



AMERICAN  
IMMIGRATION  
LAWYERS  
ASSOCIATION

April 9, 2022

Acting Director Ted. H. Kim  
Asylum Division Chief Andrew Davidson  
U.S. Department of Homeland Security  
U.S. Citizenship & Immigration Services  
Refugee, Asylum and International Operations Directorate  
Washington, DC 20529

*Via Email: ted.h.kim@uscis.dhs.gov*

Re: AILA Asylum & Refugee National Committee Suggestions for I-730 Adjudications

Dear Acting Director Kim and Asylum Division Chief Davidson:

Thank you again for taking the time to meet with the American Immigration Lawyers Association (AILA's) Asylum and Refugee Committee on January 5, 2022. We are writing to follow up regarding the concerns we raised about the extreme delays in processing applications for derivatives of asylees and refugees. We were encouraged to hear that you will be reviewing existing processes to explore changes that the agencies could make to improve efficiency and reduce the time that families must remain separated.

As you are probably aware, during the Trump administration, processing times for family reunification under the follow-to-join program nearly tripled.<sup>1</sup> While some delays were no doubt caused by the COVID pandemic, the backlog had already increased dramatically prior to COVID, and was largely caused by added steps to the processing of I-730 petitions, as well as unnecessary case transfers, as discussed below. At best, these excessive delays prolong the separation of families who have in many cases already been kept a part for years due to asylum and refugee processing backlogs, with serious consequences for family relationships, the welfare of children, and the integration of the petitioner and the family as a whole into the United States. At worst, they pose a continuing, serious threat to the physical survival of family members abroad, some of whom have been detained by foreign governments or have died while they waited to be reunited. We were heartened to see USCIS Director Ur Jaddou's recent announcement on case processing time goals,

---

<sup>1</sup> USCIS, "Historical National Average Processing Time (in Months) for All USCIS Offices for Select Forms by Fiscal Year," USCIS, <https://egov.uscis.gov/processing-times/historic-pt>.

which included processing I-730s within six months.<sup>2</sup> To assist you in tackling the delays, and meeting Director Jaddou's goals, we offer the following suggestions.<sup>3</sup>

### **Increase Efficiency and Reduce Family Separation**

USCIS should examine internal transfers of cases within USCIS and determine what role those transfers serve. USCIS should strive to minimize transferring files and centralize adjudication of the I-730 petition in a single, specially trained and dedicated unit. Recognizing the unique vulnerabilities of asylees and refugees, including their inability to return to their home countries, USCIS should understand that delays in I-730 adjudications are a form of family separation, and prioritize these adjudications. USCIS should ensure that congressionally appropriated money for backlog reduction is expended on I-730 backlogs, including through hiring more adjudicators specifically to address the I-730 backlog.

As it works to bring the average processing time for I-730 petitions down to reasonable levels,<sup>4</sup> USCIS should also provide guidance to its adjudicators on responding to requests to expedite I-730 petitions that are particularly urgent. A recurring issue has been Service Center Operations' (SCOPS) refusal to expedite I-730s based on threats to the safety of the derivative family members in the home country, even when the Asylum Office expedited the underlying asylum application on those very grounds, in situations where, for example, an asylum-seeker's spouse and children were actually in hiding from their persecutors in Syria or Afghanistan.

### **Centralize I-730 Adjudications and Provide Specialized Training**

Practitioners report excessive and often illogical Requests for Evidence (RFEs) and Notices of Intent to Deny (NOIDs) in I-730 adjudications. Every erroneous request for information that has already been provided, or is not legally relevant, adds to the overall processing time of I-730s and to the increased time that families are forced to spend apart. For example, in one case an attorney was asked to provide DNA evidence to prove the relationship between spouses. In another case, USCIS demanded proof that a parent had legal custody over a child protected under the Child Status Protection Act, who was already an adult at the time of adjudication. USCIS should assign officers to work exclusively on I-730s so that they become familiar with the legal and evidentiary issues that arise in the asylee and refugee context. These officers should receive specialized, ongoing training on emergent issues.

---

<sup>2</sup> USCIS, Case Filing, (Last Updated Mar. 29, 2022) <https://www.uscis.gov/forms/filing-guidance>.

<sup>3</sup> Many of the suggestions in this letter echo the excellent report written by the International Refugee Assistance Project in March 2021, *Families in Limbo: What the Biden Administration Can Do Now to Address Unreasonable Delays in Refugee and Asylee Family Reunification*.

<sup>4</sup> See 8 U.S.C. § 1571(b).

## **End Unnecessary Interviews and Data Collection**

The prior administration imposed mandatory interview requirements on both beneficiaries in the United States and on petitioners. While USCIS rescinded the requirement that all petitioners be interviewed, there is no reason for all beneficiaries who are in the United States to be interviewed either. Beneficiaries need only demonstrate that the qualifying relationship with the asylee or refugee exists and are not required to have their own humanitarian-based claim. There is simply no logic to interviewing all beneficiaries. In the rare case where USCIS suspects that the beneficiary may be barred from asylum or has reason to doubt the validity of the family tie, it can schedule interviews on a case-by-case basis.

