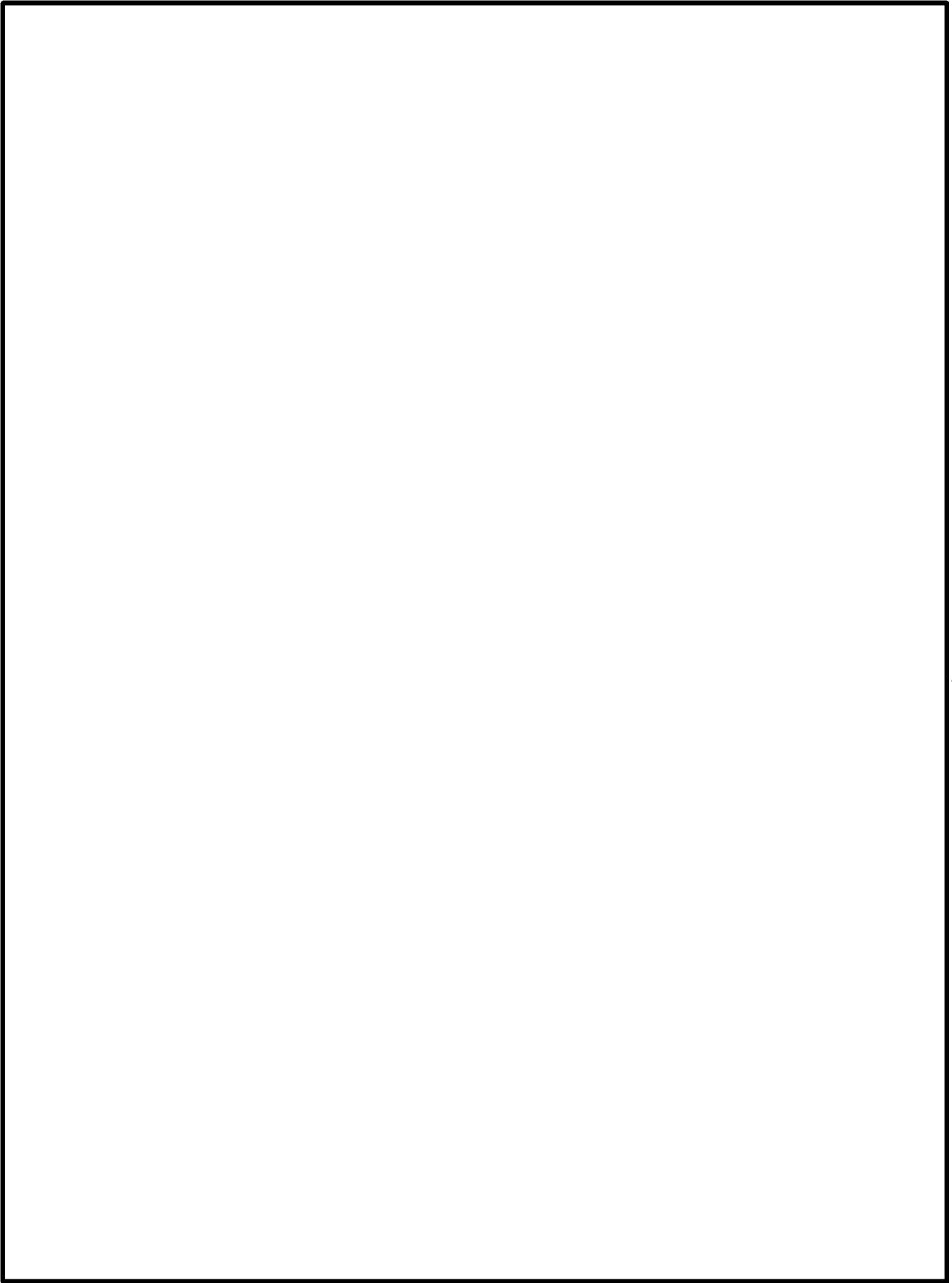


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## **INTRODUCTION**



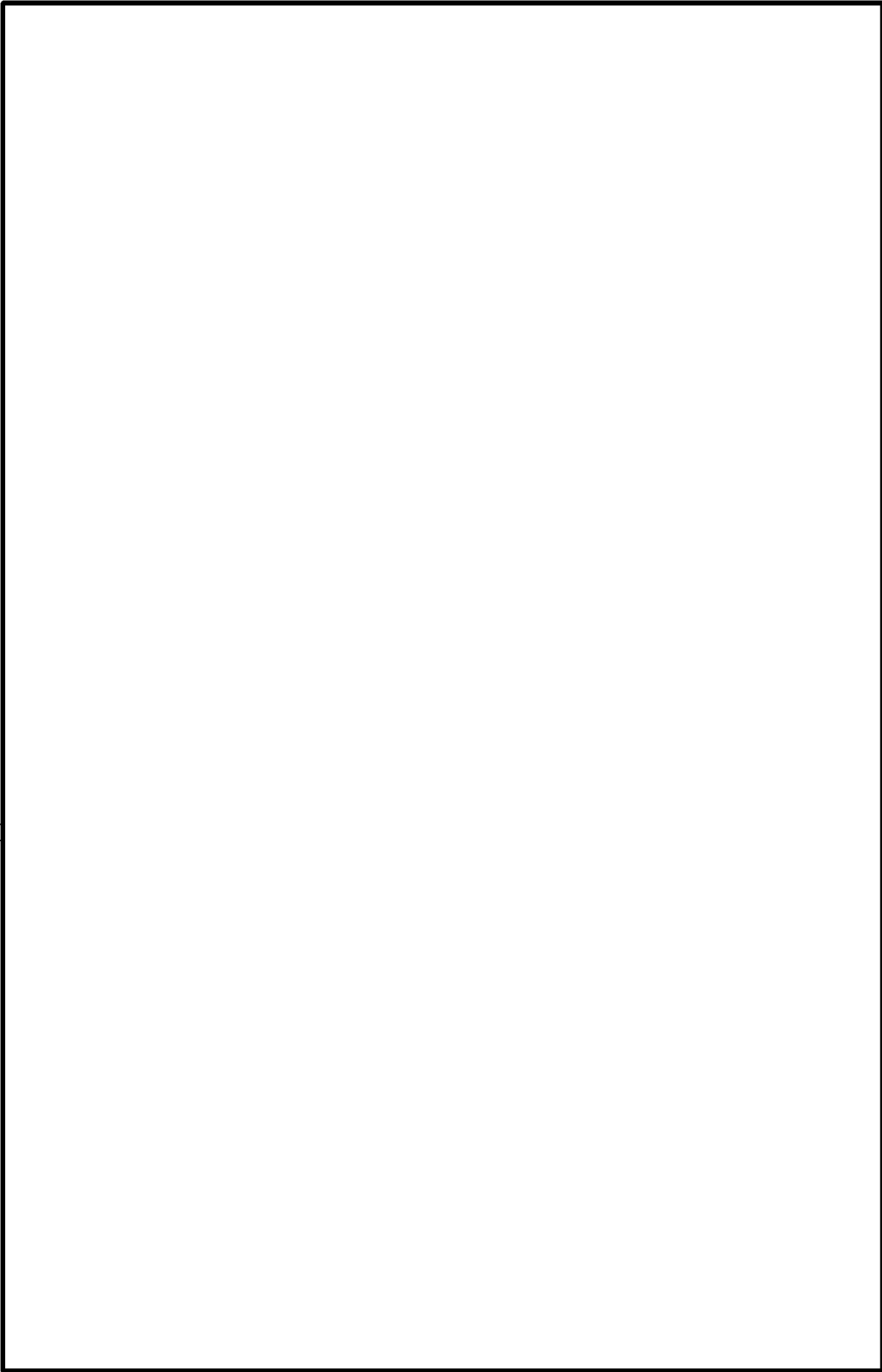
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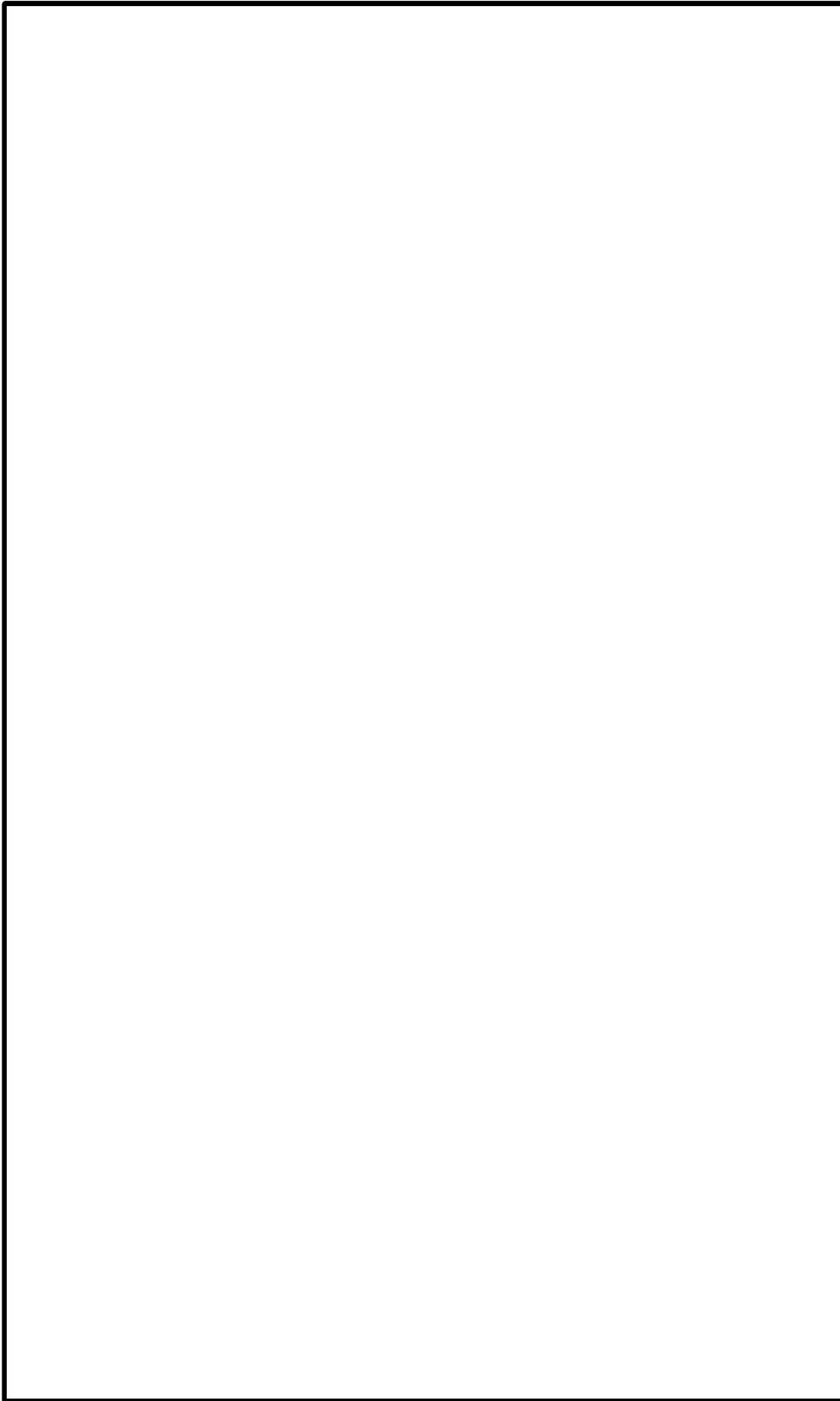
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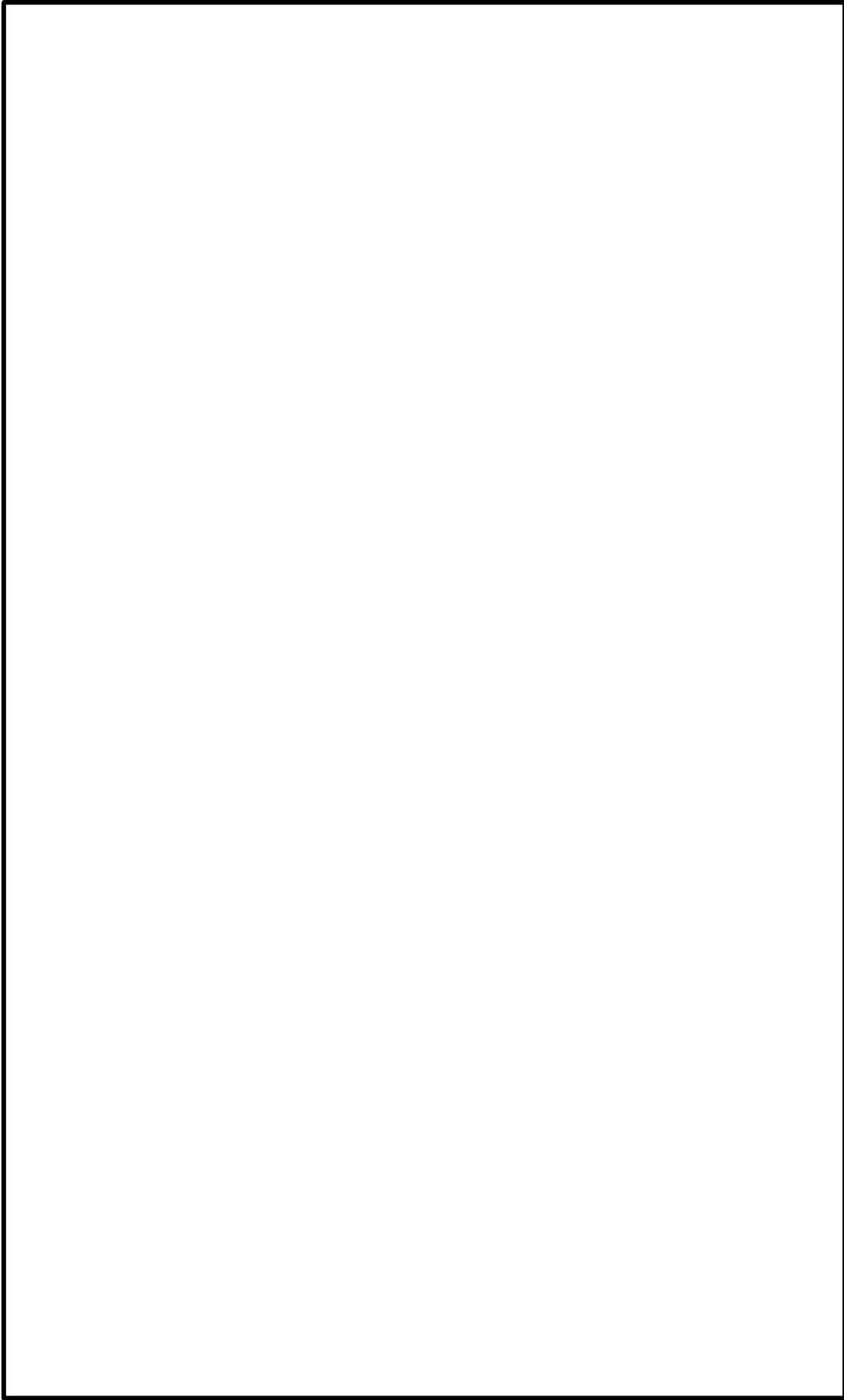
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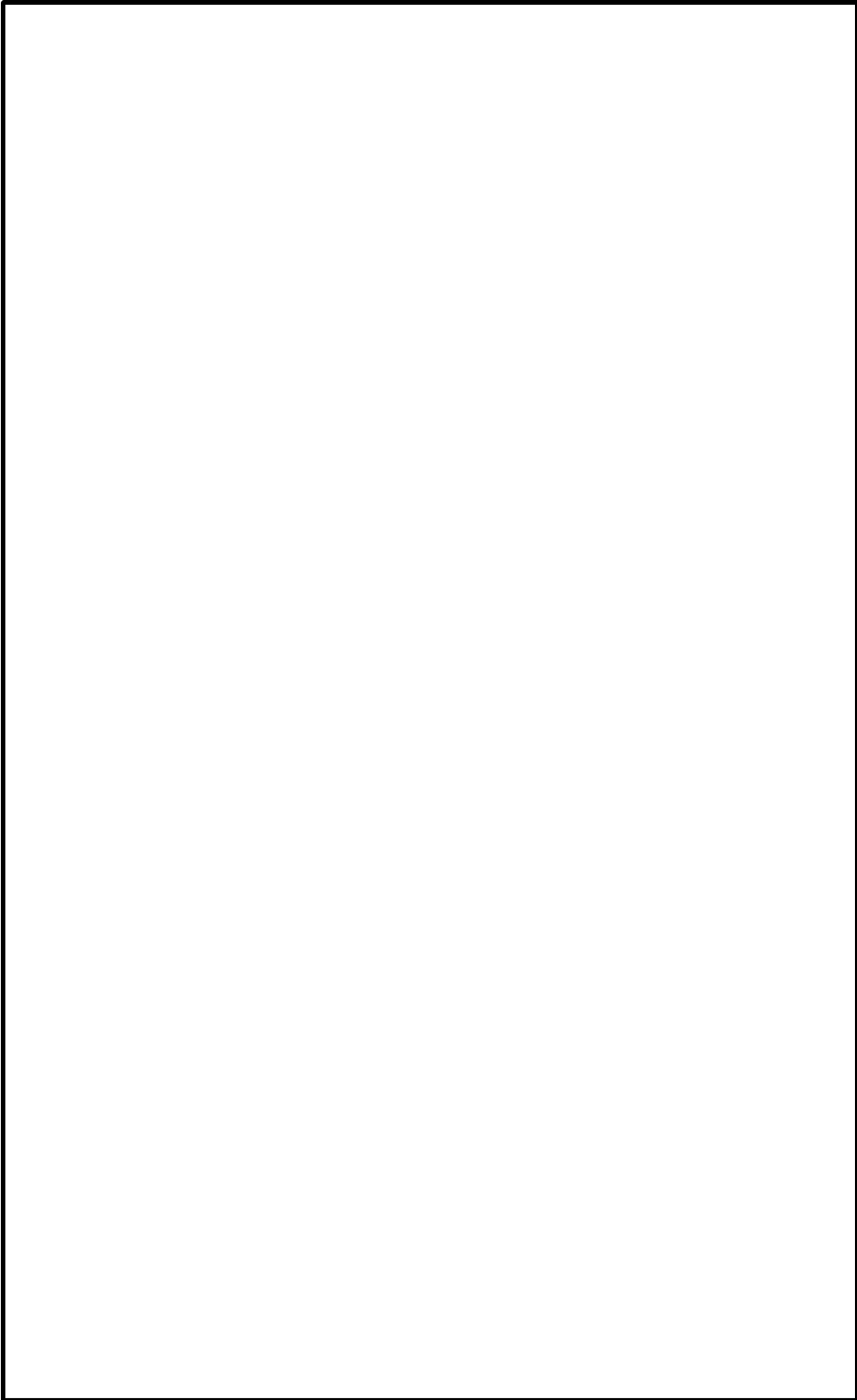
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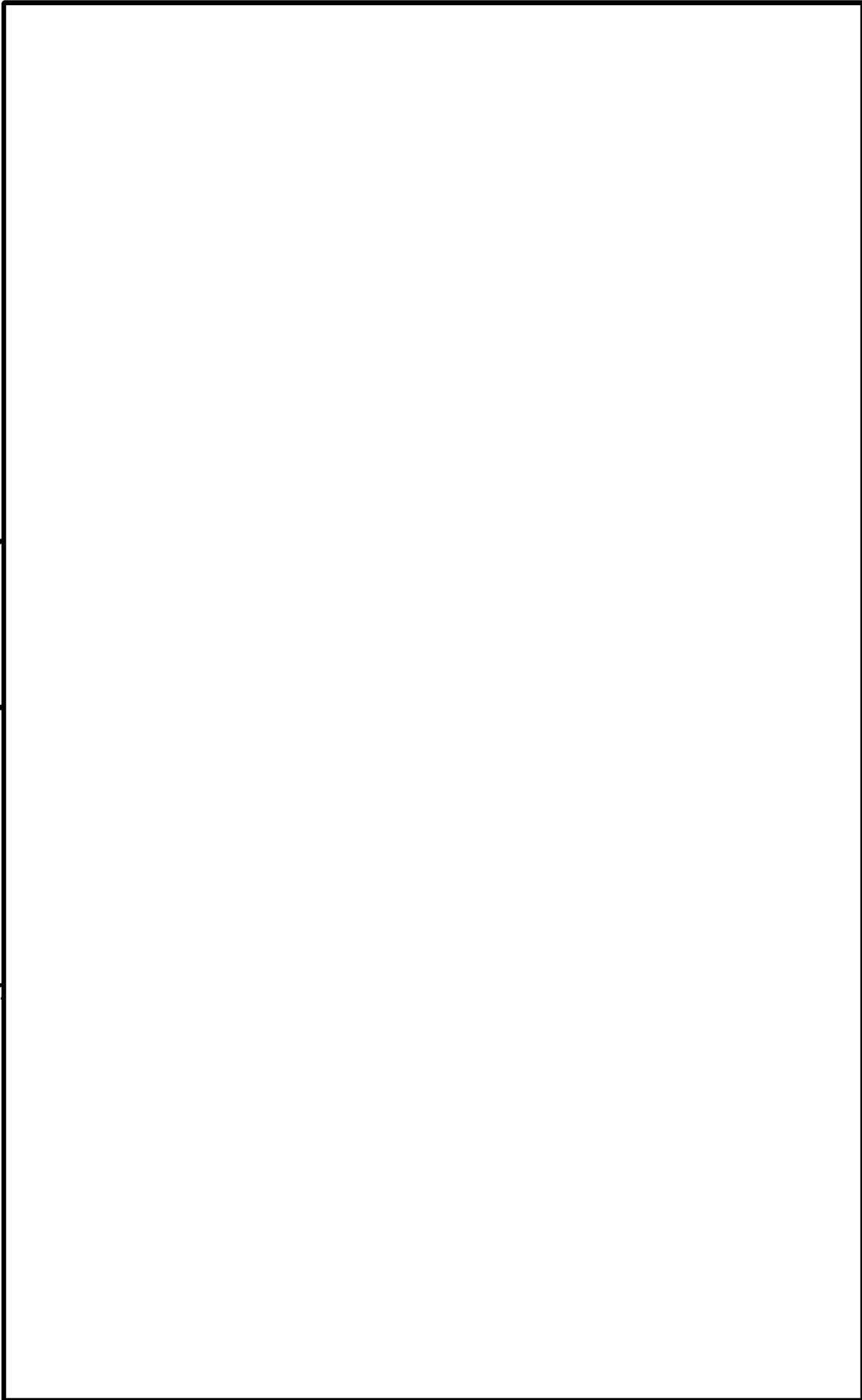
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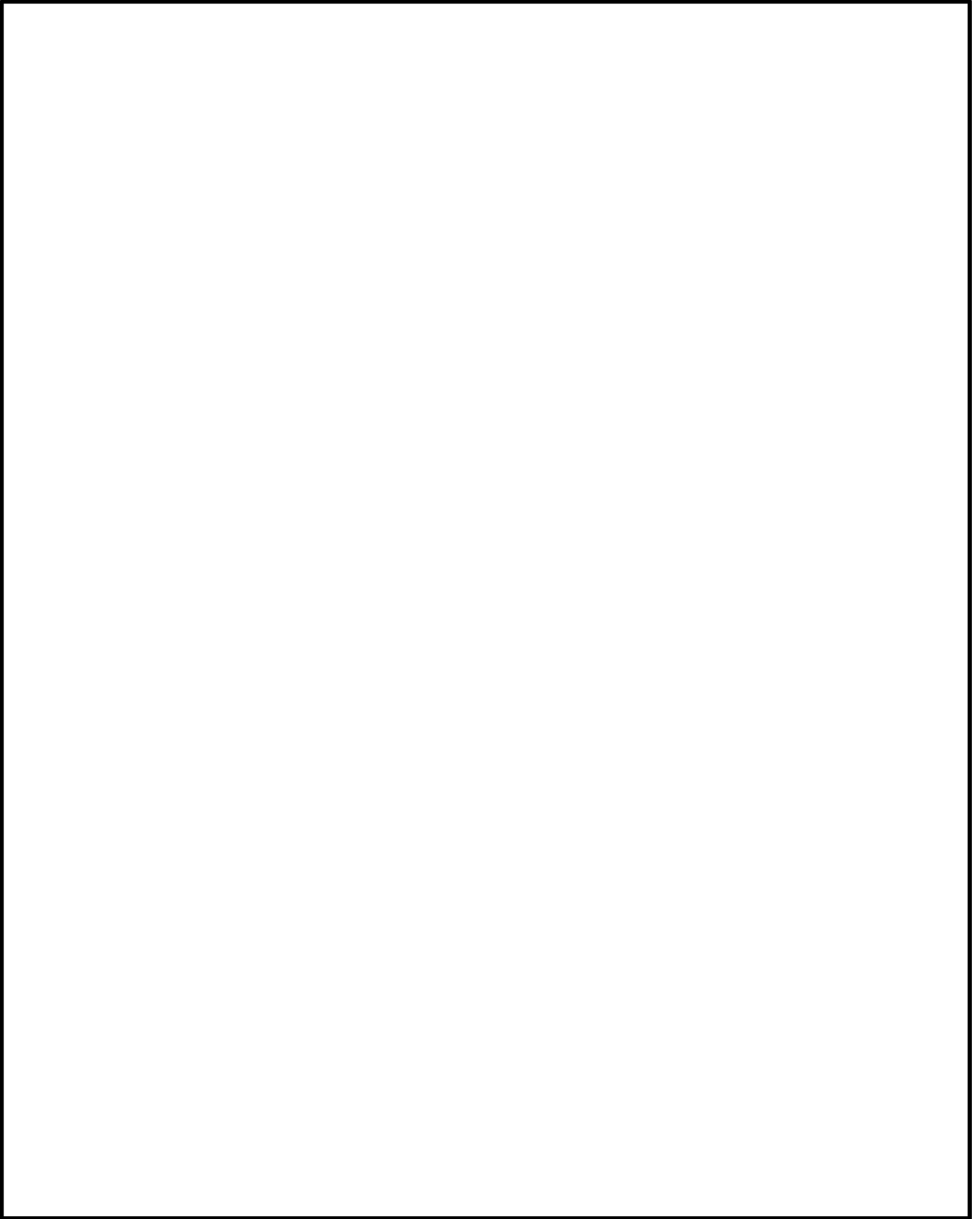


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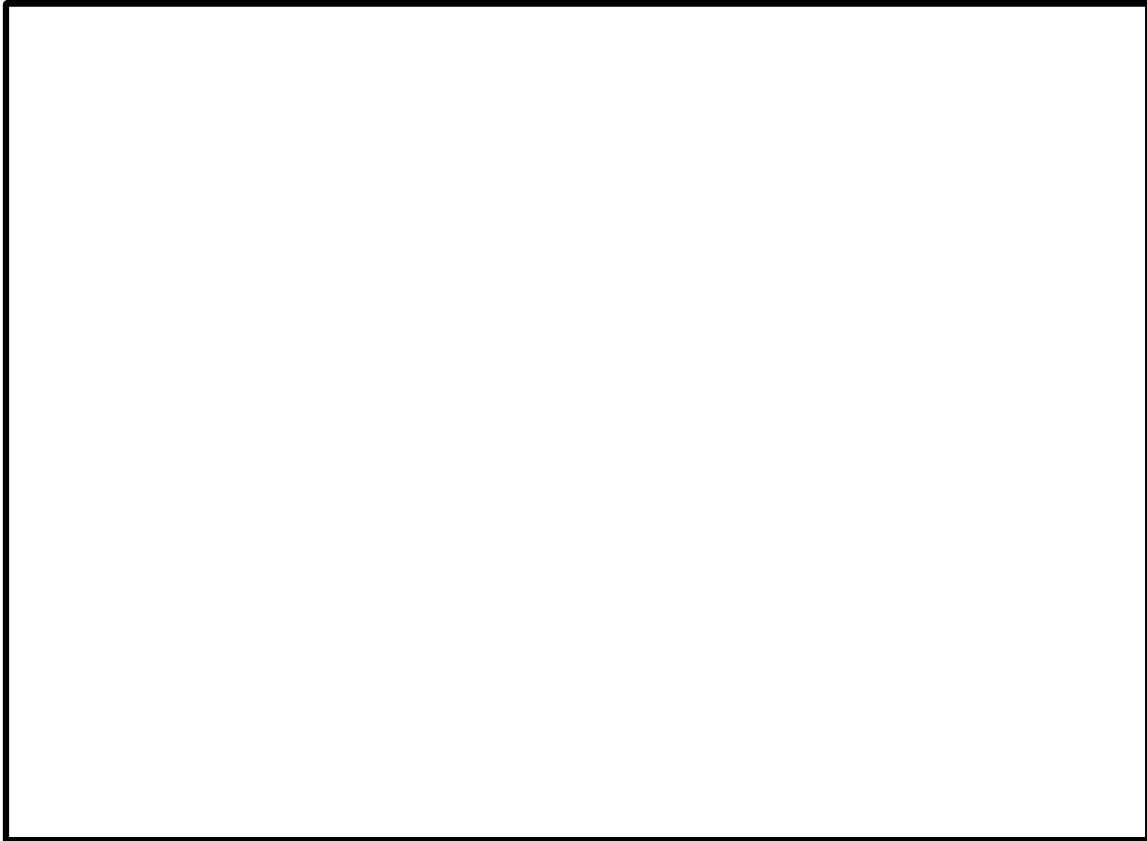


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**APPENDIX A: OVERTIME SLIP HOUSTON ASYLUM OFFICE 45 ACT BILL**



**APPENDIX B: PREC SCREEN EXAMPLE**



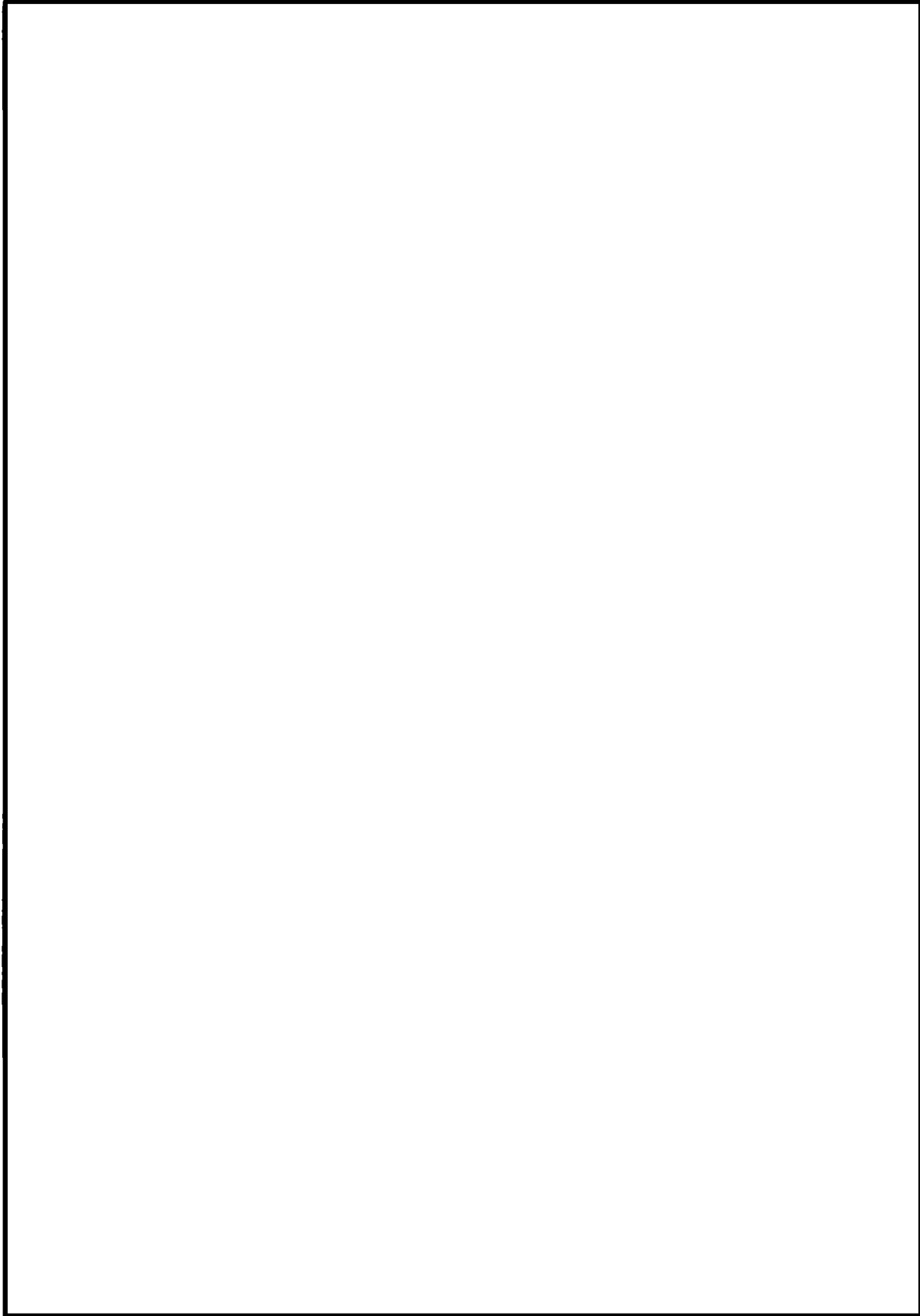


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**APPENDIX C: GAINING ACCESS**

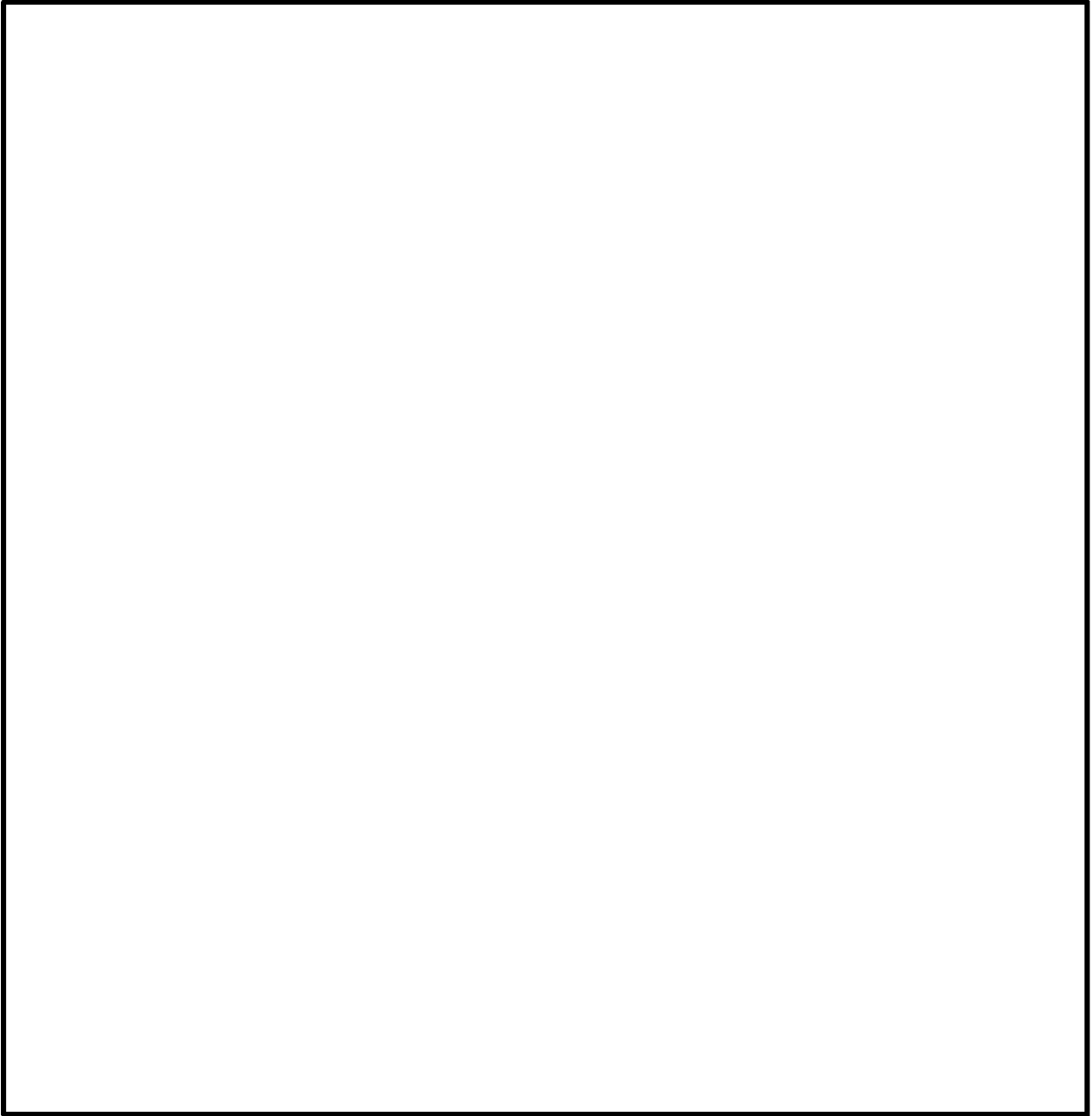


**APPENDIX D: G-872A**



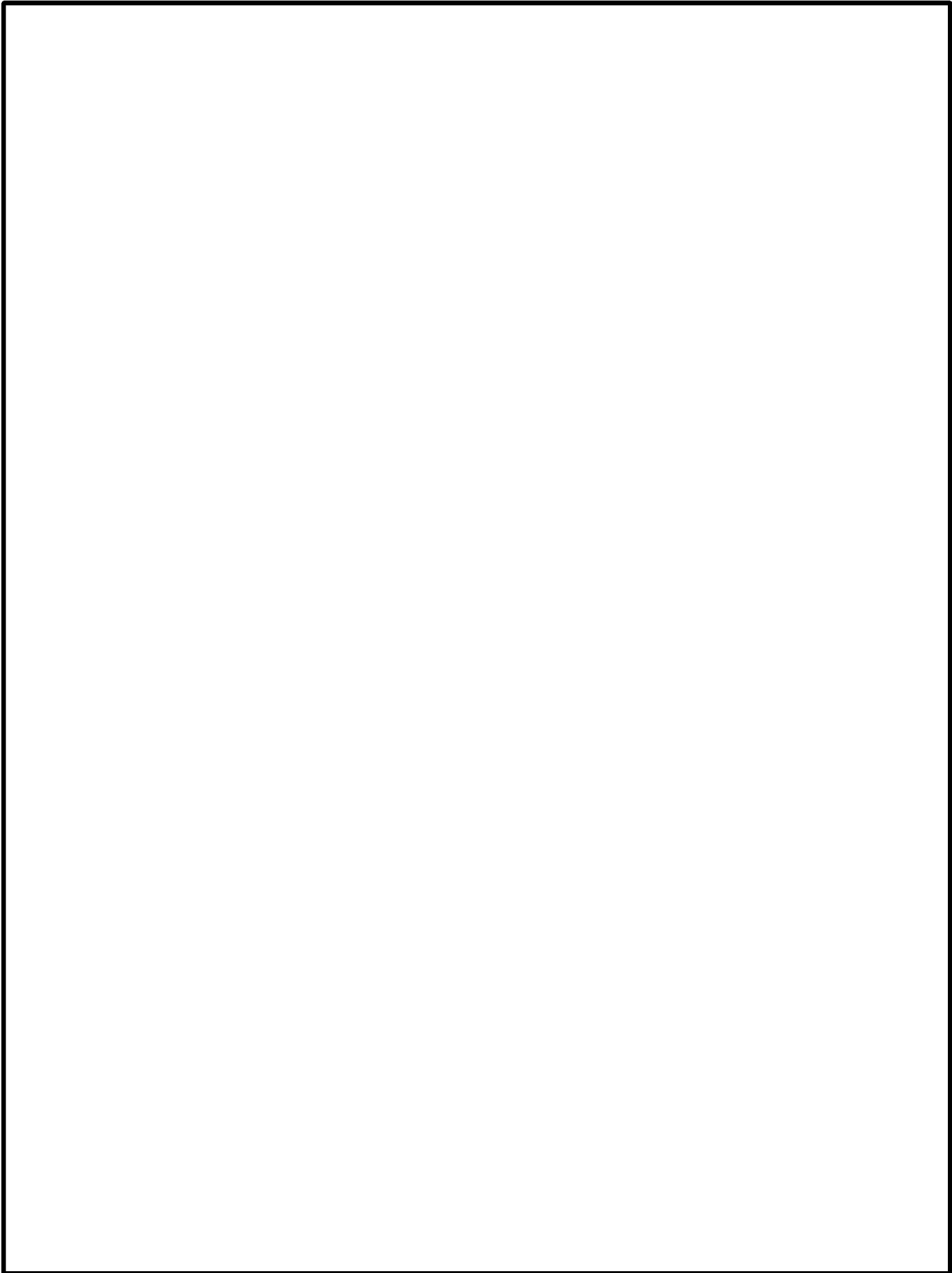
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**REQUEST FOR PICS MAINFRAME APPLICATIONS**



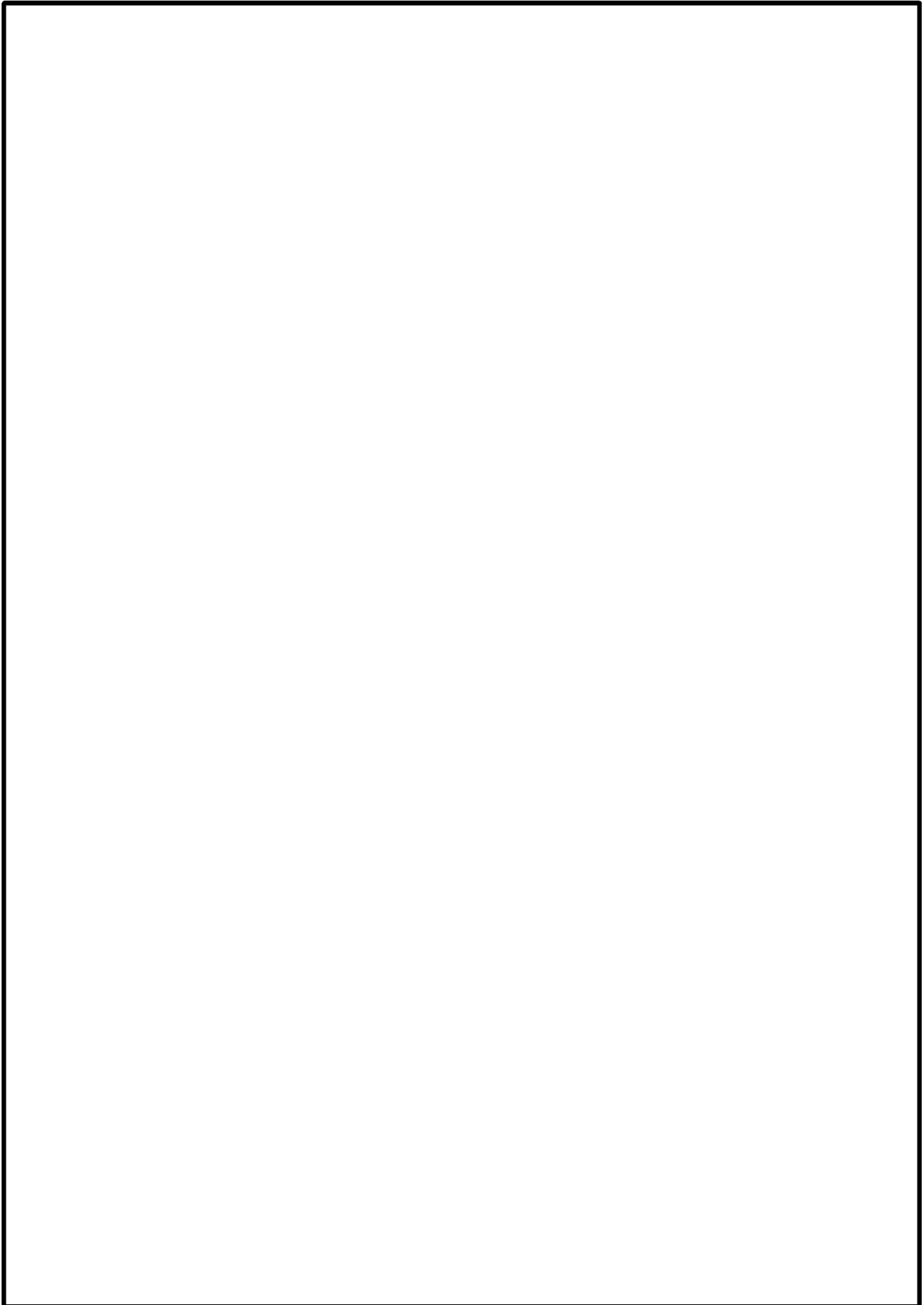
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## APPENDIX A

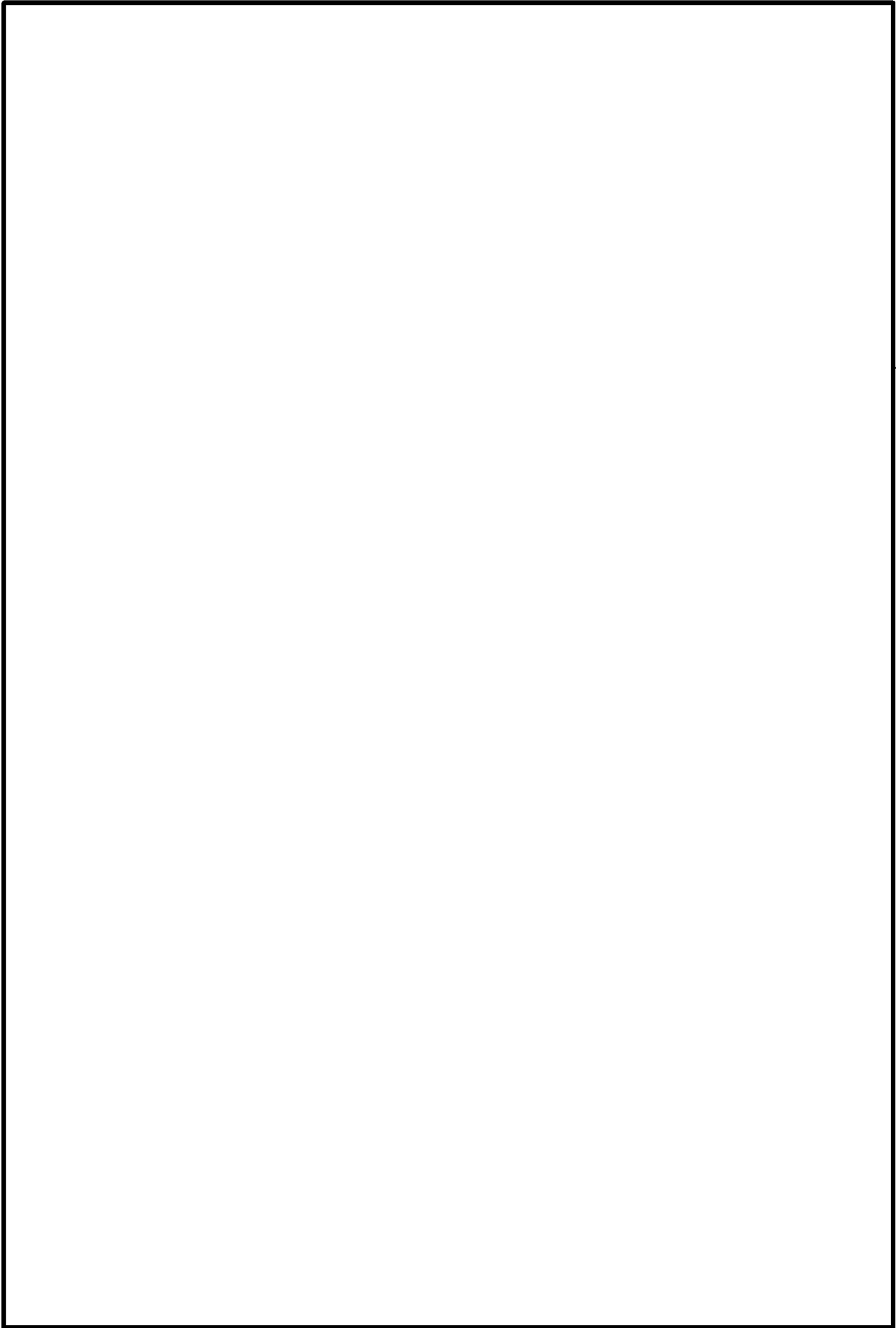


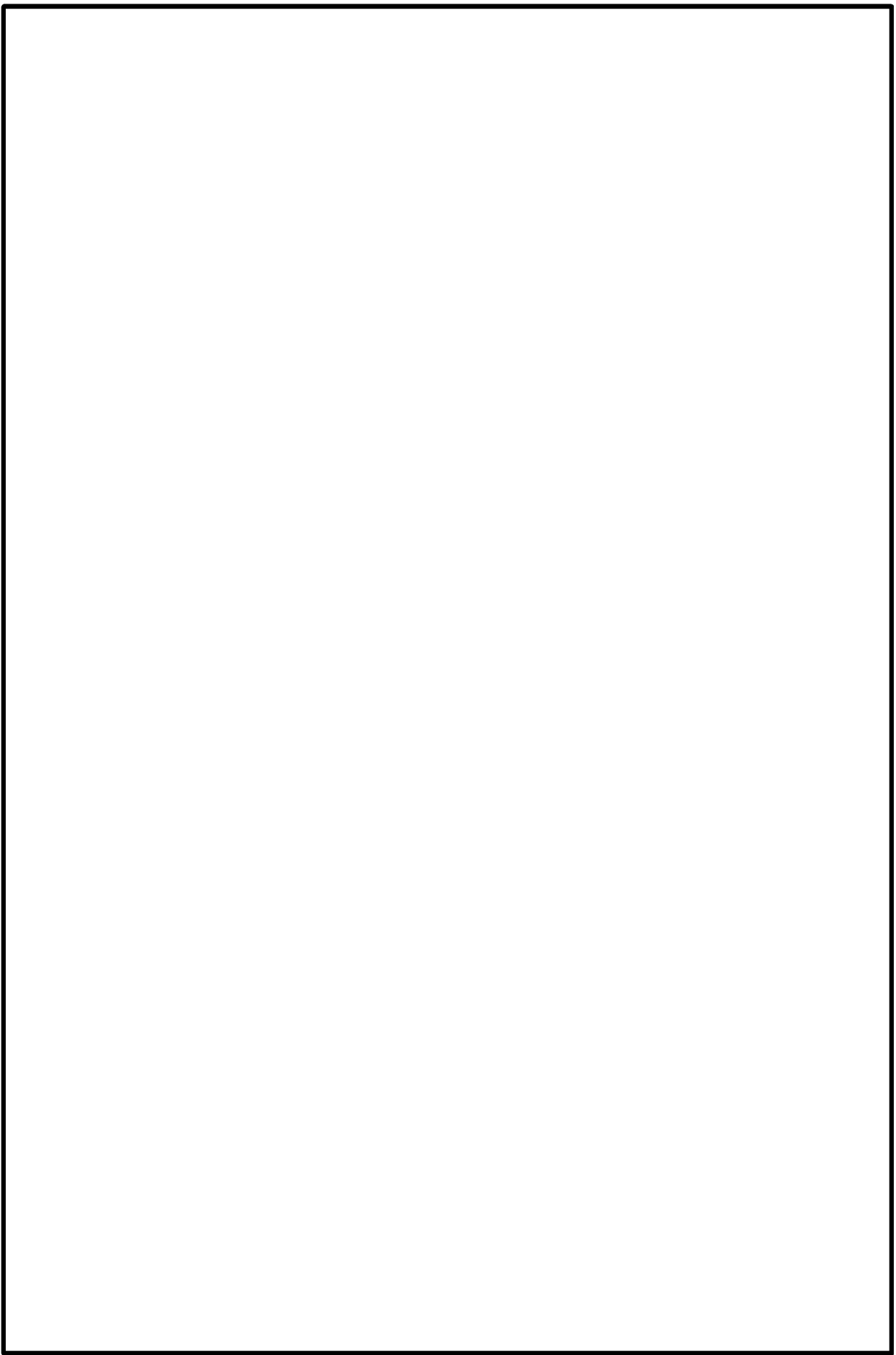
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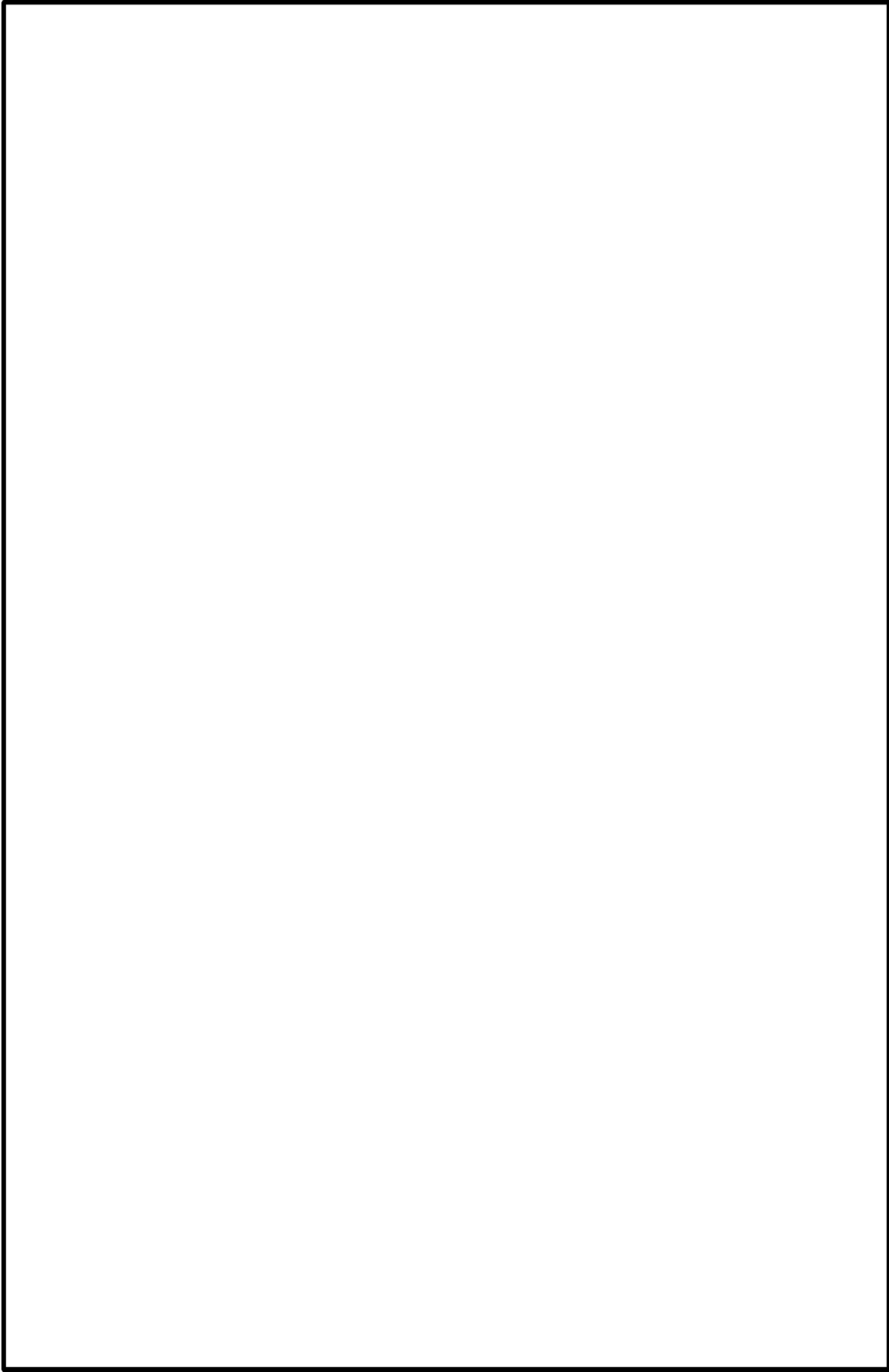
**APPENDIX E: USCIS RULES OF BEHAVIOR**



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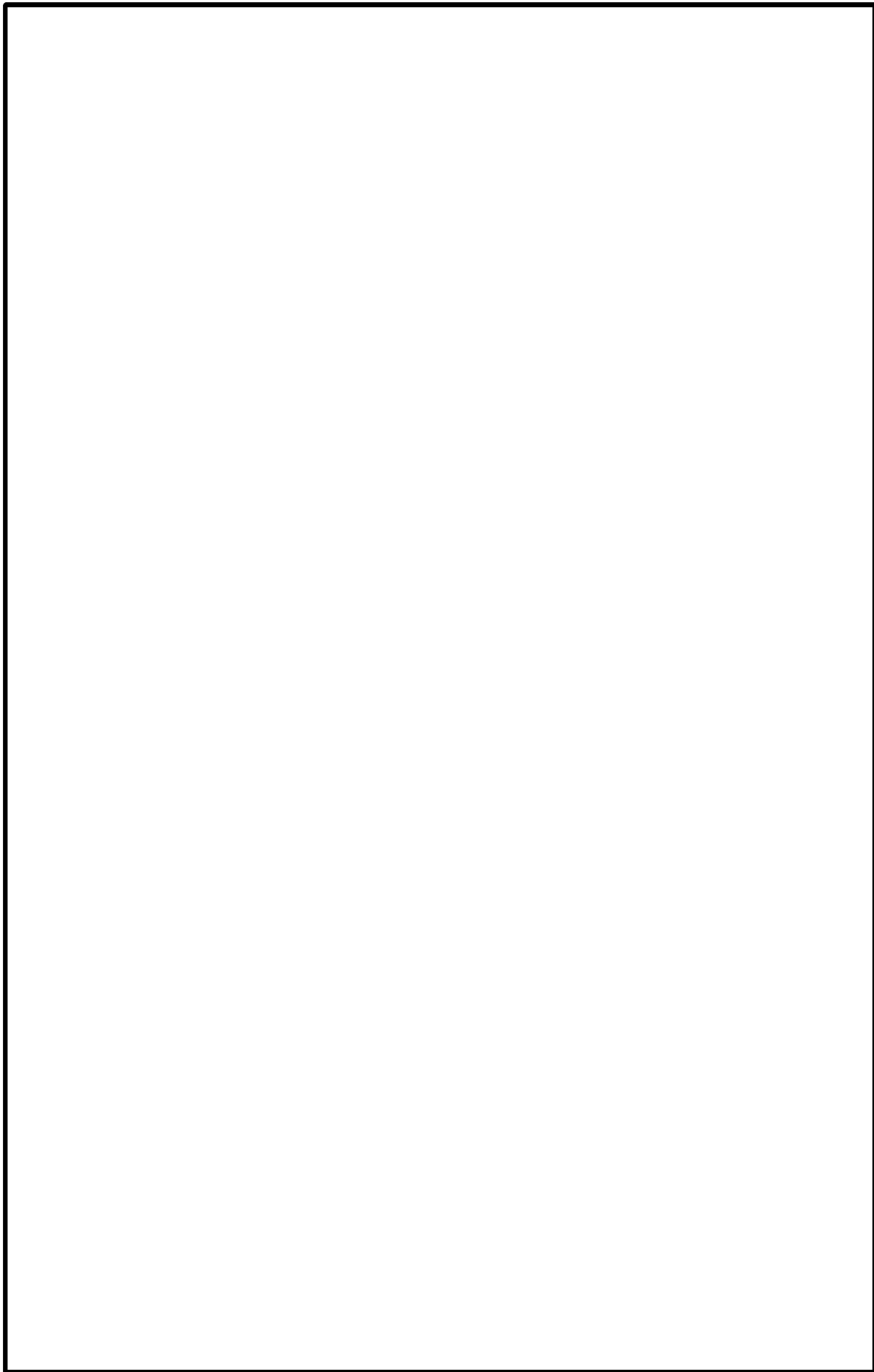




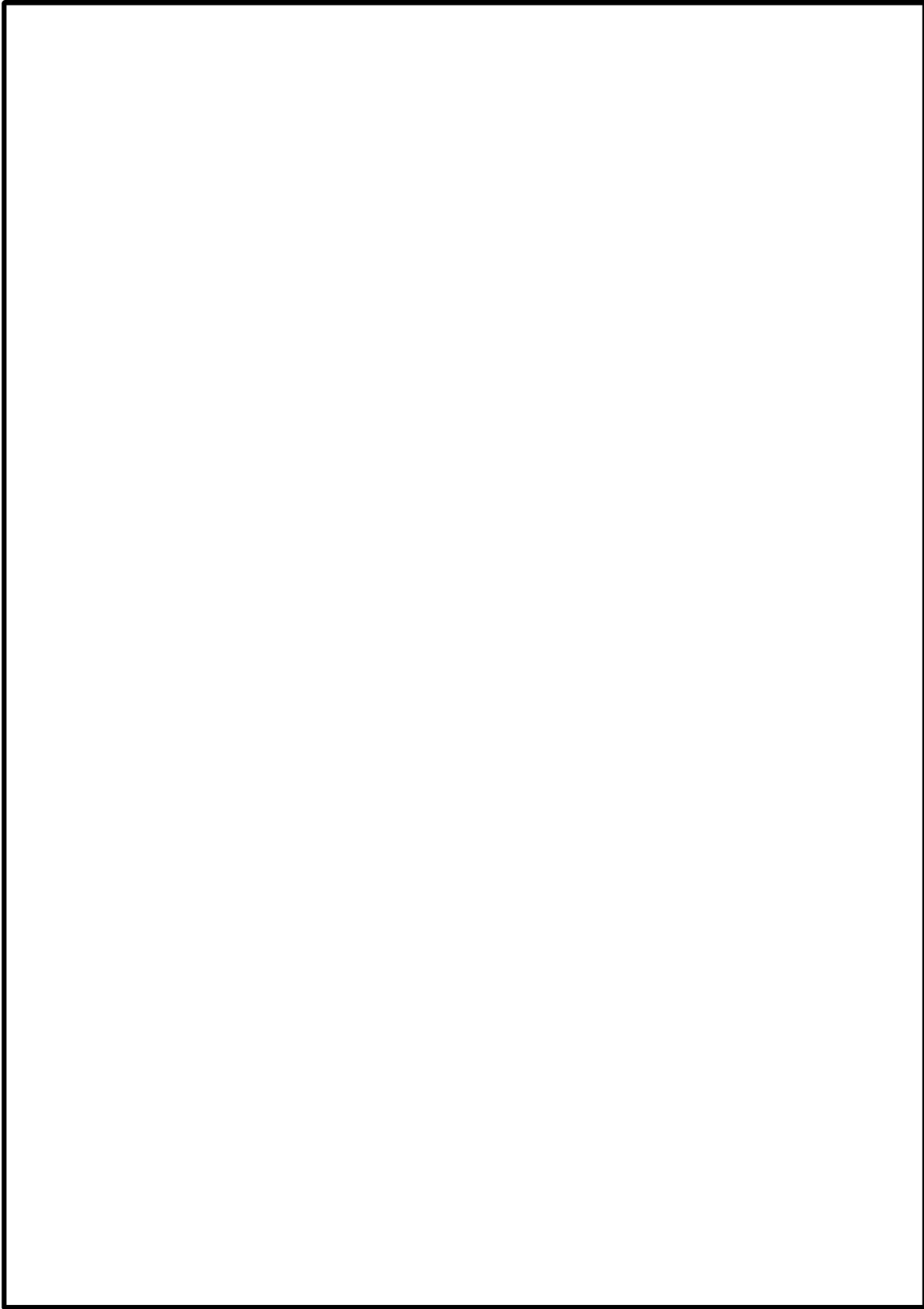




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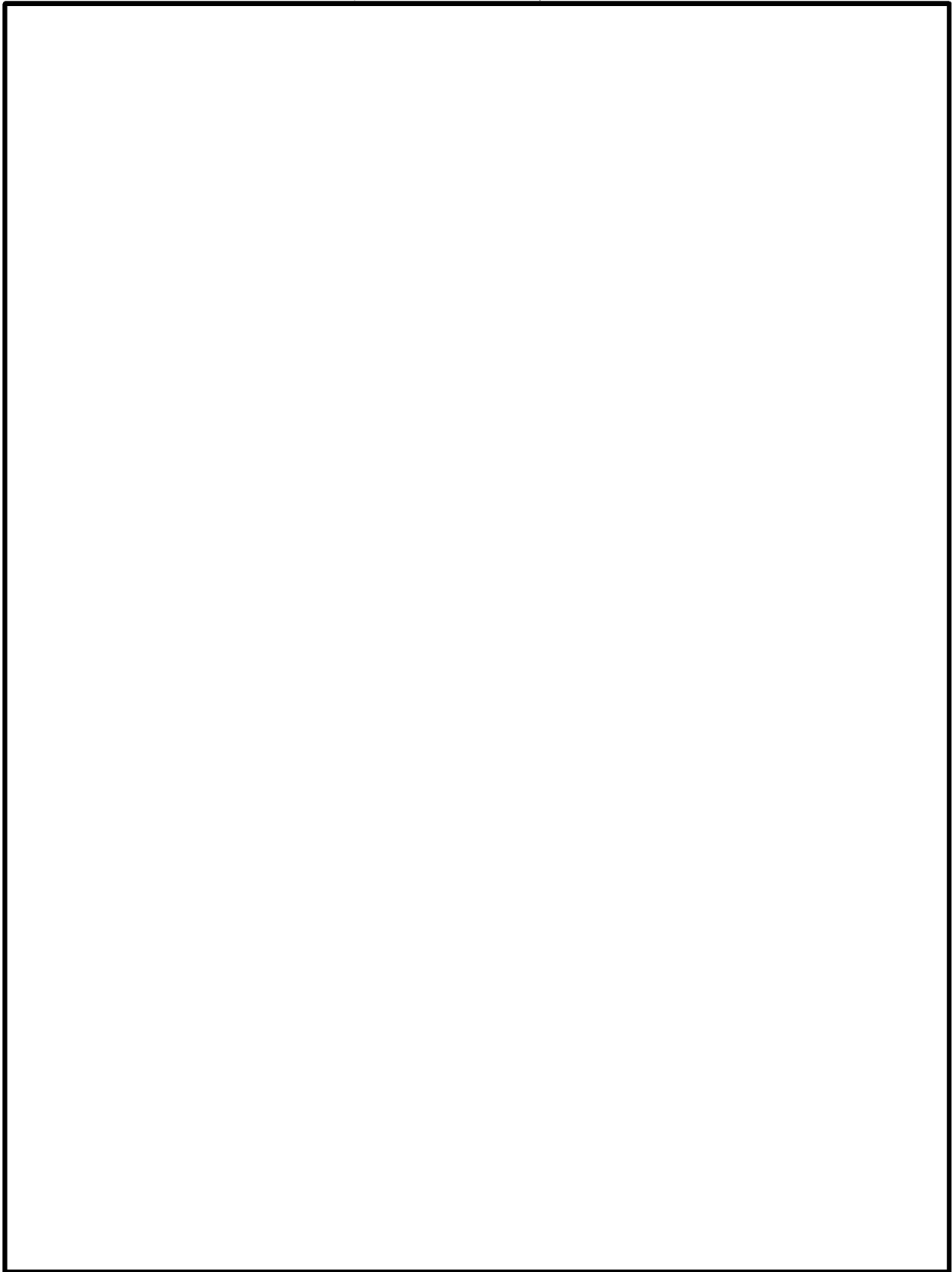
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**APPENDIX F: SWITCHING PRINCIPALS IN APSS**



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**APPENDIX G: DETAINED FAMILY COVER SHEET**

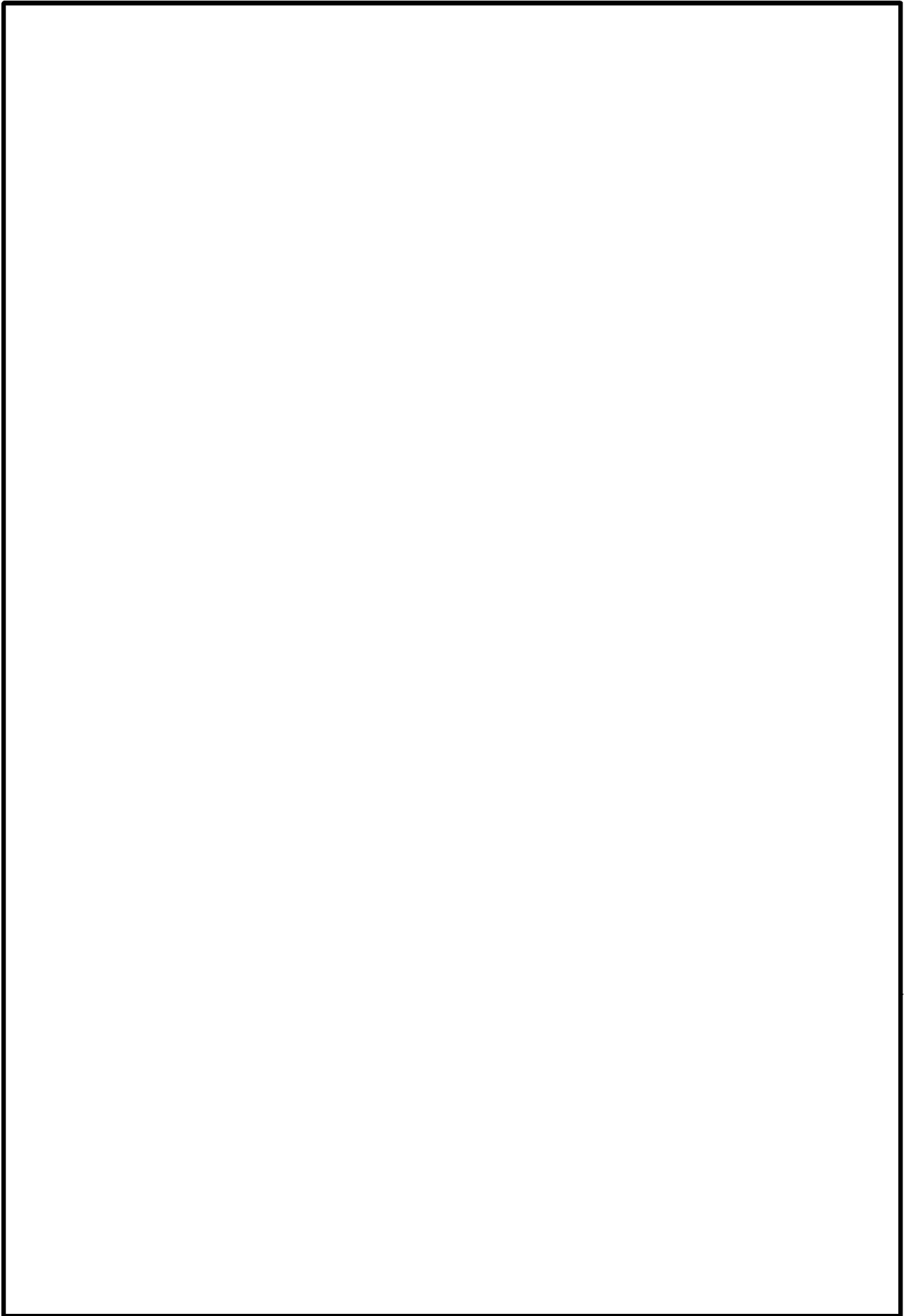


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**APPENDIX H: HOW-TO GUIDE: COMPLETING THE CREDIBLE/REASONABLE  
FEAR BACKGROUND IDENTITY AND SECURITY CHECKLIST AND FLOWCHART**

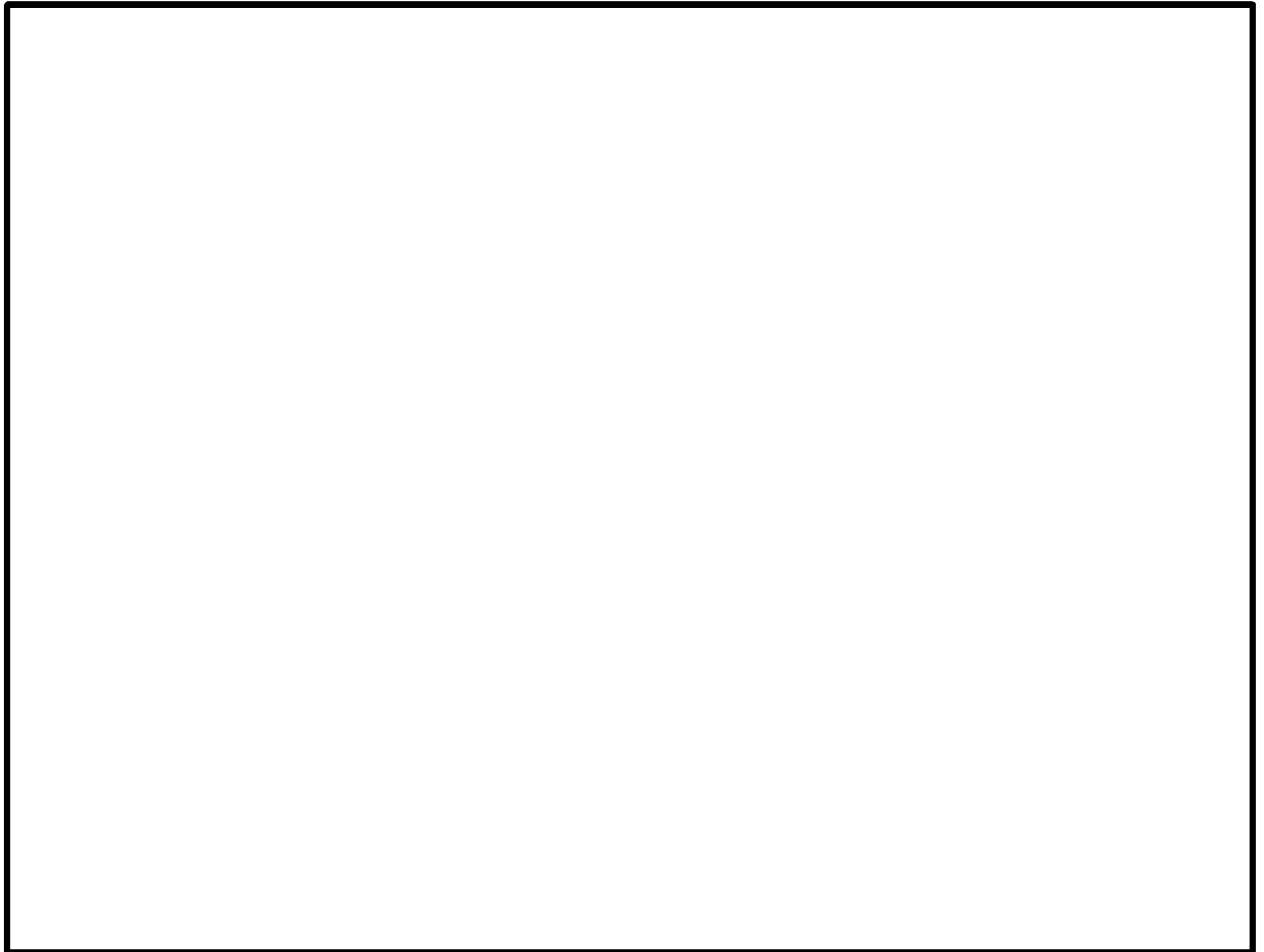


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- **Initial and Date in the left-hand boxes next to each check completed, and at the bottom of the Checklist.**



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**APPENDIX I: CHILD SUPERVISION RECOMMENDATIONS**





**APPENDIX J: MEMORANDUM ON THE ROLE OF CONSULTANTS**

**Memorandum**



HQASM 120/16.12 - P

<b>Subject:</b>  Role of Consultants in the Credible Fear Interview	<b>Date:</b>  [signed November 14, 1997]
---	--

**To:**  
All Asylum Directors  
All Supervisory Asylum Officers  
All Asylum Officers

**From:**  
Office of International Affairs  
Asylum Division  
[Joseph E. Langlois /s/ - see page 2]

The purpose of this memo is to provide additional guidance on the role of consultants during the credible fear interview in the context of expedited removal. We are developing further guidance on working with consultants and representatives, including guidance on the documents that may be released to them. That guidance will follow shortly.

The INS encourages the use of consultants by persons who are subject to expedited removal and have been referred for a credible fear interview. Consultation generally facilitates the credible fear process and helps to ensure that asylum seeker's claims are fully elicited. The role of the consultant in the credible fear interview is basically the same as the role of the representative in the affirmative asylum interview. While the asylum officer maintains control of the interview, the consultant and the asylum officer should share a cooperative role in developing and clarifying the merits of the applicant's claim. The consultant should generally be given the opportunity to make a statement at the end of the interview and to ask the applicant additional questions.

Pursuant to 8 C.F.R. § 208.30, applicants in the credible fear process are entitled to consultation with a person or persons of their choosing:

The alien may consult with a person or persons of the alien's choosing prior to the interview or any review thereof, and may present other evidence, if available. Such consultation shall be at no expense to the Government and shall not unreasonably delay the process. Any person or persons with whom the alien chooses to consult may be present at the interview and may be permitted, in the discretion of the asylum officer, to present a statement at the end of the interview. The asylum officer, in his or her discretion, may place reasonable limits on the number of such persons who may be present at the interview and on the length of statement or statements made. 8 C.F.R. §208.30(b)

"Consultant" is not defined in the INA or the regulations. The consultant may be a paid attorney, a *pro bono* attorney, a staff member at a non-government organization, a friend, a relative, or any other person

of the alien's choosing. The alien may have more than one consultant at the interview. However, the asylum officer may reasonably limit the number of consultants present during an interview based on available space considerations and to prevent disruption of the interview.

As noted above, the regulations governing the expedited removal process provide that, *in the asylum officer's discretion*, the consultant may make a statement or comment at the end of the interview. Therefore, the asylum officer has discretion to prevent the consultant from making a statement or comment. However, the asylum officer must have solid reasons to exercise discretion to disallow a consultant from making a statement or comment. Only in extremely unusual circumstances should the asylum officer exercise discretion to prevent the consultant from making a statement or comment.

Generally, the consultant should be allowed to make a closing statement, comment on the evidence presented, and/or ask the asylum seeker additional questions. This should be explained to the consultant and the applicant at the beginning of the interview. The asylum officer may place reasonable limits on the amount of time allotted to the consultant, if it appears that the consultant is using the time in an unhelpful or disruptive manner. It is appropriate for the consultant to clarify issues or statements that were made during the interview, to summarize the case and to make arguments regarding the merits of the case, and to ask additional relevant questions that have not been asked by the asylum officer. It is not appropriate for the consultant to reconduct the interview. The asylum officer must record the consultant's statements in the Q & A's, if the statements are material or relevant to the claim. In some cases, the asylum officer may find it necessary to ask the applicant additional follow-up questions based on issues or information presented by the consultant at the end of the interview. This should also be recorded in the Q & A's.

In most cases, the consultant should hold comments or questions until the end of the interview. In certain instances, however, it will be appropriate for the consultant to comment during the course of the interview to avoid confusion or misunderstandings. Such comments may be helpful and should not be discouraged. At the same time, it is important that the asylum officer retain control of the interview. If the consultant repeatedly interrupts or otherwise disrupts the interview, the asylum officer should ask the consultant to refrain from interrupting the interview and explain that the consultant will be given an opportunity at the end of the interview to ask questions and make comments. Absent unusual circumstances (for example when the asylum seeker has a mental disability), the consultant should not be permitted to answer for the applicant.

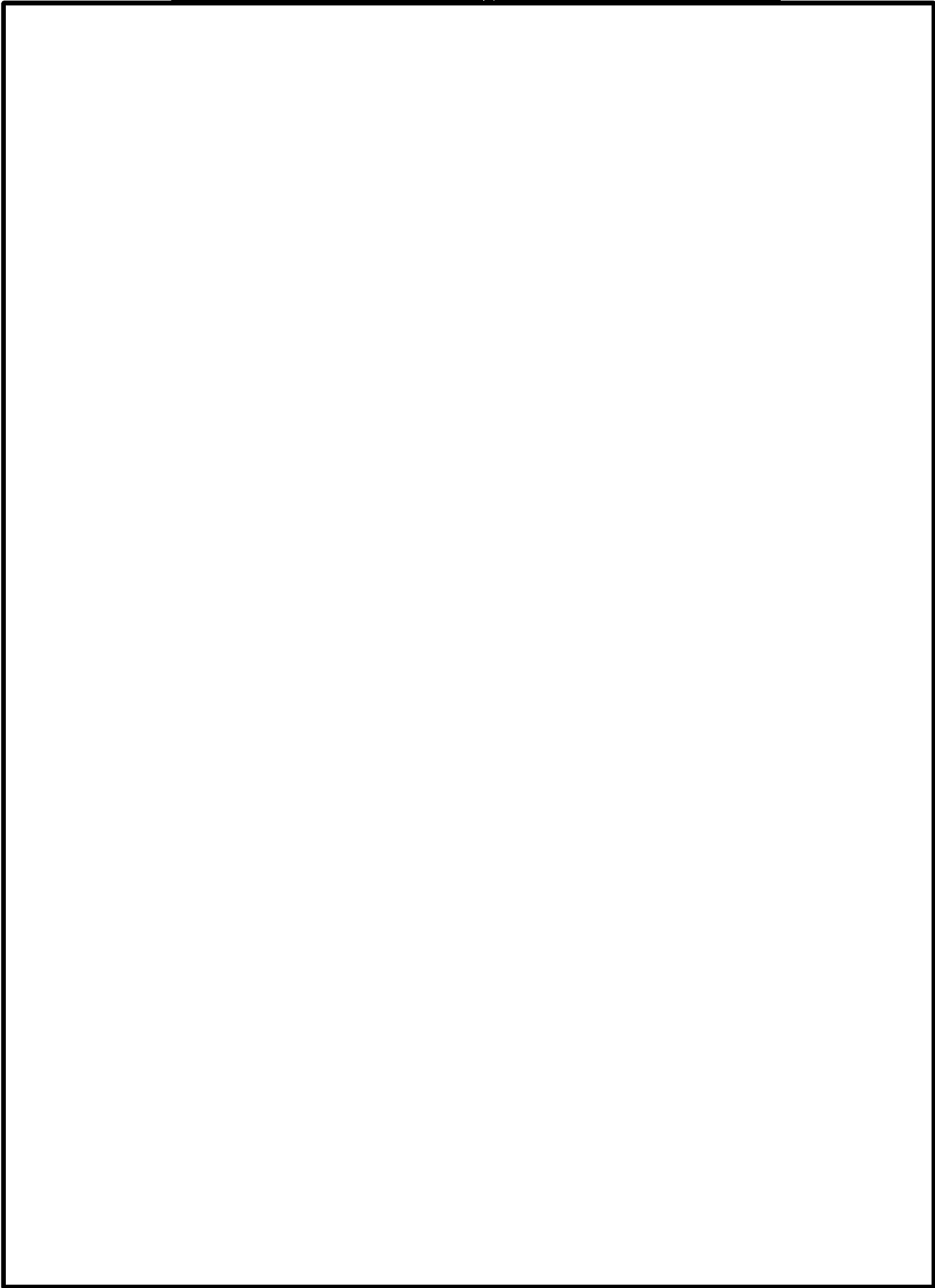
There may be times when the asylum officer needs to discuss certain issues with the consultant (e.g., the consultant's role). The asylum officer should ensure that what is discussed is translated to the applicant so that the applicant is aware of all that transpires during the interview.

As noted above, further guidance on this issue will be forthcoming. Please direct any questions you have regarding the role of the consultant during the expedited removal process to Charlie Fillingier or Lorraine Eide.

\_\_\_\_\_  
Joseph E. Langlois /s/  
Deputy Director

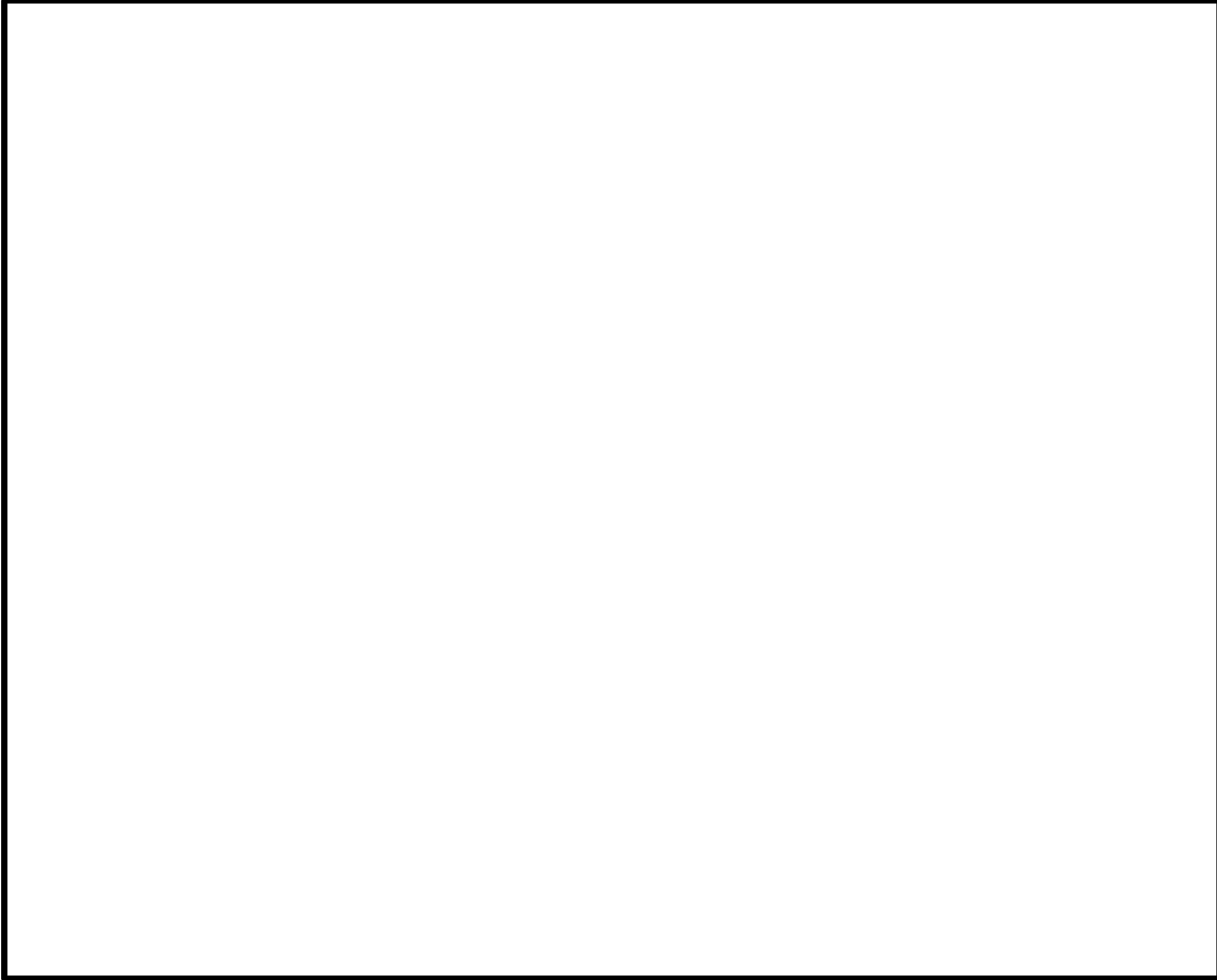
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**APPENDIX K: ISSUES RELATED TO FAMILY PROCESSING**



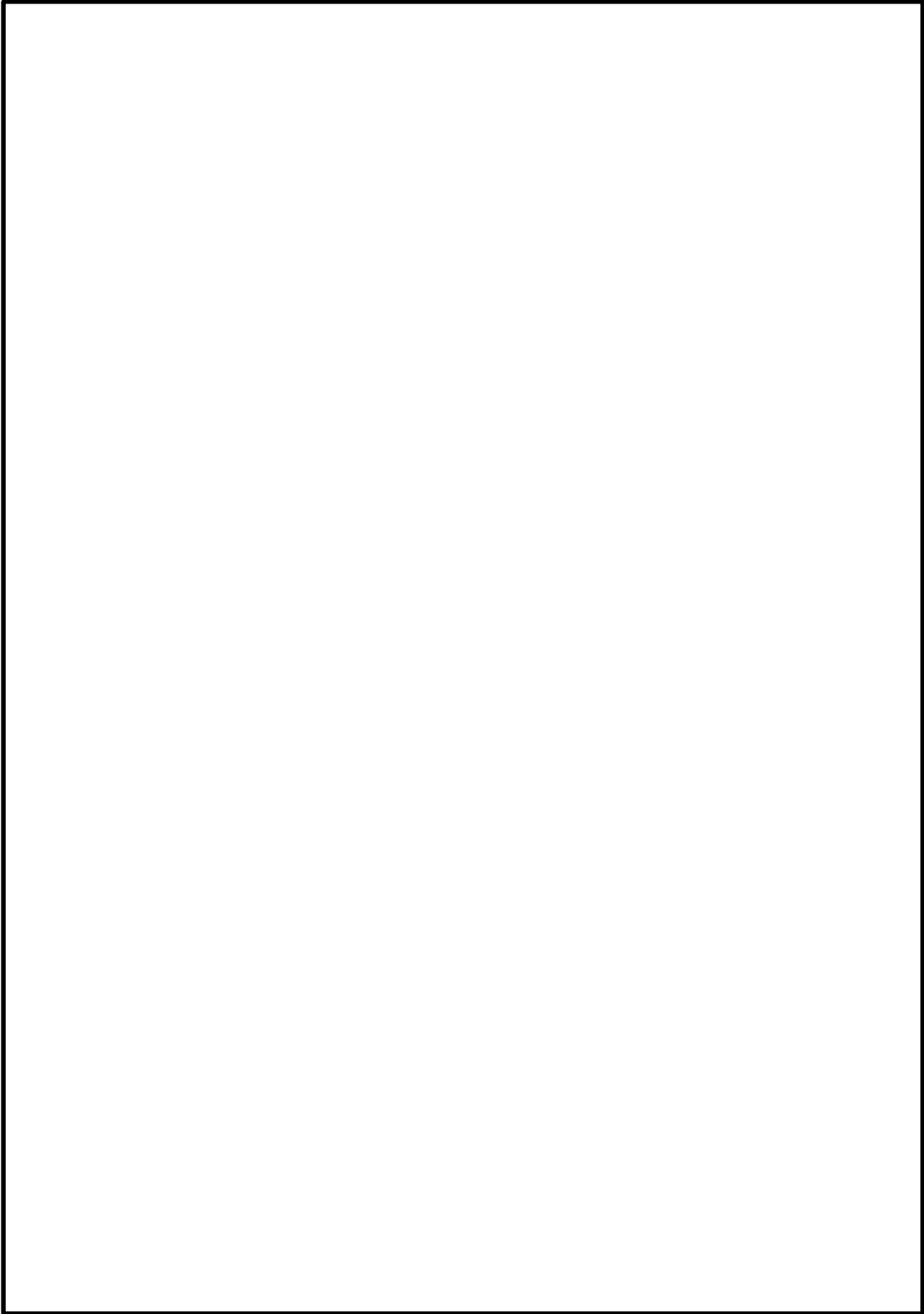
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**Government Unable or Unwilling to Protect Children**

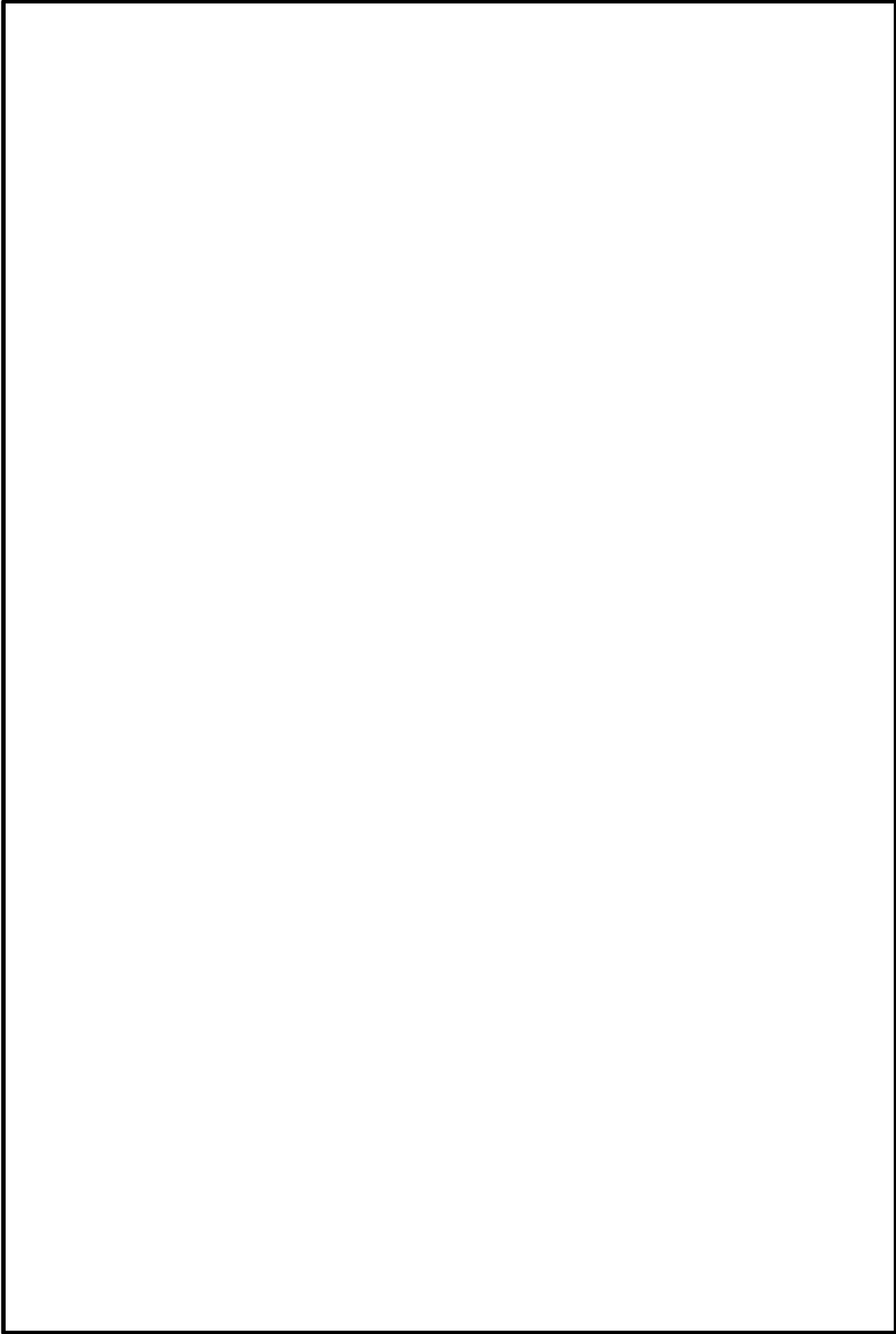


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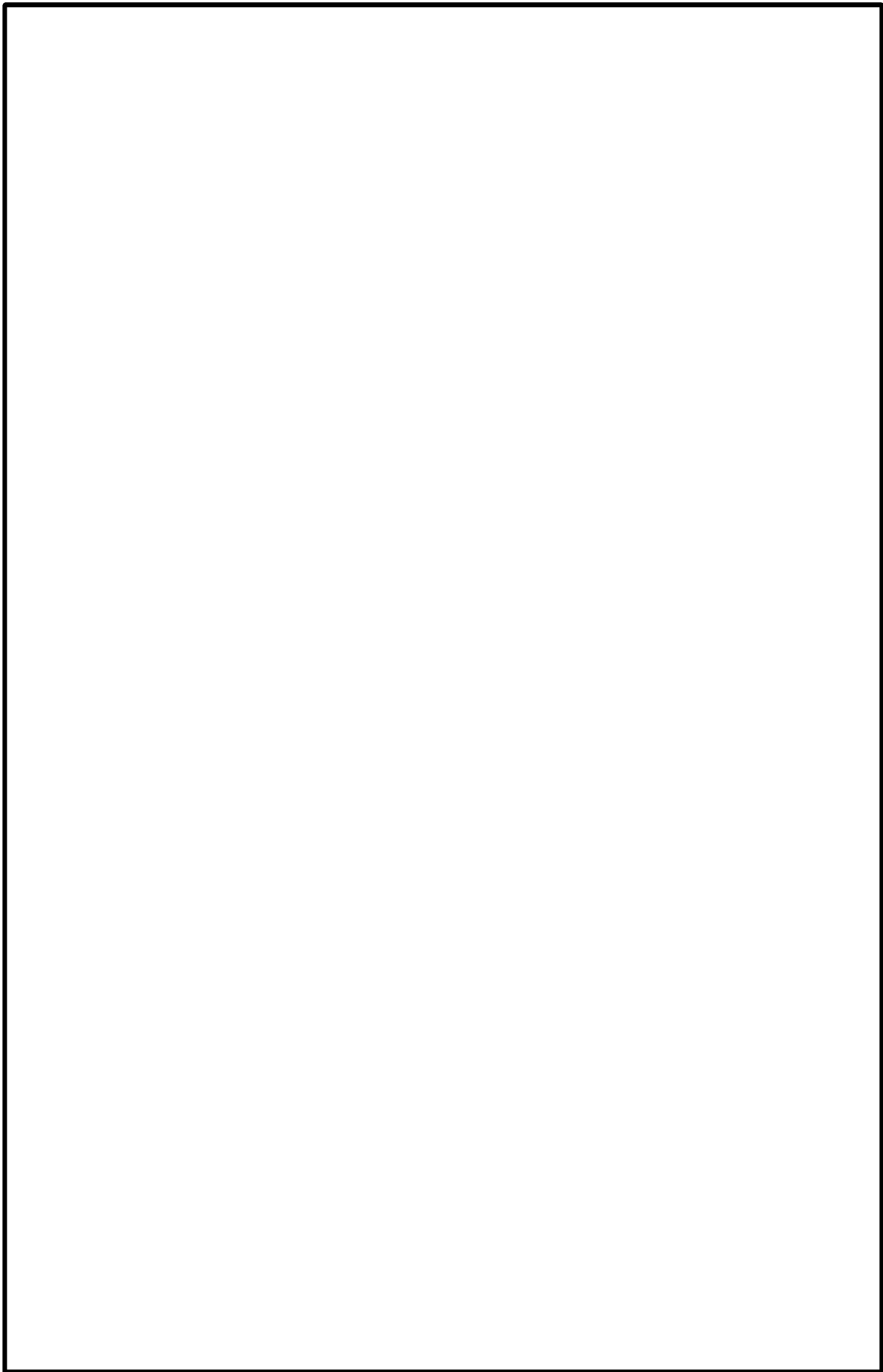
**APPENDIX L: FOLLOW-UP INTERVIEW GUIDE**



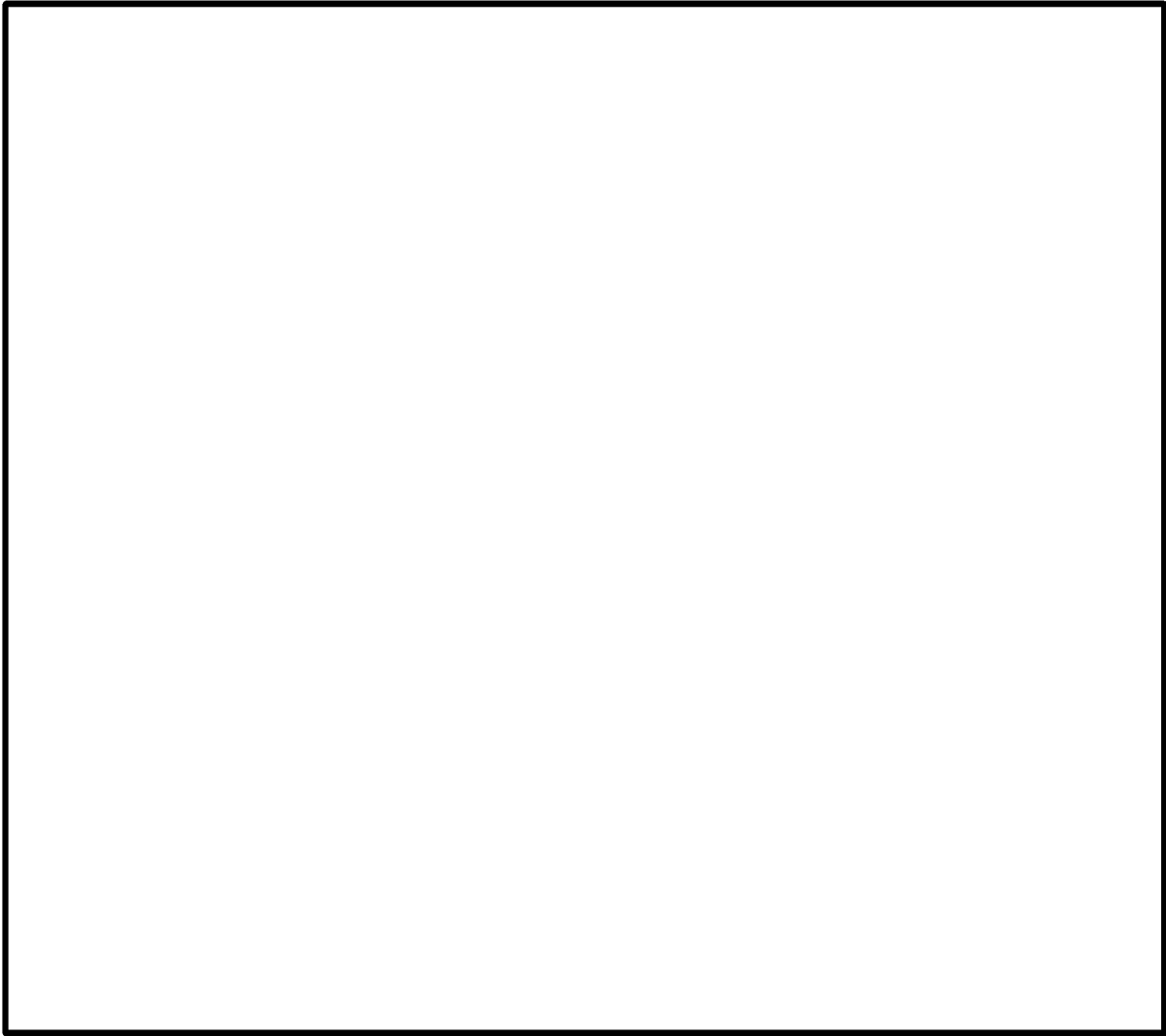
(b)(5)



(b)(5)



**APPENDIX M: DECISION CHANGE MEMORANDUM**



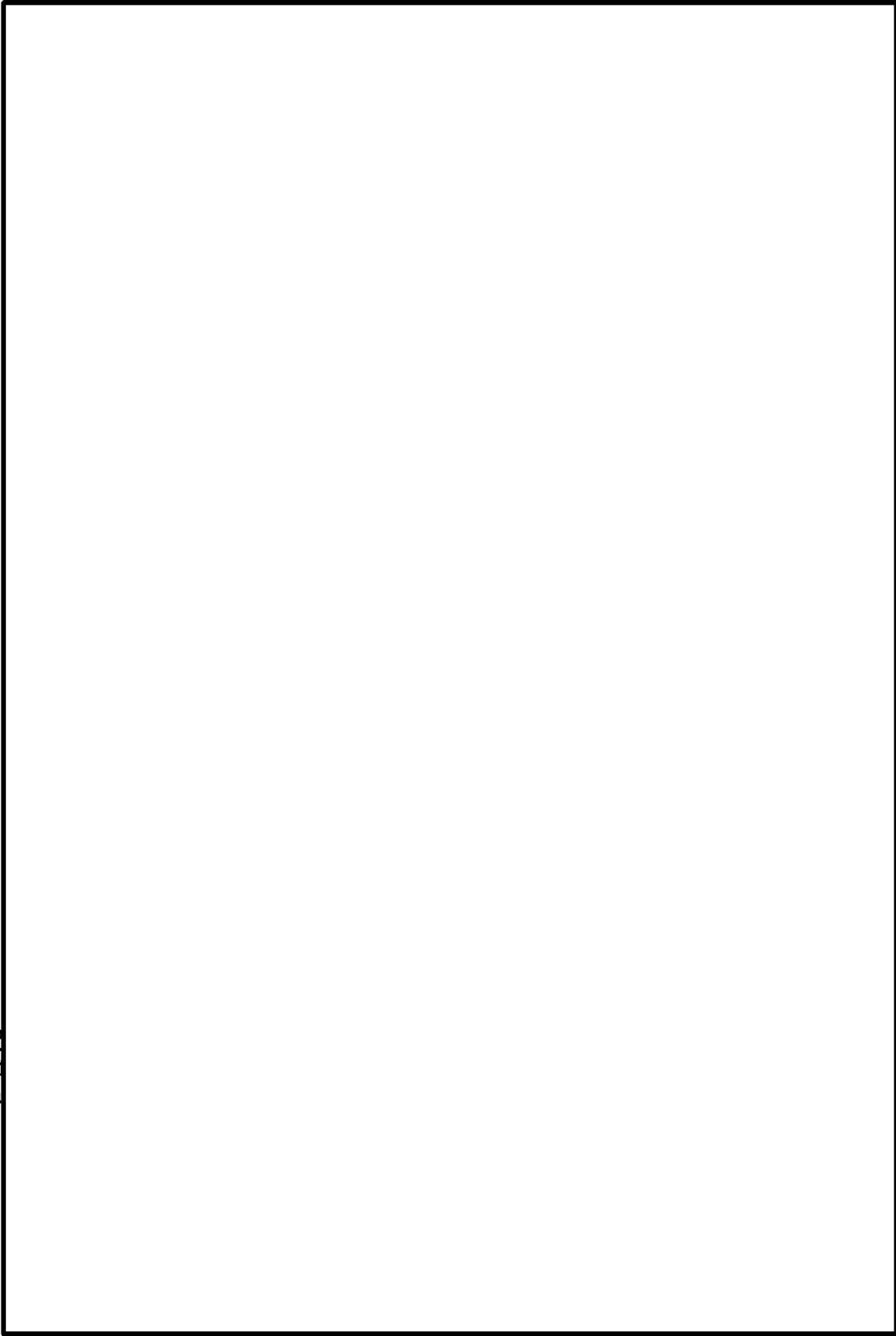


(b)(5)

**APPENDIX N: GUIDE FOR RARE LANGUAGES**

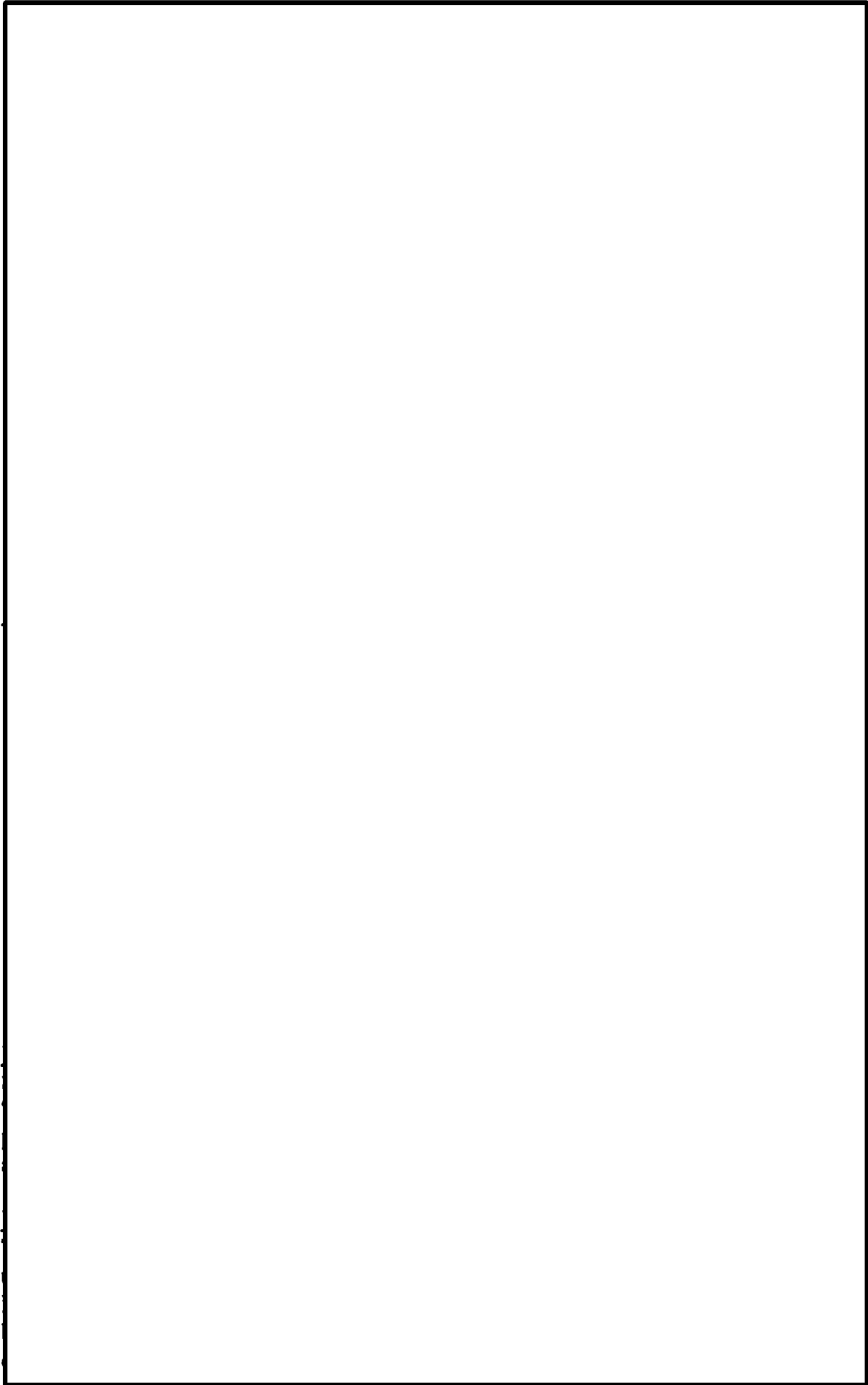


(b)(5)

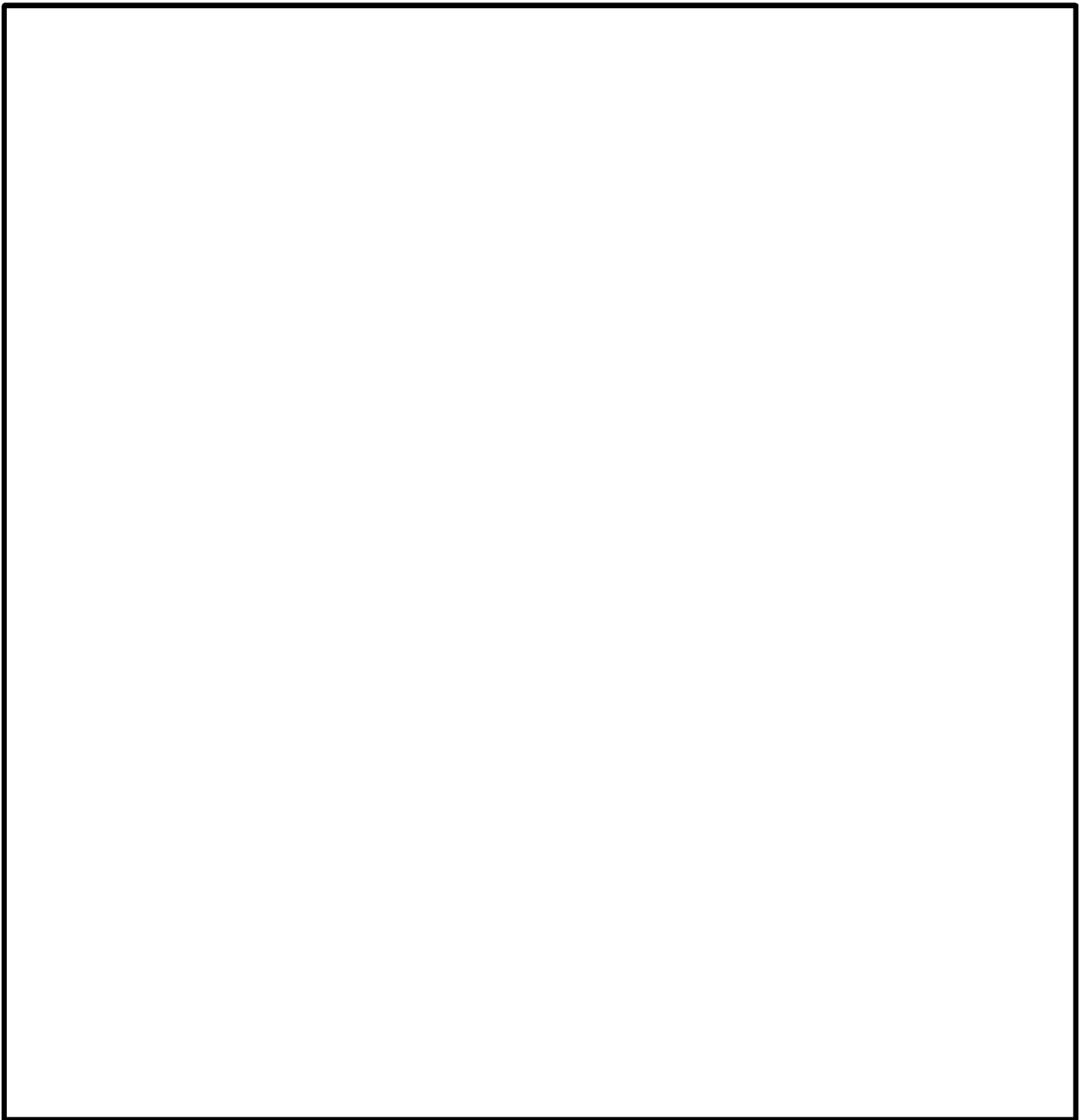


F  
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(b)(5)

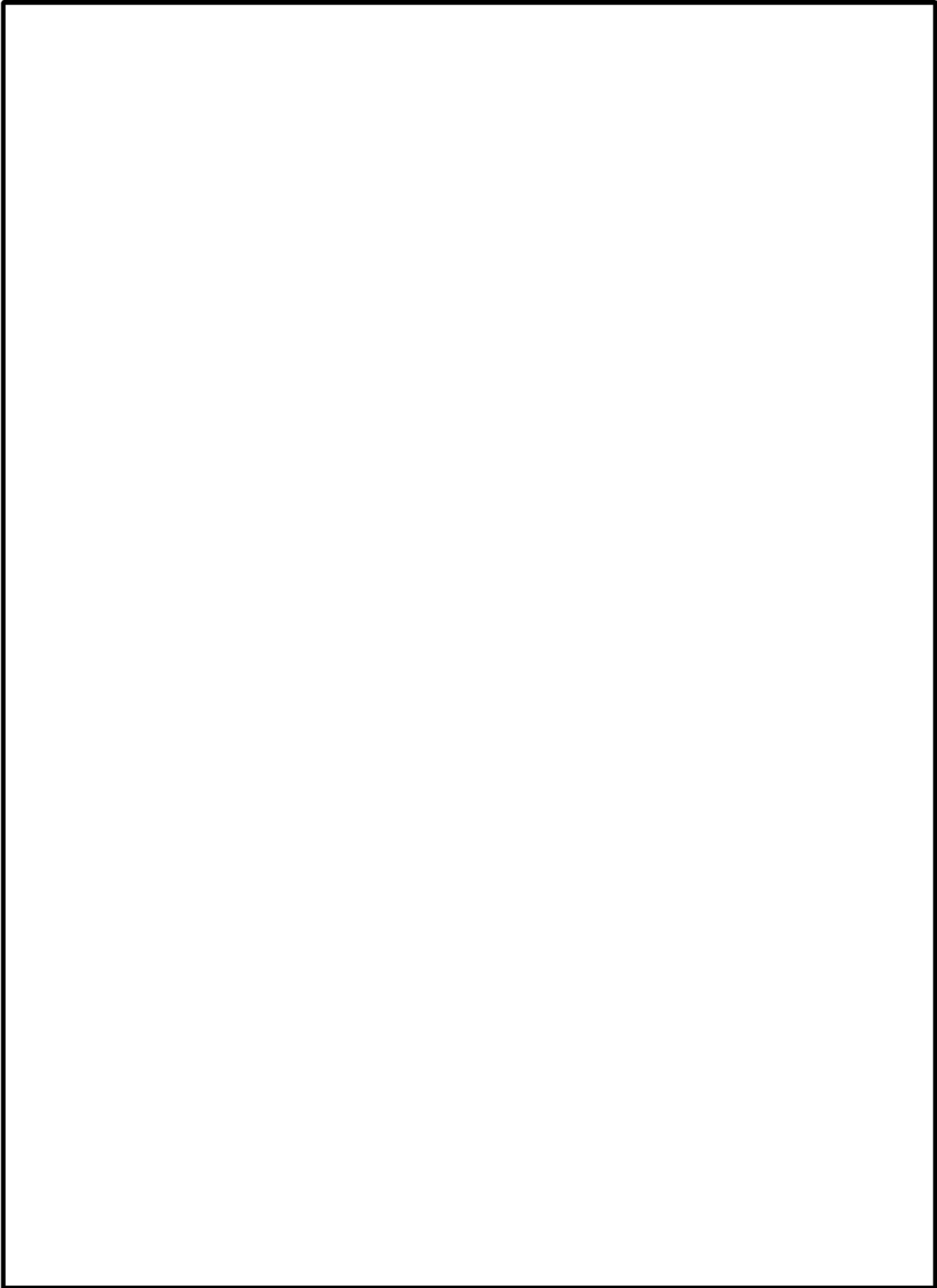


(b)(5)



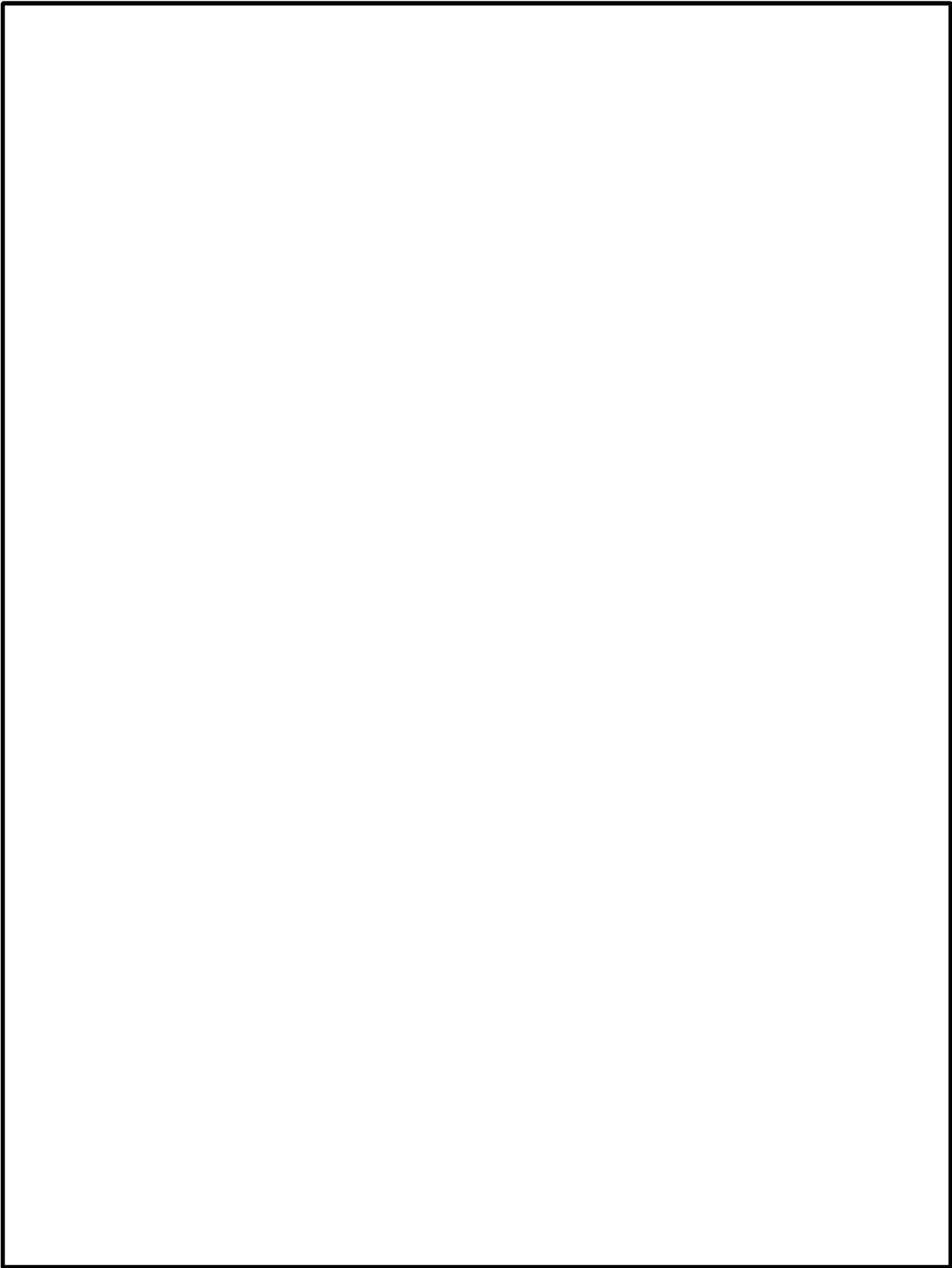
(b)(5)

**APPENDIX O: DECISION SERVICE SCRIPTS**

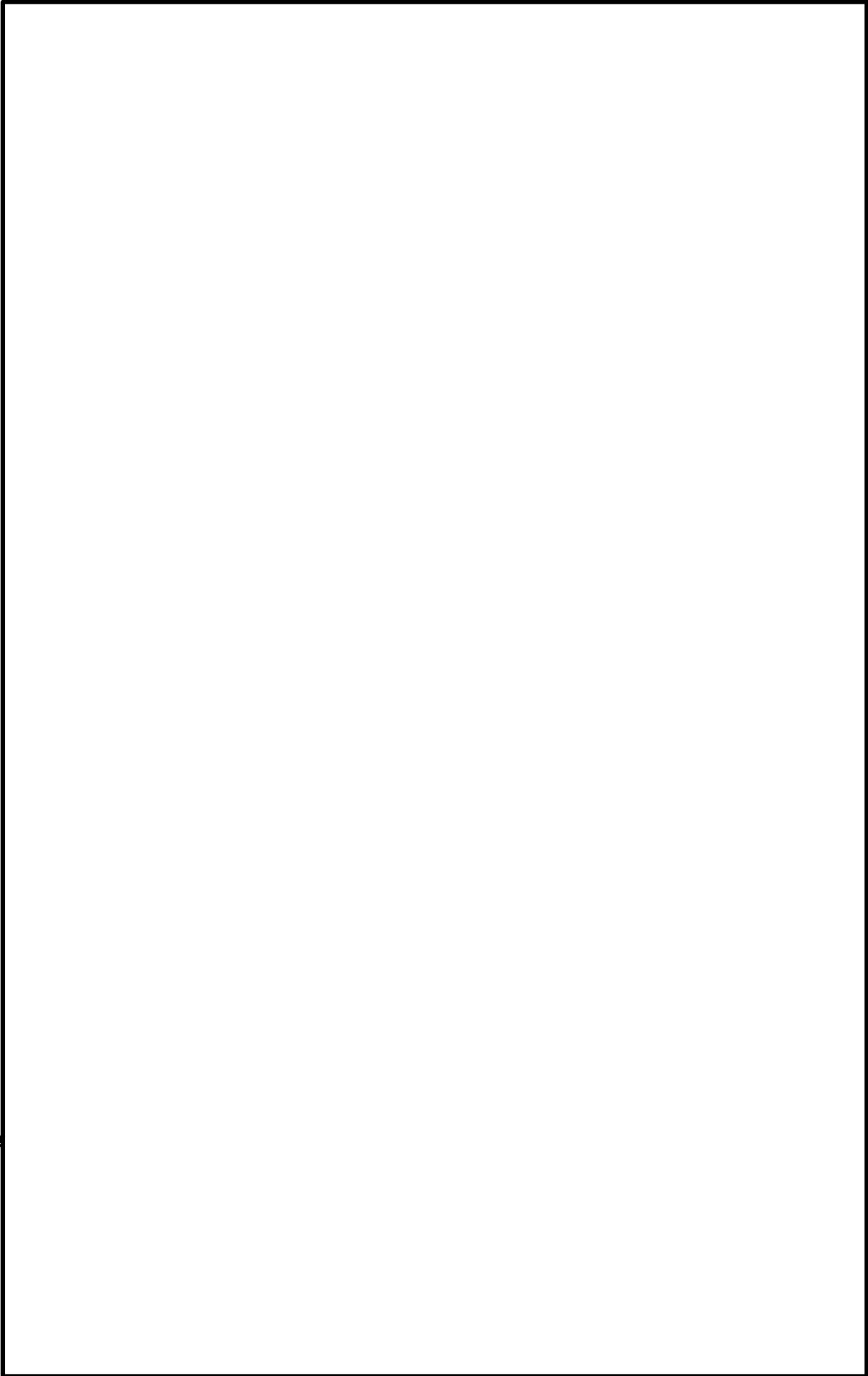


(b)(5)





(b)(5)



A



**Lynn, Mallory L**

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**From:** Lynn, Mallory L  
**Sent:** Saturday, September 27, 2014 2:32 PM  
**To:** Lawton, Vanessa G; Baker, Dana S; Gossett, Christopher R  
**Subject:** notes

Hi everyone – just a quick thought about notes. Please remember that we do serve a copy of the notes on the applicants and their representatives. There shouldn't be extraneous comments in the notes such as, "(This question must be posed of ALL applicants old enough to communicate with APSO. Record all answers.)" Those things are going around in some of the templates. Thanks!

Mallory

## Lynn, Mallory L

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**From:** Lynn, Mallory L  
**Sent:** Tuesday, September 30, 2014 10:42 AM  
**To:** Lawton, Vanessa G; Baker, Dana S; Gossett, Christopher R  
**Subject:** FW: Please update your Q&A templates (all programs)

**Importance:** High

---

**From:** Penel, Renata Q  
**Sent:** Wednesday, September 10, 2014 10:04 AM  
**To:** #ZHN-SAOandAO; Littlepage, Ryan L; Greene, Shevon  
**Cc:** Ahmed, Syed H (Harun)  
**Subject:** Please update your Q&A templates (all programs)  
**Importance:** High

Officers,

HQ has made a request/suggestion regarding nexus questions in interview templates. It's a good one, and very simple to implement.

**Please add a question specifically addressing any past or future harm by family members.**

The concern is that many applicants may not consider harm by family members to be relevant to asylum. We as Asylum Officers know better, and it is our responsibility to elicit all relevant testimony. A focused question(s) helps ensure that the applicant is afforded the opportunity to testify about any harm by family members and that we are able to identify any potentially relevant PSGs.

There are numerous ways to go about this, and no prescribed formulation, but here is one brilliantly crafted example:

**Q. Have you ever been threatened or harmed by a family member?**

If you have any questions or concerns, please see a supervisor or Training Officer.

Tiger Team SAOs: please share this with your non-ZHN team members.

Thank you,  
Renata

**Lynn, Mallory L**

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**From:** Lynn, Mallory L  
**Sent:** Tuesday, September 30, 2014 10:43 AM  
**To:** Gossett, Christopher R  
**Subject:** FW: one more essential question

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**From:** Lynn, Mallory L  
**Sent:** Tuesday, September 30, 2014 11:34 AM  
**To:** Baker, Dana S  
**Subject:** one more essential question

I forgot to mention this one! Please include in every interview a question that specifically gets at family based harm/DV. For example: have you ever been harmed by anyone in your family or someone you had a relationship with?

Thanks again!

Mallory

**Lynn, Mallory L**

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**From:** Lynn, Mallory L  
**Sent:** Wednesday, October 01, 2014 6:18 AM  
**To:** Lawton, Vanessa G; Baker, Dana S; Gossett, Christopher R  
**Cc:** Rellis, Jennifer L  
**Subject:** FW: Nexus questions - reminder

---

**From:** Penel, Renata Q  
**Sent:** Wednesday, October 01, 2014 6:40 AM  
**To:** #ZHN-SAOandAO; Talamantes, Eudelia A; Lynn, Mallory L; Schouvieller, Mary M; Maalona, John L  
**Subject:** Nexus questions - reminder

Good morning,

In view of a recent comment by HQ QA, we want to remind you all to ask applicants whether they will be harmed in the future on account of any protected characteristics. Some of your templates may be written with questions asking only about past harm. You should ask about both.

Tiger Team leads, will you please share this with your non-ZHN team members?

Thank you,  
Renata

**Lynn, Mallory L**

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**From:** Lynn, Mallory L  
**Sent:** Monday, October 06, 2014 7:55 AM  
**To:** Hemming, Bryan D  
**Subject:** ZART workload

Hi Bryan –

Do y'all have any interest in assigning telephonic interviews to ZART APSOs later this week? I'll need to train our new APSOs here and we have some RF work that needs to be done this week; however, we are not getting new referrals. I could probably have 2 APSOs do telephonic interviews Thursday and Friday. Two more arrive Thursday and I will train them on Friday.

I also talked to Dana about heading out early and I think she's going to call Amber re: a Wednesday departure.

Thanks!  
Mallory

**Lynn, Mallory L**

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**From:** Lynn, Mallory L  
**Sent:** Monday, October 06, 2014 11:03 AM  
**To:** Bardini, Emilia M; Yue, Calton  
**Subject:** FW: Early return from Artesia

FYI, below – Dana is now planning to return this Wednesday instead of Friday.

Thanks!  
Mallory

(b)(5)

(b)(6)

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**From:** Baker, Dana S  
**Sent:** Monday, October 06, 2014 11:58 AM  
**To:** Gossett, Christopher R; Lynn, Mallory L; Miller, Amber D  
**Cc:** Baker, Dana S  
**Subject:** Early return from Artesia

Hi Mallory, Chris, and Amber -

Please advise. Thanks!

**Lynn, Mallory L**

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**From:** Lynn, Mallory L  
**Sent:** Tuesday, November 04, 2014 6:41 AM  
**To:** Fairbank, Christina  
**Cc:** Parent, Jessica L  
**Subject:** suggested Artesia Forms  
**Attachments:** Artesia CF Interview Template.doc; I-870 CF Master Template (Kilaru)(ZART).docx; Memo to Flip Dependent to Principal.doc; NTA I-862 Template.doc

A#:  
NAME:  
COUNTRY:

DATE:  
AO: ZHN  
OFFICE: Artesia, NM

<b>PHONE INTERVIEW INITIATED:</b>	<b>Interpreter#</b>
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**Artesia Suggested CF Interview Template:**

*INSTRUCTIONS TO ASYLUM OFFICER: Questions highlighted in red must be asked during the interview. Other questions are suggestions. Red text indicates instructions to the Asylum Officer*

**CREDIBLE FEAR NOTES**

Applicant's name: LN, First

Applicant/Interpreter Monitor Oaths administered

Paragraph 1.28, Form I-870 read to the applicant

**DATE:** Click here to enter a date.

**COUNTRY:**

**ASYLUM OFFICER:** \_\_\_\_\_, ZHN

<b>INTERVIEW INITIATED: XX:XX MST</b>
---------------------------------------

**INTERPRETER: Language:** Spanish **Lionbridge #** XXXXXX

**Call Interpreter**

Hello interpreter. This is a credible fear interview. Please have form I-870 available for reference. I'm going to place you under oath.

**Administered Interpreter Oath**

<b>Officer</b>	<b>Interpreter</b>
Do you affirm that you will truthfully, literally and fully interpret the questions asked by the asylum officer and the answers given by the applicant; that you will not add to, delete from, comment on, or otherwise change the matter to be interpreted; and that you will immediately notify the officer in this case if you become aware of your inability to interpret in a neutral manner on account of a bias for or against the applicant or the applicant's race, religion, nationality, membership in a particular social group, or political opinion?	Yes
Do you affirm that you understand that the matters discussed during this interview are confidential?	Yes

**INTERPRETER: Interpreter, please introduce yourself to the applicant.**

**Introduction:** Hello. My name is Officer \_\_\_ and I will be conducting your interview today through an interpreter. We are having this interview today because you have expressed a fear of returning to your country and today we will discuss what those fears may be.

**Q:** What is your best language?

**A:**



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COUNTRY:

DATE:  
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OFFICE: Artesia, NM

Q: Do you speak any other languages?

A:

Q: Would you like to proceed today in the \*\*\*\*\* language?

A:

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[Interview notes should indicate whether attorney was present in person or telephonically and name of attorney.]

[REDACTED]

Q: Does this health issue affect your memory?

A:

Q: Have you informed the facility of these health issues?

A:

Q: Will your/your child's condition affect your ability to talk to me today?

A:

A#:  
NAME:  
COUNTRY:

DATE:  
AO: ZHN  
OFFICE: Artesia, NM

[REDACTED]

**IF APPLICANT WANTS TO PROCEED WITHOUT CHILD IN THE ROOM:**

[APSO should escort all residents/attorney to the child supervision area and wait until the child is situated in the room. Interview notes should reflect that child was taken to the supervision room and not present for the interview. As necessary (depending on the age and knowledge of the child), APSO should take testimony from the children later on in the interview after the mother finishes her substantive testimony.]

[REDACTED]

Q. Now the interpreter will now explain to you the purpose of this interview.

Interpreter read Section 1.28 (Form I-870) to applicant  
Interpreter, please read Paragraph 1.28 to the Applicant.

[REDACTED]

[REDACTED]

Applicant received and signed M-444 before interview

[Confirm that the applicant received and understood the M-444 before commencing the interview.]

Complete interpreter information

Administered Applicant Oath

Before we begin, I need to place you under oath. Please raise your right hand.  
Do you swear to tell the truth, the whole truth and nothing but the truth?

A.

Thank you, you may place your hand down. The interpreter has been sworn in by me earlier and s/he has promise to keep everything we discuss today confidential. Please speak loudly and clearly into the phone and please speak in short sentences. I'm just going to start by asking some questions about your background information.

***NOTE: THE FOLLOWING NOTES ARE NOT A VERBATIM TRANSCRIPT OF THIS INTERVIEW. THESE NOTES ARE RECORDED TO ASSIST THE INDIVIDUAL OFFICER IN MAKING A CREDIBLE FEAR DETERMINATION AND THE SUPERVISORY ASYLUM OFFICER IN REVIEWING THE DETERMINATION. THERE MAY BE AREAS OF THE INDIVIDUAL'S CLAIM THAT WERE NOT EXPLORED OR DOCUMENTED FOR PURPOSES OF THIS THRESHOLD SCREENING.***

Q. Do you still fear return to your country?

A.

A#:  
NAME:  
COUNTRY:

DATE:  
AO: ZHN  
OFFICE: Artesia, NM

Q. Records indicate you entered the United States on \*\*\*\*\*, through \*\*\*\*\* is that correct?  
A.

Q. When was the first time you entered the United States?  
A.

Q. Did you ever reside in the US or were you ever here for short periods of time?  
A.

Q. Do you remember approximately how many times you have come to the US before?  
A.

Q. Did you ever apply for any legal status in the United States before, such as TPS or for asylum?  
A.

Q. Where are your parents?  
A.

Q. Have they ever been to the US?  
A.

Q. Have your parents ever applied for asylum in the US before?  
A.

[REDACTED]

[If applicant identifies other family members, obtain names, dates of births, and A# of the family member.]

Q. What is your full name?  
A.

Q. Have you ever been known by any other names or aliases?  
A.

Q. Where were you born?  
A.

Q. What is your date of birth?  
A.

Q. Have you used any other dates of birth?  
A.

Q. Are you a citizen of \_\_\_\_\_?  
A.

Q. Are you a citizen of any other country?  
A.

A#:  
NAME:  
COUNTRY:

DATE:  
AO: ZHN  
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Q. Have you lived in any other countries?

A.

Q. Do you speak any other languages besides Spanish?

A.

Q. Do you identify as Hispanic, Indigenous, Mixed, white, black, etc.?

A.

Q. Do you have a religion; if so, what is it?

A.

Q. When did you enter the US?

A:

Q. Is this the first time you tried to enter into the United States?

A:

Q: Do you remember when you were apprehended by immigration officials?

A:

Q. Where did you enter the US?

A.

Q. Are you married, single, living with a partner? (Full name, citizenship, and location please)

A.

Q. Do you have any children? (Names, date of birth, and locations please).

A.

Q. What type of work did you do in your country?

A.

Q. Do you have any family, friends, or relatives in the US with whom would stay, if released? (Name / Address / Relationship / Telephone / Status?)

A.

Q. How are you being treated at the detention facility?

A.

### **CREDIBLE FEAR INTERVIEW - CLAIM**

**We are about to begin discussing the substance of your claim for asylum. It is in your best interest to keep your responses short with plenty of pauses so that the interpreter can accurately translate your responses. If what you say is too long for the interpreter to interpret, s/he will stop you. Please listen to my questions carefully and answer directly.**

A#:  
NAME:  
COUNTRY:

DATE:  
AO: ZHN  
OFFICE: Artesia, NM



**[During any part of the testimony that becomes graphic or sensitive APSO should ask the applicant: Would you be more comfortable talking to me with your children in another room?]**

**PERSECUTION**

**Q. Have you ever been threatened or harmed in your country? Yes or No?**

**A.**

**Q. Who threatened/harmed you?**

**A.**

**Q. Has anyone else threatened/harmed you for any reason?**

**A.**

**Q. How were you threatened/harmed? (in person, over the telephone, through a letter, etc)?**

**A.**

**Q. Why were you threatened/harmed?**

**A.**

**Q. What exactly did they say to you?**

**A.**

**Q. Did they say anything else to you?**

**A.**

**Q. Why do you think they chose you?**

**A.**

**Q. Are there any specific reasons that they chose you?**

**A.**

**Q. Does [persecutor] do [harm] to other people like you/in your area?**

**A.**

**Q. Did you report the incident(s) to the police? If no, why did you not report to the police?**

**A.**

**Q. What happened at the police station?**

**A.**

**Q. How did the police respond to you?**

**A.**

**WELL-FOUNDED FEAR**

**Q. What do you think will happen to you if you return to your country?**

A#:  
NAME:  
COUNTRY:

DATE:  
AO: ZHN  
OFFICE: Artesia, NM

A.

Q. Who would harm you?

A.

Q. Why would [persecutor] still want to harm you?

A.

Q. Does [persecutor] want to harm you for any other reasons?

A.

Q. Could the police or government protect you from the people you fear?

A.

Q. Could you live in a different part of your country and be safe?

A.

Q. If not, why not?

A.

#### CHILDREN'S CLAIMS

Q. Have your children ever been threatened or harmed by anyone in the past?

A.

Q. Would anyone harm your children if you returned to your country?

A.

[APSO must explore and elicit children's full asylum claim, particularly if the mother's claim appears to be negative. In order to flip the case, APSO must establish all elements of persecution or CAT claim for the child on the record. APSO can elicit the child's claim from the mother and/or take testimony from the child as appropriate.]

#### OTHER NEXUSES

Q. Have you ever been threatened and/or harmed or do you fear harm/threats on account of your religion in your country?

A.

Q. Have you ever been threatened and/or harmed or do you fear harm/threats on account of your race/skin color in your country?

A.

Q. Have you ever been threatened and/or harmed or do you fear harm/threats on account of your nationality, in your country?

A.

A#:  
NAME:  
COUNTRY:

DATE:  
AO: ZHN  
OFFICE: Artesia, NM

Q. Have you ever been threatened and/or harmed or do you fear harm/threats on account of your political opinion in your country?

A.

Q. Is there any characteristic you have or anything about you that would make people in your society want to harm you? Is there any characteristic you have that people in your area would not approve of?

A.

Q. Do you fear being threatened or harmed for any other reasons if you were to return?

A.

### CAT

Q. Have you ever experienced any mistreatment in the past by government officials, the police or persons associated with the government?

A.

Q. Do you fear the authorities or police in your country?

A.

Q. Torture means that someone is trying to cause severe intentional physical harm or severe intentional mental suffering? Do you fear torture from any public official/police/government in your country?

A.

Q: Have you ever been tortured by anyone for any reason?

A.

Q: Is there any connection between the people you fear in your country and the government of your country?

A.

Q. What makes you think that?

A.

Q. Are there any specific reasons that make you believe the people you fear are associated with the government or authorities?

A.

Q. Do you think [persecutor] would be able to harm you with the consent or permission of the police?

A.

Q. If the [insert country] authorities were standing there next to you while the people you fear were threatening/harming you, would the authorities help you?

A.

### CONCLUSION

[REDACTED]

A#:  
NAME:  
COUNTRY:

DATE:  
AO: ZHN  
OFFICE: Artesia, NM



**BARS**

Q. Have you or your children ever harmed anyone for any reason?

A.

Q. Have you or your children ever committed a crime in any country?

A.

Q. Have you or your children ever been convicted of a crime in any country?

A.

Q. Have you or your children ever committed an armed act or an act that could be considered a terrorist act?

A.

Q. Have you or your children ever been a member of an armed group or a group that could be considered a terrorist group?

A.

Q. Have you or your children ever provided any type of support, like food, housing, money, weapons transportation, to a person or group who commits armed acts?

A.

**RUNWAY**

Q. Records indicate that on XX/XX/XX, you told the Immigration Officers that your purpose of entering the US was \_\_\_\_\_. Is this correct?

A.

Q. Why didn't you tell the Immigration Officers that you were afraid to return to your country?

A.

**LAST CHECK FOR UNDERSTANDING**

Q: Did you understand the questions that I asked?

A:

Q: Did you understand your interpreter?

A:

Q: Interpreter, did you understand the applicant?

A:

**REVIEW OF SUMMARY OF TESTIMONY**

**APSO SUMMARIZED THE CASE TO THE APPLICANT AS REQUIRED BY SECTION 3.3, FORM I-870**



**A#:**  
**NAME:**  
**COUNTRY:**

**DATE:**  
**AO:** ZHN  
**OFFICE:** Artesia, NM

Summary of testimony

**Q: Is this summary correct?**  
**A:**

**Q: Are there any changes or additions you would like to make?**  
**A:**

**Q: Is there anything else that is important to your claim that we have not yet discussed?**  
**A:**

[If attorney is present, APSO should give the attorney an opportunity to ask questions of the applicant or to make a closing statement. Attorney's Q&A and/or statement should be recorded in the notes.]

**INTERVIEW CLOSING**

Interpreter Please Read Section 3.2 (I-870) to applicant

**Q: Do you understand what was read to you?**  
**A:**

**Q: Do you have any comments or questions?**  
**A:**

That concludes the interview today.

<b>INTERVIEW CONCLUDED: XX:XX MST</b>
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**Lynn, Mallory L**

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**From:** Lynn, Mallory L  
**Sent:** Wednesday, November 12, 2014 4:38 PM  
**To:** Adams, Joyce V; Hook, Garland R; Henson, Courtney A; Osuji, Kizito; Beighley, Tracy L  
**Cc:** Parent, Jessica L  
**Subject:** domestic relationship guidance

Some thoughts from HQ –

The *Matter of L-R*- brief noted that the particular social group of women unable to leave a domestic relationship is a cognizable group. DHS's brief to the Board of Immigration Appeals in the L-R- case highlighted that the persecutor believed that he "could do anything he wanted to [the applicant] because she belonged to him." According to the L-R- brief, an applicant's status within a domestic relationship is immutable where the applicant is economically, socially, or physically unable to leave the abusive relationship, or where "the abuser would not recognize a divorce or separation as ending the abuser's right to abuse the victim." The brief further pointed out that an applicant's "non-marital status in the relationship does not [necessarily] defeat her membership." *Id.* at n. 12. The L-R- brief cited to INA section 237(a)(2)(E)(1) to illustrate how a "domestic relationship" could be defined with sufficient particularity. Section 237(a)(2)(E)(I) defines "crimes of domestic violence" to include offenses "against a person committed by a current or former spouse of the person, by an individual with whom the person shares a child in common, by an individual who is cohabitating with or has cohabitated with the person as a spouse, by an individual similarly situated to a spouse of the person under the domestic or family violence laws of the jurisdiction where the offense occurs." *Id.* at 19. (Emphasis added). Further, the brief stated that the term domestic relationship could be "tailored to the unique situation" in an applicant's society. *Id.*

**Jowett, Haley L**

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**From:** Littlepage, Ryan L  
**Sent:** Tuesday, September 09, 2014 9:21 AM  
**To:** Perez, Susan A; Chang, Minfen M; Hill, Kara J; Roeschke, Joseph E; Johnson, Robert L; Beighley, Tracy L  
**Subject:** SOP  
**Attachments:** Artesia SOP Compilation.docx; CF.RF Background Identity & Security Checklist and the IBIS Checks Flowchart.pdf; Childcare Recommendations.pdf; Credible Fear of Persecution and Torture Determinations (2-28-2014).pdf; Questions to ask regarding Minors.pdf; Role of Consultant.pdf; sop rare languages.docx

All,

Take a look at these attachments about a variety of Artesia related issues. We'll be going over some of this information at the meeting at 9.

Ryan

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## Lesson Plan Overview

<b>Course</b>	Refugee, Asylum, and International Operations Directorate Officer Training Asylum Division Officer Training Course
<b>Lesson</b>	<b><i>Credible Fear</i></b>
<b>Rev. Date</b>	February 28, 2014
<b>Lesson Description</b>	The purpose of this lesson is to explain how to determine whether an alien subject to expedited removal or an arriving stowaway has a credible fear of persecution or torture using the credible fear standard.
<b>Terminal Performance Objective</b>	The Asylum Officer will be able to correctly make a credible fear determination consistent with the policies, procedures, and regulations that govern whether the applicant has established a credible fear of persecution or a credible fear of torture.
<b>Enabling Performance Objectives</b>	<ol style="list-style-type: none"><li>1. Identify which persons are subject to expedited removal. (ACRR7)(OK4)(ACRR2)(ACRR11)(APT2)</li><li>2. Examine the function of credible fear screening. (ACRR7)(OK1)(OK2)(OK3)</li><li>3. Define the standard of proof required to establish a credible fear of persecution. (ACRR7)</li><li>4. Identify the elements of "torture" as defined in the <i>Convention Against Torture</i> and the regulations that are applicable to a credible fear of torture determination (ACRR7)</li><li>5. Describe the types of harm that constitute "torture" as defined in the <i>Convention Against Torture</i> and the regulations. (ACRR7)</li><li>6. Define the standard of proof required to establish a credible fear of torture. (ACRR7)</li><li>7. Identify the applicability of bars to asylum and withholding of removal in the credible fear context. (ACRR3)(ACRR7)</li></ol>
<b>Instructional Methods</b>	Lecture, practical exercises
<b>Student Materials/References</b>	Lesson Plan; Procedures Manual, Credible Fear Process (Draft, Nov., 2003); INA § 208; INA § 235; 8 C.F.R. §§ 208.16-18; 8 C.F.R. § 208.30; 8 C.F.R. § 235.3.  Credible Fear Forms: <b>Form I-860</b> : Notice and Order of Expedited Removal; <b>Form I-867-A&amp;B</b> : Record of Sworn Statement; <b>Form I-869</b> : Record of Negative Credible Fear Finding and Request for Review by

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Immigration Judge; **Form I-863**: Notice of Referral to Immigration Judge; **Form I-870**: Record of Determination/Credible Fear Worksheet; **Form M-444**: Information about Credible Fear Interview

**Method of Evaluation**

Written test

**Background Reading**

1. Immigration and Naturalization Service, *Inspection and Expedited Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum Procedures*, 62 Fed. Reg. 10312 (March 6, 1997).
2. Bo Cooper, *Procedures for Expedited Removal and Asylum Screening under the Illegal Immigration Reform and Immigrant Responsibility Act of 1996*, 29 CONN. L. REV. 1501, 1503 (1997).
3. Immigration and Naturalization Service, *Regulations Concerning the Convention Against Torture*, 64 Fed. Reg. 8478 (February 19, 1999).
4. Immigration and Naturalization Service, *Notice Designating Aliens Subject to Expedited Removal Under Section 235(b)(1)(A)(iii) of the Immigration and Nationality Act*, 67 Fed. Reg. 68924 (November 13, 2002).
5. Customs and Border Protection, *Designating Aliens For Expedited Removal*, 69 Fed. Reg. 48877 (August 11, 2004).
6. U.S. Committee on International Religious Freedom, *Study on Asylum Seekers in Expedited Removal – Report on Credible Fear Determinations*, (Feb. 2005).
7. Customs and Border Protection, *Treatment of Cuban Asylum Seekers at Land Border Ports of Entry*, Memorandum for Directors, Field Operations, (Washington, DC: 10 June 2005).
8. Joseph E. Langlois, Asylum Division, Office of International Affairs, *Increase of Quality Assurance Review for Positive Credible Fear Determinations and Release of Updated Asylum Officer Basic Training Course Lesson Plan, Credible Fear of Persecution and Torture Determinations*, Memorandum to Asylum Office Directors, et al. (Washington, DC: 17 April 2006).
9. Joseph E. Langlois, Asylum Division, Refugee, Asylum and International Operations Directorate, *Revised Credible Fear Quality Assurance Review Categories and Procedures*, Memorandum to Asylum Office Directors, et al. (Washington, DC: 23 December 2008).

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10. Immigration and Customs Enforcement, *Parole of Arriving Aliens Found to Have a Credible Fear of Persecution or Torture*, ICE Directive No. 11002.1 (effective Jan. 4, 2010).

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## CRITICAL TASKS

### Critical Tasks

- Knowledge of U.S. case law that impacts RAIO (3)
- Knowledge of the Asylum Division history. (3)
- Knowledge of the Asylum Division mission, values, and goals. (3)
- Knowledge of how the Asylum Division contributes to the mission and goals of RAIO, USCIS, and DHS. (3)
- Knowledge of the Asylum Division jurisdictional authority. (4)
- Knowledge of the applications eligible for special group processing (e.g., ABC, NACARA, Mendez) (4)
- Knowledge of relevant policies, procedures, and guidelines establishing applicant eligibility for a credible fear of persecution or credible fear of torture determination. (4)
- Skill in identifying elements of claim. (4)
- Knowledge of inadmissibility grounds relevant to the expedited removal process and of mandatory bars to asylum and withholding of removal. (4)
- Knowledge of the appropriate points of contact to gain access to a claimant who is in custody (e.g., attorney, detention facility personnel) (3)
- Skill in organizing case and research materials (4)
- Skill in applying legal, policy, and procedural guidance (e.g., statutes, case law) to evidence and the facts of a case. (5)
- Skill in analyzing complex issues to identify appropriate responses or decisions. (5)

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## Presentation

## References

### I. INTRODUCTION

The purpose of this lesson plan is to explain how to determine whether an alien seeking admission to the U.S., who is subject to expedited removal or is an arriving stowaway, has a credible fear of persecution or torture using the credible fear standard defined in the Immigration and Nationality Act (INA or the Act), as amended by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA), and implementing regulations.

### II. BACKGROUND

The expedited removal provisions of the INA, were added by section 302 of IIRIRA, and became effective April 1, 1997.

INA § 235(a)(2); § 235 (b)(1).

In expedited removal, certain aliens seeking admission to the United States are immediately removable from the United States by the Department of Homeland Security (DHS), unless they indicate an intention to apply for asylum or express a fear of persecution or torture or a fear of return to their home country. Aliens who are present in the U.S., and who have not been admitted, are treated as applicants for admission. Aliens subject to expedited removal are not entitled to an immigration hearing or further review unless they are able to establish a credible fear of persecution or torture.

INA § 235(a)(1).

INA section 235 and its implementing regulations provide that certain categories of aliens are subject to expedited removal. These include: arriving stowaways; certain arriving aliens at ports of entry who are inadmissible under INA section 212(a)(6)(C) (because they have presented fraudulent documents or made a false claim to U.S. citizenship or other material misrepresentations to gain admission or other immigration benefits) or 212(a)(7) (because they lack proper documents to gain admission); and certain designated aliens who have not been admitted or paroled into the U.S.

Those aliens subject to expedited removal who indicate an intention to apply for asylum, a fear of persecution or torture, or a fear of return to their home country are referred to asylum officers to determine whether they have a credible fear of persecution or torture. An asylum officer will then conduct a credible fear interview to determine if there is a significant possibility that the alien can establish eligibility for asylum under section 208 of the INA. Pursuant to

INA § 235(b)(1)(A); 8 C.F.R. § 208.30.

regulations implementing the Convention Against Torture (CAT) and the Foreign Affairs Reform and Restructuring Act of 1998, if an alien does not establish a credible fear of persecution, the asylum officer will then determine whether there is a significant possibility the alien can establish eligibility for protection under the Convention Against Torture through withholding of removal or deferral of removal.

Sec. 2242(b) of the Foreign Affairs Reform and Restructuring Act of 1998 (Pub. L. 105-277, Div. G, October 21, 1998) and 8 C.F.R. § 208.30(e)(3).

#### A. Aliens Subject to Expedited Removal

The following categories of aliens may be subject to expedited removal:

1. Arriving aliens coming or attempting to come into the United States at a port of entry or an alien seeking transit through the United States at a port of entry.

8 C.F.R. § 235.3(b)(1)(i); see 8 C.F.R. § 1.2 for the definition of an “arriving alien.”

Aliens attempting to enter the United States at a land border port of entry with Canada must first establish eligibility for an exception to the Safe Third Country Agreement, through a Threshold Screening interview, in order to receive a credible fear interview.

8 C.F.R. § 208.30(e)(6). See also, ADOTC Lesson Plan, *Safe Third Country Threshold Screening*.

2. Aliens who are interdicted in international or United States waters and brought to the United States by any means, whether or not at a port of entry.

8 C.F.R. § 1.2; see also Immigration and Naturalization Service, *Notice Designating Aliens Subject to Expedited Removal Under Section 235(b)(1)(A)(iii) of the Immigration and Nationality Act*, 67 Fed. Reg. 68924 (Nov. 13, 2002).

This category does not include aliens interdicted at sea who are never brought to the United States.

3. Aliens who have been paroled under INA section 212(d)(5) on or after April 1, 1997, may be subject to expedited removal upon termination of their parole.

This provision encompasses those aliens paroled for urgent humanitarian or significant public benefit reasons.

This category does not include those who were given advance parole as described in Subsection B (7) below.

4. Aliens who have arrived in the United States by sea (either by boat or by other means) who have not been admitted or paroled, and who have not been physically present in the U.S. continuously for the two-year period prior to the inadmissibility determination.

Immigration and Naturalization Service, *Notice Designating Aliens Subject to Expedited Removal Under Section 235(b)(1)(A)(iii) of the Immigration and Nationality Act*, 67 Fed. Reg. 68924 (Nov. 13, 2002).

5. Aliens who have been apprehended within 100 air miles of any U.S. international land border, who have not been admitted or paroled, and who have not established to the satisfaction of an immigration officer (typically a Border Patrol Agent) that they have been physically present in the U.S. continuously for the 14-day period immediately prior to the date of encounter.

Customs and Border Protection, *Designating Aliens For Expedited Removal*, 69 Fed. Reg. 48877 (Aug. 11, 2004).

## **B. Aliens Seeking Admission Who are Exempt from Expedited Removal**

The following categories of aliens are exempt from expedited removal:

### **1. Stowaways**

Stowaways are not eligible to apply for admission to the U.S., and therefore they are not subject to the expedited removal program under INA section 235(b)(1)(A)(i). They are also not eligible for a full hearing in removal proceedings under INA section 240. However, if a stowaway indicates an intention to apply for asylum under INA section 208 or a fear of persecution, an asylum officer will conduct a credible fear interview and refer the case to an immigration judge for an asylum and/or Convention Against Torture hearing if the stowaway meets the credible fear standard.

INA § 235(a)(2).

### **2. Cubans citizens or nationals**

INA § 235(b)(1)(F) (Cubans arriving at a POE by air); Immigration and Naturalization Service, *Notice Designating Aliens Subject to Expedited Removal Under Section 235(b)(1)(A)(iii) of the Immigration and Nationality Act*, 67 Fed. Reg. 68924 (Cubans arriving by sea); Customs and Border Protection, *Designating Aliens For Expedited Removal*, 69 Fed. Reg. 48877 (Cubans apprehended within 100 air miles of the border and within 14 days of entry without inspection); Customs and Border Protection, *Treatment of Cuban Asylum Seekers at*

*Land Border Ports of Entry,  
Memorandum for Directors,  
Field Operations,  
(Washington, DC: 10 June  
2005) (Cubans arriving at a  
land border port of entry).*

3. Persons granted asylum status under INA Section 208 8 C.F.R. § 235.3(b)(5)(iii).
  4. Persons admitted to the United States as refugees under INA Section 207 8 C.F.R. § 235.3(b)(5)(iii).
  5. Persons admitted to the United States as lawful permanent residents 8 C.F.R. § 235.3(b)(5)(ii).
  6. Persons paroled into the United States prior to April 1, 1997
  7. Persons paroled into the United States pursuant to a grant of advance parole that the alien applied for and obtained in the United States prior to the alien's departure from and return to the United States
  8. Persons denied admission on charges other than or in addition to INA Section 212(a)(6)(C) or 212(a)(7) 8 C.F.R. § 235.3(b)(3).
  9. Persons applying for admission under INA Section 217, Visa Waiver Program for Certain Visitors ("VWP") 8 C.F.R. § 235.3(b)(10); *see also Matter of Kanagasundram*, 22 I&N Dec. 963 (BIA 1999); Procedures Manual, Credible Fear Process (Draft, Nov., 2003), sec. IV.L., "Visa Waiver Permanent Program"; and Pearson, Michael A. Executive Associate Commissioner, Office of Field Operations. Visa Waiver Pilot Program (VWPP) Contingency Plan, Wire #2 (Washington DC: April 28, 2000).
- This exemption includes nationals of non-VWP countries who attempt entry by posing as nationals of VWP countries.
- Individuals seeking admission under the Guam and Northern Mariana Islands visa waiver program under INA section 212(l) are not exempt from expedited removal provisions of the INA.

