

April 12, 2006

Jane Arellano, District Director
US Citizenship and Immigration Services (USCIS)
300 N. Los Angeles Street
Los Angeles, California 90012

Dear Director/CIS Officers:

The following items have been proposed by members of the American Immigration Lawyers Association, Los Angeles County Bar Association-Immigration Section, Mexican American Bar Association, San Fernando Bar Association, Century City Bar Association, and Cuban American Bar Association for discussion with you at our April 12, 2006 meeting:

I-130 PETITIONS FOR COURT CASES/I-130 UNIT

1. Where does one file the I 130 immediate relative petition for a case that is pending at the BIA and a motion to reopen or motion to remand for adjustment is appropriate? In order to file the motion to reopen or remand proof is needed to show the I-130 was received by the DHS. If the I-130 can be filed directly with the District, how do we facilitate the Cashier to accept the filing and route it to the I-130 Unit?

Marty Handman: Make an info pass appt, bring evidence that the applicant is under proceedings, such as Notice to Appear and/or BIA receipt. Officer will accept the I -130, give it a WAC # and send it to the I-130 unit.

ADJUSTMENT OF STATUS

2. What will CIS accept as proof that an alien has executed an old deport order and has since returned to the jurisdiction of the CIS for adjudication of applications and petitions?

Robin Pignatelli: We will consider any “clear and convincing evidence”, such as tax records, consular letters, any gov’t document with a dry seal-verification of departure. A declaration from the alien that he/she departed will not be accepted.

3. What documents and or evidence will LADO accept to show legal entry if officers at the port of entry retain the Mexican BCC card or Legalization EAD and do not issue any I 94 to the alien?

James Loyd: The only scenario where an officer would keep a Mexican BCC or Legalization EAD is if there is a problem with the case. Then the officer would parole the alien in to see an IJ and issue a NTA. Otherwise, the applicant must show “clear and convincing evidence” that he was inspected. A verbal and/or written claim will not be sufficient.

4. We have received increased reports of representatives of “Department of Home land Security” making unannounced visits, usually pre-dawn, to applicants’ homes and to applicants’ friends’ homes, harassing phone calls to their friends and relatives and embarrassing/harassing types of questions at adjustment interviews for marriage-based cases. Are these representatives from CIS? Are there any guidelines for conducting these interviews and investigations? If these tactics have crossed the line of decency, to whom and to what department should these acts be reported?

Jane Arellano: There are no particular guidelines. These case will be done on a case by case basis, some officers may make a sight visit, however, not very frequently and not pre dawned.

If an officer crosses the line Jane would like to know about it or you can report it to one of the Section Chiefs.

During marriage fraud interviews officers need to ask questions that are somewhat intimate.

From CIS there are two officers in Santa Ana and two in San Bernardino that make on sight visits but they are not ICE.

We can not speak to what ICE does and whether they are making pre-dawn inspections.

I-601 WAIVERS

5. Although the scenario is case specific, if the system of flagging these cases is not changed, many, many cases will be affected.

A waiver is denied by a DAO, a timely notice of Appeal is sent by Federal Express within the appropriate time. The DAO then “sits” on the Notice of Appeal and issues an acknowledgment of receipt letter on the 34th day and forwards the file to AAO. AAO denies the appeal for untimely filing. Since the file is being returned to LADO for final denial of the adjustment, what can LADO do to address their gross error? Proof of timely filing and timely receipt by LADO is available and will be provided. **(This question is carried over to the next DD meeting.)**

N-400 AND RELATED QUESTIONS

6. How does an applicant go about changing incorrect information (date of birth) on a Naturalization Certificate that was issued long ago by the district court? N-565 was previously filed and denied indicating that the Certificate will not be changed because it was issued by the District Court? Please advise.

Anthony Leu: They will follow 8 C.F.R. 338.5 If the Certificate has incorrect info and it is service error you can file N-565, certificate will be corrected and fee will be waive.

