U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Refugee, Asylum and International Operations Directorate
Washington, DC 20529

U.S. Citizenship and Immigration Services

HQRAIO 120/9.15

Memorandum

JAN 14 2013

TO: Asylum Office Directors
Asylum Office Deputy Directors
Supervisory Asylum Pre-Screening Officers
Asylum Pre-Screening Officers
Quality Assurance/Training Asylum Officers

FROM: Ted H. Kim
Acting Chief, Asylum Division

SUBJECT: Implementation of Credible Fear Determination Checklist Pilot

I. Purpose

This memorandum establishes a pilot program for the use of a credible fear determination checklist in place of the brief written assessment currently required by the December 23, 2008 memorandum from Joseph E. Langlois entitled, "Revised Credible Fear Quality Assurance Review Categories and Procedures" ("the 2008 Langlois Memo"). This pilot program will be effective as of January 14, 2013 for a period of six months.

II. Background

In response to the unprecedented number of credible fear referrals received in FY12, the Asylum Division undertook a comprehensive review of current credible fear practices to identify areas where increased processing efficiencies could be made. One of the areas identified during this exercise was the Asylum Pre-Screening Officer ("APSO") decision writing process for credible fear determinations. Even before the credible fear surge, the Asylum Division had previously identified review of the APSO decision writing process for increased efficiencies as one of its FY2013 key initiatives.

As explained in the 2008 Langlois Memo, the existing credible fear quality assurance review framework—and the brief written analysis that is part of that framework—was designed to comply with our statutory and regulatory obligations, as well as address concerns raised by the 2005 Report on Asylum Seekers in Expedited Removal by the U.S. Commission on International Religious

Freedom ("the USCIRF Report").[1] This pilot program does not modify the applicable quality assurance framework for review of credible fear cases, nor does it modify existing requirements that interview notes be taken in Question & Answer format for both positive and negative credible fear determinations. Rather, the pilot program only modifies the format of the brief written analysis required for credible fear determinations.

With respect to the brief assessment, the 2008 Langlois Memo states the following:

> "This memorandum requires a brief written analysis of the case under the applicable standard for all credible fear determinations. The analysis should not be as thorough as an affirmative asylum assessment, but should include a short summary of the facts relevant to the credible fear determination, as well as a discussion of the reasons supporting the determination. This written analysis will allow the reviewer to determine that the decision was based on neutral, objective factors, and that the law was properly applied."

The credible fear determination checklist was designed to capture the same basic analysis currently contained in the brief written assessment, but in a format and manner that reduces the overall time required by an APSO to make a credible fear determination. Additionally, the credible fear determination checklist was designed to highlight the steps required in the credible fear analysis to allow for a more focused quality assurance review of cases. The basic structure of the pilot and the credible fear determination checklist is described below.

III. Implementation

This pilot program requires that APSOs processing credible fear cases arising out of the jurisdiction of ZHN will utilize the attached credible fear determination checklist in place of the brief written assessment currently required by the Credible Fear Procedures Manual. The credible fear determination checklist was designed to identify and document each step in the credible fear analysis that forms the basis of the APSO's credible fear determination made on Form I-870. In doing so, the checklist clearly identifies the applicable legal standard—"significant possibility"—that applies to credible fear determinations, and delineates between the analysis underpinning claims predicated on persecution versus torture.

Specifically, the credible fear determination checklist requires that an APSO first analyze harm suffered or feared (requiring the APSO to identify whether an applicant has testified to either past or future harm in the country of return, and who is the alleged perpetrator of such past harm or feared harm), followed by a step-by-step analysis of whether the facts of the claim warrant a finding of past or well-founded fear of persecution or torture. The checklist also allows for additional exploration of credibility issues that may arise during interviews. Finally, although the credible fear determination checklist does not contain space for a short summary of the facts relevant to the credible fear

---

[1] [FIX CITES] *See* "Report on Asylum Seekers in Expedited Removal," dated February 8, 2005, *available at http://www.uscirf.gov/index.php?option=com_content&task=view&id=1892; see also.* "Report on Credible Fear Determinations", dated February 2005, *available at* http://www.uscirf.gov/images/stories/pdf/asylum_seekers/credibleFearDeterm.pdf (last visited January 3, 2013)

determination, the checklist mandates that the APSO include a short written summary of the relevant facts at the end of the interview notes.

Training on this checklist was conducted to SAPSOs on January 9, 2013 via webinar, and the pilot program's progress will be monitored and additional training provided as necessary. Questions regarding this pilot program should be directed through the proper chain of command to the HQ Asylum Division TRAQ (Training and Quality) Chief.

Attachment (1): Credible Fear Determination Checklist