



## February 25, 2015 ZAR Stakeholder Engagement Meeting Minutes

### Arlington Asylum Office (ZAR) Agenda Items:

#### 1. Impact of the changes to the Late Document Submission Policy

ZAR leadership shared its perspective regarding the implementation of this change in policy. In general, the change has been implemented smoothly. While we did see in the weeks immediately following the implementation a number of interviews requiring rescheduling due to late document drop-off, we have seen those numbers reduce slightly.

Of greatest note was the need to update the policy before it went into effect to provide a page limit for documentation submitted by fax. On at least two occasions our main fax machine went offline due to submission of faxed documents exceeding 100 pages. On February 6<sup>th</sup> we updated our policy to establish a 10-page limit for documents submitted by fax. If an applicant or representative has a small number of documents to submit via fax, it is acceptable to submit those in single copy.

A representative asked whether this policy is also in effect for cases interviewed in Atlanta, GA. The office requires additional time to review the possible application of this policy to Atlanta cases. At this time, representatives and applicants are encouraged to submit any supplemental documents as far in advance as possible; however, given that we interview in Atlanta on an irregular basis, we don't anticipate rescheduling Atlanta interviews for late or same-day drop off at this time.

See the attached updated version of the Late Drop-Off Policy.

#### 2. Impact of the new Scheduling procedures and priorities

With the change in scheduling priorities, we are seeing that the auto-scheduler program is picking up cases for scheduling as anticipated. In the first few weeks after the change we saw a very high proportion of cases on the docket that were rescheduled cases. Now that the backlog of rescheduled cases has been scheduled, we are seeing that cases that we reschedule now are being picked up by the auto-scheduler within one or two days (for an interview 21 days in the future). We are also seeing the older cases being picked up. As of the time of the meeting, cases filed in August of 2013 were being scheduled.

### Agenda Items Submitted By Stakeholders

1. Can ZAR confirm that it will entertain motions to reopen/motions to reconsider in cases where asylum was denied because past FGM was deemed to be a "changed circumstance?" Further, if

an applicant was denied and referred to EOIR on these grounds, will ZAR entertain a motion to reopen/rescind NTA? If so, should these motions be filed at the window as normal?

Pursuant to the Affirmative Asylum Procedures Manual (AAPM) motions to reopen or motions to reconsider may be filed at the Local Asylum Office that has jurisdiction on the case. These cases are reviewed by the Director of the Asylum Office who is the only person who can approve a motion to reopen or reconsider.

2. Can ZAR clarify (a) what the inclement weather policy is, (b) how the public, including pro se applicants and non-AILA members, can find out about cancellations and delays, and (c) in the case of delayed openings, can applicants from the 7:30am interview slot expect to be rescheduled or should they come when the office opens? Also, would it be possible to post delays/closings on the ZAR website or leave a recorded message with this information? Many asylum applicants travel very far distances for interviews, and it seems a shame to make them drive in dangerous conditions only to find out about a cancellation once they arrive.

The Arlington Asylum Office follows OPM Operating status for the National Capital region. The best way to determine if The Arlington Asylum Office is open during a period of inclement weather is to consult the OPM.gov website. There is a tab that indicates the operating status of the government for the National Capital Region. In the event of a delayed opening we will make every effort to interview everyone who appears. If an applicant is not able to appear for a scheduled 7:30 interview we will reschedule the interview and not stop the clock.

ZAR will also explore some of the ideas noted during the meeting, including updating the office voicemail system to indicate closures.

3. Does ZAR track cases in which a negative CFI decision by the Asylum Office is later overturned by the IJ?

No.

4. Who is the point of contact at ZAR regarding pending NACARA cases? Apparently there are number of cases that have been difficult to usher through the interview process post-remand from the court. There are complains that usual emails to "[arlington.asylum@uscis.dhs.gov](mailto:arlington.asylum@uscis.dhs.gov)" do not produce any responses to queries.

According to our records, with the exception of one case, all inquiries pertaining to NACARA issues had been addressed within the 21-day response time. ZAR is working to resolve all inquiries within the 21 day response time. ZAR will work to communicate with the NACAR Lead in the office for accurate updates to these cases.

In the discussion we reminded the attendees of the correct email address

[ArlingtonAsylum@uscis.dhs.gov](mailto:ArlingtonAsylum@uscis.dhs.gov) and noted that while use of the old email ("Arlington.Asylum") would still result in emails making it through to us, that may no longer be the case. We will also review all letterhead materials to make sure that the correct address is used.