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10. Asylum seekers attempting to enter the United States at a land border port of entry with Canada must first establish eligibility for an exception to the Safe Third Country Agreement, through a Threshold Screening interview, in order to receive a credible fear interview.

8 C.F.R. § 208.30(e)(6).

### C. Historical Background

1. In 1991, the Immigration and Naturalization Service (INS) developed the credible fear of persecution standard to screen for possible refugees among the large number of Haitian migrants who were interdicted at sea during the mass exodus following a *coup d'etat* in Haiti.

The credible fear standard as it is applied to interdicted migrants outside the United States is beyond the scope of this lesson plan.

2. Prior to implementation of the expedited removal provisions of IIRIRA, credible fear interviews were first conducted by INS trial attorneys and later by asylum officers, to assist the district director in making parole determinations for detained aliens.

3. In 1996, the INA was amended to allow for the expedited removal of certain inadmissible aliens, who would not be entitled to an immigration hearing or further review unless they were able to establish a credible fear of persecution. At the outset, expedited removal was mandatory for “arriving aliens,” and the Attorney General was given the discretion to designate applicability to certain other aliens who have not been admitted or paroled and who have not established to the satisfaction of an immigration officer continuous physical presence in the United States for the two-year period immediately prior to the date of the inadmissibility determination. Initially, expedited removal was only applied to “arriving aliens.”

Immigration and Naturalization Service, *Inspection and Expedited Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum Procedures*, 62 Fed. Reg. 10312, 10313 (Mar. 6, 1997).

4. The credible fear screening process was expanded to include the credible fear of torture standard with the promulgation of regulations concerning the Convention against Torture, effective March 22, 1999.

Immigration and Naturalization Service, *Regulations Concerning the Convention Against Torture*, 64 Fed. Reg. 8478 (Feb. 19, 1999); 8 C.F.R. § 208.30(e)(3).

5. Designation of other groups of aliens for expedited removal

- a. In November 2002, the Department of Justice expanded the application of the expedited removal provisions of the INA to certain aliens who arrived in the United States by sea, who have not been admitted or paroled and who have not been physically present

Immigration and Naturalization Service, *Notice Designating Aliens Subject to Expedited Removal Under Section 235(b)(1)(A)(iii) of the*

in the United States continuously for the two year-period prior to the inadmissibility determination.

*Immigration and Nationality Act*, 67 Fed. Reg. 68924 (Nov. 13, 2002).

- b. On August 11, 2004, DHS further expanded the application of expedited removal to aliens determined to be inadmissible under sections 212 (a)(6)(C) or (7) of the INA who are physically present in the U.S. without having been admitted or paroled, who are apprehended within 100 air miles of the U.S. international land border, and who have not established to the satisfaction of an immigration officer that they have been physically present in the U.S. continuously for the fourteen-day (14-day) period immediately prior to the apprehension.

INA §212(a)(6)(C), (a)(7); Customs and Border Protection, *Designating Aliens For Expedited Removal*, 69 Fed. Reg. 48877 (Aug. 11, 2004).

6. The expedited removal provisions of the INA require that all aliens subject to expedited removal be detained through the credible fear determination until removal, unless found to have a credible fear of persecution, or a credible fear of torture. However, the governing regulation permits the parole of an individual in expedited removal, in the exercise of discretion, if such parole is required to meet a medical emergency or is necessary for a legitimate law enforcement objective. After a positive credible fear determination, Immigration and Customs Enforcement (ICE) may exercise discretion to parole the alien out of detention, and has issued pertinent guidance on consideration of parole for arriving aliens found to have a credible fear. Therefore, the credible fear interview process also provides a mechanism for DHS to gather information that may be used by ICE to make parole determinations.

INA § 235(b)(1)(B)(iii)(IV).

8 C.F.R. § 235.3(b)(2)(iii); *see also*, "Parole of Arriving Aliens Found to Have a Credible Fear of Persecution or Torture," ICE Directive No. 11002.1 (effective Jan. 4, 2010).

### III. FUNCTION OF CREDIBLE FEAR SCREENING

In applying the credible fear standard, it is critical to understand the function of the credible fear screening process. As explained by the Department of Justice when issuing regulations adding Convention Against Torture screening to the credible fear process, the process attempts to "to quickly identify potentially meritorious claims to protection and to resolve frivolous ones with dispatch.... If an alien passes this threshold-screening standard, his or her claim for protection... will be further examined by an immigration judge in the context of removal proceedings under section 240 of the Act. The screening mechanism also allows for the expeditious review by an immigration judge of a negative screening determination and the quick removal of an alien with no credible claim to protection."

Immigration and Naturalization Service, *Regulations Concerning the Convention Against Torture*, 64 Fed. Reg. 8478, 8479 (Feb. 19, 1999).

“Essentially, the asylum officer is applying a threshold screening standard to decide whether an asylum [or torture] claim holds enough promise that it should be heard through the regular, full process or whether, instead, the person's removal should be effected through the expedited process.”

Bo Cooper, *Procedures for Expedited Removal and Asylum Screening under the Illegal Immigration Reform and Immigrant Responsibility Act of 1996*, 29 CONN. L. REV. 1501, 1503 (1997).

#### **IV. DEFINITION OF CREDIBLE FEAR OF PERSECUTION AND CREDIBLE FEAR OF TORTURE**

##### **A. Definition of Credible Fear of Persecution**

According to statute, the term credible fear of persecution means that “there is a significant possibility, taking into account the credibility of the statements made by the alien in support of the alien’s claim and such other facts as are known to the officer, that the alien could establish eligibility for asylum under section 208 [of the INA].”

INA § 235(b)(1)(B)(v).

##### **B. Definition of Credible Fear of Torture**

Regulations provide that the applicant will be found to have a credible fear of torture if the applicant establishes that there is a significant possibility that he or she is eligible for withholding of removal or deferral of removal under the Convention Against Torture, pursuant to 8 C.F.R. § 208.16 or § 208.17.

8 C.F.R. § 208.30(e)(3).

#### **V. BURDEN OF PROOF AND STANDARD OF PROOF FOR CREDIBLE FEAR DETERMINATIONS**

##### **A. Burden of Proof / Testimony as Evidence**

The applicant bears the burden of proof to establish a credible fear of persecution or torture. This means that the applicant must produce sufficiently convincing evidence that establishes the facts of the case, and that those facts must meet the relevant legal standard.

*See* RAI0 Training Module, *Evidence*.

Because of the non-adversarial nature of credible fear interviews, while the burden is always on the applicant to establish eligibility, there is a shared aspect of that burden in which asylum officers have an affirmative duty to elicit all information relevant to the legal determination. The burden is on the applicant to establish a credible fear, but asylum officers must

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fully develop the record to support a legally sufficient determination.

An applicant's testimony is evidence to be considered and weighed along with all other evidence presented. Often times, in the credible fear context of expedited removal and detention, an applicant will not be able to provide additional evidence corroborating his or her otherwise credible testimony. An applicant may establish a credible fear with testimony alone if that testimony is detailed, consistent, and plausible.

INA § 208(b)(1)(B)(ii).

According to the INA, the applicant's testimony may be sufficient to sustain the applicant's burden of proof if it is "credible, is persuasive, and refers to specific facts." To give effect to the plain meaning of the statute and each of the terms therein, an applicant's testimony must satisfy all three prongs of the "credible, persuasive, and ... specific" test in order to establish his or her burden of proof without corroboration. Therefore, the terms "persuasive" and "specific facts" must have independent meaning above and beyond the first term "credible." An applicant may be credible, but nonetheless fail to satisfy his or her burden to establish the required elements of eligibility. "Specific facts" are distinct from statements of belief. When assessing the probative value of an applicant's testimony, the asylum officer must distinguish between fact and opinion testimony and determine how much weight to assign to each of the two forms of testimony.

INA § 208(b)(1)(B)(ii).

After developing a sufficient record by eliciting all relevant testimony, an asylum officer must analyze whether the applicant's testimony is sufficiently credible; persuasive, and specific to be accorded sufficient evidentiary weight to meet the significant possibility standard.

Additionally, pursuant to the statutory definition of "credible fear of persecution", the asylum officer must take account of "such other facts as are known to the officer." Such "other facts" include relevant country conditions information.

INA § 235(b)(1)(B)(v); 8 C.F.R. § 208.30(e)(2); *see* RAI0 Training Module, *Country Conditions Research*.

Similarly, country conditions information should be considered when evaluating a credible fear of torture. The Convention Against Torture and implementing regulations require consideration of "[e]vidence of gross, flagrant or mass violations of human rights within the country of removal, where applicable; and [o]ther relevant information regarding conditions in the country of removal."

8 C.F.R. §§ 208.16(c)(3)(iii), (iv).



## B. Credible Fear Standard of Proof: Significant Possibility

The party who bears the burden of proof must persuade the adjudicator of the existence of certain factual elements according to a specified “standard of proof,” or degree of certainty. The relevant standard of proof specifies how convincing or probative the applicant’s evidence must be.

In order to establish a credible fear of persecution or torture, the applicant must show a “significant possibility” that he or she could establish eligibility for asylum, withholding of removal, or deferral of removal.

When interim regulations were issued to implement the credible fear process, the Department of Justice described the credible fear “significant possibility” standard as one that sets “a low threshold of proof of potential entitlement to asylum; many aliens who have passed the credible fear standard will not ultimately be granted asylum.” Nonetheless, in the initial regulations, the Department declined suggestions to “adopt regulatory language emphasizing that the credible fear standard is a low one and that cases of certain types should necessarily meet that standard.”

In fact, the showing required to meet the “significant possibility” standard is higher than the “not manifestly unfounded” screening standard favored by the Office of the United Nations High Commissioner for Refugees (“UNHCR”) Executive Committee. **A claim that has no possibility, or only a minimal or mere possibility, of success, would not meet the “significant possibility” standard.**

While a mere possibility of success is insufficient to meet the credible fear standard, the “significant possibility” standard does not require the applicant to demonstrate that the chances of success are more likely than not.

*See* INA § 235 (b)(1)(B)(v); 8 C.F.R. §§ 208.30(e)(2), (3).

Immigration and Naturalization Service, *Inspection and Expedited Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum Procedures*, 62 Fed. Reg. 10312, 10317-20 (Mar. 6, 1997).

*See* U.S. Committee on International Religious Freedom, *Study on Asylum Seekers in Expedited Removal – Report on Credible Fear Determinations*, pg. 170 (Feb. 2005); UNHCR, *A Thematic Compilation of Executive Committee Conclusions*, pp. 438-40, 6th Ed., June 2011. “Not manifestly unfounded” claims are (1) “not clearly fraudulent” and (2) “not related to the criteria for the granting of refugee status.” 142 CONG. REC. H11071, H11081 (daily ed. Sept. 25, 1996) (statement of Rep. Hyde) (noting that the credible fear standard was “redrafted in the conference document to address fully concerns that the ‘more probable than not’ language in the original House version

In a non-immigration case, the “significant possibility” standard of proof has been described to require the person bearing the burden of proof to “demonstrate a *substantial and realistic possibility* of succeeding.” While this articulation of the “significant possibility” standard was provided in a non-immigration context, the “*substantial and realistic possibility*” of success description is a helpful articulation of the “significant possibility” standard as applied in the credible fear process.

The Court of Appeals for the D.C. Circuit found that the showing required to meet a “substantial and realistic possibility of success” is lower than the “preponderance of the evidence standard.”

In sum, “the credible fear ‘significant possibility’ standard of proof can be best understood as requiring that the applicant ‘demonstrate a *substantial and realistic possibility* of succeeding,’ but not requiring the applicant to show that he or she is more likely than not going to succeed when before an immigration judge.”

### **C. Important Considerations in Interpreting and Applying the Standard**

1. The “significant possibility” standard of proof required to establish a credible fear of persecution or torture must be applied in conjunction with the standard of proof required for the ultimate determination on eligibility for asylum, withholding of removal, or protection under the Convention Against Torture.

For instance, in order to establish a credible fear of torture, an applicant must show a “significant possibility” that he or she could establish eligibility for protection under the Convention Against Torture, i.e. a “significant possibility” that it is “more likely than not” that he or she would be tortured if removed to the proposed country of removal. This is a higher standard to meet than for an applicant

was too restrictive”).

*See Holmes v. Amerex Rent-a-Car*, 180 F.3d 294, 297 (D.C. Cir. 1999) (quoting *Holmes v. Amerex Rent-a-Car*, 710 A.2d 846, 852 (D.C. 1998)) (emphasis added).

*Id.*

Joseph E. Langlois. Asylum Division, Office of International Affairs, *Increase of Quality Assurance Review for Positive Credible Fear Determinations and Release of Updated Asylum Officer Basic Training Course Lesson Plan, Credible Fear of Persecution and Torture Determinations*, Memorandum to Asylum Office Directors, et al. (Washington, DC: 17 April 2006).

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attempting to establish a “significant possibility” that he or she could establish eligibility for asylum based upon a well-founded fear of persecution on account of a protected characteristic, i.e. a “significant possibility” that he or she could establish a “reasonable possibility” of suffering persecution on account of a protected characteristic if returned to his or her home country.

2. Questions as to how the standard is applied should be considered in light of the nature of the standard as a *screening standard* to identify persons who could qualify for asylum or protection under the Convention against Torture.
3. When there is reasonable doubt regarding the outcome of a credible fear determination, the applicant likely merits a positive credible fear determination. The questions at issue can be addressed in a full hearing before an immigration judge.
4. In determining whether the alien has a credible fear of persecution or a credible fear of torture, the asylum officer shall consider whether the applicant’s case presents novel or unique issues that merit consideration in a full hearing before an immigration judge.
5. Similarly, where there is:
  - a. disagreement among the United States Circuit Courts of Appeal as to the proper interpretation of a legal issue; or,
  - b. the claim otherwise raises an unresolved issue of law; **and,**
  - c. there is no DHS or Asylum Division policy or guidance on the issue, then

8 C.F.R. § 208.30(e)(4).

generally the interpretation most favorable to the applicant is used when determining whether the applicant meets the credible fear standard.

#### D. Identity

1. An applicant must establish his or her identity with a reasonable degree of certainty. Credible testimony alone can establish identity.

*See RAIO Training Module,  
Refugee Definition*

2. In many cases, an applicant will not have documentary proof of identity or nationality. The officer must elicit information in order to establish that there is a significant possibility that the applicant will be able to credibly establish his or her identity in a full asylum or withholding of removal hearing. Documents such as birth certificates and passports are accepted into evidence if available. The officer may also consider information provided by ICE or Customs and Border Protection (CBP).
3. After the credible fear interview, the information obtained by the asylum officer may be used by other DHS officials in determining whether to parole a detained alien. Immigration officials in charge of detaining the alien must be satisfied that identity is established before granting parole.

*See "Parole of Arriving Aliens Found to Have a Credible Fear of Persecution or Torture," ICE Directive No. 11002.1 (effective Jan. 4, 2010).*

## VI. CREDIBILITY

### A. Credibility Standard

In making a credible fear determination, asylum officers are specifically instructed by statute to "[take] into account the credibility of the statements made by the alien in support of the alien's claim and such other facts as are known to the officer."

INA § 235 (b)(1)(B)(v).

To meet the credible fear standard, an applicant must establish that there is a significant possibility that the assertions underlying the applicant's claim could be found credible in a full asylum or withholding of removal hearing. This means that there is "a substantial and realistic possibility" that the applicant will be found credible in a full hearing.

### B. Evaluating Credibility in a Credible Fear Interview

#### 1. General Considerations

*See RAIO Training Module, Credibility.*

- a. Because the credible fear determination is a screening process, the asylum officer does not make the final determination as to whether the applicant is credible. The immigration judge makes that determination in the full hearing on the merits of the claim.
- b. The asylum officer must gather sufficient information to determine whether the alien has a credible fear of persecution or torture. The applicant's credibility

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should be evaluated (1) only after all information relevant to the claim is elicited and (2) in light of “the totality of the circumstances, and all relevant factors.”

INA § 208(b)(1)(B)(iii).

- c. The asylum officer must remain neutral and unbiased and must evaluate the record as a whole. The purpose of evaluating the credibility of an applicant is solely to determine eligibility for a full asylum or withholding hearing. The asylum officer’s personal opinions or moral views regarding an applicant should not affect the officer’s decision.
- d. As long as there is a significant possibility that the applicant could establish in a full hearing that the claim is credible, unresolved questions regarding an applicant’s credibility should not be the basis of a negative credible fear determination.

2. Properly Identifying and Probing Credibility Concerns During the Credible Fear Interview

See RAIO Training Module, *Credibility*.

a. *Identifying Credibility Concerns*

Section 208 of the Act provides a non-exhaustive list of factors that may be used in a credibility determination in the asylum context. These include: internal consistency, external consistency, plausibility, demeanor, candor, and responsiveness.

INA § 208(b)(1)(B)(iii); *See also*, RAIO Training Module, *Credibility*, for a more detailed discussion of these factors.

An adjudicator may base a negative credible fear determination on lack of credibility. A general lack of detail is another commonly accepted basis for an adverse credibility determination in the asylum context, though the limited scope of the credible fear screening interview may make such a finding less prevalent in the credible fear process.

While demeanor, candor, and responsiveness may be taken into account in the asylum context, they may be of limited reliability in the credible fear context because of cross-cultural factors, effects of trauma, and the nature of non-adversarial interviews. The nature of expedited removal and the credible fear interview process—including detention, relatively brief and often telephonic interviews, etc.—further limits the reliability of and ability to evaluate these three factors in the credible fear context. Therefore,

demeanor, candor, and responsiveness will normally not be significant factors in credible fear determinations.

b. *Informing the Applicant of the Concern and Giving the Applicant an Opportunity to Explain*

When credibility concerns present themselves during the course of the credible fear interview, the applicant must be given an opportunity to address and explain them. The asylum officer must follow up on all credibility concerns by making the applicant aware of each portion of the testimony, or his or her conduct, that raises credibility concerns, and the reasons the applicant's credibility is in question. The asylum officer must clearly record in the interview notes the questions used to inform the applicant of any relevant credibility issues, and the applicant's responses to those questions.

**C. Assessing Credibility in Credible Fear**

1. In assessing credibility, the officer must evaluate whether there is a significant possibility that the applicant's testimony could be found credible in a full hearing before an immigration judge. The officer must consider the totality of the circumstances and all relevant factors when evaluating credibility.
2. When considering the totality of the circumstances in determining whether there is a significant possibility that the assertions underlying the applicant's claim could be found credible in a full asylum or withholding of removal hearing, the following factors must be considered as they may impact an applicant's ability to present his or her claim:

- (i) trauma the applicant has endured;
- (ii) passage of a significant amount of time since the described events occurred;
- (iii) certain cultural factors, and the challenges inherent in cross-cultural communication;
- (iv) detention of the applicant;
- (v) problems between the interpreter and the applicant, including problems resulting from differences in dialect or accent, ethnic or class differences, or other difference that may affect

*See also* RAIO Training Module, *Interviewing-Survivors of Torture*; RAIO Training Module, *Interviewing- Working with an Interpreter*.

Asylum officers must ensure that persons with potential biases against applicants on the grounds of race, religion, nationality, membership in a

- the objectivity of the interpreter or the applicant's comfort level; and
- (vi) unfamiliarity with speakerphone technology, the use of an interpreter the applicant cannot see, or the use of an interpreter that the applicant does not know personally.

particular social group, or political opinion are not used as interpreters. See *International Religious Freedom Act of 1998*, 22 U.S.C. § 6473(a); RAI0 Training Module, *IRFA (International Religious Freedom Act)*.

3. The asylum officer must have followed up on all credibility concerns during the interview by making the applicant aware of each concern, and the reasons the applicant's testimony is in question. The applicant must have been given an opportunity to address and explain all such concerns during the credible fear interview.
4. Trivial or minor inconsistencies will not be sufficient to find an applicant not credible in the credible fear context. These inconsistencies can be explored by the immigration judge in the full asylum and withholding hearing. Material or significant inconsistencies that have not been adequately resolved by the applicant during the credible fear interview may be sufficient to support a negative credible fear determination.
5. Inconsistencies between the applicant's initial statement to the CBP or ICE official and his or her testimony before the asylum officer must be probed during the interview. Such inconsistencies may provide support for a negative credibility finding if, taking into account an explanation offered by the applicant, there is not a significant possibility that the applicant could establish in a full hearing that the claim is credible.

See 8 C.F.R. § 235.3(b)(4) (stating that if an applicant indicates an intention to apply for asylum, or expresses a fear of persecution or torture, or a fear of return to his or her country, the "examining immigration officer shall record sufficient information in the sworn statement to establish and record that the alien has indicated such intention, fear, or concern," and should then refer the alien for a credible fear interview).

The sworn statement completed by CBP (Form I-867A/B) is not intended, however, to record detailed information about any fear of persecution or torture. The interview statement is intended to record whether or not the individual has a fear, not the nature or details surrounding that fear. However, in some cases, the asylum officer may find that the CBP officer did, in fact, gather additional information from the applicant regarding the nature of his or her claim. In such cases, the applicant's prior statements can inform the asylum officer's line of questioning in the credible fear interview, and any inconsistencies between these prior statements and the statements being made during the credible fear interview should be probed and

assessed.

A number of federal courts have cautioned adjudicators to keep in mind the circumstances under which an alien's statement to an inspector is taken when considering whether an applicant's later testimony is consistent with the earlier statement. Factors to keep in mind include: 1) whether the questions posed at the port of entry or place of apprehension were designed to elicit the details of an asylum claim, and whether the immigration officer asked relevant follow-up questions; 2) whether the alien was reluctant or afraid to reveal information during the first meeting with U.S. officials because of past abuse; and 3) whether the interview was conducted in a language other than the applicant's native language.

*See Balasubramaniam v. INS*, 143 F.3d 157 (3d Cir. 1998); *cf. Ramsameachire v. Ashcroft*, 357 F.3d 169, 179 (2d Cir. 2004) (discussing in detail the limitations inherent in the initial interview process, and holding that the BIA was entitled to rely on fundamental inconsistencies between the applicant's airport interview statements and his hearing testimony where the applicant was provided with an interpreter, and given ample opportunity to explain his fear of persecution in a careful and non-coercive interview).

6. All reasonable explanations must be considered when assessing the applicant's credibility. The asylum officer need not credit an unreasonable explanation.

If, after providing the applicant with an opportunity to explain or resolve any inconsistencies, the officer finds that there is a significant possibility the applicant could establish in a full hearing that there is a reasonable explanation for the inconsistencies, a positive credibility determination will generally be appropriate.

If, however, the applicant fails to provide an explanation for a substantial or material inconsistency, or the officer finds that there is not a significant possibility that the applicant could establish a reasonable explanation for the inconsistencies in a full hearing, a negative credible fear determination will generally be appropriate.

#### **D. Documenting a Credibility Determination**

1. The asylum officer must clearly record in the interview notes the questions used to inform the applicant of any relevant credibility issues, and the applicant's responses to those questions.
2. The officer must specify in the written case analysis the basis for the negative credibility finding. In the negative credibility context, the officer must note any portions of the testimony found not credible, including the specific



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inconsistencies, lack of detail or other factors, along with the applicant's explanation and the reason the explanation is deemed not to be reasonable.

3. If information that impugns the applicant's testimony becomes available after the interview but prior to serving the credible fear determination, a follow-up interview must be scheduled to confront the applicant with the derogatory information and to provide the applicant with an opportunity to address the adverse information. Unresolved credibility issues should not form the basis of a negative credibility determination.

## VII. ESTABLISHING A CREDIBLE FEAR OF PERSECUTION

For the most recent Asylum Division guidance on eligibility for asylum under section 208 of the INA, please consult the latest applicable RAIO Training Module.

### A. General Considerations in Credible Fear

1. An applicant will be found to have a credible fear of persecution if there is a significant possibility the applicant can establish eligibility for asylum under section 208 of the Act.
2. In general, a finding that there is a significant possibility that the applicant experienced past persecution on account of a protected characteristic is sufficient to satisfy the credible fear standard. This is because the applicant in such a case has shown a significant possibility of establishing that he or she is a refugee under section 208 of the Act and a full asylum hearing provides the appropriate venue to evaluate whether or not the applicant merits a favorable exercise of discretion to grant asylum.

8 C.F.R. § 208.30(e)(2).

However, if there is evidence so substantial that there is no significant possibility of future persecution *or other serious harm* or that there are no reasons to grant asylum based on the severity of the past persecution, a negative credible fear determination may be appropriate.

3. When an applicant does not claim to have suffered any past harm or where the evidence is insufficient to establish a significant possibility of past persecution under section

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208 of the Act, the asylum officer must determine whether there is a significant possibility the applicant could establish a well-founded fear of persecution on account of a protected characteristic under section 208 of the Act.

## **B. Past Persecution**

*See RAI0 Training Module, Persecution.*

1. **Severity of Harm:** For a credible fear of persecution, there must be a significant possibility the applicant can establish that the harm the applicant experienced was sufficiently serious to amount to persecution.
  - a. There is no requirement that an individual suffer serious injuries to be found to have suffered persecution. However, the presence or absence of physical harm is relevant in determining whether the harm suffered by the applicant rises to the level of persecution.
  - b. Serious threats made against an applicant may constitute persecution even if the applicant was never physically harmed.
  - c. Violations of “core” or “fundamental” human rights, prohibited by international law, may constitute harm amounting to persecution.
  - d. While less preferential treatment and other forms of discrimination and harassment generally are not considered persecution, discrimination or harassment may amount to persecution if the adverse practices accumulate or increase in severity to the extent that it leads to consequences of a substantially prejudicial nature. Asylum officers should evaluate the entire scope of harm experienced by the applicant to determine if he or she was persecuted, taking into account the individual circumstances of each case.
  - e. Generally, a brief detention, for legitimate law enforcement reasons, without mistreatment, will not constitute persecution. Prolonged detention is a deprivation of liberty, which may constitute a violation of a fundamental human right and amount to persecution. Evidence of mistreatment during detention also may establish persecution.
  - f. To rise to the level of persecution, economic harm must be deliberately imposed and severe.

- g. Psychological harm alone may rise to the level of persecution. Evidence of the applicant's psychological and emotional characteristics, such as the applicant's age or trauma suffered as a result of past harm, are relevant to determining whether psychological harm amounts to persecution.
- h. Rape and other severe forms of sexual harm constitute harm amounting to persecution, as they are forms of serious physical harm.
- i. Harm to an applicant's family member or another third party may constitute persecution of the applicant where the harm is serious enough to amount to persecution, and also where the persecutor's motivation in harming the third party is to act against the applicant.

2. **Motivation:** For a credible fear of persecution, there must be a significant possibility the applicant can establish that the persecutor was motivated to harm him or her on account of his or her race, religion, nationality, membership in a particular social group, or political opinion.

*See* RAI0 Training Modules, *Nexus and the Protected Grounds (minus PSG)* and *Nexus – Particular Social Group*.

- a. Nexus analysis requires officers to determine: (1) whether the applicant possesses or is perceived to possess a protected characteristic; and (2) whether the persecution or feared persecution is on account of that protected characteristic.
- b. A “punitive” or “malignant” intent is not required for harm to constitute persecution. Persecution can consist of objectively serious harm or suffering that was inflicted because of a characteristic (or perceived characteristic) of the victim, regardless of whether the persecutor intended the victim to experience the harm as harm.
- c. The applicant does not bear the burden of establishing the persecutor's exact motivation. For cases where no nexus to a protected ground is immediately apparent, the asylum officer in credible fear interviews should ask questions related to all five grounds to ensure that no nexus issues are overlooked.

*See Matter of Kasinga*, 21 I&N Dec. 357, 366-67 (BIA 1996); *Pitcherskaia v. INS*, 118 F.3d 641 (9th Cir. 1997).

- d. Although the applicant bears the burden of proof to establish a nexus between the harm and the protected ground, asylum officers have an affirmative duty to elicit all information relevant to the nexus determination. Evidence of motive can be either direct or circumstantial. Reasonable inferences regarding the motivations of persecutors should be made, taking into consideration the culture and patterns of persecution within the applicant's country of origin and any relevant country of origin information, especially if the applicant is having difficulty answering questions regarding motivation.
- e. There is no requirement that the persecutor be motivated only by the protected belief or characteristic of the applicant. As long as there is a significant possibility that at least one central reason motivating the persecutor is the applicant's possession or perceived possession of a protected characteristic, the applicant may establish the harm is "on account of" a protected characteristic in the credible fear context.
- f. **Particular Social Groups:** The area of law surrounding particular social groups is evolving rapidly, and it is important for asylum officers to be informed about current DHS and Asylum Division guidance, as well as current case law and regulatory changes.

*See* RAI0 Training Module, *Nexus – Particular Social Group* for a non-exhaustive list of precedent decisions that have identified certain groups that are particular social groups and other groups that were found not to be particular social groups based on the facts of each case.

To determine whether the applicant belongs to a viable particular social group where there are no precedent decisions on point, asylum officers must analyze the facts using the BIA test for evaluating whether a group meets the definition of a particular social group:

*See Matter of M-E-V-G-*, 26 I&N Dec. 227 (BIA 2014); *Matter of W-G-R-*, 26 I&N Dec. 208 (BIA 2014).

- (i) First, the group must comprise individuals who share a common, immutable characteristic, which is either a characteristic that members cannot change or is a characteristic that is so fundamental to the member's identity or conscience that he or she should not be required to change it.
- (ii) Second, the group must be defined with particularity; it "must be defined by characteristics that provide a clear benchmark for

*Matter of M-E-V-G-*, 26 I&N Dec. 227, 239 (BIA 2014).

determining who falls within the group.”

- (iii) Third, the group must be socially distinct within the society in question. Social distinction involves examining whether “those with the characteristic in the society in question would be meaningfully distinguished from those who do not have it.” Social distinction relates to society’s, not the persecutor’s, perception, though the persecutor’s perceptions may be relevant to social distinction

*Id.* at 238.

*Id.* at 242.

Certain circuit courts have rejected the Board’s application of a social distinction requirement in cases before them on petition for review. *See Valdiviezo-Galdamez v. Att’y Gen. of U.S.*, 663 F.3d 582 (3d Cir. 2011); *Gatimi v. Holder*, 578 F.3d 611 (7th Cir. 2009); *Benitez Ramos v. Holder*, 589 F.3d 426 (7th Cir. 2009). Those decisions, however, question the way the Board applied social visibility in those cases and do not preclude the interpretation of precedent as imposing a social distinction requirement.

3. **Persecutor:** For a credible fear of persecution, there must be a significant possibility the applicant can establish that the entity that harmed the applicant (the persecutor) is either an agent of the government or an entity that the government is unable or unwilling to control.

*See* RAIO Training Module, *Persecution*.

- a. Evidence that the government is unwilling or unable to control the persecutor could include a failure to investigate reported acts of violence, a refusal to make a report of acts of violence or harassment, closing investigations on bases clearly not supported by the circumstances of the case, statements indicating an unwillingness to protect certain victims of crimes, and evidence that other similar allegations of violence go uninvestigated.
- b. No government can guarantee the safety of each of its citizens or control all potential persecutors at all times. A determination of whether a government is unable to

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control the entity that harmed the applicant requires evaluation of country of origin information and the applicant's circumstances. A government in the midst of a civil war or one that is unable to exercise its authority over portions of the country may be unable to control the persecutor in areas of the country where its influence does not extend. In order to establish a significant possibility of past persecution, the applicant is not required to demonstrate that the government was unable or unwilling to control the persecution on a nationwide basis. The applicant may meet his or her burden with evidence that the government was unable or unwilling to control the persecution in the specific locale where the applicant was persecuted.

- c. To demonstrate that the government is unable or unwilling to protect an applicant, the applicant must show that he or she sought the protection of the government, or provide a reasonable explanation as to why he or she did not seek that protection. Reasonable explanations for not seeking government protection include evidence that the government has shown itself unable or unwilling to act in similar situations or that the applicant would have increased his or her risk by affirmatively seeking protection. In determining whether an applicant's failure to seek protection is reasonable, asylum officers should consult and consider country of origin information, in addition to the applicant's testimony.

### **C. Well-founded Fear of Persecution**

*See RAIO Training Module,  
Well Founded Fear.*

1. When an applicant does not claim to have suffered any past harm or where the evidence is insufficient to establish a significant possibility of past persecution on account of a protected characteristic under section 101(a)(42)(A) of the Act, the asylum officer must determine whether there is a significant possibility the applicant could establish a well-founded fear of persecution under section 208 of the Act.
2. To establish a well-founded fear of persecution on account of a protected characteristic, an applicant must show that he or she has: 1) a subjective fear of persecution; and 2) that the fear has an objective basis.
  - a. The applicant satisfies the subjective element if he or

*See RAIO Training Module,*

she credibly articulates a genuine fear of return. Fear has been defined as an apprehension or awareness of danger.

*Well-Founded Fear.*

- b. The applicant will meet the credible fear standard based on a fear of future harm if there is a significant possibility that he or she could establish that there is a reasonable possibility that he or she will be persecuted on account of a protected ground upon return to his or her country of origin.
3. The Mogharrabi Test: *Matter of Mogharrabi* lays out a four-part test for determining well-founded fear. To establish a credible fear of persecution on account of a protected characteristic based on future harm, there must be a significant possibility that the applicant can establish each of the following elements:

*Matter of Mogharrabi*, 19 I&N Dec. 439 (BIA 1987).

- a. *Possession* (or imputed possession of a protected characteristic)
- (i) The applicant must possess, or be believed to possess, a protected characteristic that the persecutor seeks to overcome. The BIA later modified this definition and explicitly recognized that a “punitive” or “malignant” intent is not required for harm to constitute persecution. The BIA concluded that persecution can consist of objectively serious harm or suffering that is inflicted because of a characteristic (or perceived characteristic) of the victim, regardless of whether the persecutor intends the victim to experience the harm as harm.
- (ii) This analysis requires officers to determine: (1) whether the applicant possesses or is perceived to possess a protected characteristic; and (2) whether the persecution or feared persecution is on account of that protected characteristic.
- (iii) For cases where no nexus to a protected ground is immediately apparent, the asylum officer in credible fear interviews must ask questions related to all five grounds to ensure that no nexus issues are overlooked.

*See Matter of Kasinga*, 21 I&N Dec. 357, 366-67 (BIA 1996) (explaining that because FGM was used “at least in some significant part” to overcome a protected characteristic of the applicant, the persecution the applicant fears is “on account of” her status as a member of the defined social group); *Pitcherskaia v. INS*, 118 F.3d 641 (9th Cir. 1997).

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- (iv) Asylum officers have an affirmative duty to elicit all information relevant to the nexus determination. Officers should make reasonable inferences, keeping in mind the difficulty, in many cases, of establishing with precision a persecutor's motives.
  - (v) To determine whether the applicant belongs to a viable particular social group where there are no precedent decisions on point, asylum officers must analyze the facts using the BIA test for evaluating whether a group meets the definition of a particular social group.
- b. *Awareness* (the persecutor is aware or could become aware the applicant possesses the characteristic)
- (i) Relevant lines of inquiry include: how someone would know or recognize that the applicant had the protected characteristic and how the persecutor would know that the applicant had returned to his or her country.
  - (ii) The applicant is not required to hide his or her possession of a protected characteristic in order to avoid awareness.
- c. *Capability* (the persecutor has the capability to persecute the applicant)
- (i) If the persecutor is a governmental entity, asylum officers should consider the extent of the government's power or authority and whether the applicant can seek protection from another government entity within the country.
  - (ii) If the persecutor is a non-governmental entity, relevant factors include: the extent to which the government is able or willing to control the entity, whether the government is able to or would want to protect the applicant; whether the applicant reported the non-governmental actor to the police; and whether the police or government could or would offer any protection to the applicant.
  - (iii) The extent to which the persecutor has the ability



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to enforce his or her will throughout the country is also relevant when evaluating whether the persecutor is capable of persecuting the applicant.

- d. *Inclination* (the persecutor has the inclination to persecute the applicant).
- (i) Factors to consider when evaluating inclination include: any previous threats or harm from the persecutor, the persecutor's treatment of individuals similarly situated to the applicant who have remained in the home country or who have returned to the home country, and any time passed between the last threats received and flight from his or her home country.
  - (ii) For both capability and inclination, if the applicant is unable to answer questions regarding whether the persecutor is capable or inclined to persecute him or her, the asylum officer may use country of origin information to help determine the persecutor's capability and inclination to persecute the applicant.

4. Pattern or Practice

- a. The applicant need not show that he or she will be singled out individually for persecution, if the applicant shows a significant possibility that he or she could establish:
- (i) There is a pattern or practice of persecution on account of any of the protected grounds of a group of persons similarly situated to the applicant.
  - (ii) The applicant is included in and is identified with the persecuted group, such that a reasonable person in the applicant's position would fear persecution.

*See* RAIO Training Module, *Well Founded Fear*.

8 C.F.R. § 208.13(b)(2)(iii).

5. Persecution of Individuals Closely Related to the Applicant

The persecution of family members or other individuals closely associated with the applicant may provide objective evidence that the applicant's fear of future persecution is well-founded, even if there is no

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pattern or practice of persecution of such individuals. On the other hand, continued safety of individuals similarly situated to the applicant may, in some cases, be evidence that the applicant's fear is not well-founded. Furthermore, the applicant must establish some connection between such persecution and the persecution the applicant fears.

6. Threats without Harm

A threat (anonymous or otherwise) may also be sufficient to establish a well-founded fear of persecution. The evidence must show that the threat is serious and that there is a reasonable possibility the threat will be carried out.

7. Applicant Remains in Country after Threats or Harm

- a. A significant lapse of time between the occurrence of incidents that form the basis of the claim and an applicant's departure from the country may be evidence that the applicant's fear is not well-founded. The lapse of time may indicate that the applicant does not possess a genuine fear of harm or the persecutor does not possess the ability or the inclination to harm the applicant.
- b. However, there may be valid reasons why the applicant did not leave the country for a significant amount of time after receiving threats or being harmed, including: lack of funds to arrange for departure from the country and time to arrange for the safety of family members, belief that the situation would improve, promotion of a cause within the home country, and temporary disinclination by the persecutor to harm the applicant.

8. Return to Country of Persecution

An applicant's return to the country of feared persecution generally weakens the applicant's claim of a well-founded fear of persecution. It may indicate that the applicant does not possess a genuine (subjective) fear of persecution or that the applicant's fear is not objectively reasonable. Consideration must be given to the reasons the applicant returned and what happened to the applicant once he or she returned. Return to the country of feared persecution

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does not necessarily defeat an applicant's claim.

9. Internal Relocation

- a. In cases in which the feared persecutor is a government or is government-sponsored, there is a presumption that there is no reasonable internal relocation option. This presumption may be overcome if a preponderance of the evidence shows that, under all the circumstances, the applicant could avoid future persecution by relocating to another part of the applicant's country and that it would be reasonable to expect the applicant to relocate. 8 C.F.R. § 208.13(b)(2)(ii); 8 C.F.R. § 208.13(b)(3)(ii).
- b. If the persecutor is a non-governmental entity, there must be a significant possibility that the applicant can demonstrate that there is no reasonable internal relocation option.
- c. In assessing an applicant's well-founded fear and internal relocation, apply the following two-step approach:
- (i) Determine if an applicant could avoid future persecution by relocating to another part of the applicant's home country. If the applicant will not be persecuted in another part of the country, then:
  - (ii) Determine if an applicant's relocation, *under all the circumstances*, would be reasonable.
- d. In determining the reasonableness of internal relocation in relation to a well-founded fear claim, asylum officers should consider the following factors:
- (i) Whether the applicant would face other serious harm that may not be inflicted on account of one of the five protected grounds in the refugee definition, but is so serious that it equals the severity of persecution;
  - (ii) Any ongoing civil strife such as a civil war occurring in parts of the country;
  - (iii) Administrative, economic, or judicial infrastructure that may make it very difficult for an individual to live in another part of the country;
  - (iv) Geographical limitations that could present

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barriers to accessing a safe part of a country or where an individual would have difficulty surviving due to the geography;

- (v) Social and cultural constraints such as age, gender, health, and social and familial ties or whether the applicant possess a characteristic, such as a particular language or a unique physical appearance, that would readily distinguish the applicant from the general population and affect his or her safety in the new location; and
- (vi) any other factors specific to the case that would make it unreasonable for the applicant to relocate should be considered.

There is no requirement that an applicant first attempt to relocate in his or her country before flight. However, the fact that an applicant lived safely in another part of his or her country for a significant period of time before leaving the country may be evidence that the threat of persecution does not exist countrywide, and that the applicant can reasonably relocate within the country to avoid future persecution.

#### **D. Multiple Citizenship**

Persons holding multiple citizenship or nationalities must demonstrate a credible fear of persecution or torture from at least one country in which they are a citizen or national to be eligible for referral to immigration court for a full asylum or withholding of removal hearing. If the country of removal indicated is different from the applicant's country of citizenship or nationality, fear from the indicated country of removal must also be evaluated.

*See* RAIO Training Module, *Refugee Definition*, for more detailed information about determining an applicant's nationality, dual nationality, and statelessness.

Although the applicant would not be eligible for asylum unless he or she establishes eligibility with respect to all countries of citizenship or nationality, he or she might be entitled to withholding of removal with respect to one country and not the others. Therefore, the protection claim must be referred for a full hearing to determine this question.

In addition, if the applicant demonstrates a credible fear with respect to another country, aside from the country of citizenship or nationality, in which the applicant was firmly resettled prior to arriving in the United States, the applicant should be referred to the Immigration Judge for a full proceeding, since he or she may be removed to that country as well.

## E. Statelessness/Last Habitual Residence

The asylum officer does not need to make a determination as to whether an applicant is stateless or what the applicant's country of last habitual residence is. The asylum officer should determine whether the applicant has a credible fear of persecution in any country to which the applicant might be returned.

If the applicant demonstrates a credible fear with respect to any country of proposed removal, regardless of citizenship or habitual residence, the applicant should be referred to the Immigration Judge for a full proceeding since he or she may be eligible for withholding of removal with respect to that country.

## VIII. ESTABLISHING A CREDIBLE FEAR OF TORTURE

An applicant will be found to have a credible fear of torture if the applicant establishes that there is a significant possibility that he or she is eligible for withholding of removal or deferral of removal under the Convention Against Torture, pursuant to 8 C.F.R. §§ 208.16 or 208.17. In order to be eligible for withholding or deferral of removal under CAT, an applicant must establish that it is more likely than not that he or she would be tortured in the country of removal. The credible fear process is a "screening mechanism" that attempts to identify whether there is a significant possibility that an applicant can establish that it is more likely than not that he or she would be tortured in the country in question.

*See ADOTC Lesson Plan, Reasonable Fear of Persecution and Torture Determinations for a detailed discussion of the background of CAT and legal elements of the definition of torture; Immigration and Naturalization Service, Regulations Concerning the Convention Against Torture, 64 Fed. Reg. 8478, 8484 (Feb. 19, 1999).*

Because in the withholding or deferral of removal hearing the applicant will have to establish that it is more likely than not that he or she will be tortured in the country of removal, **a significant possibility of establishing eligibility for withholding or deferral of removal is necessarily a greater burden than establishing a significant possibility of eligibility for asylum.** In other words, to establish a credible fear of torture, the applicant must show there is a significant possibility that he or she could establish in a full hearing that it is more likely than not he or she would be tortured in that country.

### A. Definition of Torture

8 C.F.R. § 208.18(a) defines "torture" as "any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining

8 C.F.R. § 208.18(a); ADOTC Lesson Plan, *Reasonable Fear of Persecution and Torture*

from him or her or a third person information or a confession, punishing him or her for an act he or she or a third person has committed or is suspected of having committed, or intimidating or coercing him or her or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity.”

*Determinations.*

## **B. General Considerations**

1. U.S. regulations require that several elements be met before an act is found to constitute torture. Because credible fear of torture interviews are employed as “screening mechanisms to quickly identify potentially meritorious claims to protection and to resolve frivolous ones with dispatch,” parts of the torture definition that require complex legal and factual analyses may be more appropriately considered in a full hearing before an immigration judge.

8 C.F.R. §§ 208.18(a)(1-8).

Immigration and Naturalization Service, *Regulations Concerning the Convention Against Torture*, 64 Fed. Reg. 8478 (Feb. 19, 1999).

2. After establishing that the applicant’s claim would be found credible, the applicant satisfies the credible fear of torture standard where there is a significant possibility that he or she could establish in a full withholding of removal hearing that:

*See* section VI., *Credibility*, above, regarding significant possibility of establishing credibility.

- a. the torturer specifically intends to inflict severe physical or mental pain or suffering;
- b. the harm constitutes severe pain or suffering;
- c. the torturer is a public official or other person acting in an official capacity, or someone acting at the instigation of or with the consent or acquiescence of a public official or someone acting in official capacity; and
- d. the applicant is in the torturer’s custody or physical control.
- e. Torture does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions. However, sanctions that defeat the object and purpose of the Convention are not lawful sanctions. Harm arising out of such sanctions may constitute torture.

8 C.F.R. §§ 208.18(a)(5).

Torture is an extreme form of cruel and inhuman treatment and does not include lesser forms of cruel, inhuman or degrading treatment or punishment that do not amount to torture. 8 C.F.R. §§ 208.18(a)(2).

8 C.F.R. §§ 208.18(a)(6).

8 C.F.R. §§ 208.18(a)(3).

## **C. Specific Intent**

- 
1. For an act to constitute torture, the applicant must establish that it is more likely than not that the act is specifically intended to inflict severe physical or mental pain or suffering. An intentional act that results in unanticipated and unintended severity of pain and suffering is not torture under the Convention definition. 8 C.F.R. §§ 208.18(a)(1), (5).
  2. The specific intent requirement is met when the evidence shows that an applicant may be specifically targeted for punishment or intentionally singled out for harsh treatment that may rise to the level of torture.
  3. The Convention Against Torture does not require that the torture be connected to any of the five protected characteristics identified in the definition of a refugee, or any other characteristic the individual possesses or is perceived to possess.

#### **D. Degree of Harm**

1. For harm to constitute torture, the applicant must establish that it is more likely than not that the harm rises to the level of severity of torture.
2. Torture requires severe pain or suffering, whether physical or mental. "Torture" is an extreme form of cruel and inhuman treatment and does not include lesser forms of cruel, inhuman or degrading treatment or punishment that do not amount to torture. Therefore, certain forms of harm that may be considered persecution may not be considered severe enough to amount to torture. 8 C.F.R. § 208.18(a)(1); 8 C.F.R. § 208.18(a)(2).
3. Any harm must be evaluated on a case-by-case basis to determine whether it constitutes torture. Whether harm constitutes torture often depends on the severity and cumulative effect.
4. For mental pain or suffering to constitute torture, the mental pain must be prolonged mental harm caused by or resulting from:
  - a. The intentional infliction or threatened infliction of severe physical pain or suffering; 8 C.F.R. § 208.18(a)(4).
  - b. The administration or application, or threatened administration or application, of mind altering substances or other procedures calculated to disrupt

profoundly the senses or the personality;

- c. The threat of imminent death; or
- d. The threat that another person will imminently be subjected to death, severe physical pain or suffering, or the administration or application of mind altering substances or other procedures calculated to disrupt profoundly the senses or personality.

## E. Identity of the Torturer

- 1. For an act to constitute torture, the applicant must establish that it is more likely than not that the harm he or she fears would be “inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity.”

8 C.F.R. § 208.18(a)(1).

### 2. Harm by a Public Official

- a. Generally, in the credible fear context, if there is a significant possibility the applicant can establish that it is more likely than not that he or she was or would be harmed by a public official, the applicant has met the public official requirement for a credible fear of torture.
- b. The term “public official” is broader than the “government” or “police” and can include any person acting in an official capacity or under color of law. A public official can include any person acting on behalf of a national or local authority.
- c. In the withholding or deferral of removal setting, when a public official acts in a wholly private capacity, outside any context of governmental authority, the state action element of the torture definition is not satisfied. On this topic, the Second Circuit provided that, “[a]s two of the CAT’s drafters have noted, when it is a public official who inflicts severe pain or suffering, *it is only in exceptional cases that we can expect to be able to conclude that the acts do not constitute torture by reason of the official acting for purely private reasons.*”
- d. A public official is acting in an official capacity when “he misuses power possessed by virtue of law and

*See ADOTC Lesson Plan, Reasonable Fear of Persecution and Torture Determinations* for a more extensive discussion on this element of CAT eligibility.

*Khouzam v. Ashcroft*, 361 F.3d 161, 171 (2d Cir. 2004) (emphasis added).

*Ramirez Peyro v. Holder*, 574 F.3d 893 (8th Cir. 2009).



made possible only because he was clothed with the authority of law.” To establish whether a public official is acting in under the color of law, the applicant must establish a nexus between the public official’s authority and the harmful conduct inflicted on the applicant by the public official. Such an inquiry is fact intensive and includes considerations like “whether the officers are on duty and in uniform, the motivation behind the officer’s actions and whether the officers had access to the victim because of their positions, among others.” The Fifth Circuit also addressed “acting in an official capacity” by positing “[w]e have recognized on numerous occasions that acts motivated by an officer’s personal objectives are ‘under color of law’ when the officer uses his official capacity to further those objectives.”

*Id.* at 901.

*Marmorato v. Holder*, 376 Fed.Appx. 380, 385 (5<sup>th</sup> Cir. 2010) (unpublished).

### 3. Acquiescence

a. When the “torturer” is not a public official, a successful CAT claim requires that a public official or other person acting in an official capacity instigates, consents, or acquiesces to the torture.

b. Acquiescence of a public official requires that the public official, prior to the activity constituting torture, have awareness of such activity and thereafter breach his or her legal responsibility to intervene to prevent such activity.

8 C.F.R. § 208.18(a)(7).

(i) The Senate ratification history for the Convention explains that the term “awareness” was used to clarify that government acquiescence may be established by evidence of *either* actual knowledge or willful blindness. “Willful blindness” imputes knowledge to a government official who has a duty to prevent misconduct and “deliberately closes his eyes to what would otherwise have been obvious to him.”

136 CONG. REC. at S17,491 (daily ed. Oct. 27, 1990); Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, S. Exec. Doc. No. 101-30, at 9 (1990); *see also* S. Hrg 101-718 (Jan. 30, 1990), *Statement of Mark Richard, Dep. Asst. Attorney General, DOJ Criminal Division*, at 14.

(ii) While circuit courts of appeals are split with regards to the BIA’s “willful acceptance” phrase in favor of the more precise “willful blindness,” for purposes of threshold credible fear screenings, asylum officers must use the willful blindness standard.

- c. There is no acquiescence when law enforcement does not breach a legal responsibility to intervene to prevent torture. 8 C.F.R. § 208.18(a)(7).
- d. In the context of government consent or acquiescence, the court in *Ramirez-Peyro v. Holder* reiterated its prior holding that “use of official authority by low level officials, such a[s] police officers, can work to place actions under the color of law even when they act without state sanction.” Therefore, even if country conditions show that a national government is fighting against corruption, that fact will not necessarily preclude a finding of consent/acquiescence by a local public official. *Ramirez-Peyro v. Holder*, 574 F.3d 893, 901 (8th Cir. 2009).
- e. Evidence that private actors have general support in some sectors of the government, without more, may be insufficient to establish that the officials would acquiesce to torture by the private actors. *See Ontunez-Tursios v. Ashcroft*, 303 F.3d 341, 354-55 (5th Cir. 2002).
4. Consent or Acquiescence vs. Unable or Unwilling to Control
- a. The public official requirement under CAT is distinct from the inquiry into a government’s ability or willingness to control standard applied under the refugee definition.
- b. A finding that a government is unable to control a particular person(s) is not dispositive of whether a public official would instigate, consent or acquiesce to the feared torture. *Reyes-Sanchez v. U.S. Atty. Gen.*, 369 F.3d 1239 (11th Cir. 2004) (“That the police did not catch the culprits does not mean that they acquiesced in the harm.”)
- c. A more relevant query is whether or not a public official who has a legal duty to intervene would be unwilling to do so. In these circumstances, the public official would also have to be aware or deliberately avoid being aware of the harm in order for the action or inaction to qualify as acquiescence under CAT.
- d. The willingness in certain levels of a government to combat harm is not necessarily responsive to the question of whether torture would be inflicted with the consent or acquiescence of a public official. In *De La Rosa v. Holder*, the Second Circuit stated, “[i]n short, it is not clear to this Court why the preventative efforts

of some government actors should foreclose the possibility of government acquiescence, as a matter of law, under the CAT. Where a government contains officials that would be complicit in torture, and that government, on the whole, is admittedly incapable of actually preventing that torture, the fact that some officials take action to prevent the torture would seem neither inconsistent with a finding of government acquiescence nor necessarily responsive to the question of whether torture would be ‘inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity.’”

- e. Similarly, the Third Circuit has indicated that the fact that the government of Colombia was engaged in war against the FARC did not in itself establish that it could not be consenting or acquiescing to torture by members of the FARC.

*Pieschacon-Villegas v. Attorney General*, 671 F.3d 303, 312 (3d Cir. 2011); *Gomez-Zuluaga v. Attorney General*, 527 F.3d 330, 351 (3d Cir. 2008).

## F. Past Harm

Unlike a finding of past persecution, a finding that an applicant suffered torture in the past does not raise a *presumption* that it is *more likely than not* the applicant will be subject to torture in the future. However, regulations require that any past torture be *considered* in evaluating whether the applicant is likely to be tortured, because an applicant’s experience of past torture may be *probative* of whether the applicant would be subject to torture in the future.

8 C.F.R. § 208.16(c)(3)(i); Immigration and Naturalization Service, *Regulations Concerning the Convention Against Torture*, 64 Fed. Reg. 8478, 8480 (Feb. 19, 1999).

Credible evidence of past torture is strong evidence in support of a claim for protection based on fear of future torture. For that reason, an applicant who establishes that he or she suffered past torture will establish a credible fear of torture, unless changes in circumstances are so substantial that the applicant has no significant possibility of future torture as a result of the change.

## G. Internal Relocation

1. Regulations require immigration judges to consider evidence that the applicant could relocate to another part of the country of removal where he or she is not likely to be tortured, in assessing whether the applicant is eligible for withholding or deferral of removal under the Convention

8 C.F.R. § 208.16(c)(3)(ii).

Against Torture. Therefore, asylum officers should consider whether or not the applicant could safely relocate to another part of his or her country in credible fear of torture determinations.

2. Under the Convention Against Torture, the burden is on the applicant to show that it is more likely than not that he or she will be tortured, and one of the relevant considerations is the possibility of relocation. Therefore, as the Ninth Circuit wrote in *Hasan v. Ashcroft*, “in the CAT context, unlike asylum, the petitioners have the burden of presenting evidence to show that internal relocation is not a possibility.” In contrast, “in the asylum context, once the petitioner has established past persecution on account of an enumerated ground, the burden is on the government to prove that the applicant could avoid persecution by relocating to another part of the country and that it would be reasonable to expect her to do so.”

8 C.F.R. § 208.16(c)(3)(ii).

*Hasan v. Ashcroft*,  
380 F.3d 1114, 1123 (9th  
Cir. 2004).

*Id.* at 1122.; 8 C.F.R. §  
208.13(b)(3)(ii).

3. Credible evidence that the feared torturer is a public official will normally be sufficient evidence that there is no safe internal relocation option in the credible fear context.

*See e.g., Comollari v. Ashcroft*, 378 F.3d 694, 697-8 (7th Cir. 2004).

4. Unlike the persecution context, the regulations implementing CAT do not explicitly reference the need to evaluate the reasonableness of internal relocation. Nonetheless, the regulations provide that “all evidence of relevant to the possibility of future torture shall be considered...” Therefore, asylum officers should apply the same reasonableness inquiry articulated in the persecution context to the CAT context.

8 C.F.R. § 208.16(c)(3)(iv).

8 C.F.R. § 208.13(b)(3);  
*See* RAIO Training Module,  
*Well Founded Fear*.

## **IX. APPLICABILITY OF BARS TO ASYLUM AND WITHHOLDING OF REMOVAL**

Please consult the appropriate RAIO Training Module for a full discussion on mandatory bars.

### **A. No Bars Apply**

8 C.F.R. § 208.30(e)(5).

Pursuant to regulations, evidence that the applicant is, or may be, subject to a bar to asylum or withholding of removal does not have an impact on a credible fear finding.

### **B. Asylum Officer Must Elicit Testimony**

INA § 208(b)(2); INA §

Even though the bars to asylum do not apply to the credible fear determination, the interviewing officer must elicit and make note of all information relevant to whether or not a bar to asylum or withholding applies. The immigration judge is responsible for finally adjudicating whether or not the applicant is barred from receiving asylum or withholding of removal.

241(b)(3).

There are no bars to a grant of deferral of removal to a country where the applicant would be tortured.

8 C.F.R. § 208.17(a).

Information should be elicited about whether the applicant:

1. participated in the persecution of others;
2. has been convicted by a final judgment of a particularly serious crime (including an aggravated felony), and constitutes a danger to the community of the US;
3. is a danger to the security of the US;
4. is subject to the inadmissibility or deportability grounds relating to terrorist activity as identified in INA section 208(b)(2)(A)(v);
5. has committed a serious nonpolitical crime;
6. is a dual or multiple national who can avail himself or herself of the protection of a third state; and,
7. was firmly resettled in another country prior to arriving in the United States.

INA § 208(b)(2)(B)(i).

This bar and the firm resettlement bar are not bars to withholding or deferral of removal. See INA § 241(b)(3).

### C. Flagging Potential Bars

The officer must keep in mind that the applicability of these bars requires further evaluation that will take place in the full hearing before an immigration judge if the applicant otherwise has a credible fear of persecution or torture. In such cases, the officer should consult a supervisory officer, follow procedures on “flagging” such information for the hearing, and prepare the appropriate paperwork for a positive credible fear finding. Officers may be asked to prepare a memorandum to file outlining the potential bar that may be triggered. Although positive credible fear determinations that involve a possible mandatory bar no longer require HQ review, supervisory officers

Procedures Manual, Credible Fear Process (Draft, Nov., 2003); Joseph E. Langlois. Asylum Division, Refugee, Asylum and International Operations Directorate. *Revised Credible Fear Quality Assurance Review Categories and Procedures*, Memorandum to Asylum Office Directors, et al. (Washington, DC: 23 December 2008).

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may use their discretion to forward the case to HQ for review.

## **X. OTHER ISSUES**

### **A. Treatment of Dependents**

8 C.F.R. § 208.30(b)

A spouse or child of an applicant may be included in the alien's credible fear evaluation and determination, if the spouse or child: arrived in the United States concurrently with the principal alien; and desires to be included in the principal alien's determination. USCIS maintains discretion under this regulation not to allow a spouse or child to be included in the principal's credible fear request.

Any alien also has the right to have his or her credible fear evaluation and determination made separately, and it is important for asylum pre-screening officers to question each member of the family to be sure that, if any member of the family has a credible fear, his or her right to apply for asylum or protection under CAT is preserved. When questioning family members, special attention should be paid to the privacy of each family member and to the possibility that victims of domestic abuse, rape and other forms of persecution might not be comfortable speaking in front of other family members.

The regulatory provision that allows a dependent to be included in a principal's determination does not change the statutory rule that any alien subject to expedited removal who has a credible fear has the right to be referred to an immigration judge.

### **B. Attorneys and Consultants**

8 C.F.R. § 208.30(d)(4)

The applicant may consult with any person prior to the credible fear interview. The applicant is also permitted to have a consultant present at the credible fear interview. Asylum officers should determine whether or not an applicant wishes to have a consultant present at the credible fear interview.

Although an alien is permitted by regulation to have a consultant present at a credible fear interview, the availability of a consultant cannot unreasonably delay the process. A consultant may be a relative, friend, clergy person, attorney, or representative. If the consultant is an attorney or representative, he or she is not required to submit a Form G-28, *Notice of Entry of Appearance as Attorney or Accredited Representative*, but may submit one if he or she desires.

8 C.F.R. § 208.30(d)(4);  
Procedures Manual, Credible  
Fear Process (Draft, Nov.,  
2003).

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## C. Factual Summary

8 C.F.R. § 208.30(d)(6)

For each credible fear interview, the asylum officer must create a summary of material facts as stated by the applicant. At the conclusion of the interview, the asylum officer must review the summary with the applicant and provide the applicant with an opportunity to correct any errors therein. The factual summary and its review should be contemporaneously recorded at the end of the asylum officer's interview notes.

## XIII. SUMMARY

### A. Expedited Removal

In expedited removal, certain aliens seeking admission to the United States are immediately removable from the United States by the Department of Homeland Security, unless they indicate an intention to apply for asylum or express a fear of persecution or torture or a fear of return to their home country. Aliens subject to expedited removal are not entitled to an immigration hearing or further review unless they are able to establish a credible fear of persecution or torture.

### B. Function of Credible Fear Screening

The purpose of the credible fear screening process is to identify persons subject to expedited removal who might ultimately be eligible for asylum under section 208 of the INA or withholding of removal or deferral of removal under the Convention Against Torture.

### C. Credible Fear Standard of Proof: Significant Possibility

In order to establish a credible fear of persecution or torture, the applicant must show a "significant possibility" that he or she could establish eligibility for asylum, withholding of removal, or deferral of removal.

The "significant possibility" standard of proof required to establish a credible fear of persecution or torture must be applied in conjunction with the standard of proof required for the ultimate determination on eligibility for asylum, withholding of removal, or protection under the Convention Against Torture.

When there is reasonable doubt regarding the outcome of a credible fear determination, the applicant likely merits a positive credible fear determination. The questions at issue can be

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addressed in a full hearing before an immigration judge. Similarly, the asylum officer shall consider whether the applicant's case presents novel or unique issues that merit consideration in a full hearing before an immigration judge.

Where there is disagreement among the United States Circuit Courts of Appeal as to the proper interpretation of a legal issue; or the claim otherwise raises an unresolved issue of law; and, there is no DHS or Asylum Division policy or guidance on the issue, then generally the interpretation most favorable to the applicant is used when determining whether the applicant meets the credible fear standard.

#### **D. Credibility**

To meet the credible fear standard, an applicant must establish that there is a significant possibility that the assertions underlying the applicant's claim could be found credible in a full asylum or withholding of removal hearing.

#### **E. Establishing a Credible Fear of Persecution**

In general, a finding that there is a significant possibility that the applicant experienced past persecution on account of a protected characteristic is sufficient to satisfy the credible fear standard. However, if there is evidence so substantial that there is no significant possibility of future persecution or other serious harm or that there are no reasons to grant asylum based on the severity of the past persecution, a negative credible fear determination may be appropriate.

When an applicant does not claim to have suffered any past harm or where the evidence is insufficient to establish a significant possibility of past persecution under section 208 of the Act, the asylum officer must determine whether there is a significant possibility the applicant could establish a well-founded fear of persecution on account of a protected characteristic under section 208 of the Act.

#### **F. Establishing a Credible Fear of Torture**

In order to be eligible for withholding or deferral of removal under CAT, an applicant must establish that it is *more likely than not* that he or she would be tortured in the country of removal. Therefore, a significant possibility of establishing eligibility for withholding or deferral of removal is necessarily a greater burden than establishing a significant possibility of



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eligibility for asylum. .

After establishing that the applicant's claim would be found credible, the applicant satisfies the credible fear of torture standard where there is a significant possibility that he or she could establish in a full withholding of removal hearing that: (a) the torturer specifically intends to inflict severe physical or mental pain or suffering; (b) the harm constitutes severe pain or suffering; (c) the torturer is a public official or other person acting in an official capacity, or someone acting at the instigation of or with the consent or acquiescence of a public official or someone acting in official capacity; and (d) the applicant is in the torturer's custody or physical control. Torture does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions. However, sanctions that defeat the object and purpose of the Convention are not lawful sanctions. Harm arising out of such sanctions may constitute torture.

Credible evidence of past torture is strong evidence in support of a claim for protection based on fear of future torture. For that reason, an applicant who establishes that he or she suffered past torture will establish a credible fear of torture, unless changes in circumstances are so substantial that the applicant has no significant possibility of future torture as a result of the change.

Under the Convention Against Torture, the burden is on the applicant to show that it is more likely than not that he or she will be tortured, and one of the relevant considerations is the possibility of internal relocation.

#### **G. Other Issues**

While the mandatory bars to asylum and withholding of removal do not apply to credible fear determinations, asylum officers must elicit and make note of all information relevant to whether or not a bar to asylum or withholding applies.

A spouse or child of an applicant may be included in the alien's credible fear evaluation and determination, if the spouse or child: arrived in the United States concurrently with the principal alien; and desires to be included in the principal alien's determination.

The applicant may consult with any person prior to the credible fear interview. The applicant is also permitted to have a consultant present at the credible fear interview. A consultant

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may be a relative, friend, clergy person, attorney, or representative.

For each credible fear interview, the asylum officer must create a summary of material facts as stated by the applicant and review the summary with the applicant.



**U.S. Department of Justice  
Immigration and Naturalization Service**

HQIAO 120/16.1

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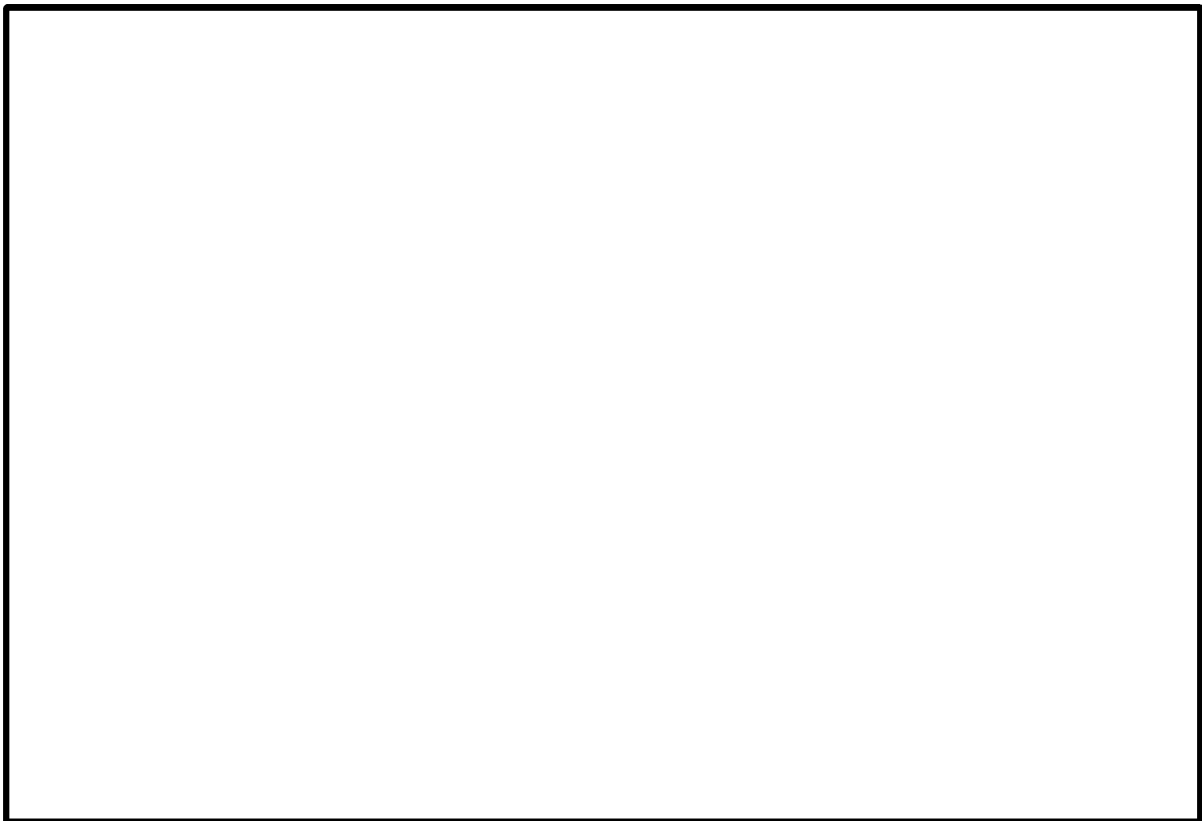
*425 I Street NW  
Washington, DC 20536*

Date: Jan 3, 2002

MEMORANDUM FOR ASYLUM OFFICE DIRECTORS  
QUALITY ASSURANCE/TRAINERS  
SAO CONTACTS ON TERRORIST ISSUES  
HQASM STAFF

FROM: Joseph E. Langlois, Director /s/  
Asylum Division  
Office of International Affairs  
(b)(7)(e) (b)(5)

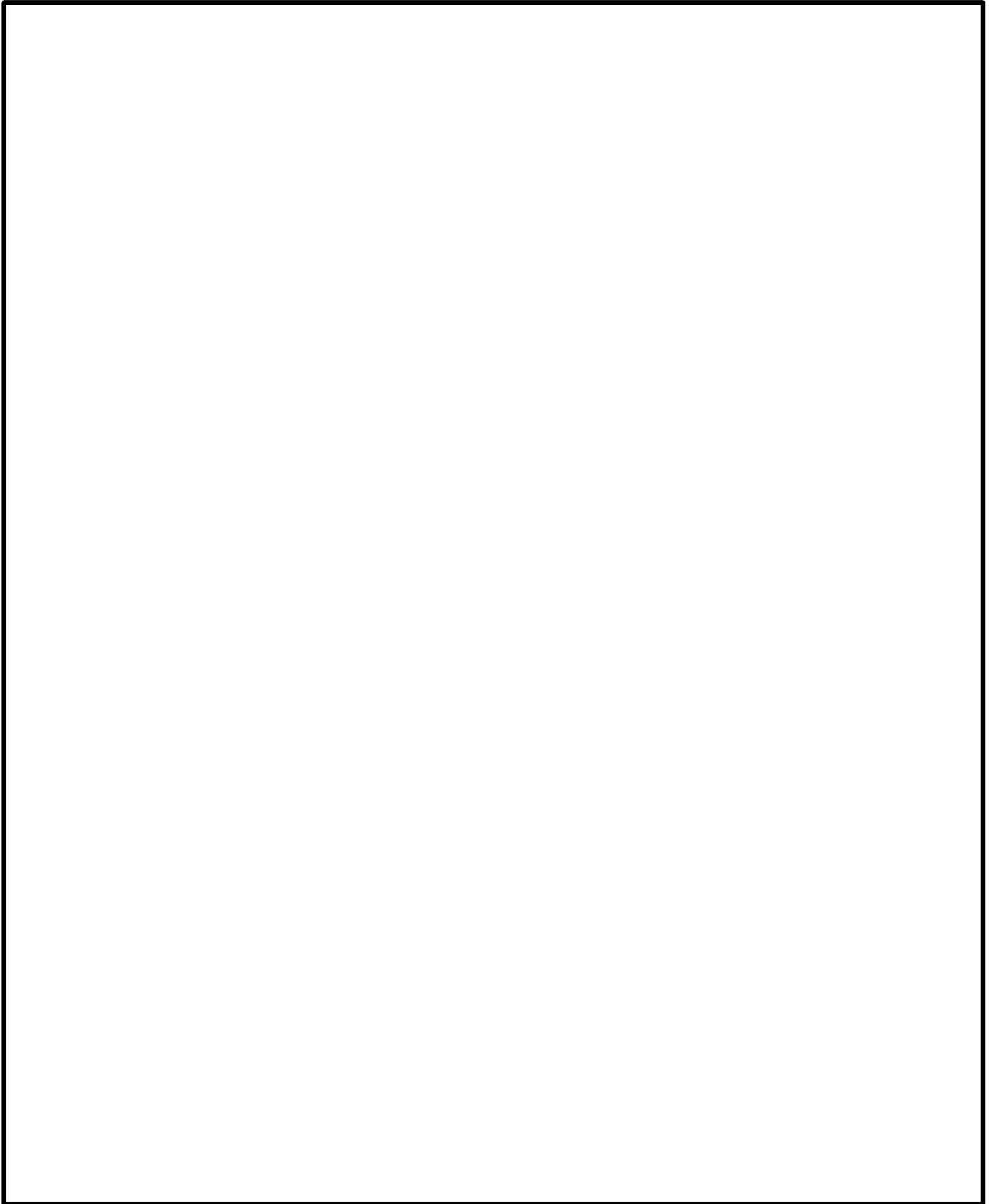
SUBJECT: Procedures for Contacting HQASM on Terrorist Cases



(b)(5)

(b)(7)(e)

**Procedures for Contacting HQASM on Terrorist Cases**  
**Page 2**





U.S. Citizenship  
and Immigration  
Services

HQRAIO 120/10.14c; 40/10b

## Interoffice Memorandum

To: All Asylum Office Personnel

From: Joseph E. Langlois /s/  
Director, Asylum Division  
Office of Refugee, Asylum, and International Operations

Date: June 5, 2006

Re: APSS SAFE Screen Guidance

The purpose of this memorandum is to provide procedural guidance on the use of the new SAFE screen in the Asylum Pre-Screening System (APSS).

The SAFE screen captures biographical, interview, and decision information for threshold screening cases processed within the framework of the Safe Third Country Agreement with Canada. Effective immediately, Asylum staff are required to enter data for Safe Third Country threshold screening cases into the SAFE screen in accordance with the procedures set forth in this memorandum. Safe Third Country threshold screening cases completed or submitted to headquarters before the date of this memorandum have been entered into APSS and require no further action.

### Timeliness Requirements

In alignment with our goal for processing credible fear referrals, 80 percent of threshold screening determinations must be made and served within 14 days of the referral. This goal reflects the importance of timely processing of decisions for detained asylum seekers, while providing a reasonable level of flexibility for complex cases and contingencies. The credible fear processing standard does not change and remains also at 80 percent completed within 14 days. The timeliness standards are the same because credible fear interviews will immediately follow, on the same date, the threshold screening determination (if an exception is found) in the vast majority of instances.

Updating APSS in a timely manner is critical to measuring our progress toward this goal. Each threshold screening case must be entered into the SAFE screen in APSS no later than 3 business days of the date on which the Asylum Office takes jurisdiction after receiving the appropriate documents (i.e. M-444, I-860, and I-867A&B, the Threshold Screening Information Sheet, and the list of free legal services providers). When entering the case into the SAFE screen, Asylum Office personnel should update the clock-in date and as much biographical information as possible (i.e. A-number, name, date of birth, country of birth, citizenship, sex, port of entry, language, whether an interpreter is required, detention facility, arrival date, clock-in date).

Threshold screening interview information (i.e. interview date, interview location, special group, interview language, mode of interview, representative ID, potential exception, consultant information, APSO and SAPSO IDs), as well as any remaining biographical information, must be updated in the SAFE screen no later than 3 business days after the date of the threshold screening interview.

Finally, information related to the actual threshold screening decision (i.e. finding, finding date, service date) must be updated no later than 3 business days after the date of the threshold screening decision.

### General Processing Rules in APSS

- To reach the SAFE screen in APSS, enter “SAFE” into the command line and enter the applicant’s A-number.
- For each threshold screening case, complete all required fields, within the timeframes outlined above, per instructions in the SAFE screen Table of Fields, Data Sources, and Field Descriptions in Attachment 1.
- If an exception applies, complete all required screens for credible fear determinations according to existing credible fear procedures.

Please note that the SAFE screen will constitute the only APSS record for those individuals who are found not to qualify for an exception to the agreement. For those who are found eligible for an exception, data entered into the SAFE screen will automatically populate the PREC screen in APSS. Because of this processing sequence, APSS will not allow users to update the SAFE screen for an A-number that has already been entered as a credible fear case. If a user mistakenly enters a threshold screening case into APSS as a credible fear case prior to updating the SAFE screen, he or she must delete the credible fear case from APSS using the DELC command and begin again by entering the case into the SAFE screen in order to record both the threshold screening determination and the credible fear determination. Otherwise, there will be no record in APSS of the threshold screening processing for that case. Therefore, for threshold screening cases in which an exception applies, it is necessary to update the SAFE screen prior to updating any other APSS screens.

In addition, users will not be able to delete SAFE screen entries with the DELC command or any other command. If you need to delete a SAFE screen entry that has been made in error, please contact headquarters.



#### Attachments:

1. SAFE screen Table of Fields, Data Sources, Field Descriptions
2. APSS screen print-outs
  - APSS main menu
  - SAFE screen

(b)(6)

**Safe Third Country Threshold Screening (SAFE) Screen**  
**Fields, Data Sources, and Descriptions**

\*Items in **boldface** are also highlighted in the SAFE screen diagram in Attachment 2.

<u>FIELD</u>	<u>DATA SOURCE(S)</u>	<u>DESCRIPTION</u>
<b>CCO</b>	I-867, I-213	Three letter location code for the asylum office with jurisdiction over the case ( <b>ZAR, ZCH, ZHN, ZLA, ZMI, ZNK, ZNY, ZSF</b> )
<b>LAST NAME</b>	I-860, I-867A&B, I-213, Information about Threshold Screening Interview	Applicant's last name
<b>FIRST NAME</b>	I-860, I-867A&B, I-213, Information about Threshold Screening Interview	Applicant's first name
<b>A-NUMBER</b>	I-867A&B, Applicant's testimony	Applicant's A-number. For dependents, the principal's A-number will be listed directly below this field.
<b>PRIN A-NUMBER</b>	I-867A&B, Applicant's testimony	Principal applicant's A-number. For the principal applicant, this number will be the same as the applicant's A-number. For dependents, entering the principal's A-number here will link the cases.
<b>MIDDLE</b>	I-860, I-867A&B, I-213	Applicant's middle name, if known
<b>AKA (LAST) (FIRST)</b>	Inspector's Memo to File, I-860, I-867A&B, I-213, applicant's testimony or documents	Alias used by the applicant. If the applicant attempted to enter the United States using another person's documents, the name on the documents should be entered here. Additional aliases should be entered on the NOTES screen.
<b>DETEN FAC</b>	I-213, memo from CBP or ICE	Location where the applicant is detained. Users can enter only codes on the Standard Tables. A complete list of codes may be accessed by selecting "F7" and placing an "X" to the left of "Detention Facilities." If the detention facility does not have a code on the Standard Table, the user should enter the code for the District Office that has jurisdiction over the location of the facility and enter the name and

		address of the facility on the NOTES screen.
ARR DATE	I-860, I-867A&B, I-213, I-275, Inspector's Memo to the File, applicant's testimony	Date applicant attempted entry into the United States
POE	I-867A&B, I-213, applicant's testimony	Port of entry where the applicant attempted entry into the United States. Users can access POE codes by selecting "F7" then entering an "X" to the left of "Ports of Entry."
CLOCK-IN		The date on which the asylum office takes jurisdiction after receiving the M-444, I-860, and I-867A&B (these three are not required for visa-waiver cases), the Threshold Screening Information Sheet, and the list of free legal services providers.
DOB (MM/DD/YYYY)	I-867A&B, I-213, applicant's testimony or documentary evidence	Applicant's date of birth
SEX	I-213	Applicant's gender
LANGUAGE	I-867A&B, I-213, applicant's testimony	Language used by the applicant during the interview. Users can access codes by selecting "F7" and entering an "X" to the left of "Languages."
INTERPRETER REQ'D (Y/N)	I-867A&B, I-213, M-444, Information on Threshold Screening Interview, CBP or ICE memos to the file	Users enter "Y" if an interpreter was required for the interview, "N" if not
COB	I-867A&B, I-213, applicant's testimony or documentary evidence	Applicant's country of birth. Users can access the country code list by selecting "F7" and entering an "X" to the left "Countries".
CITZ 1	I-867A&B, I-213, applicant's testimony or documentary evidence	Applicant's citizenship. Users can access the nationality codes by selecting "F7" and entering an "X" to the left of "Nationalities"
CITZ 2	I-867A&B, I-213	Applicant's second citizenship, if a dual citizen
SPECIAL GROUP (CA1/CA2)		Category of arriving asylum seeker subject to the Safe Third Country Agreement: <b>CA1 = Arrival at northern land border ports of entry</b> <b>CA2 = Arrival being removed</b>



		<b>from Canada and transiting the U.S.</b> <i>Default is CAI</i>
REPR ID	I-870, item 1.11	Attorney or Consultant ID. Users can search existing attorney Ids by going to the REPR screen. Search functions are explained in the IRM APSS User's Manual
INTERVIEW LOC	I-213, CBP or Ice memo to the file	Location of applicant's threshold screening interview. Users can access locations code by selecting "F7" and placing an "X" next to "Ports of Entry," "District Offices," or "Detention Facilities."
DATE	Threshold Screening Adjudication Worksheet	Date of the applicant's threshold screening interview
MODE		<b>Method of interviewing:</b> <b>INP = in person</b> <b>TLC = teleconference</b> <b>TLV = videoconference</b>
INTV. LANGUAGE	I-870, items 1.16	Language used by the applicant during the interview. Users may access language codes by selecting "F7" and entering an "X" to the left of "Languages"
CONSULTANT (Y/N)	I-870, items 1.10 and 1.11	If applicant has a consultant, enter "Y"; if not, enter "N"
APSO ID	LOFR screen in RAPS	APSO's assigned ID in RAPS
SAO ID	LOFR screen in RAPS	Supervisor's assigned ID number in RAPS
<b>POTENTIAL EXCEPTION</b>	Applicant's testimony and/or other available evidence	List here <b><u>ALL</u></b> of the possible <b><u>exceptions</u></b> to the safe third country agreement that may apply to the applicant. A potential exception may be one that the applicant claims applies to him or her or of which the APSO finds at least some evidence (regardless of whether the applicant is ultimately able to meet his or her burden of establishing that the exception applies.) <sup>1</sup> :

<sup>1</sup> For example, if the applicant claims compelling reasons for seeking asylum in the United States rather than Canada, but the APSO does not recommend that the public interest exception be granted, or the USCIS Director or his or her designee decides

		<p><b>CA = Citizen of Canada</b>  <b>FL = Family member in lawful non-immigrant status</b>  <b>FA = Family member age 18 or older with pending asylum application</b>  <b>VV = Valid visa holder</b>  <b>NV = No visa required (visa waiver)</b>  <b>PI = Discretionary public interest</b>  <b>NO = No exception</b></p> <p>Note: Once a code for a potential exception is entered, the cursor will automatically tab over several spaces to allow for another entry, if applicable. Pressing the “enter” key on the keyboard will record any code(s) entered on this line.</p>
<b>FINDING</b>	Threshold Screening Adjudication Worksheet	<p>This field allows entry of only one exception. If an exception applies, enter <b><u>one and only one exception</u></b>, even if the individual would appear to qualify for more than one. The exception listed should be the first checked on the Threshold Screening Adjudication Worksheet.</p> <p><b>ER = Expedited removal (no exception found)</b>  <b>63 = Visa waiver case, any exception found</b>  <b>DI = Dissolution</b>  <b>CA = Citizen of Canada</b>  <b>FL = Family member in lawful non-immigrant status</b>  <b>FA = Family member age 18 or older with pending asylum applicant</b>  <b>VV = Valid visa holder</b>  <b>NV = No visa required</b>  <b>PI = Discretionary public interest</b></p>
<b>FINDING DATE</b>	Threshold Screening Adjudication Worksheet	Date APSO made the threshold screening determination. This date should correspond to the date APSO

not to grant the exception, the APSO should still enter PI in this field because the public interest exception has been raised as a *potential* exception.

		completed the Threshold Screening Adjudication Worksheet and signed it. If an APSO's initial decision is reversed, the date should be updated to the date the decision was reversed.
SERVICE DATE	I-862, I-863, or I-860	Date the APSO served the decision on the applicant

Attachment 2

APSS Screen Print-Outs

To reach the SAFE screen in APSS, enter "SAFE" into the command line and enter the applicant's A-number as pictured below.

The screenshot shows the APSS MAIN MENU (MENU) screen. At the top left is 'APXMNU00', at the top center is 'APSS MAIN MENU (MENU)', and at the top right is the date '01/18/06' and time '16:04:57'. The menu options are: CASE - CASE MAINTENANCE, DECS - CASE DECISION, INQR - INQUIRY, and ADMN - ADMINISTRATIVE MAINTENANCE. At the bottom left is '3270'. In the center is 'PF8 LOGOFF'. On the right is 'A-NUMBER: 999999999 (5A)'. Two callout boxes with arrows point to the command line and the A-number field. The first box says 'Enter "safe" here' and points to 'COMMAND: safe'. The second box says 'Enter the A-number here' and points to 'A-NUMBER: 999999999 (5A)'.

Below is a screen shot of the SAFE screen with captions that explain some of the required fields.

Special Group: CA1 = Arrival at a northern land border port of entry  
 CA2 = Arrival in-transit through the United States while being removed from Canada

Asylum Office Code

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APXCAS11 THRESHOLD SCREENING (SAFE) 01/18/06
CCO: ZNK 16:44:47
A-NUMBER: 999999999
PRIN A-NUMBER: 999999999
LAST NAME: BRONTE MIDDLE:
FIRST NAME: CHARLOTTE
AKA (LAST): DETEN FAC: BUF ARR DATE: 1/01/06
(FIRST): POE: NIA CLOCK-IN: 1/09/06
DOB(MM/DD/YYYY): 4/21/1816 SEX: F
LANGUAGE: ENG INTERPRETER REQ'D(Y/N): N COB: UK
SPECIAL GROUP(CA1/CA2): CA1 REPR ID:
INTERVIEW LOC: BUF DATE: 1/16/05 MODE: INP
INTV LANGUAGE: ENG CONSULTANT(Y/N): N (INP/TLC/TLV)
POTENTIAL EXCEPTION: FL
(CA/FL/FA/VV/NV/PI/NO)
FINDING: FL FINDING DATE: 1/16/05
(ER/63/DI/CA/FL/FA/VV/NV/PI) SERVICE DATE: 1/16/05
COMMAND: SAFE A-NUMBER: 999999999
PF3 PF4 PF6 PF7 PF8 PF9
CANCEL CASE MENU MAIN MENU CODES LOGOFF NOTES (5A)
3270
  
```

Mode: INP = In person  
 TLC = Teleconference  
 TLV = Videoconference

**Potential Exception:**  
 CA = Citizen of Canada  
 FL = Family member in lawful non-immigrant status  
 FA = Family member age 18 or older with pending asylum application  
 VV = Valid visa holder  
 NV = No visa required (visa waiver)  
 PI = Discretionary public interest  
 NO = No exception

**Finding:**  
 ER = Expedited removal (no exception found)  
 63 = Visa waiver case, any exception found  
 DI = Dissolution  
 CA = Citizen of Canada  
 FL = Family member in lawful non-immigrant status  
 FA = Family member age 18 or older with pending asylum applicant  
 VV = Valid visa holder  
 NV = No visa required (visa waiver)  
 PI = Discretionary public interest



U.S. Citizenship  
and Immigration  
Services

HQRAIO 50/5.12.1a

## Interoffice Memorandum

To: Asylum Office Directors  
Asylum Office Deputy Directors

From: Joseph E. Langlois /s/  
Chief, Asylum Division

Date: September 12, 2006

RE: Guidance on using interpreter services companies other than Lionbridge when conducting credible fear, reasonable fear and safe third country screening interviews

The purpose of this memorandum is to outline when it is appropriate for Asylum Pre-Screening Officers (APSOs) to use a company other than the current interpreter services contract provider, Lionbridge Global Solutions II (Lionbridge), and the procedures to follow when doing so.

### **I. Why Timely Interpreter Services are a Necessary in the Credible Fear, Reasonable Fear and Safe Third Country<sup>1</sup> Screening Adjudications Processes**

With respect to credible fear, reasonable fear and Safe Third Country interviews, regulations provide, "If the alien is unable to proceed effectively in English, and if the asylum officer is unable to proceed competently in a language chosen by the alien, the asylum officer shall arrange for the assistance of an interpreter in conducting the interview." See 8 CFR §§ 208.30(d)(5), (e)(6) and 208.31 (c).

Because applicants referred for credible fear, reasonable fear, and Safe Third Country screenings are almost always detained, it is imperative that the Asylum Division conducts these screenings in a timely manner. The Asylum Division strives to complete 80% of all Credible Fear and Safe Third Country screening within 14 days of the case referral to the Asylum Division. Regulations require that, in the absence of exceptional circumstances, asylum officers must make reasonable fear determinations within 10 days of a case being referred to the Asylum Program for a decision. 8 CFR § 208.31 (b).

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<sup>1</sup> *Agreement Between the Government of the United States of America and the Government of Canada for Cooperation in the Examination of Refugee Status Claims from Nationals of Third Countries*

To comply with these regulations and procedures, Asylum Pre-Screening Officers (APSOs) routinely need to quickly secure interpreter services on short notice, at remote locations, and in a variety of languages. To accomplish this, USCIS uses telephonic interpreter services because it is crucial that interpreter services be available in the required language on the day of an applicant's scheduled orientation, interview or date of decision service.

The Asylum Division currently has a contractual agreement with Lionbridge to provide officers with services to meet interpretation needs. Therefore, Officers must use Lionbridge's interpreter services, unless all of the conditions are met as outlined in following section of this memo.

## **II. Guidance on when it is Appropriate to use a Company Other Than the Current Interpreter Services Provider, Currently Lionbridge Global Solutions II**

Situations may arise in which the current interpreter services provider, Lionbridge, may not be able to accommodate all of the language services needs of the Asylum Program. Before an APSO may contact an alternate company to obtain interpreter services, all of the following requirements must be met:

A) The APSO has first tried to use the interpreter services provider, Lionbridge, and was told that Lionbridge is unable to provide the officer with necessary services. The following are situations in which an officer could reasonably make the determination that Lionbridge is not able to provide the necessary services. The officer:

- 1) Has been told that there are no interpreters available in the required language either immediately or after the officer has waited for 10 minutes or more<sup>2</sup> **OR**
- 2) Has encountered an interpreter with whom the applicant could not communicate effectively due to:
  - Differences in dialect that prevented communication or
  - Documented interpreter competency issues<sup>3</sup>

**AND**

- 3) **If #2 applies**, the officer has also requested a replacement interpreter and has been told that none are available.

- B) The APSO has received permission from a supervisor to contact a non-Lionbridge interpreter.
- C) The supervisor has verified that the asylum office has funds obligated and available to cover the cost of interpreter services using an alternate company.
- D) If using a purchase card for payment, the asylum office follows all relevant purchase card regulations.

If Lionbridge cannot accommodate a request for an interpreter, and each of the following requirements are met, as well as any additional requirements per local policies, an APSO may contact an alternate interpreter services company to obtain those services. The office must use a company that is currently on

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<sup>2</sup> Please note that Lionbridge has supplied the Asylum Program with a "Rare Languages" list (see attachment). Asylum officers who require an interpreter who speaks a language identified on this list should call Lionbridge 24 hours in advance to reserve an interpreter if at all possible. This list will be periodically updated as hiring continues in many of the listed languages.

<sup>3</sup> If there are competency issues or if an officer feels an interpreter has compromised the applicant's confidentiality at any point in the interview, the officer **MUST** report this to the interpreter liaison in his or her office who will, in turn report this to Eva Rupp at headquarters.

the GSA schedule to obtain these services. To find these companies, please see: <http://www.gsaelibrary.gsa.gov> and type in "738 II" into the search box. Next, select "382 2 interpretation services" and click on the link provided. The list of GSA Schedule interpreter services companies will appear.

The companies that have successfully accommodated the Asylum Program in the past and are on the GSA schedule are: Language Learning Enterprises (LLE-LINK), and Language Services Associates (LSA). To the extent those companies have provided this information, instructions on how to use each company, which languages they provide and what their rates are can be found in the attachments to this memo.

### **III. Payment Procedures to Follow When Using a company other than the current Language Services Provider, Lionbridge Global Solutions II**

When an office uses an interpreter services company other than Lionbridge, the costs incurred will be billed to the individual asylum office that used the services. Similarly, it is the responsibility of that office to verify that associated invoices received are accurate and that funds to pay for those services are obligated and available before services are obtained. Invoices can be paid for using the method that each office's management deems appropriate.

If purchase cards are used to pay for these expenses, the purchase card must be used in accordance with all proper purchase card procedures, found in section 3.7 of the current purchase card manual. The current purchase card procedures manual can be found on DHS online at <http://fmd.uscis.dhs.gov/> under the title, "Purchase Card Manual." Offices are reminded that the purchase card spending limit per billing cycle for each merchant used is \$2,500.

### **IV. Setting up Accounts with Alternate Interpreter Services Providers**

Headquarters has contacted Language Learning Enterprises (LLE-LINK), and Language Services Associates (LSA) and both companies have indicated that they are willing to provide interpreter services on an as needed basis to offices when the current interpreter services provider has been contacted but was unable to provide those services. Both companies know that invoices may be paid for using purchase cards. These companies are mentioned solely on the basis that they are companies that previously have provided interpreter services for APSOs. As noted above, to the extent these companies have provided us with the information, instructions on how to use each company, which languages they provide and what their rates are can be found in the attachments to this memo. Both companies have stated they can send additional information upon request.

Before services are obtained from an alternative interpreter services provider, an account must be set up with the company or companies that your office wishes to use to provide them with billing and other necessary information. Similarly, offices are responsible for making clear their requirements, including necessary forms, to companies that they wish to obtain alternative interpreter services from. (b)(6)

If you have any questions concerning these procedures, please contact



*Attachment: Contact information for GSA Interpretation Services Companies that Asylum Offices have used in the past, updated September 6, 2006*



**Attachment: Contact information for GSA Interpretation Services Companies that Asylum Offices have used in the past:**

*Updated September 6, 2006*

**1. Language Learning Enterprises (LLE)**

To establish an account with LLE, contact: Paula J. Hite

Client Development

LLE - Language Services

Toll Free: 877.405.8764 x210

Fax: 540-869-9637

E-mail: [phite@lle-inc.com](mailto:phite@lle-inc.com)

Web Site: [www.lle-inc.com](http://www.lle-inc.com)

Rates: \$1.08/minute, all languages

Languages available with LLE:

Albanian	Croatian	Hungarian	Romanian
Amharic	Czech	Italian	Russian
Arabic	Danish	Japanese	Serbo-Croatian
Armenian	Farsi	Korean	Somali
Azerbaijan	French	Kurdish	Sorani (Kurdi)
Bandinani	Fukienese	Lao	Spanish
Bengali	German	Mandarin	Swedish
Bosnian	Greek	Norwegian	Thai
Bulgarian	Gujarati	Polish	Turkish
Cantonese	Hebrew	Portuguese	Urdu
Creole	Hindi	Punjabi	Vietnamese

**2. Language Services Associates (LSA)**

To establish an account with LSA, contact: Laura Schriver, President of LSA

[www.lsaweb.com](http://www.lsaweb.com)

Phone 1: 800.305.9673

Phone 2: 215-657-1172

Phone 3: 215-657-6571 ext.100

Rates: \$1.85 per minute, all languages

See following 2 pages for available LSA languages



- |     |                        |      |                     |      |   |
|-----|------------------------|------|---------------------|------|---|
| 1.  | AFGHANI (DARI)         |      |                     |      |   |
| 2.  | AKAN                   |      |                     |      |   |
| 3.  | ALBANIAN (GHEG & TOSK) | 56.  | GREEK               | 110. | MARATHI                                 |
| 4.  | AMHARIC                | 57.  | GUJARATI            | 111. | MARSHALESE                              |
| 5.  | AMOY                   | 58.  | GYPSY (ROMANY)      | 112. | MASBATENYO                              |
| 6.  | ARABIC (ALL DIALECTS)  | 59.  | HAITIAN CREOLE      | 113. | MIEN                                    |
| 7.  | ARMENIAN               | 60.  | HAKKA               | 114. | MINANGKABAU                             |
| 8.  | ASANTE                 | 61.  | HAUSA               | 115. | MIXTECO ALTO                            |
| 9.  | ASSYRIAN               | 62.  | HEBREW              | 116. | MIXTECO BAJO                            |
| 10. | AZERBAIDJANI (AZERI)   | 63.  | HINDI               | 117. | MONGOLIAN                               |
| 11. | BADINI                 | 64.  | HINDKO              | 118. | MONTENEGRO                              |
| 12. | BAHASA                 | 65.  | HMONG               | 119. | MOORE                                   |
| 13. | BAMANANKAN             | 66.  | HOKKIAN             | 120. | NANTONG                                 |
| 14. | BAMBARA                | 67.  | HUNAN               | 121. | NAVAJ                                   |
| 15. | BELIZE CREOLE ENGLISH  | 68.  | HUNGARIAN           | 122. | NEDEBELE                                |
| 16. | BENGALI                | 69.  | IBO                 | 123. | NEPALI                                  |
| 17. | BERBER                 | 70.  | IGBO                | 124. | NING PO                                 |
| 18. | BOSNIAN                | 71.  | ILOCANO             | 125. | NORWEGIAN                               |
| 19. | BULGARIAN              | 72.  | ILONGO              | 126. | NUER                                    |
| 20. | BURMESE                | 73.  | INDONESIAN          | 127. | OROMO                                   |
| 21. | BYELORUSSIAN           | 74.  | ITALIAN             | 128. | PAPAGO                                  |
| 22. | CAMBODIAN (KHMER)      | 75.  | JAPANESE            | 129. | PAPIAMENTO                              |
| 23. | CANTONESE              | 76.  | JAVANESE            | 130. | PASHTO                                  |
| 24. | CASTILIAN              | 77.  | KALENJIN            | 131. | PATOIS                                  |
| 25. | CATALÁN                | 78.  | KANNADA             | 132. | PERSIAN (FARSI)                         |
| 26. | CEBUANO                | 79.  | KAREN               | 133. | PIDGIN                                  |
| 27. | CHALDEAN               | 80.  | KAZAKH              | 134. | POLISH                                  |
| 28. | CHUJ                   | 81.  | KHMER (CAMBODIAN)   | 135. | PORTUGUESE                              |
| 29. | CHUUKESE               | 82.  | KICONGO             | 136. | PORTUGUESE CREOLE (CAPE VERDIAN CREOLE) |
| 30. | CROATIAN               | 83.  | KINYARWANDA         | 137. | PULAAR                                  |
| 31. | CZECH                  | 84.  | KIRGIZ              | 138. | PUNJABI                                 |
| 32. | DANISH                 | 85.  | KIRUNDI             | 139. | PUTIEN                                  |
| 33. | DARI                   | 86.  | KISWAHILI           | 140. | QUECHUA                                 |
| 34. | DARIJA                 | 87.  | KONKANI             | 141. | QUICHE                                  |
| 35. | DIEJU                  | 88.  | K'ONJABOL           | 142. | ROMANIAN                                |
| 36. | DIOLA                  | 89.  | KOREAN              | 143. | ROMANY (GYPSY)                          |
| 37. | DUTCH                  | 90.  | KOSRAEN             | 144. | RUSSIAN                                 |
| 38. | ESTONIAN               | 91.  | KRIO (SIERRA LEONE) | 145. | SALISH                                  |
| 39. | EWE                    | 92.  | KURDISH             | 146. | SAMOAN                                  |
| 40. | FANTE                  | 93.  | LAKOTA              | 147. | SARAIKI                                 |
| 41. | FARSI                  | 94.  | LAOTIAN             | 148. | SARIKOLI                                |
| 42. | FIJIAN                 | 95.  | LATVIAN             | 149. | SERBO-CROATIAN                          |
| 43. | FILIPINO               | 96.  | LETA                | 150. | SERBIAN                                 |
| 44. | FINNISH                | 97.  | LINGALA             |      |   |
| 45. | FLEMISH                | 98.  | LITHUANIAN          |      |   |
| 46. | FRENCH                 | 99.  | LUGANDA             |      |   |
| 47. | FUKIENESE              | 100. | LUHYA               | 151. | SHANGHAINESE (CHINESE)                  |
| 48. | FULANI                 | 101. | MACEDONIAN          | 152. | SINHALESE                               |
| 49. | FUZHOU                 | 102. | MAI MAI             | 153. | SLOVAK                                  |
| 50. | GA                     | 103. | MALAY               | 154. | SLOVENIAN                               |
| 51. | GAELIC                 | 104. | MALAYALAM           | 155. | SOMALI                                  |
| 52. | GEORGIAN               | 105. | MALINKE             | 156. | SONINKE                                 |
| 53. | GERMAN                 | 106. | MALTESE             | 157. | SOSO                                    |
| 54. | GILAKI                 | 107. | MANDARIN            | 158. | SUDANESE                                |
| 55. | GOURMANCEMA            | 108. | MANDINGO            | 159. | SPANISH                                 |
|     |                        | 109. | MANDINKA            |      |   |

Guidance on using interpreter services companies other than Lionbridge when conducting credible fear, reasonable fear and safe third country screening interviews

Page 6 of 6

160.	SWAHILI	171.	TEMNE	183.	URDU
161.	SWEDISH	172.	THAI	184.	UYGHUR
162.	SYRIAC	173.	TIBETAN	185.	UZBEK
163.	SZECHUAN	174.	TIGRINYA	186.	VIETNAMESE
164.	TACHEW	175.	TOHONO O'ODHAM	187.	VISAYAN
165.	TAGALOG	176.	TOISHAN (CHINESE)	188.	WENZHOU (CHINESE)
166.	TAISHAN	177.	TONGAN	189.	WOLOF/OUOLOFF
167.	TAIWANESE	178.	TRUKESE	190.	YIDDISH
168.	TAMIL (SRI LANKAN & INDIAN)	179.	TSHILUBA	191.	YORUBA
169.	TATAR	180.	TURKISH		
170.	TELUGU	181.	TWI		
		182.	UKRANIAN		

*Additional languages available upon request*



**U.S. Citizenship  
and Immigration  
Services**

February 24, 2010

HQRAIO 140/12

## Memorandum

**TO:** Asylum Office Directors  
Supervisory Asylum Officers  
Asylum Officers  
Quality Assurance/Training Coordinators

**FROM:** Joseph E. Langlois /s/  
Chief, Asylum Division

**SUBJECT:** Award of Interpreter Services Contracts and Guidance on Use of Interpreter Services

The USCIS Contracting Office has awarded two new contracts for the provision of professional interpreter services during Asylum Division interviews. The contracts have been awarded to Language Line Services, LLC (Language Line) and Lionbridge Global Solutions II (Lionbridge). Vendors will begin providing services under the new contracts on March 1, 2010; these contracts will replace the current Lionbridge contract. It is anticipated that the award of two interpreter contracts will increase the overall availability of interpreters and monitors for Asylum Division interviews, thus assisting both asylum officers and applicants in the adjudication process.

### General Information and Basic Contract Requirements

The Asylum Division's Management Branch is responsible for implementing and monitoring interpreter contracts. The Contracting Officer's Technical Representative (COTR) for the Language Line contract is Leneen Speed-Walker; the COTR for the Lionbridge contract is Angela Haynie. Correspondence with the COTRs should be routed through the designated Interpreter Liaison at each asylum office or through the normal chain of command. COTRs may be contacted directly or through the Asylum HQ – Interpreter Services mailbox in Outlook.

The new contracts are performance based and contain identical provisions for both vendors. Under the terms of the new contracts, the vendors shall provide an interpreter or monitor within [redacted] of requests. Detailed call instructions for each vendor have been included as Attachment A.

(b)(4)

Impact on Asylum Offices

Asylum Offices should continue to follow the guidance contained in Section II.J.4 of the *Affirmative Asylum Procedures Manual*; Section III.E.3 of the draft *Credible Fear Procedures Manual*; and Section III.D of the draft *Reasonable Fear Procedures Manual*. Although the general guidance remains the same with regard to contract interpreter services, there are several issues related to the new contracts that impact the asylum offices. These include the following:

1. **Each asylum office has been assigned a primary vendor and a secondary vendor for interpreter services.**

During the initial phase of contract performance, Asylum Division call volume will be distributed equitably between the two vendors.<sup>1</sup> Each Asylum Office has been assigned vendors as follows:

Office	Primary Vendor	Secondary Vendor
ZAR	Lionbridge	Language Line
ZCH	Language Line	Lionbridge
ZHN	Language Line	Lionbridge
ZLA	Lionbridge	Language Line
ZMI	Language Line	Lionbridge
ZNK	Language Line	Lionbridge
ZNY	Lionbridge	Language Line
ZSF	Language Line	Lionbridge

**When requesting an interpreter or monitor, an officer must first call the primary vendor assigned to his or her asylum office; if the primary vendor is unable to connect to an interpreter or monitor within 10 minutes, then the officer should call the secondary vendor. If the secondary vendor is unable to connect to an interpreter or monitor within 10 minutes, then the officer should proceed without a monitor (in affirmative cases) or reschedule the interview (in credible and reasonable fear cases). All requests for an interpreter or monitor should be entered into the Interpreter Services Log, whether or not the call is connected to an interpreter or monitor.**

2. **The Interpreter Services Log is the primary tool used by the COTRs to track contract performance.**

The Interpreter Services Log provides valuable data with regard to invoice accuracy, quality of interpretation or monitoring, accommodation rates (i.e., the percentage of requests that are fulfilled or “accommodated” by the vendor), and overall contract performance. As noted above, the interpreter contracts are performance based. For this reason, it is extremely helpful in managing these contracts when each request for an interpreter or monitor is entered into the Interpreter Services Log with complete and accurate information, including the

<sup>1</sup> During subsequent phases of the contract, Asylum Division call volume will be redistributed between the two vendors based on performance and price.

asylum officer's comments, where applicable. Asylum officers are encouraged to enter call data for all types of interviews into the Interpreter Services Log as soon as possible after conducting an interview.

The Interpreter Services Log has been redesigned to include some contract provisions that may affect overall contract performance. These provisions are represented by a checkbox. For reference, a screenshot of the redesigned Interpreter Services Log has been included as Attachment B. Marking the appropriate checkboxes and providing detailed comments will contribute significantly to the Asylum Division's efforts to manage these contracts.

Additionally, the redesigned log will be accessible in real time to Asylum Division Headquarters staff. As a result, it will not be necessary for asylum office staff to send weekly accommodation and incident reports to Asylum Division Headquarters.

**3. If a call is disconnected, the interpreter or monitor is obligated to reestablish the phone connection.**

This provision was intended to reduce the number of instances in which an officer discovers during an asylum interview that a monitor has unknowingly been disconnected or "dropped." However, as noted above, this provision applies to both interpreter and monitor situations. Vendors have been provided each asylum office's public phone number so that interpreters or monitors may call the main phone line at an asylum office and request that the call be transferred to the appropriate officer in order to reestablish a connection. To facilitate this, officers may elect to provide their direct extensions to the interpreter or monitor at the beginning of each call, but are not required to do so. The fact that vendors are obligated to reestablish the phone connection should not preclude officers from proactively contacting the vendors to request an interpreter if it is convenient for the officers to do so.

Disconnected calls during which contact with an interpreter or monitor is not reestablished should be recorded in the Interpreter Services Log by marking the checkbox entitled, "Call dropped AND interpreter/monitor failed to reconnect." Officers who choose to proactively contact a vendor to reestablish a phone connection should not mark this checkbox. Similarly, officers who do not answer the phone when an interpreter or monitor calls back should not mark this checkbox.

Questions regarding the contents of this memorandum may be directed to the Asylum HQ – Interpreter Services mailbox in Outlook.

Attachments (2)

## Jowett, Haley L

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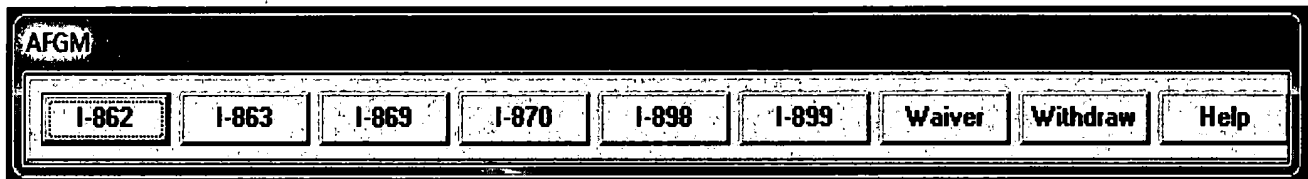
**From:** Stone, Mary M  
**Sent:** Wednesday, October 22, 2014 4:46 PM  
**To:** Aguilar, Kimberly M; Bardini, Emilia M; Caudill-Mirillo, Ashley B; Daum, Robert L; Donis, Antonio; FLANAGAN, Lisa M; Gadson, Irvin C; Heinrich, Lorie R; Hemming, Bryan D; Hussey, Jedidah M; Madsen, Kenneth S; Menges, Patricia A; Papazian, Varsenik L; Radel, David M; Raufer, Susan; Walters, Jessica S; Yue, Calton  
**Cc:** RAIO - Asylum HQ  
**Subject:** AFGM Release Today - 4 Forms Added

Good afternoon Directors and Deputies,

This afternoon, the Asylum Division is updating AFGM to include 4 new forms:

- 1) Withdrawal request for reasonable fear
- 2) Request for Dissolution of credible fear determination
- 3) Waiver of 48 hour period (CF)
- 4) Waiver of 48 hour period (RF)

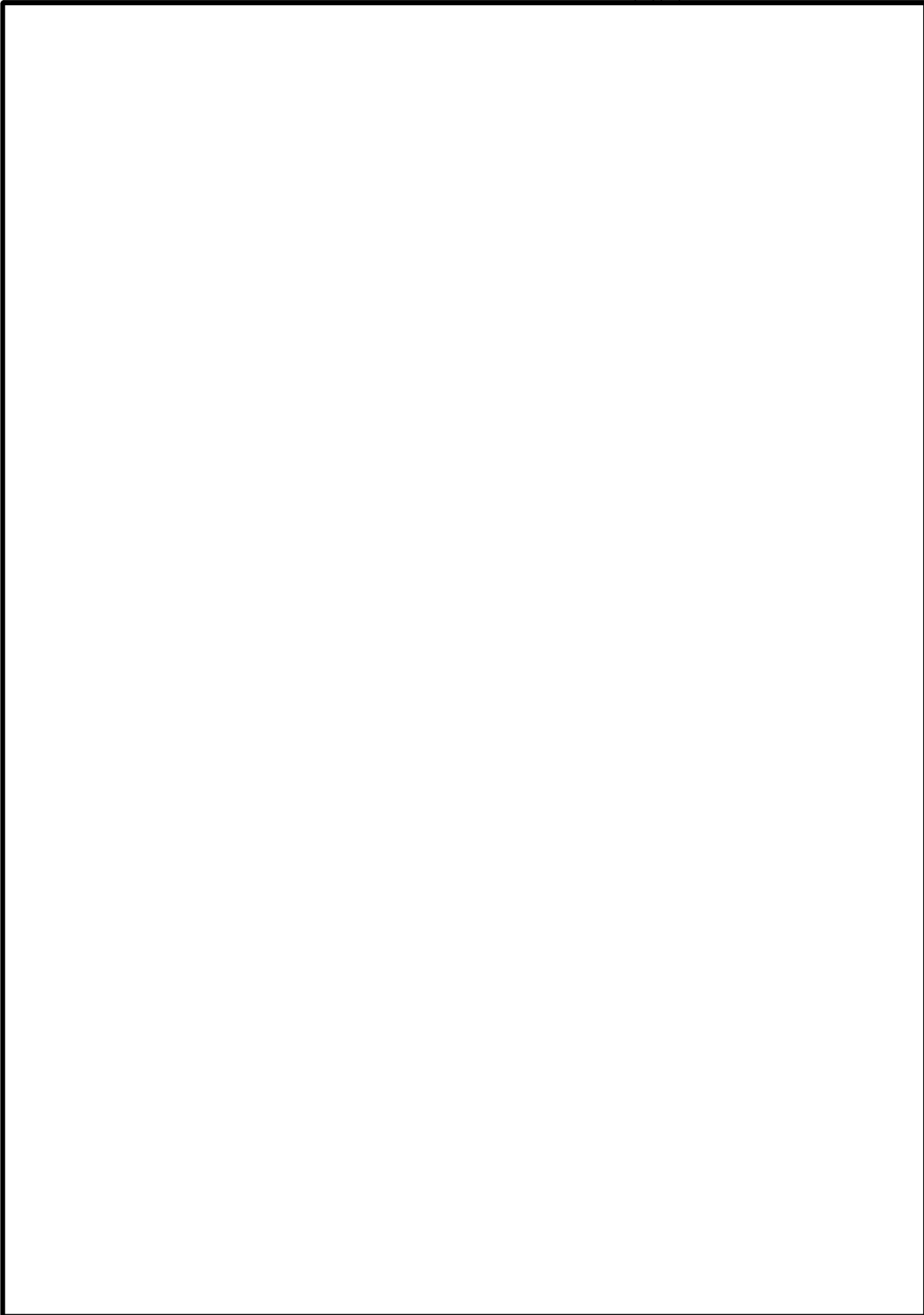
Two new corresponding buttons (waiver and withdraw) will now appear on the AFGM box.



As with the September AFGM release, this release is being pushed out automatically over the USCIS network to all Asylum Division desktops and laptops with Windows 7, the DCS10 terminal emulator and are connected to the USCIS network. If a computer is "sleeping" at the time of the deployment, the update will be installed once the user turns on the computer. It will be pushed out for a period of 2 weeks. Local OIT staff can also manually install the update, and all your local DSMs have been notified.

Please share this with your staff and let me and Beth know if you have any questions, comments or concerns about the new AFGM. MM

Mary Margaret Stone  
Chief of Operations, Asylum Division  
Refugee, Asylum and International Operations Directorate  
US Citizenship and Immigration Services  
Department of Homeland Security  
Tel: 202.272.1651

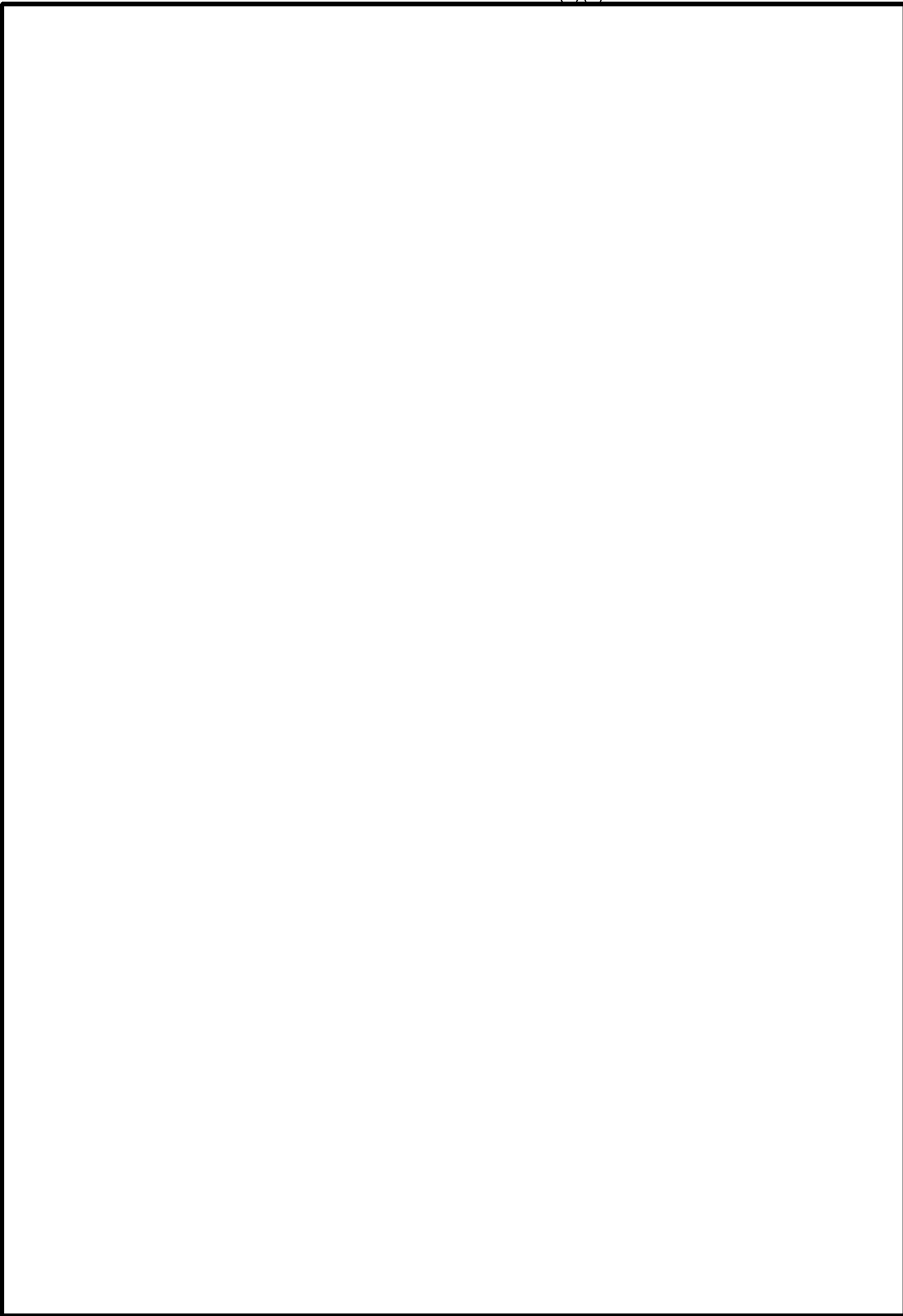






(b)(5)







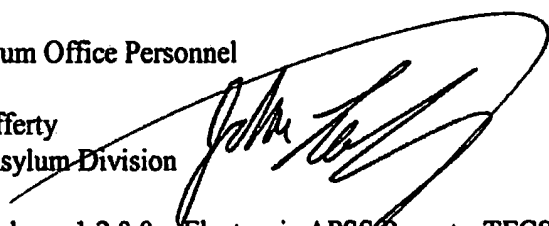
**U.S. Citizenship  
and Immigration  
Services**

MAY - 2 2014

HQRAIO 120/9.15

**Memorandum**

TO: All Asylum Office Personnel

FROM: John Lafferty  
Chief, Asylum Division 

SUBJECT: APSS Release 1.2.0.0 – Electronic APSS Reports, TECS/IBIS Change, New Close Codes, Remote Processing and Non-Detained Case Processing

The purpose of this memorandum is to advise Asylum Office personnel of modifications to the Asylum Pre-Screening System (APSS), which will become effective on Sunday, May 4, 2014.

**Electronic APSS Report Creation**

With the transition to Windows 7, RAPS reports are no longer available for downloading through XROP or XFER. Accordingly, the headquarters versions of the 9 weekly/monthly/quarterly XROP/XFER reports listed below will now be available in electronic format through the web-based, Secure Reports Distribution Utility (SRDU). Please see the December 21, 2011 Ted Kim memorandum, "RAPS Release 1.8 – Electronic RAPS reports and Miscellaneous Changes to RAPS," on the ECN for more information about the SRDU.

APSS REPORT CODE	NAME
APCINLNA	"INL" Group Nationals: Credible Fear
APCNAT02	Nationality Report: Credible / Reasonable Fear
APCNAT01	Nationality Report: Credible / Reasonable Fear
APCOTHNA	"POE" Cases: Credible / Reasonable Fear (nationalities)
APCWKL01	Credible / Reasonable Fear Workload Report
APCINLWK	Credible Fear Workload Report – "INL" Only
APCWKLHQ	Credible Fear Workload Report Summary
APCSBICF	Weekly Credible Fear Statistics Report
APCOTHWK	Credible Fear Workload Report – POE Cases



(b)(7)(e)

(b)(5)



**New Close Codes**

Five new close codes have been added to APSS and one (T6-<sup>(b)(5)</sup>withdrawn) <sup>(b)(7)(e)</sup> has been removed.

Code	Name	Use
T8	No-show	When a non-detained applicant fails to appear for a scheduled interview or pick-up appointment.
T9	Lacks mental capacity	When the APSO determines that an incapable of testifying on their own behalf.
TB	Medical hold	When the APSO is unable to interview an applicant or serve a decision because the applicant is on medical hold.
TC	State/federal custody	When an applicant is in the custody of state or federal law enforcement.
TL	Rare language	When the APSO is unable to communicate with the applicant in a second language or the office cannot schedule a rare language interpreter within 48 hours.

**Remote Processing**

In order to identify credible fear cases that are not interviewed and completed by the office with jurisdiction over the place of detention, the INTERVIEW CCO field has been added to the Interview Capture (INTC) screen.

**Non-Detained Processing**

Due to the sharp increase in non-detained cases, APSS has been expanded to capture an applicant's mailing address. Asylum offices will now record an applicant's mailing address on the Non-Detention Case Address (RLSE) screen, which is also used to record a change in address. In addition, the new \*NONDET code should be used in the DETENTION FAC field on the Preliminary Record (PREC) screen. (This code does not appear on the INS Standard Table, "Detention Facilities," accessed through APSS.)

**AFGM Screen**

In preparation for the re-activation of the APSS Forms Generation Module (AFGM), the AFGM read-only screen has been updated and activated. This screen will be used to generate the required credible and reasonable fear forms when AFGM is released during 3<sup>rd</sup> quarter of FY2014.

The 2012 version of the User's Guide to Entering Information in the Asylum Pre-Screening System (APSS) has been updated to reflect the new changes. See attachment. The credible and reasonable fear procedures manuals will be updated accordingly.

Please direct any questions to Elizabeth Mura, Asylum Officer, Operations Branch, at 



Attachment

(b)(6)

## **Jowett, Haley L**

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**From:** Stone, Mary M  
**Sent:** Friday, September 26, 2014 7:18 PM  
**To:** Aguilar, Kimberly M; Bardini, Emilia M; Caudill-Mirillo, Ashley B; Daum, Robert L; Donis, Antonio; FLANAGAN, Lisa M; Gadson, Irvin C; Heinrich, Lorie R; Hemming, Bryan D; Hussey, Jedidah M; Madsen, Kenneth S; Menges, Patricia A; Papazian, Varsenik L; Radel, David M; Raufer, Susan; Walters, Jessica S; Yue, Calton  
**Cc:** RAIO - Asylum HQ  
**Subject:** APSS Release 1.3.0.0, WRKLD Report, FBI Name, EOIR Court Address, PREC, and AFGM Release 1.1.0.0  
**Attachments:** APSS Release 1.3.0.0 WRKLD Report Change; FBI Name, EOIR Court, PREC AFGM Release 1.1.0.0 9.26.14.pdf; APSS Guide FINAL 9.26.14.doc

Directors and Deputies,

Please see the attached memo which:

Outlines some changes to APSS:

- 1) Changes to two workload reports to add closed cases into the calculations on CF and RF found
- 2) Addition of the FBI namecheck result of "RF" (which did not previously exist)
- 3) EOIR Court Address Addition
- 4) PREC screen corrections, including the discontinuation of the YID workaround

Updates the APSS User's Guide (specifically):

- 1) Changes to PREC "Clock-In Date" for non-detained cases
- 2) Changes to ADEC "EOIR Court" field added

Introduces the APSS Forms Generation Module:

- 1) Was pushed out to all desktops and laptops on the USCIS network
- 2) Evident by a new APSS-AFGM icon on the desktop
- 3) Includes I-862, I-863, I-869, I-970, I-898, and I-899

Please let me and Beth (Mura) know if you have any questions. Have a great weekend,  
Mary Margaret

Mary Margaret Stone  
Chief of Operations, Asylum Division  
Refugee, Asylum and International Operations Directorate  
US Citizenship and Immigration Services  
Department of Homeland Security  
Tel: 202.272.1651



U.S. Citizenship  
and Immigration  
Services

SEP 26 2014

HQRAIO 120/9.15

## Memorandum

TO: All Asylum Office Personnel

FROM: John Lafferty  
Chief, Asylum Division

A large, bold, handwritten signature in black ink, appearing to read "John Lafferty", is written over the "FROM:" field.

SUBJECT: APSS Release 1.3.0.0 – Workload report change, FBI name check result “RF,” EOIR court address addition and PREC screen corrections; and, AFGM Release 1.1.0.0 – I-862, I-863, I-869, I-870, I-898, and I-899.

The purpose of this memorandum is to advise Asylum Office personnel of modifications to the Asylum Pre-Screening System (APSS), which became effective on Saturday, August 23, 2014. In addition, the purpose is to introduce the APSS Forms Generation Module, which became effective on Thursday, September 25, 2014.

### Part I: APSS Changes

#### A. APSS Workload Report Change

Two APSS workload reports (APCWKL01 and APCWKLHR) calculate and display the percentage of decisions found to have a credible/reasonable fear (or not to have a fear) based on the total number of “ADEC findings.” This release changes the calculation to include closings as well as “ADEC findings,” which is displayed on the report as “All Decisions & Closings.” Therefore, the fear found rate now includes closed cases.

#### B. FBI Name Check Result “RF”

The FBI name check result of “RF” has been included in the list of possible name check results and will display as a positive name check result.

#### C. EOIR Court Address Addition

In order to be able to print complete Forms I-862 (Notice to Appear) and I-863 (Notice of Referral to Immigration Judge) using the APSS Forms Generation Module (AFGM), changes were made to the APSO Decision (ADEC) screen and the AFGM screen. A field for the three-letter EOIR court was added to the ADEC screen. When this field is completed, the EOIR court address will be displayed on the AFGM screen. The three-letter EOIR court codes are found on the INS Standard Table – EOIR, which is displayed in RAPS. Currently, the table does not contain codes for all detained courts in use. We will be working with the appropriate people to update the table and make ongoing updates. Please review the table and notify us if court addresses change and need to be updated.

APSS Release 1.3.0.0 – Workload report change, FBI name check result “RF,” EOIR court address addition and PREC screen correction and, AFGM Release 1.1.0.0 – I-862, I-863, I-869, I-870, I-898, and I-899.

Page 2

#### **D. PREC Screen Corrections**

Three minor changes were made to the behavior of the Preliminary Record (PREC) screen. First, if the user does not enter a clock-in date on the PREC screen, the message “status incomplete” will be displayed. The user will be required to enter a clock-in date to complete the PREC screen. For non-detained cases, users will need to enter the clock-in date (the interview date) when the individual appears for the interview and APSS is updated. This will complete the PREC screen entry.

Second, if a user enters a port of entry code other than unknown for an inland case, the user is required to confirm the port of entry by entering a “Y.” The “Y” has been moved to the appropriate location next to the confirmation question.

Third, users are no longer required to enter a detention date and the YID language code when \*NONDET is recorded as the detention location (*i.e.* the individual isn’t detained.)

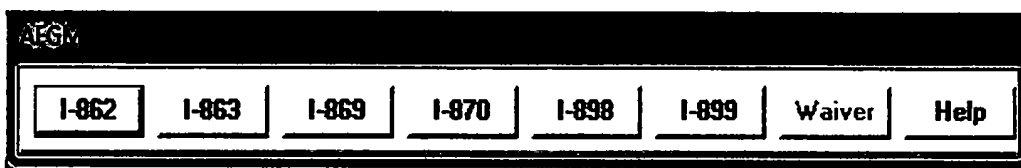
#### **E. APSS User’s Guide**

The June 27, 2014 version of the User’s Guide to Entering Information in the Asylum Pre-Screening System (APSS) has been updated to reflect the new changes. See attachment. The credible and reasonable fear procedures manuals will be updated accordingly.

#### **Part II: AFGM**

HQASM is pleased to roll-out AFGM to assist all Asylum Offices with the processing of credible fear and reasonable fear cases. AFGM will be pushed out over the network to all Asylum Division desktops and laptops with Windows 7 and the DCS10 terminal emulator and are connected to the USCIS network. As with RFGM, AFGM will not work with the A2B terminal emulator. If the user would like the APSS screens and keys accessed through the AFGM icon to look and operate the same as RFGM and RAPS, the user should contact the local DSM with OIT.

To access AFGM, users will double-click on the new APSS-AFGM icon on their desktop. A grey AFGM keypad with the forms available for printing will appear on the computer screen when signing into APSS.



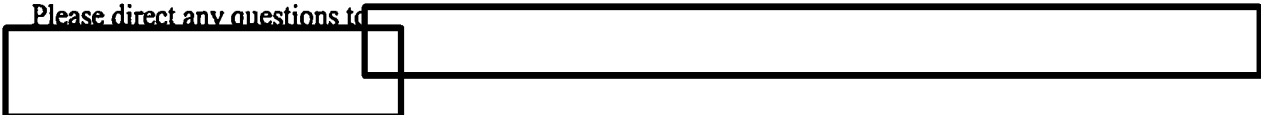
AFGM scrapes the data from the AFGM screen in APSS and merges it into the Word document that has been selected, depending on how much information has been recorded in APSS at the time you generate the document. The user can also enter information into the tabbed, grey pop-up box, which will be merged into the Word document along with the information scraped from the AFGM screen.



In addition, the user will only be able to print out forms that are relevant to the type of case and decision. For example, if the user has a positive credible fear case, the user will only be able to print out an I-870 and I-862. The user will not be able to print an I-869.

As with RFGM, the Word documents generated (for a particular case) can be modified in Word and saved for future use. The 48-hour waiver forms and withdrawal/dissolution forms will be added to AFGM in an October 2014 release.

The local OIT DSMs have been notified of this release and are available to assist. Additional information about each form and pop-up boxes can be found by clicking on the “Help” button on the AFGM keypad. Please direct any questions to



Attachment

(b)(6)

UPDATED 09/26/14

**USER'S GUIDE**  
**TO ENTERING INFORMATION**  
**IN THE ASYLUM PRE-SCREENING SYSTEM (APSS)**

# User's Guide to Entering Information in the Asylum Pre-Screening System (APSS)

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**The Interview Capture (INTC) Screen.....8**

**The APSO Decision (ADEC) Screen .....12**

**The Close a Case (CLOS) Screen.....16**

**The Safe Third Country Threshold Screening (SAFE) Screen.....18**

**The Non-Detention Case Address (RLSE) Screen .....20**

**The APSS Forms Generation Module (AFGM) Screen.....20**

**The Notes Screen .....22**

**Linking Immediate Family Members.....25**

## **Foreword to September 2014 Edition**

This latest edition replaces the 06/27/14 Edition of the User's Guide. There are two additions.

1. **ADDITION** to description in the DETENTION date field – PREC screen.  
How to record detention date when the applicant is not detained.
2. **ADDITION** of the EOIR COURT field to the ADEC screen.

The rest of the User's Guide remains the same.

## **Introduction**

APSS was designed to serve as the primary asylum pre-screening case tracking and program monitoring database system for USCIS. Much like RAPS, APSS is used by officers to check the status of individual cases and by program managers to monitor the asylum pre-screening process as a whole.

Each Asylum Pre-Screening Officer (APSO) or other designated asylum office staff is responsible for entering their cases into APSS as the case progresses. APSS is designed to provide the user with several different data entry screens that correspond to particular stages in the pre-screening process. The APSS User Manual prepared by the Office of Information Resources Management (IRM) provides detailed guidance for accessing the database and for entering case information correctly.

This guide is meant to provide a comprehensive, detailed description of all fields on the Case Maintenance and Case Decision screens used by APSOs so that officers already familiar with the credible fear process can complete all necessary data entry on these screens. It is also designed to serve as a reference for officers in the event that they may have questions about the information that should be entered in a particular field, in order to ensure that the information that they are entering is both accurate and consistent.

**The Preliminary Record (PREC) Screen**

The PREC screen is designed to capture basic biographical and event information that is relevant to credible fear and reasonable fear cases. This information includes such basics as the applicant's name, date of birth, nationality, and religion, as well as where and when the applicant attempted entry, where the applicant is being detained, and where and when the asylum officer encounters the applicant.

<i>FIELD</i>	<i>DATA SOURCE(S)</i>	<i>DESCRIPTION</i>	<i>REASONABLE FEAR DESCRIPTION</i>
PRIN A-NUMBER	A-file jacket.	Principal applicant's A-number. For the principal applicant, this number will be the same as the applicant's A-number. For immediate family members on a principal's case, such as spouse or accompanied minors, entering the principal's A-number here will link the cases. User can check for immediate family members or view the case records for the principal and other immediate family members by selecting F9 on the CSTA screen. Users can move directly to the records of the principal or the immediate family members from this screen by placing an "X" in front of the appropriate name.	There are no immediate family members in reasonable fear.
CCO	I-867, I-213, I-871 or I-851.	Location code for the asylum office with jurisdiction over the case. Either: ZAR for Arlington, VA ZCH for Chicago, IL ZHN for Houston, TX ZLA for Los Angeles, CA ZMI for Miami, FL ZNK for Newark, NJ ZNY for New York, NY ZSF for San Francisco, CA. Default is the office that the APSO represents.	
LAST NAME	I-203 (Order to Detain or Release Alien), I-213, I-867, I-871 or I-851.	Applicant's last name.	

<i>FIELD</i>	<i>DATA SOURCE(S)</i>	<i>DESCRIPTION</i>	<i>REASONABLE FEAR DESCRIPTION</i>
FIRST NAME	I-203, I-213, I-867, I-871 or I-851.	Applicant's first name.	
MIDDLE	I-203, I-867, I-871 or I-851.	Applicant's middle name, if known.	
AKA (LAST, FIRST)	Inspector's Memo to File, I-867, I-213, I-871 or I-851.	Alias used by applicant. If the applicant attempted to enter the US using another person's documents, the name on the documents should be entered here. Subsequent aliases should be entered on the NOTES screen.	
DETENTION FAC	EARM	Location where applicant is detained at the time the Asylum Office takes jurisdiction. The detention facility should be updated any time the location changes while the Asylum Office has jurisdiction. If a particular detention facility does not have its own site code on the INS Standard Table, "Detention Facilities," accessed by pressing F7, the user should enter the ICE District Office that has jurisdiction over the location of the facility, and enter the name and address of the facility on the NOTES screen. If the District Office with jurisdiction over the location is not the Docket Control Office (DCO) for the applicant's case, the user should enter the District Office code that has jurisdiction over the DCO. If the applicant is non-detained, the user should enter *NONDET. If the applicant is released from detention while in Asylum jurisdiction change the detention facility to *NONDET. If the applicant who is re-detained after having been previously detained and released, change the detention facility to the facility where the applicant is re-detained.	

<i>FIELD</i>	<i>DATA SOURCE(S)</i>	<i>DESCRIPTION</i>	<i>REASONABLE FEAR DESCRIPTION</i>
DETENTION DATE	I-203 or EARM	The date the applicant is first detained. For non-detained applicants, leave the field blank. If applicant is released from detention after the Asylum Office takes jurisdiction, do not change or delete detention date. Enter release date on the NOTES screen. If the applicant is re-detained after having been previously detained and released, change the detention date to the date re-detained. Describe the situation in the NOTES screen and include the previous detention facility and previous detention date.	
ENCOUNTER LOC, DATE	Orientation or interview.	Location and date when AP SO first physically encounters the applicant. In most cases, this will be the orientation date and location. For telephone or VTEL orientations or interviews, the interview date and location should be used as the first physical encounter. This field should be completed for all cases, including dissolutions/withdrawals. Users should enter the date the applicant was contacted to dissolve/withdraw by telephone.	
SEX	I-203, I-867, I-213.	Applicant's sex.	
COB	I-203, I-867, I-213 or I-851.	Applicant's country of birth. Users can access country code list by selecting F7, then either entering an "X" to the left of the desired list, or by entering a code to the right of the desired list.	
DOB (MM/DD/YYYY)	I-203, I-213 or I-867	Applicant's date of birth. Alternate DOBs should be entered on the NOTES screen.	
RELIGION	Interview	Applicant's religion. Users can access the religion list by selecting F7, then either entering an "X" to the left of the desired list, or by entering a code to the right of the desired list.	



<i>FIELD</i>	<i>DATA SOURCE(S)</i>	<i>DESCRIPTION</i>	<i>REASONABLE FEAR DESCRIPTION</i>
PROVINCE	I-213, I-275	Province where applicant is from. Users may enter any province name. A list of provinces for the INS Standard Tables has not been developed.	
CITZ 1	I-203, I-213, I-867, or I-851.	Applicant's citizenship. Users can access nationality list by selecting F7, then either entering an "X" to the left of the desired list, or by entering a code to the right of the desired list.	
CITZ 2	I-203, I-213, I-867, or I-851.	Applicant's 2 <sup>nd</sup> citizenship, if a dual citizen.	
LANGUAGE(S)	I-867, I-213 or orientation.	All languages that applicant speaks. Users can access language list by selecting F7, then either entering an "X" to the left of the desired list, or by entering a code to the right of the desired list.	
INTERPRETER REQUIRED	I-867, I-213 or, orientation.	Users enter "Y" if an interpreter is required for the interview, "N" if not.	
POE	I-867, I-871 or I-851.	Port of Entry where applicant attempted entry into the US. Users can access POE codes by selecting F7, then either entering an "X" to the left of the desired list, or by entering a code to the right of the desired list.	
ARRIVAL DT	I-275, Inspector's Memo to File, I-213, I-867, I-871 or I-851.	Date applicant attempted entry into the US.	

<i>FIELD</i>	<i>DATA SOURCE(S)</i>	<i>DESCRIPTION</i>	<i>REASONABLE FEAR DESCRIPTION</i>
CASE TYPE	Inspector's Memo to File, I-213, I-867, I-871 or I-851.	Mark an "X" next to the appropriate case type: "EXPEDITED REMOVAL", "DEPORTATION", "EXCLUSION" or "STOWAWAY." "DEPORTATION" or "EXCLUSION" should be selected for cases in which the detained alien is seeking a credible fear determination for parole purposes only. There must be management concurrence for either the "DEPORTATION" OR "EXCLUSION" selection.	Mark an "X" next to the appropriate case type: "REINSTATEMENT" or "ADMIN REMOVAL."
SPECIAL GROUP	I-213 or I-871.	For individuals apprehended between ports of entry, enter "INL."	
CLOCK IN DATE		The date the Asylum Office receives the referral from CBP or ICE containing Form I-860 (only for an alien in expedited removal).  For aliens who are non-detained the clock-in date is the date the Asylum Office interviews the alien.	The date the Asylum office receives the referral from CBP or ICE containing a fully executed Form I-871 or I-851A; and the office has received the A-file and any T-files, of if the file cannot be sent in advance, the date the file is reviewed prior to interview.

### The Interview Capture (INTC) Screen

The INTC is the first screen in a processing “chain.” Each interview record contains information from an INTC, and information from the subsequent APSO decision (ADEC) screen. The decision screen is linked back to the INTC screen by the interview date, forming a decision chain; users cannot enter information on the decision screen until all of the mandatory fields on the previous screen are filled in. For applicants with multiple interviews, the officer should enter re-interview information on the NOTES screen by pressing F9.

<i>FIELD</i>	<i>DATA SOURCE(S)</i>	<i>DESCRIPTION</i>	<i>REASONABLE FEAR DESCRIPTION</i>
INTERVIEW DATE	I-870, item 1.1 or I-899, item 1.1.	Date applicant is interviewed.	
INTERVIEW REASON		Reason for interview. Either: IN for initial AT for attorney request CC for change in country conditions CL for change in location CI for change in identity OT for other reason. Defaults to “IN.”	
LOCATION	I-870, item 1.2 or I-899, item 1.2.	Location code where interview is conducted. Users can access location codes by selecting F7, then either entering an “X” to the left of the desired list, or by entering a code to the right of the desired list.	
INTERVIEW CCO	Credible Fear Interviews ECN site	Location code for the asylum office that completed the credible fear case remotely. Either: ZAR for Arlington, VA ZCH for Chicago, IL ZHN for Houston, TX ZLA for Los Angeles, CA ZMI for Miami, FL ZNK for Newark, NJ ZNY for New York, NY ZSF for San Francisco, CA.  Leave blank if the interview office is the same as the CCO (office with jurisdiction).	Leave blank for reasonable fear cases.

<i>FIELD</i>	<i>DATA SOURCE(S)</i>	<i>DESCRIPTION</i>	<i>REASONABLE FEAR DESCRIPTION</i>
MODE	I-870 or I-899.	Method of interviewing. Either: INP for in person TLC for teleconference TLV for video conference. Defaults to "INP."	Method of interviewing. Either: INP for in person TLV for video conference. Defaults to INP."
INTV. LANGUAGE	I-870, item 1.7 or I-899, item 1.6.	Language used by applicant during the interview. Users can access language codes by selecting F7, then either entering an "X" to the left of the desired list, or by entering a code to the right of the desired list. Defaults to the first language listed on the PREC screen.	
IDENTITY ESTABLISHED	I-870, item 5.1 or 5.6, interview.	Either "Y" if there is a significant possibility that the applicant has established identity or "N" if there is not.	Either "Y" if there is a reasonable possibility that the applicant has established identity or "N" if there is not.
MEANS	I-870, items 5.2 through 5.5, interview.	How applicant established identity. Either: S for statement D for document B for both.	
PERSECUTOR	Interview Q & A, assessment.	Who is persecuting the applicant? Either: G for government S for society B for both.	
TIMEFRAME	Interview Q & A, assessment.	When applicant claims persecution. Either: P for in the past F for in the future B for both.	

FIELD	DATA SOURCE(S)	DESCRIPTION	REASONABLE FEAR DESCRIPTION
BASIS OF CLAIM	I-870, items 4.13 through 4.20.	<p>Protected characteristics that applicant claims to be persecuted for possessing. Enter an "X" after each one that applies. If Particular Social Group applies, enter up to three of the following in the (GROUPS) field:</p> <ul style="list-style-type: none"> <li>FGM for female genital mutilation</li> <li>GDV for gender-related, domestic violence</li> <li>GCD for gender-related, cultural defiance</li> <li>GBO for gender-based, other</li> <li>GRO for gender-related, other</li> <li>SSO for sexual orientation</li> <li>OTH for any other groups.</li> </ul> <p>If more than three of the above groups apply, the user should enter the description of the group on the NOTES screen.</p> <p>If no nexus is claimed, enter an "X" after OTHER. If political persecution is related to Coercive Family Planning policies, enter an "X" after CFP.</p>	
APSO ID		APSO's assigned ID number in APSS. Users may determine ID numbers by going to the LOFR screen and selecting F1 to find the officer's name.	
SAO ID		SAPSO's assigned ID number in APSS. Users may determine ID numbers by going to the LOFR screen and selecting F1 to find the officer's name.	
REPR ID	I-870, item 1.5 or I-899, item 1.4.	Attorney ID for consultant. Users can search existing attorney IDs by going to the REPR screen and searching PAMS.	

UPDATED 09/26/14

<i>FIELD</i>	<i>DATA SOURCE(S)</i>	<i>DESCRIPTION</i>	<i>REASONABLE FEAR DESCRIPTION</i>
REMOVE THIS INTERVIEW RECORD		Either "Y" for removing the interview record or "N" for not removing it. This field can be accessed only if subsequent ADEC screen for that interview date have already been deleted. User must remove each related decision screen in reverse order from completion (ADEC first) to remove the INTC. Default is "N."	

**The APSO Decision (ADEC) Screen**

The ADEC is used for recording the APSO's credibility and significant or reasonable possibility assessments, as well as the actual credible or reasonable fear decision. The screen also captures Convention against Torture findings, mandatory bar information and IJ credible and reasonable fear decision review information.

<i>FIELD</i>	<i>DATA SOURCE(S)</i>	<i>DESCRIPTION</i>	<i>REASONABLE FEAR DESCRIPTION</i>
CREDIBILITY ESTABLISHED	I-870, item 4.1 or 4.2 or I-899, item 3.1.	Either "Y" if there is a significant possibility that the applicant's claim could be found credible or "N" if not.	Either "Y" if there is a reasonable possibility that the applicant's claim could be found credible or "N" if not. In the case of split credibility, enter "Y."
IF NO, REASONS(S)	I-870, items 4.3 through 4.5 or I-899, item 3.2.	<p>If CREDIBILITY ESTABLISHED is "N," at least one of the following reasons must be entered to identify why the applicant is found not credible:</p> <ul style="list-style-type: none"> <li>LD for testimony lacks detail</li> <li>IT for testimony internally inconsistent</li> <li>IC for testimony inconsistent with country conditions</li> </ul> <p>Up to three reasons can be entered. Users should enter all that apply.</p>	
CASE DELAY	Work folder	<p>This field is optional.</p> <ul style="list-style-type: none"> <li>A attorney</li> <li>C not in DHS custody</li> <li>I re-interview</li> <li>L remote location</li> <li>M medical/psych condition</li> <li>N non-receipt of A-file</li> <li>O other</li> <li>R lack of resources</li> </ul>	<p>If non-detained, enter "C."</p> <p>If the ADEC is entered over 90 days since clock in, enter delay reason(s) listed below.</p> <ul style="list-style-type: none"> <li>A attorney</li> <li>C not in DHS custody</li> <li>I re-interview</li> <li>L remote location</li> <li>M medical/psych condition</li> <li>N non-receipt of A-file</li> <li>O other</li> <li>R lack of resources</li> </ul>

<i>FIELD</i>	<i>DATA SOURCE(S)</i>	<i>DESCRIPTION</i>	<i>REASONABLE FEAR DESCRIPTION</i>
PERSECUTION ESTABLISHED	I-870, item 4.13 or 4.15, I-899, item 3.4 or 3.6.	Credible fear of persecution established or not. Either "Y" if there is a significant possibility that the applicant could establish eligibility for asylum or "N" if not.	Reasonable fear of persecution or torture established or not. Either "Y" if there is a reasonable possibility that the applicant could establish eligibility for withholding or deferral of removal or "N" if not.
TORTURE CONVENTION	I-870, item 4.14 or 4.15 I-899, item 3.5 or 3.6.	Credible fear of torture established or not. Either "Y" if there is a significant possibility that the applicant could establish eligibility for withholding of removal under the Convention against Torture or "N" if not. Should be "N" if PERSECUTION ESTABLISHED field is "Y" (Credible fear of torture not considered because credible fear of persecution was found).	Reasonable fear of torture established or not. Either "Y" if there is a reasonable possibility that the applicant could establish eligibility for withholding of removal under the Convention against Torture or "N" if not. Should be "N" if PERSECUTION ESTABLISHED field is "Y" (Reasonable fear of torture not considered because reasonable fear of persecution was found).
MANDATORY BAR	I-870, item 4.16 or 4.24, interview, notes or assessment.	Either "P" for possible mandatory bar applies to applicant or "N" if not. "Y" should not be used because of the policy decision not to make an adverse credible or reasonable fear finding on the basis of the applicant's possession of a mandatory bar. "Y" prevents the user from entering a credible or reasonable fear finding.	



<i>FIELD</i>	<i>DATA SOURCE(S)</i>	<i>DESCRIPTION</i>	<i>REASONABLE FEAR DESCRIPTION</i>
IF YES, REASON	I-870, items 4.17 through 4.23, interview, notes or assessment.	<p>If MANDATORY BAR is "P," at least one of the following codes identifying the bar(s) must be entered:</p> <ul style="list-style-type: none"> <li>SC for conviction of a serious crime</li> <li>DS for danger to US security</li> <li>AF for conviction of an aggravated felony</li> <li>PO for persecution of others</li> <li>TR for potential terrorist</li> <li>FR for firmly resettled in another country</li> <li>NU for commission of serious non-political crime outside US.</li> </ul> <p>Up to three mandatory bar codes can be entered. If more than three apply, the user should enter the mandatory bar descriptions on the NOTES screen.</p>	
REAS/CRED FEAR EST.	I-870, item 4.13, 4.14 or 4.15, I-899, item 3.4-3.6.	Either "Y" if the applicant establishes a credible or reasonable fear or "N" if not.	
DATE	I-870, item 5.3 or I-899, item 3.9.	Date that the interviewing officer made the credible or reasonable fear decision. This date should correspond to the date the APSO completed the assessment and signed the I-870 or I-899. If an officer's initial decision is reversed through discussions with the SAPSO or with Headquarters review, the date should be updated to the date that the decision was reversed.	

<i>FIELD</i>	<i>DATA SOURCE(S)</i>	<i>DESCRIPTION</i>	<i>REASONABLE FEAR DESCRIPTION</i>
IF NO, REQUEST IJ REVIEW	I-869, Record of Negative Credible Fear Finding and Request for Review by Immigration Judge; I-898, Record of Negative Reasonable Fear Finding and Request for Review by Immigration Judge.	Either "Y" if credible or reasonable fear is not found, and the applicant requests that an IJ review the decision, or "N" if the applicant does not request an IJ review.	
DECISION SERVED DATE	I-862 or I-863	This date encompasses the change of jurisdiction from USCIS to EOIR and ICE. Enter the date the I-862 or I-863 was served on the last party, generally EOIR.	This date encompasses the change of jurisdiction from USCIS to EOIR and ICE including the decision documents served on the applicant, I-863 served on EOIR and the decision documents and A-file transferred to ICE. Enter the date the I-863 was served on the last party, generally EOIR.
DATE FORWARDED TO HQ		The date the case is forwarded for HQ QA review, if required by the QA referral form. Multiple submissions to HQ QA should be entered on the NOTES screen.	
DATE FORWARDED TO DO		Date that the A-file is returned to ICE Enforcement and Removal. This field is optional.	
REMOVE THIS APSO DECISION RECORD		Either "Y" for removing the decision record or "N" for not removing it. Default is "N."	
EOIR COURT		The 3-letter code of the EOIR court with jurisdiction over the applicant's detention facility or address. The codes are found on the INS Standard "Immigration Courts" Table	

**The Close a Case (CLOS) Screen**

The CLOS screen is used for cases where an applicant no longer continues with the credible or reasonable fear process, either because they recant their credible or reasonable fear claim (“dissolved” case), they enter regular 240 removal proceedings through another process, or their case is closed because the Asylum office cannot continue processing the case . Since APSOs must verify every credible or reasonable fear recant, even for individuals who express a fear and who are still being detained, every credible or reasonable fear referral should be recorded in APSS. At a minimum, APSOs should complete the PREC screen and the CLOS screen for dissolved cases.

Asylum office staff should enter specific information about closures (generally other than dissolutions) on the NOTES screen. For example, if an applicant is moved to U.S. Marshals custody, a note should indicate the dates that s/he was removed from ICE custody and placed in Marshals custody.

<i>FIELD</i>	<i>DATA SOURCE(S)</i>	<i>DESCRIPTION</i>	<i>REASONABLE FEAR DESCRIPTION</i>
CCO	I-867, I-213 (to determine jurisdiction) or I-871 or I-851.	Location code for the asylum office with jurisdiction over the credible fear case. Either: ZAR for Arlington, VA ZCH for Chicago, IL ZHN for Houston, TX ZLA for Los Angeles, CA ZMI for Miami, FL ZNK for Newark, NJ ZNY for New York, NY ZSF for San Francisco, CA. Default is the APSO’s asylum office code.	
LANGUAGE	Interview with applicant.	Language used by applicant during the encounter with an APSO. Users can access language codes by selecting F7, then either entering an “X” to the left of the desired list, or by entering a code to the right of the desired list.	

<i>FIELD</i>	<i>DATA SOURCE(S)</i>	<i>DESCRIPTION</i>	<i>REASONABLE FEAR DESCRIPTION</i>
DISSOLVE DATE	Interview with applicant or information from ICE.	Date when APSO encounters the applicant to close the case or the date when the SAPSO receives information from ICE that the interview will not take place. This includes telephonic or VTEL confirmation by an APSO that a credible or reasonable fear applicant wants to recant their fear and dissolve/withdraw their claim.	
APSO ID	Interview with applicant.	APSO's assigned ID number in APSS. Users may determine ID numbers by going to the LOFR screen and selecting F1 to find the officer's name.	
LOC	Interview with applicant.	Location code where APSO encounters applicant. Users can access location codes by selecting F7, then either entering an "X" to the left of the desired list, or by entering a code to the right of the desired list.	
EFFECTIVE DATE		Most cases will be the same as the dissolve date. Otherwise it may be the date of confirmation, consultation/approval from HQASM or ICE. Defaults to current date.	
SAO ID		Supervisor's assigned ID number in APSS. Users may determine ID numbers by going to the LOFR screen and selecting F1 to find the supervisor's name.	

<i>FIELD</i>	<i>DATA SOURCE(S)</i>	<i>DESCRIPTION</i>	<i>REASONABLE FEAR DESCRIPTION</i>
REASON	Interview with applicant.	Reason why case is closed. Either: T1 for non-APSO parole from detention T2 for withdrawal of interview request (dissolved/withdrawn cases) T3 for applicant no longer eligible T4 for death of applicant T5 for other reason T7 for inland applicant in 240 proceedings T8 for failure to appear (no show) for non-detained interviews or to pick up the decision. T9 for applicants who lack mental capacity TB for applicants on medical hold TC for applicants transferred to state or federal custody TL for applicants who speak a rare language	
REOPEN CLOSED CASE		Option to reopen a case that has been closed for credible or reasonable fear consideration. Entering an "X" restores the applicant's case to its status prior to closure. Reopen the case when the applicant is returned to DHS custody from state/federal custody, appears for the interview, or is released from medical hold.	
EFFECTIVE DATE		Date that case was reopened. Should only be completed if a closed case is reopened. Defaults to current date.	

### **The Non-Detention Case Address (RLSE) Screen**

The RLSE screen is used to record a non-detained applicant's mailing address. It is also used to record an applicant's change of address. As in RAPS, historical addresses are stored on the Address History (AHIS) screen. A user must first enter \*NONDET in the DETENTION FAC field on the PREC screen in order to be permitted to enter the non-detained address.

### **The APSS Forms Generation Module (AFGM) Screen**

The AFGM screen is a read-only screen containing information used to populate forms generated by AFGM. The data displayed on the AFGM screen is entered into APSS on the PREC, INTC, ADEC screens, and in AFGM itself.

**The Safe Third Country Threshold Screening (SAFE) Screen**

<i>FIELD</i>	<i>DATA SOURCE(S)</i>	<i>DESCRIPTION</i>
CCO	I-867, I-213 (to determine jurisdiction).	Location code for the asylum office with jurisdiction over the credible fear case. Either: ZAR for Arlington, VA ZCH for Chicago, IL ZHN for Houston, TX ZLA for Los Angeles, CA ZMI for Miami, FL ZNK for Newark, NJ ZNY for New York, NY ZSF for San Francisco, CA. Default is the APSO's asylum office code.
NAME (LAST, FIRST, MIDDLE)	I-860, I-867, I-213.	Applicant's last, first, and applicant's middle name, if known
AKA (LAST, FIRST)	I-860, I-867, I-213.	Alias used by applicant. If the applicant attempted to enter the US using another person's documents, the name on the documents should be entered here. Subsequent aliases should be entered on the NOTES screen.
A-NUMBER	I-860, I-867, I-213.	Applicant's A-number. For immediate family members, the principal's A-number will be listed directly below this field.
PRIN A-NUMBER	A-file jacket.	Principal applicant's A-number. For the principal applicant, this number will be the same as the applicant's A-number. For immediate family members, entering the principal's A-number here will link the cases.
DETENTON FACILITY	I-213, I-203	Location where applicant is detained at the time the Asylum Office takes jurisdiction. The detention facility should be updated any time the location changes while the Asylum Office has jurisdiction. If a particular detention facility does not have its own site code on the attached list, the user should enter the ICE District Office that has jurisdiction over the location of the facility, and enter the name and address of the facility on the NOTES screen. If the District Office with jurisdiction over the location is not the Docket Control Office (DCO) for the applicant's case, the user should enter the District Office code that has jurisdiction over the DCO.
ARRIVAL DATE	I-860, I-867A&B, I-213, I-275, Inspector's Memo to the File, applicant's testimony	Date applicant sought entry into the US.
PORT OF ENTRY	I-867A&B, I-213, applicant's testimony	Port of Entry where applicant sought entry into the US. Users can access POE codes by selecting F7, then either entering an "X" to the left of the desired list, or by entering a code to the right of the desired list.

<i>FIELD</i>	<i>DATA SOURCE(S)</i>	<i>DESCRIPTION</i>
CLOCK-IN		The date on which the asylum office takes jurisdiction after receiving the M-444, I-860, and I-867A&B (these three are not required for visa waiver cases), the Threshold Screening Information Sheet, and the list of free legal services providers.
DOB(MM/DD/YYYY)	I-867A&B, I-213, applicant's testimony or documentary evidence	Applicant's date of birth
SEX	I-213	Applicant's gender
LANGUAGE	I-867, I-213, Interview with applicant.	Language used by applicant during the encounter with an APSO. Users can access language codes by selecting F7, then either entering an "X" to the left of the desired list, or by entering a code to the right of the desired list.
INTERPRETER REQ'D	I-867A&B, I-213, M-444, Information on Threshold Screening Interview, CBP or ICE memos to the file	Users enter "Y" if an interpreter was required for the interview, "N" if not
COUNTRY OF BIRTH	I-867A&B, I-213, applicant's testimony or documentary evidence	Applicant's country of birth. Users can access the country code list by selecting "F7" and entering an "X" to the left "Countries".
CITZ 1	I-867A&B, I-213, applicant's testimony or documentary evidence	Applicant's citizenship. Users can access the nationality codes by selecting "F7" and entering an "X" to the left of "Nationalities"
CITZ 2	I-867A&B, I-213, applicant's testimony	Applicant's second citizenship, if a dual citizen
SPECIAL GROUP(CA1/CA2)		Category of arriving asylum seeker subject to the Safe Third Country Agreement: CA1 = Arrival at northern land border ports of entry CA2 = Arrival being removed from Canada and transiting the U.S. Default is CA1
REPR ID		Representative ID. Users can search existing attorney ids by going to the REPR screen.
INTERVIEW LOC	Interview with applicant	Location code where interview is conducted. Users can access location codes by selecting F7, then either entering an "X" to the left of the desired list, or by entering a code to the right of the desired list.



<i>FIELD</i>	<i>DATA SOURCE(S)</i>	<i>DESCRIPTION</i>
INTERVIEW DATE	Threshold Screening Adjudication Worksheet	Date of the applicant's threshold screening interview
MODE		Method of interviewing: INP = in person TLC = teleconference TLV = videoconference
INTV LANGUAGE		Language used by the applicant during the interview. Users may access language codes by selecting "F7" and entering an "X" to the left of "Languages"
CONSULTANT(Y/N)		
APSO ID		APSO's assigned ID number in APSS. Users may determine ID numbers by going to the LOFR screen and selecting F1 to find the officer's name.
SAO ID		SAPSO's assigned ID number in APSS. Users may determine ID numbers by going to the LOFR screen and selecting F1 to find the officer's name.
POTENTIAL EXCEPTION		List here ALL of the possible exceptions to the safe third country agreement that may apply to the applicant. A potential exception may be one that the applicant claims applies to him or her, or of which the APSO finds at least some evidence (regardless of whether the applicant is ultimately able to meet his or her burden of establishing that the exception applies.): (CA) Citizen or habitual resident of Canada (FL) Family member with lawful status other than visitor (FA) Family member with pending asylum application (VV) Validly issued Visa (NV) No Visa required (PI) Public Interest (NO) None

<i>FIELD</i>	<i>DATA SOURCE(S)</i>	<i>DESCRIPTION</i>
FINDING		<p>This field allows entry of only one exception. If an exception applies, enter one and only one exception, even if the individual would appear to qualify for more than one. The exception listed should be the first checked on the Threshold Screening Adjudication Worksheet.</p> <ul style="list-style-type: none"> <li>(ER) Expedited removal</li> <li>(63) I-863 issuance</li> <li>(DI) Dissolved</li> <li>(CA) Citizen or habitual resident of Canada</li> <li>(FL) Family member with lawful status other than visitor</li> <li>(FA) Family member with pending asylum application</li> <li>(VV) Validly issued Visa</li> <li>(NV) No Visa required</li> <li>(PI) Public interest</li> </ul>
FINDING DATE		<p>Date APSO made the threshold screening determination. This date should correspond to the date APSO completed the Threshold Screening Adjudication Worksheet and signed it. If an APSO's initial decision is reversed, the date should be updated to the date the decision was reversed.</p>
SERVICE DATE		<p>Date the APSO served the decision on the applicant</p>

**The Notes Screen**

Notes regarding the applicant and the case can be entered on the RECORD NOTES screen. This screen is accessible for entering information from the PREC, INTC and CLOS screens, and as read-only from the Case Status (CSTA) screen.

Users can access the screen by selecting F9 while they are in the PREC, INTC, CLOS or CSTA screens. The entire screen is one field, and users can enter up to 99 lines of text.

The NOTES screen should be used to designate the name and location of the specific Federal, state or local jail for applicants who are detained in non-ICE or ICE-contracted detention facilities, if no appropriate detention location appears in the INS Standard "Detention Facilities" Table. The District Office code that has jurisdiction over the Federal, state or local jail should be entered in the DETENTION FAC field on the PREC screen.

The NOTES screen should be used to capture the date that an applicant in Asylum jurisdiction is released from detention. It should also be used when an applicant is re-detained (after having been previously detained and released from detention). When an applicant is re-detained, users should describe the situation (the applicant was re-detained after previous detention and release from detention) and include the previous detention facility and previous detention date.

The NOTES screen should also be used to capture consultant information, such as name, address, phone number, and relation to the applicant. The INTC screen has a field to record an applicant's representative's ID code. However, if an applicant's consultant is not an attorney or accredited representative, the user will not be able to fill out this field.

The NOTES screen should also be used as a continuation screen to capture information that cannot be included in particular fields, such as any additional languages that the applicant may speak if they speak more than three. For fields where "Other" is a selection, such as the SOCIAL GP (GROUPS) field on the INTC screen, the APSO should use the NOTES screen to explain what "Other" signifies. For applicants who are released from detention during the credible or reasonable fear processes, record the release date.

**Example:**

APXCASN2	RECORD NOTES
09/30/05	
INTERVIEWED: 8/04/05	
13:06:23	
AT: WAS BY: ZLA001 SAO: ZLA000 CCO: ZAR	A-NUMBER:
11112222	
NAME: SMURF, HAKIM	PRIN A-NUMBER: 11112222
AKA: (BIN LINER, O SAMA)	
ENTER NOTES IN THE AREA BELOW.	NUMBER OF LINES LEFT:
99	

## Linking Immediate Family Members

### I. Linking principal applicants and immediate family members<sup>1</sup> on the PREC screen

1. PREC the principal applicant (the A-NUMBER and the PRIN A-NUMBER will be the same).
2. PREC the immediate family member.
  - a. For each immediate family member, enter the principal applicant's A-number in the "PRIN A-NUMBER" field on the PREC screen.
  - b. The immediate family member's A-number will remain in the A-NUMBER field.
3. If an immediate family member has already been entered into APSS and you now want to change the principal applicant of the family group or create a principal applicant to link the immediate family members, you must change the PRIN A-NUMBER field on each family member's PREC screen to indicate the new principal applicant.

3. Enter "Last Name"

4. A-NUMBER: autofills (from entry below - #2)

