U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
National Records Center
P.O. Box 648010
Lee's Summit, MO 64064-8010

U.S. Citizenship and Immigration Services

March 3, 2025

Control Number: COW2020002846

Austin Evers
American Oversight
1030 15th Street NW, Suite B255
Washington, DC 20005

Dear Austin Evers:

This is in response to your Freedom of Information Act/Privacy Act (FOIA/PA) request received in this office on October 4, 2020, regarding Records reflecting any directive, order, decision, protocols, or guidance regarding the deportation or removal of unaccompanied minors. Specifically you have requested: any directive, order, decision, protocols, or guidance which addresses the following issues: i. Whether these minors have any family residing within the United States who could serve as guardians or sponsors; ii. Whether these minors will receive any food, medical treatment, or shelter before their deportation or removal; iii. Whether these minors will have the opportunity to make an asylum claim before their deportation or removal; iv. Whether these minors have a safe place to be sent outside of the United States.

We have considered the foreseeable harm standard when reviewing the record set and have applied the FOIA exemptions as required by the statute and the Attorney General's Guidance. We have completed the review of all documents and have identified 30 pages that are responsive to your request. Enclosed are 3 pages released in their entirety and 13 pages released in part. Additionally, we have referred 2 pages in their entirety to U.S. Customs and Border Protection, 4 pages in their entirety to Department of Homeland Security, and 8 pages in their entirety to Office of Refugee Resettlement. We have reviewed and have determined to release all information except those portions that are exempt pursuant to 5 U.S.C. § 552 (b)(5), (b)(6), and (b)(7)(E) of the FOIA.

The following exemptions are applicable:

Exemption (b)(6) permits the government to withhold all information about individuals in personnel, medical and similar files where the disclosure of such information would constitute a clearly unwarranted invasion of personal privacy. The types of documents and/or information that we have withheld may consist of birth certificates, naturalization certificates, drivers' licenses, social security numbers, home addresses, dates of birth, or various other documents and/or information belonging to a third party that are considered personal.

Exemption (b)(7)(E) of the FOIA provides protection for records or information for law enforcement purposes which would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law. The types of documents and/or information we have withheld could consist of law enforcement systems checks, manuals, checkpoint locations, surveillance techniques, and various other documents.

Exemption (b)(5) provides protection for inter-agency or intra-agency memorandums or letters, which would not be available by law to a party other than an agency in litigation with the agency. The types of documents and/or information that we have withheld under this exemption may consist of documents containing pre-decisional information, documents or other memoranda prepared in contemplation of

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litigation, or confidential communications between attorney and client.

There may be additional documents that contain discretionary releases of exempt information. If made, these releases are specifically identified in the responsive record. These discretionary releases do not waive our ability to invoke applicable FOIA exemptions for similar or related information in the future.

The enclosed record consists of the best reproducible copies available. Certain pages contain marks that appear to be blacked-out information. The black marks were made prior to our receipt of the file and are not information we have withheld under the provisions of the FOIA or PA.

You have the right to file an administrative appeal within 90 days of the date of this letter. By filing an appeal, you preserve your rights under FOIA and give the agency a chance to review and reconsider your request and the agency's decision. You may file an administrative FOIA appeal electronically to USCIS through your online portal by selecting Appeal in the Actions drop down window. You may also file an administrative FOIA appeal to USCIS at: USCIS FOIA/PA Appeals Office, 150 Space Center Loop, Suite 500, Lee's Summit, MO 64064-2139. Both the letter and the envelope should be clearly marked "Freedom of Information Act Appeal."

If you would like to discuss our response before filing an appeal to attempt to resolve your dispute without going through the appeals process, you may contact our USCIS FOIA Public Liaison at U.S. Citizenship and Immigration Services, National Records Center, FOIA/PA Office, P.O. Box 648010, Lee's Summit, MO 64064-8010, or by email at FOIAPAQuestions@uscis.dhs.gov.

