

**Asylum Quarterly Engagement
Script & Talking Points
June 13, 2023**

Slide 1: Opening – (Alicia)

- Good afternoon, everyone! Thank you for joining today's event. My name is Alicia Romero, and I am the Chief of Asylum Knowledge Management and Communications. Welcome to our third quarterly Asylum engagement for Fiscal Year 2023. We are happy to have you all here.

Slide 2: (Alicia)

- I am joined today by my USCIS colleagues:
 - John Lafferty, Chief of the Asylum Division; and
 - Ashley Caudill-Mirillo, Deputy Chief of Asylum;
- There have been a number of updates and changes since the last time we had an engagement, and we have a lot to cover. We will begin by hearing from Ashley, who will share updated statistics from our programs and new information on where to file for our affirmative asylum program. She will then update you on takeaways from our Asylum Summit and on our backlog webpage. Following that, we will provide hiring updates.
- We know there is a lot of interest in how lifting the Title 42 public health order has affected our workloads. John Lafferty will update you on the new Circumvention of Lawful Pathways rule and plans for family processing when family units have been placed into expedited removal and expressed a fear.
- After that we will then begin the live question-and-answer portion of our session.
- For the Q&A portion, you can submit your questions through the chat box.
- I will now pass the mic over to Ashley.

Asylum Opening (Ashley) –

- Thank you, Alicia. As Alicia said, we are happy to have you all here, and we hope you find these engagements as valuable as we do.
- As always, there is a lot going on in the Asylum Division.

Slide 3: General Updates and Statistics (Ashley) –

- The Asylum Division has continued to work diligently across our various programs to address backlogs in our system, increase access to asylum in the United States, and respond to policy and legal changes for asylum. I'd like to begin by highlighting statistics

that show the volume of work involved with applications for asylum seekers from a broad range of countries.

- From October 1, 2022, through May 22, 2023, we received nearly 263,173 affirmative asylum applications, both online and on paper.
 - The top five nationalities so far for this fiscal year for affirmative asylum receipts are Cuba, Venezuela, Colombia, Nicaragua, and Haiti.
 - Nationals of these five countries together make up approximately 65% of our affirmative asylum receipts.

Slide 4: (Ashley)

- From October 1, 2022, through May 22, 2023, we received approximately 71,000 credible fear referrals and 5,600 reasonable fear referrals.
 - So far this fiscal year, the top five nationalities for credible fear referrals are Colombia, Peru, Dominican Republic, Ecuador, and Cuba, which account for 68% of our credible fear receipts.
 - So far this fiscal year, the top five nationalities for reasonable fear referrals are Mexico, Honduras, Nicaragua, Guatemala, and El Salvador, which account for 67% of our reasonable fear receipts.

Slide 5: (Ashley)

- Next, we turn to our Operation Allies Welcome, or OAW, caseload, which consists of asylum applications received from Afghan nationals paroled into the United States on or after July 31, 2021, under OAW. As of June 11, 2023, we have received 17,588 asylum applications from OAW parolees.
 - The Asylum Division has completed 14,450 interviews for these cases and completed adjudication for 3,074 cases, which represents a steady increase in completions since January.
 - Of the cases completed so far, we have an approval rate greater than 99%.
 - In the coming weeks we will expand the number of OAW interviews across all asylum offices.

Slide 6: (Ashley)

- Regarding the Asylum Processing Interim Final Rule and Asylum Merits Interviews-
 - The most recent statistics on the rule, including the Asylum Merits Interviews, or AMIs, are published by [DHS Office of Immigration Statistics](#) and available online.
 - As of the end of March 2023, almost 6,000 AMI eligible individuals have been referred to USCIS for credible fear interviews, and over 1,700 individuals have been referred for AMIs.

- In order to ensure DHS is fully prepared to address increased caseloads at the southwest border, in April ICE temporarily paused referring potential asylum merits interviews (or PAMIs) to USCIS.
- We anticipate that PAMI referrals will resume when the agencies have sufficient resources to process these cases.

