

EXHIBIT 27

~~FILED UNDER SEAL~~

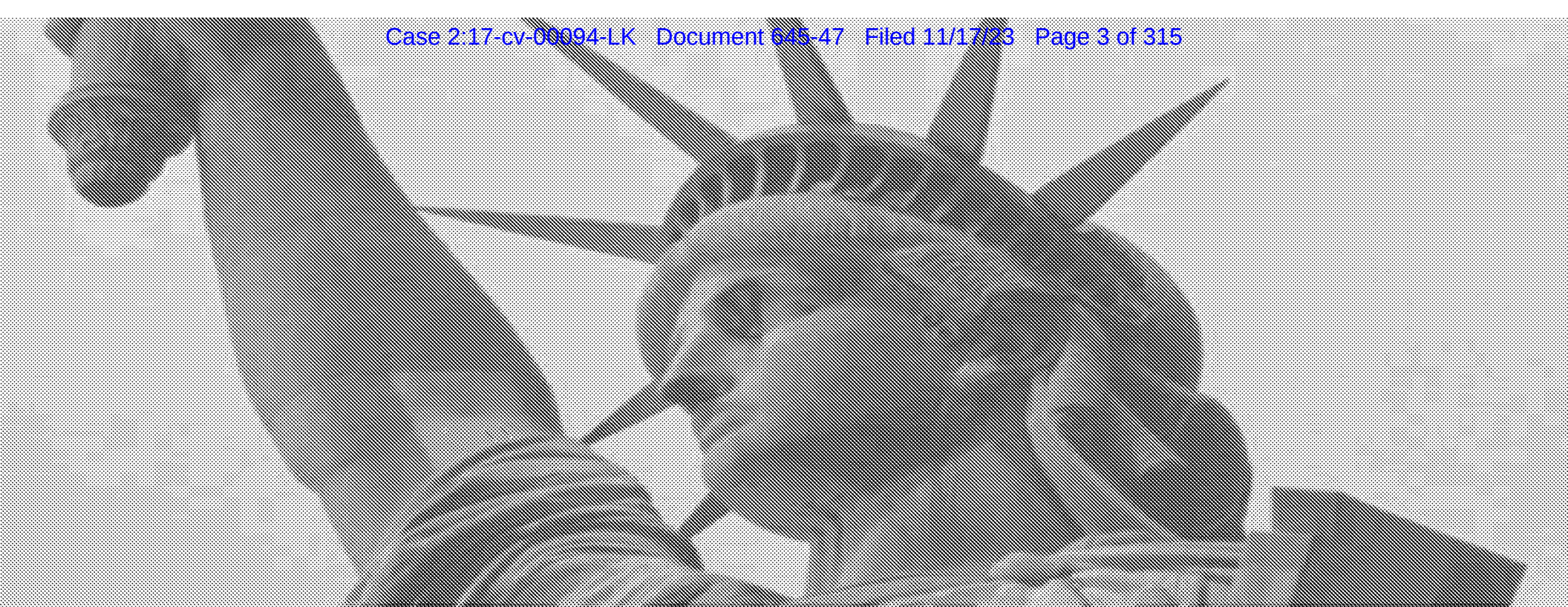
Controlled Application Review & Resolution Process (CARRP)

Adjudicator Training



U.S. Citizenship
and Immigration
Services

Version 1.0

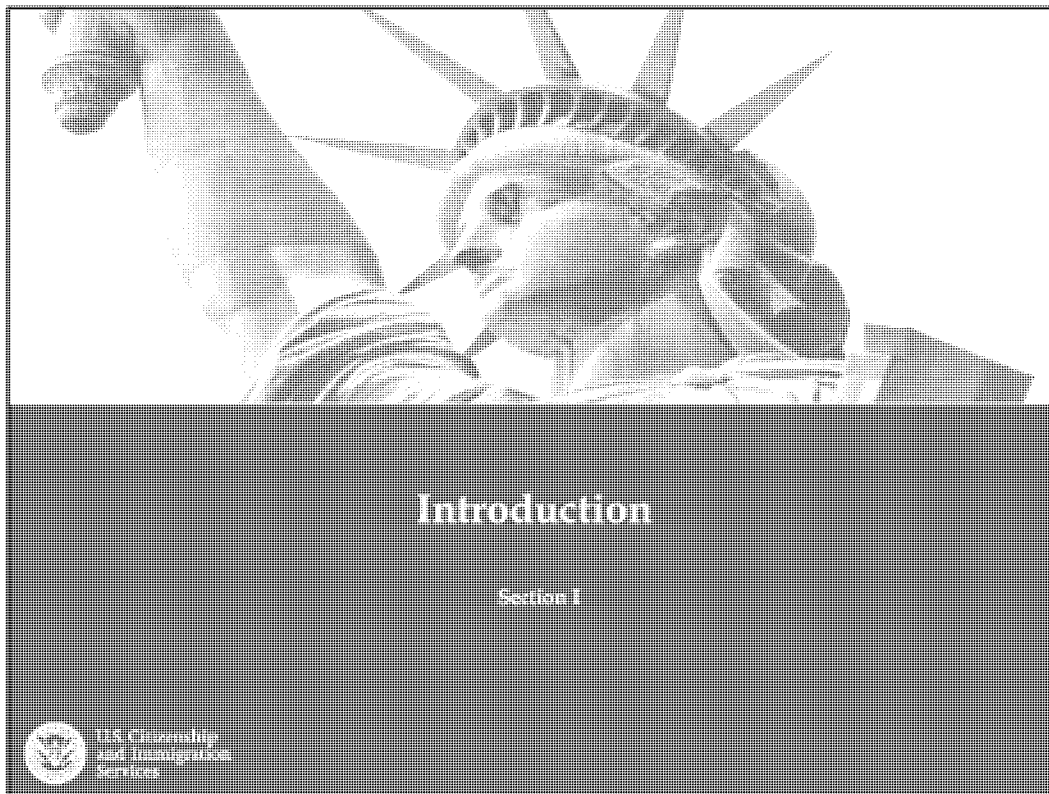


Introduction

Section I



U.S. Citizenship
and Immigration
Services



SYLLABUS

COURSE TITLE: CARRP Adjudicator Training

COURSE NUMBER:

COURSE DATE:

LENGTH AND METHOD OF PRESENTATION:

Lecture Lab P.E. Total Program: 12hrs

Practical Exercises: 4hrs

Total: 16 hrs



U.S. Citizenship
and Immigration
Services


Welcome to CARRP Training

- **Welcome**
- **Participation Rules**
 - Please Silence Mobile Phones
 - Complete Exercises
 - Return from breaks on time
 - Engage!



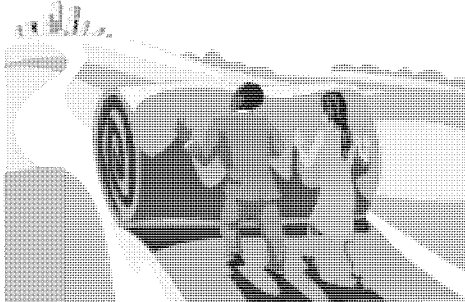
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Participation Rules

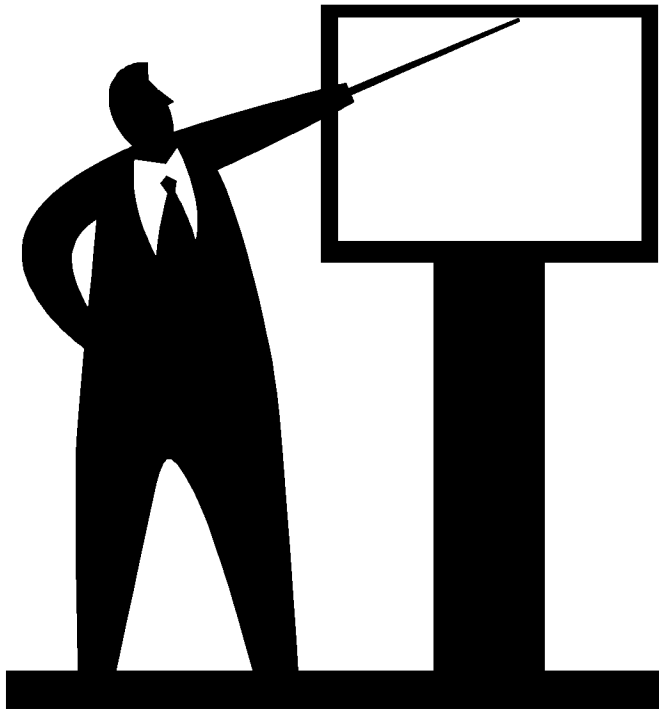
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Complete Exercises

Return from breaks on time



How We Will Teach This Course



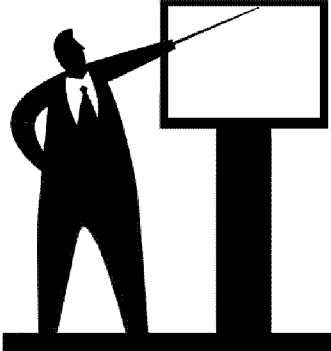
- Presentations/Class Discussions
- Handouts
- Practical Exercises

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How We Will Teach This Course



- Presentations/Class Discussions
- Handouts
- Practical Exercises

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How we will teach the course

Presentations

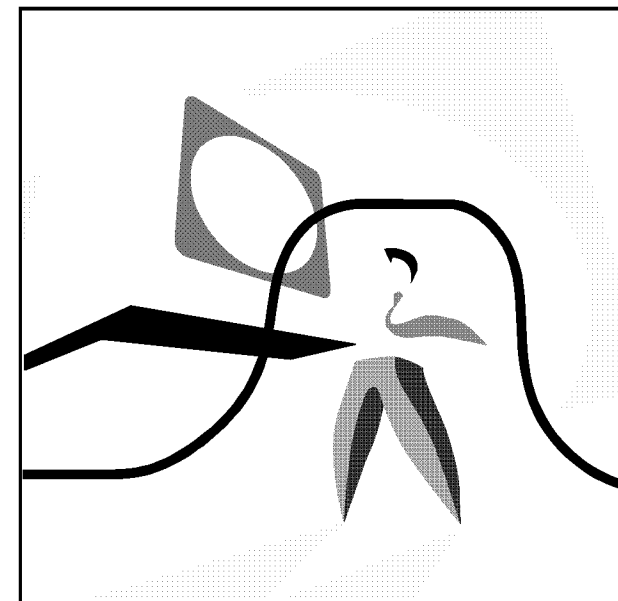
Handouts

Class Discussions




Your Role As a Participant in This Training

- Focus on how you do your job
- Work actively through the exercises
- Relate what you learn back to your work
- Document your work in the Fraud Detection and National Security Data System (FDNS-DS)
- Ask for help



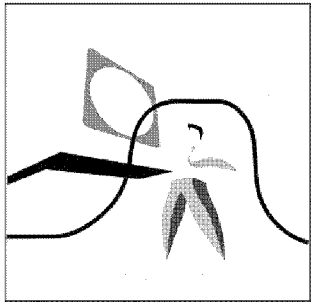
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Role of participants

Focus on how you do your job

Document your work in FDNS-DS

Work actively through the exercises

Relate what you learn back to your work

Ask for help




CARRP Training Outline

- **Section One – Welcome**
 - Overview
 - TPO and EPOs
 - HQFDNS
 - Controlled Application Review and Resolution Process (CARRP)
- **Section Two – Terms of Reference**
- **Section Three – CARRP Policy Overview**
 - Definitions and terms of reference
 - HQ's Responsibility
- **Section Four – Attachment A And Indicators**
- **Section Five – Background Check and Adjudicative Assessment Worksheet**

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Outline

Section One – Welcome

Overview

TPO and EPO's

HQFDNS

CARRP

Section Two – CARRP Policy Overview

Definitions and terms of reference

HQ's Responsibility

Section Three – Terms of Reference

Section Four – Attachment A

Section Five – Background Check and Adjudicative Assessment Worksheet




CARRP Training Outline (cont'd)

- **Section Six – Request for Assistance**
 - How to Seek Help from HQFDNS
 - When to Request Assistance
 - Declassification of Information
- **Section Seven – Systems Checks and Resources**
- **Section Eight – Use of Classified Information**
 - Policy for Use
 - Sharing Classified Information
 - Safeguarding Classified Information
- **Section Nine – Adjudicating a Case**
 - Case Review
 - Developing Lines of Inquiry
 - Identify Unclassified Grounds for Denial

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Section Six – Request for Assistance

How to Seek Help from HQFDNS

When to request Assistance

Declassification of Information

Section Seven – Systems Checks and Resources

Section Eight – Use of Classified Information

Policy for Use

Sharing Classified Information

Safeguarding Classified Information

Section Nine – Adjudicating a Case

Case Review

Developing Lines of Inquiry

Identify Unclassified Ground for Denial




- **Section Ten – Litigation Strategies and Landmines**
 - Pressure for Decisions
 - Coordination with Counsel
 - Information Sharing
- **Section Eleven – Requirements for Specific Programs**
 - N-400
 - Adjustment of Status
 - Asylum and Refugee Adjustment of Status
- **Section Twelve – Practical Exercises**
- **Section Thirteen – Conclusion**




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Section Ten – Litigation Strategies and Landmines

Pressure for Decisions

Coordination with Counsel

Information Sharing

Section Eleven – Requirements for Specific Programs

N-400

Adjustment of Status

Asylum and Refugee Adjustment of Status

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CARRP Training Objectives


At the end of CARRP Training you will be able to:

TERMINAL PERFORMANCE OBJECTIVE (TPO):

Given a field situation involving the adjudication of an application or petition, the Adjudications Officer will be able to specify criteria on how a national security (NS) concern is identified, processed and adjudicated. The Adjudications Officer will be able to identify the authorities involved in national security concerns and the procedures for requesting assistance.

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DESCRIPTION:

Discuss national security concerns and the adjudication process. Provide guidance on the process of the adjudication of CARRP national security cases.

TERMINAL PERFORMANCE OBJECTIVE (TPO):

Given a field situation involving the adjudication of an application or petition, the Adjudications Officer will be able to specify criteria on how a national security (NS) concern is identified, processed and adjudicated. The Adjudications Officer will be able to identify the authorities involved in national security concerns and the procedures for requesting assistance.



CARRP Training Objectives

At the end of CARRP Training you will be able to:

- **Enabling Performance Objectives (EPOs)**


- **EPO #1:** Identify the changes to processes and authorities under the CARRP Policy.

- **EPO #2:** Identify relevant terms of reference relating to cases involving national security concerns.

- **EPO #3:** Identify factors that may indicate a National Security concern.

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EPO #3: Identify factors that may indicate a National Security concern.



- **EPO #4:** Identify requirements relating to the processing of NS concerns.


- **EPO #5:** Identify the criteria and procedures for requesting assistance from HQ FDNS.

- **EPO #6:** Identify the guidelines used when adjudicating applications or petitions in cases involving national security concerns.

- **EPO #7:** Identify the steps involved in developing unclassified grounds for denial.

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CARRP Training Objectives (cont'd)

At the end of CARRP Training you will be able to:

- **EPO #8:** Specify the DHS guidelines concerning the use of classified information in a written decision as well as the approach that must be used in preparing the written decision.
- **EPO #9:** Identify strategies to be used for national security cases involved in litigation.
- **EPO #10:** Identify the requirements for program specific cases.

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EPO #9: Identify strategies to be used for national security cases involved in litigation.

EPO #10: Identify the requirements for program specific cases.




NS Case Process Has Evolved

- USCIS leadership has identified national security protection as the agency's primary mission
 - Security checks conducted on all applicants
 - May cause delays for applicants
 - Essential for Officers to understand the process
- CARRP
 - Authority to adjudicate KSTs lies with the field
 - Authority to adjudicate non-KSTs lies with the field
 - Supervisory concurrence required before final adjudication of cases involving NS concerns
 - Local Management concurrence required before an NS case may be approved

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USCIS leadership has identified national security protection as the agency's primary mission, and therefore these issues have become a central element in USCIS adjudications. Prior to the terrorist attacks on September 11, 2001, the legacy Immigration and Naturalization Service (INS) conducted security checks on less than one-third of applicants and beneficiaries seeking immigration benefits. Today, protecting against national security threats is a central mission for USCIS, and security checks are conducted on all applicants and beneficiaries. The security checks may reveal criminal and national security information, which is relevant to the eligibility of the applicant or beneficiary for the benefit. USCIS performs security checks on every applicant and beneficiary, regardless of race, ethnicity, national origin or religion.

These security checks requirements necessarily impact the substance and pace of the adjudications process, and result in denials based on the adverse information obtained. If any of the various security checks reveal potentially derogatory information about the applicant or beneficiary, that information may impact eligibility and must be assessed as part of the adjudication. In addition, certain individuals do not receive their documents and benefits as quickly as they might otherwise receive them, resulting in an unprecedented wave of litigation against USCIS.

It is essential for Adjudications Officers to understand the background check process, the type and format of information produced, the criteria for national security referrals, the organizational components handling that information, and the proper use of that information in the adjudications process. It is also important for Adjudicators to understand the inherent systemic and substantive complexity involved with national security-related adjudications.

USCIS continues to strive to meet its goal, ***“To deliver the right benefit to the right person at the right time, and no benefit to the wrong person.”***



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Questions?



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Terms of Reference

Section III



U.S. Citizenship
and Immigration
Services




Terms of Reference

National Security (NS) Concern

- **An individual or organization that has been determined to have an *articulable link* to prior, current or planned involvement in, or association with, an activity, individual or organization described in 212(a)(3)(A), (B), or (F), 237(a)(4)(A) or (B) of the Immigration and Nationality Act (INA). This determination requires that the case be handled in accordance with the Controlled Application Review and Resolution Program (CARRP) policy.**

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National Security (NS) Concern – When an individual or organization has been determined to have prior, current or planned involvement in or association with an activity, individual or organization described in section 212(a)(3)(A), (B) or (F) or 237(a)(4)(A)(B) of the Immigration and Nationality Act (INA). This includes but is not limited to espionage, sabotage, and engagement in, planning or gathering information for, soliciting funds for, recruiting individuals for, or providing material support for terrorist activities as defined in the statute.



Terms of Reference


Known or Suspected Terrorist (KST) hit

- **A category of individuals who have been nominated and accepted for placement in the Terrorist Screening Database (TSDB), are on the Terrorist Watch List, and have a specially coded lookout posted in the Treasury Enforcement Communications System (TECS)/Interagency Border Inspection System (IBIS) and/or the Consular Lookout Automated Support System (CLASS), as used by the Department of State.**

LE

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Known or Suspected Terrorist (KST) - Individuals in this category have been nominated and accepted for placement in the Terrorist Screening Database (TSDB), are on the Terrorist Watch List and have a specially coded lookout **LE** posted in the Interagency Border Inspection System (IBIS) or National Crime Information Center (NCIC). The FBI is required to post a KST lookout on the target of a terrorism investigation. (Gang members excluded unless a national security concern is expressed.)




Terms of Reference

Non-Known or Suspected Terrorist (Non-KST) NS Concern

- **A category of cases with NS concerns, regardless of source, including but not limited to associates of KST(s), unindicted co-conspirators, terrorist organization members, persons involved with providing material support to terrorists or terrorist organizations, and agents of foreign governments.**
- **Individuals and organizations who fall into the Non-KST grouping may also pose a serious threat to national security.**

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Non-Known or Suspected Terrorist (Non-KST) - Applicants in this group include all of the remaining NS concerns identified through the security check process and through Non-IBIS referrals where information indicates that the applicant has been/is/is likely to engage in involvement with foreign counterintelligence or terrorist organizations/activities. Included in this group among others are associates of KST, unindicted co-conspirators, terrorist organization members, persons involved with providing material support to terrorists or terrorist organizations, and agents of foreign governments.




Terms of Reference

Deconfliction

- **A term used to describe coordination between USCIS and another governmental agency owner of NS information (the record owner) to ensure that planned adjudicative activities (e.g., interview, request for evidence, site visit, decision to grant or deny a benefit, and the timing of the decision) do not compromise or impede an ongoing investigation or other record owner interest.**
 - Deconflict at any point when a decision on an application is contemplated to ensure that all activities can be coordinated.
 - Use FDNS as a connection with Law Enforcement Community.
 - Understand Law Enforcement needs for secrecy and do not divulge any information that could compromise an investigation.

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 U.S. Citizenship and Immigration Services

Terms of Reference

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Deconfliction - required coordination between USCIS and another governmental agency owner of NS information (the record owner) to ensure that: 1) planned adjudicative activities (Interview, RFE, Site Visit) do not compromise or impede an ongoing investigation or investigative interest, and 2) a decision to grant or deny a benefit or refer to the immigration court and the timing of issuance of the decision do not adversely affect an ongoing investigation.




High Side Checks

Database checks of information available on the Joint Worldwide Intelligence Communications Systems (JWICS) which may include information up to and including TOP SECRET and Sensitive Compartmented Information (SCI).

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Tear-Line

An automated or manual technique for separating an intelligence report into multiple portions separated by machine- or human-readable tearlines. A Tearline section is the area in an intelligence report or finished intelligence product where the sanitized version of a more highly classified and/or controlled report is located.

The sanitized information within the tearlines contains the substance of the more detailed information without identifying the sensitive sources or methods, allowing wider dissemination of the substantive intelligence information to authorized customers.

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Contacting Record Owners

- **Mandatory Deconfliction.**
- **Any Special Processing Preferred by Law Enforcement?**
- **Any Law Enforcement Opposition to the following?**
- **Record Owner Case Agent/Agency.**

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U.S. Citizenship and Immigration Services		Contacting Record Owners	
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22			

Mandatory Deconfliction:

Verify if there is an ongoing Law Enforcement Investigations? Verify if any LEA is conducting and investigation of Subject of interest.

Any Special Processing Preferred by Law Enforcement?

Verify with the LEA if the grant or denial of the benefit would affect their investigation. If so, verify if the LEA wants CIS to hold Subject's case in abeyance.

Any Law Enforcement Opposition to the following? Grant/Deny/Other.

Record Owner Case Agent/Agency: Provide all information of lead case agent for the Subject's case. Provide Agency, Name, of lead case agent, and all contact information, email, cellular number, office number.

MORE NOTES ON NEXT PAGE – KEEP THIS SLIDE UP!




Internal vs. External Vetting

- Internal vetting is conducted to ensure USCIS doesn't request NS information prematurely
 - Systems checks, file review, RFE, interview, site visit, etc.
 - USCIS may develop information that indicates the individual is ineligible for the benefit sought
 - USCIS personnel must have a need-to-know (and clearance) to see the NSI. If USCIS determines the individual is ineligible for the benefit sought, USCIS does not have a need to know the NS information
- External vetting is used as a last resort
 - Outreach to Third Agency for NS information
 - Obtaining NS information is limited to those individuals who have a need-to-know to perform their official duties and requires security clearances when handling classified information

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Internal vs. External Vetting

Internal vetting is conducted to ensure USCIS doesn't request NS information prematurely.

Systems checks, file review, interview, site visit, *RFE*, a *Notice of Intent to Deny (NOID)* and a *Notice of Decision (denial)* etc.

USCIS may develop information that indicates the individual is ineligible for the benefit sought.

USCIS personnel must have a need-to-be (and clearance) to see the NSI. If USCIS determines the individual is ineligible for the benefit sought. USCIS does not have a need to know the NS information.

NOTE: *In the event that an interview or site visit is required, local supervisors must coordinate such requests with the respective Regional Immigration Officers (RIO).*

External vetting is used as a last resort

Outreach to Third Agency for NS information.

Obtaining NS information is limited to those individuals who have a need-to-know to perform their official duties and requires security clearances when handling classified information.



Terms of Reference

Internal Vetting


- may consist of DHS, open source, or other systems checks; file review; interviews; and other research as specified in the Operational Guidance.

External Vetting

- consists of inquiries to record owners in possession of the NS information to identify: (a) fact or fact patterns necessary to determine the nature and relevance of the NS concern, including status and results of any ongoing investigation and the basis for closure of any previous investigation; and (b) information that may be relevant in determining eligibility, and when appropriate, removability.
 - Note that the closure of an investigation does not necessarily mean that the NS concern has been resolved.

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Internal: may consist of DHS, open source or other systems checks; file review; interviews; and other research as specified in the Operational Guidance.

Designated officers are encouraged to critically consider all information available to them, including information derived from sources not commonly checked in routine adjudications, thereby enabling the designated officer to ask better-informed questions when constructing an RFE, NOID, or during an interview.

External Vetting: consists of inquiries to record owners in possession of the NS information to identify: (a) fact or fact patterns necessary to determine the nature and relevance of the NS concern, including status and results of any ongoing investigation and the basis for closure of any previous investigation; and (b) information that may be relevant in determining eligibility, and when appropriate, removability.

NOTE: *If after completion of eligibility assessment and internal vetting, the individual appears eligible for the benefit sought, or if Field management determines further processing is necessary to strengthen or support a decision, the application/petition proceeds to the EXTERNAL VETTING stage (Non-KST cases only) to obtain any information relevant to CARRP adjudication. If the application/petition is otherwise approvable for KST cases, Field management **must** request vetting assistance from HQFDNS.*




KST External Vetting by HQFDNS

- Memorandum of Understanding (MOU) with the Terrorist Screening Center (TSC)
 - USCIS must have a need-to-know
 - USCIS may obtain certain information on KSTs
 - Tearline request to Third Agency Unit

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USCIS may obtain certain information on KSTs

Tearline request to Third Agency Unit




Deconfliction vs. External Vetting

- **Primary goals differ, Secondary goals are the same**
- Deconfliction
 - Primary goal - ensure that USCIS actions/decisions will not interfere with the interest or investigation of another agency
 - Secondary goal – obtain non-NSI information that may affect eligibility, admissibility, or removability of the individual
- External Vetting
 - Primary goal - obtain NS information from the outside agency in order to determine the nature and extent of the concern and eligibility for the benefit sought
 - Secondary goal – obtain non-NS information that may affect eligibility, admissibility, or removability of the individual

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Primary goals differ, Secondary goals are the same

Deconfliction

Primary goal - ensure that USCIS actions/decisions will not interfere with the interest or investigation of another agency

Secondary goal – obtain non-NSI information that may affect eligibility, admissibility, or removability of the individual

NOTE: During deconfliction, designated officers may ask the record owner whether that agency has information (other than NS related information) that would affect the eligibility for the benefit sought. Officers may also seek to resolve any other relevant concerns (e.g., criminal, public safety, fraud) identified through the security check process or review of the files.

