

(b) (7)(E)



**U.S. Customs and
Border Protection**

JUN 09 2021

MEMORANDUM FOR: All Chief Patrol Agents
All Directorate Chiefs
(b) (6)

FROM: Manuel Padilla, Jr.
Chief, Law Enforcement Operations Directorate
U.S. Border Patrol

SUBJECT: Referring and Documenting "Credible Fear" Claims in Expedited
Removal

This memorandum serves as a reminder that U.S. Border Patrol (USBP) personnel must refer individuals in custody who are processed for expedited removal and who claim a fear of persecution, torture, or express an intent to apply for asylum to an asylum officer for a credible fear interview. Border Patrol Agents (BPAs) should document in e3 any claim of fear made by an individual in custody at any time, even if the individual is not required to be referred to an asylum officer (e.g., was processed for proceedings under Section 240 of the Immigration and Nationality Act).

Referrals to an Asylum Officer: If a subject processed for expedited removal claims a fear of persecution, torture, or expresses an intent to apply for asylum at any time in USBP custody (e.g., apprehension, transport, processing, etc.), BPAs must refer the subject to an asylum officer for an interview.

- Do not ask detailed questions about the nature of the subject's claim; and
- Do not evaluate the merits of the claim or make credibility determinations.

Documenting in e3: There are several places to record fear claims in e3 for expedited removal:

- The narrative portion of Form I-213, Record of Deportable Alien
- The "claim fear" button in e3 (b) (7)(E) (see Image 1); and
- The questions on the I-867A/B, Record of Sworn Statement, *must* be asked, and the answers documented (regardless of whether the individual expresses fear upon apprehension or whether the individual indicates they do not wish to answer any questions) (see Image 2).

In addition, the following forms must be completed:

- Form I-860, *Notice and Order of Expedited Removal*;
- Form I-867A, *Record of Sworn Statement in Proceedings under Section 235(b)(1) of the Act*; Form I-867B, *Jurat for Record of Sworn Statement in Proceedings under Section 235(b)(1) of the Act* (see Image 2);

- Form I-847 *Modified Orantes Advisal (El Salvadorans)*;
- Form M-444, *Information About Credible Fear Interview*; and
- Form I-770, *Notice of Rights and Request for Disposition* (for juveniles processed for Expedited Removal as part of a family unit).

Please disseminate this memorandum to all USBP personnel. Staff may direct questions to the Strategic Planning and Analysis Directorate, Policy and Compliance Division at:

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¹ Also see Acting Chief Carla L. Provost’s August 21, 2017, *Processing Reminder for Claims of Fear* memorandum; Chief Michael J. Fisher’s September 30, 2015, *Clarification of Processing Procedures for credible Fear* memorandum, and Chief Michael J. Fisher’s November 26, 2014 *Muster Module about Credible Fear Determination*.