



HQRAIO 120/9.15a

Memorandum

JUN 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
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SUBJECT: Processing Credible Fear Cases when a Rare Language Interpreter is Unavailable

I. Purpose

The purpose of this memorandum is to provide guidance on processing Credible Fear cases when a rare language interpreter is unavailable or, if available, cannot be scheduled in a timely manner.

II. Background

Asylum Headquarters has verified that neither Lionbridge nor Language Line currently has interpreters available for either the Guatemalan indigenous language Ixil or the Pakistani language Pashtu. While recruitment efforts are ongoing, neither vendor can provide us with a timeline on the availability of interpreters for these languages. Furthermore, for some languages (Mam for instance) there may be a limited number of interpreters available and scheduling their use can lead to lengthy delays in the processing of the credible fear case.

III. Implementation

A. No Available Interpreter

Therefore, effective immediately, when an Asylum Office encounters an individual requiring a credible fear interview and there is evidence that the individual speaks a language where there is

Processing Credible Fear Cases when a Rare Language Interpreter is Unavailable
Page 2

no available interpreter, the Asylum Office must still schedule the applicant for an interview to determine if, in addition to the rare language, the individual is able to communicate in another language. For example an applicant who speaks Ixil may be able to adequately communicate in Spanish. An individual whose native language is Pakistani Pashtu may also speak Afghani Pashtu, Punjabi or Urdu. If the Asylum Pre-Screening Officer (APSO) determines that the individual is able to communicate in another language, the APSO should confirm at the conclusion of the interview that the individual understood the contents of the interview and was able to testify accurately and completely. This should be reflected in the interview notes.

If the APSO is unable to communicate with the applicant in another language or the office cannot schedule a rare language interpreter within 48 hours, the Asylum Office should immediately or as soon as is practicable, issue the form, I-862 Notice to Appear (NTA) to the applicant placing the applicant in Section 240 proceedings using the charges reflected on the I-860. Please note that on page 1 of the NTA the following box should **not** be checked as no credible fear determination has been made:

- This notice is being issued after an asylum officer has found that the respondent has demonstrated a credible fear of persecution or torture.

In addition to issuing an NTA, the APSO is required to prepare a memo to file briefly explaining why a credible fear determination was not made and why the applicant has been issued an NTA. The original memo is then served on the A-file with a copy placed in the Asylum Office's work file.

After issuance of the NTA and preparation of the memo to file, the case must be closed in the Asylum Pre-Screening System (APSS) using the CLOS command, ("T5" = for other reason). A note must be added using the "NOTES" feature on the CLOS screen (F9). (Ex: "No Pakistani Pashtu interpreter available and applicant unable to speak Afghani Pashtu at interview on May 20, 2013.")¹

B. Interpreter Under Contract But Not Available for Credible Fear Interview

For cases in which an interpreter is under contract but has limited availability, at the time the Asylum Office schedules a credible fear interview, if an interpreter is not available within 48 hours, the asylum office should issue an NTA according to the procedures outlined above.

IV. ECN Updates

Asylum HQ will list rare languages on the ECN Credible Fear Site. To access this information, select the "Rare Languages" link on the left side of the screen. HQASM Operations Branch will monitor this site and update as needed. SAPSOs and APSOs may also use this link to ask language and interpreter questions and to notify HQASM of any future encountered languages for which interpreters are unavailable.

¹ For more information on using APSS, please refer to the *User's Guide for Entering Information in the Asylum Pre-Screening System (APSS)*, updated 04/06/2012 and available on the RAIOVL by clicking on the following link:
<http://02rsecow12:8080/docushare/dsweb/View/Collection-9588>

Processing Credible Fear Cases when a Rare Language Interpreter is Unavailable
Page 3

**Questions regarding the contents of this memorandum may be directed to HQASM Operations
Branch Program Manager for Credible Fear.**

