

# PLAINTIFF'S EXHIBIT E

## Request regarding COW2019500947

Emma Bond <ebond@aclumaine.org>

Tue 8/11/2020 2:54 PM

To: FOIAPAQuestions@uscis.dhs.gov <FOIAPAQuestions@uscis.dhs.gov>

Cc: Zach Heiden <heiden@aclumaine.org>

📎 1 attachments (177 KB)

USCIS Boston and Newark FOIA.pdf;

Dear Ms. Eggleston,

We write regarding a Freedom of Information Act (FOIA) request filed more than a year ago, on July 12, 2019, regarding information pertaining to approvals, referrals, and denials of affirmative asylum cases arising out of the Newark Asylum Office and the Boston Asylum Sub-Office. The control number assigned to this request is COW2019500947, and the original request is attached. According to the U.S. Citizenship and Immigration Services (USCIS) website, this FOIA request remains in the infancy of review; the records have been requested from the relevant agency, but no files have been received, processed, or produced. The estimated completion date provided on the website--January 16, 2020--expired more than six months ago. And despite the obligation to state within 20 days whether the agency will comply with the request, 5 U.S.C. § 552(a)(4)(6), USCIS has not provided a response stating whether it will comply with the request by providing the requested records. As discussed below, the COVID-19 pandemic has made the information requested more important than ever. Accordingly, we respectfully request that USCIS respond by August 17, 2020, with a plan for immediate production of the requested records. To facilitate this process, below are the priority areas of the FOIA request that are particularly urgent. Please note that, despite providing these areas for priority review and production, we continue to assert the right to all information requested in the July 12, 2019 FOIA request. Please feel free to contact me with any questions. **If we do not hear from you by August 17, 2020, we will interpret the silence as a denial of this request.**

As an initial matter, the requested records are more urgent now than ever. Available data shows that the asylum approval rates in the Boston Asylum Sub-Office are consistently far lower than the national average. Yet USCIS has failed to provide requested public records that are necessary for the public--and asylum applicants--to understand the policies, procedures, and objectives that have led to these results. Even under the best of circumstances, denial of asylum from the Boston Asylum Sub-Office relegates asylum seekers to lengthy litigation before immigration courts, which delays work permits and family reunification. Such delay is on top of the new 365-day waiting period to submit requests for work authorization and onerous rules regarding so-called "applicant-caused delay." *See* Asylum Application, Interview, and Employment Authorization for Applicants, 85 Fed. Reg. 38532 (Dep't Homeland Sec., June 26, 2020) (final rule); *see also* 8 C.F.R. § 208.7 (eff. Aug. 25, 2020). The challenges associated with such delay are even greater during the COVID-19 pandemic, which has hit immigrant communities particularly hard. The pandemic has also slowed down proceedings in immigration court, leading to

even longer delays before people can get authorization to work, and can reunite with loved ones. For the many people who will be granted asylum in immigration court--yet were denied by the Boston Asylum Sub-Office--these are lost years for no good reason. Asylum seekers and the public need information to understand the policies, practices, reasoning, and training that have led to these results.

To expedite responsive records, we have identified a number of priority areas for immediate production. As a general matter, although we continue to request information regarding the Newark Office from 2010 to the present, the priority focus is on records from the Boston Asylum Sub-Office created on or after January 1, 2015. Specifically, the following items are the top priority:

