

OBP (b) (7)(E)



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

NOV 26 2014

MEMORANDUM FOR: All Chief Patrol  
All Division E (b) (6)

FROM: Michael J. Fish  
Chief  
U.S. Border Patrol

SUBJECT: Muster Module about Credible Fear Determination

The Expedited Removal (ER) process allows for the removal of certain aliens without an immigration hearing unless the alien indicates an intention to apply for asylum, expresses a fear of persecution, fear of torture, or a fear of return. It is important to maintain the integrity of the ER process by ensuring that the required questions are being asked and that detainees are being provided with the appropriate avenue to make claims pertaining to Credible Fear.

Each attached Muster Module addresses Credible Fear Determination – the first is general in nature, and the second focuses on Unaccompanied Alien Children (UAC). These documents have been developed to remind U.S. Border Patrol agents of their responsibility to ask credible fear questions during processing, as well as at the time of arrest using Form I-286, *Notice of Rights and Request for Disposition*.

Please ensure that each Muster Module is briefed at muster and displayed in a prominent location that will allow viewing by all agents. As an additional means of communicating this topic to agents, I encourage each sector to adapt the material into slides for use in the sector Information Display System.

Staff may direct questions to Assistant Chief (b) (6), (b) (7)(C) in the Operational Programs, Specialty Programs, and Planning Branch within the Operations Division at U.S. Border Patrol Headquarters, (b) (6), (b) (7)(C)

Attachments



# MUSTER MODULE



## CREDIBLE FEAR DETERMINATION

United States Border Patrol

September 2014 / 001

### What is Credible Fear?

*"Credible fear of persecution" is defined in Section 235(b)(1)(B)(v) of the INA as: "a significant possibility, taking into account the credibility of the statements made by the alien in support of his or her claim and such other facts as are known to the officer, that the alien could establish eligibility for asylum under Section 208 [of the INA]."*

*"Credible fear of torture" is defined as: a significant possibility that an alien is eligible for withholding of removal or deferral of removal under the Convention Against Torture.*

### Notice of Rights and Request for Disposition, Form I-826:

Upon apprehension agents are reminded that per Form I-826 each alien must:

- be advised of his/her rights, and
- be asked the Request for Disposition questions with the appropriate box selected and respondent initials recorded

*An individual will be found to have a credible fear of persecution if he/she establishes that there is a "significant possibility" that he/she could establish in a full hearing before an Immigration Judge that he/she has been persecuted or has a well-founded fear of persecution or harm on account of his/her race, religion, nationality, membership in a particular social group, or political opinion if returned to his/ her country*

### Expedited Removal (ER) Process and Credible Fear Determination:

The ER process allows for the removal of certain aliens without an immigration hearing unless the alien indicates an intention to apply for asylum, expresses a fear of persecution, a fear of torture, or a fear of return.

During ER processing it is incumbent on all agents to ask and complete the questions on the Jurat for Record of Sworn Statement in Proceedings under Section 235(b)(1) of the Act, Form I-867B and document the responses in the fields provided. These questions should be utilized to establish a dialogue whereby an alien can indicate his/her credible fear. In the event that an alien makes a credible fear claim agents should select the available box within e3 processing and complete the Information about Credible Fear Interview Form M-444.



# MUSTER MODULE



## CREDIBLE FEAR DETERMINATION

United States Border Patrol

September 2014 / 002

### Unaccompanied Alien Children (UAC):

Agents are reminded that all UAC must be screened for possible victimization using CBP Form 93. CBP Form 93 includes four specific questions related to determining if a UAC may have a credible fear claim. The four questions must be asked in their entirety and the answers must be documented.

The questions are:

1. (b)
2. (7)
3. (E)
- 4.

*The credible fear process is designed to offer protection to aliens fleeing persecution from their country's government or from their government's inability to protect them.*

### UAC Questioning:

Agents are not limited to asking only those questions on CBP Form 93. The provided questions are intended to establish a dialogue with the UAC that may allow agents to gather additional information to assist in their determination.

When asking additional questions or conversing with a UAC, agents should be cognizant of the inherent vulnerabilities that UAC have and take extra care to make sure that they do not dissuade the UAC from answering or influence the UAC to change his/her answers.

Additionally, agents should be aware of how their body language and demeanor is being perceived and refrain from using any gestures or body language that may be construed by the UAC as intimidating or threatening.