A USCIS FOIA Public Liaison is an agency official to whom FOIA requesters can raise concerns about the service the requester has received from the agency's FOIA Office. USCIS FOIA Public Liaisons are responsible for assisting in reducing delays, increasing transparency, and understanding of the status of requests, and assisting in the resolution of disputes.

If you are unable to resolve your FOIA dispute through our USCIS FOIA Public Liaison, you may contact the Office of Government Information Services (OGIS) at the National Archives and Records Administration to inquire about the FOIA mediation services they offer. The contact information for OGIS is Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road-OGIS, College Park, Maryland 20740-6001; email ogis@nara.gov; telephone 202-741-5770; toll free 877-684-6448; or facsimile 202-741-5769.

The National Records Center does not process petitions, applications, or any other type of benefit under the Immigration and Nationality Act. If you have questions or wish to submit documentation relating to a matter pending with USCIS, please visit the Contact Us page at www.uscis.gov or call the USCIS Contact Center at 800-375-5283 (TTY 800-767-1833).

Sincerely,

James A Baxley
Chief FOIA Officer
Freedom of Information Act & Privacy Act Unit

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Enclosure(s)

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From: Ho, Cheri L
To: Ooi, Maura M; Hammill, Hunter A; Ahmed, Syed H (Harun); Schoser, Joseph R; Ahmedani, Mariam; Lay, Dorothea B (Thea)
Subject: FW: Question re: T-42 notes in CF
Date: Monday, July 13, 2020 4:42:08 PM
Attachments: FW Guidance of Convention Against Torture (CAT) claims.pdf

CBP procedures, in case we ever have to opine on T42 issues.

Cheri Ho
Associate Counsel/Acting Deputy,
Refugee and Asylum Law Division
Office of the Chief Counsel, USCIS
[redacted] tel: [redacted] (b)(6)

From: Mura, Elizabeth E [redacted]
Sent: Monday, July 13, 2020 1:50 PM
To: Zengotitabengoa, Colleen R [redacted]; Scott, Elizabeth M [redacted]; Whitney, Ronald W [redacted] Groom, Molly M [redacted]; Ho, Cheri L [redacted]
Cc: Davidson, Andrew J [redacted]; Caudill-Mirillo, Ashley B [redacted]; Kirkland, Brooke A [redacted]
Subject: RE: Question re: T-42 notes in CF

There is no A-file created and no A number assigned in T42 because they are processed solely under Title 42. [redacted]

(b)(7)(E) [redacted]

Elizabeth E. Mura
Operations Branch Chief - Asylum Division
Refugee, Asylum and International Operations Directorate
Dept. of Homeland Security/U.S. Citizenship & Immigration Services
[redacted]
Desk: [redacted]
Mobile: [redacted] (b)(6)

From: Zengotitabengoa, Colleen R [redacted]
Sent: Monday, July 13, 2020 4:05 PM
To: Scott, Elizabeth M [redacted]; Whitney, Ronald W [redacted]; Groom, Molly M [redacted]; Ho, Cheri L [redacted]
Cc: Davidson, Andrew J [redacted]; Caudill-Mirillo, Ashley B [redacted]; Mura, Elizabeth E [redacted];

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(b)(6)

Kirkland, Brooke A <[redacted]>
Subject: RE: Question re: T-42 notes in CF

If someone remains subject to T42, where are the notes kept if they are not in the A file? And you said that the notes may be included in the A file if the individual is taken out of T42 and put in Title 8. Is that an open question? And if so, is it a legal or an operational question?

From: Scott, Elizabeth M <[redacted]>
Sent: Monday, July 13, 2020 3:37 PM
To: Whitney, Ronald W <[redacted]>; Groom, Molly M <[redacted]>; Zengotitabengoa, Colleen R <[redacted]>; Ho, Cheri L <[redacted]>
Cc: Davidson, Andrew J <[redacted]>; Caudill-Mirillo, Ashley B <[redacted]>; Mura, Elizabeth E <[redacted]>; Kirkland, Brooke A <[redacted]>
Subject: RE: Question re: T-42 notes in CF

Yes, that's correct.

