



# U.S. Citizenship and Immigration Services

## RAIO DIRECTORATE – OFFICER TRAINING

### *RAIO Combined Training Course*

# INTERVIEWING – INTRODUCTION TO THE NON-ADVERSARIAL INTERVIEW

## TRAINING MODULE

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# **INTERVIEWING – INTRODUCTION TO THE NON-ADVERSARIAL INTERVIEW**

## **Training Module**

### **MODULE DESCRIPTION**

This module describes the main components of an interview for all RAIO adjudications.

### **TERMINAL PERFORMANCE OBJECTIVE(S)**

During an interview, you (the Officer) will be able to elicit in a non-adversarial manner all relevant information to properly adjudicate a claim or request.

### **ENABLING PERFORMANCE OBJECTIVES**

1. Distinguish adversarial from non-adversarial interview methods.
2. Conduct an interview in a professional manner.
3. Identify the components of an interview for RAIO adjudications.
4. Explain the purpose of the interview for RAIO adjudications.
5. Explain the responsibilities and roles of all parties involved in the interview.
6. Demonstrate the “Introduction” component of an interview during the mock interview scenario.
7. Explain confidentiality provisions that apply to the interview and adjudication.
8. Administer oath to interviewees and interpreters during the mock interview.
9. Advise the interviewee of post-interview procedures and what to expect next in the process.

### **INSTRUCTIONAL METHODS**

- Interactive presentation
- Practical exercises

## **METHOD(S) OF EVALUATION**

- Multiple Choice Exam
- Mock Interview Exam

## **REQUIRED READING**

### **[Division-Specific Required Reading - Refugee Division](#)**

### **[Division-Specific Required Reading - Asylum Division](#)**

### **[Division-Specific Required Reading - International Operations Division](#)**

## **ADDITIONAL RESOURCES**

1. Memorandum from Bo Cooper, INS Office of the General Counsel, to Jeffrey Weiss, Director, Office of International Affairs, [Confidentiality of Asylum Applications and Overseas Verification of Documents and Application Information](#), HQCOU 120/12.8 (Jun. 21, 2001).
2. Fisher, Ronald P. and Geiselman, R. Edward. [“The Cognitive Interview method of conducting police interviews: Eliciting extensive information and promoting Therapeutic Jurisprudence,”](#) *International Journal of Law and Psychiatry* 33, 2010, pp. 321–328.
3. Memorandum from Joseph E. Langlois, Director, Asylum Division, to Asylum Office Directors and Deputy Directors, [Fact Sheet on Confidentiality](#), HQASM 120/12.8 (Jun. 15, 2005).
4. Memon, Amina; Meissner, Christian A.; and Fraser, Joanne. [“The Cognitive Interview: A Meta-Analytic Review and Study Space Analysis of the Past 25 Years,”](#) *Psychology, Public Policy and the Law* 16, no. 4, 2010, pp. 340–372.

### **[Division-Specific Additional Resources - Refugee Division](#)**

### **[Division-Specific Additional Resources - Asylum Division](#)**

### **[Division-Specific Additional Resources - International Operations Division](#)**

**CRITICAL TASKS**

<b>Task/ Skill #</b>	<b>Task Description</b>
ITK1	Knowledge of policies, procedures and guidelines for conducting non-adversarial interviews (e.g., confidentiality, conditions) (4)
ITK3	Knowledge of the roles and responsibilities of parties involved in the interview process (4)
ITK4	Knowledge of strategies and techniques for conducting non-adversarial interviews (e.g., question style, organization, active listening) (4)
ITK9	Knowledge of procedures and guidelines for administering oaths (4)
ITS6	Skill in conducting non-adversarial interviews (4)
ITS8	Skill in confronting applicant with credibility issues (4)
IR1	Skill in interacting with others in a professional manner (e.g., respectful, courteous) (4)
IR4	Skill in building rapport with others (4)
SCM1	Skill in maintaining a professional demeanor in stressful situations (e.g., potentially dangerous encounters, emergency situations, threats to personal safety) (4)
SCM3	Skill in identifying potential sources of conflict (4)
SCM4	Skill in managing situations involving conflict (4)

**SCHEDULE OF REVISIONS**

<b>Date</b>	<b>Section (Number and Name)</b>	<b>Brief Description of Changes</b>	<b>Made By</b>
June 6, 2013	Throughout document	Corrected minor typos, formatting, cites identified by OCC-TKMD.	MMorales, RAIO Training

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Throughout this training module you will come across references to division-specific supplemental information located at the end of the module, as well as links to documents that contain division-specific, detailed information. You are responsible for knowing the information in the referenced material that pertains to your division. Officers in the International Operations Division who will be conducting refugee interviews are also responsible for knowing the information in the referenced material that pertains to the Refugee Affairs Division.

For easy reference, each division's supplements are color-coded: Refugee Affairs Division (RAD) in pink; Asylum Division (ASM) in yellow; and International Operations Division (IO) in purple.

Officers in the RAIO Directorate conduct interviews primarily to determine eligibility for immigration benefits or requests; to corroborate information provided by applicants, petitioners, and beneficiaries; and/or to establish whether a person understands the consequences of his or her actions.

The modules of the RAIO Directorate – Officer Training Course and the division-specific training courses constitute primary field guidance for all officers who conduct interviews for the RAIO Directorate. The USCIS Adjudicator's Field Manual (AFM) also provides guidance for officers when conducting interviews, particularly for officers in the International Operations Division. There may be some instances where the guidance in the AFM conflicts with guidance provided by the RAIO Directorate. If this is the case, you should follow the RAIO guidance. Further guidance regarding interviews for specific applications will be discussed during division-specific trainings.

In this module, the term “interviewee” is used to refer to an individual who is interviewed by an officer in the RAIO Directorate for an official purpose.

## 1 INTRODUCTION

This is the first in a series of interviewing modules that discuss various topics including how to elicit testimony, the proper procedures for taking notes, and considerations when conducting an interview through an interpreter. This module outlines the basic principles and components of conducting a non-adversarial interview. Please refer to the other interviewing modules for additional guidance on conducting RAIO interviews.

- Interviewing – Eliciting Testimony

- Interviewing – Note-Taking
- Interviewing – Working with an Interpreter
- Interviewing – Interviewing Survivors of Torture

The following is a non-exhaustive list of immigration benefits, petitions, protection determinations, and other immigration-related requests you may encounter as an officer in the RAIO directorate:

- [G-646](#) Sworn Statement of Refugee Applying for Admission into the United States
- [I-130](#) Petition for Alien Relative
- [I-131](#) Application for Travel Document
- [I-407](#) Abandonment of Permanent Resident Status
- [I-589](#) Application for Asylum and Withholding of Removal
- [I-590](#) Registration for Classification as Refugee
- [I-600](#) Petition to Classify Orphan as Immediate Relative
- [I-604](#) Determination on Child for Adoption
- [I-730](#) Refugee/Asylee Relative Petition
- [I-881](#) Application for Suspension of Deportation or Special Rule Cancellation of Removal (NACARA)
- [N-400](#) Application for Naturalization (Military Naturalizations)
- Boarding letters
- Credible fear determination
- Reasonable fear determination

## **2 AUTHORITY**

The following provides the authority on interviewing for all officers who conduct interviews for the RAIO Directorate.

- [8 C.F.R. § 103.2\(b\)\(9\)](#) gives the authority to USCIS to require that an applicant, petitioner, sponsor, beneficiary, or other individual appear for an interview.
- [8 C.F.R. § 208.9\(b\)](#) requires that Asylum Officers conduct interviews in a non-adversarial manner. Although this regulation applies only to Asylum Officers, as a matter of policy, officers in the RAIIO Directorate must conduct all interviews in a non-adversarial manner.
- [8 C.F.R. § 207.2\(b\)](#) requires that each applicant 14 years and older appear in person before an Immigration Officer for an inquiry under oath to determine his or her eligibility for admission as a refugee.
- [INA § 287\(b\)](#) gives the authority to USCIS officers to administer oaths and to take and consider evidence concerning the privilege of any person to enter, reenter, pass through, or reside in the United States.

### **3 PURPOSE OF THE INTERVIEW**

The main purpose of the interview is to elicit and provide information related to eligibility for an immigration benefit or for some other official purpose. The interview also provides an opportunity for the interviewee to ask questions that he or she may have and to present relevant information [[ASM Supplement – Purpose of the Interview](#)].