External Vetting

Primary goal - obtain NS information from the outside agency in order to determine the nature and extent of the concern and eligibility for the benefit sought

Secondary goal – obtain non-NS information that may affect eligibility, admissibility, or removability of the individual

NOTE: Coordination with law enforcement is essential to understanding the nature of the associations that make the individual a concern, the individuals level of involvement in activities of concern, and the progress made to date by law enforcement to investigate those concerns. It also affords the opportunity to understand the impact of adjudicative activities on ongoing and sensitive investigations.

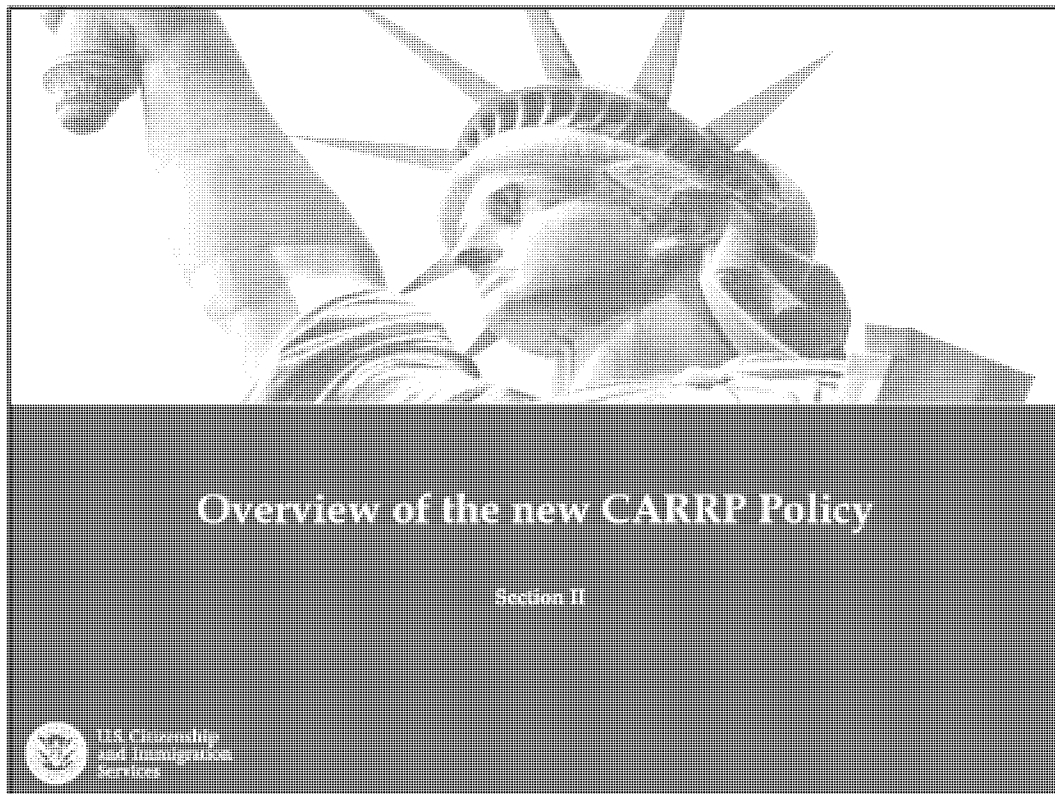
SHOW VIDEO CLIP.

Overview of the new CARRP Policy

Section II



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On April 11, 2008, USCIS issued the following memorandum “*Policy for Vetting and Adjudicating Cases with National Security Concerns*”. This memorandum outlines USCIS policy for identifying and processing cases with national security concerns under the Controlled Application Review and Resolution Program (CARRP) and is effective upon the issuance of operational guidance by the Domestic Operations Directorate and the individual components of the Refugee, Asylum, International Operations Directorate (RAIO).



What is CARRP?


CARRP stands for the

Controlled Application Review and Resolution Process

- **CARRP decentralizes the review, vetting, deconfliction, and adjudication of immigration benefits applicants from HQ FDNS to Field Offices**
- **CARRP will involve cases returned from HQ FDNS as well as newly-identified National Security concerns**
- **CARRP will combine the experience gained by HQ FDNS with the knowledge, skill, and resources of the field to enhance the processing of applications involving NS concerns**
- **Establishes FDNS-DS as the primary system for recording all vetting, deconfliction, and other resolution activities**

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CARRP decentralizes the review, vetting, deconfliction, and adjudication of immigration benefits applications from HQ FDNS to Field Offices and Service Centers. CARRP involves not only cases that have been returned from HQ FDNS but any newly identified cases with National Security concerns. CARRP will combine the experience gained by HQ FDNS personnel with the knowledge, skill, and resources of the field to enhance the processing of applications involving national security concerns.




What is CARRP?

- **Provides agency-wide NS policy**
 - **Defines key terms relating to NS concerns**
 - **Rescinds multiple NS memos**
- **Governs information exchanges between USCIS, the Law Enforcement and Intelligence Communities, and other entities**

Policy for Vetting and Adjudicating Cases with National Security Concerns
issued on April 11, 2008.

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CARRP provides an agency-wide NS policy that defines key terms relating to NS concerns, rescinds multiple NS memos and establishes the following:

The field is responsible for vetting and documenting Non-Known or Suspected Terrorist (Non-KST) National Security concerns and adjudicating all NS-related applications and petitions.

It establishes FDNS-DS as the primary system for recording all vetting, deconfliction, and other resolution activities that occur with these cases.

HQFDNS maintains responsibility for the external vetting of KST hits and upon request from the field, provides advice, technical assistance (including draft decision), and operational support on KST and Non-KST cases with NS concerns.

The policy also governs information exchanges between USCIS, the Law Enforcement and Intelligence Communities and other entities.

Adjudicators should also refer to the Operational Guidance for additional guidance on adjudicating cases with National Security Concerns.



Background Check Analysis Unit (BCAU)


- Assists and advises on Vetting and Deconfliction of NS Concerns
- Vets all KST referrals

National Security Advisory Unit (NSAU), previously known as National Security Adjudications Unit

- Assists in the adjudication of cases in which NS concerns have been confirmed or remain unresolved
- Coordinates with Law Enforcement and Intelligence Agencies to declassify information on cases

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HQFDNS Overview

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The National Security Branch of HQFDNS is comprised of The Background Check Analysis Unit (BCAU) and the National Security Advisory Unit (NSAU), previously known as the National Security Adjudications Unit.

BCAU assists and advises on vetting and deconfliction of NS concerns. They are responsible for vetting all KST referrals. NSAU assists in the adjudication of cases in which NS concerns have been confirmed or remain unresolved. NSAU will coordinate with Law Enforcement and Intelligence Agencies to declassify information or seek use of classified information in cases when use of the information in a decision is necessary and appropriate.




General CARRP Workflow

Four-Step Process

- **Identification of NS Concern**
 - **Eligibility Assessment/Internal Vetting**
 - **External Vetting**
 - **Final Adjudication**
- Deconfliction may occur at any stage of the process
 - Request for Assistance to HQFDNS may occur at any stage of the process
 - Flexibility is required to handle the variety of the caseload.

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CARRP is a four step process; the first step being the identification of the NS concern; second, the eligibility assessment and internal vetting process; third, external vetting of the case; and fourth, adjudication of National Security cases. Two things can occur at any stage of the process: deconfliction and request for assistance to HQFDNS. For the field, flexibility is the key to handling the variety of the caseload an AO should see.



Step 1. Identification of NS Concern


Finding an NS Concern –

- Articulable link to prior, current, or planned involvement in, or association with, an activity, individual, or organization described in sections 212(a)(3)(A), (B), and (F), and 237(a)(4)(A) and (B) of the INA
- Process for Identifying Cases that May Include a NS Concern
- Indicators of a NS Concern
- TECS/IBIS

See Attachment A to Operational Guidance

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Step One - Identifying an NS concern

As a result of security checks, or at any stage during the adjudicative process, the AO may identify one or more indicators that may raise a NS concern. Activity related to national security is described in section 212(a)(3)(A), (B), and (F) and 237(a)(4)(A) or (B) of the INA and includes but is not limited to terrorist activities, espionage, sabotage, and the illegal transfer of goods, technology, and sensitive information outside of the United States. There must be an articulable link to prior current, or planned involvement in, or association with, an activity, individual, or organization describe in those sections of the INA. TECS/IBIS hits and positive name checks are the most common indicators of a NS concern in Domestic Operations cases. Attachment A to the Operational Guidance is to be used for identifying NS concerns, and lists a number of factors that may indicate NS concerns.

Attachment A can be found in the Handouts.



Step 2. Eligibility Assessment/Internal Vetting


When NS Concern Exists –

- Eligibility Assessment
 - Precludes lengthy vetting if statutory grounds for denial exist
 - Must still deconflict with Record Holder(s) if applicable

- Internal Vetting
 - DHS Records/Systems Checks
 - Open Source Information (internet, professional journals, other media...)
 - File Review
 - Interview

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Step 2. Eligibility Assessment/Internal Vetting

When NS Concern Exists –

- Eligibility Assessment
 - Precludes lengthy vetting if statutory grounds for denial exist
 - Must still deconflict with Record Holder(s) if applicable

- Internal Vetting
 - DHS Records/Systems Checks
 - Open Source Information (internet, professional journals, other media...)
 - File Review
 - Interview

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Step Two - Eligibility Assessment/Internal Vetting

For both Non-KST and KST concerns, once the concern has been identified, the officer must conduct a thorough review of the record associated with the application or petition to determine if the individual is eligible for the benefit sought. This assessment will preclude lengthy vetting if statutory grounds for denial exist. Deconfliction must still occur with the record holder if needed. The officer must also conduct internal vetting to obtain any relevant information to support adjudication and to also examine further the nature of the NS concern. Internal vetting usually looks at all DHS records and systems; open source information, such as the internet, professional journals, Google, and other media; a thorough file review and if necessary interview.



Step 3. External Vetting


When Eligibility Assessment and Internal Vetting do not resolve NS Concern, when identified record owner holds NS information, and when applicant is still otherwise eligible for benefit –

- External Vetting – Non-KST:
 - Field Office may vet
 - Consideration and use of unclassified information
 - Consideration and use of classified information

- External Vetting – KST:
 - Only HQFDNS has sole authority for vetting KST NS concerns
 - External vetting mandatory when confirmed KSTs are otherwise approvable

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Step Three – External Vetting

When eligibility assessment and internal vetting do not resolve NS concerns, or when an identified record owner holds NS information and it appears the applicant is still otherwise eligible for the benefit then external vetting needs to be completed.

The field is authorized to perform external vetting for Non-KST cases. At this stage, the office needs to confirm with the record owner of the NS concern and obtain additional information regarding the nature of the NS concern and the relevance to the individual. This will be used to confirm whether there is an articulable link existing between the individual and an activity, individual, or organization described in sections 212(a)(3)(A),(B), or(F) or 237(A)or(B) of the Act. Obtaining additional information may be relevant in determining eligibility and when appropriate, removability. It is also at this point where in order to consider and use unclassified information in a decision, the record owner will have to give permission for the use.

External vetting for KSTs will only be completed by HQFDNS. They have sole authority for vetting KST NS concerns. External vetting must be conducted in cases with a confirmed KST hit where the case has been determined to be otherwise approvable.



Step 4. Final Adjudication


If NS concern remains –

Evaluate vetting results

- NS Concerns Resolved
- NS Concerns Confirmed or Unresolved
- Determine further actions
 - Site Visit
 - Request for Evidence
 - Interview
- Adjudicate
 - Non-KST: Approval only with supervisory approval and concurrence
 - KST: May not approve. Seek HQFDNS assistance

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Step Four – Adjudicating National Security Cases

After completion of the required vetting, the officer needs to determine if the NS concerns are confirmed or unresolved or have they been resolved through the vetting process. At this point, if the NS concerns remain, then the officer must evaluate the result of the vetting and determine any relevance to adjudication, obtain any additional relevant information and determine further actions. Further actions might include a site visit, request for evidence or an interview or re-interview.

Officers may approve Non-KST's only with supervisory approval and senior-level concurrence. KST cases may not be approved at the Field Office level. A request for assistance with these cases may be made to HQFDNS.




What's Going On?????

- Terms of Reference
 - NS Concern
 - KST
 - Non-KST
 - Deconfliction
 - Internal Vetting
 - External Vetting

- Preview of Operational Guidance, Attachment A, and Background Check and Adjudicative Assessment (BCAA)

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Terms of Reference

Several terms of reference are used through out CARRP and throughout this training. They are: National Security Concern or NS concern; Known or Suspected Terrorist or KST; Non-Known or Suspected Terrorist or Non-KST; Deconfliction; Internal Vetting; and External Vetting. All of these terms will be defined in the next section.

In your handouts, you will find copies of Operations Guidance, Attachment A and the Background Check and Adjudicative Assessment (BCAA) worksheet. Those will also be discussed in further detail during the course of the training.




Who's Responsible for What? Field Offices

CARRP provides the Field with the authority to conduct:

- Internal and External Vetting of Non-KSTs
- Internal Vetting of KSTs
- Deconfliction on KSTs and Non-KSTs
- Adjudicating all applications and petitions with NS concerns
 - Approvals on Non-KSTs require Senior level official in Field (see Ops Guidance)
 - If KSTs are otherwise approvable (after eligibility assessment/internal vetting), request for assistance to HQFDNS for external vetting (tearline/highside checks)

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To summarize, CARRP provides the field with the authority to conduct internal and external vetting of Non-KST's; internal vetting of KST's; deconfliction on both KST's and Non-KST's; and adjudication of all applications and petitions with NS concerns. Approval of Non-KST cases requires supervisory approval and concurrence by a senior level official in the field. (See the Ops Guidance) If KST's are otherwise approvable, after eligibility assessment and internal vetting, then a request for assistance may be made to HQFDNS for external vetting of the case.




HQFDNS is responsible for:

- External vetting of KST hits (tearline/highside checks)
- Outreach to Intel Community, when required
- Requests for declassification/use of classified information
- Provides advice, technical assistance (including draft decisions), and operational support on KST and Non-KST cases with NS concerns to the field

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HQFDNS is responsible for all external vetting of KST hits. This includes the request for tearline and highside checks; outreach to the Intel community when required; and request for declassification and or use of classified information. HQFDNS will also provide the field with advice, technical assistance, including draft decisions, and operational support on KST and Non-KST cases with NS concerns.




Which Memos are being Rescinded?

- *“Processing of Applications for Ancillary Benefits Involving Aliens Who Pose National Security or Egregious Public Safety Concerns,”* dated May 11, 2007;
- *“Processing of Form I-90s Filed by Aliens Who May Pose National Security or Egregious Public Safety Concerns,”* dated May 11, 2007;
- *“National Security Requirements,”* dated February 16, 2007;
- *“National Security Record Requirements,”* dated May 09, 2006;
- *“Permanent Resident Documentation for EOIR and I-90 Cases,”* dated April 10, 2006;

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The following policy memoranda and procedures are rescinded by CARRP:

“Processing of Applications for Ancillary Benefits Involving Aliens Who Pose National Security or Egregious Public Safety Concerns,” dated May 11, 2007;

“Processing of Form I-90s Filed by Aliens Who May Pose National Security or Egregious Public Safety Concerns,” dated May 11, 2007;

“National Security Requirements,” dated February 16, 2007;

“National Security Record Requirements,” dated May 09, 2006;

“Permanent Resident Documentation for EOIR and I-90 Cases,” dated April 10, 2006;




Other Guidance being Rescinded?

- Appendix A of the Inter-Agency Border Inspection System (IBIS) Standard Operating Procedure, dated March 1, 2006;
- Revised Instructions for Processing Asylum Terrorist/Suspected Terrorist Cases, dated January 26, 2005;
- Section VIII of the Asylum Identity and Security Check Procedures Manual.

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Section VIII of the Asylum Identity and Security Check Procedures Manual.



Petitions with NS Concerns

I-129 (not requesting a Change of Status (COS) or Extension of Stay (EOS))

I-129F Fiancé/e

I-130 Alien relative

I-140 Employment

I-360 Religious Worker cases only

I-526 Alien entrepreneur

I-600/I-800 Adoption

I-824 Application for action on petition

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U.S. Citizenship and Immigration Services		Petitions with NS Concerns	
I-129 (not requesting a Change of Status (COS) or Extension of Stay (EOS))			
I-129F		Fiancé/e	
I-130		Alien relative	
I-140		Employment	
I-360		Religious Worker cases only	
I-526		Alien entrepreneur	
I-600/I-800		Adoption	
I-824		Application for action on petition	

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The CARRP memo covers **all** applications and petitions that convey immigrant or non-immigrant status. Though some petitions that do not convey immigrant or non-immigrant status may not go through the CARRP four step process they will still need to have CARRP actions such as deconfliction, supervisory concurrence on approval, and updating FDNS-DS and the BCAA completed. Those petitions are:

I-129 – NOT requesting a Change of Status or an Extension of Stay

I-129F – Fiancée petition

I-130 – Relative petition

I-140 – Employment

I-360 – Religious Workers only

I-5265 – Alien entrepreneur

I-600/I-800 – Adoption cases

I-824 – Application for action of a petition




Which *Petitions* does the policy cover?

- Form I-129 petitions requesting change of status (COS) or extension of Stay (EOS)
- Form I-730 (alien relative of asylee or refugee)

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 U.S. Citizenship and Immigration Services

Which *Petitions* does the policy cover?

- Form I-129 petitions requesting change of status (COS) or extension of Stay (EOS)
- Form I-730 (alien relative of asylee or refugee)

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The CARRP four step process applies to I-129's when there is a request for a change of status or extension of stay and an I-730 – petition for an alien relative of either an asylee or refugee.

Instructor's note: Emphasize the above to ensure students know the memo covers ALL applications or petitions except those listed above.

Instructor's note: The material for this course has been labeled “For Official Use Only (FOUO) Law Enforcement Sensitive,” and should be handled accordingly. In addition, the grounds of inadmissibility and deportability, and other topics associated with national security concerns are covered in Courses 217 (Admissibility, Deportability and Waivers), Course 232 (Bars to Relief), and Course 234 (Material Support).

Attachment A and Indicators

Section IV



U.S. Citizenship
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Identifying NS Concerns – Attachment A

- NS Concern exists when an individual or organization has been determined to have an *articulable link* to prior, current, or planned involvement in, or association with and activity, individual, or organization described in sections 212(a)(3)(A), (B), or (F), or 237(a)(4)(A) or (B) of the INA.
 - Terrorist Activity
 - Espionage
 - Sabotage
 - Illegal Transfer of Goods, Technology, or Sensitive Information

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Identifying NS Concerns – Attachment A

- NS Concern exists when an individual or organization has been determined to have an *articulable link* to prior, current, or planned involvement in, or association with and activity, individual, or organization described in sections 212(a)(3)(A), (B), or (F), or 237(a)(4)(A) or (B) of the INA.
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Identifying a National Security Concern:

A national security concern exists when an individual or organization has been determined to have an articulable link to prior, current, or planned involvement in, or association with an activity, individual, or organization described in section 212(a)(3)(A),(B) or (F) or 237(a)(4)(A) or (B) of the INA. Terrorist activities, espionage, sabotage, illegal transfer of good, technology, or sensitive information are examples of activities covered.




Where You May Find NS Concerns

- Security Check Results
- Interview Testimony
- Review of Petition or Application
- Review of Supporting Documents
- Review of A-File or Other Related File(s)
- Leads from other US Government Agencies or Foreign Governments
- Other Sources (internet, newspapers, other media...)

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Where would you most likely find a national security concern? Security check results, testimony given during an interview, information claimed on a petition or application, supporting documents presented as attachments to the petition or application, through a review of the applicants A file or other related files, (including relatives files), leads gathers from other government agencies, including foreign governments, and other open sources, including the internet, media (television, radio, newspapers) and search engines.

Instructor's note: Refer again to Attachment A



Indicators of a NS Concern


- **Statutory Indicators –**
 - Sections 212(a)(3)(A), (B), or (F), or 237(a)(4)(A) or (B) of the INA
 - Other

- **Non-Statutory Indicators –**
 - Employment, Training, Government Affiliations
 - Other Suspicious Activities
 - Family Members or Close Associates

- **Security Check Results –**
 - FBI Name Check
 - FBI Fingerprint Check or NCIC Criminal History Check (NN16)
 - US-Visit/IDENT

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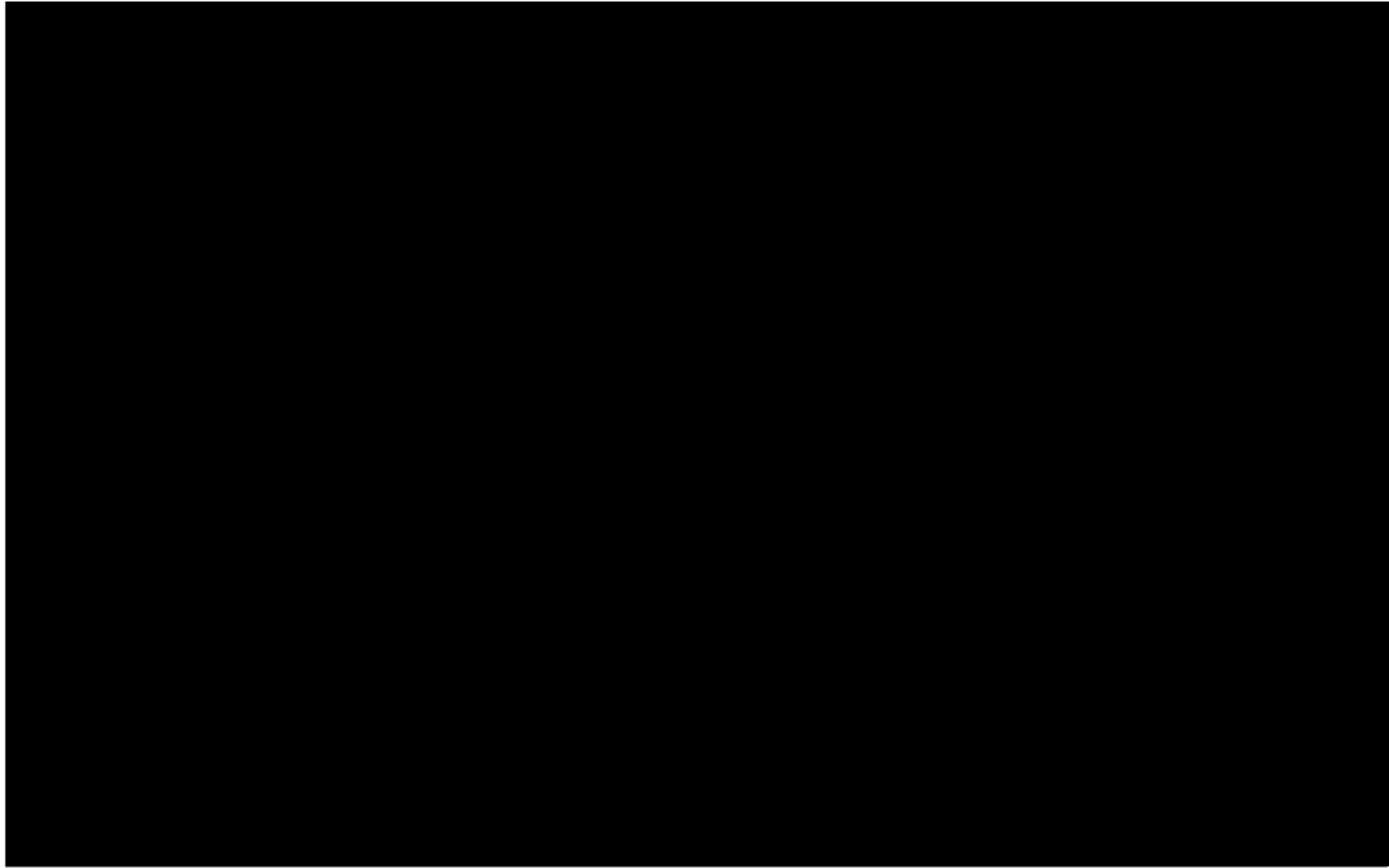
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 - FBI Fingerprint Check or NCIC Criminal History Check (NNI6)
 - US-Visit/IDENT

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BCAA & Instructions

Section V



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Background Check and Adjudicative Assessment


The Background Check and Adjudicative Assessment (BCAA) is a tool used to document the identification, processing, and decision points for cases involving NS concerns.

The BCAA replaces the National Security Record (NSR) as an attachment to FDNS-DS and for “papering” an A-file.

Completion of a BCAA is not a substitute for updating FDNS-DS. See Operational Guidance for specifics on when to update FDNS-DS and when to create a BCAA.

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The Background Check and Adjudicative Assessment (BCAA) is a worksheet used to document national security (NS) concerns and track actions taken on applications or petitions where such concerns exist. Specific guidance on the use of this worksheet is available in each component’s operational guidance. The BCAA is also used as a record to assist data entry into the Fraud Detection and National Security Data System (FDNS-DS). Component guidance will outline when a case must be entered into FDNS-DS.

USCIS will complete the BCAA and coordinate with FDNS for entry into FDNS-DS for the following cases:

- all KST cases, regardless of the decision on the underlying application/petition;
- cases where a NS concern has been confirmed and the application/petition is recommended for approval (except for cases receiving a 212(d)(3)(B)(i) terrorist activity exemption and for which no other national security concerns exist);
- to the extent required by operational guidance, cases where a national security concern has been confirmed and the application/petition is denied.




How to complete a BCAA?

IMPORTANT: No classified information on BCAA.

- Header:
- Part A: Subject or Organization
- Part B: Basis for Referral:
- Part C: System Checks Results:
- Part D: Post Secondary Education/Training:
- Part E: Occupation:
- Part F: Prior Applications/Petition(s):
- Part G: Current Application/Petition(s):
- Part H: Activity/History:
 - Concurrence(s)
- Part I: Notes/Updates

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How to complete a BCAA?