From: Whitney, Ronald W <[redacted]>
Sent: Monday, July 13, 2020 3:31 PM
To: Scott, Elizabeth M <[redacted]>; Groom, Molly M <[redacted]>; Zengotitabengoa, Colleen R <[redacted]>; Ho, Cheri L <[redacted]>
Cc: Davidson, Andrew J <[redacted]>; Caudill-Mirillo, Ashley B <[redacted]>; Mura, Elizabeth E <[redacted]>; Kirkland, Brooke A <[redacted]>
Subject: RE: Question re: T-42 notes in CF

To clarify, you mean the officer's notes of the T-42 protection interview of the applicant taken under oath, correct?

Ron Whitney
Deputy Chief, Refugee and Asylum Law Division
Office of the Chief Counsel
USCIS
[redacted]
Mobile: [redacted]

From: Scott, Elizabeth M <[redacted]>
Sent: Monday, July 13, 2020 2:01 PM
To: Groom, Molly M <[redacted]>; Zengotitabengoa, Colleen R <[redacted]>; Whitney, Ronald W <[redacted]>; Ho, Cheri L <[redacted]>
Cc: Davidson, Andrew J <[redacted]>; Caudill-Mirillo, Ashley B <[redacted]>; Mura, Elizabeth E <[redacted]>;

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Kirkland, Brooke A < > (b)(6)
Subject: FW: Question re: T-42 notes in CF

Good afternoon,

Please see the questions below from ZHN. We'd like your thoughts on using Title 42 notes in subsequent CF or MPP interviews.

(b)(7)(E)

Thanks,
Liz

(b)(6)

From: Hemming, Bryan D <
Sent: Monday, July 13, 2020 7:41 AM
To: Mura, Elizabeth E < >; Scott, Elizabeth M <
Cc: Orendach, JaNette < >; Douglas, Audrey M <
>; Swan, Patrick R < >; Jones, Kathleen M < >; Plata, Juan C
Subject: RE: Question re: T-42 notes in CF

Good Morning,

Question below regarding use of T-42 notes in subsequent CF interviews.
Thank you!
Bryan

From: Plata, Juan C <
Sent: Friday, July 10, 2020 4:25 PM
To: Hemming, Bryan D <
Cc: Orendach, JaNette < >; Douglas, Audrey M <
>; Swan, Patrick R < >; Jones, Kathleen M <
Subject: Question re: T-42 notes in CF

Hi Bryan,

(b)(7)(E)

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(b)(7)(E)

Thank you,

Juan Carlos Plata
Supervisory Asylum Officer
DHS|USCIS|RAIO
Houston Asylum Office
Office: | Cell:

(b)(6)

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From: Ho, Cheri L
To: OCC-Clearance; RALD; Schulenburg, Christopher D
Cc: Zengotitabengoa, Colleen R; Whitney, Ronald W; Benedict, Deborah L; Gentry, Anthony E (Tony)
Subject: RE: Interagency Rule for Review: Re-opening FAQ for ORR prog | COVID-19 | Due by 5/26/2020 10:00 AM
Date: Friday, May 22, 2020 5:11:00 PM
Attachments: .FAQ 3 Reopening States (05-20-2020).docx

Chris,

We added a few minor editorial suggestions. OCC clears. Cheri

Cheri Ho
Associate Counsel/Acting Deputy,
Refugee and Asylum Law Division
Office of the Chief Counsel, USCIS
[redacted] tel: [redacted] (b)(6)

From: OCC-Clearance [redacted]
Sent: Friday, May 22, 2020 12:11 PM
To: RALD [redacted]
Cc: Ho, Cheri L [redacted]; Zengotitabengoa, Colleen R [redacted]; Whitney, Ronald W [redacted]; Benedict, Deborah L [redacted]; Gentry, Anthony E (Tony) [redacted]
Subject: FW: Interagency Rule for Review: Re-opening FAQ for ORR prog | COVID-19 | Due by 5/26/2020 10:00 AM
Importance: High

RALD,

See materials at link below for your review/clearance on behalf of OCC. Copying Tony for his visibility/input as needed. Once your review is complete, please copy OCC-Clearance on your response to OP&S and attach a copy (Word document) of the OCC-cleared material for OCC-Clearance archiving purposes.