- Request A(b):
  - **A(b)** Records regarding Supervisory Asylum Officers' returns and adjudicator logs underlying affirmative asylum denials, referrals, approvals, notices of intent to deny, and assessments to approve, deny, or refer from the Boston Asylum Sub-Office since January 1, 2015, including assessments and reasonings regarding why returns were given and/or the reasons behind the resulting referrals and denials.
- Requests B(a), (b):
  - **(B)** Requesters seek Records received, maintained, or created by any governmental agency or subdivision, as well as Records related to procedures, policies, or objectives from the Boston Asylum Sub-Office, including documents created on or after January 1, 2015, including: **(a) Overview Documents:** Any and all Records referencing, discussing, detailing, explaining, or otherwise addressing the purposes, goals, objectives, responsibilities, implementation, and deployment strategy of the Boston or Newark Asylum Office's policies, procedures, and objectives regarding the affirmative asylum process, **(b) Approval Notices, Referral Notices, Notices of Intent to Deny, and Denial Notices:** Any and all Records regarding approval, denial (including notices of intent to deny), and referral notices that include the reasoning behind and communications regarding the approvals, referrals, denials, decisions, notices of intent to deny, and assessments to approve, deny, or refer, including redacted letters sent to affirmative asylum seekers, notices of intent to deny, internal and external emails and other Records regarding approval, denial, or referral notices and decisions, and any and all other Records addressing the approval, denial and referral decisions of affirmative asylum cases, including those Records between Supervisory Asylum Officers and Asylum Officers, excluding confidential information from individual Alien files.\*\*
- Requests B(c)(i), (ii), (iii), and (iv):
  - **B(c) Boston and Newark Asylum Offices' Policies and Procedures:** Any and all Records related to policies and procedures governing the decisionmaking processes regarding affirmative asylum claims made by the Boston or Newark Asylum Offices. This includes, but is not limited to: **(i)** Any and all Records containing policies, objectives, or procedures governing granted, denied or referred affirmative asylum cases within the Boston Asylum Office; **(ii)** Any and all Records containing standard notices, decisions, or computer screen shots generated in response to the ultimate decision rendered, excluding confidential information from individual Alien files.\*\* **(iii)** Any and all Records pertaining to employee performance-based assessments, including the criteria, rubric, policies, procedures, data, objectives, expectations, and any and all other similar matters pertaining to employee performance review, excluding confidential employee information; **(iv)** Any and all Records pertaining to the number of cases the Asylum Officer's recommendation was changed (or where a different outcome was suggested) by the Supervisory Asylum Officer, broken down by country of origin, Asylum Officer, Supervisory Asylum Officer, and state of residence of the applicant, excluding confidential employee and Alien file information.\*\*

- Request B(d):
  - **B(d) Training or Explanatory Materials\***: Any and all Records containing training, briefing, guidance, procedures, rules, or other informational materials developed internally or externally pertaining to the job training, responsibilities, guidance, and rules for all employees at the Boston Asylum Office, including, but not limited to: i. Any and all Records containing required training, policies, procedures, and expectations relating to anti-bias and sensitivity training for employees working with trauma survivors; ii. Any and all Records related to evaluating, compiling, reviewing, or discussing the Boston Asylum Office's racial or antiracial profiling policies and procedures.

Additionally, the following items are the next highest priority:

- Request A(c):
  - **A(c)** Records regarding communications related to referrals, denials, approvals, notices of intent to deny, and assessments to approve, deny, or refer from the Boston Asylum Sub-Office since January 1, 2015.
- Request B(c)(v), and B(c)(vi)
  - **B(c)(v)**: Any and all Records regarding the number of instances Asylum Officers have been penalized for Supervisory Officer returns of cases to the Asylum Officers and policies and directives behind such penalties given, excluding confidential employee information;
  - **B(c)(vi)**: Any and all Records related to training\* or education regarding the assessment of the credibility of claims, the detection of fraud, and the Boston and Newark Asylum Offices' policies and procedures regarding decisions rendered on credibility grounds in affirmative asylum cases.
- Request B(f)(iii)
  - **B(f)(iii)**: Any and all Records showing changes in policies pertaining to employee caseloads, the average time employees have to review and adjudicate a specific case, directives or policies regarding the amount of time dedicated toward the assessment of a single case, average time recommended for the Asylum Officer to conduct affirmative asylum interviews, time constraints pertaining to case review, and any and all other information pertaining to the workload of Asylum Officers and Supervisory Asylum Officers, since January 2010.

\*Although training and educational materials may include those issued from the Refugee, Asylum and International Operations Directorate (RAOI), the FOIA response must include *any and all* training and educational materials, including, but not limited to, materials created in the Boston Asylum Sub-Office.

\*\*To the extent redaction is required to remove confidential information from individual Alien files, please continue to incorporate information regarding the applicants' State of residence, which should be sufficiently general to ensure anonymity.

Please note that we continue to request all remaining items listed in the original request, and have provided these priority areas simply to expedite the request. Please let us know as soon as possible the immediate steps that USCIS will take to ensure speedy and prompt production of the requested records. If we do not hear from you by **August 17, 2020**, we will interpret the silence as a denial of the request and proceed accordingly.

Please feel free to contact me with any questions. Thank you in advance for your assistance.

Sincerely,  
Emma

**Emma Bond**

*pronouns: she/her/hers*

Legal Director

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