IMPORTANT: No classified information on BCAA.

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- Part A: Subject or Organization
- Part B: Basis for Referral:
- Part C: System Checks Results:
- Part D: Post Secondary Education/Training:
- Part E: Occupation:
- Part F: Prior Applications/Petition(s):
- Part G: Current Application/Petition(s):
- Part H: Activity/History:
 - Concurrence(s)
- Part I: Notes/Updates

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Enter Date when worksheet is originated, originating officer name, and the corresponding program.

NS Concern— Enter type of concern (*KST, Non- KST, Non-NS*); the urgency of the referral (*Routine, Federal Litigation*, Congressional, Management Directive*), and due date if applicable (*next court date, for example*).

Block A – Subject

A#(s) - Enter all known A numbers for individual.

Name- Enter the full name of the individual.

Alias(es)- Enter all known aliases and alternate dates of birth for the individual.

Organization- Enter any organization in which the individual claims membership.

Associated A#(s) – Enter the A# for all known A-files belonging to the individuals' family members, relatives or close associates.

Block B – National Security Summary –

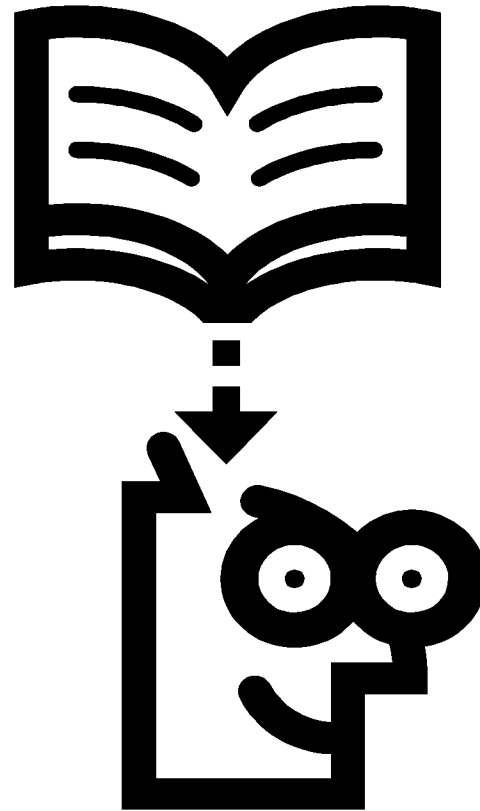
Check appropriate box for source of information for NS concern. If not listed, enter source on Non-TECS/IBIS field.

Check whether classified information exists or not and the date when the officer checked for classified information.

MORE NOTES ON NEXT PAGE – KEEP THIS SLIDE UP!



QUESTIONS?



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A grayscale, halftone-style image of the Statue of Liberty's head and crown, positioned in the upper half of the page. The image is slightly faded and serves as a background for the top section.

Request for Assistance

Section VI



U.S. Citizenship
and Immigration
Services



U.S. Citizenship
and Immigration
Services

HELP!!!!



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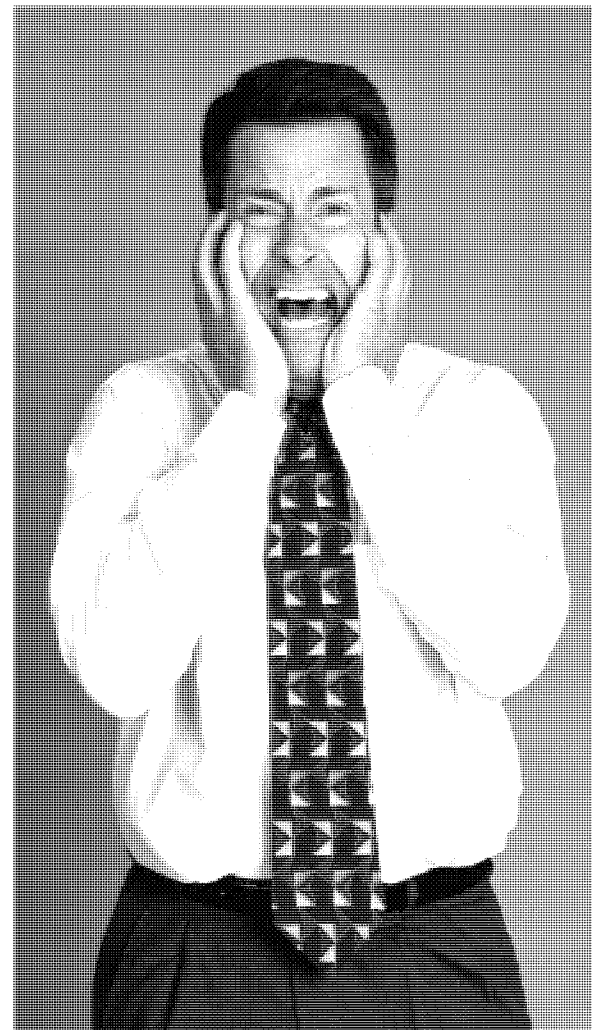
You are not alone on an island. There is help available.



Request for Assistance


- To obtain classified information
- To coordinate declassification of information
- To assist in contacting non-responsive LEA
- Interview, RFE, Site Visit, Draft Decision preparation*

***Check with local management for criteria**



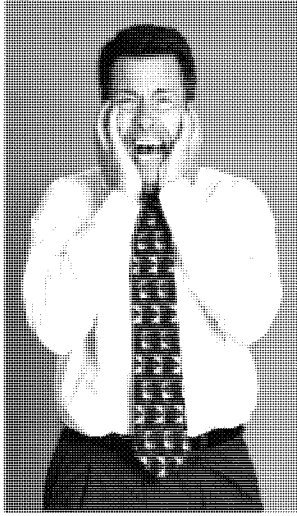
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 U.S. Citizenship and Immigration Services **Request for Assistance**

- To obtain classified information
- To coordinate declassification of information
- To assist in contacting non-responsive LEA
- Interview, RFE, Site Visit, Draft Decision preparation*

***Check with local management for criteria**



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HQFDNS can assist you in obtaining classified information; they can help you get information declassified, if necessary; they can assist you in contacting non-responsive law enforcement agency; and they can help you prepare a request for evidence, prepare for an interview or a site visit.



Request Assistance from HQFDNS




- BEFORE
 - RFE
 - Site Visit
 - Interview
 - Re-interview

and


- AFTER
 - All efforts exhausted
 - No grounds for denial

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 U.S. Citizenship and Immigration Services

Request Assistance from HQFDNS



- BEFORE
 - RFE
 - Site Visit
 - Interview
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You are strongly encouraged to request assistance from HQFDNS prior to issuing a Request for Evidence, scheduling an interview or re-interview or going on a site visit, in the following circumstances:

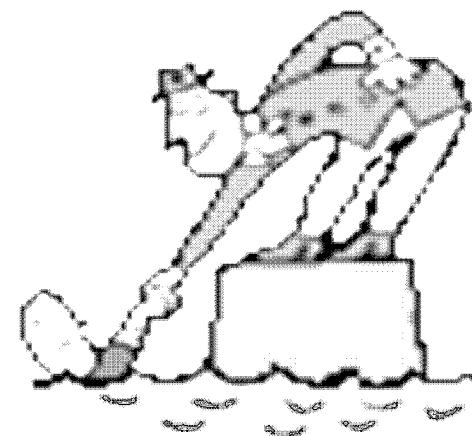
- 1) The case is complex and you need advice and suggestions on preparing interview questions, items to include in request for evidence or input regarding site visit; OR
- 2) The case is one in which USCIS has only one opportunity to develop information – one chance to request evidence or interview an applicant, such as naturalization proceedings when the application is subject to court review.



When to Request Assistance . . .


Every case does NOT require assistance prior to adjudicative activity (RFE, Interview, Site Visit)

- Assistance from HQFDNS at this stage is generally for:
 - Complex cases
 - Cases in which there is only one chance for RFE or Interview
- Seek guidance from HQ component
 - Criteria for requesting HQFDNS assistance



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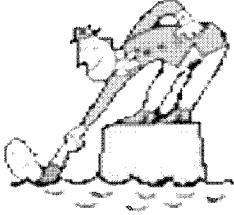
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 U.S. Citizenship and Immigration Services

When to Request Assistance . . .

Every case does NOT require assistance prior to adjudicative activity (RFE, Interview, Site Visit)

- Assistance from HQFDNS at this stage is generally for:
 - Complex cases
 - Cases in which there is only one chance for RFE or Interview
- Seek guidance from HQ component
 - Criteria for requesting HQFDNS assistance



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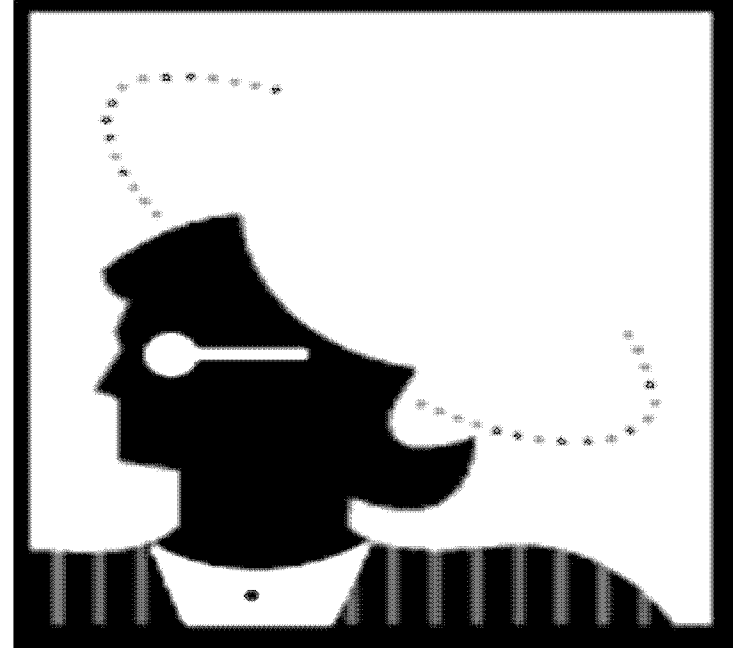
Not every case will require HQFDNS assistance. Your HQ component may establish criteria to help determine the type of cases in which you would request assistance at this stage.

After you have conducted the interview, received the response to the RFE, and conducted a site visit, if appropriate, and **still no denial grounds are identified**, contact HQFDNS for assistance through appropriate channels.



Allow Time

- For HQFDNS to assist you
 - Keep timeframes in mind
 - Consider complexity of case
 - Consider interview schedules
 - Consider litigation

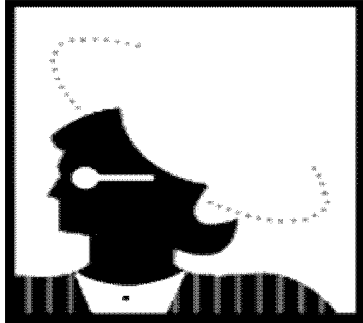


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U.S. Citizenship and Immigration Services **Allow Time**

- For HQFDNS to assist you
 - Keep timeframes in mind
 - Consider complexity of case
 - Consider interview schedules
 - Consider litigation



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When you contact HQFDNS, please try to allow time for them to effectively assist you. If there is litigation involved, keep court dates in mind.




Information Needed

- Subject: Request for Assistance (Adjudication)
- Full Name (Applicant, Petitioner, Beneficiary, Derivative or Company)
- A-Number
- Date of Birth
- Pending Application(s) and/or Petition(s) Form Type(s)
- Nature of assistance requested
- Requesting Officer contact information
- FDNS-DS NS Case Number
- If litigation case –
 - District Court File #
 - Suspense Date

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 U.S. Citizenship and Immigration Services

Information Needed

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Your e-mail request should include in the subject line: Request for Assistance (Adjudication); full name of Applicant/petitioner/beneficiary/derivative/company; A number; Date of Birth; Pending Application(s) or petition(s) types(s); Nature of assistance requested; Requesting Officer contact information; FDNS-DS NS Case Number; If litigation case – District Court File # and Suspense Date.



U.S. Citizenship
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Services

Contact HQFDNS



Email:

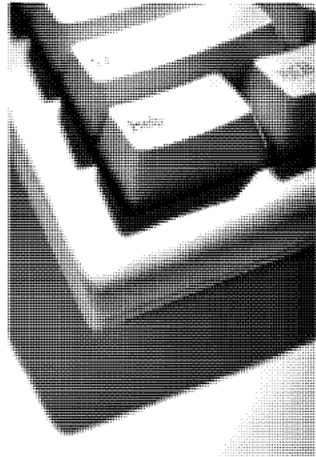
██████████@dhs.gov

(for immediate assistance mark it **Urgent** !)

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U.S. Citizenship and Immigration Services **Contact HQFDNS**



Email: [REDACTED]@dhs.gov
(for immediate assistance mark it **Urgent** !)

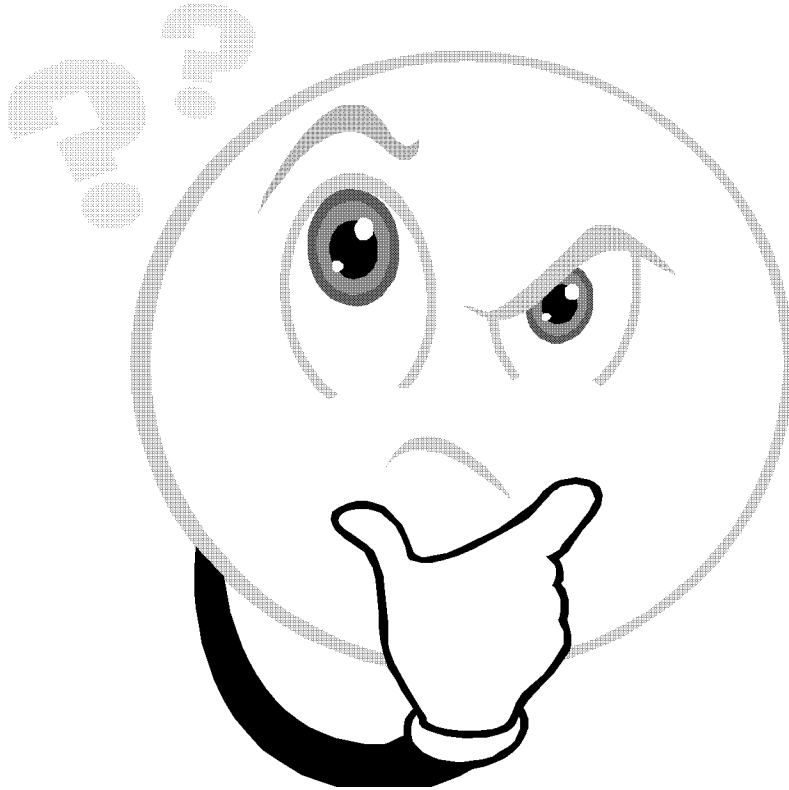
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Email address and phone numbers. If immediate assistance is needed, mark e-mail urgent or call HQFDNS/NSAU.



Questions / References



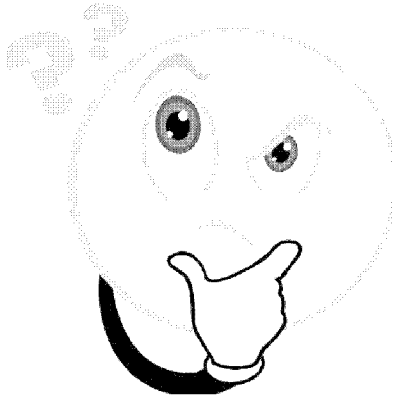
- Refer to
 - Policy
 - Operational Guidance
 - Local management

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U.S. Citizenship and Immigration Services

Questions / References



- Refer to
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Refer to Operational Guidance and local management if you have questions on when to seek assistance and when supervisory approval is necessary prior to seeking assistance.

Systems Checks and Resources

Section VII



U.S. Citizenship
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Services




Terms of Reference

Security Checks Include:

- **FBI Fingerprint Check**
- **Treasury Enforcement Communications System (TECS)/Interagency Border Inspection System (IBIS)**
- **FBI Name Check**
- **United States-Visitor and Immigrant Status Indicator Technology (US-VISIT)/Automated Biometrics Identification System (IDENT)**
- **Specific checks or combination of checks required for each application or petition type, pursuant to each component's procedures.**

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 U.S. Citizenship and Immigration Services

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Security Checks Include:

FBI Fingerprint Check

Treasury Enforcement Communications System (TECS)/Interagency Border Inspection System (IBIS)

FBI Name Check

United States – Visitor and Immigrant Status Indicator Technology (US-VISIT) /Automated Biometrics Identification System (IDENT)

Specific checks or combination of checks required for each application or petition type, pursuant to each component's procedures.



U.S. Citizenship
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Services


Background Checks

- **CIS CHECKS**
- **CLAIMS CHECKS**
- **IBIS**

LE

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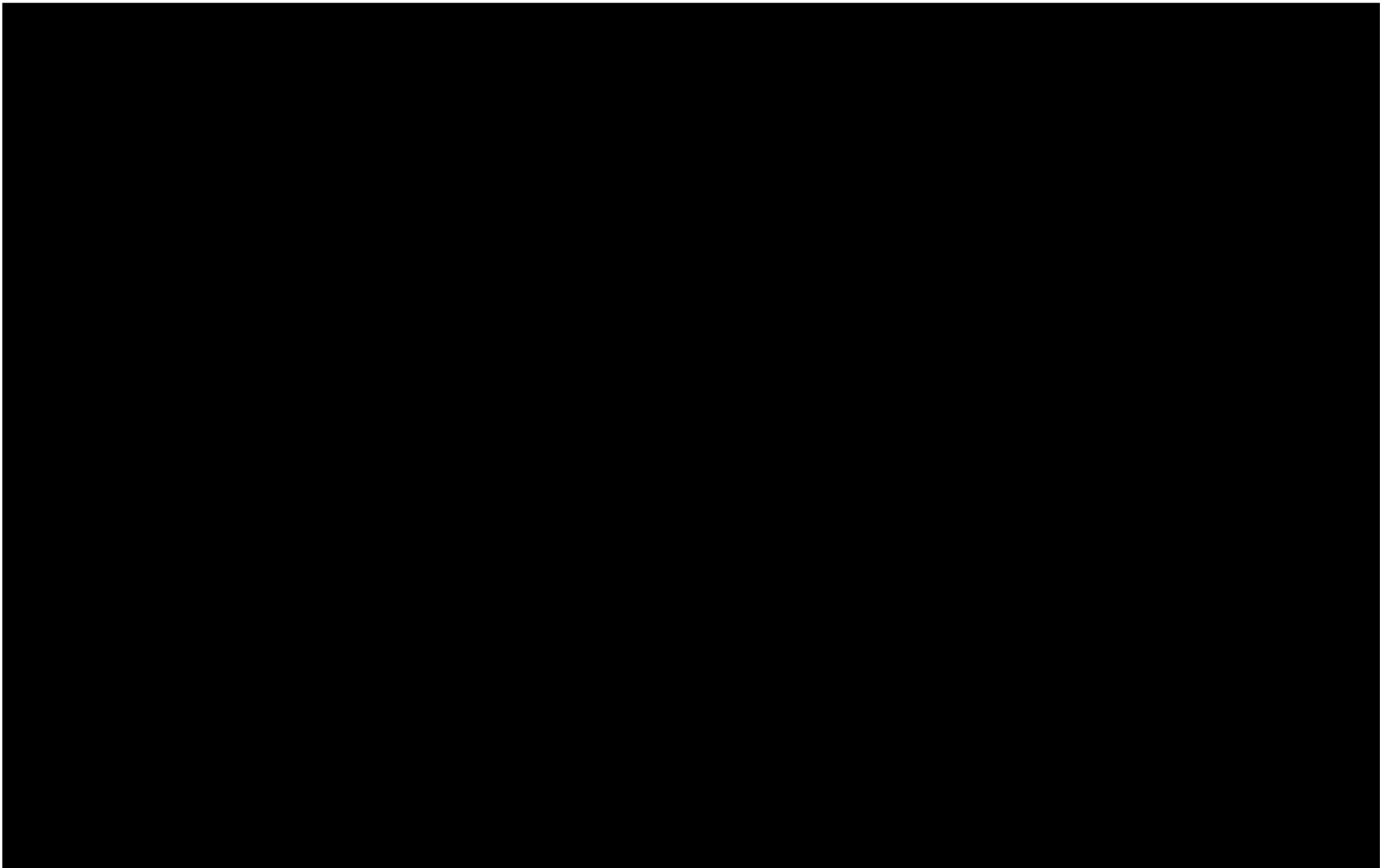
Background Checks

- CIS CHECKS
- CLAIMS CHECKS
- IBIS

LE

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Terrorist Designations

Tier 1 – Designated Foreign Terrorist Organization (FTO)

State Departments List of Foreign Terrorist Organizations, as designated under INA Section 219(a)(3)(B)(vi)(II) pursuant to Section 411 of the USA PATRIOT ACT of 2001.

Tier 2 – Terrorist Exclusion List (TEL)

Section 411 of the USA PATRIOT ACT of 2001 (8 U.S.C. & 1182) authorized the Secretary of State, in consultation with or upon the request of the Attorney General, to designate terrorist organizations for immigration purposes. This authority is known as the “Terrorist Exclusion List (TEL) authority.

Tier 3 – Undesignated

“A group of two or more individuals, whether organized or not, which engages in, or has a subgroup which engages in “...terrorist activity as defined in the 212(a)(3)(b)(III) of the INA.

<http://www.state.gov/s/ct/terfin/>

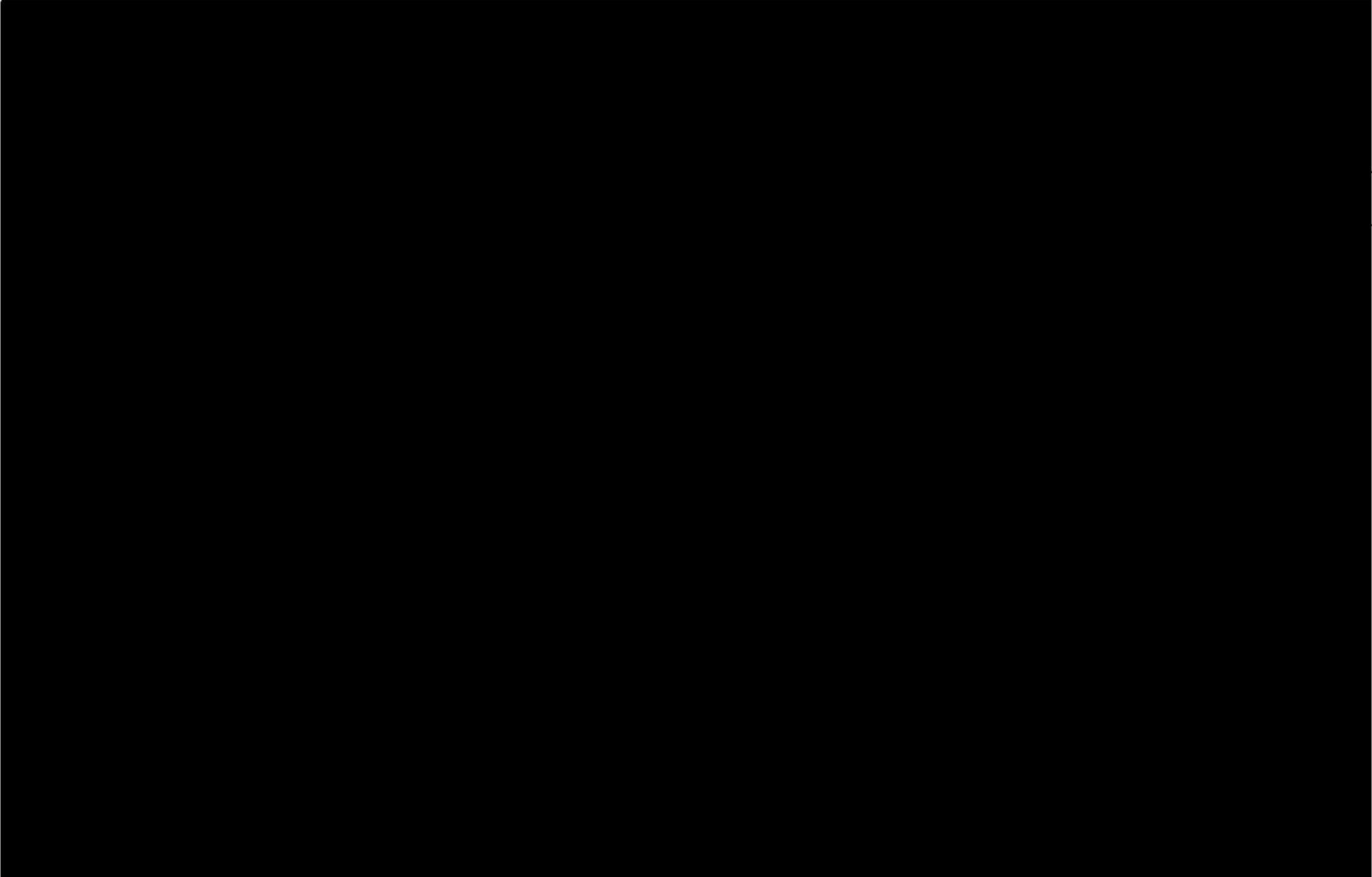
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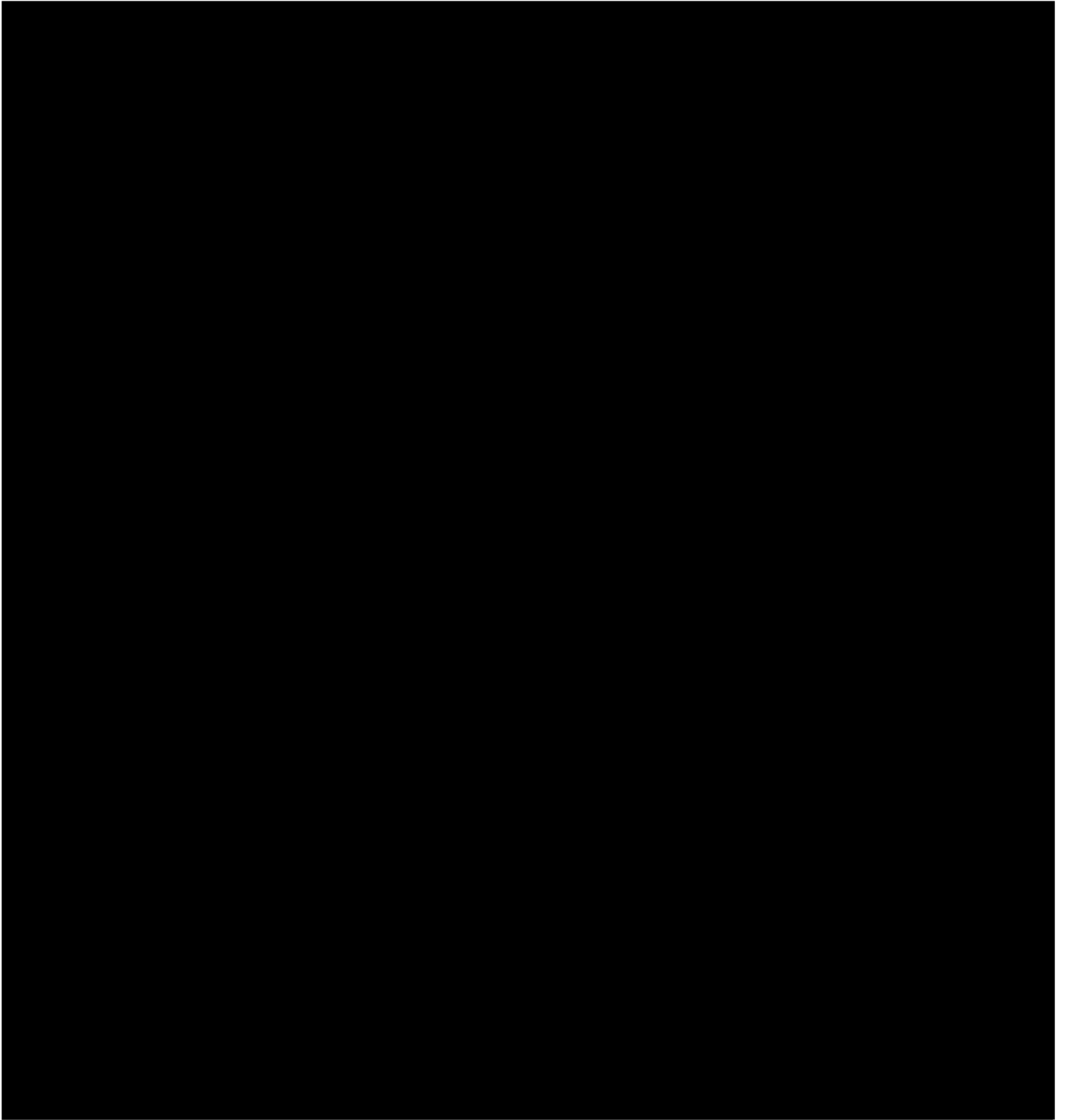


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Background Checks (cont'd)



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MORE NOTES ON NEXT PAGE – KEEP THIS SLIDE UP!



