



U.S. Citizenship and Immigration Services

WRITTEN TESTIMONY

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FOR A HEARING ON

“Oversight of Immigration Enforcement and Family Reunification Efforts”

BEFORE
THE SENATE COMMITTEE ON THE JUDICIARY

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226 DIRKSEN SENATE OFFICE BUILDING
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Chairman Grassley, Ranking Member Feinstein and distinguished Members of the Committee, I am pleased to be here today, along with my colleagues from the U.S. Department of Homeland Security (DHS), U.S. Department of Justice (DOJ), and the U.S. Department of Health and Human Services (HHS) to address your interest in family separation and family reunification, including the expedited removal process. My name is Jennifer B. Higgins, and I am the Associate Director of the Refugee, Asylum and International Operations Directorate at U.S. Citizenship and Immigration Services (USCIS).

USCIS administers the nation's lawful immigration system, including the adjudication of asylum claims submitted by individuals present in the United States who are not in removal proceedings, and screening those encountered at the border -- both at and between the Ports of Entry (POE) -- and who are placed into expedited removal proceedings and express an intent to apply for asylum or a fear of return or persecution. Before being removed from the United States under an expedited removal order, all such individuals must be asked a set of questions by U.S. Customs and Border Protection (CBP) officers to determine if they have a fear of returning to their home country. If at any point prior to removal such individuals indicate to CBP or U.S. Immigration and Customs Enforcement (ICE) that they have a fear of returning or an intention to apply for asylum, applicable statutes require that these individuals be referred to USCIS for assessment of protection concerns--what is commonly referred to as a "credible fear" screening interview.

When evaluating credible fear, the USCIS role is limited to interviewing certain single adults and family units who are placed into the expedited removal process. Single adults include those parents who were separated from their children as a result of the parent being referred for criminal prosecution for illegal entry and transferred to U.S. Marshals custody for prosecution.

Credible fear interviews are conducted by specially-trained USCIS officers, generally while the individual or family is detained by ICE. These officers comprise a professional cadre within USCIS, dedicated full-time to the adjudication and screening of protection claims. They are extensively trained in national security issues, the security and law enforcement background check process, eligibility criteria, country conditions, interview techniques, making proper credibility determinations, fraud detection, and the international protection obligations of the United States. During the credible fear interview, individuals are questioned regarding their biographic information, their fear of persecution or torture if returned to their country of origin, and whether there are any circumstances that may make them ineligible for asylum. While CBP and ICE have already conducted security checks on the individual earlier in the expedited removal process, USCIS also conducts security checks, including biographic and biometric checks. USCIS coordinates with ICE and other law enforcement authorities, as appropriate, if there is any reason to believe that an individual may have engaged in criminal activity or is a security risk.

As defined by statute and regulation, an individual establishes a credible fear when he or she demonstrates that there is a significant possibility, taking into account the credibility of the statements made by the individual in support of his or her claim and other facts known to the officer, that the individual could meet the applicable standard to establish eligibility for asylum under section 208 of the Immigration and Nationality Act or withholding of removal or deferral

of removal under regulations implementing the Convention Against Torture..

If the individual establishes a credible fear of persecution or torture if returned to their country of origin, USCIS issues a Notice to Appear (NTA), and the individual is placed into full removal proceedings before an Immigration Judge, in which he or she can seek asylum or other forms of relief or protection from removal. Therefore, a positive credible fear screening determination by USCIS does not confer any immigration benefit other than shielding such individuals from expedited removal, and, in most cases, allowing their release from custody to stay and work in the United States while they await, on average, more than a year or two for a final hearing. It is simply a screening process employed to identify potential asylees, while the decision on asylum eligibility rests with an Immigration Judge.

If USCIS determines that an individual does not have a credible fear of persecution or torture if returned to their country of origin, he or she is subject to expedited removal, unless the individual requests a limited review of USCIS' credible fear finding by an Immigration Judge. The Immigration Judge can disagree with the USCIS decision and find the individual does have a credible fear. In that case, the Immigration Judge will vacate the expedited removal order, and the individual is placed into full removal proceedings before an Immigration Judge and required to return for a future court date. If the Immigration Judge agrees with USCIS that the individual does not have a credible fear, then the individual is subject to prompt expedited removal by ICE. With either the issuance of the NTA, or the determination that the individual has no credible fear, the USCIS role in the expedited removal process is complete. For those found to have a credible fear, depending on the location and manner of how the individual was apprehended, either ICE or an Immigration Judge will determine whether bond or parole from custody is appropriate during removal proceedings. As part of the removal proceedings, the Immigration Judge will ultimately determine whether the individual is eligible for asylum or any other requested forms of relief or protection.

USCIS has more than 100 officers conducting credible fear screening interviews around the country, conducting an average of more than 350-400 interviews each day. Over the course of this fiscal year, USCIS has conducted credible fear interviews with individuals detained at more than 100 different locations around the country. In response to the President's Executive Orders, USCIS has positioned staff at 10 major detention facilities in the border region, including the two family residential centers in Texas, to carry out credible fear processing. Through July 15, 2018, USCIS has already completed over 76,000 credible fear cases referred to us for screening this fiscal year.

CONCLUSION

I hope that this overview of the USCIS role in the expedited removal process is helpful in understanding the factors at work at the southern border. Once again, I appreciate the opportunity to be here today. I am happy to answer any questions you may have. Thank you.