#### **3.1 Elicit Information**

The main reasons that you will elicit information during an interview are to:

- Verify the identity of those present at the interview.
- Determine whether to proceed with the interview (which may depend on jurisdiction, the availability of an interpreter, the presence of an attorney of record, or other factors).
- Determine eligibility for a benefit being sought (if the interview relates to an application for a benefit).
- Determine whether the interviewee is subject to any bars or grounds of inadmissibility.
- Evaluate the credibility of the interviewee.
- Identify whether fraud may be involved.

Eliciting testimony involves more than simply asking questions and receiving responses. You will likely need to actively draw out information from the interviewee that has a bearing on the purpose of the interview, such as an interviewee's eligibility for a benefit.<sup>1</sup>

### **3.2 Provide Information**

In addition to obtaining information during the interview, you also provide information to the interviewee and to others who may be present, such as derivative family members, interpreters, and in some circumstances, witnesses or the interviewee's representative. The information you provide includes:

- The purpose of the interview and the interview process
- The roles and responsibilities of all persons involved in the interview
- What the interviewee can expect to happen after the interview

If the interviewee has questions, you will also provide information in response to those questions.

## **4 IMPORTANCE OF THE INTERVIEW**

The importance of the interview cannot be overstated.

- The interview is an important part of your adjudication or determination and is one of the main tools you use to gather the information necessary to make a correct decision.
- The interview may be the only opportunity for you to elicit and clarify information upon which to base a decision.
- The decision you make, based on the information you gather at the interview, may have serious consequences.
  - Your decision may affect whether the interviewee is reunited with close family members.
  - In the protection context, an interviewee wrongly found ineligible for the benefit sought may eventually be returned to the country from which he or she fled and may thereby face persecution or even death.
  - Your decision regarding the grant of an immigration benefit could have implications for U.S. national security.

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<sup>1</sup> For additional information, see RAIO Training module, *Eliciting Testimony*.

- Interviewees may shape their opinion of the U.S. Government based on their interactions with you. While you may not remember every person you interview, this interview may be a pivotal point in an interviewee’s life, and he or she will likely remember you and his or her impression of you and the U.S. Government for years to come.

Because of the importance of the interview, you must conduct yourself in a professional manner at all times, treating the interviewee with respect and courtesy. You must constantly strive to conduct organized, focused, and well-planned interviews.

## **5 THE PARTICIPANTS AND THEIR ROLES**

A number of individuals may be present at an interview, each with a different role. The roles of the possible participants, outlined below, are discussed throughout this module.

### **5.1 The Officer**

You are a representative of the U.S. Government and as such, you must project a competent, professional, and courteous image, and uphold the integrity of the U.S. immigration system. With this in mind, you are to conduct non-adversarial interviews in the manner described throughout this module.

Officers within RAI0 include:

- Refugee Affairs Division (RAD): Refugee Officers, Supervisory Refugee Officers, Fraud Detection and National Security (FDNS) Officers, and officers from other USCIS components who are detailed to RAD to conduct refugee interviews. (Note: guidance in this module also applies to non-officers, such as Office of Chief Counsel [OCC] attorneys, who are detailed to RAD to conduct refugee interviews)
- Asylum Division: Asylum Officers (including Quality Assurance/Training Coordinators), Supervisory Asylum Officers (including Asylum Office Directors, Deputy Directors), and FDNS Officers
- International Operations Division: Adjudications Officers, Overseas Adjudications Officers, Overseas Adjudications Specialists, and Supervisory Adjudications Officers (including Field Office Directors, District Directors, Deputy District Directors, and Branch Chiefs), and FDNS Officers

In most cases, when conducting interviews, you are both the fact-finder and the decision-maker. You control the direction, pace, and tone of the interview and have a duty to elicit all relevant testimony.

### **5.2 The Interviewee**

The interviewee may be the principal applicant, a derivative family member, or witness in the case. The interviewee's role is to provide testimony and, when appropriate, other evidence.<sup>2</sup>

### 5.3 The Interpreter

The interpreter's role is to accurately interpret between the language of the interviewee and the language of the officer (English). The interpreter is not a witness and should not offer testimony, nor should the interpreter attempt to clarify the officer's or interviewee's statements or questions.<sup>3</sup>

### 5.4 The Representative

An applicant or petitioner may be represented by an attorney in the United States, an attorney outside the United States (in matters occurring outside the geographical confines of the United States), or an accredited representative of a recognized organization.<sup>4</sup> In addition, whenever an examination is required, the person involved has the right to be represented by an attorney or representative.<sup>5</sup> This does not provide any applicant for admission the right to representation, in either primary or secondary inspection or in an interview regarding a request for classification as a refugee, unless the applicant is the focus of a criminal investigation and has been taken into custody.<sup>6</sup>

The representative must file a properly completed Form [G-28 Notice of Entry of Appearance as Attorney or Accredited Representative](#) or Form [G-28I Notice of Entry of Appearance as Attorney In Matters Outside the Geographical Confines of the United States](#), which must be signed by the applicant or petitioner.

Because of the non-adversarial nature of the process, described below, the role of the representative during the interview is minimal. You control the interview and will ask most of the questions. You may allow the representative to comment or ask questions during the course of the interview to clarify specific points. After your last question, you should give the attorney an opportunity to offer a closing statement. You have the discretion to limit the length of the closing statement, or in rare circumstances, require that a statement be submitted in writing instead.<sup>7</sup>

### 5.5 Other Participants

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<sup>2</sup> 8 C.F.R. § 208.9(b).

<sup>3</sup> For additional information, see RAIO Training module, *Interviewing — Working with an Interpreter*.

<sup>4</sup> 8 C.F.R. § 103.2(a)(3).

<sup>5</sup> 8 C.F.R. § 292.5(b).

<sup>6</sup> Memorandum from Grover Joseph Rees III, INS Office of the General Counsel, to Jan C. Ting, Office of International Affairs, [Representation of an Applicant for Admission to the United States as a Refugee During an Eligibility Hearing](#) (Nov. 9, 1992).

<sup>7</sup> 8 C.F.R. § 208.9(d).

In some interviews the applicant has another person present. In the case of children, this may be a “trusted adult” who participates in order to help the child feel at ease.<sup>8</sup> In interviews of children or individuals with disabilities who may be unable to state their claim, a “trusted individual” may assist by testifying about the applicant’s circumstances.

## 6 THE NON-ADVERSARIAL NATURE OF THE INTERVIEW

It is well established that a non-adversarial approach in which the interviewer builds rapport is the most effective interview style for eliciting credible information.<sup>9</sup>

A non-adversarial proceeding is one in which the parties are not opposing each other. It differs from an adversarial proceeding, such as civil and criminal court proceedings, in which parties oppose each other by advocating their mutually exclusive positions before a neutral arbiter until one side prevails and the other side loses. A removal proceeding before an immigration judge is generally an adversarial proceeding because the Immigration and Customs Enforcement (ICE) attorney represents DHS in removal proceedings.<sup>10</sup>

In conducting an interview for an immigration benefit as well as other RAIO interviews, you are usually the only person who questions the interviewee. With a request for a benefit, the primary intent of USCIS is to determine whether the principal interviewee qualifies for a benefit. It is not the role of the interviewer to oppose the principal interviewee’s request or application. Because the process is non-adversarial, it is inappropriate for you to interrogate or argue with any interviewee. You are a neutral decision-maker, not an advocate for either side. In this role you must effectively elicit information from the interviewee in a non-adversarial manner, to determine whether he or she qualifies for the benefit.

Additionally, RAIO interprets the term “non-adversarial interview” to encompass not only the manner of questioning as described above, but also the tone and atmosphere in which you must conduct interviews. It is your job to maintain a neutral and professional demeanor even when confronted with interpretation problems, a difficult or challenging interviewee or representative, or an interviewee whom you suspect is being evasive or untruthful. Your personal feelings about the participants in the interview should not affect the quality of your interview or your decision.

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<sup>8</sup> Memorandum from Jeff Weiss, INS Office of International Affairs, to Asylum Officers, Immigration Officers, and Headquarters Coordinators (Asylum and Refugees), [Guidelines for Children’s Asylum Claims](#), 120/11.6 (Dec. 10, 1998); for additional information, see RAIO Training module, *Children’s Claims*.