U.S. Citizenship
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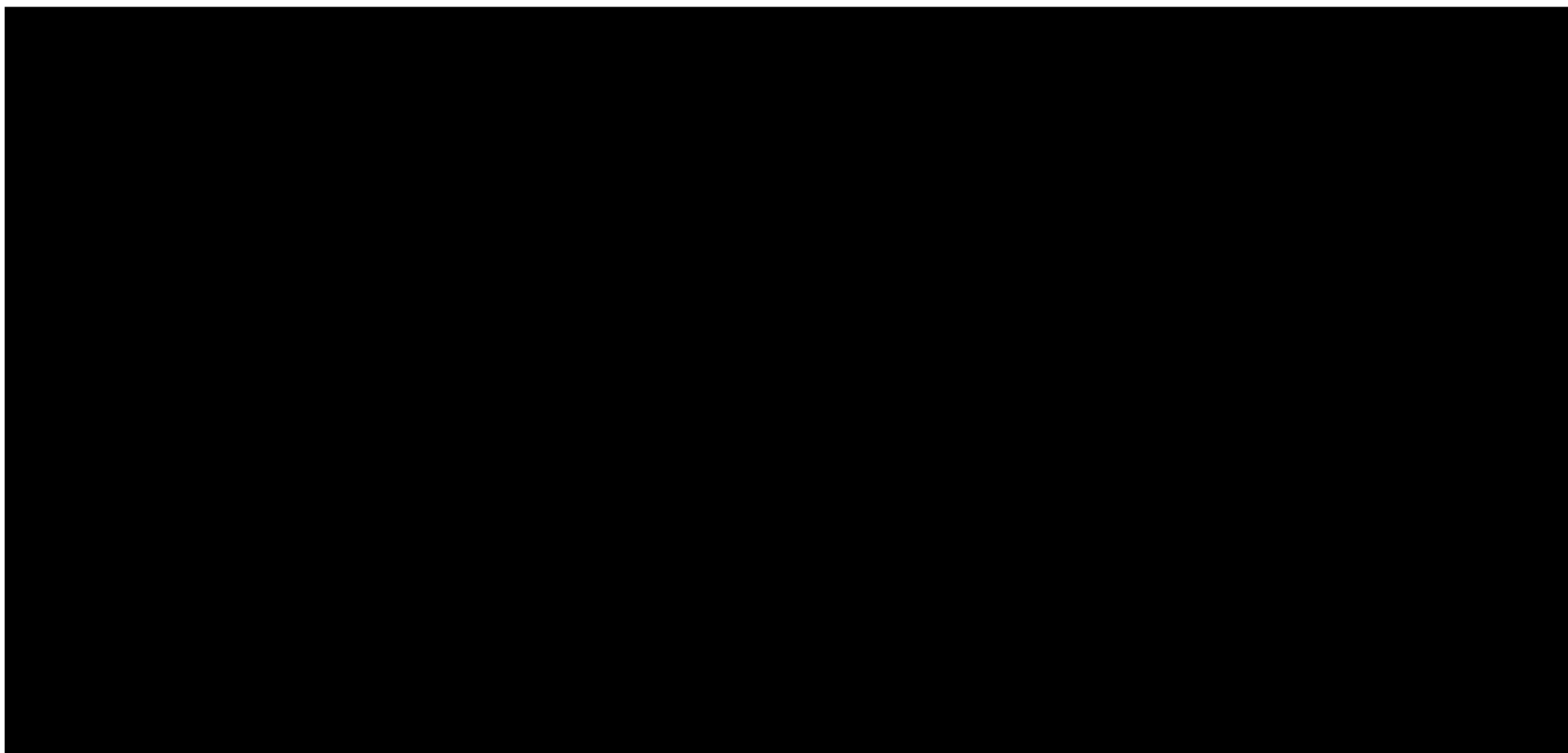
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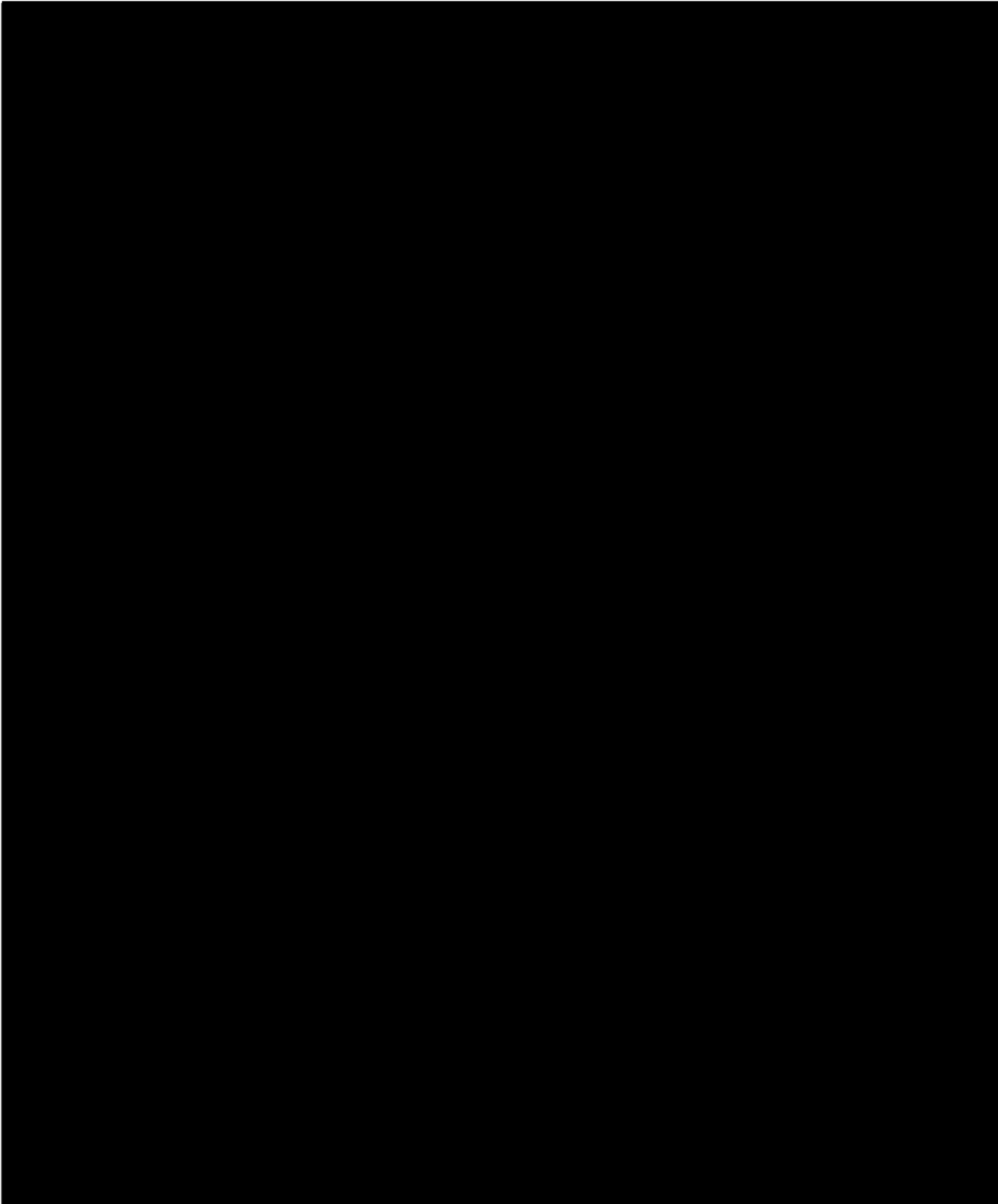
U.S. Citizenship
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Background Checks (cont'd)



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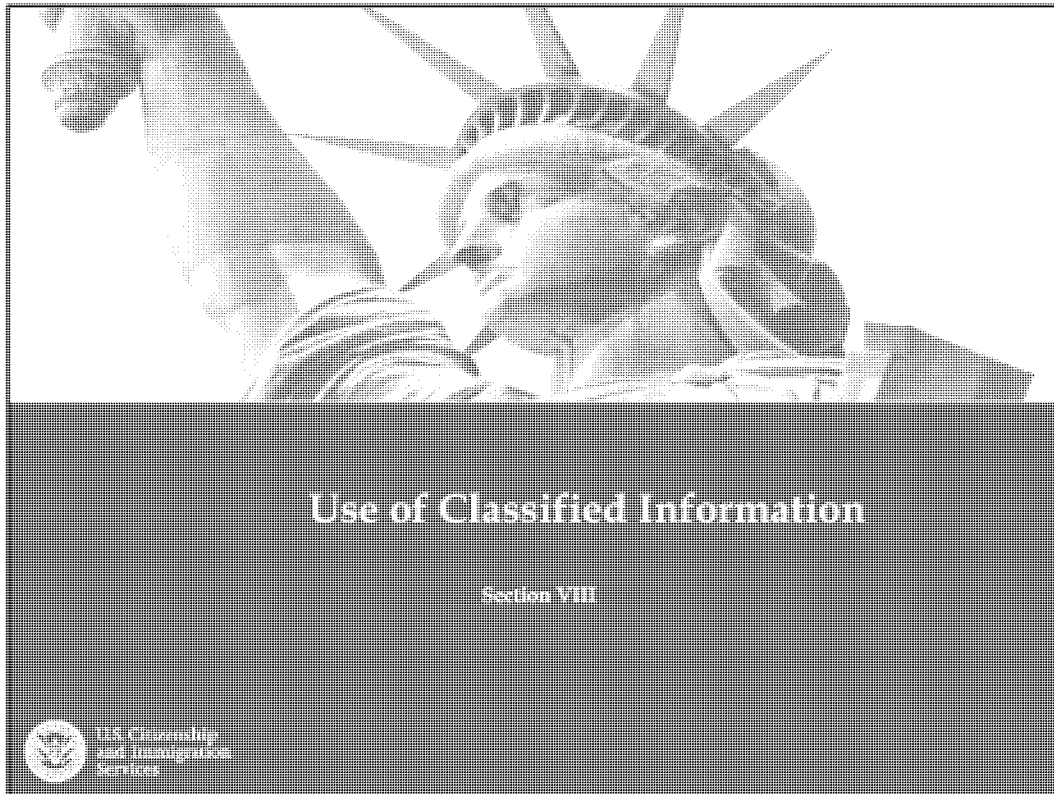
A grayscale, halftone-style image of the Statue of Liberty's head and crown, positioned in the upper half of the page. The image is slightly out of focus and has a textured, dotted appearance.

Use of Classified Information

Section VIII



U.S. Citizenship
and Immigration
Services



Classified National Security Information:

Information that requires protection, pursuant to Executive Order 12958, as amended, against unauthorized disclosure in the interest of National Security.



Classification Levels

Make friends with your local Security Officer

- - Unauthorized disclosure could cause **exceptionally grave damage**
- **SECRET** - Unauthorized disclosure could cause **serious damage**
- - Unauthorized disclosure could cause **damage**




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U.S. Citizenship and Immigration Services **Classification Levels**

Make friends with your local Security Officer

- - Unauthorized disclosure could cause **exceptionally grave damage**
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Classification Levels:

All classified information falls within one of three levels: Top Secret, Secret and Confidential. The resulting damage to national security if the information were released determines the level of classification assigned.

TOP SECRET: Unauthorized disclosure could reasonably be expected to cause *exceptionally grave damage* to the national security.

SECRET: Unauthorized disclosure could reasonably be expected to cause *serious damage* to the national security.

CONFIDENTIAL: Unauthorized disclosure could reasonably be expected to cause *damage* to the national security.

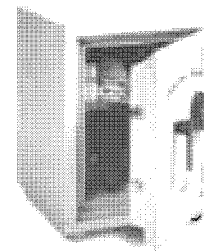
Sensitive Compartmented Information (SCI): Classified information concerning or derived from intelligence sources, methods, or analytical processes, which is required to be handled within formal access control systems established by the Director of Central Intelligence.



Sharing of Classified Information




- Intended recipient **MUST** have a security clearance equal to or greater than the classification of the information disclosed.
- Intended recipient must have a **NEED TO KNOW**, meaning access to classified information is required in performance of his/her official duties.
- Intended recipient has the capability to properly **SAFEGUARD AND STORE** the materials.




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U.S. Citizenship and Immigration Services **Sharing of Classified Information**



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Standard markings must be applied to classified materials. They are applied to alert the holder of the classification status of the information and, based on the classification level, prescribe the safeguarding and storage requirements of the information. Therefore, classified materials must be sufficiently marked to eliminate any doubt or uncertainty regarding the classified, or unclassified, status of the information.

(TS)= TOP SECRET (S)= SECRET (C)= CONFIDENTIAL (U)= UNCLASSIFIED

Each paragraph, subparagraph and similar portion will be parenthetically marked with the highest classification of the information contained within the portion or (U), if it is unclassified. The overall classification of the document shall be conspicuously placed at the top of and bottom of the front page, title page, first page and back cover as applicable.

SAFEGUARDING AND STORAGE:

ACCESS AND CONTROL

Intended recipient **MUST** have a security clearance equal to or greater than the classification of the information disclosed.

Intended recipient has a **NEED TO KNOW**, meaning access to classified information is required in performance of his/her official duties.

Intended recipient has the capability to properly **SAFEGUARD AND STORE** the materials.




Safeguarding Classified Material

- **NEVER** discuss, or attempt to talk around, classified information over an unsecured telephone system. Classified telephone discussions must be conducted using secure equipment, i.e., Secure Telephone Unit (STU-III) or Secure Telephone Equipment (STE).




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 U.S. Citizenship and Immigration Services

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- **NEVER** discuss, or attempt to talk around, classified information over an unsecured telephone system. Classified telephone discussions must be conducted using secure equipment, i.e., Secure Telephone Unit (STU-III) or Secure Telephone Equipment (STE).



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Telephone Use and Other Classified Conversations:

NEVER discuss or try to talk around classified information over an unsecured telephone system. Classified telephone discussions must be conducted using secure equipment, i.e., Secure Telephone Unit (STU-III) or Secure Telephone Equipment (STE).

Classified Meetings and Conferences:

Special care must be taken when coordinating the conduct of meetings, conferences, seminars, and other symposia in which classified information will be present. Contact your Security Official for more information.

Packaging on Classified Materials:

Classified materials must be properly packaged prior to shipment or transfer. Check with your Security Official or OSI to obtain the proper procedures for packaging and shipping of classified materials.

For Official Use Only (FOUO):

FOUO is the designator used within DHS to identify Sensitive but Unclassified information within the DHS community that is not otherwise specifically described and governed by statute or regulation and the unauthorized disclosure of which could adversely impact a person's privacy or welfare, the conduct of Federal programs, or other programs or operations essential to the national interest.

FOUO information may also be marked "Law Enforcement Sensitive" (LES), in order to alert the reader of the type of information conveyed.

A security clearance is not required for access to FOUO information.




Considering Classified Information

- Classified information may be considered when developing Requests for Evidence (RFE) and lines of inquiry
- Coordinate RFEs and interview questions with appropriate agencies
- Do NOT compromise ongoing investigations by divulging knowledge of classified information

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Considering Classified Information

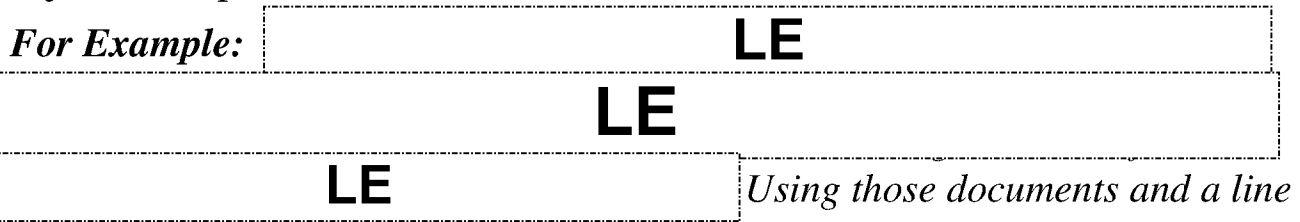
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USE OF CLASSIFIED INFORMATION IN ADJUDICATING NS CASES

Classified information can be used for lead purposes to identify open source information that can be used to form the basis for a Request for Evidence (RFE), or a line of questioning during an interview intended to discover material facts relevant USCIS decision. Coordinate RFEs and interview questions with appropriate agencies; do not compromise ongoing investigations by divulging knowledge of classified information. Classified information may not be disclosed to the applicant or the applicant’s representative during the adjudicative process.



*Using those documents and a line of questioning USCIS may ask applicant further questions regarding Subject B and his association with Subject B, **only** if information regarding Subject B is disclosed in the materials provided by applicant.*




Policy for Use of Classified Information

The policy on use of classified evidence requires multiple steps including:

- Requesting declassification from owning agency
- Obtaining permission of owning agency
- Obtaining approval from ICE National Security Law Division
- Obtaining approval from the Secretary of Homeland Security
- Declassification of pertinent information, or obtaining approval for use of unclassified but sensitive information contained in investigative reports, is a time-consuming process

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 U.S. Citizenship and Immigration Services **Policy for Use of Classified Information**

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When grounds of ineligibility in an NS case cannot be supported except by reliance upon classified information, the Field Office must seek assistance from HQFDNS in accordance with the Operations Guidance. HQFDNS is responsible for making request to the record owner for declassification of pertinent sections if such information is necessary to support a legally sufficient denial. On a case-by-case basis and as a last resort, HQFDNS may seek permission from the DHS Secretary to rely upon classified information in a written decision. It is important to keep in mind that requests for declassification or use of classified information take considerable periods of time.



Timely notification of litigation filing is key.


Short timelines often can't be met in cases that require:

- Declassification of pertinent information;
- Obtaining permission from a Third Agency to “use” information in a written decision; or
- Authorization to use classified information “in camera” by the Department.

Bottom Line – Must Balance Security and Integrity with Customer Service

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 U.S. Citizenship and Immigration Services **Plan Ahead**

Timely notification of litigation filing is key.

Short timelines often can't be met in cases that require:

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Timely notification of litigation filing is key. Short timelines often can't be met in cases that require:

declassification of pertinent information

obtaining permission from a third agency to “use” information in a written decision.

Authorization to use classified information “in camera” by the Department.

Bottom Line- Must balance Security and Integrity with Customer Service




Reminder . . .

Third agency information, such as law enforcement sensitive (LES) information, even if unclassified, may not be “used” in a written decision without the approval of the owner. Do NOT compromise ongoing investigations by divulging knowledge of sensitive information.

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 U.S. Citizenship and Immigration Services **Reminder . . .**

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FOUO information may be considered but may not be disclosed to the applicant or the applicant’s representative during the adjudicative process without prior permission of the record owner.



Verifying Clearances

- How does one ensure that the people with which they discuss cases have the appropriate clearance?
- HQ – Adraine Gilmore at (202) 272-██████████
- Field – Karen McGuire at (802) 872-██████████ or Danielle Esposito at (802) 872-██████████
- **Question: Is it OK to ask the individual(s) about his/her/their clearance level(s) and trust what they tell you?**
- P.S. The answer is NO. (Just checking to see if you are reading all this material.)

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Questions?

- For more detailed information regarding classified documents and handling of such please consult your security officer or visit [http://\[REDACTED\].gov/](http://[REDACTED].gov/)



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Privacy Act

The Privacy Act of 1974 states, as a general matter, that no federal agency can share information about an individual in the absence of an exception or published “routine use.”



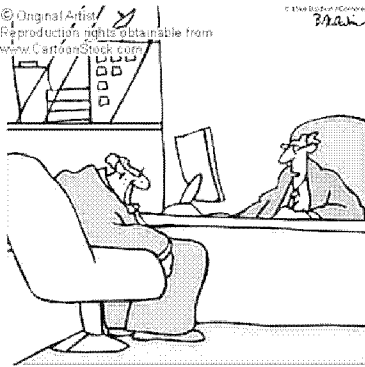
“You can't retire. You know too much.
You might talk.”

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SHARING OF INFORMATION

Third Agency Rule

The 2006 Memorandum of Understanding (MOU) between the U.S. Citizenship and Immigration Services and U.S. Customs and Border Protection on the use of TECS (IBIS), sets out a system-specific Third Agency Rule. This MOU provision uses a different definition of “agency” than is used under the Privacy Act and only applies to IBIS records.

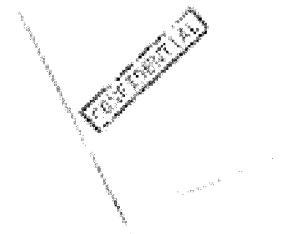
BEST PRACTICE: The best way to share information with another agency that is a TECS user is to provide only the TECS Record ID. Since that agency can then access the information directly, the Third Agency Rule will not apply.

Privacy Act

The Privacy Act of 1974 states, as a general matter, that no federal agency can share information about an individual in the absence of an exception or published “routine use.”




- Much of the information contained in USCIS systems and files is confidential, and is governed by law and regulations relating to For Official Use Only/Law Enforcement Sensitive (FOUO/LES) information.
- Information contained in or pertaining to any asylum application or records pertaining to any credible fear or reasonable fear determinations, must not be disclosed without the written consent of the applicant, pursuant to 8 C.F.R. 208.6.
- USCIS personnel may NOT disclose any information that relates to an alien who is the beneficiary of an application for relief under the Violence Against Women Act (VAWA) where such claim is either pending or approved, including U visa applicants.



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For further information regarding security clearance:

For the DHS management directives:

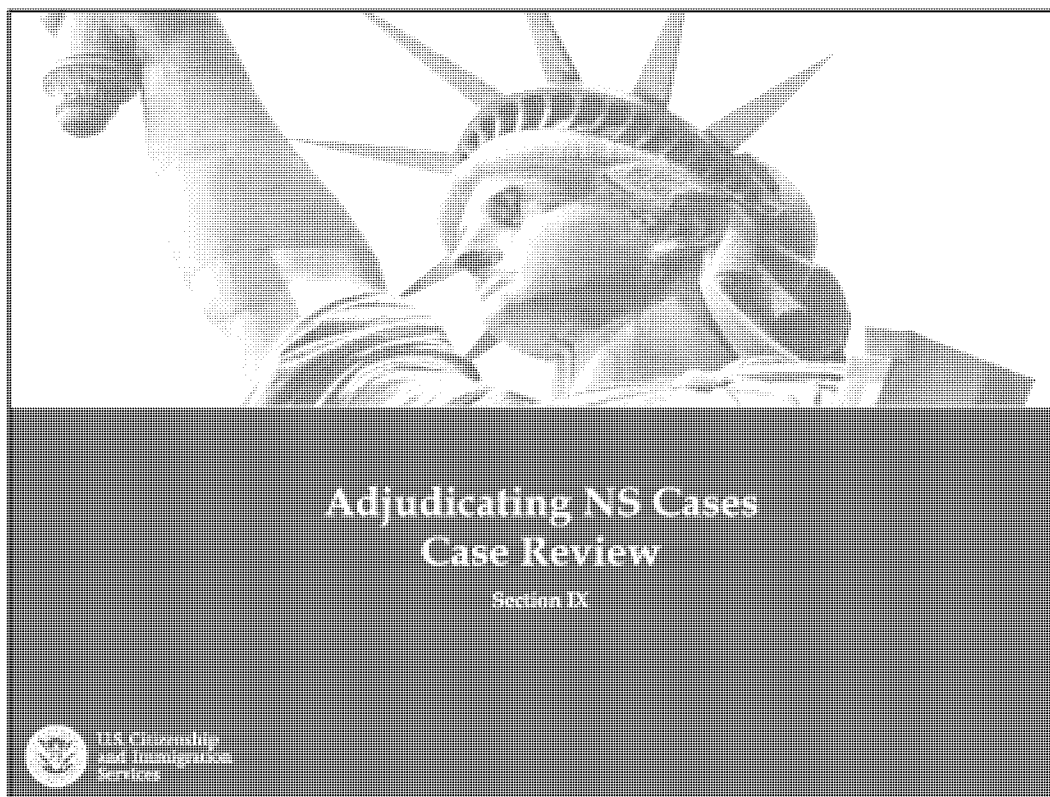
A grayscale, halftone-style image of the Statue of Liberty's head and crown, positioned in the upper half of the page. The image is slightly faded and serves as a background for the title.