5. Do asylum officers have the authority to refer asylum applications to the immigration judge without conducting an interview? If yes, please provide guidance to this extent. What can be done in case of asylum officer misconduct?

The asylum officer can refer asylum applications without conducting an interview in limited, specific circumstances. The main reasons a case would be referred without an interview would be where USCIS does not have jurisdiction or if the applicant fails to comply with notices to appear for interview or for biometrics collection. Please see section III.L. "Jurisdiction" of the

[AAPM](#)

([http://www.uscis.gov/sites/default/files/files/nativedocuments/Asylum\\_Procedures\\_Manual\\_2013.pdf](http://www.uscis.gov/sites/default/files/files/nativedocuments/Asylum_Procedures_Manual_2013.pdf)). As a reminder, all decisions are reviewed by a Supervisory Asylum Officer, and no decisions are issued without that review.

In the event of a concern regarding officer misconduct, representatives are encouraged to request to speak to the officer's supervisor immediately. Representatives or applicants may also submit a letter of concern following the interview. Whenever we receive such a complaint, management first engages the officer's supervisor, and then the officer, to gather relevant information about the situation to inform the office's response.

6. Given the surge change and the focus from the Asylum office to expedite UAC cases -- what is a reasonable timeline from filing UAC Affirmative to the interview?  
UAC cases are the second scheduling priority for the Arlington Asylum Office after rescheduled cases. The time from filing to interview for a UAC case varies depending on receipt of the files and the applicant's compliance with biometric requests. We ask that representatives encourage their applicants to comply promptly with biometric requests. If you are concerned regarding the length of time between filing and interview for a UAC case, please feel free to contact the office.
7. What do you do if someone wants to file for asylum, but they were either :
  - a. Deported/removed and then EWI'ed back in; or  
An individual who was ordered deported or granted voluntary departure in lieu of a removal order and who then re-enters the U.S. illegally is subject to reinstatement of the prior removal order. Individuals with reinstated removal orders are not eligible to apply for immigration benefits. See Section 241(b)(3) of the INA. If an individual subject to reinstatement of a prior order of removal applies for asylum with USCIS, the asylum office will contact ICE to determine if ICE will reinstate the prior order. If ICE does not reinstate the prior removal order, we will move forward with the affirmative asylum application. See section III.S. "Reinstatement of a Prior Order" in the [AAPM](#).
  - b. given an expedited order of removal, but paroled into the US.  
Where an individual is placed into expedited removal and issued an I-860 and also paroled into the U.S., and the individual also files an affirmative asylum are, our current procedure is:
    - For the cases where the parole is still valid, we:
      - Contact ICE and explain that the individual is in ER and paroled and ask if they want to rescind or vacate the I-860;
      - If ICE doesn't rescind/vacate the I-860, we proceed with the CF process as normal;
      - If ICE rescinds/vacates the I-860, we then proceed with the affirmative adjudication.
    - If parole has expired or terminated, we proceed with the normal CF process and close any I-589 for lack of jurisdiction.

Chapter members complain that there's no clear guidance on what to do. These aliens are not technically in proceedings, so filing with the asylum office is the way to go. Attorneys report that these types of applications were previously rejected by the Asylum Office.

The Arlington Asylum Office cannot provide advice on handling cases. Any I-589 filed with the Service Center will be reviewed for proper jurisdiction at the time of filing and again at the time of adjudication by the asylum office, as necessary. If a filing was rejected by the Service Center, the applicant or representative may request that it be filed locally, which would be granted only at the Director's discretion, assuming that USCIS has jurisdiction over the filing.

We would like to ask the asylum office to provide guidance of what it wants us to do in the event someone has a deportation order. Do they want us to go all the way back and get the case reopened and then apply defensively?

The Arlington Asylum Office cannot provide advice. If an individual who is under the jurisdiction of the immigration courts has the removal proceedings terminated, USCIS generally would have jurisdiction over an asylum application.

8. **Staffing** – Please provide an update on any changes in staffing or areas of responsibility for ZAR staff, as well as an updated list of contact information.

See attached updated listing of ZAR management and other key staff. Note that Jason Kingsley is no longer the POC for scheduling or KLOK issues. We will notify you at the next meeting of the transition of those duties.