<sup>9</sup> Amina Memon, et al., [“The Cognitive Interview: A Meta-Analytic Review and Study Space Analysis of the Past 25 Years,”](#) *Psychology, Public Policy and the Law* 16, no. 4, 2010, pp. 340–372; Ronald P. Fisher and R. Edward Geiselman, [“The Cognitive Interview method of conducting police interviews: Eliciting extensive information and promoting Therapeutic Jurisprudence,”](#) *International Journal of Law and Psychiatry* 33, 2010, pp. 321–328.

<sup>10</sup> USCIS, Adjudicator’s Field Manual (AFM), [Appendix 15-2 Non-Adversarial Interview Techniques](#).

The non-adversarial nature of the interview allows the applicant to present a claim in an unrestricted manner, within the inherent constraints of an interview before a government official. An interview before a government official may be intimidating to an applicant for various reasons, including, but not limited to, the following:

1. Prior negative experiences with authority figures
2. Trauma from sudden flight from the country of origin, or other causes
3. Perceived or real differences between the applicant's culture and the culture of the government official conducting the interview
4. Fear of sharing information of a highly personal or sensitive nature

## **7 THE COMPONENTS OF AN INTERVIEW**

Although you will develop your own interview style, the following components are required components of every officer's interviews:

- Pre-Interview Preparation
- Introduction
- Oath
- Verification of Basic Biographical Information
- Testimony
- Closing Statement/Comment/Questions by Interviewee and/or Representative
- Conclusion

### **7.1 Pre-Interview Preparation**

Preparing for the interview helps you identify the issues to focus on and to formulate meaningful questions to ask during the interview to gather the facts needed to support your decision. Before each interview you must analyze the case and assess the evidence in the record by reviewing the file, performing security checks, and, in many instances, reviewing relevant country of origin information.

As you review the file, you should read the application and any accompanying statements and supporting documents. You should also cross-check names and aliases of the principal interviewees and dependents against other documents in the file and available databases. In addition, you must be alert to indications that you will need to follow special procedural guidance or modify your questioning techniques; for example, when interviewing children, possible trafficking victims, or individuals who may pose a threat to national security [[ASM Supplement – Pre-Interview Preparation](#)].



This preparation helps you to establish the chronology of events of a case, determine lines of questioning, and, where relevant, identify gaps, inconsistencies, or potential bars you will need to address during the interview<sup>11</sup> [[IO Supplement – Pre-Interview Preparation](#)].

As noted below in *Interviewing Tips*, an outline or checklist of the main points you want to address in the interview may be helpful. You may create such a checklist yourself for each case or use common checklists created by each division. Before a refugee or asylum interview, you could write a chronology of events leading to the interviewee’s departure from his or her country and refer to it during the interview. If using an outline, checklist, or chronology, be sure that it does not distract you from asking necessary follow-up questions during the interview or from actively listening to and evaluating the interviewee’s responses or questions.

It is essential that the interviewee appreciate the importance and seriousness of the proceedings. Therefore, the setting in which the interview takes place must be orderly and official in appearance.<sup>12</sup>

Before beginning an interview, you should take particular care to remove from the interview area all files and documentation relating to other interviewees. This ensures confidentiality and prevents documents from being placed in the wrong file.

## 7.2 Introduction to the Interview

The introduction to the interview includes greeting the parties and explaining what will happen during the interview. You will develop your own style for handling the introduction. Your manner during the introduction sets the tone for the interview. The introduction is your best opportunity to establish rapport<sup>13</sup> with the interviewee. Your introduction should help put the interviewee at ease, thus facilitating the flow of information and allowing you to elicit the information that you need throughout the interview. Whatever approach you choose, you must conduct the entire interview in a non-adversarial manner.

### Greet the Parties

<sup>11</sup> See also European Asylum Curriculum (EAC) #6 – Interview Techniques, Sub-module 1: Conducting the Interview, [Unit 1.1 Preparation of the Case, “Case preparation.”](#)

<sup>12</sup> USCIS, Adjudicator’s Field Manual (AFM), [Chapter 15.2 Interview Environment](#).

<sup>13</sup> For additional information on establishing rapport, see RAIO Training module, *Interviewing - Eliciting Testimony*.

You should greet the interviewee and any other participants present at the interview and establish the identities of all parties. You should introduce yourself and any other participants who may not know each other. Before escorting the interviewee to your interview space, verify the identity of the interviewee and any dependents, as well as that of the interpreter when appropriate. In situations where the interviewee is escorted by another person to your interview space, do this as soon as the interviewee arrives.

### **Determine Who Will Be Present During the Interview**

You have the discretion to decide who will be present at the interview.

- **Dependents**

Dependents may remain with the principal interviewee during the interview at your discretion. In certain types of cases, dependents must be interviewed individually. In these situations, you should interview the dependents separately, apart from the principal interviewee and other dependents. When it is not required that dependents be interviewed separately or offer testimony, you should defer to the principal interviewee's preference as to whether their dependents remain present during the interview. However, in protection interviews it is generally better to interview the principal applicant without dependents present, as noted below.

In interviews where the principal applicant is unable to testify due to disability or incapacity, it is permissible for a third party to testify on his or her behalf.<sup>14</sup>

- **Sensitive Topics**

As noted above, you should defer to the interviewee's preference when determining whether dependents will remain in the interview. However, after the interview has begun, an interviewee may be reluctant to request that dependents leave the room. You should therefore be alert for signs that an interviewee may be uncomfortable discussing certain issues with others present. In some cases (e.g., involving domestic violence or sexual abuse), you may ask to speak with the interviewee alone first to determine whether the interviewee would prefer to be interviewed without the dependents present.

In protection interviews it is best to make it your practice to interview the principal applicant without dependents present. Even if topics under discussion do not appear to be sensitive, it is usually troubling for children to see their parent display her or his vulnerabilities and an inability to protect them. Furthermore, many men feel reluctant to express personal fears in front of their families, and if their dependents remain in the interview, you may not adequately elicit all of the applicant's concerns.

Some interviewees may request that a relative or friend be present at the interview for moral support. You may allow such individuals to remain. In particular, children may

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<sup>14</sup> For additional information on specific procedures, refer to Division procedure manuals.

have a “trusted adult” present during the interview. However, you must also explain to any accompanying individual that he or she is not the interviewee’s representative, and that he or she must not become involved in the interview process. You should also watch for any red flags which may suggest problems or irregularities with the relationship between the “trusted adult” and the child, and should consult your supervisor if you suspect any wrongdoing on the part of the “trusted adult” or other accompanying adult. *See also* “Trafficking or Other Forms of Coercion,” below.

- Validity of Family Relationships

In some interviews, you will have to determine whether the relationship between the primary applicant and a relative listed on the application form is genuine.

*Example*

In the adjudication of a Form [I-590, Registration for Classification as Refugee](#), where the primary applicant has listed seven minor dependent children, you may interview some of the children separately to ensure that they are in fact part of the same family unit. If you believe that some or all of the relationships are not as claimed on the I-590, it is best to interview each child separately, so that blame for a denial does not fall on one or two children, who may be harmed as a result.

- Trafficking or Other Forms of Coercion

You may become concerned that the interviewee is in a vulnerable situation in relation to another party present at the interview. These are sensitive situations, and you must proceed with caution. While you may attempt to interview an interviewee apart from a suspected trafficker who may represent himself or herself as a party to the interview (such as a guardian, companion, or interpreter), you must also ensure that you are not violating the interviewee’s right to representation or exposing the interviewee to possible reprisal from the trafficker. In such situations you should seek supervisory guidance before separating an interviewee from another party to the interview.<sup>15</sup>

- National Security Risks

If you discover during your interview preparation or during the interview that the interviewee may have provided support to a terrorist group or may have been involved in a terrorist activity or in another act that could negatively impact public safety or national security, contact your supervisor.<sup>16</sup>

### **Explain the Purpose of the Interview**

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<sup>15</sup> For additional information, see RAI0 Training module, *Detecting Possible Victims of Trafficking*.

<sup>16</sup> For additional information, see the specific procedures for your division and RAI0 Training module, *National Security: Terrorism Related Inadmissibility Grounds*.

You must explain that the purpose of the interview is to:

- Give the interviewee an opportunity to explain why he or she submitted the application or requested the benefit.
- Allow the interviewee to present evidence of eligibility.
- Allow you to gather necessary information from the interviewee and any witnesses.
- Provide information to the interviewee concerning the application process.