Adjudicating NS Cases Case Review

Section IX



U.S. Citizenship
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While it will not be the case that every applicant or petitioner will be interviewed, the nature of the workload suggests that most will be. As such, there is much discussion on how to prepare for and conduct an interview. Officers who do not conduct interviews should be mindful of the fact that NS cases they review will very likely end up before an adjudicator for an interview of the applicant or petitioner. Your review and preparation is crucial to a successful interview and your understanding of the mechanics of an interview should help you know what will be useful to an interviewing officer.

Likewise, interviewing officers need to understand that their activities will often have an impact on the activities performed by others. For instance, when grounds for revocation of a petition approved by a Service Center are uncovered during an interview, you will need to continue the interview to develop as fully as possible the facts that the Service Center can use to craft a strong Intent to Revoke.

Do not forget that we are all adjudicators. Whether we are in a Service Center, a Field Office, a Regional Office, or Headquarters, our goal is the same—to deliver the right benefit to the right person at the right time, and no benefit to the wrong person.”




Case Review

- Review every piece of paper
- Get a complete picture
- Compare past and present information




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Case Review

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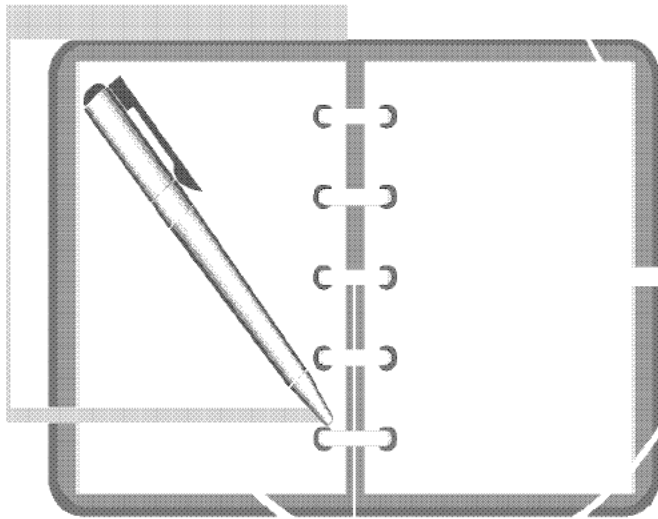


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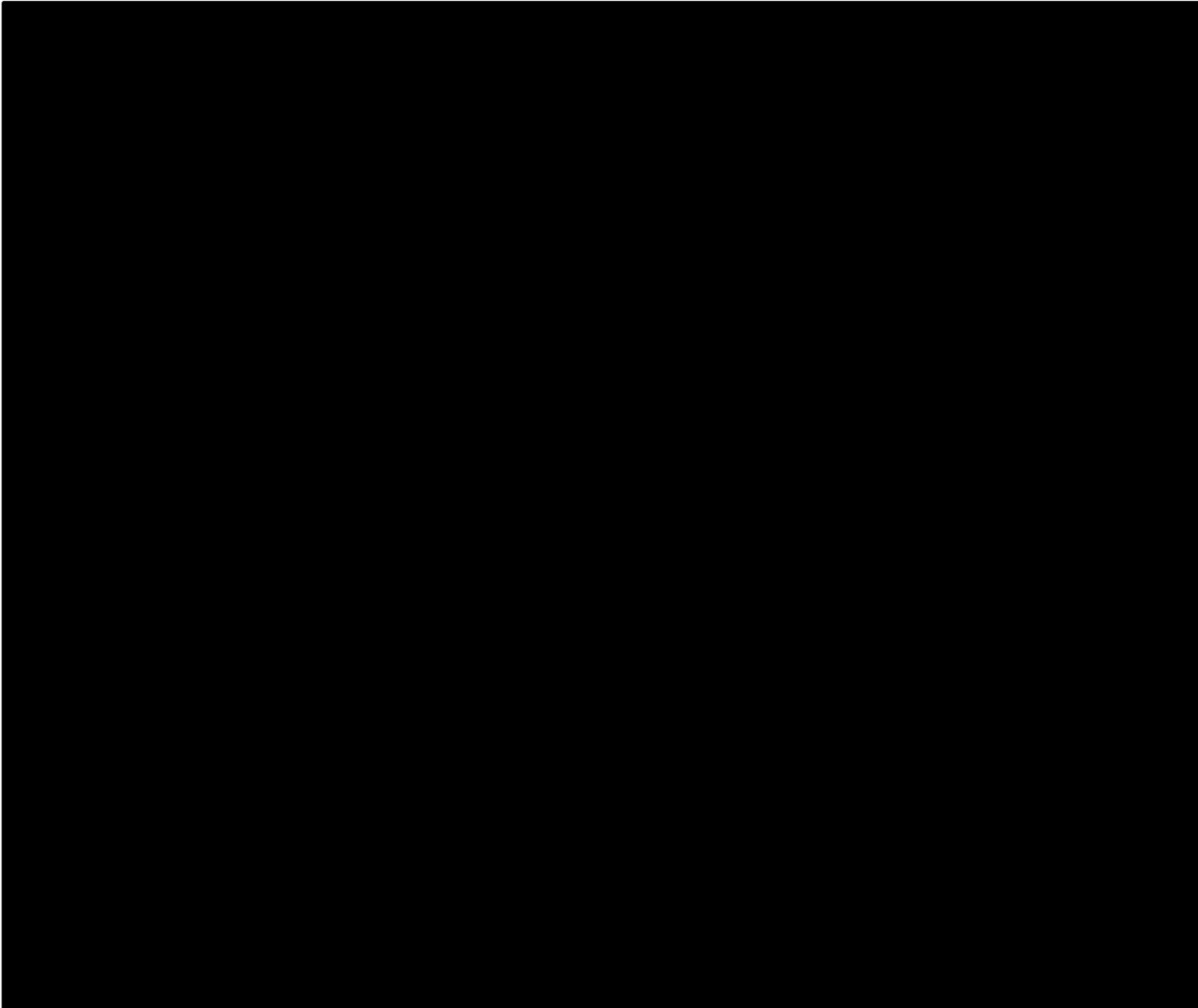
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Create Timeline



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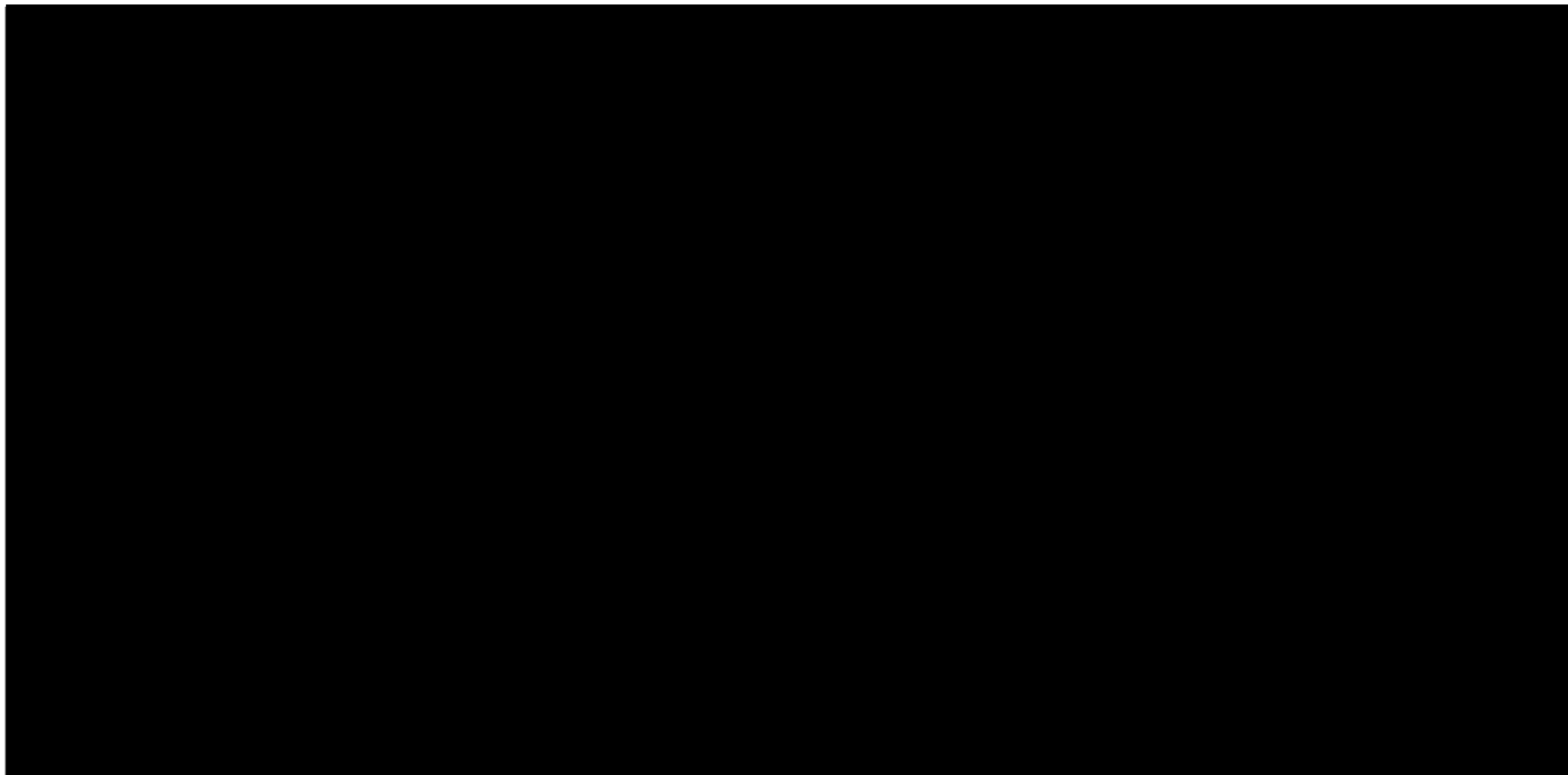
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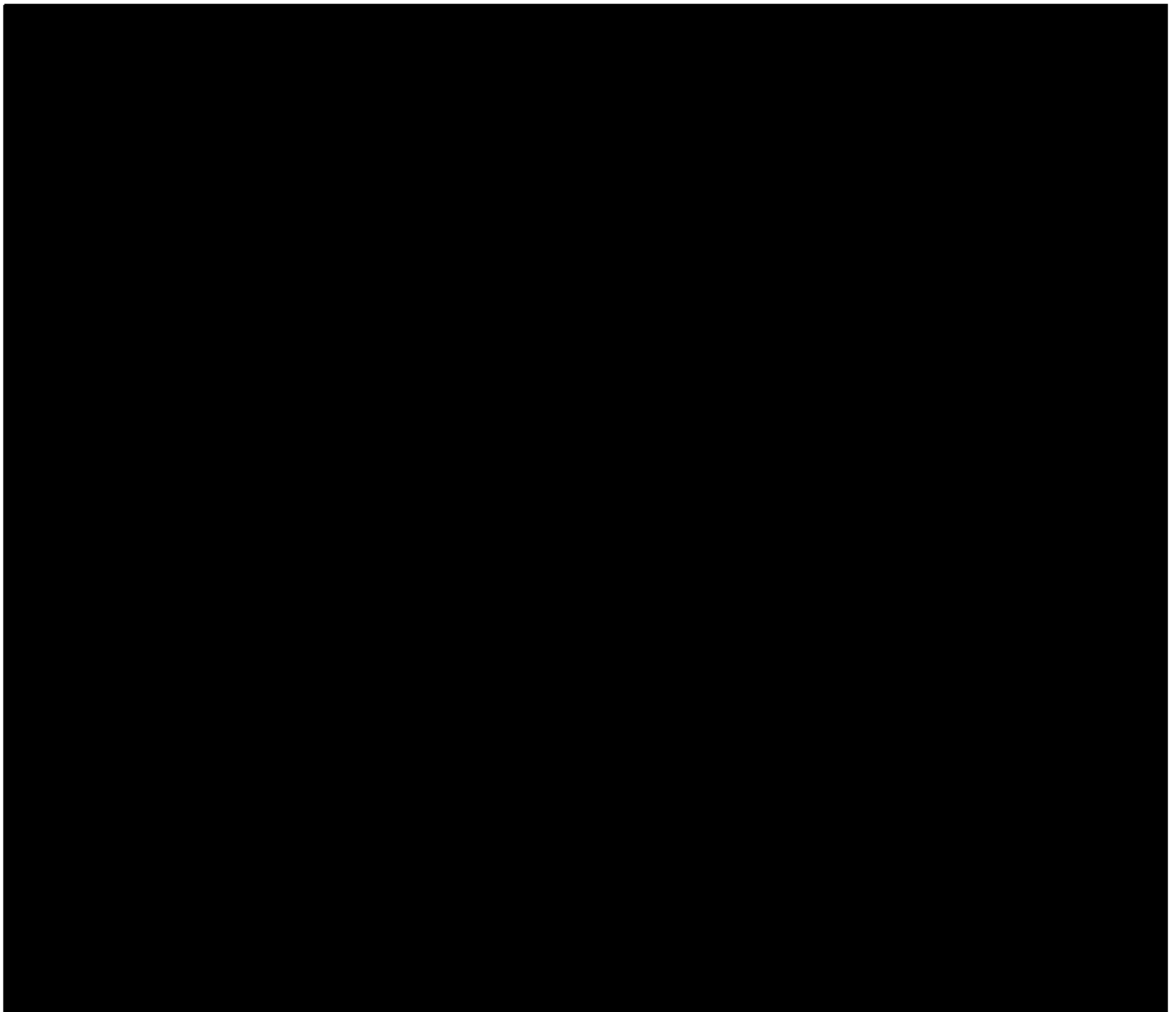
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Case Summary



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Case Summary - Tips

- Full name/aliases
- Addresses
- Marriage history
- Travel
- Applications/Petitions filed
- Derogatory information [no classified info]
- Section for questions
 - As you review, write down questions for interview
- Section for RFE
 - As you review, write down information or documents needed

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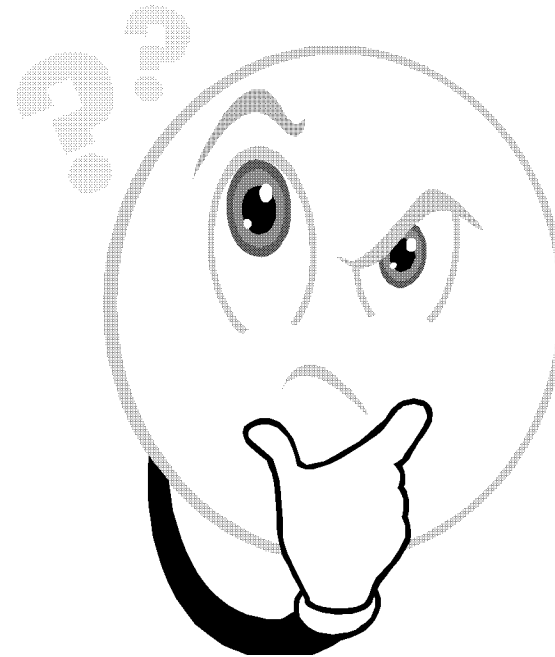
Case summary tips

Include full name, aliases, addresses, marriage history, travel, applications/petitions filed; derogatory information [no classified information should go into this document]. Have a section for questions – as you review the case, write down questions for interview. Have a section for RFE – as you review the case, write down information or documents needed. (Case Summary Handout)




Develop Lines of Inquiry

- Case review
- Timeline
- Case summary



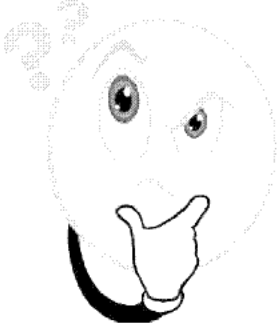
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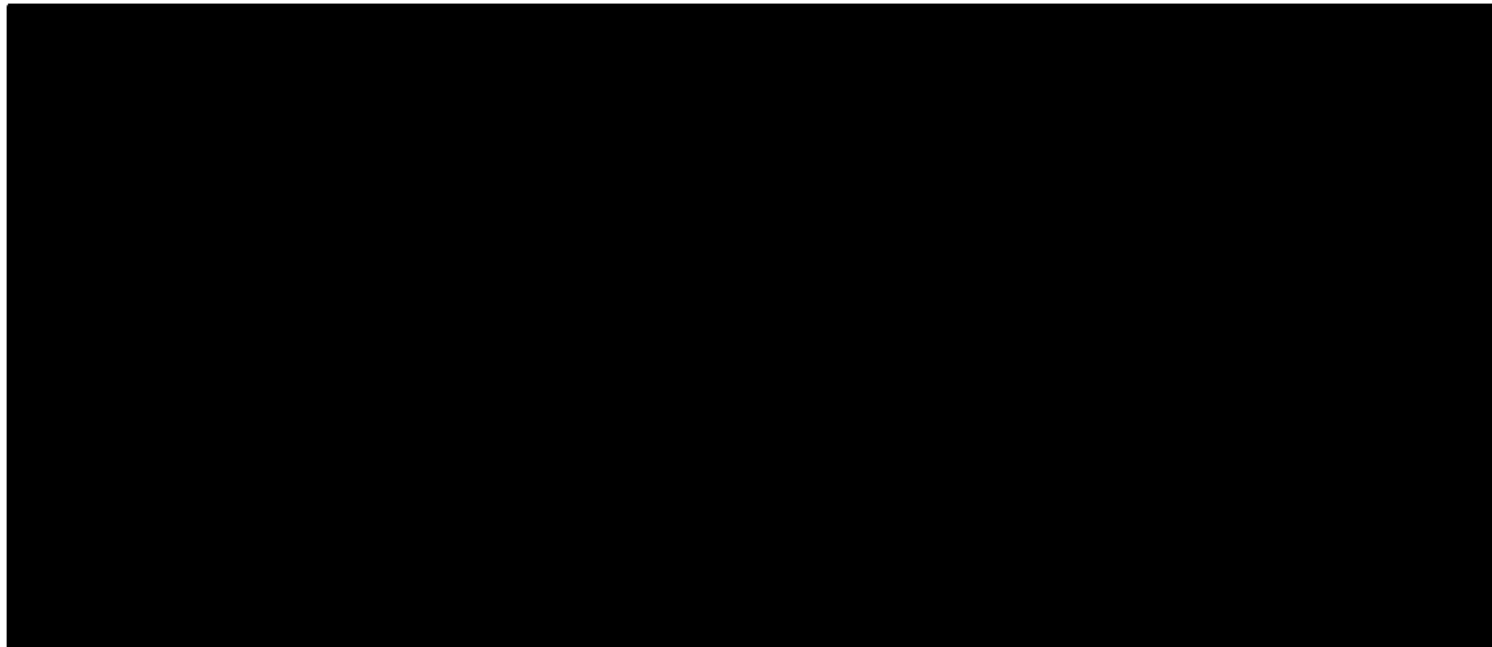
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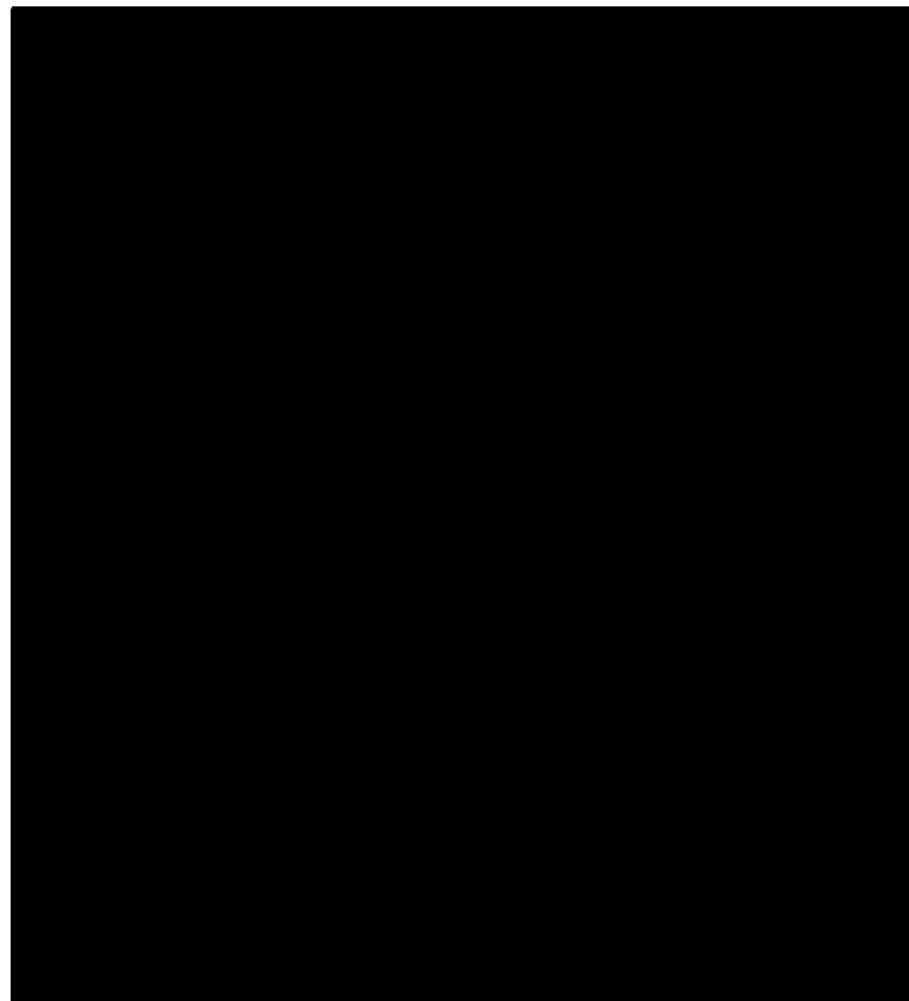
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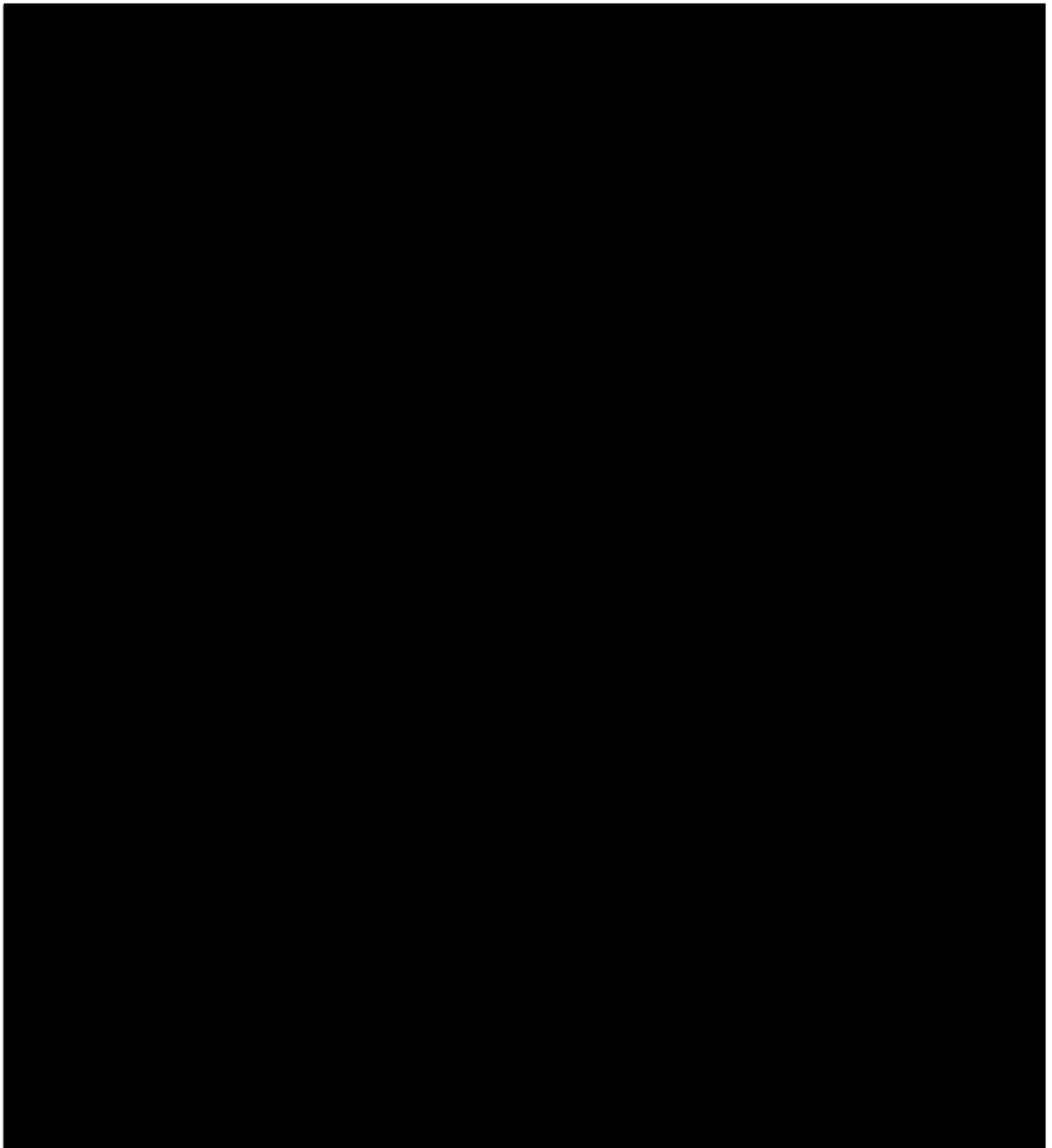
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Identify Areas for Further Research



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Case Resolution Strategies




- Immediate Denial
- RFE
- Site Visit
- Interview
- Re-Interview



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 U.S. Citizenship and Immigration Services

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Case Resolution Strategies

After you have completed your review, what are your possible strategies?
Immediate Denial; Site Visit; RFE; Interview; Re-interview



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If You Need Help . . .



