



## Credible Fear

### In General:

If an alien indicates an intent to apply for asylum or expresses a fear of persecution or torture, or of return to his or her country, the officer shall not proceed further with removal and shall refer the alien to USCIS for an interview by an asylum officer. INA § 235(b)(1)(A)(ii), 8 C.F.R. § 235.3(b)(4).

The examining immigration officer shall record sufficient information in the sworn statement to establish that the alien has indicated such intention, fear, or concern, and to establish the alien's inadmissibility.

### Further Considerations:

- ICE officers shall make no subjective determination regarding the claim of fear made by an alien in the ER process (e.g., "I don't think this is a valid asylum claim").
- Although an alien is expressly asked about fear of return during ER processing, an alien may nonetheless first express a fear of return after the ER order is issued, including any time prior to removal. When this happens, removal efforts must cease, and the alien must be referred to USCIS for a credible fear interview.
- Even if the alien requests to withdraw a claim of fear, the officer must still refer the alien to USCIS. Only an asylum officer can process an alien's request to withdraw a fear claim.