```

APXCAS01          PRELIMINARY CASE RECORD ENTRY (PREC)          06/27/14
COO: ZHN                                     13:42:37
                                         A-NUMBER: 11111111
LAST NAME: DUCK                               PRIN A-NUMBER: 11111111
FIRST NAME: DONALD                           MIDDLE:
AKA (LAST):                                  DETENTION FAC: PIC      DATE: 6/21/14
(FIRST):                                     ENCOUNTER LOC: LAR    CLK-IN DT: 6/21/14

SEX: M          COB: MEXIC          DOB(MM/DD/YYYY): 4/04/1994
RELIG: CATHO   PROVINCE: UNKNOWN          CITZ 1: MEXIC  CITZ 2:

LANGUAGE(S): SP          INTERPRETER REQUIRED(Y/N): Y
ARRIVAL DT: 6/21/14   POE: UNK   SPECIAL GROUP: INL

-----
          CREDIBLE FEAR(X)          -OR-   REASONABLE FEAR(X)
- CASE - EXPEDITED REMOVAL: X   DEPORTATION: -   REINSTATEMENT:
- TYPE - EXCLUSION:           STOWAWAY: -   ADMIN REMOVAL:
-----

INTERVIEW LOC: ZHN

COMMAND: PREC          A-NUMBER: 11111111
PF3          PF4          PF6          PF7          PF8          PF9
CANCEL   CASE MENU   MAIN MENU   CODES   LOGOFF   NOTES          (AA)
AP000059 PLEASE UPDATE CURRENT DATA OR SELECT NEXT FUNCTION
    