### **Explain Confidentiality**

All asylum and refugee interviews are confidential.<sup>17</sup> Asylum confidentiality standards are formalized in the regulations. In the asylum context, absent the applicant's consent, you are generally prohibited from disclosing information contained in or pertaining to any asylum application to individuals other than the applicant. This includes acknowledging the existence of an asylum application. This restriction on disclosure does not apply to releasing information to the applicant's representative. The regulation also has exceptions on the prohibition on disclosure for certain U.S. Government officials and certain U.S. courts with a need to know the information.<sup>18</sup> Confidentiality provisions for asylum applicants contained in 8 C.F.R. § 208.6 also apply to the beneficiaries of I-730 petitions, whether they are following-to-join asylees or refugees. They also generally govern the disclosure of information related to credible fear and reasonable fear determinations, as well as to applications for withholding or deferral of removal under Article 3 of the Convention Against Torture, which are encompassed within the asylum application.<sup>19</sup>

As a matter of policy, adjudications in the refugee context follow the same confidentiality guidelines as asylum, with one limited exception:

- When a credibility issue arises based on conflicting testimony by family members who are part of the same case or a cross-referenced case, information provided by one family member should be shared with another family member to give the applicant(s) an opportunity to explain the discrepancies.

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<sup>17</sup> Immigration and Nationality Act (INA) § 245A(c)(5); Memorandum from Barbara L. Strack, Chief, Refugee Affairs Division and Joanna Ruppel, Chief, International Operations Division, USCIS, to Refugee Affairs Division, [Information Consent Form for Use in Refugee Interviews](#), 120/6 (Jun. 17, 2009).

<sup>18</sup> The Secretary may disclose asylum related information Only your supervisor or upper management may decide whether an exception on the prohibition on disclosure exists. For additional information, refer to the [Identity and Security Check Procedures Manual \(ISCPM\)](#).

<sup>19</sup> See *Asylum Confidentiality Memos*: Memorandum from Joseph E. Langlois, Director, Asylum Division, to Asylum Office Directors and Deputy Directors, [Fact Sheet on Confidentiality](#), HQASM 120/12.8 (Jun. 15, 2005); and Memorandum from Bo Cooper, INS Office of the General Counsel, to Jeffrey Weiss, Director, Office of International Affairs, [Confidentiality of Asylum Applications and Overseas Verification of Documents and Application Information](#), HQCOU 120/12.8 (Jun. 21, 2001).

You are required to safeguard information and may not disclose it unless one of the exceptions to the disclosure restrictions applies. You must know if any prohibitions on disclosure exist for the benefit being adjudicated, and inform interviewees of the applicable confidentiality provisions.

Interviewees may be hesitant to disclose information if they believe it is not confidential because:

- Descriptions of past events may be highly personal.
- Interviewees may fear harm to themselves or others as a result of disclosing certain information.
- Interviewees may fear for the lives and safety of family members and friends.

Remember that many interviewees are from countries where the government does not value or protect the privacy of its citizens. Therefore, it may be difficult for some interviewees to understand the term “confidentiality.” In the overseas refugee context, officers are provided specific language to assist the applicant in understanding confidentiality and what it means to waive confidentiality or otherwise disclose information under certain circumstances.<sup>20</sup>

### **Explain Other Aspects of the Interview Process**

You can help alleviate some of the interviewee’s nervousness by explaining the process of the interview so that the interviewee will know what to expect. The interviewee should be informed that:

- It is important that you and the interviewee understand each other.
- The interviewee must answer your questions truthfully and to the best of his or her knowledge.
- The interviewee must tell you if he or she does not know the answer to a question, rather than guess at or supply an answer he or she thinks you want to hear.
- It is crucial that the interviewee understand each question and if he or she does not understand a question, he or she must let you know so that you may clarify it. (Due to cultural barriers or fear of authority figures, many interviewees will not ask for clarification when they do not understand your question.)
- He or she should not ask the interpreter for help or clarification, because the interpreter’s role is only to interpret what each party says.

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<sup>20</sup> See Memorandum from Barbara L. Strack, Chief, Refugee Affairs Division and Joanna Ruppel, Chief, International Operations Division, USCIS, to Refugee Affairs Division, [Information Consent Form for Use in Refugee Interviews](#), 120/6 (Jun. 17, 2009).

- You will take notes during the interview to remember what was said during the interview.
- The interviewee may ask questions at any time during the interview.
- All the information in the notes is also confidential and will not be shared with unauthorized individuals.
- You will allow the interviewee time at the end of the interview to make any additional statements, including information that you did not ask about that he or she thinks is important and would like to add.
- You will carefully consider the information the interviewee provides to determine eligibility for the benefit.
- At the end of the interview, you will tell the interviewee how he or she will be notified of the decision on the case.

### **Advise the Interpreter**

The interpreter's role is to interpret as accurately as possible what the officer and interviewee say during the interview. You must advise the interpreter that he or she is a conduit of communication and must not add nor detract from your statements or the interviewee's statements. Officers in the RAIO Directorate should follow their division-specific guidance when advising interpreters about confidentiality requirements and their oath to interpret truthfully and accurately.<sup>21</sup> [[RAD Supplement – Interpreters for Refugee Interviews](#)]

### **If a Representative Is Present at the Interview**

If a representative is present, you must:

- Review form G-28 [Notice of Entry of Appearance as Attorney or Accredited Representative](#) or form G-28I [Notice of Entry of Appearance as Attorney In Matters Outside the Geographical Confines of the United States](#) to verify that it has been properly executed;<sup>22</sup> or
- If the representative and/or the interviewee have not signed the form, ask them to do so at the interview; or
- If no form is in the file, ask the representative to submit one before beginning the interview.

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<sup>21</sup> For additional information, see RAIO Training module, *Interviewing – Working with an Interpreter*.

<sup>22</sup> [8 C.F.R. § 292.4](#).

You also must verify that the representative at the interview is the same person who signed the G-28 or G-28I. If the representative present is not the representative listed on the G-28, follow the guidance below.

- If the representative appearing at the interview is from the same office as the representative who submitted the G-28, he or she must sign the form and correct any information on it, as appropriate.
- If the representative appearing at the interview is not from the same office as the representative who submitted the G-28, he or she must submit a new G-28.

You must clarify with the interviewee whether the new representative is representing him or her for purposes of the interview only or is replacing the original representative, in which case you should annotate the original G-28 to reflect the change in representation.

If the representative has submitted a G-28 or G-28I but is not present, you must inform the interviewee that he or she has a right to have a representative present at the interview. If the interviewee wishes to proceed without the representative, the interviewee must sign a waiver form before the interview can be conducted. If the interviewee does not wish to proceed without the representative, you must reschedule the interview.

### *Cooperative Relationship Between the Representative and the Officer*

You and the representative are not adversaries. Therefore, some actions that may be appropriate for attorneys in an adversarial setting may not be appropriate in the non-adversarial interview, where you and the representative share a cooperative role in developing and clarifying the merits of the interviewee's claim.

In certain instances it may be appropriate for the representative to comment during the course of the interview to clarify issues. Such comments may be helpful and should not be discouraged. However, you must retain control of the interview. If the representative repeatedly interrupts or otherwise disrupts the interview, ask the representative to refrain from interrupting and explain that he or she will have an opportunity at the end of the interview to ask questions and make comments.

If you encounter a representative who is unaware of the non-adversarial nature of the interview, you may need to advise the attorney of his or her role in this proceeding. In doing so, you must always conduct yourself professionally.

You must inform the representative that he or she will be allowed to make a closing statement, comment on the evidence presented, and ask the interviewee additional questions. You have the discretion, however, to limit the length of the statement or request that it be submitted in writing, in lieu of an oral statement at the end of the

interview.<sup>23</sup> You also have the discretion to have the attorney suggest questions for you to ask rather than allowing the attorney to question the interviewee directly.

### 7.3 Oath

Interviewees and witnesses must be placed under oath before testifying. You must place all interviewees under oath before asking any questions related to the claim or application. You, the interviewee, and the interpreter should stand during the administration of the oath unless physically unable to do so.

The oath should be administered in a way that impresses upon the interviewee the importance of the occasion and the testimony he or she is about to give. A suggested explanation of the oath follows:

“I am now going to place you under oath. This means that I am going to ask you to vow or promise to tell the truth. Once you are placed under oath, I will expect that what you tell me will be the truth to the best of your knowledge.”

The Refugee Affairs Division has developed specific language for the oath [[RAD Supplement – Oaths](#)].

The fact that the interview is being conducted under oath or affirmation should be recorded in the interview notes. If a verbatim question-and-answer statement is taken, the exact wording of the oath or affirmation should be included in the statement [[ASM Supplement – Oath](#)].