We are pleased to introduce Hichem Kefi, our new Supervisory Program Manager for Operations, who oversees the operational aspects of the asylum adjudication. This includes our public inquiry, records, scheduling, and case preparation activities, among others. Hichem joins us from the USCIS office in Port-au-Prince, Haiti, where he spent several years leading the office as its Field Office Director. His prior USCIS experience includes work as a Supervisory Immigration Services Officer in Buffalo, NY and as an Asylum Officer in Anaheim, CA.

9. **New Scheduling Priorities** - What is your sense of the way the new scheduling priorities are working? Has there been enough time to see a backlog reduction in older cases? How old are the oldest cases being scheduled now?

With the new scheduling priorities the Arlington asylum office has been able to schedule and complete many of the oldest cases at ZAR. ZAR has also refocused on completing some cases that may have been interviewed a while ago and have yet to be completed. Over the next several months we should be able to make good headway on reducing the backlog of oldest cases.

The cases currently being scheduled are in the middle 600 day range and filed around August 2013.

10. **Unaccompanied Minors Cases** - A member reports that an IJ recently admin closed the case of a UAC in proceedings so that the asylum application could be filed with ZAR instead. The applicant was under 18 and unaccompanied at the time of entry but is now 20. How should this I-589 be submitted? Will ZAR still accept the filing and give him a timely interview now that he is over the age of 18?

If the case was administratively closed (and thus the case is no longer in active removal proceedings) and the applicant was not under the age of 18 at the time of the filing, the case will be scheduled like all other Affirmative Adult Cases. If the applicant is no longer subject to removal proceedings the individual should file affirmatively and will be handled as an adult.

11. **Closing Statements at Interview** - What is ZAR's policy regarding closing statements by attorneys? A member reports that at an interview earlier this month, an officer refused to allow a closing statement. After the attorney protested, the officer then instructed the attorney to choose between a closing statement limited to two sentences or a written closing brief to be filed within two days. The officer stated that this was part of new office policies. Please clarify whether there is indeed new policy on closing statements.

Closing statements should be accepted whether written or verbally presented. We will be clarifying with all officers the new procedures and the relationship with closing statements.

12. **Inquiry Procedure** - Can you please identify the preferred way to submit inquiries on cases pending over a year without a decision? Do you prefer these by phone (to what phone number?), by postal mail (to which address, Wilson Blvd. or another and addressed to whom in particular?) Or do you prefer inquiries by e-mail (to which mailbox)? What might be the reasons that a case could take over a year after an interview to receive a decision?

The Arlington Asylum Office does not accept Inquires over the phone. In general we recommend that you send an email to [ArlingtonAsylum@uscis.dhs.gov](mailto:ArlingtonAsylum@uscis.dhs.gov) which is checked on a daily basis for new inquiries. Please only submit your inquires via one method as multiple forms of inquires slows down the Arlington Asylum office ability to respond in an efficient manner.

If you have submitted an inquiry and not received a response within 30 days, we request that you reach out to ZAR leadership.

13. **Border Case Processing** - A member reports difficulties getting an asylum case filed for a recent entrant. The client was detained upon entry (EWI) and placed under an order of supervision. When she next reported to ICE, she was told that ICE would not proceed with her case. They told her not to continue to report to them and suggested she apply for asylum directly with USCIS. The attorney then filed an application with the Asylum Office but it was returned with an instruction to file in court. However, no NTA has been filed with the court and it is therefore not possible to file there. What is the right way to proceed in such cases? Should it be arranged to file the I-589 directly at ZAR? The attorney recognizes that she could request a CFI but at best that would force the case into proceedings. Is there a way to file affirmatively, given ICE's determination not to lodge an NTA in her case?

If the client was issued and I-860 the only way in which they would be able to get an asylum hearing would be to request a Credible Fear screening. We recommend that such inquiries first be directed to ICE to ensure that the case was referred to us for a credible fear screening interview. If an individual is in Expedited Removal proceedings (as a result of the I-860), they are not eligible for an affirmative asylum interview. The only way the attorney could get an affirmative interview is if they were able to get ICE to rescind the I-860.

14. **Responses to Individual Inquiries** - Many of our members report that they have not been receiving responses to their individual inquiries despite the 2-3 week period previously announced by ZAR as the expected turnaround time. Is that still the anticipated turnaround time for a response? If so, can something be done to ensure responses within that time frame?