Thanks,
Ian

From: Schulenburg, Christopher D [redacted]
Sent: Friday, May 22, 2020 2:07 PM
To: OCC-Clearance [redacted]
Subject: RE: Interagency Rule for Review: Re-opening FAQ for ORR prog | COVID-19 | Due by 5/26/2020 10:00 AM

Apologies- Tuesday, May 26th.

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(b)(6)

From: OCC-Clearance <[redacted]>
Sent: Friday, May 22, 2020 2:06 PM
To: Schulenburg, Christopher D <[redacted]>
Subject: RE: Interagency Rule for Review: Re-opening FAQ for ORR prog | COVID-19 | Due by 5/26/2020 10:00 AM

OP&S

Can you please clarify/confirm the deadline? Monday is a holiday.

Thanks,
Ian

(b)(6)

From: Schulenburg, Christopher D <[redacted]>
Sent: Friday, May 22, 2020 1:59 PM
To: Policy-Clearance <[redacted]>; OCC-Clearance <[redacted]>
Cc: USCIS Regs <[redacted]>; Deshommes, Samantha L <[redacted]>; Rigdon, Jerry L <[redacted]>; Law, Robert T <[redacted]>; Stiefel, Nathaniel I [redacted]; Gramiccioni, Jennifer L <[redacted]>; Culver, Anthony J (Jared) [redacted]>; Parascandola, Ciro A <[redacted]>; Lapp, Meredith M [redacted]; Freiberger, Andrea L (Ande) [redacted]
Subject: Interagency Rule for Review: Re-opening FAQ for ORR prog | COVID-19 | Due by 5/26/2020 10:00 AM

Good Afternoon OP&S and OCC,

For your review is the HHS ORR: **Frequently Asked Questions (FAQ) Office of Refugee Resettlement (ORR) Programs Related to COVID-19**

Summary

Q: As referenced in question 7 of the FAQ published on March 20, 2020, ORR allows for care providers to reduce the number of staff who escort unaccompanied alien children (UAC) on flights, as long as the ratio is reasonable. As commercial air travel increases now that states are lifting stay at home orders, can care providers still limit the number of staff who escort children on flights if necessary?

A: Yes. ORR policy never required additional escorts than would be required per air carrier guidelines. As an operational concern, ORR permits care providers to reduce the number of staff who escort children on flights, if necessary, as long as they are in compliance with the guidance previously provided in response to the March 20th FAQ Question # 7 and the response to the April 16th FAQ Question #33. As always, care providers must document in the child's case file and notify their FFS if there is an issue in securing and/or executing timely transportation services for unification.

When Responding: Please provide your comments/edits in the document located here. Please complete your review **no later than 10:00AM on Monday, May 26th**

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Please note:

- If you have any permissions issues while trying to access the document, please contact (b)(6) [redacted], **and** [redacted].

- *If your office feels they will be unable to comply with the indicated suspense time, please reply as soon as possible to this email. Indicate in your email what time your office will be able to provide a final response. We cannot assure that a request for a later submission will be approved.*

Reviewers may not share the rule documents, in whole or in part, with anyone outside of DHS without first obtaining authorization for such disclosure from the OP&S Regulatory Coordination Division.

Thank you,

Chris Schulenburg
Management and Program Analyst
Regulatory Coordination Division
USCIS, Office of Policy and Strategy
(b)(6) Office: [redacted]
Mobile: [redacted]
[redacted]