## **Reopen International USCIS Offices and Improve Overseas Processing Capacity**

The Trump administration closed several key USCIS offices abroad. The Biden Administration should reopen these offices, explore opening new international offices, and prioritize I-730 adjudication in these offices. There is high turnover in Department of State (DOS) consular adjudications branches, and most of these officers are primarily responsible for making decisions on immigrant and nonimmigrant visas. As a result, DOS officers are more likely to cause delays on I-730s or make mistakes in their adjudication. In countries where it is not possible for USCIS to provide adjudication, USCIS should provide training to DOS offices to ensure that adjudications are carried out uniformly across both agencies.

At most Embassies and Consulates, it is Foreign Service Consular Officers who are responsible for interviewing Form I-730 beneficiaries. However, Posts are inconsistent in their exposure to refugee/asylee issues. Many locations that frequently process I-730 cases have dedicated staff members involved in these programs; however, other locations where the volume of I-730 cases is smaller are forced to pull staff who regularly work on I-130 processing to interview refugee/asylee beneficiaries. This has resulted in misapplication of the burden of proof (I-730s are adjudicated by a “preponderance of the evidence” not the higher “clear and convincing” standard), and Consular Officers returning cases to USCIS based on doubt of the relationship’s veracity or misapplication of the applicable statutes or regulations.

On top of that, there appears to be no clear chain of responsibility for the processing of I-730s and they continue to be processed as an afterthought, especially at Embassy locations. We are aware of the continuing obstacles to schedule circuit rides and camp access, and we urge USCIS to consider alternative solutions to allow processing, especially for those who are beneficiaries of I-730 petitions. Further, pre-screening interviews are conducted via circuit ride, which has meant that several locations have gone years without a circuit ride, whether due to smaller overall caseload, country conditions making travel inaccessible, or other reasons.

In collaboration with the State Department, it is equally imperative that USCIS expand the number of experienced staff and processing locations to address the I-730 backlog, particularly for refugees who have had cases pending for several years. USCIS should facilitate regular pre-screening interviews to address a lack of circuit rides (including number of staff joining and duration of the

circuit rides). For example, USCIS should consider training local staff to conduct pre-screening interviews, or otherwise transporting the beneficiaries to a second location for interviewing. In addition, USCIS should allow applicants to use other approved means of submitting tests, such as via the International Organization for Migration (IOM), a panel physician, a U.S. Embassy, or an accredited lab, which would be more accessible by the applicant and would reduce delays caused by waiting for a U.S. citizen Resettlement Support Center (RSC) staff member to plan and execute their travel. The Administration should consider covering the applicant's cost of transport to these alternative locations so as not to impose financial barriers and reimbursing for canceled tests.

## **Increase Transparency**

Even practitioners with significant I-730 practices are often confused about the exact steps involved in I-730 processing, and for *pro se* petitioners, it is nearly impossible to comprehend the reasons for and steps involved in the years-long wait to reunify with family. It would greatly help I-730 petitioners and their representatives if USCIS included information on its [I-730 webpage](#) that clearly lays out each step of the adjudication process and the purpose each agency or sub-agency serves in this process. For example, in January 2022, USCIS announced that it would transfer refugee follow-to-join petitions to the Asylum Vetting Center but would continue to adjudicate asylee follow-to-join petitions at the I-730 Processing Unit at the Los Angeles Asylum Office. USCIS did not explain why it was making this change or whether it plans to also move asylee petitions to the Asylum Vetting Center in the future. Despite this notice of changed locations for USCIS adjudications, petitioners must still file their I-730s with their regional Service Centers, which adds to delays as USCIS must transfer file seemingly for no substantive reason. Other requirements, such as submission of the I-590 form for I-730 refugee beneficiaries, are not clearly set out in the I-730 form instructions. As a result, unnecessary RFEs requesting submission of the Form I-590 further delay cases.

Moreover, data that is available on the USCIS website, under the case processing times [online tool](#) for refugee-based I-730 does not appear accurate in that the only information available is for processing times at the Nebraska or Texas Service Centers—which are not currently adjudicating I-730s. Practitioners and applicants would benefit greatly from increased transparency.

We recognize the need for coordination between USCIS and DOS on processing I-730 applications and believe USCIS should take the lead in this process. We ask that USCIS commit to accountability and transparency for refugee I-730 applicants by ensuring that Refugee Support Centers and Embassy staff provide responses to inquiries for information in good faith, without resorting to opaque form responses. We further request that USCIS and DOS work collaboratively to create a tracking system with processing timelines that petitioners could check for each stage of the I-730 processing including consular processing. The Administration should produce regular public reports regarding the number of I-730 cases pending and adjudicated at overseas posts.

## **Establish Regular Stakeholder Meetings**

We ask that you schedule regular, quarterly stakeholder meetings specifically on I-730 issues, which include both USCIS and DOS staff who can answer questions and respond to suggestions from the legal advocacy community. We all share the goal of family unity and hope that we can work cooperatively together to improve this critical adjudication system.

Thank you for your attention to these important issues.

Sincerely,

Handwritten signatures of Victoria Neilson and Kathryn R. Weber.

Victoria Neilson, Esq. & Kathryn R. Weber, Esq.  
AILA Asylum & Refugee Committee Co-Chairs

Cc: Cara Selby, Acting Associate Director, External Affairs Directorate  
Carlos Munoz-Acevedo, Chief Public Engagement Division  
Amanda Baran, Chief, Office of Policy and Strategy