

## **I-485:**

1. We are noticing more refugee/asylee adjustments falling outside of normal processing times (estimated at 4 months per the last NSC report). When representatives call the NCSC, they are told that the case is on track for normal processing and there is no particular reason for the delay (such as a TRIG hold or transfer to another office for adjudication), but that applicants just have to wait and check back in six months if they have still not received a decision. Are processing times still averaging 4 months, and if so what would cause a case to be delayed other than TRIG hold or transfer?

2. Please, if you can, discuss the situations under which refugee interviews are scheduled. What issues in refugee adjustment cases lead to the scheduling of interviews?

3. I-485 asylee derivative issues: Does the NSC have any updated information on the position that US CIS HQs will take on asylee derivatives whose I-485 cases are often denied (for failure to go through the Nunc Pro Tunc procedure prior to filing the I-485) if their principal parent or spouse naturalizes prior to adjustment? (This issue was discussed at one or more of the last three USCIS Asylum Division meetings, but those minutes do not appear to have been posted for any of these meetings. In addition, the Asylum Division has postponed several recent meetings.) On the last teleconference w/NSC in February, 2012, a similar question was asked and the answer was that NSC policy is that the derivative no longer meets the defn. of spouse or child if the principal naturalizes prior to the derivative obtaining his/her green card; in addition, it was indicated that HQs would communicate the policy on this issue. What is the timeframe for HQs to issue this policy; if too long, should CBOs just go ahead and file NPT apps first where the principal parent or spouse has naturalized?

4. I-485 Liberian Hold cases: One CBO recently had a Liberian I-485 case on hold for many years, but finally got an interview at the local CIS office. However, the interviewers were, in addition to a CIS officer, two officers who work for the Fraud Unit who proceeded to “interrogate” the applicant for two hours – the gist of the interview related to alleged inconsistencies in the applicant’s refugee application, CIS refugee interview, and green card application. (The applicant was admitted to the US in 2003 and filed his green card application in 2005.)

When these types of cases are referred for local interviews after so many years of sitting around in an inactive status, is it likely that they are being referred for alleged fraud purposes? Who makes the decision to refer to a Fraud Unit? Granted, the Fraud Units are special units and not under service center or even local office control, but it appeared that the Fraud Unit interviewers did not even have a good feel for Liberian history (i.e. didn’t seem to know exactly who Charles Taylor was and his role in Liberian history and refugee issues). Also, how is an applicant expected to remember what happened 7 to 10 years ago? The mere passage of time – exacerbated by Service Center or other CIS entity delay – can severely affect whether the applicant can offer any defense to the accusations. Please comment.

## I-730

5. I-730/DNA issues: (This is being asked by a CBO that files I-730s with the TSC, but knows that both service centers work together in trying to be consistent in their I-730 policies.) DNA testing – at least in Africa – now appears to be exclusively done at American embassies where the DNA sample is taken by an outside lab. Many, if not all, embassies now appear to take the position that before they will set an appt for a DNA sample to be taken, there has to be a recommended request for DNA testing, either by USCIS service center or at the overseas embassy. However, given the length of time it takes to accomplish the entire DNA process, it is very difficult or even impossible to complete the DNA process after a RFE has been issued, given the 87 day deadline.

Is there any way – if a petitioner and beneficiary want to agree to DNA testing anyway – for the Service Center to issue a written “recommendation” for DNA testing shortly after the I-730 has been receipted, but before a RFE letter has been sent? (Perhaps the petitioner could specifically request that with the I-730 filing.)

6. I-730s: One CBO has an older I-730 case where the DNA sample was taken in Liberia at a private DNA lab authorized by the American Embassy in Liberia, and the petitioner and beneficiary were determined to be mother/daughter (and the attorney has a “Chain of Custody” proof from the DNA company). However, when the beneficiary went for yet another interview at the embassy (after an earlier denial and “temporary” loss of the file for years), she was told she had to have new DNA tests done since the original test sample was not taken at the embassy per the “new” policies– but in compliance with the DNA policies in effect at the time the sample was taken! This case has NEVER made it back to the NSC for a NOID review, which may be a better procedure instead of having the case sit for years in Liberia waiting for the family to come up with money they don’t have to do new DNA testing.

How can we arrange for cases like this to be sent back to the NSC for review? And, if such a case were re-reviewed by NSC, what would be your position on the validity of DNA test results where samples were taken in compliance with the procedures in effect at the time of testing (even though the procedure has now changed)?