If an interpreter is present, you must administer a separate oath to the interpreter.

### 7.4 Verification of Basic Biographic Information

You must verify with the interviewee all of the biographical information on the application form. Techniques for gathering this information are elaborated in RAIO Training module, *Interviewing – Eliciting Testimony*.

#### Review the Form

You must verify and, if necessary, update or correct information on the form. Someone other than the interviewee may have completed the form, or information about the interviewee may have changed since the form was filed. As a result, some of the information on the form may not be correct [[RAD Supplement – Review the Application Form](#)]. Please keep in mind that the interviewee may not be aware of all of the information that has been submitted on his or her behalf. Any corrections must be made in red ink and numbered. At the end of the interview, the interviewee must provide a signature to confirm all changes made to the form.

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<sup>23</sup> [8 C.F.R. §208.9\(d\)](#).



You must be certain that the form contains the interviewee’s full and correct name, plus any aliases (RAD, see [Standard Operating Procedure for Form I-590](#)). Aliases are any other names the interviewee has used, including maiden names, nicknames, hyphenated names, abbreviated names, baptismal names, and alternate order of first and last names. You must also note any variation in birth date that the interviewee has used. Different calendars and cultural practices can lead to confusion about dates of birth. You must confirm all dates in addition to places of birth, address, and entry information, and you must confirm that all other biographical information on the form is current and correct.

You must also compare information on the form with other documentation in the file and documents presented by the interviewee at the interview, such as birth certificates, marriage and divorce certificates, death certificates, school records, baptismal certificates, and passports. If the interviewee has dependents, verify that the biographical information for each is also correct.

### **Review Documents**

The interviewee may submit documents with his or her application or petition and may bring additional documents to the interview.

Although interviewees are not always required to submit identity documents, you must ask the interviewee and dependents if they have such documents. Examples include identity documents from the interviewee’s country, the United Nations High Commissioner for Refugees (UNHCR), the United States, or other governmental sources.

If the interviewee does not have identity documents, and he or she is from a population that ordinarily possesses identity documents, you should ask the interviewee to explain why he or she does not have these documents.

If the interviewee submits an original document with copies of the document, you should retain the copies for the file, write or stamp on the copies “original seen and returned,” and sign and date each copy below this statement.<sup>24</sup>

Similarly, if the interviewee presents an original document for which there are copies in the file, you should write or stamp on the file copies that the “original was seen and returned” and sign and date the file copies. If the interviewee has only photocopies of a document, you should write on the copies retained for the file “from photocopy,” and sign and date each one. You should also inquire as to why the applicant does not possess the original document.

Guidance on how to proceed if you encounter a document that appears to be fraudulent is provided in RAIO Training module, *Fraud*.

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<sup>24</sup> For additional information, see RAIO Training modules, *Evidence* and *Fraud*.

## Correct the Form

Any corrections to the form must be made in red ink on the record copy of the form, crossing out the original information so that it is still legible. This includes corrections to a personal statement attached to the Form [I-589](#) in asylum processing and the Resettlement Support Center (RSC) case history attached to the Form [I-590](#) in overseas refugee processing.

At the beginning of the interview, you should ask the interviewee and the interviewee's representative, if any, if they would like to make any corrections on the personal statement or RSC Case History.

The corrections must be numbered so that they can be explained to the interviewee before he or she signs the form at the end of the interview to verify that the application form is accurate. If the interviewee does not alert you to any corrections before the interview begins, and his or her testimony is inconsistent with information on the form, you must address material credibility concerns with the interviewee. However, it is important to remember that the applicant may not have prepared this form and may not be fully aware of its contents.<sup>25</sup>

## 7.5 Testimony

Because this is a non-adversarial proceeding and you are the fact-finder in the case, you are responsible for eliciting all relevant information from the interviewee.<sup>26</sup> Although you must cover all of the information requested in the application form, you should not simply ask the interviewee the same questions as those on the form. Instead, you should use a variety of techniques that provide the interviewee an opportunity to speak in his or her own words.<sup>27</sup>

### Allow Applicant to Clarify Inconsistencies

If any of the information in the form conflicts with the interviewee's interview testimony, or if you notice inconsistencies within the interviewee's interview testimony, you must give him or her an opportunity to explain the discrepancies. You must correct the application form when necessary, advising the interviewee of the corrections.

You must pursue all relevant lines of questioning, until you are certain that you have sufficient pertinent information to make a determination on the interviewee's claim. You must also allow the interviewee to ask questions as appropriate and to submit additional documents at the interview in support of his or her claim.

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<sup>25</sup> For additional information, see RAIO Training modules, *Credibility and Evidence*.

<sup>26</sup> [8 C.F.R. § 208.9\(b\); UNHCR Handbook](#), para. 196.

<sup>27</sup> For additional information on methods and issues related to eliciting testimony, see RAIO Training module *Interviewing – Eliciting Testimony*.

You must learn to distinguish between the likelihood that the interviewee is confused and the possibility that his or her non-responsiveness is an attempt to receive a benefit by fraud. If the interviewee does not appear to understand your question, you should ascertain whether there is a problem with the interpretation or with your phrasing of the question. However, if the interviewee appears to understand your question and is being evasive or non-responsive, or presents inconsistent or implausible testimony, you must confront the interviewee and give him or her an opportunity to explain. Proper confrontation of an interviewee is not hostile or challenging. By confronting an interviewee, you merely make the interviewee aware of your concerns, and provide the opportunity to address them.<sup>28</sup>

## **7.6 Closing Statement/Comment/Questions by Interviewee and/or Representative**

As noted above, at the end of the interview, you should allow the interviewee and, if present, the representative, to make final comments or ask questions after you have finished asking your questions.

### **Signatures on Form**

You and the interviewee must sign the record copy of the form. You must note the corrections made to the form, explain them to the interviewee, and inform the interviewee that, by signing the application, he or she is affirming that all the information in the form is true and correct as of the date of the interview.

### **Requests to Submit Additional Documents**

In certain cases, you may request that the interviewee submit additional documentation as evidence in support of his or her claim.<sup>29</sup>

### **Explanation of the Next Steps in the Process**

In most cases, you will not inform the interviewee of the decision at the end of the interview. Instead, you will advise the interviewee as to how he or she will receive the decision. These procedures vary, depending on the form type and interview location.

### **Exit Procedures**

At every interview location, you must follow local exit procedures at the conclusion of the interview. Before beginning your first interview, you should be familiar with the local procedures. For example, in most locations a waiting area is set apart from the interview spaces and other offices. You may be required to escort the interviewee back to the waiting area rather than allow the interviewee to find his or her own way back

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<sup>28</sup> For additional information, see RAIO Training modules, *Credibility* and *Evidence*.

<sup>29</sup> For additional information, see RAIO Training module, *Evidence*.

unescorted. In other locations it may be standard procedure to allow the interpreter, when present, to escort the interviewee back to the waiting area.

## **8 OUTSIDE FACTORS THAT CAN AFFECT THE INTERVIEW**

Multiple factors may interfere with your ability to conduct the interview or may affect the interviewee's ability to testify.

### **8.1 Stress**

An immigration interview, no matter what type, can be a stressful situation for all of the individuals involved. People respond to stress in different ways and develop personal mechanisms for handling stress. These factors can affect both you and the interviewee during an interview.

You, as the interviewing officer, may have days when you are distracted by personal issues or other professional issues. You must recognize your own distractions and minimize their effect on the interview.

The interviewee may find the interview stressful for a number of reasons. He or she may be:

- Anxious because his or her future may depend on the outcome
- Anxious about the unknown (not knowing what will happen during the interview)
- Concerned that he or she will not be able to answer the questions asked
- Fearful of dealing with a government official or being in an unfamiliar environment
- Concerned about communicating through an interpreter
- Worried about forgetting important information
- Concerned that his or her application or request may be denied
- Apprehensive about retelling painful or humiliating experiences
- Suffering from a physical ailment such as dementia, or a trauma-related condition such as Post-Traumatic Stress Disorder (PTSD)<sup>30</sup>

All of these factors have the potential to increase the interviewee's level of stress or otherwise impede the smooth flow of the interview.

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<sup>30</sup> For additional information, see RAIO Training module, *Interviewing Survivors of Torture and Other Severe Trauma*.

The interpreter, representative, witness, or other participants in the interview may have their own concerns, such as their ability to interpret correctly, or to represent or testify on behalf of the interviewee in such a way as to assist the interviewee most effectively. In some cases, those accompanying the interviewee may have an ulterior motive to commit fraud on behalf of the interviewee.