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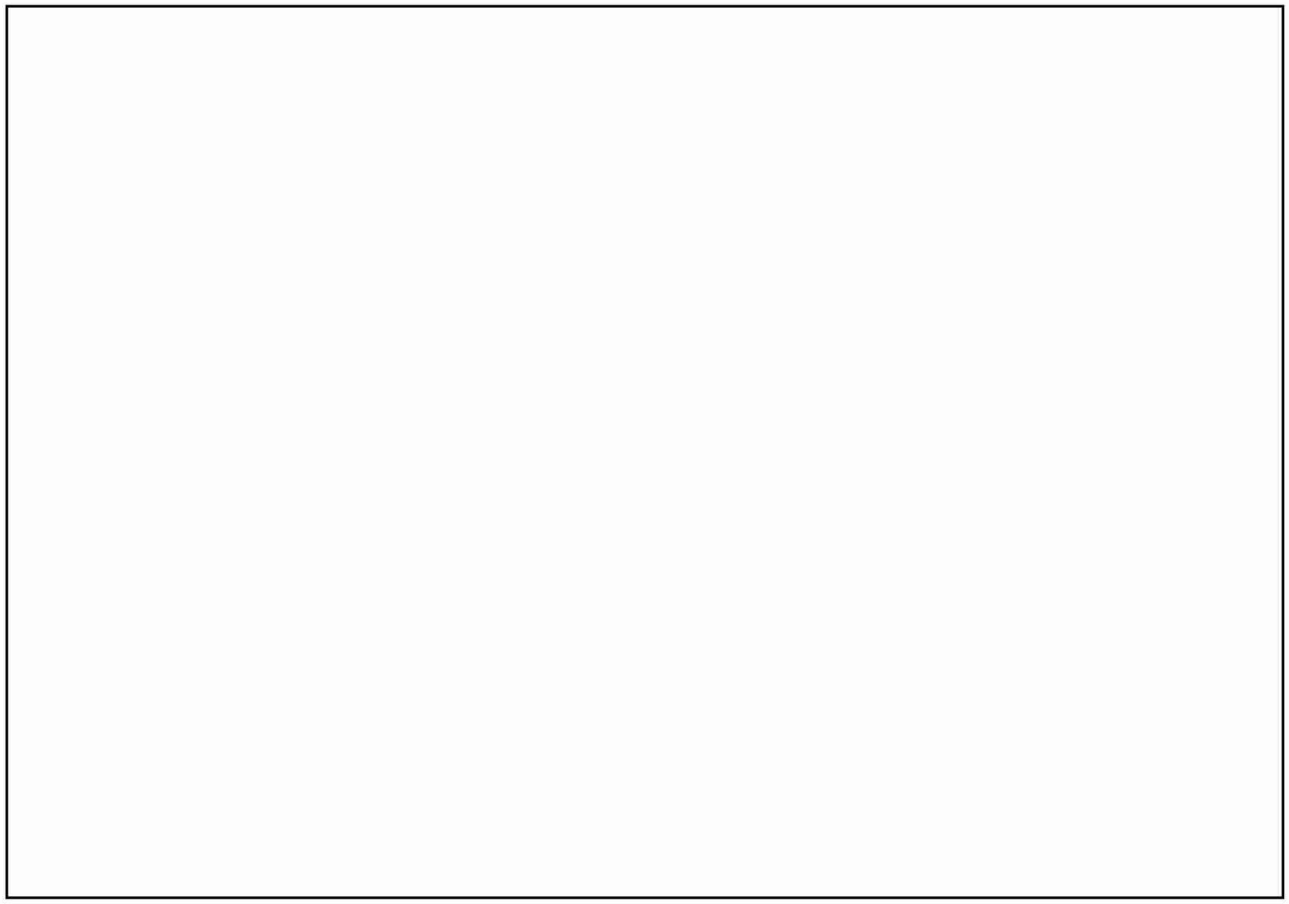
From: Lay, Dorothea B (Thea)
To: Whitney, Ronald W; Busch, Philip B; Groom, Molly M
Cc: Zengotitabengoa, Colleen R
Subject: RE: T-42 and UAC Considerations
Date: Friday, April 3, 2020 2:07:00 PM
Attachments: image001.png

That's a good question. I was assuming they were just expelling to Mexico or Canada, but I may just be getting that impression from the Propublica article today on a leaked memo.

On the legal position -- I understand that it is what it is, and, with the understanding that we are applying the CAT (as a matter of policy) directly, I agree that there is not more in the CAT itself than there is in the regs for immigration cases. The regs were drafted to track as closely as possible the CAT obligation itself as ratified, so I don't think there is more in the Convention than the regs. But I haven't seen their Title 42 training so not sure what they are saying there.