```

1.COMMAND :  
Enter "PREC"

5. PRIN A-NUMBER: If entering  
Principal, leave blank and this field auto-fills  
when you press <enter>.  
  
If entering a dependent, enter principal's A#.

2. A-  
NUMBER:  
Enter A#

<sup>1</sup> Immediate family members are the spouse and any unmarried child under 21 years of age who arrive in the United States concurrently with the principal applicant.



**Donis, Antonio**

---

**From:** Donis, Antonio  
**Sent:** Thursday, July 24, 2014 6:11 PM  
**To:** Kim, Ted H  
**Cc:** Daum, Robert L; Hemming, Bryan D; Lafferty, John L; Tanner, Rebecca S; Stone, Mary M  
**Subject:** RE: Artesia CFI concerns

(b)(6)

Perfect timing Ted. I was just working on an email about that. I did not have a chance to speak with [redacted] during the NGO tour that took place on Tuesday, but I imagine she will raise the following questions/concerns with you:

1. **Why are children present during their mother's credible fear interviews?** Some stakeholders thought it was inappropriate for children to be present during their mother's CF interview. I explained that ICE will not allow us to separate children from their parents because there are no daycare facilities on site and no relatives for the children to stay with during the interview. I also explained that ICE has been willing to grant exceptions in cases where a mother testifies to any form of domestic violence, sexual violence, or any other graphic content. Lastly, I showed them the games, toys, and coloring books that we purchased for the children and told them that most kids just sit in the corner and play during the interview.
2. **Why isn't every child getting their own CF interview?** Some stakeholders believed that we should interview every child, no matter how young they are, because they could possess a well-founded fear of returning to their home country. I told them that we begin by interviewing every mother, and in cases where we determine that the mother does not have a credible fear, we interview any family member who has expressed a fear. I also told them that our officers have been instructed to err on the side of caution and interview children whenever there are indicators that they might have a claim.
3. **Why hasn't every resident in Artesia claimed fear?** Some stakeholders rejected the notion that only 60% of the population is afraid to return to their home country. This was more of an ICE question, so I deferred to ERO, who explained that every resident is given a know your rights presentation when they arrive and is afforded an opportunity to speak with a consular representative prior to being removed. They also mentioned that they are working on a legal orientation program for all residents and would include copies of the list of free legal service providers in every dorm.

(b)(6)

As you can imagine, [redacted] directed most of their frustration at ICE. However, they did raise the above questions with me and were not completely satisfied with my responses. Let me know if I hit all the right notes, or if I should have answered anything differently. I want to make sure I represent us well.

Antonio\_\_

---

**From:** Kim, Ted H  
**Sent:** Thursday, July 24, 2014 4:10 PM  
**To:** Donis, Antonio  
**Cc:** Daum, Robert L; Hemming, Bryan D; Lafferty, John L; Tanner, Rebecca S; Stone, Mary M  
**Subject:** Fw: Artesia CFI concerns

(b)(6)

Antonio: Do you know what [redacted] may have seen during her visit and the possible nature of her concerns? Any observations/insights you can share about her visit would inform my conversation with her.

Thanks, Ted

Sent by Blackberry

---

**From:** Kim, Ted H  
**Sent:** Thursday, July 24, 2014 03:06 PM  
**To:**  
**Subject:** Re: Artesia CFI concerns

(b)(6)

I'm on travel and return tomorrow afternoon. Can we touch base tomorrow after 4pm or Monday afternoon?

Thanks, Ted

Sent by Blackberry

---

**From:**  
**Sent:** Thursday, July 24, 2014 10:16 AM  
**To:** Kim, Ted H  
**Subject:** Artesia CFI concerns

(b)(6)

Hi Ted,  
Hope you're well. I just got back from Artesia last night and would love to talk with you and/or John about our concerns surrounding the credible fear process. Can we talk this afternoon around 3:00? Or possibly tomorrow morning at 9:00?  
Thanks.

(b)(6)

Unless specifically indicated, nothing in this email should be interpreted as a digital or electronic signature that can be used to form, execute, document, agree to, enter into, accept or authenticate a contract or other legal document. This electronic mail transmission and any attached documents may contain confidential or privileged information for the sole use of the intended recipient(s). Any review, use, distribution or disclosure by anyone other than the intended recipient(s) is strictly prohibited. If you believe that you have received this message in error, please notify the sender by reply transmission and delete or destroy the message without copying or disclosing it.



U.S. Department of Justice  
Immigration and Naturalization Service

HQIAO 120/

425 I Street, NW  
Washington, DC 20536

OCT 31 2001

MEMORANDUM FOR: Asylum Office Directors  
Deputy Directors  
Supervisory Asylum Officers

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

SUBJECT: Updating APSS and Upcoming APSS Reports

The purpose of this memo is to emphasize the importance of updating APSS and to clarify the data to be included in the DECISION SERVED field on the ADEC screen. As you know, one of the Commissioner's priorities for the asylum program is to complete 80 percent of all credible fear cases within 14 days. The 14-day period is measured from the date an asylum office receives a referral (in APSS, CLK-IN date) until the date the case is completed. A completed case is defined as a case with either a date in the DECISION SERVED field on the ADEC screen or a DISSOLVE date on the CLOS screen.

A preliminary run of the new APSS workload report reveals a discrepancy between the number of case decisions and the number of completions. This discrepancy results from the absence of a date in the DECISION SERVED field for a number of cases that have a decision on the ADEC screen. In other words, it appears that officers are not always updating APSS to reflect that a decision was served. It is essential for asylum office staff to promptly update the DECISION SERVED field on the ADEC screen in order for cases to be considered completed. The new workload report, which will track decisions as well as completions, will not list a case as completed unless the DECISION SERVED field has been updated, or in the alternative, options on the CLOS screen are selected to close a case.

Please note that the DECISION SERVED field on the ADEC screen must reflect either (1) the date that asylum office staff directly serves the applicant a charging document, or (2) the date that asylum office staff forwards the A-file to INS personnel who, in accordance with local operating procedures, are responsible for completing service on the applicant.



To ensure that APSS is properly updated, weekly detail reports will be generated from APSS via ROPES for each asylum office, listing the A-numbers of all cases that have a CLK-IN DATE on or after October 1, 2001, and that fall within one of the following categories:

- Case referred, but not interviewed: CLK-IN DATE is more than 15 days from the date of report and no INTERVIEW DATE
- Case interviewed, but no decision: INTERVIEW DATE is more than 30 days from the date of the report and no decision or dissolve date.
- Decision made, but not served: DECISION date more than 10 days from the date of the report and no DECISION SERVED date.

Each A-number on the report should be reviewed on a weekly basis to determine what actions or updates are needed to complete the process. These reports will also be generated at HQASM and monitored by the HQ APSO program manager.

We will notify you as soon as the first workload reports are available, which we anticipate to be by mid-November. Please direct questions or suggestions about these reports to



(b)(6)

		Date
		A-File
Name	Country of Citizenship	
Place and Manner of Arrival	Date of Arrival	

**To immigration judge:**

- 1. The above-named alien has been found inadmissible to the United States and ordered removed pursuant to section 235(b)(1) of the Immigration and Nationality Act (Act). A copy of the removal order is attached. The alien has requested asylum and/or protection under the Convention against Torture and the matter has been reviewed by an asylum officer who has concluded the alien does not have a credible fear of persecution or torture. The alien has requested a review of that determination in accordance with section 235(b)(1)(B)(iii)(III) of the Act and 8 CFR § 208.30(g).
- 2. The above-named alien arrived in the United States as a stowaway and has been ordered removed pursuant to section 235(a)(2) of the Act. The alien has requested asylum and/or withholding of removal under the Convention against Torture and the matter has been reviewed by an asylum officer who has concluded the alien does not have a credible fear of persecution or torture. The alien has requested a review of that determination in accordance with section 235(b)(1)(B)(iii)(III) of the Act.
- 3. The above-named alien arrived in the United States in the manner described below and has requested asylum and/or withholding of removal under the Convention against Torture. The matter is referred for a determination in accordance with 8 CFR § 208.2(c). Arrival category (check one):
  - Crewmember/applicant       Crewmember/refused       Crewmember/landed
  - Crewmember/violator       VWP/applicant       VWP/violator
  - 235(c) order       S-visa nonimmigrant       Stowaway: credible fear determination attached
- 4. The above-named alien has been ordered removed by an immigration officer pursuant to section 235(b)(1) of the Act. A copy of the removal order is attached. In accordance with section 235(b)(1)(C) of the Act, the matter is referred for review of that order. The above-named alien claims to be (check one):
  - a United States citizen       a lawful permanent resident alien
  - an alien granted refugee status under section 207 of the Act       an alien granted asylum under section 208 of the Act.
- 5. The above-named alien has been ordered removed pursuant to section 238(b) of the Act, or the Immigration and Naturalization Service (INS) has reinstated a prior exclusion, deportation, or removal order of the above-named alien pursuant to section 241(a)(5) of the Act. A copy of the removal order and, if applicable, the notice of reinstatement, are attached. The alien has expressed fear of persecution or torture and the claim has been reviewed by an asylum officer who has concluded the alien does not have a reasonable fear of persecution or torture. The alien has requested a review of that determination in accordance with 8 CFR §§ 208.31(f) and (g).
- 6. The above-named alien has been ordered removed pursuant to section 238(b) of the Act, or the INS has reinstated a prior exclusion, deportation, or removal order of the above-named alien pursuant to section 241(a)(5) of the Act. A copy of the removal order and, if applicable, the notice of reinstatement, are attached. The alien has expressed fear of persecution or torture and the claim has been reviewed by an asylum officer who has concluded the alien has a reasonable fear of persecution or torture. The matter is referred for a determination in accordance with 8 CFR § 208.31(e).
- 7. The Commissioner of the INS has determined that the release from custody of the above-named alien who is under a final order of removal would pose a special danger to the public according to the standards set in 8 CFR § 241.14(f)(1). The INS has therefore invoked procedures to continue the alien's detention even though there is no significant likelihood that the alien will be removed from the United States in the reasonably foreseeable future. The matter is referred to the immigration judge for a review of this determination in accordance with 8 CFR § 241.14(g).

## Notice of Referral to Immigration Judge

### NOTICE TO APPLICANT

You are ordered to report for a hearing before an immigration judge for the reasons stated above. Your hearing is scheduled on

\_\_\_\_\_ at \_\_\_\_\_ . You are to appear at \_\_\_\_\_  
(Date) (Time)

\_\_\_\_\_  
(Complete office address)

- You may be represented in this proceeding, at no expense to the government, by an attorney or other individual authorized and qualified to represent persons before an Immigration Court. If you wish to be so represented, your attorney or representative should appear with you at this hearing. In the event of your release from custody, you must immediately report any change of your address to the Immigration Court on Form EOIR-33, which is provided with this notice. If you fail to appear for a scheduled hearing, a decision may be rendered in your absence.
- You may consult with a person or persons of your own choosing prior to your appearance in Immigration Court. Such consultation is at no expense to the government and may not unreasonably delay the process.
- Attached is a list of recognized organizations and attorneys that provide free legal service.

\_\_\_\_\_  
(Signature and title of immigration officer)

### CERTIFICATE OF SERVICE

- The contents of this notice were read and explained to the applicant in the \_\_\_\_\_ language.
- The original of this notice was delivered to the above-named applicant by the undersigned on \_\_\_\_\_ and the alien has been advised of communication privileges pursuant to 8 CFR 236.1(e). Delivery was made:
  - in person
  - by certified mail, return receipt requested
  - by regular mail

\_\_\_\_\_  
(Signature and title of immigration officer)

#### Attachments to copy presented to immigration judge:

- |   |   |
|---|---|
| <input type="checkbox"/> Passport   | <input type="checkbox"/> Form I-860   |
| <input type="checkbox"/> Visa   | <input type="checkbox"/> Form I-869   |
| <input type="checkbox"/> Form I-94  | <input type="checkbox"/> Form I-898   |
| <input type="checkbox"/> Forensic document analysis   | <input type="checkbox"/> Asylum officer's reasonable fear determination worksheet (I-899) |
| <input type="checkbox"/> Fingerprints and photographs   | <input type="checkbox"/> Asylum officer's credible fear determination worksheet (I-870)   |
| <input type="checkbox"/> EOIR-33  |   |
| <input type="checkbox"/> FOR 8 CFR 241.14(f) CASES ONLY: Written statement including summary of the basis for the Commissioner's determination to continue the alien in detention, and description of the evidence relied on in finding the alien specially dangerous (with supporting documents attached). |   |
| <input type="checkbox"/> FOR 8 CFR 241.14(f) CASES ONLY: Written notice advising the alien of initiation of proceedings and informing alien of procedures governing the Reasonable Cause Hearing at 8 CFR 241.14(h).  |   |
| <input type="checkbox"/> Other (specify): _____   |   |

(b)(7)(e) **QUALITY ASSURANCE REFERRAL SHEET** (rev. 6/6/2014)

Tracking number: Z - 201 -	
A#:	Nationality:
Applicant Name:	

	Print Name	Date
Asylum Officer	_____	_____
Approving Supervisory Asylum Officer	_____	_____
Submitting Quality Assurance Officer	_____	_____
If any, FDNS-IO/FDNS-DS Record Number	_____	_____

(b)(7)(e)

(b)(7)(e)

*offered*

**Memorandum**



(b)(5)

HQASY 120/11.35-P

<b>Subject:</b>  Guidance on Compliance with Article 3 of the Convention against Torture	<b>Date:</b>  April 27, 1998
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**To**  
All Asylum Directors  
All Supervisory Asylum Officers  
All Asylum Officers

**From**  
Office of International Affairs  
Asylum Division

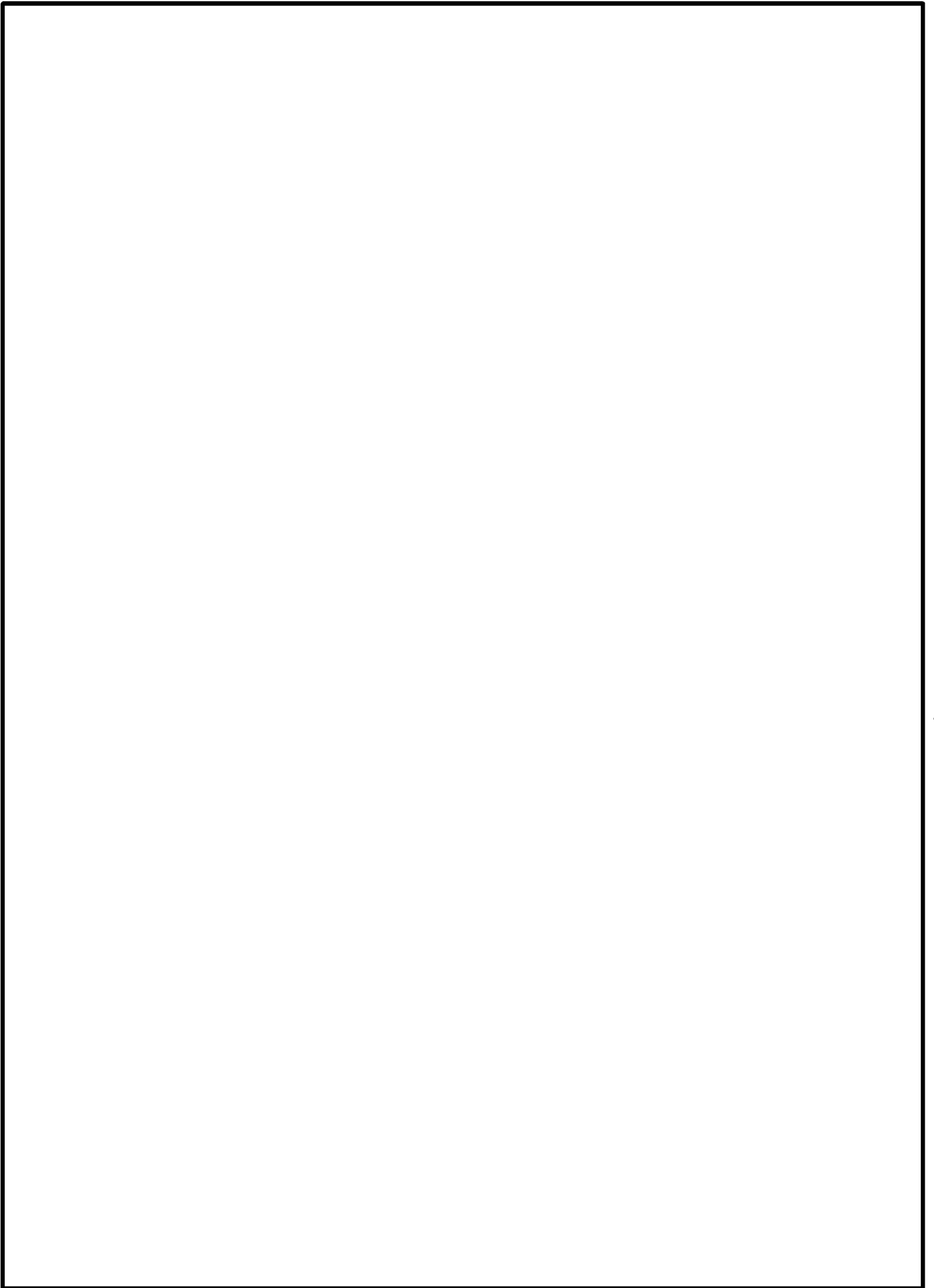
The INS is currently developing procedures to ensure compliance with Article 3 of the *Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment* ("Convention against Torture"). To ensure compliance with treaty obligations while long-term procedures are being developed, the Asylum Program has been asked to conduct interviews of individuals who have final orders of removal and who raise claims that they will be tortured if removed to the proposed country of removal. We appreciate the efforts of the asylum officers who have already arranged and conducted such interviews at the request of HQASY, without formal procedures set in place. This memo provides interim guidance on procedures and the role of the asylum officer in this process. This memo does not provide substantive guidance on the standards for protection under Article 3 of the Convention against Torture. Substantive guidance will be provided through training.



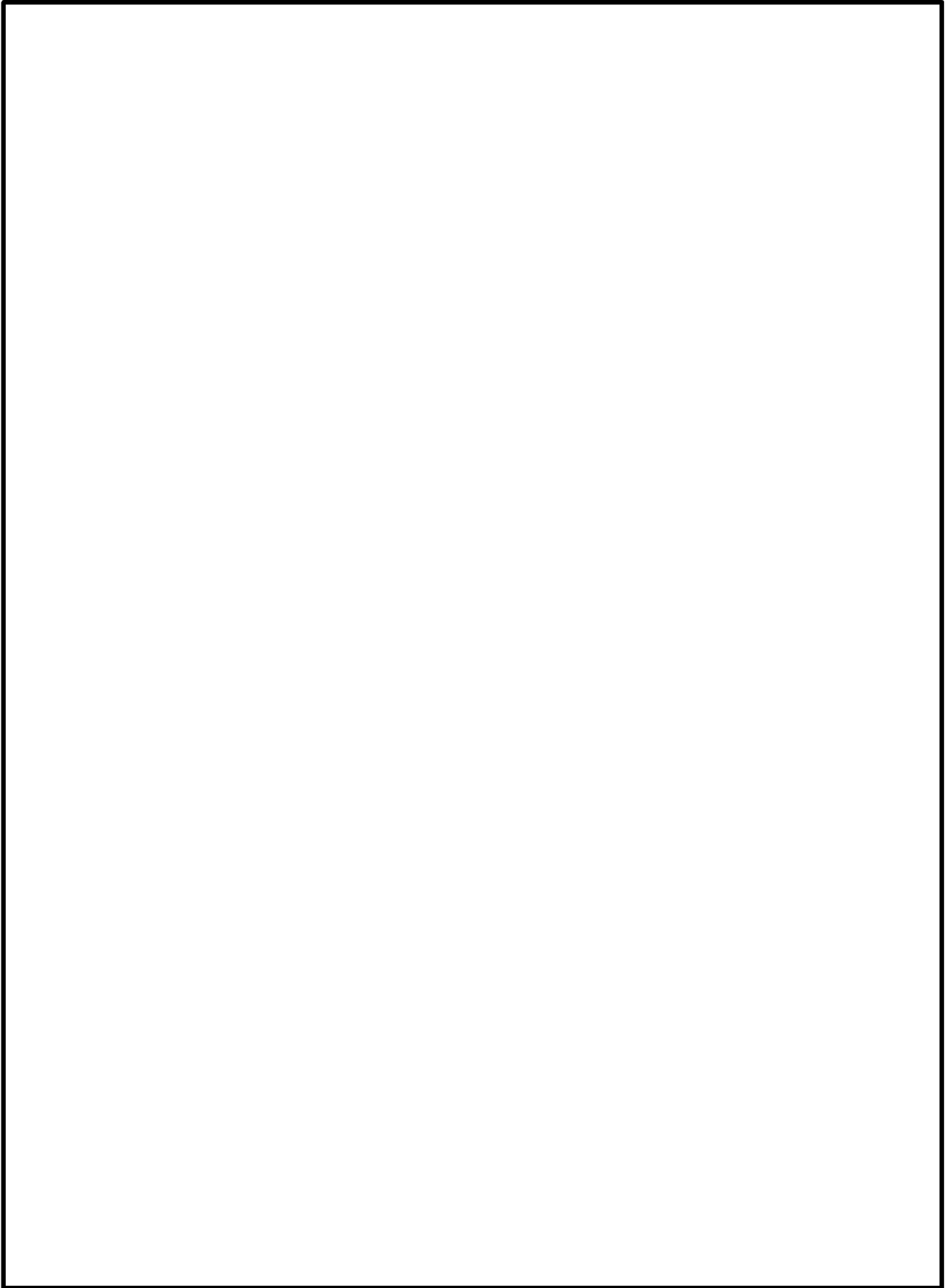
(b)(5)



(b)(5)



(b)(5)



(b)(5)



As indicated above, the procedures are still in the early stages of development and we are treading in new territory. We appreciate your patience and flexibility in working to ensure compliance with our treaty obligations. Please let me know if you have any questions.



Joseph E. Langlois  
Deputy Director

**Attachments:**

1. Torture Convention Recommendation For Consideration By the Office of General Counsel (template)
2. Template for Sworn Statement
3. Memo for File
4. Withdrawal Form

(b)(5)

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# U.S. Citizenship and Immigration Services

## CREDIBLE FEAR

July 28, 2014

# The Plan

- What is Expedited Removal and who is subject to it?
- What is the Credible Fear standard?
- How is the standard applied to Persecution and Torture claims?



# Expedited Removal and Credible Fear

- In expedited removal, certain aliens seeking admission to the United States are immediately removable from the United States by the Department of Homeland Security.
- Aliens subject to expedited removal are not entitled to an immigration hearing or further review unless they are able to establish a credible fear of persecution or torture.



# Who is subject to Expedited Removal?

(non-exhaustive)

- Certain aliens who are apprehended within 100 air miles of border and 14 days of illegal entry. (Inland cases)
- Certain arriving aliens coming or attempting to come into the United States at a port of entry.
- Certain aliens who are interdicted in international or United States waters and brought to the United States by any means, whether or not at a port of entry.



# What is credible fear?

The credible fear process tries to identify persons *subject to expedited removal* who **MIGHT** be eligible for asylum under section 208 of the INA or for withholding of removal under the Convention Against Torture pursuant to section 241(b)(3) of the INA.



# The f(x) of the screening

The credible fear process attempts to “to quickly identify potentially meritorious claims to protection and to resolve frivolous ones with dispatch.”

- Regulations Concerning the Convention Against Torture; Interim Rule, 64 Fed. Reg. 8478 (Feb. 19, 1999) (effective Mar. 22, 1999).

The credible fear standard sets “a low threshold of proof of potential entitlement to asylum; many aliens who have passed the credible fear standard will not ultimately be granted asylum.”

- 62 Fed. Reg. 10312, 10320 (Mar. 6, 1997).





# Bottom Line

**An alien in expedited removal who does not claim a fear of return or establish a credible fear is immediately removed from the U.S. without a full immigration hearing.**

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# Burden of proof

- The applicant bears the burden of proof to establish a credible fear of persecution or torture.
- Because of the non-adversarial nature of credible fear interviews, APSOs share an aspect of this burden:

*APSOs have an affirmative duty to elicit all information relevant to the legal determination.*



# Standard of proof

- The relevant standard of proof specifies how convincing or probative the applicant's evidence must be.
- A very low standard requires little probative evidence; a higher standard requires highly probative evidence.

*What is the Credible Fear Standard?*



# The Credible Fear Standard:

*“a significant possibility”*



**A “significant possibility” that the applicant could establish eligibility for asylum or withholding of removal under the Convention Against Torture.**

***A positive credible fear determination results in a Notice to Appear***



# The significant possibility standard:

Requires that the applicant 'demonstrate a substantial and realistic possibility of succeeding.' It does not require the applicant to show that he or she is more likely than not going to succeed when before an immigration judge.

A claim that has no possibility, or only a minimal or mere possibility, of success, would not meet the "significant possibility" standard.



**INCREASING LEVEL OF CERTAINTY**

<b>Standard of Proof</b>		<b>Refugee</b>	<b>Asylum</b>
Beyond a Reasonable Doubt	<i>Very high</i>		
Clearly and Beyond Doubt <b>AND</b> Clear and Convincing	<i>Highly probably true</i>  <i>Firm belief or conviction</i>	Admissibility	Filed within one year
Preponderance of the Evidence <b>AND</b> To the Satisfaction of Adjudicator	<i>More likely than not</i>  <i>More than 50% chance</i>  <i>Probably true</i>	<ul style="list-style-type: none"> <li>• Facts supporting eligibility</li> <li>• Special humanitarian concern</li> <li>• Not firmly resettled</li> <li>• Persecutor bar</li> </ul>	<ul style="list-style-type: none"> <li>• Facts supporting eligibility</li> <li>• Not firmly resettled</li> <li>• Persecutor bar</li> </ul> Exceptions to 1-year rule
Reasonable Possibility	<i>One in ten chance or less</i>	Well founded fear	Well founded fear Reasonable fear Other serious harm
Significant Possibility	<i>Substantial and realistic possibility of success</i>		Credible fear



# Making a CF Determination



In making a credible fear determination, asylum officers must “[take] into account the credibility of the statements made by the alien in support of the alien’s claim and such other facts as are known to the officer.”





# Evidence



- This testimony is evidence; it can be sufficient alone.
- Assess the credibility of the testimony.
- Take into account “other facts” that include COI.
- Determine the probative weight of all the evidence.



# Testimony may be sufficient evidence

- According to the INA, the applicant's testimony may be sufficient to sustain the applicant's burden of proof if it is "credible, persuasive, and refers to specific facts."
- Testimony that is generally deemed credible may fail to satisfy an applicant's burden of proof.
- "Specific facts" are distinct from statements of belief. When assessing the probative value of an applicant's testimony, you must distinguish between fact and opinion testimony and determine how much weight to give of the two forms of testimony.



# Important considerations in CF

When there is reasonable doubt regarding the outcome of a credible fear determination, the applicant likely merits a positive credible fear determination.

The questions at issue can be addressed in a full hearing before an immigration judge.



# Important considerations in CF

Asylum officers are required by law to consider whether the applicant's case presents novel or unique issues that merit consideration in a full hearing before an immigration judge.



# Important considerations in CF

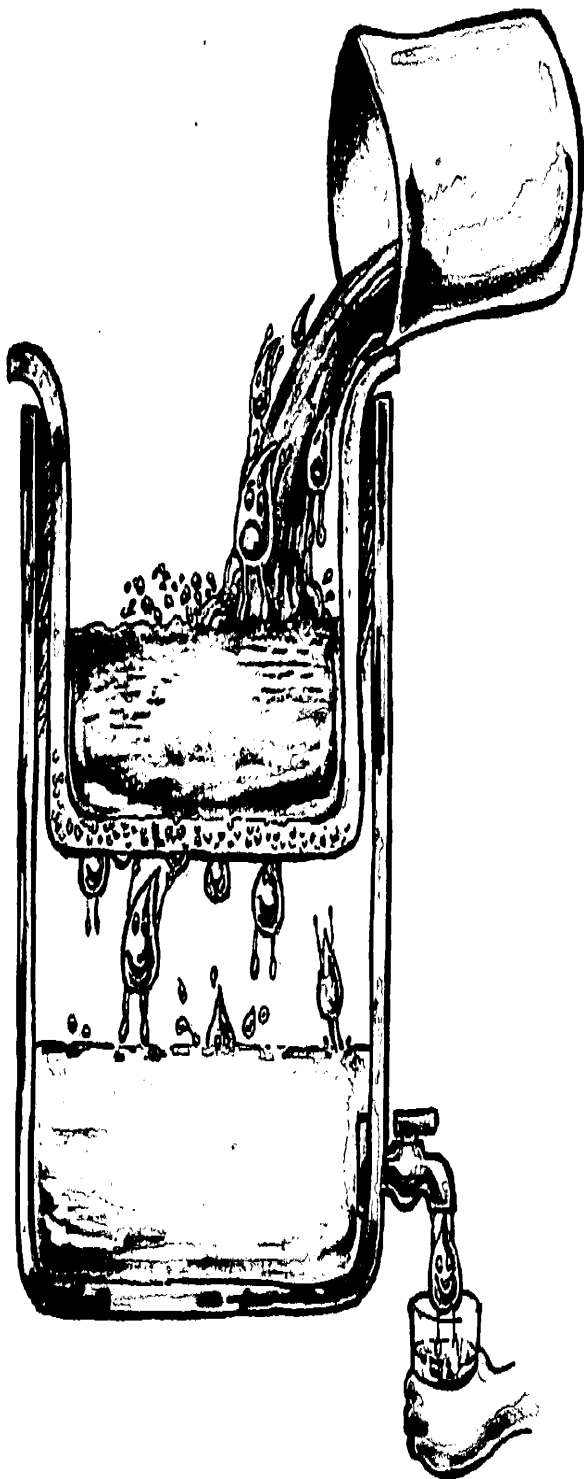
Where there is: (1) disagreement among the United States Circuit Courts of Appeal as to the proper interpretation of a legal issue; or (2) the claim otherwise raises an unresolved issue of law;

**AND**

There is no DHS or Asylum Division policy or guidance on the issue:

*The interpretation most favorable to the applicant is used.*





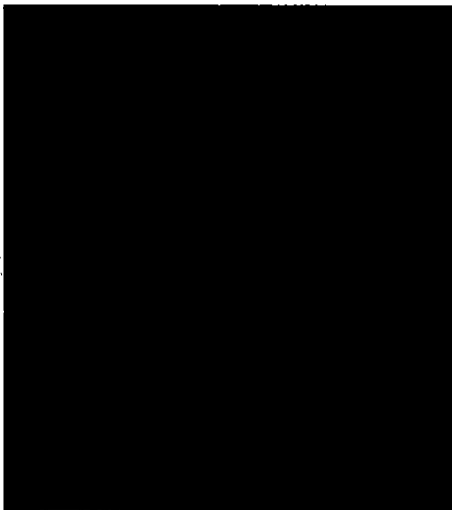
- The “significant possibility” standard of proof must be applied in conjunction with the standard of proof required for the ultimate determination on eligibility for asylum or withholding of removal.
- For example, in order to establish a credible fear of torture, an applicant must show a “significant possibility” that it is “more likely than not” that he or she would be tortured if removed to the proposed country of removal.





# U.S. Citizenship and Immigration Services

## CREDIBLE FEAR OF PERSECUTION



# To establish a credible fear of persecution:

*There must be a **significant possibility** that the applicant could establish the applicant can establish eligibility for asylum under section 208 of the INA.*





# To establish a credible fear of persecution:

- If the applicant claims to have suffered past harm, you must determine if there is a significant possibility of past persecution on account of a protected characteristic.
- If the applicant does not claim any past harm or the evidence is insufficient to establish a significant possibility of past persecution, you must determine whether there is a significant possibility the applicant could establish a well-founded fear of persecution on account of a protected characteristic.



# Past Persecution

**In general, if there is a significant possibility the applicant experienced past persecution, the applicant satisfies the credible fear standard.**



# Past Persecution

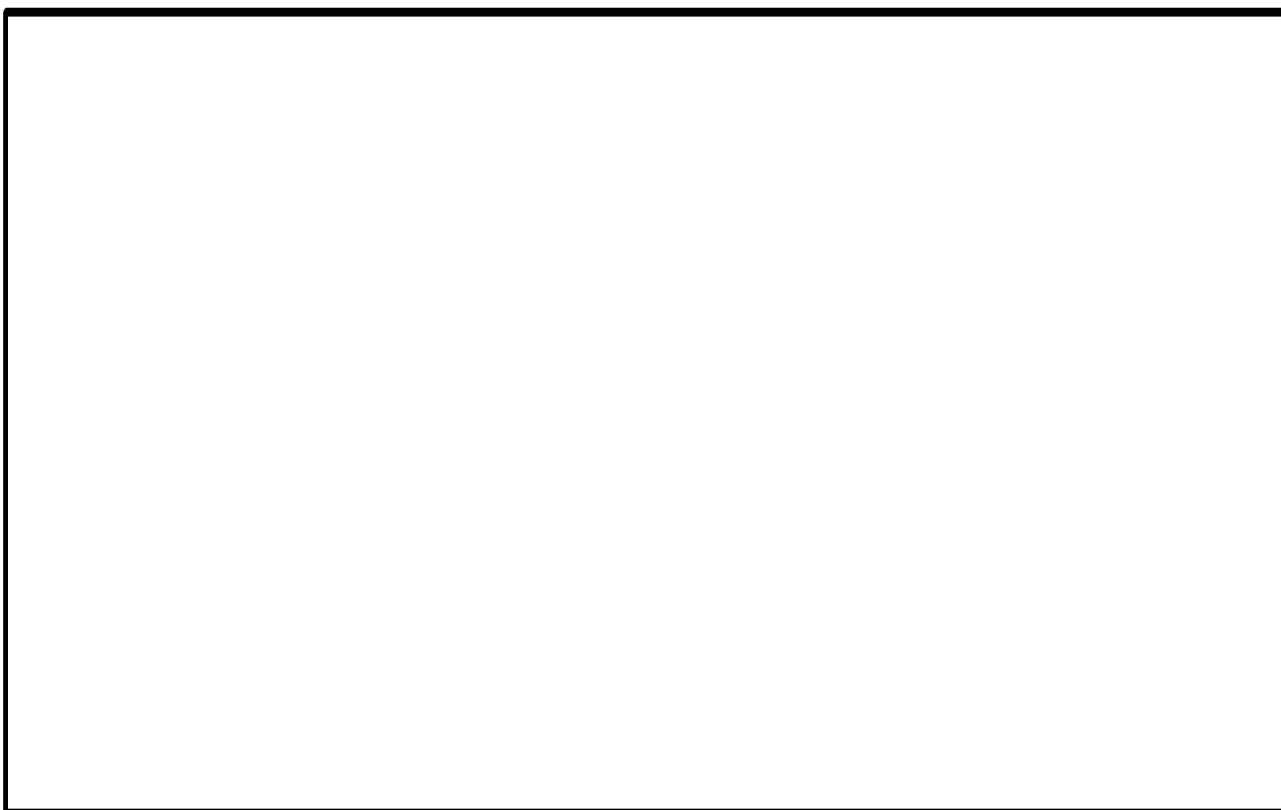
1. **Severity of Harm**: the past or feared harm is serious enough to constitute persecution.
2. **Motivation**: race, religion, nationality, membership in a particular social group, or political opinion was or will be at least one of the central reasons for harming the applicant.
3. **Persecutor**: the government of the country from which the applicant fled is unable or unwilling to control the entity doing the harm (if the persecutor is a non-government entity).



# Motivation

(b)(7)(e)

Nexus analysis requires officers to determine:



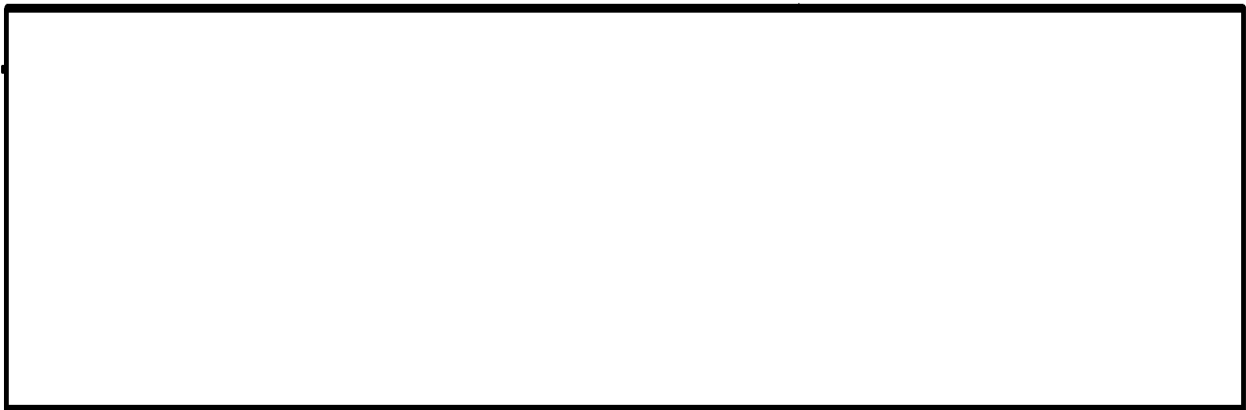
# Remember

1. The applicant does not bear the burden of establishing the persecutor's exact motivation.

(b)(7)(e)

2. Evidence of motive can be either direct or circumstantial.

3.



# Nexus

**Always ask WHY**

**Explore all possible connections to a protected ground**

**Where no nexus to a protected ground is apparent, you should ask questions related to all five grounds**

**Be aware of novel issues that have not been completely developed by case law**



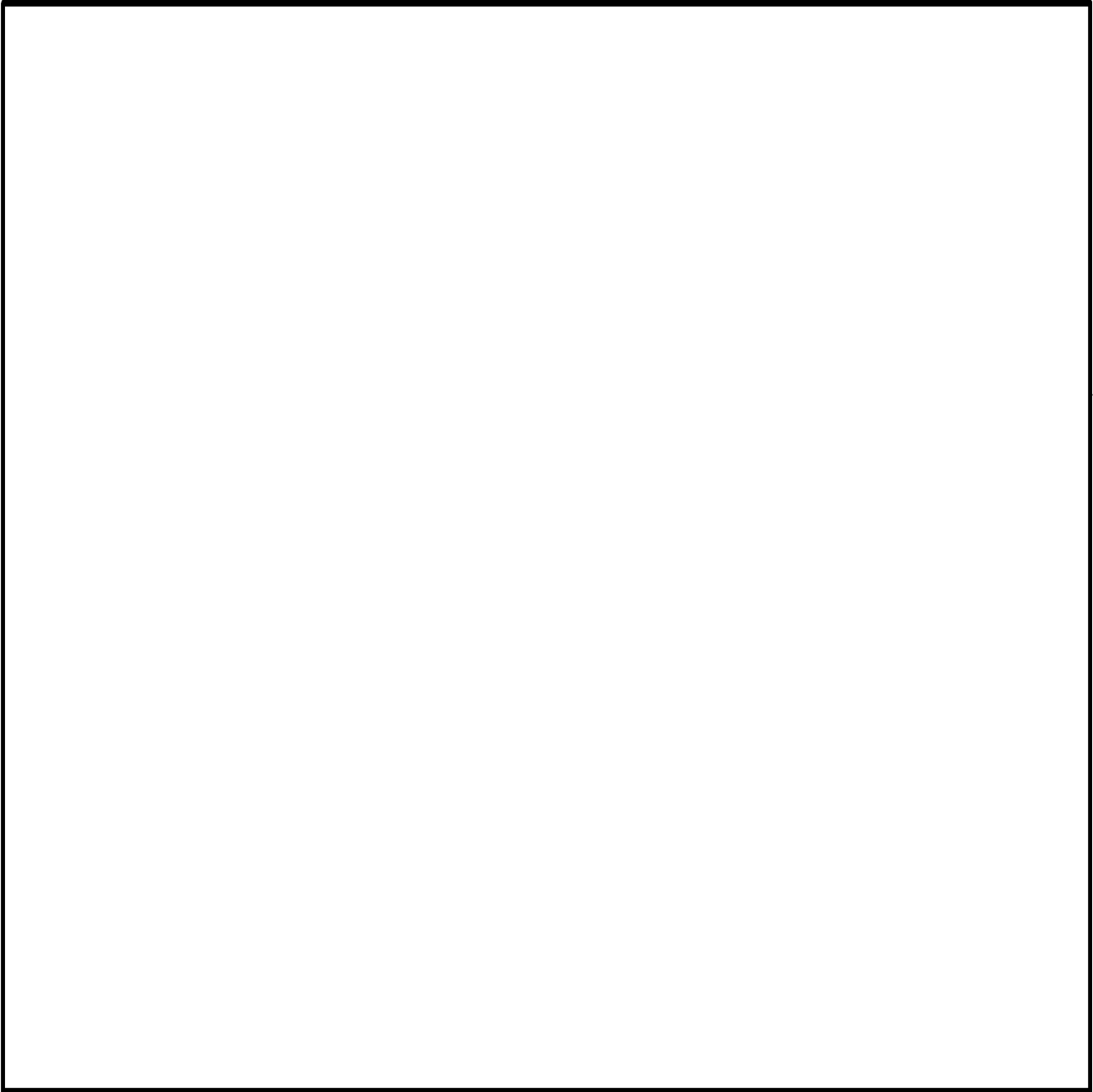
# “At least one central reason”

(b)(7)(e)



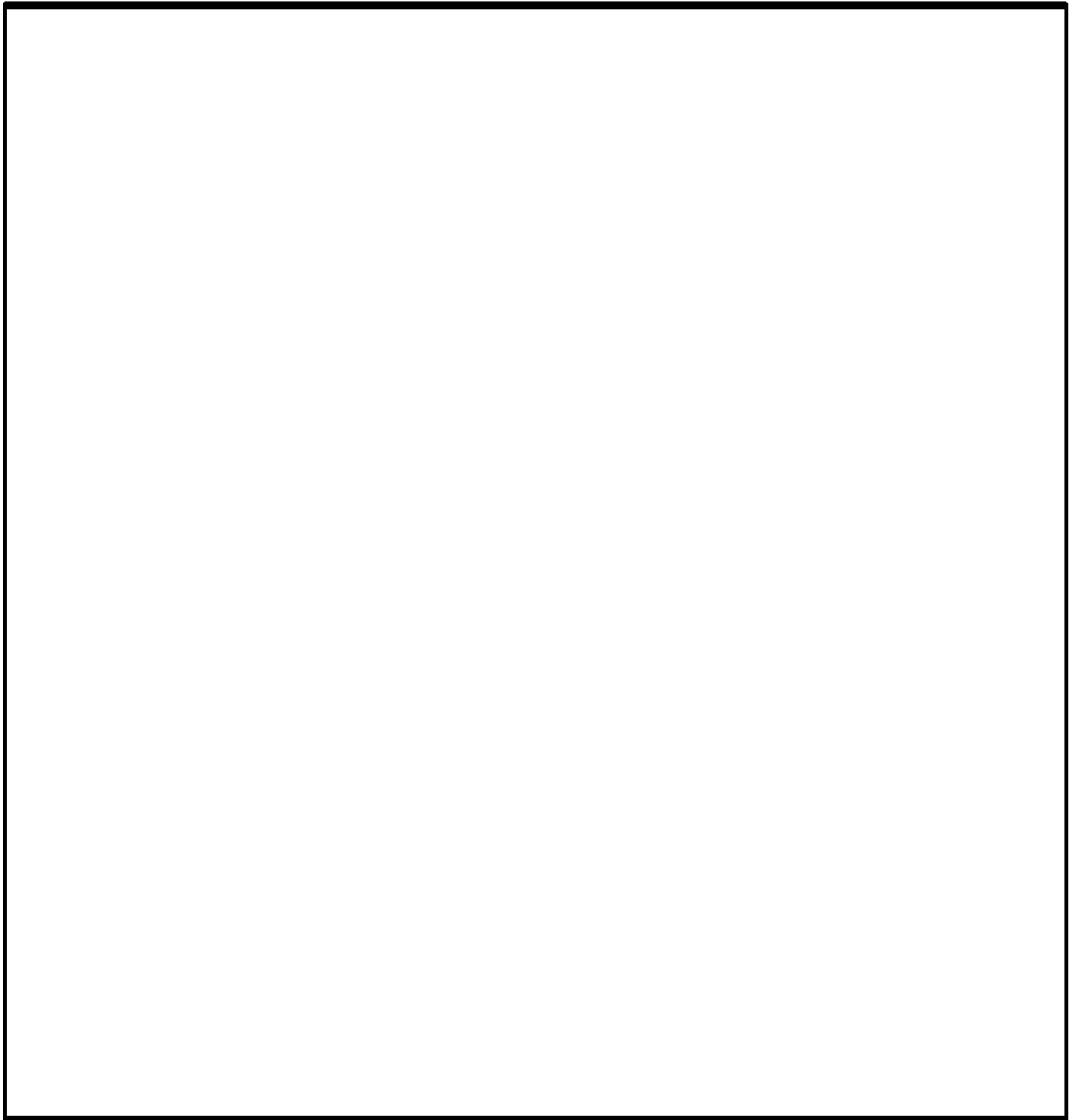
(b)(7)(e)

# Particular Social Groups: BIA Test





# Persecutor: *unable or unwilling to control*



(b)(7)(e)

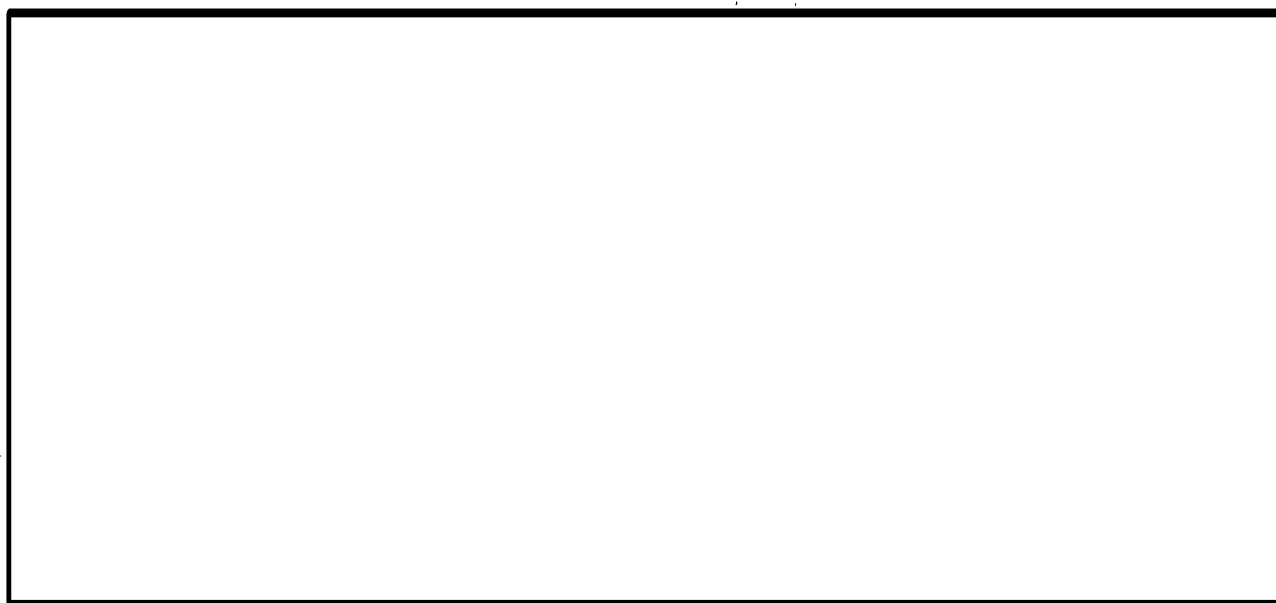
**If there is a significant possibility of past persecution:**

[Empty rectangular box for response]



# Well-founded fear of persecution

(b)(7)(e)



# *Matter of Mogharrabi*

*Possession*

+

*Awareness*

+

*Capability*

+

*Inclination*



(b)(7)(e)

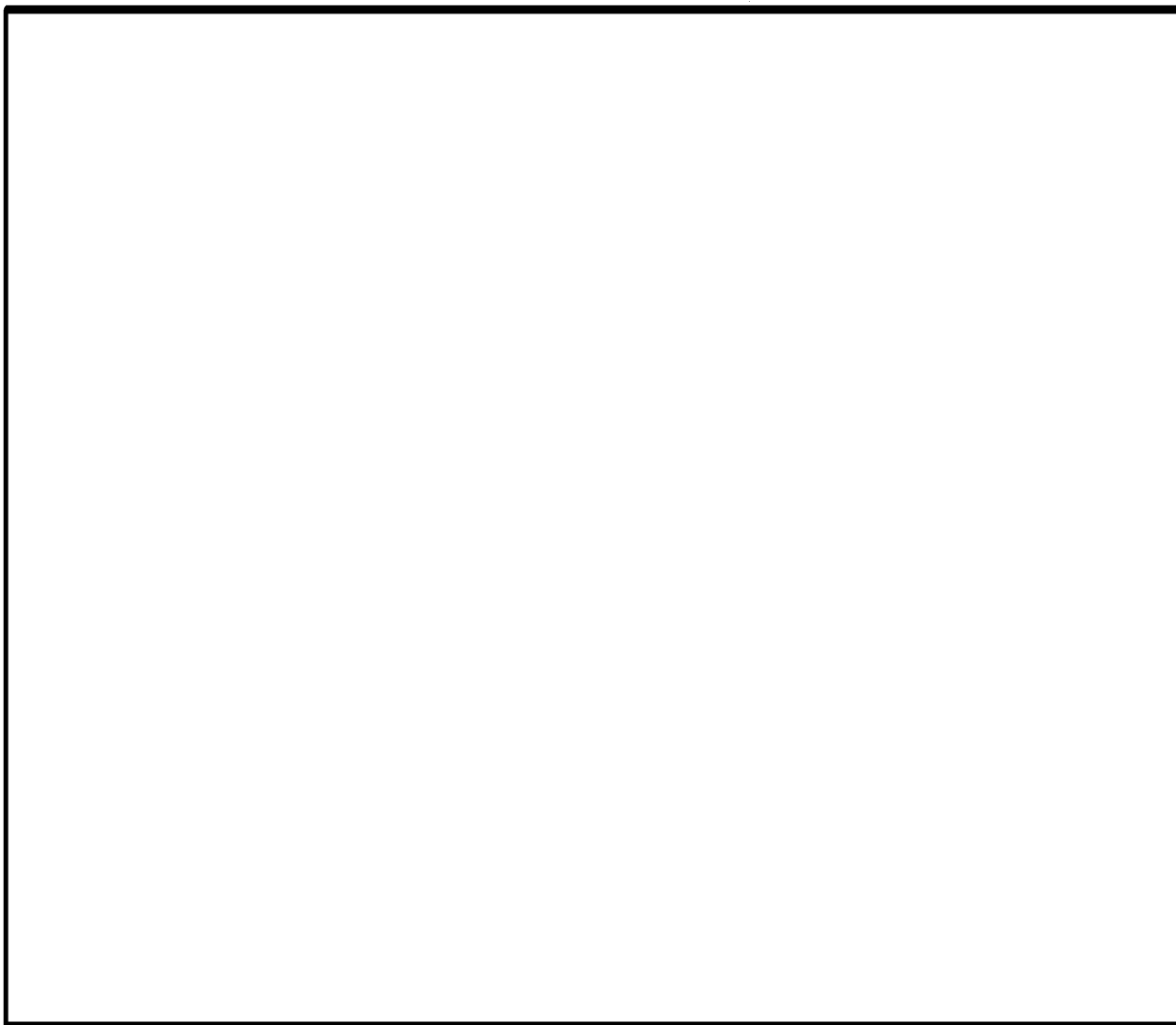
# Possession

- *Similar to Nexus analysis; AO's must determine:  
whether the applicant possesses or is perceived to  
possess a protected characteristic*

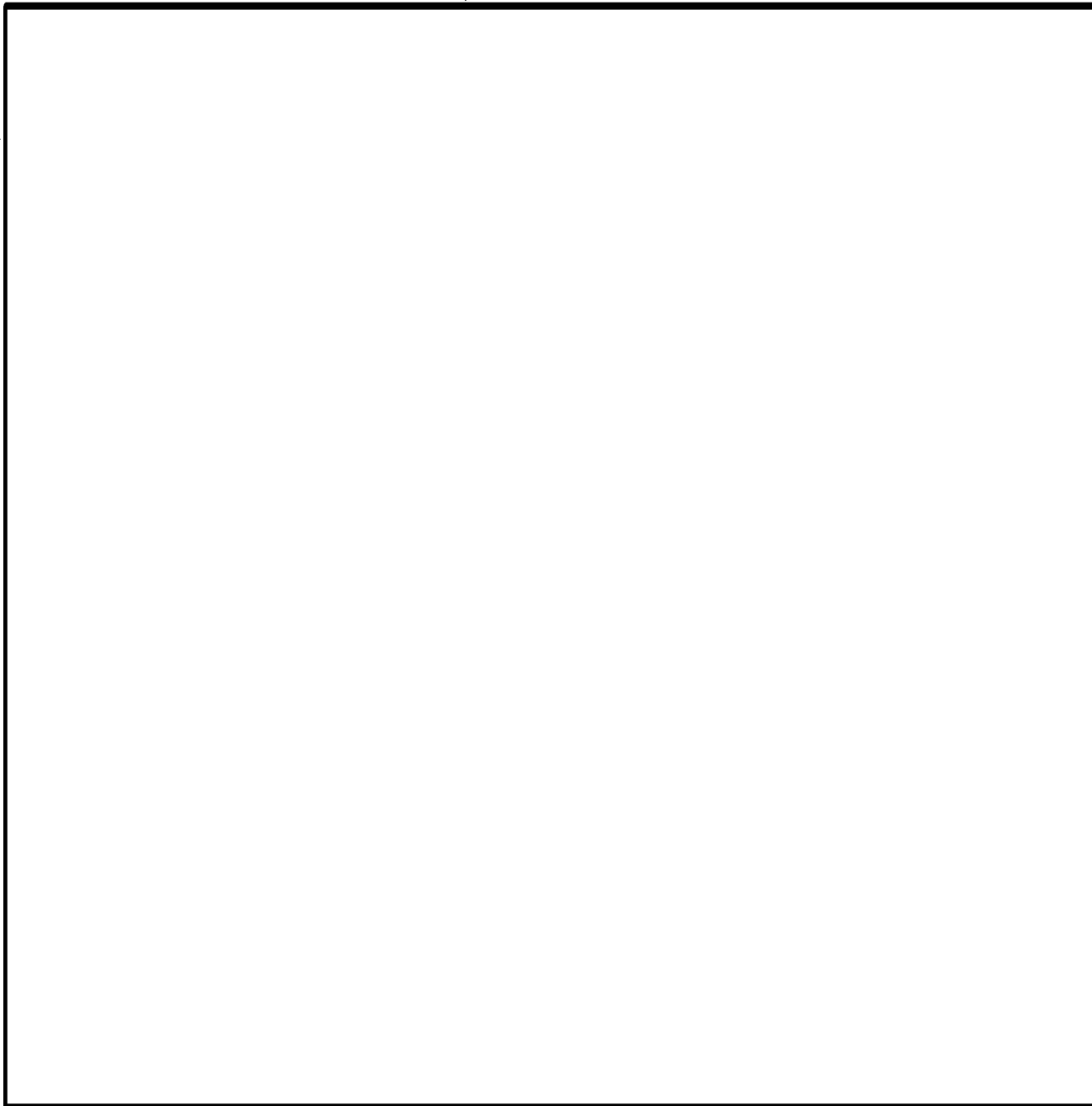


# Awareness

(b)(7)(e)

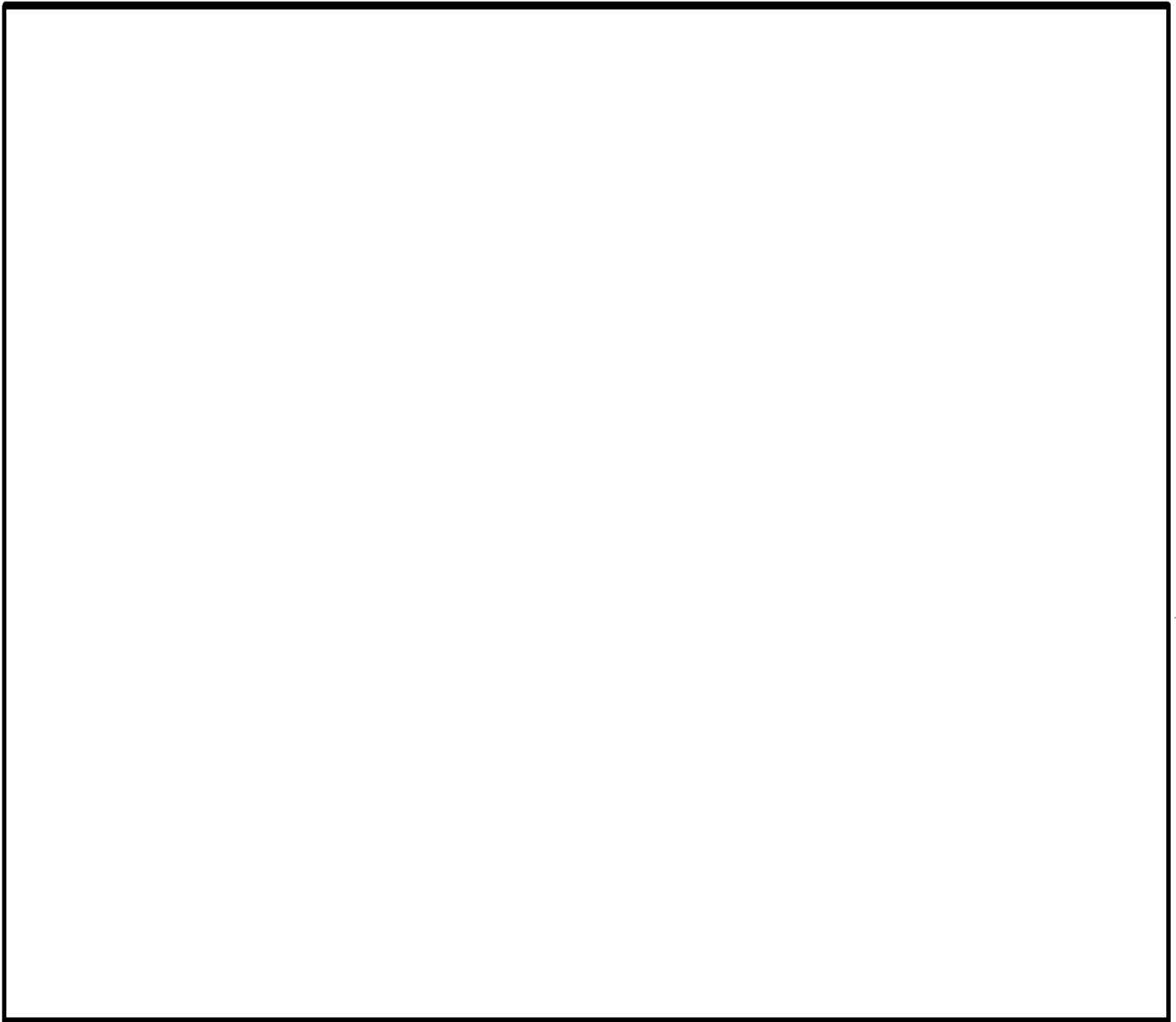


# Capability (b)(7)(e)



# *Inclination*

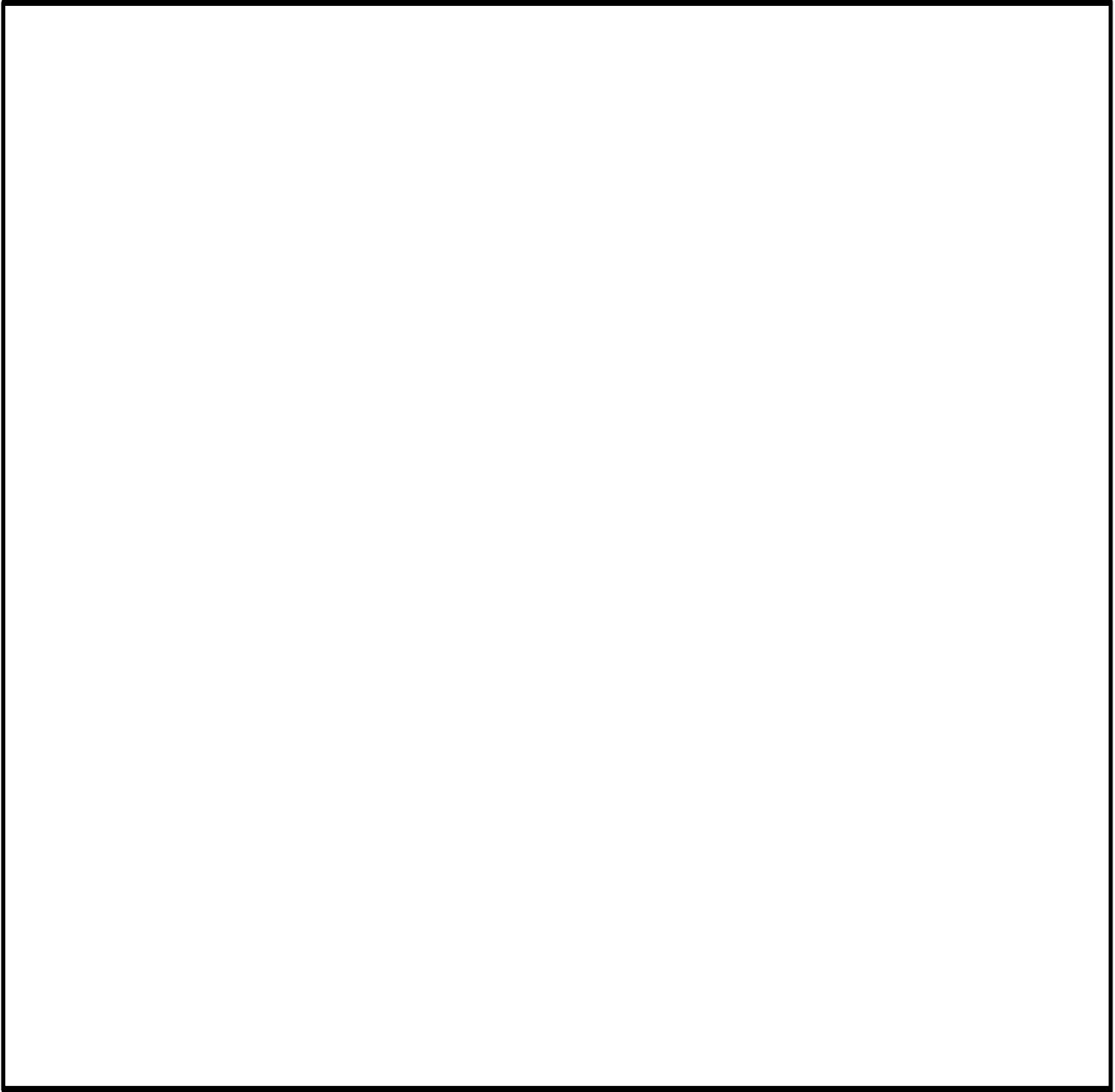
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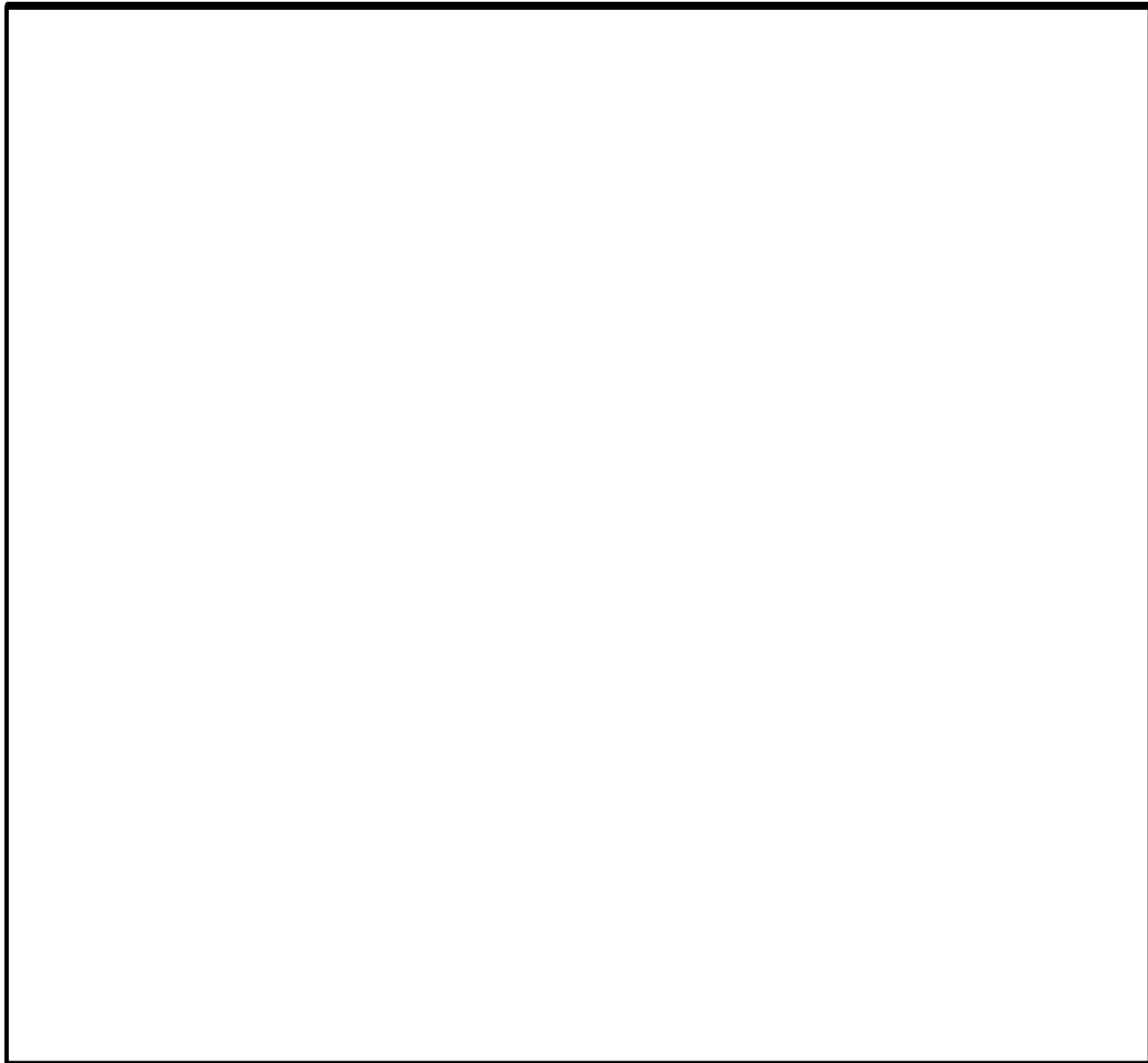
(b)(7)(e)

# *Other relevant considerations*



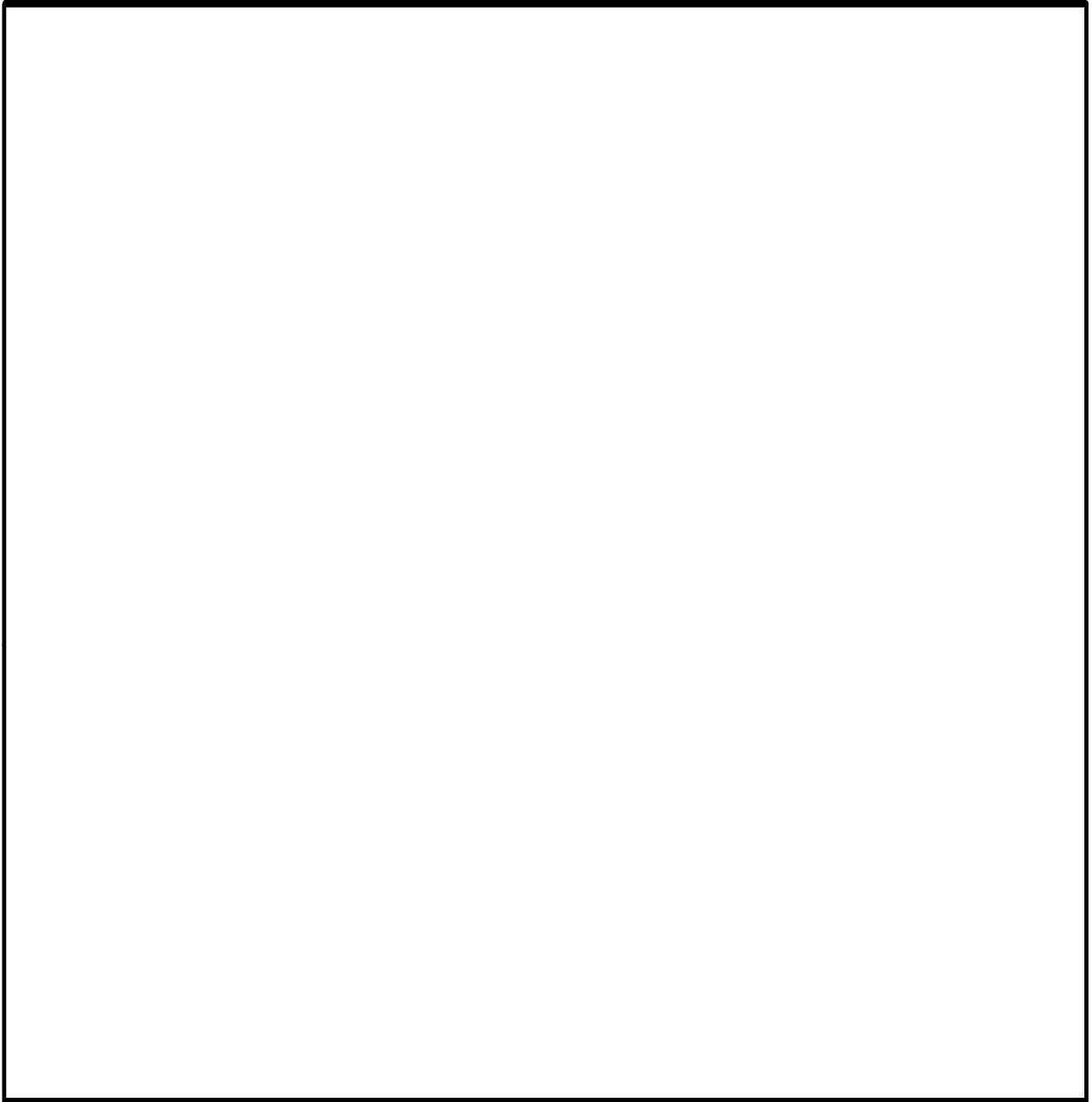
# *Internal Relocation*

(b)(7)(e)



(b)(7)(e)

# *Reasonableness of Internal Relocation*



# Credible Fear of Persecution?

Applicant, a Guatemalan national, was walking by an alley when he saw a man he recognized shoot a friend of his in the head. Applicant reported what he saw to the police and worked with them to arrest the man. He testified at the trial against the shooter. After the trial, Applicant began receiving threats. The caller told him that he would die for working with the police. The Guatemalan authorities said that they could not offer him protection after the trial.

What else do you need to know?



# Credible Fear of Persecution?

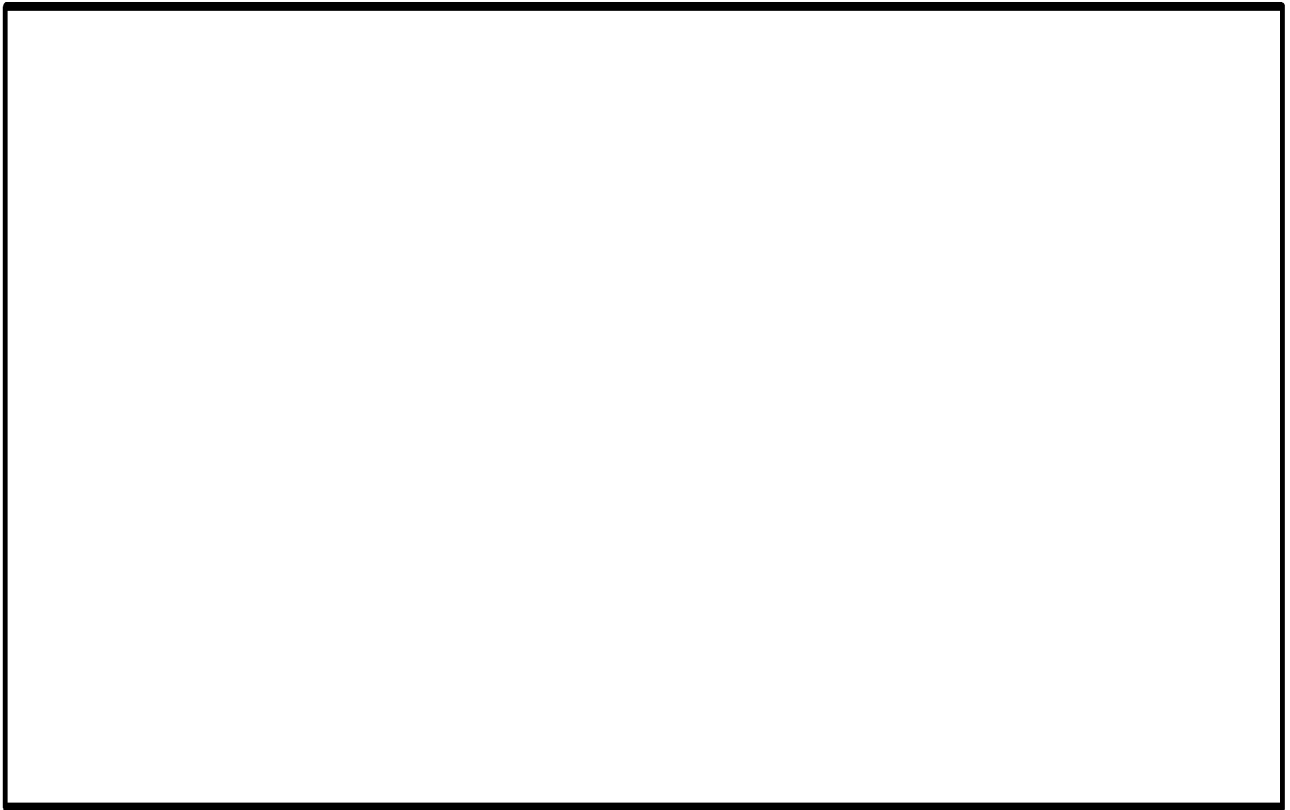
Applicant, a Salvadoran national, was abandoned by his family joined a gang in 1994. He remained a member of the gang until 2003, when he came to the United States. Shortly afterward, having become a born-again Christian, he decided that if he returned to El Salvador he could not rejoin the gang without violating his Christian scruples and that the gang would kill him for his refusal to rejoin and the police would be helpless to protect him.

What else do you need to know?



# Credible Fear of Torture

(b)(7)(e)



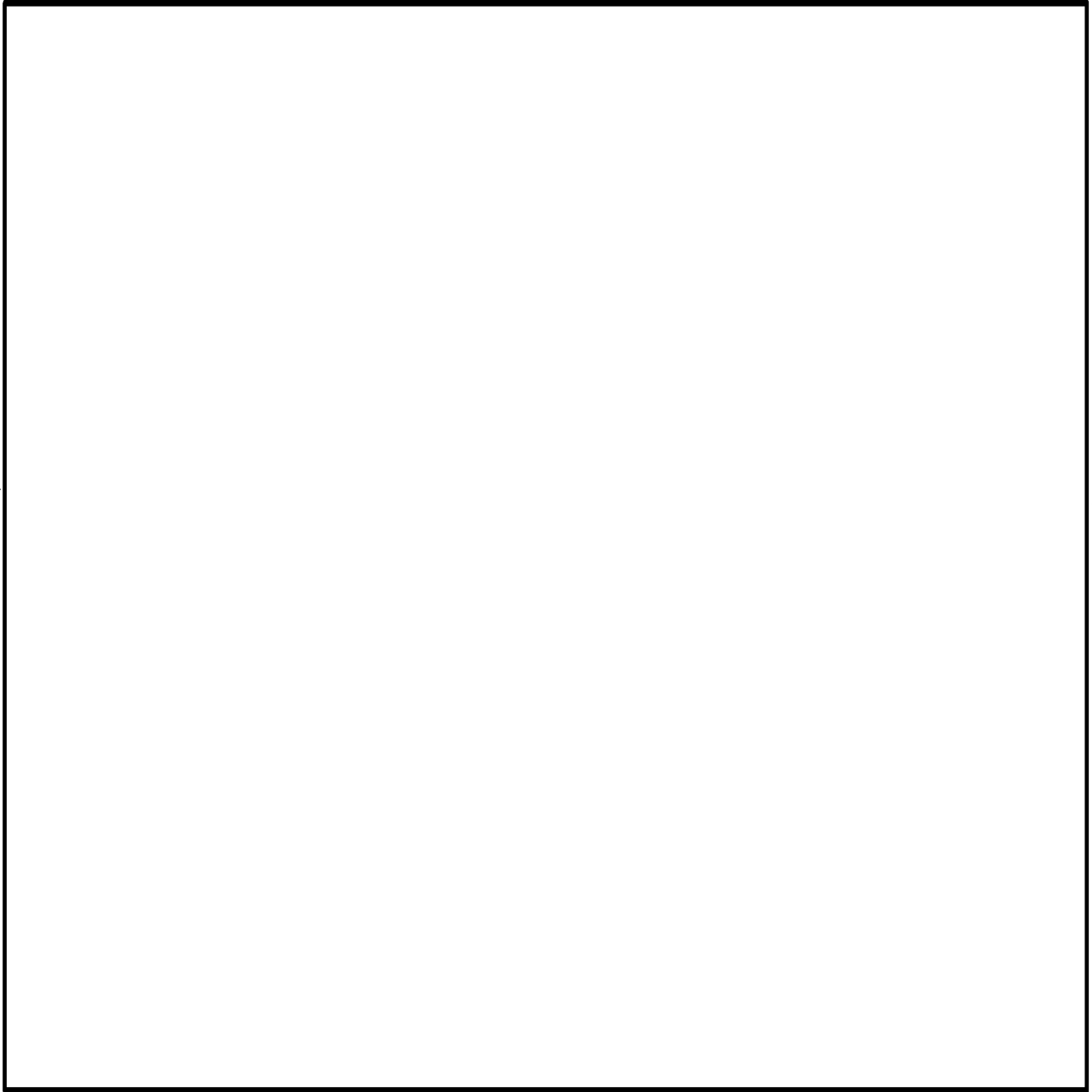
# Definition of Torture

- Consider the full definition of torture as found in 8 C.F.R. § 208.18(a).
- Because credible fear of torture interviews are employed as *“screening mechanisms to quickly identify potentially meritorious claims to protection and to resolve frivolous ones with dispatch,”* parts of the torture definition require complex analysis that may not be appropriate for credible fear.
- However, you can use previously excluded issues such as internal relocation, custody and control, and lawful sanctions.



# CAT Requirements

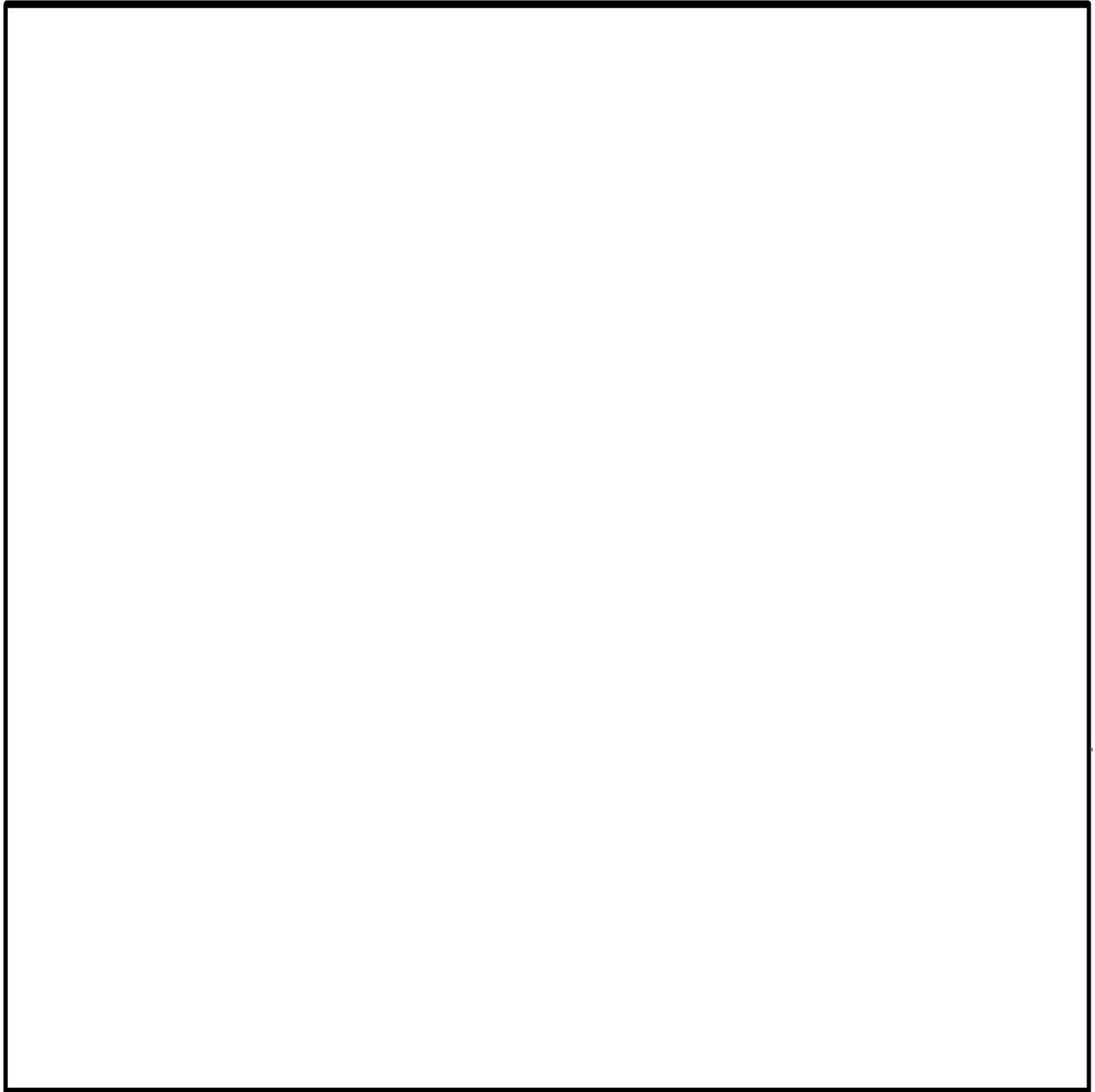
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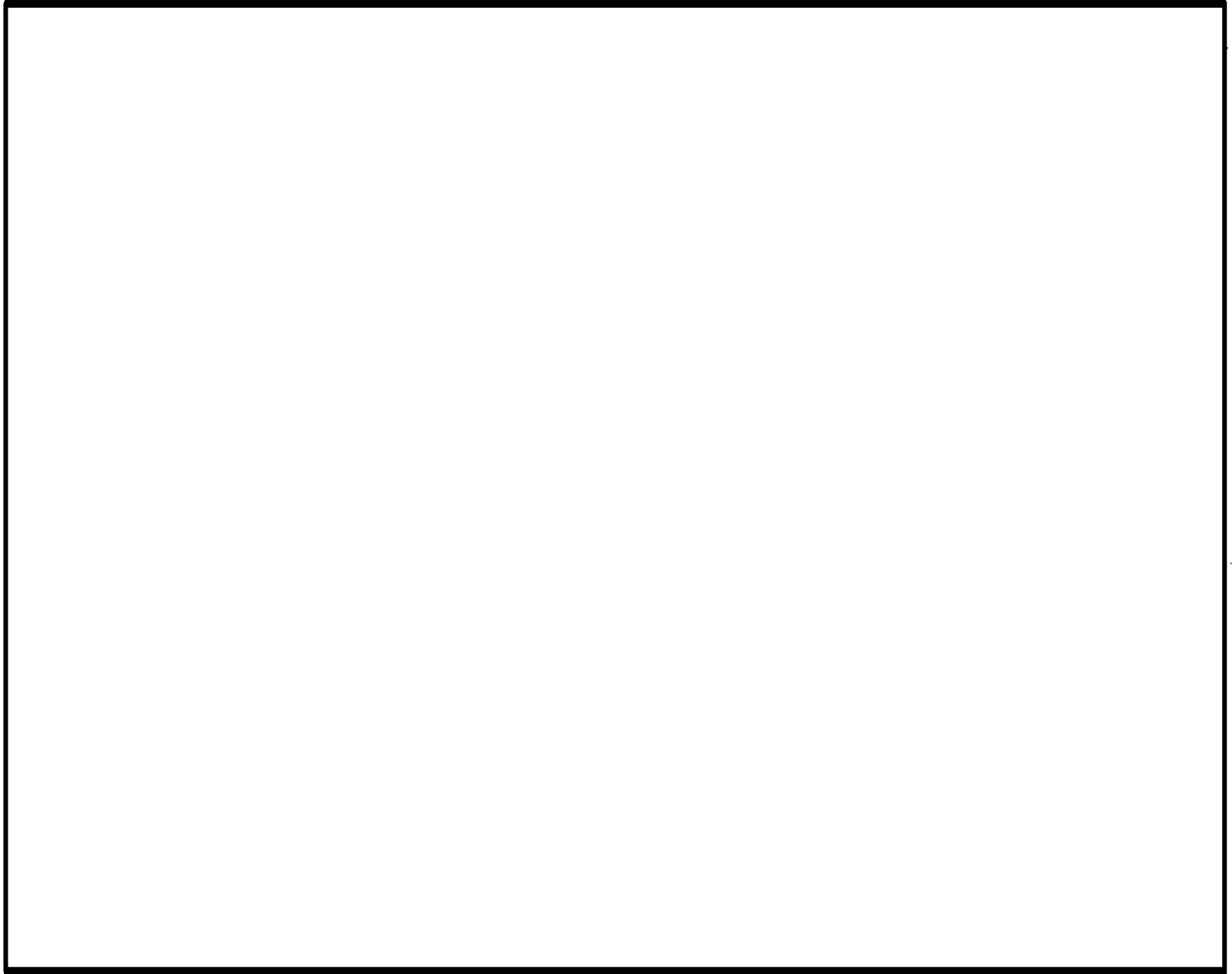
# *Specific Intent*

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# *Degree of Harm*

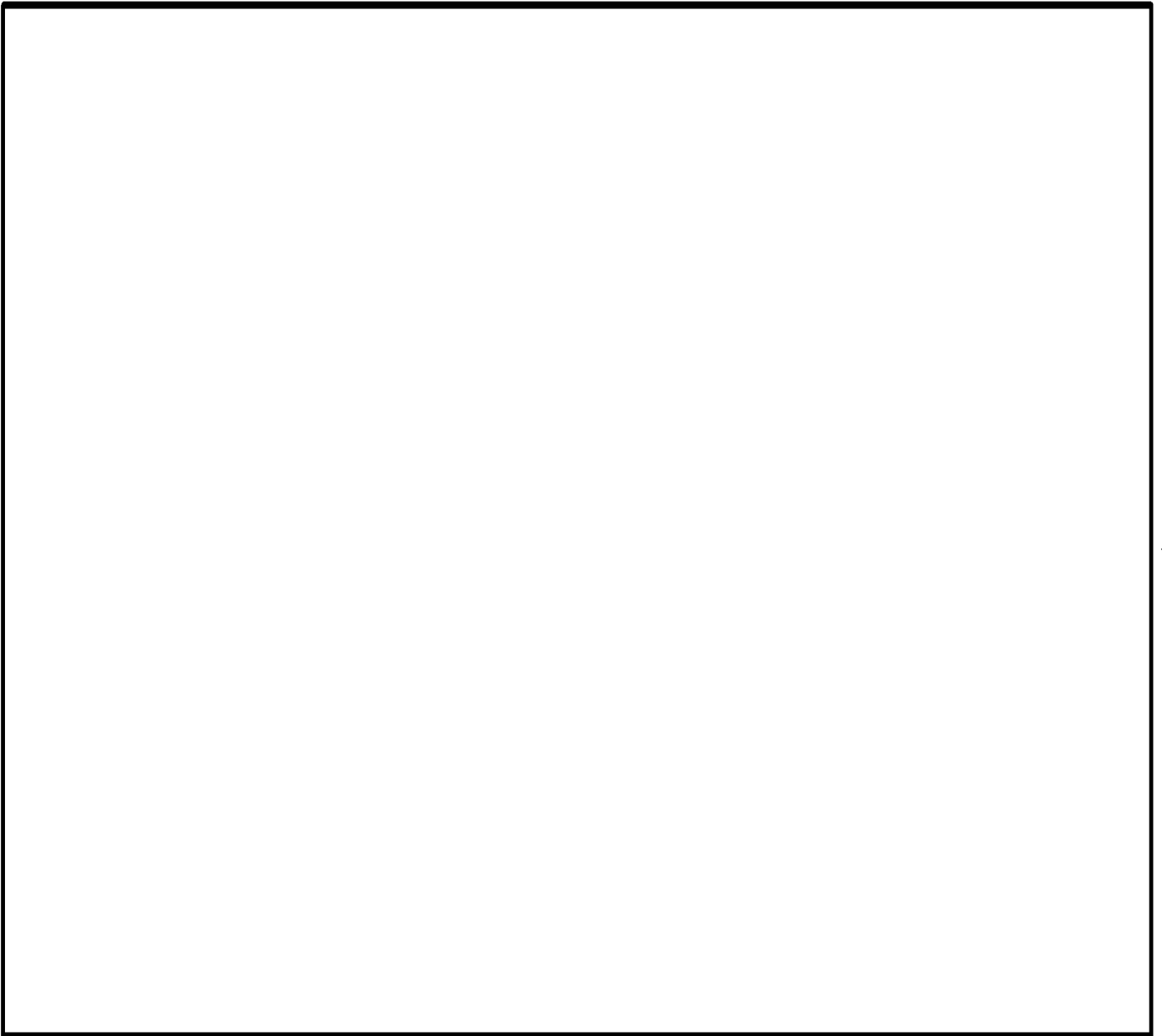
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# Identity of the Torturer

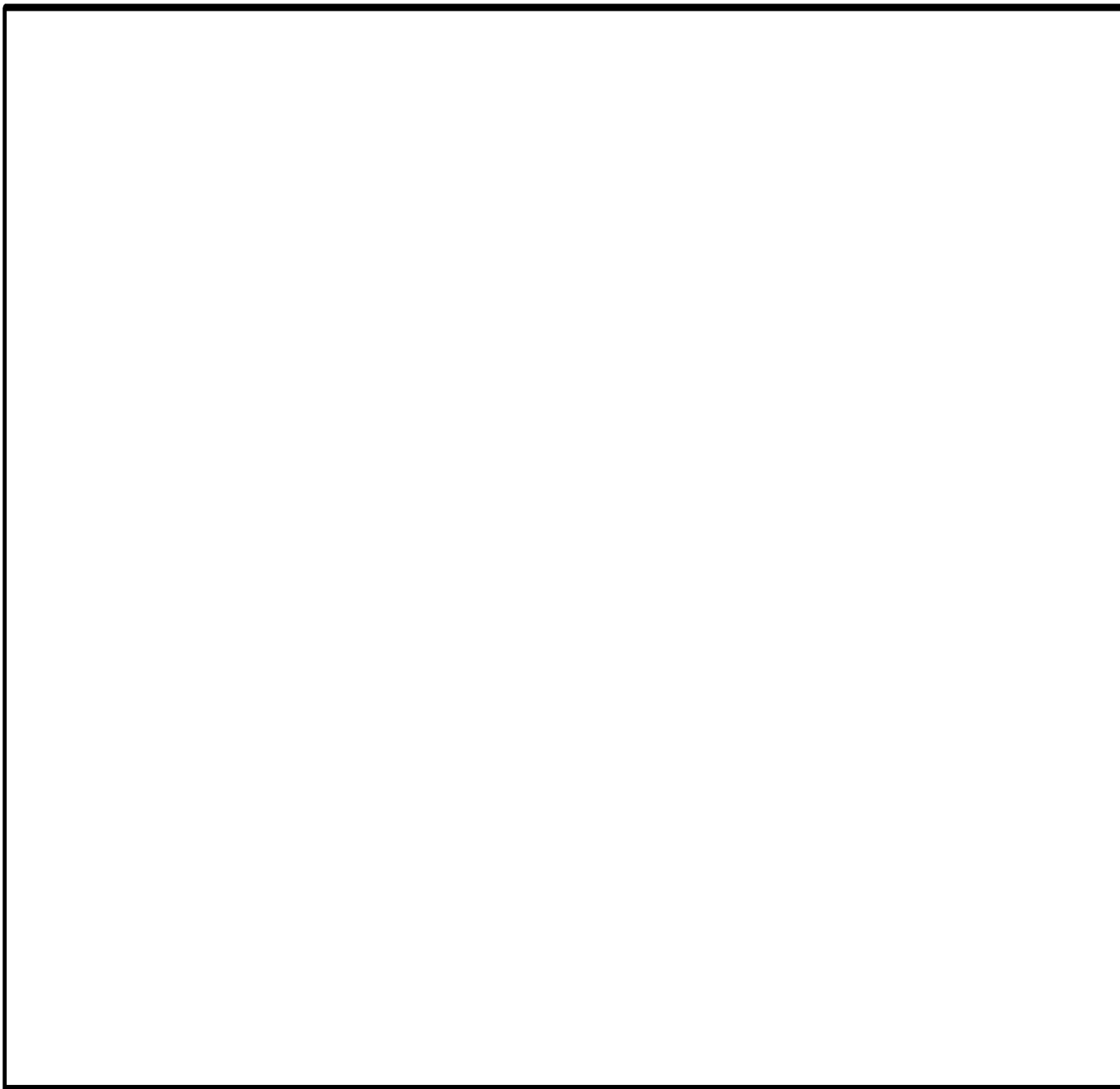
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Two Possible Options:

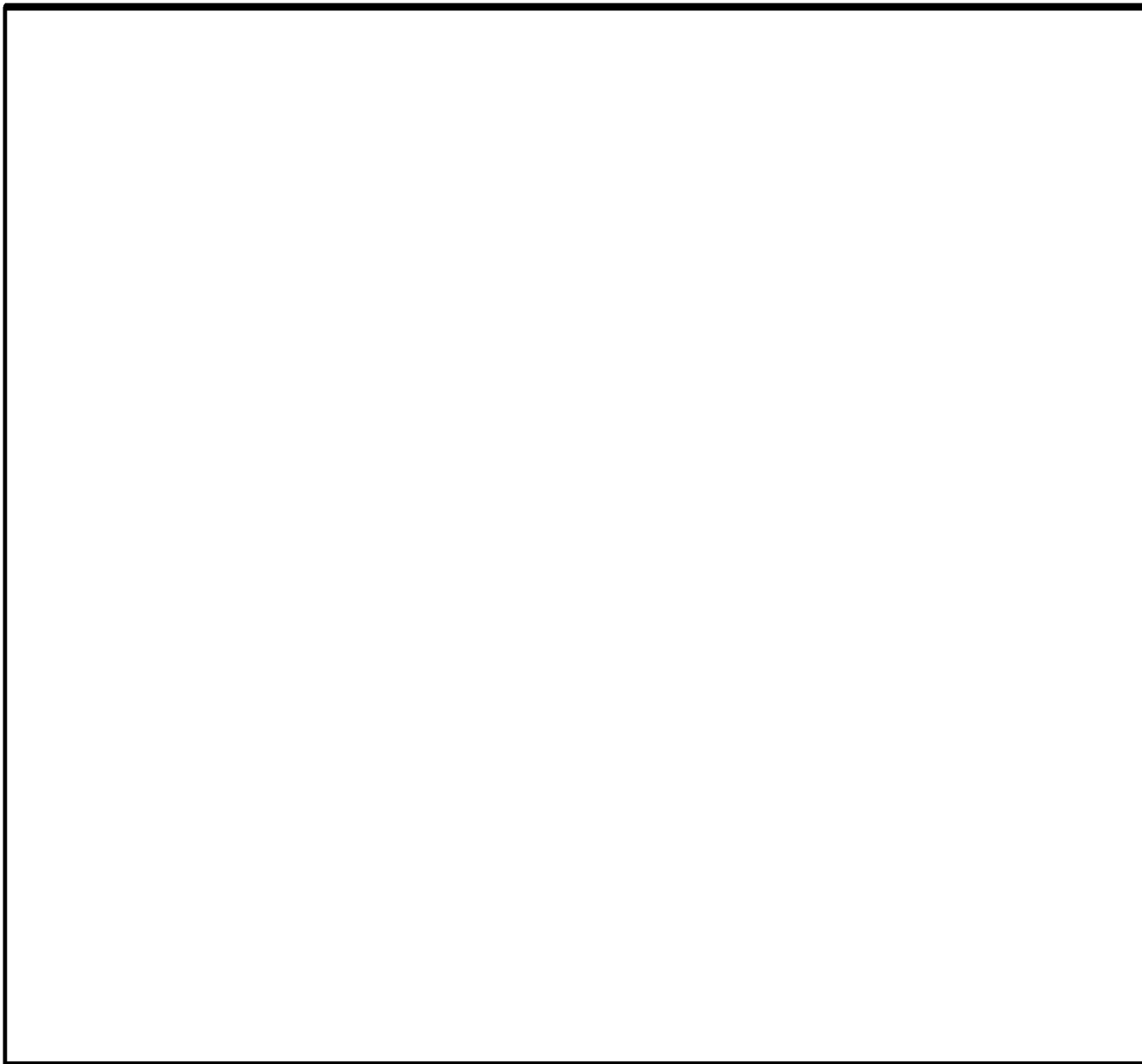


*Public Official*

(b)(7)(e)



*In Official Capacity* (b)(7)(e)



## *In Official Capacity*

*When he misuses power possessed by virtue of law and made possible only b/c he was clothed with the authority of law .*

Ramirez Peyro v. Holder, 574 F.3d 893 (8th Cir. 2009)



*Acts motivated by an officer's personal objectives are 'under color of law' when the officer uses his official capacity to further those objectives.*

Marmorato v. Holder, 376 Fed.Appx. 380, 385 (5th Cir. 2010) (unpublished)



## *In Official Capacity*

If the public official is not acting in an official capacity then treat that public official like a private actor

*As two of the CAT's drafters have noted, when it is a public official who inflicts severe pain or suffering, it is only in exceptional cases that we can expect to be able to conclude that the acts do not constitute torture by reason of the official acting for purely private reasons.*

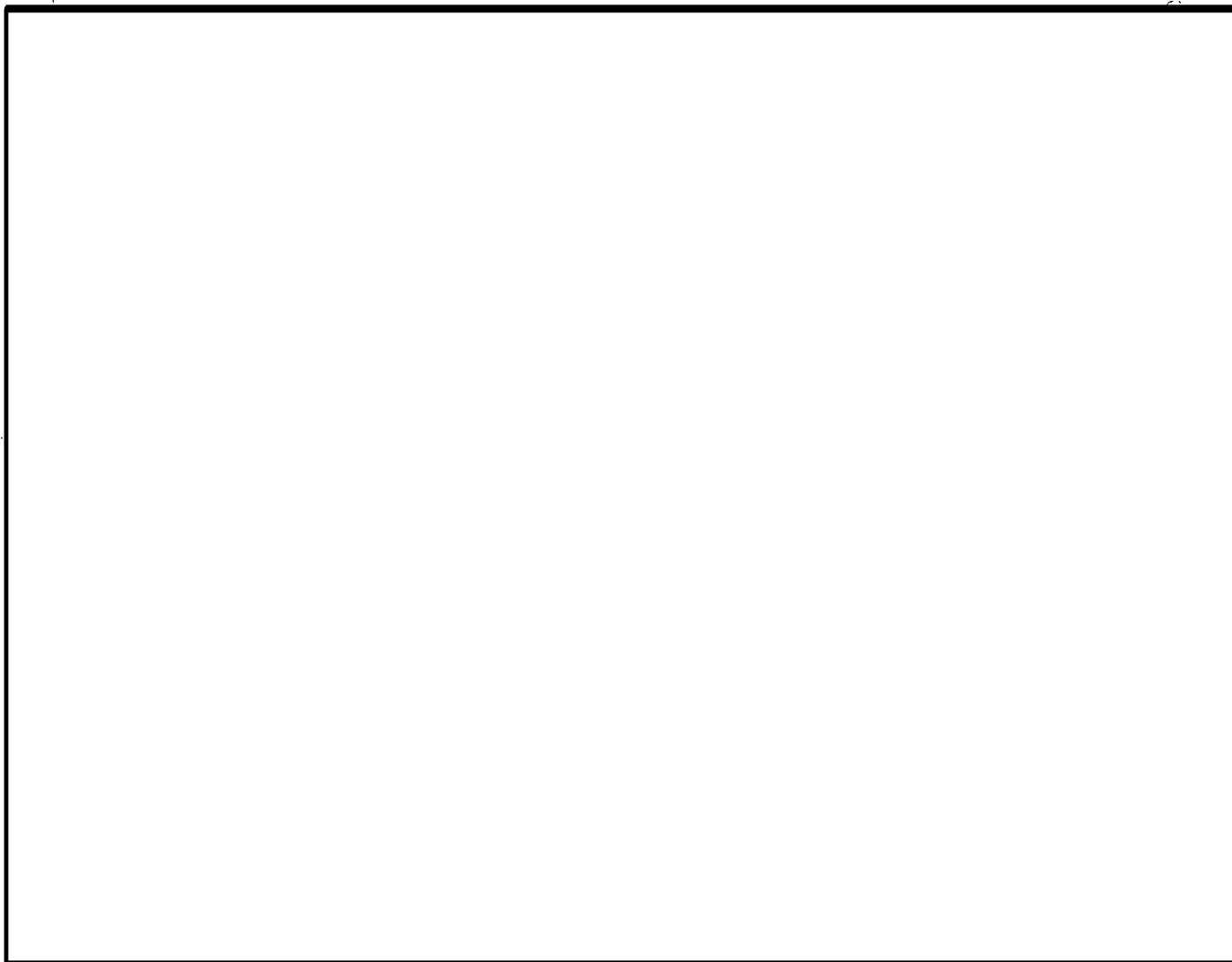
Khouzam v. Ashcroft, 361 F.3d 161, 171 (2d Cir. 2004)



U.S. Citizenship  
and Immigration  
Services

# Identity of the Torturer: *Private Actor*

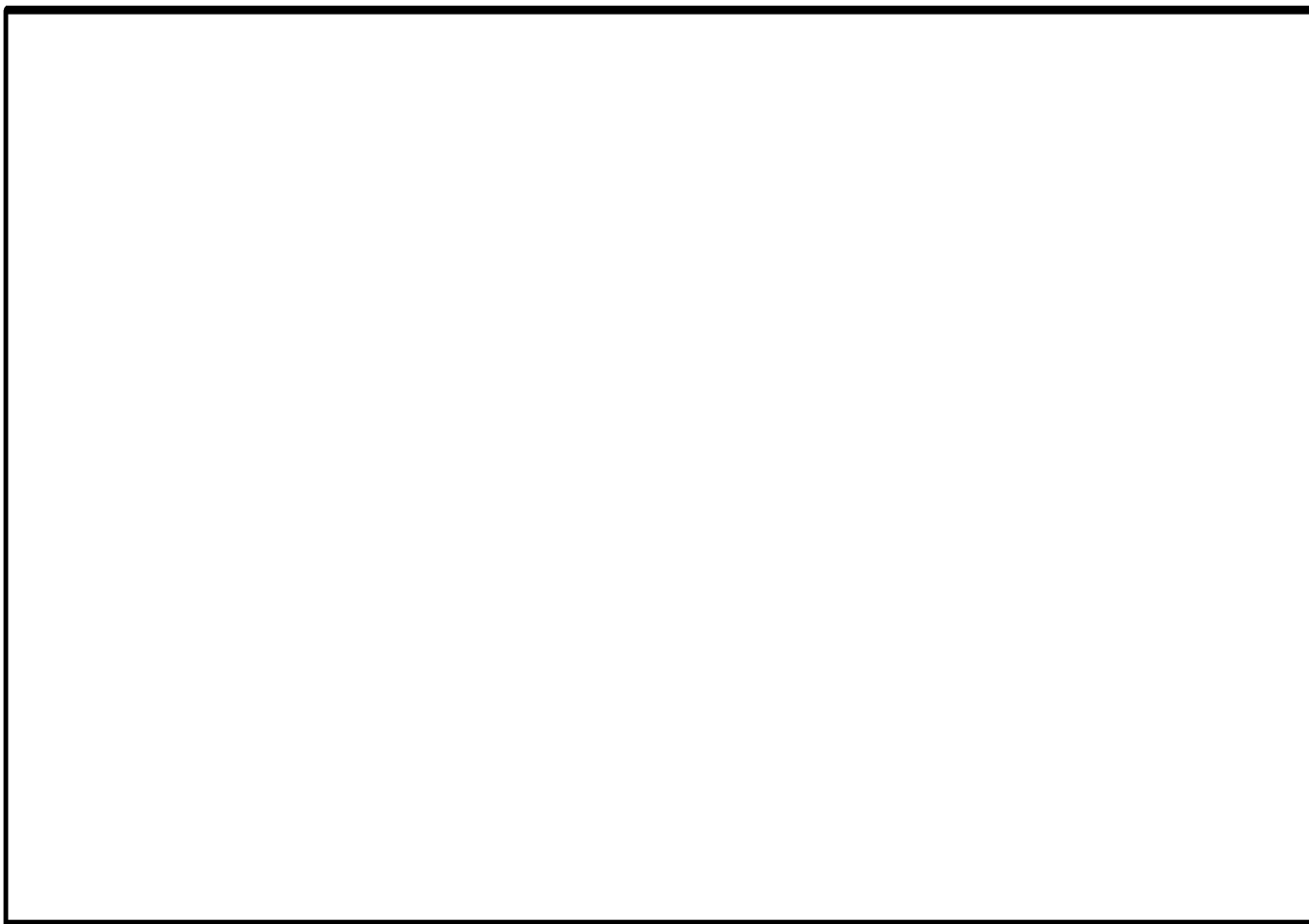
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# *Acquiescence*

(b)(7)(e)



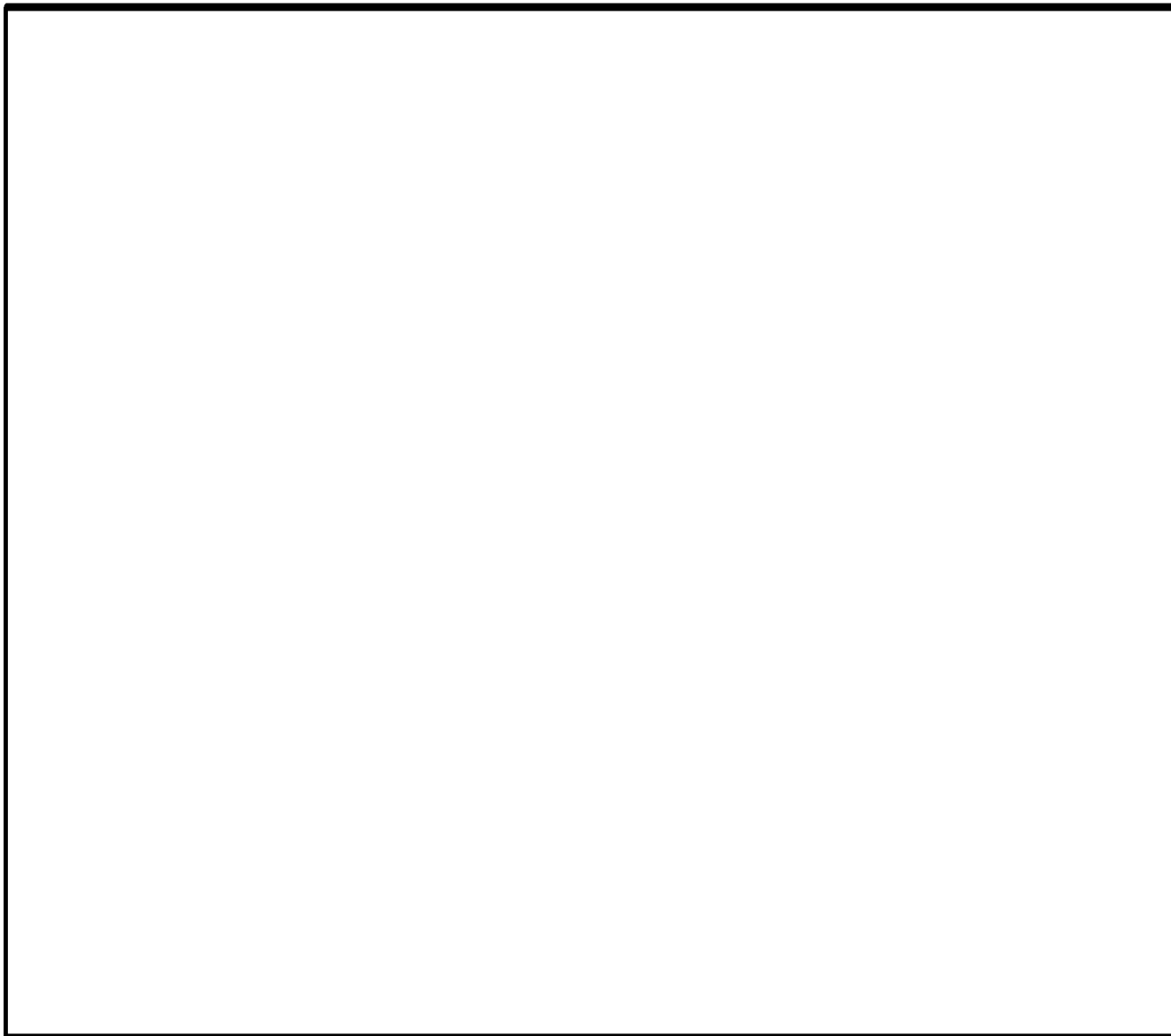
# *Acquiescence – willful blindness*

(b)(7)(e)



# *Acquiescence – breach of duty*

(b)(7)(e)



# Acquiescence

Determination of acquiescence is distinct from the “unable or unwilling” to protect standard used in the definition of a refugee

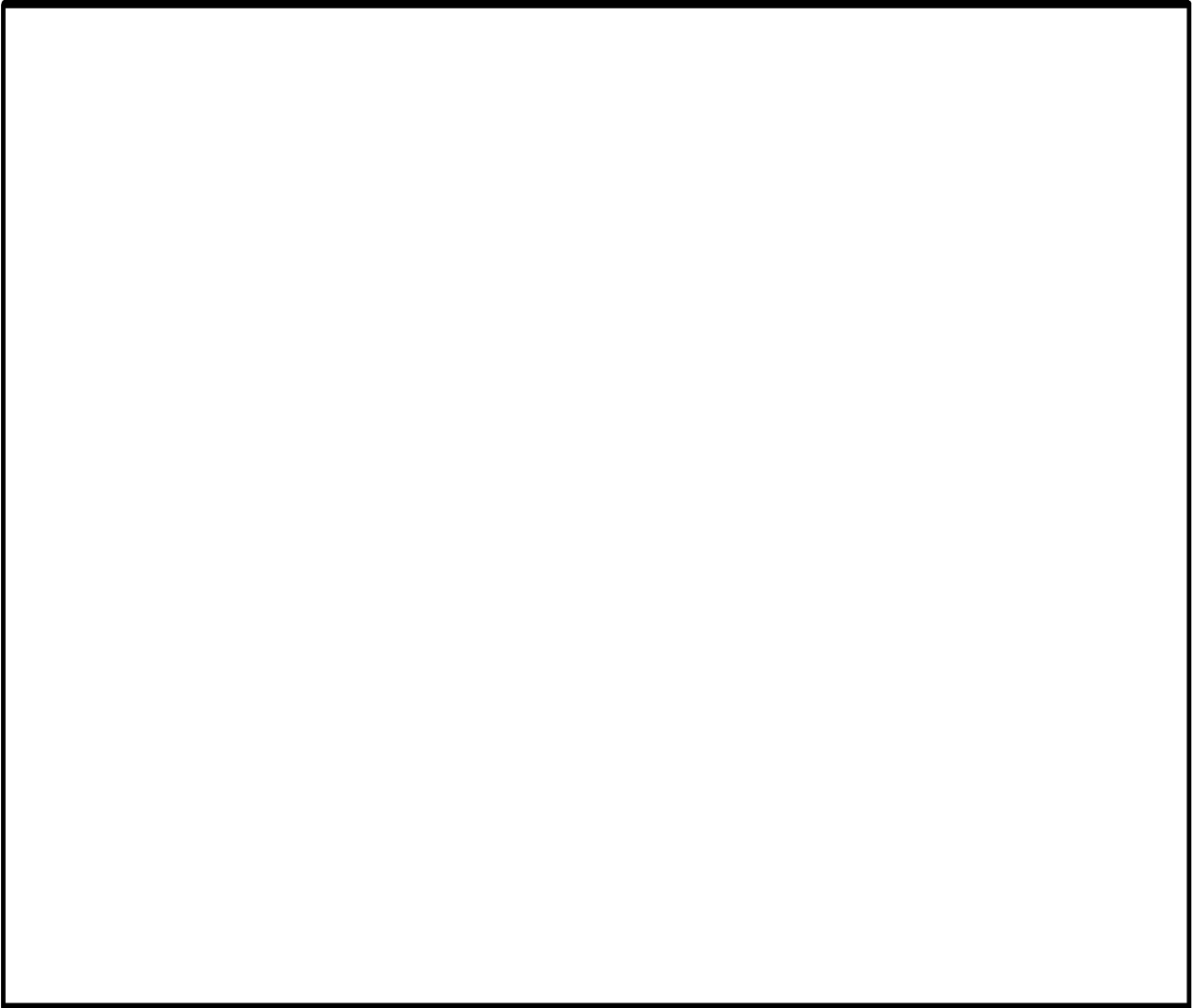
*...A gov't does not acquiesce in torture of its citizens merely b/c it is aware of torture but is powerless to stop it. It does cross the line into acquiescence when it shows willful blindness toward the torture of citizens by a 3<sup>rd</sup> party.*

Ramirez Peyro v. Holder, 574 F.3d 893 (8th Cir. 2009)



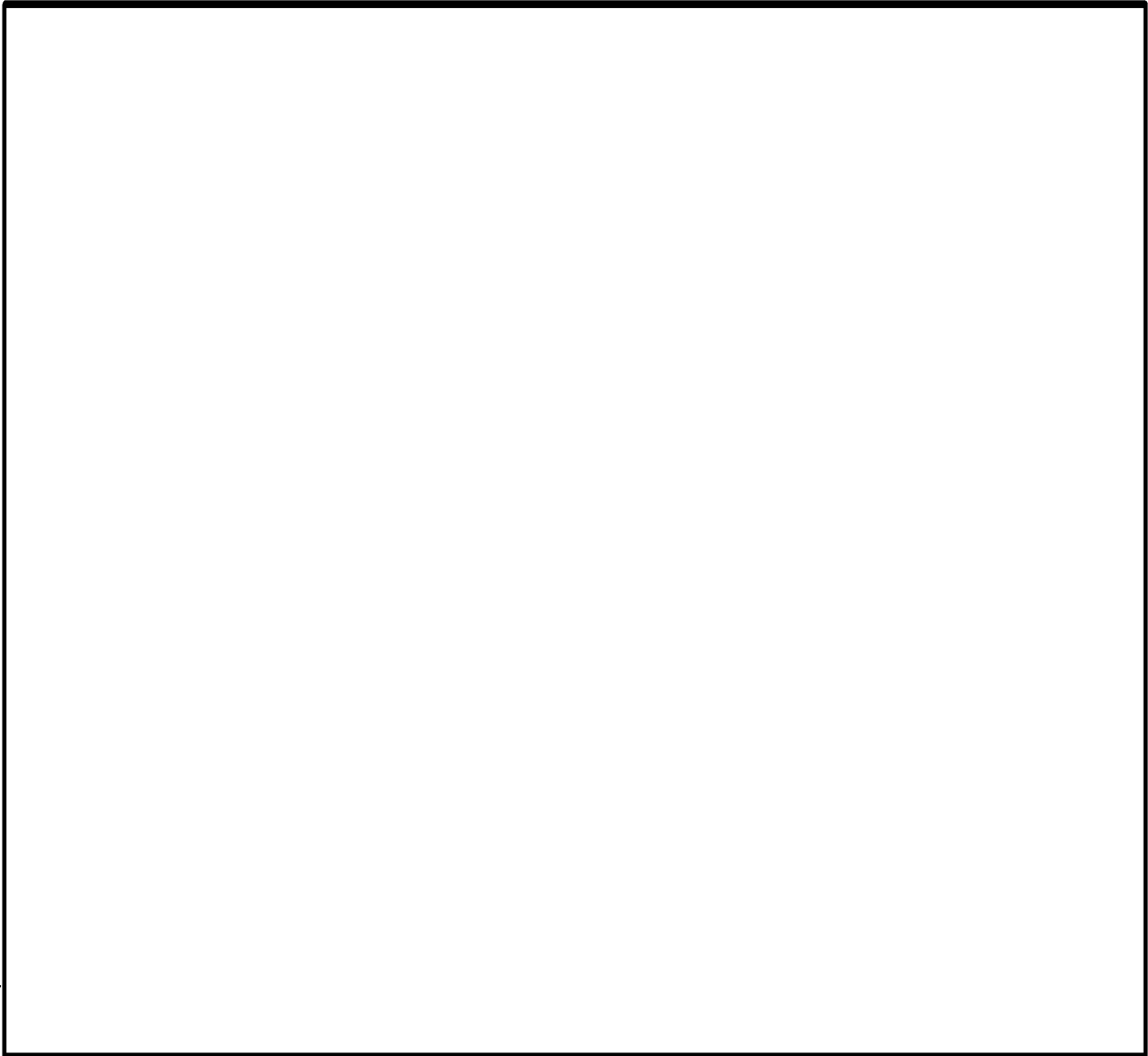
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# Custody and Control



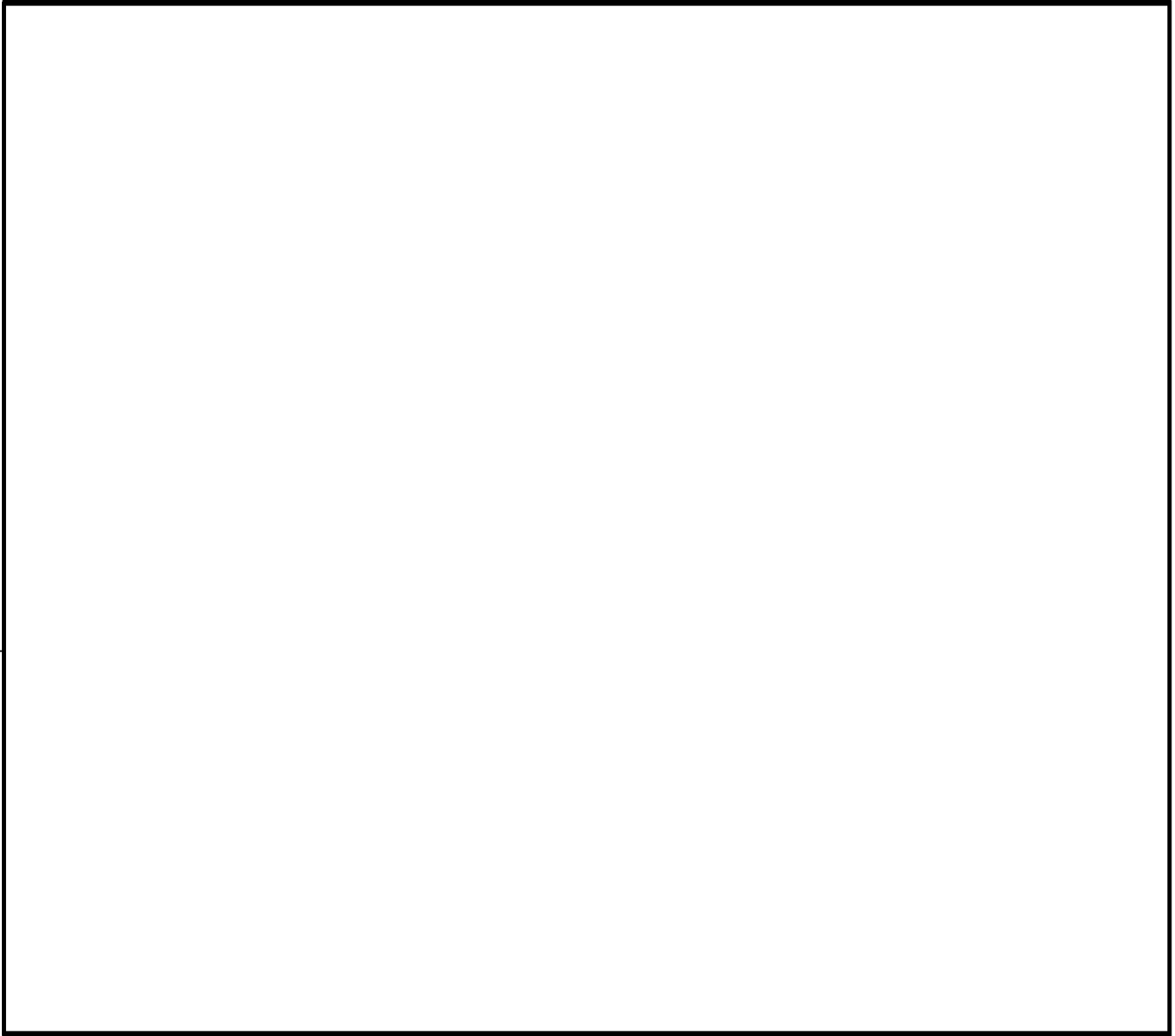
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# Custody and Control



(b)(7)(e).

# Lawful Sanctions



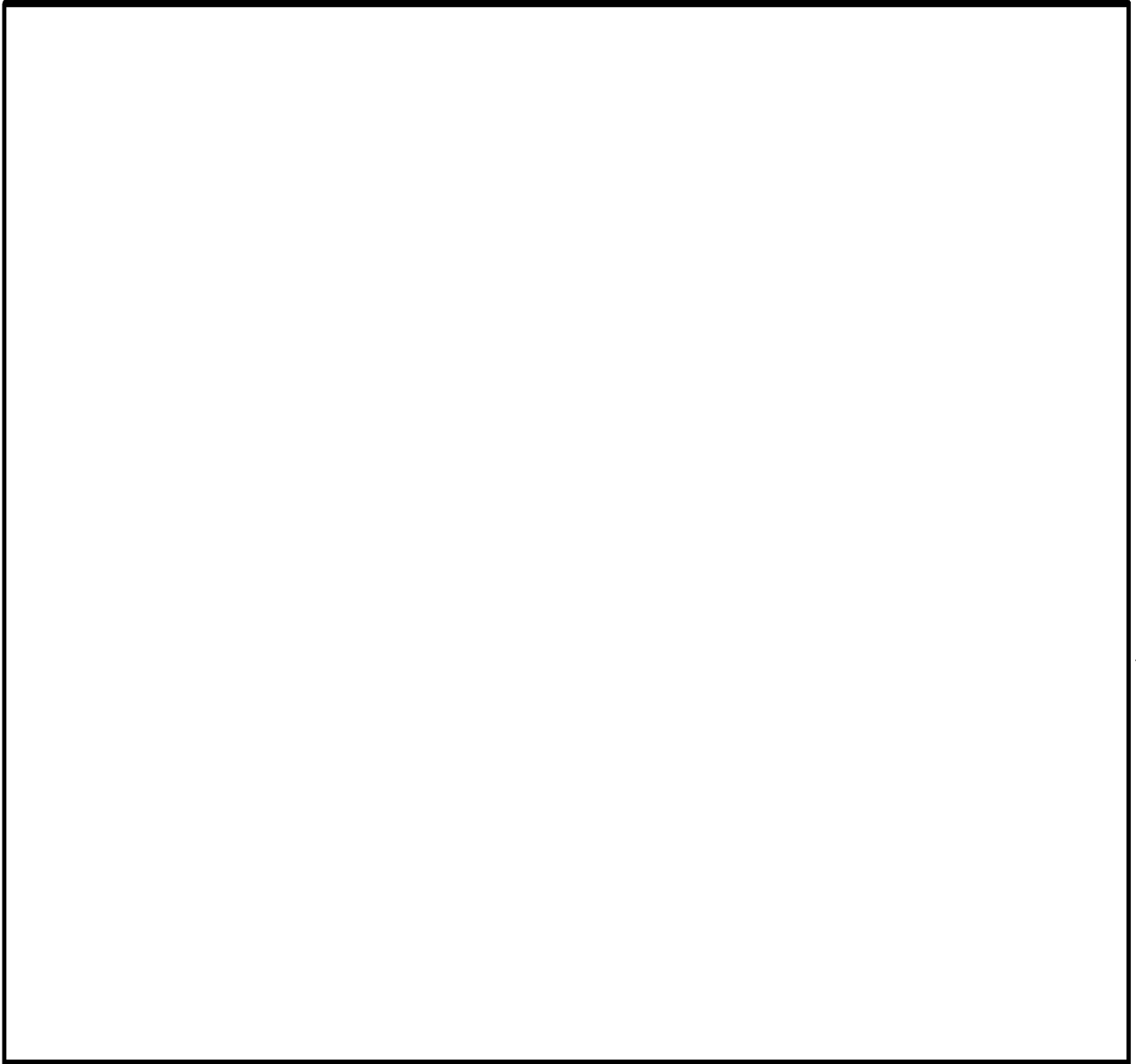
# Past Torture

(b)(7)(e)





# *Internal Relocation* (b)(7)(e)



# Credible Fear of Torture?

Applicant was accused by Egyptian police of committing murder and sentenced to death. He escaped and fled to the U.S. Applicant believes he was framed by local police. In Egypt, he was detained by the police for six months and beaten daily until he signed papers that he was not allowed to read. Applicant believes that one of these papers was a false confession to the alleged murder.

Credible Fear of Torture?

What else do you need to know?



# Credible Fear of Torture?

Applicant, a Honduran national, is a ticket vendor who sells tickets on local busses. He was ordered by gang members to turn over his ticket money to the gang. If he refused, the gang told him they would kill him. Applicant knows other vendors who were killed for not giving up their money. A union representative lobbied the local police for protection, but the police responded that they are not able to control what happens on busses. Applicant believes police are bought by the gangs because he often sees bus drivers make payments to police to get through random roadblocks. COI corroborates rampant police corruption.

Credible Fear of Torture?

What else do you need to know?



# Credibility

- Review the RAIO Credibility Training Module
- Identify the adverse credibility factor, inform the applicant, and give him or her a chance to explain.
- Demeanor, candor, and responsiveness are of limited reliability in credible fear screenings.



(b)(7)(e)

# Credibility in Credible Fear



(b)(7)(e)

# CBP Sworn Statement

[Empty box for CBP Sworn Statement content]



# Other Issues

- **IDENTITY:** An applicant must establish his or her identity with a reasonable degree of certainty.
- **MANDATORY BARS:** Do not apply in credible fear.
  - **BUT** you must elicit and make note of all information relevant to any bars to asylum.
- **“Consultant”**
  - A consultant may be a relative, friend, clergy person, attorney, or representative. Consultants are not required to file any documents at any time during the credible fear process.
- **Factual summaries: REQUIRED.**



# Consultant Issues

**You should determine whether or not an applicant wishes to have a consultant present at the credible fear interview.**





# Factual Summary

**For each credible fear interview, the asylum officer must create a summary of material facts as stated by the applicant.**



# Dependents

- An applicant may include a spouse or child in their credible fear evaluation, if the dependent:

1. Arrived in the U.S. with the principal alien; and

2. Desires to be included in the principal alien's determination.



# Dependents

**USCIS maintains discretion under this regulation not to allow a spouse or child to be included in the principal's credible fear request.**



# Competency

- Is the applicant sufficiently competent to be interviewed?
- If no, communicate your SAPSO.
- The asylum office will issue an Notice to Appear with an additional allegation that the alien is a “Public Charge”.
- Prepare a memo to file and forward to HQ for review.
- Document your attempts to interview the applicant and obtain any relevant mental health documentation from the detention facility.



# Detention

- The place of detention, not his or her place of entry, determines which asylum office will process the CF claim.
- Detention is mandatory while credible fear case is pending (unless medical emergency or law enforcement objective. After positive CF determination made, ICE has discretion to parole applicant from detention.



# *Multiple Citizenship or Nationality*

- If the country of removal indicated is different from the applicant's country of citizenship or nationality, any fear from the indicated country of removal must also be evaluated.
- If the applicant was firmly resettled in another country prior to arriving in the United States, any fear from the country of firm resettlement must also be evaluated.



# Top 10 Nationalities

## Credible Fear Nationality Report FY10, FY11, FY 12, FY13

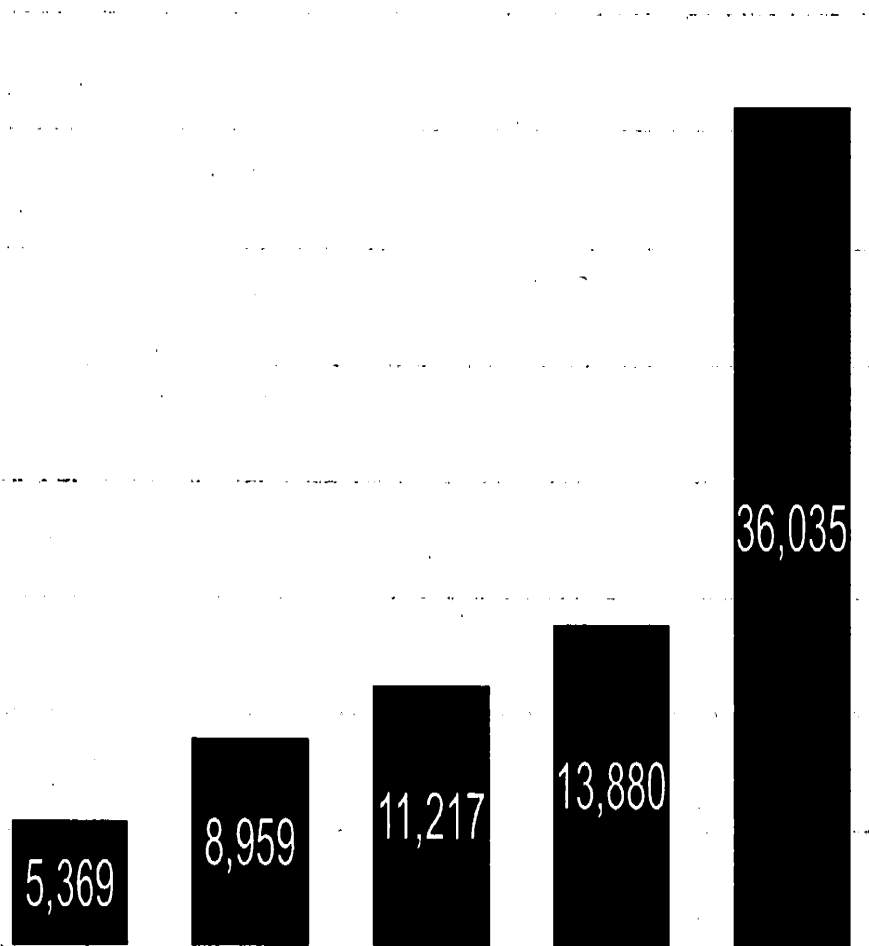
Total FY12 Receipts			13,931	%	Total FY13 Receipts			36,026	%
1	EL SALVADOR	4087		29.3	EL SALVADOR	10,935		30.4	
2	HONDURAS	2405		17.3	HONDURAS	6871		19.1	
3	GUATEMALA	2015		14.5	GUATEMALA	5573		15.5	
4	MEXICO	1299		9.3	INDIA	2974		8.3	
5	ECUADOR	863		6.2	MEXICO	2612		7.3	
6	CHINA, PEOPLE	737		5.3	ECUADOR	2154		6.0	
7	INDIA	426		3.1	CHINA, PEOPLE	895		2.5	
8	DOMINICAN REP	208		1.5	NICARAGUA	472		1.3	
9	NICARAGUA	188		1.3	NEPAL	323		0.9	
10	SRI LANKA	167		1.2	PERU	320		0.9	

Total FY11 Receipts			11,337	%	Total FY10 Receipts			9,014	%
1	EL SALVADOR	2040		18.0	EL SALVADOR	1951		21.6	
2	INDIA	1940		17.1	CHINA, PEOPLE	870		9.7	
3	MEXICO	1205		10.6	HONDURAS	844		9.4	
4	GUATEMALA	1164		10.3	INDIA	735		8.2	
5	HONDURAS	984		8.7	MEXICO	653		7.2	
6	CHINA, PEOPLE	836		7.4	GUATEMALA	616		6.8	
7	HAITI	691		6.1	ERITREA	463		5.1	
8	ERITREA	378		3.3	DOMINICAN REP	429		4.8	
9	ECUADOR	359		3.2	SOMALIA	387		4.3	
10	SRI LANKA	205		1.8	HAITI	333		3.7	



U.S. Citizenship  
and Immigration  
Services

# Increase in CF Cases





# Receipts by Office

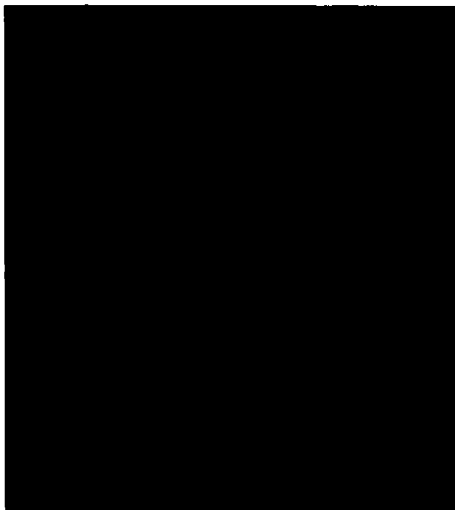
## Credible Fear Referrals by Asylum Office FY 2008 - FY 2013

Asylum Office	FY 2013 Cases Received	FY 2012 Cases Received	FY 2011 Cases Received	FY 2010 Cases Received	FY 2009 Cases Received	FY 2008 Cases Received
<b>Total</b>	<b>36,026</b>	<b>13,931</b>	<b>11,217</b>	<b>8,959</b>	<b>5,369</b>	<b>4,995</b>
Arlington	1,137	312	90	53	69	79
Chicago	466	87	73	54	58	57
Houston	21,225	9,859	7,672	6,002	3,932	3,448
Los Angeles	8,217	2,654	2,697	2,040	814	842
Miami	1,083	260	202	285	179	252
Newark	2,485	486	314	346	242	271
New York	78	0	0	0	0	0
San Francisco	1,344	273	169	179	75	46





**ASYLUM-QA-CREDIBLE-FEAR@uscis.dhs.gov**





U.S. Department of Justice  
Immigration and Naturalization Service

HQASM 120/10.19

ULLICO Bldg., 3<sup>rd</sup> floor  
425 I Street NW  
Washington, DC 20536

December 8, 2000

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

FROM: Joseph E. Langlois, Acting Director /s/  
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 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.

[NOTE: The original Attachment 1: Draft Credible Fear Procedures Manual (rev. Dec 2000)  
has since been superseded by:  
Attachment 2: Draft Credible Fear Procedures Manual (rev. April 2002)]

[NOTE: The original Attachment 2: Credible Fear Lesson Plan (rev. 3/22/99)  
has since been superseded by:  
Attachment 2: Credible Fear Lesson Plan (rev. 11/30/01)]

[NOTE: The original Attachment 3: Revised Form I-870 (rev. 3/22/99)  
has since been superseded by:  
Attachment 3: Revised Form I-870 (rev. 01/19/01)]

**United States Department of Justice**  
**Immigration and Naturalization Service**  
*Office of International Affairs*  
*Asylum Division*

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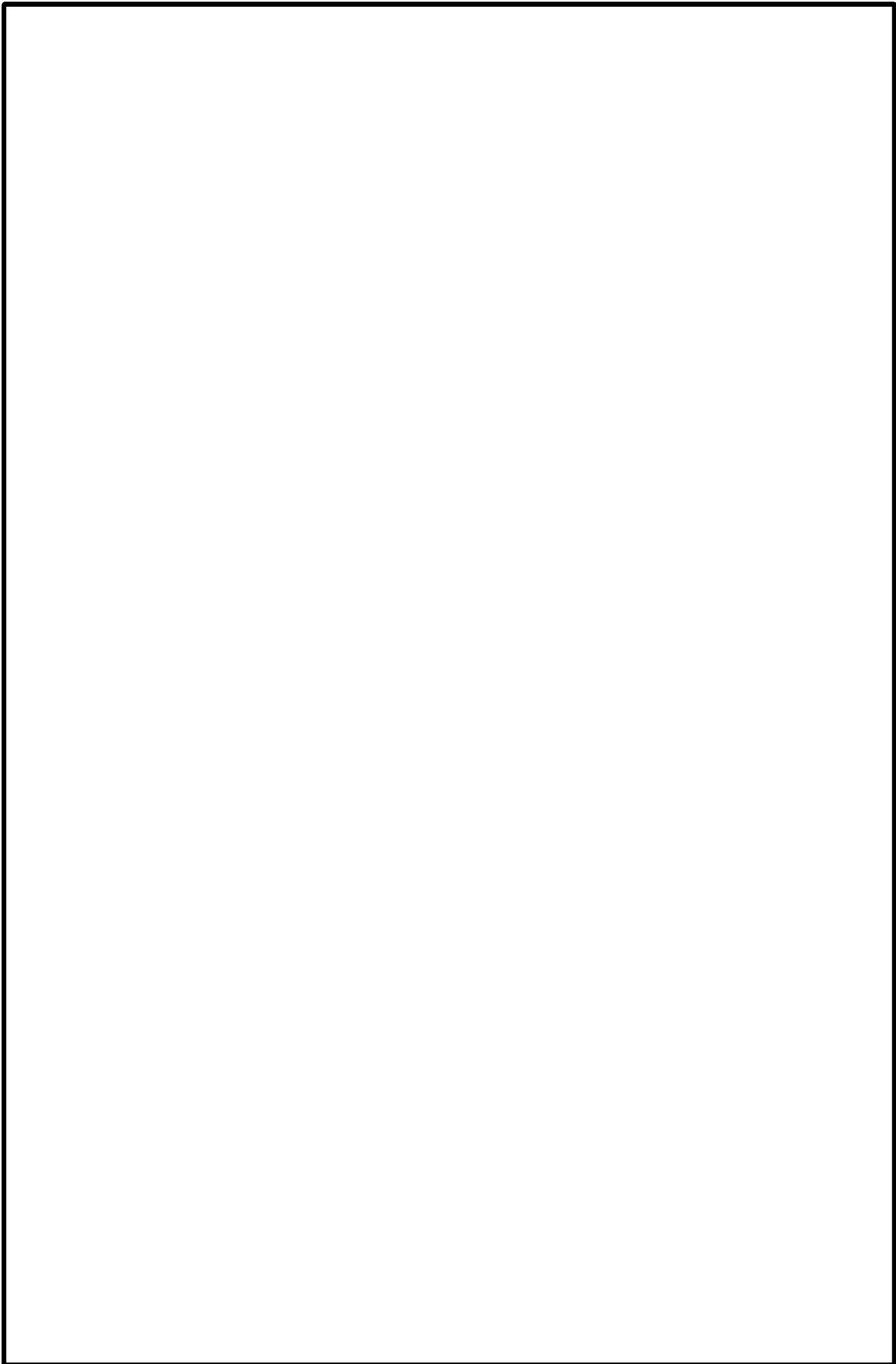
**CREDIBLE FEAR PROCEDURES MANUAL**

**DRAFT (APRIL 2002)**



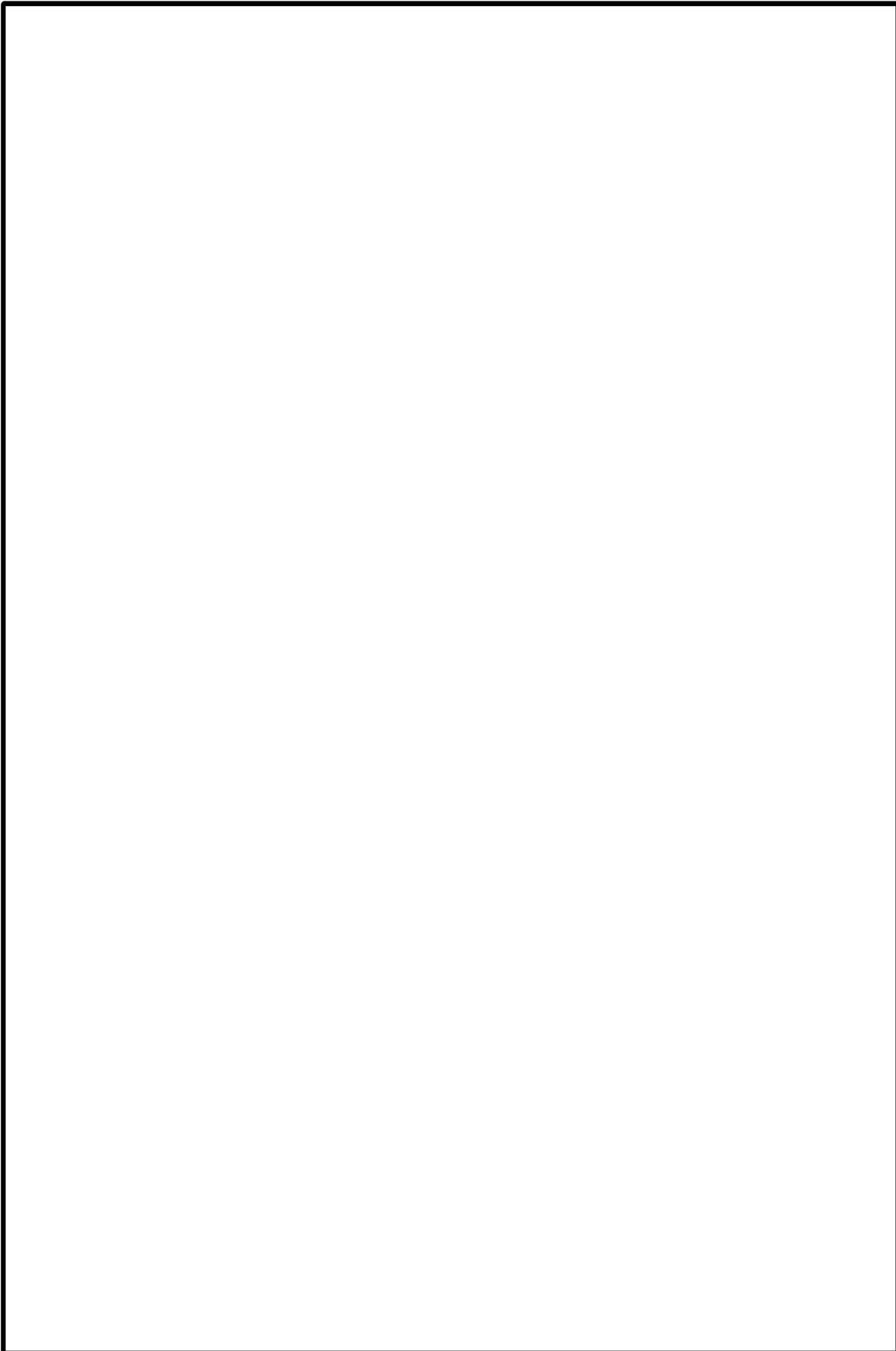


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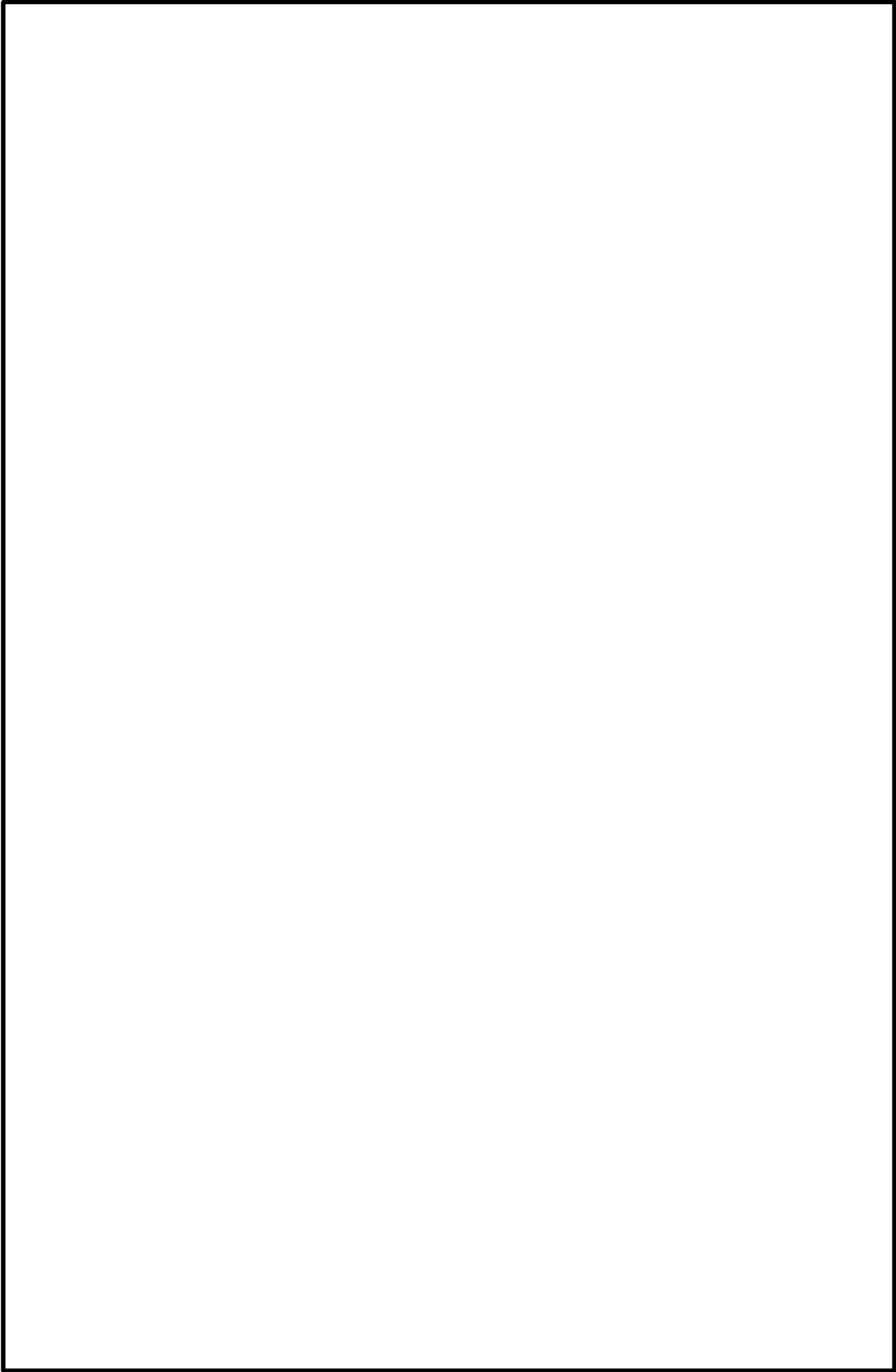


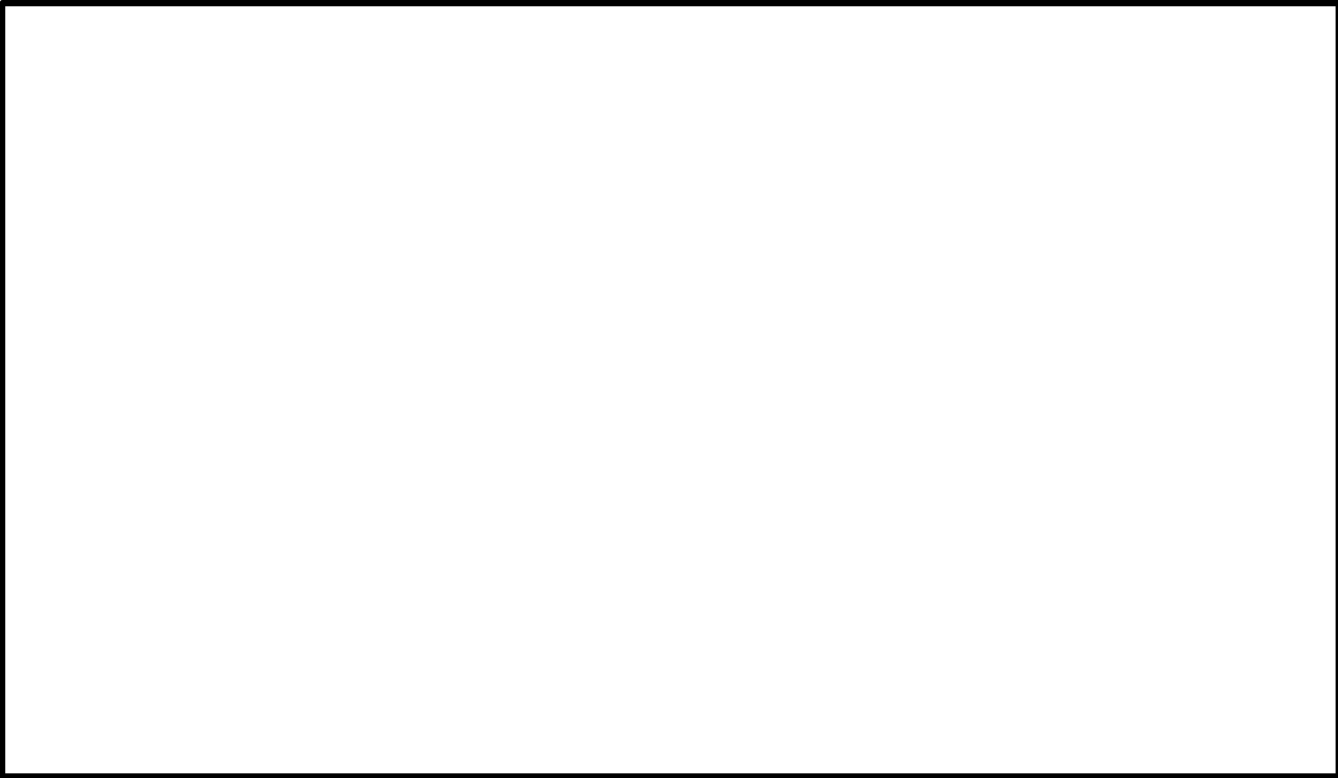
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## **I. BACKGROUND INFORMATION**



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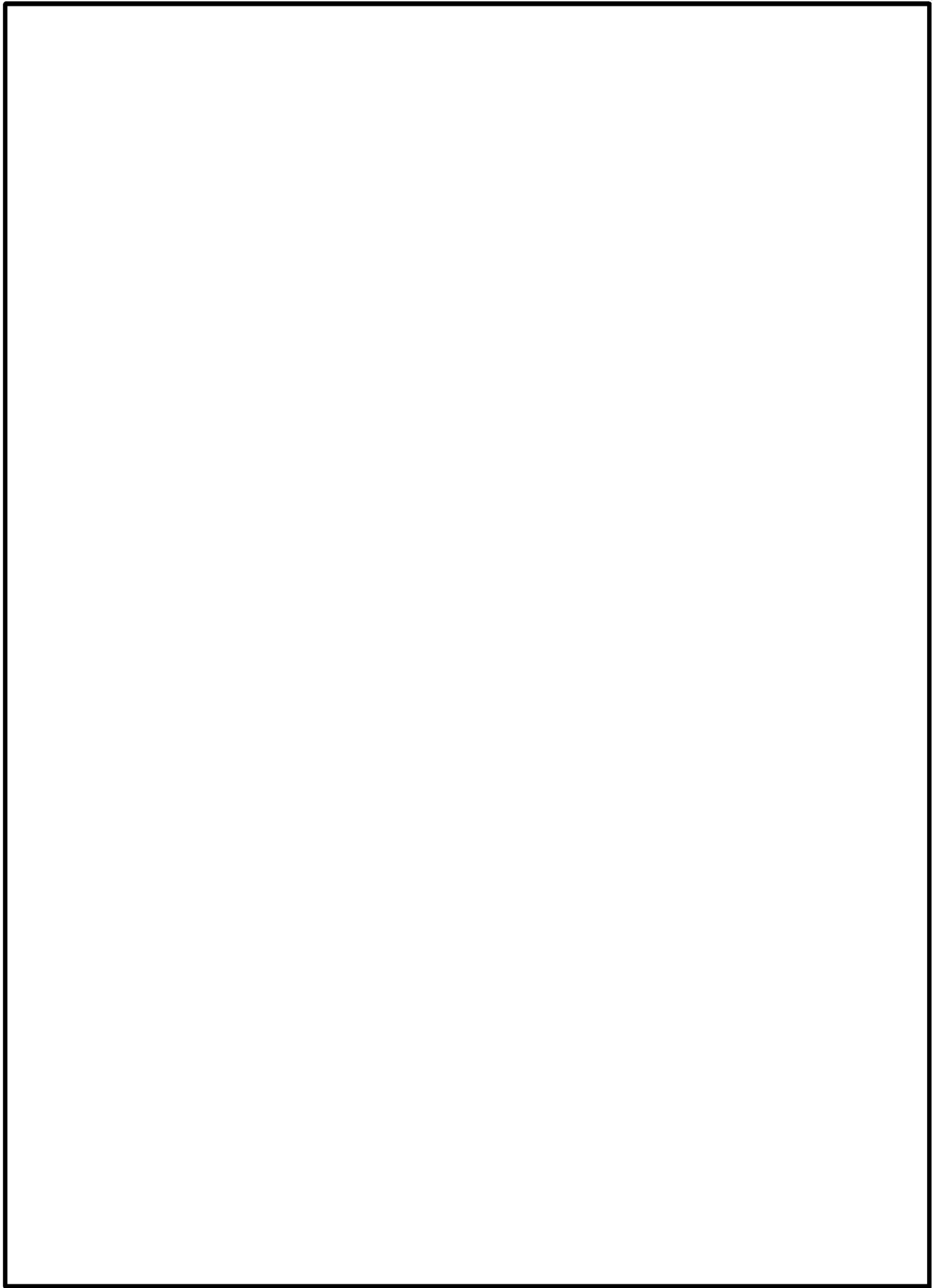


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## **II. THE EXPEDITED REMOVAL PROCESS**



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### **III. THE CREDIBLE FEAR PROCESS**

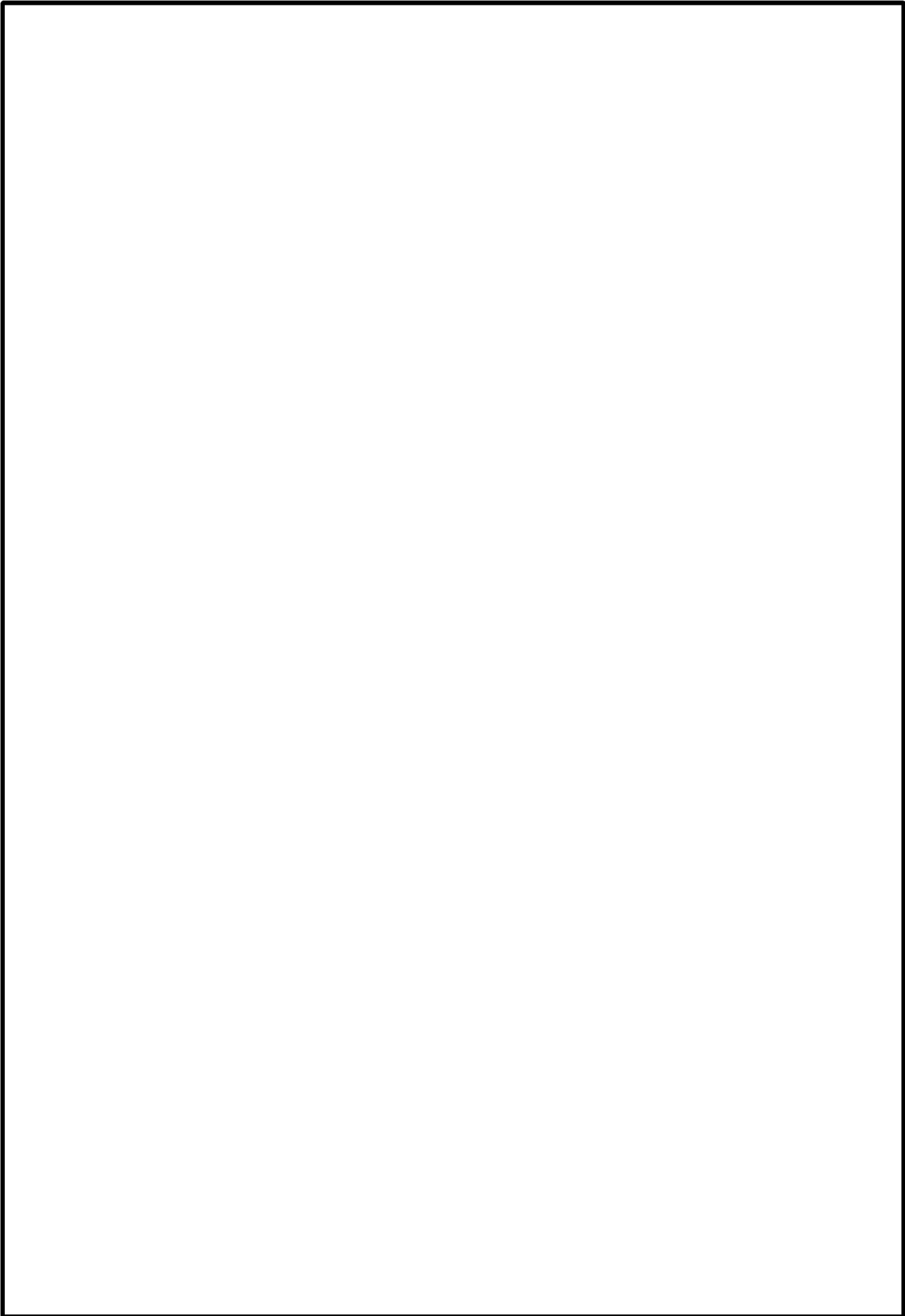


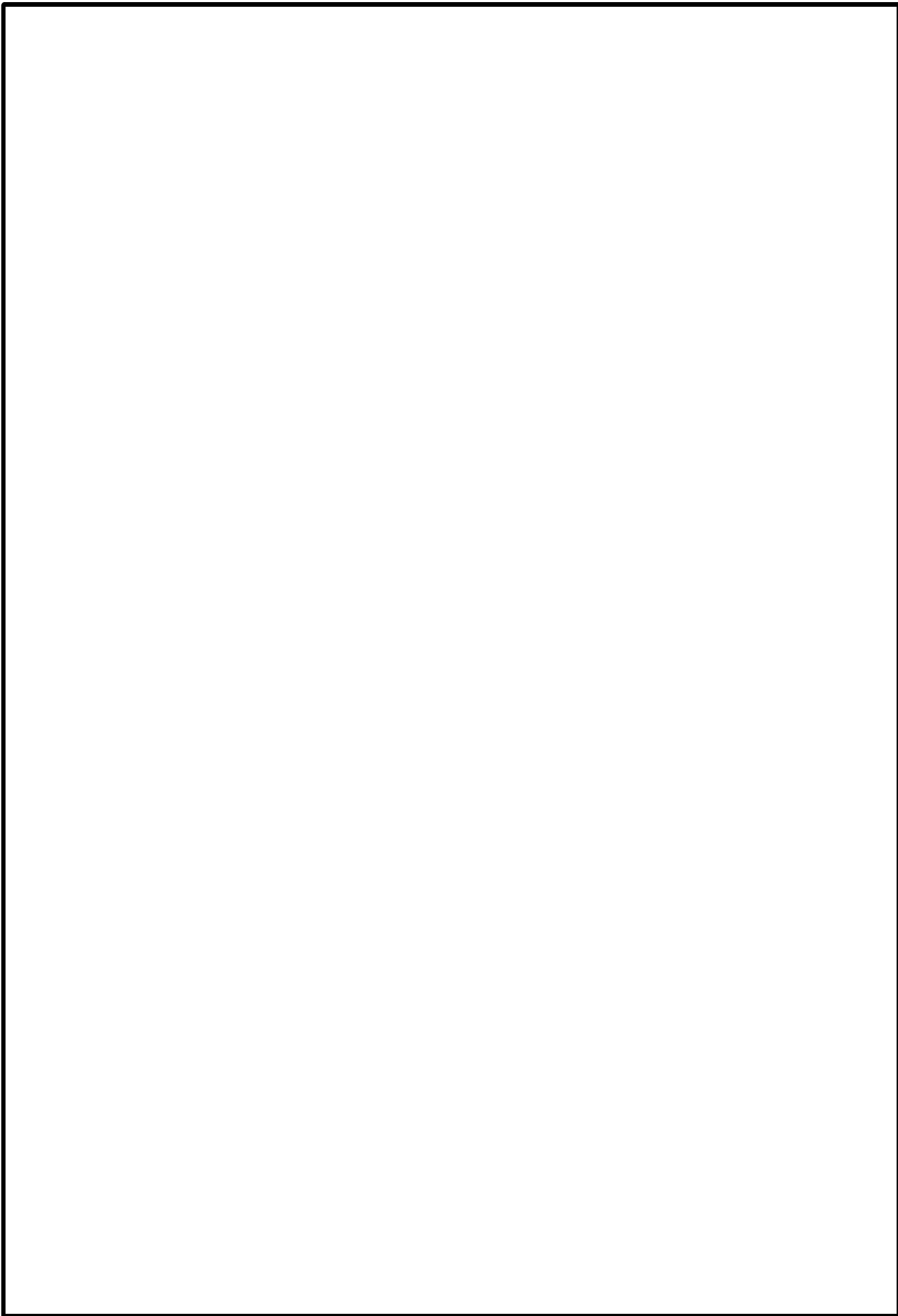
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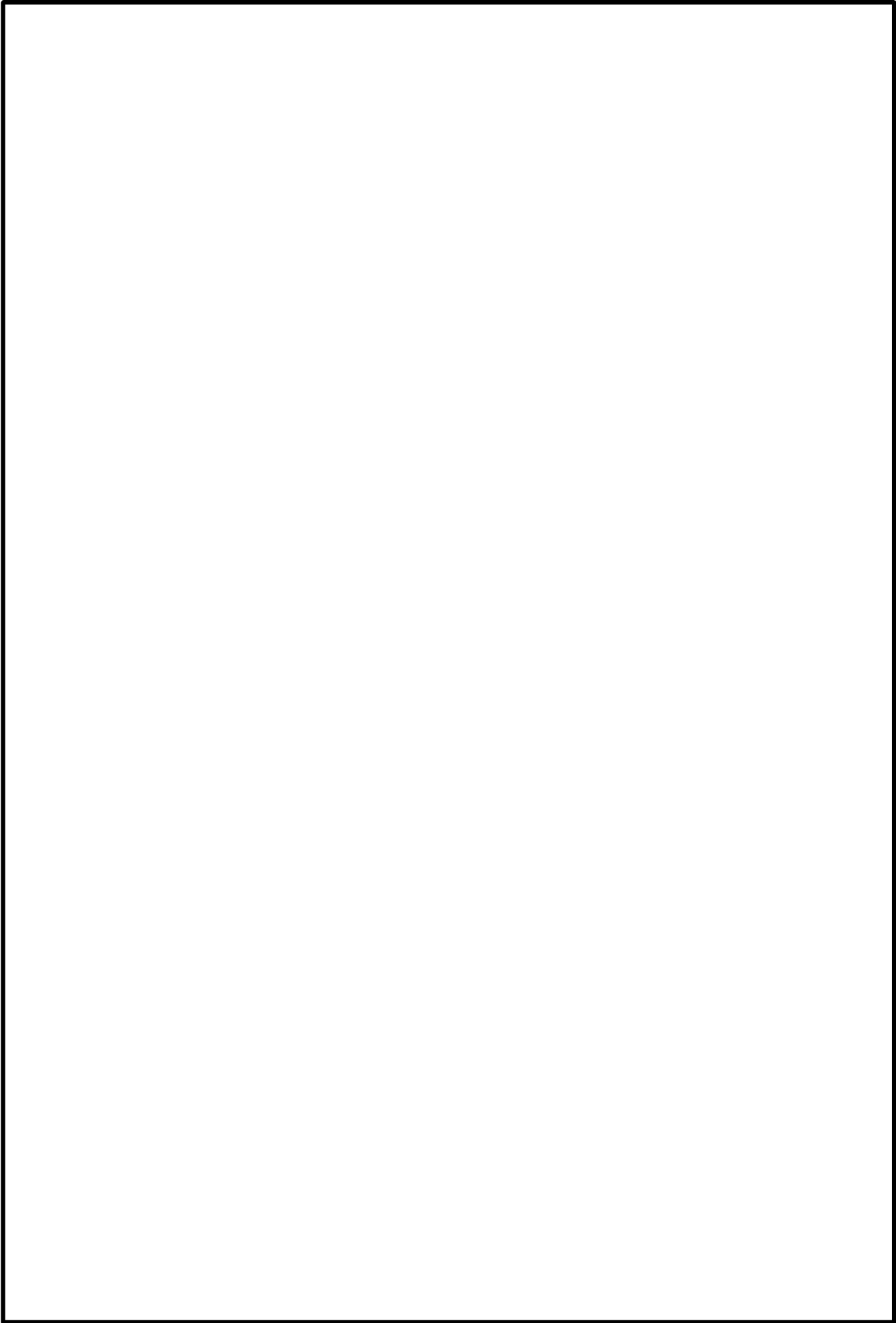


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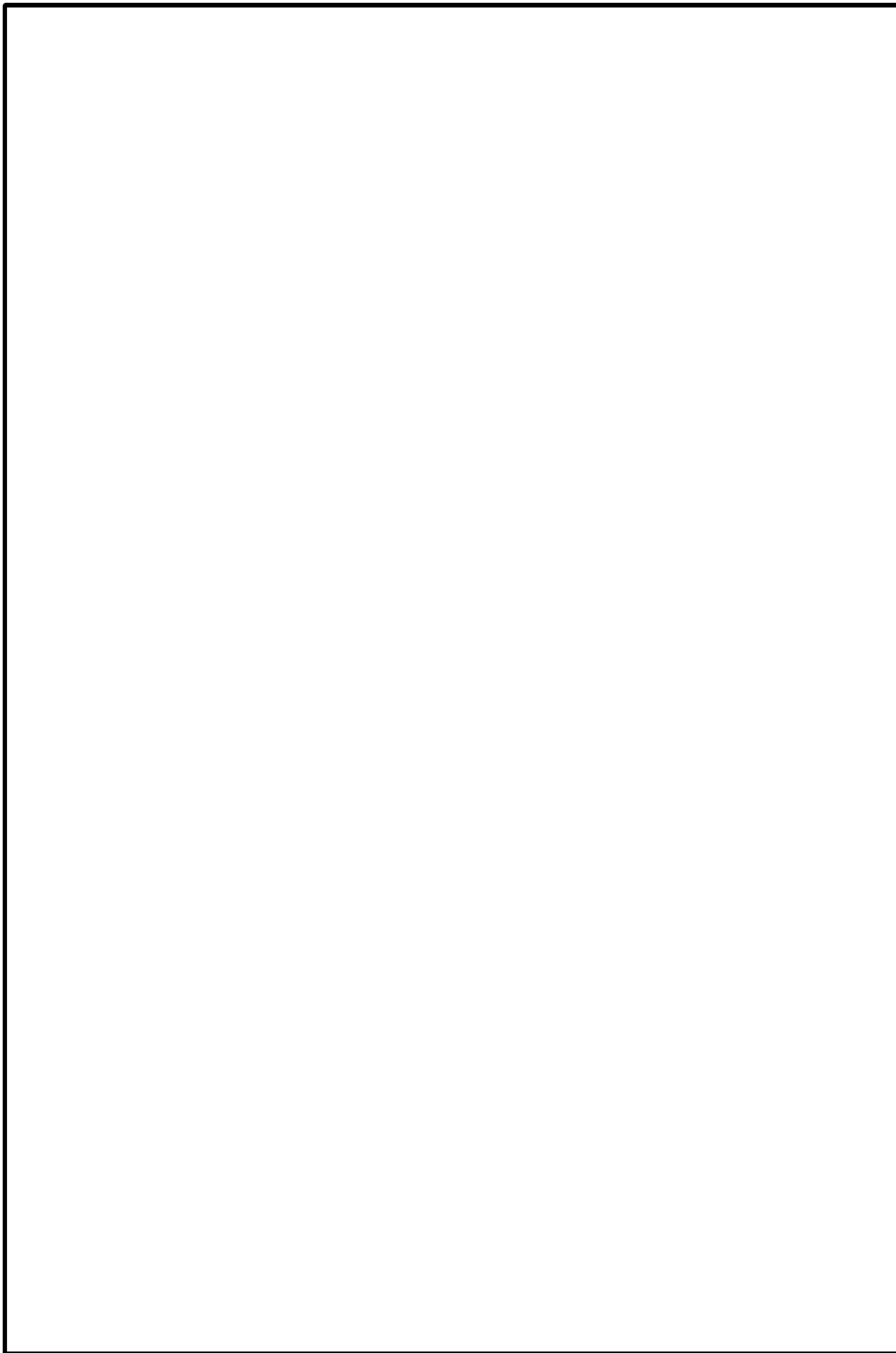


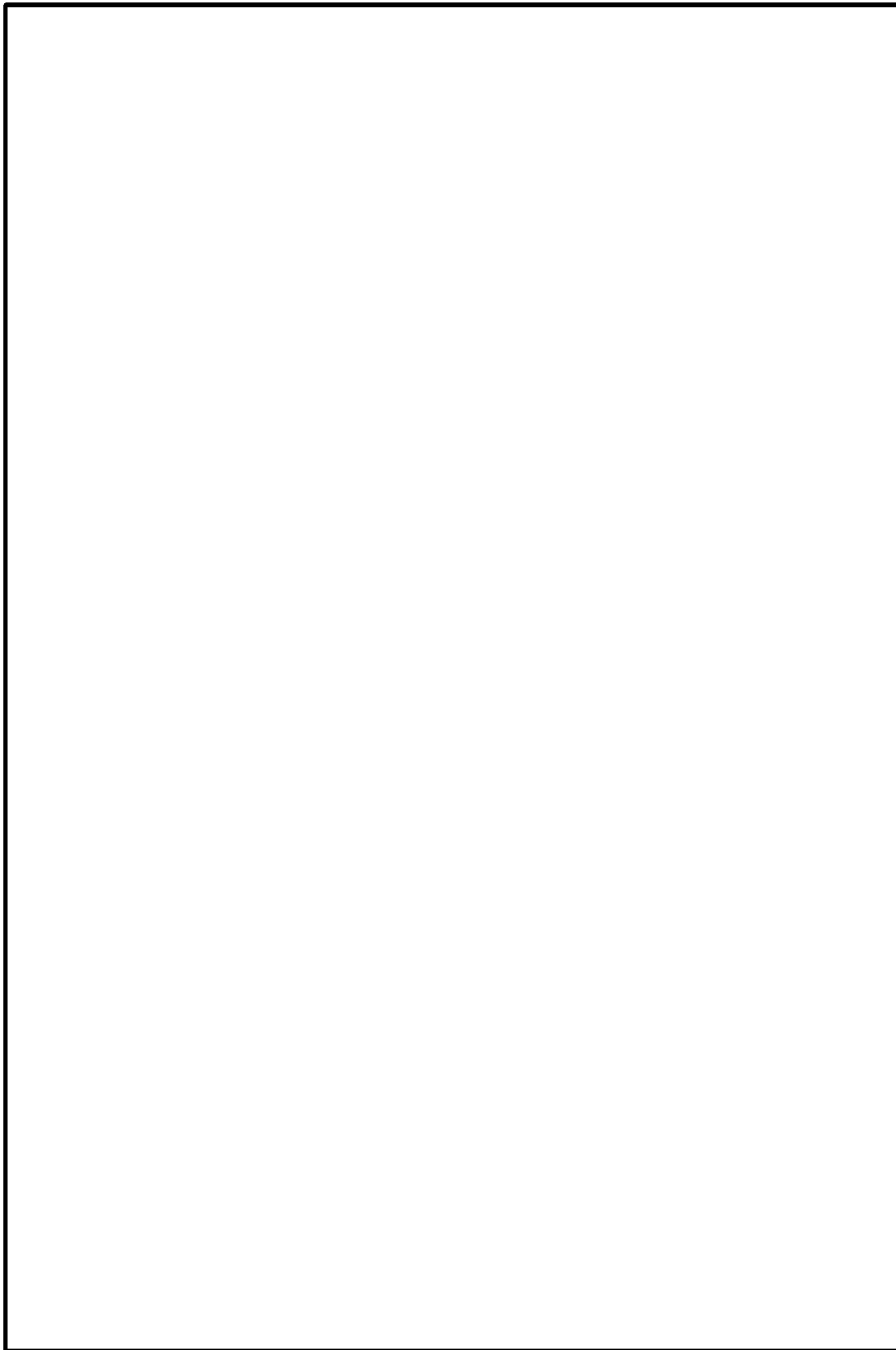


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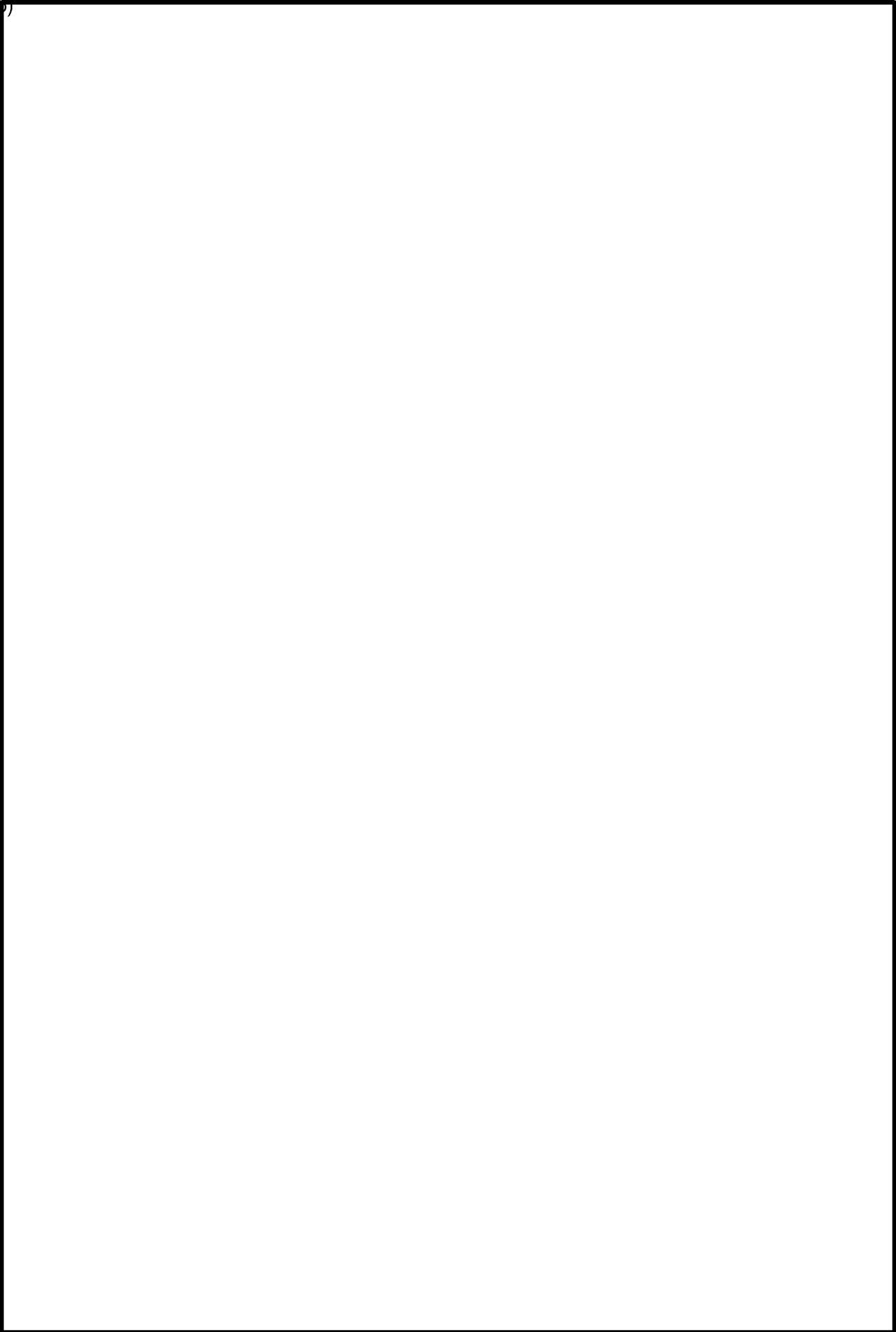


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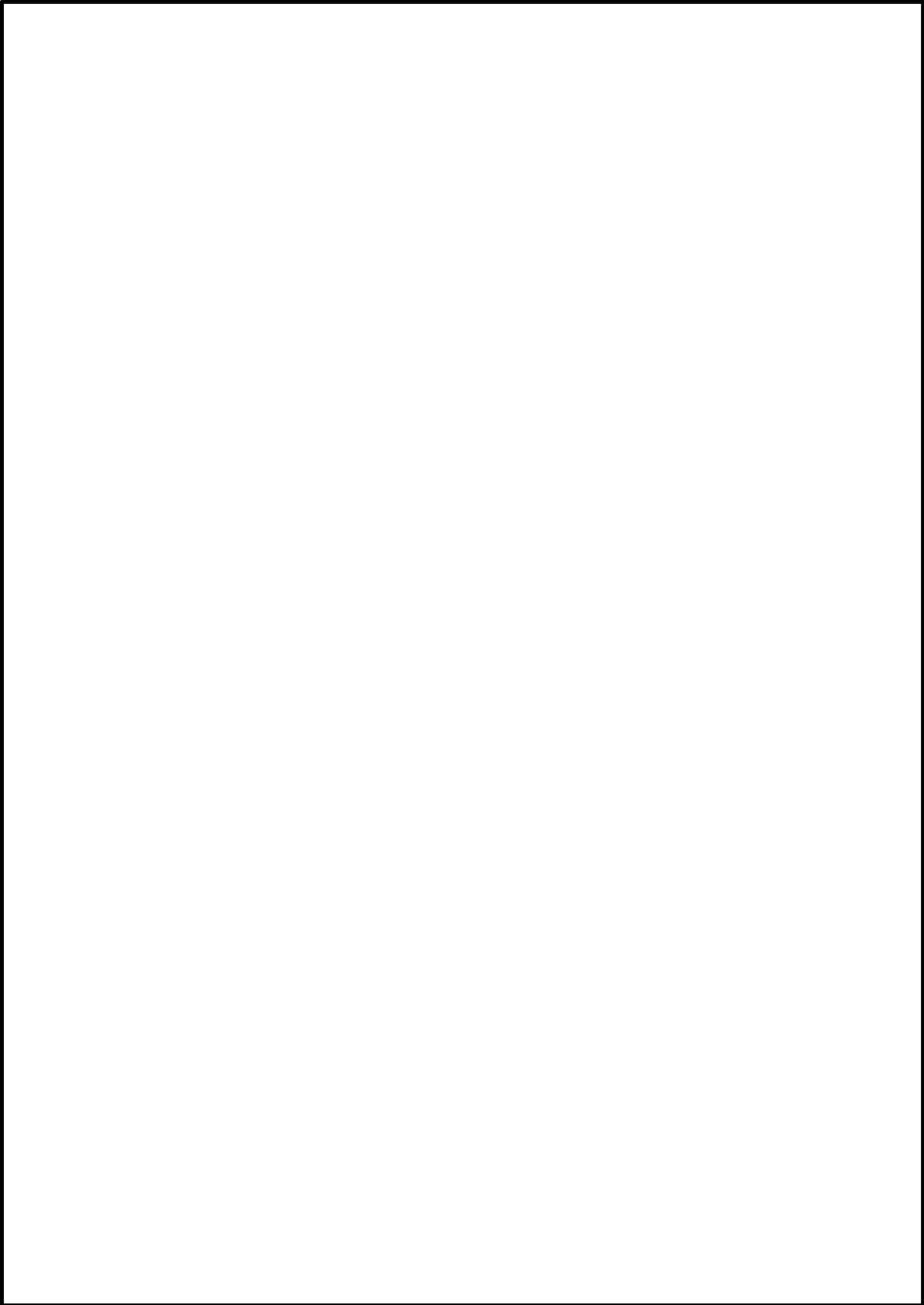


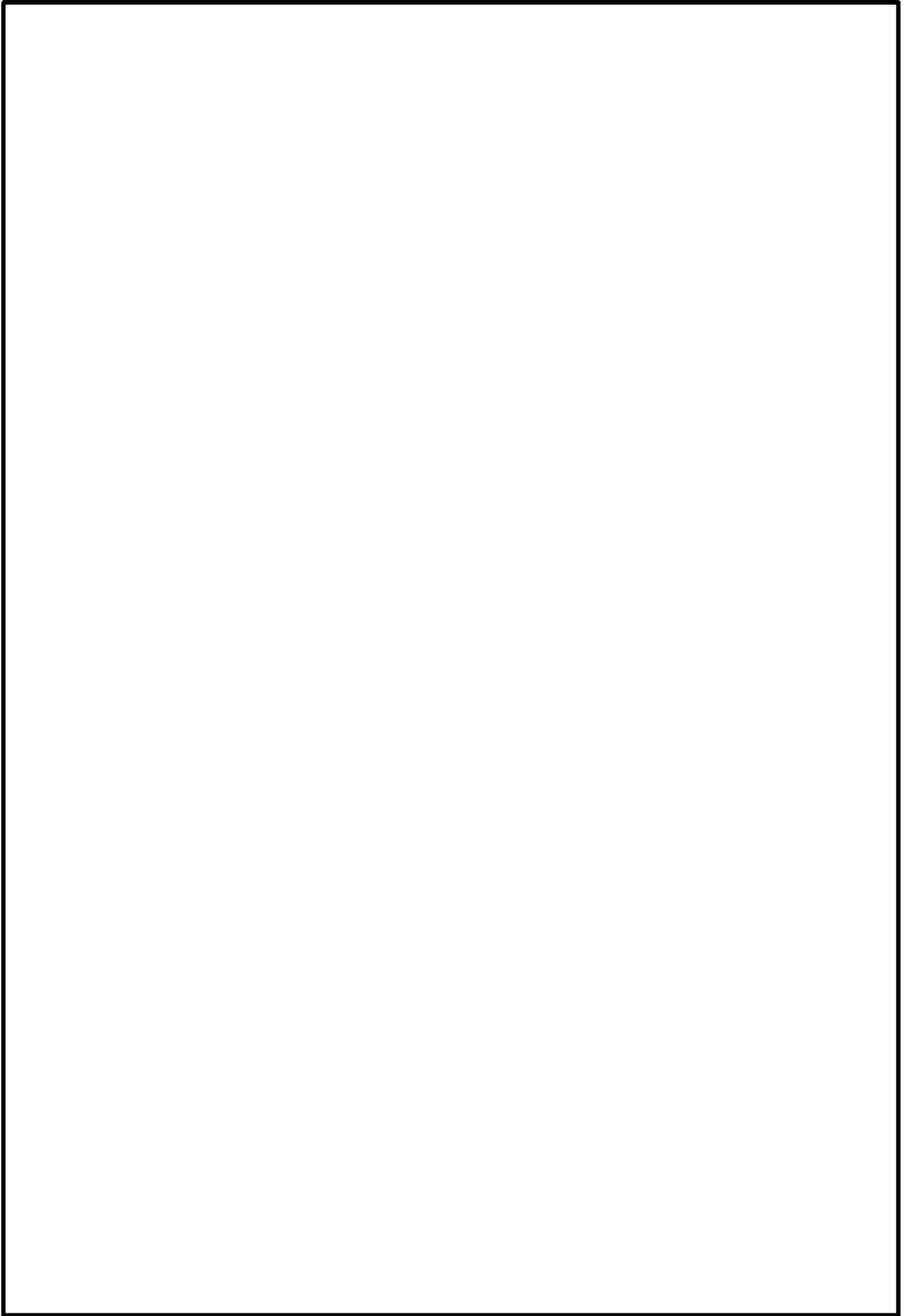


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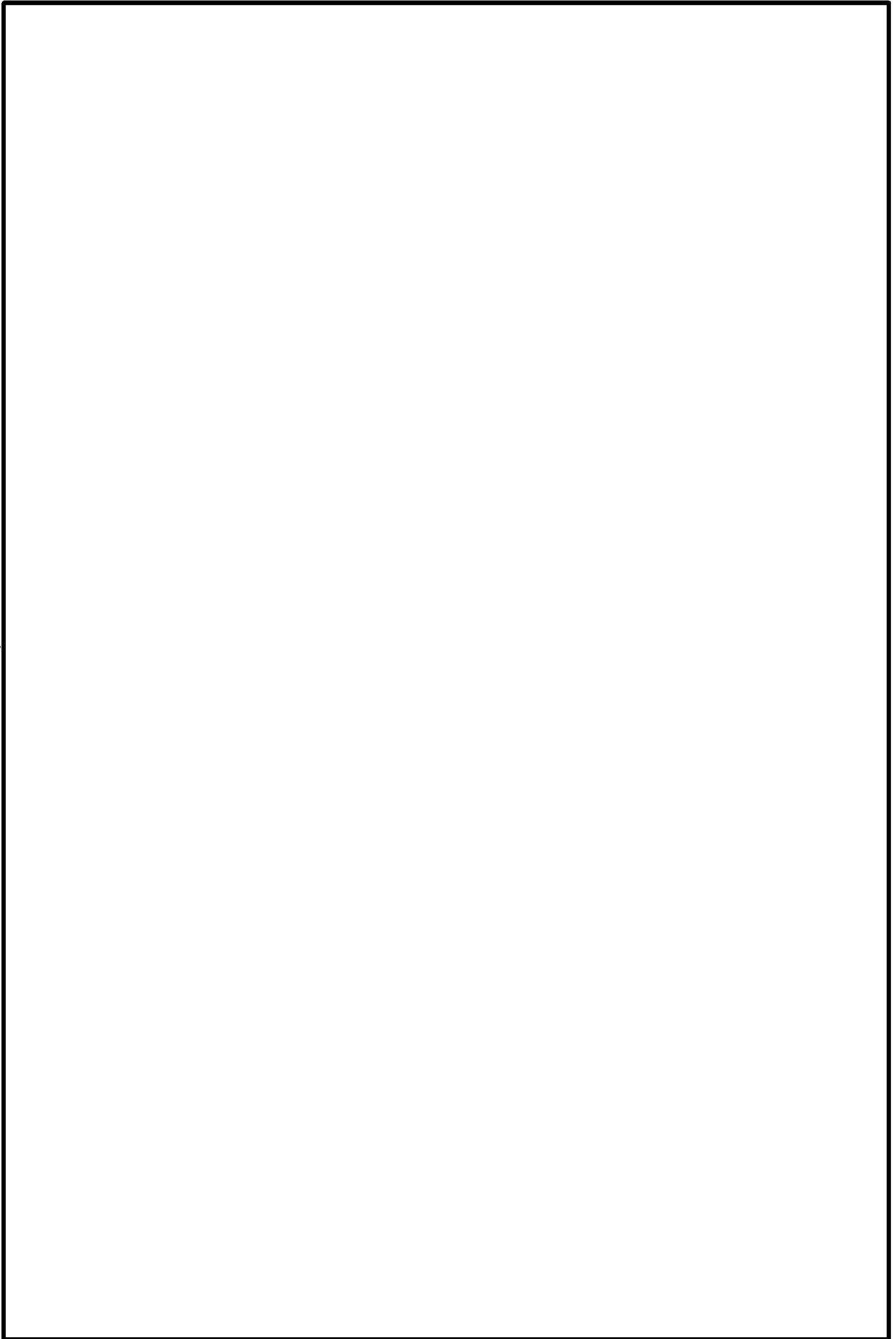


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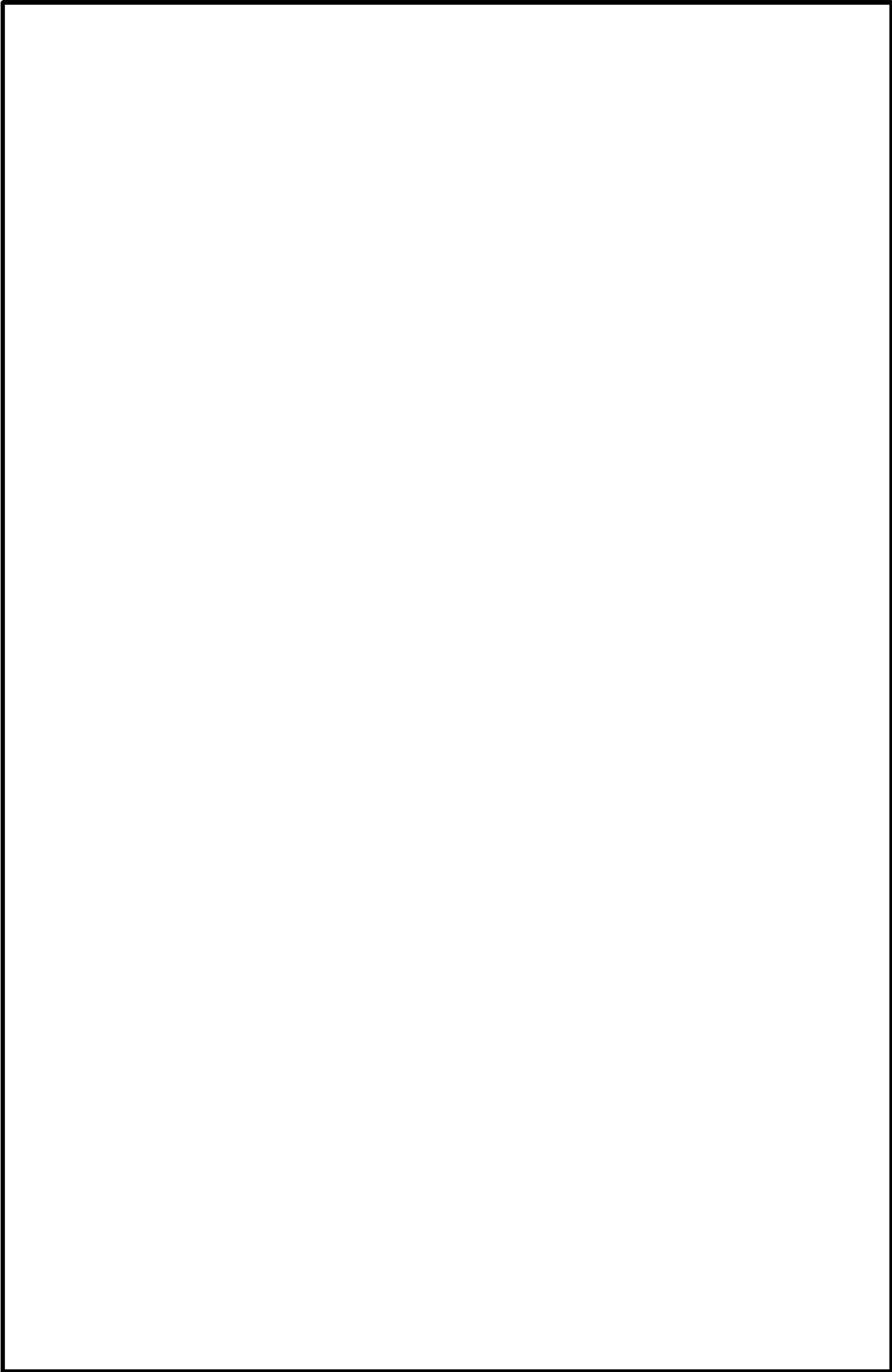


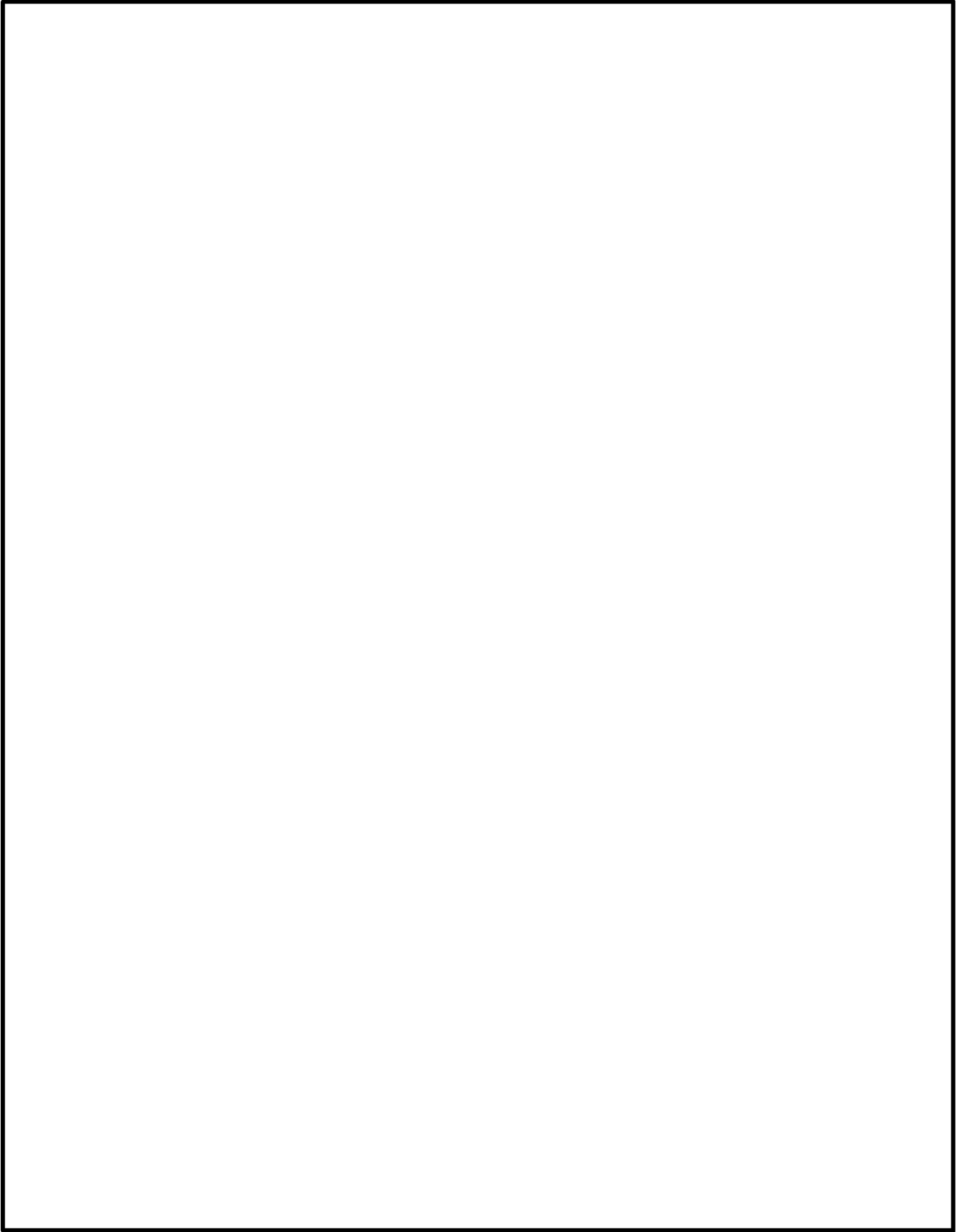




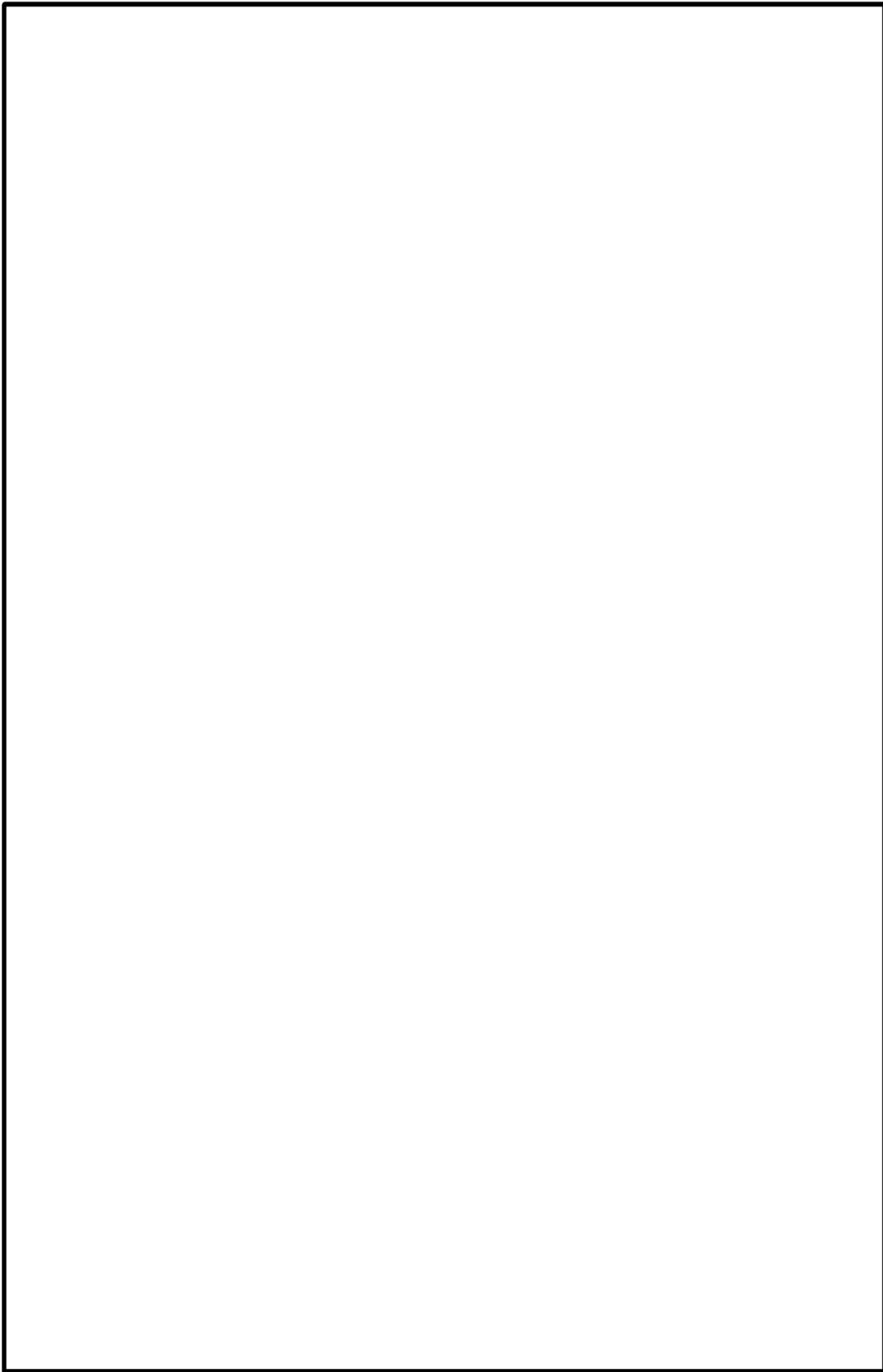


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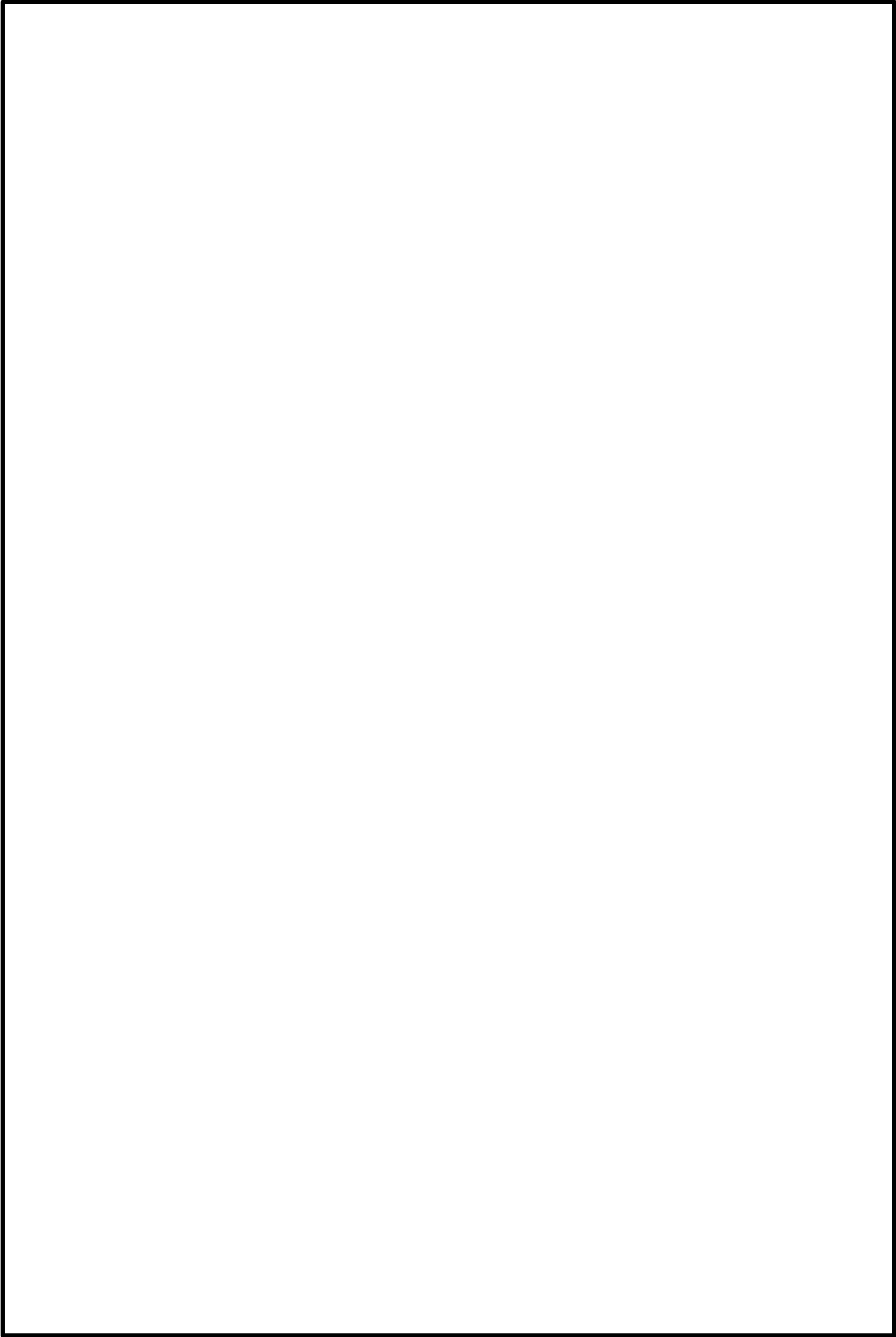




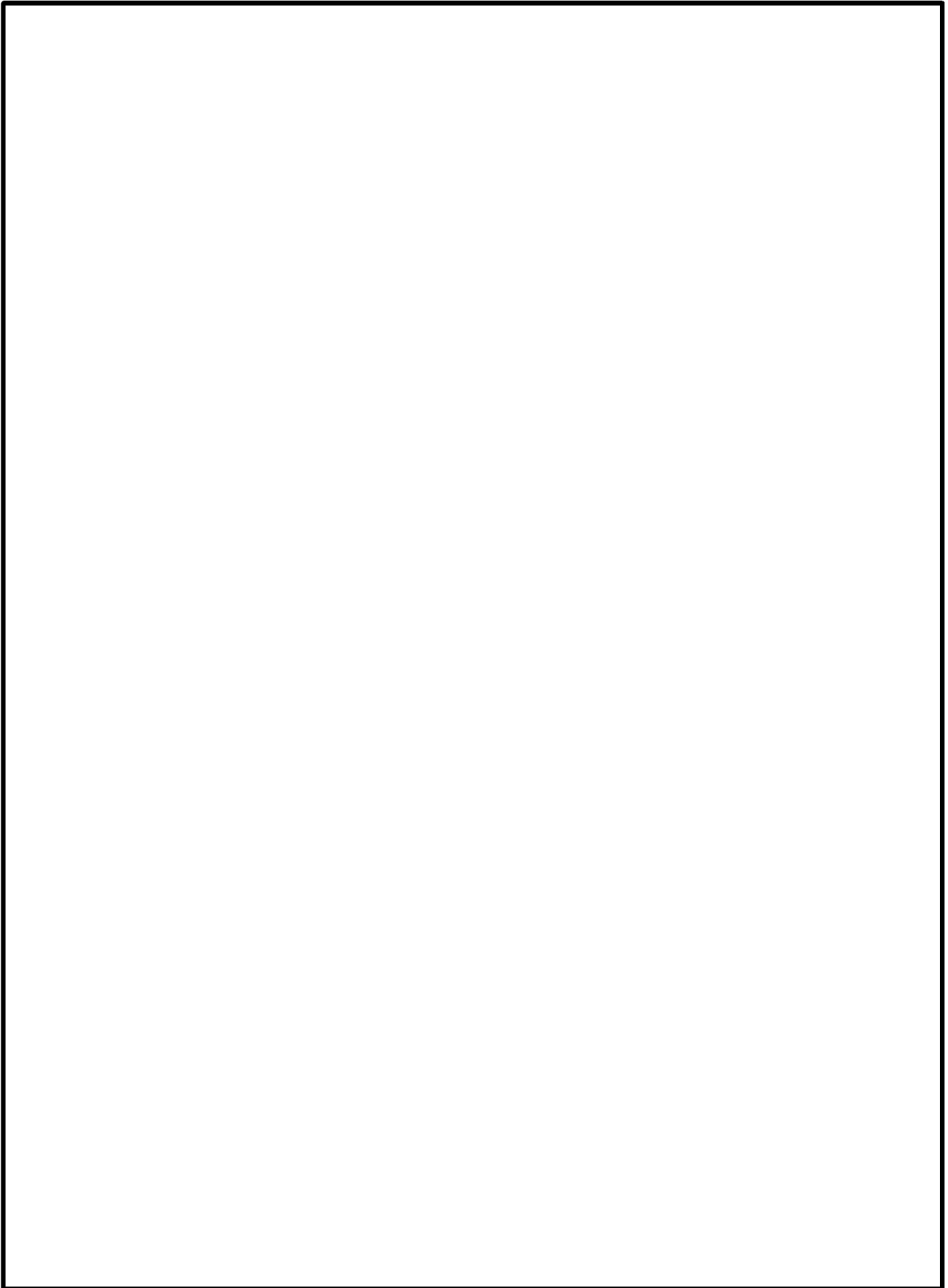
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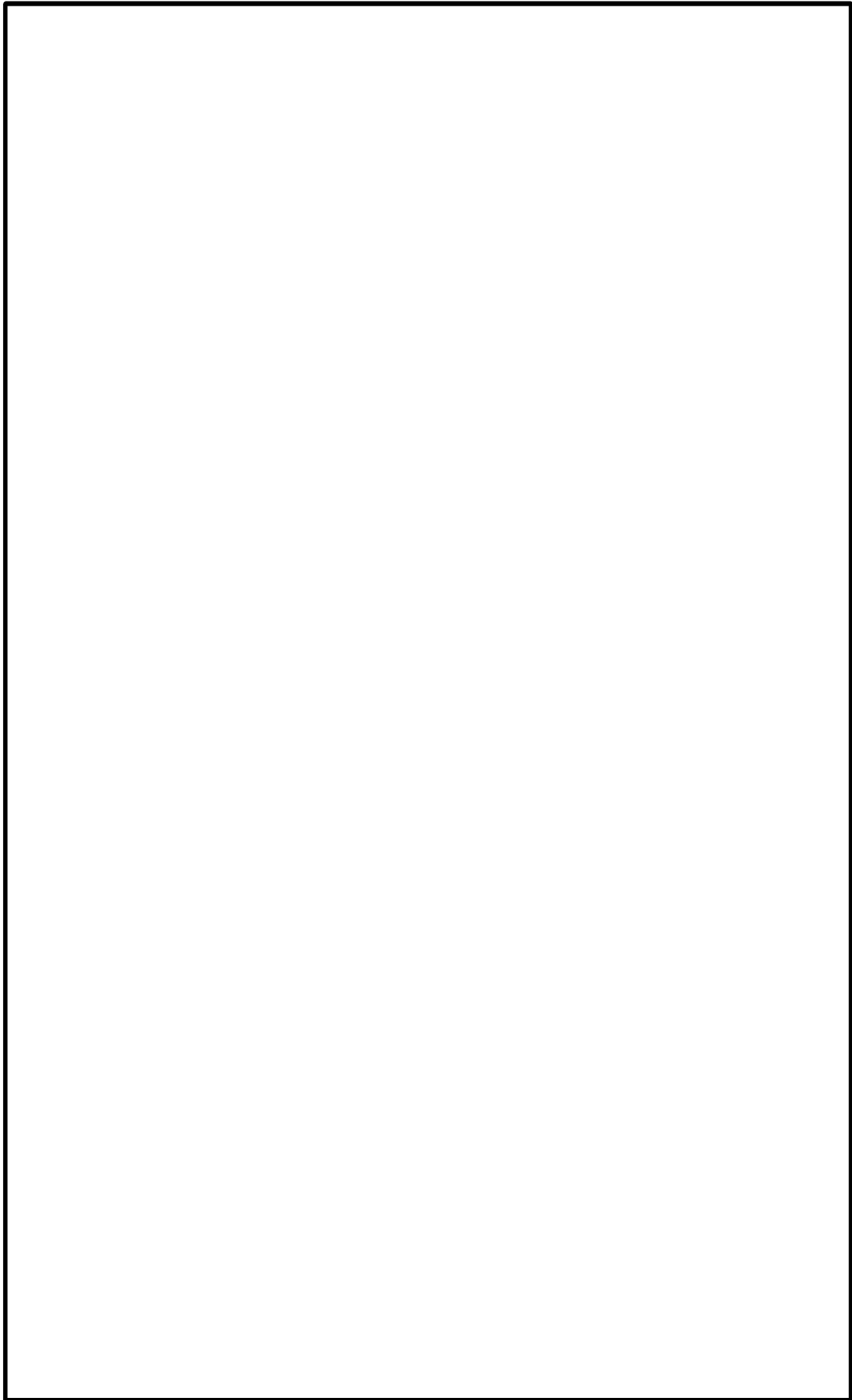
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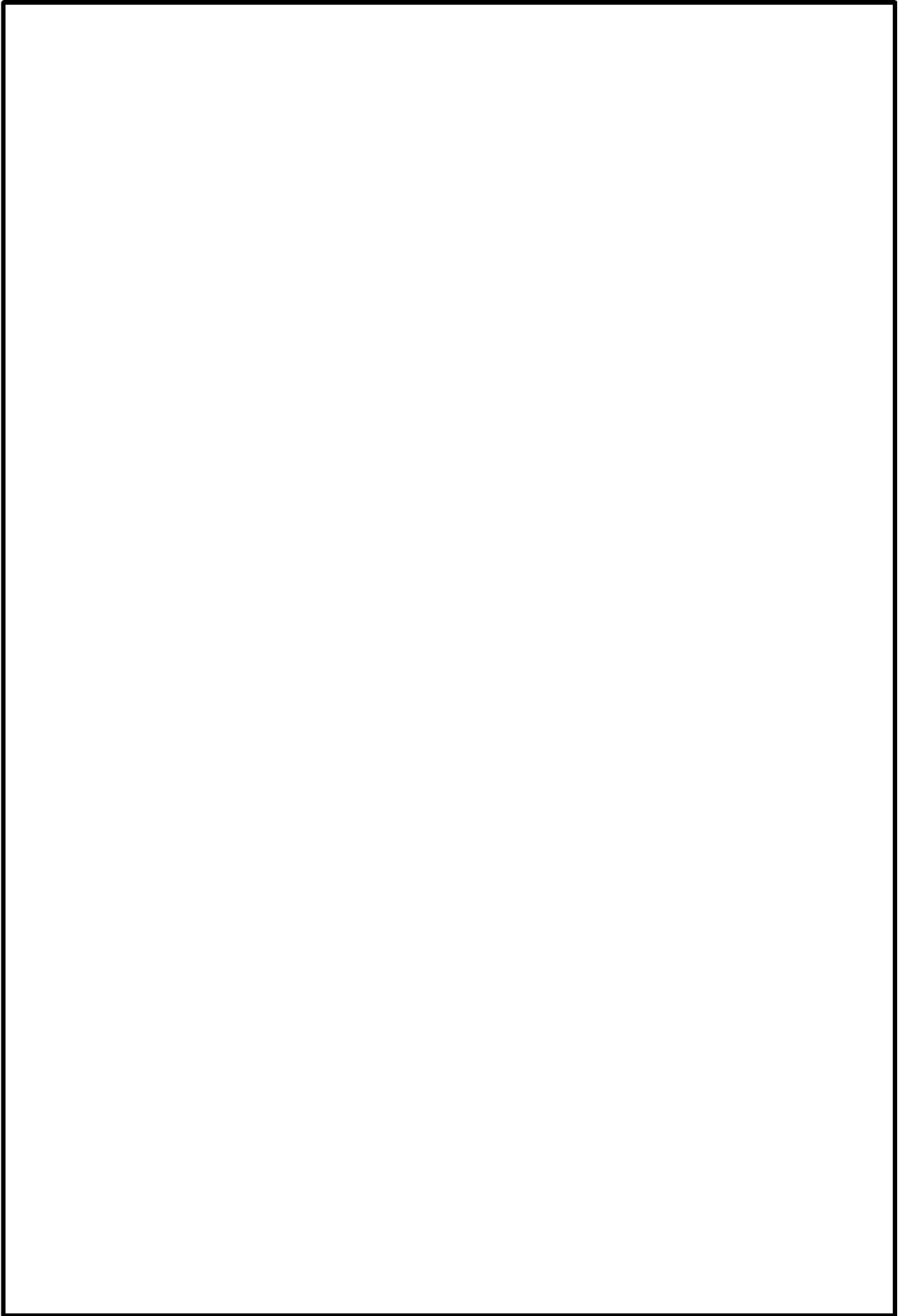
## G. RESEARCHING A CASE



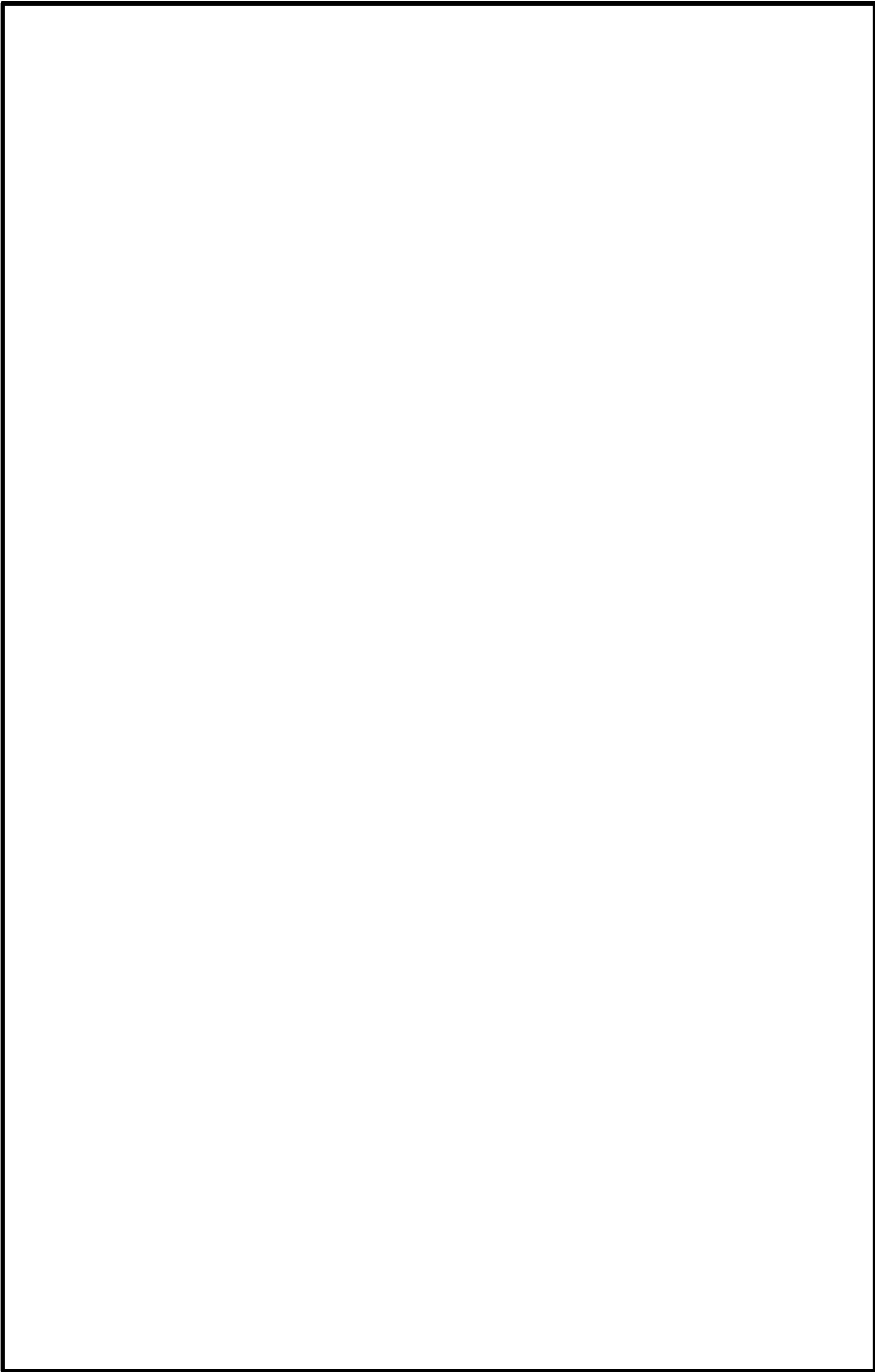
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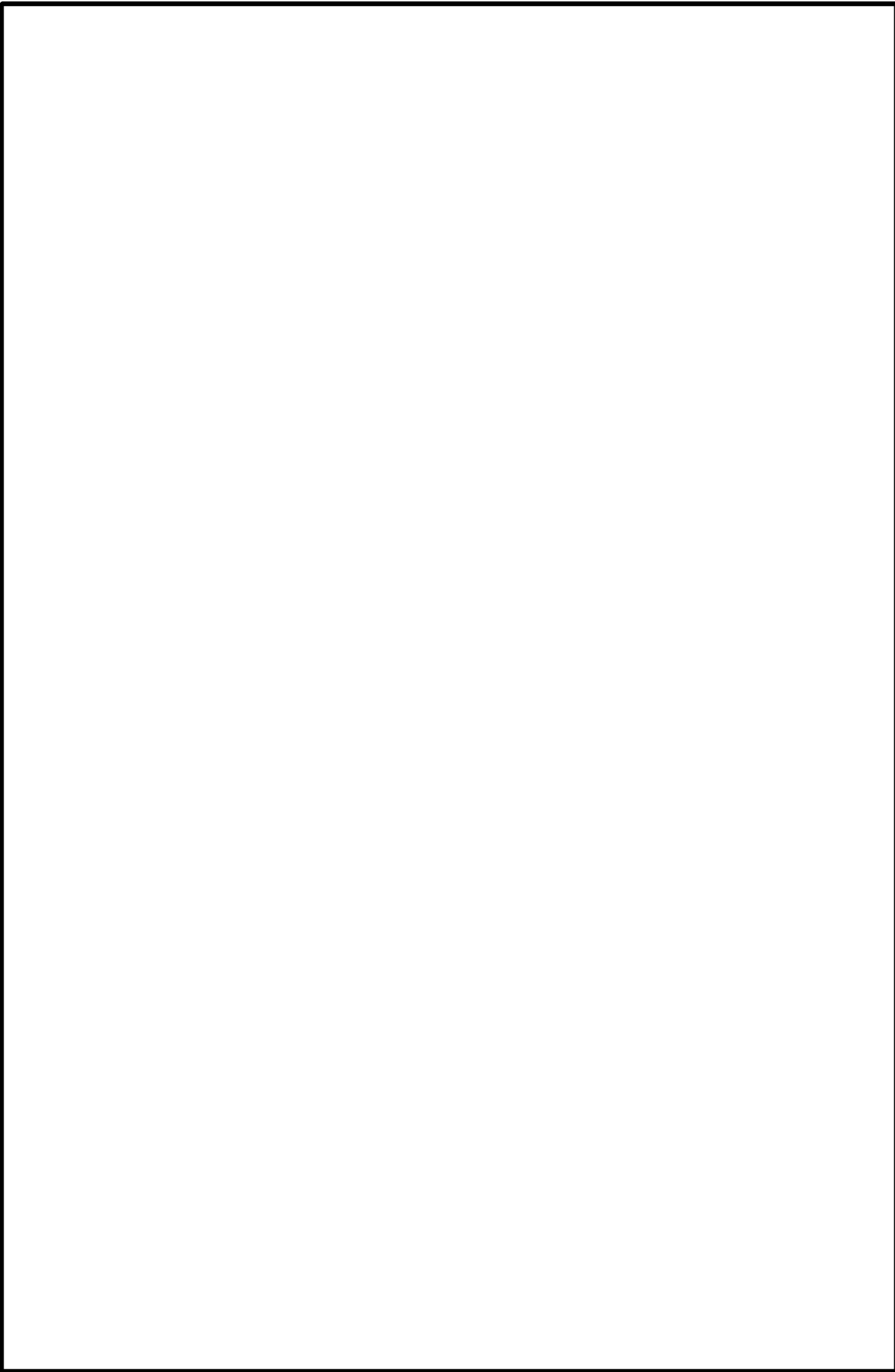




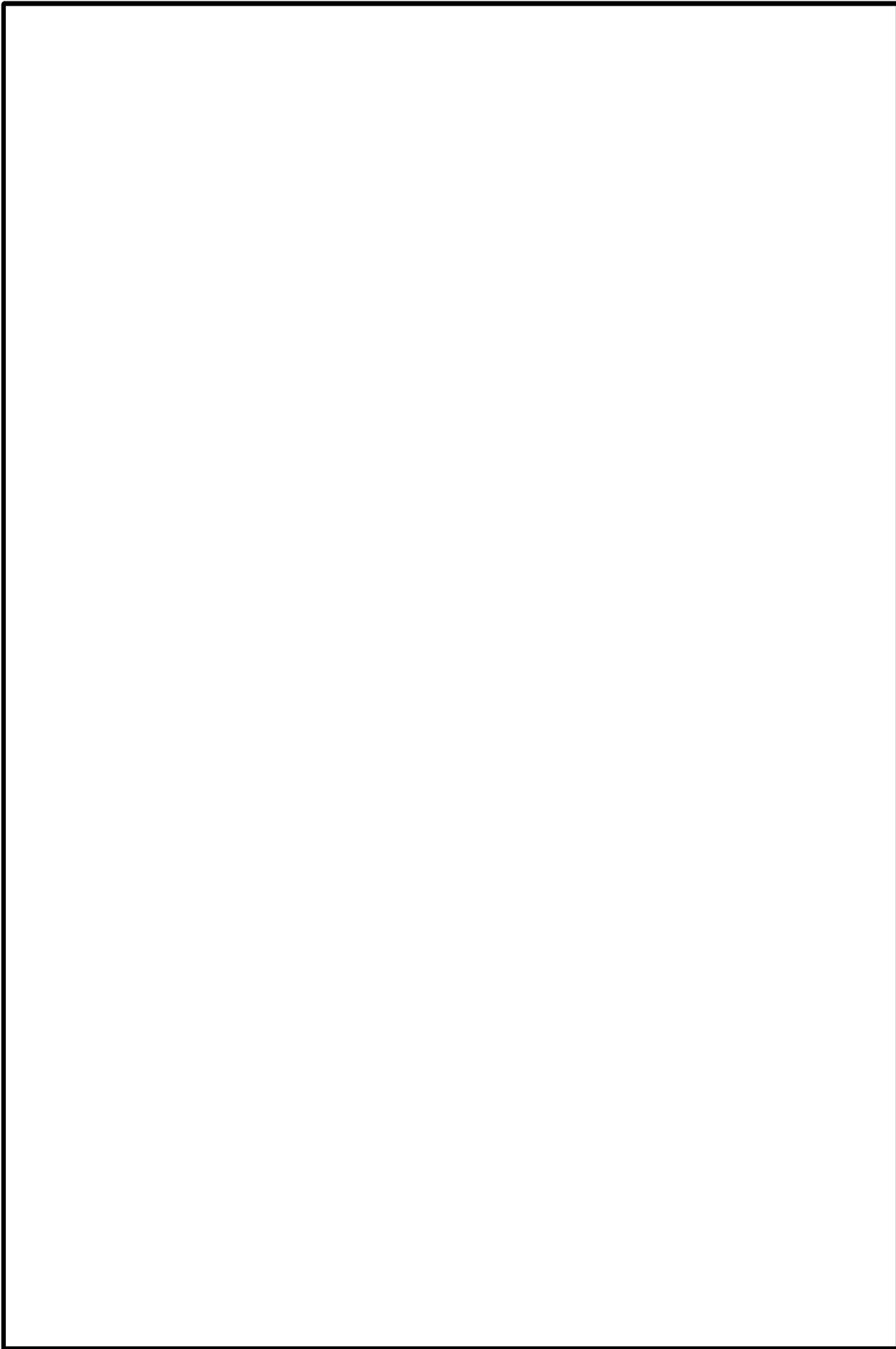
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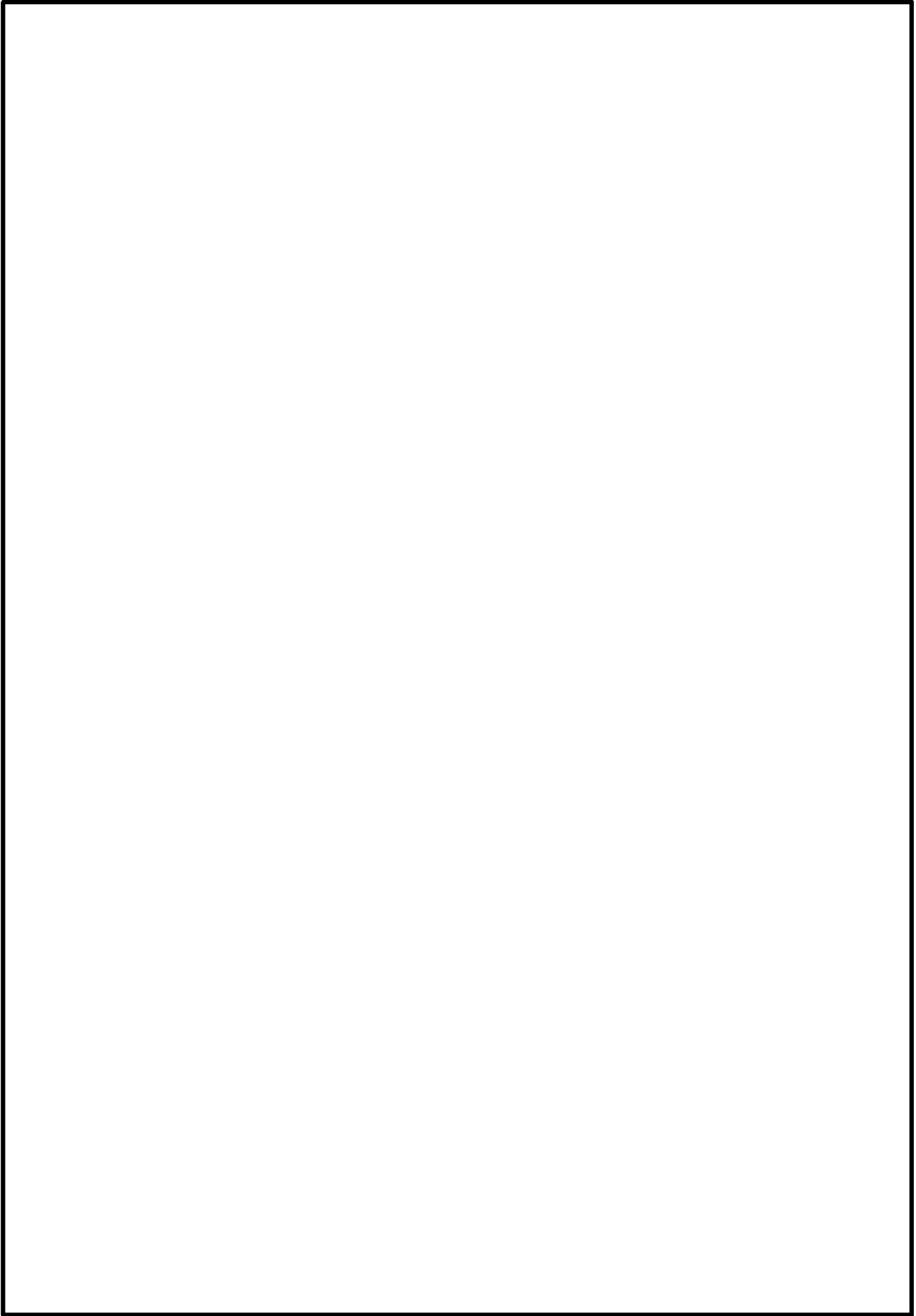
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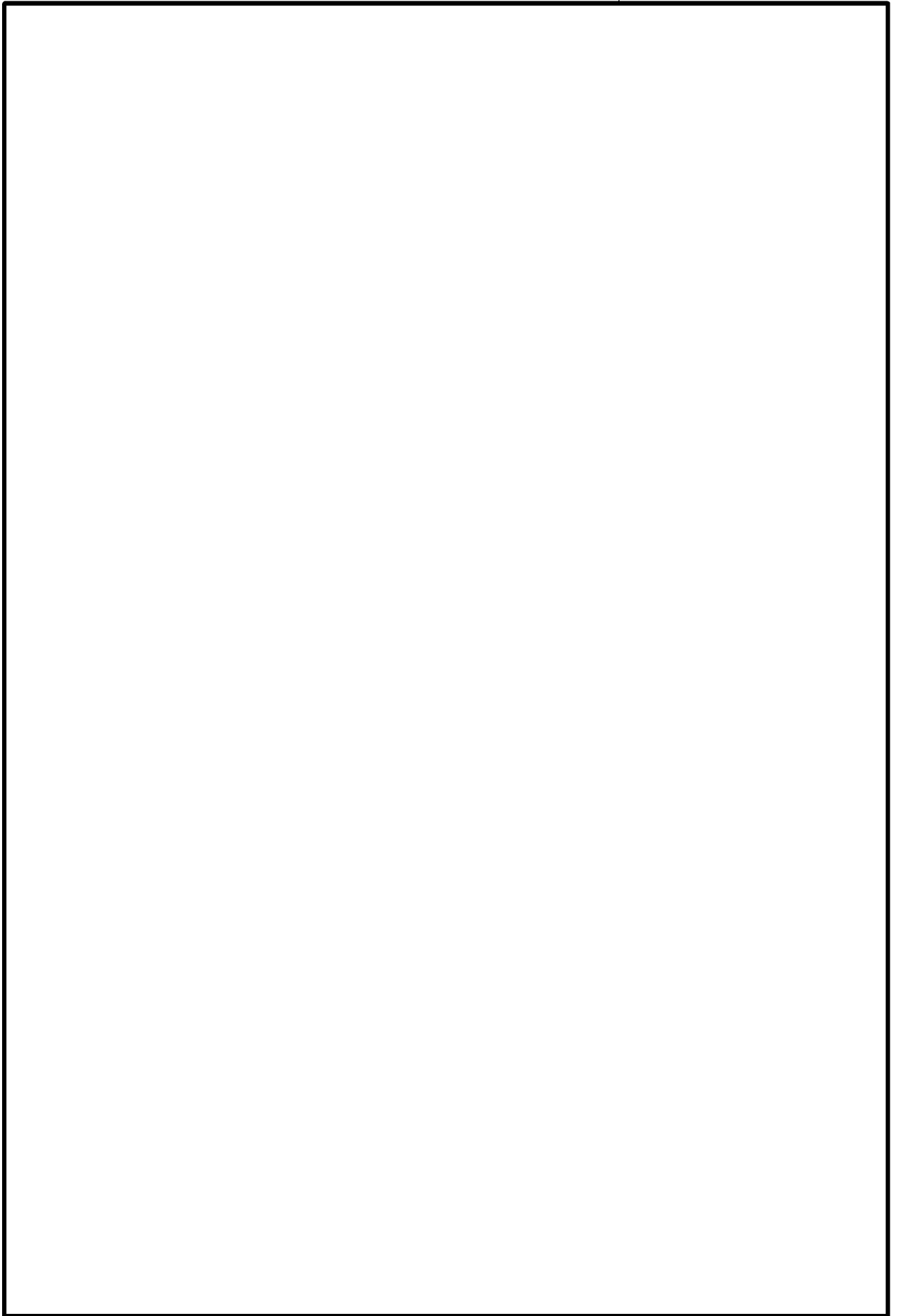
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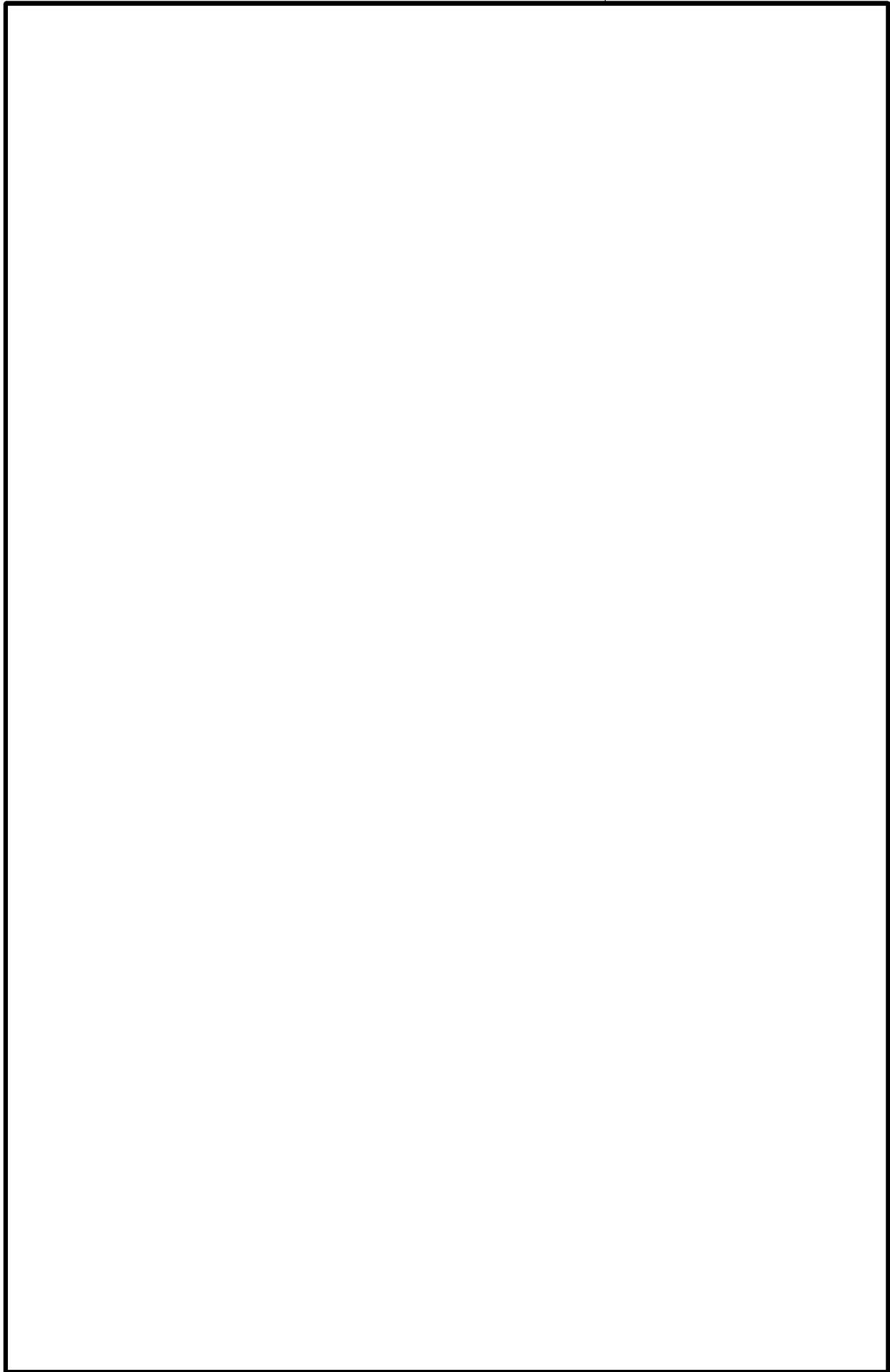


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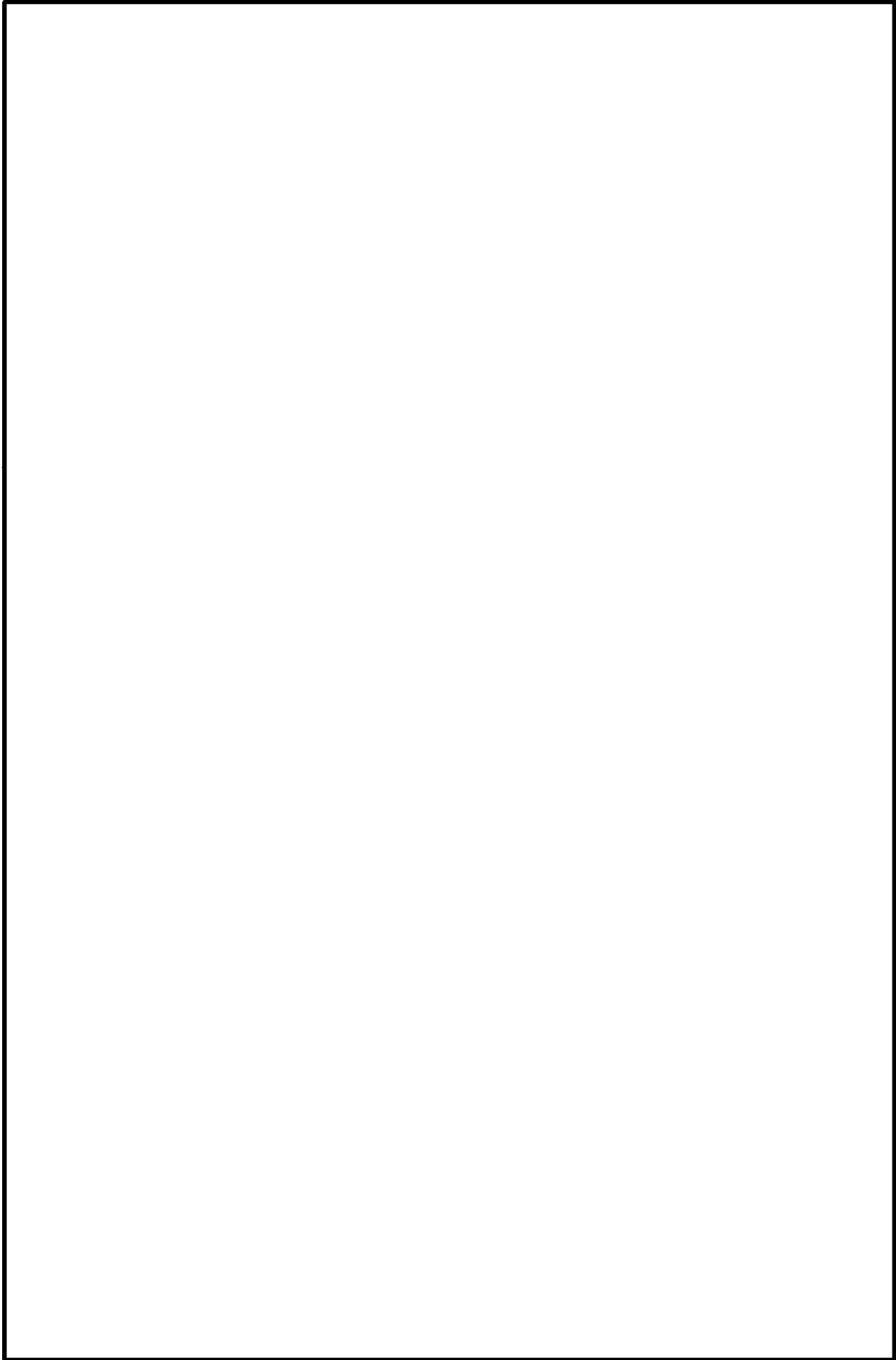


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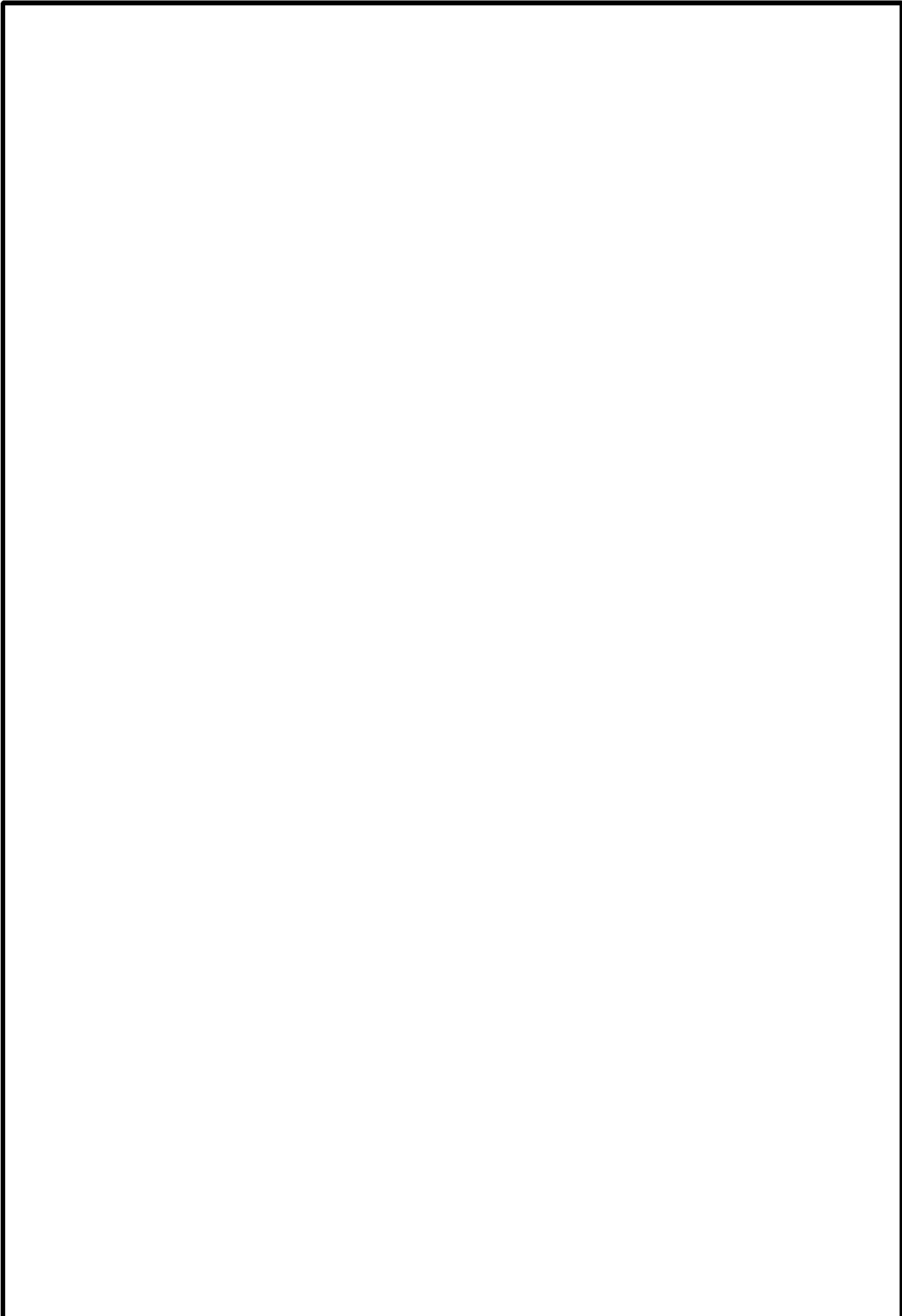
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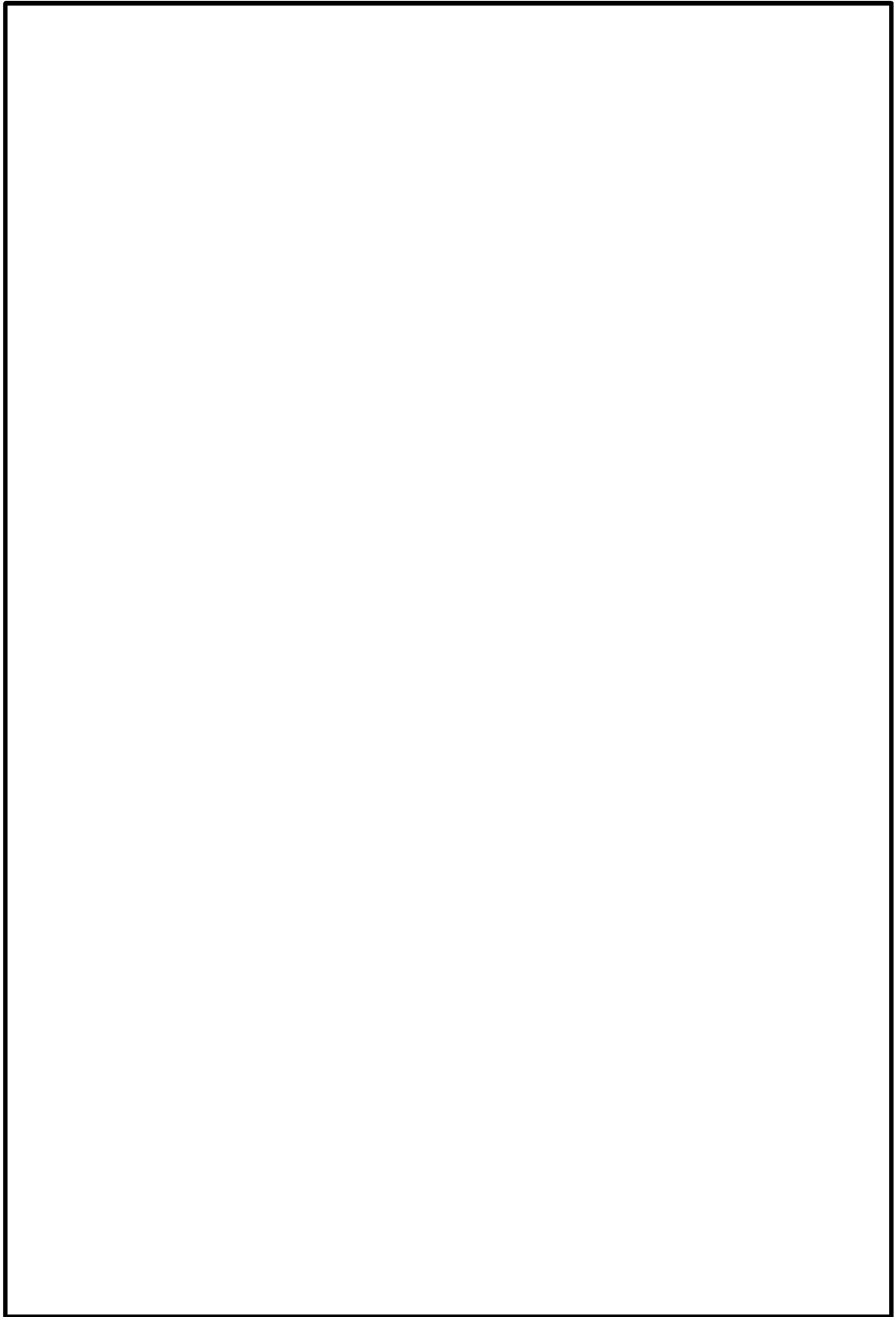




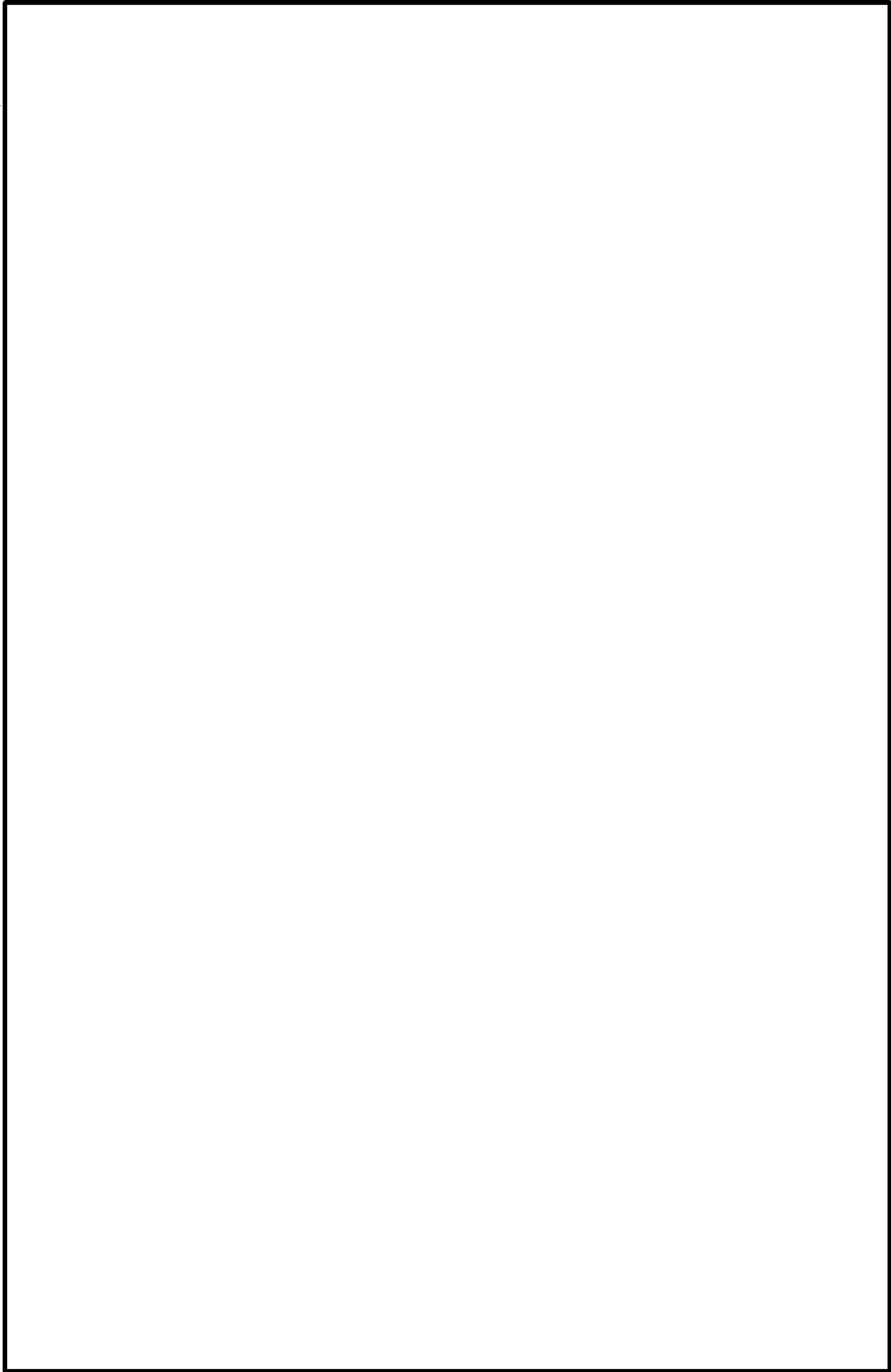
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**1. Positive Credible Fear Determination**

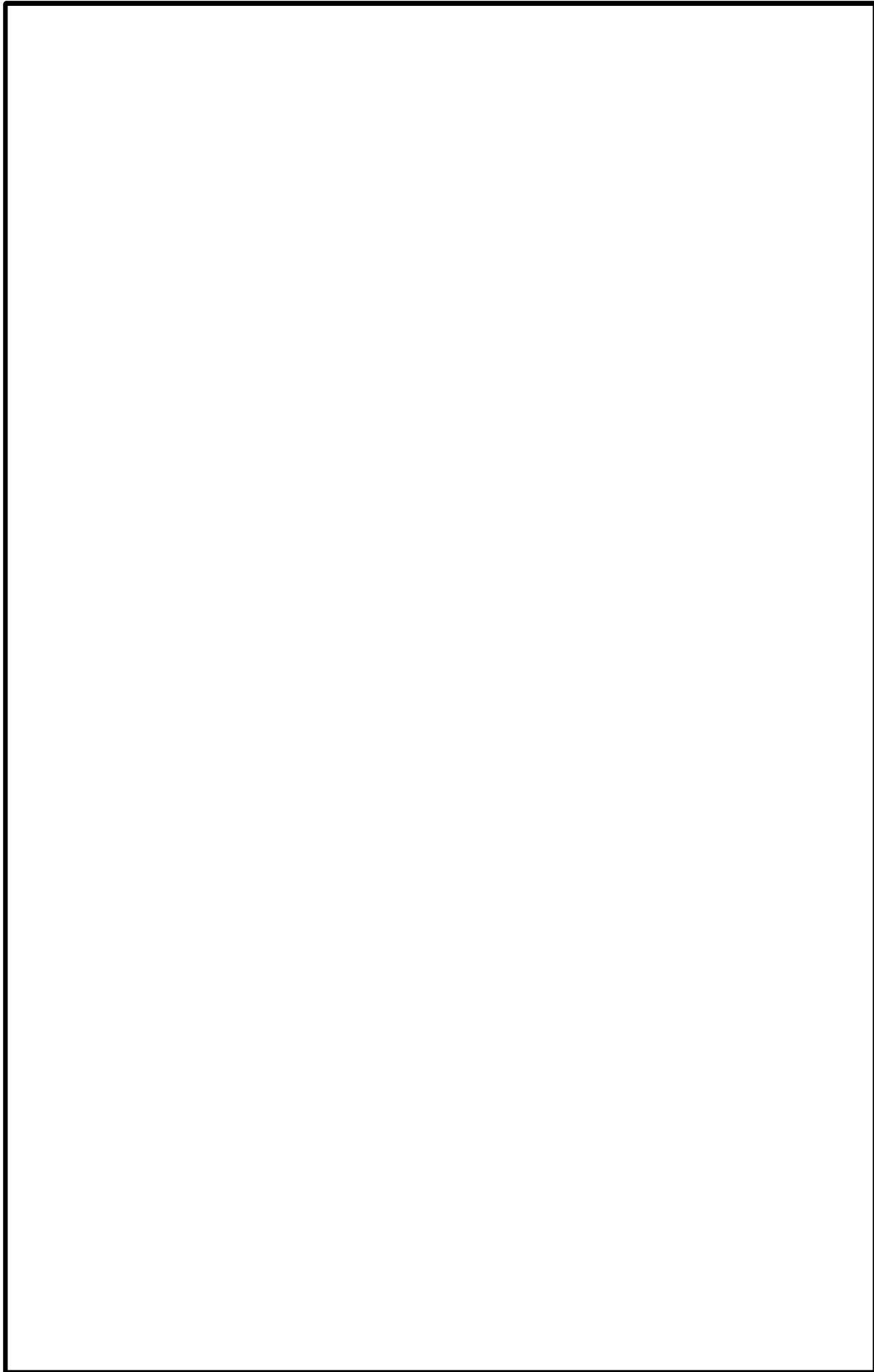




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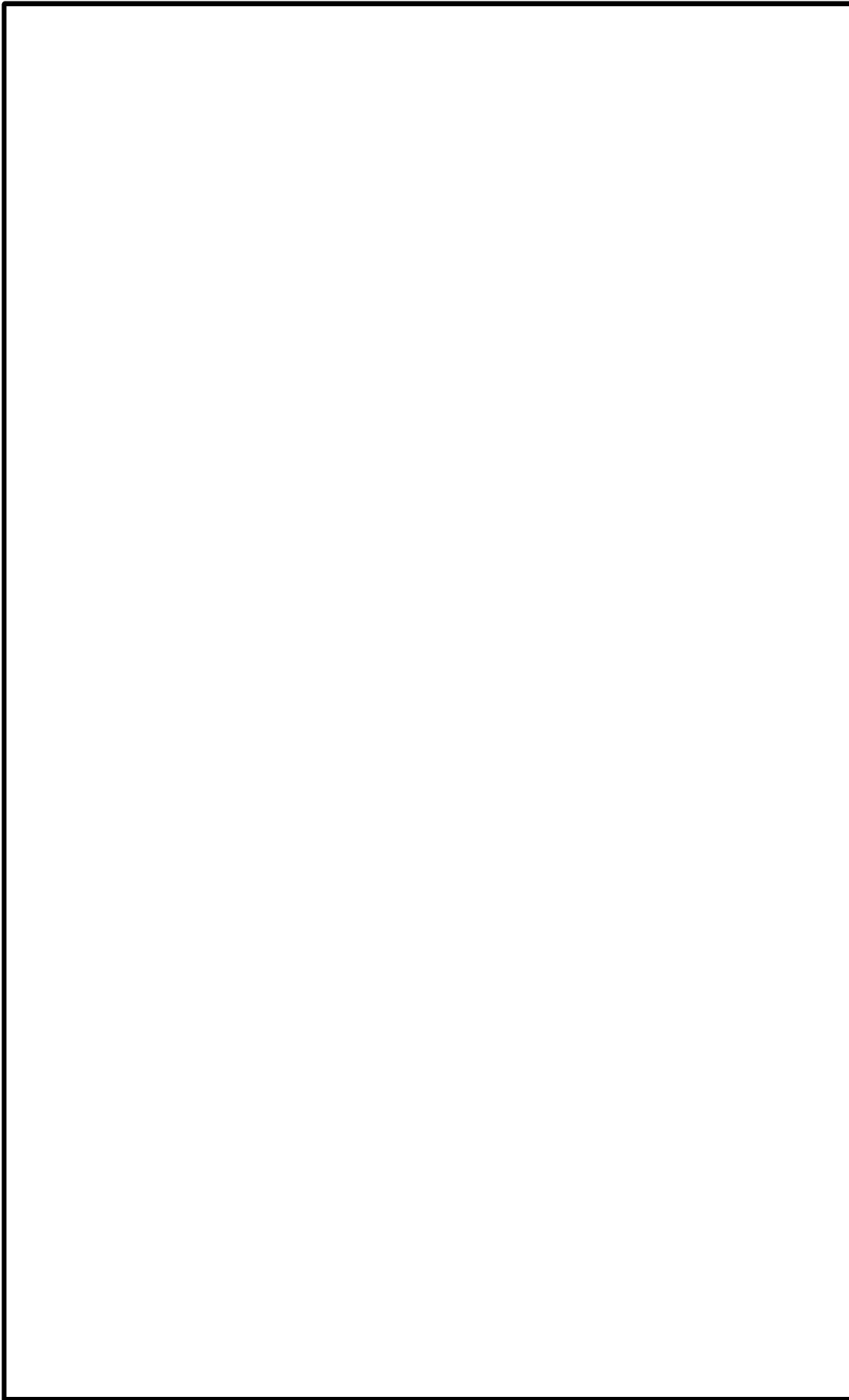
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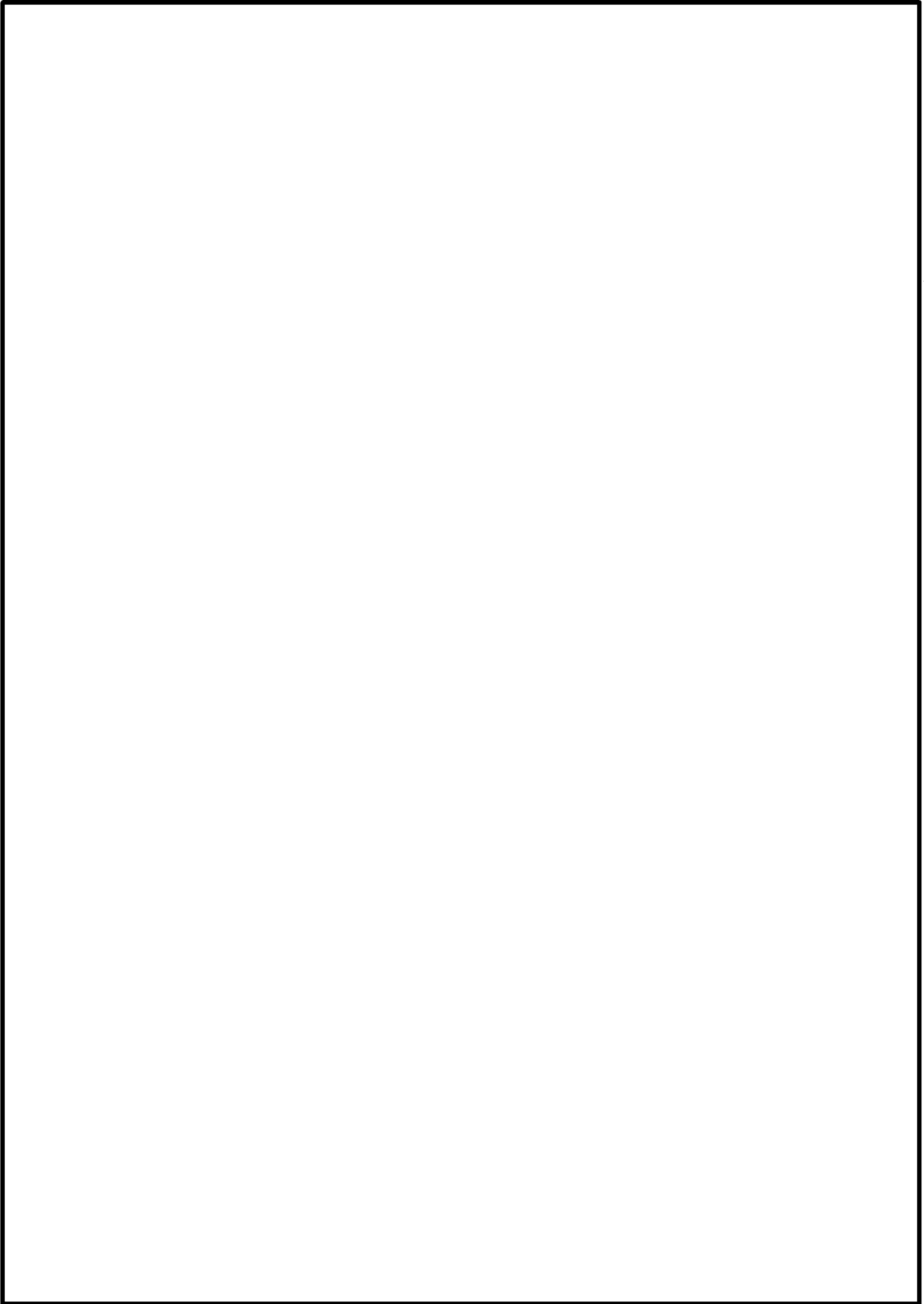
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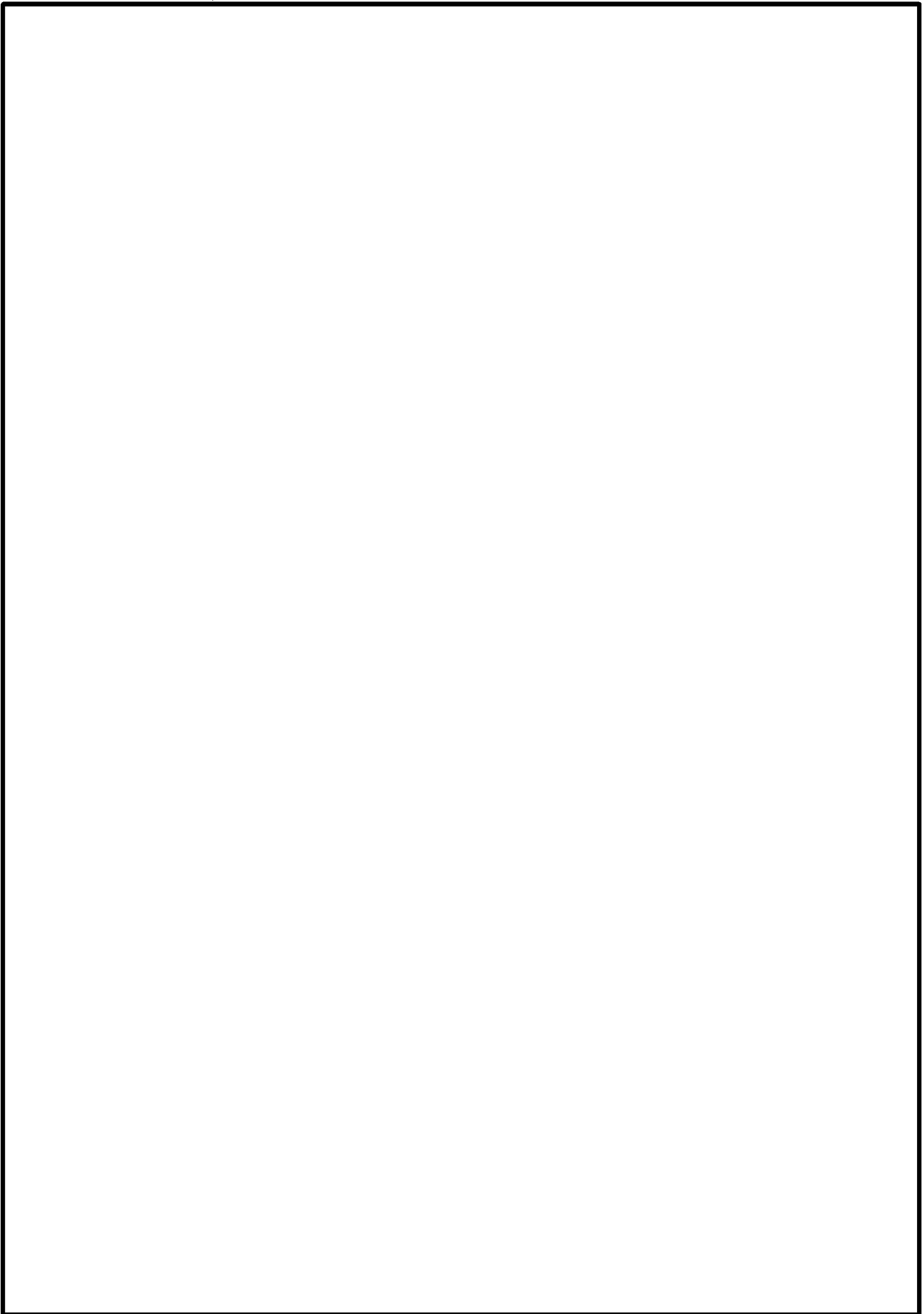
**2. Asylum Office Prepares a Form I-275**





(b)(5)

## Table of Appendices



## Table of Appendices





**U.S. Citizenship  
and Immigration  
Services**

JUN 11 2014

HQRAIO 120/16

## Memorandum

TO: Asylum Office Directors and Deputy Directors  
Supervisory Asylum Officers  
Quality Assurance/Training Asylum Officers  
Asylum Officers

FROM: John Lafferty  
Chief, Asylum Division

A handwritten signature in black ink, appearing to read "John Lafferty", written over the printed name and title.

SUBJECT: Changes to Credible Fear and Reasonable Fear Cases Requiring Quality Assurance Review

### Purpose

The Headquarters Asylum Division (HQASM) is implementing changes to the categories of Credible Fear (CF) and Reasonable Fear (RF) cases requiring Quality Assurance (QA) review. HQASM now requires pre-decisional QA review of a random sampling of CF and RF determinations, both positive and negative.

### Background

HQASM has undertaken an evaluation of the QA processes throughout the Asylum Division's programs. As part of that evaluation, on January 27, 2014, the Asylum Division revised the categories of affirmative asylum cases that require QA review by HQASM. More recently, we have evaluated the categories of CF and RF cases requiring QA review. HQASM has historically reviewed negative CF and RF determinations. In a Congressionally-mandated February 2005 report on asylum seekers in expedited removal, the U.S. Commission on International Religious Freedom (USCIRF) concluded, "[t]he credible fear process would be much more effective by subjecting negative and positive determinations to similar quality assurance procedures to ensure against bias built into the credible fear decision-making process."<sup>1</sup> The current CF QA procedures are virtually the same as those reviewed by USCIRF. We are now revising our CF and RF QA categories in order to provide a uniform process for review of CF and RF determinations, whether positive or negative.

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<sup>1</sup> USCIRF, Report on Asylum Seekers in Expedited Removal, p. 172, at [http://www.uscirf.gov/sites/default/files/resources/stories/pdf/asylum\\_seekers/ERS\\_RptVolII.pdf](http://www.uscirf.gov/sites/default/files/resources/stories/pdf/asylum_seekers/ERS_RptVolII.pdf).

**These changes to CF and RF QA will give HQASM broader oversight and insight into all CF and RF determinations. This revised QA model will also permit the HQASM QA Branch to develop broad guidance and training based on the trends identified by reviewing CF and RF cases that are representative of the field's caseload. This will help us improve the quality of CF and RF determinations as a program, rather than limiting quality improvement to the individual case in which QA review is conducted.**

### **Implementation**

**Under the revised QA review model, the Asylum Offices will send a random sampling of CF and RF determinations – both positive and negative – to HQASM for pre-decisional QA review. HQASM has established a statistically valid sample size that facilitates a thorough review of each case and maintains a high confidence level.**

**In addition to this submission structure, HQASM continues to require pre-decisional QA review for any CF determinations involving high-profile claims or novel legal issues. HQASM is also now requiring that RF determinations involving high-profile claims or novel legal issues be submitted to HQASM for pre-decisional QA review. HQASM continues to accept for pre-decisional QA review any CF or RF case in which the Asylum Office Director seeks such review.**

**Asylum Offices must receive a final response from HQASM on each case submitted for pre-decisional QA review before the final determination can be served on the alien, including on cases pending QA review prior to implementation of this revised QA review model.**

**If you have any questions, please contact the Asylum Division Quality Assurance Branch Chief and/or email the Asylum QA – Credible Fear mailbox or Asylum QA – Reasonable Fear mailbox.**

# Memorandum



<b>Subject:</b>  Interpreters In The Credible Fear Process	<b>Date:</b>  [signed February 10, 1998]
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**To:**  
All Asylum Directors  
All Supervisory Asylum Officers  
All Asylum Officers

**From:**  
Office of International Affairs  
Asylum Division  
[Joseph E. Langlois /s/ by Jeff Weiss - see page 4]

The Asylum Division is committed to providing the highest available quality interpretation to applicants in the credible fear interview process. The guidelines below are intended to encourage asylum officers, consultants, and interpreters to work cooperatively to ensure that the credible fear process works as fairly and effectively as possible:

- The Asylum Division is currently working with three interpreter services, AT&T, LSA, and LLE-Link. If asylum officers, consultants, or non-governmental organizations are aware of other sources of high quality interpretation, they are strongly encouraged to bring them to the attention of headquarters asylum. Headquarters is willing to explore using any commercial service that offers telephonic interpretation, accepts payment by the government Visa card, certifies its interpreters, and offers its services to the general public. We are discussing with the Executive Office of Immigration Review and Berlitz the possibility of adding Berlitz to our available choices, and would welcome other suggestions as well.
- Asylum officers are encouraged to make every effort to accommodate special requests for male or female interpreters, for a specific interpreter (if the consultant provides the interpreter's identification code), or for interpreters who do (or don't) speak certain dialects or have certain accents. Requesting that the commercial interpreter be physically present at the interview for applicants who might otherwise have difficulty presenting a claim is an option asylum officers may use, with concurrence from a supervisory asylum officer. LSA and LLE-Link currently offer in-person

interpretation, as would Berlitz for Service Processing Centers with an immigration court.

- The Asylum Division encourages consultants to monitor the quality of interpretation applicants receive. A consultant may bring a "co-consultant" fluent in English and the applicant's language to the interview to monitor the quality of interpretation, and consultants who understand the applicant's language may also comment on the quality of interpretation. While asylum supervisors are instructed to be flexible in scheduling interviews to ensure that the applicant's primary consultant is present, interviews should not be postponed or rescheduled to accommodate participation by "co-consultants." Below are general guidelines for addressing the consultant's concerns about the quality of interpretation available:
  - Consultants may keep records of which interpreters they consider most, and least, appropriate for interpreting credible fear interviews. Consultants may request that a certain interpreter be used (or not used) when setting up the interview with the asylum supervisor. All reasonable requests will be accommodated unless they result in unacceptable delays (generally more than 24 hours beyond the standard 48 hours). Such requests will not be accommodated if the asylum officer does not consider the requested interpreter to be competent or neutral.
  - "Co-consultants" who are fluent in English and the applicant's language, or consultants who understand the applicant's language, may interrupt the interview to point out problems with interpretation. The asylum officer may need to remind the consultants that such interruptions should only occur if the problems could directly affect the applicant's ability to present a claim.
    - If the consultant or "co-consultant" states that the interpreter is leaving out portions of the applicant's testimony, or is editorializing or otherwise failing to provide a verbatim interpretation,<sup>1</sup> the asylum officer should remind the interpreter of his/her role in the credible fear interview, and should offer to change interpreters if the problem persists.
    - If the consultant or "co-consultant" states that the interpreter is not competent or not neutral (citing, for example, serious mistakes in how concepts or words are being translated), the asylum officer should ask the consultant and applicant if they would like to switch interpreters. If the consultant and applicant choose to remain with the same interpreter, the offer and response should be recorded in the Questions

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<sup>1</sup> See the Immigration and Naturalization Service, Asylum Division, "Interviewing Part VI: Working with an Interpreter," *Asylum Officer Basic Training Course* (Washington, DC: February 1998 [preliminary draft]), for a discussion of the term "verbatim," as well as additional guidance on working with interpreters.

and Answers. If a consultant finds more than one interpreter unacceptable, and the consultant is fluent in the applicant's language and English, or has brought a "co-consultant" fluent in the applicant's language and English to the interview, the asylum officer should ask the consultant and/or "co-consultant" and the applicant if they would like the consultant or "co-consultant" to act as the interpreter. If the consultant and/or "co-consultant" declines, the suggestion and response should be included in the Questions and Answers. If the consultant and/or "co-consultant" accept, the interview should be monitored by a telephonic interpreter. The asylum officer should attempt to obtain as a monitor a different telephonic interpreter from those rejected by the applicant or consultant as not competent.

- A consultant may bring an interpreter to provide interpretation during the credible fear interview, provided the following guidelines are met:
  - An interpreter from one of the commercial telephonic interpreter service must monitor the entire interview. No exceptions can be made without specific permission from headquarters.
  - Requests from the applicant or consultant that the telephonic interpreter monitoring the conversation be either male or female, or speak (or not speak) certain dialects, should be accommodated where possible.
  - While asylum supervisors should be flexible in scheduling interviews to ensure that the applicant's consultant is present, interviews should not ordinarily be postponed or rescheduled to accommodate the interpreter's schedule. The consultant may arrange to have an interpreter participate by telephone, as long as the consultant's interpreter is available at the scheduled interview time, and any costs involved are paid by the consultant. (At present, all three interpreter services offer conference calling at no additional charge.)
  - The telephonic interpreter should receive clear, detailed instructions about the role she or he is expected to play in the interview. Much like the "co-consultant," the telephonic interpreter should only interrupt the interview if problems with competency or neutrality could directly affect the applicant's ability to present a claim.
  - The consultant's interpreter should receive clear, detailed instructions about the role she or he is expected to play in the interview. In particular, the importance of interpreting verbatim, without adding or omitting any information, should be emphasized before the interview occurs. If translations of forms are available in the applicant's language, and if the consultant's interpreter is physically present in the interview room, or can easily receive a fax, the interpreter should have copies of translations of the forms.

- If the telephonic interpreter notes problems with the competence or neutrality of the consultant's interpreter, and the consultant's interpreter has been informed of the problems and appears unable or unwilling to correct them, the asylum officer may, in his or her discretion, decide that the telephonic interpreter will complete the interview, and the consultant's interpreter will act as a "co-consultant" to monitor the quality of interpretation provided by the telephonic interpreter service.
- A consultant may request to act both as consultant and interpreter, or may request that a person fluent in the applicant's language act both as an interpreter and "co-consultant," or as an interpreter and a witness. While such arrangements are not acceptable in the affirmative asylum system [see 8 CFR 208.9(g)], they may be accommodated in the credible fear process if they assist the applicant in presenting his or her claim. If dual or multiple roles are proposed, the asylum officer should explain to the consultant and/or "co-consultant"/ interpreter/ witness, and telephonic interpreter that the consultant's interpreter should limit any statements or comments about the claim, the applicant's cultural background, or country conditions, to a closing statement after the interview has been completed. During the interview, the consultant's interpreter must interpret verbatim and not omit or add information, or provide editorial comments about the information. There may be exceptional circumstances in which it is appropriate for the consultant's interpreter to interrupt the interview to provide information, but the consultant's interpreter should be instructed to state, in English and the applicant's language, that he or she has stopped interpreting and is providing background information. Such interruptions should only be allowed when the applicant is unable to provide such information.
- Guidelines provided in the November 14, 1997 memorandum "Role of Consultants in the Credible Fear Interview" should be followed if a consultant, "co-consultant," or the consultant's interpreter is disruptive, or in any way impedes the applicant's ability to present his or her claim. Asylum officers should also review relevant lesson plans, such as "Interviewing Part VI: Working with an Interpreter," to address any problems in working with either the telephonic interpreters or interpreters provided by the consultant.

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Joseph E. Langlois /s/ by Jeff Weiss  
Deputy Director





**U.S. Citizenship  
and Immigration  
Services**

March 9, 2012

HQRAIO 120/16b

## Memorandum

**TO:** Asylum Office Directors  
Asylum Office Deputy Directors  
Supervisory Asylum Officers  
Quality Assurance/Trainers  
Asylum Officers

**FROM:** Ted Kim, Acting Chief /s/  
Asylum Division

**SUBJECT:** Department of Homeland Security (DHS) Guidance on *Demiraj v. Holder*, 631 F.3d 194 (5<sup>th</sup> Cir. 2011)

Please review the attached memorandum from the USCIS Office of Chief Counsel explaining the Department's interpretation of the recent Fifth Circuit decision in *Demiraj*. This memorandum provides guidance to adjudicators on interpreting this decision and sets out the current USCIS interpretation of the nexus requirement in asylum, credible fear and reasonable fear adjudications, regardless of circuit court jurisdiction.

Should you have any questions related to this guidance, please contact the Training and Quality Branch (TRAQ) Chief or other members of TRAQ through the proper chain of command.

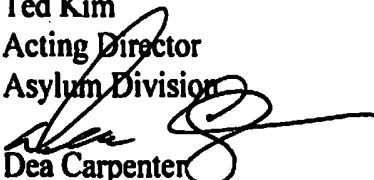
Attachment



**U.S. Citizenship  
and Immigration  
Services**

February 23, 2012

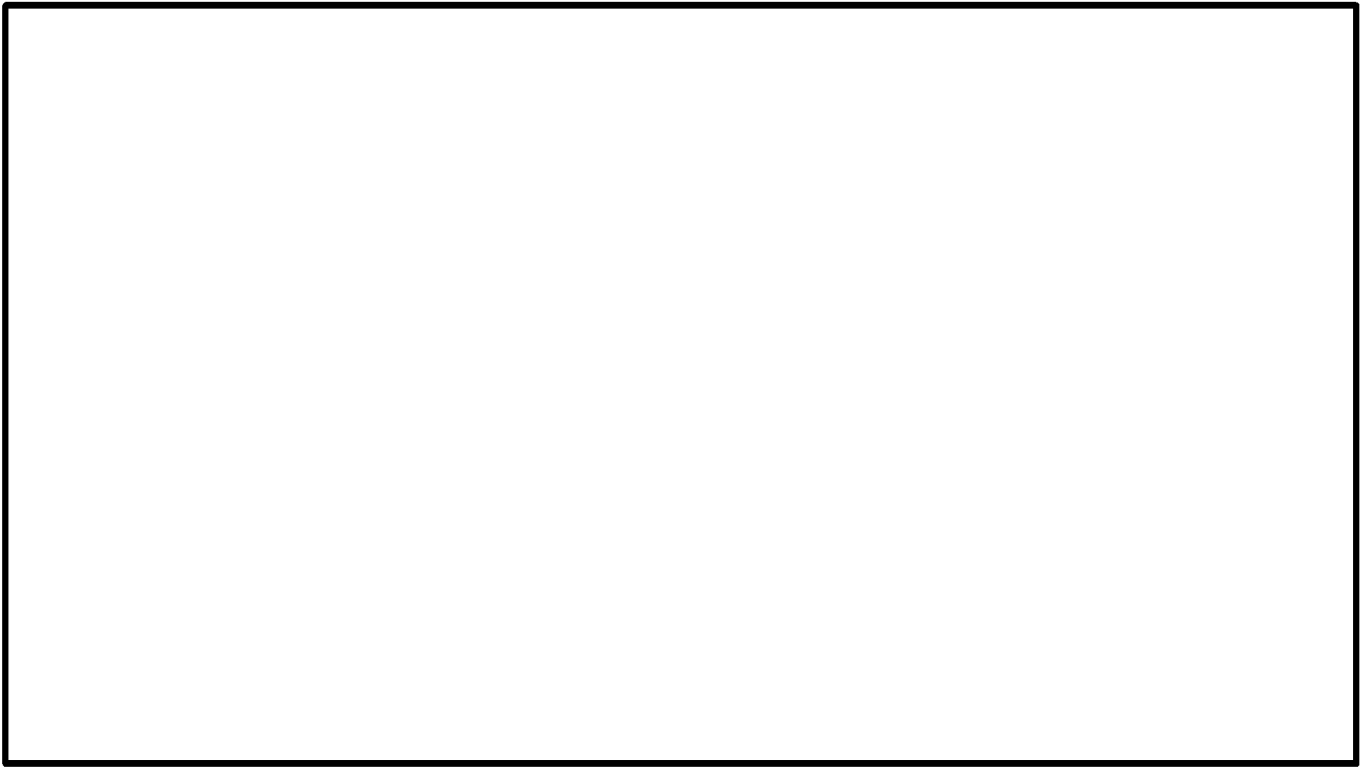
MEMORANDUM TO: Ted Kim  
Acting Director  
Asylum Division

FROM:   
Dea Carpenter (b)(5)  
Deputy Chief Counsel



(b)(5)

(b)(5)



(b)(5)

# Request for Dissolution of Credible Fear Process

## -- DECLARATION OF ALIEN --

I, \_\_\_\_\_, A-number \_\_\_\_\_, have decided to stop pursuing protection from removal through the credible fear process, and to leave the United States as soon as travel arrangements can be made. I have made this decision freely and voluntarily based upon my understanding of the following, which was explained to me by an asylum officer:

- I was placed into the credible fear process upon seeking admission to the United States, because I expressed a fear of harm upon return my country.
- I have the right to ask for protection from removal based on fear of return through the credible fear process.
- If I do not ask for protection from removal at this time, the Immigration and Naturalization Service (INS) will either permit me to withdraw my application for admission, or issue an order of removal against me and bar me from reentering or seeking admission to the U.S. for five (5) years or more. If I have engaged in fraud or misrepresentation of a material fact, or a false claim to U.S. citizenship, I will be permanently inadmissible to the United States.
- If I change my mind at any time prior to my final departure from the United States, I can again ask for protection from removal through the credible fear process by immediately notifying an INS officer that I wish to seek asylum, even if I stop pursuing my request for protection at this time.
- The reason that I have decided to not to ask for protection at this time is:  
(A stated reason must be recorded below. Attach extra pages if necessary)

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\_\_\_\_\_  
Alien's Last Name/Family Name (Print)      Alien's First Name (Print)      Alien's Signature

\_\_\_\_\_  
Asylum Officer's Name (Print)      Asylum Officer's Signature      Date \_\_\_\_/\_\_\_\_/\_\_\_\_

\_\_\_\_\_  
Supervisory Asylum Officer's Name (Print)      Supervisory Asylum Officer's Signature      Date \_\_\_\_/\_\_\_\_/\_\_\_\_

The contents of this form were read and explained to the alien in the \_\_\_\_\_ language.

Interpreter Used (if any):

By telephone: (list interpreter service/ID number of interpreter) \_\_\_\_\_

In person: I, \_\_\_\_\_, certify that I am fluent in both the \_\_\_\_\_ and English languages. I interpreted the above information completely and accurately to the alien.

\_\_\_\_\_  
Interpreter's Signature      Date \_\_\_\_/\_\_\_\_/\_\_\_\_



U.S. Department of Justice  
Immigration and Naturalization Service

120/9.8

*Signed 7/26/00*

MEMORANDUM FOR: All Asylum Office Directors  
All Deputy Directors  
All Supervisory Asylum Pre Screening Officers

FROM: Joseph E. Langlois  
Acting Director, Asylum Division

SUBJECT: Dissolution of Credible Fear Claims

This memorandum establishes procedure for the dissolution of credible fear claims and replaces all pre existing guidance. This procedure has been developed as a result of consultation with the Expedited Removal Working Group, the Government Accounting Office and the Office of General Counsel to more consistently document and review the dissolution of credible fear claims.

Aliens who are placed in Expedited Removal, or who are Stowaways, and who indicate an intention to apply for asylum or a fear of persecution or torture, are referred to an asylum officer for a credible fear interview.<sup>1</sup> Certain aliens who have been referred for a credible fear interview decide to stop pursuing protection from removal through the credible fear process. When an alien decides to stop pursuing protection, an asylum officer must interview him or her. The asylum officer will question the alien about his or her reason for deciding to stop pursuing protection, will explain the process of removal and the ability of that alien to pursue protection at any time prior to removal. The dissolution interview will be a recorded on the Request for Dissolution of Credible Fear Process form. A copy of the form is attached to this memorandum.

The original Request for Dissolution of Credible Fear Process form is to be placed in the alien's A file. A copy is to be kept with any work folder materials that are maintained at the asylum office.

Attachment:  
Dissolution of Credible Fear Process form.

<sup>1</sup> INA Section 235(b)(1)(A)(ii) applies to aliens arriving in the United States and INA Section 235(a)(2) applies to stowaways.

cc: OFFICIAL FILE;  
HQASM:WBIRD:wb:353-  
8167:07/21/00:K\Asylum.ops\ExpeditedRemovalCredibleFear\memos\Cfdissolvejul00



## Jowett, Haley L

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**From:** Scott, Elizabeth M  
**Sent:** Wednesday, July 02, 2014 3:30 PM  
**To:** Donis, Antonio  
**Cc:** Kim, Ted H; Stone, Mary M  
**Subject:** family processing  
**Attachments:** Family Processing.zip

Hi Antonio,

Ted asked me to send you our procedures on processing families and other documents that may be helpful for processing families in Artesia. I'm attaching:

- 2002 draft CFPM (in case you don't have it)
- 6-27-14 memo, "Guidance on Immediate Family Members in CF"
- APSS Guide updated 6-27-14
- CF briefing paper
- UAC briefing paper
- CFPM section III.E.2., "Family Members Arriving Concurrently with the Applicant". This section is cut off in some versions so I'm including it in its entirety. We recently considered revising this section but after discussions with OCC and Lori S. we decided to keep it as it is.

The family processing procedures are somewhat confusing. Basically, 8 CFR 208.30 provides that a spouse and/or child (unmarried and under 21) may be included in a CF determination if the spouse and/or child arrived concurrently with the applicant and desire to be included. USCIS OCC has found that ASM has discretion whether or not to include family members who are eligible to be included and wish to be included. This issue has come up more often lately so we included guidance in the 6-27-14 memo about using this discretion and when immediate family members may be included on the claim and linked together in APSS.

If the principal applicant is found positive for CF then the other immediate family members are also found positive and all receive NTAs. For negative determinations, if the principal applicant doesn't have a claim but an immediate family member does and is found positive, then the rest of the immediate family members also receive a positive determination based on that claim. All would receive an NTA with credible fear found. If none of the immediate family members in the family group have a CF then all would be issued a negative determination.

Please let me know if you have any questions. Hope you're doing well!

Liz

Elizabeth Scott  
Tel: (202) 272-1227




U.S. Citizenship  
and Immigration  
Services

HQRAIO 120/9.15a

JUN 27 2014

## Memorandum

TO: Asylum Office Directors and Deputy Directors  
Supervisory Asylum Officers  
Quality Assurance/Training Asylum Officers  
Asylum Officers

FROM: John Lafferty  
Chief, Asylum Division 

SUBJECT: Guidance on Immediate Family Members in Credible Fear

### Purpose

The purpose of this memorandum is to issue guidance on who is considered an immediate family member in the credible fear process, credible fear determinations for immediate family members, and linking related family members in the Asylum Pre-Screening System (APSS).

### Immediate Family Members

In the credible fear process, immediate family members are the spouse and any unmarried child under 21 years of age who arrive in the United States concurrently with the principal applicant.<sup>1</sup>

### Credible Fear Determinations for Immediate Family Members

A family member's claim may provide the basis for all the immediate family members' credible fear determinations if the immediate family members: (1) arrived in the United States concurrently; and (2) desire to be processed together.<sup>2</sup> Even if those two requirements are met, Asylum Offices retain the discretion to process immediate family members together or separately. In addition, immediate family members may opt to present separate credible fear

<sup>1</sup> "The term [terms] "spouse," "wife," or "husband" do not include a spouse, wife or husband by reason of any marriage ceremony where the contracting parties thereto are not physically present in the presence of each other, unless the marriage shall have been consummated." INA § 101(a)(35). It is the applicants' burden to show that they were recognized as legally married in their country of origin in order to be treated as a spouse for purposes of the credible fear determination. The applicants also have the burden to establish that they arrived in the United States concurrently.

<sup>2</sup> 8 C.F.R. 208.30(b)

## **Guidance on Immediate Family Members in Credible Fear**

**Page 2**

claims, even if they do meet the above requirements, and even if they are physically located together.

Immediate family members may be separated after their concurrent arrival in the United States. If immediate family members are in different locations, Asylum Officers do not have an affirmative duty to attempt to locate those family members. However, Asylum Officers may, in their discretion, attempt to locate family members if doing so does not unreasonably delay the credible fear process.

### **APSS Procedures**

Immediate family members should be linked together in APSS whenever one family member's claim provides the basis for all the immediate family members' credible fear determinations. They may be linked in APSS even if they are not physically together. Immediate family members who choose to present their own credible fear claims should not be linked together in APSS because they will receive credible fear determinations based on their individual claims.

The APSS Guide has been updated with detailed instructions on how to link immediate family members in the system.

For questions, please contact Credible Fear Program Manager, HQ Operations Branch.

### **Attachment**

1. APSS Guide (revised June 27, 2014)

### **III.E.2. Family Members Arriving Concurrently with the Applicant**

Each applicant for admission to the United States is considered to have made that application for admission independently. Each applicant for admission subject to expedited removal who has been referred for a credible fear interview has the right to have his or her credible fear claim considered independently. The regulations do provide, however, that

[a] spouse or child of an alien may be included in that alien's credible fear evaluation and determination if such spouse or child:

- (1) Arrived in the United States concurrently with the principal alien; and
- (2) Desires to be included in the principal alien's determination.

A "principal/dependent" relationship can ensure that each immediate family member is treated in the same manner. APSOs should remember that it is the choice of the individual alien whether he or she is to be included in a principal alien's application. It is also important that potential asylees be given the opportunity to be heard regardless of which parent is the principal. The procedures that follow have been designed to preserve the right to individual choice and protect all potential asylees.

For all credible fear cases involving more than one immediate family member, an APSO meets with the family to determine whether a spouse or (unmarried) child[ren] under 21 wishes to be included as dependent[s] in the credible fear determination of the spouse or parent. The APSO must not attempt to influence the decision. If a principal/dependent relationship is established, the APSO then interviews the principal.

If the principal is found to have a credible fear of persecution or torture:

No separate credible fear determination is made for the other immediate family members.

The Form I-870 is updated with information about dependent family members. The APSO fills out the appropriate information in Section 2.13 through 2.18 on the principal's Form I-870.

The APSO photocopies the principal's Form I-870 and places the copies in the file(s) of the other immediate family member(s) who are dependents.

The APSO prepares, serves, and processes each individual's credible fear documentation according to relevant procedures set forth in this Manual for a positive credible fear determination.

If the principal is found not to have a credible fear of persecution or torture:

The APSO determines if any dependent family member who has articulated a fear of return has a claim separate from that of the principal.

Special attention should be paid to the privacy of each family member and the possibility that victims of domestic abuse, rape and other forms of persecution might not be comfortable speaking in front of other family members.

If any member of the immediate family is found to have a credible fear (either a spouse or child of the principal), the principal and any other immediate family members who choose may be included in the positive finding and will not need separate credible fear determinations. For those cases where the principal does not have a credible fear but another immediate family member (either his or her spouse, or one of his or her children) does:

The immediate family member with the positive credible fear becomes the principal applicant, for purposes of the credible fear determination.

The positive finding is used as the basis for finding credible fear for the entire immediate family that arrived concurrently, including any immediate family member unable to establish credible fear in his or her own interview.

The APSO photocopies the I-870 and case analysis of the family member found to have a credible fear and places it in the file of the other family member[s].

The APSO prepares, serves, and processes each individual's credible fear documentation according to relevant procedures set forth in this Manual for a positive credible fear determination. For those cases where no family members are found to have a credible fear of persecution or torture, the APSO follows procedures for preparing, serving, and processing each family member's decision for a negative credible fear determination as set forth in this Manual. 8 CFR 208.30(b).

Note: "Family," or "immediate family" as used in this section of the Manual, refers to an alien, and any spouse and/or children who arrived concurrently with that alien.

Also see section IV.A, Aliens who Do Not Receive a Credible Fear Determination, for information about minors.

If an APSO questions the bona fides of any relationship, he or she should notify the SAPSO and the SAPSO should notify the credible fear program manager at HQASM.



**U.S. Department of Justice  
Immigration and Naturalization Service**

HQIAO 120/15.20b

*425 I Street, NW  
Washington, DC 20536*

Signed 3/26/02

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

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

**SUBJECT:** Filing Notices to Appear (NTAs) with the Executive Office for  
Immigration Review (EOIR) after Credible Fear Interviews

This memorandum establishes a consistent programwide policy concerning the responsibility for filing NTAs with EOIR in cases in which a credible fear has been found. It also directs Asylum Offices to follow-up on the cases on the attached list to ensure that the NTAs are filed with EOIR for the cases decided by their respective offices.

Effective immediately, asylum staff is responsible for filing NTAs with EOIR directly in credible fear cases. No NTAs are to be forwarded to the Districts to accomplish filing with EOIR, except in rare circumstances necessitating District service with EOIR, to be determined on a case-by-case basis. In those rare cases, the Asylum Office is responsible for tracking the A-number in ANSIR to ensure the filing with EOIR.

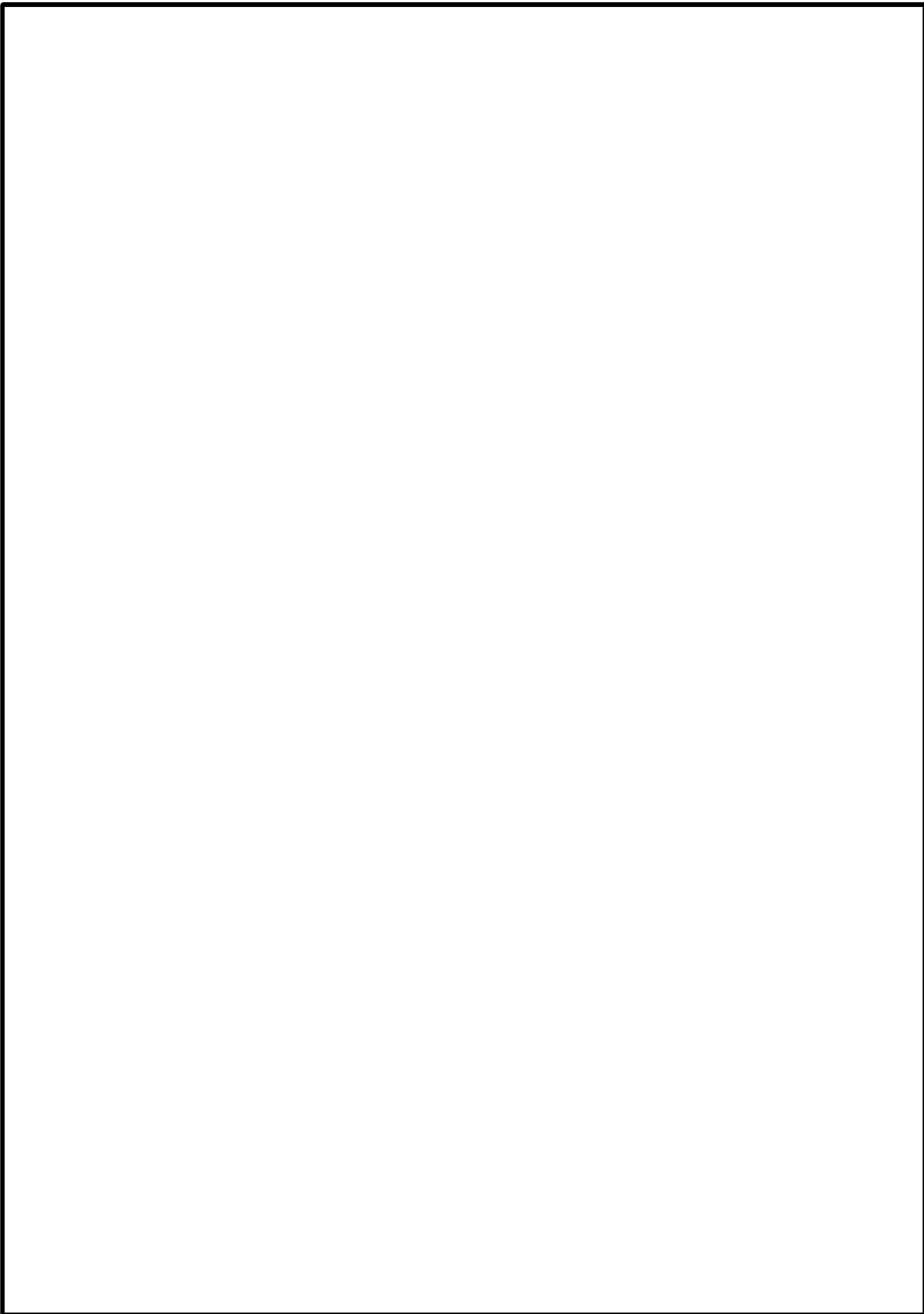
The Draft Credible Fear Procedures Manual of December 2000 contained language that could be interpreted to require the Asylum Office to file the NTA with EOIR or to allow Asylum Office the flexibility to make arrangements for District Office staff to file the NTA with EOIR. It provided at page 27 the following:



(b)(5)

Memorandum to Asylum Office Directors  
Subject: Filing NTAs with EOIR after Credible Fear Interviews

(b)(5)



(b)(5)

**Memorandum to Asylum Office Directors**

**Subject: Filing NTAs with EOIR after Credible Fear Interviews**



**The Draft Credible Fear Procedures Manual has been amended to resolve ambiguities and clearly require asylum staff to directly file NTAs with EOIR in credible fear cases.**



## **Information about How to Seek Release from Detention: Parole Eligibility and Process for Certain Asylum Applicants**

USCIS has determined that you have a credible fear of persecution or torture.

- You may be eligible for parole (release from detention) while you await a final determination of your case.
- Your case will be referred to Immigration Court where you will file an application for asylum in front of an Immigration Judge.

The purpose of this notice is to explain how you might be released from detention. This type of release is called parole. Immigration and Customs Enforcement (“ICE”) officials are responsible for your custody. They will interview you and decide if you will be released from detention based upon your ability to satisfy the requirements described below. ICE will provide you with an interview notice, a *Parole Advisal and Scheduling Notification* that will tell you when you will be interviewed. If you do not receive this parole interview notice within 5 days, you should contact an ICE official in your detention location.

At your parole interview, you may be represented, at no expense to the government, by an attorney or other individual who is authorized to represent persons before ICE. A list of free legal service providers has been given to you; if you cannot afford an attorney, the organizations on this list may be able to represent you. Even if you cannot find an attorney or representative, ICE will still interview you and consider your case for release from detention.

Under ICE policy, you may be granted parole if you establish: (1) your identity; (2) that you are likely to appear for all scheduled hearings and enforcement appointments; and (3) that you do not present a security risk to the United States or a danger to the community.

You may establish these three points through oral statements at the interview and/or documents you present before the interview. Before the interview, you should gather documents that will help you at your interview. Helpful documentation may include:

**1) Identity:** Documents such as a passport, national identity card or birth certificate. If you did not arrive with these types of documents, you may want to ask relatives and other people who know you to get these documents for you. If you are unable to get these documents, you may want to ask relatives and other people who know you to provide you with sworn statements confirming your identity. If ICE took your identity documents from you, the ICE officer should have these documents in your file already and you will not need to provide them. You may want to provide a list of the identification documents that should be in your file in order to be certain they are considered.

**2) Appearance at Hearings and Appointments:** You must show that you will appear for all immigration hearings and appointments, including reporting for removal if you are eventually ordered removed from the United States. In order to show that you will appear for all immigration hearings and appointments, you may want to provide information on your ties to the community. This could include names, addresses and relationship to family and

community in the United States including close friends, religious groups and membership in professional societies. These are especially helpful where these individuals have legal immigration status. If there is someone who is willing to let you live with him or her, you may want to provide a letter or sworn declaration from that person and include the person's full name, relationship to you, legal status in the United States, address and any other relevant information.

3) *Security Risk:* ICE will generally assess this criteria based on any evidence of past criminal history. If you have past criminal history, you may want to submit any evidence of rehabilitation you may have or other evidence showing why you do not pose a danger to the community.

If you do not understand English, you may request a qualified interpreter assist you at your parole interview. Please notify ICE that you need an interpreter for your interview as soon as possible. ICE will then provide an interpreter for your parole interview at no cost to you.

Within seven days of your interview, ICE will give you a written decision as to whether you will be released from detention, including any reason for denying release. If you do not receive a decision within seven days, then you should contact ICE officials at your current location. If you are denied release, you may ask for ICE to review the decision by providing additional information or documents to establish your identity, that you are likely to appear for all scheduled hearings and enforcement appointments and that you do not present a security risk to the United States or a danger to the community. A written request may be made for an additional review of the decision based on changed circumstances or additional information.

If ICE decides to release you from detention, it is very important that you follow any conditions relating to your parole. These conditions can include the payment of a bond, certain reporting requirements, and/or enrollment in an alternative-to-detention program.

Do you understand everything I have told you today? Your signature below indicates your understanding.

Date: \_\_\_\_\_ A Number: \_\_\_\_\_

Language used: \_\_\_\_\_ Interpreter Service & ID No. \_\_\_\_\_

Signature of Applicant: \_\_\_\_\_

Cc: A-file and applicant

**U.S. Department of Homeland Security**  
U.S. Citizenship and Immigration Services  
Refugee, Asylum and International  
Operations Directorate  
Washington, DC 20529



**U.S. Citizenship  
and Immigration  
Services**

May 14, 2010

HQRAIO 120/9.15a, 12.16a

**MEMORANDUM**

**TO: ASYLUM OFFICE DIRECTORS  
ASYLUM OFFICE DEPUTY DIRECTORS  
SUPERVISORY ASYLUM OFFICERS  
QUALITY ASSURANCE/TRAINING ASYLUM OFFICERS  
ASYLUM OFFICERS**

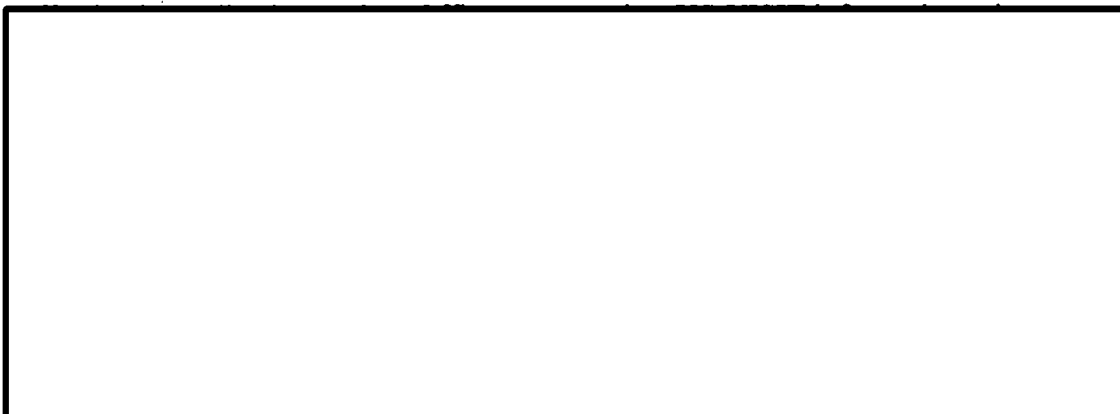
**FROM: Joseph E. Langlois /s/  
Chief, Asylum Division**

(b)(5)

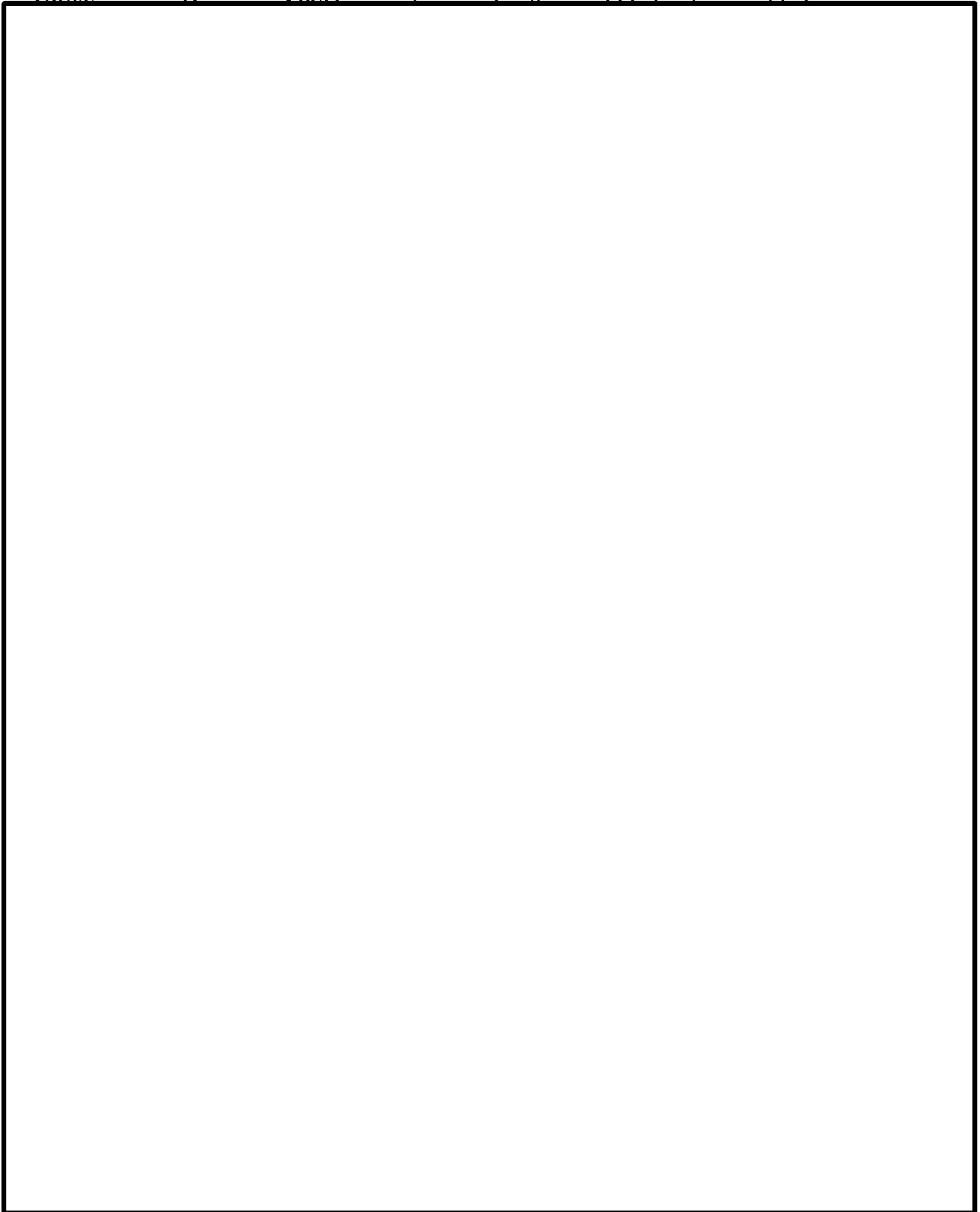
**SUBJECT: Issuance of Updated Credible and Reasonable Fear Procedures**

The purpose of this memorandum is to announce the issuance of the Asylum Division's updated procedures and security checklist for credible fear and reasonable fear. The new procedures replace the current procedures found in Chapters IX and X of the Identity and Security Checks Procedures Manual (ISCPM).

Requirement to review US-VISIT records in the credible and reasonable fear process



(b)(5)



Please direct any questions regarding these procedures to the Asylum Operations Branch.

Attachments (3)



**U.S. Department of Justice,  
Immigration and Naturalization Service**

**FILE NUMBER:**

**DATE:**

**PLEASE COME TO THE OFFICE SHOWN BELOW AT THE TIME AND PLACE INDICATED IN CONNECTION WITH AN OFFICIAL MATTER.**

<b>LOCATION</b>	<b>ROOM NO. FLOOR NO.</b>
<b>DATE &amp; HOUR</b>	
<b>ASK FOR</b>	
<b>REASON FOR APPOINTMENT</b>	<b>CREDIBLE FEAR INTERVIEW</b>
<b>BRING WITH YOU</b>	<b>CONSULTANT AND ANY WITNESSES AND EVIDENCE IMPORTANT TO YOUR CASE</b>

**IT IS IMPORTANT THAT YOU KEEP THIS APPOINTMENT AND BRING THIS LETTER WITH YOU.**  
If you are unable to do so, please call the APSO Supervisor or notify the Detention Officer to request a change in interview schedule.

Very truly yours,

**I am unable to keep this appointment because:**

**SIGNATURE**

**DATE**

# Notice and Order of Expedited Removal

## DETERMINATION OF INADMISSIBILITY

File No: \_\_\_\_\_

Date: \_\_\_\_\_

In the Matter of:

Pursuant to section 235(b)(1) of the Immigration and Nationality Act (Act), (8 U.S.C. 1225(b)(1)), the Immigration and Naturalization Service has determined that you are inadmissible to the United States under section(s) 212(a) 9 (6)(C)(i); 9 (6)(C)(ii); 9 (7)(A)(i)(I); 9 (7)(A)(i)(II); 9 (7)(B)(i)(I); and/or 9 (7)(B)(i)(II) of the Act, as amended, and therefore are subject to removal, in that:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Name and title of immigration officer (Print)

\_\_\_\_\_  
Signature of immigration officer

## ORDER OF REMOVAL UNDER SECTION 235(b)(1) OF THE ACT

Based upon the determination set forth above and evidence presented during inspection or examination pursuant to section 235 of the Act, and by the authority contained in section 235(b)(1) of the Act, you are found to be inadmissible as charged and ordered removed from the United States.

Name and title of immigration officer (Print)

\_\_\_\_\_  
Signature of immigration officer

\_\_\_\_\_  
Name and title of supervisor (Print)

\_\_\_\_\_  
Signature of supervisor, if available

9 Check here if supervisory concurrence was obtained by telephone or other means (no supervisor on duty).

## CERTIFICATE OF SERVICE

I personally served the original of this notice upon the above-named person on \_\_\_\_\_  
(Date)

\_\_\_\_\_  
Signature of immigration officer

DEPARTMENT OF HOMELAND SECURITY

NOTICE TO APPEAR

In removal proceedings under section 240 of the Immigration and Nationality Act:

File No: \_\_\_\_\_

In the Matter of:

Respondent: \_\_\_\_\_ currently residing at:

(Number, street, city and ZIP code)

(Area code and phone number)

- You are an arriving alien.
- You are an alien present in the United States who has not been admitted or paroled.
- You have been admitted to the United States, but are removable for the reasons stated below.

The Department of Homeland Security alleges that you:

On the basis of the foregoing, it is charged that you are subject to removal from the United States pursuant to the following provision(s) of law:

- This notice is being issued after an asylum officer has found that the respondent has demonstrated a credible fear of persecution or torture.
- Section 235(b)(1) order was vacated pursuant to:  8CFR 208.30  8CFR 235.3(b)(5)(iv)

YOU ARE ORDERED to appear before an immigration judge of the United States Department of Justice at:

\_\_\_\_\_  
(Complete Address of Immigration Court, including Room Number, if any)

on \_\_\_\_\_ at \_\_\_\_\_ to show why you should not be removed from the United States based on the  
(Date) (Time)

charge(s) set forth above.

\_\_\_\_\_  
(Signature and Title of Issuing Officer)

Date: \_\_\_\_\_

\_\_\_\_\_  
(City and State)

**Notice to Respondent**

**Warning:** Any statement you make may be used against you in removal proceedings.

**Alien Registration:** This copy of the Notice to Appear served upon you is evidence of your alien registration while you are under removal proceedings. You are required to carry it with you at all times.

**Representation:** If you so choose, you may be represented in this proceeding, at no expense to the Government, by an attorney or other individual authorized and qualified to represent persons before the Executive Office for Immigration Review, pursuant to 8 CFR 1003.16. Unless you so request, no hearing will be scheduled earlier than ten days from the date of this notice, to allow you sufficient time to secure counsel. A list of qualified attorneys and organizations who may be available to represent you at no cost will be provided with this notice.

**Conduct of the hearing:** At the time of your hearing, you should bring with you any affidavits or other documents, which you desire to have considered in connection with your case. If you wish to have the testimony of any witnesses considered, you should arrange to have such witnesses present at the hearing.

At your hearing you will be given the opportunity to admit or deny any or all of the allegations in the Notice to Appear and that you are inadmissible or removable on the charges contained in the Notice to Appear. You will have an opportunity to present evidence on your own behalf, to examine any evidence presented by the Government, to object, on proper legal grounds, to the receipt of evidence and to cross examine any witnesses presented by the Government. At the conclusion of your hearing, you have a right to appeal an adverse decision by the immigration judge.

You will be advised by the immigration judge before whom you appear of any relief from removal for which you may appear eligible including the privilege of departure voluntarily. You will be given a reasonable opportunity to make any such application to the immigration judge.

**Failure to appear:** You are required to provide the DHS, in writing, with your full mailing address and telephone number. You must notify the Immigration Court and the Department of Homeland Security immediately by using Form EOIR-33 whenever you change your address or telephone number during the course of this proceeding. You will be provided with a copy of this form. Notices of hearing will be mailed to this address. If you do not submit Form EOIR-33 and do not otherwise provide an address at which you may be reached during proceedings, then the Government shall not be required to provide you with written notice of your hearing. If you fail to attend the hearing at the time and place designated on this notice, or any date and time later directed by the Immigration Court, a removal order may be made by the immigration judge in your absence, and you may be arrested and detained by the DHS.

**Mandatory Duty to Surrender for Removal:** If you become subject to a final order of removal, you must surrender for removal to your local DHS office, listed on the internet at <http://www.ice.gov/contact/ero>, as directed by DHS and required by statute and regulation. Immigration regulations at 8 CFR 1241.1 define when the removal order becomes administratively final. If you are granted voluntary departure and fail to depart the United States as required, fail to post a bond in connection with voluntary departure, or fail to comply with any other condition or term in connection with voluntary departure, you must surrender for removal on the next business day thereafter. If you do not surrender for removal as required, you will be ineligible for all forms of discretionary relief for as long as you remain in the United States and for ten years after departure or removal. This means you will be ineligible for asylum, cancellation of removal, voluntary departure, adjustment of status, change of nonimmigrant status, registry, and related waivers for this period. If you do not surrender for removal as required, you may also be criminally prosecuted under section 243 of the Immigration and Nationality Act (the Act).

**Request for Prompt Hearing**

To expedite a determination in my case, I request this Notice to Appear be filed with the Executive Office of Immigration Review as soon as possible. I waive my right to a 10-day period prior to appearing before an immigration judge and request my hearing be scheduled.

Before:

\_\_\_\_\_  
(Signature of Respondent)

Date: \_\_\_\_\_

\_\_\_\_\_  
(Signature and Title of Immigration Officer)

**Certificate of Service**

This Notice To Appear was served on the respondent by me on \_\_\_\_\_, in the following manner and in compliance with section 239(a)(1) of the Act.

in person     by certified mail, returned receipt # \_\_\_\_\_ requested     by regular mail

Attached is a credible fear worksheet.

Attached is a list of organization and attorneys which provide free legal services.

The alien was provided oral notice in the \_\_\_\_\_ language of the time and place of his or her hearing and of the consequences of failure to appear as provided in section 240(b)(7) of the Act.

\_\_\_\_\_  
(Signature of Respondent if Personally Served)

\_\_\_\_\_  
(Signature and Title of officer)



Statement by: \_\_\_\_\_

In the case of: \_\_\_\_\_

Date of Birth: \_\_\_\_\_ Gender (circle one): Male Female

At: \_\_\_\_\_ Date: \_\_\_\_\_

Before: \_\_\_\_\_

In the \_\_\_\_\_ language. Interpreter \_\_\_\_\_ (Name and Title) Employed by \_\_\_\_\_

I am an officer of the United States Immigration and Naturalization Service. I am authorized to administer the immigration laws and to take sworn statements. I want to take your sworn statement regarding your application for admission to the United States. Before I take your statement, I also want to explain your rights, and the purpose and consequences of this interview.

You do not appear to be admissible or to have the required legal papers authorizing your admission to the United States. This may result in your being denied admission and immediately returned to your home country without a hearing. If a decision is made to refuse your admission into the United States, you may be immediately removed from this country, and if so, you may be barred from reentry for a period of 5 years or longer.

This may be your only opportunity to present information to me and the Immigration and Naturalization Service to make a decision. It is very important that you tell me the truth. If you lie or give misinformation, you may be subject to criminal or civil penalties, or barred from receiving immigration benefits or relief now or in the future.

Except as I will explain to you, you are not entitled to a hearing or review.

U.S. law provides protection to certain persons who face persecution, harm or torture upon return to their home country. If you fear or have a concern about being removed from the United States or about being sent home, you should tell me so during this interview because you may not have another chance. You will have the opportunity to speak privately and confidentially to another officer about your fear or concern. That officer will determine if you should remain in the United States and not be removed because of that fear.

Until a decision is reached in your case, you will remain in the custody of the Immigration and Naturalization Service.

Any statement you make may be used against you in this or any subsequent administrative proceeding.

Q: Do you understand what I've said to you?

A.

Q: Do you have any questions?

A.

Q: Are you willing to answer my questions at this time?

A.

Q: Do you swear or affirm that all the statements you are about to make are true and complete?

A.

**Jurat for Record of Sworn Statement in  
Proceedings under Section 235(b)(1) of the Act**

Q: Why did you leave your home country or country of last residence?

A.

Q. Do you have any fear or concern about being returned to your home country or being removed from the United States?

A.

Q. Would you be harmed if you are returned to your home country or country of last residence?

A.

Q. Do you have any questions or is there anything else you would like to add?

A.

I have read (or have had read to me) this statement, consisting of \_\_\_\_\_ pages (including this page). I state that my answers are true and correct to the best of my knowledge and that this statement is a full, true and correct record of my interrogation on the date indicated by the above-named officer of the Immigration and Naturalization Service. I have initialed each page of this statement (and the corrections noted on page(s) \_\_\_\_\_).

Signature: \_\_\_\_\_

Sworn and subscribed to before me at \_\_\_\_\_  
on \_\_\_\_\_.

\_\_\_\_\_  
Officer, United States Immigration and Naturalization Service

Witnessed by: \_\_\_\_\_

# Record of Negative Credible Fear Finding and Request for Review by Immigration Judge

Alien File \_\_\_\_\_  
Number \_\_\_\_\_

**1. To be explained to the alien by the asylum officer:**

The INS has determined that you do not have a credible fear of persecution or torture pursuant to 8 CFR 208.30 for the following reason(s):

- A. You have not established a credible fear of return to your country of nationality or country of last residence because:
- You have not indicated that you were harmed in the past and you have not expressed fear of future harm.
  - There is no significant possibility that you could establish in an asylum hearing that the harm you experienced and/or the harm you fear is on account of one or more of the five grounds for asylum (race, religion, nationality, political opinion, or social group).
  - You have not indicated that you were harmed in the past, and there is no significant possibility that you could establish in an asylum hearing that the harm you fear is well founded.

**AND**

- You have not expressed a fear that you would be intentionally subjected to serious physical or mental harm in a country to which you may be removed.
  - There is no significant possibility you could establish that the harm you fear would be inflicted by, or at the instigation of, or with the consent or acquiescence of, a government official or other person acting in an official capacity.
- B. There is no significant possibility that your claim is credible because your testimony was inconsistent or lacked detail on material issues. When you were given an opportunity to explain you were unable to give a reasonable explanation about the following issues:
- Your testimony was internally inconsistent on material issues.
  - Your testimony was not consistent with country conditions on material issues.
  - Your testimony lacked reasonably sufficient detail on material issues.

Therefore, you are ordered removed from the United States. You may request that an Immigration Judge review this decision.

If you request that an Immigration Judge review this decision, you will remain in detention until an Immigration Judge reviews your case. That review could occur as long as 7 days after you receive this decision.

If you do not request that an Immigration Judge review the decision, you may be removed from the United States immediately.

**2. To be completed by the alien:**

- Yes, I request Immigration Judge review of the decision that I do not have a credible fear of persecution or torture.
- No, I do not request Immigration Judge review of the decision that I do not have a credible fear of persecution or torture.

\_\_\_\_\_  
Applicant's Last Name/ Family Name (Print)      Applicant's First Name (Print)      Applicant's Signature

\_\_\_\_\_  
Asylum Officer's Last Name (Print)      Asylum Officer's First Name, (Print)      Date \_\_\_\_/\_\_\_\_/\_\_\_\_

The contents of this form were read and explained to the applicant in the \_\_\_\_\_ language

Interpreter used:

By telephone (list interpreter service /ID number used \_\_\_\_\_).

In person (I, \_\_\_\_\_, certify that I am fluent in both the \_\_\_\_\_ and English languages. I interpreted the above information completely and accurately to the alien.)

\_\_\_\_\_  
Interpreter's Signature      Date \_\_\_\_/\_\_\_\_/\_\_\_\_

District Office Code	Asylum Office Code	Alien's File Number	Alien's Last/ Family Name
Asylum Officer's Last Name	Asylum Officer's First Name	Alien's Nationality	

*All statements in italics must be read to the applicant*

**SECTION I:**

**INTERVIEW PREPARATION**

- 1.1 \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_ 1.2 \_\_\_\_\_  
Date of arrival [MM/DD/YY] Port of arrival
- 1.3 \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_ 1.4 \_\_\_\_\_  
Date of detention [MM/DD/YY] Place of detention
- 1.5 \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_ 1.6 \_\_\_\_\_  
Date of AO orientation [MM/DD/YY] If orientation more than one week from date of detention, explain delay
- 1.7 \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_ 1.8 \_\_\_\_\_  
Date of interview [MM/DD/YY] Interview site
- 1.9  Applicant received and signed Form M-444 and relevant *pro bono* list on \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_  
Date signed [MM/DD/YY]
- 1.10 Does applicant have consultant(s)?  Yes  No
- 1.11 If yes, consultant(s) name, address, telephone number and relationship to applicant  
\_\_\_\_\_  
\_\_\_\_\_
- 1.12 Persons present at the interview (check which apply)
- 1.13  Consultant(s)
- 1.14  Other(s), list: \_\_\_\_\_
- 1.15  No one other than applicant and asylum officer
- 1.16 Language used by applicant in interview:
- |   |  |              |            |
|---|--|--------------|------------|
| 1.17 _____                                  | <input type="checkbox"/> Yes <input type="checkbox"/> No | _____        | _____      |
| Interpreter Service, Interpreter ID Number. | Interpreter Has Forms                                    | Time Started | Time Ended |
| 1.18 _____                                  | <input type="checkbox"/> Yes <input type="checkbox"/> No | _____        | _____      |
| Interpreter Service, Interpreter ID Number. | Interpreter Has Forms                                    | Time Started | Time Ended |
| 1.19 _____                                  | <input type="checkbox"/> Yes <input type="checkbox"/> No | _____        | _____      |
| Interpreter Service, Interpreter ID Number. | Interpreter Has Forms                                    | Time Started | Time Ended |
- 1.20  Interpreter was **not** changed during the interview
- 1.21  Interpreter was **changed** during the interview for the following reason(s):
- 1.22  Applicant requested a female interpreter replace a male interpreter, or *vice versa*
- 1.23  Applicant found interpreter was not competent 1.24  Applicant found interpreter was not neutral
- 1.25  Officer found interpreter was not competent 1.26  Officer found interpreter was not neutral
- 1.27  Bad telephone connection
- 1.28  Asylum officer read the following paragraph to the applicant at the beginning of the interview:

Alien's File Number:

The purpose of this interview is to determine whether you may be eligible for asylum or protection from removal to a country where you fear persecution or torture. I am going to ask you questions about why you fear returning to your country or any other country you may be removed to. It is very important that you tell the truth during the interview and that you respond to all of my questions. This may be your only opportunity to give such information. Please feel comfortable telling me why you fear harm. U.S. law has strict rules to prevent the disclosure of what you tell me today about the reasons why you fear harm. The information you tell me about the reasons for your fear will not be disclosed to your government, except in exceptional circumstances. The statements you make today may be used in deciding your claim and in any future immigration proceedings. It is important that we understand each other. If at any time I make a statement you do not understand, please stop me and tell me you do not understand so that I can explain it to you. If at any time you tell me something I do not understand, I will ask you to explain.

SECTION II:

BIOGRAPHIC INFORMATION

2.1 Last Name/ Family Name [ALL CAPS]

2.2 First Name 2.3 Middle Name

2.4 Date of birth [MM/DD/YY] 2.5 Gender [ ] Male [ ] Female

2.6 Other names and dates of birth used

2.7 Country of birth 2.8 Country (countries) of citizenship (list all)

2.9 Address prior to coming to the U.S. (List Address, City/Town, Province, State, Department and Country).

2.10 Applicant's race or ethnicity 2.11 Applicant's religion 2.12 All languages spoken by applicant

2.13 Marital status: [ ] Single [ ] Married [ ] Legally separated [ ] Divorced [ ] Widowed

2.14 Did spouse arrive with applicant? [ ] Yes [ ] No

2.15 Is spouse included in applicant's claim? [ ] Yes [ ] No

2.16 If currently married (including common law marriage) list spouse's name, citizenship, and present location (if with applicant, provide A-Number):

2.17 Children: [ ] Yes [ ] No

2.18 List any children (Use the continuation section to list any additional children):

Table with 6 columns: Date of birth (MM/DD/YY), Name, Citizenship, Present location (if w/PA, list A-Numbers), Did child arrive with PA?, Is child included in PA's claim? (Yes/No).

**Alien's File Number:**

_____	_____	_____	_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Yes	<input type="checkbox"/> No
_____	_____	_____	_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Yes	<input type="checkbox"/> No
_____	_____	_____	_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Yes	<input type="checkbox"/> No

Alien's File Number:

2.19 Does applicant claim to have a medical condition (physical or mental), or has the officer observed any indication(s) that a medical condition exists? If YES, answer questions 2.20 and 2.21 and explain below.  Yes  No

2.20 Has applicant notified the facility of medical condition?  Yes  No

2.21 Does applicant claim that the medical condition relates to torture?  Yes  No

2.22 Does the applicant have a relative, sponsor or other community ties, including spouse or child already listed above?  Yes  No

2.23 If YES, provide information on relative or sponsor (use continuation section, if necessary):

Name

Relationship

Address

Telephone Number

Citizen  Legal Permanent Resident  Other

**SECTION III:**

**CREDIBLE FEAR INTERVIEW**

**The following notes are not a verbatim transcript of this interview.**

**These notes are recorded to assist the individual officer in making a credible fear determination and the supervisory asylum officer in reviewing the determination.**

**There may be areas of the individual's claim that were not explored or documented for purposes of this threshold screening.**

The asylum officer must elicit sufficient information related to both credible fear of persecution and credible fear of torture to determine whether the applicant meets the threshold screening. Even if the asylum officer determines in the course of the interview that the applicant has a credible fear of persecution, the asylum officer must still elicit any additional information relevant to a fear of torture. Asylum officers are to ask the following questions and may use the continuation sheet if additional space is required. If the applicant replies YES to any question, the asylum officer must ask follow-up questions to elicit sufficient details about the claim in order to make a credible fear determination.

3.1 a. Have you or any member of your family ever been mistreated or threatened by anyone in any country to which you may be returned?

Yes  No

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

b. Do you have any reason to fear harm from anyone in any country to which you may be returned?

Yes  No

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

c. If YES to questions a and/or b, was it or is it because of any of the following reasons? (Check each of the following boxes that apply).

Race  Religion  Nationality  Membership in a particular social group  Political Opinion

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Alien's File Number:

3.2  At the conclusion of the interview, the asylum officer must read the following to applicant:

If the Department of Homeland Security determines you have a credible fear of persecution or torture, your case will be referred to an immigration court, where you will be allowed to seek asylum or withholding of removal based on fear of persecution or withholding of removal under the Convention Against Torture. The Field Office Director in charge of this detention facility will also consider whether you may be released from detention while you are preparing for your hearing. *If the asylum officer determines that you do not have a credible fear of persecution or torture, you may ask an Immigration Judge to review the decision. If you are found not to have a credible fear of persecution or torture and you do not request review, you may be removed from the United States as soon as travel arrangements can be made. Do you have any questions?*

3.3  At the conclusion of the interview, the asylum officer must read a summary of the claim, consisting of the responses to Questions 3.1 a-c and information recorded in the Additional Information/Continuation section, to applicant.

\*\*\*\*Typed Question and Answer (Q&A) interview notes and a summary and analysis of the claim must be attached to this form for all negative credible fear decisions. These Q&A notes must reflect that the applicant was asked to explain any inconsistencies or lack of detail on material issues and that the applicant was given every opportunity to establish a credible fear.