Information put on a certificate is taken by what is in the record. Certificate will not be changed if the information coincides with the information provided in the record.

Don't know the difference if certificate is issued by the district court or issued by District Director.

7. The SDAO's in El Monte have stated that family members may not accompany their mentally impaired family members into the waiting rooms and interviews if they can walk. This places the attorney to be the untrained medical assistant to address the applicant's special needs or any medical emergencies should they occur. This policy appears at odds with the purpose of N-400 Part 3H & 3I where the special needs of the applicant is acknowledged by law and not by policy at the interview. Should these clients all rent wheel chairs?

Mary Ribadeneira : Yes, if there is any problem, speak to a supervisor officers.

8. Naturalization SDAO's has informed us that they have no authority to compel the N 648 Unit to provide either written or verbal reasons for rejection of the waiver. The N-648 Unit maintains the right to reject waiver applications without having to state any reason. Can the N-648 Unit provide intelligible written reasons for rejecting and denying

the waiver from a treating physician like any other applications and petitions before CIS?
Why are the SDAOs powerless?

Mary Ribadeneira: Yes, I instruct my officers to provide specific reason for rejecting and denying the waiver.

8. There appears to exist an attitude in the El Monte office that all N-648 cases are fraudulent. Harsh and rapid questioning in English of mentally impaired persons scares and intimidates these vulnerable persons. This negative attitude appears to have come from the top. Where can we file a complaint about DAO's insensitivity toward mentally impaired persons requesting N-648 waivers? In Los Angeles or El Monte?

Mary Ribadeneira: We don't advocate harsh and rapid questioning. We do, however, need to ask questions regarding the impairment . The interview must be conducted in a non-adversarial manner.

To file a complaint, the applicant can do it with the immediate duty supervisor.

9. Please clarify whether it is the District's policy in N-648 waivers not to accept MD's and Ph.D.'s supplementary documents to the waiver requests. The N-648 unit maintains that physicians have no right to supplement these waivers, yet the N-648 specifically invites them to "attach additional pages." This is directly contrary to the language of the N-648 form.

Mary Ribadeneira: The District will accept additional documents in support of the N-648, as long as part "N" of the application is completed.

12. If an applicant has more than one problem which will qualify him for a N-648 waiver, do we submit two waivers or just one with reports from two different physicians with different medical specialties? Can we file two waivers at the same time? If not, why not?

Mary Ribadeneira: The District will accept more than one report. If applicant has more than one problem that will qualify him for a N-648 waiver, then each Dr. needs to fill out an application.

13. What authority does the N-648 Unit rely on to reject N-648 from a psychiatrist treating dementia on the basis that only a neurologist may treat dementia?

Mary Ribadeneira: None. A psychiatrist is the appropriate medical source.

14. Is CSC the only place we can inquire if the N-400 application is pending more than 18 months and has been fingerprinted over a year ago and no interview has been scheduled?

Mary Ribadeneira: CSC is not the only place you can inquire on a N-400 application. You also can inquire here at the DD by faxing inquiry to 213 830-5210. Officer will pull file review it and attorney will get the response. For El Monte fax inquiries to (626) 258-2202.

There are going to be changes made to Rm 6024. In the near future N-400 inquiries will no longer be done through the attorney window in Rm 6024. All inquiries will be done through info pass. The DD is currently working out the details and informational officer are being trained.

This is a topic that will be brought up with the working group.

15. When Support Centers are unable to complete elderly individuals' biometrics (fingerprint impression is not possible), they instruct people to contact the police department regarding clearance letter along with a letter from local court regarding criminal records or lack of any record for every jurisdiction they lived for more than 6 months. This process is burdensome and lengthy if they moved from state to state during their lifetime. In addition, I-90's are also not being renewed because of this reason. Please advise if an alternative method is possible so they can still show proof of legal status while compiling the records from all these places?