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If you need help

STOP and consider which strategy or strategies you are going to work on and if you need assistance developing it.



Request Assistance From HQFDNS

IF NEEDED:


- Before
 - RFE
 - Site Visit
 - Interview
 - Re-interview

- Why?
 - HQFDNS can assist in all these areas



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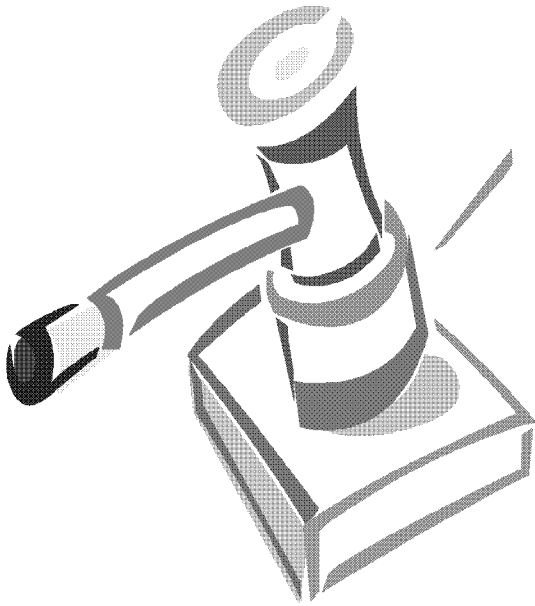
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Request Assistance from HQFDNS if needed!

You are strongly encouraged to request assistance before RFE, Site Visit, Interview or Re-interview. Allow time for HQFDNS to review and assist in the development of your strategy.



Immediate Denial*




- Basis for denial
 - Statutorily ineligible
- Strengthen denial
 - Discretionary grounds
- Contact LEA
 - Prior to any adjudicative action
- Can they overcome with subsequent filing?
 - Consider further research

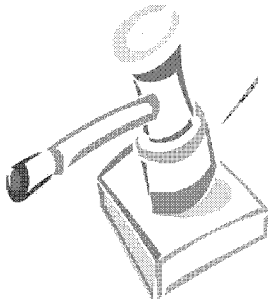
*not applicable to N-400

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Immediate Denial

What is the basis for the denial? Did you find grounds of ineligibility? Can you strengthen the denial with discretionary grounds? Can the denial be overcome with subsequent filing? For instance, filed before visa available; then visa becomes available in a few months. If so, do you need further research, site visit, interview, etc. to gather information to support denial?




Site Visit?

- Determine the need for a site visit
- If you believe a site visit is the best course of action, you need to be able to articulate what you are trying to obtain from a site visit
- You also need to think about the downside of a site visit



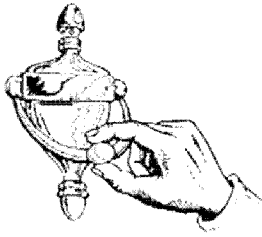
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Site Visit?

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Site Visit

If you determine a site visit is necessary, let the Immigration Officer know exactly what you are looking to accomplish through the site visit. Are you verifying employment, addresses, and relationships? You also need to think about potential downsides of a site visit.



Request for Evidence

Intense & Detailed RFE(s)/N-14s

Why:


- You cannot assume anything
- Turn your pinhole into a doorway
- Build a complete picture

Value:

- Use RFE for preparation of possible interview
- Use RFE to open doors to sensitive information

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Requests for Evidence

What is missing? Any documents, supporting evidence, information you need to adjudicate the case. You cannot assume anything. Turn your pinhole into a doorway and build a complete picture. Use the RFE for preparation of a possible interview and to open doors to sensitive information.

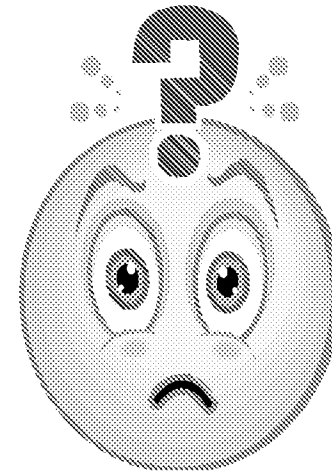
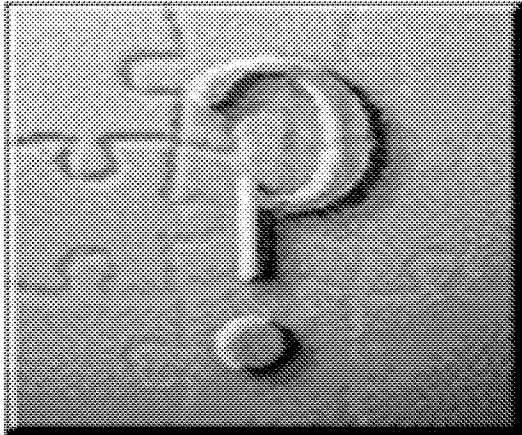
Inquiry Preparation

As you prepare for the interview, anticipate what some of their answers and prepare some follow-up questions. Reviewing the case file, timeline, case summary, and strategy will give you all the ammunition you need for a productive interview. Pick a date and time when you can dedicate yourself to the case. Be ready to explore answers and prepare for resistance from the applicant. Be ready with follow-up questions during the interview. Ensure audio/visual recording can be completed for the interview. This will be extremely useful when completing the adjudication.



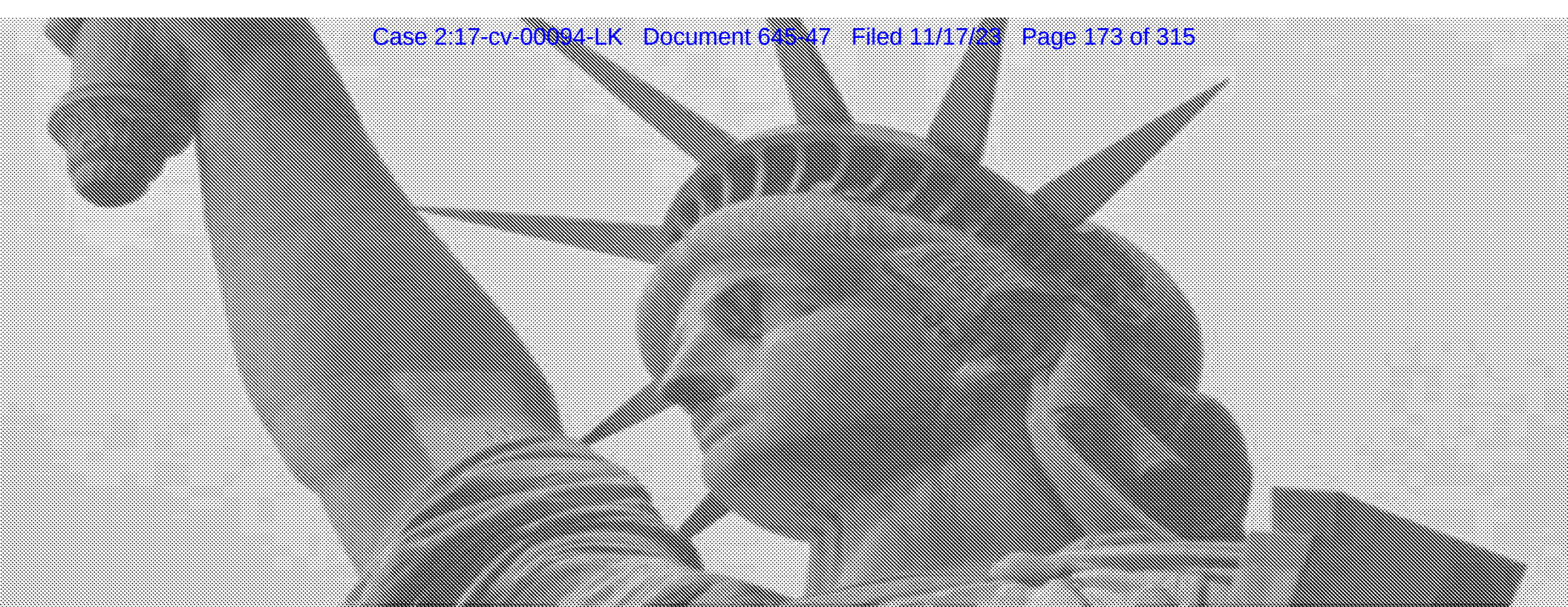
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Questions?



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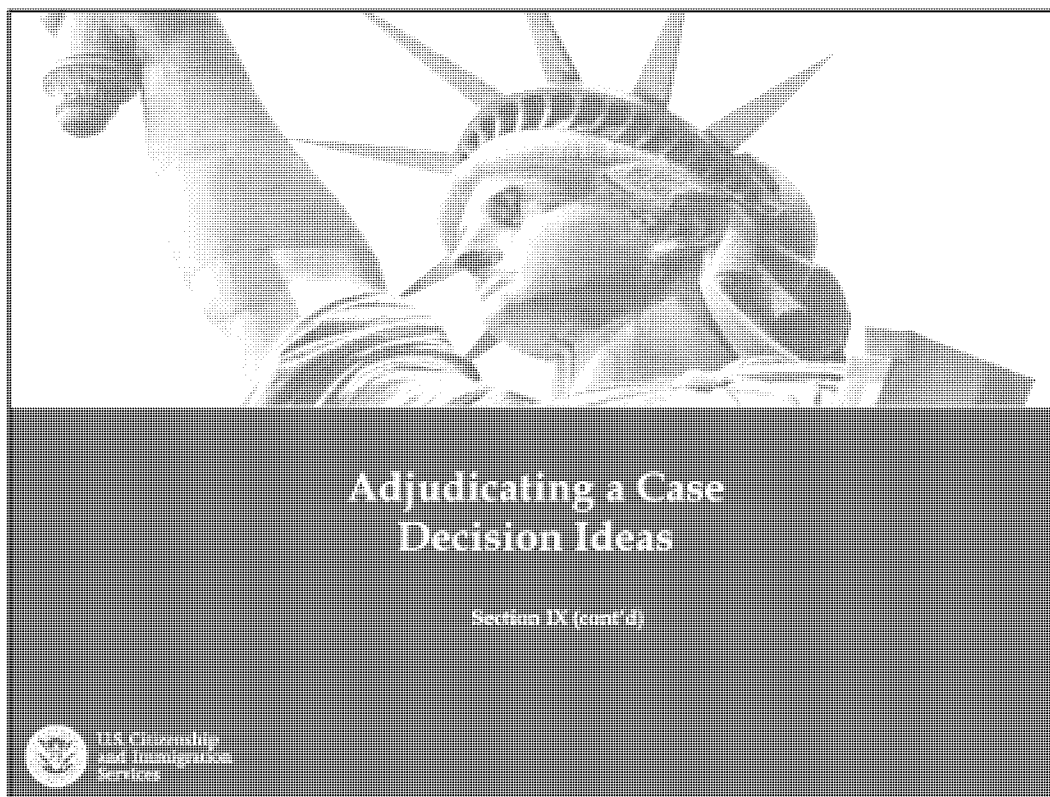
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Adjudicating a Case Decision Ideas

Section IX (cont'd)



U.S. Citizenship
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Decision Ideas

ALWAYS Double Check! Make sure applicant met all requirements prior to deciding if applicant is eligible for the benefit being sought!

Applicant is **OK**. What do I do now? If you cannot find a straight ineligibility disqualification for the applicant you have to **DIG DEEPER!**



Is the Applicant of Good Moral Character?


- **Good Moral Character and Misrepresentation**

Section 316(a) requires that a successful candidate for naturalization demonstrate that they are, “...during all the periods referred to in this subsection... a person of good moral character, attached to the principles of the Constitution of the United States, and well disposed to the good order and happiness of the United States.”

- Naturalization may only be granted in strict compliance with the statutory requirements imposed by Congress. “**No alien has the slightest right to naturalization unless all statutory requirements are complied with....**” *U.S. v. Ginsberg, supra* at 475; *see also Federenko v. U.S.*, 449 U.S. 490, 506 (1981).

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Title 8, Code of Federal Regulations, Part 316.10 states:

(a)(1) an applicant for naturalization bears the burden of demonstrating that, during the statutorily prescribed period, he or she has been and continues to be a person of good moral character. This includes the period between the examination and the administration of the oath of allegiance.

(a)(2) In accordance with section 101(f) of the Act, the Service shall evaluate claims of good moral character on a case-by-case basis.... **The Service is not limited to reviewing the applicant's conduct during the five years immediately preceding the filing of the application, but may take into consideration, as a basis for its determination, the applicant's conduct and acts at any time prior to that period,** if the conduct of the applicant during the statutory period does not reflect that there has been reform of character from an earlier period....

See Title 8, Code of Federal Regulations, Part 316.10(b)(2)(vi). This is true even if the testimony is not material. *Id.*; *see Kungys v. United States*, 485 U.S. 759 (1988). In addition to being a mandatory bar to naturalization, misstatements under oath tend to undermine credibility and cast doubt on the veracity of testimony as a whole.

(b)(2) an applicant shall be found to lack good moral character if during the statutory period the applicant ... (vi) has given false testimony to obtain any benefit from the Act, if the testimony was made under oath or affirmation and with an intent to obtain an immigration benefit; **this prohibition applies regardless of whether the information provided in the false testimony was material, in the sense that if given truthfully it would have rendered ineligible for benefits either the applicant or the person on whose behalf the applicant sought the benefit....**



False Testimony

- False testimony under oath for the purpose of obtaining an immigration benefit constitutes a bar to a finding of good moral character.
- The Service is **not** limited to reviewing the applicant's conduct during the five years immediately preceding the filing of the application.
- Case law supports the idea that a misrepresentation **need not be material** for USCIS to find that it would reflect negatively on a person's moral character.




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Courts, however, tend to insist that misrepresentations be material to an individual's eligibility, or at least that the misrepresentations were made by the applicant in an effort to obtain a benefit. It is this second idea that offers promise for officers seeking to support decisions denying benefits. In order for an officer to demonstrate that a misrepresentation was made for the purpose of obtaining an immigration benefit, he or she must link the misrepresented fact to some area of eligibility.

Among other things, an applicant for naturalization bears the burden of demonstrating that he or she has been and continues to be a person of good moral character.

EXAMPLE ON NEXT PAGE – KEEP THIS SLIDE UP!



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Decision Writing Ideas . . .

- Here is the law,
- Here is what your application says,
- Here is what you say,
- Here is what public information says,
- Here are discrepancies,
- Here is how you explained (or didn't explain) the discrepancies,
- Here is why these explanations don't make sense,
- Here are factors to consider when making a discretionary decision,
- Here are factors to consider when determining good moral character,
- Here is why USCIS doubts your credibility and/or moral character,
- Here is the case law to support our decision.
- So, your application is denied.

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 U.S. Citizenship and Immigration Services **Decision Writing Ideas . . .**

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Denial Writing Ideas

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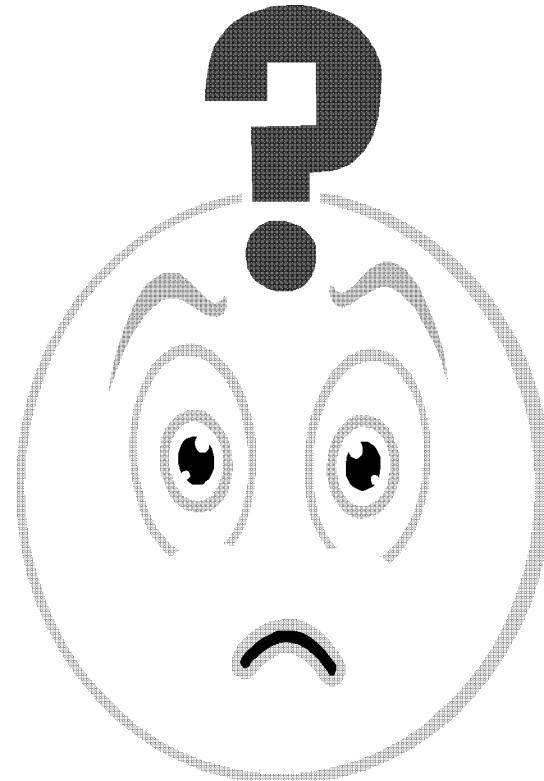
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Questions?



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Adjudicating a Case Developing Lines of Inquiry

Section IX (cont'd)



U.S. Citizenship
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Pre-decision

- Carefully examine all materials affiliated with the file.
- Search the internet and all USCIS databases available to you.
- Know where you are going. Link questions to eligibility or credibility.




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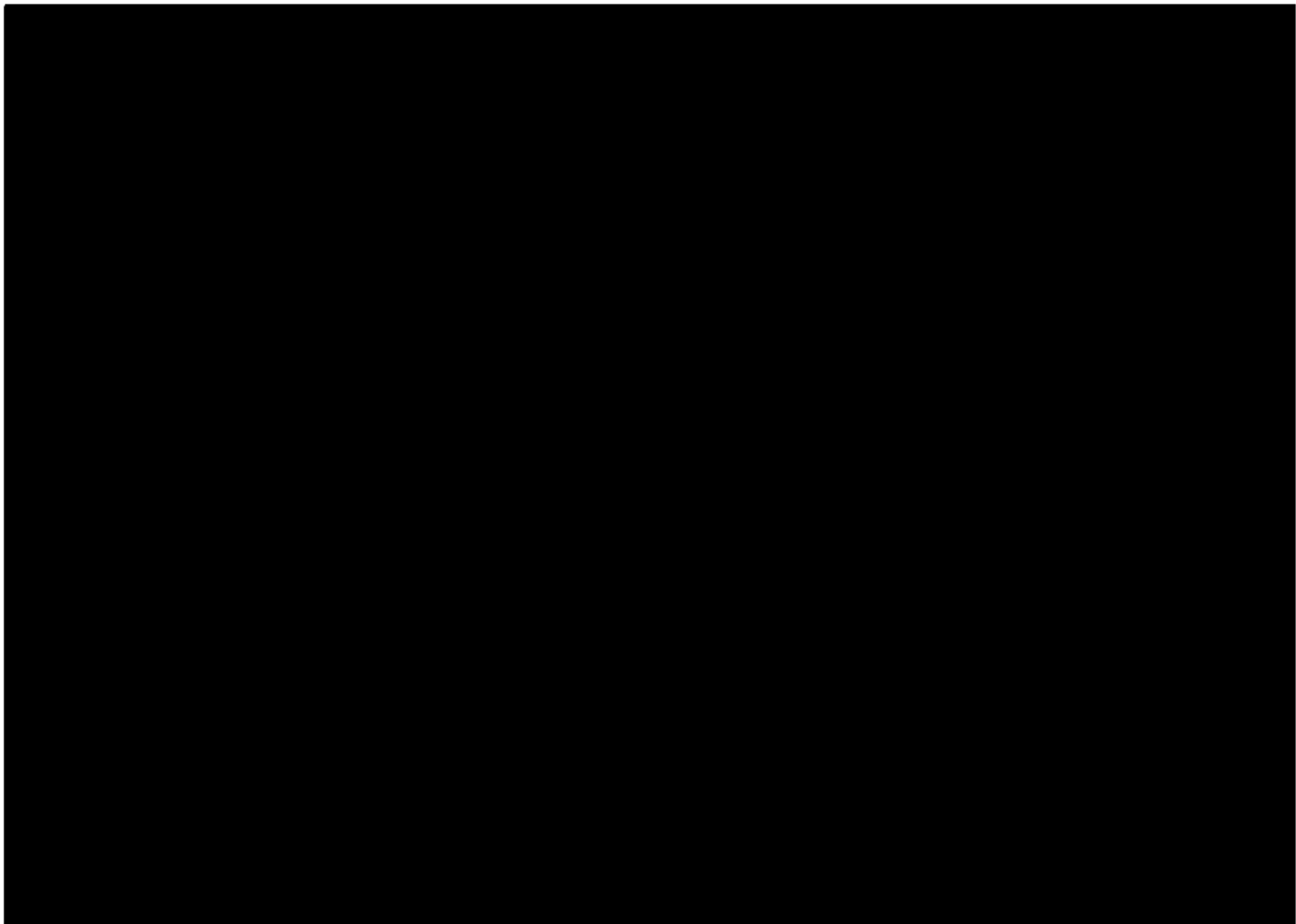
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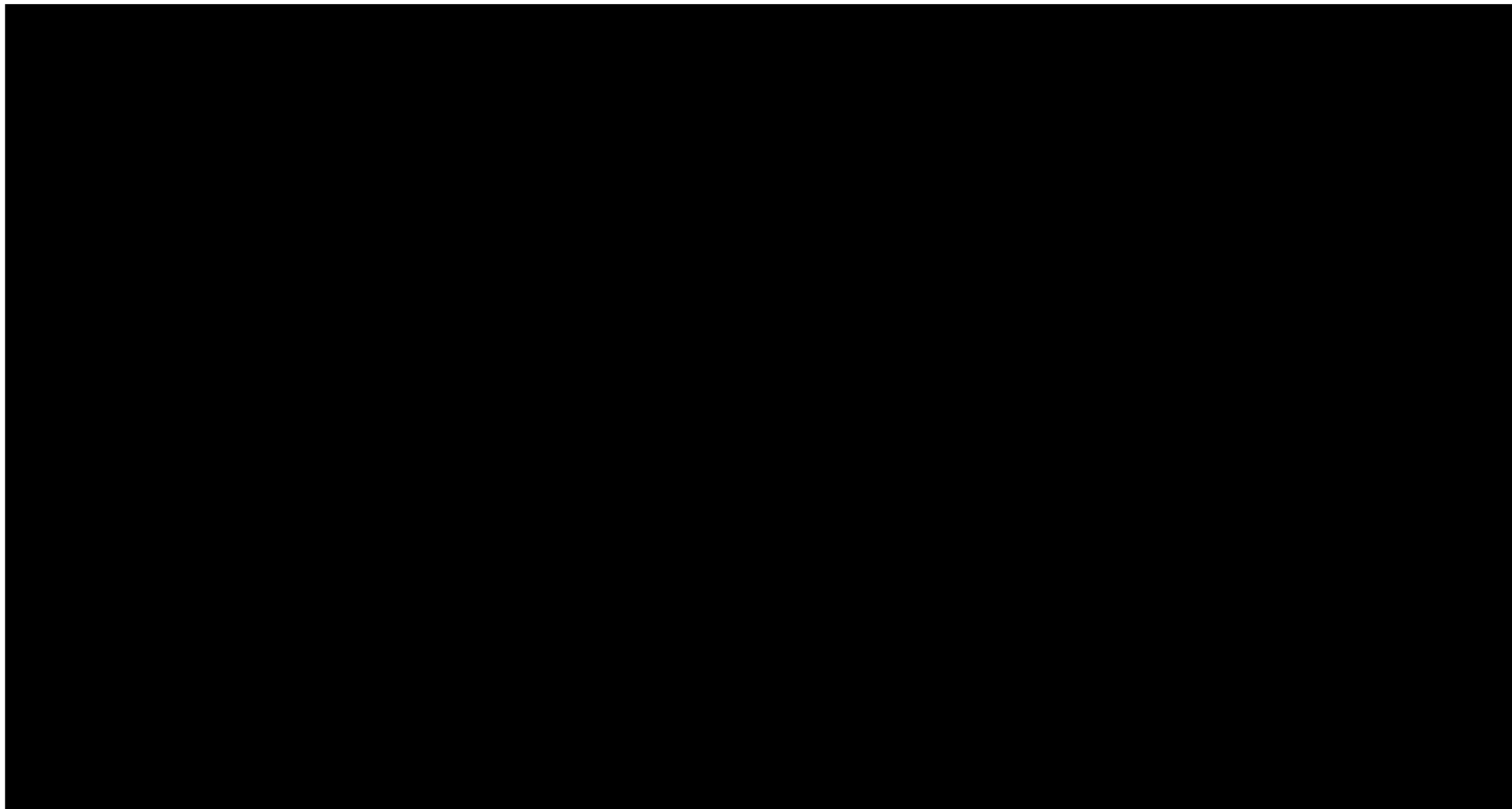
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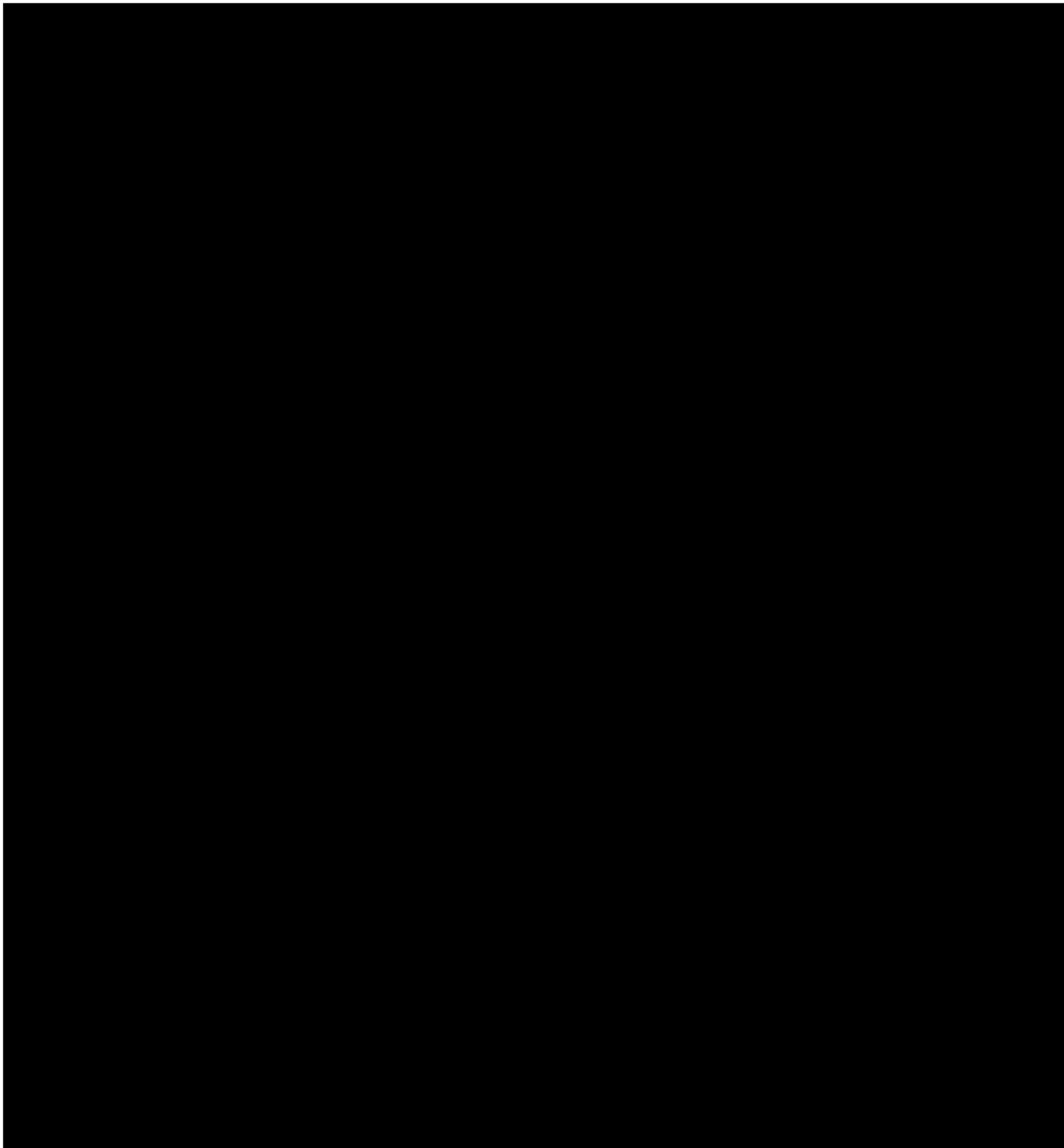


Create a List of Questionable Items



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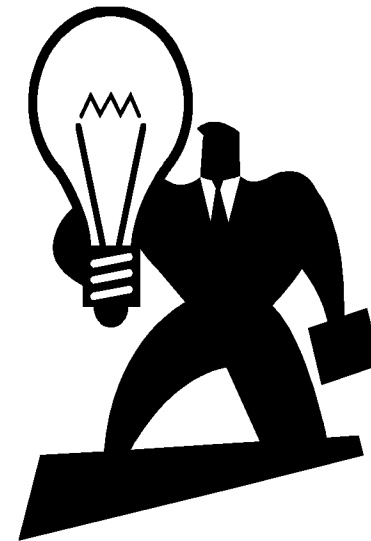
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What Response Are You Looking For?