Asylum Hiring and Training –

- We continue to aggressively recruit and hire to fill all existing vacancies.
- The Asylum Division's total authorized staff is currently 2,122, with 1,643 positions filled. We have approximately 479 vacancies remaining, with 210 individuals in the recruitment pipeline to fill them.
- 760 of 1,028 asylum officer positions are filled, which equals 74%.
- Throughout FY 2023, we will continue our ambitious schedule to hire and train new asylum officers and increase our capacity to interview asylum applicants and conduct protection screenings.

Slide 7: Updates to Affirmative Asylum Processing – (Ashley)

We have a number of operational updates to share with you regarding the affirmative asylum program.

Extension of Interpreter Temporary Final Rule

- To start, with the expiration of the federal public health emergency declaration for COVID-19 under Section 319 of the Public Health Service Act, on May 11, 2023, USCIS has generally returned to its pre COVID-19 pandemic posture.
- We are updating our interview notices to generally remove COVID-19 mitigation strategies.
- However, USCIS announced an extension for the temporary final rule requiring certain applicants to use our contracted telephonic interpreters for affirmative asylum interviews, instead of bringing an interpreter to the interview. That temporary final rule has extended beyond the expiration of the public health emergency declarations.
- We expect this extension, through September 12, 2023, will be the final extension of the interpreter temporary final rule.
- This extension included a wind-down period past the end of the emergency declarations to allow time for applicants and preparers to prepare for a return to prior operations, which require all applicants to provide an interpreter at their affirmative asylum interview.
- After September 12, 2023, we will once again require all affirmative asylum applicants to provide their own interpreter for their interview.

Asylum Backlog Reduction

- Despite not receiving additional congressional backlog reduction funding for FY 2023, we remain committed to addressing the oldest pending asylum cases as our resources permit.
- Out of 26,500 affirmative asylum completions in FY 2023 through May 22, 23% were filed on or before January 31, 2018.
- As we mentioned at our last quarterly engagement, at the beginning of the year, we held an Asylum Summit with leaders from across DHS to brainstorm and discuss initiatives and changes we can make to streamline the affirmative asylum, credible fear, and reasonable fear processes.
- We are currently implementing some of the most high-impact or urgent ideas, assessing which others are most viable, and considering how we can implement them.
 - For example, we plan to streamline hand-offs between USCIS and ICE or CBP, to reduce the time it takes to process a credible fear case.
 - A hand-off is when we send back and forth paperwork and communication, such as credible fear interview referrals, interview times, and decision documents for service.
- Additionally, I am pleased to tell you that we are finalizing an asylum-specific backlog webpage that will provide new and updated information to applicants and representatives about our progress toward reducing the affirmative asylum backlog and what to expect while waiting for an asylum interview.
- We expect to publish this webpage by the end of this month. Please check uscis.gov/asylum soon for updates. After the initial launch of the webpage, we plan to develop additional content and want to hear your feedback.

Slide 8: Filing Form I-589- Lockbox (Ashley)

- Another positive update: We are excited to share that as of May 31, USCIS has changed the filing location for certain affirmative applications submitted by mail.
- Applicants filing by mail should submit Form I-589 to the lockbox that has jurisdiction over their place of residence, instead of to the service center.
- We expect this change to help streamline asylum processing and improve adjudication efficiency by digitizing paper filings.
- Applicants who submit a properly filed Form I-589 to a lockbox will receive two notices.
- The first notice will acknowledge that the lockbox has received the Form I-589 for processing.
- After USCIS reviews the filing and deems it complete, we will then issue a standard Form I-589 receipt notice.
- Both notices will reflect the same date of receipt that is used to determine eligibility for employment authorization based on a pending asylum application and for purposes of the one-year filing deadline.

- Please visit uscis.gov for the categories of affirmative asylum applicants who must continue to mail their asylum application directly to the Asylum Vetting Center, as outlined in the Special Instructions section of our Form I-589 webpage.
- Online filing is available for Form I-589, and we encourage those who are not unaccompanied children, who are not in immigration court proceedings, and who do not have to submit their applications to the Asylum Vetting Center to file online. We have a “Filing Instructions Tool” available at uscis.gov/i-589 to help you determine whether you should file your asylum application online or by mail and, if so, to what location.