But have to say that I completely agree with Phil and don't understand the rationale for this position.

(b)(5)



Section 235(b)(1) says "the custody of unaccompanied alien children not described in paragraph (2)(A) [i.e., those who are allowed to withdraw applications for admission] who are apprehended at the border of the United States or at a United States port of entry shall be treated in accordance with subsection (b)." Subsection b in turn says that "the care and custody of all unaccompanied alien children, including responsibility for their detention, where appropriate, shall be the responsibility of

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the Secretary of Health and Human Services" and that "each department or agency of the Federal Government shall notify the Department of Health and Human services within 48 hours upon the apprehension or discovery of an unaccompanied alien child." And then the mandate to transfer custody to the HHS/UAC regime kicks in.

(b)(5)

(b)(6)

From: Whitney, Ronald W
Sent: Friday, April 3, 2020 2:38 PM
To: Busch, Philip B <; Groom, Molly M
Cc: Lay, Dorothea B (Thea) <; Zengotitabengoa, Colleen R
Subject: RE: T-42 and UAC Considerations

Are they returning people to their home country or just back to Mexico.

Ron Whitney
Deputy Chief, Refugee and Asylum Law Division
Office of the Chief Counsel
USCIS
Mobile:

DHS ICON

This communication, along with any attachments, may contain confidential and legally privileged information. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution, use or copying of this message is strictly prohibited. If you have received this in error, please reply immediately to the sender and delete this message. Thank you.

From: Busch, Philip B <
Sent: Friday, April 03, 2020 2:02 PM
To: Groom, Molly M
Cc: Lay, Dorothea B (Thea) <; Zengotitabengoa, Colleen R

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(b)(6)

[redacted]>; Whitney, Ronald W
[redacted]
Subject: RE: T-42 and UAC Considerations

Well, I guess it's better to apply the Convention while pretending one isn't, than not to apply it but pretend one is. I can live with that!

From: Groom, Molly M [redacted]
Sent: Friday, April 3, 2020 1:56 PM
To: Busch, Philip B [redacted]
Cc: Lay, Dorothea B (Thea) [redacted]>; Zengotitabengoa, Colleen R
[redacted]>; Whitney, Ronald W
[redacted]
Subject: Re: T-42 and UAC Considerations

I personally agree with you about the Convention and FARRA(a) applying, but as I understand it from OGC the legal determination has been made that the torture screening is only required as a matter of policy.

Sent from my iPhone

> On Apr 3, 2020, at 1:27 PM, Busch, Philip B [redacted]> wrote:
>
> An interesting read. At page 16 it does appear to be ordering DHS/CBP to perform mass removals of aliens ASAP.
>
> It doesn't say anything about torture screening.

(b)(5)

(b)(5)

Nor do I think title 42 trumps the Convention or section 2242, regardless whether one considers the latter to be "title 8" (it's a freestanding provision that the codifiers made

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a note to INA 241). In fact the contrary. Section 2242 is the newer and more specific statute. I think it requires a torture exception to any involuntary return otherwise authorized under title 42.

Just my two cents for whatever it may be worth. Thanks, Phil

https://www.cdc.gov/quarantine/pdf/CDC-Order-Prohibiting-Introduction-of-Persons_Final_3-20-20_3-p.pdf

(b)(6)

From: Groom, Molly M <[redacted]>
Sent: Friday, April 3, 2020 12:47 PM
To: Lay, Dorothea B (Thea) <[redacted]>; Zengotitabengoa, Colleen R <[redacted]>; Whitney, Ronald W [redacted] Busch, Philip B <[redacted]>
Subject: Fwd: T-42 and UAC Considerations

So, I'm including Phil as well. So far we've been told that Title 42 trumps Title 8 such that those processes don't apply. I'd believed that was when provisions were in conflict. I understand folks may have questions about this statement. Still, I believe that is the basis for stating that the R provisions and other screening programs do not apply. Title 42 does not except UAC so that is why they are being subjected to the same screening process as other individuals.