**SECTION IV:**

**CREDIBLE FEAR FINDINGS**

**A. Credible Fear Determination:**

Credibility

- 4.1  There is a significant possibility that the assertions underlying the applicant's claim could be found credible in a full asylum or withholding of removal hearing.
- 4.2  Applicant found **not** credible because (check boxes 4.3-4.5, which apply):
  - 4.3  Testimony was internally inconsistent on material issues.
  - 4.4  Testimony lacked sufficient detail on material issues.
  - 4.5  Testimony was not consistent with country conditions on material issues.

Nexus

- 4.6  Race    4.7  Religion    4.8  Nationality    4.9  Membership in a Particular Social Group
- (Define the social group): \_\_\_\_\_
- 4.10  Political Opinion    4.11  Coercive Family Planning [CFP]    4.12  No Nexus

Credible Fear Finding

- 4.13  Credible fear of **persecution** established.
- OR**
- 4.14  Credible fear of **torture** established.
- OR**
- 4.15  Credible fear of persecution **NOT** established and there is not a significant possibility that the applicant could establish eligibility for withholding of removal or deferral of removal under the Convention against Torture.

**B. Possible Bars:**

- 4.16  Applicant could be subject to a bar(s) to asylum or withholding of removal (check the box(es) that applies and explain on the continuation sheet):
  - 4.17  Particularly Serious Crime    4.18  Security Risk    4.19  Aggravated Felon
  - 4.20  Persecutor    4.21  Terrorist    4.22  Firmly Resettled
  - 4.23  Serious Non-Political Crime Outside the United States
- 4.24  Applicant does **not** appear to be subject to a bar(s) to asylum or withholding of removal.





## INFORMATION ABOUT CREDIBLE FEAR INTERVIEW

### **Purpose of this notice**

The purpose of this notice is to explain what will happen while you are in detention, what rights you have, and what may happen to you as a result of statements you make. It is important that you understand your rights and what will happen.

**PLEASE READ THIS NOTICE CAREFULLY.**

You have been detained because the U.S. Immigration and Naturalization Service (INS) believes that you may not have the right to stay in the United States. You have indicated an intention to apply for asylum or a fear of persecution or return to your country. You will be interviewed by a specially-trained asylum officer to determine if you have a "credible fear of persecution" or a "credible fear of torture." You will be detained until that interview takes place. If the INS finds that you have a credible fear of persecution or torture, the INS will consider whether to release you.

### **Right to consult with other persons**

Normally, the interview will not take place sooner than 48 hours after you arrive at the detention facility. You may use this time to rest and consult with family members, friends, or other representatives. In unusual circumstances, you may be given additional time to contact someone. If you need this additional time, you should inform an INS officer. You may request that the interview take place sooner if you are prepared to discuss your fears or claim immediately.

You may consult with a person or persons of your choosing, provided that such consultation is at no expense to the government and does not delay the process. A person of your choice can be present with you at your interview. A list of representatives who may be able to speak to you free of charge is attached to this notice. You may use the telephone while you are in detention to call a representative, friend or family member in the United States, collect or at your own expense. If you wish to call someone, you should ask an INS officer for assistance. You also may contact the United States Office of the United Nations High Commissioner for Refugees, at (202) 296-5191 from 9:00 a.m.-5:00 p.m. (eastern standard time), Monday through Friday.

### **Description of credible fear interview**

The purpose of the credible fear interview is to determine whether you might be eligible to apply for asylum or for withholding of removal under the Convention against Torture before an immigration judge. This interview is not your formal asylum or withholding of removal hearing. It is only to help us determine whether there is a significant possibility that you may qualify as a refugee or for protection from removal under the Convention against Torture.

At your interview, you will have the opportunity to explain to the asylum officer why you think you should not be returned to your home country or any other country where you fear harm. If you want to apply for asylum in the United States, or think you will be harmed, persecuted or tortured if you return to your home country or another country, you must show an asylum officer that you have a credible fear of being harmed or persecuted because of your race, religion, nationality, membership in a particular social group or political opinion, or a credible fear of being tortured. The officer will take written notes.

If the officer determines that you have a credible fear of persecution or torture if you are returned to your home country or another country where you fear harm, you may be eligible to remain in the United States or to be granted withholding of removal, which provides that you would not be removed to the country where you fear harm.

It is very important that you tell the officer all the reasons why you have concerns about being removed. United States law provides strict rules to prevent disclosure of what you tell an asylum officer about the reasons you fear harm. The information you provide about the reasons for your fear will not be disclosed to your government, except in exceptional circumstances.

It is also very important that you tell the truth during your interview. Although the purpose of this interview is not to gather evidence against you, failure to tell the truth could be used against you in this or in any future immigration proceeding.

**Need for interpreter or special consideration**

If you do not speak English well or if you prefer to be interviewed in your own language, INS will provide an interpreter for the interview. The interpreter has been told to keep the information you discuss confidential. If the interpreter is not translating correctly or you do not feel comfortable with the interpreter, you may request another interpreter.

You may request a female officer and female interpreter, or a male officer and male interpreter, if this would make it easier for you to tell the asylum officer about information that is very personal or difficult to discuss. The INS will provide them if they are available. You will also have the opportunity to speak with the asylum officer separately from your family if you so desire.

**Consequences of failure to establish credible fear and review of determination**

If the asylum officer determines that you do not have a credible fear of persecution or torture you may request to have that decision reviewed by an immigration judge. If you do not request such review, you may be removed. If you request review, the immigration judge's review will be in person or by telephone or video connection. The review will happen as soon as possible, to the maximum extent practicable within 24 hours, but in no case later than 7 days from the date of the asylum officer's decision. You may consult with a person or persons of your choosing before the review by the immigration judge, provided it does not cause unreasonable delay. You will be given a copy of the asylum officer's record of determination to examine prior to the review by the immigration judge. If any of the information is incorrect, you should notify the immigration judge. If the immigration judge agrees that you do not have a credible fear of persecution or torture, you may be removed from the United States. The immigration judge may decide that you do have a credible fear and that you are eligible for a full asylum and withholding of removal hearing before an immigration judge. After such a hearing, the immigration judge will either grant you protection, if you are eligible, or will order you removed, if you are not. If you are ordered removed, you may be barred from reentry to the United States for a period of 5 years or longer.

**Interpreter Certification**

I \_\_\_\_\_ (name of interpreter) certify that I am fluent in both the \_\_\_\_\_ and English languages, that I interpreted the above information from English to \_\_\_\_\_ completely and accurately, and that the recipient appeared to have understood my interpretation.

\_\_\_\_\_  
(Signature of interpreter)

\_\_\_\_\_  
(Date)

**Alien Acknowledgment of Receipt**

I acknowledge that I have been given notice concerning my credible fear interview. I understand that I may consult with a person or persons of my choosing prior to the interview as long as it does not unreasonably delay the process and is at no expense to the government.

\_\_\_\_\_  
(Signature of person being referred)

\_\_\_\_\_  
(Date)

(b)(5)

**Jowett, Haley L**

---

**From:** Tanner, Rebecca S  
**Sent:** Tuesday, August 19, 2014 7:59 AM  
**To:** Lafferty, John L; Kim, Ted H  
**Cc:** Kim, Alejandra; Broughton, Daniel A; Gossett, Christopher R; Kochman, Jane; Kilaru, Lakshmi S  
**Subject:** Fw: Unable/unwilling cases from ZHN

**Attachments:**



(b)(6)

Hi John and Ted,

FYI - I reached out to Rob and Bryan yesterday concerning



Rebecca

(b)(5)

---

**From:** Tanner, Rebecca S  
**Sent:** Monday, August 18, 2014 09:37 PM  
**To:** Daum, Robert L <[Robert.L.Daum@uscis.dhs.gov](mailto:Robert.L.Daum@uscis.dhs.gov)>; Hemming, Bryan D <[Bryan.D.Hemming@uscis.dhs.gov](mailto:Bryan.D.Hemming@uscis.dhs.gov)>  
**Subject:** Unable/unwilling cases from ZHN

Hi Rob and Bryan,

As part of the new QA model, we are trying to provide more tailored guidance to each Asylum Office on common issues that we have encountered during our review of cases.





If it would be useful, my team members would be happy to set up a time to discuss this further with ZHN.

Best, (b)(5)  
Rebecca

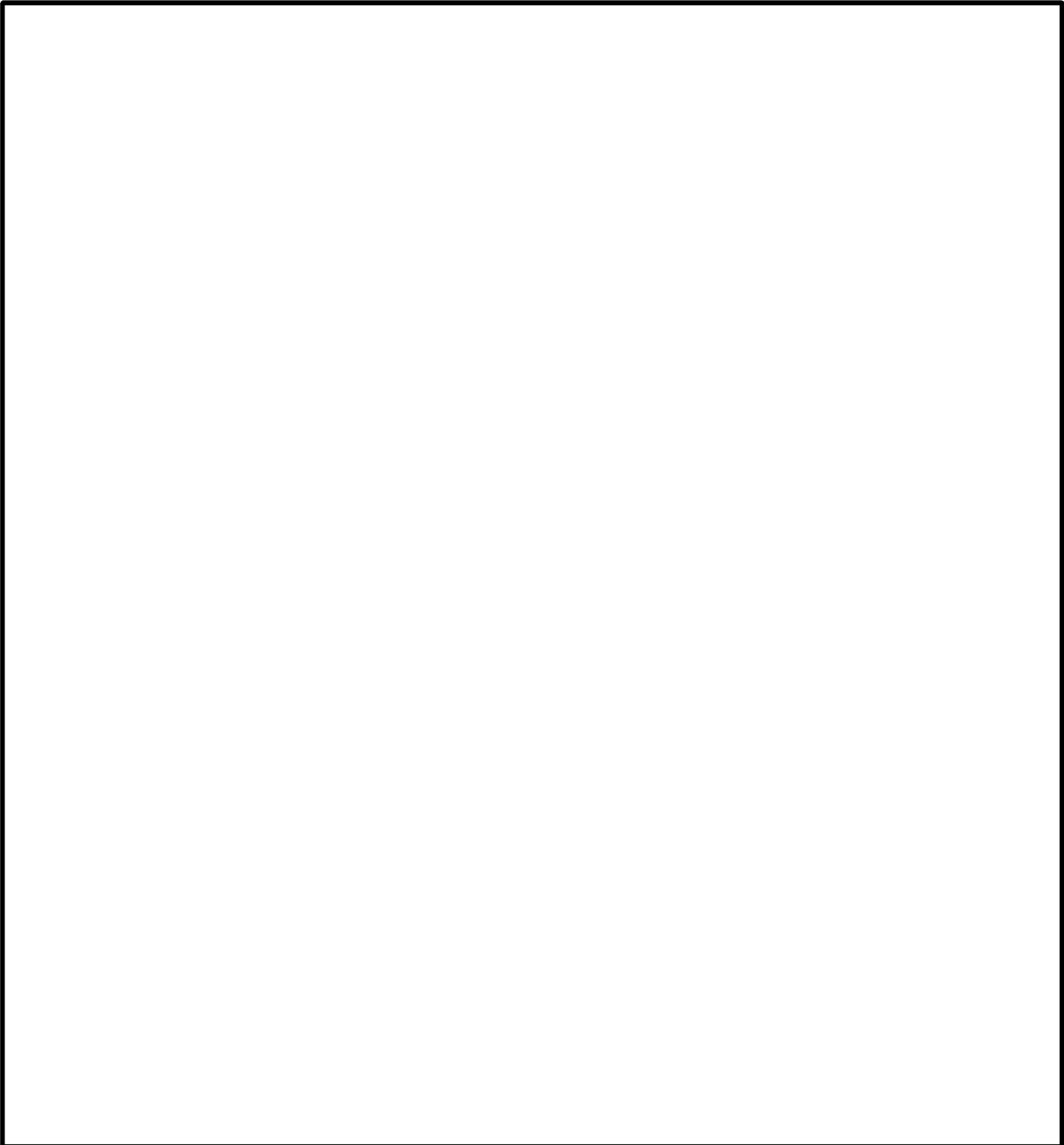
Rebecca Tanner  
Branch Chief for Quality Assurance  
Asylum Division  
U.S. Citizenship and Immigration Services  
U.S. Department of Homeland Security  
202-272-8128 (office)  
[redacted] mobile)  
Rebecca.S.Tanner@uscis.dhs.gov

(b)(6)

**Jowett, Haley L**

---

**From:** (b)(6) ASYLUM QA - CREDIBLE FEAR  
**Sent:** Monday, August 11, 2014 2:56 PM  
**To:** Lynn, Mallory L  
**Cc:** (b)(5) Donis, Antonio; Littlepage, Ryan L; ASYLUM QA - CREDIBLE FEAR; Robinson, Michelle Y  
**Subject:** [REDACTED]





Thank you for all your work on this case. Please revise the checklist and resubmit the case.

Best,  
Allie

(b)(6)

(b)(5)

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**From:** Lynn, Mallory L  
**Sent:** Wednesday, August 06, 2014 11:28 AM  
**To:** ASYLUM QA - CREDIBLE FEAR  
**Cc:** Donis, Antonio; Littlepage, Ryan L  
**Subject:**

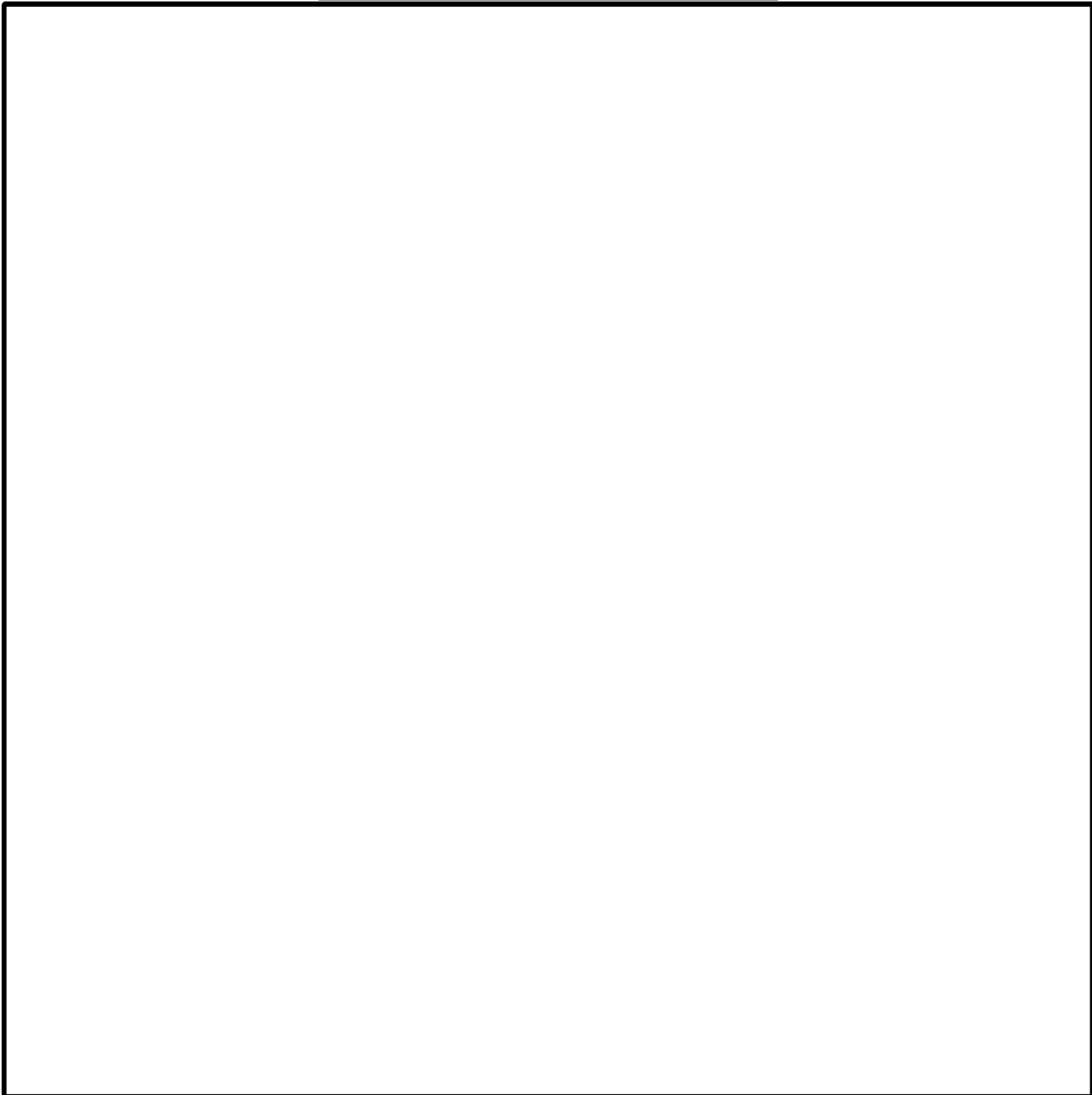


(b)(6)

**Jowett, Haley L**

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**From:** ASYLUM QA - CREDIBLE FEAR  
**Sent:** Monday, August 11, 2014 2:53 PM  
**To:** (b)(6) Lynn, Mallory L; ASYLUM QA - CREDIBLE FEAR  
**Cc:** Donis, Antonio; Littlepage, Ryan L; Robinson, Michelle Y  
**Subject:** (b)(5)



Thank you for your work on this case, and please let us know if you have any questions as you address the issues mentioned above.

Dan



---

**From:** Lynn, Mallory L  
**Sent:** Wednesday, August 06, 2014 6:36 PM  
**To:** ASYLUM QA - CREDIBLE FEAR  
**Cc:** Donis, Antonio; Littlepage, Ryan L  
**Subject:** [REDACTED]

Hi QA:

We are sending up a few cases today with these issues we've been discussing for your review. After today we will have sent our 4 CF cases for the week – do you all think we need to keep sending more this week for randomized review?

Thanks again!  
Mallory



(b)(6)

(b)(6)

(b)(5)

**Jowett, Haley L**

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**From:** Broughton, Daniel A on behalf of ASYLUM QA - CREDIBLE FEAR  
**Sent:** Monday, August 11, 2014 10:52 AM  
**To:** Lynn, Mallory L; ASYLUM QA - CREDIBLE FEAR  
**Cc:** Donis, Antonio; Littlepage, Ryan L; Tanner, Rebecca S; Robinson, Michelle Y  
**Subject:**

Hi Mallory and Ryan,



Thanks,

Dan

(b)(5) (b)(6)

---

**From:** Lynn, Mallory L  
**Sent:** Thursday, August 07, 2014 7:53 PM  
**To:** ASYLUM QA - CREDIBLE FEAR  
**Cc:** Donis, Antonio; Littlepage, Ryan L  
**Subject:** RE [REDACTED]

Resubmission attached.

Thanks!

---

**From:** Broughton, Daniel A **On Behalf Of** ASYLUM QA - CREDIBLE FEAR  
**Sent:** Thursday, August 07, 2014 10:23 AM  
**To:** Lynn, Mallory L; ASYLUM QA - CREDIBLE FEAR  
**Cc:** Donis, Antonio; Tanner, Rebecca S  
**Subject:** [REDACTED]

Hi Mallory,

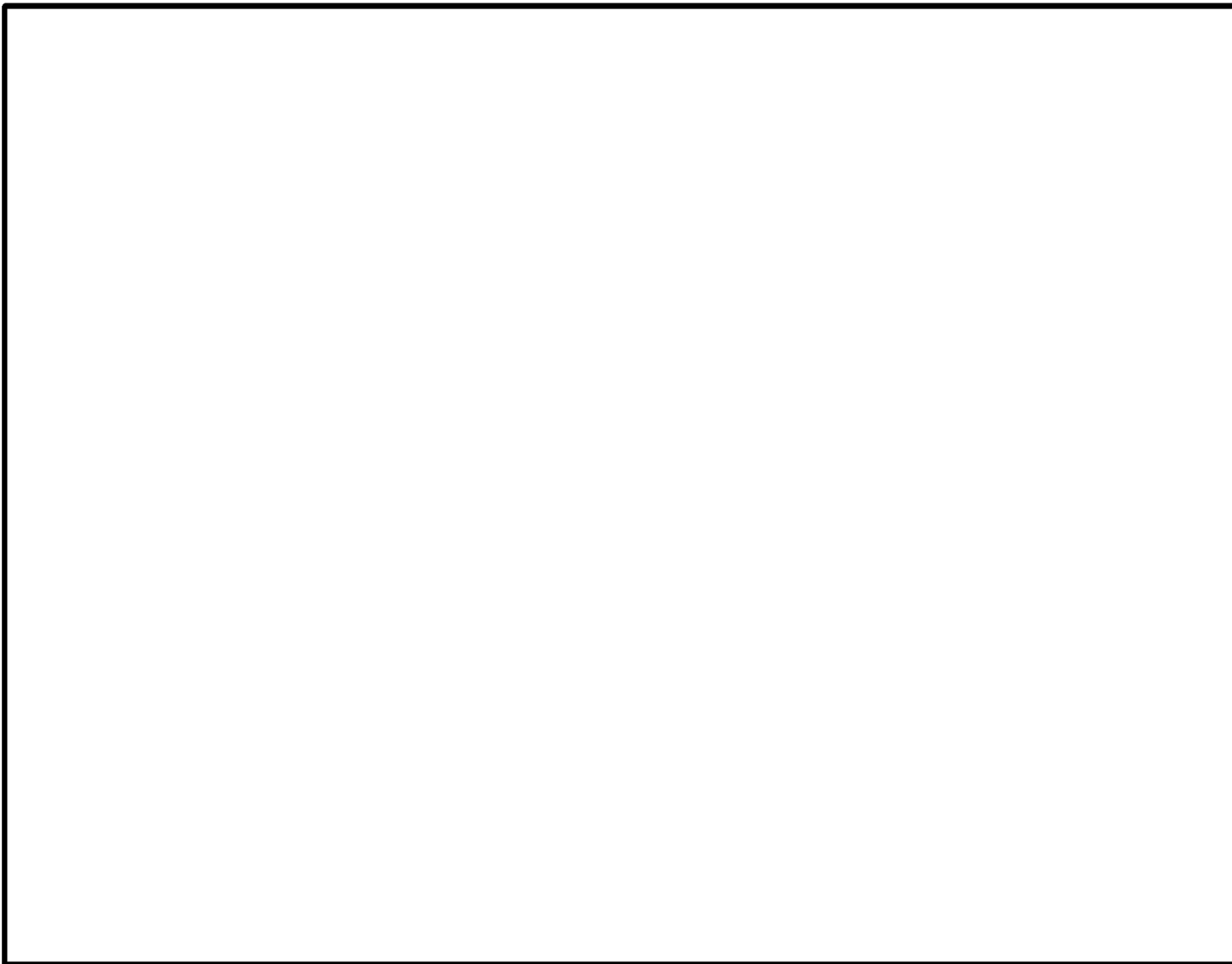


(b)(5)

(b)(6)

(b)(6)

(b)(5)



Thank you, again, for your inquiries, and please reach out if you would like to request further guidance,

Dan, on behalf of the QA Team

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**From:** Lynn, Mallory L

**Sent:** Monday, August 04, 2014 10:38 AM

**To:** ASYLUM QA - CREDIBLE FEAR

**Cc:** Donis, Antonio; Tanner, Rebecca S

**Subject:** FW: 



(b)(5)

(b)(6)

Thanks again!  
Mallory

---

**From:** Lynn, Mallory L  
**Sent:** Saturday, August 02, 2014 3:06 PM  
**To:** ASYLUM QA - CREDIBLE FEAR  
**Cc:** Donis, Antonio; Tanner, Rebecca S  
**Subject:** [REDACTED]

V

Thank you,

Mallory

(b)(6)

(b)(5)

Mallory Lynn  
Supervisory Asylum Officer  
Los Angeles Asylum Office  
(714) 808-8003

---

**From:** Broughton, Daniel A **On Behalf Of** ASYLUM QA - CREDIBLE FEAR  
**Sent:** Friday, August 01, 2014 3:41 PM  
**To:** Lynn, Mallory L; ASYLUM QA - CREDIBLE FEAR  
**Cc:** Donis, Antonio; Zee, Dona; Tanner, Rebecca S; Robinson, Michelle Y  
**Subject:** [REDACTED]

Hi Mallory,

(b)(5)

(b)(6)



(b)(6)

(b)(5)

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**From:** Lynn, Mallory L

**Sent:** Wednesday, July 30, 2014 3:09 PM

**To:** ASYLUM QA - CREDIBLE FEAR

**Cc:** Donis, Antonio; Zee, Dong

**Subject:** [REDACTED]

(b)(5)

(b)(6)



Thanks!  
Mallory

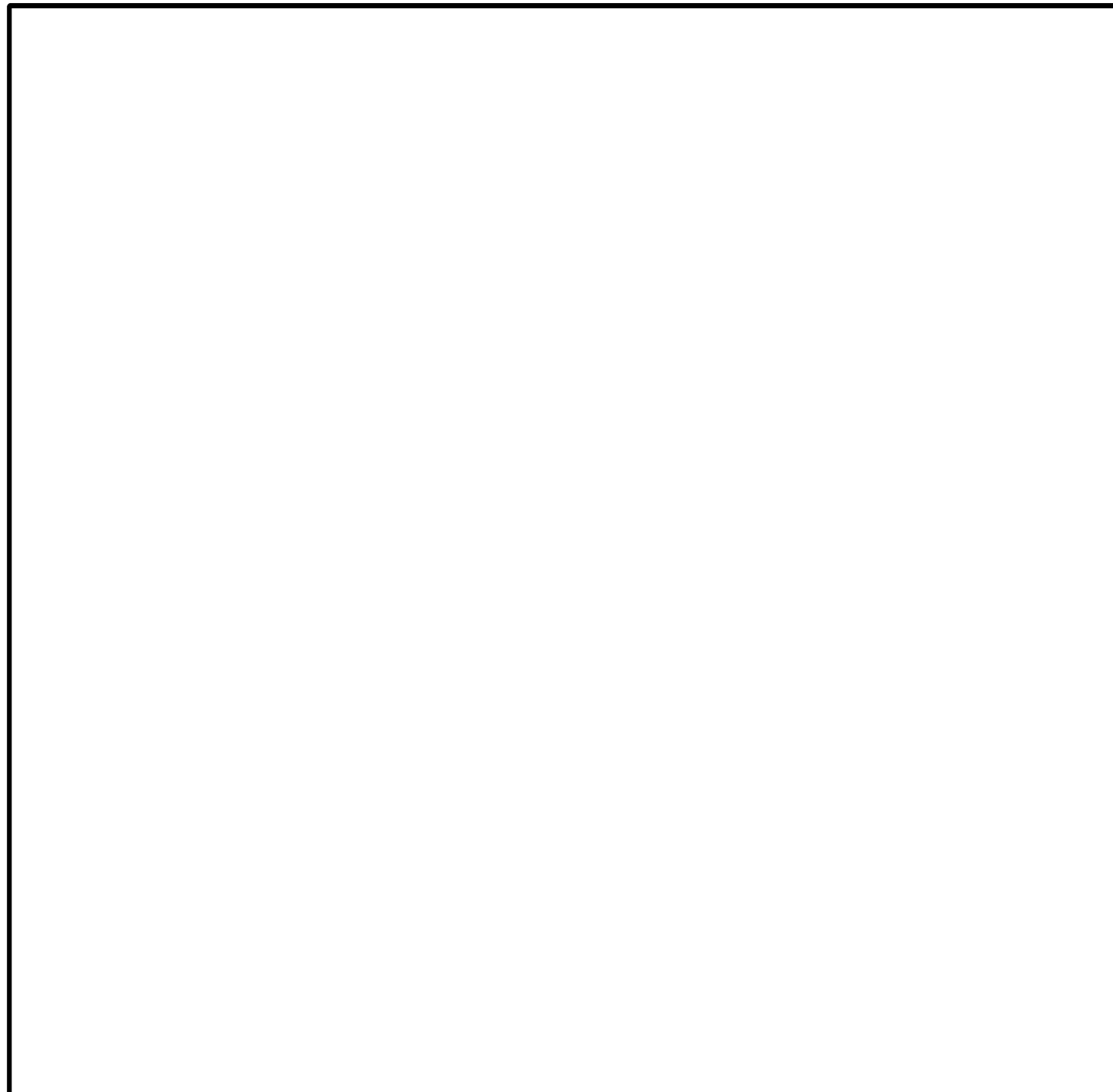
**Jowett, Haley L**

---

**From:** ASYLUM QA - CREDIBLE FEAR  
**Sent:** Thursday, August 07, 2014 3:20 PM  
**To:** Wills, Kirk R; ZHN, HQ Concur CF  
**Cc:** Hemming, Bryan D; McMillan, Jill; Mcdonnell, Audrey V; Curphey, Patrick R; Dabrah, Jacqueline; ASYLUM QA - CREDIBLE FEAR; Robinson, Michelle Y; Penel, Renata Q  
**Subject:** (b)(5)

(b)(6)

Hi Kirk,



Best,  
Allie

---

**From:** Wills, Kirk R

**Sent:** Tuesday, August 05, 2014 8:52 AM

**To:** ASYLUM QA - CREDIBLE FEAR; ZHN, HQ Concur CF

**Cc:** Hemming, Bryan D; McMillan, Jill; McDonnell, Audrey V; Curphey, Patrick R; Dabrah, Jacqueline

**Subject:** [REDACTED]

(b)(5)

(b)(6)

Please find attached a NEG CF case from ZHN for your review and concurrence.

Applicant's name	[REDACTED]
A number	
Country of citizenship	
APSO	
SAPSO	
Reason for Request to Expedite, if applicable	

Thank you,

Kirk

(b)(5)

(b)(6)

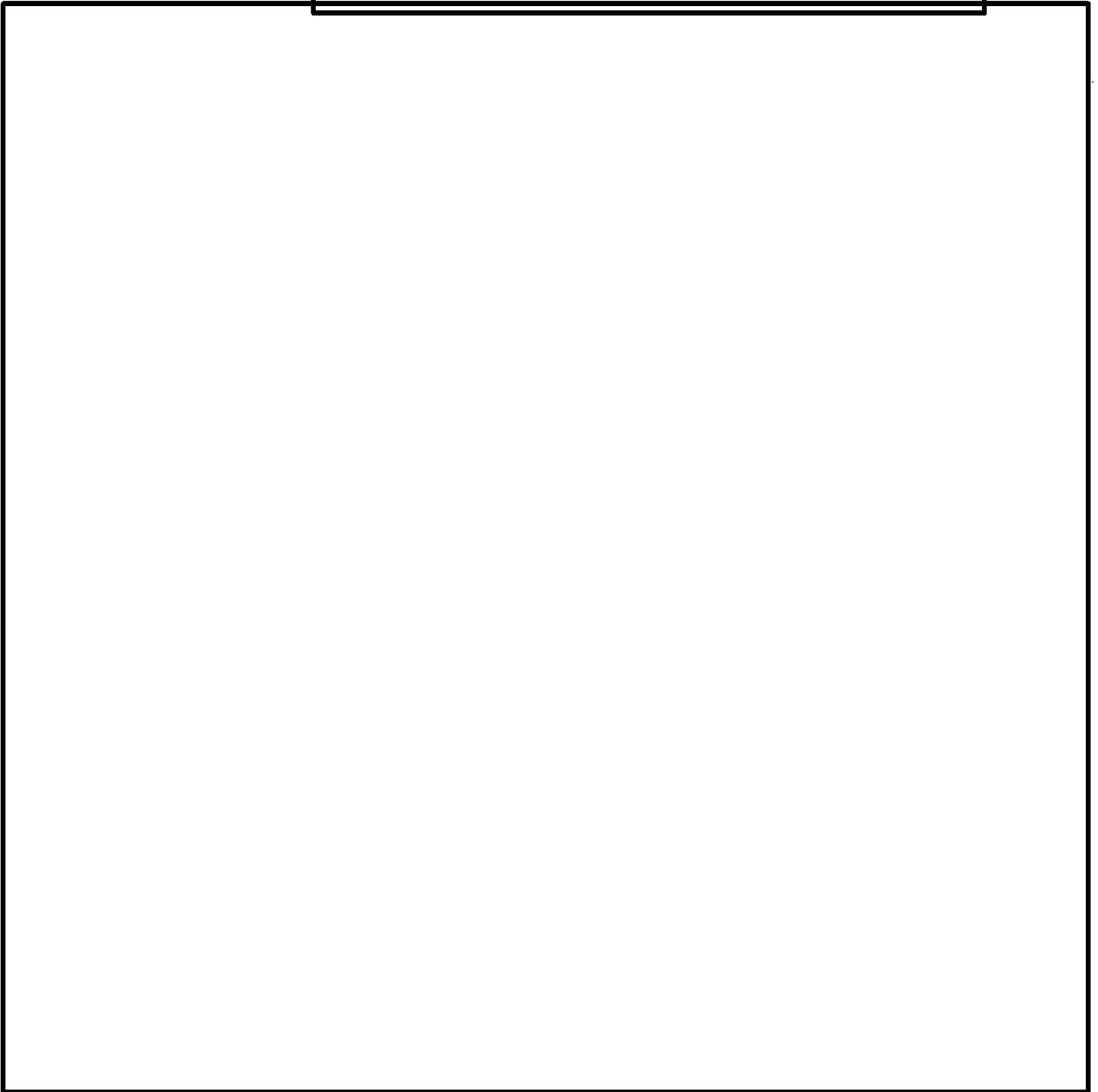
**Jowett, Haley L**

---

**From:** ASYLUM QA - CREDIBLE FEAR  
**Sent:** Friday, August 01, 2014 11:43 AM  
**To:** Talamantes, Eudelia A  
**Cc:** Hemming, Bryan D; Mcdonnell, Audrey V; Crisp, Aaron S; ASYLUM QA - CREDIBLE FEAR; Robinson, Michelle Y

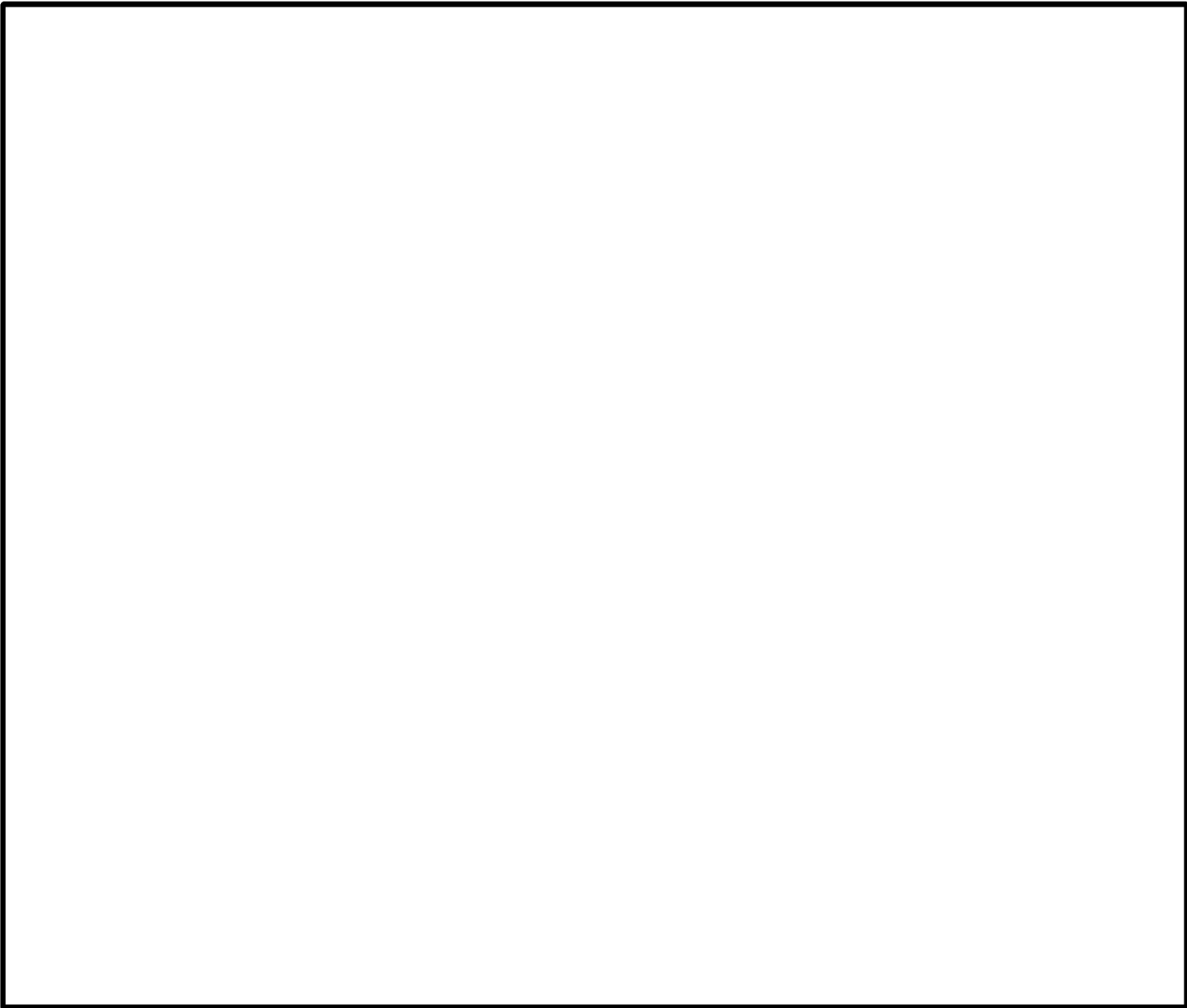
**Subject:**

**Attachments:**



(b)(6)

(b)(5)



Thanks,

(b)(5)

(b)(6)

Sunil

---

**From:** Talamantes, Eudelia A

**Sent:** Thursday, July 24, 2014 10:33 AM

**To:** ASYLUM QA - CREDIBLE FEAR

**Cc:** ZHN, HQ Concur CF; Berger, Jack S; Telfer, Lee W; Hemming, Bryan D; Talamantes, Eudelia A; Crisp, Aaron S; Mcdonnell, Audrey V; McMillan, Jill

**Subject:**



Applicant's Name		
A Number		
Country of Citizenship		
APSO		

SAPSO	
Reason for request to Expedite if applicable	

2<sup>nd</sup> of 2 cases from Coastal Bend Detention Center for random review. Even numbered case was not available next up.

(b)(6)



(b)(5)

**Jowett, Haley L**

---

**From:** Talamantes, Eudelia A (b)(6)  
**Sent:** Thursday, July 31, 2014 10:16 AM  
**To:** ASYLUM QA - CREDIBLE FEAR  
**Cc:** Hemming, Bryan D; Mcdonnell, Audrey V  
**Subject:**  
**Attachments:**

-----Original Message-----

**From:** ASYLUM QA - CREDIBLE FEAR  
**Sent:** Wednesday, July 30, 2014 9:51 AM  
**To:** Talamantes, Eudelia A; ASYLUM QA - CREDIBLE FEAR  
**Cc:** Hemming, Bryan D; Mcdonnell, Audrey V; Tanner, Rebecca S  
**Subject:** RE: Internet status @ cbd

Bryan, because technical issues at Coastal Bend are making CF QA submissions unfeasible, could ZHN redistribute this portion of the daily submission requirement among the other sites and home base until the issues are resolved?

Thanks!

Dan

-----Original Message-----

**From:** Talamantes, Eudelia A  
**Sent:** Wednesday, July 30, 2014 10:13 AM  
**To:** ASYLUM QA - CREDIBLE FEAR  
**Cc:** Hemming, Bryan D; Mcdonnell, Audrey V  
**Subject:** Internet status @ cbd

Good morning,

The internet is still down. Part is on the way and they anticipate it will be up at 3 pm. As a result we r still unable to send the 2 cases from cbd for random review.

Eudelia

(b)(5)

(b)(6)

**QUALITY ASSURANCE REFERRAL SHEET** (rev. 6/6/2014)

0

1

[Empty large rectangular area for case details]

Asylum Officer

Approving Supervisory Asylum Officer

Submitting Quality Assurance Officer

If any, FDNS-IO/FDNS-DS Record Number

Print Name

Aaron Cusp  
Edelia Palamante  
\_\_\_\_\_  
\_\_\_\_\_

Date

7/24/14  
7/24/14  
\_\_\_\_\_  
\_\_\_\_\_

DEPARTMENT OF HOMELAND SECURITY

**NOTICE TO APPEAR**

(b)(6)

In removal proceedings under section 240 of the Immigration and Nationality Act:

File No

In the Matter of:

**Notice to Respondent**

**Warning:** Any statement you make may be used against you in removal proceedings.

**Alien Registration:** This copy of the Notice to Appear served upon you is evidence of your alien registration while you are under removal proceedings. You are required to carry it with you at all times.

**Representation:** If you so choose, you may be represented in this proceeding, at no expense to the Government, by an attorney or other individual authorized and qualified to represent persons before the Executive Office for Immigration Review, pursuant to 8 CFR 1003.16. Unless you so request, no hearing will be scheduled earlier than ten days from the date of this notice, to allow you sufficient time to secure counsel. A list of qualified attorneys and organizations who may be available to represent you at no cost will be provided with this notice.

**Conduct of the hearing:** At the time of your hearing, you should bring with you any affidavits or other documents, which you desire to have considered in connection with your case. If you wish to have the testimony of any witnesses considered, you should arrange to have such witnesses present at the hearing.

At your hearing you will be given the opportunity to admit or deny any or all of the allegations in the Notice to Appear and that you are inadmissible or removable on the charges contained in the Notice to Appear. You will have an opportunity to present evidence on your own behalf, to examine any evidence presented by the Government, to object, on proper legal grounds, to the receipt of evidence and to cross examine any witnesses presented by the Government. At the conclusion of your hearing, you have a right to appeal an adverse decision by the Immigration Judge.

You will be advised by the Immigration Judge before whom you appear of any relief from removal for which you may appear eligible including the privilege of departure voluntarily. You will be given a reasonable opportunity to make any such application to the Immigration Judge.

**Failure to appear:** You are required to provide the DHS, in writing, with your full mailing address and telephone number. You must notify the Immigration Court and the Department of Homeland Security immediately by using Form EOIR-33 whenever you change your address or telephone number during the course of this proceeding. You will be provided with a copy of this form. Notices of hearing will be mailed to this address. If you do not submit Form EOIR-33 and do not otherwise provide an address at which you may be reached during proceedings, then the Government shall not be required to provide you with written notice of your hearing. If you fail to attend the hearing at the time and place designated on this notice, or any date and time later directed by the Immigration Court, a removal order may be made by the Immigration Judge in your absence, and you may be arrested and detained by the DHS.

**Mandatory Duty to Surrender for Removal:** If you become subject to a final order of removal, you must surrender for removal to your local DHS office, listed on the internet at <http://www.ice.gov/contact/ero>, as directed by DHS and required by statute and regulation. Immigration regulations at 8 CFR 1241.1 define when the removal order becomes administratively final. If you are granted voluntary departure and fail to depart the United States as required, fail to post a bond in connection with voluntary departure, or fail to comply with any other condition or term in connection with voluntary departure, you must surrender for removal on the next business day thereafter. If you do not surrender for removal as required, you will be ineligible for all forms of discretionary relief for as long as you remain in the United States and for ten years after departure or removal. This means you will be ineligible for asylum, cancellation of removal, voluntary departure, adjustment of status, change of nonimmigrant status, registry, and related waivers for this period. If you do not surrender for removal as required, you may also be criminally prosecuted under section 243 of the Immigration and Nationality Act (the Act).

**Request for Prompt Hearing**

To expedite a determination in my case, I request this Notice to Appear be filed with the Executive Office of Immigration Review as soon as possible. I waive my right to a 10-day period prior to appearing before an Immigration Judge and request my hearing be scheduled.

Before:

\_\_\_\_\_  
(Signature of Respondent)

Date: \_\_\_\_\_

\_\_\_\_\_  
(Signature and Title of Immigration Officer)

**Certificate of Service**

This Notice To Appear was served on the respondent by me on \_\_\_\_\_, in the following manner and in compliance with section 239(a)(1) of the Act.

- In person       by certified mail, returned receipt # \_\_\_\_\_ requested       by regular mail
- Attached is a credible fear worksheet.
- Attached is a list of organization and attorneys which provide free legal services.

The alien was provided oral notice in the \_\_\_\_\_ language of the time and place of his or her hearing and of the consequences of failure to appear as provided in section 240(b)(7) of the Act.

\_\_\_\_\_  
(Signature of Respondent if Personally Served)

\_\_\_\_\_  
(Signature and Title of officer)

(b)(5)

(b)(6)

### CREDIBLE FEAR DETERMINATION CHECKLIST

FILE #

OFFICER: AARON CRISP ZHN 0207

DA

- *The factual summary (required by 8 CFR § 208.30) must be included at the end of the Q/A notes for each interview.*
- *Torture: If there is a significant possibility of torture, complete Part A and Part C.*
- *Credibility: If there is no significant possibility assertions could be found credible, complete Part A and Part D.*

**C. Torture**

[Empty response area for Section C]

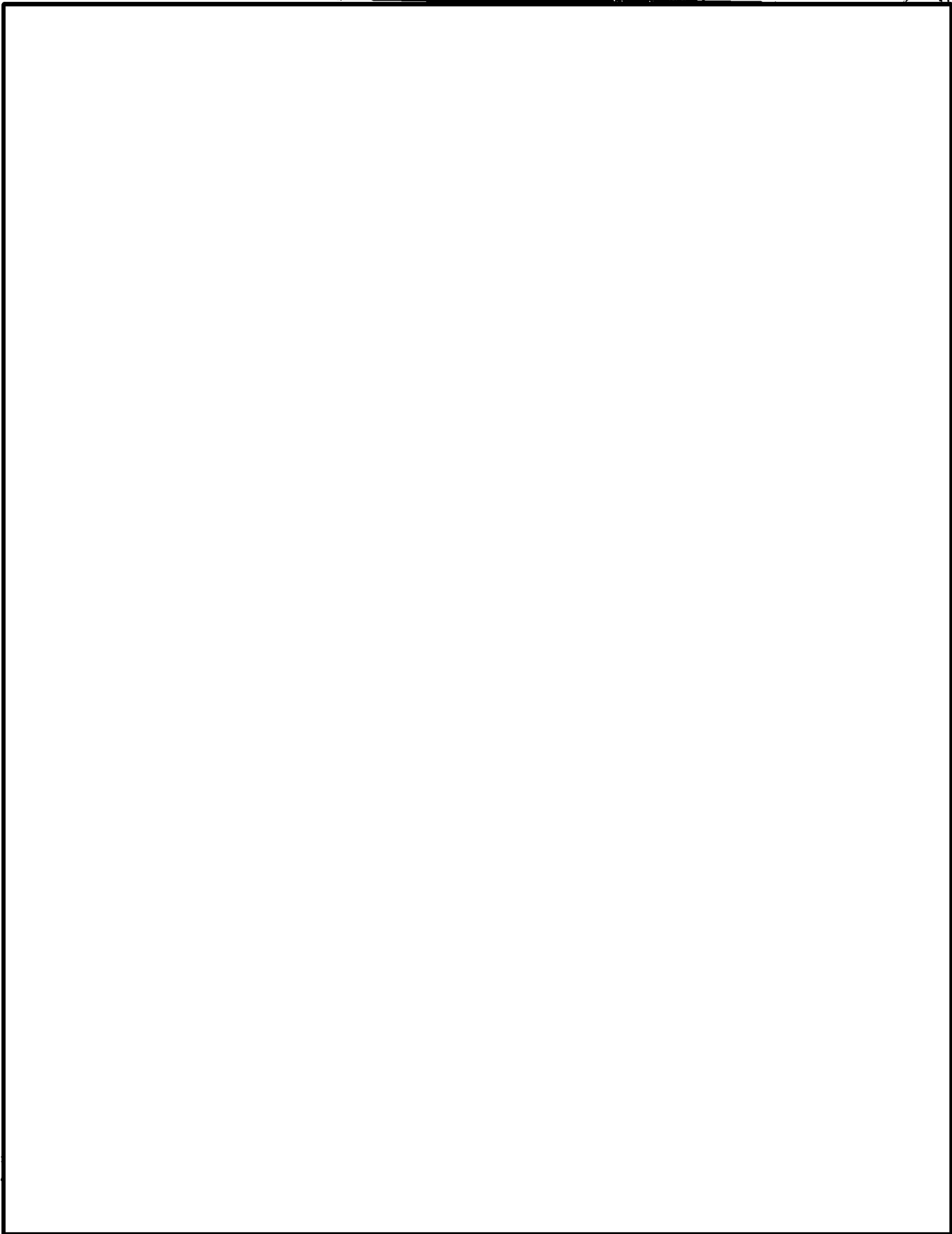
**D. Credibility**

- 1) Explain each credibility issue in detail:
- 2) Explain materiality of each issue:
- 3) Provide the applicant's response for each material credibility issue:
- 4) Assess the reasonableness of applicant's response as to each material credibility issue:

[Empty response area for Section D]

(b)(6)

**Record of Determination/Credible Fear Worksheet**



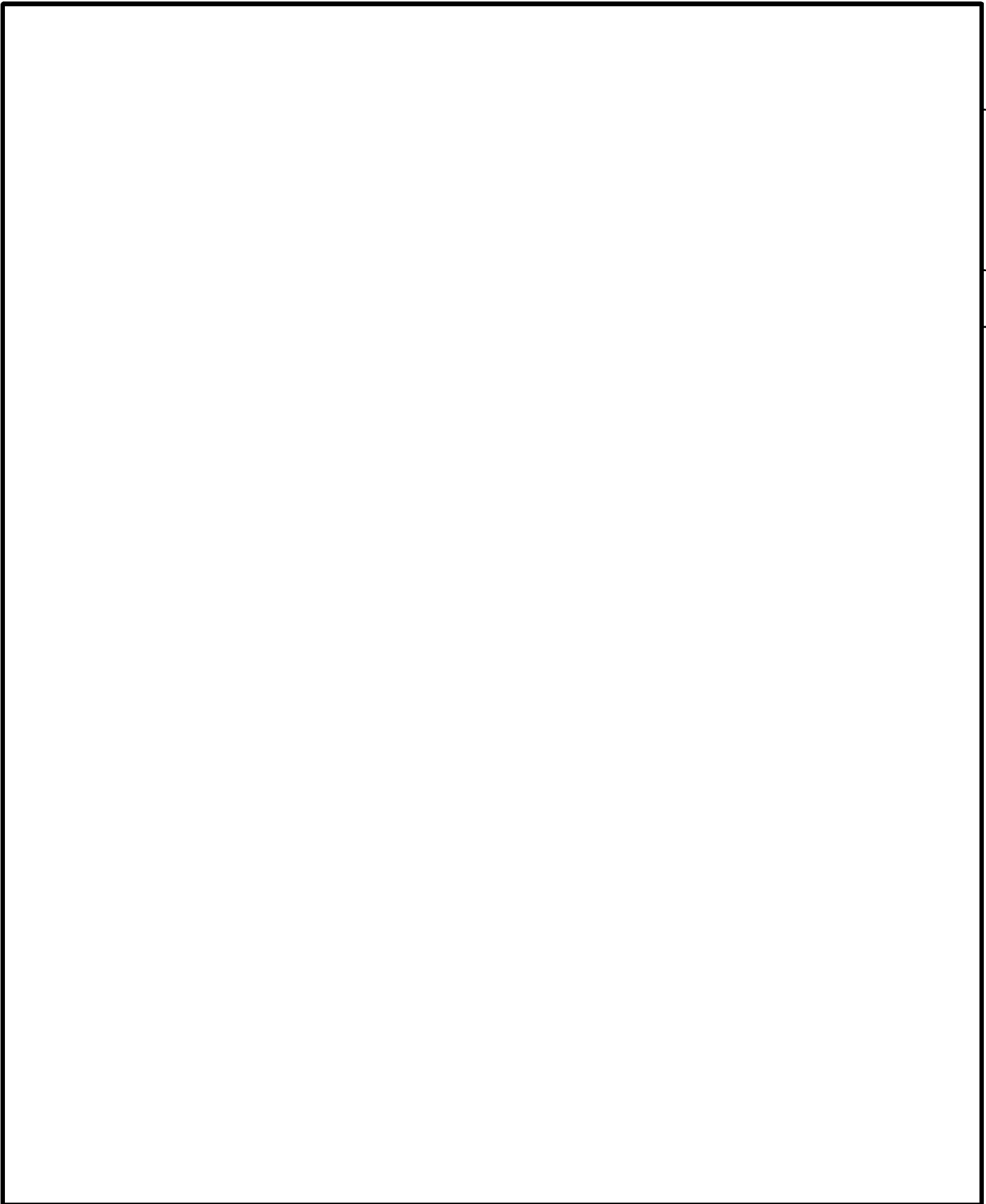
(b)(6)

**SECTION II:**

**BIOGRAPHIC INFORMATION**

[Redacted content]





32  At the conclusion of the interview, the asylum officer must read the following to applicant:

(b)(5)

(b)(6)

If the Department of Homeland Security determines you have a credible fear of persecution or torture, your case will be referred to an immigration court, where you will be allowed to seek asylum or withholding of removal based on fear of persecution or withholding of removal under the Convention Against Torture. The Field Office Director in charge of this detention facility will also consider whether you may be released from detention while you are preparing for your hearing. *If the asylum officer determines that you do not have a credible fear of persecution or torture, you may ask an Immigration Judge to review the decision. If you are found not to have a credible fear of persecution or torture and you do not request review, you may be removed from the United States as soon as travel arrangements can be made. Do you have any questions?*  YES  NO

---

**SECTION V:**

**ASYLUM OFFICER / SUPERVISOR NAMES AND SIGNATURES**

5.1 Aaron Crisp ZHN 0207  
Asylum officer name and ID CODE (print)

5.2

[Signature]  
Asylum Officer's Signature

5.3

7/29/17  
~~7/23/2014~~

Decision date

5.4 Lucella Talamantes  
Supervisor, Asylum Officer

5.5

[Signature]  
Supervisor's Signature

5.6

7/29/17

Date Supervisor Approved  
decision

**ADDITIONAL INFORMATION/CONTINUATION**

See Notes & Assessment

**Jowett, Haley L**

---

**From:** ASYLUM QA - CREDIBLE FEAR  
**Sent:** Thursday, August 14, 2014 3:27 PM  
**To:** Broughton, Daniel A  
**Subject:** [REDACTED]  
**Attachments:** [REDACTED]

(b)(6) (b)(5)

---

**From:** Vu, Christopher T  
**Sent:** Thursday, August 14, 2014 4:26 PM  
**To:** ASYLUM QA - CREDIBLE FEAR; ZHN, HQ Concur CF  
**Cc:** Hemming, Bryan D; Mcdonnell, Audrey V; McMillan, Jill; Curphey, Patrick R; Gordon, Jonathan; Robinson, Michelle Y  
**Subject:** RE: [REDACTED]

Please find attached a POS CF case from ZHN for your review and concurrence. This is resubmission, based on a prior non-concurrence. [REDACTED]

Chris Vu

---

**From:** Broughton, Daniel A on behalf of ASYLUM QA - CREDIBLE FEAR  
**Sent:** Thursday, August 14, 2014 2:17 PM  
**To:** Vu, Christopher T; ASYLUM QA - CREDIBLE FEAR; ZHN, HQ Concur CF  
**Cc:** Hemming, Bryan D; Mcdonnell, Audrey V; McMillan, Jill; Curphey, Patrick R; Gordon, Jonathan; Robinson, Michelle Y

[REDACTED]

Thanks, again, and let me know if you have any additional questions!

Dan

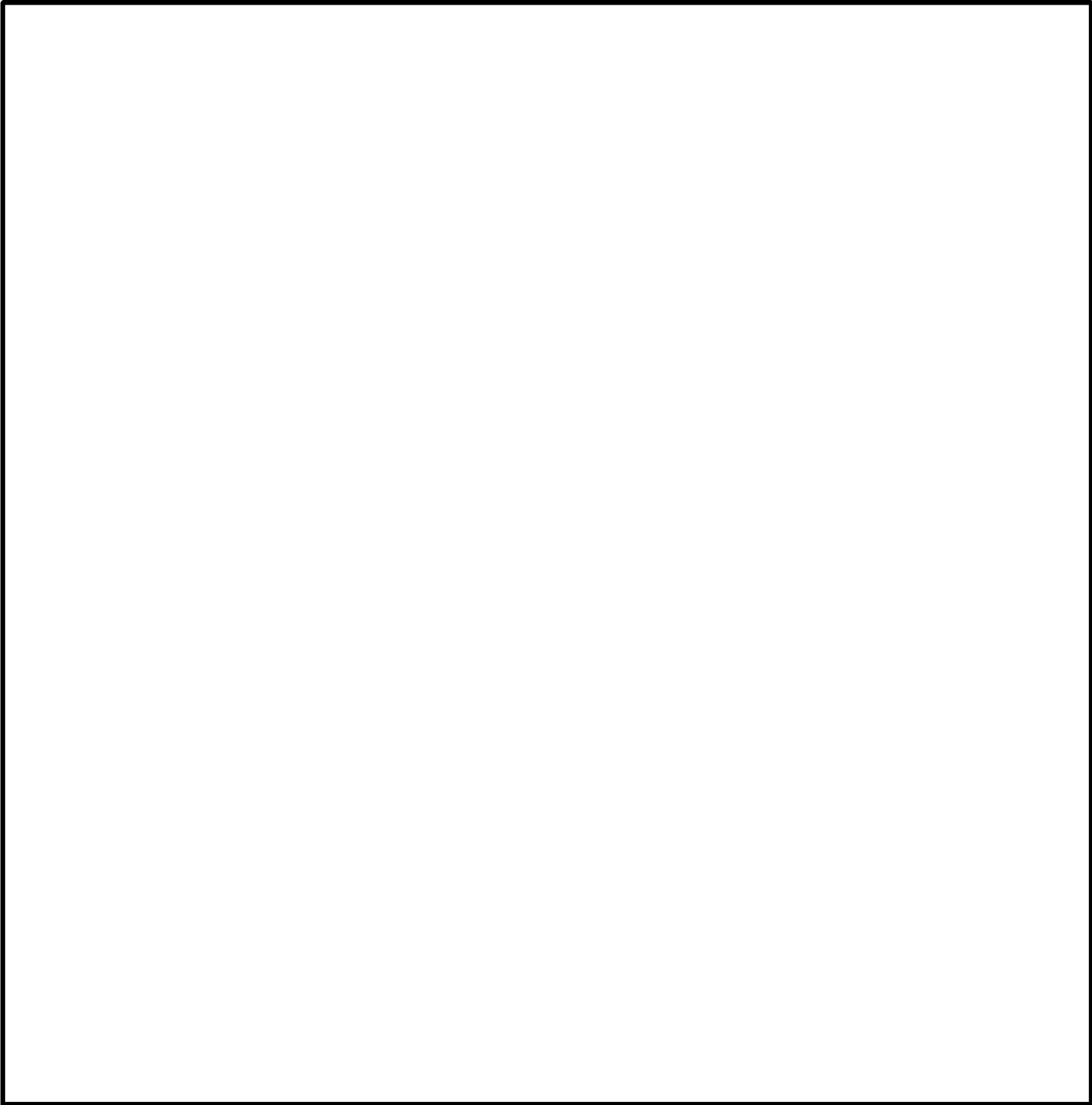
---

**From:** Vu, Christopher T  
**Sent:** Thursday, August 14, 2014 1:44 PM  
**To:** ASYLUM QA - CREDIBLE FEAR; ZHN, HQ Concur CF  
**Cc:** Hemming, Bryan D; Mcdonnell, Audrey V; McMillan, Jill; Curphey, Patrick R; Gordon, Jonathan; Robinson, Michelle Y  
**Subject:** [REDACTED]

Hi Dan,

(b)(5)

(b)(6)



Thanks,

Chris Vu

---

**From:** Broughton, Daniel A on behalf of ASYLUM QA - CREDIBLE FEAR

**Sent:** Thursday, August 14, 2014 11:44 AM

**To:** Vu, Christopher T; ASYLUM QA - CREDIBLE FEAR; ZHN, HQ Concur CF

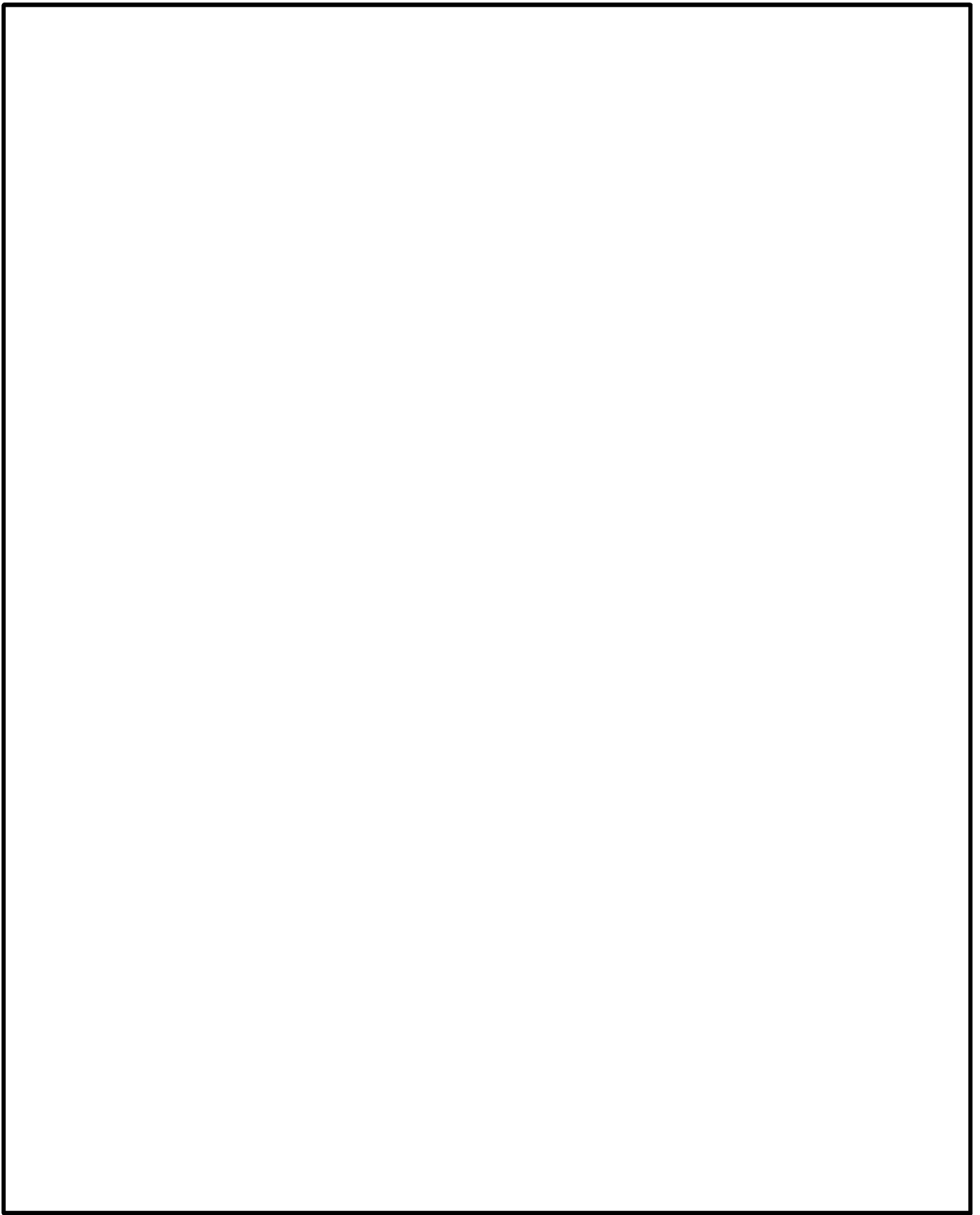
**Cc:** Hemming, Bryan D; Mcdonnell, Audrey V; McMillan, Jill; Curphey, Patrick R; Gordon, Jonathan; Robinson, Michelle Y

**Subject:** [REDACTED]

Hi Chris,

(b)(6)

(b)(5)



Thanks, again,

Dan

**From:** Vu, Christopher T (b)(5) (b)(6)  
**Sent:** Tuesday, August 12, 2014 6:00 PM  
**To:** ASYLUM QA - CREDIBLE FEAR; ZHN, HQ Concur CF  
**Cc:** Hemming, Bryan D; Mcdonnell, Audrey V; McMillan, Jill; Curphey, Patrick R; Gordon, Jonathan  
**Subject:** [REDACTED]

Thanks,

Chris

---

**From:** Vu, Christopher T  
**Sent:** Tuesday, August 12, 2014 12:18 PM  
**To:** ASYLUM QA - CREDIBLE FEAR; ZHN, HQ Concur CF  
**Cc:** Hemming, Bryan D; Mcdonnell, Audrey V; McMillan, Jill; Curphey, Patrick R; Gordon, Jonathan  
**Subject:** [REDACTED]

Please find attached a ZHN NEG CF case for your review and concurrence.

Applicant's name	[REDACTED]
A number	
Country of citizenship	
APSO	
SAPSO	
Reason for Request to Expedite, if applicable	

Thanks,

Chris Vu

QUALITY ASSURANCE REFERRAL SHEET (rev. 6/6/2014)

Tracking number: \_\_\_\_\_

Nationality: \_\_\_\_\_

**Categories Requiring Submission and Response from HQ/QA Prior to Service of Decision**

(b)(5)

(b)(6)

**National Security:**

This case includes classified information

No NS concern

Resolved NS concern (BCAA included)

Unresolved NS concern (BCAA included)

N/A (APSO only)

Asylum Officer

Print Name

Jonathan Gordon \_\_\_\_\_

Date

8/11/2014 \_\_\_\_\_

Approving Supervisory Asylum Officer

CHRIS VL \_\_\_\_\_

8/12/14 \_\_\_\_\_

Submitting Quality Assurance Officer

\_\_\_\_\_

\_\_\_\_\_

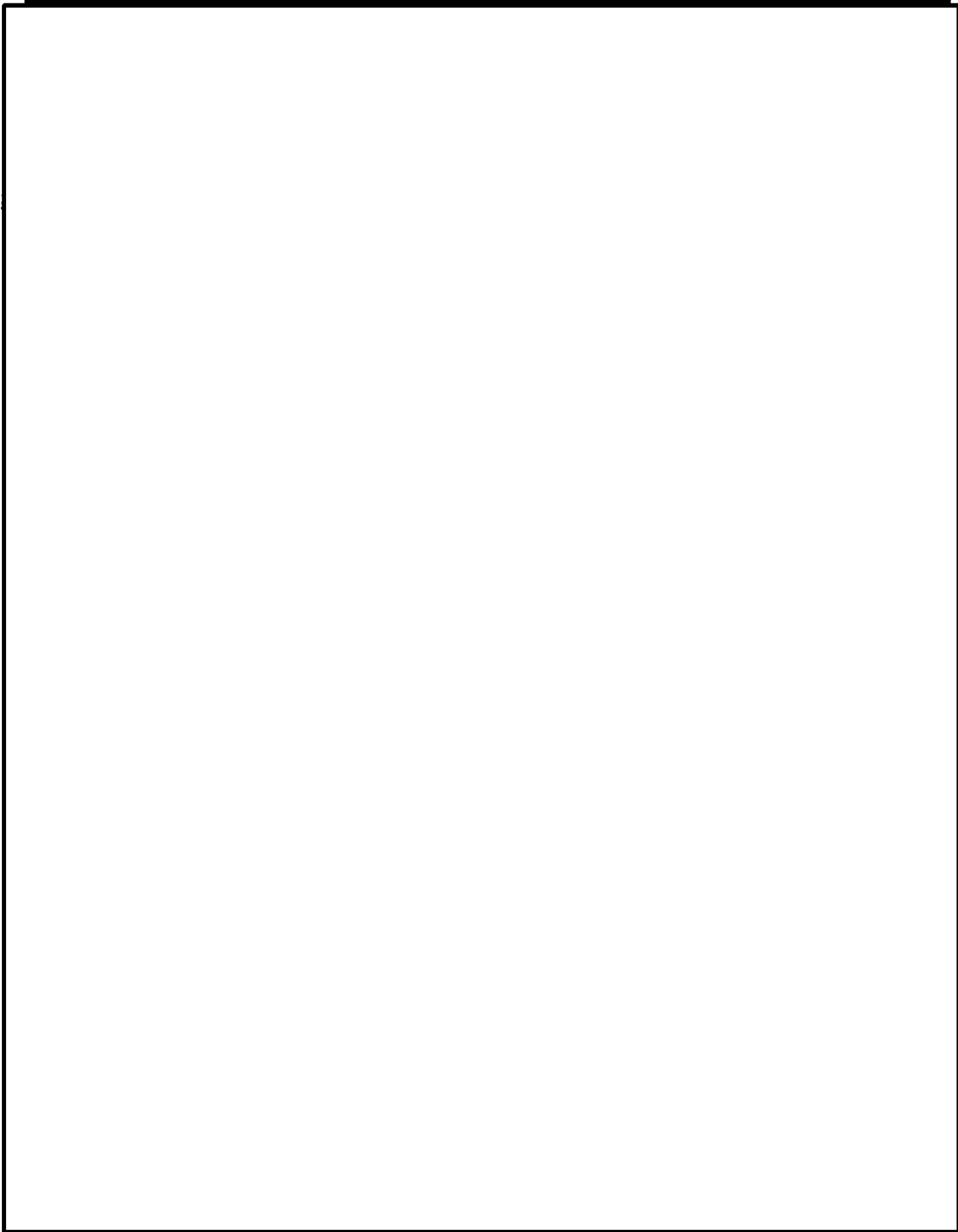
If any, FDNS-IO/FDNS-DS Record Number

\_\_\_\_\_

\_\_\_\_\_



(b)(6)



(b)(6)

**SECTION II:**

**BIOGRAPHIC INFORMATION**

A large, empty rectangular box with a black border, occupying most of the page. It is intended for biographic information but is currently blank.

(b)(6)

(b)(6)

If the Department of Homeland Security determines you have a credible fear of persecution or torture, your case will be referred to an immigration court, where you will be allowed to seek asylum or withholding of removal based on fear of persecution or withholding of removal under the Convention Against Torture. The Field Office Director in charge of this detention facility will also consider whether you may be released from detention while you are preparing for your hearing. *If the asylum officer determines that you do not have a credible fear of persecution or torture, you may ask an Immigration Judge to review the decision. If you are found not to have a credible fear of persecution or torture and you do not request review, you may be removed from the United States as soon as travel arrangements can be made. Do you have any questions?*  YES  NO

---



### CREDIBLE FEAR DETERMINATION CHECKLIST

file #:

OFFICER: Jonathan Gordon 208

Date: 8/11/2014

- *The factual summary (required by 8 CFR § 208.30) must be included at the end of the Q/A notes for each interview.*
- *Torture: If there is a significant possibility of torture, complete Part A and Part C.*
- *Credibility: If there is no significant possibility assertions could be found credible, complete Part A and Part D.*

If yes, STOP HERE and complete Form I-870

(b)(6)

**D. Credibility**

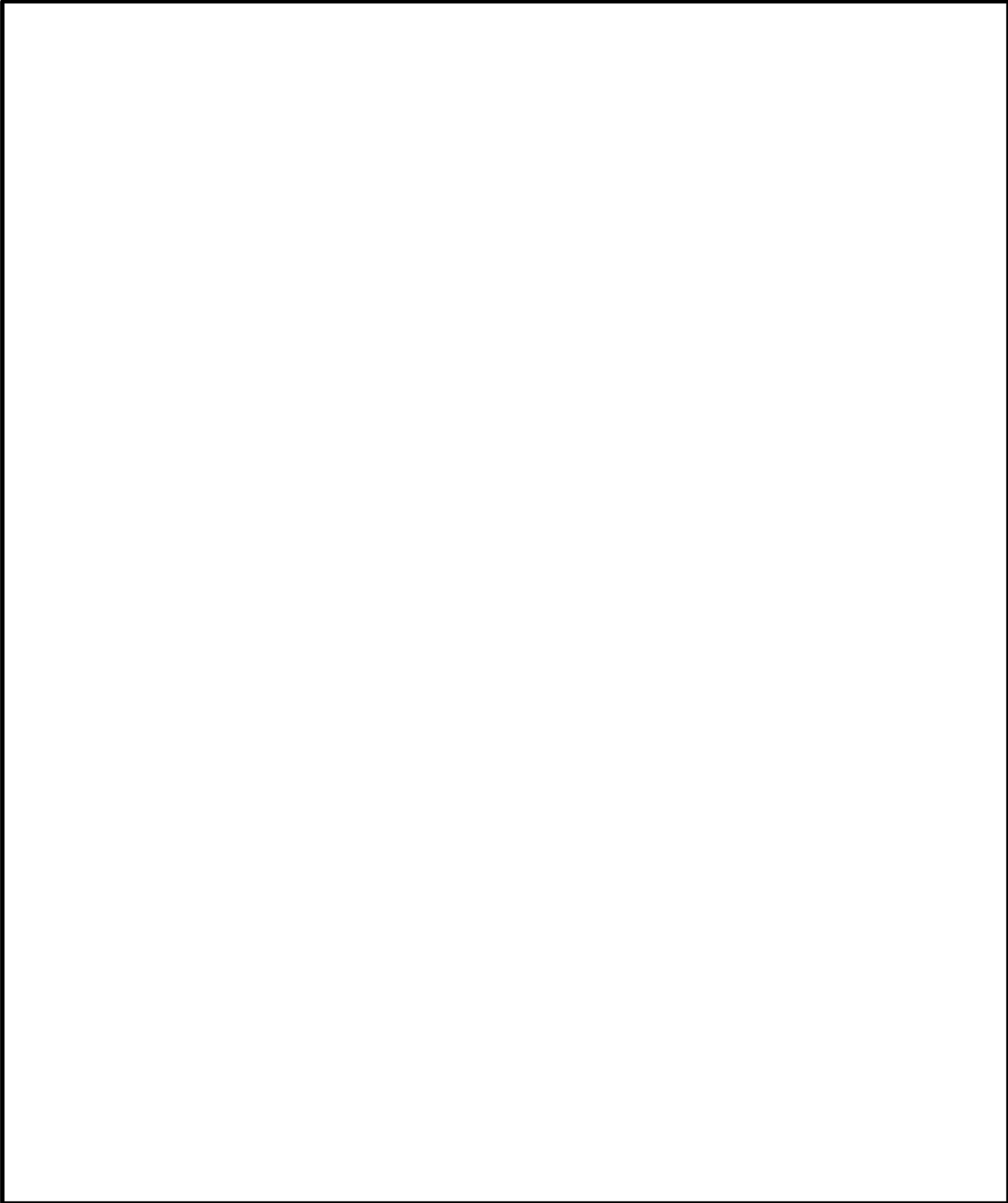
- 1) Explain each credibility issue in detail:
- 2) Explain materiality of each issue:
- 3) Provide the applicant's response for each material credibility issue:
- 4) Assess the reasonableness of applicant's response as to each material credibility issue:

(b)(6)

DEPARTMENT OF HOMELAND SECURITY

**NOTICE TO APPEAR**

In removal proceedings under section 240 of the Immigration and Nationality Act:



(City and State)



**Notice to Respondent**

**Warning: Any statement you make may be used against you in removal proceedings.**

**Alien Registration:** This copy of the Notice to Appear served upon you is evidence of your alien registration while you are under removal proceedings. You are required to carry it with you at all times.

**Representation:** If you so choose, you may be represented in this proceeding, at no expense to the Government, by an attorney or other individual authorized and qualified to represent persons before the Executive Office for Immigration Review, pursuant to 8 CFR 1003.16. Unless you so request, no hearing will be scheduled earlier than ten days from the date of this notice, to allow you sufficient time to secure counsel. A list of qualified attorneys and organizations who may be available to represent you at no cost will be provided with this notice.

**Conduct of the hearing:** At the time of your hearing, you should bring with you any affidavits or other documents, which you desire to have considered in connection with your case. If you wish to have the testimony of any witnesses considered, you should arrange to have such witnesses present at the hearing.

At your hearing you will be given the opportunity to admit or deny any or all of the allegations in the Notice to Appear and that you are inadmissible or removable on the charges contained in the Notice to Appear. You will have an opportunity to present evidence on your own behalf, to examine any evidence presented by the Government, to object, on proper legal grounds, to the receipt of evidence and to cross examine any witnesses presented by the Government. At the conclusion of your hearing, you have a right to appeal an adverse decision by the immigration judge.

You will be advised by the immigration judge before whom you appear of any relief from removal for which you may appear eligible including the privilege of departure voluntarily. You will be given a reasonable opportunity to make any such application to the immigration judge.

**Failure to appear:** You are required to provide the DHS, in writing, with your full mailing address and telephone number. You must notify the Immigration Court and the Department of Homeland Security immediately by using Form EOIR-33 whenever you change your address or telephone number during the course of this proceeding. You will be provided with a copy of this form. Notices of hearing will be mailed to this address. If you do not submit Form EOIR-33 and do not otherwise provide an address at which you may be reached during proceedings, then the Government shall not be required to provide you with written notice of your hearing. If you fail to attend the hearing at the time and place designated on this notice, or any date and time later directed by the Immigration Court, a removal order may be made by the immigration judge in your absence, and you may be arrested and detained by the DHS.

**Mandatory Duty to Surrender for Removal:** If you become subject to a final order of removal, you must surrender for removal to your local DHS office, listed on the internet at <http://www.ice.gov/contact/erg>, as directed by DHS and required by statute and regulation. Immigration regulations at 8 CFR 1241.1 define when the removal order becomes administratively final. If you are granted voluntary departure and fail to depart the United States as required, fail to post a bond in connection with voluntary departure, or fail to comply with any other condition or term in connection with voluntary departure, you must surrender for removal on the next business day thereafter. If you do not surrender for removal as required, you will be ineligible for all forms of discretionary relief for as long as you remain in the United States and for ten years after departure or removal. This means you will be ineligible for asylum, cancellation of removal, voluntary departure, adjustment of status, change of nonimmigrant status, registry, and related waivers for this period. If you do not surrender for removal as required, you may also be criminally prosecuted under section 243 of the Immigration and Nationality Act (the Act).

**Request for Prompt Hearing**

To expedite a determination in my case, I request this Notice to Appear be filed with the Executive Office of Immigration Review as soon as possible. I waive my right to a 10-day period prior to appearing before an immigration judge and request my hearing be scheduled.

Before: \_\_\_\_\_  
(Signature of Respondent)

Date: \_\_\_\_\_

\_\_\_\_\_  
(Signature and Title of Immigration Officer)

**Certificate of Service**

This Notice To Appear was served on the respondent by me on \_\_\_\_\_, in the following manner and in compliance with section 239(a)(1) of the Act.

in person     by certified mail, returned receipt # \_\_\_\_\_ requested     by regular mail

Attached is a credible fear worksheet.

Attached is a list of organization and attorneys which provide free legal services.

The alien was provided oral notice in the \_\_\_\_\_ language of the time and place of his or her hearing and of the consequences of failure to appear as provided in section 240(b)(7) of the Act.

\_\_\_\_\_  
(Signature of Respondent if Personally Served)

\_\_\_\_\_  
(Signature and Title of officer)

(b)(5)

**Jowett, Haley L**

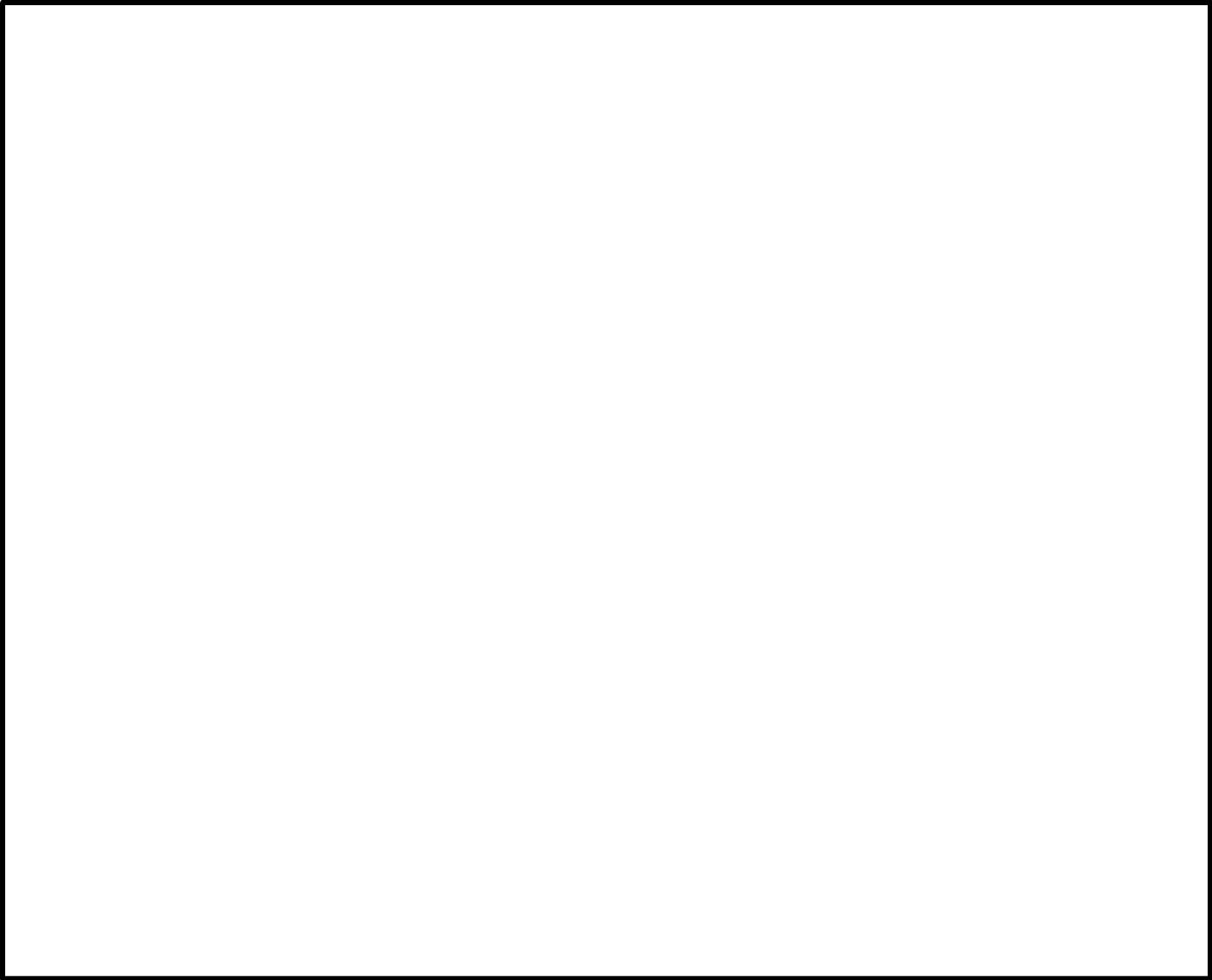
---

**From:** (b)(6) Tanner, Rebecca S  
**Sent:** Monday, August 18, 2014 8:36 PM  
**To:** Tanner, Rebecca S  
**Subject:** [REDACTED]

**Attachments:** [REDACTED]

---

**From:** Potts-Hansen, Stephanie N  
**Sent:** Tuesday, August 12, 2014 4:52 AM  
**To:** Maule, William T; Jablonsky, Jennifer E; #ZHN-RF Submissions; Walters, Jessica S  
**Cc:** ASYLUM OA - REASONABLE FEAR  
**Subject:** [REDACTED]



Thank you,  
Stephanie

(b)(5) (b)(6)

Stephanie Potts Hansen  
Special Assistant  
Refugee, Asylum and International Operations  
(202) 368-7152

(b)(5) (b)(6)

**Jowett, Haley L**

---

**From:** Potts-Hansen, Stephanie N  
**Sent:** Thursday, August 14, 2014 3:53 AM  
**To:** Maule, William T; Penel, Renata Q; #ZHN-RF Submissions; Walters, Jessica S  
**Cc:** ASYLUM QA - REASONABLE FEAR  
**Subject:** [REDACTED]

APSO: William Maule

SAPSO: Renata Penel

Please continue processing the case.

Thank you,  
Stephanie

Stephanie Potts Hansen

Special Assistant  
Refugee, Asylum and International Operations  
(202) 368-7152

**Jowett, Haley L**

---

**From:** Tanner, Rebecca S  
**Sent:** Wednesday, November 19, 2014 7:13 PM  
**To:** ASYLUM QA - AFFIRMATIVE; ASYLUM QA - CREDIBLE FEAR; ASYLUM QA - REASONABLE FEAR  
**Subject:** Fw: ZHN trends in domestic violence PSG cases

**Attachments:**



(b)(6)

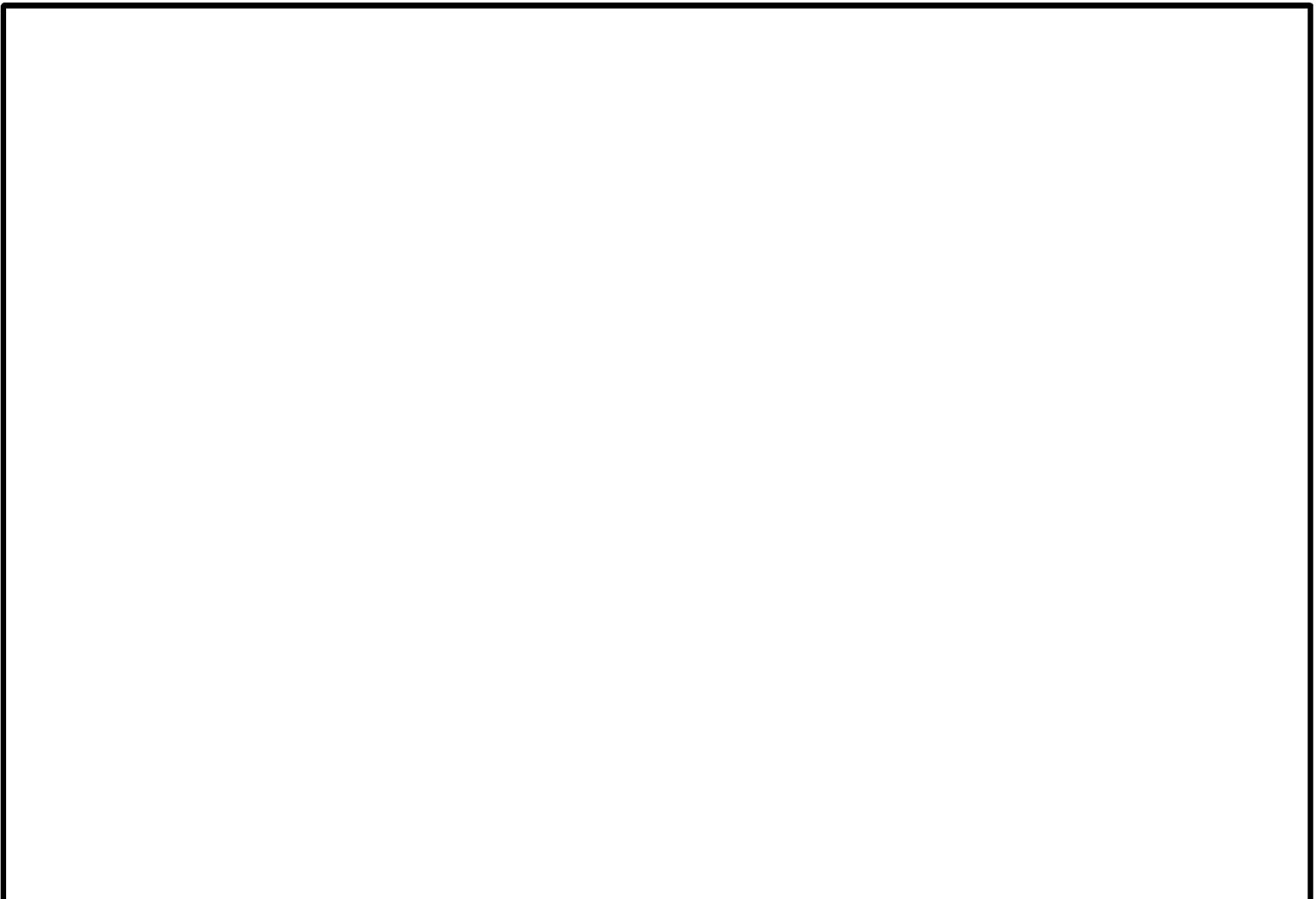
(b)(5)

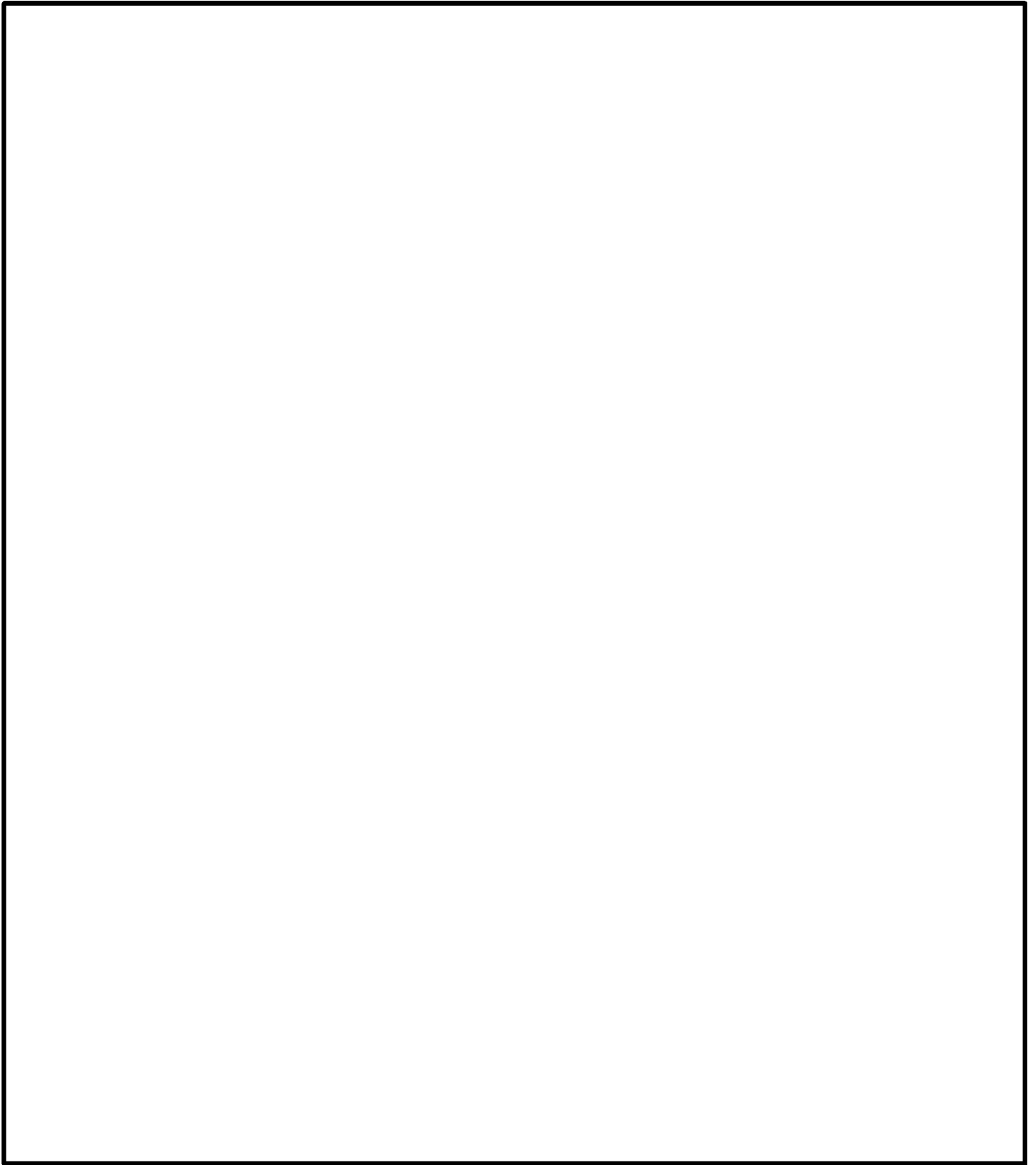
FYI.

---

**From:** Tanner, Rebecca S  
**Sent:** Wednesday, November 19, 2014 12:11 PM  
**To:** Daum, Robert L <Robert.L.Daum@uscis.dhs.gov>; Gadson, Irvin C <Irvin.C.Gadson@uscis.dhs.gov>  
**Subject:** ZHN trends in domestic violence PSG cases

Hi Rob and Irvin,





If it would be useful, my team members would be happy to set up a time to discuss this further with ZHN.

Best,  
Rebecca

(b)(5)

Rebecca Tanner  
Branch Chief for Quality Assurance  
Asylum Division  
U.S. Citizenship and Immigration Services  
U.S. Department of Homeland Security

202-272-8128 (office)

[redacted] mobile)

Rebecca.S.Tanner@uscis.dhs.gov

(b)(6)



**Jowett, Haley L**

---

**From:** Trinker, Farrah L on behalf of ASYLUM QA - CREDIBLE FEAR  
**Sent:** Tuesday, September 16, 2014 1:14 PM  
**To:** Telfer, Lee W; ASYLUM QA - CREDIBLE FEAR  
**Cc:** Hemming, Bryan D; Mcdonnell, Audrey V; McMillan, Jill; Thompson, April M; Robinson, Michelle Y  
**Subject:** RE: HQ CF CASE REVIEW [REDACTED]  
(b)(6) (b)(5)



Thank you for your work on this case. Please revise and resubmit.

Sincerely,


(b)(5)

(b)(6)

Farrah

Farrah Trinker  
Detailed to Asylum HQ QA

---

**From:** Telfer, Lee W  
**Sent:** Monday, September 15, 2014 11:41 AM  
**To:** ASYLUM QA - CREDIBLE FEAR  
**Cc:** Hemming, Bryan D; Mcdonnell, Audrey V; Telfer, Lee W; McMillan, Jill; Thompson, April M  
**Subject:** HQ CF CASE REVIEW 

Good morning,

This is a Negative credible fear determination for your review and concurrence.

Case is due Sept 17.

Name:

Country:

A#:

A0: APRIL THOMPSON

SAO: LEE TELFER

Thanks for your help,

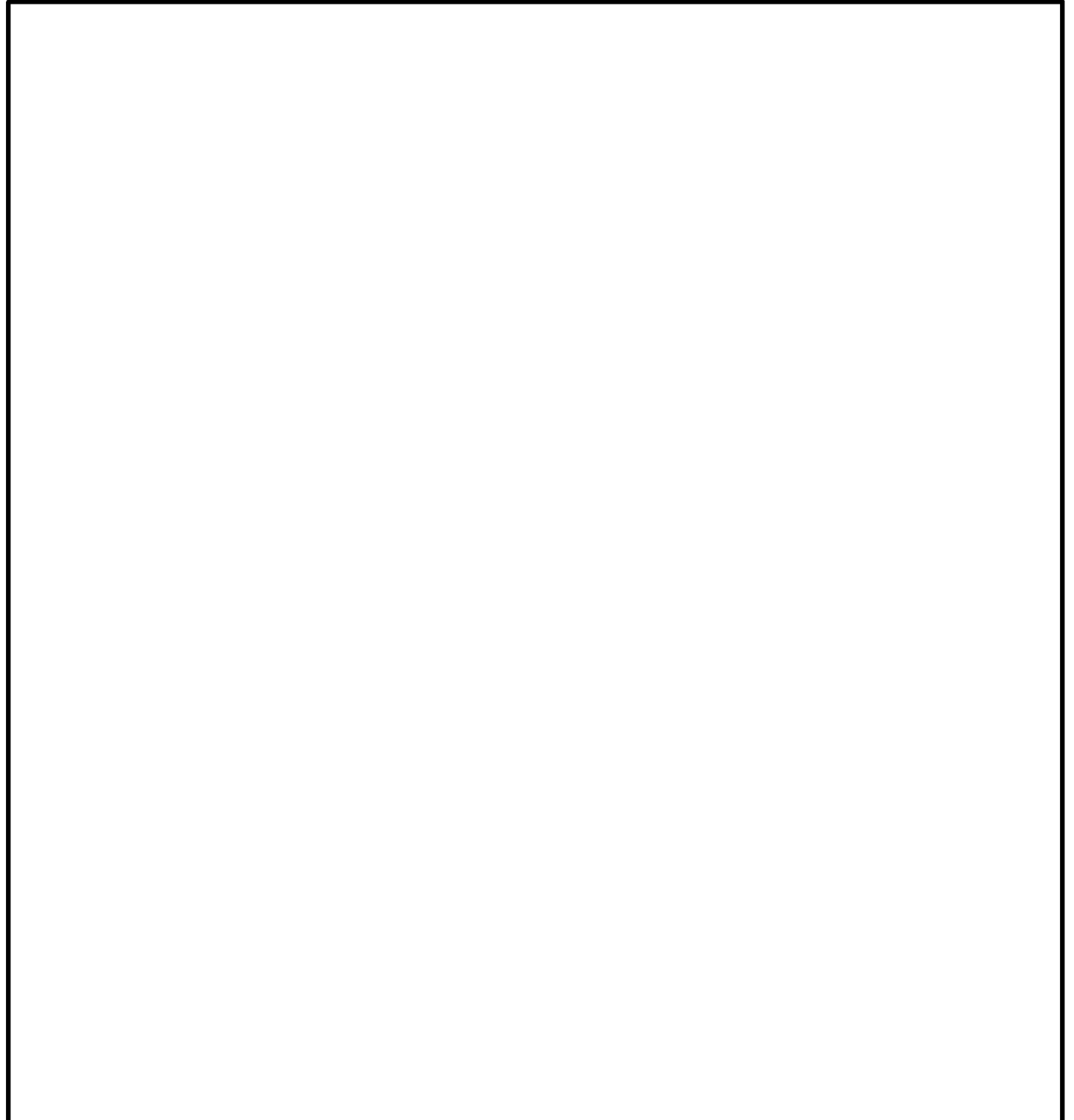
Lee

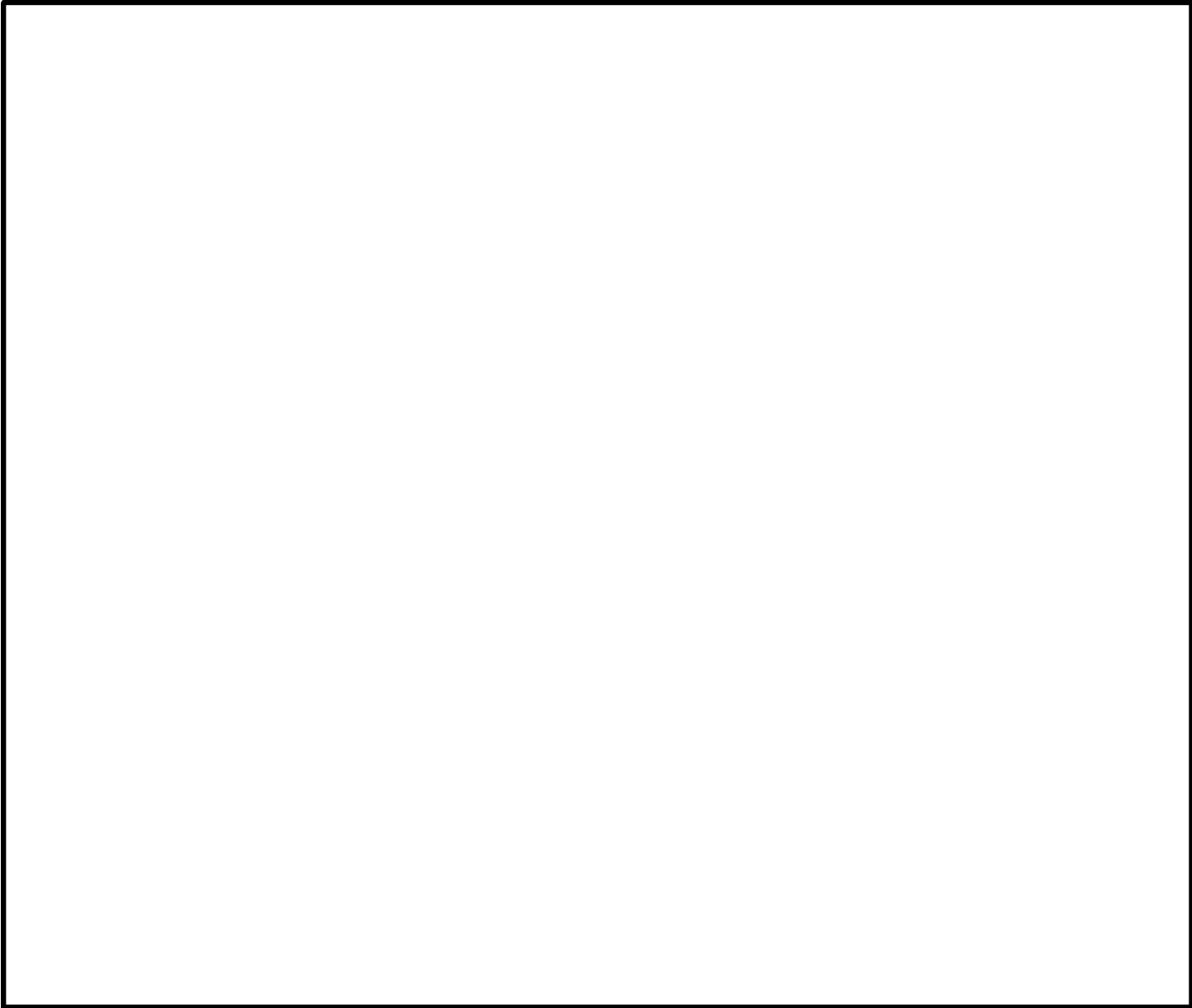
**Jowett, Haley L**

---

**From:** Cappelloni, Corey  
**Sent:** Monday, August 25, 2014 8:57 AM  
**To:** ASYLUM QA - CREDIBLE FEAR; Berger, Jack S; Thomas, Mark E  
**Cc:** Cappelloni, Corey; Kochman, Jane; Robinson, Michelle Y; Hemming, Bryan D; McDonnell, Audrey V; McMillan, Jill; Telfer, Lee W  
**Subject:**

Hi Jack,





Thank you for your work.

(b)(6)

Corey

(b)(5)

---

**From:** Berger, Jack S

**Sent:** Friday, August 22, 2014 9:36 AM

**To:** ASYLUM QA - CREDIBLE FEAR

**Cc:** Mcdonnell, Audrey V; McMillan, Jill; Telfer, Lee W; Hemming, Bryan D; Thomas, Mark E

**Subject:**

Applicants Name	<input type="text"/>	<input type="text"/>
A Number		<input type="text"/>
Country of Citizenship		<input type="text"/>

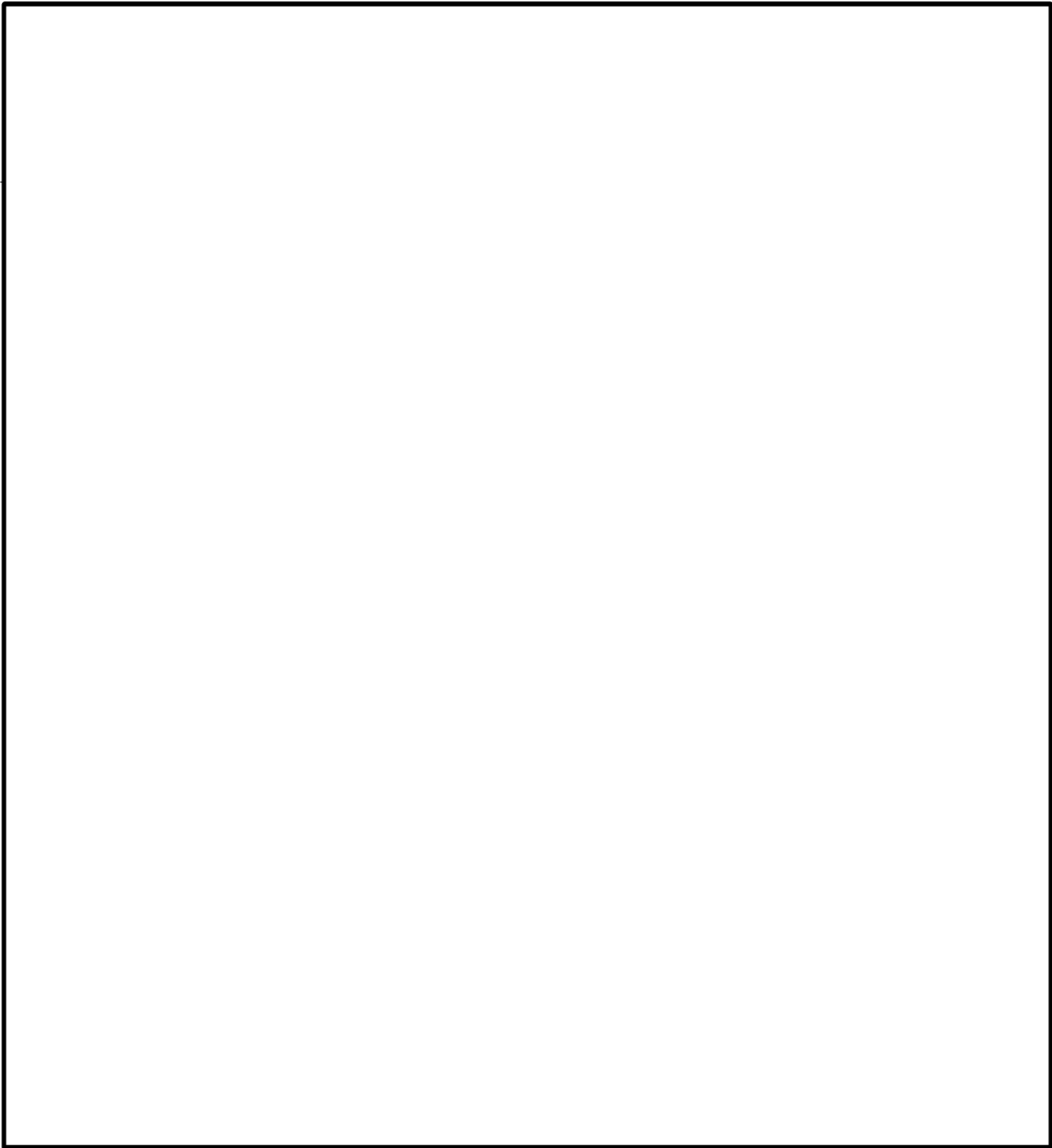
APSO	Mark Thomas
SAPSO	Jack Berger
Reason for request to expedite, if applicable	

Jack Berger  
Supervisory Asylum Officer  
Houston Asylum Office  
281-931-2934

**Jowett, Haley L**

---

**From:** (b)(5) ASYLUM QA - CREDIBLE FEAR  
**Sent:** Monday, August 11, 2014 2:28 PM  
**To:** (b)(6) Wills, Kirk R; ASYLUM QA - CREDIBLE FEAR; ZHN, HQ Concur CF  
**Cc:** Hemming, Bryan D; McMillan, Jill; Lluch, Martin G; Penel, Renata Q; Robinson, Michelle Y; Vu, Christopher T  
**Subject:** RE:



Sincerely,

Lakshmi

(b)(5)

(b)(6)

Lakshmi Kilaru  
Detailed to Asylum HQ QA

---

**From:** Wills, Kirk R  
**Sent:** Thursday, August 07, 2014 10:48 AM  
**To:** ASYLUM QA - CREDIBLE FEAR; ZHN, HQ Concur CF  
**Cc:** Hemming, Bryan D; McMillan, Jill; Lluch, Martin G  
**Subject:** [REDACTED]

Please find attached a NEG CF case from ZHN for your review and concurrence.

Applicant's name	[REDACTED]	
A number		
Country of citizenship		
APSO		
SAPSO		
Reason for Request to Expedite, if applicable		

Thank you,

Kirk

(b)(6) (b)(5)

**Jowett, Haley L**

---

**From:** ASYLUM QA - CREDIBLE FEAR  
**Sent:** Friday, August 22, 2014 7:58 AM  
**To:** Littlepage, Ryan L  
**Cc:** Penel, Renata O; Tanner, Rebecca S; ASYLUM QA - CREDIBLE FEAR; Donis, Antonio; Hemming, Bryan D; Robinson, Michelle Y  
**Subject:** [Redacted]

Dear ZHN/Artesia Team,

[Redacted]

Please have the SAPSO sign and date the updated I-870 indicating approval of the decision at section 5.5 and 5.6.

Thank you for all of your hard work on this case. Please continue processing and have a great weekend.

Sincerely,

Lakshmi

Lakshmi Kilaru  
Detailed to Asylum HQ QA

---

**From:** Littlepage, Ryan L  
**Sent:** Thursday, August 21, 2014 4:38 PM  
**To:** ASYLUM QA - CREDIBLE FEAR  
**Cc:** Penel, Renata O; Tanner, Rebecca S  
**Subject:** [Redacted]

[Redacted]

Ryan

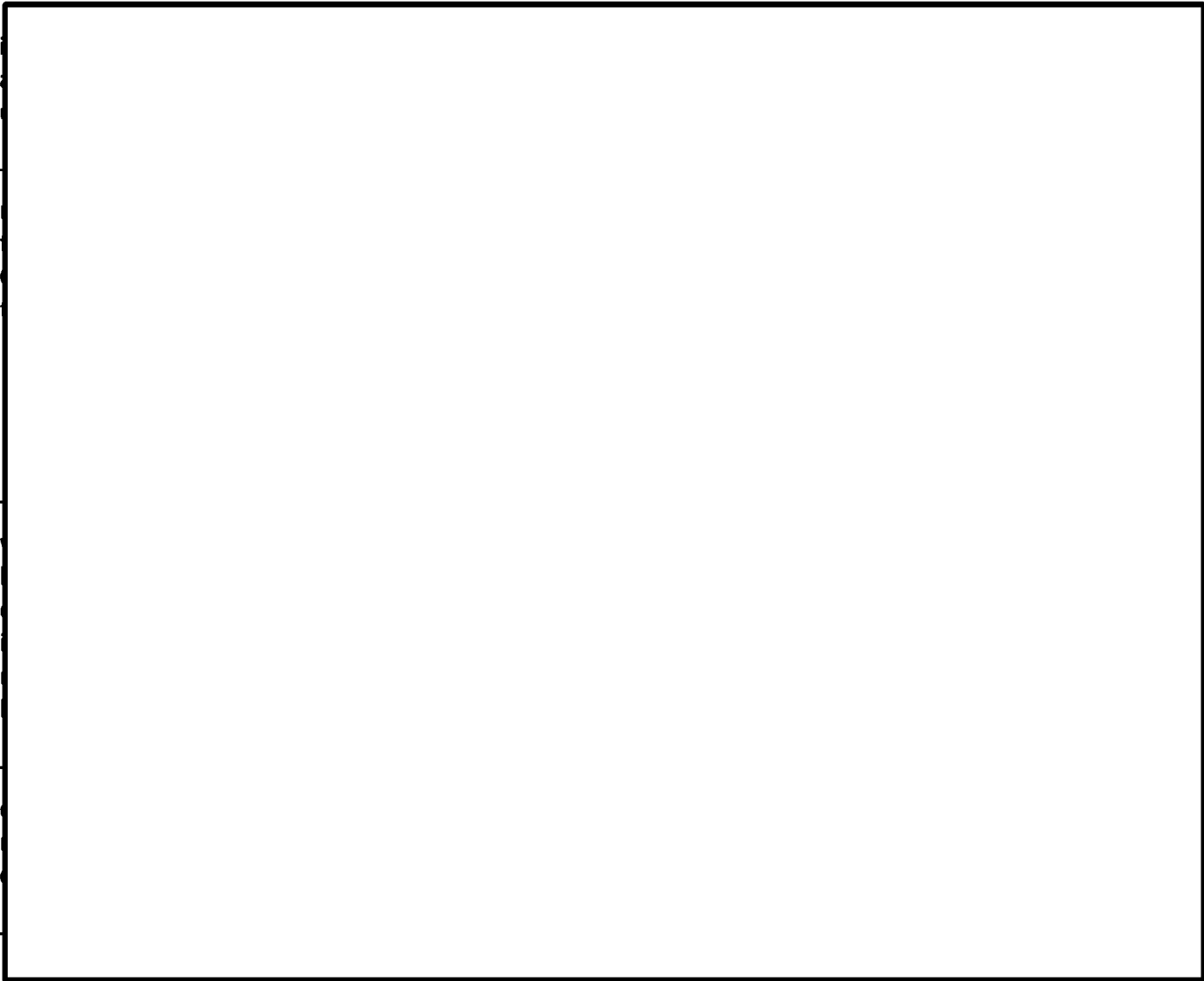
---

**From:** ASYLUM QA - CREDIBLE FEAR  
**Sent:** Wednesday, August 20, 2014 9:49 AM  
**To:** Littlepage, Ryan L  
**Cc:** Donis, Antonio; Penel, Renata O; ASYLUM QA - CREDIBLE FEAR; Tanner, Rebecca S  
**Subject:** R [Redacted]

Dear ZHN/Artesia Team,

[Redacted]





Sincerely,

Lakshmi

(b)(5)

(b)(6)

Lakshmi Kilaru

Detailed to Asylum HQ QA

---

**From:** Littlepage, Ryan L

**Sent:** Wednesday, August 20, 2014 10:05 AM

**To:** ASYLUM QA - CREDIBLE FEAR

**Cc:** Donis, Antonio

**Subject:** R 

HQ QA,



Thank you,  
Ryan

---

**From:** ASYLUM QA - CREDIBLE FEAR

(b)(5)

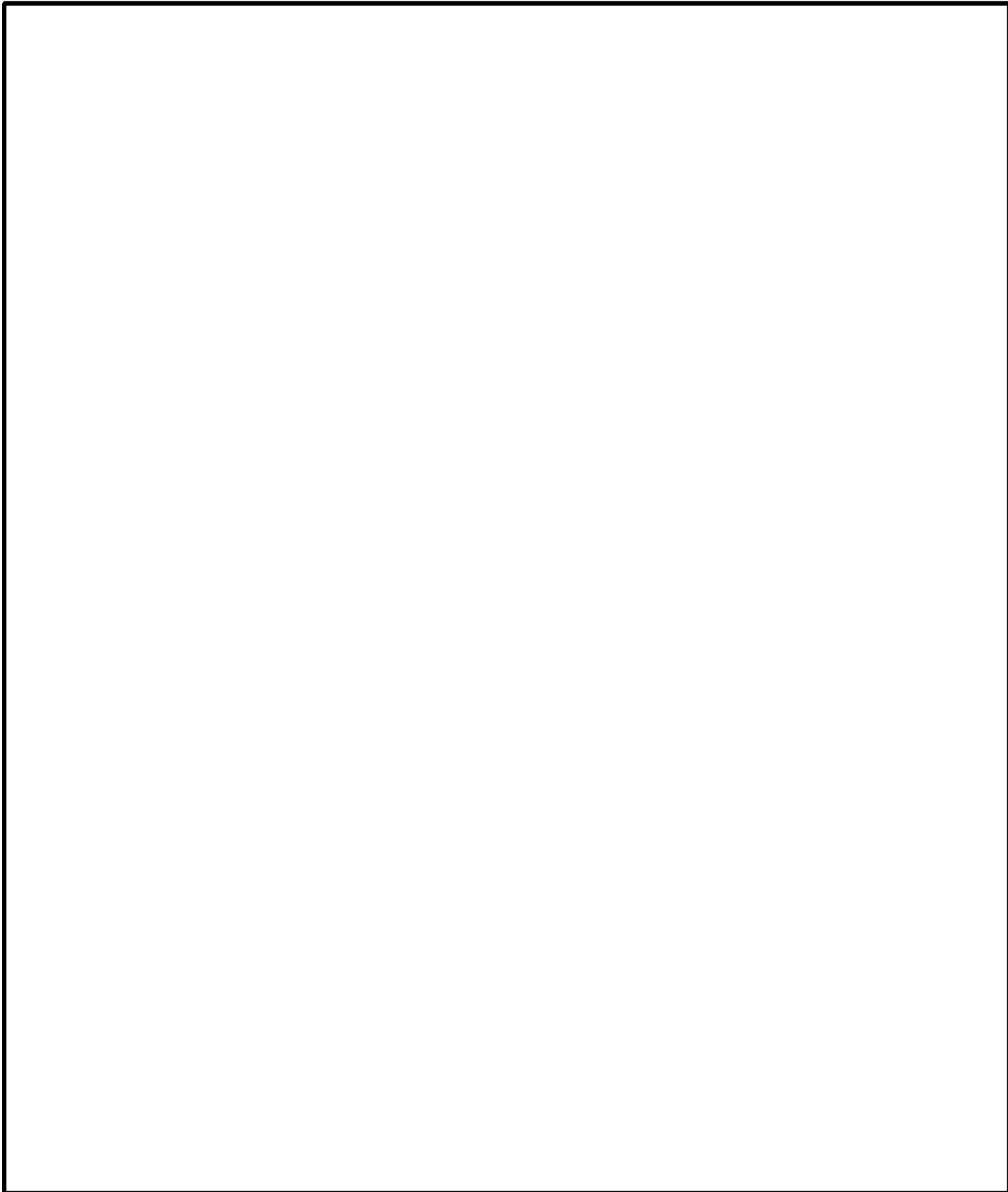
**Sent:** Monday, August 18, 2014 2:00 PM

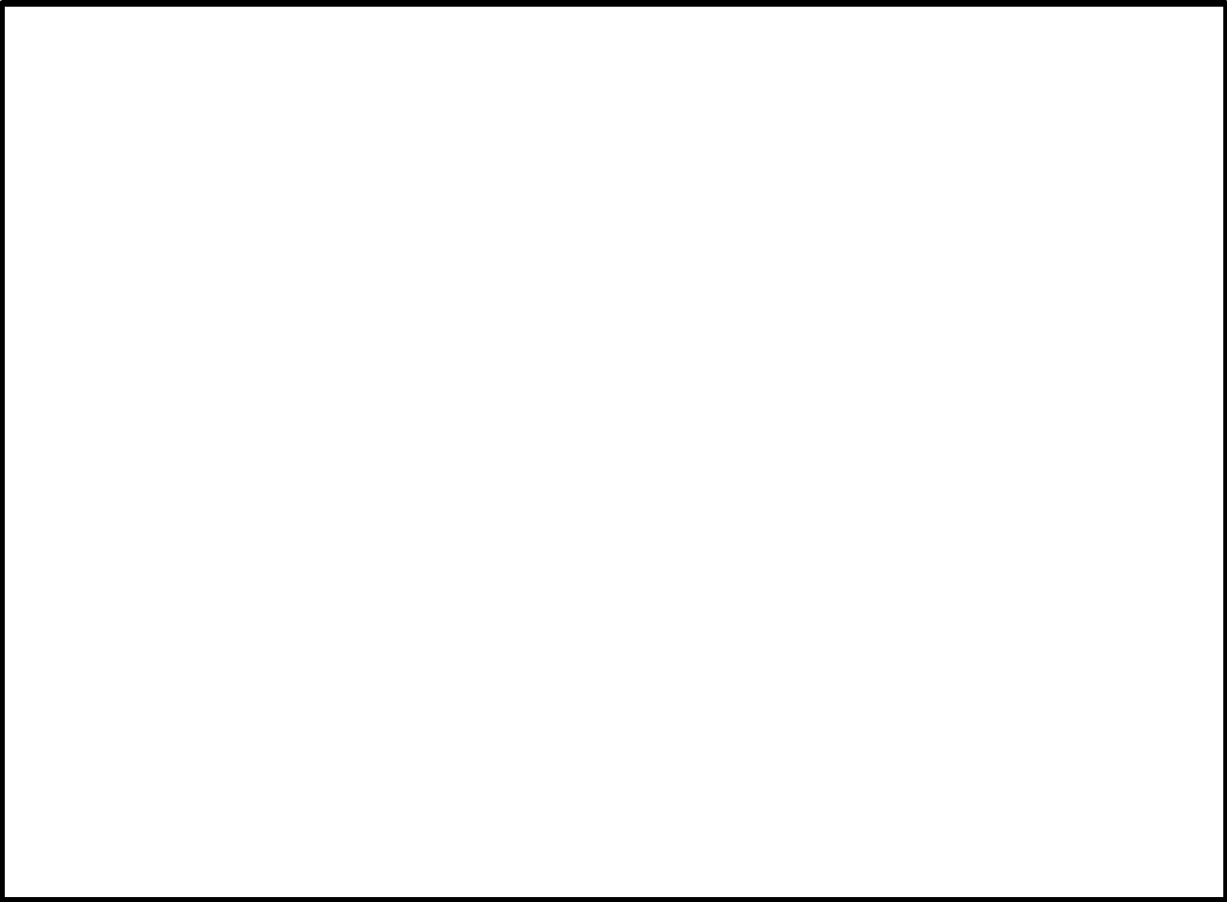
**To:** Littlepage, Ryan L; ASYLUM QA - CREDIBLE FEAR (b)(6)

**Cc:** Donis, Antonio; Penel, Renata Q

**Subject:** RE:

Dear ZHN/Artesia Team,





Thank you for your hard work on this case. Please resubmit upon completion.

Sincerely,


(b)(5)

(b)(6)

Lakshmi

Lakshmi Kilaru  
Detailed to Asylum HQ QA

---

**From:** Littlepage, Ryan L  
**Sent:** Thursday, August 14, 2014 4:25 PM  
**To:** ASYLUM QA - CREDIBLE FEAR  
**Cc:** Donis, Antonio  
**Subject:** 



(b)(6)

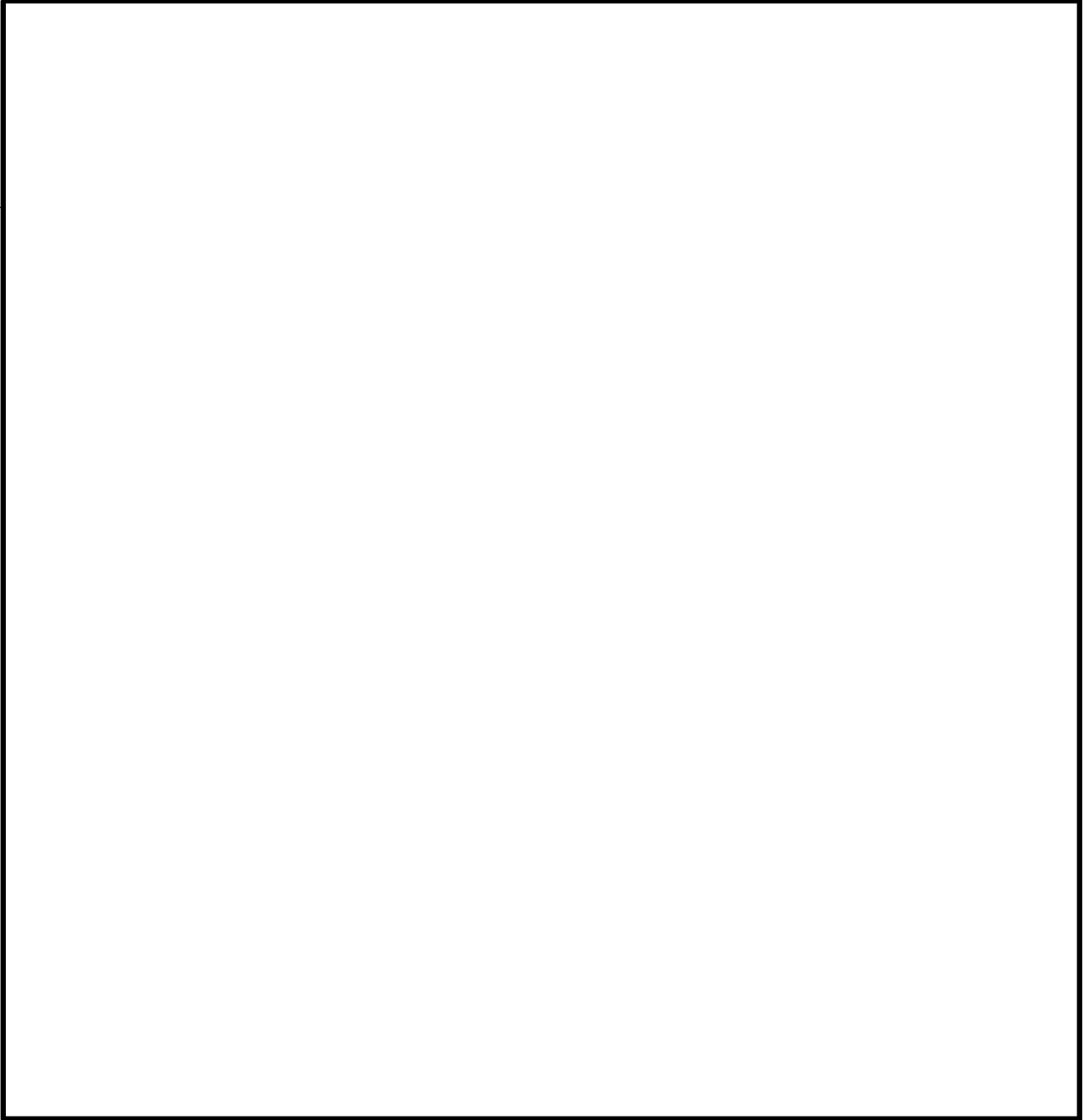
(b)(5)

HQ QA Response (RF):



APSO: Chris Hensleigh

SAPSO: Mathew Varghese



Best regards. Jane

(b)(5)

(b)(6)

HQ QA Response (R



APSO: Chris Hensleigh

SAPSO: Mathew Varghese



(b)(5)



Thank you for your work on this case.

Best regards. Jane

(b)(5)

(b)(6)

**Jowett, Haley L**

---

**From:** ASYLUM QA - CREDIBLE FEAR  
**Sent:** Tuesday, September 23, 2014 10:13 AM  
**To:** ASYLUM QA - CREDIBLE FEAR  
**Subject:** FW: HQ QA # [REDACTED]

---

**From:** Gossett, Christopher R **On Behalf Of** ASYLUM QA - REASONABLE FEAR  
**Sent:** Friday, September 05, 2014 1:51 PM  
**To:** Berger, Jack S  
**Cc:** #ZLN-RE Submissions; Burch, David W; ASYLUM QA - REASONABLE FEAR; Gossett, Christopher R  
**Subject:** [REDACTED]

[REDACTED]

APSO: David Burch (Interview/Determination)

SAPSO: Jack Berger

[REDACTED]



Thank you,

Chris

(b)(6)

(b)(5)

**Christopher R. Gossett**

Asylum Officer – HQ Asylum Division

USCIS - RAIO

20 Massachusetts Ave, NW, Suite 6030

Washington, DC 20529

Tel: (202) 272-1255

Fax: (202) 272-1682

**Confidentiality Notice and Warning:**

The above communication and attachments are covered by Federal and state laws and regulations governing electronic communication. The communication and attachments may contain confidential or privacy protected information that is legally privileged or operationally sensitive and remains the property of the United States Government. If you are not an addressee or it is apparent that you have received this communication in error, you are hereby notified that any dissemination, distribution, copying, or other use of this message is strictly prohibited. Regardless of how you received the information contained in this communication and accompanying attachments, any use by you must be for official purposes only and misuse may subject you to Federal prosecution. If you have received this communication in error, you should immediately notify the sender of this circumstance and delete or destroy this communication and all attachments.



**Jowett, Haley L**

(b)(5)

(b)(6)

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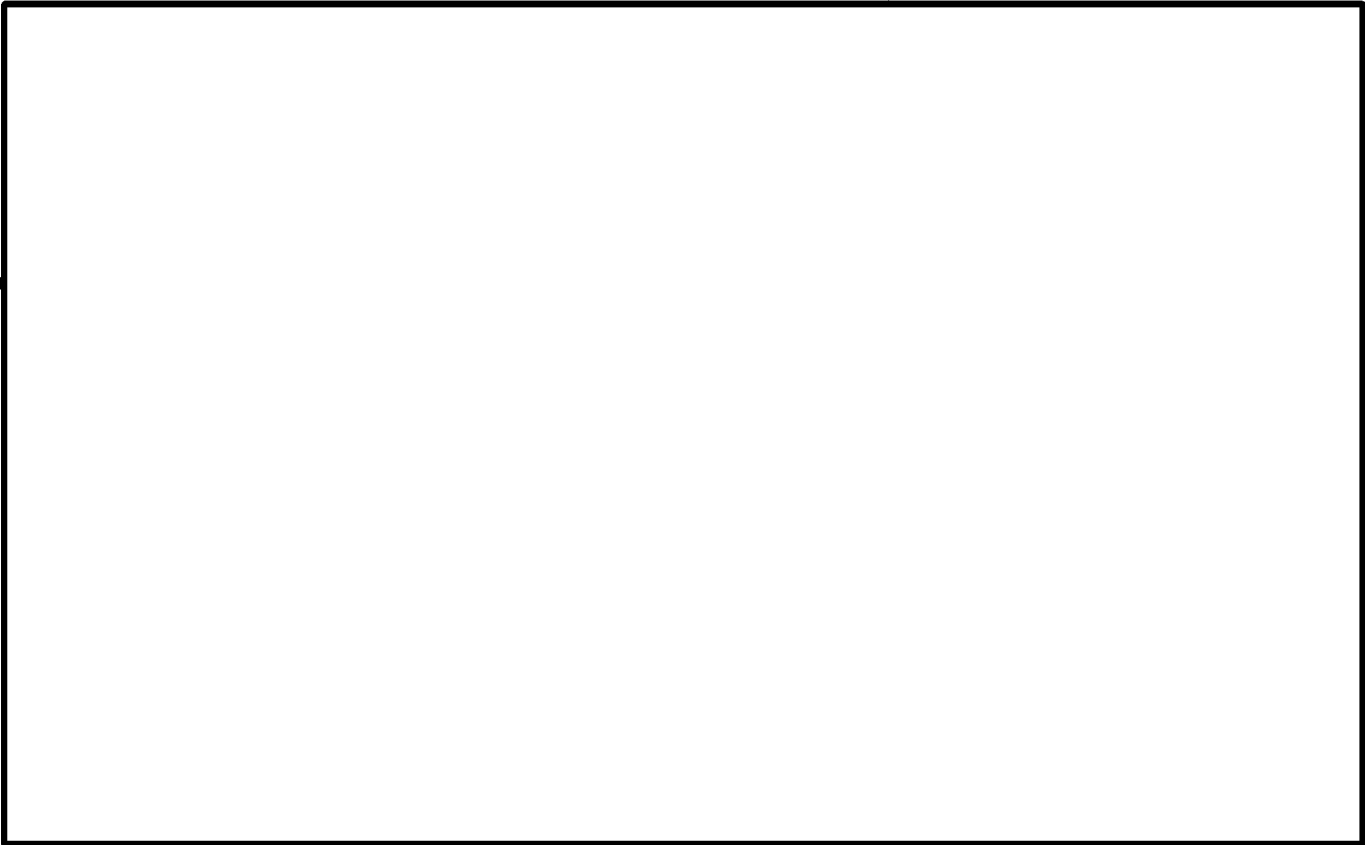
**From:** Gaffney, Maureen E  
**Sent:** Thursday, August 28, 2014 4:23 PM  
**To:** White, Alicia; Curphey, Patrick R; Penel, Renata Q  
**Cc:** Daum, Robert L; Hemming, Bryan D; Tanner, Rebecca S; ASYLUM QA - AFFIRMATIVE  
**Subject:** [REDACTED]

HQ QA Response [REDACTED]

AO: Alicia White

SAO: Patrick Curphey

Referred to HQ in the juvenile category (UAC-PRL)



Thanks for your continued work on this case.

Regards,  
Maureen

(b)(6)

(b)(5)

**Maureen Gaffney**  
Asylum Officer  
U.S. Citizenship and Immigration Services  
202-272-1619  
[Maureen.E.Gaffney@dhs.gov](mailto:Maureen.E.Gaffney@dhs.gov)

**Trinker, Farrah L**

**Subject:**

[Redacted]

**From:** Gaffney, Maureen E

**Sent:** Tuesday, September 23, 2014 12:00 PM

**To:** White, Alicia; Curphey, Patrick R; Penel, Renata Q; Ahmed, Syed H (Harun)

**Cc:** Daum, Robert J; Hemming, Bryan D; Tanner, Rebecca S; ASYLUM QA - AFFIRMATIVE

**Subject:**

[Redacted]

HQ QA Response

AO: Alicia White

SAO: Patrick Curphey

Referred to HQ in the juvenile category (UAC-PRL) (RESUBMISSION)

[Redacted]

[Large Redacted Area]



Thank you for your continued work on this case.

(b)(6)

(b)(5)

Regards,  
Maureen

**Maureen Gaffney**  
Asylum Officer  
U.S. Citizenship and Immigration Services  
202-272-1619  
[Maureen.E.Gaffney@dhs.gov](mailto:Maureen.E.Gaffney@dhs.gov)

**From:** Scott, Elizabeth M  
**Sent:** Monday, August 18, 2014 3:53 PM  
**To:** Allen, Leticia; Arbelaez, Bibiana L; Berger, Jack S; Boyle, Meghann; Bundy, Kelsey D; Castaldi, Amarilde F; Catalanotto, Teri A; Curphey, Patrick R; Dragan, Mariusz; El-Hage, Rabia S; FLANAGAN, Lisa M; Gadson, Irvin C; Greene, Shevon; Hale, Arthur A; Hammitt, Kenneth A; Hemming, Bryan D; Hooks, Karin M; Irons, Darice; Kelly, Brooke A; Kim, Hannah X; Klayman, Amy S; Komis, Dimitris S; Leigh, Francis W; Lewis, Victoria E; Maalona, John L; Mcdonnell, Audrey V; Mekjian, Gerard J; Michaelis, Katy M; Orendain, Amada R; Parent, Jessica L; Puschel, Tracy W; Robinson, Laurie J; Rosich, Nicole M; Sachdev, Nina K; Schoser, Joseph R; Schouvieller, Mary M; Talamantes, Eudelia A; Taubes, Ethan J; Telfer, Lee W; Trinker, Farrah L; Ulloa, Stephen; Varghese, Mathew C; Varghese, Sunil R; Vasquez, Porcia M; Wills, Kirk R; ZCH APSO; Lynn, Mallory L  
**Cc:** Saunier, Jon-Paul; Picciotto, Giacomo A; Stone, Mary M  
**Subject:** G-28s and service of CF determination

Hi CF SAPSOs,

I've received a few clarification questions from you about serving the CF determination on an attorney with a "properly executed" G-28. Here are your questions and answers from OCC. Please let me know if you have any additional follow-up questions.

1. What does "properly executed" mean?  
A "properly executed" G-28 is a G-28 that has been properly signed by both the alien and the attorney/representative.
2. Are we required to provide a service copy of the CF determination to an attorney/representative with a G-28 on file?  
Yes. In cases where there is a properly executed G-28 on file a copy must be served on the attorney/representative (independent of service upon the alien). This is based upon 8 CFR section 292.5(a), which states that service "shall be given by or to, served by or upon, made by, or requested of the attorney or representative of record," and the opinion of bar counsel that the regulatory requirements would continue to apply regardless of whether there is an application or petition pending (the CF interview would still clearly be a matter pending before the agency).

The Asylum Division may continue the current practice of providing two copies of the CF determination to an alien where there is not a properly signed G-28 on file.

3. When there is a properly executed G-28 is it permissible to follow current practice and provide two copies of the CF determination to the alien if the attorney agrees to this method of service?  
Potentially, but only if the Asylum Office has approval in writing from the attorney/representative and the alien. As noted above, if there is a properly executed G-28, the applicable regulation, 8 CFR 292.5(a), requires that we serve the attorney/representative and that is the preferable approach. The regulation doesn't include any language allowing for an exception to this requirement. However, if Asylum has approval in writing from the attorney/representative and from the alien to serve two copies on the alien instead of directly serving the attorney/representative, it would be permissible to do so. However, at that point it would likely be easier to just serve the attorney/representative and the alien according to the regulation.
4. Is there is a specific way we need to provide the service documents to the attorney? Is it permissible to email or fax the documents to the attorney or must they be mailed?

Generally, the service documents should be mailed. When serving the attorney or representative who has a properly executed G-28, Asylum must follow the regulation for service of documents at 8 CFR 103.8. This provision provides for routine service of documents by regular mail, but permits delivery by e-mail if requested by the person receiving service. The regulation does not provide for service by fax.

5. Do we need to provide a copy of the service docs to the attorney when the G-28 is filed after service of the CF determination?

Asylum Offices are not obligated to provide a copy of the service documents to an attorney/representative who was not the attorney/representative of record at the time of service. Asylum Offices could provide a copy to an attorney/representative who filed a properly executed G-28 after service as a courtesy and upon request.

Kind regards,  
Liz

Elizabeth Scott  
Asylum Officer, Operations Branch, Asylum Division  
Refugee, Asylum and International Operations Directorate | USCIS | DHS  
Tel: (202) 272-1227



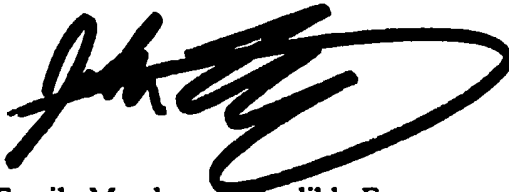
U.S. Citizenship  
and Immigration  
Services

HQRAIO 120/9.15a

JUN 27 2014

## Memorandum

TO: Asylum Office Directors and Deputy Directors  
Supervisory Asylum Officers  
Quality Assurance/Training Asylum Officers  
Asylum Officers

FROM: John Lafferty  
Chief, Asylum Division 

SUBJECT: Guidance on Immediate Family Members in Credible Fear

### Purpose

The purpose of this memorandum is to issue guidance on who is considered an immediate family member in the credible fear process, credible fear determinations for immediate family members, and linking related family members in the Asylum Pre-Screening System (APSS).

### Immediate Family Members

In the credible fear process, immediate family members are the spouse and any unmarried child under 21 years of age who arrive in the United States concurrently with the principal applicant.<sup>1</sup>

### Credible Fear Determinations for Immediate Family Members

A family member's claim may provide the basis for all the immediate family members' credible fear determinations if the immediate family members: (1) arrived in the United States concurrently; and (2) desire to be processed together.<sup>2</sup> Even if those two requirements are met, Asylum Offices retain the discretion to process immediate family members together or separately. In addition, immediate family members may opt to present separate credible fear

<sup>1</sup> "The term [terms] "spouse," "wife," or "husband" do not include a spouse, wife or husband by reason of any marriage ceremony where the contracting parties thereto are not physically present in the presence of each other, unless the marriage shall have been consummated." INA § 101(a)(35). It is the applicants' burden to show that they were recognized as legally married in their country of origin in order to be treated as a spouse for purposes of the credible fear determination. The applicants also have the burden to establish that they arrived in the United States concurrently.

<sup>2</sup> 8 C.F.R. 208.30(b)

## **Guidance on Immediate Family Members in Credible Fear**

**Page 2**

claims, even if they do meet the above requirements, and even if they are physically located together.

Immediate family members may be separated after their concurrent arrival in the United States. If immediate family members are in different locations, Asylum Officers do not have an affirmative duty to attempt to locate those family members. However, Asylum Officers may, in their discretion, attempt to locate family members if doing so does not unreasonably delay the credible fear process.

### **APSS Procedures**

Immediate family members should be linked together in APSS whenever one family member's claim provides the basis for all the immediate family members' credible fear determinations. They may be linked in APSS even if they are not physically together. Immediate family members who choose to present their own credible fear claims should not be linked together in APSS because they will receive credible fear determinations based on their individual claims.

The APSS Guide has been updated with detailed instructions on how to link immediate family members in the system.

For questions, please contact Credible Fear Program Manager, HQ Operations Branch.

### **Attachment**

1. APSS Guide (revised June 27, 2014)





**U.S. Citizenship  
and Immigration  
Services**

120/9.15

November 8, 2007

## Memorandum

**TO:** Asylum Office Directors  
Asylum Office Deputy Directors

**FROM:** Joseph E. Langlois, Chief /s/  
Asylum Division

**SUBJECT:** Guidelines for Partnerships between Asylum Offices and Non-Governmental Organizations to Provide Access to Legal Consultation for Applicants in the Credible Fear Process

The purpose of this memorandum is to provide general guidance for Asylum Offices in establishing partnerships with non-governmental organizations (NGOs) to facilitate access to pro bono consultants for individuals in the credible fear process. Asylum Offices are encouraged to establish partnership arrangements with NGOs pursuant to the terms of this memorandum, using internal procedures appropriate to each individual office.

### **Background**

Since 2000, the Arlington Asylum Office and the Capital Area Immigrants' Rights (CAIR) Coalition, comprising a network of thirty NGOs, have partnered to provide access to pro bono consultants for applicants in the credible fear process. The Arlington Asylum Office's internal procedures address determining whether an applicant would like access to a pro bono consultant and referring the CAIR Coalition to the applicant. During the credible fear orientation, the Asylum Pre-Screening Officer (APSO) confirms whether the applicant would like to meet with a consultant if there is not an attorney of record. The APSO notifies the CAIR Coalition that a consultant is requested for the credible fear interview and provides the gender, country of nationality and age of the applicant. The Arlington Asylum Office does not provide any identifying information or potential claim of the applicant.

Generally, on the date of the credible fear interview, the APSO introduces the consultant to the applicant, and allows them to privately confer for a short period of time prior to the interview. The

Arlington Asylum Office also established a similar partnership with the Atlanta Bar Asylum Project to facilitate access to consultants to applicants in the credible fear process within the jurisdiction of Arlington's Atlanta Office.

In 2005, the United States Commission on International Religious Freedom (CIRF) issued a *Report on Asylum Seekers in Expedited Removal*.<sup>1</sup> CIRF referenced the Arlington Asylum Office's partnership with the CAIR Coalition and concluded that the access to consultants was a factor in its higher dissolve rate. CIRF also noted that legal consultation may contribute to the efficiency of the credible fear process since an applicant may dissolve his or her claim if advised by a consultant that the claim does not meet the criteria for asylum.<sup>2</sup> The CIRF report recommended an expansion of the Arlington Asylum Office's pro-bono partnership program to all eight Asylum Offices.

### **General Guidelines for Partnerships with Non-Governmental Organizations**

Pursuant to 8 C.F.R. § 208.30(d)(4), applicants in the credible fear process are entitled to:

consult with a person or persons of the alien's choosing prior to the interview or any review thereof, and may present other evidence, if available. Such consultation shall be at no expense to the Government and shall not unreasonably delay the process. Any person or persons with whom the alien chooses to consult may be present at the interview and may be permitted, in the discretion of the asylum officer, to present a statement at the end of the interview. The asylum officer, in his or her discretion, may place reasonable limits on the number of persons who may be present at the interview and on the length of the statement.<sup>3</sup>

Consultation generally facilitates the credible fear process and helps to ensure that asylum seekers' claims are fully elicited in the credible fear interview. Partnerships with NGOs further facilitate the credible fear process by assisting applicants gain access to consultants to discuss legal options, explore potentially valid claims, or dissolve claims that do not appear to have a legal basis for a grant of asylum or withholding of removal.

An Asylum Office may enter into informal partnerships with an NGO or multiple NGOs, if the Asylum Office is approached by the NGOs. **Asylum Offices may not in any way create the appearance that the Asylum Office favors specific NGOs.** Therefore, Asylum Offices may not

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<sup>1</sup> See <http://www.uscirf.gov/mediaroom/press/2005/february/02072005%5Fuscirf.html>.

<sup>2</sup> In the first part of fiscal year 2007, approximately 25% percent of the applicants in the credible fear process within the jurisdiction of the Arlington Asylum Office chose to dissolve their credible fear claims, giving the Arlington Asylum Office a higher credible fear dissolve rate than other asylum offices. The twenty-five percent dissolve rate for the Arlington Asylum Office includes the credible fear statistics from October to May 2007. In fiscal years 2005 and 2006, the Arlington Asylum Office's credible fear dissolve rates were 35.71% and 31.78%, respectively, giving it the highest rate of credible fear dissolves of any Asylum Office in the country for those fiscal years.

<sup>3</sup> See also Joseph E. Langlois Memorandum to Asylum Directors, Supervisory Asylum Officers, and Asylum Officers, *Role of Consultants in the Credible Fear Interview*, (Washington, DC: 17 November 1997), accessed at <http://z02rscow12:8080/docushare/dsweb/View/Collection-10364>.

approach NGOs to enter into a partnership, as such actions may appear as favoritism by the government to a specific group or counsel.

Consistent with the regulations, the consultations must be at no expense to the government. Therefore, NGOs should be made aware that they are responsible for securing any funding for creating a program to provide pro bono legal consultation to applicants in the credible fear process. NGOs must also provide interpreters, if necessary, to facilitate communications between the consultants and the applicants. USCIS will continue to provide interpreter services for the orientation, interview, and service of the decision. However, government contract interpreters may not be used for the purpose of facilitating communication between the NGOs and the applicant, outside of the course of the regular credible fear orientation and interview process.

Also consistent with regulations, informal partnerships with NGOs to facilitate access to consultants may not cause unreasonable delay to the credible fear process. Any policies developed at the local asylum offices to facilitate consultation should be consistent with regulations and take into account the timeliness goals of the program. However, every effort should be made to ensure that a consultant is present at the interview, if the applicant desires such a person's presence, as long as it does not unreasonably delay the process.<sup>4</sup>

Finally, any process entered into with an NGO for the purpose of providing pro bono legal consultation to applicants in the credible fear process must incorporate confidentiality restrictions provided by the federal regulations at 8 CFR § 208.6. The regulations generally prohibit the disclosure to third parties of information contained in or pertaining to asylum applications, credible fear determinations and reasonable fear determinations, including information contained in RAPS or APSS, except under certain limited circumstances.<sup>5</sup>

The Asylum Division encourages the Asylum Offices to establish informal partnerships to provide pro bono legal consultation to applicants in the credible fear process if approached by reputable NGOs. Asylum Offices are encouraged to coordinate the outreach of information to the NGO community, including sharing this memorandum with NGOs, so that the community is aware of these guidelines. NGOs should also be made aware of confidentiality concerns regarding asylum seekers and the limited amount of information that will be related to them by the Asylum Office before the credible fear interview.

Asylum Division Headquarters is available to provide support in establishing partnerships with the NGO community. Please contact Jedidah Hussey at 202-272-1614 to discuss any issues regarding partnerships with NGOs.

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<sup>4</sup> See *Credible Fear Procedures Manual*, at <http://z02rscow12:8080/docushare/dsweb/View/Collection-12202>.

<sup>5</sup> See *Fact Sheet on Confidentiality: Federal Regulations Protecting Confidentiality of Asylum Applicants*, at <http://z02rscow12:8080/docushare/dsweb/View/Collection-10131>.



**Call TOLL FREE:**



(b)(5)

- Once greeted by a coordinator, the officer will be asked for their location account code. Please find your code from the list..
- The coordinator will then ask for the officer's ID code.
- Next describe the type of call (decision, credible fear interview, etc.), and then request the language needed.
- The officer will be put on hold while the coordinator locates an available cleared interpreter.
- The coordinator will then return to the line with the interpreter and introduce them to the officer with their 6-digit ID code.

**Location Account Code:**

- Los Angeles
- Arlington
- Chicago
- Houston
- San Francisco
- Newark
- Miami
- New York





U.S. Department of Justice  
Immigration and Naturalization Service

HQIAO 120/15.20b

425 I Street, NW  
Washington, DC 20536

APR 15 2002

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

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

SUBJECT: International Religious Freedom Act Requirements Affecting Credible  
Fear and Reasonable Fear Interview Procedures

This memorandum modifies credible fear and reasonable fear interview procedures concerning the oath administered to telephonic interpreters. This change stems from the Asylum Division's mandate under the International Religious Freedom Act of 1998 (IRFA). Specifically, section 603(a) of IRFA provides:

The Attorney General and the Secretary of State shall develop guidelines to ensure that persons with potential biases against individuals on the grounds of religion, race, nationality, membership in a particular social group, or political opinion, including interpreters and personnel of airlines owned by governments known to be involved in practices which would meet the definition of persecution under international refugee law, shall not in any manner be used to interpret conversations between aliens and inspection or asylum officers.

Effective immediately, Asylum Pre-Screening Officers (APSOs) will read the following question to telephonic interpreters, and receive a response thereto, before each credible fear and reasonable fear interview:

Do you affirm that you will truthfully, literally, and fully interpret the questions asked by the asylum officer and the answers given by the applicant; that you will not add to, delete from, comment on, or otherwise change the matter to be interpreted; and that you will immediately notify the officer in this case if you become aware of

your inability to interpret in a neutral manner on account of a bias against the applicant or the applicant's race, religion, nationality, membership in a particular social group, or political opinion?

The foregoing question and the interpreter's response will be interpreted for the applicant, so the applicant is aware of it. If an interpreter answers in the negative to any part of the foregoing question, the APSO will inform the interpreter that the interpreter is ineligible to perform interpreter services in that case and will request a different interpreter from Language Services Associates.

If an interpreter acknowledges during the interview that he or she may have a bias against a particular applicant that affects his or her ability to interpret in a neutral manner, or if the APSO has a serious, articulable reason to believe that such a bias exists, the APSO will stop the interview to request a different interpreter from Language Services Associates. The APSO also should note the reason for requesting a different interpreter on the Form I-870, section B, by checking boxes 1.21 (Interpreter was changed) and 1.26 (Officer found interpreter was not neutral), pursuant to current procedures. The interpreter's admission or the APSO's determination would not necessarily render the interpreter ineligible to interpret in other, unrelated cases. However, the Supervisory Asylum Pre-Screening Officer will notify the credible fear coordinator whenever an interpreter has recused himself or herself on account of his or her ability to interpret in a neutral manner or whenever an APSO has requested such recusal. The credible fear coordinator will maintain records of such incidents.

The Draft Credible Fear Procedures Manual has been amended to reflect this change in procedures concerning telephonic interpreters.

**IRFA Requirements Affecting Credible Fear  
and Reasonable Fear Interview Procedures**

cc: OFFICIAL FILE;

HQASM:GPAPAS:gp:5146029:04/15/02:K\Asylum.ops\ExpeditedRemovalCredibleFear\memos\IRF  
A OGC

**Donis, Antonio**

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**From:** Donis, Antonio  
**Sent:** Wednesday, July 30, 2014 12:24 PM  
**To:** Daum, Robert L; Hemming, Bryan D  
**Subject:** Essential Questions

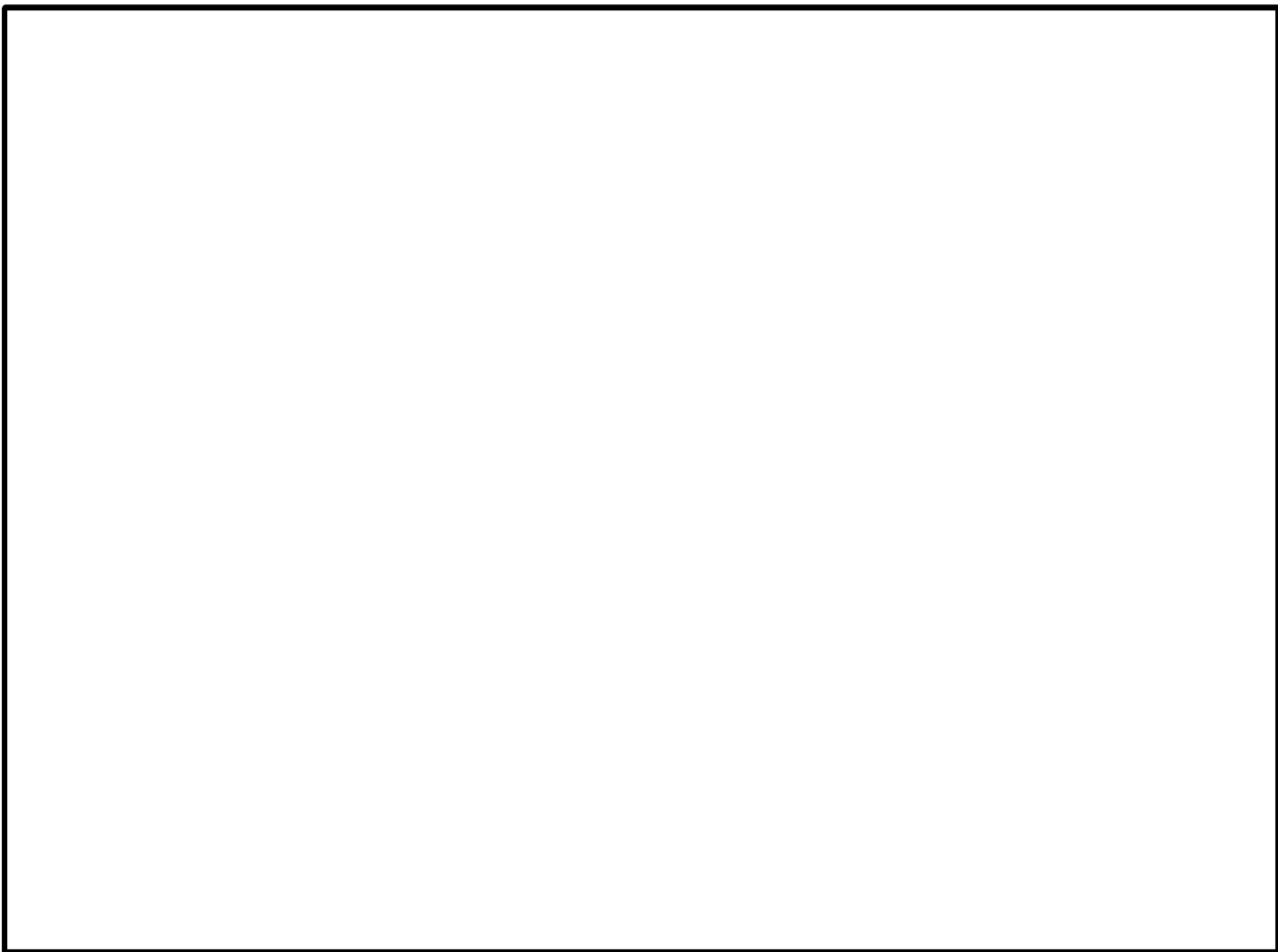
Rob and Bryan,

Below is a draft of the essential questions I believe AOs should ask in every Artesia interview.

Can you help me finesse them so I can put them into circulation today?

Thanks, (b)(5)

Antonio\_\_





**Donis, Antonio**

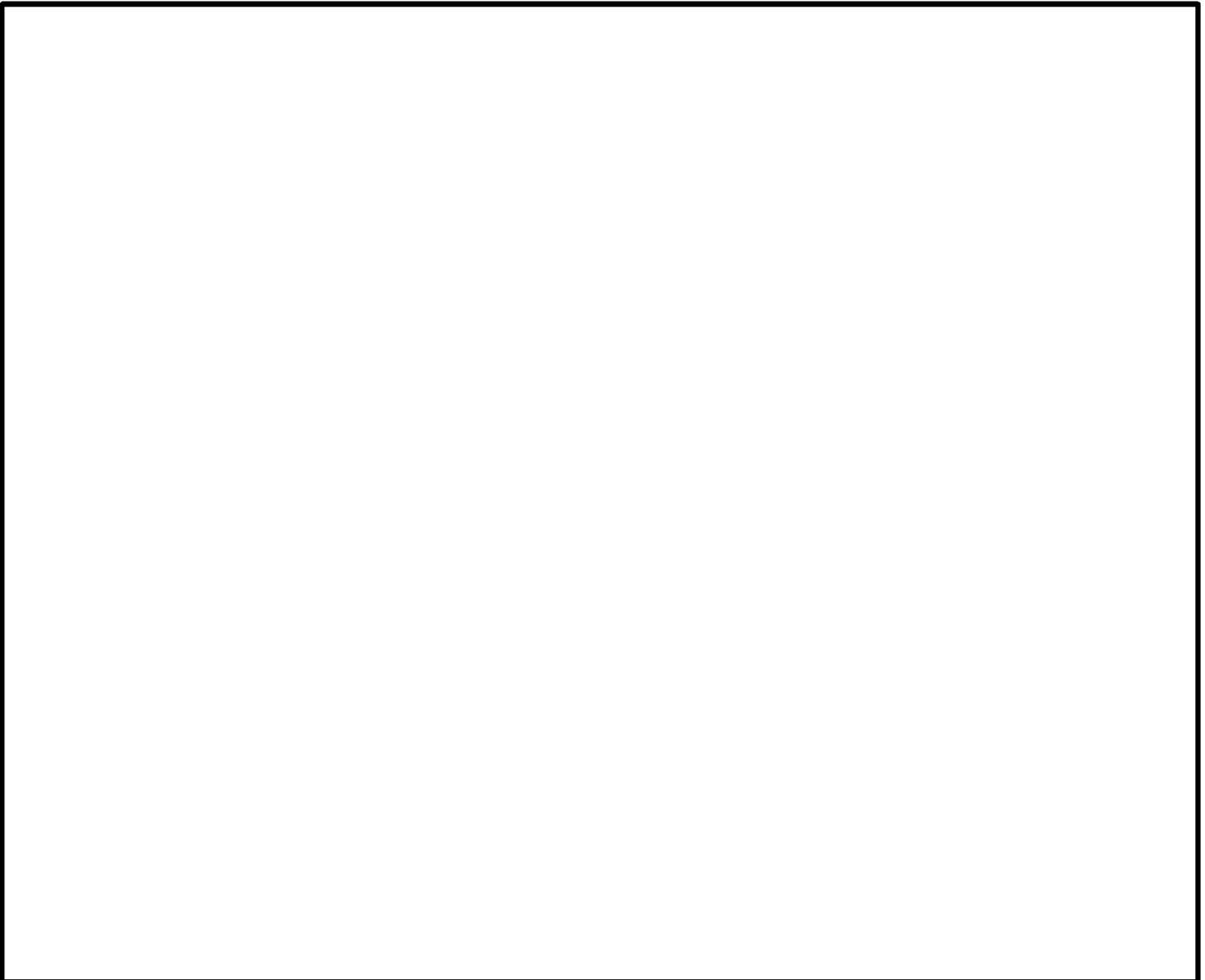
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**From:** Donis, Antonio  
**Sent:** Sunday, July 20, 2014 6:30 PM  
**To:** Kim, Ted H; Hemming, Bryan D; Daum, Robert L  
**Cc:** Stone, Mary M; Tanner, Rebecca S; Lafferty, John L  
**Subject:** RE: CF screening

(b)(5)

Thanks for sending this Ted.

I plan on training the Artesia AOs on the nuances of conducting credible fear interviews in a residential setting tomorrow afternoon. However, I was hoping to get answers to a few lingering questions before I do.



Thanks for your time and clarification,

Antonio\_\_

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**From:** Kim, Ted H  
**Sent:** Friday, July 18, 2014 4:31 PM

**To:** Donis, Antonio; Hemming, Bryan D; Daum, Robert L  
**Cc:** Stone, Mary M; Tanner, Rebecca S; Lafferty, John L  
**Subject:** FW: CF screening

(b)(5)

Rob/Bryan/Antonio: Thanks for all of the yeoman's work you are doing out in Artesia. It can't be easy setting up shop, dealing with TB+, rodents, etc.

Anyway, I think we spoke about this to Antonio when I was there,

Thanks,  
Ted

---

**From:** Groom, Molly  
**Sent:** Friday, July 18, 2014 7:51:41 PM  
**To:** Lafferty, John L  
**Cc:** Kim, Ted H; Stone, Mary M  
**Subject:** RE: CF screening

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**From:** Lafferty, John L  
**Sent:** Thursday, July 17, 2014 5:53 PM  
**To:** Groom, Molly  
**Cc:** Kim, Ted H; Stone, Mary M  
**Subject:** RE: CF screening

Molly,

My apologies for the delay. Here is the excerpt from our CF Procedures manual, with the most relevant sentence underlined:

**Family Members Arriving Concurrently with the Applicant**

Each applicant for admission to the United States is considered to have made that application for admission independently. Each applicant for admission subject to expedited removal who has been referred for a credible fear interview has the right to have his or her credible fear claim considered independently. The regulations do provide, however, that

[a] spouse or child of an alien may be included in that alien's credible fear evaluation and determination if such spouse or child:

- (1) Arrived in the United States concurrently with the principal alien; and
- (2) Desires to be included in the principal alien's determination.

A "principal/dependent" relationship can ensure that each immediate family member is treated in the same manner. APSOs should remember that it is the choice of the individual alien whether he or she is to be included in a principal alien's application. It is also important that potential asylees be given the opportunity to be heard regardless of which parent is the principal. The procedures that follow have been designed to preserve the right to individual choice and protect all potential asylees.

For all credible fear cases involving more than one immediate family member, an APSO meets with the family to determine whether a spouse or (unmarried) child[ren] under 21 wishes to be included as dependent[s] in the credible fear determination of the spouse or parent. The APSO must not attempt to influence the decision. If a principal/dependent relationship is established, the APSO then interviews the principal.

If the principal is found to have a credible fear of persecution or torture:

- No separate credible fear determination is made for the other immediate family members.
- The Form I-870 is updated with information about dependent family members. The APSO fills out the appropriate information in Section 2.13 through 2.18 on the principal's Form I-870.
- The APSO photocopies the principal's Form I-870 and places the copies in the file(s) of the other immediate family member(s) who are dependents.
- The APSO prepares, serves, and processes each individual's credible fear documentation according to relevant procedures set forth in this Manual for a positive credible fear determination.

If the principal is found not to have a credible fear of persecution or torture:

- The APSO determines if any dependent family member who has articulated a fear of return has a claim separate from that of the principal.
- Special attention should be paid to the privacy of each family member and the possibility that victims of domestic abuse, rape and other forms of persecution might not be comfortable speaking in front of other family members.

If any member of the immediate family is found to have a credible fear (either a spouse or child of the principal), the principal and any other immediate family members who choose may be included in the positive finding and will not need separate credible fear determinations. For those cases where the principal does not have a credible fear but another immediate family member (either his or her spouse, or one of his or her children) does:

- The immediate family member with the positive credible fear becomes the principal applicant, for purposes of the credible fear determination.
- The positive finding is used as the basis for finding credible fear for the entire immediate family that arrived concurrently, including any immediate family member unable to establish credible fear in his or her own interview.
- The APSO photocopies the I-870 and case analysis of the family member found to have a credible fear and places it in the file of the other family member[s].

The APSO prepares, serves, and processes each individual's credible fear documentation according to relevant procedures set forth in this Manual for a positive credible fear determination. For those cases where no family members are found to have a credible fear of persecution or torture, the APSO follows procedures for preparing, serving, and processing each family member's decision for a negative credible fear determination as set forth in this Manual.

Let me know if you have any questions.

John

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**From:** Groom, Molly  
**Sent:** Wednesday, July 16, 2014 11:54 PM  
**To:** Lafferty, John L  
**Cc:** Kim, Ted H; Stone, Mary M  
**Subject:** Re: CF screening

Thanks so much, John. I am hopefully going to get more details and will share. Just hoping to understand procedures with regard to family processing more fully. Any information is appreciated. Molly

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**From:** Lafferty, John L  
**Sent:** Wednesday, July 16, 2014 11:47 PM  
**To:** Groom, Molly  
**Cc:** Kim, Ted H; Stone, Mary M  
**Subject:** RE: CF screening

(b)(5)

Molly,



John

John

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**From:** Groom, Molly  
**Sent:** Thursday, July 17, 2014 2:33:41 AM  
**To:** Lafferty, John L  
**Subject:** CF screening

John,



Thanks for any insight you can provide. Molly



U.S. Department of Justice  
Immigration and Naturalization Service

HQINS 70/21.3

Office of the Executive Associate Commissioner

425 I Street NW  
Washington, DC 20536

January 29, 2002

MEMORANDUM FOR MICHAEL A. PEARSON  
EXECUTIVE ASSOCIATE COMMISSIONER  
FIELD OPERATIONS

FROM: Michael D. Cronin /s/  
Acting Executive Associate Commissioner  
Office of Programs

SUBJECT: Aliens Seeking Asylum at Land Border Ports-of-Entry

This memorandum sets out the Immigration and Naturalization Service (INS) policy regarding the processing of third-country nationals who present themselves at land border ports-of-entry and seek asylum in the United States.

**Background**

In the last few years, there has been a significant increase in the number of third-country nationals (for purposes of this memo, aliens who are not citizens of either Canada or Mexico) arriving at land border ports-of-entry and requesting asylum. This situation occurs on both borders, but is more prevalent on the southern border. In some cases, the alien actually seeks admission, sometimes using fraudulent documents or making a false claim to U.S. citizenship. In other cases, the alien simply approaches the primary inspector and requests asylum without appearing actually to seek admission at that time. In either situation, the alien may or may not have valid, legal status in Canada or Mexico.

Because no formal guidance has existed for these situations, ports-of-entry have been handling these cases in a variety of ways. Some ports automatically place all asylum seekers into the expedited removal process and refer them for a credible fear interview. Other ports give the aliens an Application for Asylum and for Withholding of Removal (Form I-589) and advise them to return with the completed application. These ports would then schedule a full asylum interview with an asylum officer at the port-of-entry in a process similar to an affirmative asylum application filed within the United States. This situation has resulted in inconsistent treatment of asylum applicants along the borders and a severe strain on the resources of some asylum offices.

Various groups outside the government have raised concerns that aliens who are sent back to Canada or Mexico to complete the asylum application risk removal from that country, or they may attempt to enter the United States illegally and by dangerous routes. Another concern is that some aliens may not speak either English or Spanish, and experience difficulty understanding the asylum application or obtaining assistance in completing it. Some aliens have no money or means of sustaining themselves in contiguous territory, and may face extortion or abuse to avoid discovery and deportation.

The INS has concluded that the practice of allowing arriving aliens to apply for asylum affirmatively at a port-of-entry is inconsistent with the statutory scheme established by Congress. Section 208(a)(1) of the Immigration and Nationality Act (INA) provides that an alien physically present in the United States, or who arrives in the United States, may apply for asylum "in accordance with this section or, where applicable, section 235(b)." Because section 235(b) of the INA provides for the inspection of arriving aliens, it governs how their claims for asylum must be processed. Section 235(b) provides for either the credible fear process or a removal proceeding under section 240 of the INA, depending on whether the case is appropriate for expedited removal. Section 235(b) does not provide for an affirmative asylum application process at a port-of-entry.

### **Guidance**

All aliens who arrive at a land border port-of-entry and seek asylum are considered to be applicants for admission by operation of law. Even in cases where a fraudulent document is not presented or a formal request for admission is not made, an alien who seeks asylum in the United States at a port-of-entry in most cases is inadmissible as an intending immigrant and therefore potentially subject to expedited removal. Except as noted below, such aliens, if otherwise subject, will be placed in expedited removal proceedings and referred for a credible fear interview in accordance with procedures described in Chapter 17.15 of the Inspector's Field Manual (IFM).

If, during the course of the inspection, the alien decides that he or she does not wish to pursue his or her asylum claim, officers may, at INS' discretion and in accordance with section 235(a)(4) of the INA, permit such an alien to voluntarily withdraw the application for admission and the asylum claim in lieu of placing the alien in expedited removal. The decision to permit withdrawal of an application for admission must be properly documented by means of a Form I-275, Withdrawal of Application for Admission/Consular Notification, to include the facts surrounding the voluntary withdrawal of the application for admission and the withdrawal of the asylum claim. Under no circumstances may the alien be pressured into withdrawing his or her application for admission or asylum request. Officers must provide adequate interpretation to ensure that the alien understands the process and any repercussions of the alien's decision to pursue or withdraw the asylum claim or withdraw the application for admission.

The Form I-275 should also indicate the alien's status in Canada or Mexico and the basis for determination of that status. This determination may be based on contacts with Canadian or

Mexican authorities, stamps in the alien's passport, or other available documentation. The narrative should also indicate that the alien has not expressed concern about returning to Canada or Mexico. If the alien expresses any concern or reluctance about returning to Canada or Mexico and wishes to pursue the asylum claim in the United States, the alien should be advised that he or she will be placed in the expedited removal process and will be detained pending the credible fear determination. The alien should not be given the Form I-589, Application for Asylum and for Withholding of Removal, nor should an affirmative asylum interview be scheduled at the port-of-entry.

Aliens at land border ports-of-entry who are subject to expedited removal and who claim a fear of persecution or torture or an intention to apply for asylum must be detained pursuant to section 235(b)(1)(B)(iii)(IV) of the INA and 8 CFR 235.3(b)(4)(ii) pending determination of a credible fear of persecution or torture. Once it has been determined that an alien has a credible fear, districts may continue to detain the alien or may parole from custody, as appropriate.

In a memorandum issued by the Deputy Commissioner on March 31, 1997, entitled Implementation of Expedited Removal, the INS stated that if there was insufficient detention space available to detain an alien in expedited removal arriving at a land border port-of-entry, the alien could be required to wait in Canada or Mexico pending a final determination of his or her claim of fear of persecution. That option is now rescinded. Similarly, 8 CFR 235.3(d) permits the INS, in its discretion, to require inadmissible aliens to remain in foreign contiguous territory while awaiting a removal hearing. Officers will not exercise this option with respect to aliens in the expedited removal process. Officers should contact the District Detention and Removal Division to locate available detention space either in the district or region.

This policy will be incorporated into IFM Chapters 17.15 and 21.2 in a future release of INSERTS. Please ensure that all districts and ports-of-entry are aware of and comply with this policy.



U.S. Department of Justice  
Immigration and Naturalization Service


HQINS 70/21.3

Office of the Executive Associate Commissioner

425 I Street NW  
Washington, DC 20536

FEB 6 2002

MEMORANDUM FOR REGIONAL DIRECTORS  
EXECUTIVE ASSOCIATE COMMISSIONER, MANAGEMENT  
DEPUTY EXECUTIVE ASSOCIATE COMMISSIONER,  
IMMIGRATION SERVICES  
DIRECTOR, INTERNATIONAL AFFAIRS

FROM:   
Michael A. Pearson  
Executive Associate Commissioner  
Office of Field Operations

SUBJECT: Aliens Seeking Asylum at Land Border Ports-of-Entry

The attached memorandum clarifies the Immigration and Naturalization Service (INS) policy regarding the processing of third-country nationals who present themselves at land border ports-of-entry and seek asylum in the United States. The INS has concluded that all such aliens are applicants for admission and should therefore be processed in accordance with section 235(b). This memorandum provides guidance for such processing.

Please ensure that all immigration inspectors performing these tasks are aware of this memorandum.

Attachment



Languages and number of cleared interpreters with LSA InterpreTalk as of Tuesday, June 19, 2007:

<u>Albanian</u>	<u>1</u>
<u>Arabic</u>	<u>1</u>
<u>Bengali</u>	<u>2</u>
<u>Burmese</u>	<u>1</u>
<u>Georgian</u>	<u>2</u>
<u>Haitian Creole</u>	<u>1</u>
<u>Hindi</u>	<u>1</u>
<u>Hunan</u>	<u>1</u>
<u>Karen</u>	<u>1</u>
<u>Mandarin</u>	<u>2</u>
<u>Portuguese</u>	<u>1</u>
<u>Punjabi</u>	<u>1</u>
<u>Russian</u>	<u>3</u>
<u>Spanish</u>	<u>9</u>
<u>Turkish</u>	<u>1</u>
<u>Ukrainian</u>	<u>1</u>
<u>Urdu</u>	<u>1</u>



U.S. Department of Justice  
Immigration and Naturalization Service

120/9.8

NOV - 8 1999

MEMORANDUM FOR: All Asylum Office Directors  
All Deputy Directors  
All Supervisory Asylum Pre Screening Officers

FROM: Joseph E. Langlois  
Acting Director, Asylum Division

SUBJECT: Lawyers Committee for Human Rights "Political Asylum and Expedited Removal" Discussion Document

I attended a discussion chaired by the Lawyers Committee for Human Rights on Tuesday, November 2. This discussion focussed on issues presented in the fourteen-page document included as an attachment to this memorandum. The document is a draft, and should not be viewed as the official policy of the Lawyer's Committee.

Please review the document with careful attention to the arguments that are presented. These arguments are representative of recent Non Governmental Organization criticism of Expedited Removal.

Please contact Wally Bird if you have questions or concerns.

Thank you.

Attachment:  
Discussion Document

10/28/99

## POLITICAL ASYLUM AND EXPEDITED REMOVAL<sup>1</sup>

From the earliest days of the Republic, the United States has provided safe haven for people fleeing persecution. George Washington declared that "[t]he bosom of America is open to receive not only the opulent and respectable stranger, but the oppressed and persecuted of all nations and religions," and established the principle that the United States would not send people back to face persecution.<sup>1</sup> In our own century, U.S. concern for the plight of refugees during and after the Second World War was instrumental in the development of treaties affirming the right of asylum and laying the groundwork for the modern international refugee protection system.

The persecuted look to the United States for hope, just as other nations look to the United States for leadership. Although only a tiny fraction of the world's refugees come directly to America's shores, our treatment of those who do sets an important example for the entire world and determines whether we are in compliance with treaty standards. Yet the laws and regulations that govern how the U.S. Immigration and Naturalization Service (INS) processes arriving asylum seekers have undergone drastic changes in recent years that undermine America's proud tradition of welcoming refugees.

The rights to seek asylum from persecution and to protection as a refugee are established in two of the earliest international human rights documents—the Universal Declaration of Human Rights and the 1951 Convention Relating to the Status of Refugees respectively. The term *asylum seeker* is used for individuals who apply for this status upon or after arriving in the

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<sup>1</sup> See Stanley Elkins & Eric McKittrick, *The Age of Federalism: The Early American Republic, 1788-1800* (1993), at 372-73.

U.S. In the technical jargon, those who are processed abroad in advance for resettlement here are called refugees, though it will be used here to indicate anyone with a legitimate claim to asylum.

A new immigration law enacted by the Congress raised significant -- for some insurmountable -- barriers that asylum seekers must in order to seek protection in the United States. The Illegal Immigration Reform and Immigrant Responsibility Act of 1996, which took effect on April 1, 1997, established an "expedited removal" process, which is so summary in nature that genuine refugees are at risk of being sent back to persecution without a meaningful opportunity to present their asylum claims.

Studies by the Lawyers Committee and others of expedited removal's first two years have shown it to be a fundamentally flawed system that must be repealed. By investing INS airport inspectors with the power to deport new arrivals on the spot, this new process puts genuine refugees at risk of erroneously being deported--sometimes, we must assume, to their great peril. Expedited removal short-circuits the screening of those who arrive here; with its mandate to look for illegal immigrants, it unfairly catches refugees in its over-broad net.

Because the current policy is out of step with international standards, the U.S. has come under pressure from the UN High Commissioner for Refugees, the agency responsible for upholding those standards. America's failure to fully protect arriving refugees undercuts our national interest in ensuring that other nations continue to host much larger refugee populations. When we press other governments to fulfill their responsibilities, as we often do, our case is greatly weakened by our own failings. It undermines the ability, for example, to persuade others to host Kosovar Albanians when INS officers have been known, in at least one case, to deport them in the middle of the Serb crackdown.

Though the stakes in terms of physical safety are highest when expedited removal is wielded against refugees, refugees are not the only ones who have suffered under this new regime. Expedited removal has been used unjustifiably against others, including business travelers. Businesspeople attempting to travel here with valid travel documents, including corporate board members, have been treated like criminals, with INS officers barring them from entering the U.S. on the grounds—yet without any objective evidence—that their stated purposes are fraudulent. This comes at a time when the uncertain world economy has made international commerce increasingly competitive.

Congress should end expedited removal, and the sooner the better. Doing so would not change the rules governing who is eligible for asylum, nor would it create new openings for illegal migrants to stay in America. Rather, it would ensure, consistent both with our international obligations and with core American values, that asylum seekers have a meaningful opportunity to apply for refuge. And, most important, it will reduce the risk that refugees entitled to protection are deported back to face repression, torture, and worse.

#### **A SYSTEM BASED ON ERRONEOUS ASSUMPTIONS**

Responding to perceptions that the asylum process was being abused by non-refugees, Congress included as part of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 a radical revision of the procedure under which arriving asylum seekers may raise a claim for protection. Under the new process, low-level INS inspectors at U.S. ports of entry may summarily deport anyone who arrives in the United States without valid travel documents, such as a passport or visa. The process may also be, and has been, used to deport individuals with facially valid papers that the INS inspector believes were obtained under false pretenses. Those

expressing a fear of persecution back in their country are, even under the new law, supposed to proceed to the next step of a more detailed interview. Yet inspectors have been known to dismiss out-of-hand the claims of asylum seekers (or failed to recognize indications of an asylum claim), and summarily deport them.

Many of the problems with the new asylum regime can be traced back to a misdiagnosis of the previous system. First was a belief that the asylum system had become undisciplined and was being exploited by non-refugees as a "back door" to illegal immigration. There is widespread agreement among observers that inadequate resources and bureaucratic inefficiencies in the asylum system in the early 1990's encouraged abuse. At that time, for instance, asylum seekers received virtually automatic permission to work while their applications were being processed, which often dragged on for years as a result of a serious backlog.

But by the time the reform bill was being debated in Congress, the INS had instituted broad ranging regulatory reforms that streamlined the asylum system and accelerated the processing of cases. These new regulations established strict INS processing deadlines and eliminated the automatic work permit provision. Significant additional resources were directed toward the hiring of more asylum officers. Applications numbers plummeted and, by 1996, with the INS processing applications more efficiently and no longer overwhelmed by its caseload, a major premise of the reform bill—that illegal immigrants were slipping through—was no longer true.

Though its impact on individuals is severe, expedited removal has been applied to a comparatively small number of arrivees, only 76,000 in the first year of operation. This is a tiny fraction of the total number of foreign nationals who enter the country. More than 90 per cent of

expedited removal cases in the first year were Mexican nationals; again, this 70,000 represents a small portion of the total flow of Mexicans. Because it is applied to people arriving at official points of entry, expedited removal is of little relevance to the problem of illegal immigration over the southern border. The vast majority of illegal immigrants crossing the land border are attempting to avoid any contact with officials; when they succeed, of course, they are beyond the reach of expedited removal. Moreover, U.S. immigration law provides an alternative to expedited removal; people arriving across a contiguous land border can be sent back, short of deportation and the associated five-year bar on re-entry, pending later interviews to determine their status.

Given these low numbers, expedited removal has clearly not been applied to enough people for it to be claimed as a major weapon against illegal immigration. Meanwhile, there have been legitimate refugees among these numbers (for instance the 6,000 non-Mexicans from the first year) deported to potentially devastating harm.

The United States has a strong and legitimate interest in preventing the immigration of individuals who pose a threat to public safety, another concern raised by proponents in the expedited removal debate. The new process, however, offers no significant help with this problem either. Expedited removal is a blunt instrument to deport some of the newly arrived—not a procedure for identifying terrorists or other criminals. Rather, the 1996 law established criteria for deportation, failure to possess valid travel documents, that were bound to catch legitimate refugees in the dragnet.

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**Sidebar – Legislative History**

Expedited removal was a product of a House-Senate conference after the two bodies passed very different provisions. When the Senate voted on its version, a bipartisan majority limited the use of expedited removal to immigration emergencies. In the House, expedited removal never received a separate vote. Much to the dismay of the Senate sponsors, the House-Senate conference removed the limitations on the use of expedited removal. These critics of the new process then mandated that the General Accounting Office evaluate the impact of expedited removal, particularly on asylum seekers. For its part, the GAO declined to audit the quality of decisions under expedited removal, restricting itself to merely verifying whether the INS followed its own procedures (though even the GAO's limited evaluation pointed up significant failings, see p. X).

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**Sidebar – How Expedited Removal Works**

The first hurdle for an arriving asylum seeker is "secondary inspection." Any individual who arrives at a port of entry without valid documents—or even with facially valid ones that the INS suspects may have been obtained through false pretenses—must pass through this process. He is referred by the first INS officer he encounters, the primary inspector, to another INS officer who conducts the secondary inspection.

This relatively low-level INS official can order the person deported, subject only to a supervisor's approval. There is no further review of the secondary inspector's removal order. No



judge, no court, nobody outside the airport reviews its validity. Moreover, a removal order includes a five-year bar to entering the United States.

The secondary inspector is required by law to refer anyone who claims a fear of persecution, or even expresses an intent to apply for asylum, for a "credible fear" interview. But if the secondary inspector fails to do so, the asylum seeker has no recourse. This stage of expedited removal is the most dangerous for asylum seekers, because it occurs without any monitoring by outside groups.

Credible fear interviews are conducted by specially trained INS asylum officers, whom the applicant (in an interview that takes place as soon as 48 hours after arrival) must convince that he has a "credible fear of persecution" if he returns to his country, intended to be a relatively easy screening standard. These interviews take place within days of arrival, during which time the asylum seeker is jailed, leaving little time or opportunity to gather evidence either about country conditions or about the applicant's individual case. If the Asylum Officer decides that the asylum seeker does not have a credible fear, the individual is subject to immediate deportation. If and only if he requests it, the negative determination will be reviewed by an Immigration Judge, an administrative judge employed by the Department of Justice. This review must by law be conducted within seven days.

#### **How the 1996 Act Changed the Process**

Before the 1996 law took effect, all arriving asylum seekers presented their claims for asylum directly to an immigration judge at an evidentiary hearing. The applicant could present

witnesses and documentation for his claim and was permitted to be represented by a lawyer.

Decisions by the immigration judge were subject to administrative and judicial review.

The expedited removal empowers INS inspectors at the airport to issue a final and unreviewable order of deportation that may be executed immediately, a power that previously rested only with judges. Such orders carry with them severe immigration penalties as well; individuals ordered removed under the new procedure are barred for five years from seeking to enter the United States for any reason. By giving what amounts to judicial power to low-level INS officials, the new process invites mistakes and abuse, yet the stakes for some refugees can be literally life-or-death.

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Expedited removal can be set in motion whenever someone arriving at a port of entry fails to present valid travel documents. The law presumes that those arriving without documents cannot be refugees and therefore bars them, at least initially, from applying for asylum. This premise has an Alice-in-Wonderland quality to it. Far from indicating an invalid claim, the failure to produce valid documents is often a direct result of the repression that the asylum seeker is trying to escape. In fact, asylum seekers whose documents are entirely in order invariably are asked during the adjudication process to explain how this official sanctioning of their escape squares with their claims of persecution. In fact, merely applying for a passport or visa would, in many countries, attract unwanted notice from local authorities. In other places—Kosovo recently, for instance—identity papers and other key documents of ethnic Albanians were confiscated by repressive officials or forces. One of this century's heroes of refugee protection,

Raoul Wallenberg, is hailed precisely because he gave false documents to refugees fleeing the Nazi genocide.

Proponents of expedited removal also fail to understand that the vast majority of arriving refugees are either unaware of or confused by the asylum process, and are often unable to relate their experiences and fears of persecution immediately upon arrival. Most are ill-equipped to prepare and present a claim for asylum even within twelve months of arrival, yet expedited removal requires them to within days articulate their claims.

### **REQUESTING REFUGE IN A CLIMATE OF INTIMIDATION AND FEAR**

While many INS inspectors no doubt perform their duties in a commendable manner, others treat arriving asylum seekers with suspicion and fail to act in accord with U.S. law, regulations, and policy. At root, the problem is that inspectors are enforcement officers, and expedited removal gives them such broad discretion, free of any review or scrutiny, that it is simply too easy to abuse. The process effectively makes them judge and jury. Also symptomatic of the built-in danger of overzealous enforcement is the frequency with which asylum seekers are kept in detention long after they have established a significant possibility of winning asylum.

The process is extremely difficult to navigate for even for the well-educated, English-speaking asylum-seeker. For others, it is rife with danger:

- Arrivees are not given adequate notice prior to the secondary inspection interviews that the interview will be an arriving individual's only opportunity to inform U.S. authorities that he needs protection;
- Secondary inspection interviews frequently occur in open, public spaces with no provision for confidentiality;

- Arrivees are prohibited from contacting outside agencies, family, or friends before the secondary inspection interviews;
- If they request the opportunity to speak to a lawyer, they are informed that they have no such right;
- There is no requirement for the provision of qualified interpreters bound by confidentiality throughout the expedited removal process;
- Review of a negative credible fear determination may take place without the right to any meaningful participation of counsel.

#### **DOCUMENTING THE EFFECTS OF EXPEDITED REMOVAL**

One of the greatest obstacles in evaluating the impact of the 1996 law is the paucity of publicly available data tracking the results of its implementation. As it considered the legislation, Congress itself was sufficiently concerned about the dangers of expedited removal that it mandated the General Accounting Office to conduct a study detailing the costs and effectiveness of the new procedures. Congress explicitly required that the study include an evaluation of "the accuracy of credible fear determinations."<sup>2</sup>

While the GAO observed only a handful of expedited removal proceedings, its report identified some disconcerting problems. INS inspectors failed to follow their own procedures up to 20 percent of the time and at four of the five locations surveyed, including failing to have supervisors approve summary deportations and failing to ask specific questions about an applicants fear of return.

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<sup>2</sup> Cong. Rec. H11797 (September 28, 1996).

The report also found that asylum officers err in their judgments about credible fear in about 17 percent of cases; have failed to inform applicants of their right to request review of a negative credible fear finding; and have failed to ask applicants questions regarding fear of torture. These findings, combined with the shroud of secrecy over the expedited removal process, dramatizes the extreme vulnerability of asylum seekers. Nothing is known about those who are immediately deported. They never see a lawyer. They never see an assistance agency. No court reviews their cases.

In the case of an ethnic Albanian from Kosovo, his case is only known because he succeeded in a second attempt to come to the United States. In the winter of 1998 "Arben" traveled to an East Coast airport. Even though the vicious persecution of Albanian Kosovars by Serbian authorities was then receiving prominent news coverage, the INS inspector did not recognize that he should refer the individual to a credible fear interview. First, Arben had to insist on being provided an Albanian language interpreter after a Serbo-Croatian one was provided. Then, when Arben told the interpreter that he was afraid to return home, the interpreter said he had been instructed only to tell Arben that he was being sent back. The asylum seeker's statement, which he reiterated to another person in halting German, that he feared return was ignored and he was summarily deported.<sup>3</sup>

Another case demonstrating the inherent danger presented by expedited removal involves two Ecuadorans who fled to the United States after receiving death threats for exposing police corruption. According to news reports, they requested asylum at a U.S. airport. But secondary inspectors accused them of lying. After being handcuffed to a hotel bed overnight, the men were

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<sup>3</sup> The asylum seeker has asked for confidentiality reasons that his real name not be used. Source: interview of his attorney by C. Randolph Ross.

sent back to Ecuador. After being forced to return to Ecuador, the men, fearing for their lives, immediately went into hiding.<sup>4</sup>

### DETENTION OF ASYLUM SEEKERS

Among the provisions of the 1996 law is a requirement that any asylum seeker arriving without valid travel documents be held in mandatory detention until they pass out of the expedited removal process by establishing a credible fear of persecution before an asylum officer or immigration judge. Yet despite INS guidelines confirming that asylum seekers who have cleared this hurdle are eligible for parole, many such applicants have been held in detention for several months or even a period of years.

The Expedited Removal Study of the University of California Hastings College of Law<sup>5</sup> found average periods of detention (based on a very small sample of reports from attorneys in the absence of official figures) of between two and three months for individuals for whom credible fear of persecution had been determined by an INS asylum officer.<sup>6</sup>

This is not to suggest that detention is an invalid option for anyone arriving at America's borders. For individuals about whom there may be genuine suspicions, holding them in custody may be an important prerogative to protect public safety. But those who have established that