Dennis Perry: There is no answer to give you. There is nothing for those who are homebound for the biometrics. (This question will be carried over to next meeting)

CHANGE OF ADDRESS PROBLEMS

16. Members are getting applicant notices sent to the old address after proper address change has been filed for an attorney. Although Jane Arellano had indicated a year ago there is no process to solve this, has anything changed? Would a notice to Kentucky help? In addition, notices are also sent to wrong addresses for aliens even when AR-11s have been filed. Should we send copies to the CIS offices where the file is pending AND to Kentucky?

James Lloyd: No, the problem still exist. A suggestion is to send a change of address to all and call 800 #.

If we receive the change of address we will try to send notice to correct address. I have instructed the officers not to issue "no show" letters without checking address.

I-751 INQUIRY PROCESS

17. Is there a procedure to inquire about the status of an I-751 (Waiver of Joint Filing) which has been pending for more than 11 months? We assume these cases are still at the CSC or if they have been relocated to DO, we are not advised. Is the INFOPASS method still the way to extend status for work & travel? Please confirm the passports will be stamped or I 94 given.

Martha Nguyen: Infopass is still the best way to inquire about these cases. Passports will be stamped if you provide a legitimate need.

DEFERRED ACTION

17. In the past we have asked several times for the name of whomever in the District Director office should be contacted regarding the processing of a Deferred Action request. The answer has been rhetorically told to us to file those requests with the District Director. Members have reported that requests for deferred action have languished for years after filing with the District Director's office, and that calls and inquires to the District Director's office are unanswered. Is there a point person who can be contacted about the processing of these deferred action requests? If the DD is not the office that processes these requests, please tell us where we need to inquire to get a decision.

18. **Jane Arellano: The DD has discretion to adjudicate deferred action cases and she knows of only one case that is pending with her office at this time. However, ICE and US CBP has jurisdiction on a number of cases that are submitted to the DD office. These cases are forwarded to ICE and US CBP and therefore the DD will not be able to provide information on these forwarded cases. If jurisdiction is with either of these departments, inquiries should be made with them. Attorneys are welcome to check on submitted cases with Ms. Arellano or Mr. Al Mills at (213) 830 5400.**

UPDATE ON STAFFING AND POLICY CHANGES AND CURRENT PROCESSING TIMES:

a) Have there been any staffing changes? Policy changes?

SDAO Clippenger to 8540.

Mr. Lions will return as Acting Section Chief of I-130 Unit.

Bill Cass, SDAO going on detail.

Marty Handman will return to SDAO position after serving as Acting Section Chief of I-130 Unit.

Some I-130s sent to Alaska for adjudication.

b) For adjustment of status applications for interviews at the Los Angeles District Office: **scheduling Oct/Nov 2005**

1) What are the current processing times for I-130 and I-751?

I-130 – **IJ Cases scheduling Jan 2001. Others: 2001**
I-751 (East Los Angeles) –**all pending cases at LA DO should be done by May.**
I-140 (transferred cases) – **Scheduling as they come in. May slow a bit due to additional marriages coming from NBC.**

d) For adjustment of status applications pending in Santa Ana:
scheduling Dec 2005.

1) What are the current processing times for:

N-400: scheduling mid Nov 2005

e) For adjustment of status applications pending in San Bernardino:
Scheduling Nov 2005.

1) What are the current processing times for:
N-400: Scheduling Nov. 2005.

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For LIFE cases:

- 1) How many interviews have occurred? **11040**
- 2) Second interviews? **780**
- 3) How many have been approved? **5325**
- 4) How much notice is being given? **30 days**

For LEGALIZATION cases:

- 1) How many interviews have occurred? **18,006**
- 2) Second interviews? **68**
- 3) How many have been approved? **316**
- 4) How much notice is given? **30 days**

Respectfully submitted,

JOHN AYALA
Treasurer
AILA SOUTHERN CALIFORNIA CHAPTER