(b)(5)

(b)(5)

[redacted]

Happy to set up a call to discuss.

Sent from my iPhone

Begin forwarded message:

From: "Lay, Dorothea B (Thea)" [redacted]>
Date: April 1, 2020 at 5:31:06 PM EDT
To: "Caudill-Mirillo, Ashley B" <[redacted]>,

(b)(6)

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"Zengotitabengoa, Colleen R"
[redacted] "Whitney, Ronald W"
[redacted]
Cc: "Kirkland, Brooke A" <[redacted]>, "Mura, Elizabeth E" <[redacted]>, "Groom, Molly M"
[redacted]
Subject: RE: T-42 and UAC Considerations

Looping Molly in.

From: Caudill-Mirillo, Ashley B <[redacted]>
Sent: Wednesday, April 1, 2020 4:12 PM
To: Zengotitabengoa, Colleen R
<[redacted]>; Lay, Dorothea B (Thea)
[redacted]>; Whitney, Ronald W
[redacted]
Cc: Kirkland, Brooke A <[redacted]>; Mura, Elizabeth E <[redacted]>
Subject: T-42 and UAC Considerations

Hi Colleen,

Following up on the Title 42 case that Thea reviewed this weekend, we wanted to touch base about providing further training for the field on how to assess CAT claims involving unaccompanied minors. Specifically, the field has raised concerns about how to develop the record and evaluate such cases in the screening context where children may be unable to testify to the extent that an adult could or may not have the same knowledge base about the potential for harm, possibility of state protection, etc. While each claim will continue to be evaluated on a case-by-case basis, we think it would be very beneficial to provide additional guidance as it relates to CAT in particular, including how to assess internal relocation. (For example, we understand that it would generally not be found reasonable to expect a child to relocate, but should we be asking about this regardless to get a fuller picture of the claim given the CAT context?)

As you know, as a program we have some experience analyzing certain elements of persecution claims in the case of unaccompanied minors, such as harm and nexus, but we would like to be responsive to the field by providing guidance that is specific to the more likely than not standard. Also, are there any differences between the CAT regulation in Title 8 and the Convention that we should be taking into account as it pertains to

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minors? Moreover, we would also like to discuss the interplay between the protections for unaccompanied minors sought by Congress when enacting the TVPRA and the Title 42 process. Although the TVPRA may not have referenced Title 42 as it pertains to this emergency clause, does the TVPRA have any bearing on how we conduct these screenings or are there other laws that we need to be aware of if we continue to be asked to screen unaccompanied minors for possible torture claims as part of this process?

We understand that you are busy and we can assist with updating the current Title 42 PowerPoint training, presuming we choose to do so, but we would like to begin by having a brief discussion about some of these issues with OCC. Would it be possible to set up a discussion before the end of the week? Thus far, the only 4 cases referred to us under T-42 have all been minors.

Thanks,
Ashley

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42 U.S.C. §265
CAT Assessment Instructions and Implementation Guidance

Pursuant to 42 U.S.C. §265, the President has the power to prohibit in whole or in part, the introduction of persons and property from certain countries where the Director of the Centers for Disease Control and Prevention (CDC) has determined there is a serious danger of the introduction of a communicable disease to the United States from said countries.

On March 20, 2020, the Director of the CDC determined that there is a serious danger of the introduction of Coronavirus Diseases 2019 (COVID-19) into the land ports of entry (POEs) and Border Patrol stations at or near the United States borders with Canada and Mexico, and into the interior of the country as a whole.[1] Accordingly, the Director of the CDC suspended the introduction into the United States of persons traveling from Canada or Mexico (regardless of their country of origin) who would otherwise be introduced into a congregate setting in a land POE or Border Patrol station at or near the United States border with Canada or Mexico. The CDC Order requires the immediate suspension of the introduction of such persons and the movement of all such aliens to the country from which they entered the United States, or their country of origin, or another location as practicable, as rapidly as possible, with as little time spent in congregate settings as practicable under the circumstances. The CDC Order applies prospectively to persons who travel to the United States on or after the March 20, 2020 effective date and is effective for 30 days or longer if the CDC Director determines it is necessary to stop the serious danger to the public health posed by COVID-19.