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<sup>4</sup> Barbara Bradley and Bob Edwards, National Public Radio, Morning Edition, Transcript #97101408-210 (October 14, 1997).

<sup>5</sup> The Expedited Removal Study, Center for Human Rights and International Justice, University of California Hastings College of Law, *Report on the Second Year of Implementation of Expedited Removal*, May 1999, at 35-37.

<sup>6</sup> Detention periods may be longer than these averages indicate. First, anyone still in custody when the information was gathered would not be counted. And significant differences in the length of detention depending on place of origin and point of entry mean that, for instance, if one is unlucky enough to have come from Africa or some Asian countries or arrived at JFK Airport, the average period was three to five months.

they are credible asylum claimants and present no threat should not be considered a threat and should not be imprisoned.

This practice is inconsistent with international norms for the protection of refugees, and the ongoing discussions of the issue within the UNHCR are a source of some diplomatic embarrassment for the United States. Not only does such detention, often in appalling conditions run counter to America's traditional sense of fairness, on a practical level it inhibits the asylum seeker's ability to prepare and present his case. Freed from detention, an asylum-seeker has access to physicians and psychiatrists to document the aftermath of torture and trauma. He also has much better access to counsel and much greater ability to select new counsel if necessary.

And there are practical consequences also for the American taxpayer, who foots the bill for unnecessary incarceration when family and friends have offered to support the applicant. But what makes detention so wasteful, and unjust, is that many of those detained are ultimately proven legitimate refugees and granted asylum—as could have been anticipated after their credible fear determination.

### **RECOMMENDATIONS**

An important part of who we are as a nation is represented by the Statue of Liberty lifting her torch "beside the golden door." Through the generations, America has offered refuge to those fleeing persecution and torture, as a matter of principle and with a spirit of generosity. Expedited removal unduly sacrifices that part of our national identity. The following steps should thus be taken:

- *The Congress should repeal expedited removal at the earliest possible date.*

- *Most urgently, the INS must allow regular monitoring of all stages of expedited removal, including secondary inspection, by NGOs and by the United Nations High Commissioner for Refugees and must also regularly release statistical information on the process.*
- *The INS should immediately direct all districts to implement fully its parole program and follow up this directive with regulations formally standardizing the policy.*
- *To the extent that the INS may be restructured, care should be taken that no bureaucratic gaps are created that could undermine the rights of asylum seekers.*





**U.S. Citizenship  
and Immigration  
Services**

HQRAIO 120/9.15

(b)(5)

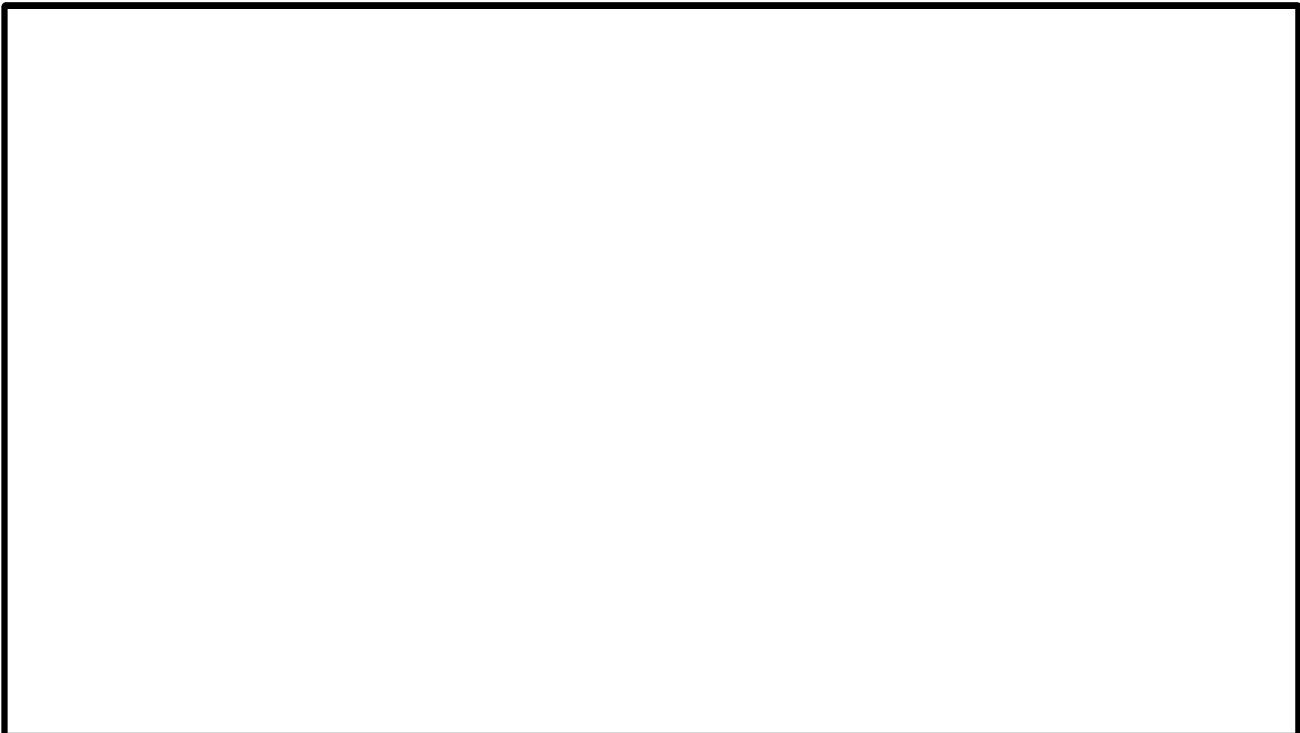
**APR 11 2013**

## Memorandum

**TO:** Asylum Office Directors  
Asylum Office Deputy Directors  
Supervisory Asylum Pre-Screening Officers  
Asylum Pre-Screening Officers  
Quality Assurance/Training Asylum Officers

**FROM:** Ted H. Kim  
Acting Chief, Asylum Division

**SUBJECT:** Expansion and Extension of Credible Fear Determination Checklist Pilot



(b)(5)



**U.S. Citizenship  
and Immigration  
Services**

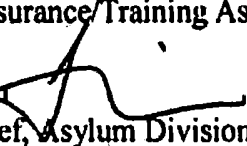
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HQRAIO 120/9.15

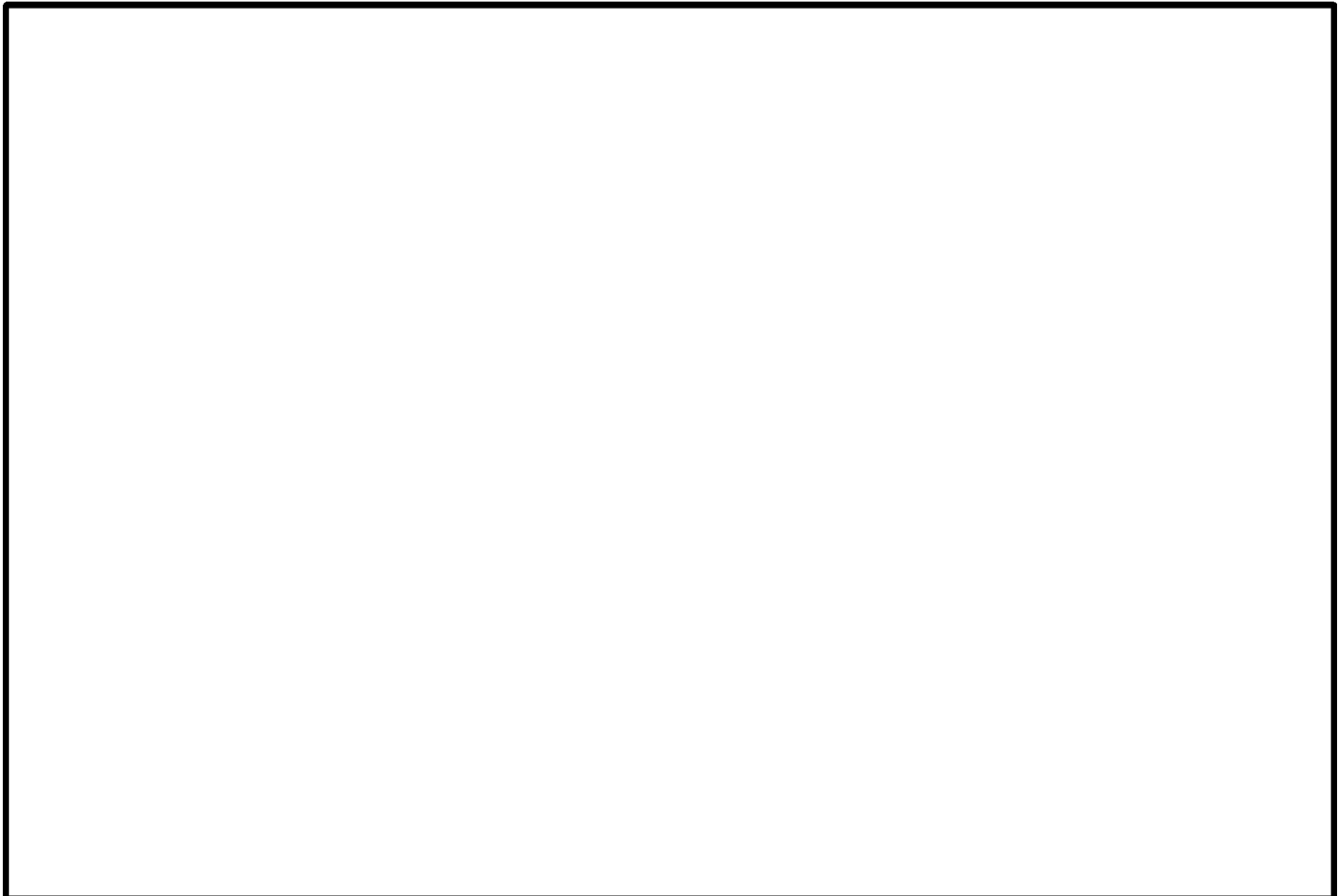
## Memorandum

**JAN 14 2013**

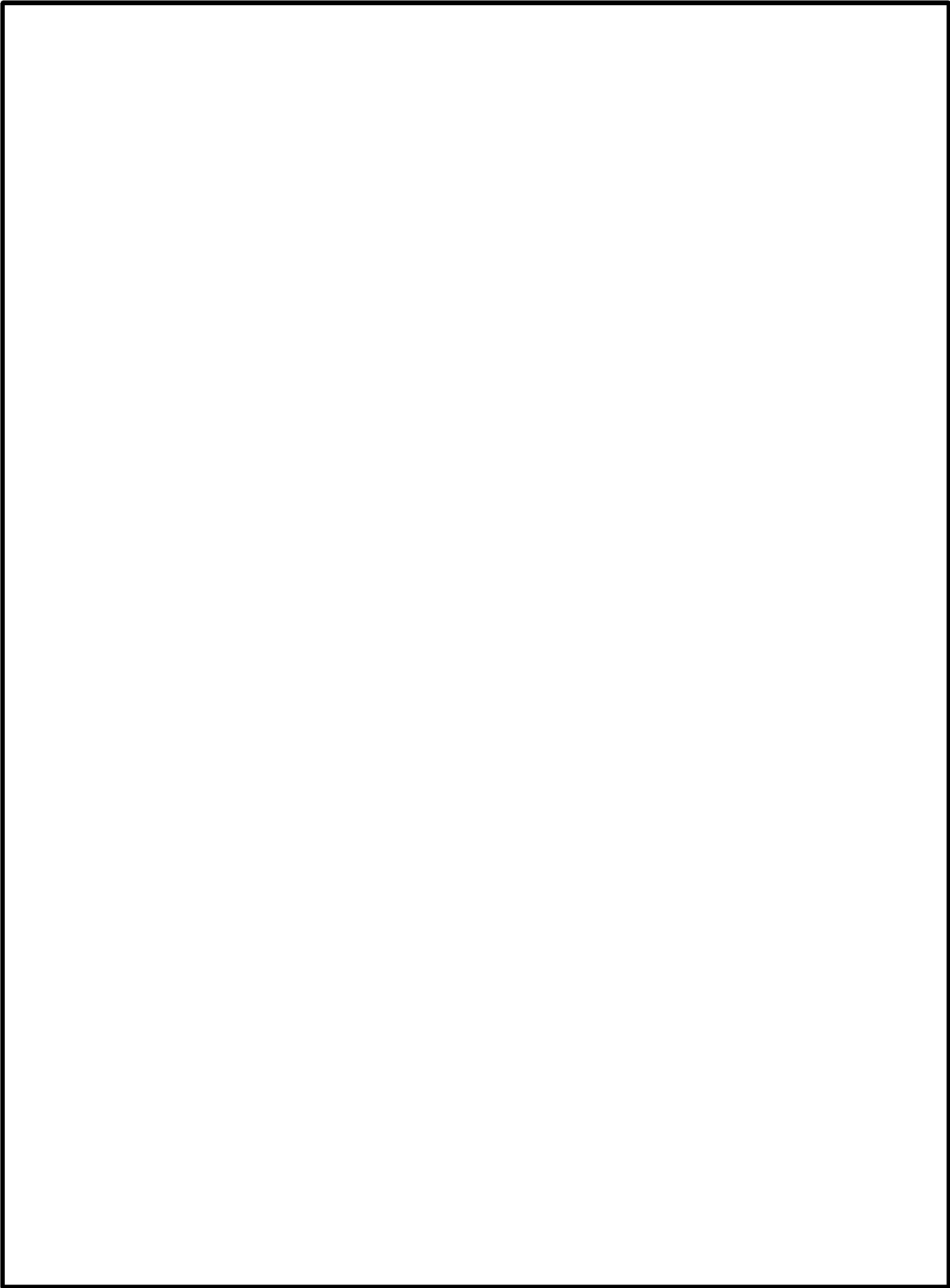
**TO:** Asylum Office Directors  
Asylum Office Deputy Directors  
Supervisory Asylum Pre-Screening Officers  
Asylum Pre-Screening Officers  
Quality Assurance/Training Asylum Officers

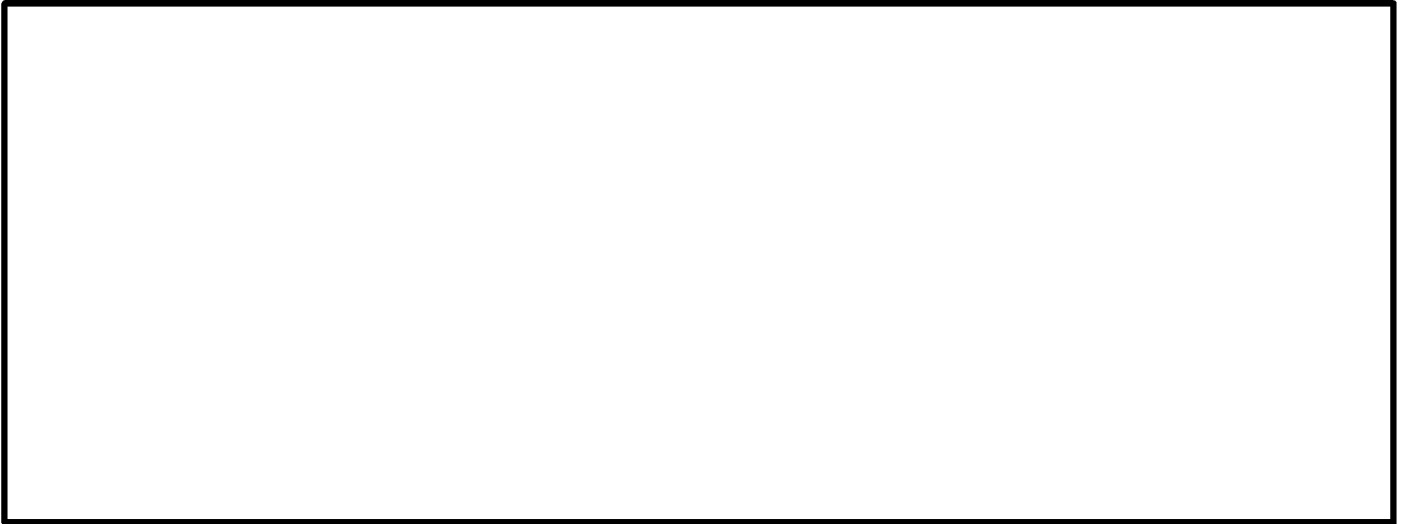
**FROM:** Ted H. Kim   
Acting Chief, Asylum Division

**SUBJECT:** Implementation of Credible Fear Determination Checklist Pilot



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U.S. Department of Justice  
Immigration and Naturalization Service

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425 I Street NW  
Washington, DC 20536

SEP 20 2001

MEMORANDUM FOR Asylum Office Directors  
Deputy Directors  
Supervisory Asylum Officers  
QA/Trainers  
Asylum Officers

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

SUBJECT: Mentally incompetent aliens in the credible fear process

The instructions in this memorandum amend the Credible Fear Procedures Manual (Draft 12/00), as it pertains to aliens unable to testify on their own behalf. Asylum officers are neither trained nor expected to evaluate an asylum seeker's mental competency and shall not make any determinations to that effect. However, there may be cases in which a credible fear applicant manifests behavior that leads an asylum officer to question the applicant's ability to provide competent testimony.

Cases in which an asylum officer and supervisory asylum officer are concerned that the applicant is not mentally competent should be processed as follows. First, the asylum officer should notify the supervisory asylum officer of his or her concerns. If the supervisory asylum officer believes there are reasonable grounds to question the competency of the applicant to provide testimony, the supervisor should notify public health through proper channels, pursuant to local procedures.

After an initial attempt to interview the applicant has concluded, the following documents should be sent by facsimile (202-305-0827), to the credible fear program manager for review:

**Forms:** I-870 *Record of Determination/Credible Fear Worksheet*, I-867A & B *Record of Sworn Statement in Proceedings under Section 235(b)(1) of the Act and Jurat*, I-860 *Notice and Order of Expedited Removal* (if applicable);

**Notes and Memos:** Interview notes, any memoranda in the A-file from Inspections or Detention staff pertaining to the applicant's mental well-being, a memo written by the supervisory asylum officer documenting efforts to notify the Public Health Service, the result of those efforts, and the reasons the asylum officer and supervisor have concerns regarding the applicant's mental competency.

Charging documents and any credible fear determination may be issued only after Headquarters completes its review of the case. Headquarters will consult with the supervisory asylum officer to determine whether a public-charge charge is appropriate, or whether a credible fear determination may be made based on the applicant's responses and conditions in any country to which he or she may be returned.

Headquarters intends to follow up with additional guidance after further evaluation of these types of cases and consulting with the Office of General Counsel. Please forward any comments or suggestions about this matter to

(b)(6)

(b)(5)













## **Jowett, Haley L**

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**From:** Lafferty, John L  
**Sent:** Wednesday, June 25, 2014 6:55 PM  
**To:** Jones, Rendell L; Scialabba, Lori L; Langlois, Joseph E  
**Cc:** Kim, Ted H  
**Subject:** Processing of CF family cases

In discussing our coverage for Artesia in Lori's office, we briefly discussed our handling of family CF cases. The CF regs say that the spouse and child can be included in a person's CF "evaluation and determination," if they arrived in the US concurrently with the principal, and they desire to be included on the principal's CF determination. They can get separate CF determinations if that is what they prefer.

If they request to all be on one case, under our current CF procedures the AO first interviews the principal applicant to determine if that person has a credible fear of persecution or torture. If the principal applicant does not have a credible fear of persecution or torture, the APSO interviews any other dependents (spouse or child who arrived concurrently with applicant that desired to be included in the principal's credible fear determination) who have articulated a fear of return to determine if any of them have a claim separate from that of the principal. If any dependent does have a credible fear of persecution or torture, then that person becomes the principal applicant for purposes of the credible fear determination. This positive finding is used as the basis of finding credible fear for the entire immediate family that arrived concurrently, including any immediate family members who were unable to establish a credible fear on their own. This is the case even if it is the child who is determined to have the credible fear. This process has been in place for many years, though we've had only limited occasion to use it until recently.

If there are any concerns about our current procedures, we will need to revise them in the next couple of days in order to have them in place prior to the start of our processing early next week.







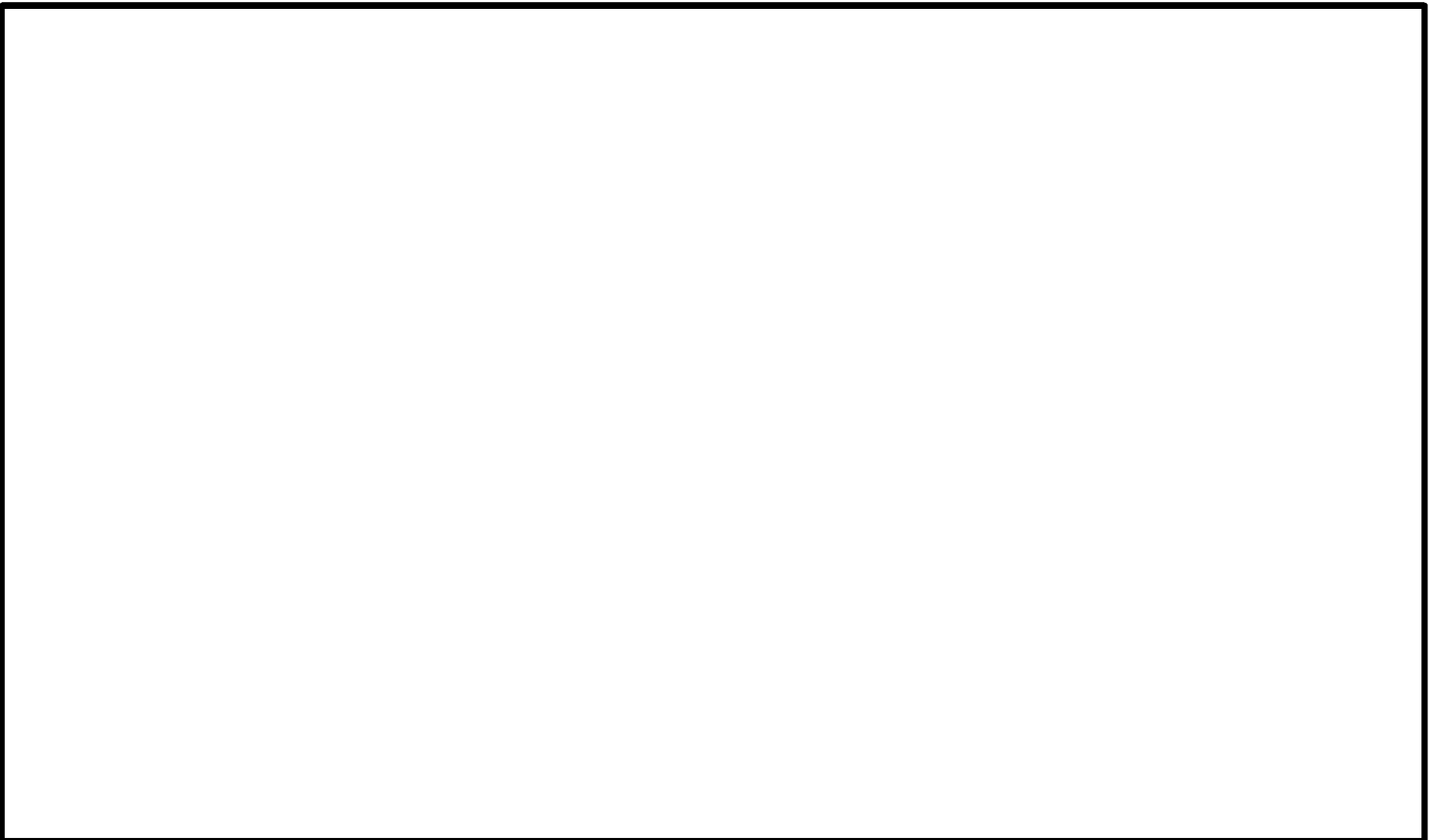
**Jowett, Haley L**

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**From:** Lafferty, John L  
**Sent:** Tuesday, September 02, 2014 4:28 PM  
**To:** Daum, Robert L; Hemming, Bryan D; Mcdonnell, Audrey V  
**Cc:** Kim, Ted H; Stone, Mary M; Tanner, Rebecca S  
**Subject:** RE: Karnes

(b)(5)

ZHN colleagues,



John

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**From:** Langlois, Joseph E  
**Sent:** Tuesday, September 02, 2014 5:02 PM  
**To:** Lafferty, John L  
**Cc:** Higgins, Jennifer B  
**Subject:** FW: Karnes

John,

Your take on this?

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**From:** Hoy, Serena  
**Sent:** Tuesday, September 02, 2014 4:12 PM  
**To:** Langlois, Joseph E  
**Subject:** FW: Karnes



**Jowett, Haley L**

(b)(5)

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**From:** Lafferty, John L  
**Sent:** Tuesday, August 05, 2014 11:58 AM  
**To:** Kim, Ted H  
**Subject:** RE: Possible Call to Discuss AILA Pro Bono Efforts at Artesia?  
**Attachments:** How many staff.docx

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**From:** Kim, Ted H  
**Sent:** Tuesday, August 05, 2014 12:43 PM  
**To:** Lafferty, John L  
**Subject:** FW: Possible Call to Discuss AILA Pro Bono Efforts at Artesia?

[Redacted]

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**From:** Donis, Antonio  
**Sent:** Friday, August 01, 2014 11:26 AM  
**To:** Daum, Robert L; Lafferty, John L; Hemming, Bryan D; Kim, Ted H; Stone, Mary M; Scott, Elizabeth M  
**Subject:** RE: Possible Call to Discuss AILA Pro Bono Efforts at Artesia?

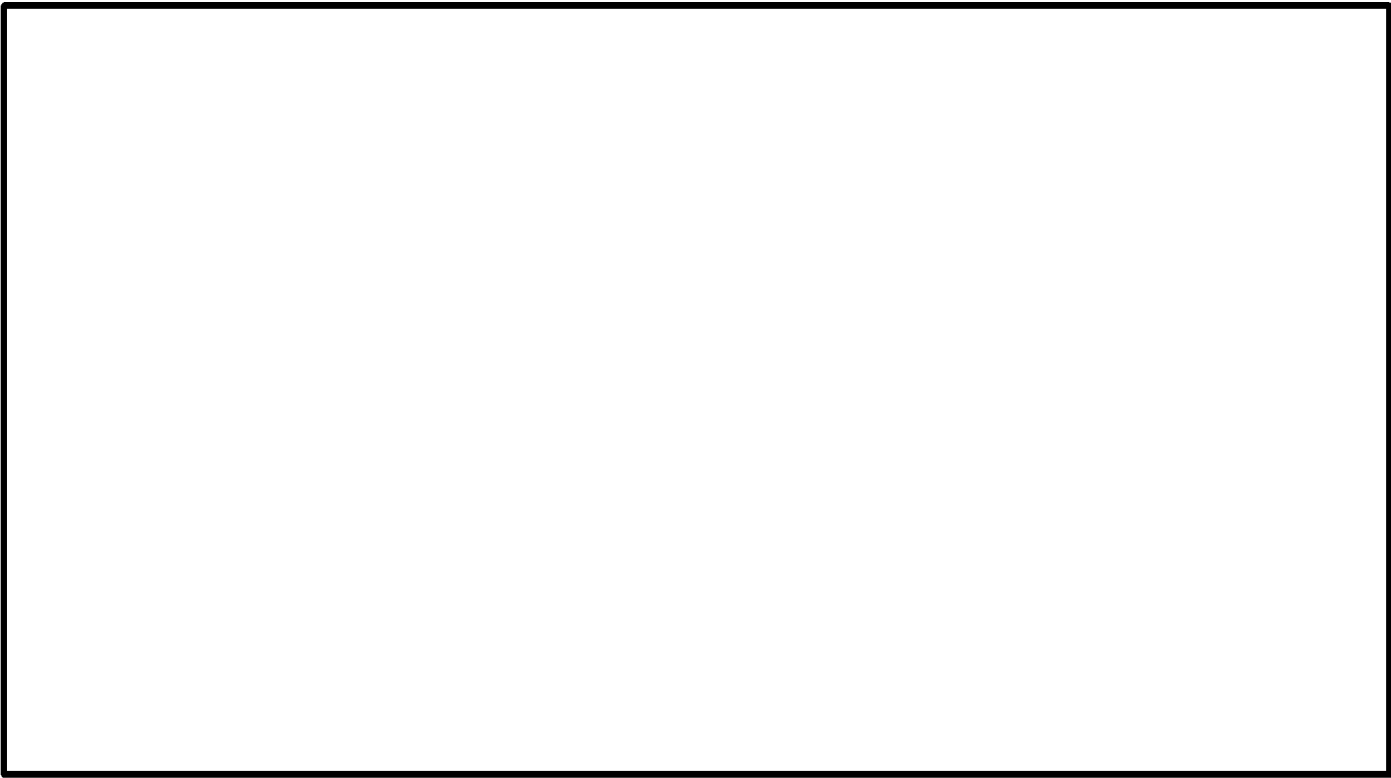
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**From:** Daum, Robert L  
**Sent:** Friday, August 01, 2014 10:02 AM  
**To:** Lafferty, John L; Hemming, Bryan D; Donis, Antonio; Kim, Ted H; Stone, Mary M; Scott, Elizabeth M  
**Subject:** RE: Possible Call to Discuss AILA Pro Bono Efforts at Artesia?

Our edits are below in red:

[Redacted]



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**From:** Lafferty, John L  
**Sent:** Thursday, July 31, 2014 5:01 PM  
**To:** Hemming, Bryan D; Donis, Antonio; Kim, Ted H; Stone, Mary M; Scott, Elizabeth M; Daum, Robert L  
**Subject:** FW: Possible Call to Discuss AILA Pro Bono Efforts at Artesia?

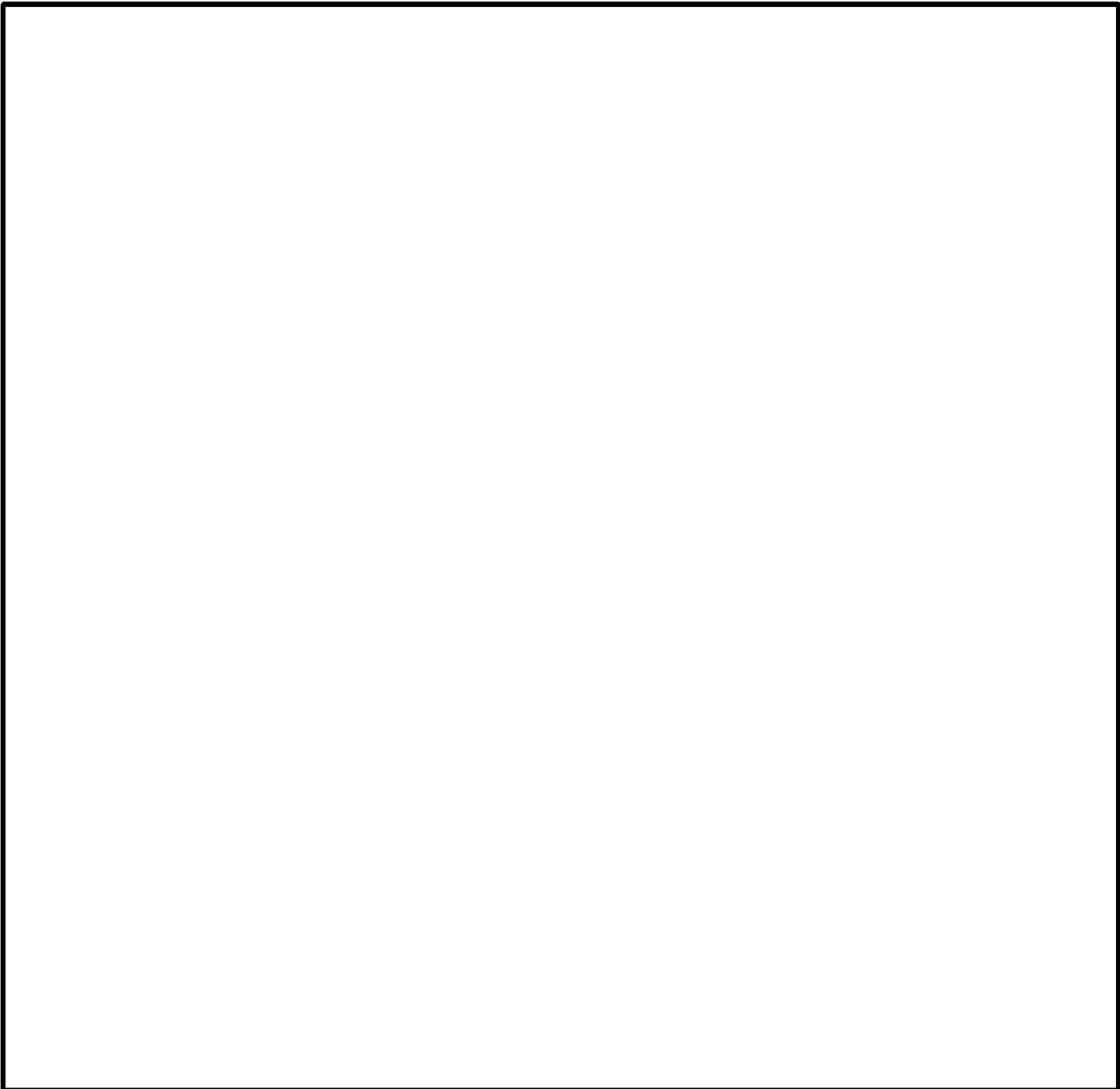
Can you please look at my quick short responses to AILA's questions and please revise/correct as needed? Thanks!

---

**From:** Betsy Lawrence [<mailto:BLawrence@aila.org>]  
**Sent:** Tuesday, July 29, 2014 3:29 PM  
**To:** Lafferty, John L  
**Cc:** Dree Collopy ([dcollopy@benachragland.com](mailto:dcollopy@benachragland.com)); Kate Voigt (b)(5)  
**Subject:** Possible Call to Discuss AILA Pro Bono Efforts at Artesia?

Dear John –





Best Regards,

Betsy

(b)(5)

**Betsy Lawrence**

*Director of Liaison*

Direct: 202.507.7621 | Email: [blawrence@aila.org](mailto:blawrence@aila.org)

**American Immigration Lawyers Association**

Main: 202.507.7600 | Fax: 202.783.7853 | [www.aila.org](http://www.aila.org)

1331 G Street NW, Suite 300, Washington, DC 20005



(b)(5)

(b)(5)

**Jowett, Haley L**

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**From:** Lafferty, John L  
**Sent:** Tuesday, August 12, 2014 9:20 AM  
**To:** Donis, Antonio  
**Cc:** Kim, Ted H; Daum, Robert L; Stone, Mary M; Hemming, Bryan D; Littlepage, Ryan L  
**Subject:** RE: problem with notice of CFIs at Artesia

Antonio,

Thanks for the e-mail. I'm happy to step out of this and let Houston and Artesia handle this issue. If ZHN and Artesia will let me know what time you would be available for a call (and phone-in information, if you have it), I will pass on the information to AILA and let you work this out with them. Let me know how you want to proceed.

Thanks! (b)(5)

John

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**From:** Donis, Antonio  
**Sent:** Tuesday, August 12, 2014 9:54 AM  
**To:** Lafferty, John L  
**Cc:** Kim, Ted H; Daum, Robert L; Stone, Mary M; Hemming, Bryan D; Littlepage, Ryan L  
**Subject:** RE: problem with notice of CFIs at Artesia

John



Let me know if you need any more info and I can be on the call.

Antonio\_\_

(b)(5)

**From:** Lafferty, John L

**Sent:** Monday, August 11, 2014 8:42 PM

**To:** Daum, Robert L; Donis, Antonio; Hemming, Bryan D; Littlepage, Ryan L

**Cc:** Kim, Ted H; Stone, Mary M

**Subject:** RE: problem with notice of CFIs at Artesia



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**From:** Karen Lucas

**Sent:** Tuesday, August 12, 2014 12:14:23 AM

**To:** Lafferty, John L

**Cc:** Robert Deasy

**Subject:** problem with notice of CFIs at Artesia



Best,  
Karen

KAREN SICILIANO LUCAS, ESQ. | LEGISLATIVE ASSOCIATE  
**AMERICAN IMMIGRATION LAWYERS ASSOCIATION**  
1331 G STREET NW SUITE 300 | WASHINGTON DC 20005  
202 507 7645 DIRECT | 202 507 7600 MAIN  
[KLUCAS@AILA.ORG](mailto:KLUCAS@AILA.ORG) | [WWW.AILA.ORG](http://WWW.AILA.ORG)

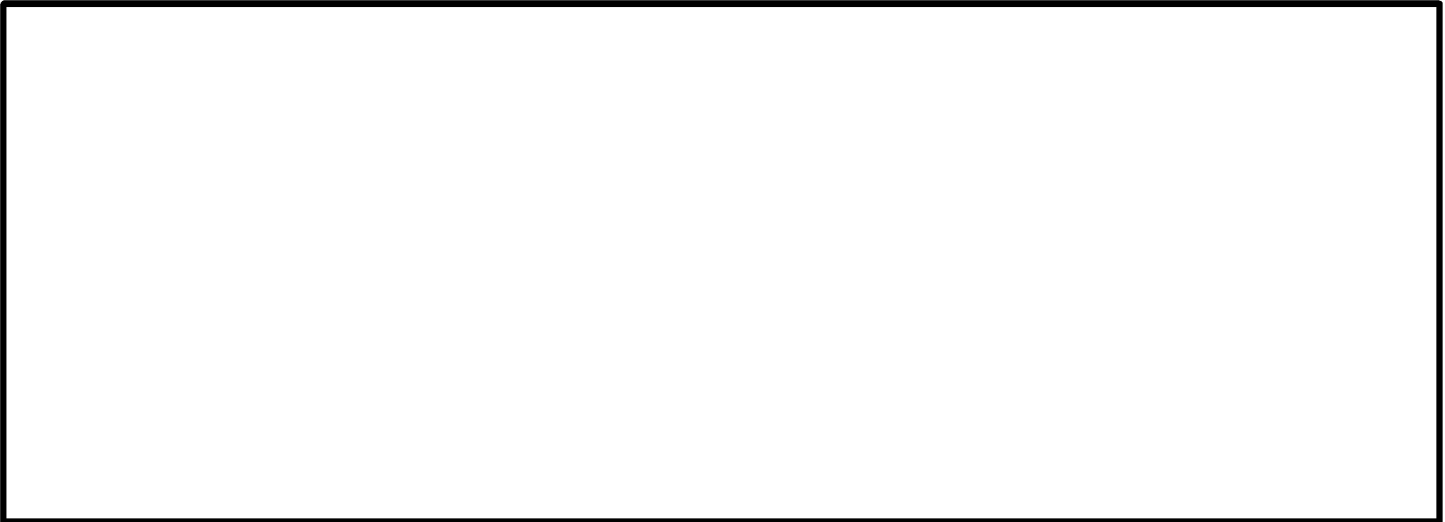
**Jowett, Haley L**

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**From:** Lafferty, John L  
**Sent:** Monday, November 10, 2014 5:55 PM (b)(6)  
**To:** 'Kate Voigt'  
**Cc:** Betsy Lawrence  
**Subject:** RE: Statistics and Request for Conference Call  
**Attachments:** Artesia + Karnes updates thru 10-2014.pdf

(b)(5)

Kate,



We look forward to seeing you at this week's Stakeholders' meeting. If you want to speak on these issues before this Friday, let me know.

John

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**From:** Kate Voigt [mailto:KVoigt@aila.org]  
**Sent:** Monday, October 27, 2014 1:14 PM  
**To:** Lafferty, John L  
**Cc:** Betsy Lawrence  
**Subject:** RE: Statistics and Request for Conference Call

Hi John,



Again, thank you very much for taking the time to talk through these issues with us.

Thanks again,  
~Kate

**Kate Voigt, Esq.**  
*Senior Liaison Associate*  
Direct: 202.507.7626 | Email: [kvoigt@aila.org](mailto:kvoigt@aila.org)

(b)(5)

**American Immigration Lawyers Association**  
Main: 202.507.7600 | Fax: 202.783.7853 | [www.aila.org](http://www.aila.org)  
1331 G Street NW, Suite 300, Washington, DC 20005



---

**From:** Lafferty, John L [<mailto:John.L.Lafferty@uscis.dhs.gov>]  
**Sent:** Tuesday, October 21, 2014 4:12 PM  
**To:** Betsy Lawrence  
**Cc:** Kate Voigt  
**Subject:** RE: Statistics and Request for Conference Call

Betsy,

Thanks for the update! We'll continue to wait for your response. I have also been discussing options with our staff on the ground.

John

---

**From:** Betsy Lawrence [<mailto:BLawrence@aila.org>]  
**Sent:** Tuesday, October 21, 2014 3:05 PM  
**To:** Lafferty, John L  
**Cc:** Kate Voigt  
**Subject:** FW: Statistics and Request for Conference Call

Hi John –

Best,

Betsy

---

**From:** Betsy Lawrence  
**Sent:** Friday, October 17, 2014 5:53 PM  
**To:** 'Lafferty, John L'; Lynn, Mallory L  
**Cc:** Kate Voigt  
**Subject:** RE: Statistics and Request for Conference Call

John –

Thanks so much for the quick response! Let me float this past Stephen and Christina and get their feedback. I'll be back in touch soon.

Best,

Betsy

(b)(5)

---

**From:** Lafferty, John L [<mailto:John.L.Lafferty@uscis.dhs.gov>]  
**Sent:** Friday, October 17, 2014 5:13 PM  
**To:** Betsy Lawrence; Lynn, Mallory L  
**Cc:** Kate Voigt  
**Subject:** RE: Statistics and Request for Conference Call

Betsy,

Thanks for organizing the meeting.

Thanks, and have a great weekend!

John

---

**From:** Betsy Lawrence [mailto:BLawrence@aila.org]  
**Sent:** Friday, October 17, 2014 4:27 PM  
**To:** Lafferty, John L; Lynn, Mallory L  
**Cc:** Kate Voigt  
**Subject:** RE: Statistics and Request for Conference Call

Hi John and Mallory –

I just wanted to again convey my thanks to you both for taking the time to speak to us today. We greatly appreciate it. We will follow up with you both in the coming days. In the meantime, if there is anything that you need from us, please do not hesitate to ask.

Have a great weekend.

Best,

Betsy

**Betsy Lawrence**  
*Director of Liaison*  
Direct: 202.507.7621 | Email: [blawrence@aila.org](mailto:blawrence@aila.org)

**American Immigration Lawyers Association**  
Main: 202.507.7600 | Fax: 202.783.7853 | [www.aila.org](http://www.aila.org)  
1331 G Street NW, Suite 300, Washington, DC 20005



---

**From:** Betsy Lawrence  
**Sent:** Thursday, October 16, 2014 10:16 PM  
**To:** Lafferty, John L  
**Cc:** Betsy Lawrence; Kate Voigt; Lynn, Mallory L  
**Subject:** Re: Statistics and Request for Conference Call

Hi John --

Thank you! We will speak to you then. Looking forward to speaking with you too, Mallory--hope you are able to make it.

All the best,

Betsy

Sent from my iPad

On Oct 16, 2014, at 7:32 PM, Lafferty, John L <[John.L.Lafferty@uscis.dhs.gov](mailto:John.L.Lafferty@uscis.dhs.gov)> wrote:

Betsy,

3 PM EST will work for us. I'm copying in Mallory in case she can make the call.

John

---

**From:** Betsy Lawrence  
**Sent:** Thursday, October 16, 2014 2:16:24 PM  
**To:** Lafferty, John L  
**Cc:** Kate Voigt; Betsy Lawrence  
**Subject:** RE: Statistics and Request for Conference Call

(b)(5)

Good morning John –



Thanks again,

Betsy

---

**From:** Betsy Lawrence  
**Sent:** Wednesday, October 15, 2014 7:12 PM  
**To:** Lafferty, John L  
**Cc:** Betsy Lawrence; Kate Voigt  
**Subject:** Re: Statistics and Request for Conference Call

Hi John--



Have a good evening,

Betsy

Sent from my iPad

On Oct 15, 2014, at 6:59 PM, Lafferty, John L <[John.L.Lafferty@uscis.dhs.gov](mailto:John.L.Lafferty@uscis.dhs.gov)> wrote:

Betsy,

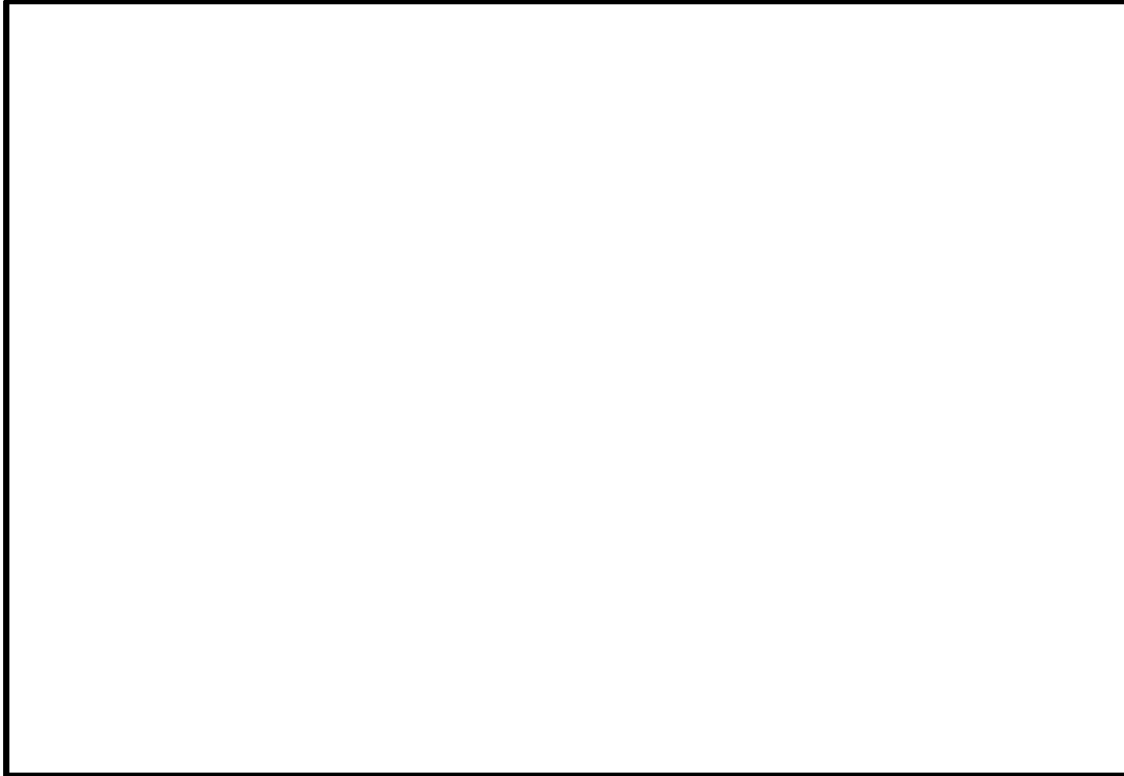


John

---

**From:** Betsy Lawrence [<mailto:BLawrence@aila.org>]  
**Sent:** Tuesday, October 14, 2014 5:14 PM  
**To:** Lafferty, John L  
**Cc:** Kate Voigt; Betsy Lawrence  
**Subject:** Statistics and Request for Conference Call (b)(5)

Hello John –



Please let us know your availability. As always, we thank you for your time.

Best,

Betsy

**From:** Kate Voigt <[KVoigt@aila.org](mailto:KVoigt@aila.org)>  
**Date:** September 30, 2014 at 5:37:05 PM EDT  
**To:** "Lafferty, John L" <[John.L.Lafferty@uscis.dhs.gov](mailto:John.L.Lafferty@uscis.dhs.gov)>  
**Subject:** RE: Statistics Request



Best,  
~Kate

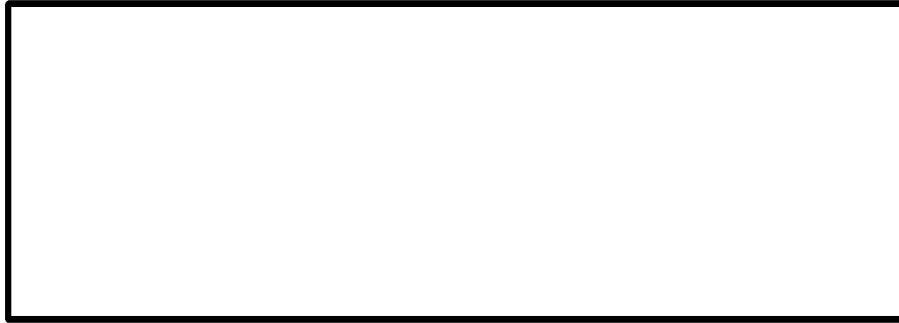
---

**From:** Lafferty, John L [<mailto:John.L.Lafferty@uscis.dhs.gov>]  
**Sent:** Monday, September 29, 2014 12:11 PM

**To:** Kate Voigt  
**Subject:** RE: Statistics Request

(b)(5)

Kate,



Take care!

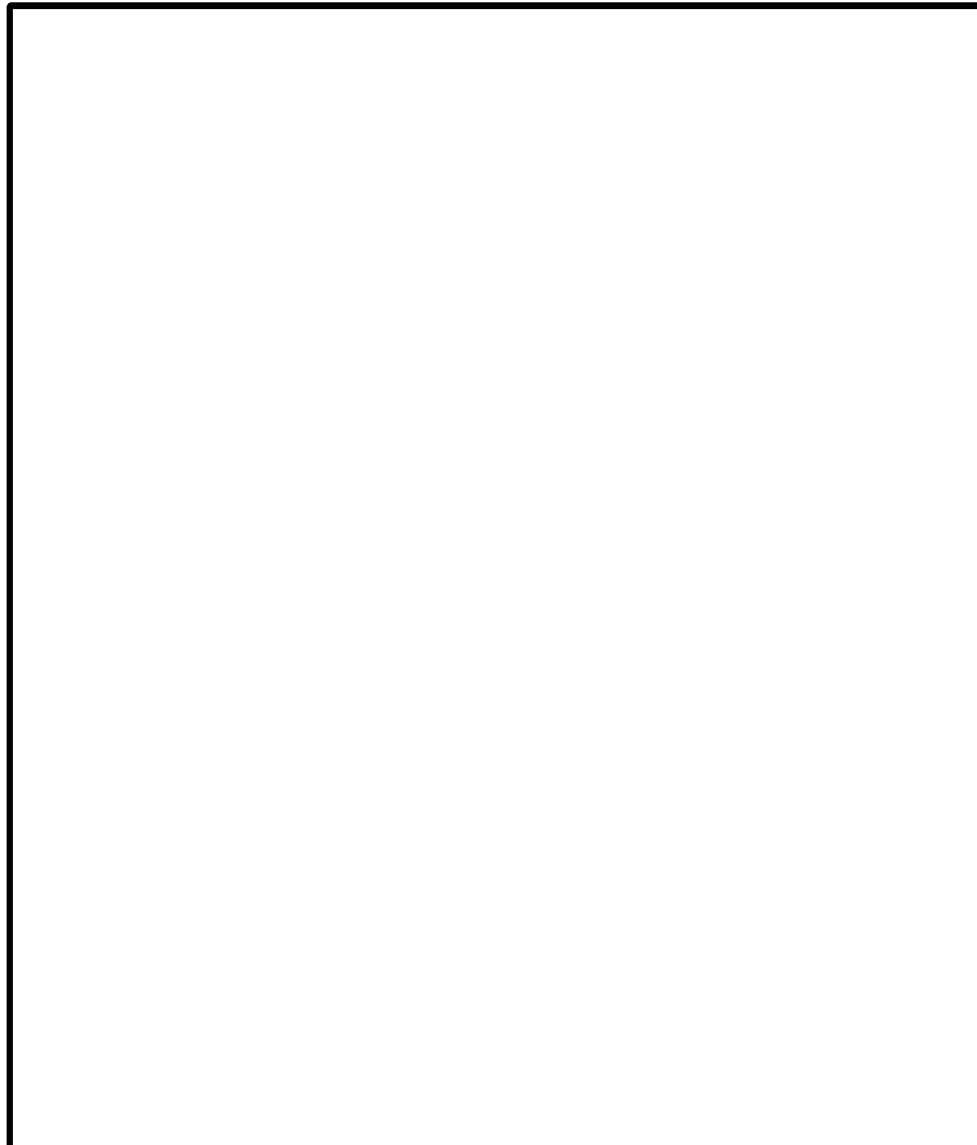
John

---

**From:** Kate Voigt [<mailto:KVoigt@aila.org>]  
**Sent:** Friday, September 26, 2014 4:04 PM  
**To:** Lafferty, John L  
**Subject:** Statistics Request

(b)(5)

Hi John,





Thanks in advance for your help, and please feel free to let me know if you have questions.

Best,  
~Kate

**Kate Voigt, Esq.**  
*Senior Liaison Associate*  
Direct: 202.507.7626 | Email: [kvoigt@aila.org](mailto:kvoigt@aila.org)

**American Immigration Lawyers Association**  
Main: 202.507.7600 | Fax: 202.783.7853 | [www.aila.org](http://www.aila.org)  
1331 G Street NW, Suite 300, Washington, DC 20005

USCIS Asylum Div. - Artesia, Karnes, National Stats (through October 2014)

Credible fear	Artesia July-Oct	Karnes Aug-Oct	National July-Oct
Receipts*	939	710	18,256
Interviews Conducted	923	686	16,049
All Decisions	900	687	18,161
Fear Established (Y)	558	450	11,104
Fear Not Established (N)	278	173	4,884
Closings	64	64	2,173
Fear Found Rate	62%	66%	61%

Reasonable fear	Artesia July-Oct	Karnes Aug-Oct	National July-Oct
Receipts*	12	28	3,141
Interviews Conducted	12	24	2,099
All Decisions	12	23	3,267
Fear Established (Y)	5	10	883
Fear Not Established (N)	6	11	1,011
Closings	1	2	1,373
Fear Found Rate	42%	43%	27%

\* individuals

Avg. process. time from clock in to service/close	Artesia	Karnes
Credible fear	9.6 days	6.0 days
Reasonable fear	64.7 days	44.4 days

CF Requests for reconsideration**	Artesia
Fear established after reconsideration	20
Fear not established after reconsideration	4

\*\* Denotes cases. Data through Oct. 20. This table includes Requests for Reconsideration received and considered by USCIS after an Immigration Judge (IJ) has upheld USCIS' previous negative credible fear finding on the case. This is separate from IJ review of negative CF findings. 8 CFR 208.30(g)(2)(iv)(A).

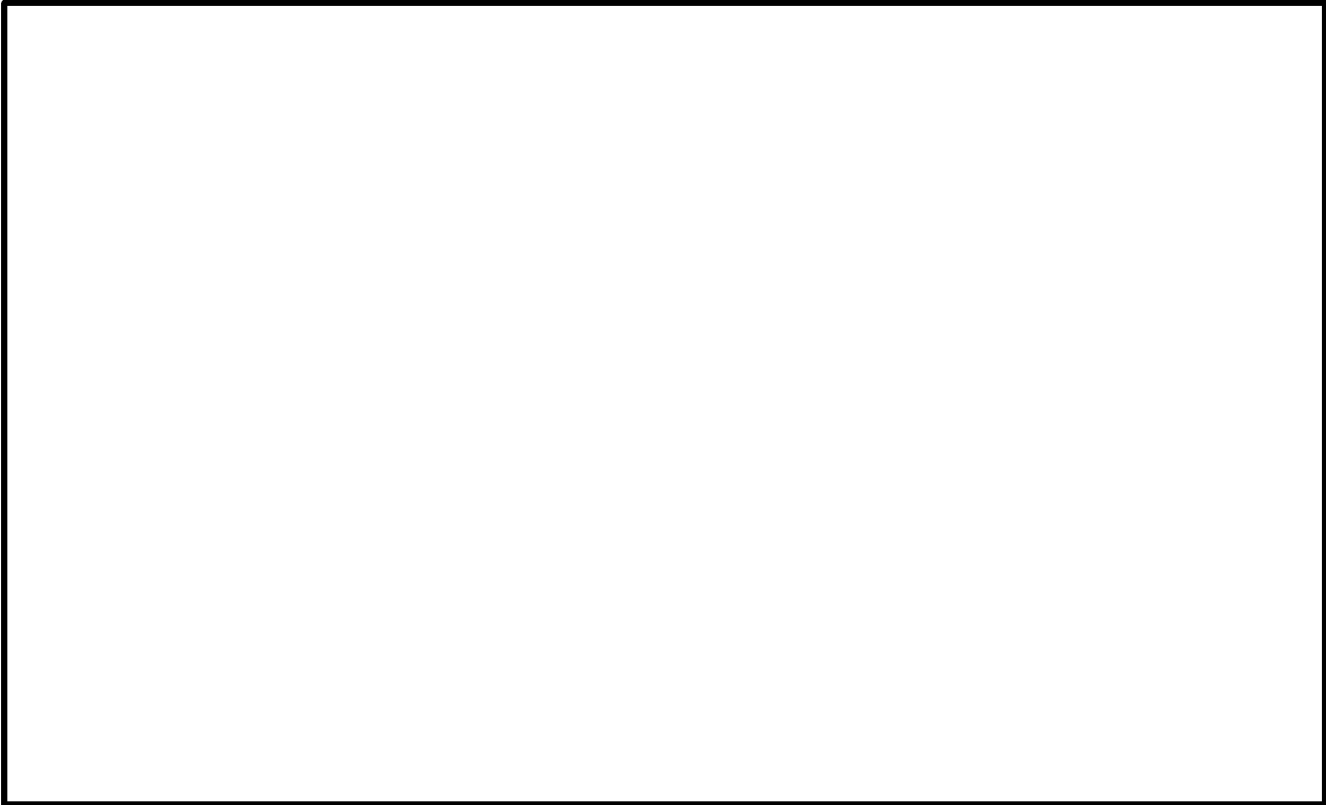
Sources: USCIS Asylum Division, Asylum Pre-Screening System (APSS), APCWKL, daily Artesia and Karnes reports and RFR log.

**Jowett, Haley L**

---

**From:** Lafferty, John L  
**Sent:** Tuesday, September 02, 2014 6:59 PM  
**To:** Daum, Robert L; Hemming, Bryan D; Donis, Antonio; Littlepage, Ryan L; McDonnell, Audrey V  
**Cc:** Kim, Ted H; Stone, Mary M; Tanner, Rebecca S  
**Subject:** RE: Thursday

We have received the following additional questions about our CF processing in Artesia and Karnes:

- - 
  -
- 

---

**From:** Lafferty, John L  
**Sent:** Tuesday, September 02, 2014 5:34 PM  
**To:** Daum, Robert L; Hemming, Bryan D; Donis, Antonio; Littlepage, Ryan L; McDonnell, Audrey V  
**Cc:** Kim, Ted H; Stone, Mary M; Tanner, Rebecca S  
**Subject:** FW: Thursday



Thanks!

---

**From:** Brown, Katherine H  
**Sent:** Tuesday, September 02, 2014 2:58 PM  
**To:** Lafferty, John L; Kim, Ted H; Langlois, Joseph E; Stone, Mary M; Owens, Jessica D; Ahmedani, Mariam

**Cc:** Tintary, Ruth E; Rodriguez, Miguel E

**Subject:** Fw: Thursday

FYI - I just got this from DHS Leg Affairs about the Thursday meeting.

Katherine Brown

USCIS Office of Legislative Affairs

202.272.1951 (office)

(b)(6)

(b)(5)

[Redacted]

---

**From:** Lovett, Edward

**Sent:** Tuesday, September 02, 2014 02:44 PM

**To:** Brown, Katherine H

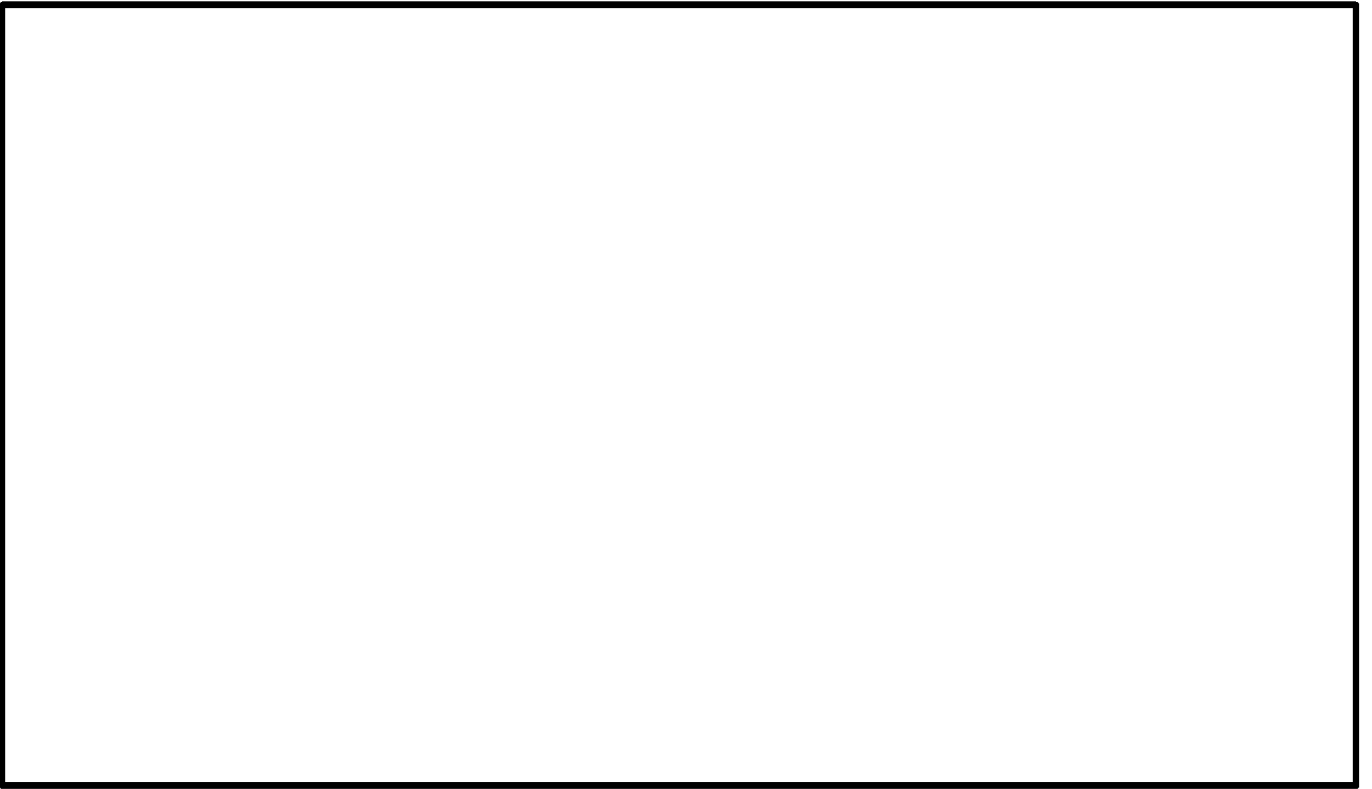
**Subject:** Thursday

Hi Kate –

We have information that was passed to our F/O with respect to the briefing Thursday – here's what the lead staff have indicated they hope to discuss/question:

[Large redacted area]

(b)(5)



Thanks- Ted

(b)(5)

## **Curphey, Patrick R**

---

**From:** Curphey, Patrick R  
**Sent:** Monday, July 07, 2014 11:33 AM  
**To:** Castaldi, Amarilde F  
**Subject:** Artesia

Hi Francesca, (b)(5) (b)(6)

Hope your travels are going well this morning. I'm sorry I didn't have time to sit down and collect my thoughts in a longer email but I think we covered most of the topics I wanted to cover with you over the phone. I did have a couple of additional thoughts:

Here are the main contacts that I worked with:

Kaevan Lichine  
SDDO-ERO

He is located in the other hall in the same trailer where our offices are located

Juanita Hester  
DFOD  
Juanita.P.Hester

Greg Brawley  
Gregory.S.Brawley

Both Mr. Brawley and Ms. Hester usually set up in the command center. I also left a folder with your name on it in the filing cabinet in our office that has the ICE/FLETC contact sheet.

Finally, I'm sure you have heard by now but a team from HQ will arrive with you today and Antonio Donis will be the main POC for asylum while you are down there. Antonio and I went to Nepal together and he is a great guy and I already talked to him some too. Anyway, I'm sure things will go much more smoothly for you but please feel free to reach out if you have any questions once you arrive.

Good luck!  
Patrick















**Curphey, Patrick R**

---

**From:** Mcdonnell, Audrey V  
**Sent:** Thursday, June 26, 2014 11:28 AM  
**To:** Orendach, Janette  
**Cc:** Curphey, Patrick R; Hemming, Bryan D  
**Subject:** Quick Train documents - ZHN TDY  
**Attachments:** B. I870 with NTA.doc; D. Negative I863 and I869 (Blue).doc; CF Determination Checklist - 04112013 - Version 3 0.docx; CREDIBLE FEAR Cheat Sheet.docx

Good morning JaNette:

Thank you for volunteering to come to ZHN to assist with our credible fear cases. It is my understanding that you're new to CF. SAO Patrick Curphey will be your POC there, and he will have you sit in and make sure you get up to speed when you're on the ground.

In the meantime, our materials, forms and information, including the most recent lesson plans, are attached above. In addition, more information regarding CF can be found at the ECN site at:  
<http://ecn.uscis.dhs.gov/team/raio/Asylum/AsylumPII/CF/Shared%20Documents/Forms/AllItems.aspx>.

**Amber Miller is the POC for your travel arrangements. Please email her, with a copy to Kirk Bell and Supervisory Support Specialist Rebecca Ross, with any questions regarding your travel.**

Thanks again for volunteering, and we look forward to working with you.

Audrey McDonnell  
Supervisory Asylum Officer  
USCIS-Houston Asylum Office  
16630 Imperial Valley Dr, Ste 200  
Houston, TX 77060-0626  
281-931-2128 (desk)

(b)(6)



Marta

*Marta Rothwarf*  
Associate General Counsel  
EOIR  
703-305-1041 (Direct)  
703-305-0470 (General)  
703-305-0443 (Fax)  
[marta.rothwarf2@usdoj.gov](mailto:marta.rothwarf2@usdoj.gov)

---

**From:** Stone, Mary M [<mailto:Mary.M.Stone@uscis.dhs.gov>]  
**Sent:** Friday, June 27, 2014 4:54 PM  
**To:** Rothwarf, Marta (EOIR); Sogocio, Rico (EOIR)  
**Cc:** Kim, Ted H; Mura, Elizabeth E; Daum, Robert L; Gadson, Irvin C; Hemming, Bryan D; Walters, Jessica S  
**Subject:** FW: NTA Filings - Artesia

Hi Marta and Rico,

We've received an inquiry from our Houston Asylum Office as they are preparing to interview credible fear cases in Artesia next week. Would you be able to answer this inquiry or forward it to the OCU? For cases determined to have a positive credible fear, should our Asylum Officers issue NTAs to the Denver Court or the El Paso Court?

Thanks for your help,  
Mary Margaret

Mary Margaret Stone  
Chief of Operations, Asylum Division  
Refugee, Asylum and International Operations Directorate  
US Citizenship and Immigration Services  
Department of Homeland Security  
Tel: 202.272.1651

---

**From:** Gadson, Irvin C  
**Sent:** Friday, June 27, 2014 4:27 PM  
**To:** Kim, Ted H; Stone, Mary M  
**Cc:** Daum, Robert L; Hemming, Bryan D; Walters, Jessica S  
**Subject:** NTA Filings

(b)(5)

Ted/MM





Respectfully,

**Irvin Gadson | Chief of Staff | USCIS | Department of Homeland Security | ✉: 16630 Imperial Valley Drive, Suite 200, Houston, TX 77060 | ☎: (281) 931-2139 Fax: (281) 931-4181**



U.S. Department of Justice  
Immigration and Naturalization Service

HQASM 120/15.20B

425 I Street, NW  
Washington, DC 20536

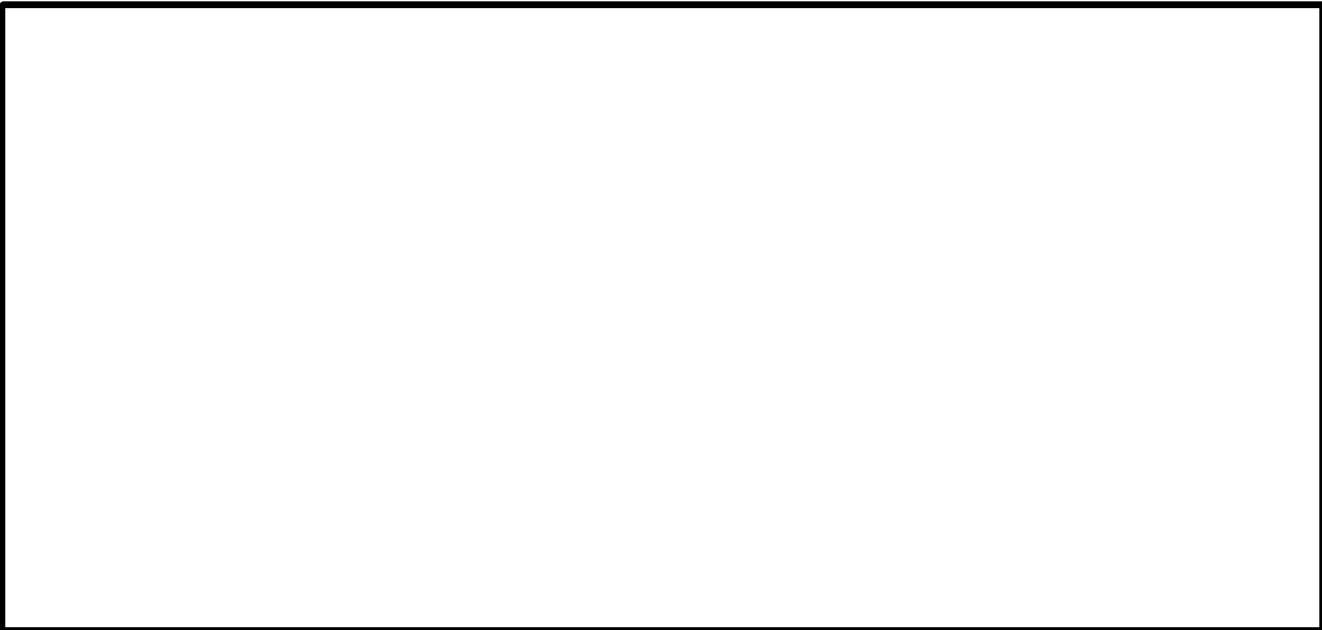
Signed 11/21/03

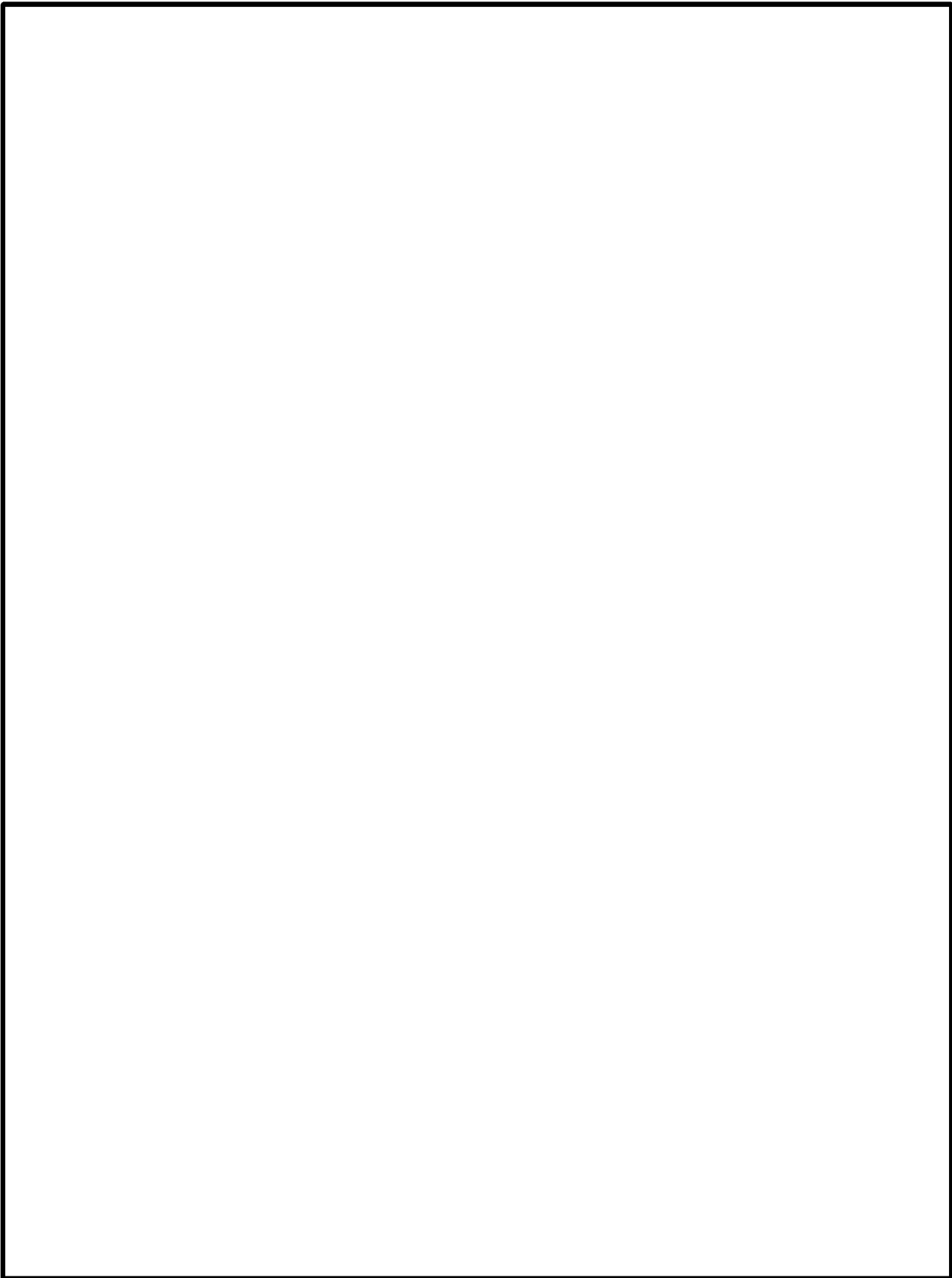
MEMORANDUM FOR: Asylum Office Directors  
Deputy Directors  
Supervisory Asylum Officers  
Quality Assurance Trainers  
Asylum Officers

FROM: Joseph E. Langlois, Director /S/  
Asylum Division  
Office of Refugee, Asylum and International Operations

SUBJECT <sup>(b)(5)</sup> Draft Credible Fear Procedures Manual Amendments

This memorandum introduces supplementary guidance, to be incorporated into the draft Credible Fear Procedures Manual, concerning notes taken in question-and-answer ("Q&A") format, the requirement of reading back Q&A notes to the asylum seeker in negative credible fear cases, and documents distributed to immigration judges in positive credible fear cases. It also introduces a new version of Form I-870, *Record of Determination/Credible Fear Worksheet*.





Please direct any questions you have about these revised procedures to Georgia Papas.

Attachments:

I-870 (revised 11/21/03)  
Amendment to section III.E.8  
Amendment to section III.F  
Amendment to section III.K.1

cc: OFFICIAL FILE;  
HQASM:GPAPAS:gp:5146029:11/21/03:K\Asylum.ops\ExpeditedRemovalCredibleFear\memo  
s\drafts\procedures supplement.doc



**U.S. Citizenship  
and Immigration  
Services**

December 30, 2009

HQRAIO 120/9.15a

## Memorandum

**TO:** ASYLUM OFFICE DIRECTORS  
ASYLUM OFFICE DEPUTY DIRECTORS  
SUPERVISORY ASYLUM OFFICERS  
QUALITY ASSURANCE/TRAINING ASYLUM OFFICERS  
ASYLUM OFFICERS

**FROM:** Joseph E. Langlois /s/  
Chief, Asylum Division

**SUBJECT:** Providing Notification of ICE's Parole Guidelines to arriving aliens found to have a credible fear of persecution or torture

Asylum Offices will begin providing the attached "Information about How to Seek Release from Detention: Parole Eligibility and Process for Certain Asylum Applicants" to arriving aliens ("POE case")<sup>1</sup> who have been found to have a credible fear of persecution or torture. The implementation of this notification is effective on January 4, 2010 to correspond with ICE's implementation of new policy guidelines for parole of arriving aliens found to have a credible fear of persecution or torture.

The attached information sheet will be included in the service of a positive credible fear decision of an arriving alien ("POE case").<sup>2</sup> It should be read to the applicant in his or her native language using the contract interpreter service. The applicant should sign the information sheet. The corresponding interpreter ID number and language used should be written on the information sheet together with the date of service. The completed original information sheet should be forwarded to ICE officials having jurisdiction of the applicant's case to be included in the A-file and a copy given to the applicant and to the attorney of record, if applicable.

Attachments (6)

---

<sup>1</sup> Please note that at this time, the parole guidelines do not include cases of individuals apprehended between ports of entry ("inland cases").

<sup>2</sup> At this time, the Asylum Offices will provide this parole information sheet only in cases where the Asylum Office finds a positive credible fear determination of an arriving alien.

**Jowett, Haley L**

---

**From:** Donis, Antonio  
**Sent:** Friday, August 01, 2014 2:32 PM  
**To:** Kim, Ted H  
**Cc:** Daum, Robert L; Lafferty, John L; Hemming, Bryan D  
**Subject:** RE: A-files

It's also part of our normal referral packet, which includes the I-860, I-213, I-867A/B, and M-444

-----Original Message-----

**From:** Kim, Ted H  
**Sent:** Friday, August 01, 2014 3:29 PM  
**To:** Donis, Antonio  
**Cc:** Daum, Robert L; Lafferty, John L; Hemming, Bryan D  
**Subject:** Re: A-files

How would you know if someone has filed a G-28 for the applicant through ICE?

Sent by Blackberry

----- Original Message -----

**From:** Donis, Antonio  
**Sent:** Friday, August 01, 2014 03:26 PM  
**To:** Kim, Ted H  
**Cc:** Daum, Robert L; Lafferty, John L; Hemming, Bryan D  
**Subject:** RE: A-files

A-files are right down the hall from us. We can easily access them, but usually don't in the CF context.

I have six A-files in my possession right now. We are using these to prep for our 6 RF cases, which we intend to interview in the coming weeks.

-----Original Message-----

**From:** Kim, Ted H  
**Sent:** Friday, August 01, 2014 3:21 PM  
**To:** Donis, Antonio  
**Cc:** Daum, Robert L; Lafferty, John L; Hemming, Bryan D  
**Subject:** A-files

AD--Do you have access to the A-files there at Artesia? This question has come up on the AILA call b/c any G-28 that is submitted to ICE is routed to the A-file, and AILA wants to make sure we have access to those A-files. Thanks, Ted

Sent by Blackberry

**Jowett, Haley L**

---

**From:** Munoz-Acevedo, Carlós  
**Sent:** Friday, August 01, 2014 5:58 PM  
**To:** Kim, Ted H; Higgins, Jennifer B; Langlois, Joseph E; Scialabba, Lori L; Choi, Juliet K; Alfonso, Angelica M; Rogers, Debra A  
**Cc:** Salas, Bryan F; Ellis, Rachel H; Sohonyay, Simon P; Stone, Mary M; Lafferty, John L; McCament, James W  
**Subject:** Re: Artesia CFI concerns

Thank you Ted. I too think it was a useful and informative call.

FYI I confirmed with counterparts at ICE that they met in-person with a group of stakeholders this AM, including AILA, to receive feedback on the recent NGO visit to Artesia, including due process and conditions concerns.

Carlos Muñoz-Acevedo  
Deputy Chief (Acting)  
Public Engagement Division  
Customer Service & Public Engagement Directorate  
U.S. Citizenship and Immigration Services  
U.S. Department of Homeland Security (b)(5)

---

**From:** Kim, Ted H  
**Sent:** Friday, August 01, 2014 05:27 PM  
**To:** Higgins, Jennifer B; Langlois, Joseph E; Scialabba, Lori L; Choi, Juliet K; Alfonso, Angelica M; Rogers, Debra A  
**Cc:** Salas, Bryan F; Ellis, Rachel H; Sohonyay, Simon P; Stone, Mary M; Munoz-Acevedo, Carlos; Lafferty, John L  
**Subject:** RE: Artesia CFI concerns



Please let us know if you have any questions and for those of you who were on the call, please feel free to chime in with any other thoughts.

Thanks and have great weekend,  
Ted



---

**From:** Munoz-Acevedo, Carlos  
**Sent:** Friday, August 01, 2014 10:50 AM  
**To:** Lafferty, John L  
**Cc:** Kim, Ted H; Rogers, Debra A; Salas, Bryan F; Ellis, Rachel H; Sohonyay, Simon P; Stone, Mary M  
**Subject:** RE: Artesia CFI concerns

Thanks John.

---

**From:** Lafferty, John L  
**Sent:** Friday, August 01, 2014 10:21 AM  
**To:** Munoz-Acevedo, Carlos  
**Cc:** Kim, Ted H; Rogers, Debra A; Salas, Bryan F; Ellis, Rachel H; Sohonyay, Simon P; Stone, Mary M  
**Subject:** RE: Artesia CFI concerns

Carlos,



We will be taking the call in the RAIO conference room up in the Asylum Division's 6<sup>th</sup> Floor Suite at 20 Mass. You are welcome to join us.

John

(b)(5)

---

**From:** Munoz-Acevedo, Carlos  
**Sent:** Friday, August 01, 2014 10:00 AM  
**To:** Lafferty, John L  
**Cc:** Kim, Ted H; Rogers, Debra A; Salas, Bryan F; Ellis, Rachel H; Sohonyay, Simon P; Stone, Mary M  
**Subject:** RE: Artesia CFI concerns

John and team,



Carlos Muñoz-Acevedo  
Deputy Chief (Acting)  
Public Engagement Division  
Customer Service & Public Engagement Directorate  
U.S. Citizenship and Immigration Services  
U.S. Department of Homeland Security  
Phone: (202) 272-9294

Connect with us online:  
[Website](#) - [Twitter](#) - [Facebook](#)

---

**From:** Rogers, Debra A  
**Sent:** Friday, August 01, 2014 9:31 AM  
**To:** Salas, Bryan F; Munoz-Acevedo, Carlos; Lafferty, John L; Higgins, Jennifer B; Langlois, Joseph E  
**Cc:** Sohonyay, Simon P; Ellis, Rachel H; McCament, James W; Alfonso, Angelica M; Bentley, Christopher S  
**Subject:** RE: Artesia CFI concerns

Thanks Bryan,

John and I just spoke about this. I let him know that Simon would join the call and take notes. John plans to address these issues with the larger stakeholder group at the Asylum quarterly meeting on Monday so the notes will be helpful when preparing for that event. We will publish our normal recap notes on the web after the quarterly so this important information will be accessible to all interested parties.

Thanks for the call John!

Debbie

*Debra A. Rogers*  
*Deputy Associate Director*  
*Customer Service and Public Engagement*  
*USCIS*  
*111 Mass Ave, NW*  
*Washington DC 20529*  
*202-272-8532*

---

**From:** Salas, Bryan F  
**Sent:** Friday, August 01, 2014 9:17 AM  
**To:** Munoz-Acevedo, Carlos; Rogers, Debra A; Lafferty, John L; Higgins, Jennifer B; Langlois, Joseph E  
**Cc:** Sohonyay, Simon P; Ellis, Rachel H; McCament, James W; Alfonso, Angelica M; Bentley, Christopher S  
**Subject:** RE: Artesia CFI concerns

John –

In the interest of transparency and fairness to other stakeholders and possible congressional equities, recommend we publish written answers to the discussion points listed below. Simon can assist.

With kind regards,

Bryan F. Salas

Chief, Public Engagement Division  
Customer Service and Public Engagement Directorate  
U.S. Citizenship and Immigration Services  
Department of Homeland Security  
111 Massachusetts Avenue NW Suite 6000  
Washington DC, 20529  
Office: (202) 272-9682  
Mobile:   
Email: [Bryan.F.Salas@uscis.dhs.gov](mailto:Bryan.F.Salas@uscis.dhs.gov)

(b)(6)



---

**From:** Munoz-Acevedo, Carlos  
**Sent:** Thursday, July 31, 2014 4:06 PM  
**To:** Rogers, Debra A; Lafferty, John L; Higgins, Jennifer B; Langlois, Joseph E  
**Cc:** Salas, Bryan F; Sohonyay, Simon P; Ellis, Rachel H  
**Subject:** RE: Artesia CFI concerns

John,

Thank you for letting us know about the call. We are happy to join the call, either on the phone, or at your office, whichever you prefer. We are also available to help with any coordination or resources.



Best,

Carlos

Carlos Muñoz-Acevedo  
Deputy Chief (Acting)  
Public Engagement Division  
Customer Service & Public Engagement Directorate  
U.S. Citizenship and Immigration Services  
U.S. Department of Homeland Security  
Phone: (202) 272-9294

(b)(5)

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**From:** Rogers, Debra A  
**Sent:** Thursday, July 31, 2014 2:14 PM  
**To:** Lafferty, John L; Higgins, Jennifer B; Langlois, Joseph E; Scialabba, Lori L; Choi, Juliet K; Alfonso, Angelica M  
**Cc:** Munoz-Acevedo, Carlos; Salas, Bryan F; Sohonyay, Simon P  
**Subject:** RE: Artesia CFI concerns

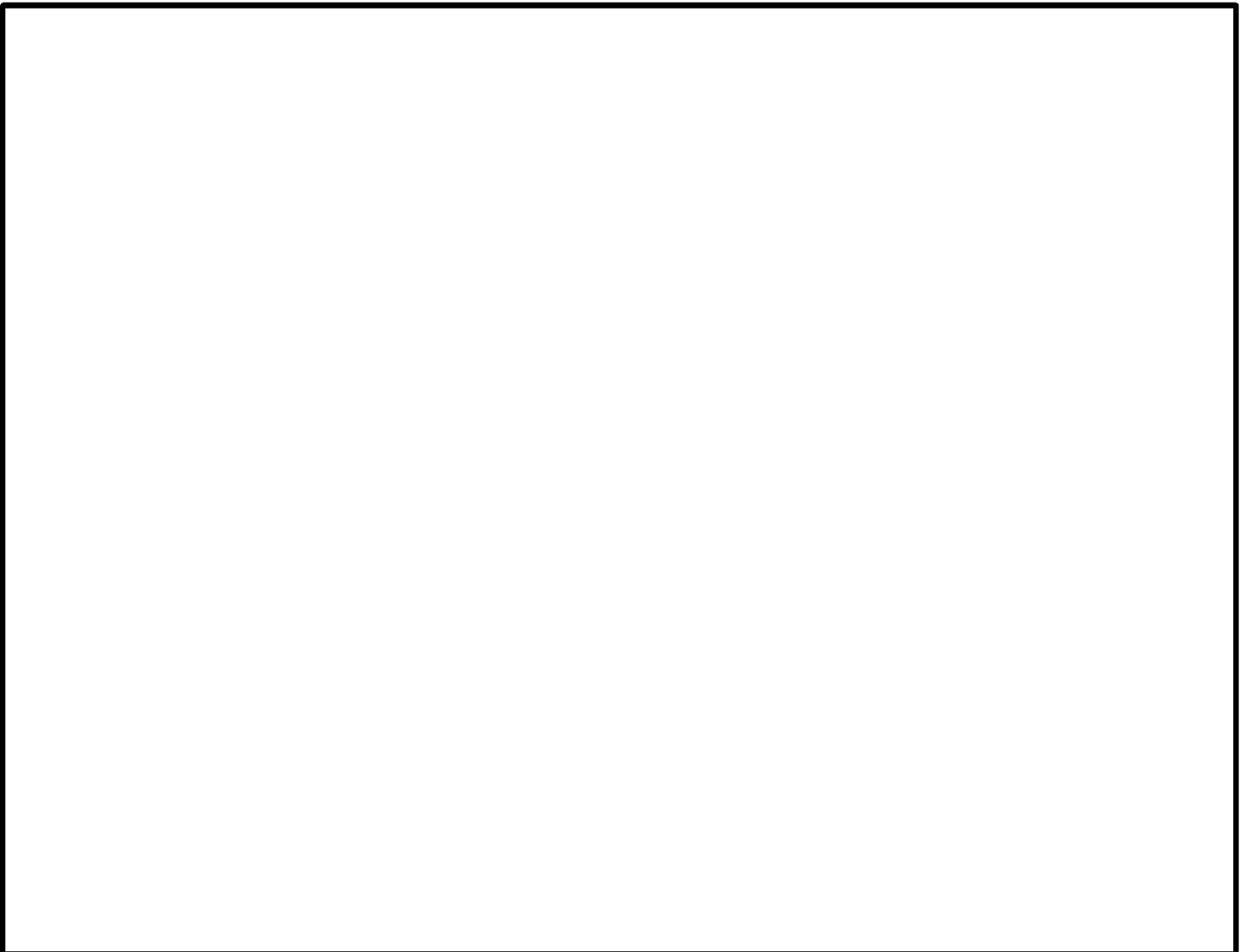
Hi John, We are happy to support you with the call. I am copying Bryan, Carlos and Simon so they can become familiar with the issues. We can also give you a call at your convenience to prep for the meeting. Debbie

Debra Rogers  
Deputy Associate Director  
Customer Service and Public Engagement  
USCIS  
202-272-8532

(b)(5)

---

**From:** Lafferty, John L  
**Sent:** Thursday, July 31, 2014 5:53:32 PM  
**To:** Higgins, Jennifer B; Langlois, Joseph E; Scialabba, Lori L; Choi, Juliet K; Alfonso, Angelica M; Rogers, Debra A  
**Subject:** RE: Artesia CFI concerns



Please let me know if you have any questions.

Thanks!!

**From:** Lafferty, John L

**Sent:** Thursday, July 24, 2014 7:44 PM

**To:** Higgins, Jennifer B; Langlois, Joseph E; Scialabba, Lori L; Choi, Juliet K; Alfonso, Angelica M; Rogers, Debra A

**Subject:** FW: Artesia CFI concerns

The AILA press release was as follows:

**AILA: Artesia Detention Center a Due Process Failure**

**Cite as "AILA InfoNet Doc. No. 14072449 (posted Jul. 24, 2014)"**

**FOR IMMEDIATE RELEASE**

**Thursday, July 24, 2014**

**Washington, DC - On Tuesday, representatives from the American Immigration Lawyers Association (AILA) along with other immigration advocacy organizations visited the Artesia detention facility in New Mexico housing 400 Central American women and children. AILA observed such severe due process violations at the facility that AILA is now calling for the suspension of all deportations from there until fundamental improvements can be made.**

**"The lives of children and families are at risk. I was shocked to hear of immigrant families -- including mothers with young children, some still nursing, being sent right back into the danger from which they fled with no meaningful chance to contact a lawyer," said Karen Lucas, AILA Legislative Associate, who was on the site visit. "A woman who speaks no English and has no knowledge of the American legal system can't possibly make a successful asylum claim with no lawyer and no time even to get her bearings. This is truly heartbreaking and a travesty of justice that families are in effect being denied access to asylum and other protection."**

**Access to counsel at Artesia consists of little more than DHS handing out a single slip of paper with three names, as if these few service providers can represent hundreds of people. No thought has been given to how to provide access to counsel, even though planeloads of people already have been removed. Hundreds of AILA members stand ready to provide pro bono legal assistance. However, there is no effective way as of yet to match them with those who want representation but don't know how or where to ask.**

**"Women are being asked to share intimate details about past persecution and violence right in front of their children because DHS has not created a safe and separate interview space," said Lucas. "Years ago DHS learned a hard lesson that detention of families is unacceptable. It was sued for bad conditions and abuses at a Texas facility that ultimately was forced to shut down. It should not be going down this path again, and absolutely should not escalate family detention to the level of 6350 more beds that the president is requesting of Congress."**

**"This has to stop," said Crystal Williams, AILA's Executive Director. "We recognize that the government stood up this facility quickly, but it cannot deport people from it until due process has been provided. And Artesia is just not prepared for that. AILA calls upon the Administration and the Department of Homeland Security (DHS) to suspend these unconscionable and blanket deportation practices until they can ensure a fair and safe process."**

**More than 57,000 unaccompanied children and tens of thousands more Central Americans traveling as families have crossed the border since October with most fleeing from conditions of extreme violence and poverty. The Artesia Center was opened in barracks of the Federal Law Enforcement Training Center. It now holds about 400 people but eventually will hold about 700 women and children.**

**Jowett, Haley L**

---

**From:** Tintary, Ruth E  
**Sent:** Tuesday, August 19, 2014 2:37 PM  
**To:** Kim, Ted H; Lafferty, John L; Stone, Mary M; Kirkland, Brooke A; Mura, Elizabeth E; Scott, Elizabeth M; Hammill, Hunter A; Lay, Dorothea B; Whitney, Ronald W; Tanner, Rebecca S  
**Cc:** Brown, Katherine H; Atkinson, Ronald A  
**Subject:** Re: CF nationality and Artesia statistics

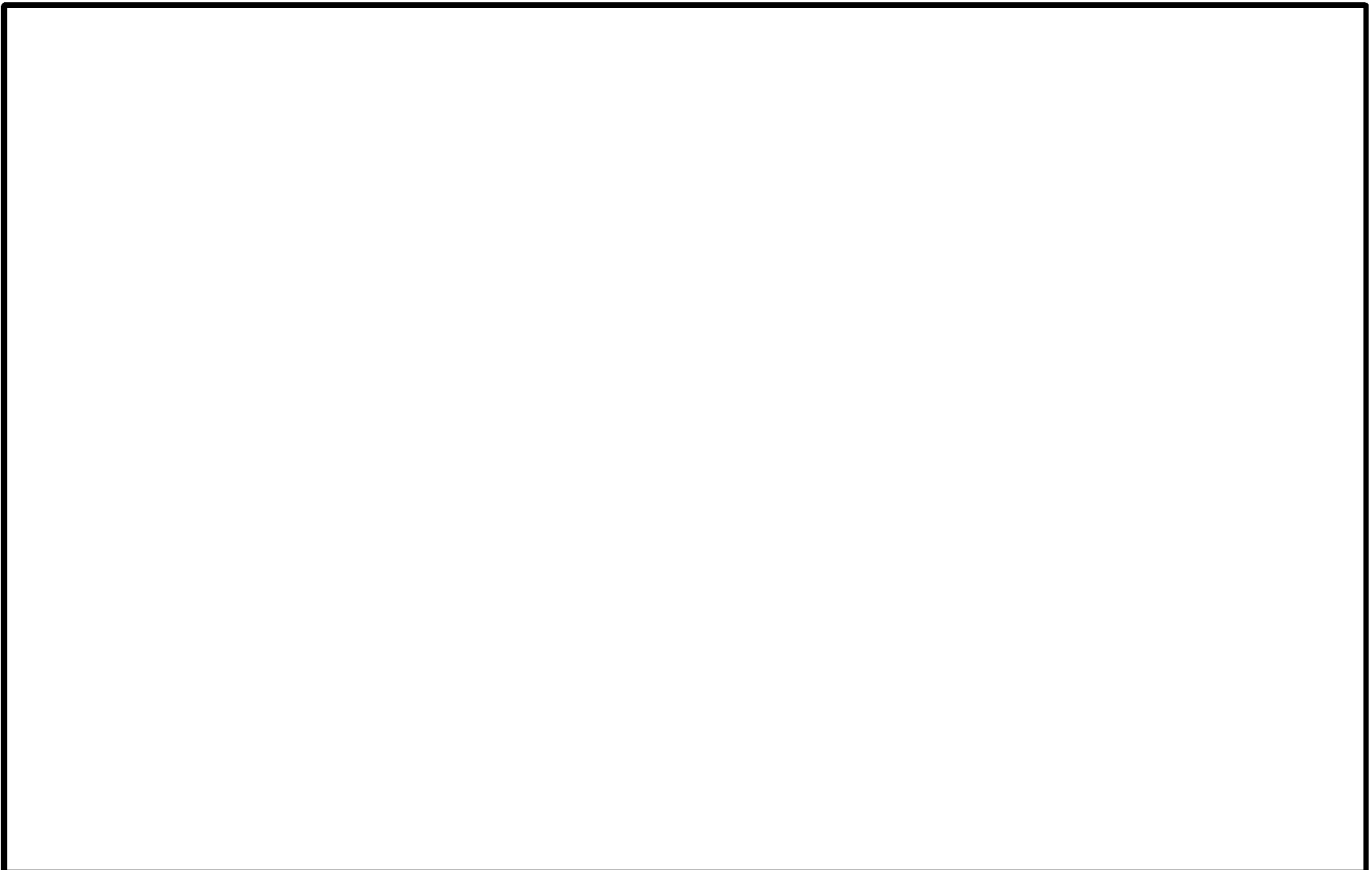
Thanks!

Ruth E. Tintary  
Associate Chief, Legislative Branch  
Office of Legislative Affairs  
USCIS-DHS  
202-272-1947

(b)(5)

---

**From:** Kim, Ted H  
**Sent:** Tuesday, August 19, 2014 03:35 PM  
**To:** Tintary, Ruth E; Lafferty, John L; Stone, Mary M; Kirkland, Brooke A; Mura, Elizabeth E; Scott, Elizabeth M; Hammill, Hunter A; Lay, Dorothea B; Whitney, Ronald W; Tanner, Rebecca S  
**Cc:** Brown, Katherine H; Atkinson, Ronald A  
**Subject:** RE: CF nationality and Artesia statistics



Ted

(b)(5)

---

**From:** Tintary, Ruth E

**Sent:** Tuesday, August 19, 2014 3:03 PM

**To:** Kim, Ted H; Lafferty, John L; Stone, Mary M; Kirkland, Brooke A; Mura, Elizabeth E; Scott, Elizabeth M; Hammill, Hunter A; Lay, Dorothea B; Whitney, Ronald W

**Cc:** Brown, Katherine H; Atkinson, Ronald A

**Subject:** RE: CF nationality and Artesia statistics



Thanks,

***Ruth E. Tintary***

Associate Chief

Legislative Branch

Office of Legislative Affairs

U.S. Citizenship and Immigration Services

Dept. of Homeland Security

(202) 272-1947

[ruth.e.tintary@uscis.dhs.gov](mailto:ruth.e.tintary@uscis.dhs.gov)

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(b)(5)

---

**From:** Kim, Ted H

**Sent:** Tuesday, August 19, 2014 2:20 PM

**To:** Tintary, Ruth E

**Cc:** Brown, Katherine H; Atkinson, Ronald A; Lafferty, John L; Stone, Mary M; Kirkland, Brooke A; Mura, Elizabeth E; Scott, Elizabeth M; Hammill, Hunter A

**Subject:** RE: CF nationality and Artesia statistics



**From:** Tintary, Ruth E

**Sent:** Tuesday, August 19, 2014 9:56 AM

**To:** Kim, Ted H; Stone, Mary M; Kirkland, Brooke A; Mura, Elizabeth E; Scott, Elizabeth M

**Cc:** Brown, Katherine H; Atkinson, Ronald A

**Subject:** RE: CF nationality and Artesia statistics



---

**From:** Tintary, Ruth E

**Sent:** Monday, August 18, 2014 10:39 AM

**To:** Kim, Ted H; Stone, Mary M; Kirkland, Brooke A; Mura, Elizabeth E; Scott, Elizabeth M

**Cc:** Brown, Katherine H; Atkinson, Ronald A

**Subject:** RE: CF nationality and Artesia statistics



Thanks! I also sent you a briefing request from the same folks asking these questions, so I am sure that we will have to repeat this response then too with the larger congressional staff briefing.

---

**From:** Kim, Ted H  
**Sent:** Monday, August 18, 2014 10:37 AM  
**To:** Tintary, Ruth E; Stone, Mary M; Kirkland, Brooke A; Mura, Elizabeth E; Scott, Elizabeth M  
**Cc:** Brown, Katherine H; Atkinson, Ronald A  
**Subject:** Re: CF nationality and Artesia statistics

Nothing to add. MM captures it. Thanks, Ted

Sent by Blackberry

---

**From:** Tintary, Ruth E  
**Sent:** Monday, August 18, 2014 10:35 AM  
**To:** Stone, Mary M; Kirkland, Brooke A; Mura, Elizabeth E; Kim, Ted H; Scott, Elizabeth M  
**Cc:** Brown, Katherine H; Atkinson, Ronald A  
**Subject:** RE: CF nationality and Artesia statistics

[Redacted]

---

**From:** Stone, Mary M  
**Sent:** Friday, August 15, 2014 5:30 PM  
**To:** Tintary, Ruth E; Kirkland, Brooke A; Mura, Elizabeth E  
**Cc:** Kim, Ted H; Scott, Elizabeth M  
**Subject:** Re: CF nationality and Artesia statistics (b)(5)

Ruthie,

[Redacted]

\*\*\*\*\*

Mary Margaret Stone  
Chief of Operations  
Asylum Division  
RAIO/USCIS  
Tel: 202.272.1651

Sent by Blackberry

---

**From:** Tintary, Ruth E  
**Sent:** Friday, August 15, 2014 05:10 PM  
**To:** Kirkland, Brooke A; Stone, Mary M; Mura, Elizabeth E  
**Subject:** RE: CF nationality and Artesia statistics

(b)(5)

Thanks,

***Ruth E. Tintary***

Associate Chief  
Legislative Branch  
Office of Legislative Affairs  
U.S. Citizenship and Immigration Services  
Dept. of Homeland Security  
(202) 272-1947  
[ruth.e.tintary@uscis.dhs.gov](mailto:ruth.e.tintary@uscis.dhs.gov)

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---

**From:** Kirkland, Brooke A  
**Sent:** Thursday, August 14, 2014 12:43 PM  
**To:** Tintary, Ruth E  
**Cc:** Stone, Mary M  
**Subject:** CF nationality and Artesia statistics

Hi Ruthie,

Per our discussion yesterday, I'm attaching the CF nationality trends and Artesia, NM statistics.

Thanks,

Brooke

Brooke Kirkland  
Asylum Officer  
Management Branch  
Office of Refugee, Asylum, and International Operations  
U.S. Citizenship & Immigration Services  
Department of Homeland Security  
Phone: (202) 272-1181  
Email: [Brooke.Kirkland@uscis.dhs.gov](mailto:Brooke.Kirkland@uscis.dhs.gov)

**Jowett, Haley L**

---

**From:** Miller, Philip T  
**Sent:** Tuesday, July 15, 2014 5:46 PM  
**To:** Stone, Mary M  
**Cc:** Kim, Ted H; Bonales-Garibay, Norma; Davis, Mike P; Mura, Elizabeth E; Scott, Elizabeth M  
**Subject:** RE: EOIR Priority Case Code Annotations (DRAFT SOP OPLA 071114)

Mary Margaret,

Thank you for your quick response. I will check in with OPLA Field Legal Ops for responses to your questions.

I'll keep you posted,  
Phil

---

**From:** Stone, Mary M  
**Sent:** Tuesday, July 15, 2014 2:28 PM  
**To:** Miller, Philip T  
**Cc:** Kim, Ted H; Bonales-Garibay, Norma; Davis, Mike P; Mura, Elizabeth E; Scott, Elizabeth M  
**Subject:** FW: EOIR Priority Case Code Annotations (DRAFT SOP OPLA 071114)

Phil,



Regards,  
Mary Margaret

Mary Margaret Stone  
Chief of Operations, Asylum Division  
Refugee, Asylum and International Operations Directorate  
US Citizenship and Immigration Services  
Department of Homeland Security  
Tel: 202.272.1651

(b)(5)



## Jowett, Haley L

---

**From:** Donis, Antonio  
**Sent:** Thursday, August 14, 2014 5:23 PM  
**To:** Stone, Mary M  
**Cc:** Lafferty, John L; Kim, Ted H; Tanner, Rebecca S; Daum, Robert L; Hemming, Bryan D  
**Subject:** RE: Re-interviews in APSS  
**Attachments:** Entering a Reinterview SOP.docx

Hi MM,

It's funny you mention that. We just finished writing a re-interview SOP for Artesia (see attached).

I assigned one officer the responsibility of rekeying all of our re-interview data in APSS.

Our records should be totally accurate by noon tomorrow.

Have a good night,

Antonio\_\_

---

**From:** Stone, Mary M  
**Sent:** Thursday, August 14, 2014 3:52 PM  
**To:** Donis, Antonio  
**Cc:** Lafferty, John L; Kim, Ted H; Tanner, Rebecca S; Daum, Robert L; Hemming, Bryan D  
**Subject:** Re-interviews in APSS

Antonio,

We're getting some inquiries on the Artesia numbers – I think because some of the decisions may have changed after re-interview. If they have not already been doing this, please make sure your team records re-interview cases in APSS according to the guidance in the APSS manual:

### **The Interview Capture (INTC) Screen**

The INTC is the first screen in a processing "chain." Each interview record contains information from an INTC, and information from the subsequent APSO decision (ADEC) screen. The decision screen is linked back to the INTC screen by the interview date, forming a decision chain; users cannot enter information on the decision screen until all of the mandatory fields on the previous screen are filled in. For applicants with multiple interviews, the officer should enter re-interview information on the NOTES screen by pressing F9.

Thanks, MM

Mary Margaret Stone  
Chief of Operations, Asylum Division  
Refugee, Asylum and International Operations Directorate  
US Citizenship and Immigration Services  
Department of Homeland Security  
Tel: 202.272.1651

## Entering a Re-Interview in APSS [Guidance from APSS User Manual]

- INTC
  - Original interview record remains in the INTC screen
  - Any Re-interview is entered in the RECORD NOTES screen
    - Go to Applicant's INTC
    - Press F9
    - Enter Re-interview information
    - Press Enter
    - Enter a Y in Record Notes field
- CSTA
  - Notes can only be viewed in the CSTA screen
    - Go to Applicant's CSTA
    - Press F11
- ADEC
  - Original interview date remains
    - ADEC is linked to INTC by interview date so this cannot be changed
    - The original APSO and SAPSO will display as well because it is linked to interview date
    - New APSO/SAPSO information is entered in Record Notes screen
  - Enter new information
    - Go to Applicant's ADEC
    - Enter any changes to decision fields
    - Update the *Date* field with new decision date
    - Remove the old *Decision Served Date* field and *Date forwarded to DO* field
      - Record will not save if this is not done
    - Press Enter
      - If *Case Delay* field is required enter reason code
        - I – Re-interview
        - O – Other
        - A – Attorney
        - R – Lack of resources

**Jowett, Haley L**

---

**From:** Littlepage, Ryan L  
**Sent:** Monday, August 18, 2014 5:53 PM  
**To:** Hemming, Bryan D; Ooi, Maura M; Hammill, Hunter A  
**Cc:** Donis, Antonio; Daum, Robert L  
**Subject:** RE: G-28s, MTRs, and Credible Fear

(b)(5) (b)(6)

Yes. Sorry for the delay.



Ryan

---

**From:** Hemming, Bryan D  
**Sent:** Monday, August 18, 2014 4:21 PM  
**To:** Ooi, Maura M; Littlepage, Ryan L; Hammill, Hunter A  
**Cc:** Donis, Antonio; Daum, Robert L  
**Subject:** Re: G-28s, MTRs, and Credible Fear

Ryan-  
Can you provide the answers to the below?  
Thanks!  
Sent by Blackberry

---

**From:** Ooi, Maura M  
**Sent:** Monday, August 18, 2014 05:13 PM  
**To:** Littlepage, Ryan L; Hemming, Bryan D; Hammill, Hunter A  
**Cc:** Donis, Antonio; Daum, Robert L  
**Subject:** RE: G-28s, MTRs, and Credible Fear

Hi Bryan.-

Just wanted to follow up on these questions so I can look into this.

Thanks,  
Maura

---

**From:** Ooi, Maura M  
**Sent:** Monday, August 18, 2014 2:08 PM  
**To:** Littlepage, Ryan L; Hemming, Bryan D; Hammill, Hunter A

(b)(5)

**Cc:** Donis, Antonio; Daum, Robert L  
**Subject:** RE: G-28s, MTRs, and Credible Fear

[REDACTED]

---

**From:** Littlepage, Ryan L  
**Sent:** Monday, August 18, 2014 1:57 PM  
**To:** Hemming, Bryan D; Ooi, Maura M; Hammill, Hunter A  
**Cc:** Donis, Antonio; Daum, Robert L  
**Subject:** RE: G-28s, MTRs, and Credible Fear

[REDACTED]

---

**From:** Hemming, Bryan D  
**Sent:** Monday, August 18, 2014 11:42 AM  
**To:** Ooi, Maura M; Hammill, Hunter A  
**Cc:** Donis, Antonio; Daum, Robert L; Littlepage, Ryan L  
**Subject:** RE: G-28s, MTRs, and Credible Fear

I believe so. Ryan, can you confirm?  
Thanks,

---

**From:** Ooi, Maura M  
**Sent:** Monday, August 18, 2014 12:42 PM  
**To:** Hemming, Bryan D; Hammill, Hunter A  
**Cc:** Donis, Antonio; Daum, Robert L; Littlepage, Ryan L  
**Subject:** RE: G-28s, MTRs, and Credible Fear

[REDACTED]

---

**From:** Hemming, Bryan D  
**Sent:** Monday, August 18, 2014 1:38 PM  
**To:** Hammill, Hunter A  
**Cc:** Donis, Antonio; Daum, Robert L; Ooi, Maura M; Littlepage, Ryan L  
**Subject:** RE: G-28s, MTRs, and Credible Fear

[REDACTED]

I am also including Ryan Littlepage, the SAO on the ground in Artesia, who is all too familiar with the contents of the motions.  
Thanks,

---

**From:** Hammill, Hunter A  
**Sent:** Monday, August 18, 2014 12:36 PM  
**To:** Hemming, Bryan D



**Cc:** Donis, Antonio; Daum, Robert L; Ooi, Maura M  
**Subject:** RE: G-28s, MTRs, and Credible Fear

Also, I'm adding Maura Ooi, one of our RALD attorneys who is going to be looking at this question, to the chain, and she may be asking for some more follow-up information.

---

**From:** Hammill, Hunter A  
**Sent:** Monday, August 18, 2014 1:31 PM  
**To:** Hemming, Bryan D  
**Cc:** Donis, Antonio; Daum, Robert L  
**Subject:** RE: G-28s, MTRs, and Credible Fear

[Redacted]

**From:** Hemming, Bryan D  
**Sent:** Monday, August 18, 2014 1:17 PM  
**To:** Hammill, Hunter A  
**Cc:** Donis, Antonio; Daum, Robert L  
**Subject:** G-28s, MTRs, and Credible Fear

(b)(5)

Hi Hunter:

[Redacted]

We appreciate any guidance OCC can provide.

Thanks,  
Bryan

**Jowett, Haley L**

---

**From:** Littlepage, Ryan L  
**Sent:** Wednesday, August 20, 2014 11:26 AM  
**To:** Reza, Naushad; Zee, Dong; Donis, Antonio; Gonzalez, Martha; Hook, Garland R; Orendach, Janette  
**Subject:** RE: Question

We just revisited this issue. The no laptop policy will continue, in accordance with the local ICE facility's policies.

---

**From:** Reza, Naushad  
**Sent:** Wednesday, August 20, 2014 10:22 AM  
**To:** Zee, Dong; Donis, Antonio; Littlepage, Ryan L; Gonzalez, Martha; Hook, Garland R; Orendach, Janette  
**Subject:** RE: Question

Just wanted to verify, thanks.

---

**From:** Zee, Dong  
**Sent:** Wednesday, August 20, 2014 10:22 AM  
**To:** Reza, Naushad; Donis, Antonio; Littlepage, Ryan L; Gonzalez, Martha; Hook, Garland R; Orendach, Janette  
**Subject:** RE: Question

I thought we are not.

---

**From:** Reza, Naushad  
**Sent:** Wednesday, August 20, 2014 10:21 AM  
**To:** Donis, Antonio; Littlepage, Ryan L; Zee, Dong; Gonzalez, Martha; Hook, Garland R; Orendach, Janette  
**Subject:** Question

Are we allowing laptops in interviews?



**U.S. Citizenship  
and Immigration  
Services**

FEB 28 2014

HQRAIO 120/9.15b

Memorandum

TO: Asylum Office Directors / Deputy Directors  
Supervisory Asylum Officers  
Quality Assurance/Training Asylum Officers  
Asylum Officers

FROM: John Lafferty  
Chief, Asylum Division

A handwritten signature in black ink, appearing to read "John Lafferty", written over the printed name and title.

SUBJECT: Release of Updated Asylum Division Officer Training Course (ADOTC)  
Lesson Plan, *Credible Fear of Persecution and Torture Determinations*

This memorandum announces the release of a revised version of the ADOTC Lesson Plan, *Credible Fear of Persecution and Torture Determinations*, dated February 28, 2014 (the revised Credible Fear Lesson Plan) and describes the major changes in the lesson from previous versions.

I. Background

Credible fear referrals to the Asylum Division in fiscal year (FY) 2013 surpassed total receipts for credible fear referrals over the five-year period from FY 2007 to FY 2011 and rose from FY 2012 by more than 250%. In light of the increased allocation of resources devoted to credible fear adjudications and the attention on these adjudications, the Asylum Division undertook a comprehensive review of the previous credible fear lesson plan, which was most recently revised on March 7, 2013 and last underwent significant changes on April 14, 2006. As part of this review, we met with representatives from each Asylum Office and shared draft versions of the revised Credible Fear Lesson Plan with U.S. Immigration and Customs Enforcement and U.S. Customs and Border Protection. Attached is the revised Credible Fear Lesson Plan, dated February 28, 2014. The lesson plan is also available electronically through the Asylum Division's Enterprise Collaboration Network ("ECN") site at:

<http://ecn.uscis.dhs.gov/team/raio/PerMgt/Training/Lesson%20Plans/Forms/ASYview.aspx>.

## II. The Revised Credible Fear Lesson Plan

Because revisions were made throughout the revised Credible Fear Lesson Plan, this memorandum will not describe all the changes from previous versions. The significant changes to the lesson plan focus on three major areas.

First, the revisions to the lesson plan seek to reinforce the Asylum Division's interpretation of the statutory "significant possibility" standard as requiring that the applicant "demonstrate a substantial and realistic possibility of succeeding."<sup>1</sup> In light of concerns that the application of the "significant possibility" standard has lately been interpreted to require only a minimal or mere possibility of success, the revised Credible Fear Lesson Plan clearly states that a claim that has no possibility or only a minimal or mere possibility does not meet the "significant possibility" standard.

Second, the revised Credible Fear Lesson Plan incorporates substantive updates to the Refugee, Asylum and International Operations Combined Training Lesson Plans (RAIO Lesson Plans) from recent years and examines the application of this guidance to credible fear determinations. The revised Credible Fear Lesson Plan is not meant to be viewed in isolation; Asylum Officers must continue to refer to the latest applicable RAIO Lesson Plans for the most recent guidance on determining asylum eligibility. The revised Credible Fear Lesson Plan, however, adopts the analytical framework of various RAIO Lesson Plans to ensure that credible fear of persecution determinations apply the correct substantive law through the "significant possibility" lens. For example, *Section VII. Establishing a Credible Fear of Persecution* now discusses separately the issues of Past Persecution and Well-Founded Fear of Persecution. Both sub-sections follow their RAIO Lesson Plan equivalent as viewed in the credible fear context. This provides the opportunity to discuss areas of law that were omitted from previous versions of the lesson plan, such as the role of internal relocation in the well-founded fear of persecution analysis.

Finally, the revised Credible Fear Lesson Plan modifies guidance on credible fear of torture screenings to hue more closely to the regulations implementing the Convention Against Torture (the Convention or CAT).<sup>2</sup> Asylum Officers screening for viable CAT claims must now consider all the elements of the Convention definition of torture, such as consideration of the issues of custody and control, and lawful sanctions as falling outside of the definition; these were previously omitted from the credible fear analysis. Moreover, the severity and specific intent requirement is modified to reflect the Convention definition: an act must be specifically intended to inflict severe physical or mental pain or suffering. Previous versions of the lesson plan required only that the feared offender intend to take some action that would result in serious harm to the applicant. The modifications also describe when mental pain or suffering can constitute torture. Instruction involving the Convention's state action requirement is expanded to detail when a public official acts in an official capacity and to shed further light on the issue of acquiescence. Lastly, the revised Credible Fear

---

<sup>1</sup> Joseph E. Langlois, Asylum Division, Office of International Affairs, *Increase of Quality Assurance Review for Positive Credible Fear Determinations and Release of Updated Asylum Officer Basic Training Course Lesson Plan, Credible Fear of Persecution and Torture Determinations*, Memorandum to Asylum Office Directors, et al. (Washington, DC: Apr. 17, 2006).

<sup>2</sup> 8 C.F.R. §§ 208.16 -.18.

Lesson Plan instructs that the regulatory requirement that internal relocation be considered when evaluating the possibility of future torture is applied to credible fear determinations. These modifications to how relief under CAT is analyzed in the credible fear context do not change the “significant possibility” standard or alter the screening function of the credible fear process. The intention, rather, is to focus on the “significant possibility” standard, taking into account regulatory requirements for CAT claims.

### III. Implementation

The revised Credible Fear Lesson Plan is effective immediately. Headquarters staff will travel to each Asylum Office to provide training on the revised Credible Fear Lesson Plan. This lesson plan will also be used at the upcoming ADOTC. Furthermore, we will examine whether any conforming changes to the ADOTC Lesson Plan, *Reasonable Fear of Persecution and Torture Determinations* and the Credible Fear Determination Checklist are necessary and issue a revision to those documents as appropriate.

Please contact the Asylum Division Quality Assurance Branch Chief and/or email the Asylum QA – Credible Fear mailbox if you have any questions.

Attachment (1): ADOTC Lesson Plan, Credible Fear of Persecution and Torture Determinations

Name / A#:

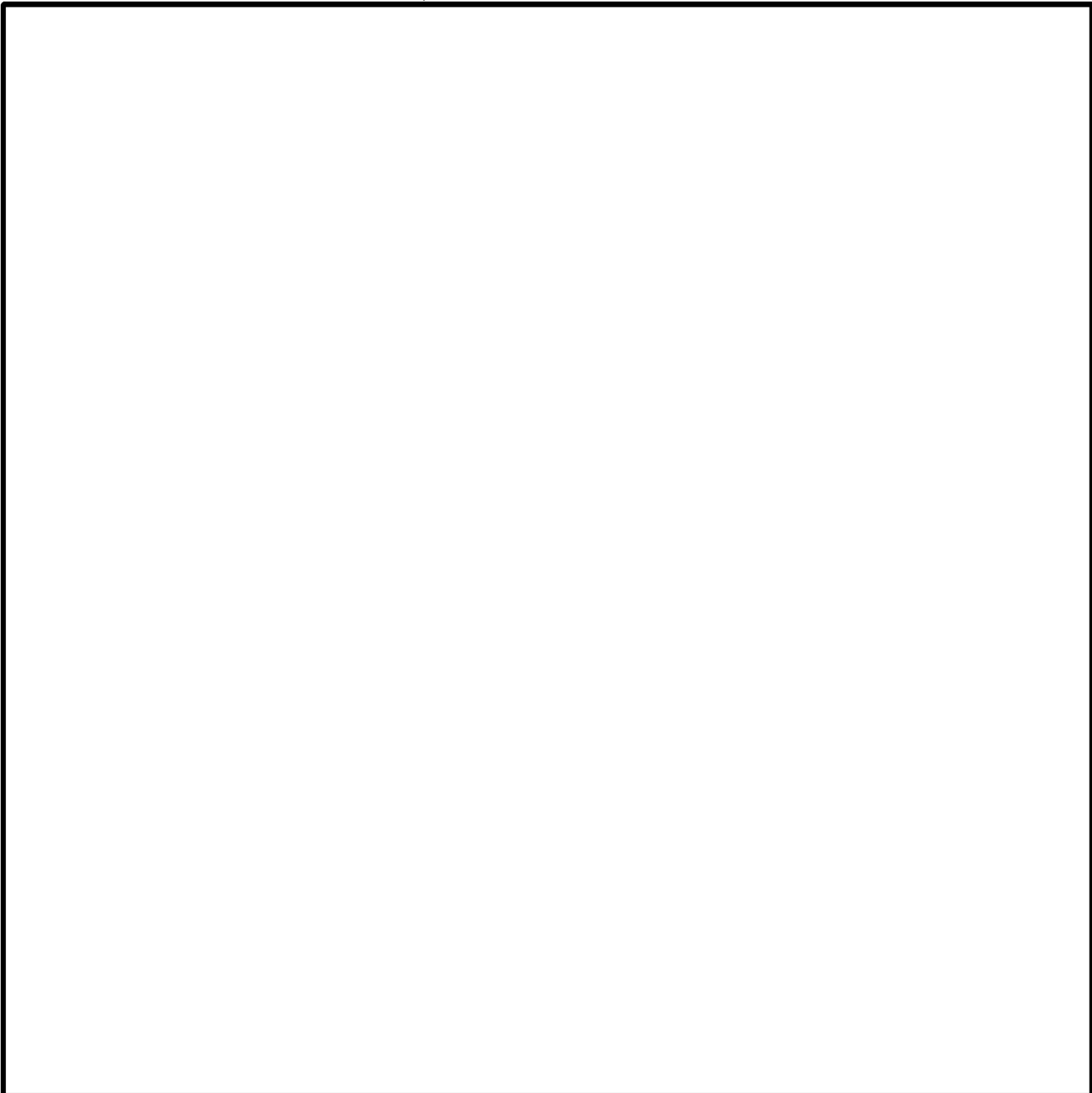
Country: Nepal

Date of Interview:

(b)(5)

(b)(6)

Summary



ALIEN NUMBER: \_\_\_\_\_ DATE: \_\_\_\_\_  
NAME: \_\_\_\_\_ ASYLUM OFFICER: ZHN  
COUNTRY: Nepal  
ASYLUM OFFICE: \_\_\_\_\_

INTERPRETER: Language: Nepalese Lionbridge #

**OATH ADMINISTERED**

**PARAGRAPH 1.28, FORM I-870, READ TO APPLICANT *Background and 1-870 Information***

Q. What is your full name?

A.

Q. Have you ever been known by any other names or aliases?

A. No

Q. Do you have an attorney / consultant to represent you?

A. No

Q. Do you have any medical conditions or concerns?

A. No

Q. Where were you born?

A. Nepal

Q. What is your date of birth?

A.

(b)(6)

Q. What country are you a citizen of?

A. Nepal

Q. Are you a citizen of any other countries? A.

No

Q. Do you speak any other languages?

A. I can understand Hindi.

Q. What is your race or ethnicity?

A. The tribe is Newar, Ethnicity: Aryan

Q. What is your religion?

A. Buddhist

ALIEN NUMBER

NAME:

DATE: ASYLUM OFFICER:

COUNTRY: Nepal

ASYLUM OFFICE: ZHN

(b)(6)

Q. When did you last enter the United States?

A. [REDACTED]

Q. Where did you enter the United States?

A. Brownsville, TX

Q. When were you apprehended by the Border Patrol?

A. [REDACTED]

Q. Where were you apprehended?

A. Mifflin, TX

Q. Was this the first time you entered the United States? A.

Yes

Q. Are you married, single, living with a partner?

A. Yes, married. My wife is in [REDACTED] Nepal

Q. Do you have any children? (Names, date of birth). A.

I have two girls, w/ mother

1 [REDACTED]  
2 [REDACTED]

Q. Do you have any family in the US? (Name / Address / Relationship / Telephone/status?)

A. I have some friends in Houston, TX

Q. Have you lived in any other countries?

A. I was living in [REDACTED] India.

Q. When did you live in India? How long?

A. I was there in 2004. I year.

Q. So, you were there in 2004 and then did you return to Nepal?

A. Yes.

Q. What type of work did you do in Nepal? A.

[REDACTED] too.

Q. Have you ever served in the military?

A. No

Q. Have you ever been threatened or harmed in Nepal?



ALIEN NUMBER: \_\_\_\_\_ DATE: \_\_\_\_\_  
NAME: \_\_\_\_\_ ASYLUM OFFICER: ZHN  
COUNTRY: Nepal  
ASYLUM OFFICE: ZHN

A. Yes, they did. (b)(6)

Q. Ever physically harmed?

A. Yes, they beat me during the election time.

Q. Who are they?

A. They are the Maoists.

Q. How many times did they beat you?

A. They threatened me a couple of times, beat me once.

Q. When did they beat you?

A. April 8, 2008. [Based on interpreter conversion.]

Q. Why did they beat you?

A. I support the National Democratic Party and b/c I was participating in the party, they threatened me to stop doing that and participate and they told me I had to leave my party. I did not listen to them and they beat me.

Q. Who was the candidate for your party?

A. Asoketapa

Q. How did you become involved in politics?

[Redacted]

Q. When was the election held?

A. April 10, 2008.

Q. Please describe what happened when you were beaten?

[Redacted]

Q. Sir, I appreciate the background, but I would like more specific details on what happened the day you were beaten.

[Redacted]

Q. Do you recall what time of the day this occurred?

A. 11 am.

ALIEN NUMBER: \_\_\_\_\_ DATE: \_\_\_\_\_  
NAME: \_\_\_\_\_ ASYLUM OFFICER: ZHN  
COUNTRY: Nepal  
ASYLUM OFFICE: ZHN

Q. About how many people were in the crowd of the villagers? A.  
Around 175 or 180.

Q. How many people do you recall beating you?  
A. About 15 or 16 belonging to the YCS.

Q. How exactly were they beating you?  
A. They beat me with bamboo sticks, they used their hands and with their legs they kicked me.

Q. How is it that they stopped beating you, what happened to stop the beating?  
A. After they started beating me, I lost my senses and fell down, and the village elders came and they pleaded with them to stop beating me and took me away.

Q. Did you go to the hospital?  
A. I didn't go to the hospital, it was far. People threw water on me. I went to the local private clinic.  
[Note: interpreter is difficult to understand; officer's notes are as clear as possible considering officer's difficulty understanding translation.]

Q. Did you report this attack to the police?  
A. The police were afraid and they never took action against Maoists. Police will take up Maoists side out of fear.

Q. Can you tell me again what day you were attacked?  
A. It was April 8, 2008.

Q. You told me you were threatened on two other occasions, when were you threatened? A.  
The first incident was March 22, 2008, and March 29, 2008.

Q. Where were you threatened on the 22 and 29 of March?  
A. The first one I was home and the second time when I was walking in the street asking for the vote.

Q. What did they say to you when they threatened you?  
A. They say if you want to be in this village, we don't want you to walk on behalf of the king. We will kill you and throw you in the river.

Q. When did you leave Nepal?  
A. I left on June 2, 2008.

Q. What made you leave in June?  
A. Election results came out; as it happened, the voters said we will not keep the king and keep the king's supporters here. I left and came here.

Q. Do you fear being returned?  
A. Yes, I am really afraid. If I was not afraid I would have gone back.

ALIEN NUMBER: \_\_\_\_\_ DATE: \_\_\_\_\_  
NAME: \_\_\_\_\_ ASYLUM OFFICER: ZHN  
COUNTRY: Nepal  
ASYLUM OFFICE: ZHN

Q What do you think will happen if you go back?

A. Now the elections, the Maoist won, and I was a supporter of the king, and the king is already out. I think they will kill us.

Q. Do you fear the government of Nepal?

A. No. But they can't help me.

Q. Do you fear harm from anyone not in the government but who is connected with the government of your country?

A. No. I fear the Maoists and to the extent they get control of the government, I fear that.

Q. Have you ever persecuted (harmed, or hurt) another human being?

A. No.

Q. Have you ever been arrested for anything (in any country)?

A. No.

(b)(6)

Q. Have you ever been affiliated with, supported, or assisted a group that has been accused of using violence to realize its goals?

A. No

Q. Is there anything else that you would like to add that you think we have not covered today?

A. No, I don't have anything to say. My date of birth should be  We have heard America is a country ...I think my life would be saved here if I am allowed to stay here.

**PARAGRAPH 3.2, FORM I-870, READ TO APPLICANT.**

**APSO SUMMARIZED THE CASE TO THE APPLICANT AS REQUIRED BY SECTION 3.3, FORM I-870.**



**U.S. Citizenship  
and Immigration  
Services**

HQRAIO 120/9.15

## Memorandum

TO: Asylum Office Directors  
Asylum Office Deputy Directors  
Supervisory Asylum Officers  
Quality Assurance/Training Asylum Officers  
Asylum Officers

FROM: Joseph E. Langlois  
Chief, Asylum Division /s/

DATE: December 23, 2008

SUBJECT: Revised Credible Fear Quality Assurance Review Categories and Procedures

The purpose of this memorandum is to modify the categories of credible fear determinations that must be sent to the Asylum Division Training, Research, and Quality (TRAQ) Branch for quality assurance (QA) review prior to the issuance of a final determination. In addition, the memorandum announces new procedural requirements for all determinations. These changes will be effective as of December 23, 2008.<sup>1</sup>

These modifications result from a review of the revised QA framework that was implemented in response to the 2005 Report on Asylum Seekers in Expedited Removal by the U.S. Commission on International Religious Freedom (USCIRF Report).<sup>2</sup> More than three years of increased review of credible fear cases has indicated that QA review of both positive and negative determinations has contributed to the quality of the reviewed cases, as well as the overall work product of the offices. The level of quality in decision-making indicates that most positive credible fear determinations do not require QA review by TRAQ before issuance of a final decision. Instead, certain categories of positive determinations will be identified for TRAQ QA review, but will not require holding service of a decision pending a TRAQ response. This post-decision review will inform training efforts by

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<sup>1</sup> . This memorandum supersedes the guidance set forth in Section I of the memorandum entitled "Increase of Quality Assurance Review for Positive Credible Fear Determinations and Release of Updated Asylum Officer Basic Training Course Lesson Plan, *Credible Fear of Persecution and Torture Determinations*," dated April 17, 2006.

<sup>2</sup> [http://www.uscirf.gov/countries/global/asylum\\_refugees/2005/february/index.html](http://www.uscirf.gov/countries/global/asylum_refugees/2005/february/index.html).

providing information and guidance on common issues, trends, and areas for improvement. The procedural changes announced in section II of this memorandum are designed to remove the potential for procedural bias in favor of positive determinations noted by the USCIRF Report.

## **I. Quality Assurance Review of Credible Fear Determinations**

### **Background**

During initial implementation of the expedited removal process, mandatory Headquarters Asylum Division (HQASM) QA review of positive credible fear determinations was limited to a few categories of cases (e.g., claims involving domestic violence, high profile cases, and cases involving a possible mandatory bar). Upon expansion of expedited removal to certain individuals apprehended between ports of entry (“inland” cases), HQASM initially required QA review of all inland positive credible fear determinations. Following further expansion of the expedited removal process to all border patrol sections and issuance of revised credible fear guidance in the AOBTC lesson plan, HQASM reduced the mandated QA review to half of all positive inland cases (i.e., positive inland determinations with an odd-numbered A-number). HQASM later required review of positive credible fear determinations from ZAR, ZCH, and ZMI with an odd-numbered A-number.

The USCIRF Report noted that the QA and other procedures for negative determinations were more onerous than the procedures for positive determinations, creating a potential bias toward positive determinations. Accordingly, USCIRF recommended applying similar QA procedures to both positive and negative determinations. The Asylum Division implemented this recommendation by increasing QA review of positive determinations. After two years of increased QA review of determinations based on the revised lesson plan, HQASM notes a high level of quality of the credible fear work product in all categories of cases.

Under the new QA review framework, HQASM will continue to review certain key positive determination categories and a sampling of *post-decisional* positive determinations, as discussed below. However, most positive credible fear determinations will not require HQASM review before service of the decision. HQASM will continue to review all negative credible fear determinations to ensure that bona fide asylum seekers are not returned to countries where they may face persecution or torture.

### **Cases that Require TRAQ Quality Assurance Review Prior to Issuance of a Determination**

TRAQ will continue to review all negative credible fear of persecution and torture determinations prior to the service of a determination. Pre-decision review will also continue for high-profile cases (e.g., high-ranking foreign government officials or their family members, or any person whose case has been or is likely to be publicized) and claims involving novel legal issues (as identified by the local office or meeting fact patterns provided by HQASM). Also, the Supervisory Asylum Pre-Screening Officer (SAPSO), Deputy Director, or Director, in his or her discretion, may request TRAQ review of any other cases.

The following is a comprehensive list of credible fear cases that require TRAQ QA review and concurrence **prior** to issuance of a decision:

- Negative credible fear of persecution and torture determinations;
- High-profile cases (e.g., high-ranking foreign government officials or their family members, or any person whose case has been or is likely to be publicized);
- Claims involving novel legal issues (as identified by the local office or meeting fact patterns provided by HQASM); and
- Any case a SAPSO, Deputy Director, or Director believes should be reviewed by TRAQ.

#### Cases that No Longer Require TRAQ Quality Assurance Review Prior to Issuance of a Determination

Mandatory pre-decision TRAQ QA review is no longer required for other categories of cases. For instance, positive determinations based upon domestic violence, positive determinations based on a credible fear of torture only (negative for persecution), and positive determinations with possible mandatory bars will not require TRAQ review and concurrence before issuance of a decision. In the last two years of QA review of these categories, HQASM has observed closely the asylum office determinations and is confident that all offices appropriately apply existing law and policy.

The following is a list of credible fear cases that no longer require TRAQ QA review and concurrence prior to issuance of a decision:

- Positive inland credible fear of persecution determinations with odd-numbered A-numbers;
- Positive credible fear of persecution determinations with odd-numbered A-numbers within the jurisdiction of ZAR, ZCH, and ZMI;
- Claims based upon domestic violence (e.g., spousal abuse, child abuse, or violence between family members not in a spousal relationship);
- Positive torture claims;
- Positive credible fear determinations that involve a possible mandatory bar.

#### Procedures for Post-Decision TRAQ Quality Assurance Review of a Sampling of Cases

In addition to negative credible fear of persecution and torture determinations, high-profile applicants, and requested reviews, HQASM will require *post-decisional* review of a sampling of positive credible fear determinations in order to gain an overview of the interviews and to ensure quality and consistency among the offices. For example, the HQASM Credible Fear Quality Assurance Program Manager may request all, or a specific subset, of the credible fear determinations made by a given office during the previous month. The Quality Assurance Program Manager may also request a random sampling of cases generated by APSS, or may request that all offices submit a number of cases falling into a certain category (i.e., all cases with possible mandatory bars).

The selected asylum office(s) and case categories will be announced at the monthly SAPSO conference call and emailed to all SAPSOs. The information will be reflected in the conference call minutes, which will be distributed to the Directors, Deputy Directors, and SAPSOs of each asylum office. After the post-decision review, the Quality Assurance Program Manager will provide feedback to the local asylum office(s) regarding any trends, issues on which follow-up training is

needed, or any HQASM comments or concerns. The asylum office should use this feedback to discuss issues with staff and to inform training programs.

### Contact Information

Credible fear determinations requiring TRAQ review should be scanned and sent to the Asylum QA - Credible Fear e-mail address, consistent with current procedures. Please contact the Credible Fear Quality Assurance Program Manager in the TRAQ Branch<sup>3</sup> by telephone prior to submitting any case documentation by fax. Questions concerning quality assurance review of credible fear cases should be submitted to the Asylum QA – Credible Fear inbox.

## **II. Procedural Requirements for Credible Fear Determinations**

As discussed above, the USCIRF report on expedited removal expressed a concern that the Asylum Division QA requirements and procedures for negative determinations may create an unintended bias toward positive determinations. Through our extensive review of positive credible fear determinations, HQASM has identified certain procedural issues that may contribute to this real or perceived bias. In response to this concern, and in an effort to remove any possible bias toward positive determinations, this memorandum implements two procedural changes, which include identical note-taking formats for positive and negative cases, as well as brief written analyses for both positive and negative cases. These new procedures will assist in minimizing any potential bias in the future. Additionally, these new procedures will provide the best record of the case to assist with meaningful supervisory review.

### Credible Fear Notes

Previously, the Credible Fear Procedures Manual required Question & Answer (Q&A) notes for negative credible fear of persecution and torture determinations, but did not require a specific format for positive determinations. This memorandum requires that Q&A notes accompany all credible fear interviews. Interview notes must accurately reflect what transpired during the interview so that a reviewer can reconstruct the interview by reading the interview notes. In addition, the interview notes should substantiate the asylum officer's decision.

Although Q&A notes are not required to be a verbatim record of everything said at the interview, they must provide an accurate record of the specific questions asked and the applicant's specific answers to demonstrate that the APSO gave the applicant every opportunity to establish a credible fear. In doing so, the Q&A notes must reflect that the APSO asked the applicant to explain any inconsistencies as well as to provide more detail concerning material issues. This type of record will provide the SAPSO with a clear record of the issues that may require follow-up questions or analysis, as well as assist the asylum officer in the identification of issues related to credibility and analysis of the claim after the interview. This memorandum does not require that the Q&A notes be reviewed with the applicant as a sworn statement; however, the APSO still must provide to the

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<sup>3</sup> The Asylum Division Contact List is on the AVL at <http://z02rscow12:8080/docushare/dsweb/View/Collection-9872>.

applicant a summary of the applicant's claim. This summary may be documented in the Q&A notes with a statement such as the following:

“APSO summarized the case to the applicant as required by Section 3.3 of Form I-870.”

Any corrections or clarifications made by the applicant at that point must be documented in the notes.

### Brief Assessment

Previously, the Credible Fear Procedures Manual required summaries of the decision for both positive and negative credible fear of persecution and torture determinations, but only required a written analysis for negative credible fear of persecution and torture determinations. This memorandum requires a brief written analysis of the case under the applicable standard for all credible fear determinations. The analysis should not be as thorough as an affirmative asylum assessment, but should include a short summary of the facts relevant to the credible fear determination, as well as a discussion of the reasons supporting the determination. This written analysis will allow the reviewer to determine that the decision was based on neutral, objective factors, and that the law was properly applied.

A sample of the required Q&A notes for a positive credible fear determination, as well as a sample analysis, are attached. The Credible Fear Procedures Manual soon will be updated and posted to the AVL to reflect the changes discussed in this memo.

### Contact Information

Questions concerning credible fear procedures should be submitted to the Credible Fear Procedures Program Manager in the Operations Branch.<sup>4</sup>

### **III. Implementation Date**

The new submission categories and procedural requirements set forth in this memorandum will be effective December 23, 2008. The first request for post-decision review will be issued at the end of January, 2009.

Attachment

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<sup>4</sup> The Asylum Division Contact List is on the AVL at <http://z02rscow12:8080/docushare/dsweb/View/Collection-9872>.



## ASYLUM OPS-VIRTUAL LIBRARY

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**From:** Kim, Ted H  
**Sent:** Wednesday, August 30, 2006 1:33 PM  
**To:** Bardini, Emilia; Cauller, Erich J; Dedvukaj, Mick; Fatica, Erin K; Hummert, Marie; Jackson, Patricia A; Kramar, John; Logan, Jim; Madsen, Kenneth S; Mihalko, George S; Radel, David M; Rauffer, Susan; Yue, Calton; Zeleke, Aster  
**Cc:** (b)(5) Langlois, Joseph; Ruppel, Joanna; Hussey, Jedidah M; Walters, Jessica S; Christian, Bryan P; Zwicker, Trina M; Sohrakoff, Karen A; Ho, Cheri L  
**Subject:** Service of Credible Fear Determinations and Conducting Orientations

The above procedural amendment regarding the service of positive credible fear and clarification of orientation procedures will be incorporated in the next release of the Credible Fear Procedures Manual.

Please let me know if you have any questions regarding these procedures.

Thank you,  
Ted

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Ted Kim  
Operations Branch Chief, Asylum Division  
Office of Refugee, Asylum, and International Operations  
US Citizenship & Immigration Services  
Department of Homeland Security  
t: 202.272.1615  
f: 202.272.1681



U.S. Citizenship  
and Immigration  
Services

JUN 04 2013

HQRAIO 120/9.15a

## Memorandum

TO: ASYLUM OFFICE DIRECTORS  
ASYLUM OFFICE DEPUTY DIRECTORS  
SUPERVISORY ASYLUM PRE-SCREENING OFFICERS  
ASYLUM PRE-SCREENING OFFICERS  
QUALITY ASSURANCE/TRAINING ASYLUM OFFICERS

FROM: Ted H. Kim  
Acting Chief, Asylum Division

SUBJECT: Telephonic Interviews in Negative Credible Fear Determinations

### I. Purpose

This memorandum suspends the requirement to terminate the telephonic credible fear interview and conduct a follow-up interview in-person or by video-teleconference (VTEL), if the Asylum Pre-Screening Officer (APSO) finds that the alien does not have a credible fear of persecution or torture. Until further notice, these guidelines supersede the procedures contained in Section III.E.1 of the draft Credible Fear Procedures Manual (CFPM).

### II. Background

Under current credible fear procedures, Asylum Office Directors are authorized to exercise their discretion to choose the mode of interview—in-person, telephonic, or VTEL—after considering a number of factors. If the telephonic mode is chosen, however, current procedures require the APSO to terminate the telephonic interview and conduct an interview in-person or by VTEL if there is any indication that the alien does not understand the process, or if the APSO finds that the alien does not have a credible fear of persecution or torture. This procedure typically requires rescheduling the interview and therefore delays case processing times.

In order to address the recent surge in credible fear referrals, which have nearly tripled over the last three years, and support current Department of Homeland Security efforts to relieve

pressure on the detention system, the Asylum Division has been implementing measures to gain efficiencies in the credible fear process. To this end, over the last year, Asylum Offices have been expanding the use of telephonic interviewing so that they can reach more credible fear applicants more quickly while also minimizing travel costs. To maximize the efficiency of telephonic interviewing, the Asylum Division is suspending the procedural requirement for APSOs to switch from the telephonic mode to an in-person or VTEL mode if they do not find a credible fear of persecution or torture.

### **III. Implementation**

Effective immediately, where credible fear interviews are initiated over the telephone<sup>1</sup>, APSOs should complete their interviews over the telephone, including those that may lead to a negative determination. In such instances, APSOs should no longer terminate the telephonic interview in order to schedule a live or VTEL follow-up interview.

Asylum Office Directors or their management designee(s) may exercise their discretion to authorize exceptions to this new policy on a case-by-case basis.

Questions regarding the contents of this memorandum may be directed to the HQASM Operations Branch, Credible Fear Program Manager.

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<sup>1</sup> The APSO should still terminate the telephone or VTEL interview and schedule an in person interview if there is any indication that the alien does not understand the process.



**U.S. Citizenship  
and Immigration  
Services**

HQRAIO 120/9.15a

June 9, 2011

## Memorandum

**TO:** ASYLUM OFFICE DIRECTORS  
ASYLUM OFFICE DEPUTY DIRECTORS  
SUPERVISORY ASYLUM OFFICERS  
QUALITY ASSURANCE/TRAINING ASYLUM OFFICERS  
ASYLUM OFFICERS

**FROM:** Joseph E. Langlois /s/  
Chief, Asylum Division

**SUBJECT:** Updated Information Notification of ICE's Parole Guidelines to arriving aliens found to have a credible fear of persecution or torture and translations

On January 3, 2010, Asylum Offices were instructed to provide "Information about How to Seek Release from Detention: Parole Eligibility and Process for Certain Asylum Applicants" to arriving aliens ("POE cases") found to have a credible fear of persecution or torture. (See Memorandum, *Providing Notification of ICE's Parole Guidelines to arriving aliens found to have a credible fear of persecution or torture*, December 30, 2009.) Since that time, the Information Notification has been amended and updated. Asylum Offices should be using the Information Notification dated March 18, 2011.

At this time, the Information Notification has been translated into 8 languages that have been determined to encompass a large portion of the credible fear applicants in POE cases. Those languages are Amharic, Arabic, Chinese (Mandarin-simplified), Creole, French, Somali, Spanish and Tigrinya. Asylum Offices should immediately begin to provide a copy of the translated information notification to those applicable credible fear applicants. Copies of the updated Information Notification and the translations are attached to this memorandum and also are available on the RAIQVL.

Attachments (9)



U.S. Department of Justice  
Immigration and Naturalization Service

HQIAO 120/15.20b

425 I Street, NW  
Washington, DC 20536

FEB 11 2002

MEMORANDUM FOR: Asylum Office Directors  
Deputy Directors  
Supervisory Asylum Officers

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

SUBJECT: Updated Translations of Form M-444, Information about Credible Fear Interview and Form M-488, Information about Reasonable Fear Interview

Please distribute and begin using the attached translations of Form M-444, *Information about Credible Fear Interview*, and Form M-488, *Information about Reasonable Fear Interview*, which have been updated to include references to an applicant's ability to seek protection under the Convention against Torture. The M-444 translations currently are limited to the Mandarin, Arabic, Haitian Creole, French, and Albanian languages. The M-488 has been translated into Spanish. In addition to the hard copies sent to each asylum office, these translations are available as PDF files, accessible through the Adobe Acrobat Reader program. They will be forwarded to each asylum office as cc:mail attachments.

Supervisory asylum pre-screening officers should instruct asylum staff responsible for conducting credible fear and reasonable fear orientations that these versions replace all earlier versions of the M-444 and M-488 in the above-referenced languages.

The M-444 will be translated into several other languages: Spanish, Somali, Russian, Tamil, Serbo-Croatian (Cyrillic), Serbo-Croatian (Latin), Portuguese, and Urdu. These translations and revised videotaped readings of both forms are forthcoming.

# Waiver of the 48-Hour Period

---

A-number: \_\_\_\_\_

Name: \_\_\_\_\_

## -- DECLARATION OF ALIEN --

- I was placed into the credible fear process upon seeking admission to the United States because I expressed a fear of harm upon return my country, or because I was unable to communicate with the inspecting officer at the time I applied for admission.
- I understand that I will be interviewed by a specially-trained asylum officer to determine if I have a "credible fear of persecution" or a "credible fear of torture." I also understand that I may have 48 hours to rest and consult with family members, friends or other representatives before this interview takes place.
- I request to waive the 48-hour period, and have an interview with an asylum officer at the earliest possible time.

-----

\_\_\_\_\_  
Alien's Last Name/Family Name (Print)      Alien's First Name (Print)      Alien's Signature

\_\_\_\_\_  
Asylum Officer's Last Name (Print)      Asylum Officer's First Name (Print)      Date    /    /    /

The contents of this form were read and explained to the alien in the \_\_\_\_\_ language.

Interpreter Used (if any):

By telephone: (list interpreter service/ID number of interpreter) \_\_\_\_\_

In person: I, \_\_\_\_\_, certify that I am fluent in both the \_\_\_\_\_ and English languages. I interpreted the above information completely and accurately to the alien.

\_\_\_\_\_  
Interpreter's Signature      Date    /    /    /

**Hemming, Bryan D**

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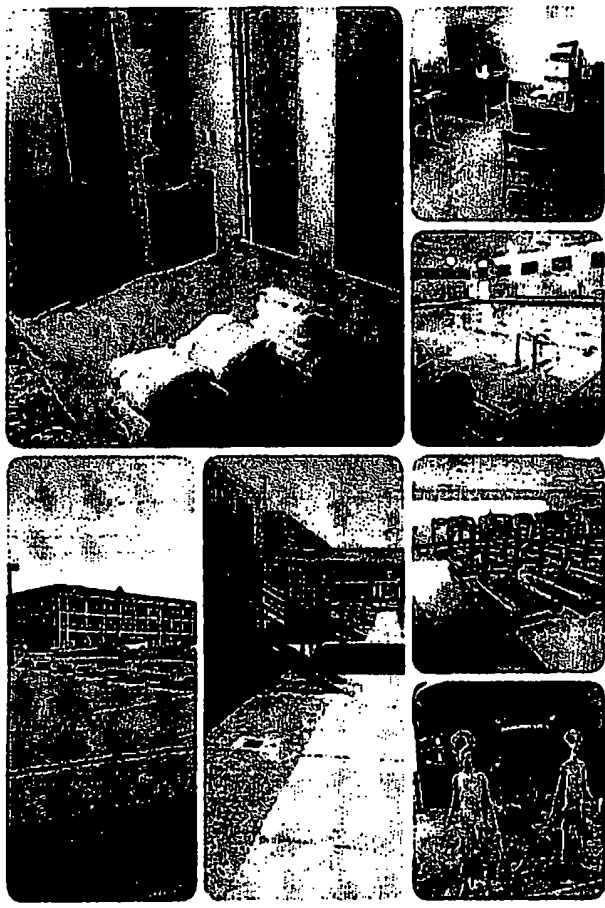
**From:** Hemming, Bryan D  
**Sent:** Saturday, July 19, 2014 9:05 PM  
**To:** Hensleigh, Chris J; Stawar, Andrew X; Burnett, Yolanda M; Aguilar, Rafael  
**Subject:** Artesia TDY Guide

Hi all:

Attached is a quick information sheet on Artesia. Apologies for getting this to you so late in the game. Please reach out to Antonio Donis (your team lead) or myself with any issues that come up during your detail. Thank you for volunteering!

Bryan

# ARTESIA TDY GUIDE



## What to Know

- You will be residing on a FLETC Campus
- Border Patrol, the Bureau of Indian Affairs, ICE, and US Air Marshalls also reside on campus
- The detention facility and ICE/USCIS offices are located a half mile from the Residence Hall
- The Residence Hall has 3 floors, but no elevators
- You will be required to share a bathroom with another FLETC guest
- Wireless internet (for personal use) is available in the Residence Hall for \$35.00 a month
- Meals can be purchased at the Mess Hall for very reasonable prices, but there are also a lot of eateries within driving distance
- There is a gym and a swimming pool on campus, but they require you to wear FLETC gym uniforms
- You can check-out bicycles to get some exercise or use them to get around campus
- There is a full service post office, bank, dry cleaners & barber shop on campus
- There is a Walmart and a grocery store nearby

## What to Bring

- Toiletries
- Shower shoes/flip flops
- Hand soap
- Sun block
- Blow-dryer
- Sunglasses
- If you are particular about bedding, bring your own full size sheet set, pillow, and blanket

## How to Dress

- Business casual with comfortable professional shoes. The campus is large and you may have to walk long distances to get from place to place

## Team Lead

- Feel free to contact the Artesia Team Lead, Mallory Lynn, if you have questions, comments, or concerns. She can be reached at 479-799-4555

## Nearest Airports

- Roswell (1 hour drive)
- El Paso (3 hour drive)

## Mailing Address

- A\_ICE-0001 FLETC  
Attn: (your name)  
1300 W. Richey Ave  
Artesia, NM 88210

## Equipment Needs

- Offices in Artesia are equipped with network enabled laptops, printers, scanners, and phones. TDY employees do not need to bring any IT equipment with them



**Jowett, Haley L**

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**From:** Otten, Henry D  
**Sent:** Monday, July 21, 2014 7:31 AM  
**To:** Price, Bennie J; Hall, Sophia N  
**Cc:** Kim, Ted H; Pilotti, David A; Donis, Antonio; Liberto, James; Logan, Sheila T  
**Subject:** Asylum Order [REDACTED]

Bennie and Sophia,

I will be on travel 23-30 July.

If this order comes in, it needs to go up to Asylum – rm 6030. This hardware was ordered for Asylum office Artesia, NM. Antonio will let us know when he wants it sent.

**ID:** [REDACTED]  
**Title:** Purchase Hardware  
**Level:**  
**Turnaround Time:** 0 Hours

(b)(5) **Submit Date:** 7/3/2014 11:  
**Required Date:**  
**Requested By:** Henry Otten  
**Requested For:** Ted Kim  
**Company:** US Citizensh

Please let all of us know if/when it arrives. Thanks

Ted,

Please let me know when further orders are needed to support border operations. These get fast tracked thru procurement. Please be mindful that laptops take 2-3 days to image and encrypt when they arrive at our office. If you are looking for a more permanent setup, then workstations may be better option.

Henry

Henry Otten

Refugee Affairs, Asylum and International Operations  
202-272-1989

IT Self Help - [http://ecn.uscis.dhs.gov/team/raio/Chief\\_of\\_Staff/Comms/IT/SitePages/IT%20Self%20Help.aspx](http://ecn.uscis.dhs.gov/team/raio/Chief_of_Staff/Comms/IT/SitePages/IT%20Self%20Help.aspx)



**U.S. Citizenship  
and Immigration  
Services**

**Jowett, Haley L**

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**From:** Hess, Peter A  
**Sent:** Monday, July 07, 2014 6:45 PM  
**To:** Kim, Ted H  
**Subject:** Cell phones

Ted,

If you can provide the names of the users needing a USCIS mobile phone we should be able to overnight them tomorrow.

First and Last name and home office.

Thank you,

- Pete  
Sent from BlackBerry

(b)(6)

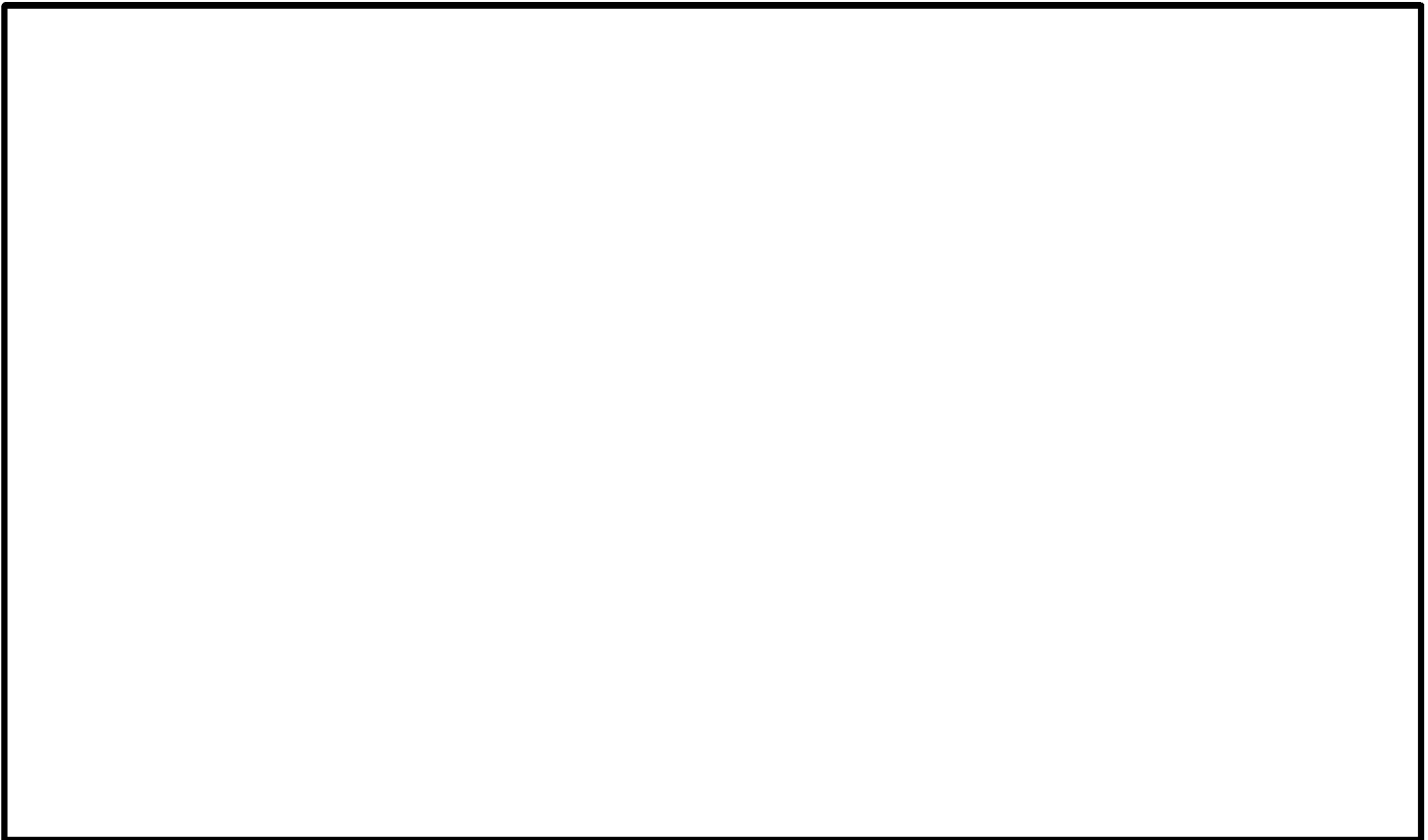
Peter Hess -- OIT EID -- 802-872-9402(w)



**Jowett, Haley L**

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**From:** Kim, Ted H  
**Sent:** Wednesday, June 25, 2014 8:19 PM  
**To:** Radel, David M (David.M.Radel@uscis.dhs.gov); Menges, Patricia A; Caudill-Mirillo, Ashley B; Raufer, Susan; Heinrich, Lorie R; Bardini, Emilia M; Yue, Calton  
**Cc:** Lafferty, John L; Stone, Mary M; Pilotti, David A; Gadson, Irvin C; Hemming, Bryan D; Donis, Antonio; Hussey, Jedidah M; Madsen, Kenneth S; FLANAGAN, Lisa M; Papazian, Varsenik L; Aguilar, Kimberly M  
**Subject:** FW: Planning for possible surge of staff to border detention facilities  
**Importance:** High  
(b)(5)



Please work w/ZHN (Irvin and Bryan) to work out arrangements and let me know if you run into any issues with meeting the TDY need. I did not put an end date to the timeframes of the TDYs above because we'd like to leave that to the volunteer for as long as he/she can commit. Ideally, the commitment would be for at least a month (and I know some committed to even more, which we should take them up on), but the bare minimum is 2 weeks.

(b)(7)(e)

It would be preferable if staff could bring their own laptops, a thumb drive, and a VPN token, if possible. We are at very low travel balances across the program because of the [redacted] and the recent trips to the border areas, plus the fact that we are at the end of the quarter. So if the sending office can pay for the travel, that would be ideal. If travel funding is unavailable between the sending office and ZHN, please contact David. We are working with the front office to secure an infusion of travel funding to staff these TDYs for the rest of the FY.

In the meantime, we ask that every asylum office refresh their volunteer rosters regularly and keep me apprised. I will check in with you on these at our bi-weekly calls.

Please thank your staff for rising to this immense challenge before us. We are being tested to our limits as a program, and it is reassuring to know that so many are willing to step up to the plate and take their best swings.

Thanks,  
Ted

---

**From:** Kim, Ted H  
**Sent:** Friday, June 20, 2014 9:42 AM  
**To:** RAIO - Asylum Field Office Managers  
**Cc:** Stone, Mary M; Tanner, Rebecca S; Pilotti, David A; Roberts, Rhonda J; Lafferty, John L  
**Subject:** RE: Planning for possible surge of staff to border detention facilities  
**Importance:** High

(b)(5)

Quick update and request--



We will be deploying staff on a rotational basis, and we appreciate all of your assistance in making this happen. The end date is not clear, though we expect it to go on for several months.

Request: For now, we need three additional AO volunteers to be on call to be willing to travel to any one of these facilities at a moment's notice. Right now, there is insufficient work for these three extra AOs for whom there are interviewing offices set aside, but that could change overnight. Please let me know ASAP if you have a ready and willing "on-call" volunteer. We will also be soliciting volunteers from HQ.

Thanks,  
Ted

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**From:** Lafferty, John L  
**Sent:** Tuesday, June 17, 2014 6:27 PM  
**To:** RAIO - Asylum Field Office Managers  
**Cc:** Kim, Ted H; Stone, Mary M; Tanner, Rebecca S; Pilotti, David A; Roberts, Rhonda J  
**Subject:** Planning for possible surge of staff to border detention facilities

(b)(5)

Good afternoon Directors and Deputies,



Thank you very much for your ever positive attitude to yet another challenge.

John

**Jowett, Haley L**

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**From:** Lafferty, John L  
**Sent:** Wednesday, July 09, 2014 8:27 AM  
**To:** Barrett, Gina V  
**Cc:** Kim, Ted H  
**Subject:** FW: RAIO Artesia Solution \*July 8th Report\*  
**Attachments:** IMG-20140708-00067.jpg; IMG-20140708-00073.jpg

Gina,

A couple of additional pictures are attached to this e-mail. There is also some discussion of the partition issue at the end of this e-mail.

Thanks!

John

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**From:** Renaud, Tracy L  
**Sent:** Wednesday, July 09, 2014 9:06 AM  
**To:** Scialabba, Lori L  
**Cc:** Jones, Rendell L; Lafferty, John L; Higgins, Jennifer B; Langlois, Joseph E; Patterson, Katherine R  
**Subject:** FW: RAIO Artesia Solution \*July 8th Report\*

Lori,

Below is an update on the work to get V-Tel functional in Artesia. Pictures attached is the area where the interviews are being conducted.

*Tracy L. Renaud  
Deputy Associate Director  
Management Directorate  
US Citizenship & Immigration Services  
Department of Homeland Security  
202-272-1739 (desk)*

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**From:** Jones, Keith A  
**Sent:** Wednesday, July 09, 2014 7:36 AM  
**To:** Jones, Rendell L; Renaud, Tracy L  
**Subject:** FW: RAIO Artesia Solution \*July 8th Report\*

FYSA on current status

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**From:** Tetreault, Chad E  
**Sent:** Wednesday, July 09, 2014 1:16:42 AM  
**To:** Jones, Keith A; Caldwell, Mark E; Azuero, Carlos F; Schwartz, Mark A; Williams, Robert G; Palmer, Norman A  
**Cc:** Stokes, Regina R; Logan, Shanita L; Fletcher, Lisa K; Hess, Peter A  
**Subject:** Re: RAIO Artesia Solution \*July 8th Report\*

Good evening all.

Quick notes below-


The data circuits have been delivered to FLETC building 3 and we expect to have them extended and operational Friday.

Cabling is in process on the campus and the SAIC cabling installation was approved by FLETC, so we will be a go to install our own cabling Thursday. It sounds like FLETC is being inundated with requests for support by several other agencies moving in, so we made a good decision, asking to pull our own cable.

All hardware has been palatized and is shipping in the morning to site and the team will be traveling tomorrow also.

Houston Asylum will have new space in the server by July 9th, still on track to have that completed.

We also confirmed FLETC will allow us to use their telecom services to conduct the multi-party conferences as the Asylum seekers are not fluent in english requiring dedicated translators as well as other agencies on the call during the interviews.



I attached pictures of the new office. FLETC expects to have walls installed inside the trailer in a week or two.

Any questions, please let me know.

(b)(5)

Chad

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**From:** Tetreault, Chad E

**Sent:** Monday, July 07, 2014 03:47 PM

**To:** Jones, Keith A; Caldwell, Mark E; Azuero, Carlos F; Schwartz, Mark A

**Cc:** Stokes, Regina R; Logan, Shanita L; Fletcher, Lisa K ([Lisa.K.Fletcher@uscis.dhs.gov](mailto:Lisa.K.Fletcher@uscis.dhs.gov)); Hess, Peter A

**Subject:** RE: RAIIO Artesia Solution \*July 7th Report\*

Good afternoon all.

Attached is a quick PowerPoint with some pictures to see the campus layout, I thought it may help to see the location layout as the building we are operating out of are quite far apart on the FLETC campus. We are making great progress, all circuit orders are in, cabling is in process on the campus, and the deployment team is making travel plans for later this week. The LAN in a CAN (rapid deployment network) is ready to ship and FLETC has been great to work with! Peter Hess is on site right now with Ted Kim and we are verifying all Asylum needs have been covered for this site. There are several federal agencies flying people into the site so it was a really good move for us to jump out ahead and get FLETC support before the others cause some logistic delays.

**High level Details for the week from today-**

- USCIS EID deployed onsite working with FLETC and Asylum today
- Data circuits ordered July 3rd, installation expected July 11th
- Data network designed and burned it, shipping to site July 8th

- FLETC Local OIT installing campus infrastructure from building [REDACTED]
- Houston Asylum receiving new hard drives for server to support remote Asylum staff in Artesia by July 9th
- Cabling inside trailer for all federal agencies will be completed July 10th/11th
- Deployment team will arrive July 10th to install and configure network

Any questions, please let me know.

(b)(5)

Chad

---

**From:** Tetreault, Chad E  
**Sent:** Thursday, July 03, 2014 3:35 PM  
**To:** Jones, Keith A; Caldwell, Mark E; Azuero, Carlos F  
**Cc:** Stokes, Regina R; Logan, Shanita L; Schwartz, Mark A  
**Subject:** RE: RAIO Artesia Solution Ready  
**Importance:** High

Hi all.

Just a quick update-

1. The circuit order has been placed as of 3PM today for the Artesia site and coordination has been done with FLETC technical staff to support our install next week.
2. We conducted a needs assessment meeting with the onsite RAIO staff and RAIO HQ this AM, all needs have been identified and the site is to be treated as a standard USCIS Asylum Office.
3. Peter Hess is meeting Ted Kim from RAIO onsite Monday and will begin coordinating SETI resources for staging and shipping of hardware.
4. We are coordinating directly with RAIO End User Services to ensure those items are also installed to support the 11 RAIO staff.
5. We are capturing all costs related to this effort and will work with Regina to ensure she has all she needs from us.

Any questions, let me know.

Happy 4th!

~ Chad

---

**From:** Tetreault, Chad E  
**Sent:** Wednesday, July 02, 2014 9:31 PM  
**To:** Jones, Keith A; Caldwell, Mark E; Azuero, Carlos F  
**Cc:** Stokes, Regina R; Logan, Shanita L; Schwartz, Mark A  
**Subject:** Re: RAIO Artesia Solution Ready

Good evening Keith.

Tonight I spoke with Kathy in RAIO again, I believe you spoke with Ted Kim also. We have to have boots on the ground in Artesia for a survey and planning with RAIO (including Mr. Kim) on Monday. I am going to send my most senior deployment lead, Peter Hess.

On top of Artesia as you know we are also to stand up networks in Kentucky and Laredo. RAIO provided me a schedule



