



MEMORANDUM

Date: May 20, 2019

To: The Honorable Chairman and Members
Pima County Board of Supervisors

From: C.H. Huckelberry
County Administrator

A handwritten signature in black ink, appearing to be "CHH", is written over the printed name "C.H. Huckelberry".

Re: **Asylum Seeker Process**

The recent increase in asylum seekers being released in Pima County has contemporaneously increased the discussion within the community about issues of migration. The current surge is from the release of asylum seekers, which are from time to time confused with those who might have crossed the border illegally. An explanation of asylum seekers and the process through which they gain legal access to the United States is attached.

CHH/ mp

c: Jan Leshar, Chief Deputy County Administrator

Asylum Seeker Process

What Is Asylum?

Asylum is a protection granted to foreign nationals already in the United States or at the border who meet the international law definition of a “refugee.” The United Nations 1951 Convention and 1967 Protocol define a refugee as a person who is unable or unwilling to return to his or her home country, and cannot obtain protection in that country, due to past persecution or a well-founded fear of being persecuted in the future “on account of race, religion, nationality, membership in a particular social group, or political opinion.”

The Federal Players

There are three federal agencies, all of which are components of the Department of Homeland Security (DHS). When DHS was created in 2002, it replaced the Immigration and Naturalization Service, with three components within the DHS:

- Customs and Border Protections (CBP), which provides inspection functions at all Ports of Entry and the U.S. Border Patrol;
- Immigration and Customs Enforcement (ICE), which is responsible for immigration law enforcement including detention and removal, intelligence and investigations; and
- U.S. Citizen and Immigration Services (USCIS), which reviews and adjudicates citizenship processes.

What Is the Asylum Application Process?

There are two primary ways in which a person may apply for asylum in the United States: the affirmative process and the defensive process. Asylum seekers who arrive at a U.S. port of entry or enter the United States without inspection generally must apply through the defensive asylum process. Both processes require the asylum seeker to be physically present in the United States.

Affirmative Asylum: A person who is not in removal proceedings may affirmatively apply for asylum through USCIS. If the USCIS asylum officer does not grant the asylum application and the applicant does not have a lawful immigration status, he or she is referred to the immigration court for removal proceedings, where he or she may renew the request for asylum through the defensive process and appear before an immigration judge.

Defensive Asylum: A person who is in removal proceedings may apply for asylum defensively by filing the application with an immigration judge at the Executive Office for Immigration Review (EOIR) in the Department of Justice. In other words, asylum is applied for “as a defense against removal from the U.S.” Unlike the criminal court system, EOIR does not provide appointed counsel for individuals in immigration court, even if they are unable to retain an attorney on their own.

With or without counsel, an asylum seeker has the burden of proving that he or she meets the definition of a refugee. Asylum seekers often provide substantial evidence throughout the affirmative and defensive processes demonstrating either past persecution or that they have a “well-founded fear” of future persecution in their home country. However, the individual’s own testimony is usually critical to his or her asylum determination.

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Certain factors bar individuals from asylum. With limited exceptions, individuals who fail to apply for asylum within one year of entering the United States will be barred from receiving asylum. Similarly, applicants who are found to pose a danger to the United States are barred from asylum.

What happens when an Asylum Seeker enters the United States?

An individual who indicates a “well-rounded” or credible fear of persecution in their home countries surrenders to a CBP officer, generally at a Point of Entry (POE). The Immigration Reform and Immigrant Responsibility Act requires that all individuals seeking asylum at POEs be detained.

When an asylum seeker surrenders, he or she is initially detained in a holding facility by CBP. An individual expressing fear of return is transferred from CBP custody to ICE. Due to capacity issues that have resulted from the recent surge in asylum seekers, ICE releases individuals in the local community. The asylum seekers who have been released in Tucson have been assessed for potential release on parole and, part of that assessment process, identification has been verified, it has been determined that the individual does not pose a flight risk or danger to the community and has an identified sponsor in the United States, which is the final destination of the asylum seeker.

What happens in Pima County?

Once asylum seekers are processed, they are released into the community in hopes of reconnecting with their families and/or friends (also know as “sponsors”). It appears that the process for release entails ICE/Border Patrol contacting Catholic Community Services (CCS) to notify of the release (mostly with only an hour in advance). CCS than arranges transportation for pickup of asylum seekers usually at the parking lot of the Greyhound station. ICE/Border Patrol insists on using this location for drop off due to security of their border patrol agents.

