



## U.S. Citizenship and Immigration Services

# Questions & Answers: Credible Fear Screening

## Individuals Seeking Asylum

If you are in expedited removal proceedings and found to have a credible fear of persecution or torture, you may seek asylum before an Immigration Judge (IJ). (See definition for Credible Fear in the [Glossary](#) page)

If the asylum officer does not find that you have a credible fear of persecution or torture, you may request that an IJ review that determination. If you do not request review by the IJ or the IJ agrees with the determination, Immigration and Customs Enforcement (ICE) may remove you from the United States.

For more information, see the [Obtaining Asylum in the United States](#) page.

### **Q. Under What Circumstances Do Asylum Officers Conduct Credible Fear Interviews?**

A. Asylum officers conduct interviews when you are subject to expedited removal and you tell Customs and Border Protection (CBP):

- You wish to apply for asylum
- You fear persecution or torture
- You fear returning to your country

If you say you fear return, CBP detains you and provides you information about the credible fear process.

After you are detained, you will be given:

- An orientation to the credible fear process
- A list free or low cost legal service providers
- At least 48 hours after your arrival at the detention site before taking part in the interview
- The opportunity to waive the waiting period.

If you are arriving from Canada, we will decide if you must seek protection in Canada instead of the United States. More information about this process can be found in the [U.S. - Canada Safe Third Country Agreement \(PDF, 76 KB\)](#).

### **Q. What is a Credible Fear of Persecution?**

A. A “significant possibility” that you can establish in a hearing before an Immigration Judge that you have been persecuted or have a well-founded fear of persecution on account of your race, religion, nationality, membership in a particular social group, or political opinion if returned to your country.

### **Q. What Is a Credible Fear of Torture?**

A. A “significant possibility” that you can establish in a hearing before an Immigration Judge that you would be subject to torture if returned to your country (see definition of Torture in the [Glossary](#) page).

### **Q. Are There Any Mandatory Bars to Establishing a Credible Fear of Persecution or Torture?**

A. No. There are no mandatory bars to establishing a credible fear or persecution or torture. However, there are mandatory bars to asylum or withholding of removal. The asylum officer does not make a final decision whether you are subject to a mandatory bar to asylum or withholding of removal. The asylum officer will note in their credible fear decision that a mandatory bar to asylum or withholding of removal may apply in immigration proceedings.

You may not be granted asylum or withholding of removal if:

- You have persecuted others on account of race, religion, nationality, membership in a particular social group, or political opinion
- You have been convicted of a particularly serious crime
- There are serious reasons for believing you committed a serious nonpolitical crime outside the United States
- You have engaged in terrorist activity, are likely to engage in terrorist activity, have incited terrorist activity, or are a member or representative of a terrorist organization
- You were firmly resettled
- There are reasonable grounds to believe that you are a danger to the security of the United States

See Sections 208(b)(2)(A) and 241(b)(3)(B) of the Immigration and Nationality Act (INA) and 8 CFR 208.16(d). If a mandatory bar applies, but you establish that you will be tortured in the country of return, the Immigration Judge will grant you deferral of removal. See 8 CFR 208.17.

**Q. What Will Happen if the Asylum Officer Finds I Have a Credible Fear?**

A. If the asylum officer finds you have a credible fear of persecution or torture, the asylum officer will refer your case to an Immigration Judge for a full hearing on your claim.

**Q. What Will Happen Before the Immigration Judge?**

A. You may apply for asylum and withholding of removal before the Immigration Judge. The burden of proof is on you to establish that you are eligible for asylum or other protection in the United States.

The Immigration Judge will consider whether you are barred from a grant of asylum or withholding of removal. If a bar applies, but you established that you would be tortured in the country of return, the Immigration Judge will grant deferral of removal.

**Q. What Will Happen if the Asylum Officer Does Not Find a Credible Fear?**

A. If the Asylum Officer finds you do not have a credible fear of persecution or torture, you can request review by an Immigration Judge (IJ). If you do not request a review of the determination, Immigration and Customs Enforcement (ICE) will remove you from the United States.

Generally, there is no review of the IJ's determination that you do not have a credible fear of persecution or torture. For more information, see the [Obtaining Asylum in the United States](#) page.

Last Reviewed/Updated: 07/15/2015