You are responsible for monitoring your stress level as well as identifying and mitigating the stressors that may affect all other participants at the interview.

## **8.2 Time Constraints**

As the interviewing officer, you are obligated to collect as much relevant information as possible within the time period allocated by your division or local office to conduct an interview. The tasks and time involved in completing a particular interview may increase when:

- A complicated story takes additional time to fully elicit
- A potential bar or ground of inadmissibility needs to be explored
- Several dependents on the case require interview and processing, and/or
- A dependent must be added or deleted

To accomplish all of the required tasks successfully, you must work expeditiously within predetermined time constraints. Always be mindful of the need to gather enough information to make a legally sufficient adjudication.

## **8.3 Your Personal Experiences**

During the interview, you should not allow your personal life experiences and biases to influence you either in favor of or against the interviewee. You should never approach the interview with a preconceived notion of the outcome.

# **9 INTERVIEWING BEST PRACTICES**

The following tips may help you to maintain control and elicit all necessary information at the interview.<sup>31</sup>

## **9.1 Be Organized**

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<sup>31</sup> For additional information, see RAIO Training Modules, *Cross-cultural Communication and Interviewing – Working with an Interpreter*.

As you prepare for the interview, create an organized environment that will help you capture all of the information you need. You and the interviewee must remember a significant amount of information; the fewer distractions, the easier it will be.

Your desk should be clean and free of clutter, including papers from other files, with only those items that are necessary for processing the case visible to the applicant. Have all supplies and necessary papers (notepad, checklists/outlines) within easy access during the interview. This will remove unnecessary distractions and allow you and the interviewee to concentrate on the interview. It is also helpful to have a box of tissues nearby in case the interviewee becomes emotional during the interview.

### **Use an Outline or Checklist**

Before you begin conducting interviews, ask your supervisor if he or she recommends an outline or checklist that other officers have used. Another option is to prepare your own outline or checklist based on Standard Operating Procedures (SOP) for different form types. For example, for protection interviews, your outline or checklist might include background, past harm, possession of a protected characteristic, awareness, capability, inclination, military service, firm resettlement, and whether mandatory bars or grounds of inadmissibility apply. Using an outline or checklist may prevent omissions of important lines of questioning. Even experienced officers sometimes forget to ask certain questions. You should review the outline or checklist before the interview and look at it again before ending the interview to ensure that everything has been covered.

Outlines or checklists are merely the starting point for the information you must elicit during the interview. They should not be used as a substitute for all necessary lines of questioning and follow-up questions during your adjudication. Do not let an outline or checklist distract you from asking necessary follow-up questions during the interview or from actively listening to and evaluating the interviewee's responses or questions.

### **Develop Time Management Skills**

Before adjudicating a new form type, you should learn about the adjudication, both from procedures manuals and from experienced colleagues who are able to adjudicate the same form efficiently. You can learn methods that streamline the process without negatively affecting the quality of the adjudication. Your colleagues can help you to develop interviewing skills that will allow you to quickly and efficiently gather all relevant information needed for a legally sufficient adjudication.

### **Record Questions as They Arise as a Reminder to Ask Them Later in Interview**

During the interview, jot down questions that arise but are not appropriate to ask at that moment, as a reminder to ask those questions when it is appropriate. This allows you to

focus on what the interviewee is saying, rather than on the question you plan to ask later. Use a notepad or piece of paper at the side of the desk, or create a place on your computer document to jot down any specific questions or lines of questioning that come to mind that you want to ask later. Refer to these notes later in the interview to be reminded of the additional questions that you need to ask.<sup>32</sup>

### **Have a Map or Atlas at Hand**

The interviewee may be able to identify important locations on a map, such as where he or she lived, moved, or traveled. Keep in mind, however, that some interviewees may never have seen a map and may not know how to read one. In addition, some interviewees may never have traveled beyond their villages or towns. Their view of “distance” may be confined to the distance between their home and their field or the market. Furthermore, such interviewees may not measure distance in terms of miles or linear measurements, but rather according to another form of measurement, such as the length of time it takes to arrive at a destination, or landmarks along the way.

## **9.2 Interview, Don’t Interrogate**

Your questioning must be done in a professional, non-threatening, and non-accusatory manner.

### **Treat the Interviewee with Respect**

As an officer in the RAIO Directorate, you should treat the interviewee with respect regardless of his or her eligibility for the benefit being sought. Similarly, you must treat the interviewee with respect even if he or she is not forthcoming with information during the interview, or does not seem to understand the process. You cannot know all of the factors that motivated the interviewee to apply for the benefit he or she is seeking, or what events have transpired in the interviewee’s life before this moment. For these reasons, you should treat every interviewee with respect and consideration.

You must not show impatience or incredulity, even though you may have heard similar stories from many interviewees or you find the interviewee’s testimony implausible.

Even the most self-possessed officer may feel annoyed if it appears that an interviewee is not being truthful during an interview, but you must refrain from expressing emotions such as annoyance either verbally or non-verbally.

### **Maintain a Neutral Tone throughout the Interview**

It is important that you always maintain a neutral tone, even when frustrated. You occasionally may be frustrated with interviewees who are long-winded, discuss issues

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<sup>32</sup> For additional information, see RAIO Training module, *Interviewing - Note Taking*.

irrelevant to the claim, are confused by your questions, or appear to be fabricating a claim.

### **Be Non-Judgmental and Non-Moralistic**

Some information you gather during an interview may shed a negative light on the interviewee. How an interviewee reacts to or handles a particular situation may differ from how you think the situation should have been handled. The interviewee may have left family members behind in difficult or dangerous circumstances, or the interviewee may belong to an organization for which you have little respect.

Although you may feel offended by some interviewees' actions, you must put personal feelings aside and avoid passing moral judgments on interviewees in order to make neutral, legally sound decisions.

### **Create a Comfortable Atmosphere**

Create an atmosphere in which the interviewee can freely express his or her claim. You should attempt to put the interviewee at ease at the beginning of the interview and continue to do so throughout the interview. Physical discomfort may also impede communication. If the interviewee has been testifying for an extended period of time, it may be appropriate to suggest that you take a break to use the restroom or get a drink of water.

### **Treat Each Interviewee as an Individual**

Although many claims may be similar, each claim must be evaluated on its own merits, and each interviewee must be treated as an individual. You must approach each interviewee without any predisposition to grant or deny the benefit sought.

### **Be Mindful of Potential Biases**

Everyone develops individual preferences, biases, and prejudices based on personal life experiences. This influences how you view others and how you perceive circumstances, either negatively or positively. You must make continual efforts to become aware of instances in which this can influence your approach to interviews, either positively or negatively, such that it becomes "personal baggage."

The following types of biases encountered in other interview settings, such as job applicant interviews, may also apply in a RAIO interview setting.

- **Halo effect:** The interviewee's strength in one area causes you to view the other areas positively without fully considering or exploring them.
- **First impression:** The interviewee is judged before having a fair chance to respond to your questions.



- **Stereotype:** Because you perceive the interviewee as fitting into a certain category, you believe that he or she is not qualified for the benefit.
- **Similarity:** Your decision on eligibility is muddled after confusing the interviewee's personal similarity to yourself with his or her qualifications for the benefit.
- **Contrast:** Your judgment in the interviewee's case is based on how well others answered questions in previous interviews.
- **Excessive harshness:** You focus unfairly only on the negative factors in the interviewee's case, disregarding all strengths in his or her claim.

Being aware will allow you to recognize how your biases may interfere with the interview process. You must make an effort to prevent "personal baggage" from negatively affecting your ability to interview in a non-adversarial and neutral manner.

### **Have Patience**

Remember that although the interview process may become routine for you, it is not routine for the interviewee and may not be routine for others present. You should take time to explain the process and allow time for the interviewee to gather his or her thoughts.

### **Ensure That All Parties to the Interview Remain Non-Adversarial**

If, during the course of the interview, the interviewee or any other party to the interview becomes agitated, shouts, or otherwise loses composure, you must re-establish order. Calmly and in a moderate tone of voice remind the parties that this is a non-adversarial interview, and that this applies to all parties. If this does not defuse the situation, you should not continue the interview until the problem can be resolved. You may need to ask a colleague or supervisor to intercede. Under no circumstances should you respond in kind to anger or frustration from the interviewee, representative, interpreter, or other participant at the interview, as this will only exacerbate the problem.