Once CCS picks up asylum seekers, they are transported to the Monastery for registration and /or to transport to another shelter location, as needed or available. Asylum seekers also go through an intake process and sponsors (family/friends) are contacted via phone call to update them of the asylum seekers current location and to request travel confirmation.

Monastery/shelter offers food, shower, cots and other basic items as available. Once the travel tickets are purchased by sponsors they will notify the shelters. The shelters will make the necessary transportation arrangements to make sure all asylum seekers are at the Greyhound station or airport with enough time in advance to get in their bus or airplane to their sponsors destination.

When, Why and How are other Facilities Activated in Pima County?

A surge in individuals seeking asylum in the United States is occurring. February alone saw 76,103 at southern border, more than double same month a year ago. The majority of these asylum seekers are parents with children from Central America. As CBP holding facilities reach capacity, individuals are transported to the Tucson Sector at the discretion of CBP.

The best estimate of the number of asylum seekers transiting through Pima County between January and May 13 2019 is that 7,621 individuals released by ICE to community

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partners. CBP releases are not typically scheduled and coordinated with community partners nor are they reported to the County. Our estimate is that during this period another 600 to 700 individuals were turned over by CBP into the community. The daily number of individuals arriving in the community jumped dramatically and surged beginning on April 9 as Easter approached. Shelter capacity by community partners was exceeded bed capacity for Catholic Community Services and the Monastery in particular. Concurrently the Tucson Sector CBP provided notice of the imminent street release of migrants in transit further exacerbated an already challenging situation. The City of Tucson activated a temporary shelter at the El Pueblo Neighborhood Center and Pima County housed asylum seekers at the Kino Events Center.

Pima County staff were enlisted to staff the "pop-up-shelter" facility on April 19. Health Department were responsible for shelter intake, feeding, local ground transportation, providing acute health needs, and coordination of travel logistics to get migrants to their final destination. The Juvenile Detention Center Kitchen provided meals for shelter guests. The Stadium District provided security staff, Parks & Natural Resources provided vans for ground transportation. OEM provided overall coordination of the response. In total 213 individuals were served they the facility during the 6 days it was operational.

What ultimately happens to the individuals seeking asylum?

USCIS is charged with processing immigrant visa petitions, naturalization applications, asylum applications, applications for adjustment of status (green cards), and refugee applications. It also makes adjudicative decisions performed at the service centers, and manages all other immigration benefits functions (i.e., not immigration enforcement) performed by the former INS. Other responsibilities of the USCIS include:

- Administration of immigration services and benefits
- Issuing employment authorization documents (EAD)
- Adjudicating petitions for non-immigrant temporary workers (H-1B, O-1, etc.)

Individuals seeking asylum submit Form I-589, Application for Asylum and for Withholding of Removal, within one year of arriving in the US. The individuals then go through fingerprinting, background and security checks, and are interviewed. Asylum Officers, Supervisory Asylum Officers and then USCIS personnel determine if asylum should be granted. Individuals are assigned to one of ten Asylum Offices or Sub-Offices throughout the U.S., depending on where they are residing with their sponsor. These are:

- Arlington
- Boston
- Chicago
- Houston
- Los Angeles
- Miami
- New Orleans
- New York
- Newark
- San Francisco

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How long does the Asylum Process Take?

The length can vary, but typically it takes between six months and several years.

Where do Asylum Seekers come from?

In 2016 the top ten countries whose citizens were granted asylum in the US are:

1. China (36% of all asylum grants in 2016)
2. El Salvador
3. Guatemala
4. Honduras
5. Mexico
6. India
7. Nepal
8. Ethiopia
9. Somalia
10. Eritrea

In early 2018, Venezuela moved into the #1 spot.

1. Venezuela
2. China
3. Guatemala
4. El Salvador
5. Mexico
6. Honduras
7. India
8. Nigeria
9. Haiti
10. Columbia

In the first months of 2019 approximately 90% of those seeking asylum are from Guatemala.

Sources:

Asylum in the United States (May 14, 2018):

<https://www.americanimmigrationcouncil.org/research/asylum-united-states>

Obtaining Asylum in the United States: <https://www.uscis.gov/humanitarian/refugees-asylum/asylum/obtaining-asylum-united-states>

Related articles:

For thousands of asylum seekers, all they can do is wait (May 9, 2019):

https://apnews.com/ed788f5b4269407381d79e588b6c1dc2?fbclid=IwAR2ORYT-GcOKjK9i5hs4LiknTZPmOiJ1E0eaJ7rP_PMNyMIXhvHWY5mRS5Q