Slide 9: Post-Title 42 Changes (John)

- I know many of you have been closely following the news and DHS updates to see how lifting the Title 42 public health order will affect processing across the affirmative asylum and asylum prescreening programs.
- In anticipation of higher numbers, DHS led USCIS, ICE, and CBP in a robust planning effort to prepare and grow our capacity to conduct credible fear interviews within the expedited removal process. This included surging resources to border caseloads, increasing the number of telephone lines available for interviews and service, and increasing the number of interpreters we have available for translation services.
- Additionally, to efficiently process noncitizens in expedited removal while providing an opportunity for consultation, we issued a policy ensuring that noncitizens will have at least 24 hours prior to their credible fear interview to consult with an attorney or person of their choosing.
- All noncitizens who request to reschedule their credible fear interview beyond that 24 hour consultation period must demonstrate extraordinary circumstances warranting approval of the request, so as not to unreasonably delay the overall process.
- USCIS will continually assess the feasibility of this 24-hour period and may determine, in our discretion, that a return to a 48-hour period is appropriate. Form M-444 has been updated to reflect this change.

Circumvention of Lawful Pathways Final Rule- (John)

- On May 12, 2023, DHS implemented the Circumvention of Lawful Pathways rule, or CLP rule.
- This rule encourages migrants to use lawful, safe, and orderly processes to enter the United States, imposes a rebuttable presumption of ineligibility for asylum on certain noncitizens who fail to do so, and allows for the swift removal of individuals who do not establish a reasonable possibility of persecution or torture in the country of removal.
- The presumption applies to noncitizens who arrive at the southwest land border and adjacent coastal borders, meaning any coastal border reached by an individual traveling from Mexico and landing within the United States. Noncitizens who entered the United States on or before 11:59 p.m. Eastern time on May 11, 2023, are not subject to the CLP rule. Mexican citizens and nationals and habitual residents of Mexico also are not subject to the CLP rule.

- We will except a noncitizen from the presumption of asylum ineligibility if they, or a family member traveling with them:
 - Received appropriate authorization to travel to the United States to seek parole, under a DHS-approved parole process;
 - Presented at a port of entry, under a prescheduled time and place using the CBP One app, or presented at a port of entry without a prescheduled time and place, if they established that it was not possible to access or use the CBP One app due to language barrier, illiteracy, significant technical failure, or other ongoing and serious obstacle; or
 - Sought and were denied asylum or other protection in at least one country outside their country of nationality or habitual residence through which they traveled en route to the United States.

The rule also excepts unaccompanied children from this rebuttable presumption.

- Individuals who are subject to the presumption of asylum ineligibility may rebut it by demonstrating exceptionally compelling circumstances. A noncitizen rebuts the presumption if they demonstrate that they, or a member of their family who they are traveling with:
 - Faced an acute medical emergency;
 - Faced an imminent and extreme threat to life or safety, such as an imminent threat of rape, kidnapping, torture, or murder;
 - Satisfied the definition of “victim of a severe form of trafficking in persons” provided in 8 CFR 214.11(a); or
 - Establishes that other exceptionally compelling circumstances apply.
- I know many of you have likely read the rule in the Federal Register or read a lot about it in various articles or papers. So I’d like to take a few minutes to give an overview of how we have operationalized it.
- When a noncitizen attends their credible fear interview with USCIS, the asylum officer will assess whether or not the person is subject to the CLP rule and, if so, whether or not an exception applies or they can rebut the presumption of asylum ineligibility.
- If the noncitizen is not subject to the rule or an exception applies, they will continue with a credible fear screening at the significant possibility standard, which is the standard used for credible fear outside of the CLP rule context.
- If a noncitizen is subject to the rule and an exception does not apply, they are presumed ineligible for asylum.
- The noncitizen then has an opportunity to rebut this presumption of asylum ineligibility, based on exceptionally compelling circumstances.
 - If they rebut the presumption of ineligibility for asylum under the CLP rule, the asylum officer will conduct the credible fear interview at the significant possibility standard.
 - If they do not rebut the presumption of ineligibility for asylum, their fear claim will be assessed at the reasonable possibility standard.