- Leading questions.
- Multiple choice questions.
- Open ended questions.
- Closed questions.




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When developing your questions remember that there are several types of questions:

Leading questions: These questions suggest to the applicant what you are looking for. *For example: You first entered the U.S. on 2/13/04, correct?*

Multiple Choice questions: These questions give the applicant two choices as answers. *For Example: Did you first enter the U.S. in 2004 or 2008?*

Open Ended questions: These questions usually begin with “What, Why, How” and will prompt the applicant to provide a lengthy response. *For Example: Why did you decide to stay in the United States?*

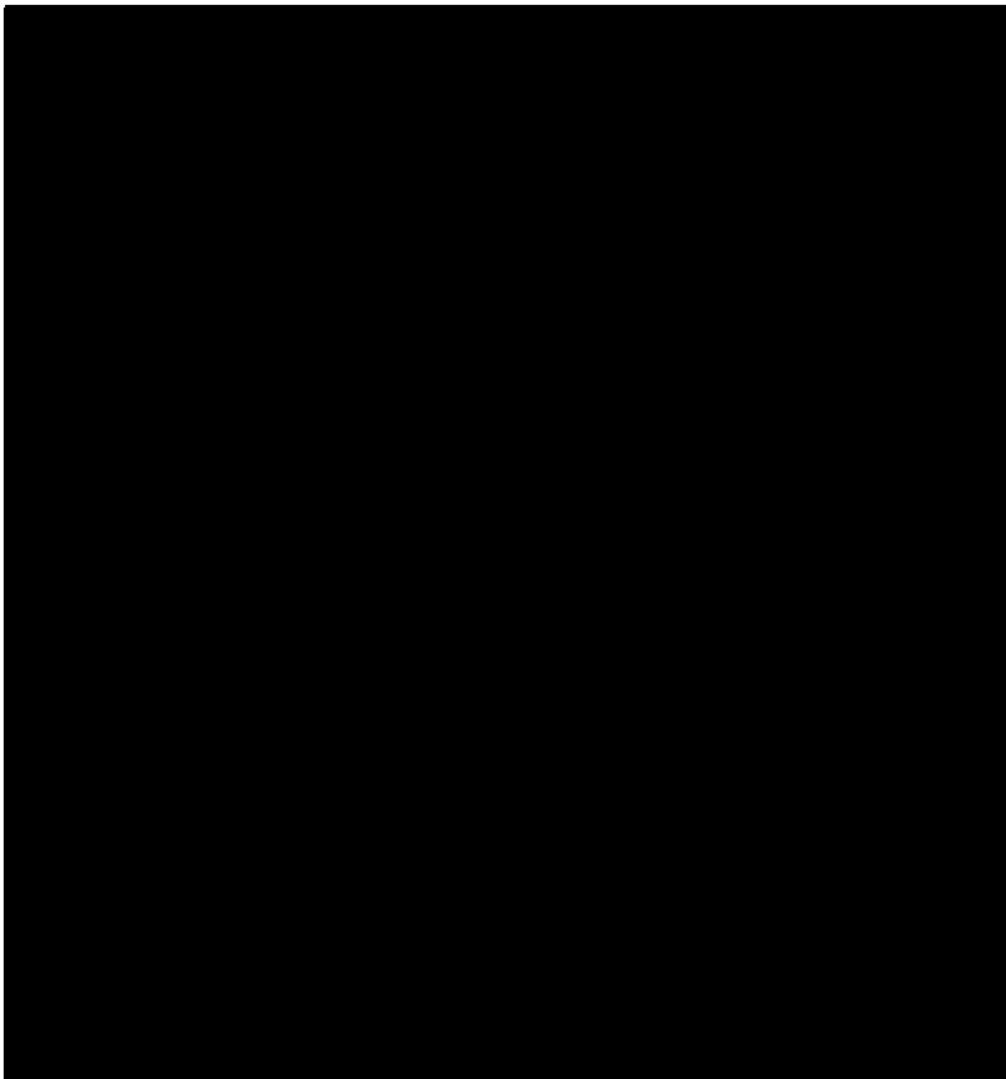
Closed questions: These questions have usually a yes/no answer or a one word response. *For Example: Do you reside at 555 Main Ave?*

Think about the response you would like to receive from the question prior to formulating the question and anticipate follow-up questions in the event you get something other than what you expect. That will assist you in formulating the appropriate type of question. Remember that the applicant is from a different country which means they are from a different culture, speak a different language, and may not be literate. Formulate your questions in a way that they would understand. Do not use complicated words. Use simple language.



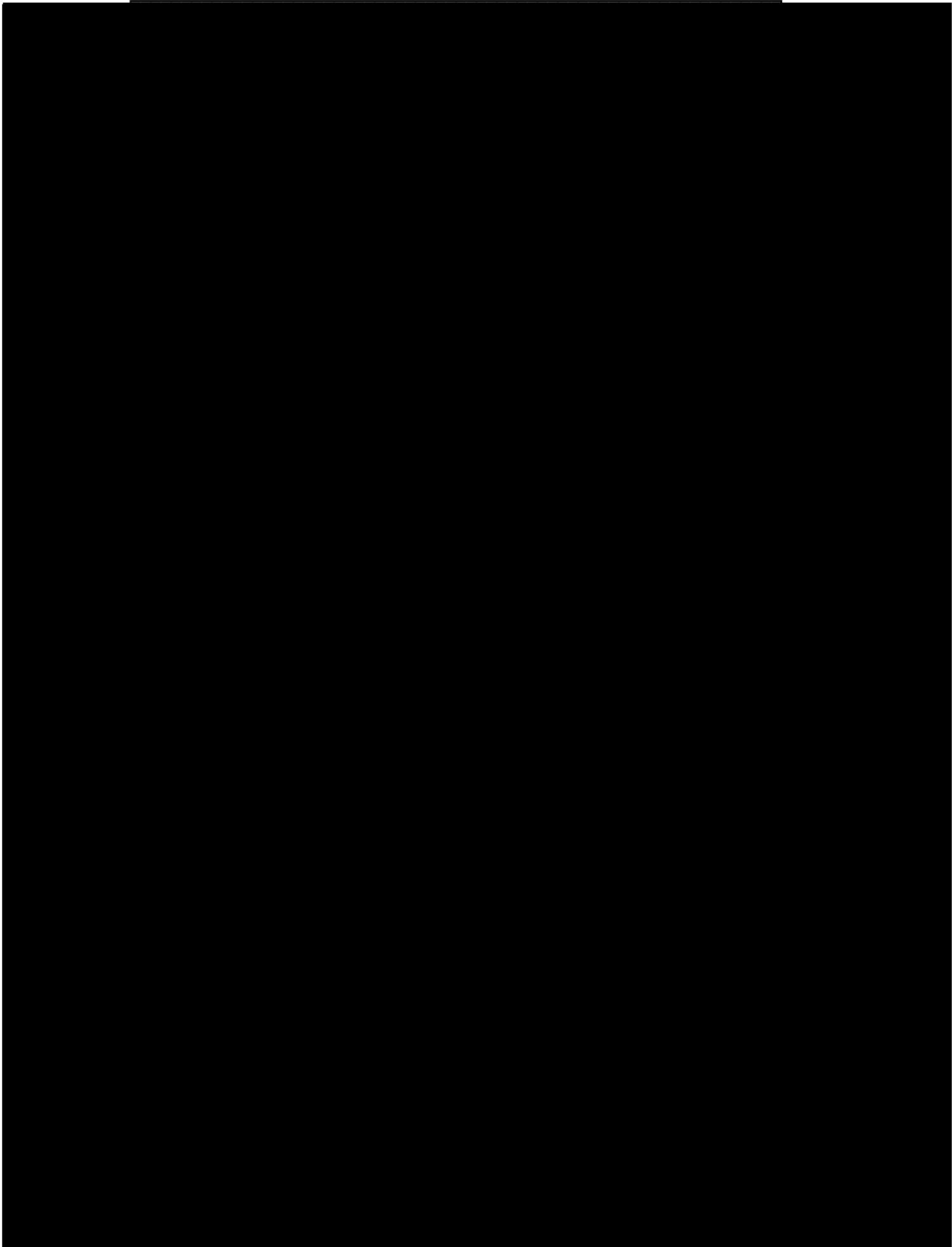
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Subject is of National Security Concern!



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Inquiry Preparation

- Pick a date and time when you can dedicate yourself to the case
- Be ready to explore answers and prepare for resistance
- Be ready with some follow-up questions
- Ensure audio/visual recording can be completed




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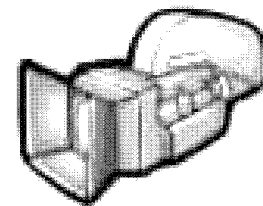
Inquiry Preparation

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Video Taping

- Familiarize yourself with the camcorder prior to the interview.
- Do trial runs.
- Capture entire body, not just face shots!
- Speak loudly and keep other noise level to a minimum.
- Label the DVDs, keep track of the time.

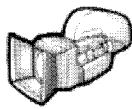


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VIDEOTAPING INTERVIEWS

National Security interviews should be audio-visually recorded so that a full record of the interview is obtained.

Prior to the interview make sure your office has a camcorder, if not try to obtain one.

Familiarize yourself with the camcorder.

Read the instruction booklet if you have never used that particular type of camcorder before.

Take a few practice runs. Ask a co-worker to sit where applicant would be sitting and practice recording/pausing/and stopping the recorder.

Make sure you get a complete view of the applicant in the camcorder, and not just his face. We want to capture his body language.

Speak loudly and ask the applicant to speak loudly.

Have a second chair officer if possible, so they can monitor the camcorder during the interview.

Ask everyone to turn their cell phones off. Make sure there are no other noisy distractions in the room (such as construction outside the window, or vacuuming in the hallway) during the interview. The camcorder will pick up all sounds and it will be difficult to listen to the interview later on.

Verify the length of the DVD being used prior to the interview and keep your eyes on the clock. The DVD will have to be flipped over and changed several times during the interview.

State the time, date and file number every time you switch or flip a DVD. This way later if the disks get mixed up you will still be able to determine the chronological order of the interview.

Make sure you also label each DVD with a date, file number, and number each side of every disk.

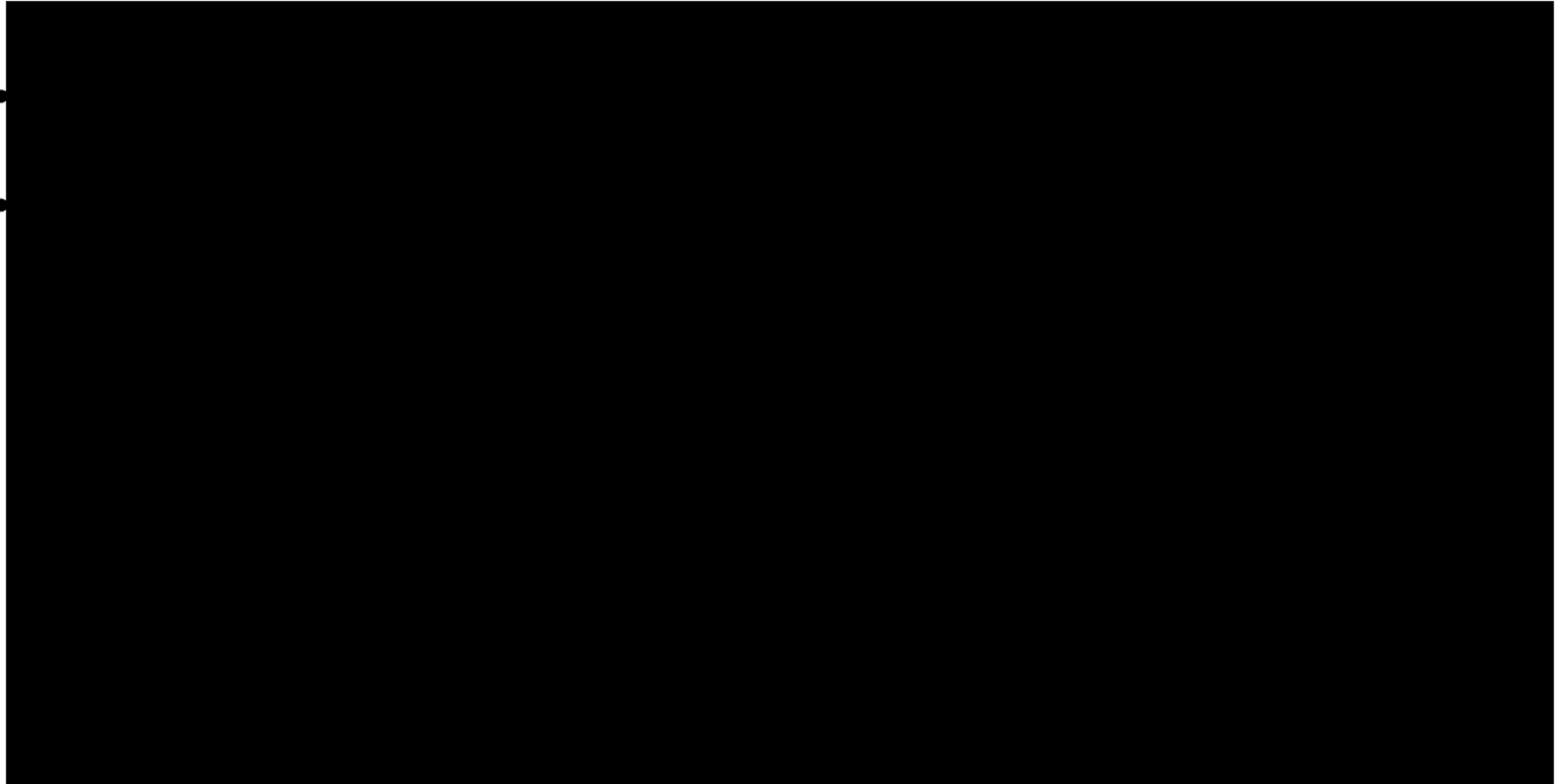
At the end of the interview prior to letting applicant go, double check the camcorder to make sure everything was captured.

Don't forget to finalize the DVD if your camcorder instructs you to do so.



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Dig for Information!



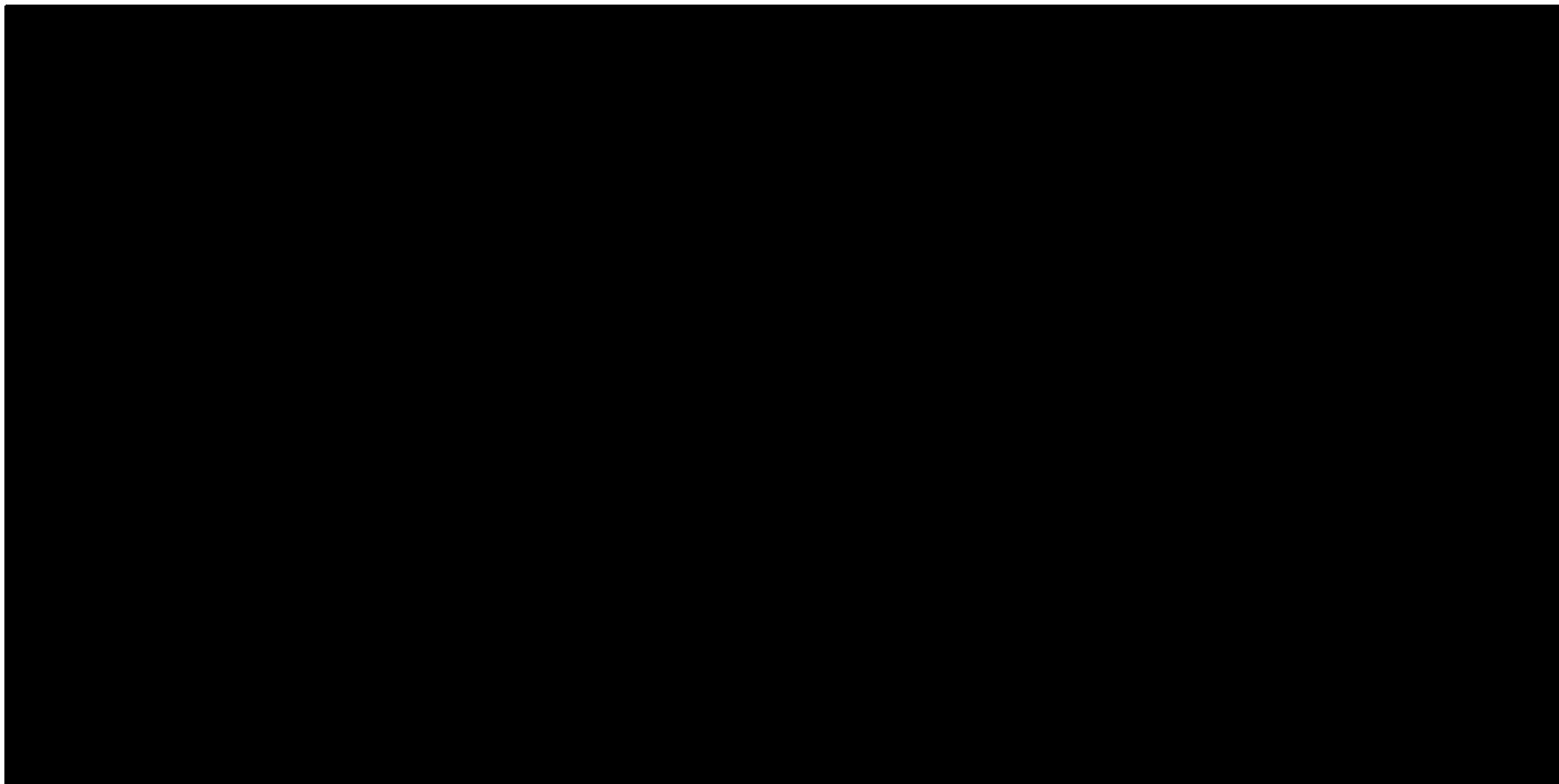
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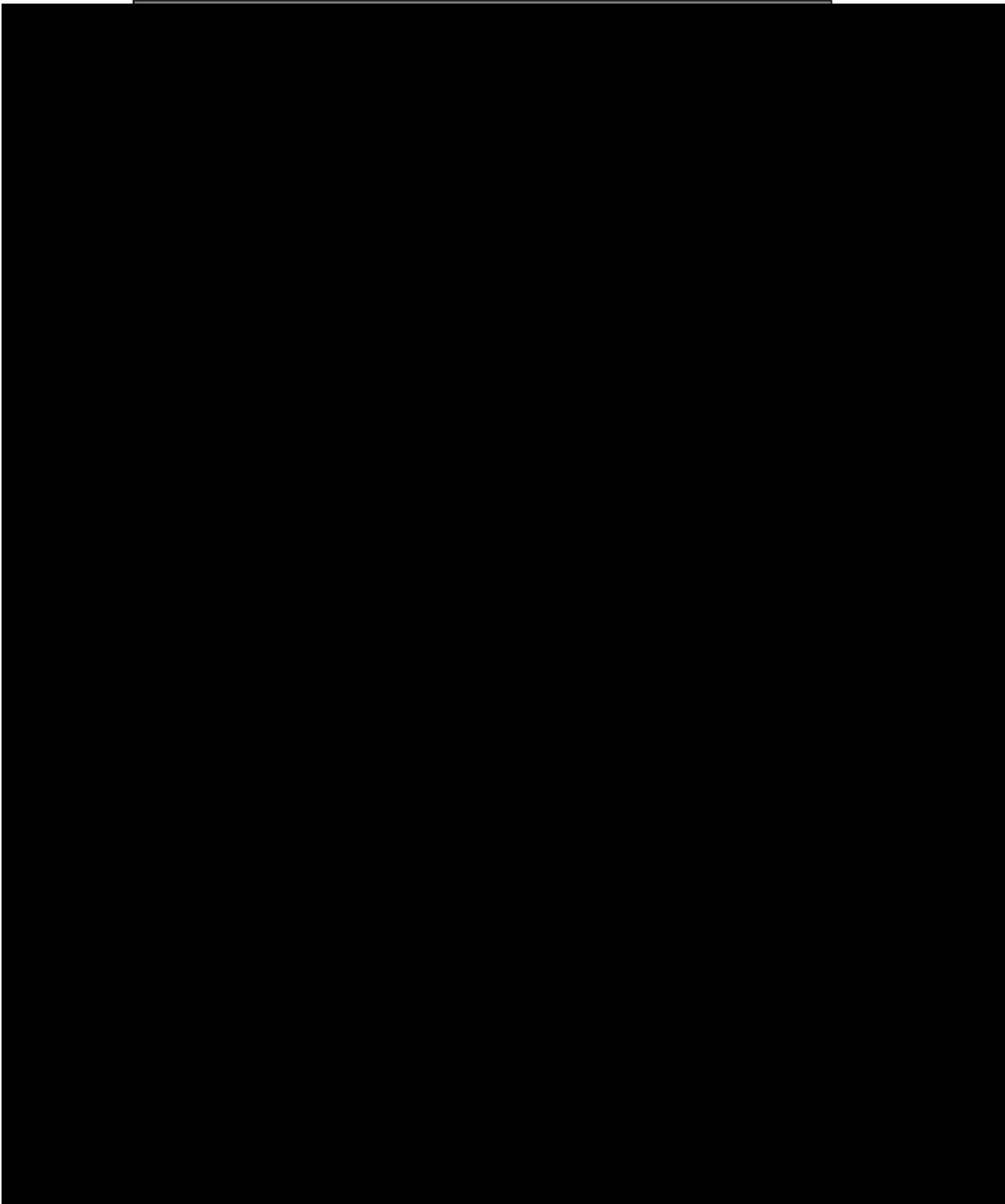
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During the Inquiry



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After the Inquiry

- Review the file, notes, documents....
- Any unanswered questions?
- Any additional questions to ask?
- Deconflict - Does Law Enforcement want to add anything?
- Follow up RFE?

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 U.S. Citizenship and Immigration Services **After the Inquiry**

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After the interview:

Take the applicant out to the waiting room, and let them know there might be more questioning to come.

Review the file, notes, documents. Are there any unanswered questions?

If so, prepare an additional list of questions.

Is law enforcement interested in this subject?

If yes, contact them, let them know what you came up with during the interview and ask if they would like to add any follow up questions.



U.S. Citizenship
and Immigration
Services

Questions?



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A grayscale, halftone-style image of the Statue of Liberty, showing her head and crown in the foreground and her arm holding the torch in the background.