### **Do Not Intimidate, Harass, or Embarrass the Interviewee**

Your tone of voice and facial expressions must remain neutral throughout the interview process. You must not argue against the interviewee's statements, raise your voice, use rapid-fire questioning, roll your eyes, or use a hostile, deprecating, or incredulous tone with any interviewee.

You may be tempted to do all of these with some interviewees if you notice serious credibility problems during an interview. If the interviewee does not appear to understand your question, you should ascertain whether there is a problem with the interpretation or with the way in which you articulated the question. However, if the interviewee appears to understand your question and is evasive or non-responsive, or presents inconsistent or implausible testimony, you must probe the interviewee's

credibility by confronting him or her with the specific credibility problem and by giving him or her an opportunity to explain.

Confronting an interviewee does not require you to challenge or become hostile toward the interviewee. Rather, confronting an interviewee merely makes him or her aware of your specific concerns and gives the interviewee the opportunity to address the concerns.<sup>33</sup>

The non-adversarial nature of the interview allows the interviewee to present a claim in as unrestricted a manner as possible, within the inherent constraints of an interview before a government official. An interview with a government official may be intimidating to an interviewee. Interviewees may feel vulnerable and threatened during an interview with you, as a representative of the U.S. Government, because of:

- Negative experiences with authority figures
- Differences between the interviewee's culture and yours
- Fear of exposing highly personal or sensitive information
- Trauma due to a variety of reasons, including sudden flight from the country of persecution
- Fear of an agent or trafficker who smuggled the interviewee, if the interviewee was trafficked

### **9.3 Maintain Control of the Interview**

During the entire interview, you must not only remain alert to information from the interviewee, but must also be aware of more general factors affecting the flow of communication.

#### **Promote Effective Exchange of Information**

To the extent that it is possible, try to eliminate factors that limit or prevent an effective exchange of information during the interview. If the interviewee appears to be uncomfortable disclosing part of the claim in front of family members, you may ask family members to wait in the waiting room. If the interpreter is having difficulty interpreting a question, think of a different way to ask the question or obtain the information. Always be on the lookout for anything you can do that can facilitate the flow of information.

#### **Keep the Interview Focused**

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<sup>33</sup> For additional information, see RAIO Training module, *Evaluating Evidence*.

In order to conduct efficient interviews, you should limit questions to topics that are relevant to the purpose of the interview.

#### **9.4 Practices to Avoid**

- Do not over-empathize with the interviewee.
- Do not ask questions that are not relevant to the adjudication in question.
- Do not eat, drink, answer the phone, or engage in other personal behavior during the interview.

## **10 CONCLUSION**

You play multiple roles in the adjudication process. As both the fact finder and neutral decision-maker, you must elicit testimony from the applicant, maintain a neutral tone throughout the process, and create an atmosphere in which the interviewee can freely express his or her claim. The interview is your opportunity to probe into all material elements of the interviewee's claim to determine eligibility for the benefit sought. You must develop strong interviewing skills that allow you to elicit expeditiously and efficiently all necessary testimony to make a decision.

Although you will develop your own style over time, for each interview you must:

- Thoroughly prepare, including file review, country of origin research, security checks, and electronic data base searches, before inviting the interviewee into your office
- Greet the parties and establish rapport
- Explain the interview process
- Place parties under oath, as necessary
- Verify identity, address, contact, and all biographical information on the forms
- Correct errors or update information that may have changed since the form was completed
- Elicit testimony regarding the claim and ask all relevant follow-up questions
- Confront the interviewee with material credibility issues and allow him or her an opportunity to explain
- Allow the interviewee and representative to make final comments and ask questions to provide information not already covered during interview

- Sign the application form and obtain all necessary signatures
- Advise the interviewee of the decision notification process

## **11 SUMMARY**

### **11.1 Authority**

The following authorizes USCIS officers to conduct interviews:

- [8 C.F.R. § 103.2\(b\)\(9\)](#) gives the authority to USCIS to require that an applicant, petitioner, sponsor, beneficiary, or other individual appear for an interview.
- [8 C.F.R. § 208.9\(b\)](#) requires that Asylum Officers conduct interviews in a non-adversarial manner. Although this regulation applies only to Asylum Officers, as a matter of policy, officers in the RAIO Directorate must conduct interviews in a non-adversarial manner.
- [8 C.F.R. § 207.2\(b\)](#) gives the authority to USCIS to require that each applicant 14 years and older appear in person before an Immigration Officer for an inquiry under oath to determine his or her eligibility for admission as a refugee.
- [INA § 287\(b\)](#) gives the authority to USCIS officers to administer oaths and to take and consider evidence concerning the privilege of any person to enter, reenter, pass through or reside in the United States.

### **11.2 The Purpose of the Interview**

#### **11.2.1 To Gather Information**

At an interview you elicit information to:

- Verify the identity of those present at the interview
- Determine whether to proceed with the interview, based on factors such as jurisdiction and availability of accurate interpretation
- Evaluate credibility and determine eligibility for the benefit being sought
- Determine whether the interviewee is subject to any bars or grounds of inadmissibility

#### **11.2.2 To Provide Information**

At an interview you provide information to the interviewee about:

- The purpose of the interview and the interview process
- The roles and responsibilities of all persons involved in the interview
- What the interviewee can expect to happen during and after the interview

### **11.3 Importance of the Interview**

- The interview, as the basis for your determination, may be the only opportunity for you to obtain accurate and complete information from the interviewee.
- The interview may be the only opportunity for you to elicit and clarify information upon which to base a decision.
- The decision you make, based on the information you gather at the interview, may have serious consequences.
- Interviewees may shape their opinion of the U.S. Government based on their interactions with you.

### **11.4 The Participants and Their Roles**

#### *The Officer*

You are a representative of the U.S. Government and must project a competent, professional, and courteous image, and uphold the integrity of the U.S. immigration system.

#### *The Interviewee*

The interviewee may be a principal applicant, a derivative family member, or a witness in the case.

#### *The Interpreter*

The interpreter's role is to accurately interpret between the language of the interviewee and English.

#### *Other Parties*

Other parties may be present at the interview, depending on the circumstances. For example, some children or applicants with disabilities may need the assistance of a relative or guardian to present their claim.

### **11.5 The Components of an Interview**

- Pre-Interview Preparation

- Introduction
- Oath
- Verification of Basic Biographical Information
- Testimony
- Closing Statement/Comments/Questions by Interviewee and/or Representative
- Conclusion

## 11.6 Interviewing Tips

- Be organized
  - Use an outline or checklist to ensure that all necessary information is covered.
  - Develop time-management skills.
  - Record questions as they arise as a reminder to ask them later in interview.
  - Have a map or atlas at hand.
- Interview, don't interrogate
  - Treat the interviewee with respect.
  - Maintain a neutral tone throughout the interview.
  - Be non-judgmental and non-moralistic.
  - Create a comfortable atmosphere.
  - Treat each interviewee as an individual.
  - Be mindful of potential biases.
  - Have patience.
  - Ensure that all parties to the interview remain non-adversarial.
  - Do not intimidate, harass, or embarrass the interviewee.
- Maintain control of the interview
  - Promote effective exchange of information.
  - Keep the interview focused.
  - Treat the applicant with respect.
  - Maintain a neutral tone throughout the interview.
  - Be non-judgmental and non-moralistic.
  - Create an atmosphere in which the interviewee can freely express his or her claim.

- Treat each interviewee as an individual.
- Be mindful of potential biases.
- Have patience.
- Practices to avoid
  - Do not over-empathize with the interviewee.
  - Do not ask questions that are not relevant to the adjudication in question.
  - Do not eat, drink, answer the phone, or engage in other personal behavior during the interview.

**PRACTICAL EXERCISES**

There are no Practical Exercises for this module.



**OTHER MATERIALS**

There are no Other Materials for this module.

**SUPPLEMENT A – REFUGEE AFFAIRS DIVISION**

The following information is specific to the Refugee Affairs Division. Information in each text box contains division-specific procedures and guidelines related to the section from the Training Module referenced in the subheading of the supplement text box.