The CDC Order does not apply to persons whom customs officers of DHS determine, with approval from a supervisor, should be excepted based on the totality of the circumstances, including consideration of significant law enforcement, officer and public safety, humanitarian, and public health interests. Consistent with this exception, DHS has committed that it will not return persons that are likely to be tortured in the country to which they would have otherwise been sent pursuant to the CDC Order. As such, persons otherwise subject to the CDC Order who affirmatively and plausibly claim to a CBP officer or agent a reasonable fear of torture in the country to which they would have been returned will be segregated and referred to USCIS for assessment. USCIS, in coordination with DHS agency partners, may be required to assess such persons subject to 42 U.S.C. §265 to ensure that they are not likely to be tortured in the country to which they otherwise would have been returned before such persons are returned pursuant to 42 U.S.C. §265.

Intake:

During Title 42 processing, individuals who affirmatively and plausibly claim to a CBP officer or agent a reasonable fear of torture in the country to which they would have been returned will be segregated and referred to USCIS for assessment. CBP will not assign an Alien number during Title 42 processing. Instead, each group will receive an identification number. Families that referred to USCIS for assessment will receive a unique identification number for the family. CBP will process families together.

[1] *Order Suspending Introduction of Persons From a Country Where a Communicable Disease Exists*, 57 Fed. Reg. 16567 (Mar. 24, 2020).

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Interview and Adjudication:

The purpose of the interview is to determine if it is more likely than not that the individual will be tortured in **[country]**. USCIS is not assessing persecution on account of a protected ground.

Important points:

- The individual will be processed under 42 U.S.C. 265, not Title 8 of the U.S. Code.
- Mexicans, citizens or nationals of Spanish-speaking countries, and Brazilians will be assessed for fear of torture to Mexico
- Individuals who come to the northern border will be returned to Canada or their home country.
- All other individuals will be assessed for fear of torture to their home country.
- Interviews must be conducted separate and apart from the general public.
- The individual may not have an attorney, consultant, or consultation period.
- The Asylum Division will provide an interpreter as needed.
- The AO must create a summary of the material facts as stated by the individual. At the end of the interview, the AO must review the summary with the individual and give him or her an opportunity to correct errors.

The individual's accompanying family members will be processed together with the individual. No separate assessment worksheet or separate assessment notice is required.

- If an officer determines a family member is more likely than not be tortured, that family member becomes the main applicant for the Assessment Worksheet and the Assessment Notice. The accompanying family members should be included in the family section. The assessment and analysis should be for the family member who establishes a fear of torture. If the analysis is the same for other family members, officers should note that in the additional information section.

- When an officer determines no family member is more likely than not to be tortured, the officer must fully develop the record for all family members.

After completing the interview and analyzing the facts, AOs should complete the Assessment Worksheet and Assessment Notice. These documents should be saved as PDFs, electronically signed, and e-mailed to a supervisory asylum officer for review. Supervisory review is required in all cases. When the supervisor concurs in the decision, the supervisor should sign the document electronically. Guidance on electronically signing PDFs is available here: https://helpx.adobe.com/acrobat/11/using/signing-pdfs.html.

Case Tracking:

Record the case on the CAT Assessment ECN site. That site can be found here:

[redacted] (b)(7)(E)

Service:

- Negative assessments:
  - Asylum Office staff will only provide the Assessment Notice to CBP. DHS staff will provide a copy of the Assessment Notice to the individual.
  - CBP will refer the case to ICE ERO who will return the individual to the country of return.

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- USCIS will retain a copy of the Assessment Worksheet and Assessment Notice.

- Positive assessments:
  - Asylum Office staff will provide both the Assessment Worksheet and Assessment Notice to CBP. DHS staff will provide a copy of the Assessment Notice to the individual.
  - CBP will process the individual for Title 8 proceedings.
  - USCIS retains a copy of the assessment and notice.

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