The inquiries inbox is current. However if representatives are submitting multiple inquires via

different mediums it will impact the response times. If you have submitted an inquiry and not received a response within 30 days, we request that you reach out to ZAR leadership.

15. **Workload and Backlog** - Please provide us with an update as to the current workload in the office.

- a. What is the approximate allocation of staff resources being devoted to Credible Fear interviews either on detail to the border or in other off site locations?

ZAR has had 1-2 officers on TDY every week of the current fiscal year.

- b. What percentage of cases being scheduled at ZAR now are the prioritized UAC cases?

ZAR does not track the specific percentage of scheduled cases that are UAC cases. ZAR currently has 36 UAC cases that are to be scheduled and 58 that have been interviewed and are pending completion.

- c. Have you been able to continue scheduling any cases from the Short List since implementation of the new priorities?

The new scheduling priorities took effect around 12/25/14, and since 1/1/15 ZAR has scheduled 33 cases from the short notice list. We anticipate continuing to use this list in the coming months as we may be able to fill on short notice interview slots held open in anticipation of credible fear and reasonable fear referrals or interviews rescheduled at applicants' or representatives' requests.

Cases on the short notice list are not exempt from the 7-day document submission policy. Therefore, we ask that you submit any additional materials for clients on the short notice list as soon as you have those assembled. When we contact individuals on the short notice list, we will remind them of this policy. If the individual contacted cannot submit the documents 7 days in advance of the interview or there are documents to be submitted and the notice of interview is less than 7 days, we will skip that individual and move on to the next. Individuals retain their place on the list until after a third attempt to schedule a short notice interview.

16. **CFI/RFI Requests** – Please provide an update on scheduling of Credible Fear and Reasonable Fear Interview Requests. What are the current backlogs? How can a recently retained attorney ensure being notified of the interview? How long is it taking to get a decision following an interview? What is the amount of time an attorney should wait before making an inquiry?

We continue to operate without a backlog of these cases based on current Division targets. Currently we have 199 Reasonable Fear cases pending (61 Detained, 138 Non-detained) and 312 Credible Fear cases pending (4 Detained and 308 Non-detained). Our current priority is to complete and remain current with all detained case receipts.

The best way to ensure such an attorney will be notified of a scheduled CF or RF interview is to make sure the Deportation Officer is informed right away of the entrance of appearance so ICE can update EARM (the system used to manage these caseloads). Before scheduling, the ZAR analyst managing APSO scheduling checks the latest EARM update to see if there is any attorney information for the applicant. Also, the applicant should have his/her attorney's information so that this information can be provided during orientation or during the interview.

Currently, our CF clock is 8 days and RF clock is 90 days. 91% of our CF cases are completed within 8 days, so decision letters are mailed out to the applicant and attorney within this time frame. 96% of our RF cases are completed within 90 days, but our average processing time is 64 days. Non-detained CF decisions are made and serviced the same day of interview and with regard to our recent push for completing non-detained RF cases in the last couple weeks; we're trying to provide a decision within 2 weeks.

Based on our average processing times, we recommend that an attorney inquire 2 days after a detained CF case was referred by ICE. For all other cases (Detained RF, Non-detained CF and non-detained RF), an inquiry is best placed 3-4 weeks after the case was referred by ICE.

17. **Nunc Pro Tunc** – Can you please clarify where nunc pro tunc cases are to be filed? Also, please provide us an update on the backlog and scheduling of *nunc pro tunc* cases. How long should a representative wait to make an inquiry about scheduling?

“The dependent who lost derivative asylum status files a Form I-589 directly with the Asylum Office having jurisdiction over his or her place of residence.” See Section III.E. “Dependents (a) Filing an I-589 and Interview with an AO” in the [AAPM](#). Locally we have 56 total pending NPT applications (14 to be scheduled, 3 with future interview dates and 39 interviewed pending completion). With the priority we are placing on completing cases that have been interviewed, we anticipate seeing movement with these cases in the next several months.

Other Items discussed:

1. There was an additional question on the best method for submitting an AR-11. The Arlington Asylum Office advises submitting AR-11's via Mail or in person.
2. There was concern raised about cases that have been pending with recommended approvals for extensive periods of time. The Arlington Asylum Office is working to complete recommended approval cases. The office is systematically determining which cases are ready to be brought to conclusion. There was a brief mention of the grant room project as the means to get these cases completed and off our books
3. April 8<sup>th</sup> is the Next Stake Holder Meeting