for both those sites below-

Initial forecasting staffing for Artesia, Kentucky and Laredo-



(b)(5)

I am estimating a financial need for the remaining sites to be  possibly more, I will not have sufficient program funds to cover that. I will give Regina a call in the morning and we can come up with a plan to deal with these two additional sites. Additionally, I had not planned for any of this travel so this will also affect the travel estimates we provided a month or so ago, but I assume since its UAC related its okay to proceed.

Do you have any questions or concerns?

Thank you.

Chad

---

**From:** Jones, Keith A  
**Sent:** Wednesday, July 02, 2014 03:42 PM  
**To:** Tetreault, Chad E; Caldwell, Mark E; Azuero, Carlos F  
**Cc:** Stokes, Regina R; Logan, Shanita L; Schwartz, Mark A  
**Subject:** RE: RAI0 Artesia Solution Ready

Chad, you have concurrence to move forward –

Source of funds will be from within OIT. I will coordinate with Mgmt in the event we require additional funds prior to year end for other efforts.

Thanks for the efforts.

Regina/Shanita – please ensure your team treats this as a very high priority in the event approval of funding or an acquisition traverses the resource management division.

Keith

**From:** Tetreault, Chad E  
**Sent:** Wednesday, July 02, 2014 3:35 PM  
**To:** Jones, Keith A; Caldwell, Mark E; Azuero, Carlos F  
**Subject:** RAIO Artesia Solution Ready  
**Importance:** High

Keith,

So far we have made a lot of progress in a few hours. I met with Kathy Valerin Kathy (David Pilotti, Management Branch Chief, is OOO) of RAIO and she advised me the Artesia office is being treated as an extension office of the Houston Asylum Office. That falls perfectly in line with our potential plan to support this Credible Fear initiative as Houston is already a major user of video interviewing. RAIO would like a network operational in this facility as soon as possible. Below are the requirements we have gathered and are ready to move out on (Kathy if I missed anything let me know)-

1. Artesia shall be treated as a standard USCIS Asylum office (as an extension of the Houston Asylum)
2. Network connectivity and standard RAIO requirements for an Asylum office will be followed
3. Site needs dedicated VTC for Credible Fear interviews
4. Users need USCIS network access, voice services, and VTC services (Kathy checking on Fax service needs)

I have also spoken with ICE and the individual DHS component infrastructure needs are being run by Federal Law Enforcement Training Center staff, and the POC is Ron Easterling, this is a FLETC site. I have reached out to Ron and he has confirmed the FLETC will support all components local infrastructure needs, but all components are responsible for circuits/connectivity to their respective networks. Components are requested to use their network service and the coordination is being done by FLETC local as they have the fiber and local network services in place. I have confirmed with Verizon that we can install network connectivity into the Artesia facility (Building 3) within a business week from date of order and Ron will provide us space for network services.



We have a highly portable network that we can also ship down to Artesia and USCIS users can operate off of it with an extended period of time. We can have that shipped to the location within 48 hours.

With that, I am looking for permission to start moving out on this initiative.

(b)(5)

I have some estimated costs to work out as follows-



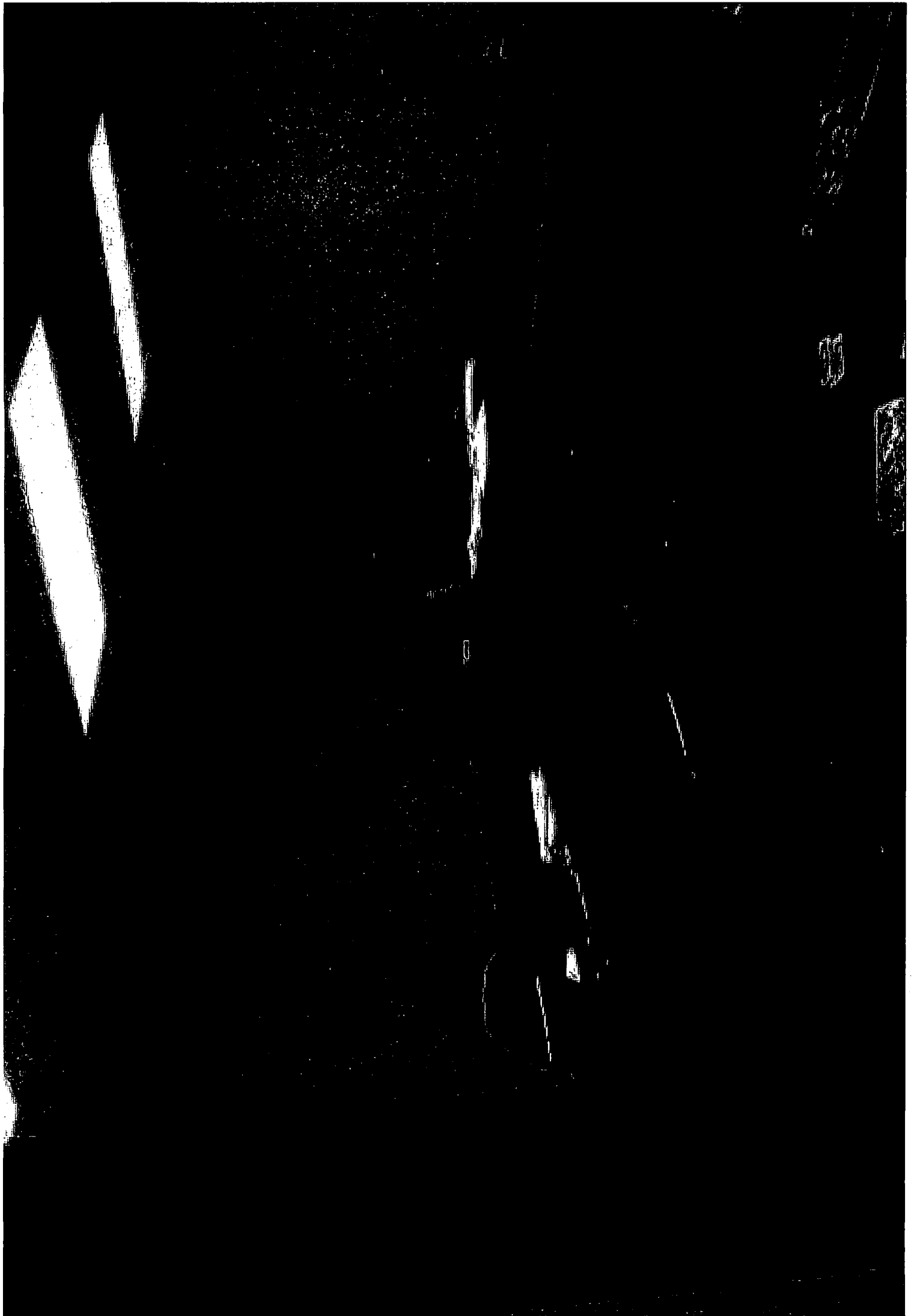
As a suggestion we can use existing funds in current accounts to move out on this and have the program backfill funds used to expedite the implementation. My team is standing by to move forward and get the implementation efforts under way. Once we get direction from leadership my team will work on a schedule and I will communicate that up.

Thank you.

~ Chad



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S -0001131



## **Hemming, Bryan D**

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**From:** Hemming, Bryan D  
**Sent:** Tuesday, June 24, 2014 9:09 AM  
**To:** Kim, Ted H; Stone, Mary M  
**Cc:** Gadson, Irvin C; Walters, Jessica S  
**Subject:** Artesia Team

Good Morning!

Our Artesia team is coming together and we've heard back from both POCs so it looks like the wheels are in motion. We have one SAO (Patrick Curphey), four asylum officers, and two support staff (all from ZHN) going on Monday (coming back Thursday). We'll keep you updated with anything new.

Thanks,

Bryan











(b)(5)

**Hemming, Bryan D**

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**From:** Hemming, Bryan D  
**Sent:** Wednesday, July 02, 2014 4:20 PM  
**To:** Curphey, Patrick R  
**Cc:** Lawson, Deborah L; Daum, Robert L; Gadson, Irvin C; Sansom, Susanne A  
**Subject:** RE: NFTS Codes - Artesia

Yes, let's set this up. Patrick- can you check with ICE and see if the below NFTS procedure would work? What would ICE like to do?

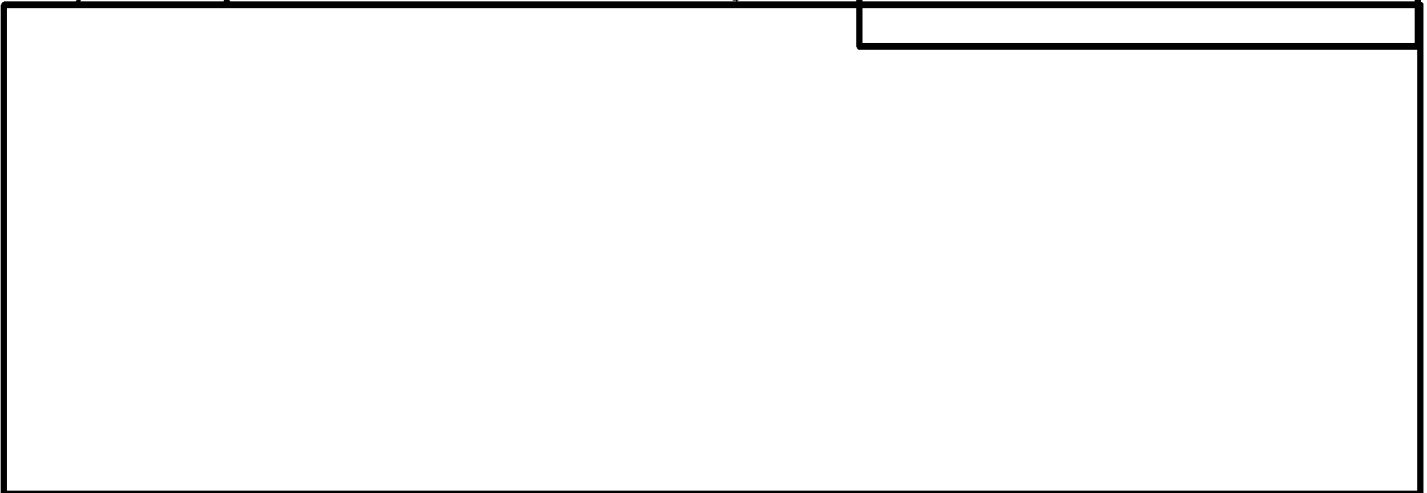
Thanks,  
Bryan

**From:** Lawson, Deborah L  
**Sent:** Wednesday, July 02, 2014 3:05 PM  
**To:** Hemming, Bryan D; Daum, Robert L; Gadson, Irvin C; Sansom, Susanne A  
**Subject:** RE: NFTS Codes - Artesia

(b)(5)

Yaay!

Also, here's an update on what I *\*think\** Irvin was talking about: /



Please give this some thought, maybe get with Patrick since he may have some input to what the process is there for file-flow, and let me know how you want to proceed.

Thank you, Bryan!

*Debbie Lawson*  
*Supervisory CIS Assistant*  
*Acting Congressional Liaison*  
*UAC Program Assistant*  
*Houston Asylum Office*  
*16630 Imperial Valley Dr., Ste. 200*  
*Houston, TX 77060*  
*281-931-2100*



U.S. Citizenship  
and Immigration  
Services

**From:** Hemming, Bryan D  
**Sent:** Wednesday, July 02, 2014 2:36 PM  
**To:** Lawson, Deborah L; Daum, Robert L; Gadson, Irvin C; Sansom, Susanne A  
**Subject:** RE: NFTS Codes - Artesia

Let's use it!

**From:** Lawson, Deborah L  
**Sent:** Tuesday, July 01, 2014 12:40 PM  
**To:** Daum, Robert L; Hemming, Bryan D; Gadson, Irvin C; Sansom, Susanne A  
**Subject:** NFTS Codes - Artesia

We have AC already available in NFTS. Artesia Cases!

I like it! 😊

Let me know...

*Debbie Lawson  
Supervisory CIS Assistant  
Acting Congressional Liaison  
UAC Program Assistant  
Houston Asylum Office  
16630 Imperial Valley Dr., Ste. 200  
Houston, TX 77060  
281-931-2100*



U.S. Citizenship  
and Immigration  
Services

**Jowett, Haley L**

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**From:** Donis, Antonio  
**Sent:** Tuesday, July 29, 2014 3:32 PM  
**To:** Kim, Ted H  
**Subject:** Re: another quick issue (b)(5)

Sorry for the delay on this, Ted.



I checked on the status of the dividers last week and ERO said they were still trying to locate some. If they don't have them by the end of the week, we may want to move forward with purchasing them ourselves.

Thanks and hope all is well!

Antonio\_\_

---

**From:** Kim, Ted H  
**Sent:** Monday, July 28, 2014 02:28 PM  
**To:** Donis, Antonio  
**Subject:** RE: another quick issue



Also, do you know what the status of the cube dividers is? That might help.

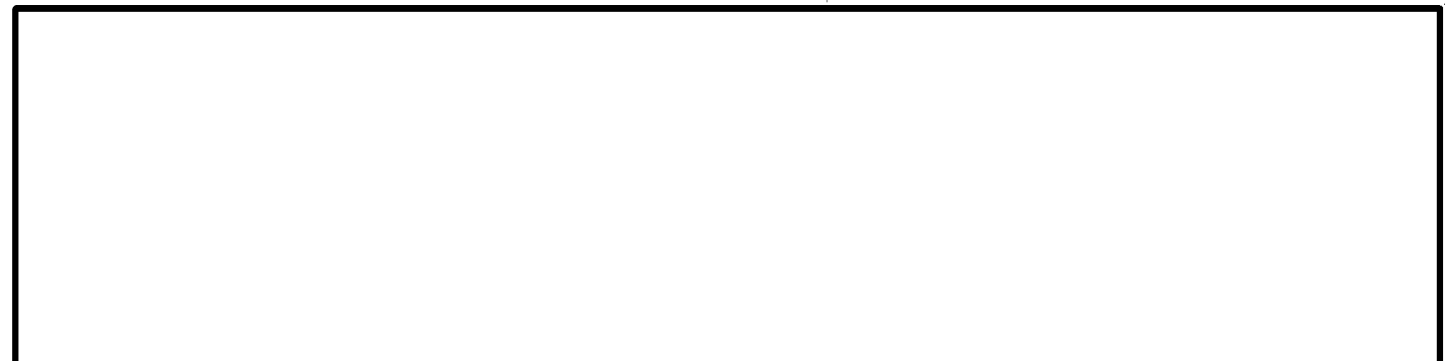
Thanks,  
Ted

---

**From:** Donis, Antonio  
**Sent:** Monday, July 28, 2014 4:10 PM  
**To:** Kim, Ted H  
**Subject:** RE: another quick issue

Ted,

Another quick question, I didn't want to raise it earlier but I would love to know your thoughts.



Antonio\_\_

(b)(5)

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**From:** Kim, Ted H  
**Sent:** Monday, July 28, 2014 2:32 PM  
**To:** Donis, Antonio  
**Subject:** RE: another quick issue

That's what I figured. Thanks, Ted

---

**From:** Donis, Antonio  
**Sent:** Monday, July 28, 2014 2:31 PM  
**To:** Kim, Ted H  
**Subject:** RE: another quick issue

Hey Ted,

Thanks for your support and for arranging that call. It was really helpful.



Let me know if I can shed any more light on this,

Antonio\_\_

---

**From:** Kim, Ted H  
**Sent:** Monday, July 28, 2014 1:52 PM  
**To:** Donis, Antonio  
**Subject:** another quick issue

Hi—Thanks for holding down the fort in Artesia—you're doing a remarkable job holding things together.



Thanks,  
Ted

---

Ted Kim  
Deputy Chief, Asylum Division  
U.S. Citizenship & Immigration Services  
Department of Homeland Security



**Jowett, Haley L**

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**From:** Hemming, Bryan D  
**Sent:** Wednesday, July 23, 2014 12:13 PM  
**To:** Donis, Antonio; Kim, Ted H; Daum, Robert L  
**Subject:** RE: Artesia Volunteer: Ryan Littlepage

(b)(5)

Hi again:

[Redacted]

Thanks,

---

**From:** Hemming, Bryan D  
**Sent:** Wednesday, July 23, 2014 11:53 AM  
**To:** Donis, Antonio; Kim, Ted H; Daum, Robert L  
**Subject:** RE: Artesia Volunteer: Ryan Littlepage

Thanks Antonio,

[Redacted]

---

**From:** Donis, Antonio  
**Sent:** Wednesday, July 23, 2014 11:17 AM  
**To:** Hemming, Bryan D; Kim, Ted H; Daum, Robert L  
**Subject:** RE: Artesia Volunteer: Ryan Littlepage

[Redacted]

Thanks for everything!

Antonio\_\_

---

**From:** Hemming, Bryan D  
**Sent:** Wednesday, July 23, 2014 12:03 PM  
**To:** Kim, Ted H; Daum, Robert L; Donis, Antonio  
**Subject:** RE: Artesia Volunteer: Ryan Littlepage

[Redacted]



[Redacted]

Thanks,

---

**From:** Kim, Ted H  
**Sent:** Wednesday, July 23, 2014 10:55 AM  
**To:** Hemming, Bryan D; Daum, Robert L; Donis, Antonio (b)(5)  
**Subject:** RE: Artesia Volunteer: Ryan Littlepage

[Redacted]

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**From:** Hemming, Bryan D  
**Sent:** Wednesday, July 23, 2014 11:54 AM  
**To:** Kim, Ted H; Daum, Robert L; Donis, Antonio  
**Subject:** RE: Artesia Volunteer: Ryan Littlepage

[Redacted]

Bryan

---

**From:** Kim, Ted H  
**Sent:** Wednesday, July 23, 2014 10:46 AM  
**To:** Hemming, Bryan D; Daum, Robert L; Donis, Antonio  
**Subject:** RE: Artesia Volunteer: Ryan Littlepage

Makes sense. Let me know if you don't hear from any offices by the end of today regarding support staff/SAO. I will target the requests to certain offices then.

---

**From:** Hemming, Bryan D  
**Sent:** Wednesday, July 23, 2014 11:21 AM  
**To:** Kim, Ted H; Daum, Robert L; Donis, Antonio  
**Subject:** RE: Artesia Volunteer: Ryan Littlepage

[Redacted]

Thanks,

---

**From:** Hemming, Bryan D  
**Sent:** Wednesday, July 23, 2014 7:21 AM (b)(5)  
**To:** Kim, Ted H; Daum, Robert L; Donis, Antonio  
**Subject:** RE: Artesia Volunteer: Ryan Littlepage

[Redacted]

Thanks,  
Bryan

---

**From:** Kim, Ted H  
**Sent:** Wednesday, July 23, 2014 7:18 AM  
**To:** Hemming, Bryan D; Daum, Robert L  
**Cc:** Donis, Antonio; Littlepage, Ryan L; Potts, LeRoy G; Miller, Amber D  
**Subject:** RE: Artesia Volunteer: Ryan Littlepage

How long do you need the SAO to stay?

---

**From:** Hemming, Bryan D  
**Sent:** Wednesday, July 23, 2014 8:15 AM  
**To:** Kim, Ted H; Daum, Robert L  
**Cc:** Donis, Antonio; Littlepage, Ryan L; Potts, LeRoy G; Miller, Amber D  
**Subject:** RE: Artesia Volunteer: Ryan Littlepage

(b)(5)

Thanks,  
Bryan

---

**From:** Kim, Ted H  
**Sent:** Wednesday, July 23, 2014 7:08 AM  
**To:** Daum, Robert L; Hemming, Bryan D  
**Cc:** Donis, Antonio; Littlepage, Ryan L; Potts, LeRoy G  
**Subject:** Artesia Volunteer: Ryan Littlepage

Thanks,  
Ted

---

Ted Kim  
Deputy Chief, Asylum Division  
U.S. Citizenship & Immigration Services  
Department of Homeland Security

**Jowett, Haley L**

---

**From:** Hemming, Bryan D  
**Sent:** Monday, July 14, 2014 5:39 AM  
**To:** Kim, Ted H  
**Cc:** Daum, Robert L; Reza, Naushad; Miller, Amber D; Ross, Rebecca R  
**Subject:** RE: Artesia Volunteer

Great! Reza is a great asset and we'll get him all set up.

Thanks,  
Bryan

---

**From:** Kim, Ted H  
**Sent:** Sunday, July 13, 2014 12:43 PM  
**To:** Hemming, Bryan D  
**Cc:** Daum, Robert L; Reza, Naushad  
**Subject:** Artesia Volunteer

Bryan: We have a volunteer at HQ who is available to travel to Artesia from 8/4 to 8/29 (give or take a couple of days)—Reza. He's been to ZHN before for a couple of months, if you remember him. Anyway, please feel free to coordinate directly with him on the TDY—I've copied him here.

Thanks,  
Ted

---

Ted Kim  
Deputy Chief, Asylum Division  
U.S. Citizenship & Immigration Services  
Department of Homeland Security

**Jowett, Haley L**

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**From:** Hussey, Jedidah M  
**Sent:** Tuesday, July 01, 2014 8:35 AM  
**To:** Kim, Ted H  
**Subject:** RE: Artesia

(b)(6)

(b)(6)

Ted,

[Redacted]

Can that work?

Jeddy

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**From:** Kim, Ted H  
**Sent:** Tuesday, July 01, 2014 9:32 AM  
**To:** Hussey, Jedidah M  
**Subject:** RE: Artesia

[Redacted]

Thanks,  
Ted

---

**From:** Hussey, Jedidah M  
**Sent:** Tuesday, July 01, 2014 8:02 AM  
**To:** Kim, Ted H; Donis, Antonio  
**Subject:** RE: Artesia

(b)(5)

(b)(6)

Ted,

[Redacted]

Quid pro quo, Clarisse.

Jeddy

---

**From:** Kim, Ted H  
**Sent:** Monday, June 30, 2014 3:41 PM  
**To:** Hussey, Jedidah M; Donis, Antonio  
**Subject:** Artesia

Jeddy/Antonio: Thank you for offering up Antonio's services for the Artesia lead. We will take you up on that offer. Could you please let me know again the earliest date that he can start and for how long? Then we can get the ball rolling from there.

Thanks,  
Ted

---

Ted Kim  
Deputy Chief, Asylum Division  
U.S. Citizenship & Immigration Services  
Department of Homeland Security

## Jowett, Haley L

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**From:** Hall, Sophia N  
**Sent:** Friday, July 11, 2014 9:41 AM  
**To:** Price, Bennie J; Otten, Henry D; Donis, Antonio; Kim, Ted H  
**Cc:** Valerin, Kathy D; Pilotti, David A; Allen, Eugene A; Sullivan, Pamela (CTR)  
**Subject:** RE: Artisia

SAMS has been updated.

"Kindness Matters"

Thanks and have a great day!

*Sophia N. Hall*

DHS/USCIS  
Refugee, Asylum, & International Operations  
Ph: 202-272-8145  
Fax: 202-272-1994

---

**From:** Price, Bennie J  
**Sent:** Thursday, July 10, 2014 7:53 AM  
**To:** Otten, Henry D; Donis, Antonio; Kim, Ted H  
**Cc:** Valerin, Kathy D; Pilotti, David A; Hall, Sophia N; Allen, Eugene A; Sullivan, Pamela (CTR)  
**Subject:** RE: Artisia

I will have the G504 prepared shortly.

Thanks,

Bennie Price  
Management & Program Analyst  
Refugee, Asylum & International Operations  
Department of Homeland Security  
U.S. Citizenship & Immigration Services, Headquarters  
20 Massachusetts Ave., NW - Suite 3300  
Washington, DC 20529-2100  
Phone (202) 272-1596

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**From:** Otten, Henry D  
**Sent:** Thursday, July 10, 2014 7:32 AM  
**To:** Donis, Antonio; Price, Bennie J; Kim, Ted H  
**Cc:** Valerin, Kathy D; Pilotti, David A; Hall, Sophia N; Allen, Eugene A; Price, Bennie J; Sullivan, Pamela (CTR)  
**Subject:** RE: Artisia

Let me correct....

We will have all laptop configurations finished today. We will pack them this morning. Will get them out the door with UPS at 4PM today.

Bennie - need G504.

Pamela, who in ASM does UPS shipping labels? I need overnight UPS for 13+ boxes. Will get final number when laptops are packed.

Antonio, you may want to ask if anyone on IT team can extend their stay. Most of the equipment can be set up by end users.

Henry Otten

Refugee Affairs, Asylum and International Operations  
202-272-1989

IT Self Help - [http://ecn.uscis.dhs.gov/team/raio/Chief\\_of\\_Staff/Comms/IT/SitePages/IT%20Self%20Help.aspx](http://ecn.uscis.dhs.gov/team/raio/Chief_of_Staff/Comms/IT/SitePages/IT%20Self%20Help.aspx)



**U.S. Citizenship  
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**From:** Otten, Henry D  
**Sent:** Thursday, July 10, 2014 5:28 AM  
**To:** Donis, Antonio; Price, Bennie J; Kim, Ted H  
**Cc:** Valerin, Kathy D; Pilotti, David A; Hall, Sophia N; Allen, Eugene A  
**Subject:** Re: Artesia

We are still working thru the laptops. Should have in shipment tomorrow.  
Who in hq asm does ups?  
Sent from blackberry. Please excuse typos. Thank you.

Henry

---

**From:** Donis, Antonio  
**Sent:** Wednesday, July 09, 2014 07:18 PM Eastern Standard Time  
**To:** Price, Bennie J; Kim, Ted H; Otten, Henry D  
**Cc:** Valerin, Kathy D; Pilotti, David A; Hall, Sophia N; Allen, Eugene A  
**Subject:** RE: Artesia

Hey everyone,

Just following up on the shipment of laptops, printers, and scanners to Artesia.

OIT is installing the drops for this equipment on Friday and agreed to stay until Monday to help us migrate the new hardware to our new network. We'd like to take them up on their very generous offer as we do not have a local DSM in Artesia and may run into problems trying to do this on our own.

Will our shipment be here by Friday?

Thanks for your time and help,

Antonio\_\_

---

**From:** Price, Bennie J  
**Sent:** Tuesday, July 08, 2014 2:03 PM  
**To:** Kim, Ted H; Otten, Henry D

**Cc:** Donis, Antonio; Valerin, Kathy D; Pilotti, David A; Hall, Sophia N; Allen, Eugene A; Price, Bennie J  
**Subject:** RE: Artisia

Thanks for the quick response. I will work with Henry to get everything documented and sent out.

Thanks,

Bennie Price  
Management & Program Analyst  
Refugee, Asylum & International Operations  
Department of Homeland Security  
U.S. Citizenship & Immigration Services, Headquarters  
20 Massachusetts Ave., NW - Suite 3300  
Washington, DC 20529-2100  
Phone (202) 272-1596

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**From:** Kim, Ted H  
**Sent:** Tuesday, July 08, 2014 1:46 PM  
**To:** Price, Bennie J; Otten, Henry D  
**Cc:** Donis, Antonio; Valerin, Kathy D; Pilotti, David A; Hall, Sophia N; Allen, Eugene A  
**Subject:** RE: Artisia

This will be a permanent transfer. The site is a new DHS facility called Artesia Family Residence Center (AFRC). This property will remain under RAIO stewardship and can be assigned to Antonio Donis, who is the Asylum lead in Artesia.

The shipping address is:



(b)(6)

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**From:** Price, Bennie J  
**Sent:** Tuesday, July 08, 2014 1:42 PM  
**To:** Otten, Henry D; Kim, Ted H  
**Cc:** Donis, Antonio; Valerin, Kathy D; Pilotti, David A; Price, Bennie J; Hall, Sophia N; Allen, Eugene A  
**Subject:** RE: Artisia

Good Afternoon,

I have a couple of questions on the property management side;

Will this equipment be transferred in Sunflower to a particular office or site?

Will this be a permanent transfer or a temporary transfer?

If this equipment stays under the RAIO steward code it is a requirement to have end user's assigned in Sunflower. Based on the below email correspondence it looks like the equipment will have multiple users in this case I will need to put it in at least one individual's name. Who will this individual be?

What is the physical address where this equipment will be going?



Thanks,

Bennie Price  
Management & Program Analyst  
Refugee, Asylum & International Operations  
Department of Homeland Security  
U.S. Citizenship & Immigration Services, Headquarters  
20 Massachusetts Ave., NW - Suite 3300  
Washington, DC 20529-2100  
Phone (202) 272-1596

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**From:** Otten, Henry D  
**Sent:** Tuesday, July 08, 2014 1:31 PM  
**To:** Kim, Ted H; Price, Bennie J  
**Cc:** Donis, Antonio; Valerin, Kathy D; Pilotti, David A  
**Subject:** RE: Artisia

Bennie,

Please scan items below. Please prep G504.

Thanks

(Had to reduce printers to 4. One box was empty.)

Henry

---

**From:** Otten, Henry D  
**Sent:** Tuesday, July 08, 2014 12:50 PM  
**To:** Kim, Ted H  
**Cc:** Donis, Antonio; Valerin, Kathy D; Pilotti, David A  
**Subject:** RE: Artisia

Antonio,

1. Can you please send a shipping address? I guess this will need to ship by UPS? Or if ASM can try shipping via Cavalier.
2. I will have the following ready to ship by end of week.
  - a. 8 scansnaps
  - b. 4 Dell 2350 desktop printers
  - c. 13 laptops.
3. If Artisia site needs DSM support setting up, we will need to coordinate with EUS in OIT. Our IT team has scheduled international travel starting this weekend. Users should be able to set up most , if not all of this equipment.

Henry Otten



**U.S. Citizenship  
and Immigration  
Services**

---

**From:** Kim, Ted H  
**Sent:** Monday, July 07, 2014 10:00 AM  
**To:** Otten, Henry D  
**Cc:** Donis, Antonio  
**Subject:** Re: Artisia

Please use Antonio Donis's name. Thanks, Ted

Sent by Blackberry

---

**From:** Otten, Henry D  
**Sent:** Monday, July 07, 2014 06:03 AM  
**To:** Kim, Ted H  
**Cc:** Donis, Antonio  
**Subject:** RE: Artisia

I need to get the name of at least one person who will be on site, who can log in past the encryption screen and make VPN connection.

After that key files for other users can be pushed up remotely and synched with encryption server.

---

**From:** Kim, Ted H  
**Sent:** Sunday, July 06, 2014 2:07 PM  
**To:** Otten, Henry D  
**Cc:** Donis, Antonio  
**Subject:** RE: Artisia

There will be many people using these laptops on a rotating basis. Do you just need the first 13 names for imaging purposes?

---

**From:** Otten, Henry D  
**Sent:** Sunday, July 06, 2014 10:58 AM  
**To:** Kim, Ted H; Donis, Antonio  
**Subject:** RE: Artisia

Ted,

Can someone provide me 13 names for the laptops. I need to push encryption key files onto the laptops.

Henry

---

**From:** Kim, Ted H  
**Sent:** Thursday, July 03, 2014 10:59 AM

**To:** Otten, Henry D  
**Subject:** RE: Artisia

Yes—that would be good. Thank you, Ted

---

**From:** Otten, Henry D  
**Sent:** Thursday, July 03, 2014 10:58 AM  
**To:** Kim, Ted H  
**Subject:** RE: Artisia

Ted,

The equipment I currently have on hand:

13 laptops  
8 scansnaps  
5 printers

Do you want me to do procurement for remaining items?

5 scansnaps  
8 printers?

Henry

---

**From:** Kim, Ted H  
**Sent:** Wednesday, July 02, 2014 8:52 PM  
**To:** Otten, Henry D  
**Cc:** Donis, Antonio  
**Subject:** Re: Artisia

Do you want to come up at 9:15? I'm meeting with Antonio Donis at that time--he'll be the Asylum lead on the ground at Artesia.

Sent by Blackberry

---

**From:** Otten, Henry D  
**Sent:** Wednesday, July 02, 2014 07:59 PM  
**To:** Kim, Ted H  
**Subject:** Artisia

Ted,

Can we meet to discuss requirements. Would prefer to do this before 1100 meeting.

Thanks

Henry

Henry Otten  
Refugee Affairs, Asylum and International Operations

202-272-1989

IT Self Help - [http://ecn.uscis.dhs.gov/team/raio/Chief\\_of\\_Staff/Comms/IT/SitePages/IT%20Self%20Help.aspx](http://ecn.uscis.dhs.gov/team/raio/Chief_of_Staff/Comms/IT/SitePages/IT%20Self%20Help.aspx)



**U.S. Citizenship  
and Immigration  
Services**

## Jowett, Haley L

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**From:** Hemming, Bryan D  
**Sent:** Tuesday, September 09, 2014 10:47 AM  
**To:** Kirkland, Brooke A; Daum, Robert L; Kim, Ted H  
**Cc:** Pilotti, David A  
**Subject:** RE: can we talk TDY scheduling tomorrow?  
**Attachments:** Tiger Teams Master Calendar.xlsx

Hi all:

Yes, I heard from Artesia today that they really only have room for 5 AOs right now so I pulled the spots. I went ahead and assigned the ZSF AOs to "support" spots at Artesia and PRS. The team leads will be able to rotate them in and out of interviews.

I guess I'll leave John Maalona at PIC for the 22<sup>nd</sup> unless I hear otherwise. That just leaves us needing one SAO at El Paso for the next two weeks and we are set. (The "third" support staff spots at the facilities are good to have but we can still function if they are not filled. PRS borders on *needing* the third depending on caseload.)

Thanks!

Bryan

---

**From:** Kirkland, Brooke A  
**Sent:** Tuesday, September 09, 2014 10:07 AM  
**To:** Hemming, Bryan D; Daum, Robert L; Kim, Ted H  
**Cc:** Pilotti, David A  
**Subject:** RE: can we talk TDY scheduling tomorrow?

Thanks, Bryan. We are working on finding an SAO for next week.

Also, it looks like you removed the one remaining open AO slot during the weeks of 9/15 and 9/22 in Artesia. If we have someone available, do you want us to send you their name or see if they can make themselves available starting 9/29?

Thanks,

Brooke

---

**From:** Hemming, Bryan D  
**Sent:** Tuesday, September 09, 2014 10:47 AM  
**To:** Daum, Robert L; Kim, Ted H  
**Cc:** Pilotti, David A; Kirkland, Brooke A  
**Subject:** RE: can we talk TDY scheduling tomorrow?

I'll be on. Please find attached the latest calendar. I'm still combing through the weekend so there may be some updates but this should reflect things as they stand pretty accurately.

David: Sorry I missed your call. Yes, we are still in need of an SAO in El Paso next week.

Thanks!

Bryan

---

**From:** Daum, Robert L  
**Sent:** Tuesday, September 09, 2014 9:21 AM

**To:** Kim, Ted H; Hemming, Bryan D  
**Cc:** Pilotti, David A; Kirkland, Brooke A  
**Subject:** Re: can we talk TDY scheduling tomorrow?

Thanks, Ted. I should be able to make that work. If not, please go ahead without me.

---

**From:** Kim, Ted H  
**Sent:** Tuesday, September 09, 2014 09:04 AM  
**To:** Hemming, Bryan D  
**Cc:** Pilotti, David A; Daum, Robert L; Kirkland, Brooke A  
**Subject:** RE: can we talk TDY scheduling tomorrow? (b)(5)

Rob/Bryan: Can you dial in [REDACTED] at 11am EST?

Bryan: In the meantime, can you please send me the latest TDY assignment rosters for the facilities? Thanks, Ted

---

**From:** Hemming, Bryan D  
**Sent:** Tuesday, September 09, 2014 6:42 AM  
**To:** Kim, Ted H; Daum, Robert L  
**Cc:** Pilotti, David A  
**Subject:** RE: can we talk TDY scheduling tomorrow?

Good Morning:

Apologies for missing your call yesterday. I'm back in the office and should be available anytime today.

Thanks,  
Bryan

---

**From:** Kim, Ted H  
**Sent:** Monday, September 08, 2014 8:49 PM  
**To:** Daum, Robert L; Hemming, Bryan D  
**Cc:** Pilotti, David A  
**Subject:** Re: can we talk TDY scheduling tomorrow?

Sure--What time works best?

Sent by Blackberry

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**From:** Daum, Robert L  
**Sent:** Monday, September 08, 2014 08:35 PM  
**To:** Kim, Ted H; Hemming, Bryan D  
**Cc:** Pilotti, David A  
**Subject:** Re: can we talk TDY scheduling tomorrow?

If you can move the time to later in the morning, I will try to call in. If not, no worries. Bryan can handle.

---

**From:** Kim, Ted H  
**Sent:** Monday, September 08, 2014 03:21 PM  
**To:** Hemming, Bryan D  
**Cc:** Daum, Robert L; Pilotti, David A  
**Subject:** can we talk TDY scheduling tomorrow?

Bryan-- I can try calling at 9am EST if that works for you. Thanks, Ted

---

Ted Kim  
Deputy Chief, Asylum Division  
U.S. Citizenship & Immigration Services  
Department of Homeland Security







(b)(5)

Date	Facility	Staffing	Name	Arrive	Depart	Facility	Staffing	Name	Arrive	Depart	Facility	Staffing	Name	Arrive	Depart	Facility	Staffing	Name	Arrive	Depart
4/11-2/1	Normal	SAD	Lee Taylor			Control Panel	SAD	Jack Berger			Off Pass	SAD	Eric Wills			Arrest	SAD	Patrick Curphy		
		AD	Albert Thomas (DP)					Caroline Collins					AD	Eric Butler		4/18-7/1	AD	Aaron Diaz		
		AD	Ed McLendon					Nicholas Walsh					AD	Jacqueline Dabrah			AD	Carry Daniels		
		AD	Craig Marshall					Robbuz Pugh					AD	Blair Isadore (DP)			AD	Jennifer Daniels		
		AD	Thomas Wang					Adam Dorsey					AD	Peter Calabrese (DP)			AD	Clarry Phillips		
		AD	William Miale					Thomas Johnson					Support	Steven Johnson			AD	Jarvis Orendick (DP)		
		AD	Jack White					Heather Sarno-Mulvan (DP)					AD	John Mahabadi (EL)			AD	John Mahabadi (EL)		
		Support	Alisa Hassan					Support	Victor Nguyen				Support	Scott Smith			AD	Sean Smith (DP)		
		Support	Andy Garcia					Support	Edwin Brown				Support	Paul Johnson			Support	Colleen Jones		
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(b)(5)

AO	Tham Vo	8-Sep	19-Sep
AO	Jennifer Corrie	8-Sep	26-Sep
AO	Daniel Joseph	8-Sep	26-Sep
AO	Joan Huang (LA)	(Present)	26-Sep
AO	Adam Conroy	(Present)	26-Sep
Support	Alan Hassan	(Present)	11-Sep
Support			

AO	Carry Corcoran	(Present)	12-Sep
AO	Bertha Valente (LA)	(Present)	15-Sep
AO	Yolanda Cunningham (Ref)	8-Sep	30-Sep
AO	Walter Davis	7-Sep	24-Oct
Support	Yolanda Burnett	(Present)	11-Sep
Support			

AO	Marin Luch (DIA)	(Present)	25-Sep
AO	Joseph Wang	(Present)	30-Sep
AO	Thomas Wang	(Present)	3-Oct
Support	Luithi Hertz (LA)	(Present)	30-Sep
Support	Steve Ancho	(Present)	3-Sep

AO	Joan Perri	7-Sep	26-Sep
AO	Kara Hill (Ref)	(Present)	13-Sep
AO	Joseph J. Rossetto (Ref)	8-Sep	26-Sep
AO	Robert Johnson (Ref)	8-Sep	26-Sep
AO	Fray Brightley (DIA)	8-Sep	26-Sep
Support	Rene Carbone (ZAL)	8-Sep	3-Oct
Support	Clara Schel (DIA)	8-Sep	14-Sep
Support			

AO	DIA		
AO	DIA		
AO	DIA		
AO	DIA		
Support	DIA		
Support	DIA		
Support	DIA		

1973-1978	Present	SAO	Eric With	(Present)	3-Oct
AO	Lynette Hamilton	(Present)	26-Sep		
AO	Tham Vo	(Present)	19-Sep		
AO	Jennifer Corrie	(Present)	26-Sep		
AO	Edward Joseph	(Present)	26-Sep		
AO	Joan Huang (LA)	(Present)	26-Sep		
AO	Adam Conroy	(Present)	26-Sep		
AO	Walter Davis (Ref)	14-Sep	27-Sep		
Support	DIA				
Support	Michael Madine (DIA)	15-Sep	26-Sep		
Support					

Port Inlet	SAO	Sharon Green (LA)	(Present)	18-Sep
AO	Bertha Valente (DIA)	(Present)	18-Sep	
AO	April Thompson	15-Sep	18-Oct	
AO	Solomon Briss (Ref)	14-Sep	28-Sep	
AO	Ovynia Faltank (DIA)	(Present)	30-Sep	
AO	Yolanda Cunningham (Ref)	(Present)	30-Sep	
AO	Walter Davis	(Present)	24-Oct	
Support	DIA			
Support	Thomas Pope	15-Sep	24-Oct	
Support				

1973-1978	Present	SAO	Jacqueline Dabrah	(Present)	18-Sep
AO	Eric Butler	(Present)	19-Sep		
AO	Marin Luch (DIA)	(Present)	25-Sep		
AO	Min-Chang	15-Sep	31-Oct		
AO	Joseph Wang	(Present)	30-Sep		
AO	Thomas Wang	(Present)	3-Oct		
Support	Luithi Hertz (LA)	(Present)	30-Sep		
Support	Steve Ancho	(Present)	11-Sep		
Support	Thomas Wang	(Present)	3-Oct		

1973-1978	Present	SAO	Arvinda Dora (202-368-9911)	(Present)	19-Sep
AO	Joan Perri	(Present)	26-Sep		
AO	Joseph J. Rossetto (Ref)	(Present)	26-Sep		
AO	Robert Johnson (Ref)	15-Sep	27-Sep		
AO	Robert Johnson (Ref)	(Present)	26-Sep		
AO	Fray Brightley (DIA)	(Present)	26-Sep		
Support	Rene Carbone (ZAL)	(Present)	3-Oct		
Support	Clara Schel (DIA)	(Present)	14-Sep		
Support					

1973-1978	Present	SAO	DIA		
AO	Daniel Jung (LA)	(Present)	26-Sep		
AO	Joan Perri	6-Aug	26-Sep		
AO	DIA				
AO	DIA				
AO	DIA				
Support	DIA				
Support	DIA				
Support	DIA				

1973-1978	Present	SAO	Eric With	(Present)	3-Oct
AO	Chris McHenry (DIA)	25-Sep	3-Oct		
AO	Jennifer Corrie	(Present)	26-Sep		
AO	Daniel Joseph	(Present)	26-Sep		
AO	Joan Huang (LA)	(Present)	26-Sep		
AO	Adam Conroy	(Present)	26-Sep		
AO	Walter Davis (Ref)	27-Sep	27-Sep		
AO	Andrew Talbot	25-Sep	3-Oct		
Support	DIA				
Support	Michael Madine (DIA)	(Present)	26-Sep		
Support	Rose Mira (DIA AC)	22-Sep	3-Oct		

Port Inlet	SAO	John Madine	22-Sep	3-Oct
AO	April Thompson	(Present)	18-Oct	
AO	Solomon Briss (Ref)	(Present)	28-Sep	
AO	Ovynia Faltank (DIA)	(Present)	30-Sep	
AO	Yolanda Cunningham (Ref)	(Present)	30-Sep	
AO	Walter Davis	(Present)	24-Oct	
AO	Adlene Newitz	22-Sep	1-Nov	
Support	DIA			
Support	Thomas Pope	(Present)	24-Oct	
Support				

1973-1978	Present	SAO	Marin Luch (DIA)	(Present)	25-Sep
AO	Min-Chang	(Present)	31-Oct		
AO	Joseph Wang	(Present)	30-Sep		
AO	Thomas Wang	(Present)	3-Oct		
Support	Luithi Hertz (LA)	(Present)	30-Sep		
Support	Tabery Dwyer (DIA)	22-Sep	3-Oct		

1973-1978	Present	SAO	Military Lynn	22-Sep	18-Oct
AO	Luithi Hertz	(Present)	27-Sep		
AO	Joseph J. Rossetto (Ref)	(Present)	26-Sep		
AO	Michael Wastell	22-Sep	3-Oct		
AO	Robert Johnson (Ref)	(Present)	26-Sep		
AO	Walter Davis	22-Sep	3-Oct		
AO	Fray Brightley (DIA)	(Present)	26-Sep		
Support	Rene Carbone (ZAL)	(Present)	3-Oct		
Support	Clara Schel (DIA AC)	22-Sep	3-Oct		
Support					

1973-1978	Present	SAO	DIA		
AO	Daniel Jung (LA)	(Present)	26-Sep		
AO	Joan Perri	6-Aug	26-Sep		
AO	DIA				
AO	DIA				
AO	DIA				
Support	DIA				
Support	DIA				
Support	DIA				

1973-1978	Present	SAO	Eric With	(Present)	3-Oct
AO	Joan Huang (LA)	(Present)	26-Sep		
AO	Andrew Talbot	(Present)	3-Oct		
AO	Adam Conroy (DIA)	(Present)	18-Oct		
AO	Luithi Hertz	25-Sep	21-Oct		
AO	Thomas Antuschel (DIA)	24-Sep	18-Oct		
AO	David Bickers (DIA)	28-Sep	18-Oct		
AO	Chris McHenry (DIA)	(Present)	3-Oct		
Support	DIA				
Support	Michael Madine (DIA)	(Present)	26-Sep		
Support	Rose Mira (DIA AC)	(Present)	3-Oct		

Port Inlet	SAO	John Madine	22-Sep	3-Oct
AO	Ovynia Faltank (DIA)	(Present)	30-Sep	
AO	Yolanda Cunningham (Ref)	(Present)	30-Sep	
AO	Adlene Newitz	(Present)	1-Nov	
AO	Walter Davis	(Present)	24-Oct	
AO	April Thompson	(Present)	18-Oct	
Support	DIA			
Support	Thomas Pope	(Present)	24-Oct	
Support				

1973-1978	Present	SAO	Joseph Wang	(Present)	30-Sep
AO	Thomas Wang	(Present)	3-Oct		
AO	Jacqueline Dabrah	26-Sep	30-Sep		
AO	Min-Chang	(Present)	31-Oct		
Support	DIA				
Support	Tabery Dwyer (DIA)	(Present)	3-Oct		

1973-1978	Present	SAO	Military Lynn	(Present)	18-Oct
AO	Michael Wastell	(Present)	3-Oct		
AO	Fray Brightley (DIA)	(Present)	26-Sep		
AO	Walter Davis	(Present)	3-Oct		
Support	Rene Carbone (ZAL)	(Present)	3-Oct		
Support	Clara Schel (DIA AC)	22-Sep	3-Oct		
Support					

1973-1978	Present	SAO	DIA		
AO	Daniel Jung (LA)	(Present)	26-Sep		
AO	Joan Perri	6-Aug	26-Sep		
AO	DIA				
AO	DIA				
AO	DIA				
Support	DIA				
Support	DIA				
Support	DIA				

1973-1978	Present	SAO	Joy Holton	6-Oct	17-Oct
AO	Adam Conroy (LA, 10/1, 10/18)	(Present)	12-Oct		
AO	Luithi Hertz	(Present)	31-Oct		
AO	Craig Marshall	6-Oct	17-Oct		
AO	Lowell Antuschel (DIA)	(Present)	18-Oct		
AO	David Bickers (DIA)	(Present)	18-Oct		
Support	DIA				
Support	Thomas Pope	(Present)	24-Oct		
Support					

Port Inlet	SAO	April Thompson	(Present)	18-Oct
AO	Walter Davis	(Present)	24-Oct	
AO	Sally Green	6-Oct	17-Oct	
AO				
AO				
Support	DIA			
Support	Thomas Pope	(Present)	24-Oct	
Support				

1973-1978	Present	SAO	Jacqueline Dabrah	(Present)	26-Sep
AO	Min-Chang	(Present)	31-Oct		
AO	Thomas Wang	(Present)	31-Oct		
AO	Steve Ancho	14-Oct	24-Oct		
Support	DIA				
Support					

1973-1978	Present	SAO	Military Lynn	(Present)	18-Oct
AO	Jennifer Bell	(Present)	30-Oct		
AO	Eric Butler	6-Oct	17-Oct		
AO					
AO					
AO					
AO					
AO					
Support	Rene Carbone (ZAL)	6-Oct	31-Oct		
Support					
Support					

1973-1978	Present	SAO	DIA		
AO	Daniel Jung (LA)	(Present)	26-Sep		
AO	Joan Perri	6-Aug	26-Sep		
AO	DIA				
AO	DIA				
AO	DIA				
Support	DIA				
Support	DIA				
Support	DIA				

1973-1978	Present	SAO	Joy Holton	(Present)	17-Oct
AO	Adam Conroy	(Present)	12-Oct		
AO	Luithi Hertz	(Present)	31-Oct		
AO	Craig Marshall	(Present)	17-Oct		
AO					
AO					
Support	DIA				
Support	Thomas Pope	(Present)	24-Oct		
Support					

Port Inlet	SAO	Walter Davis	(Present)	24-Oct
AO	Sally Green	(Present)	17-Oct	
AO	Alicia White	14-Oct	31-Oct	
AO				
AO				
Support	DIA			
Support	Thomas Pope	(Present)	24-Oct	
Support				

1973-1978	Present	SAO	Jacqueline Dabrah	(Present)	26-Sep
AO	Min-Chang	(Present)	31-Oct		
AO	Thomas Wang	(Present)	31-Oct		
AO	Steve Ancho	14-Oct	24-Oct		
Support	DIA				
Support					

1973-1978	Present	SAO	Military Lynn	(Present)	18-Oct
AO	Jennifer Bell	(Present)	30-Oct		
AO	Eric Butler	6-Oct	17-Oct		
AO					
AO					
AO					
AO					
Support	Rene Carbone (ZAL)	(Present)	31-Oct		
Support					
Support					

1973-1978	Present	SAO	DIA		
AO	Daniel Jung (LA)	(Present)	26-Sep		
AO	Joan Perri	6-Aug	26-Sep		
AO	DIA				
AO	DIA				
AO	DIA				
Support	DIA				
Support	DIA				
Support	DIA				

1973-1978	Present	SAO	Adam Conroy	(Present)	12-Oct
AO	Lynette Hamilton	25-Oct	12-Oct		
AO	Luithi Hertz	(Present)	31-Oct		
AO	U McLendon	24-Oct	17-Oct		
AO					
AO					
Support	DIA				
Support	Thomas Pope	(Present)	24-Oct		
Support					

Port Inlet	SAO	Eden Taylor (DIA) (Former)	25-Oct	17-Oct
AO	Walter Davis	(Present)	24-Oct	
AO	Min-Chang	(Present)	31-Oct	
AO	Alicia White	(Present)	31-Oct	
AO				
AO				
Support	DIA			
Support	Thomas Pope	(Present)	24-Oct	
Support				

1973-1978	Present	SAO	Jacqueline Dabrah	(Present)	26-Sep
AO	Min-Chang	(Present)	31-Oct		
AO	Thomas Wang	(Present)	31-Oct		
AO	Steve Ancho	(Present)	24-Oct		
Support	DIA				
Support					

1973-1978	Present	SAO	Military Lynn	(Present)	18-Oct
AO	Jennifer Bell	(Present)	30-Oct		
AO	Eden Taylor (DIA)	27-Oct	7-Nov		
AO					
AO					
AO					
Support	Rene Carbone (ZAL)	(Present)	31-Oct		
Support					
Support					

1973-1978	Present	SAO	DIA		
AO	Daniel Jung (LA)	(Present)	26-Sep		
AO	Joan Perri	6-Aug	26-Sep		
AO	DIA				
AO	DIA				
AO	DIA				
Support	DIA				
Support	DIA				
Support	DIA				

1973-1978	Present	SAO	Adam Conroy	(Present)	12-Oct
AO	Lynette Hamilton	(Present)	12-Oct		
AO	Luithi Hertz	(Present)	31-Oct		
AO	U McLendon	(Present)	17-Oct		
AO					
AO					
Support	DIA				
Support	Thomas Pope	(Present)	24-Oct		
Support					

Port Inlet	SAO	Eden Taylor (DIA) (Former)	25-Oct	17-Oct
AO	Alicia White	(Present)	31-Oct	
AO	Min-Chang	(Present)	31-Oct	
AO				
AO				
Support	DIA			
Support	Thomas Pope	(Present)	24-Oct	
Support				

1973-1978	Present	SAO	Jacqueline Dabrah	(Present)	26-Sep
AO	Min-Chang	(Present)	31-Oct		
AO	Thomas Wang	(Present)	31-Oct		
AO	Rebecca Augh	27-Oct	14-Nov		
Support	DIA				
Support					

1973-1978	Present	SAO	Military Lynn	(Present)	18-Oct
AO	Jennifer Bell	(Present)	30-Oct		
AO	Eden Taylor (DIA)	27-Oct	7-Nov		
AO					
AO					
Support	Rene Carbone (ZAL)	(Present)	31-Oct		
Support					
Support					

1973-1978	Present	SAO	DIA		
AO	Daniel Jung (LA)	(Present)	26-Sep		

**Jowett, Haley L**

---

**From:** Menges, Patricia A  
**Sent:** Tuesday, October 21, 2014 1:23 PM  
**To:** Kim, Ted H  
**Subject:** RE: do you have a minute to talk about one of your TDY'ers?

Peter Celentano is ready, willing and able to travel on Sunday or Monday (10/26 or 27) to replace Peter Kim. He was originally scheduled to go down on November 3 and is willing to stay until November 25. Let me know if you need him.

---

**From:** Kim, Ted H  
**Sent:** Tuesday, October 21, 2014 2:01 PM  
**To:** Menges, Patricia A  
**Subject:** RE: do you have a minute to talk about one of your TDY'ers?

I'll call your office in a second.

---

**From:** Menges, Patricia A  
**Sent:** Tuesday, October 21, 2014 2:00 PM  
**To:** Kim, Ted H  
**Subject:** RE: do you have a minute to talk about one of your TDY'ers?

yes

---

**From:** Kim, Ted H  
**Sent:** Tuesday, October 21, 2014 1:59 PM  
**To:** Menges, Patricia A; Caudill-Mirillo, Ashley B  
**Subject:** do you have a minute to talk about one of your TDY'ers?

(b)(5)



Phil,



Jim Stolley

Director, Field Legal Operations  
Office of the Principal Legal Advisor  
U.S. Immigration and Customs Enforcement  
(O) 202-732-3096

(b)(5)

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**Jowett, Haley L**

---

**From:** Donis, Antonio  
**Sent:** Friday, July 11, 2014 9:39 PM  
**To:** Kim, Ted H  
**Cc:** Hemming, Bryan D; Daum, Robert L  
**Subject:** Re: longshot question

(b)(5)

Ted,



Have a good weekend,

Antonio\_\_

---

**From:** Kim, Ted H  
**Sent:** Friday, July 11, 2014 05:35 PM  
**To:** Donis, Antonio  
**Cc:** Hemming, Bryan D; Daum, Robert L  
**Subject:** FW: longshot question

Antonio: What do you think? Wait for FLETC to get these, or purchase ourselves? Thanks, Ted

---

**From:** Barrett, Gina V  
**Sent:** Wednesday, July 09, 2014 11:42 AM  
**To:** Kim, Ted H  
**Cc:** Lafferty, John L  
**Subject:** RE: longshot question



Thank you,

Gina Barrett  
Chief, Facilities Management Division  
U.S. Citizenship & Immigration Services  
Office: (202) 272-1600

Bb



(b)(6)

---

**From:** Kim, Ted H  
**Sent:** Wednesday, July 09, 2014 10:12 AM  
**To:** Barrett, Gina V



**Cc:** Lafferty, John L  
**Subject:** Re: longshot question

(b)(5)

Sent by Blackberry

---

**From:** Barrett, Gina V  
**Sent:** Wednesday, July 09, 2014 06:45 AM  
**To:** Kim, Ted H  
**Cc:** Lafferty, John L  
**Subject:** RE: longshot question

Ted,

Is this something you want us to look into more for you?

Thank you,

Gina Barrett  
Chief, Facilities Management Division  
U.S. Citizenship & Immigration Services  
Office: (202) 272-1600  
Bb: (202) 689-4763

---

**From:** Barrett, Gina V  
**Sent:** Wednesday, July 09, 2014 8:22 AM  
**To:** Kim, Ted H  
**Cc:** Lafferty, John L  
**Subject:** RE: longshot question

Ted

Thank you,

Gina Barrett

Chief, Facilities Management Division  
U.S. Citizenship & Immigration Services  
Office: (202) 272-1600

Bb

(b)(6)

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**From:** Kim, Ted H

**Sent:** Tuesday, July 08, 2014 4:42 PM

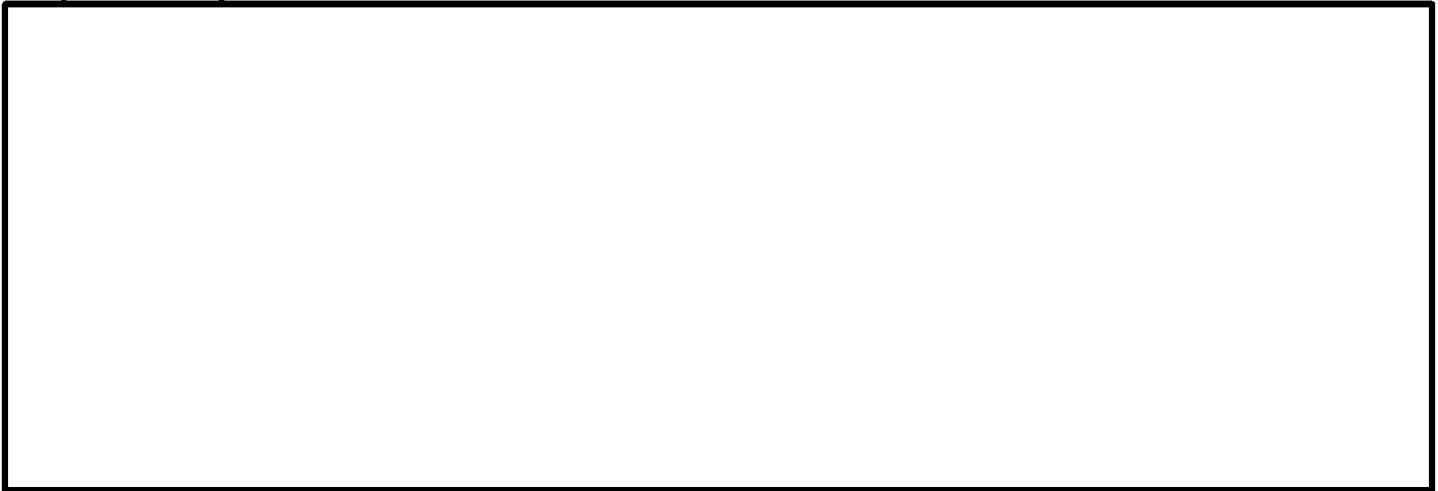
**To:** Barrett, Gina V

**Cc:** Lafferty, John L

**Subject:** longshot question

**Importance:** High

(b)(5)



Thanks,  
Ted

**Jowett, Haley L**

---

**From:** Donis, Antonio  
**Sent:** Tuesday, August 19, 2014 3:23 PM  
**To:** Pilotti, David A; Hemming, Bryan D  
**Cc:** Daum, Robert L; Kim, Ted H  
**Subject:** Re: OIT DSM support at Artesia / a call tomorrow?

Hey David, sorry for the delay on this.

We don't need to coordinate officer deployments with OIT as new users seldom arrive with specific IT needs.

Instead, I recommend setting up a system where OIT deploys a DSM to Artesia for 2 days every 3 weeks in order to maintain our infrastructure and deal with miscellaneous IT needs that tend to build up over time.

Thanks for your support and let me know if you need any additional info.

Antonio\_\_

---

**From:** Pilotti, David A  
**Sent:** Thursday, August 14, 2014 12:28 PM  
**To:** Donis, Antonio; Hemming, Bryan D  
**Cc:** Daum, Robert L; Kim, Ted H  
**Subject:** FW: OIT DSM support at Artesia / a call tomorrow?

Antonio and Bryan,

OIT has asked to see if we can coordinate our deployments to Artesia with the local DSM's availability. Dan from EUS is available for a call tomorrow. Is there anytime tomorrow that would work for you if we pulled together a conference call?

Thanks,  
David

---

**From:** Pilotti, David A  
**Sent:** Thursday, August 14, 2014 1:25 PM  
**To:** Voldal, Daniel J  
**Subject:** RE: Artesia NM site

Dan,

Thanks so much for the email. We do keep a running schedule of staff deployments to Artesia, and we might be able to align the start of most new rotations with the availability of the DSM. I think a call tomorrow would be helpful. First, let me see if the key lead personnel on the ground are available to join us on a call tomorrow.

Thanks again.

David

---

David Pilotti  
Management Branch Chief, Asylum Division  
US Citizenship and Immigration Services  
Department of Homeland Security  
Office: 202.272.1642  
Mobile: [REDACTED]

(b)(6)

---

**From:** Voldal, Daniel J  
**Sent:** Thursday, August 14, 2014 1:10 PM  
**To:** Pilotti, David A  
**Subject:** Artesia NM site

(b)(5)

David,

[REDACTED]

Regards,  
Dan

Daniel Voldal  
Branch Chief – NCR  
End Users Services Division  
Office of Information Technology  
US Citizenship & Immigration Services  
111 Massachusetts Avenue, N.W.  
Washington, DC, 20529-2250  
Office: 202-272-1167  
Mobile: [REDACTED]  
[Daniel.J.Voldal@USCIS.DHS.GOV](mailto:Daniel.J.Voldal@USCIS.DHS.GOV)

(b)(6)



Now available: MyIT – your source for IT information and access to EZ Ticket

**Jowett, Haley L**

---

**From:** Hemming, Bryan D  
**Sent:** Tuesday, September 16, 2014 7:55 AM  
**To:** Kim, Ted H; Daum, Robert L; Miller, Amber D; Ross, Rebecca R  
**Cc:** Lafferty, John L; Pilotti, David A; Kirkland, Brooke A; Tanner, Rebecca S; Gossett, Christopher R  
**Subject:** RE: SAO coverage in Artesia

Excellent! We'll be in touch with Chris to organize travel.

Thanks,  
Bryan

---

**From:** Kim, Ted H  
**Sent:** Monday, September 15, 2014 1:00 PM  
**To:** Daum, Robert L; Hemming, Bryan D  
**Cc:** Lafferty, John L; Pilotti, David A; Kirkland, Brooke A; Tanner, Rebecca S; Gossett, Christopher R  
**Subject:** SAO coverage in Artesia

Rob/Bryan: Chris Gossett (HQ QA) has graciously volunteered to serve as acting SAO to bridge the gap between Lakshmi Kilaru's SAO detail and Jen Rellis's SAO detail at Artesia. He will be on the ground from 9/29 to 10/8 to help transition Jen. Feel free to coordinate directly w/Chris on the logistics. (He's away this week at training, but should be back the following week.)

Thanks,  
Ted

---

Ted Kim  
Deputy Chief, Asylum Division  
U.S. Citizenship & Immigration Services  
Department of Homeland Security

**Jowett, Haley L**

---

**From:** Kim, Ted H  
**Sent:** Tuesday, July 29, 2014 3:27 PM  
**To:** Radel, David M  
**Subject:** RE: support staff help

Many thanks.

---

**From:** Radel, David M  
**Sent:** Tuesday, July 29, 2014 4:11 PM  
**To:** Kim, Ted H; Hussey, Jedidah M; Bardini, Emilia M  
**Cc:** Stone, Mary M  
**Subject:** RE: support staff help

Hi Ted: We can provide a CISA for 3 weeks in Texas starting 8/18. Best, David

---

**From:** Kim, Ted H  
**Sent:** Tuesday, July 29, 2014 5:55 AM  
**To:** Hussey, Jedidah M; Radel, David M; Bardini, Emilia M  
**Cc:** Stone, Mary M  
**Subject:** support staff help

I know all of you have been very generous in your support of the TDYs at the border. We are having trouble filling a support staff need in Artesia beginning 8/11 and a support staff need in El Paso beginning 8/18. Do you have anyone you can spare for these lovely opportunities?

I'm also hitting up RAD and other sources, so we're trying to spread the wealth.

Thanks,  
Ted

---

Ted Kim  
Deputy Chief, Asylum Division  
U.S. Citizenship & Immigration Services  
Department of Homeland Security

## Jowett, Haley L

---

**From:** Hemming, Bryan D  
**Sent:** Wednesday, September 03, 2014 12:45 PM  
**To:** Kim, Ted H; Hussey, Jedidah M; Daum, Robert L  
**Cc:** Pilotti, David A; Kirkland, Brooke A; Donis, Antonio  
**Subject:** RE: TDY Needs Over the Holiday Season: Separate Call for Volunteers

Hi Jeddy:

We have not been requiring OT, either during the week or on weekends, on the tiger teams. I certainly don't anticipate that we would on holidays. While the work load does allow for OT, we have made it strictly voluntary and hopefully are not coercing anyone into volunteering. We have been working with the team leads to ensure that vehicles and transportation is arranged in such a way that no one is held captive at the detention facilities after hours.

Artesia being the special yet strange animal that it is has had its own schedule but all other facilities operate in accordance with the above. We really appreciate the assistance we receive from TDYers and do our best to make the trip as enjoyable and flexible as possible.

Hope that helps. Please let us know if anyone has any questions on the teams, their work, or how they run.

Thanks,  
Bryan

---

**From:** Kim, Ted H  
**Sent:** Wednesday, September 03, 2014 12:32 PM  
**To:** Hussey, Jedidah M; Daum, Robert L; Hemming, Bryan D  
**Cc:** Pilotti, David A; Kirkland, Brooke A; Donis, Antonio  
**Subject:** RE: TDY Needs Over the Holiday Season: Separate Call for Volunteers

Good question, Jeddy. As with most things we can't answer these days, we'll defer to Rob/Bryan on this one.

---

**From:** Hussey, Jedidah M  
**Sent:** Wednesday, September 03, 2014 1:25 PM  
**To:** Kim, Ted H; Daum, Robert L; Hemming, Bryan D  
**Cc:** Pilotti, David A; Kirkland, Brooke A; Donis, Antonio  
**Subject:** RE: TDY Needs Over the Holiday Season: Separate Call for Volunteers

Brooke, David, and ZHN colleagues,

I am in the process of compiling my list of volunteers to send in to you. We have several who have expressed interest. One issue that has come up is the degree to which folks deployed over the holidays would have to work on the holidays and/or weekends. Antonio was here yesterday, so everyone has the image of the Artesia seven-day workweek model in their minds.

Do you have a sense of the requirements in that regard. I have a few takers who would likely not volunteer if they had to work on the holidays and every weekend.

Thanks,  
Jeddy

P.S. Way to scare off volunteers, Antonio.

---

**From:** Kim, Ted H

**Sent:** Thursday, August 28, 2014 5:19 PM

**To:** Aguilar, Kimberly M; Bardini, Emilia M; Caudill-Mirillo, Ashley B; Daum, Robert L; Donis, Antonio; FLANAGAN, Lisa M; Heinrich, Lorie R; Hemming, Bryan D; Hussey, Jedidáh M; Madsen, Kenneth S; Menges, Patricia A; Papazian, Varsenik L; Radel, David M; Rauffer, Susan; Walters, Jessica S; Yue, Calton

**Cc:** Pilotti, David A; Kirkland, Brooke A

**Subject:** TDY Needs Over the Holiday Season: Separate Call for Volunteers

**Importance:** High

**Directors/Deputies:** ZHN is starting to plan for coverage during the holiday season at the TX and NM detention facilities. While much of our workforce normally takes leave during the holiday season (e.g., the week leading up to Thanksgiving or the latter half of December & early January), there may be others who would take advantage of the opportunity for whatever reason to travel to TX or NM during this time.

I know that David and Brooke @ HQ are coordinating with you to staff these facilities already, but if you can please take a moment to query your staff of their interest to volunteer for details specifically for the lean weeks in Nov/Dec/Jan mentioned above and get back to David and Brooke, we'd appreciate it.

Thanks,  
Ted

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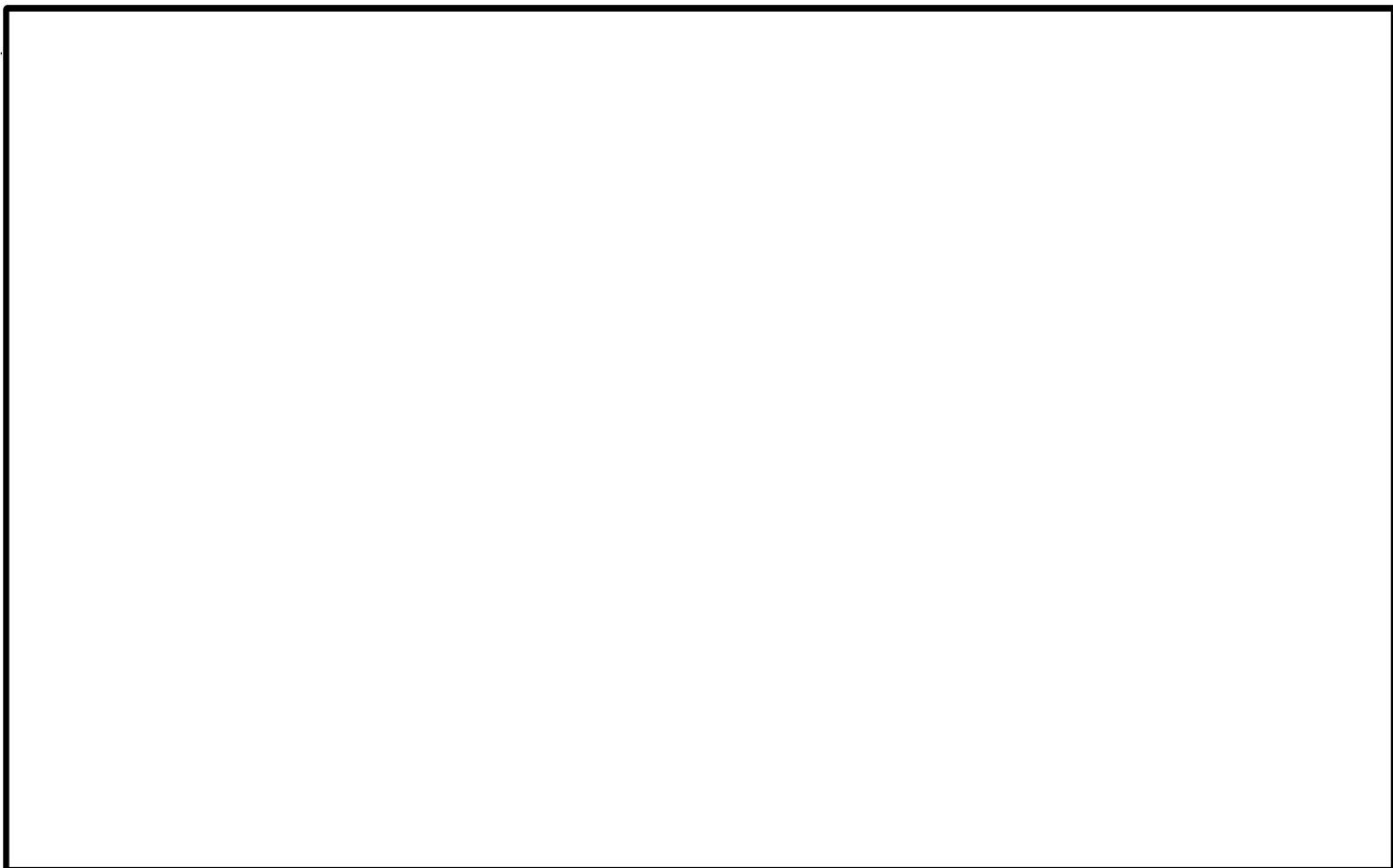
Ted Kim  
Deputy Chief, Asylum Division  
U.S. Citizenship & Immigration Services  
Department of Homeland Security



**Jowett, Haley L**

---

**From:** Lafferty, John L  
**Sent:** Tuesday, June 24, 2014 12:21 PM  
**To:** Scialabba, Lori L; Bentley, Christopher S; Jones, Rendell L; McCament, James W  
**Cc:** Alfonso, Angelica M; Parisi, Thomas M; Carter, Jeffrey T; Langlois, Joseph E; Higgins, Jennifer B; Kim, Ted H  
**Subject:** (b)(5) Asylum teams to the detention facilities - update



---

**From:** Scialabba, Lori L  
**Sent:** Friday, June 20, 2014 6:31 PM  
**To:** Lafferty, John L; Bentley, Christopher S; Jones, Rendell L; McCament, James W  
**Cc:** Alfonso, Angelica M; Parisi, Thomas M; Carter, Jeffrey T; Langlois, Joseph E; Higgins, Jennifer B  
**Subject:** RE: Hello gentlemen!

Wow. That's a change from yesterday. Thanks John.  
Lori

---

**From:** Lafferty, John L  
**Sent:** Friday, June 20, 2014 6:25 PM  
**To:** Scialabba, Lori L; Bentley, Christopher S; Jones, Rendell L; McCament, James W  
**Cc:** Alfonso, Angelica M; Parisi, Thomas M; Carter, Jeffrey T; Langlois, Joseph E; Higgins, Jennifer B  
**Subject:** RE: Hello gentlemen!

Lori,

[Redacted]

John

**From:** Scialabba, Lori L  
**Sent:** Friday, June 20, 2014 5:00 PM  
**To:** Bentley, Christopher S; Jones, Rendell L; McCament, James W  
**Cc:** Alfonso, Angelica M; Parisi, Thomas M; Carter, Jeffrey T; Langlois, Joseph E; Higgins, Jennifer B; Lafferty, John L  
**Subject:** RE: Hello gentlemen!

[Redacted]

Adding RAIO.

**From:** Bentley, Christopher S  
**Sent:** Friday, June 20, 2014 4:52 PM  
**To:** Scialabba, Lori L; Jones, Rendell L; McCament, James W  
**Cc:** Alfonso, Angelica M; Parisi, Thomas M; Carter, Jeffrey T  
**Subject:** FW: Hello gentlemen!

Lori/Rendell/James,

We're referring all UAC-related media calls to DHS OPA and have done so with this one. None-the-less, are we deploying asylum officers to the SW border as part of the UAC response?

Thanks. Enjoy your weekend. r/Chris

**Christopher S. Bentley**

Press Secretary  
U.S. Citizenship and Immigration Services  
Department of Homeland Security  
202-272-1224 [Redacted]

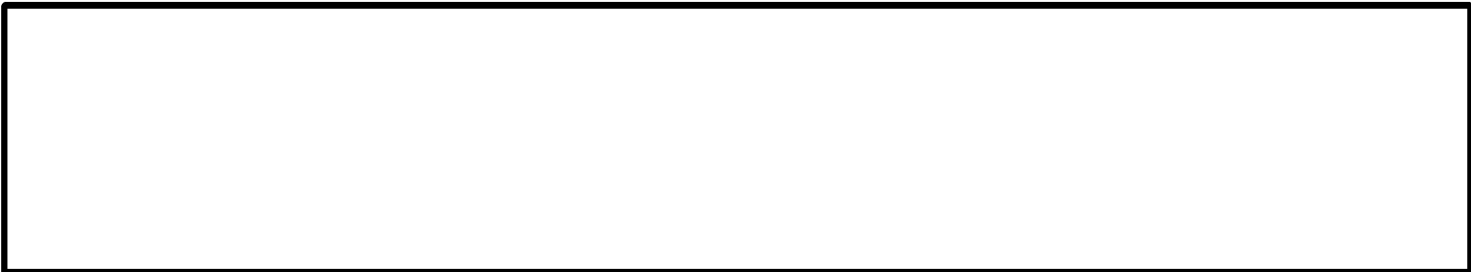
(b)(6)

**From:** Gomez, Alan [<mailto:agomez@usatoday.com>]  
**Sent:** Friday, June 20, 2014 4:34 PM  
**To:** Bentley, Christopher S; Wright, William G  
**Subject:** Hello gentlemen!

(b)(5)

Hey guys,

[Redacted]



Thanks, and hope all is well with you guys,

Alan

Alan Gomez

Reporter

USA Today

Miami, Fla.

Office: (786) 732-6800

Cell: [Redacted]

(b)(6)

Twitter: [@alangomez](https://twitter.com/alangomez)

**Jowett, Haley L**

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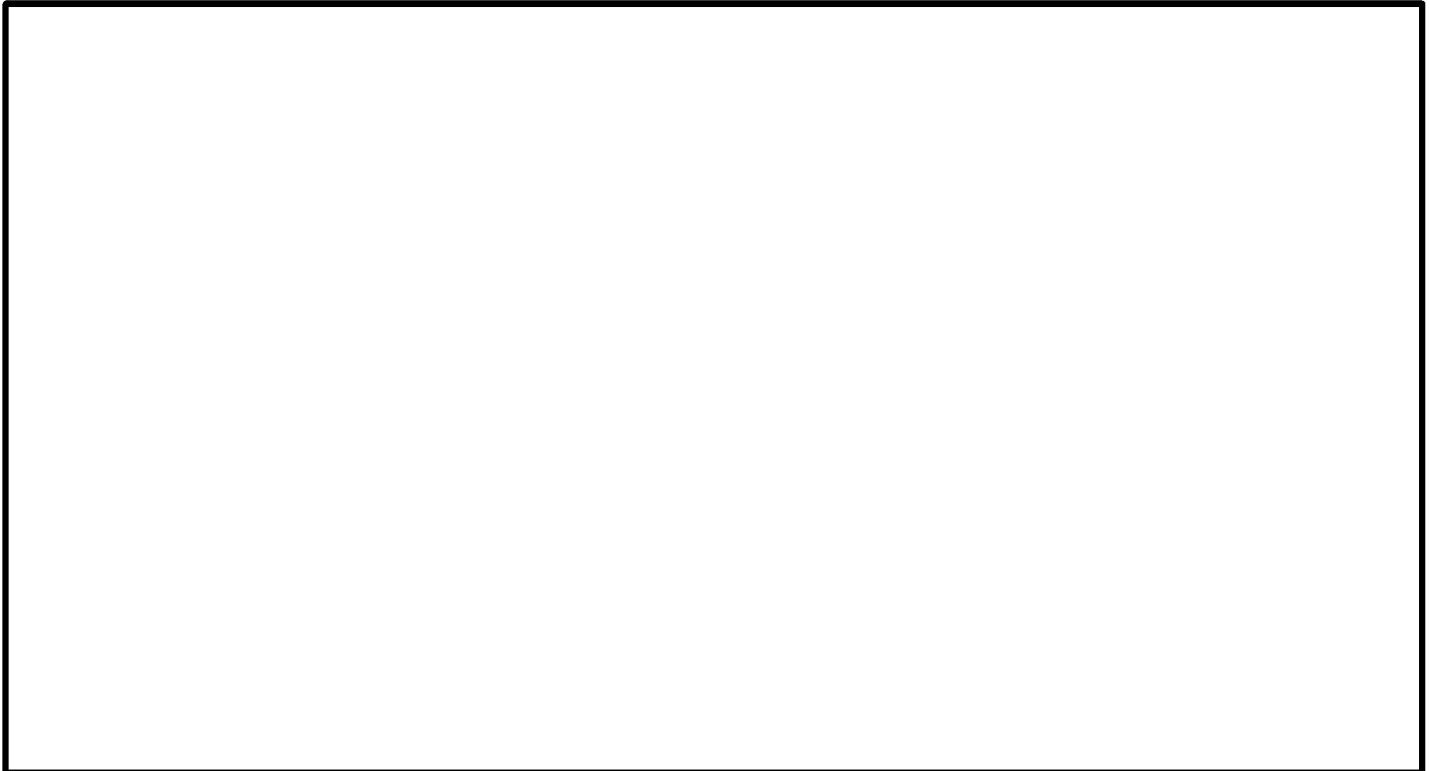
**From:** Lafferty, John L  
**Sent:** Tuesday, July 01, 2014 11:25 AM  
**To:** Scialabba, Lori L; Jones, Rendell L; Higgins, Jennifer B; Langlois, Joseph E  
**Cc:** Kim, Ted H; Stone, Mary M; Grammer, Alexandra C  
**Subject:** FW: Artesia and Other Family Sites



---

**From:** Kim, Ted H  
**Sent:** Tuesday, July 01, 2014 12:12 PM  
**To:** Lafferty, John L  
**Subject:** Artesia and Other Family Sites

(b)(5)



---

Ted Kim  
Deputy Chief, Asylum Division  
U.S. Citizenship & Immigration Services  
Department of Homeland Security

















**Jowett, Haley L**

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**From:** Lafferty, John L  
**Sent:** Monday, June 23, 2014 4:25 AM  
**To:** Jones, Rendell L; Higgins, Jennifer B; Langlois, Joseph E; Scialabba, Lori L  
**Cc:** Kim, Ted H  
**Subject:** RE: Artesia

We have already been discussing this with ICE ERO. We are just waiting to hear how many officers they will be able to accomodate.

---

**From:** Jones, Rendell L  
**Sent:** Sunday, June 22, 2014 11:07:04 PM  
**To:** Lafferty, John L; Higgins, Jennifer B; Langlois, Joseph E; Scialabba, Lori L  
**Subject:** FW: Artesia

Is this in the plan?

---

**From:** Ragsdale, Daniel H (b)(5)  
**Sent:** Sunday, June 22, 2014 5:13:17 PM  
**To:** Jones, Rendell L  
**Subject:** Artesia



Sent from my BlackBerry 10 smartphone.

## Jowett, Haley L

---

**From:** Lafferty, John L  
**Sent:** Friday, June 20, 2014 5:34 PM  
**To:** McCament, James W; Scialabba, Lori L; Jones, Rendell L  
**Cc:** Kim, Ted H  
**Subject:** RE: Hello gentlemen!

I'm copying in Ted, who has been working directly with Phil Miller at ICE ERO in nailing down the specifics at each location. Phil has mentioned that Artesia was being discussed, but has not mentioned a specific date nor numbers.

We have more volunteers waiting to travel, so we can probably meet whatever request is made.

---

**From:** McCament, James W  
**Sent:** Friday, June 20, 2014 6:28 PM  
**To:** Lafferty, John L; Scialabba, Lori L; Jones, Rendell L  
**Subject:** RE: Hello gentlemen!

Thanks John,

On a related note, the ICE COS just reached out to talk about USCIS sending Asylum Officers to Artesia beginning June 30.

I understand from Lori you've been in contact with ICE/ERO on this already right? Can you let me know your POC? And whether you have all the information you need to know before staging officers there? I'd like to have that before reaching back to Leonard so I can push for whatever we need from them.

Thanks!

James

**James W. McCament**  
Chief of Staff (Acting)  
U.S. Citizenship and Immigration Services  
Department of Homeland Security  
Washington, DC 20529-2150  
(202) 272-1313 (Direct) [REDACTED] (Mobile)  
[james.w.mccament@uscis.dhs.gov](mailto:james.w.mccament@uscis.dhs.gov)

(b)(6)

---

**From:** Lafferty, John L  
**Sent:** Friday, June 20, 2014 6:25 PM  
**To:** Scialabba, Lori L; Bentley, Christopher S; Jones, Rendell L; McCament, James W  
**Cc:** Alfonso, Angelica M; Parisi, Thomas M; Carter, Jeffrey T; Langlois, Joseph E; Higgins, Jennifer B  
**Subject:** RE: Hello gentlemen!

Lori,

Our people (asylum officers, supervisors, and support staff) are traveling on Monday and will be at the facilities on Tuesday, the same day that the IJs are supposed to start. I will forward the actual numbers in a separate e-mail.

John



(b)(5)









(b)(5)

**Curphey, Patrick R**

---

**From:** Kim, Ted H  
**Sent:** Tuesday, July 01, 2014 10:01 AM  
**To:** Stone, Mary M; Hemming, Bryan D  
**Cc:** Curphey, Patrick R; Gadson, Irvin C; Daum, Robert L; Lafferty, John L  
**Subject:** RE: Artesia - Day 1



Thanks,  
Ted

---

**From:** Stone, Mary M  
**Sent:** Tuesday, July 01, 2014 8:40 AM  
**To:** Hemming, Bryan D; Kim, Ted H  
**Cc:** Curphey, Patrick R; Gadson, Irvin C; Daum, Robert L  
**Subject:** Re: Artesia - Day 1



\*\*\*\*\*

Mary Margaret Stone  
Chief of Operations  
Asylum Division  
RAIO/USCIS  
Tel: 202.272.1651

Sent by Blackberry

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**From:** Hemming, Bryan D  
**Sent:** Tuesday, July 01, 2014 07:50 AM  
**To:** Kim, Ted H; Stone, Mary M  
**Cc:** Curphey, Patrick R; Gadson, Irvin C; Daum, Robert L  
**Subject:** RE: Artesia - Day 1

Good Morning:



Thanks,  
Bryan

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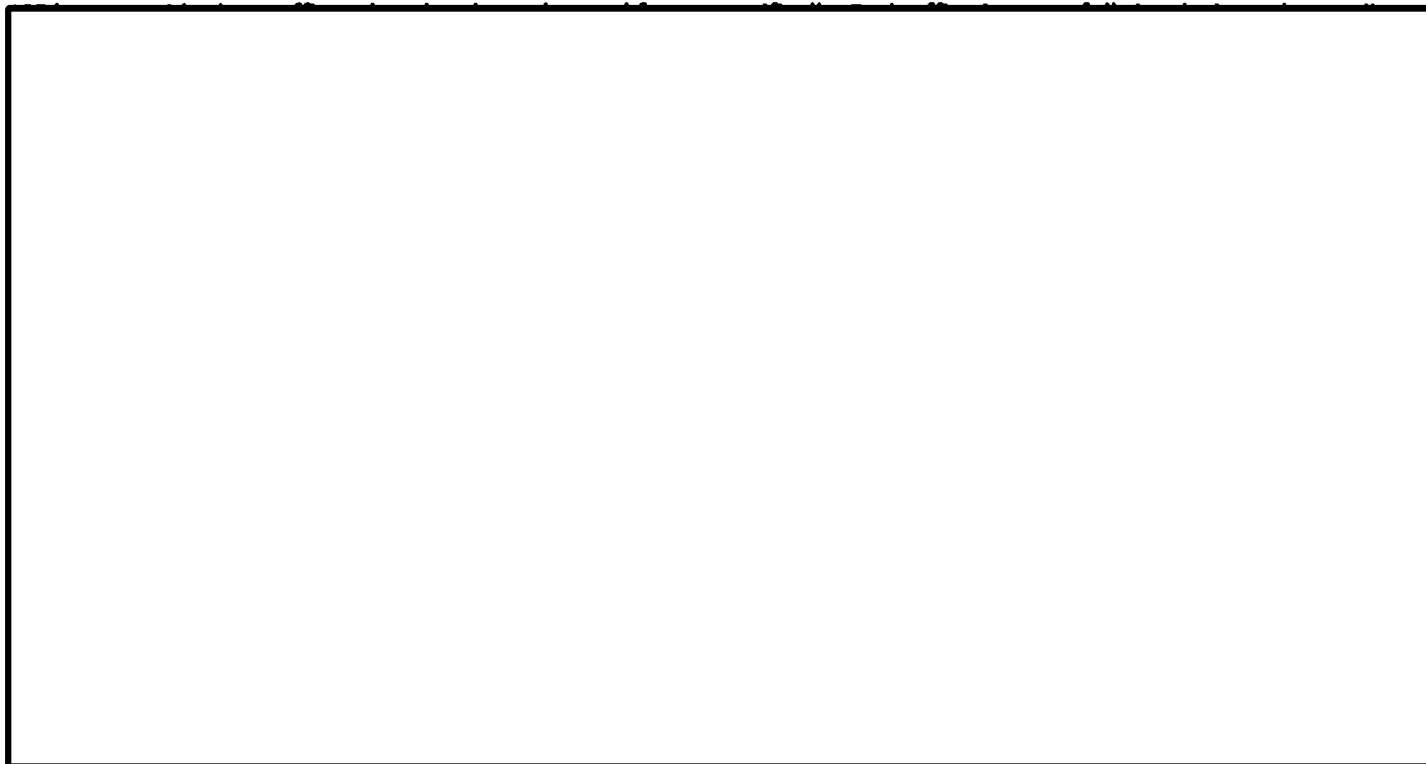
**From:** Curphey, Patrick R  
**Sent:** Monday, June 30, 2014 8:23 PM  
**To:** Hemming, Bryan D; Gadson, Irvin C; Daum, Robert L  
**Subject:** Artesia - Day 1

Good evening,

(b)(5)

I just wanted to give you all a quick rundown of the scene on the ground here in Artesia:

Our space:



The ICE officers I have talked to have been very helpful and accommodating and they said they will work on getting us laptops we can use to connect to their network if needed and I-phones if available to connect to interpreters. I'm just not sure when that would be yet. We will do our best with the resources we have until then. Sorry things are not off to as smooth of a start as I had hoped. I'll check in again in the morning.

Thank you,  
Patrick

## **Curphey, Patrick R**

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**From:** Curphey, Patrick R  
**Sent:** Thursday, June 26, 2014 1:27 PM  
**To:** Orendach, Janette  
**Cc:** Hemming, Bryan D  
**Subject:** RE: Artesia, NM Detail

No worries. Thanks for your good questions.

We are the first group to travel to this facility in NM and I think we won't have a good idea of how long we are needed until we get on the ground and see what the situation is. We will probably have a better answer for you once we get going. Sorry I don't have a better more definite answer right now.

Thank you so much for volunteering on such short notice and for your flexibility and willingness to travel. It is very appreciated!

Patrick

---

**From:** Orendach, Janette  
**Sent:** Thursday, June 26, 2014 1:19 PM  
**To:** Curphey, Patrick R  
**Subject:** RE: Artesia, NM Detail

Sorry one last question. Is there any idea on how long the detail will be? It does not matter because I can stay however long I was just curious.

Thank you.  
Ja Nette

Ja Nette B. Orendach  
Asylum Officer

DHS/USCIS  
New York Asylum Office  
One Cross Island Plaza  
Rosedale, NY 11422  
Phone: 718-723-5954 Ext. 1012

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**From:** Curphey, Patrick R  
**Sent:** Thursday, June 26, 2014 2:11 PM  
**To:** Orendach, Janette  
**Cc:** Miller, Amber D  
**Subject:** RE: Artesia, NM Detail

Thanks for these questions. I forgot to talk about dress code in my email so I will send a separate one to everyone on the detail. Glad you reminded me!

You are correct about your travel arrangements and accommodations. You should be receiving your flight information soon and that is arranged by our office. Amber will reach out to you about flights and you will get the Fed Traveler email when it is booked. FLETC will make sure we have transportation from the airport and our lodging (and meals I believe) will be set up by FLETC as well.

I would say the dress code for this trip is business casual (no suits or ties required)

Men: polos or long sleeve button ups and dress pants

(b)(5)

Women: blouses and dress pants

best judgment and dress appropriately.

Just use your

I hope that helps! Please feel free to reach out with any additional questions.

Thanks,  
Patrick

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**From:** Orendach, Janette  
**Sent:** Thursday, June 26, 2014 12:40 PM  
**To:** Curphey, Patrick R  
**Subject:** RE: Artesia, NM Detail

Hi Patrick.

I look forward to the detail, it will be my first time in New Mexico.

If I am understanding correctly, and I apologize this is only my second time for government travel, I do not need to book a room because it is already covered at this facility.  
Is the attire business professional meaning suits?

Thank you for the opportunity.

Best Wishes,  
Ja Nette

Ja Nette B. Orendach  
Asylum Officer

DHS/USCIS  
New York Asylum Office  
One Cross Island Plaza  
Rosedale, NY 11422  
Phone: 718-723-5954 Ext. 1012

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**From:** Curphey, Patrick R  
**Sent:** Thursday, June 26, 2014 12:47 PM  
**To:** Orendach, Janette  
**Cc:** Miller, Amber D; Hemming, Bryan D  
**Subject:** Artesia, NM Detail

Good afternoon Ms. Orendach,

I will be the SAO at the Artesia, NM detail next week and I just wanted to reach out to you with some information. Thank you for volunteering for this detail and I look forward to meeting and working with you.

Below is some information about our travel and accommodations:

During the detail we will be staying on site at the FLETC facility in NM. The accommodations at FLETC are largely the same as a hotel. No need to worry about your own linens or towels. There is Wi-Fi internet in the rooms for a small fee or for free in the student center. They do NOT provide those fun mini shampoos and bars of soap however so please do plan on bringing your own toiletries.

FLETC will be providing us with transportation from the airport to the facility.

When we arrive at the facility we will get a brief orientation about the facility from FLETC personnel that should give us some good information. After that we can meet as a team and get to work.

Please let me know if you think of any questions throughout the day. I'm including my BB number below in case you think of something over the weekend.

Thanks again!

Patrick

Office: 713-718-4334

BB

(b)(6)

## Curphey, Patrick R

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**From:** Curphey, Patrick R  
**Sent:** Thursday, June 26, 2014 1:30 PM  
**To:** Storch, Susan B  
**Subject:** RE: Artesia

Thanks for the good question Sue! I will reach out to our contacts there and see what our office set up will be and what supplies they might be able to provide us with. I always think it's good to have a back-up plan so I will be bringing some of those things myself as well. But I'll try to get you an answer soon.

Thanks,  
Patrick

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**From:** Storch, Susan B  
**Sent:** Thursday, June 26, 2014 1:24 PM  
**To:** Curphey, Patrick R  
**Subject:** RE: Artesia

Hi Patrick,

As this facility is just being set up, do we need to think about extra supplies?  
Here at ZNK, we travel to facilities a lot and have had to bring our own supply pkg.

- Copy paper
- Pens
- Correction tape
- Stapler
- Tape
- Two-hole punch
- Purell
- Tissues
- Extra copies of blank forms (I-870/M-444) in case of computer outage.

Just thought I'd run this by you first.

Thanks!

Sue

Cell

(b)(6)

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*Susan Borowski Storch*

Asylum Officer | DHS | USCIS | Newark Asylum Office

1200 Wall St. West, Lyndhurst, NJ 07071 | ☐☐201.508.6176 fax 201.531.1877 | ☐☐☐susan.b.storch@uscis.dhs.gov

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**From:** Curphey, Patrick R  
**Sent:** Thursday, June 26, 2014 2:20 PM  
**To:** Crisp, Aaron S; Clements, Cory S; Phillips, Daniel A; Daniele, Jennifer L; Miranda, Paul M; Jones, Kathleen M; Yang,



Bao; Mahadevia, Mala A; Storch, Susan B; Orendach, Janette  
Cc: Hemming, Bryan D; Mcdonnell, Audrey V  
Subject: RE: Artesia

(b)(5)

Hi everyone,

I received a good question about dress code on this trip so I thought I would reply to all. I would say the dress code for this trip is business casual (no suits or ties required)

Men: long sleeve button up dress shirts or polos and dress pants.

Women: blouses and dress pants

Everyone just use your best judgment and dress appropriately. Again, please let me know if you have any questions or concerns.

Thanks!  
Patrick

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**From:** Curphey, Patrick R  
**Sent:** Thursday, June 26, 2014 7:26 AM  
**To:** Hemming, Bryan D; Crisp, Aaron S; Clements, Cory S; Phillips, Daniel A; Daniele, Jennifer L; Miranda, Paul M; Jones, Kathleen M  
**Cc:** Gadson, Irvin C; Miller, Amber D  
**Subject:** RE: Artesia

Good morning everyone,

I received a couple questions about our travel and accommodations and I thought I'd share the answers with everyone.

The accommodations at FLETC are largely the same as a hotel. No need to worry about your own linens or towels. There is Wi-Fi internet in the rooms for a small fee or for free in the student center. They do NOT provide those fun mini shampoos and bars of soap however so please do plan on bringing your own toiletries.

FLETC will be providing us with transportation from the airport to the facility. When we arrive at the facility we will get a brief orientation about the facility that should give us some good information. Then we can get to work.

Please let me know if you think of any questions throughout the day and I'm including my BB number below in case you think of something over the weekend. Thanks again to everyone for volunteering. I'm looking forward to working with you all in NM!

(b)(6)

Patrick

BB [redacted]

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**From:** Hemming, Bryan D  
**Sent:** Tuesday, June 24, 2014 8:50 AM  
**To:** Crisp, Aaron S; Clements, Cory S; Phillips, Daniel A; Daniele, Jennifer L  
**Cc:** Curphey, Patrick R; Gadson, Irvin C; Miller, Amber D  
**Subject:** Artesia

Hi Artesia team!

**Your team is coming together and arrangements are being made as we speak (Monday morning flights and Thursday afternoon return flights). Thank you for volunteering for this tiger-team. There will be a lot of eyes on this, so we're counting on you to make ZHN shine.**

**You will be interviewing family CF applicants next week. They have 75 people (about 30 heads-of-household) and the idea is to get most of the interviews done on Tuesday and finish those interviews Wednesday with services Wednesday and maybe Thursday morning. Monday will be a lot of case prep work and your assistance will greatly benefit the support staff.**

**Always wanted to stay at a FLETC facility? Well now you can cross that off the bucket list. Lodging and meals are being coordinated with FLETC.**

**Patrick will be your team lead so please feel free to reach out to him with any questions. Irvin and I are also available.**

**Thanks all!**

**Bryan**

## Curphey, Patrick R

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**From:** Jones, Kathleen M  
**Sent:** Thursday, June 26, 2014 3:56 PM  
**To:** Curphey, Patrick R  
**Subject:** RE: Artesia

My pleasure Sir and likewise.

Kathleen M. Jones  
CIS Assistant  
281-931-2919

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**From:** Curphey, Patrick R  
**Sent:** Thursday, June 26, 2014 3:55 PM  
**To:** Jones, Kathleen M  
**Subject:** RE: Artesia

This sounds great. Thank you so much for your help. Looking forward to working with you in NM!

---

**From:** Jones, Kathleen M  
**Sent:** Thursday, June 26, 2014 3:53 PM  
**To:** Curphey, Patrick R; Miranda, Paul M  
**Cc:** Sansom, Susanne A; Ross, Rebecca R; Miller, Amber D; Castano, Abraham  
**Subject:** RE: Artesia

Thank you Sir. We have a couple boxes of red and blue files. We are also bringing our various stamps needed for the input process. I have 1 ream of yellow paper, a few sticky note pads, some black and blue pens, paperclips, rubber bands, and a couple sharpies.

I will be packing my stapler and hole punch but will not be leaving them there as I will need them when I get back. There is still some room in the box that Paul and I started but I will be happy to prepare another box and send it if there is something that needs to be added. I just ask that everyone bring me anything they want sent NLT 1400 tomorrow so I can ensure the box is ready for pickup by UPS at 1500.

Have a great night!

Thank you,

Kathleen M. Jones  
CIS Assistant  
281-931-2919

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**From:** Curphey, Patrick R  
**Sent:** Thursday, June 26, 2014 3:17 PM  
**To:** Jones, Kathleen M; Miranda, Paul M  
**Cc:** Sansom, Susanne A; Ross, Rebecca R; Miller, Amber D; Castano, Abraham  
**Subject:** RE: Artesia

Ms. Jones,

Good thinking! Here is the information I was given for mailing address and POC for the facility where we will be:

[REDACTED]

(b)(6)

[REDACTED]

POC – Angie Vargas, c [REDACTED]

Please include anything you and Paul need for the support staff side of things.

Becky and Amber – It sounds like we will be starting from scratch at this facility and I'm not sure what type of supplies ICE will have for us. Would it be possible to throw some of the basics that the officers might need in a box and mail them as well. (Pens, highlighters, white-out, post-its, extra paper, etc.)

Thanks,  
Patrick

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**From:** Jones, Kathleen M  
**Sent:** Thursday, June 26, 2014 2:57 PM  
**To:** Curphey, Patrick R  
**Subject:** RE: Artesia

Good afternoon Sir,

Sorry to bother you, but I was wondering if you have a POC and an address for the site. Paul and I are trying to put together some supplies that we will need and get them out UPS so they will meet us there on Monday.

Also, please let us (myself or Paul) know if there is anything in particular you would like us to send down and we will make sure it gets in the box.

Thank you and have a great day!

Kathleen M. Jones  
CIS Assistant  
281-931-2919

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**From:** Curphey, Patrick R  
**Sent:** Thursday, June 26, 2014 1:20 PM  
**To:** Crisp, Aaron S; Clements, Cory S; Phillips, Daniel A; Daniele, Jennifer L; Miranda, Paul M; Jones, Kathleen M; Yang, Bao; Mahadevia, Mala A; Storch, Susan B; Orendach, Janette  
**Cc:** Hemming, Bryan D; McDonnell, Audrey V  
**Subject:** RE: Artesia

Hi everyone,

I received a good question about dress code on this trip so I thought I would reply to all. I would say the dress code for this trip is business casual (no suits or ties required)

Men: long sleeve button up dress shirts or polos and dress pants.

**Curphey, Patrick R**

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**From:** Curphey, Patrick R  
**Sent:** Tuesday, July 01, 2014 4:11 PM  
**To:** Brawley, Gregory S  
**Subject:** Update on phones

Mr. Brawley,

I'm the SAO from Houston Asylum and we spoke this morning about phones. Any update on whether or not phones have been ordered and if so when they might be coming in?

Feel free to email me or call me on my BB when you get a chance.

Thanks again for your help,

Patrick

(b)(6)





**U.S. Citizenship  
and Immigration  
Services**

JUN 11 2014

HQRAIO 120/16

## Memorandum

**TO:** Asylum Office Directors and Deputy Directors  
Supervisory Asylum Officers  
Quality Assurance/Training Asylum Officers  
Asylum Officers

**FROM:** John Lafferty  
Chief, Asylum Division

A handwritten signature in black ink, appearing to read "John Lafferty", written over the printed name and title.

**SUBJECT:** Changes to Credible Fear and Reasonable Fear Cases Requiring Quality Assurance Review

### Purpose

The Headquarters Asylum Division (HQASM) is implementing changes to the categories of Credible Fear (CF) and Reasonable Fear (RF) cases requiring Quality Assurance (QA) review. HQASM now requires pre-decisional QA review of a random sampling of CF and RF determinations, both positive and negative.

### Background

HQASM has undertaken an evaluation of the QA processes throughout the Asylum Division's programs. As part of that evaluation, on January 27, 2014, the Asylum Division revised the categories of affirmative asylum cases that require QA review by HQASM. More recently, we have evaluated the categories of CF and RF cases requiring QA review. HQASM has historically reviewed negative CF and RF determinations. In a Congressionally-mandated February 2005 report on asylum seekers in expedited removal, the U.S. Commission on International Religious Freedom (USCIRF) concluded, "[t]he credible fear process would be much more effective by subjecting negative and positive determinations to similar quality assurance procedures to ensure against bias built into the credible fear decision-making process."<sup>1</sup> The current CF QA procedures are virtually the same as those reviewed by USCIRF. We are now revising our CF and RF QA categories in order to provide a uniform process for review of CF and RF determinations, whether positive or negative.

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<sup>1</sup> USCIRF, Report on Asylum Seekers in Expedited Removal, p. 172, at [http://www.uscirf.gov/sites/default/files/resources/stories/pdf/asylum\\_seekers/ERS\\_RptVolII.pdf](http://www.uscirf.gov/sites/default/files/resources/stories/pdf/asylum_seekers/ERS_RptVolII.pdf).

These changes to CF and RF QA will give HQASM broader oversight and insight into all CF and RF determinations. This revised QA model will also permit the HQASM QA Branch to develop broad guidance and training based on the trends identified by reviewing CF and RF cases that are representative of the field's caseload. This will help us improve the quality of CF and RF determinations as a program, rather than limiting quality improvement to the individual case in which QA review is conducted.

### **Implementation**

Under the revised QA review model, the Asylum Offices will send a random sampling of CF and RF determinations – both positive and negative – to HQASM for pre-decisional QA review. HQASM has established a statistically valid sample size that facilitates a thorough review of each case and maintains a high confidence level.

In addition to this submission structure, HQASM continues to require pre-decisional QA review for any CF determinations involving high-profile claims or novel legal issues. HQASM is also now requiring that RF determinations involving high-profile claims or novel legal issues be submitted to HQASM for pre-decisional QA review. HQASM continues to accept for pre-decisional QA review any CF or RF case in which the Asylum Office Director seeks such review.

Asylum Offices must receive a final response from HQASM on each case submitted for pre-decisional QA review before the final determination can be served on the alien, including on cases pending QA review prior to implementation of this revised QA review model.

If you have any questions, please contact the Asylum Division Quality Assurance Branch Chief and/or email the Asylum QA – Credible Fear mailbox or Asylum QA – Reasonable Fear mailbox.

**QUALITY ASSURANCE REFERRAL SHEET (rev. 6/6/2014)**

Tracking number: Z - 201 -	
A#:	Nationality:
Applicant Name:	

**Categories Requiring Submission and Response from HQ/QA Prior to Service of Decision**

<input type="checkbox"/>	<b>Asylum Office Request for HQ QA Review:</b> Any case for which the Asylum Office Director requests review
<input type="checkbox"/>	<b>National of Contiguous Territory/Visa Waiver Country/Safe Third Country:</b> <u>Grants</u> of applicants from a contiguous territory that involve novel legal issues or criminal activity by the applicant in the U.S. or abroad; <u>grants</u> of applicants from countries in the Visa Waiver Program, see 8 CFR § 217.2[a]; or <u>grants</u> of applicants from countries with which the U.S. has a Safe 3 <sup>rd</sup> Country agreement, see INA Sec. 208(a)(2)(A), (e.g. grants of Canadian nationals)
<input type="checkbox"/>	<b>Diplomats:</b> <u>Grants, referrals, and NOIDs</u> of cases of sitting diplomats to the US or UN, other high-level government or military officials, high ranking diplomats to other countries, or family members of the foregoing; <u>grants, referrals, and NOIDs</u> of applicants who fraudulently obtained a diplomatic visa
<input type="checkbox"/>	<b>Discretionary Denials/Referrals:</b> <u>Referrals and NOIDs</u> of applicants who meet the definition of a refugee and is otherwise eligible for asylum, but is denied or referred because of acts that are not a bar to asylum
<input type="checkbox"/>	<b>EOIR- Prior Denials:</b> <u>Grants</u> of applicants who were previously denied asylum by the Executive Office for Immigration Review (EOIR)
<input type="checkbox"/>	<b>Firm Resettlement:</b> <u>Referrals and NOIDs</u> of cases that would be granted but for firm resettlement bar
<input type="checkbox"/>	<b>Juvenile:</b> <u>Referrals and NOIDs</u> of all cases in which the principal applicant is less than 18 years old at the time of filing
<input type="checkbox"/>	<b>National Security (Grants):</b> <u>Grants</u> of cases involving national security concerns where the concern was not resolved through vetting
<input type="checkbox"/>	<b>National Security- TRIG:</b> <u>Grants, referrals, and NOIDs</u> of cases that would be granted but for TRIG bar, regardless of whether exemption available
<input type="checkbox"/>	<b>Publicized or Likely to be Publicized:</b> <u>Grants, referrals, and NOIDs</u> of cases that have had or are likely to have national exposure, not just local interest
<input type="checkbox"/>	<b>Persecutor-related issues:</b> <u>Grants</u> of cases where evidence indicates that the applicant may have ordered, incited, assisted, or otherwise participated in acts of persecution, or human rights violations, and the individual meets the burden of proof to demonstrate that he/she should not be barred as a persecutor; <u>referrals and NOIDs</u> of cases involving credible applicants determined to be barred as a persecutors
<input type="checkbox"/>	<b>Credible Fear of Persecution or Torture:</b> <u>Random sampling of positive and negative</u> credible fear of persecution and torture determinations, at established numbers of sample; <u>positive and negative</u> determinations for high-profile claims or claims involving novel legal issues
<input type="checkbox"/>	<b>Reasonable Fear of Persecution or Torture:</b> <u>Random sampling of positive and negative</u> reasonable fear of persecution and torture determinations, at established numbers of sample; <u>positive and negative</u> determinations for high-profile claims or claims involving novel legal issues
<input type="checkbox"/>	<b>NACARA:</b> <u>Grants and referrals</u> involving persecutor-related issues, as noted above; <u>grants and referrals</u> involving TRIG, as noted above; <u>grants and referrals</u> involving novel legal issues
<input type="checkbox"/>	<b>Safe-Third Country Agreement:</b> All cases in which evidence indicates the STC agreement may apply, irrespective of whether the applicant is eligible for an exception; all STC dissolutions and relevant documentation

**(See Required Documents for QA Referral to HQ for list of documents to include with submission)**

**National Security:**

This case includes classified information

No NS concern     Resolved NS concern (BCAA included)     Unresolved NS concern (BCAA included)     N/A (APSO only)

	Print Name	Date
Asylum Officer	_____	_____
Approving Supervisory Asylum Officer	_____	_____
Submitting Quality Assurance Officer	_____	_____
If any, FDNS-IO/FDNS-DS Record Number	_____	_____



## Hemming, Bryan D

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**From:** Donis, Antonio  
**Sent:** Tuesday, August 05, 2014 11:51 AM  
**To:** Hemming, Bryan D; Lynn, Mallory L  
**Cc:** Daum, Robert L  
**Subject:** RE: ARTESIA

Sounds like a plan Bryan.

My only request is that Debbie does the math on our 80/20 rule and only sends me the 80% that she wants me to review.

Thanks,

Antonio\_\_

**From:** Hemming, Bryan D  
**Sent:** Tuesday, August 05, 2014 10:05 AM  
**To:** Donis, Antonio; Lynn, Mallory L  
**Cc:** Daum, Robert L  
**Subject:** FW: ARTESIA  
**Importance:** High

Hi Antonio:

Sorry for the delay on getting this to you.

We're figuring out how we want to go about dealing with these MTRs. Those we received over the weekend should be ready by COB today and sent out to the attorneys. We do want to take some of the MTRs Artesia receives, but that exact number is still being negotiated.

We had discussed the idea of you being able to handle a majority of these (having the SAO there gives a degree of separation). For the time being, and beginning with the attached, would you be able to respond to 80% of the MTRs and send us the remaining 20%?

I will make sure to cc you on our responses (both today and going forward) so you'll have record and get an idea of how we are doing them.

This is still very much in development, so please let us know your thoughts.

Thanks!

Bryan

**From:** Houston.Asylum  
**Sent:** Monday, August 04, 2014 3:39 PM  
**To:** Berger, Jack S; McDonnell, Audrey V; McMillan, Jill; Telfer, Lee W; Donis, Antonio  
**Cc:** Gadson, Irvin C; Daum, Robert L; Hemming, Bryan D  
**Subject:** FW: ARTESIA  
**Importance:** High

Please see below. Negative, IJ review requested: hearing date was today. 8/4/14. Please note: No signed G-28 attached. The attorney has given us a copy of an EOIR 28, which does not have the Privacy Act release statement to be signed by the detainee.

Thanks,

**Debbie Lawson**  
**Supervisory CIS Assistant**  
**Acting Congressional Liaison/UAC Program Assistant**  
**Houston Asylum Office**  
**16630 Imperial Valley Dr., Ste. 200**  
**Houston, TX 77060**  
**281-931-2100**



**U.S. Citizenship  
and Immigration  
Services**

**From**

**Sent:** Monday, August 04, 2014 3:20 PM

**To:** Houston.Asylum

**Subject:** ARTESIA

(b)(5)

(b)(6)

Dear Sir or Madam,



(b)(6)

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**From:** Lafferty, John L  
**Sent:** Wednesday, June 11, 2014 9:05 PM  
**To:** RAIO - Asylum Field Office Managers  
**Cc:** Tanner, Rebecca S; Kim, Ted H; Stone, Mary M; Roberts, Rhonda J; Pilotti, David A; Broughton, Daniel A; Kim, Alejandra  
**Subject:** Changes to the CF/RF QA review process

Dear Asylum Office Directors and Deputy Directors,

Effective immediately, the Headquarters Asylum Division (HQASM) is implementing changes to the categories of Credible Fear (CF) and Reasonable Fear (RF) cases requiring Quality Assurance (QA) review. Offices should immediately discontinue submitting cases based on the previous review categories. HQASM will spend the coming days completing review and returning to the field those cases that have already been submitted for review. Once we complete these reviews, we will inform you to begin submitting cases under the new random sampling process described below.

Under the new QA review program, HQASM is requiring pre-decisional QA review of a random sampling of CF and RF determinations, both positive and negative. We expect the random sampling to be reflective of the Asylum Office's CF and RF caseloads. It is incumbent upon each Asylum Office to ensure legal sufficiency of all CF and RF determinations.

Attached please find the implementation memorandum and the revised QA Referral Sheet. (b)(5)

The tables below specify the number of CF and RF cases that each Asylum Office must submit weekly for QA review.

Weekly Submissions - CF	MON	TUE	WED	THU	FRI	TOTAL	Weekly Submissions - RF		

**CF - Weekly Submissions**

Each Asylum Office is required to submit the relevant number of CF cases mentioned above for the corresponding day of the week. Each Asylum Office is required to submit an equal number of positive and negative determinations, with the exception of ZNY, which shall alternate positive and negative determinations in their weekly submission when possible. The Asylum Offices shall select CF cases to submit by the last digit of the A-number in this priority sequence: 2, 4, 6, 8, any other cases. For example, ZAR shall submit two cases for QA review on Mondays. ZAR shall submit two cases with "2" as the last digit of the A-number. If ZAR does not have two cases ending in "2," then it shall select a case ending in "4," and so forth. If an Asylum Office fails to submit the relevant number of cases for a certain day, it shall submit the cases the following day. If an Asylum Office fails to submit a required number of cases for a certain week, it shall send an email to [ASYLUM-QA-CREDIBLE-FEAR@uscis.dhs.gov](mailto:ASYLUM-QA-CREDIBLE-FEAR@uscis.dhs.gov) with an explanation for the lack of submissions.

**RF - Weekly Submissions**

Each Asylum Office is required to submit the relevant number of RF cases mentioned above each week. Each Asylum Office is required to submit an equal number of positive and negative determinations, with the exception of ZNY, which will alternate positive and negative determinations in their weekly submission when possible. The Asylum Offices are required to submit RF cases on Monday, if possible. Each Asylum Office shall select RF cases to submit by the last digit of the A-number. Asylum Offices are to select cases with A-numbers ending in an even digit. If an Asylum Office does not submit any RF cases by Monday or Tuesday, then the Asylum Office shall submit RF cases of any A-number starting Wednesday. If an Asylum Office fails to submit a required number of cases for a certain week, it shall send an email to the [ASYLUM-QA-REASONABLE-FEAR@uscis.dhs.gov](mailto:ASYLUM-QA-REASONABLE-FEAR@uscis.dhs.gov) with an explanation for the lack of submissions.

Should any Asylum Office wish to discuss implementation of the random sampling, please contact the QA Branch.

**Jowett, Haley L**

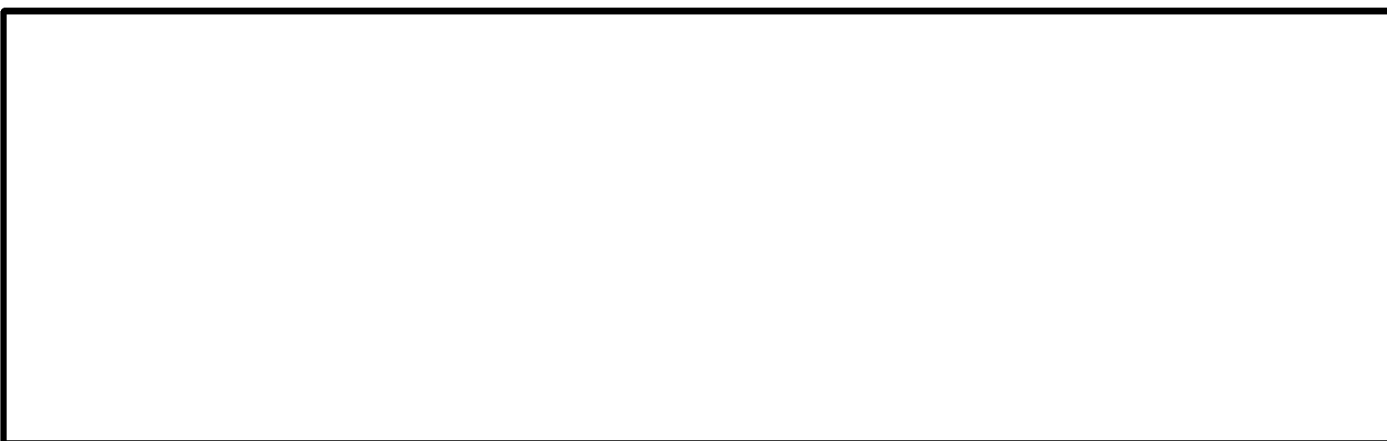
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**From:** Lafferty, John L  
**Sent:** Thursday, June 05, 2014 6:33 PM  
**To:** Salas, Bryan F; Melero, Mariela; Rogers, Debra A; Whitney, Ronald W; Hammill, Hunter A; Alfonso, Angelica M; Torres, Juan J; Irazabal, Luz F; Choe, Won J; Parisi, Thomas M  
**Cc:** Langlois, Joseph E; Higgins, Jennifer B; Stone, Mary M; Tanner, Rebecca S; Munoz-Acevedo, Carlos  
**Subject:** Follow-up on the Proposed Changes to the CF/RF QA review process

(b)(5)

Mariela,

It was good talking with you on Monday to discuss the Human Rights First report and our plan to change the Credible Fear and Reasonable Fear QA categories. For those of you who had not seen it yet, the HRF report did come out today - <http://www.humanrightsfirst.org/press-release/policymakers-urged-protect-refugees-and-prevent-abuse-us-mexico-border>.



I know that everyone is extremely busy with the DACA renewal roll-out, but I was hoping that we could find a few minutes to have a follow-up conversation to wrap up our discussion on how to best message this change as we roll it out.

Let me know what time/date would work for you.

Thanks!!

John

## Policymakers Urged to Protect Refugees and Prevent Abuse at U.S. – Mexico Border

[humanrightsfirst.org/press-release/policymakers-urged-protect-refugees-and-prevent-abuse-us-mexico-border](http://humanrightsfirst.org/press-release/policymakers-urged-protect-refugees-and-prevent-abuse-us-mexico-border)

June 05, 2014

### Related Campaigns & Topics

*Washington, D.C.* – As the U.S. government grapples with the humanitarian crisis surrounding the number of children, families and asylum seekers crossing the southern border, Human Rights First today released a comprehensive blueprint detailing how lawmakers and policymakers can tackle challenges related to the increase in requests for asylum and protection along the border. The blueprint, “How to Protect Refugees and Prevent Abuse at the Border,” is based on the organization’s extensive research and visits to key border points, border patrol stations, and immigration detention facilities in Arizona, California, and Texas.

“There is broad bipartisan agreement that protecting those who flee persecution is an important American value,” said Human Rights First’s Eleanor Acer, an author of today’s blueprint. “This Blueprint details pragmatic and fiscally prudent solutions that reflect American values. Effectively addressing these challenges should be a top priority for both the administration and Congress.”

“How to Protect Refugees and Prevent Abuse at the Border” examines the increased use of expedited removal over the years and the rise in the number of requests for protection within the expedited removal process. It also outlines the various pressures on the refugee protection system, including the escalation of violence and impunity in countries south of the border. In order to deal with the challenges posed by the increase in asylum seekers requesting U.S. protection at the border, today’s blueprint includes the following key recommendations for policymakers:

- **Address the resource imbalance by properly funding the protection screening interviews that are part of expedited removal and reinstatement of removal, as well as immigration court removal hearings, to reduce backlogs and vulnerability to abuse.** DHS should request and Congress should appropriate funds to conduct timely in-person credible fear and reasonable fear screenings without diverting staff from affirmative asylum interviews, and address multi-year immigration court backlogs.
- **Tackle the deficit of accurate information about the asylum process by expanding legal orientation presentations.** DOJ should request and Congress should appropriate funds to expand the cost-efficient Legal Orientation Program to all detention facilities to be presented to asylum seekers and other immigration detainees within a few days of detention, and facilitate access to counsel.
- **Strengthen – rather than weaken - protection safeguards.** Steps include: U.S. Citizenship and Immigration Services should end or at least limit telephone interviews and revise flawed language in the new Credible Fear Lesson Plan; CBP should improve conduct of its interviews and implement recommendations of the U.S. Commission on International Religious Freedom.
- **Launch a nationwide initiative with increased capacity to use cost-effective alternatives to detention for border arrivals who are released to other parts of the country and are determined to need appearance support.** Congress should support this nationwide initiative. If additional supervision is needed for some families, DHS should build on models of community-based alternatives, such as the pilot projects already in place with Lutheran Immigration and Refugee Service or the U.S. Conference of Catholic Bishops.
- **Enhance tools for detecting and investigating abuse and criminal activity.** DHS should utilize multiple tools for detecting abuse and criminal activity, and refer fraudulent schemes or criminal activity for investigation and prosecution.
- **Address triggers of flight.** The administration should broaden inter-agency attention to confront impunity and rule of law challenges contributing to flight from Central America and Mexico, support legal assistance for

displaced victims in countries of origin and carefully assess any informational campaigns or enforcement proposals for consistency with refugee protection and human rights commitments.

Human Rights First's research identified a number of ways in which the challenges at the border have led to changes that undermine access to asylum. Many asylum seekers, especially in the busiest areas such as south Texas, are interviewed in chaotic and crowded conditions at U.S. Border Patrol stations, often by telephone, with little privacy, following difficult or traumatic journeys. After transfer to immigration detention, the majority of credible fear interviews are conducted by telephone. Asylum seekers face a range of challenges in seeking release from detention, including bond levels that have risen so steeply in some places that indigent asylum seekers cannot afford to pay them. Many are detained in jail-like conditions for weeks, months or sometimes longer. Throughout the process, there is an overwhelming lack of accurate legal information and lack of counsel.

"U.S. policies can set an example for the rest of the world. The United States has a strong interest in maintaining its global leadership in protecting the persecuted," Acer noted. "Our nation should strengthen, rather than weaken, its commitment to protecting those who face persecution and other serious human rights abuses."

Human Rights First has issued a fact sheet outlining the key findings from today's report. For more information or to speak with Acer, contact Corinne Duffy at [DuffyC@humanrightsfirst.org](mailto:DuffyC@humanrightsfirst.org) or 202-370-3319.

-30-



**Jowett, Haley L**

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**From:** Lafferty, John L  
**Sent:** Friday, June 06, 2014 7:21 PM  
**To:** RAIO - Asylum Field Office Managers  
**Cc:** Tanner, Rebecca S; Stone, Mary M; Pilotti, David A; Roberts, Rhonda J; Kim, Ted H  
**Subject:** heads up to Asylum Offices on coming CF/RF QA changes (hopefully...)

(b)(5)

Dear Asylum Office Directors and Deputy Directors,



At the time of implementation, we will send out tables indicating the number of CF and RF cases that each Asylum Office must submit weekly for QA review.



Should any Asylum Office wish to discuss implementation of the random sampling, please contact Rebecca Tanner.

John

## Jowett, Haley L

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**From:** Lafferty, John L  
**Sent:** Monday, June 02, 2014 12:28 PM  
**To:** Melero, Mariela  
**Cc:** Rogers, Debra A; Salas, Bryan F; Langlois, Joseph E; Higgins, Jennifer B; Stone, Mary M  
**Subject:** RE: Proposed Changes to the Credible Fear and Reasonable Fear QA review process  
**Attachments:** Talking Points-History - Changes to CF-RF QA Review.docx

Mariela,

I'm attaching a document we have worked up laying out the history of the CF QA review process, as well as some possible talking points related to our proposed change to the QA review process. Not sure if you want to discuss this separately from our phone call this afternoon on the HRF draft report, or during the same call.

Thanks!

John

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**From:** Melero, Mariela  
**Sent:** Thursday, May 29, 2014 9:12 PM  
**To:** Lafferty, John L  
**Cc:** Rogers, Debra A; Salas, Bryan F  
**Subject:** RE: Proposed Changes to the Credible Fear and Reasonable Fear QA review process

Dear John,  
Thanks for sharing this excellent message. We will huddle with the team first team tomorrow and offer additional engagement/messaging ideas as appropriate.

Best,  
Mariela

Sent with Good ([www.good.com](http://www.good.com))

(b)(5)

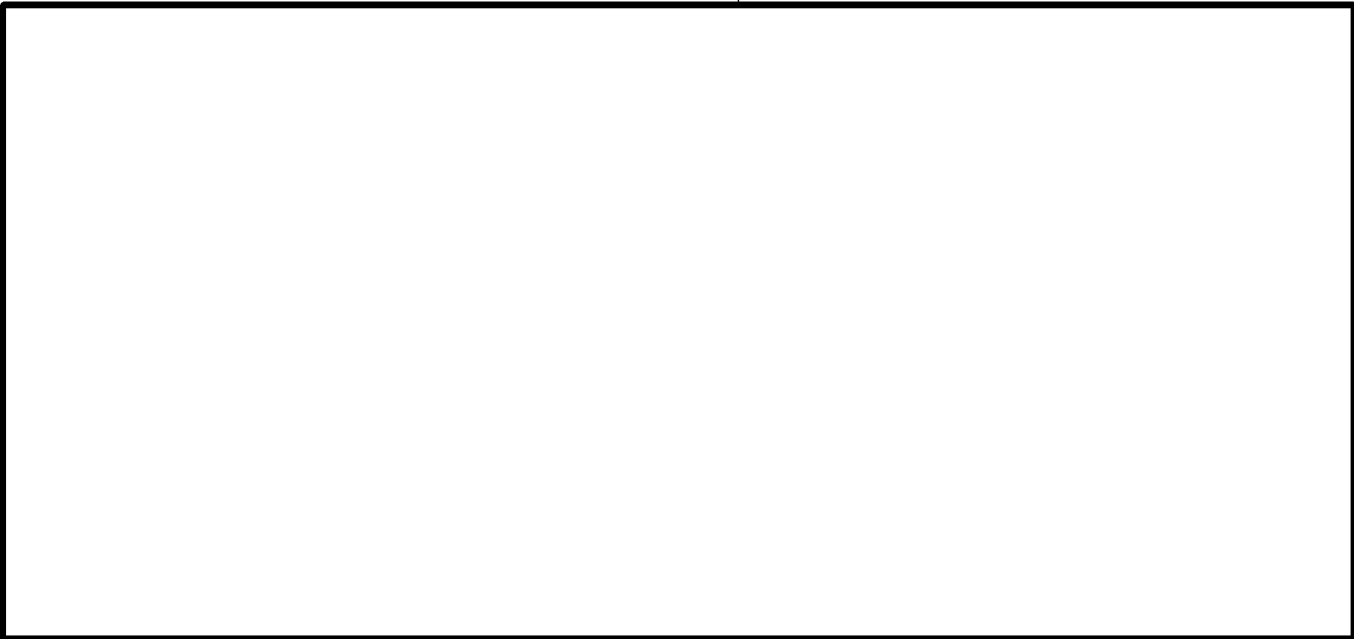
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**From:** Lafferty, John L  
**Sent:** Thursday, May 29, 2014 11:59:19 PM  
**To:** Melero, Mariela  
**Subject:** Proposed Changes to the Credible Fear and Reasonable Fear QA review process

Mariela,

I understand that Joe brought up Asylum's upcoming adjustments to the program of Quality Assurance review of cases screened by the Asylum Division in the expedited and administrative removal processes. We are preparing to send the following language to the field, by e-mail, to advise them of the changes to the Credible Fear and Reasonable Fear Quality Assurance processes:





**We are presently working on a revision to our full Credible Fear and Reasonable Fear procedures manuals. The instructions above will replace the language on Quality Assurance contained in our present procedures manuals. Those manuals have generally been made available to the public.**

**Given our experience with the recent update to our Credible Fear Lesson Plan, I thought that it would be good to turn to the public engagement experts to get your thoughts on our proposed course of action before we proceed. Let me know if you have any questions.**

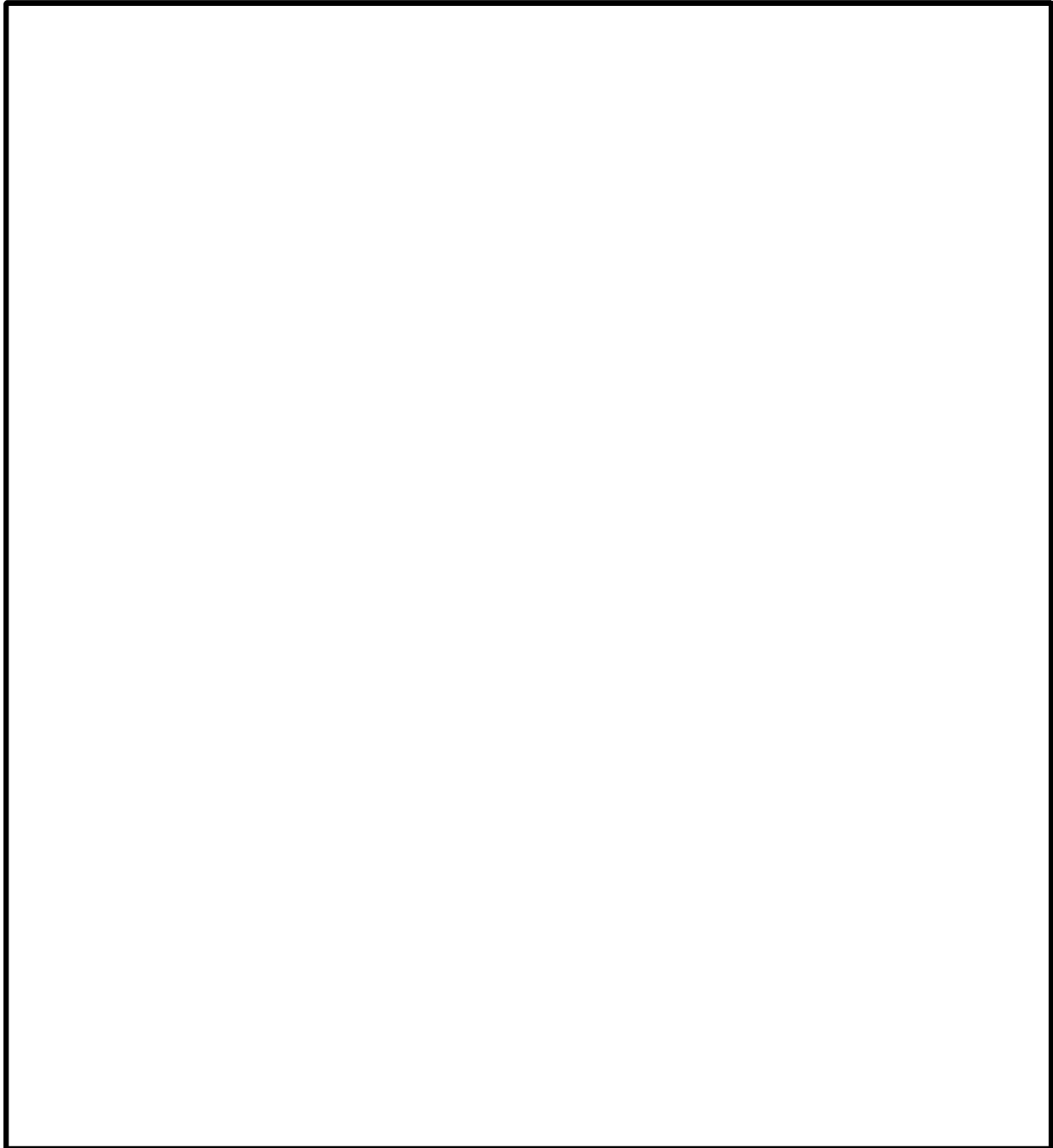
**Thanks!**

**(b)(5)**

**John**

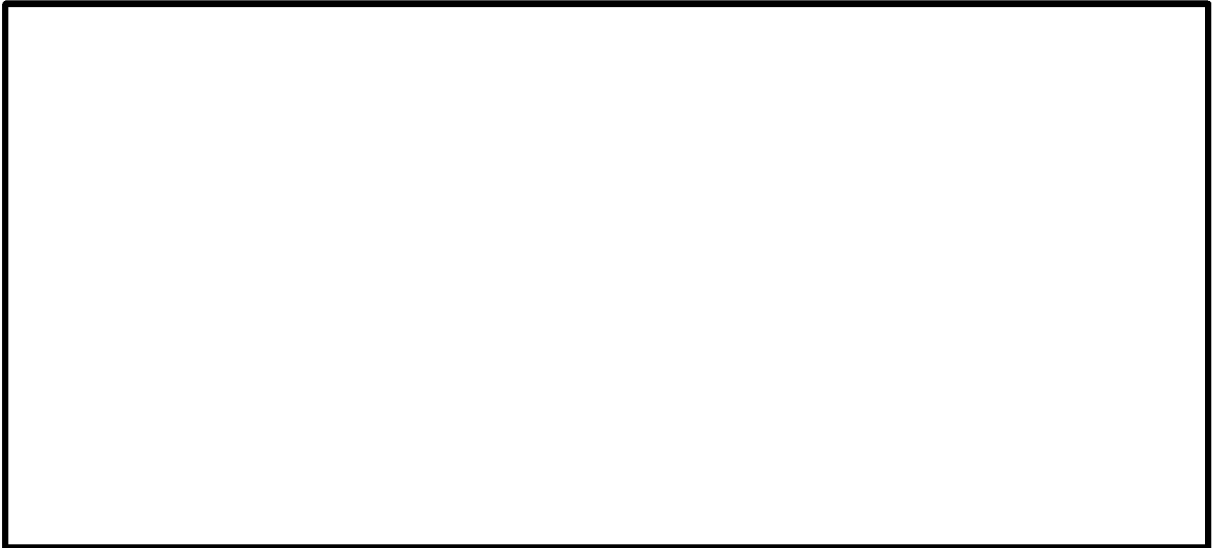
**Talking Points – Revision of the Credible Fear Quality Assurance Review Process**

The credible fear standard, established by Congress, requires an applicant to demonstrate a significant possibility that he or she could establish eligibility for asylum or protection under the Convention Against Torture. This standard has not changed since its enactment by Congress in 1996. The Asylum Division’s revision of the quality assurance (QA) review process is designed to reinforce the division’s long-standing interpretation of the statutory “significant possibility” standard in all credible fear determinations, both positive and negative.



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<sup>1</sup> USCIRF Report on Asylum Seekers in Expedited Removal, p. 172 (section authored by USCIRF study director Mark Hetfield), at [http://www.uscirf.gov/sites/default/files/resources/stories/pdf/asylum\\_seekers/ERS\\_RptVolIII.pdf](http://www.uscirf.gov/sites/default/files/resources/stories/pdf/asylum_seekers/ERS_RptVolIII.pdf).



**History of QA review in the Credible Fear process**

- Certain categories of cases have required pre-decisional QA review by HQASM since the implementation of expedited removal and the credible fear process in April 1997. All negative credible fear determinations have been included in the categories requiring HQ QA review since the program was created. Positive credible fear determinations were only reviewed if they happened to fall into another category of cases requiring review. Similarly, HQASM has had a longstanding policy of reviewing all negative reasonable fear determinations.
- The USCIRF Congressionally-mandated February 2005 report on asylum seekers in expedited removal concluded that the HQ QA process “may be an incentive for asylum officers to approve disproportionate numbers of credible fear claims” because the “review procedures seem to encourage positive credible fear findings even where a negative one may be warranted.”<sup>6</sup>
- The report found that “modification of quality assurance procedures is necessary to help ensure that asylum officers are not biased toward improper findings of credible fear, so that aliens without a credible and colorable asylum claim will not unnecessarily remain in the United States - in detention at government expense - awaiting an asylum hearing.”<sup>7</sup> USCIRF concluded that “[t]he credible fear process would be much more effective by subjecting negative and positive determinations to similar quality assurance procedures to ensure against bias built into the credible fear decision-making process.”<sup>8</sup>

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<sup>2</sup> See 8 C.F.R. § 208.30(e)(7).

<sup>3</sup> See Immigration and Nationality Act (INA) § 235(b)(1)(B)(iii)(III) (IJ review of a negative CF determination); 8 C.F.R. §§ 208.30(g) (same), 208.31(g) (IJ review of a negative RF determination).

<sup>4</sup> See INA § 235(b)(1)(B)(iii)(III) (review by an IJ of a negative CF determination “shall include an opportunity for the alien to be heard and questioned by the immigration judge”).

<sup>5</sup> See 8 C.F.R. § 1208.30(g)(2)(iv)(A).

<sup>6</sup> See Footnote 1

<sup>7</sup> *Id.*

<sup>8</sup> *Id.*

- Upon expansion of expedited removal to certain individuals apprehended between ports of entry (“inland” cases) in August 2004, HQASM initially required QA review of all inland positive credible fear determinations. In April 2006, following further expansion of the expedited removal process to all Border Patrol sections and issuance of revised credible fear guidance in the AOBTC lesson plan, HQASM reduced QA review to half of all positive inland cases, but also required review of positive credible fear determinations from ZAR, ZCH, and ZMI with an odd-numbered A-number.
- In December 2008, HQASM issued a memorandum to eliminate pre-decisional review of these positive determination categories. The following categories were listed as continuing to require pre-decisional HQ QA review and remain in place to date:
  - 100% of negative credible fear of persecution and torture determinations;
  - High-profile cases;
  - Claims involving novel legal issues; and
  - Any case that local management believes should be reviewed by HQ.
- While the 2008 memorandum indicated that post-decisional review of a random sampling of positive credible fear determinations would replace the previous pre-decisional review of positive determinations, the random review of positive credible fear determinations has not occurred since FY2009.

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## Lesson Plan Overview

<b>Course</b>	Refugee, Asylum, and International Operations Directorate Officer Training Asylum Division Officer Training Course
<b>Lesson</b>	<b><i>Credible Fear</i></b>
<b>Rev. Date</b>	February 28, 2014
<b>Lesson Description</b>	The purpose of this lesson is to explain how to determine whether an alien subject to expedited removal or an arriving stowaway has a credible fear of persecution or torture using the credible fear standard.
<b>Terminal Performance Objective</b>	The Asylum Officer will be able to correctly make a credible fear determination consistent with the policies, procedures, and regulations that govern whether the applicant has established a credible fear of persecution or a credible fear of torture.
<b>Enabling Performance Objectives</b>	<ol style="list-style-type: none"><li>1. Identify which persons are subject to expedited removal. (ACRR7)(OK4)(ACRR2)(ACRR11)(APT2)</li><li>2. Examine the function of credible fear screening. (ACRR7)(OK1)(OK2)(OK3)</li><li>3. Define the standard of proof required to establish a credible fear of persecution. (ACRR7)</li><li>4. Identify the elements of “torture” as defined in the <i>Convention Against Torture</i> and the regulations that are applicable to a credible fear of torture determination (ACRR7)</li><li>5. Describe the types of harm that constitute “torture” as defined in the <i>Convention Against Torture</i> and the regulations. (ACRR7)</li><li>6. Define the standard of proof required to establish a credible fear of torture. (ACRR7)</li><li>7. Identify the applicability of bars to asylum and withholding of removal in the credible fear context. (ACRR3)(ACRR7)</li></ol>
<b>Instructional Methods</b>	Lecture, practical exercises
<b>Student Materials/References</b>	Lesson Plan; Procedures Manual, Credible Fear Process (Draft, Nov., 2003); INA § 208; INA § 235; 8 C.F.R. §§ 208.16-18; 8 C.F.R. § 208.30; 8 C.F.R. § 235.3.  Credible Fear Forms: <b>Form I-860</b> : Notice and Order of Expedited Removal; <b>Form I-867-A&amp;B</b> : Record of Sworn Statement; <b>Form I-869</b> : Record of Negative Credible Fear Finding and Request for Review by

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Immigration Judge; **Form I-863**: Notice of Referral to Immigration Judge; **Form I-870**: Record of Determination/Credible Fear Worksheet; **Form M-444**: Information about Credible Fear Interview

**Method of Evaluation**

Written test

**Background Reading**

1. Immigration and Naturalization Service, *Inspection and Expedited Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum Procedures*, 62 Fed. Reg. 10312 (March 6, 1997).
2. Bo Cooper, *Procedures for Expedited Removal and Asylum Screening under the Illegal Immigration Reform and Immigrant Responsibility Act of 1996*, 29 CONN. L. REV. 1501, 1503 (1997).
3. Immigration and Naturalization Service, *Regulations Concerning the Convention Against Torture*, 64 Fed. Reg. 8478 (February 19, 1999).
4. Immigration and Naturalization Service, *Notice Designating Aliens Subject to Expedited Removal Under Section 235(b)(1)(A)(iii) of the Immigration and Nationality Act*, 67 Fed. Reg. 68924 (November 13, 2002).
5. Customs and Border Protection, *Designating Aliens For Expedited Removal*, 69 Fed. Reg. 48877 (August 11, 2004).
6. U.S. Committee on International Religious Freedom, *Study on Asylum Seekers in Expedited Removal – Report on Credible Fear Determinations*, (Feb. 2005).
7. Customs and Border Protection, *Treatment of Cuban Asylum Seekers at Land Border Ports of Entry*, Memorandum for Directors, Field Operations, (Washington, DC: 10 June 2005).
8. Joseph E. Langlois, Asylum Division, Office of International Affairs, *Increase of Quality Assurance Review for Positive Credible Fear Determinations and Release of Updated Asylum Officer Basic Training Course Lesson Plan, Credible Fear of Persecution and Torture Determinations*, Memorandum to Asylum Office Directors, et al. (Washington, DC: 17 April 2006).
9. Joseph E. Langlois, Asylum Division, Refugee, Asylum and International Operations Directorate, *Revised Credible Fear Quality Assurance Review Categories and Procedures*, Memorandum to Asylum Office Directors, et al. (Washington, DC: 23 December 2008).



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10. Immigration and Customs Enforcement, *Parole of Arriving Aliens Found to Have a Credible Fear of Persecution or Torture*, ICE Directive No. 11002.1 (effective Jan. 4, 2010).

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## CRITICAL TASKS

### Critical Tasks

- Knowledge of U.S. case law that impacts RAIO (3)
- Knowledge of the Asylum Division history. (3)
- Knowledge of the Asylum Division mission, values, and goals. (3)
- Knowledge of how the Asylum Division contributes to the mission and goals of RAIO, USCIS, and DHS. (3)
- Knowledge of the Asylum Division jurisdictional authority. (4)
- Knowledge of the applications eligible for special group processing (e.g., ABC, NACARA, Mendez) (4)
- Knowledge of relevant policies, procedures, and guidelines establishing applicant eligibility for a credible fear of persecution or credible fear of torture determination. (4)
- Skill in identifying elements of claim. (4)
- Knowledge of inadmissibility grounds relevant to the expedited removal process and of mandatory bars to asylum and withholding of removal. (4)
- Knowledge of the appropriate points of contact to gain access to a claimant who is in custody (e.g., attorney, detention facility personnel) (3)
- Skill in organizing case and research materials (4)
- Skill in applying legal, policy, and procedural guidance (e.g., statutes, case law) to evidence and the facts of a case. (5)
- Skill in analyzing complex issues to identify appropriate responses or decisions. (5)

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## Presentation

