



## **Attorney Representation before DHS Survey Results**

The final results are in! AILA and the American Immigration Council's Legal Action Center have engaged in a nationwide outreach effort to gather information about procedures and trends encountered by attorneys when providing representation to clients during various types of interviews with DHS components, specifically, USCIS, CBP, and ICE. The following are the highlights of the final results.

### **Survey Overview**

The survey was released on September 27, 2010 and remained open until December 25, 2010. A total of 268 individuals responded to the survey. The respondents practice primarily in 71 USCIS jurisdictions. The top 10 USCIS jurisdictions in which the survey respondents practice are:

1. NY – New York City
2. CT – Hartford
3. IL – Chicago
4. NJ – Newark
5. DC – Washington
6. CA – Los Angeles
7. MD – Baltimore
8. MI – Detroit
9. GA – Atlanta
10. MA – Boston & CA – San Francisco (tied)

### **USCIS:**

Among individuals who have made at least one appearance at a USCIS office within the past year, roughly 52% experienced a representation problem at a USCIS interview or encounter; 48% experienced no problems.

Of the individuals who reported experiencing problems at USCIS, the Field Offices most often involved were (in alphabetical order):

- CA – Los Angeles
- CT – Hartford
- DC – Washington
- FL – Miami
- GA – Atlanta

- IL – Chicago
- MI – Detroit
- NJ – Newark
- NY – New York City

The types of interviews or encounters most often involved were:

- Adjustment of Status
- Marriage-Based I-130
- Naturalization
- Removal of Conditions (I-751)

Respondents reported that their representation was most often restricted in the following three ways:

- They were told to sit in a certain place in the room (behind or otherwise apart from the client)
- They were interrupted or cut off by the interviewing officer
- They were allowed in the room, but were not allowed to participate

**CBP:**

Among individuals who have made at least one appearance before CBP within the past year, roughly 51% experienced a representation problem at a CBP interview or encounter; 49% experienced no problems. Locations of the problematic encounters with CBP were widespread and varied. However, a number of problems were reported at the following locations:

- Washington Dulles International Airport
- Bradley International Airport (Hartford, CT)
- Newark, NJ
- Miami, FL
- Boston, MA

Of the CBP problems reported, roughly 43% involved returning lawful permanent residents, 40% involved nonimmigrants, and 17% involved other issues such as revocation of advance parole, humanitarian parole, or I-94 error. Approximately 40% of the encounters occurred at secondary inspection, 50% occurred at deferred inspection, and 10% involved other settings such as random stops.

Respondents reported that their representation was restricted most often in the following three ways:

- They were told the interviewee was not entitled to representation
- They were not allowed in the room where the interview took place
- Their clients were unable to call them

## ICE:

Among individuals who have made at least one appearance at an ICE office within the past year, approximately 49% experienced a representation problem at an ICE interview or encounter; 51% experienced no problems.

Of the individuals who reported experiencing problems at ICE, the offices involved were varied. However, a number of incidents were reported at the following offices:

- NY - New York
- FL - Miami
- VA - Arlington
- IL - Chicago
- NJ - Newark
- MO - St. Louis
- MI - Detroit

The types of interviews or encounters most often involved were:

- Custodial Interview (Including Alternatives to Detention Reporting)
- Order of Supervision
- General Questioning

Respondents reported that their representation was restricted most often in the following four ways:

- They were not allowed in the room where the interview took place
- Their client was unable to call them
- They were unable to call their client
- They were told their client was not entitled to representation

In addition, there were a number of reports where ICE failed to contact the attorneys before communicating with their clients, even though a G-28 was on file.

We'd like to thank the individuals who participated in this survey and we encourage attorneys to continue sending us reports of limitations on representation by DHS components. The LAC and Penn State Law School's Center for Immigrants' Rights are currently drafting a white paper that will include recommendations to improve access to counsel before DHS and will be published in the spring of 2011.