**REQUIRED READING**

None

**ADDITIONAL RESOURCES**

None

**SUPPLEMENTS**

**RAD Supplement – Interpreters for Refugee Interviews**

The Resettlement Support Centers (RSCs) provide interpreters for most USCIS Refugee Interviews and I-730 interviews. The RSC seeks to recruit dispassionate interpreters who have no interest in U.S. resettlement. The RSC provides an orientation for the interpreters used at USCIS interviews, including the requirement to interpret accurately and completely and maintain the confidential nature of the interview. The RSC makes every effort not to use interpreters from the same refugee camp population or urban refugee population as the population being interviewed; however, this may not be possible at times in particular locations or in certain circumstances. For example, an interpreter may be used from the refugee camp population or urban refugee population if the interview site is very remote and there are no interpreters available in the local population, or if the interviewee’s language is not spoken widely outside the interviewee’s ethnic group. For these same reasons, it may not be possible to find an interpreter in the local population who is not interested in resettlement to the United States, and at some interview locations, the interpreters themselves may be applicants to the United States Refugee Admissions Program (USRAP).

**Interpreter’s Oath**

The interpreter must be placed under oath (“Do you solemnly swear or affirm that you will interpret all statements made during the interview completely and truthfully and that you will keep all information confidential?”) If the same interpreter is used for more than one interview, the interpreter needs to be placed

under oath only prior to the first interview. The interviewee should be told during the introduction or at the time of his or her oath that the interpreter has already taken an oath to interpret completely and keep all information confidential.

The interpreter should generally stand and raise his or her right hand when taking the oath. However, some interpreters may have objections to using the term “swear” or object to raising their right hands. The officer should adapt the oath to accommodate such objections, ensuring that the interpreter understands that he or she is promising, under the law, to interpret completely and truthfully and to keep the information in the interview confidential (e.g., using “affirm” rather than “solemnly swear” in the following: “Do you affirm that you will interpret all statements made during the interview completely and truthfully and that you will keep all information confidential?”). USCIS Refugee Affairs Division, Standard Operating Procedures: Introduction, Section 8 “Administer the Oath,” 19 August 2009.

### **RAD Supplement – Oaths**

The Refugee Affairs Division has instituted several requirements for administering the oath to an applicant, including standard language. Applicants must stand and raise their right hand for the administration of the oath. An exception may be made if the applicant is elderly or incapacitated. The officer administering the oath should also stand and raise his or her right hand. As some applicants may have religious objections to using the term “swear” or “so help me God,” the required oath for applicants is:

“Do you solemnly swear or affirm that the statements you are about to make will be the truth, the whole truth, and nothing but the truth?”

Some applicants may have objections to using the term “swear” or object to raising their right hands. The officer should adapt the oath to accommodate such objections, ensuring that the applicant understands that he or she is promising, under the law, to tell the truth. USCIS Refugee Affairs Division, [Standard Operating Procedures: Introduction, Section 8 “Administer the Oath,”](#) 19 August 2009.

### **RAD Supplement – Review the Application Form**

Memorandum from Barbara A. Strack, Chief, Refugee Affairs Division, to Refugee

Corps Officers and Supervisors and Overseas District Directors and Officers,  
[Standard Operating Procedure for Form I-590: Registration for Classification as a Refugee](#), (120/6) (10 Dec. 2008).

## SUPPLEMENT B – ASYLUM DIVISION

The following information is specific to the Asylum Division. Information in each text box contains division-specific procedures and guidelines related to the section from the Training Module referenced in the subheading of the supplement text box.

### REQUIRED READING

1. Memorandum from Bo Cooper, INS Office of the General Counsel, to Jeffrey Weiss, Director, Office of International Affairs, [\*Confidentiality of Asylum Applications and Overseas Verification of Documents and Application Information\*](#), HQCOU 120/12.8 (Jun. 21, 2001).
2. Memorandum from Joseph E. Langlois, Director, Asylum Division, to Asylum Office Directors and Deputy Directors, [\*Fact Sheet on Confidentiality\*](#), HQASM 120/12.8 (Jun. 15, 2005).

### ADDITIONAL RESOURCES

None

### SUPPLEMENTS

#### ASM Supplement – Purpose of the Interview

In this lesson, students will learn about the purpose, components, and non-adversarial nature of the asylum interview, as well as the roles of the representative and the applicant. The lesson will also cover eliciting the basic biographical information on the I-589, such as date and place of birth and information pertaining to entry into the United States.

#### **Definition**

At asylum interviews (unlike defensive proceedings before an immigration judge, the Board of Immigration Appeals, or the Federal courts) there is no government official present arguing in opposition to the asylum applicant. Neither the Asylum Officer nor the representative cross-examines the applicant and witnesses (if any), as in defensive proceedings. The Asylum Officer is not an advocate for either side; rather, the Asylum Officer is a neutral decision-maker.

**ASM Supplement -Pre-Interview Preparation**

• **Review file and DHS computer systems to:**

- Determine who is included in the application
- Determine which version of the I-589 the applicant submitted
- Ascertain whether the file is complete

If the file is missing any documents, such as photographs or photocopies of documents, the Asylum Officer should request that the applicant provide the missing documents.

The Asylum Officer should also determine whether there is a “Notice of Entry of Appearance as Attorney or Representative” (Form G-28) in the file and whether it is properly completed.

If there is no G-28 in the file, but if it appears that the applicant is represented, the Asylum Officer should ask the representative and applicant to complete a G-28 during the interview.

- Determine whether there is any indication that the application is not within the jurisdiction of the Asylum Office.
- Determine when the applicant claims to have entered the United States and when he or she filed the asylum application.

The Asylum Officer should be prepared to inquire into whether the applicant’s I-589 was filed in timely fashion, i.e., within one year of the last arrival into the United States, and whether an exception to that filing requirement may apply.

- Become familiar with the applicant’s background and claim.

The Asylum Officer must read the information on the I-589 and review any supporting documents.

An applicant may have submitted extensive background information on country of origin information. It is not necessary to review all of the information prior to the interview, as this can be very time-consuming. However, the Asylum Officer must look through the information and read any information that specifically pertains to the applicant or his or her claim.

- Identify issues to cover during the interview.

A review of the file allows the Asylum Officer to identify lines of questioning and

specific questions to ask during the interview.

- Determine whether the applicant may be in any “special status” (e.g., ABC, Mendez).

The procedures for handling certain cases, such as cases involving ABC class members, are different from other cases. Asylum Officers must be aware at the outset of the interview whether the case is governed by special procedures, in order to follow correct procedures.

- **Review country of origin information**

If the Asylum Officer is unfamiliar with country of origin information relevant to the applicant’s claim, the Asylum Officer should quickly look up basic conditions in that country, referring to the electronic database Refworld, annual Department of State human rights reports, or information in the office library. A review of country of origin information can assist the Asylum Officer to focus on relevant elements of a claim and disregard that which is irrelevant.

- **Review procedures, if necessary**

The Asylum Officer may find it necessary to review specific procedures prior to interviewing some applicants (e.g., ABC cases, sensitive cases), if he or she is unfamiliar with the particular procedures involved in interviewing these applicants.

### **ASM Supplement – Oath**

Applicants and any witnesses must be placed under oath prior to giving testimony. Some applicants may have religious objections to using the term “swear.” Other applicants may object to the phrase “so help me God.” The Asylum Officer must adapt the oath to accommodate the applicant, ensuring that the applicant understands that he or she is promising, under the law, to tell the truth.

The applicant must also sign a statement acknowledging that he or she swears or affirms to tell the truth and understands the penalties for misrepresentation. The applicant should not be made to sign the form without a brief explanation of the significance of the oath and the acknowledgement of the penalties for misrepresentation.

The interpreter must sign a statement (interpreter’s oath), which puts the interpreter under oath. At the Asylum Officer’s discretion, he or she may administer the oath to the interpreter in addition to having him or her sign the interpreter’s oath.

The interpreter monitor must also be placed under oath. The oath given to the interpreter monitor should be translated for the applicant by the applicant’s

interpreter.

- **Oaths if you suspect a national security risk**

If you have identified an individual who may be a national security risk, you must use Q&A format and take his or her testimony as a sworn statement [see RAIO Training module, *Interviewing – Note Taking*; AOBTC Lesson Plan, *Mandatory Bars to Asylum and Discretion*].



**SUPPLEMENT C – INTERNATIONAL OPERATIONS DIVISION**

The following information is specific to the International Operations Division. Information in each text box contains division-specific procedures and guidelines related to the section from the Training Module referenced in the subheading of the supplement text box.

**REQUIRED READING**

None

**ADDITIONAL RESOURCES**

None

**SUPPLEMENTS**

**IO Supplement - Pre-Interview Preparation**

The following are examples of tools used in the interview process:

- [Revised NCTC Check Requirements for Visas 92/93](#)
- [Naturalization NQP5 Checklists](#)