## References

### I. INTRODUCTION

The purpose of this lesson plan is to explain how to determine whether an alien seeking admission to the U.S., who is subject to expedited removal or is an arriving stowaway, has a credible fear of persecution or torture using the credible fear standard defined in the Immigration and Nationality Act (INA or the Act), as amended by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA), and implementing regulations.

### II. BACKGROUND

The expedited removal provisions of the INA, were added by section 302 of IIRIRA, and became effective April 1, 1997.

INA § 235(a)(2); § 235 (b)(1).

In expedited removal, certain aliens seeking admission to the United States are immediately removable from the United States by the Department of Homeland Security (DHS), unless they indicate an intention to apply for asylum or express a fear of persecution or torture or a fear of return to their home country. Aliens who are present in the U.S., and who have not been admitted, are treated as applicants for admission. Aliens subject to expedited removal are not entitled to an immigration hearing or further review unless they are able to establish a credible fear of persecution or torture.

INA § 235(a)(1).

INA section 235 and its implementing regulations provide that certain categories of aliens are subject to expedited removal. These include: arriving stowaways; certain arriving aliens at ports of entry who are inadmissible under INA section 212(a)(6)(C) (because they have presented fraudulent documents or made a false claim to U.S. citizenship or other material misrepresentations to gain admission or other immigration benefits) or 212(a)(7) (because they lack proper documents to gain admission); and certain designated aliens who have not been admitted or paroled into the U.S.

Those aliens subject to expedited removal who indicate an intention to apply for asylum, a fear of persecution or torture, or a fear of return to their home country are referred to asylum officers to determine whether they have a credible fear of persecution or torture. An asylum officer will then conduct a credible fear interview to determine if there is a significant possibility that the alien can establish eligibility for asylum under section 208 of the INA. Pursuant to

INA § 235(b)(1)(A); 8 C.F.R. § 208.30.

regulations implementing the Convention Against Torture (CAT) and the Foreign Affairs Reform and Restructuring Act of 1998, if an alien does not establish a credible fear of persecution, the asylum officer will then determine whether there is a significant possibility the alien can establish eligibility for protection under the Convention Against Torture through withholding of removal or deferral of removal.

Sec. 2242(b) of the Foreign Affairs Reform and Restructuring Act of 1998 (Pub. L. 105-277, Div. G, October 21, 1998) and 8 C.F.R. § 208.30(e)(3).

#### A. Aliens Subject to Expedited Removal

The following categories of aliens may be subject to expedited removal:

1. Arriving aliens coming or attempting to come into the United States at a port of entry or an alien seeking transit through the United States at a port of entry.

8 C.F.R. § 235.3(b)(1)(i); see 8 C.F.R. § 1.2 for the definition of an “arriving alien.”

Aliens attempting to enter the United States at a land border port of entry with Canada must first establish eligibility for an exception to the Safe Third Country Agreement, through a Threshold Screening interview, in order to receive a credible fear interview.

8 C.F.R. § 208.30(e)(6). See also, ADOTC Lesson Plan, *Safe Third Country Threshold Screening*.

2. Aliens who are interdicted in international or United States waters and brought to the United States by any means, whether or not at a port of entry.

8 C.F.R. § 1.2; see also Immigration and Naturalization Service, *Notice Designating Aliens Subject to Expedited Removal Under Section 235(b)(1)(A)(iii) of the Immigration and Nationality Act*, 67 Fed. Reg. 68924 (Nov. 13, 2002).

This category does not include aliens interdicted at sea who are never brought to the United States.

3. Aliens who have been paroled under INA section 212(d)(5) on or after April 1, 1997, may be subject to expedited removal upon termination of their parole.

This provision encompasses those aliens paroled for urgent humanitarian or significant public benefit reasons.

This category does not include those who were given advance parole as described in Subsection B (7) below.

4. Aliens who have arrived in the United States by sea (either by boat or by other means) who have not been admitted or paroled, and who have not been physically present in the U.S. continuously for the two-year period prior to the inadmissibility determination.

Immigration and Naturalization Service, *Notice Designating Aliens Subject to Expedited Removal Under Section 235(b)(1)(A)(iii) of the Immigration and Nationality Act*, 67 Fed. Reg. 68924 (Nov. 13, 2002).

5. Aliens who have been apprehended within 100 air miles of any U.S. international land border, who have not been admitted or paroled, and who have not established to the satisfaction of an immigration officer (typically a Border Patrol Agent) that they have been physically present in the U.S. continuously for the 14-day period immediately prior to the date of encounter.

Customs and Border Protection, *Designating Aliens For Expedited Removal*, 69 Fed. Reg. 48877 (Aug. 11, 2004).

## **B. Aliens Seeking Admission Who are Exempt from Expedited Removal**

The following categories of aliens are exempt from expedited removal:

### **1. Stowaways**

Stowaways are not eligible to apply for admission to the U.S., and therefore they are not subject to the expedited removal program under INA section 235(b)(1)(A)(i). They are also not eligible for a full hearing in removal proceedings under INA section 240. However, if a stowaway indicates an intention to apply for asylum under INA section 208 or a fear of persecution, an asylum officer will conduct a credible fear interview and refer the case to an immigration judge for an asylum and/or Convention Against Torture hearing if the stowaway meets the credible fear standard.

INA § 235(a)(2).

### **2. Cubans citizens or nationals**

INA § 235(b)(1)(F) (Cubans arriving at a POE by air); Immigration and Naturalization Service, *Notice Designating Aliens Subject to Expedited Removal Under Section 235(b)(1)(A)(iii) of the Immigration and Nationality Act*, 67 Fed. Reg. 68924 (Cubans arriving by sea); Customs and Border Protection, *Designating Aliens For Expedited Removal*, 69 Fed. Reg. 48877 (Cubans apprehended within 100 air miles of the border and within 14 days of entry without inspection); Customs and Border Protection, *Treatment of Cuban Asylum Seekers at*

3. Persons granted asylum status under INA Section 208 8 C.F.R. § 235.3(b)(5)(iii).
  4. Persons admitted to the United States as refugees under INA Section 207 8 C.F.R. § 235.3(b)(5)(iii).
  5. Persons admitted to the United States as lawful permanent residents 8 C.F.R. § 235.3(b)(5)(ii).
  6. Persons paroled into the United States prior to April 1, 1997
  7. Persons paroled into the United States pursuant to a grant of advance parole that the alien applied for and obtained in the United States prior to the alien's departure from and return to the United States
  8. Persons denied admission on charges other than or in addition to INA Section 212(a)(6)(C) or 212(a)(7) 8 C.F.R. § 235.3(b)(3).
  9. Persons applying for admission under INA Section 217, Visa Waiver Program for Certain Visitors ("VWP") 8 C.F.R. § 235.3(b)(10); *see also Matter of Kanagasundram*, 22 I&N Dec. 963 (BIA 1999); Procedures Manual, Credible Fear Process (Draft, Nov., 2003), sec. IV.L., "Visa Waiver Permanent Program"; and Pearson, Michael A. Executive Associate Commissioner, Office of Field Operations. Visa Waiver Pilot Program (VWPP) Contingency Plan, Wire #2 (Washington DC: April 28, 2000).
- This exemption includes nationals of non-VWP countries who attempt entry by posing as nationals of VWP countries.
- Individuals seeking admission under the Guam and Northern Mariana Islands visa waiver program under INA section 212(l) are not exempt from expedited removal provisions of the INA.

10. Asylum seekers attempting to enter the United States at a land border port of entry with Canada must first establish eligibility for an exception to the Safe Third Country Agreement, through a Threshold Screening interview, in order to receive a credible fear interview.

8 C.F.R. § 208.30(e)(6).

### C. Historical Background

1. In 1991, the Immigration and Naturalization Service (INS) developed the credible fear of persecution standard to screen for possible refugees among the large number of Haitian migrants who were interdicted at sea during the mass exodus following a *coup d'etat* in Haiti.

The credible fear standard as it is applied to interdicted migrants outside the United States is beyond the scope of this lesson plan.

2. Prior to implementation of the expedited removal provisions of IIRIRA, credible fear interviews were first conducted by INS trial attorneys and later by asylum officers, to assist the district director in making parole determinations for detained aliens.

3. In 1996, the INA was amended to allow for the expedited removal of certain inadmissible aliens, who would not be entitled to an immigration hearing or further review unless they were able to establish a credible fear of persecution. At the outset, expedited removal was mandatory for “arriving aliens,” and the Attorney General was given the discretion to designate applicability to certain other aliens who have not been admitted or paroled and who have not established to the satisfaction of an immigration officer continuous physical presence in the United States for the two-year period immediately prior to the date of the inadmissibility determination. Initially, expedited removal was only applied to “arriving aliens.”

Immigration and Naturalization Service, *Inspection and Expedited Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum Procedures*, 62 Fed. Reg. 10312, 10313 (Mar. 6, 1997).

4. The credible fear screening process was expanded to include the credible fear of torture standard with the promulgation of regulations concerning the Convention against Torture, effective March 22, 1999.

Immigration and Naturalization Service, *Regulations Concerning the Convention Against Torture*, 64 Fed. Reg. 8478 (Feb. 19, 1999); 8 C.F.R. § 208.30(e)(3).

5. Designation of other groups of aliens for expedited removal

- a. In November 2002, the Department of Justice expanded the application of the expedited removal provisions of the INA to certain aliens who arrived in the United States by sea, who have not been admitted or paroled and who have not been physically present

Immigration and Naturalization Service, *Notice Designating Aliens Subject to Expedited Removal Under Section 235(b)(1)(A)(iii) of the*



in the United States continuously for the two year-period prior to the inadmissibility determination.

*Immigration and Nationality Act*, 67 Fed. Reg. 68924 (Nov. 13, 2002).

- b. On August 11, 2004, DHS further expanded the application of expedited removal to aliens determined to be inadmissible under sections 212 (a)(6)(C) or (7) of the INA who are physically present in the U.S. without having been admitted or paroled, who are apprehended within 100 air miles of the U.S. international land border, and who have not established to the satisfaction of an immigration officer that they have been physically present in the U.S. continuously for the fourteen-day (14-day) period immediately prior to the apprehension.

INA §212(a)(6)(C), (a)(7); Customs and Border Protection, *Designating Aliens For Expedited Removal*, 69 Fed. Reg. 48877 (Aug. 11, 2004).

6. The expedited removal provisions of the INA require that all aliens subject to expedited removal be detained through the credible fear determination until removal, unless found to have a credible fear of persecution, or a credible fear of torture. However, the governing regulation permits the parole of an individual in expedited removal, in the exercise of discretion, if such parole is required to meet a medical emergency or is necessary for a legitimate law enforcement objective. After a positive credible fear determination, Immigration and Customs Enforcement (ICE) may exercise discretion to parole the alien out of detention, and has issued pertinent guidance on consideration of parole for arriving aliens found to have a credible fear. Therefore, the credible fear interview process also provides a mechanism for DHS to gather information that may be used by ICE to make parole determinations.

INA § 235(b)(1)(B)(iii)(IV).

8 C.F.R. § 235.3(b)(2)(iii); see also, "Parole of Arriving Aliens Found to Have a Credible Fear of Persecution or Torture," ICE Directive No. 11002.1 (effective Jan. 4, 2010).

### III. FUNCTION OF CREDIBLE FEAR SCREENING

In applying the credible fear standard, it is critical to understand the function of the credible fear screening process. As explained by the Department of Justice when issuing regulations adding Convention Against Torture screening to the credible fear process, the process attempts to "to quickly identify potentially meritorious claims to protection and to resolve frivolous ones with dispatch.... If an alien passes this threshold-screening standard, his or her claim for protection...will be further examined by an immigration judge in the context of removal proceedings under section 240 of the Act. The screening mechanism also allows for the expeditious review by an immigration judge of a negative screening determination and the quick removal of an alien with no credible claim to protection."

Immigration and Naturalization Service, *Regulations Concerning the Convention Against Torture*, 64 Fed. Reg. 8478, 8479 (Feb. 19, 1999).

“Essentially, the asylum officer is applying a threshold screening standard to decide whether an asylum [or torture] claim holds enough promise that it should be heard through the regular, full process or whether, instead, the person's removal should be effected through the expedited process.”

Bo Cooper, *Procedures for Expedited Removal and Asylum Screening under the Illegal Immigration Reform and Immigrant Responsibility Act of 1996*, 29 CONN. L. REV. 1501, 1503 (1997).

#### **IV. DEFINITION OF CREDIBLE FEAR OF PERSECUTION AND CREDIBLE FEAR OF TORTURE**

##### **A. Definition of Credible Fear of Persecution**

According to statute, the term credible fear of persecution means that “there is a significant possibility, taking into account the credibility of the statements made by the alien in support of the alien’s claim and such other facts as are known to the officer, that the alien could establish eligibility for asylum under section 208 [of the INA].”

INA § 235(b)(1)(B)(v).

##### **B. Definition of Credible Fear of Torture**

Regulations provide that the applicant will be found to have a credible fear of torture if the applicant establishes that there is a significant possibility that he or she is eligible for withholding of removal or deferral of removal under the Convention Against Torture, pursuant to 8 C.F.R. § 208.16 or § 208.17.

8 C.F.R. § 208.30(e)(3).

#### **V. BURDEN OF PROOF AND STANDARD OF PROOF FOR CREDIBLE FEAR DETERMINATIONS**

##### **A. Burden of Proof / Testimony as Evidence**

*See* RAI0 Training Module, *Evidence*.

The applicant bears the burden of proof to establish a credible fear of persecution or torture. This means that the applicant must produce sufficiently convincing evidence that establishes the facts of the case, and that those facts must meet the relevant legal standard.

Because of the non-adversarial nature of credible fear interviews, while the burden is always on the applicant to establish eligibility, there is a shared aspect of that burden in which asylum officers have an affirmative duty to elicit all information relevant to the legal determination. The burden is on the applicant to establish a credible fear, but asylum officers must

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fully develop the record to support a legally sufficient determination.

An applicant's testimony is evidence to be considered and weighed along with all other evidence presented. Often times, in the credible fear context of expedited removal and detention, an applicant will not be able to provide additional evidence corroborating his or her otherwise credible testimony. An applicant may establish a credible fear with testimony alone if that testimony is detailed, consistent, and plausible.

INA § 208(b)(1)(B)(ii).

According to the INA, the applicant's testimony may be sufficient to sustain the applicant's burden of proof if it is "credible, is persuasive, and refers to specific facts." To give effect to the plain meaning of the statute and each of the terms therein, an applicant's testimony must satisfy all three prongs of the "credible, persuasive, and ... specific" test in order to establish his or her burden of proof without corroboration. Therefore, the terms "persuasive" and "specific facts" must have independent meaning above and beyond the first term "credible." An applicant may be credible, but nonetheless fail to satisfy his or her burden to establish the required elements of eligibility. "Specific facts" are distinct from statements of belief. When assessing the probative value of an applicant's testimony, the asylum officer must distinguish between fact and opinion testimony and determine how much weight to assign to each of the two forms of testimony.

INA § 208(b)(1)(B)(ii).

After developing a sufficient record by eliciting all relevant testimony, an asylum officer must analyze whether the applicant's testimony is sufficiently credible, persuasive, and specific to be accorded sufficient evidentiary weight to meet the significant possibility standard.

Additionally, pursuant to the statutory definition of "credible fear of persecution", the asylum officer must take account of "such other facts as are known to the officer." Such "other facts" include relevant country conditions information.

INA § 235(b)(1)(B)(v); 8 C.F.R. § 208.30(e)(2); *see* RAIO Training Module, *Country Conditions Research*.

Similarly, country conditions information should be considered when evaluating a credible fear of torture. The Convention Against Torture and implementing regulations require consideration of "[e]vidence of gross, flagrant or mass violations of human rights within the country of removal, where applicable; and [o]ther relevant information regarding conditions in the country of removal."

8 C.F.R. §§ 208.16(c)(3)(iii), (iv).

## B. Credible Fear Standard of Proof: Significant Possibility

The party who bears the burden of proof must persuade the adjudicator of the existence of certain factual elements according to a specified “standard of proof,” or degree of certainty. The relevant standard of proof specifies how convincing or probative the applicant’s evidence must be.

In order to establish a credible fear of persecution or torture, the applicant must show a “significant possibility” that he or she could establish eligibility for asylum, withholding of removal, or deferral of removal.

When interim regulations were issued to implement the credible fear process, the Department of Justice described the credible fear “significant possibility” standard as one that sets “a low threshold of proof of potential entitlement to asylum; many aliens who have passed the credible fear standard will not ultimately be granted asylum.” Nonetheless, in the initial regulations, the Department declined suggestions to “adopt regulatory language emphasizing that the credible fear standard is a low one and that cases of certain types should necessarily meet that standard.”

In fact, the showing required to meet the “significant possibility” standard is higher than the “not manifestly unfounded” screening standard favored by the Office of the United Nations High Commissioner for Refugees (“UNHCR”) Executive Committee.

**A claim that has no possibility, or only a minimal or mere possibility, of success, would not meet the “significant possibility” standard.**

While a mere possibility of success is insufficient to meet the credible fear standard, the “significant possibility” standard does not require the applicant to demonstrate that the chances of success are more likely than not.

*See* INA § 235 (b)(1)(B)(v); 8 C.F.R. §§ 208.30(e)(2), (3).

Immigration and Naturalization Service, *Inspection and Expedited Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum Procedures*, 62 Fed. Reg. 10312, 10317-20 (Mar. 6, 1997).

*See* U.S. Committee on International Religious Freedom, *Study on Asylum Seekers in Expedited Removal – Report on Credible Fear Determinations*, pg. 170 (Feb. 2005); UNHCR, *A Thematic Compilation of Executive Committee Conclusions*, pp. 438-40, 6th Ed., June 2011. “Not manifestly unfounded” claims are (1) “not clearly fraudulent” and (2) “not related to the criteria for the granting of refugee status.” 142 CONG. REC. H11071, H11081 (daily ed. Sept. 25, 1996) (statement of Rep. Hyde) (noting that the credible fear standard was “redrafted in the conference document to address fully concerns that the ‘more probable than not’ language in the original House version

was too restrictive”).

In a non-immigration case, the “significant possibility” standard of proof has been described to require the person bearing the burden of proof to “demonstrate a *substantial and realistic possibility* of succeeding.” While this articulation of the “significant possibility” standard was provided in a non-immigration context, the “*substantial and realistic possibility*” of success description is a helpful articulation of the “significant possibility” standard as applied in the credible fear process.

*See Holmes v. Amerex Rent-a-Car*, 180 F.3d 294, 297 (D.C. Cir. 1999) (quoting *Holmes v. Amerex Rent-a-Car*, 710 A.2d 846, 852 (D.C. 1998)) (emphasis added).

The Court of Appeals for the D.C. Circuit found that the showing required to meet a “substantial and realistic possibility of success” is lower than the “preponderance of the evidence standard.”

*Id.*

In sum, “the credible fear ‘significant possibility’ standard of proof can be best understood as requiring that the applicant ‘demonstrate a *substantial and realistic possibility* of succeeding,’ but not requiring the applicant to show that he or she is more likely than not going to succeed when before an immigration judge.”

Joseph E. Langlois. Asylum Division, Office of International Affairs, *Increase of Quality Assurance Review for Positive Credible Fear Determinations and Release of Updated Asylum Officer Basic Training Course Lesson Plan, Credible Fear of Persecution and Torture Determinations*, Memorandum to Asylum Office Directors, et al. (Washington, DC: 17 April 2006).

### **C. Important Considerations in Interpreting and Applying the Standard**

1. The “significant possibility” standard of proof required to establish a credible fear of persecution or torture must be applied in conjunction with the standard of proof required for the ultimate determination on eligibility for asylum, withholding of removal, or protection under the Convention Against Torture.

For instance, in order to establish a credible fear of torture, an applicant must show a “significant possibility” that he or she could establish eligibility for protection under the Convention Against Torture, i.e. a “significant possibility” that it is “more likely than not” that he or she would be tortured if removed to the proposed country of removal. This is a higher standard to meet than for an applicant

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attempting to establish a “significant possibility” that he or she could establish eligibility for asylum based upon a well-founded fear of persecution on account of a protected characteristic, i.e. a “significant possibility” that he or she could establish a “reasonable possibility” of suffering persecution on account of a protected characteristic if returned to his or her home country.

2. Questions as to how the standard is applied should be considered in light of the nature of the standard as a *screening standard* to identify persons who could qualify for asylum or protection under the Convention against Torture.
3. When there is reasonable doubt regarding the outcome of a credible fear determination, the applicant likely merits a positive credible fear determination. The questions at issue can be addressed in a full hearing before an immigration judge.
4. In determining whether the alien has a credible fear of persecution or a credible fear of torture, the asylum officer shall consider whether the applicant’s case presents novel or unique issues that merit consideration in a full hearing before an immigration judge.
5. Similarly, where there is:
  - a. disagreement among the United States Circuit Courts of Appeal as to the proper interpretation of a legal issue; or,
  - b. the claim otherwise raises an unresolved issue of law; **and,**
  - c. there is no DHS or Asylum Division policy or guidance on the issue, then

8 C.F.R. § 208.30(e)(4).

generally the interpretation most favorable to the applicant is used when determining whether the applicant meets the credible fear standard.

#### D. Identity

1. An applicant must establish his or her identity with a reasonable degree of certainty. Credible testimony alone can establish identity.

*See RAIO Training Module,  
Refugee Definition*

2. In many cases, an applicant will not have documentary proof of identity or nationality. The officer must elicit information in order to establish that there is a significant possibility that the applicant will be able to credibly establish his or her identity in a full asylum or withholding of removal hearing. Documents such as birth certificates and passports are accepted into evidence if available. The officer may also consider information provided by ICE or Customs and Border Protection (CBP).
3. After the credible fear interview, the information obtained by the asylum officer may be used by other DHS officials in determining whether to parole a detained alien. Immigration officials in charge of detaining the alien must be satisfied that identity is established before granting parole.

*See "Parole of Arriving Aliens Found to Have a Credible Fear of Persecution or Torture," ICE Directive No. 11002.1 (effective Jan. 4, 2010).*

## VI. CREDIBILITY

### A. Credibility Standard

In making a credible fear determination, asylum officers are specifically instructed by statute to "[take] into account the credibility of the statements made by the alien in support of the alien's claim and such other facts as are known to the officer."

INA § 235 (b)(1)(B)(v).

To meet the credible fear standard, an applicant must establish that there is a significant possibility that the assertions underlying the applicant's claim could be found credible in a full asylum or withholding of removal hearing. This means that there is "a substantial and realistic possibility" that the applicant will be found credible in a full hearing.

### B. Evaluating Credibility in a Credible Fear Interview

#### 1. General Considerations

See RAIO Training Module, *Credibility*.

- a. Because the credible fear determination is a screening process, the asylum officer does not make the final determination as to whether the applicant is credible. The immigration judge makes that determination in the full hearing on the merits of the claim.
- b. The asylum officer must gather sufficient information to determine whether the alien has a credible fear of persecution or torture. The applicant's credibility

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should be evaluated (1) only after all information relevant to the claim is elicited and (2) in light of “the totality of the circumstances, and all relevant factors.”

INA § 208(b)(1)(B)(iii).

- c. The asylum officer must remain neutral and unbiased and must evaluate the record as a whole. The purpose of evaluating the credibility of an applicant is solely to determine eligibility for a full asylum or withholding hearing. The asylum officer’s personal opinions or moral views regarding an applicant should not affect the officer’s decision.
- d. As long as there is a significant possibility that the applicant could establish in a full hearing that the claim is credible, unresolved questions regarding an applicant’s credibility should not be the basis of a negative credible fear determination.

2. Properly Identifying and Probing Credibility Concerns During the Credible Fear Interview

See RAIO Training Module, *Credibility*.

a. *Identifying Credibility Concerns*

Section 208 of the Act provides a non-exhaustive list of factors that may be used in a credibility determination in the asylum context. These include: internal consistency, external consistency, plausibility, demeanor, candor, and responsiveness.

INA § 208(b)(1)(B)(iii); *See also*, RAIO Training Module, *Credibility*, for a more detailed discussion of these factors.

An adjudicator may base a negative credible fear determination on lack of credibility. A general lack of detail is another commonly accepted basis for an adverse credibility determination in the asylum context, though the limited scope of the credible fear screening interview may make such a finding less prevalent in the credible fear process.

While demeanor, candor, and responsiveness may be taken into account in the asylum context, they may be of limited reliability in the credible fear context because of cross-cultural factors, effects of trauma, and the nature of non-adversarial interviews. The nature of expedited removal and the credible fear interview process—including detention, relatively brief and often telephonic interviews, etc.— further limits the reliability of and ability to evaluate these three factors in the credible fear context. Therefore,



demeanor, candor, and responsiveness will normally not be significant factors in credible fear determinations.

b. *Informing the Applicant of the Concern and Giving the Applicant an Opportunity to Explain*

When credibility concerns present themselves during the course of the credible fear interview, the applicant must be given an opportunity to address and explain them. The asylum officer must follow up on all credibility concerns by making the applicant aware of each portion of the testimony, or his or her conduct, that raises credibility concerns, and the reasons the applicant's credibility is in question. The asylum officer must clearly record in the interview notes the questions used to inform the applicant of any relevant credibility issues, and the applicant's responses to those questions.

**C. Assessing Credibility in Credible Fear**

1. In assessing credibility, the officer must evaluate whether there is a significant possibility that the applicant's testimony could be found credible in a full hearing before an immigration judge. The officer must consider the totality of the circumstances and all relevant factors when evaluating credibility.
2. When considering the totality of the circumstances in determining whether there is a significant possibility that the assertions underlying the applicant's claim could be found credible in a full asylum or withholding of removal hearing, the following factors must be considered as they may impact an applicant's ability to present his or her claim:

- (i) trauma the applicant has endured;
- (ii) passage of a significant amount of time since the described events occurred;
- (iii) certain cultural factors, and the challenges inherent in cross-cultural communication;
- (iv) detention of the applicant;
- (v) problems between the interpreter and the applicant, including problems resulting from differences in dialect or accent, ethnic or class differences, or other difference that may affect

*See also* RAIO Training Module, *Interviewing-Survivors of Torture*; RAIO Training Module, *Interviewing- Working with an Interpreter*.

Asylum officers must ensure that persons with potential biases against applicants on the grounds of race, religion, nationality, membership in a

- the objectivity of the interpreter or the applicant's comfort level; and
- (vi) unfamiliarity with speakerphone technology, the use of an interpreter the applicant cannot see, or the use of an interpreter that the applicant does not know personally.

particular social group, or political opinion are not used as interpreters. See *International Religious Freedom Act of 1998*, 22 U.S.C. § 6473(a); RAI0 Training Module, *IRFA (International Religious Freedom Act)*.

3. The asylum officer must have followed up on all credibility concerns during the interview by making the applicant aware of each concern, and the reasons the applicant's testimony is in question. The applicant must have been given an opportunity to address and explain all such concerns during the credible fear interview.
4. Trivial or minor inconsistencies will not be sufficient to find an applicant not credible in the credible fear context. These inconsistencies can be explored by the immigration judge in the full asylum and withholding hearing. Material or significant inconsistencies that have not been adequately resolved by the applicant during the credible fear interview may be sufficient to support a negative credible fear determination.
5. Inconsistencies between the applicant's initial statement to the CBP or ICE official and his or her testimony before the asylum officer must be probed during the interview. Such inconsistencies may provide support for a negative credibility finding if, taking into account an explanation offered by the applicant, there is not a significant possibility that the applicant could establish in a full hearing that the claim is credible.

See 8 C.F.R. § 235.3(b)(4) (stating that if an applicant indicates an intention to apply for asylum, or expresses a fear of persecution or torture, or a fear of return to his or her country, the "examining immigration officer shall record sufficient information in the sworn statement to establish and record that the alien has indicated such intention, fear, or concern," and should then refer the alien for a credible fear interview).

The sworn statement completed by CBP (Form I-867A/B) is not intended, however, to record detailed information about any fear of persecution or torture. The interview statement is intended to record whether or not the individual has a fear, not the nature or details surrounding that fear. However, in some cases, the asylum officer may find that the CBP officer did, in fact, gather additional information from the applicant regarding the nature of his or her claim. In such cases, the applicant's prior statements can inform the asylum officer's line of questioning in the credible fear interview, and any inconsistencies between these prior statements and the statements being made during the credible fear interview should be probed and

assessed.

A number of federal courts have cautioned adjudicators to keep in mind the circumstances under which an alien's statement to an inspector is taken when considering whether an applicant's later testimony is consistent with the earlier statement. Factors to keep in mind include: 1) whether the questions posed at the port of entry or place of apprehension were designed to elicit the details of an asylum claim, and whether the immigration officer asked relevant follow-up questions; 2) whether the alien was reluctant or afraid to reveal information during the first meeting with U.S. officials because of past abuse; and 3) whether the interview was conducted in a language other than the applicant's native language.

*See Balasubramaniam v. INS*, 143 F.3d 157 (3d Cir. 1998); *cf. Ramsameachire v. Ashcroft*, 357 F.3d 169, 179 (2d Cir. 2004) (discussing in detail the limitations inherent in the initial interview process, and holding that the BIA was entitled to rely on fundamental inconsistencies between the applicant's airport interview statements and his hearing testimony where the applicant was provided with an interpreter, and given ample opportunity to explain his fear of persecution in a careful and non-coercive interview).

6. All reasonable explanations must be considered when assessing the applicant's credibility. The asylum officer need not credit an unreasonable explanation.

If, after providing the applicant with an opportunity to explain or resolve any inconsistencies, the officer finds that there is a significant possibility the applicant could establish in a full hearing that there is a reasonable explanation for the inconsistencies, a positive credibility determination will generally be appropriate.

If, however, the applicant fails to provide an explanation for a substantial or material inconsistency, or the officer finds that there is not a significant possibility that the applicant could establish a reasonable explanation for the inconsistencies in a full hearing, a negative credible fear determination will generally be appropriate.

#### **D. Documenting a Credibility Determination**

1. The asylum officer must clearly record in the interview notes the questions used to inform the applicant of any relevant credibility issues, and the applicant's responses to those questions.
2. The officer must specify in the written case analysis the basis for the negative credibility finding. In the negative credibility context, the officer must note any portions of the testimony found not credible, including the specific

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inconsistencies, lack of detail or other factors, along with the applicant's explanation and the reason the explanation is deemed not to be reasonable.

3. If information that impugns the applicant's testimony becomes available after the interview but prior to serving the credible fear determination, a follow-up interview must be scheduled to confront the applicant with the derogatory information and to provide the applicant with an opportunity to address the adverse information. Unresolved credibility issues should not form the basis of a negative credibility determination.

## VII. ESTABLISHING A CREDIBLE FEAR OF PERSECUTION

For the most recent Asylum Division guidance on eligibility for asylum under section 208 of the INA, please consult the latest applicable RAIO Training Module.

### A. General Considerations in Credible Fear

1. An applicant will be found to have a credible fear of persecution if there is a significant possibility the applicant can establish eligibility for asylum under section 208 of the Act.
2. In general, a finding that there is a significant possibility that the applicant experienced past persecution on account of a protected characteristic is sufficient to satisfy the credible fear standard. This is because the applicant in such a case has shown a significant possibility of establishing that he or she is a refugee under section 208 of the Act and a full asylum hearing provides the appropriate venue to evaluate whether or not the applicant merits a favorable exercise of discretion to grant asylum.

8 C.F.R. § 208.30(e)(2).

However, if there is evidence so substantial that there is no significant possibility of future persecution *or other serious harm* or that there are no reasons to grant asylum based on the severity of the past persecution, a negative credible fear determination may be appropriate.

3. When an applicant does not claim to have suffered any past harm or where the evidence is insufficient to establish a significant possibility of past persecution under section

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208 of the Act, the asylum officer must determine whether there is a significant possibility the applicant could establish a well-founded fear of persecution on account of a protected characteristic under section 208 of the Act.

## **B. Past Persecution**

*See RAI0 Training Module, Persecution.*

1. **Severity of Harm:** For a credible fear of persecution, there must be a significant possibility the applicant can establish that the harm the applicant experienced was sufficiently serious to amount to persecution.
  - a. There is no requirement that an individual suffer serious injuries to be found to have suffered persecution. However, the presence or absence of physical harm is relevant in determining whether the harm suffered by the applicant rises to the level of persecution.
  - b. Serious threats made against an applicant may constitute persecution even if the applicant was never physically harmed.
  - c. Violations of “core” or “fundamental” human rights, prohibited by international law, may constitute harm amounting to persecution.
  - d. While less preferential treatment and other forms of discrimination and harassment generally are not considered persecution, discrimination or harassment may amount to persecution if the adverse practices accumulate or increase in severity to the extent that it leads to consequences of a substantially prejudicial nature. Asylum officers should evaluate the entire scope of harm experienced by the applicant to determine if he or she was persecuted, taking into account the individual circumstances of each case.
  - e. Generally, a brief detention, for legitimate law enforcement reasons, without mistreatment, will not constitute persecution. Prolonged detention is a deprivation of liberty, which may constitute a violation of a fundamental human right and amount to persecution. Evidence of mistreatment during detention also may establish persecution.
  - f. To rise to the level of persecution, economic harm must be deliberately imposed and severe.

- g. Psychological harm alone may rise to the level of persecution. Evidence of the applicant's psychological and emotional characteristics, such as the applicant's age or trauma suffered as a result of past harm, are relevant to determining whether psychological harm amounts to persecution.
- h. Rape and other severe forms of sexual harm constitute harm amounting to persecution, as they are forms of serious physical harm.
- i. Harm to an applicant's family member or another third party may constitute persecution of the applicant where the harm is serious enough to amount to persecution, and also where the persecutor's motivation in harming the third party is to act against the applicant.

2. **Motivation:** For a credible fear of persecution, there must be a significant possibility the applicant can establish that the persecutor was motivated to harm him or her on account of his or her race, religion, nationality, membership in a particular social group, or political opinion.

*See RAIO Training Modules, Nexus and the Protected Grounds (minus PSG) and Nexus – Particular Social Group.*

- a. Nexus analysis requires officers to determine: (1) whether the applicant possesses or is perceived to possess a protected characteristic; and (2) whether the persecution or feared persecution is on account of that protected characteristic.
- b. A "punitive" or "malignant" intent is not required for harm to constitute persecution. Persecution can consist of objectively serious harm or suffering that was inflicted because of a characteristic (or perceived characteristic) of the victim, regardless of whether the persecutor intended the victim to experience the harm as harm.
- c. The applicant does not bear the burden of establishing the persecutor's exact motivation. For cases where no nexus to a protected ground is immediately apparent, the asylum officer in credible fear interviews should ask questions related to all five grounds to ensure that no nexus issues are overlooked.

*See Matter of Kasinga, 21 I&N Dec. 357, 366-67 (BIA 1996); Pitcherskaia v. INS, 118 F.3d 641 (9th Cir. 1997).*

- d. Although the applicant bears the burden of proof to establish a nexus between the harm and the protected ground, asylum officers have an affirmative duty to elicit all information relevant to the nexus determination. Evidence of motive can be either direct or circumstantial. Reasonable inferences regarding the motivations of persecutors should be made, taking into consideration the culture and patterns of persecution within the applicant's country of origin and any relevant country of origin information, especially if the applicant is having difficulty answering questions regarding motivation.
- e. There is no requirement that the persecutor be motivated only by the protected belief or characteristic of the applicant. As long as there is a significant possibility that at least one central reason motivating the persecutor is the applicant's possession or perceived possession of a protected characteristic, the applicant may establish the harm is "on account of" a protected characteristic in the credible fear context.
- f. **Particular Social Groups:** The area of law surrounding particular social groups is evolving rapidly, and it is important for asylum officers to be informed about current DHS and Asylum Division guidance, as well as current case law and regulatory changes.

*See* RAI0 Training Module, *Nexus – Particular Social Group* for a non-exhaustive list of precedent decisions that have identified certain groups that are particular social groups and other groups that were found not to be particular social groups based on the facts of each case.

To determine whether the applicant belongs to a viable particular social group where there are no precedent decisions on point, asylum officers must analyze the facts using the BIA test for evaluating whether a group meets the definition of a particular social group:

*See Matter of M-E-V-G-*, 26 I&N Dec. 227 (BIA 2014); *Matter of W-G-R-*, 26 I&N Dec. 208 (BIA 2014).

- (i) First, the group must comprise individuals who share a common, immutable characteristic, which is either a characteristic that members cannot change or is a characteristic that is so fundamental to the member's identity or conscience that he or she should not be required to change it.
- (ii) Second, the group must be defined with particularity; it "must be defined by characteristics that provide a clear benchmark for

*Matter of M-E-V-G-*, 26 I&N Dec. 227, 239 (BIA 2014).

determining who falls within the group.”

- (iii) Third, the group must be socially distinct within the society in question. Social distinction involves examining whether “those with the characteristic in the society in question would be meaningfully distinguished from those who do not have it.” Social distinction relates to society’s, not the persecutor’s, perception, though the persecutor’s perceptions may be relevant to social distinction

*Id.* at 238.

*Id.* at 242.

Certain circuit courts have rejected the Board’s application of a social distinction requirement in cases before them on petition for review. *See Valdiviezo-Galdamez v. Att’y Gen. of U.S.*, 663 F.3d 582 (3d Cir. 2011); *Gatimi v. Holder*, 578 F.3d 611 (7th Cir. 2009); *Benitez Ramos v. Holder*, 589 F.3d 426 (7th Cir. 2009). Those decisions, however, question the way the Board applied social visibility in those cases and do not preclude the interpretation of precedent as imposing a social distinction requirement.

3. **Persecutor:** For a credible fear of persecution, there must be a significant possibility the applicant can establish that the entity that harmed the applicant (the persecutor) is either an agent of the government or an entity that the government is unable or unwilling to control.
- a. Evidence that the government is unwilling or unable to control the persecutor could include a failure to investigate reported acts of violence, a refusal to make a report of acts of violence or harassment, closing investigations on bases clearly not supported by the circumstances of the case, statements indicating an unwillingness to protect certain victims of crimes, and evidence that other similar allegations of violence go uninvestigated.
- b. No government can guarantee the safety of each of its citizens or control all potential persecutors at all times. A determination of whether a government is unable to

*See* RAIO Training Module, *Persecution*.



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control the entity that harmed the applicant requires evaluation of country of origin information and the applicant's circumstances. A government in the midst of a civil war or one that is unable to exercise its authority over portions of the country may be unable to control the persecutor in areas of the country where its influence does not extend. In order to establish a significant possibility of past persecution, the applicant is not required to demonstrate that the government was unable or unwilling to control the persecution on a nationwide basis. The applicant may meet his or her burden with evidence that the government was unable or unwilling to control the persecution in the specific locale where the applicant was persecuted.

- c. To demonstrate that the government is unable or unwilling to protect an applicant, the applicant must show that he or she sought the protection of the government, or provide a reasonable explanation as to why he or she did not seek that protection. Reasonable explanations for not seeking government protection include evidence that the government has shown itself unable or unwilling to act in similar situations or that the applicant would have increased his or her risk by affirmatively seeking protection. In determining whether an applicant's failure to seek protection is reasonable, asylum officers should consult and consider country of origin information, in addition to the applicant's testimony.

### **C. Well-founded Fear of Persecution**

*See RAIO Training Module, Well Founded Fear.*

- 1. When an applicant does not claim to have suffered any past harm or where the evidence is insufficient to establish a significant possibility of past persecution on account of a protected characteristic under section 101(a)(42)(A) of the Act, the asylum officer must determine whether there is a significant possibility the applicant could establish a well-founded fear of persecution under section 208 of the Act.
- 2. To establish a well-founded fear of persecution on account of a protected characteristic, an applicant must show that he or she has: 1) a subjective fear of persecution; and 2) that the fear has an objective basis.
  - a. The applicant satisfies the subjective element if he or

*See RAIO Training Module,*

she credibly articulates a genuine fear of return. Fear has been defined as an apprehension or awareness of danger.

*Well-Founded Fear.*

- b. The applicant will meet the credible fear standard based on a fear of future harm if there is a significant possibility that he or she could establish that there is a reasonable possibility that he or she will be persecuted on account of a protected ground upon return to his or her country of origin.
3. The Mogharrabi Test: *Matter of Mogharrabi* lays out a four-part test for determining well-founded fear. To establish a credible fear of persecution on account of a protected characteristic based on future harm, there must be a significant possibility that the applicant can establish each of the following elements:

*Matter of Mogharrabi*, 19 I&N Dec. 439 (BIA 1987).

- a. *Possession* (or imputed possession of a protected characteristic)
- (i) The applicant must possess, or be believed to possess, a protected characteristic that the persecutor seeks to overcome. The BIA later modified this definition and explicitly recognized that a “punitive” or “malignant” intent is not required for harm to constitute persecution. The BIA concluded that persecution can consist of objectively serious harm or suffering that is inflicted because of a characteristic (or perceived characteristic) of the victim, regardless of whether the persecutor intends the victim to experience the harm as harm.
- (ii) This analysis requires officers to determine: (1) whether the applicant possesses or is perceived to possess a protected characteristic; and (2) whether the persecution or feared persecution is on account of that protected characteristic.
- (iii) For cases where no nexus to a protected ground is immediately apparent, the asylum officer in credible fear interviews must ask questions related to all five grounds to ensure that no nexus issues are overlooked.

*See Matter of Kasinga*, 21 I&N Dec. 357, 366-67 (BIA 1996) (explaining that because FGM was used “at least in some significant part” to overcome a protected characteristic of the applicant, the persecution the applicant fears is “on account of” her status as a member of the defined social group); *Pitcherskaia v. INS*, 118 F.3d 641 (9th Cir. 1997).

- (iv) Asylum officers have an affirmative duty to elicit all information relevant to the nexus determination. Officers should make reasonable inferences, keeping in mind the difficulty, in many cases, of establishing with precision a persecutor's motives.
  - (v) To determine whether the applicant belongs to a viable particular social group where there are no precedent decisions on point, asylum officers must analyze the facts using the BIA test for evaluating whether a group meets the definition of a particular social group.
- b. *Awareness* (the persecutor is aware or could become aware the applicant possesses the characteristic)
- (i) Relevant lines of inquiry include: how someone would know or recognize that the applicant had the protected characteristic and how the persecutor would know that the applicant had returned to his or her country.
  - (ii) The applicant is not required to hide his or her possession of a protected characteristic in order to avoid awareness.
- c. *Capability* (the persecutor has the capability to persecute the applicant)
- (i) If the persecutor is a governmental entity, asylum officers should consider the extent of the government's power or authority and whether the applicant can seek protection from another government entity within the country.
  - (ii) If the persecutor is a non-governmental entity, relevant factors include: the extent to which the government is able or willing to control the entity, whether the government is able to or would want to protect the applicant; whether the applicant reported the non-governmental actor to the police; and whether the police or government could or would offer any protection to the applicant.
  - (iii) The extent to which the persecutor has the ability

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to enforce his or her will throughout the country is also relevant when evaluating whether the persecutor is capable of persecuting the applicant.

- d. *Inclination* (the persecutor has the inclination to persecute the applicant)
- (i) Factors to consider when evaluating inclination include: any previous threats or harm from the persecutor, the persecutor's treatment of individuals similarly situated to the applicant who have remained in the home country or who have returned to the home country, and any time passed between the last threats received and flight from his or her home country.
  - (ii) For both capability and inclination, if the applicant is unable to answer questions regarding whether the persecutor is capable or inclined to persecute him or her, the asylum officer may use country of origin information to help determine the persecutor's capability and inclination to persecute the applicant.
4. Pattern or Practice
- a. The applicant need not show that he or she will be singled out individually for persecution, if the applicant shows a significant possibility that he or she could establish:
    - (i) There is a pattern or practice of persecution on account of any of the protected grounds of a group of persons similarly situated to the applicant.
    - (ii) The applicant is included in and is identified with the persecuted group, such that a reasonable person in the applicant's position would fear persecution.
5. Persecution of Individuals Closely Related to the Applicant

*See* RAIO Training Module,  
*Well Founded Fear.*

8 C.F.R. § 208.13(b)(2)(iii).

The persecution of family members or other individuals closely associated with the applicant may provide objective evidence that the applicant's fear of future persecution is well-founded, even if there is no

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pattern or practice of persecution of such individuals. On the other hand, continued safety of individuals similarly situated to the applicant may, in some cases, be evidence that the applicant's fear is not well-founded. Furthermore, the applicant must establish some connection between such persecution and the persecution the applicant fears.

6. Threats without Harm

A threat (anonymous or otherwise) may also be sufficient to establish a well-founded fear of persecution. The evidence must show that the threat is serious and that there is a reasonable possibility the threat will be carried out.

7. Applicant Remains in Country after Threats or Harm

- a. A significant lapse of time between the occurrence of incidents that form the basis of the claim and an applicant's departure from the country may be evidence that the applicant's fear is not well-founded. The lapse of time may indicate that the applicant does not possess a genuine fear of harm or the persecutor does not possess the ability or the inclination to harm the applicant.
- b. However, there may be valid reasons why the applicant did not leave the country for a significant amount of time after receiving threats or being harmed, including: lack of funds to arrange for departure from the country and time to arrange for the safety of family members, belief that the situation would improve, promotion of a cause within the home country, and temporary disinclination by the persecutor to harm the applicant.

8. Return to Country of Persecution

An applicant's return to the country of feared persecution generally weakens the applicant's claim of a well-founded fear of persecution. It may indicate that the applicant does not possess a genuine (subjective) fear of persecution or that the applicant's fear is not objectively reasonable. Consideration must be given to the reasons the applicant returned and what happened to the applicant once he or she returned. Return to the country of feared persecution

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does not necessarily defeat an applicant's claim.

9. Internal Relocation

- a. In cases in which the feared persecutor is a government or is government-sponsored, there is a presumption that there is no reasonable internal relocation option. This presumption may be overcome if a preponderance of the evidence shows that, under all the circumstances, the applicant could avoid future persecution by relocating to another part of the applicant's country and that it would be reasonable to expect the applicant to relocate. 8 C.F.R. § 208.13(b)(2)(ii); 8 C.F.R. § 208.13(b)(3)(ii).
- b. If the persecutor is a non-governmental entity, there must be a significant possibility that the applicant can demonstrate that there is no reasonable internal relocation option.
- c. In assessing an applicant's well-founded fear and internal relocation, apply the following two-step approach:
- (i) Determine if an applicant could avoid future persecution by relocating to another part of the applicant's home country. If the applicant will not be persecuted in another part of the country, then:
  - (ii) Determine if an applicant's relocation, *under all the circumstances*, would be reasonable.
- d. In determining the reasonableness of internal relocation in relation to a well-founded fear claim, asylum officers should consider the following factors:
- (i) Whether the applicant would face other serious harm that may not be inflicted on account of one of the five protected grounds in the refugee definition, but is so serious that it equals the severity of persecution;
  - (ii) Any ongoing civil strife such as a civil war occurring in parts of the country;
  - (iii) Administrative, economic, or judicial infrastructure that may make it very difficult for an individual to live in another part of the country;
  - (iv) Geographical limitations that could present

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barriers to accessing a safe part of a country or where an individual would have difficulty surviving due to the geography;

- (v) Social and cultural constraints such as age, gender, health, and social and familial ties or whether the applicant possess a characteristic, such as a particular language or a unique physical appearance, that would readily distinguish the applicant from the general population and affect his or her safety in the new location; and
- (vi) any other factors specific to the case that would make it unreasonable for the applicant to relocate should be considered.

There is no requirement that an applicant first attempt to relocate in his or her country before flight. However, the fact that an applicant lived safely in another part of his or her country for a significant period of time before leaving the country may be evidence that the threat of persecution does not exist countrywide, and that the applicant can reasonably relocate within the country to avoid future persecution.

#### **D. Multiple Citizenship**

Persons holding multiple citizenship or nationalities must demonstrate a credible fear of persecution or torture from at least one country in which they are a citizen or national to be eligible for referral to immigration court for a full asylum or withholding of removal hearing. If the country of removal indicated is different from the applicant's country of citizenship or nationality, fear from the indicated country of removal must also be evaluated.

*See RAIO Training Module, Refugee Definition, for more detailed information about determining an applicant's nationality, dual nationality, and statelessness.*

Although the applicant would not be eligible for asylum unless he or she establishes eligibility with respect to all countries of citizenship or nationality, he or she might be entitled to withholding of removal with respect to one country and not the others. Therefore, the protection claim must be referred for a full hearing to determine this question.

In addition, if the applicant demonstrates a credible fear with respect to another country, aside from the country of citizenship or nationality, in which the applicant was firmly resettled prior to arriving in the United States, the applicant should be referred to the Immigration Judge for a full proceeding, since he or she may be removed to that country as well.

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## E. Statelessness/Last Habitual Residence

The asylum officer does not need to make a determination as to whether an applicant is stateless or what the applicant's country of last habitual residence is. The asylum officer should determine whether the applicant has a credible fear of persecution in any country to which the applicant might be returned.

If the applicant demonstrates a credible fear with respect to any country of proposed removal, regardless of citizenship or habitual residence, the applicant should be referred to the Immigration Judge for a full proceeding since he or she may be eligible for withholding of removal with respect to that country.

## VIII. ESTABLISHING A CREDIBLE FEAR OF TORTURE

An applicant will be found to have a credible fear of torture if the applicant establishes that there is a significant possibility that he or she is eligible for withholding of removal or deferral of removal under the Convention Against Torture, pursuant to 8 C.F.R. §§ 208.16 or 208.17. In order to be eligible for withholding or deferral of removal under CAT, an applicant must establish that it is more likely than not that he or she would be tortured in the country of removal. The credible fear process is a "screening mechanism" that attempts to identify whether there is a significant possibility that an applicant can establish that it is more likely than not that he or she would be tortured in the country in question.

*See ADOTC Lesson Plan, Reasonable Fear of Persecution and Torture Determinations for a detailed discussion of the background of CAT and legal elements of the definition of torture; Immigration and Naturalization Service, Regulations Concerning the Convention Against Torture, 64 Fed. Reg. 8478, 8484 (Feb. 19, 1999).*

Because in the withholding or deferral of removal hearing the applicant will have to establish that it is more likely than not that he or she will be tortured in the country of removal, **a significant possibility of establishing eligibility for withholding or deferral of removal is necessarily a greater burden than establishing a significant possibility of eligibility for asylum.** In other words, to establish a credible fear of torture, the applicant must show there is a significant possibility that he or she could establish in a full hearing that it is more likely than not he or she would be tortured in that country.

### A. Definition of Torture

8 C.F.R. § 208.18(a) defines "torture" as "any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining

8 C.F.R. § 208.18(a); ADOTC Lesson Plan, *Reasonable Fear of Persecution and Torture*



from him or her or a third person information or a confession, punishing him or her for an act he or she or a third person has committed or is suspected of having committed, or intimidating or coercing him or her or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity.”

*Determinations.*

## **B. General Considerations**

1. U.S. regulations require that several elements be met before an act is found to constitute torture. Because credible fear of torture interviews are employed as “screening mechanisms to quickly identify potentially meritorious claims to protection and to resolve frivolous ones with dispatch,” parts of the torture definition that require complex legal and factual analyses may be more appropriately considered in a full hearing before an immigration judge.

8 C.F.R. §§ 208.18(a)(1-8).

Immigration and Naturalization Service, *Regulations Concerning the Convention Against Torture*, 64 Fed. Reg. 8478 (Feb. 19, 1999).

2. After establishing that the applicant’s claim would be found credible, the applicant satisfies the credible fear of torture standard where there is a significant possibility that he or she could establish in a full withholding of removal hearing that:

*See* section VI., *Credibility*, above, regarding significant possibility of establishing credibility.

a. the torturer specifically intends to inflict severe physical or mental pain or suffering;

8 C.F.R. §§ 208.18(a)(5).

b. the harm constitutes severe pain or suffering;

Torture is an extreme form of cruel and inhuman treatment and does not include lesser forms of cruel, inhuman or degrading treatment or punishment that do not amount to torture. 8 C.F.R. §§ 208.18(a)(2).

c. the torturer is a public official or other person acting in an official capacity, or someone acting at the instigation of or with the consent or acquiescence of a public official or someone acting in official capacity; and

d. the applicant is in the torturer’s custody or physical control.

8 C.F.R. §§ 208.18(a)(6).

e. Torture does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions. However, sanctions that defeat the object and purpose of the Convention are not lawful sanctions. Harm arising out of such sanctions may constitute torture.

8 C.F.R. §§ 208.18(a)(3).

## **C. Specific Intent**

1. For an act to constitute torture, the applicant must establish that it is more likely than not that the act is specifically intended to inflict severe physical or mental pain or suffering. An intentional act that results in unanticipated and unintended severity of pain and suffering is not torture under the Convention definition. 8 C.F.R. §§ 208.18(a)(1), (5).
2. The specific intent requirement is met when the evidence shows that an applicant may be specifically targeted for punishment or intentionally singled out for harsh treatment that may rise to the level of torture.
3. The Convention Against Torture does not require that the torture be connected to any of the five protected characteristics identified in the definition of a refugee, or any other characteristic the individual possesses or is perceived to possess.

#### **D. Degree of Harm**

1. For harm to constitute torture, the applicant must establish that it is more likely than not that the harm rises to the level of severity of torture.
2. Torture requires severe pain or suffering, whether physical or mental. "Torture" is an extreme form of cruel and inhuman treatment and does not include lesser forms of cruel, inhuman or degrading treatment or punishment that do not amount to torture. Therefore, certain forms of harm that may be considered persecution may not be considered severe enough to amount to torture. 8 C.F.R. § 208.18(a)(1); 8 C.F.R. § 208.18(a)(2).
3. Any harm must be evaluated on a case-by-case basis to determine whether it constitutes torture. Whether harm constitutes torture often depends on the severity and cumulative effect.
4. For mental pain or suffering to constitute torture, the mental pain must be prolonged mental harm caused by or resulting from:
  - a. The intentional infliction or threatened infliction of severe physical pain or suffering; 8 C.F.R. § 208.18(a)(4).
  - b. The administration or application, or threatened administration or application, of mind altering substances or other procedures calculated to disrupt

profoundly the senses or the personality;

- c. The threat of imminent death; or
- d. The threat that another person will imminently be subjected to death, severe physical pain or suffering, or the administration or application of mind altering substances or other procedures calculated to disrupt profoundly the senses or personality.

## E. Identity of the Torturer

- 1. For an act to constitute torture, the applicant must establish that it is more likely than not that the harm he or she fears would be “inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity.”

8 C.F.R. § 208.18(a)(1).

### 2. Harm by a Public Official

- a. Generally, in the credible fear context, if there is a significant possibility the applicant can establish that it is more likely than not that he or she was or would be harmed by a public official, the applicant has met the public official requirement for a credible fear of torture.
- b. The term “public official” is broader than the “government” or “police” and can include any person acting in an official capacity or under color of law. A public official can include any person acting on behalf of a national or local authority.
- c. In the withholding or deferral of removal setting, when a public official acts in a wholly private capacity, outside any context of governmental authority, the state action element of the torture definition is not satisfied. On this topic, the Second Circuit provided that, “[a]s two of the CAT’s drafters have noted, when it is a public official who inflicts severe pain or suffering, *it is only in exceptional cases that we can expect to be able to conclude that the acts do not constitute torture by reason of the official acting for purely private reasons.*”
- d. A public official is acting in an official capacity when “he misuses power possessed by virtue of law and

*See ADOTC Lesson Plan, Reasonable Fear of Persecution and Torture Determinations* for a more extensive discussion on this element of CAT eligibility.

*Khouzam v. Ashcroft*, 361 F.3d 161, 171 (2d Cir. 2004) (emphasis added).

*Ramirez Peyro v. Holder*, 574 F.3d 893 (8th Cir. 2009).

made possible only because he was clothed with the authority of law.” To establish whether a public official is acting in under the color of law, the applicant must establish a nexus between the public official’s authority and the harmful conduct inflicted on the applicant by the public official. Such an inquiry is fact intensive and includes considerations like “whether the officers are on duty and in uniform, the motivation behind the officer’s actions, and whether the officers had access to the victim because of their positions, among others.” The Fifth Circuit also addressed “acting in an official capacity” by positing “[w]e have recognized on numerous occasions that acts motivated by an officer’s personal objectives are ‘under color of law’ when the officer uses his official capacity to further those objectives.”

*Id.* at 901.

*Marmorato v. Holder*, 376 Fed.Appx. 380, 385 (5<sup>th</sup> Cir. 2010) (unpublished).

### 3. Acquiescence

a. When the “torturer” is not a public official, a successful CAT claim requires that a public official or other person acting in an official capacity instigates, consents, or acquiesces to the torture.

b. Acquiescence of a public official requires that the public official, prior to the activity constituting torture, have awareness of such activity and thereafter breach his or her legal responsibility to intervene to prevent such activity.

8 C.F.R. § 208.18(a)(7).

(i) The Senate ratification history for the Convention explains that the term “awareness” was used to clarify that government acquiescence may be established by evidence of *either* actual knowledge or willful blindness. “Willful blindness” imputes knowledge to a government official who has a duty to prevent misconduct and “deliberately closes his eyes to what would otherwise have been obvious to him.”

136 CONG. REC. at S17,491 (daily ed. Oct. 27, 1990); Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, S. Exec. Doc. No. 101-30, at 9 (1990); *see also* S. Hrg 101-718 (Jan. 30, 1990), *Statement of Mark Richard, Dep. Asst. Attorney General, DOJ Criminal Division*, at 14.

(ii) While circuit courts of appeals are split with regards to the BIA’s “willful acceptance” phrase in favor of the more precise “willful blindness,” for purposes of threshold credible fear screenings, asylum officers must use the willful blindness standard.

c. There is no acquiescence when law enforcement does not breach a legal responsibility to intervene to prevent torture. 8 C.F.R. § 208.18(a)(7).

d. In the context of government consent or acquiescence, the court in *Ramirez-Peyro v. Holder* reiterated its prior holding that “use of official authority by low level officials, such a[s] police officers, can work to place actions under the color of law even when they act without state sanction.” Therefore, even if country conditions show that a national government is fighting against corruption, that fact will not necessarily preclude a finding of consent/acquiescence by a local public official. *Ramirez-Peyro v. Holder*, 574 F.3d 893, 901 (8th Cir. 2009).

e. Evidence that private actors have general support in some sectors of the government, without more, may be insufficient to establish that the officials would acquiesce to torture by the private actors. *See Ontunez-Tursios v. Ashcroft*, 303 F.3d 341, 354-55 (5th Cir. 2002).

4. Consent or Acquiescence vs. Unable or Unwilling to Control

a. The public official requirement under CAT is distinct from the inquiry into a government’s ability or willingness to control standard applied under the refugee definition.

b. A finding that a government is unable to control a particular person(s) is not dispositive of whether a public official would instigate, consent or acquiesce to the feared torture. *Reyes-Sanchez v. U.S. Atty. Gen.*, 369 F.3d 1239 (11th Cir. 2004) (“That the police did not catch the culprits does not mean that they acquiesced in the harm.”)

c. A more relevant query is whether or not a public official who has a legal duty to intervene would be unwilling to do so. In these circumstances, the public official would also have to be aware or deliberately avoid being aware of the harm in order for the action or inaction to qualify as acquiescence under CAT.

d. The willingness in certain levels of a government to combat harm is not necessarily responsive to the question of whether torture would be inflicted with the consent or acquiescence of a public official. In *De La Rosa v. Holder*, the Second Circuit stated, “[i]n short, it is not clear to this Court why the preventative efforts *De La Rosa v. Holder*, 598 F.3d 103, 110 (2d Cir. 2010)

of some government actors should foreclose the possibility of government acquiescence, as a matter of law, under the CAT. Where a government contains officials that would be complicit in torture, and that government, on the whole, is admittedly incapable of actually preventing that torture, the fact that some officials take action to prevent the torture would seem neither inconsistent with a finding of government acquiescence nor necessarily responsive to the question of whether torture would be ‘inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity.’”

- e. Similarly, the Third Circuit has indicated that the fact that the government of Colombia was engaged in war against the FARC did not in itself establish that it could not be consenting or acquiescing to torture by members of the FARC.

*Pieschacon-Villegas v. Attorney General*, 671 F.3d 303, 312 (3d Cir. 2011); *Gomez-Zuluaga v. Attorney General*, 527 F.3d 330, 351 (3d Cir. 2008).

## F. Past Harm

Unlike a finding of past persecution, a finding that an applicant suffered torture in the past does not raise a *presumption* that it is *more likely than not* the applicant will be subject to torture in the future. However, regulations require that any past torture be *considered* in evaluating whether the applicant is likely to be tortured, because an applicant’s experience of past torture may be *probative* of whether the applicant would be subject to torture in the future.

8 C.F.R. § 208.16(c)(3)(i); Immigration and Naturalization Service, *Regulations Concerning the Convention Against Torture*, 64 Fed. Reg. 8478, 8480 (Feb. 19, 1999).

Credible evidence of past torture is strong evidence in support of a claim for protection based on fear of future torture. For that reason, an applicant who establishes that he or she suffered past torture will establish a credible fear of torture, unless changes in circumstances are so substantial that the applicant has no significant possibility of future torture as a result of the change.

## G. Internal Relocation

1. Regulations require immigration judges to consider evidence that the applicant could relocate to another part of the country of removal where he or she is not likely to be tortured, in assessing whether the applicant is eligible for withholding or deferral of removal under the Convention

8 C.F.R. § 208.16(c)(3)(ii).

Against Torture. Therefore, asylum officers should consider whether or not the applicant could safely relocate to another part of his or her country in credible fear of torture determinations.

2. Under the Convention Against Torture, the burden is on the applicant to show that it is more likely than not that he or she will be tortured, and one of the relevant considerations is the possibility of relocation. Therefore, as the Ninth Circuit wrote in *Hasan v. Ashcroft*, “in the CAT context, unlike asylum, the petitioners have the burden of presenting evidence to show that internal relocation is not a possibility.” In contrast, “in the asylum context, once the petitioner has established past persecution on account of an enumerated ground, the burden is on the government to prove that the applicant could avoid persecution by relocating to another part of the country and that it would be reasonable to expect her to do so.”

8 C.F.R. § 208.16(c)(3)(ii).

*Hasan v. Ashcroft*,  
380 F.3d 1114, 1123 (9th  
Cir. 2004).

*Id.* at 1122.; 8 C.F.R. §  
208.13(b)(3)(ii).

3. Credible evidence that the feared torturer is a public official will normally be sufficient evidence that there is no safe internal relocation option in the credible fear context.

*See e.g., Comollari v.  
Ashcroft*, 378 F.3d 694, 697-  
8 (7th Cir. 2004).

4. Unlike the persecution context, the regulations implementing CAT do not explicitly reference the need to evaluate the reasonableness of internal relocation. Nonetheless, the regulations provide that “all evidence of relevant to the possibility of future torture shall be considered...” Therefore, asylum officers should apply the same reasonableness inquiry articulated in the persecution context to the CAT context.

8 C.F.R. § 208.16(c)(3)(iv).

8 C.F.R. § 208.13(b)(3);  
*See* RAIO Training Module,  
*Well Founded Fear*.

## **IX. APPLICABILITY OF BARS TO ASYLUM AND WITHHOLDING OF REMOVAL**

Please consult the appropriate RAIO Training Module for a full discussion on mandatory bars.

### **A. No Bars Apply**

8 C.F.R. § 208.30(e)(5).

Pursuant to regulations, evidence that the applicant is, or may be, subject to a bar to asylum or withholding of removal does not have an impact on a credible fear finding.

### **B. Asylum Officer Must Elicit Testimony**

INA § 208(b)(2); INA §

Even though the bars to asylum do not apply to the credible fear determination, the interviewing officer must elicit and make note of all information relevant to whether or not a bar to asylum or withholding applies. The immigration judge is responsible for finally adjudicating whether or not the applicant is barred from receiving asylum or withholding of removal.

241(b)(3).

There are no bars to a grant of deferral of removal to a country where the applicant would be tortured.

8 C.F.R. § 208.17(a).

Information should be elicited about whether the applicant:

1. participated in the persecution of others;
2. has been convicted by a final judgment of a particularly serious crime (including an aggravated felony), and constitutes a danger to the community of the US;
3. is a danger to the security of the US;
4. is subject to the inadmissibility or deportability grounds relating to terrorist activity as identified in INA section 208(b)(2)(A)(v);
5. has committed a serious nonpolitical crime;
6. is a dual or multiple national who can avail himself or herself of the protection of a third state; and,
7. was firmly resettled in another country prior to arriving in the United States.

INA § 208(b)(2)(B)(i).

This bar and the firm resettlement bar are not bars to withholding or deferral of removal. *See* INA § 241(b)(3).

### C. Flagging Potential Bars

The officer must keep in mind that the applicability of these bars requires further evaluation that will take place in the full hearing before an immigration judge if the applicant otherwise has a credible fear of persecution or torture. In such cases, the officer should consult a supervisory officer, follow procedures on “flagging” such information for the hearing, and prepare the appropriate paperwork for a positive credible fear finding. Officers may be asked to prepare a memorandum to file outlining the potential bar that may be triggered. Although positive credible fear determinations that involve a possible mandatory bar no longer require HQ review, supervisory officers

Procedures Manual, Credible Fear Process (Draft, Nov., 2003); Joseph E. Langlois. Asylum Division, Refugee, Asylum and International Operations Directorate. *Revised Credible Fear Quality Assurance Review Categories and Procedures*, Memorandum to Asylum Office Directors, et al. (Washington, DC: 23 December 2008).



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may use their discretion to forward the case to HQ for review.

## **X. OTHER ISSUES**

### **A. Treatment of Dependents**

8 C.F.R. § 208.30(b)

A spouse or child of an applicant may be included in the alien's credible fear evaluation and determination, if the spouse or child: arrived in the United States concurrently with the principal alien; and desires to be included in the principal alien's determination. USCIS maintains discretion under this regulation not to allow a spouse or child to be included in the principal's credible fear request.

Any alien also has the right to have his or her credible fear evaluation and determination made separately, and it is important for asylum pre-screening officers to question each member of the family to be sure that, if any member of the family has a credible fear, his or her right to apply for asylum or protection under CAT is preserved. When questioning family members, special attention should be paid to the privacy of each family member and to the possibility that victims of domestic abuse, rape and other forms of persecution might not be comfortable speaking in front of other family members.

The regulatory provision that allows a dependent to be included in a principal's determination does not change the statutory rule that any alien subject to expedited removal who has a credible fear has the right to be referred to an immigration judge.

### **B. Attorneys and Consultants**

8 C.F.R. § 208.30(d)(4)

The applicant may consult with any person prior to the credible fear interview. The applicant is also permitted to have a consultant present at the credible fear interview. Asylum officers should determine whether or not an applicant wishes to have a consultant present at the credible fear interview.

Although an alien is permitted by regulation to have a consultant present at a credible fear interview, the availability of a consultant cannot unreasonably delay the process. A consultant may be a relative, friend, clergy person, attorney, or representative. If the consultant is an attorney or representative, he or she is not required to submit a Form G-28, *Notice of Entry of Appearance as Attorney or Accredited Representative*, but may submit one if he or she desires.

8 C.F.R. § 208.30(d)(4);  
Procedures Manual, Credible  
Fear Process (Draft, Nov.,  
2003).

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### **C. Factual Summary**

8 C.F.R. § 208.30(d)(6)

For each credible fear interview, the asylum officer must create a summary of material facts as stated by the applicant. At the conclusion of the interview, the asylum officer must review the summary with the applicant and provide the applicant with an opportunity to correct any errors therein. The factual summary and its review should be contemporaneously recorded at the end of the asylum officer's interview notes.

## **XIII. SUMMARY**

### **A. Expedited Removal**

In expedited removal, certain aliens seeking admission to the United States are immediately removable from the United States by the Department of Homeland Security, unless they indicate an intention to apply for asylum or express a fear of persecution or torture or a fear of return to their home country. Aliens subject to expedited removal are not entitled to an immigration hearing or further review unless they are able to establish a credible fear of persecution or torture.

### **B. Function of Credible Fear Screening**

The purpose of the credible fear screening process is to identify persons subject to expedited removal who might ultimately be eligible for asylum under section 208 of the INA or withholding of removal or deferral of removal under the Convention Against Torture.

### **C. Credible Fear Standard of Proof: Significant Possibility**

In order to establish a credible fear of persecution or torture, the applicant must show a "significant possibility" that he or she could establish eligibility for asylum, withholding of removal, or deferral of removal.

The "significant possibility" standard of proof required to establish a credible fear of persecution or torture must be applied in conjunction with the standard of proof required for the ultimate determination on eligibility for asylum, withholding of removal, or protection under the Convention Against Torture.

When there is reasonable doubt regarding the outcome of a credible fear determination, the applicant likely merits a positive credible fear determination. The questions at issue can be

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addressed in a full hearing before an immigration judge. Similarly, the asylum officer shall consider whether the applicant's case presents novel or unique issues that merit consideration in a full hearing before an immigration judge.

Where there is disagreement among the United States Circuit Courts of Appeal as to the proper interpretation of a legal issue; or the claim otherwise raises an unresolved issue of law; and, there is no DHS or Asylum Division policy or guidance on the issue, then generally the interpretation most favorable to the applicant is used when determining whether the applicant meets the credible fear standard.

#### **D. Credibility**

To meet the credible fear standard, an applicant must establish that there is a significant possibility that the assertions underlying the applicant's claim could be found credible in a full asylum or withholding of removal hearing.

#### **E. Establishing a Credible Fear of Persecution**

In general, a finding that there is a significant possibility that the applicant experienced past persecution on account of a protected characteristic is sufficient to satisfy the credible fear standard. However, if there is evidence so substantial that there is no significant possibility of future persecution or other serious harm or that there are no reasons to grant asylum based on the severity of the past persecution, a negative credible fear determination may be appropriate.

When an applicant does not claim to have suffered any past harm or where the evidence is insufficient to establish a significant possibility of past persecution under section 208 of the Act, the asylum officer must determine whether there is a significant possibility the applicant could establish a well-founded fear of persecution on account of a protected characteristic under section 208 of the Act.

#### **F. Establishing a Credible Fear of Torture**

In order to be eligible for withholding or deferral of removal under CAT, an applicant must establish that it is *more likely than not* that he or she would be tortured in the country of removal. Therefore, a significant possibility of establishing eligibility for withholding or deferral of removal is necessarily a greater burden than establishing a significant possibility of

eligibility for asylum. .

After establishing that the applicant's claim would be found credible, the applicant satisfies the credible fear of torture standard where there is a significant possibility that he or she could establish in a full-withholding of removal hearing that: (a) the torturer specifically intends to inflict severe physical or mental pain or suffering; (b) the harm constitutes severe pain or suffering; (c) the torturer is a public official or other person acting in an official capacity, or someone acting at the instigation of or with the consent or acquiescence of a public official or someone acting in official capacity; and (d) the applicant is in the torturer's custody or physical control. Torture does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions. However, sanctions that defeat the object and purpose of the Convention are not lawful sanctions. Harm arising out of such sanctions may constitute torture.

Credible evidence of past torture is strong evidence in support of a claim for protection based on fear of future torture. For that reason, an applicant who establishes that he or she suffered past torture will establish a credible fear of torture, unless changes in circumstances are so substantial that the applicant has no significant possibility of future torture as a result of the change.

Under the Convention Against Torture, the burden is on the applicant to show that it is more likely than not that he or she will be tortured, and one of the relevant considerations is the possibility of internal relocation.

#### **G. Other Issues**

While the mandatory bars to asylum and withholding of removal do not apply to credible fear determinations, asylum officers must elicit and make note of all information relevant to whether or not a bar to asylum or withholding applies.

A spouse or child of an applicant may be included in the alien's credible fear evaluation and determination, if the spouse or child: arrived in the United States concurrently with the principal alien; and desires to be included in the principal alien's determination.

The applicant may consult with any person prior to the credible fear interview. The applicant is also permitted to have a consultant present at the credible fear interview. A consultant

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may be a relative, friend, clergy person, attorney, or representative.

For each credible fear interview, the asylum officer must create a summary of material facts as stated by the applicant and review the summary with the applicant.

**Lynn, Mallory L**

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**From:** Lynn, Mallory L (b)(6)  
**Sent:** Thursday, August 07, 2014 3:37 PM  
**To:** Broughton, Daniel A  
**Cc:** Tanner, Rebecca S.  
**Subject:** RE: [REDACTED]

Dan,

Thanks again for taking all of the time to look at these issues and write thoughtful responses. I know this took a lot of time. Thank you!

Mallory

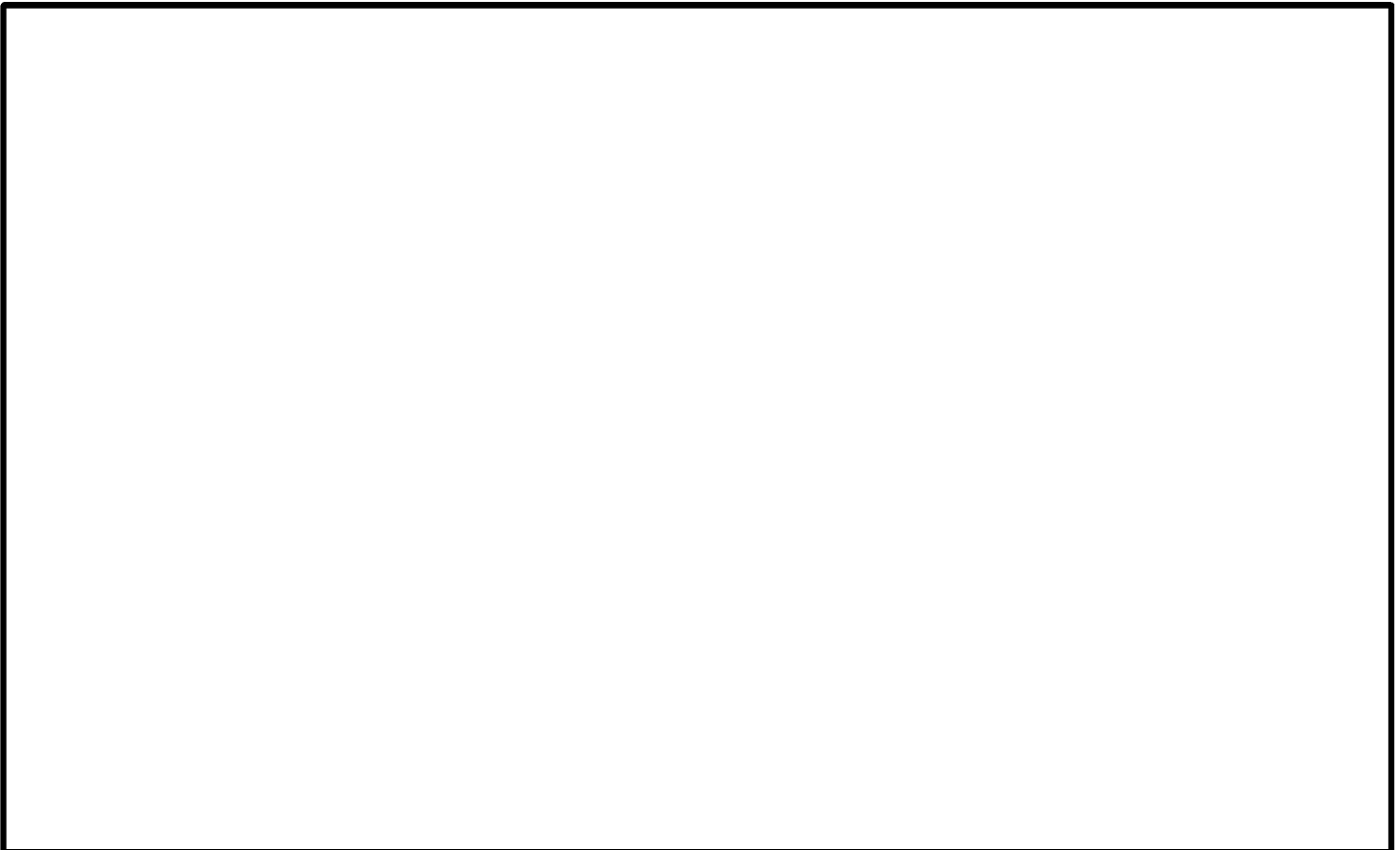
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**From:** Broughton, Daniel A On Behalf Of ASYLUM QA - CREDIBLE FEAR  
**Sent:** Thursday, August 07, 2014 10:23 AM  
**To:** Lynn, Mallory L; ASYLUM QA - CREDIBLE FEAR  
**Cc:** Donis, Antonio; Tanner, Rebecca S.  
**Subject:** [REDACTED]

(b)(5)

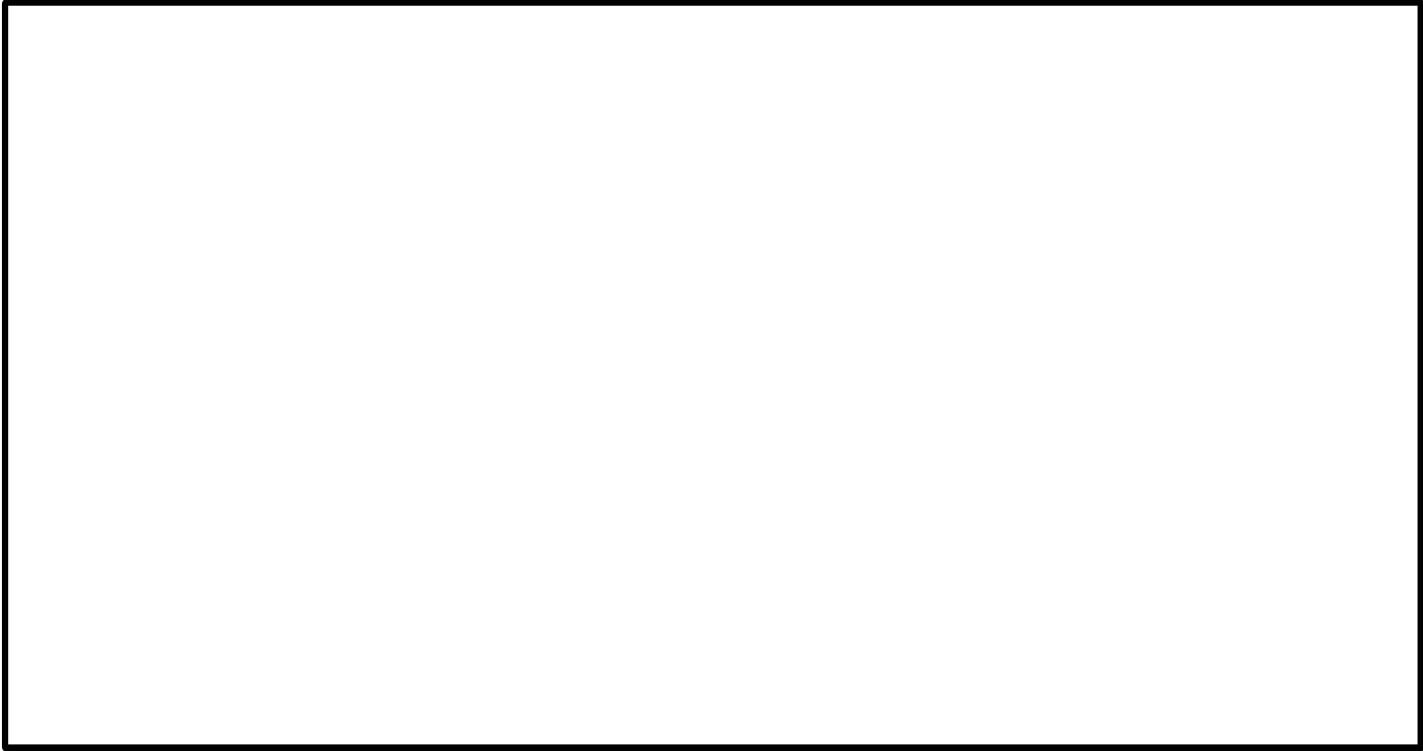
Hi Mallory,

Thanks for your thoughtful approach to the adjudication of these cases. The questions you raised present some interesting issues, and we welcome the opportunity to provide guidance and dialogue with you. Below please see our answers to the four separate issues that you raised.



(b)(5)

(b)(6)



Thank you, again, for your inquiries, and please reach out if you would like to request further guidance,

Dan, on behalf of the QA Team

(b)(6)

(b)(5)

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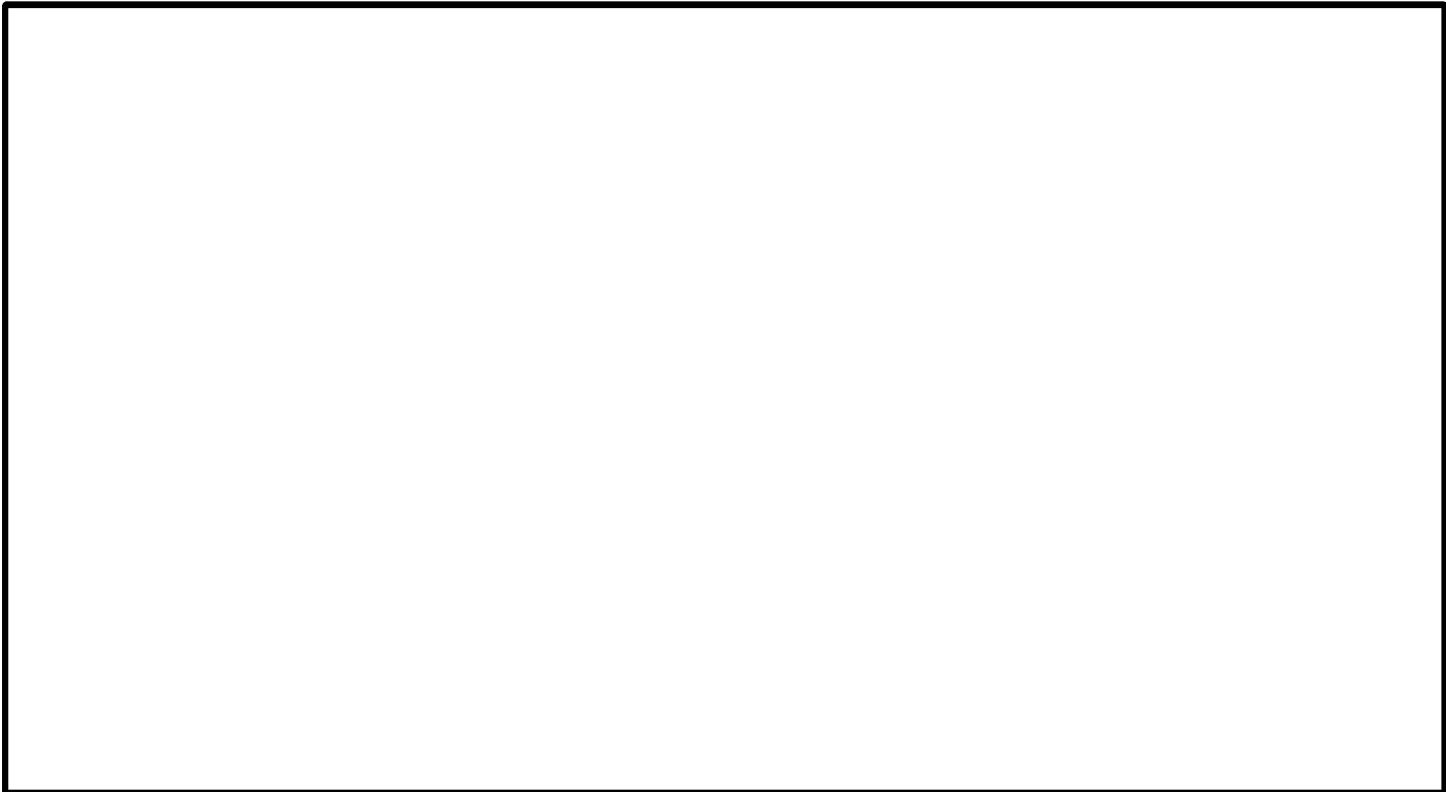
**From:** Lynn, Mallory L

**Sent:** Monday, August 04, 2014 10:38 AM

**To:** ASYLUM QA - CREDIBLE FEAR

**Cc:** Donis, Antonio; Tanner, Rebecca S

**Subject:** 







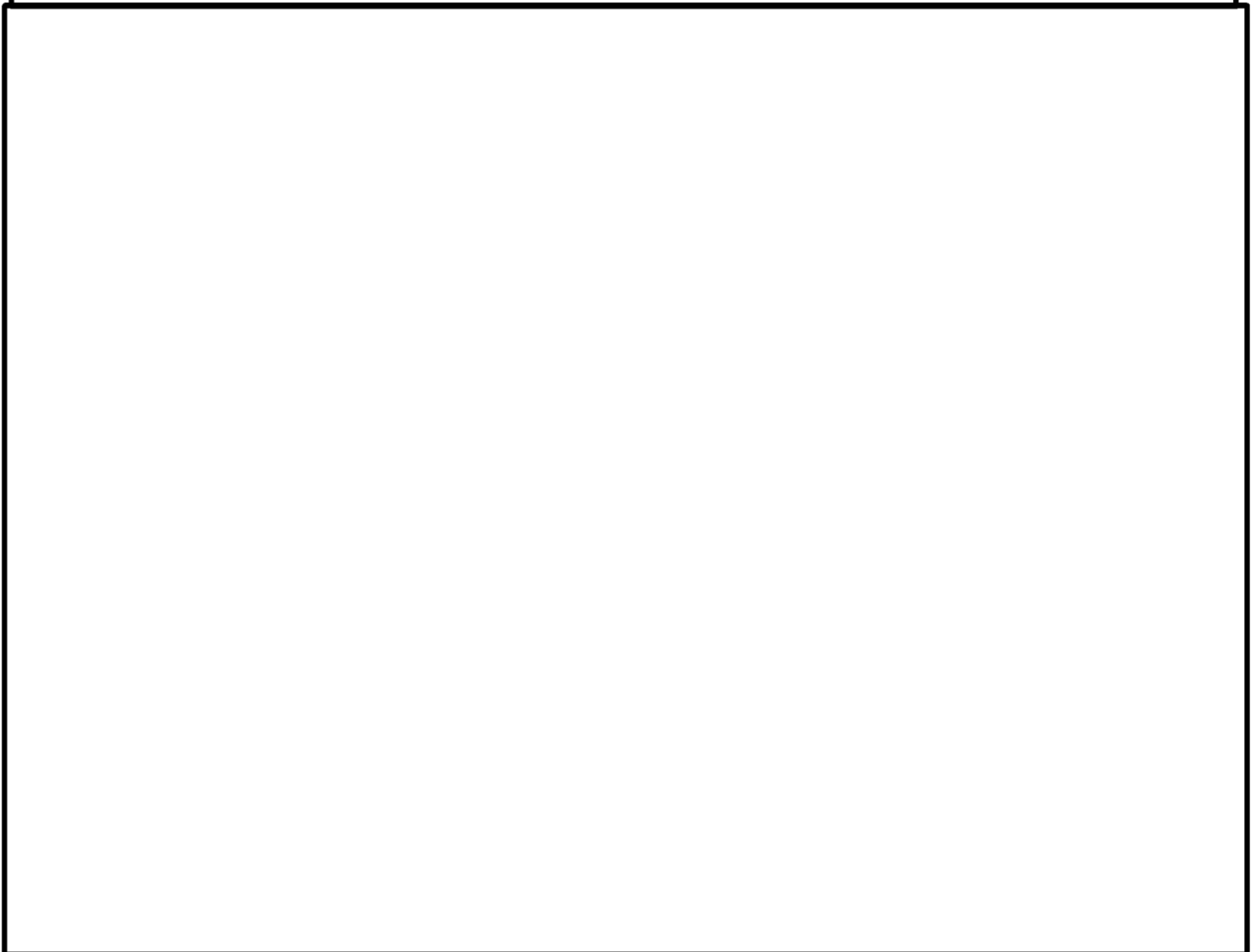
Thanks again!  
Mallory

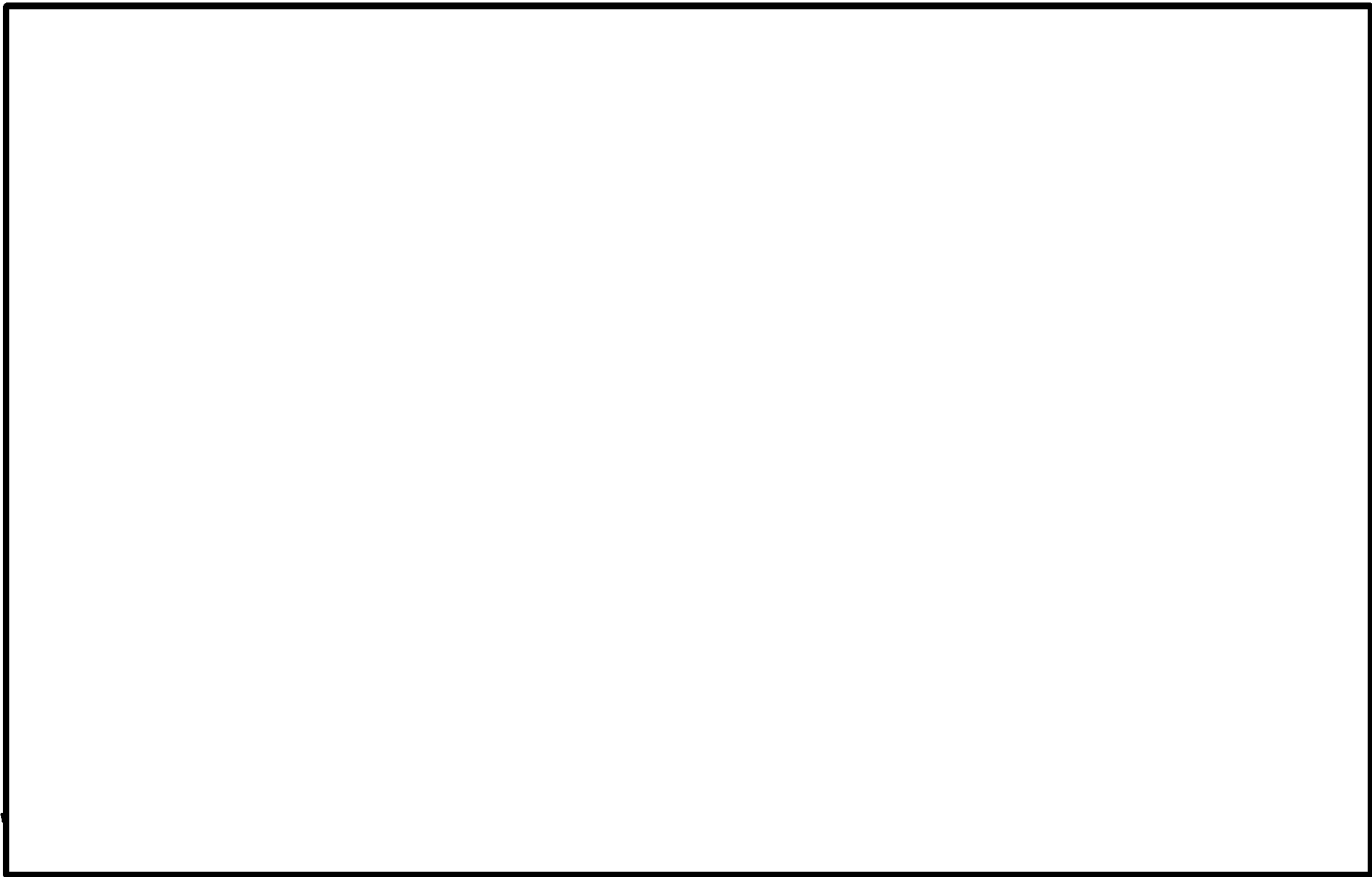
(b)(5)

(b)(6)

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**From:** Lynn, Mallory L  
**Sent:** Saturday, August 02, 2014 3:06 PM  
**To:** ASYLUM QA - CREDIBLE FEAR  
**Cc:** Donis, Antonio; Tanner, Rebecca S  
**Subject:** RE [redacted]





Thank you,


Mallory

(b)(5)

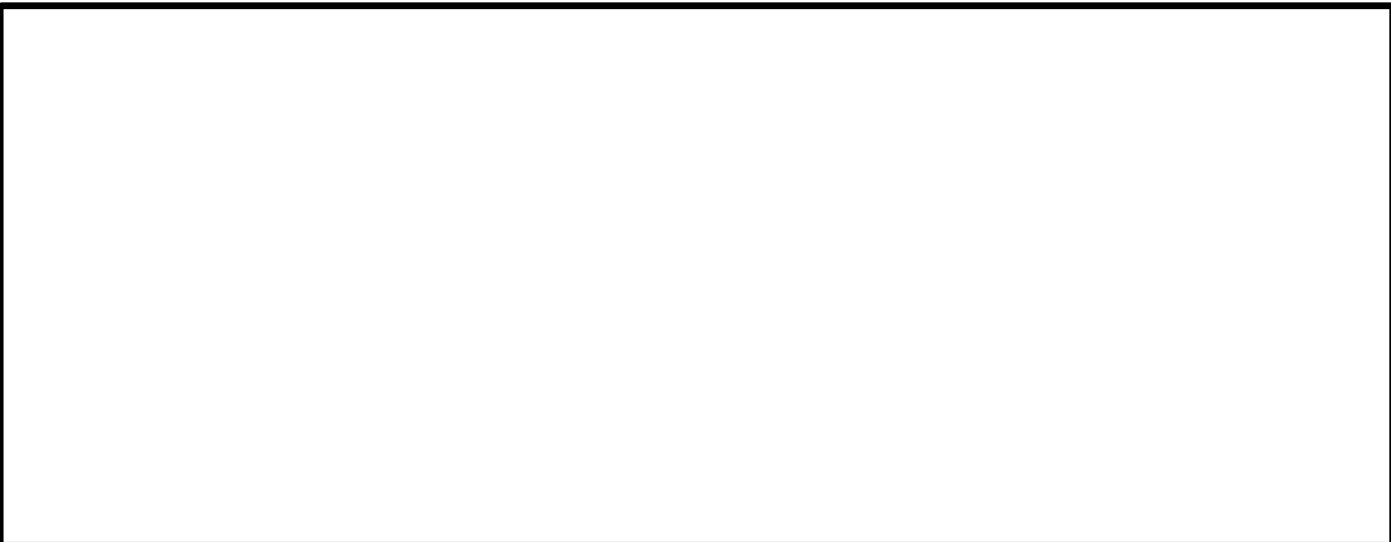
(b)(6)

Mallory Lynn  
Supervisory Asylum Officer  
Los Angeles Asylum Office  
(714) 808-8003

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**From:** Broughton, Daniel A **On Behalf Of** ASYLUM QA - CREDIBLE FEAR  
**Sent:** Friday, August 01, 2014 3:41 PM  
**To:** Lynn, Mallory L; ASYLUM QA - CREDIBLE FEAR  
**Cc:** Donis, Antonio; Zee, Dong; Tanner, Rebecca S; Robinson, Michelle Y  
**Subject:** 

Hi Mallory,





[Redacted]

Thank you for your good work on this case. Please revise and resubmit.

Dan

(b)(5)

(b)(6)

**From:** Lynn, Mallory L  
**Sent:** Friday, August 01, 2014 12:19 PM  
**To:** ASYLUM QA - CREDIBLE FEAR  
**Subject:** RE: [Redacted]

Oops, sorry for that omission. Here they are.

**From:** Broughton, Daniel A **On Behalf Of** ASYLUM QA - CREDIBLE FEAR  
**Sent:** Friday, August 01, 2014 10:12 AM  
**To:** Lynn, Mallory L; ASYLUM QA - CREDIBLE FEAR  
**Cc:** Donis, Antonio; Zee, Dong  
**Subject:** R [Redacted]

Hi Mallory,

[Redacted]

Thank you,

Dan

**From:** Lynn, Mallory L  
**Sent:** Wednesday, July 30, 2014 3:09 PM  
**To:** ASYLUM QA - CREDIBLE FEAR  
**Cc:** Donis, Antonio; Zee, Dong  
**Subject:** [Redacted] 4

[Redacted]

Thanks!  
Mallory

**Lynn, Mallory L**

---

**From:** Donis, Antonio  
**Sent:** Thursday, July 31, 2014 4:41 PM  
**To:** Lynn, Mallory L  
**Subject:** FW: unable/willing for children

**From:** Tanner, Rebecca S  
**Sent:** Thursday, July 31, 2014 7:33 PM  
**To:** Donis, Antonio  
**Subject:** RE: unable/willing for children

(b)(5)

Hi Antonio,

Sorry for the delay. It was one of those days with non-stop back-to-back meetings.

Best,  
Rebecca

**From:** Donis, Antonio  
**Sent:** Thursday, July 31, 2014 3:07 PM

**To: Tanner, Rebecca S**  
**Subject: Fw: unable/willing for children**

Hi Rebecca,

Mallory raises some great points. Any thoughts?

Antonio\_\_

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**From: Lynn, Mallory L**  
**Sent: Thursday, July 31, 2014 10:51 AM**  
**To: Donis, Antonio**  
**Subject: unable/willing for children**

Antonio -

(b)(5)

What is your take on this?

Thanks!  
Mallory

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<sup>[1]</sup> See Matter of S-A, 22 I&N Dec. 1328, 1335 (BIA 2000); Ornelas-Chavez v. Gonzales, 458 F.3d 1052 (9th Cir. 2006); and cf. Castro-Perez v. Gonzales, 409 F.3d 1069, 1072 (9th Cir. 2005).

<sup>[1]</sup> Roman v. INS, 233 F.3d 1027, 1035 (7th Cir. 2000).

<sup>[2]</sup> See Matter of S-A, 22 I&N Dec. 1328, 1335 (BIA 2000); Ornelas-Chavez v. Gonzales, 458 F.3d 1052 (9th Cir. 2006); and cf. Castro-Perez v. Gonzales, 409 F.3d 1069, 1072 (9th Cir. 2005).

Issued on 12/22/2014

U.S. Department of Homeland Security  
U.S. Citizenship and Immigration Services  
Artesia Family Resident Facility  
1300 W. Richey Ave. Bldg 131  
Artesia, NM 88210



U.S. Citizenship  
and Immigration  
Services

## Notice of Credible Fear Interview

<b>PRINCIPLE LAST NAME</b>	Principle First Name	A000 000 000
<b>DEPENDENT LAST NAME</b>	Dependent First Name	A000 000 000

You are scheduled for a credible fear interview with USCIS in Artesia NM at:

**TIME DAY, MONTH DATE YEAR**

You may bring an attorney or consultant with you to your interview. Please be ready to proceed with your interview at the appointed time.

[www.uscis.gov](http://www.uscis.gov)



**Hemming, Bryan D**

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**From:** Daum, Robert L  
**Sent:** Friday, August 01, 2014 10:56 AM  
**To:** Hemming, Bryan D  
**Subject:** RE: [REDACTED]

Thanks for this. Antonio brought this up on the conference call we just completed. John asked him not to move forward until we have had a chance to think through it as he (John) was concerned that it would set a precedent for all locations.

**From:** Hemming, Bryan D  
**Sent:** Friday, August 01, 2014 7:25 AM  
**To:** Daum, Robert L  
**Subject:** FW [REDACTED] (b)(5)

Hi Rob:

[REDACTED]

Anyway, wanted to put in my two cents.  
Thanks,  
Bryan

**From:** Donis, Antonio  
**Sent:** Thursday, July 31, 2014 7:39 PM  
**To:** Daum, Robert L; Hemming, Bryan D  
**Subject:** Family Friendly G-56 (b)(5)

Rob and Bryan,

[REDACTED]

[REDACTED]

Please review and let me know your thoughts.

Thanks,

Antonio\_\_

(b)(5)



**Jowett, Haley L**

---

**From:** Hemming, Bryan D  
**Sent:** Tuesday, July 08, 2014 6:17 AM  
**To:** Lafferty, John L; Daum, Robert L  
**Cc:** Kim, Ted H; Stone, Mary M; Castaldi, Amarilde F; Donis, Antonio; Gadson, Irvin C; Hess, Peter A  
**Subject:** RE: Reporting from Artesia

Sorry: One additional support at Pearsall.

---

**From:** Hemming, Bryan D  
**Sent:** Tuesday, July 08, 2014 6:14 AM  
**To:** Lafferty, John L; Daum, Robert L  
**Cc:** Kim, Ted H; Stone, Mary M; Castaldi, Amarilde F; Donis, Antonio; Gadson, Irvin C; Hess, Peter A  
**Subject:** RE: Reporting from Artesia

Hi John:

Here's the current breakdown:

Pearsall	SAO	Jack (first half) Lee (second half)		Coastal Bend	SAO	Kirk Wills		El
	AO	Colleen Cook (ZSF)			AO	Rashida Burgess		
	AO	Kathleen Antenoracruz (ZNY)			AO	Luis Martinez		
	AO	Emily Haverkamp (ZLA)			AO	Geraldine Collins		
	AO	Allison Dersch (ZLA)			AO	Thomas Johnson		
	AO	Neda Sargordan (ZLA)			AO	Rebecca Pugh		
	AO	Adam Dorsey			AO	Kupelian Haig (ZNK)		
	AO	Kim Sullivan (ZNK)			Support	Paul Miranda		
	Support	Andy Garcia			Support	Vinnie Nguyen		
	Support	Yolanda Burnett			Support	CIS Clerk Michael Dolan (ZLA)		
	Support	Bao Yang (ZLA)						

---

**From:** Lafferty, John L  
**Sent:** Tuesday, July 08, 2014 6:10 AM  
**To:** Daum, Robert L  
**Cc:** Kim, Ted H; Stone, Mary M; Hemming, Bryan D; Castaldi, Amarilde F; Donis, Antonio; Gadson, Irvin C; Hess, Peter A  
**Subject:** RE: Reporting from Artesia

Can you give me the breakdown on the staff we have on site at Artesia and the other locations?

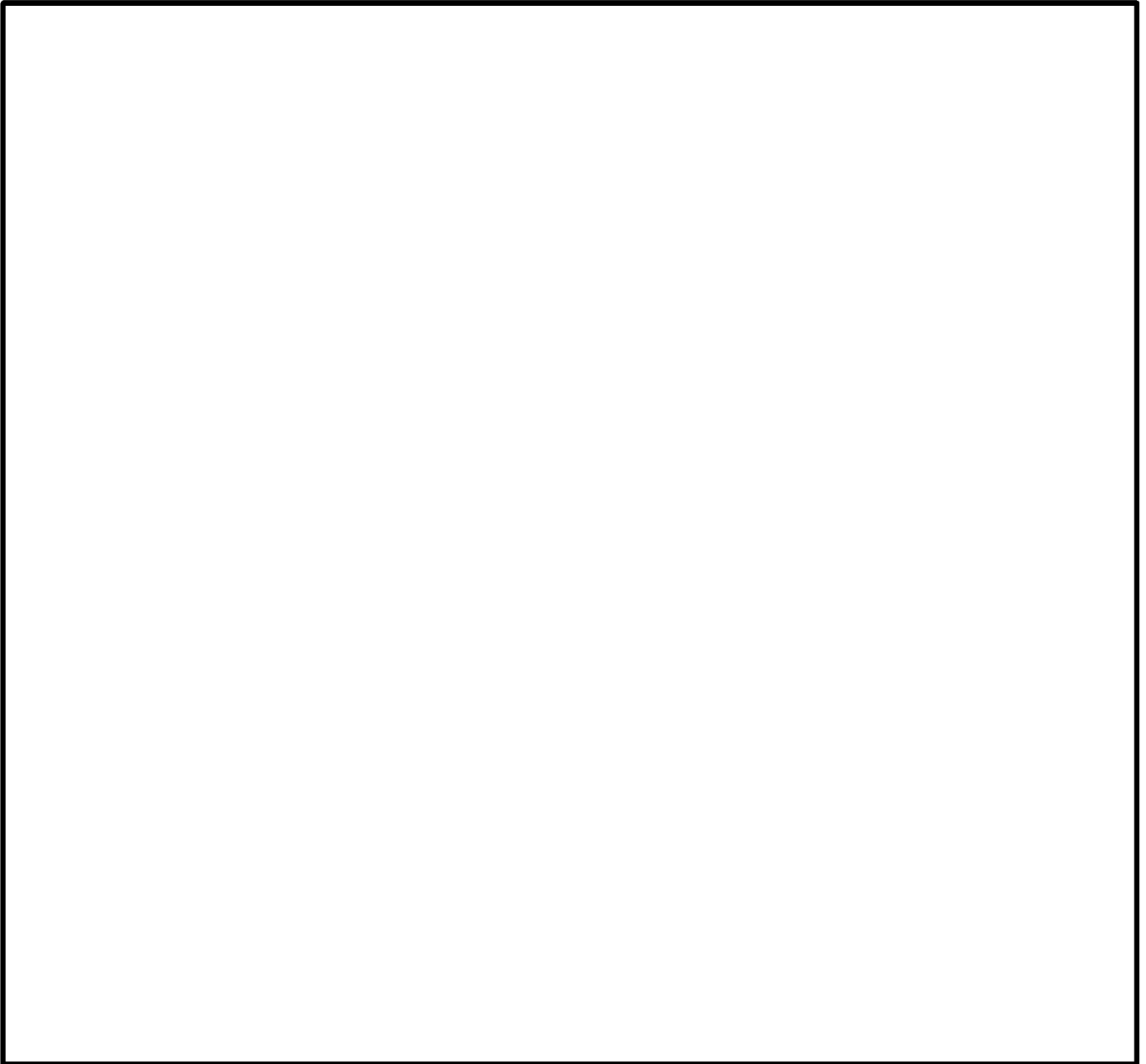
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**From:** Daum, Robert L  
**Sent:** Monday, July 07, 2014 11:28:49 PM  
**To:** Lafferty, John L  
**Cc:** Kim, Ted H; Stone, Mary M; Hemming, Bryan D; Castaldi, Amarilde F; Donis, Antonio; Gadson, Irvin C; Hess, Peter A  
**Subject:** RE: Reporting from Artesia

(b)(5)

John:

Here is the report from the team in Artesia:



Artesia Team:

Feel free to add or comment. My thanks to you all.

Robert

Robert Daum

Director

DHS | USCIS Houston Asylum Office

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**From:** Lafferty, John L

**Sent:** Monday, July 07, 2014 5:03 PM

**To:** Daum, Robert L; Hemming, Bryan D; Gadson, Irvin C; Donis, Antonio; Castaldi, Amarilde F

**Cc:** Kim, Ted H; Stone, Mary M

**Subject:** RE: Reporting from Artesia

Please see the message below. I need as much information about how processing is working at Artesia as can be provided before this meeting tomorrow morning at the NAC. Thanks!!

Mr. Rosen - Acting Deputy Director Rendell Jones will attend this meeting for Acting Director Lori Scialabba. Joseph Langlois and/or John Lafferty will also attend this meeting with Mr. Jones. Thank you.

-----Original Appointment-----

**From:** Rosen, Paul

**Sent:** Monday, July 07, 2014 4:04 PM

**To:** Rosen, Paul; Ragsdale, Daniel H; Scialabba, Lori L; Bradsher, Tanya; Hoy, Serena

**Subject:** Artesia Discussion

**When:** Tuesday, July 08, 2014 9:30 AM-10:00 AM (UTC-05:00) Eastern Time (US & Canada).

**Where:** NAC 5110 (small conf. rm)

**From:** Rosen, Paul

**Sent:** Monday, July 07, 2014 3:10 PM

**To:** Ragsdale, Daniel H; Scialabba, Lori L

**Cc:** Joseph, Leonard P; Choi, Juliet K

**Subject:** Quick Meeting

Dan, Lori –

The COS has asked me to put together what the standard processing looks like at Artesia, from start to finish, including what the current numbers and resource allocations are. I'd like to set a time to discuss tomorrow before the DMAG, which I understand you will both be at. I'll send around a meeting invite. Thanks very much.

Paul

**Curphey, Patrick R**

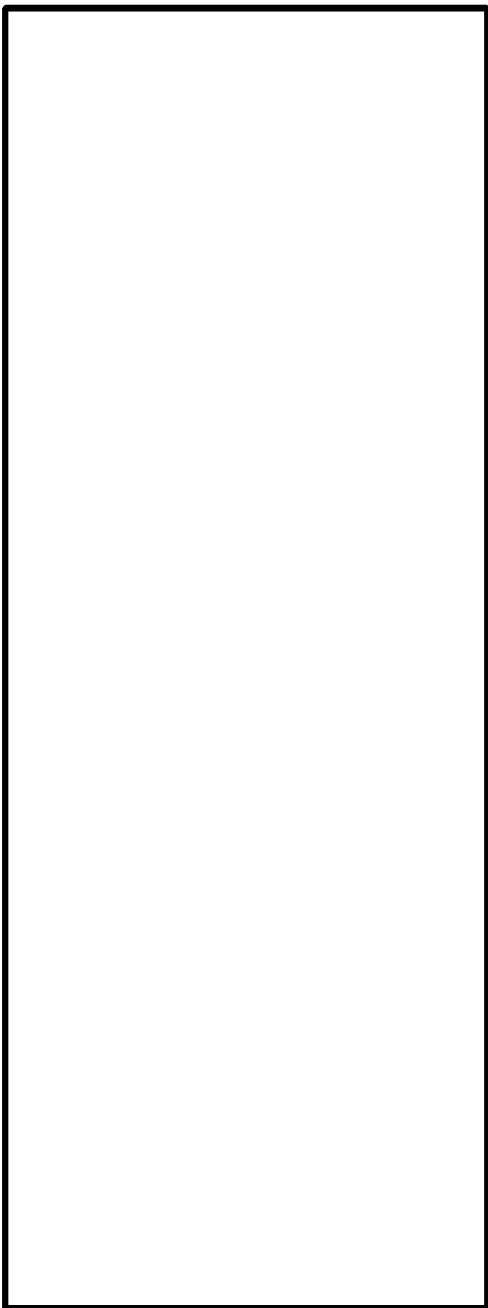
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**From:** Curphey, Patrick R  
**Sent:** Tuesday, July 01, 2014 9:13 PM  
**To:** Vasquez, Miguel A  
**Cc:** Gadson, Irvin C; Hemming, Bryan D; McDonnell, Audrey V; Castaldi, Amarilde F; Daum, Robert L  
**Subject:** Onsite Interviews Scheduled for Artesia: Wednesday - 7/2

Good evening Officer Vasquez,

The following is a tentative interview list scheduled for Artesia for Wednesday – 7/2

**ROOM 3**



(b)(6)



We need to speak to the principal in the case and any dependents over 14. It is easier not to have babies and small children in the interview room if at all possible. I can discuss logistics with you further in the morning if you would like.

I will let you know how the interviews are going as the day progresses in Room 3. I am only starting the officer in Room 2 with one interview but hope to add more as the day progresses as well.

Please let me know if you have any questions and thank you for your help.

Patrick



(b)(6)

**Curphey, Patrick R**

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**From:** Curphey, Patrick R  
**Sent:** Wednesday, July 02, 2014 9:16 AM  
**To:** Hemming, Bryan D; Gadson, Irvin C  
**Cc:** Daum, Robert L  
**Subject:** Phone

We started interviews and my BB is now in use. If you need to call me you can find me on my personal cell phone which



Thanks,  
Patrick

(b)(6)





**Curphey, Patrick R**

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**From:** Curphey, Patrick R  
**Sent:** Wednesday, July 02, 2014 9:34 PM  
**To:** Vasquez, Miguel A  
**Cc:** Vargas, Angelita; Lichine, Kaevan (Kaevan.Lichine@ice.dhs.gov)  
**Subject:** RE: Onsite Interviews Scheduled for Artesia: Wednesday - 7/2

Good evening all,

Thank you to everyone who helped us getting the detainees to and from our offices today. Everything ran really smoothly and we appreciate it.

We are ready to serve decisions on the applicants who were interviewed today. Would it be possible to have these applicant's brought back for service tomorrow morning? I believe I was told they can start movement at 7AM and we would have until about 8:30AM to serve as many as possible. We can take all the family groups at once or as many as you can bring over whenever they can be ready.

I know this is short notice so just let us know what's possible on your end. Even if we only get the first few off the list served it is better than nothing. Please let me know if you have any questions.

Thanks,  
Patrick

[Redacted]

[Redacted]

(b)(6)

(b)(5)











(b)(5)

(b)(5)

(b)(5)





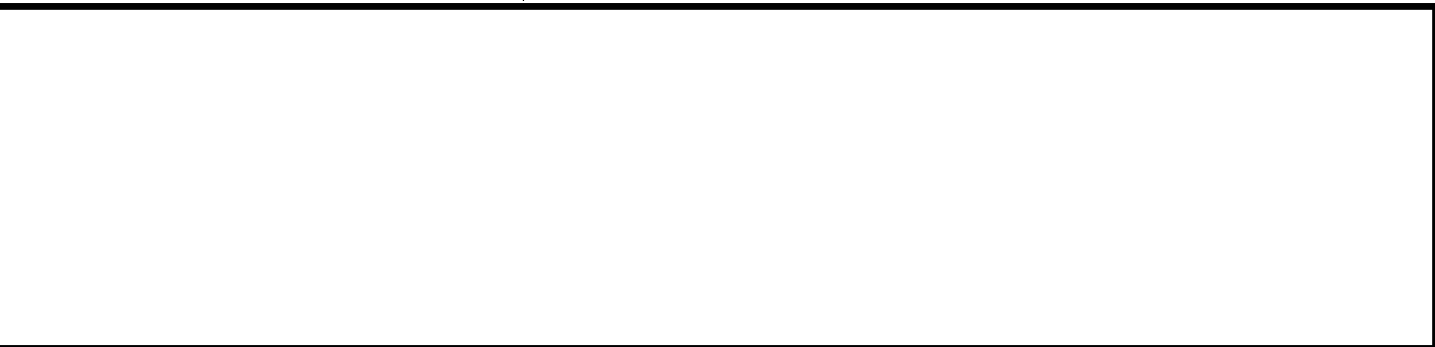




**Lynn, Mallory L**

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**From:** Lynn, Mallory L  
**Sent:** Sunday, August 10, 2014 7:34 AM  
**To:** Donis, Antonio  
**Cc:** Littlepage, Ryan L (b)(5)  
**Subject:** ALDT agreement



\*ZART needs own appointment email address ASAP -- [Artesia.Appointments@uscis.dhs.gov](mailto:Artesia.Appointments@uscis.dhs.gov) or something like that