- If they do not rebut the presumption of ineligibility for asylum, the noncitizen receives an additional orientation prior to the start of the credible fear interview explaining that they will be screened at the reasonable possibility standard, as well as an explanation of possible outcomes, and that they can request review from an immigration judge if they receive a negative determination.
- Whether the case is screened at the significant possibility or reasonable possibility standard, if the screening determination is positive, the noncitizen will receive a Notice to Appear and be placed into standard removal proceedings under INA section 240.
- In 240 proceedings, the immigration judge will consider the case de novo when the noncitizen attends the merits hearing.

Slide 10: (John)

- We want to make sure everyone understands the paperwork that a noncitizen will receive after their interview documenting the decision, what happened, and why.
- All noncitizens will receive a Form I-870 documenting the decision in their case and the interview notes taken by the officer. The additional information section on the last page of Form I-870 will indicate if the presumption of ineligibility for asylum was applied and the noncitizen was screened at the reasonable possibility standard.
- If the person establishes an exception or rebuts the presumption, they will also receive a CLP Presumption Worksheet.
- Noncitizens who are subject to the CLP rule but did not establish an exception or rebut the presumption will also receive a copy of the CLP Reasonable Possibility Orientation Notification. This was initially called an Orientation Memo to File.
- Positive determinations, whether screened at the significant or reasonable possibility standard, will receive a Form I-862 Notice to Appear (NTA).
- Negative determinations will receive a Form I-869, or a Form I-869B if the presumption applies and the noncitizen is screened at the reasonable possibility standard.
- If the noncitizen requests review by an immigration judge of a negative determination, they will also receive Form I-863.

Slide 11: FERM (John)

- USCIS last week began conducting credible fear screenings for families in expedited removal, in accordance with the DHS Family Expedited Removal Program, or FERM.
- Families whose intended destination is in the Baltimore; Washington, D.C.; Chicago; or Newark areas may be placed into this process during the initial implementation phase. Additional asylum offices will be finalized in the coming weeks.
- CBP will schedule credible fear interviews with the appropriate asylum office 6 to 12 days out from the processing day. Noncitizens will receive a Form G-56 with the date, time, and location of the credible fear interview.
- We will conduct credible fear interviews for families in FERM at the appropriate asylum office, either the Arlington, Chicago, or Newark asylum offices.

- As with all credible fear interviews, a consultant or representative may participate in the interview.
- During the interview, the asylum officer will conduct a CLP screening to assess whether the CLP rule applies to the family unit, and, if so, whether an exception applies or they rebut the presumption of asylum ineligibility.
- If any family member establishes an exception or rebuts the presumption, the presumption of asylum ineligibility does not apply to the family, and they will be interviewed at the significant possibility standard.
- If no family member can demonstrate an exception or rebut the presumption, the family will be interviewed at the reasonable possibility standard.

Slide 12: (John)

- After the interview, the family will receive an appointment to return to the asylum office within one week to receive their decision in person.
- If the family fails to appear at the asylum office for an appointment, USCIS will notify ICE to take appropriate action.
- When USCIS serves the decision, the family will receive the appropriate paperwork for their decision, as outlined earlier. However, if the decision is positive, only the principal applicant will receive all the paperwork; accompanying family members will only receive notices to appear. If the decision is negative, each family member will receive the full-service packet and all of the required paperwork.
- As with all credible fear interviews, families who receive a negative decision may request review by an immigration judge.
- To conclude, over the last few years, the Asylum Division has gone through many changes and has been required to pivot in different directions to address new operational and policy priorities. As both our workforce and operations grow, we hope to develop new ways to address old challenges. We appreciate the work you all do, as stakeholders in the asylum process and in assisting asylees, and we greatly value your feedback.
- We are eager to hear your thoughts on the important work we perform together and your ideas on how we can deepen our partnership.
- With that, I'd like to hear from you and will turn it over to Amanda Atkinson from our Public Engagement Division to help facilitate your questions.

Slide 13