Adjudicating NS Cases Inquiry Strategies

Section IX (cont'd)



U.S. Citizenship
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Services



Definitions

Credibility

- The quality or power of inspiring belief

Consistency

- Condition of adhering together; firmness of material substance; agreement or harmony of parts or features to one another or a whole

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U.S. Citizenship and Immigration Services **Definitions**

Credibility

- The quality or power of inspiring belief

Consistency

- Condition of adhering together; firmness of material substance; agreement or harmony of parts or features to one another or a whole

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Credibility and Consistency

According to Merriam-Webster Dictionary **Credibility** and **Consistency** are defined as follows:

Credibility:

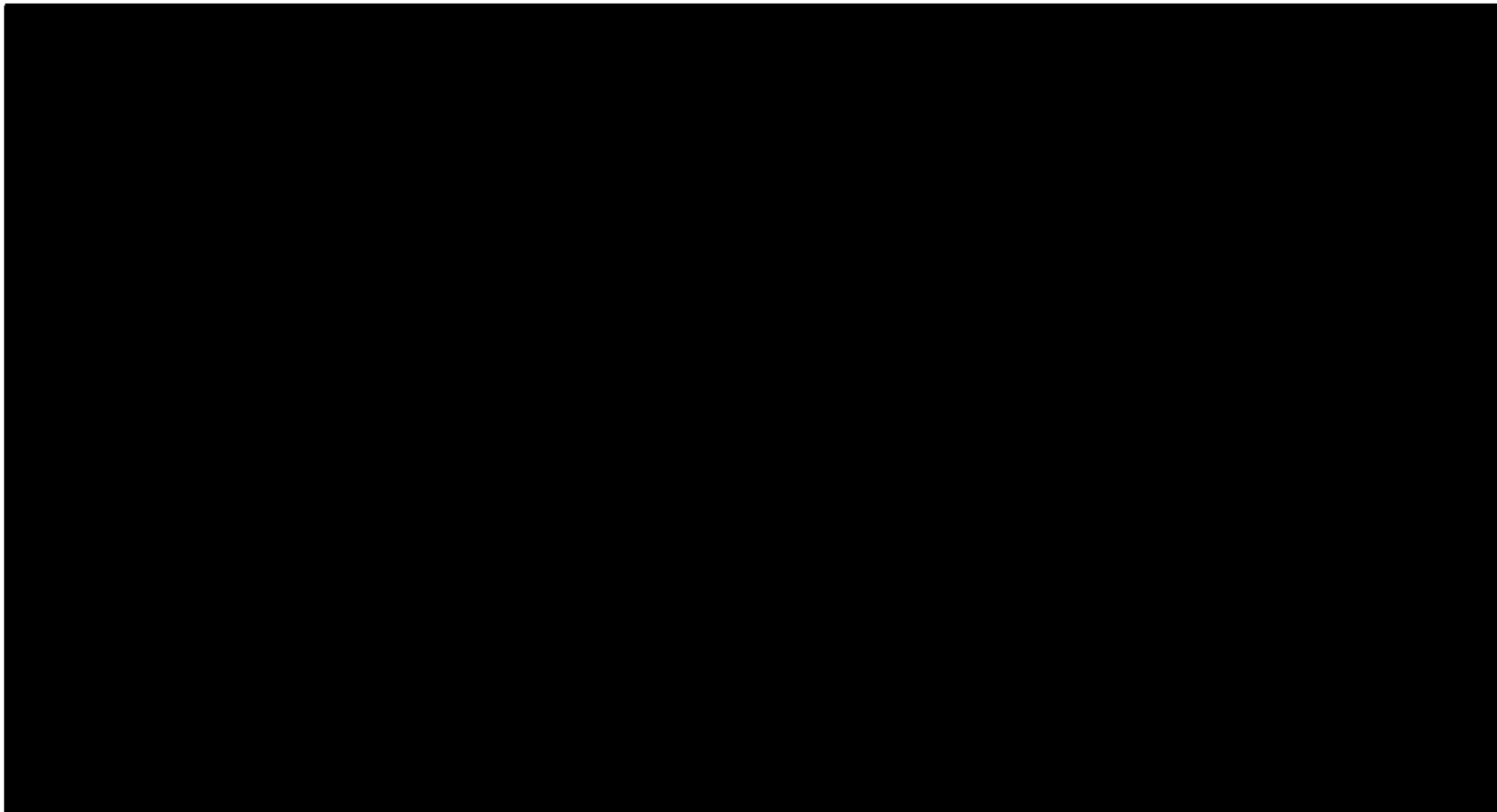
1 : the quality or power of inspiring belief <an account lacking in *credibility*>

Consistency:

condition of adhering together : firmness of material substance **b:** firmness of constitution or character : **2:** degree of firmness, density, viscosity, or resistance to movement or separation of constituent particles <boil the juice to the *consistency* of a thick syrup>**3 a:** agreement or harmony of parts or features to one another or a whole

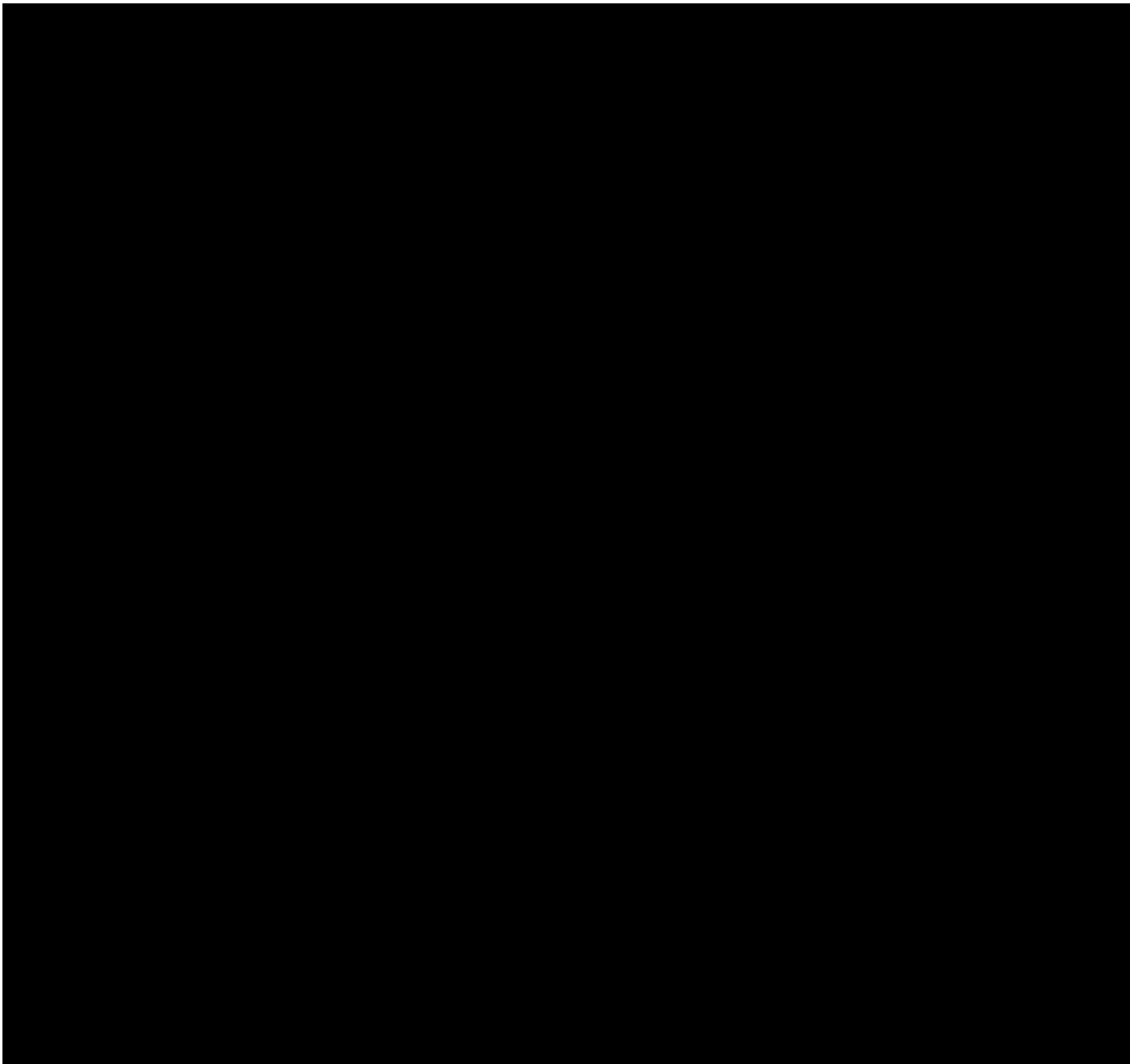


Identifying NS Concerns



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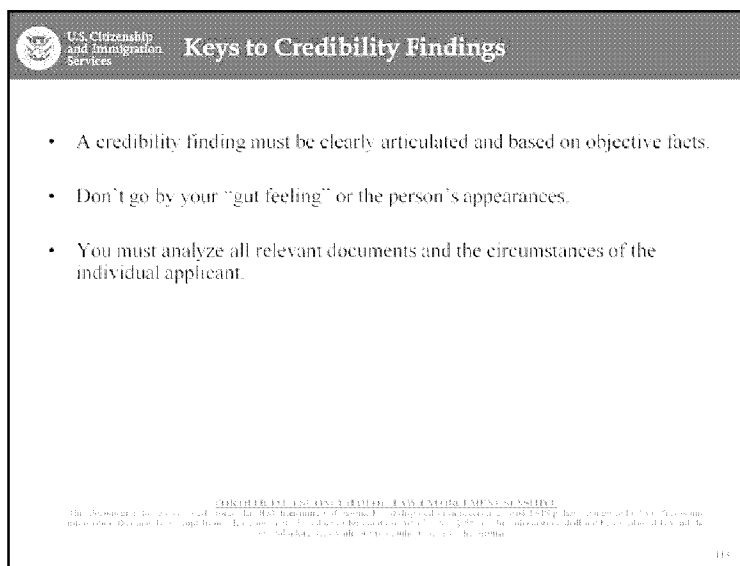


Keys to Credibility Findings

- A credibility finding must be clearly articulated and based on objective facts.
- Don't go by your "gut feeling" or the person's appearances.
- You must analyze all relevant documents and the circumstances of the individual applicant.

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Evaluation of the credibility of an applicant's testimony is fundamental to the evaluation of applicant's eligibility and, in some cases, is the determining factor.

A credibility finding must be clearly articulated and based on objective facts; it cannot be based on "gut feelings" or intuition. Intuition and gut feelings are unreliable, particularly when interviewing a stranger from a different culture and sometimes through an interpreter.

To make an accurate credibility finding based upon the totality of the circumstances, the officer must elicit and analyze "all relevant circumstances, including the circumstances of the individual applicant."

An attack on credibility must cite specific instances of unexplained or unreasonable discrepancies between sets of facts given or identified during an application process. Further, credibility suffers when an applicant repeatedly fails to recall details regarding significant life events (marriages, births of children, divorces, deaths, moves, job changes, travel, etc.). When relying on lack of credibility in denying an application, one must identify:

Why answers are important in establishing eligibility,

Why failure to answer undermines establishing eligibility,

How an applicant's answers and other information do not tell the same story,

Why USCIS finds the applicant's testimony to lack credibility.

For instance, a credibility attack might state:

A successful candidate for naturalization will establish that he or she meets statutory physical and lawful presence requirement. During your interview, you stated that you were in Idaho in April 2004. In fact, travel documents you provided to USCIS at the time of your naturalization application in 2006 indicate that you were on extended travel to Brazil from March 2004 to June 2004. The fact that your child was born in January 2005 in Brazil tends to substantiate the idea that you were, in fact, outside of the United States during that time. You have failed to provide any evidence that you were in the United States during the time in question. You have provided no reasonable explanation as to why your testimony contradicts documents you submitted. You have provided no reasonable explanation as to why you cannot produce documents that would establish your physical presence in the United States during the time in question. In light of these discrepancies, and considering the other discrepancies discussed (earlier/later), USCIS cannot find your statements to be credible and must discount their value.




During the interview




- Introduce yourself and others in the room.
- Explain the reason for the interview.
- Read opening statement for recorded interviews.
- Explain attorney's role to him/her.

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 U.S. Citizenship and Immigration Services

During the interview



- Introduce yourself and others in the room.
- Explain the reason for the interview.
- Read opening statement for recorded interviews.
- Explain attorney's role to him/her.

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**Introduce yourself, other people in the room and explain reason for interview.
If the interview is being audio/visually recorded, read opening statement.
Establish small talk to put the applicant at ease. Make sure the Attorney knows his/her role during the interview so he/she is not disruptive.**



U.S. Citizenship and Immigration Services

Key Points

OMB No. 1617-0023 (Rev. 09-11-07)

I-485, Application to Register Permanent Residence or Adjust Status

Department of Homeland Security
U.S. Citizenship and Immigration Services

START HERE - Please type or print in black ink.

Part 1. Information about you.

Family Name SMITH	Given Name John	Middle Name Jr.
Address: C/O		
Street Number and Name 1234 Main Street	Apt. # 1008	
City Los Angeles		
State CA	Zip Code 90765	
Date of Birth (mm/dd/yyyy) 02-09-1987	Country of Birth Nigeria	
Country of Issuance Nigeria	A # (if any) None	
Security # 123-45-6789	SSN # 123456789	
Date of Last Arrival (mm/dd/yyyy) 09-08-1977	Expiration Date (mm/dd/yyyy) 09-08-2006	

Part 2. Application type. *check one*

I am applying for an adjustment to permanent resident status because:

- I am an immediate relative of a U.S. citizen or lawful permanent resident who has been approved. (Attach a copy of the approval notice or letter, special immigrant, or letter of special immigrant status, and petition filed with this application that will give you an immediately available visa number if approved.)
- My spouse or parent applied for adjustment of status or was granted lawful permanent residence in an immigrant visa category that allows derivative status for spouses and children.
- I entered as a U.S. Service member of a United States citizen whom I married within 90 days of entry, or I am the U.S. child of such a citizen. (Attach a copy of the divorce or petition approval notice and the marriage certificate.)
- I was granted asylum or derivative asylum status as the spouse or child of a person granted asylum and am eligible for adjustment.

Received	Receipt
Resubmitted	
Relocated	
Applicant Withdrawn	

Section of Law


Sec. 101(a), INA
 Sec. 13, Act of 9/11/87
 Sec. 14, INA
 Sec. 15, INA
 Sec. 1 Act of 11/1/06
 Sec. 1 Act of 11/1/06
 Other _____

Country Chargeable

- Go over biographical information first.
- Listen carefully when applicant speaks.
- Compare responses to answers you already have.
- Make sure applicant and interpreter understand each other.
- Keep applicant's culture and education in mind during the interview.

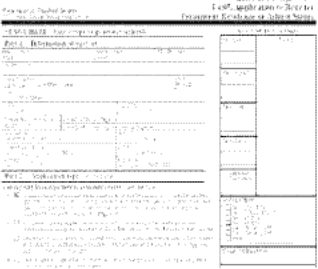
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U.S. Citizenship and Immigration Services

Key Points

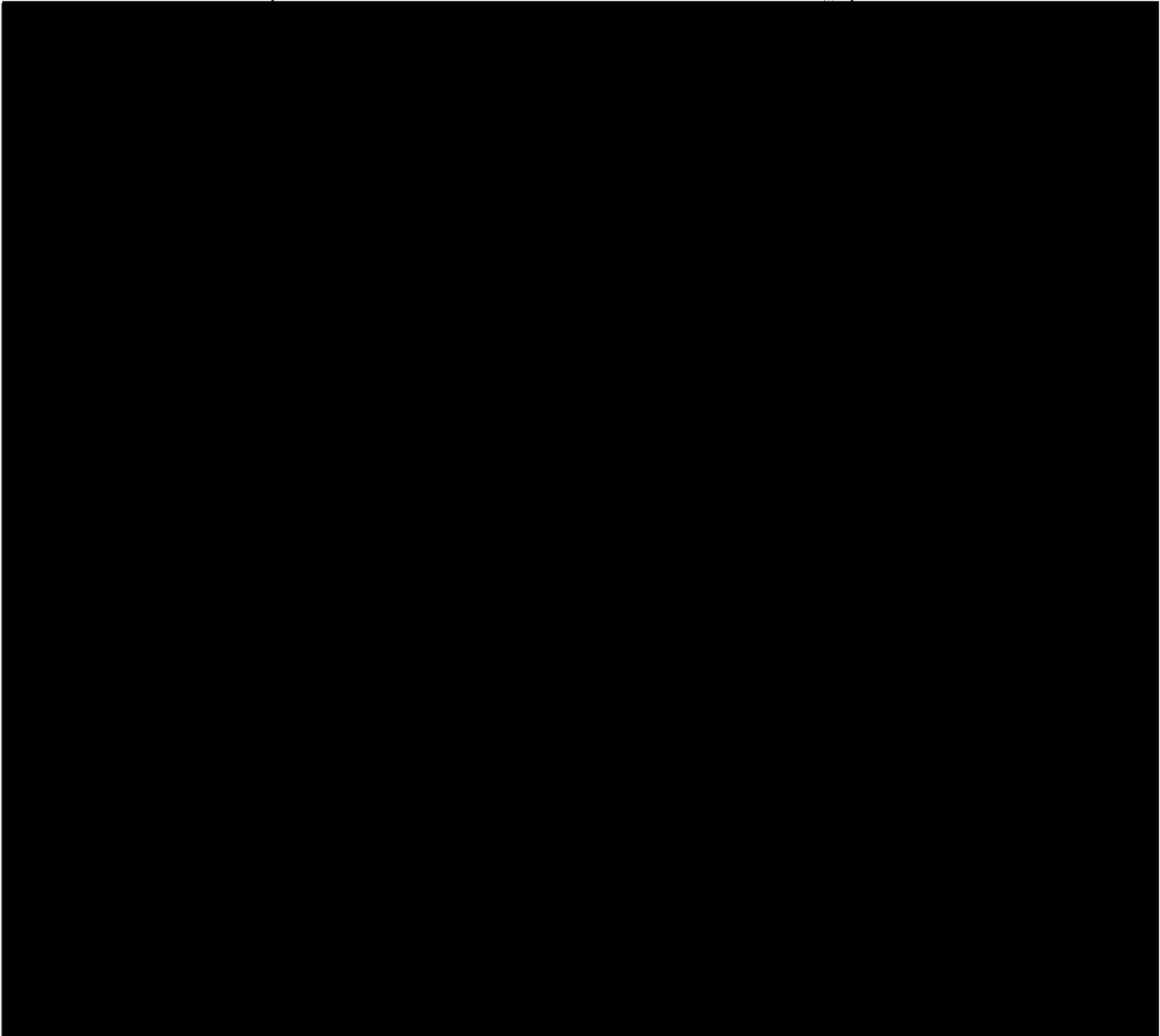


- Go over biographical information first.
- Listen carefully when applicant speaks.
- Compare responses to answers you already have.
- Make sure applicant and interpreter understand each other.
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U.S. CITIZENSHIP AND IMMIGRATION SERVICES

Form I-485, Application to Register for Permanent Residence or Adjust Status

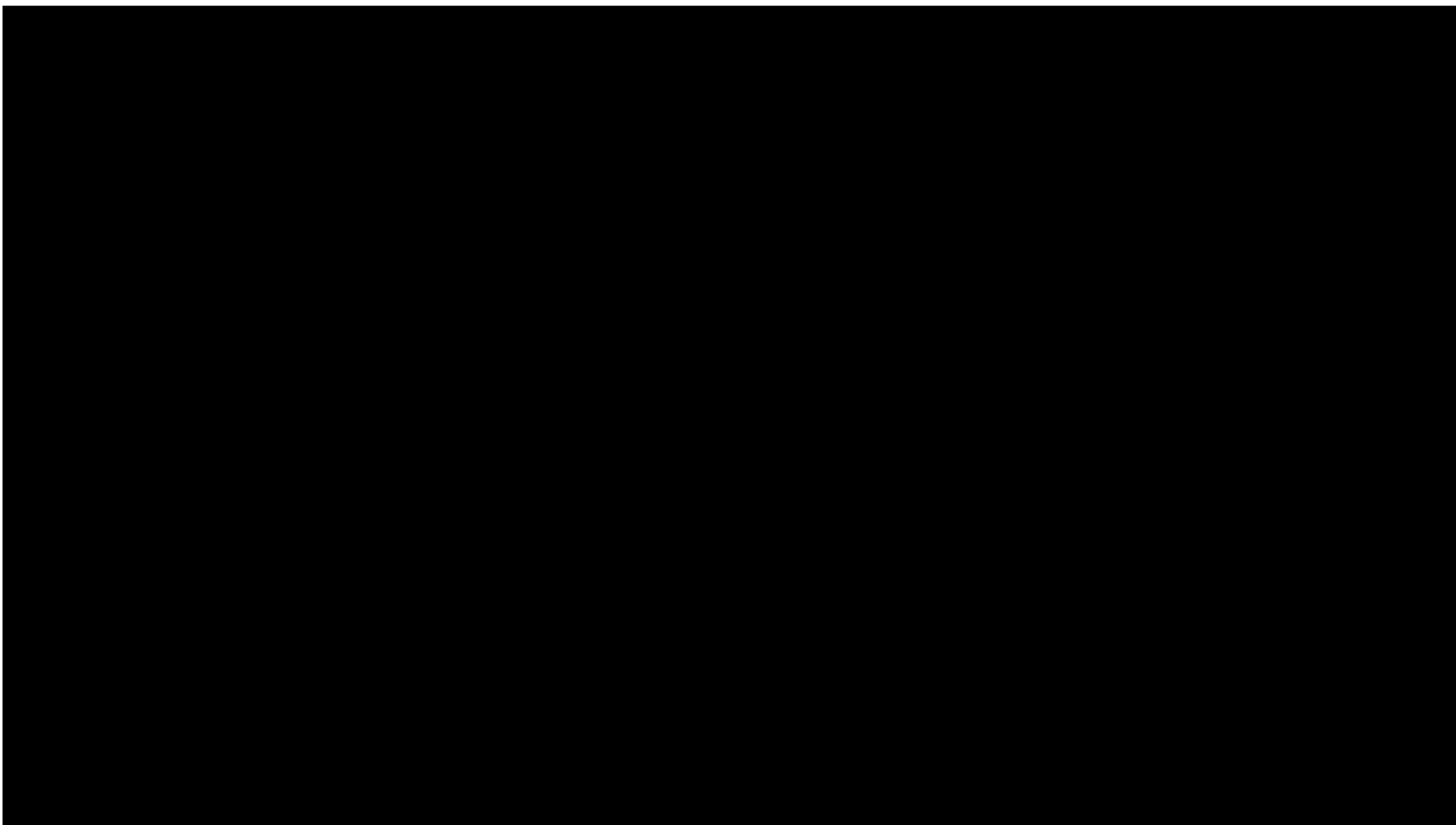
(Rev. 08-2016)





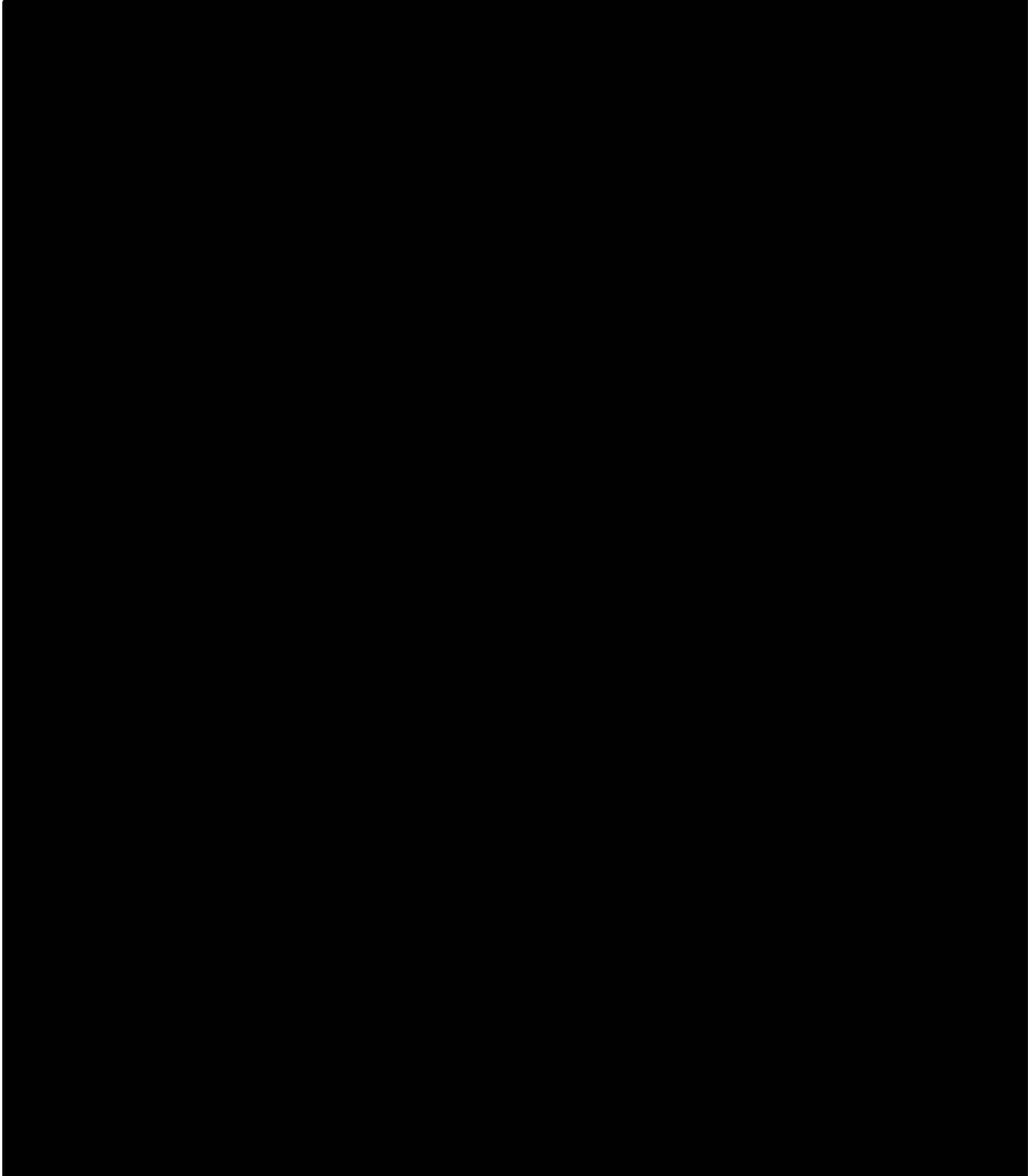
U.S. Citizenship
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Look for these Signs



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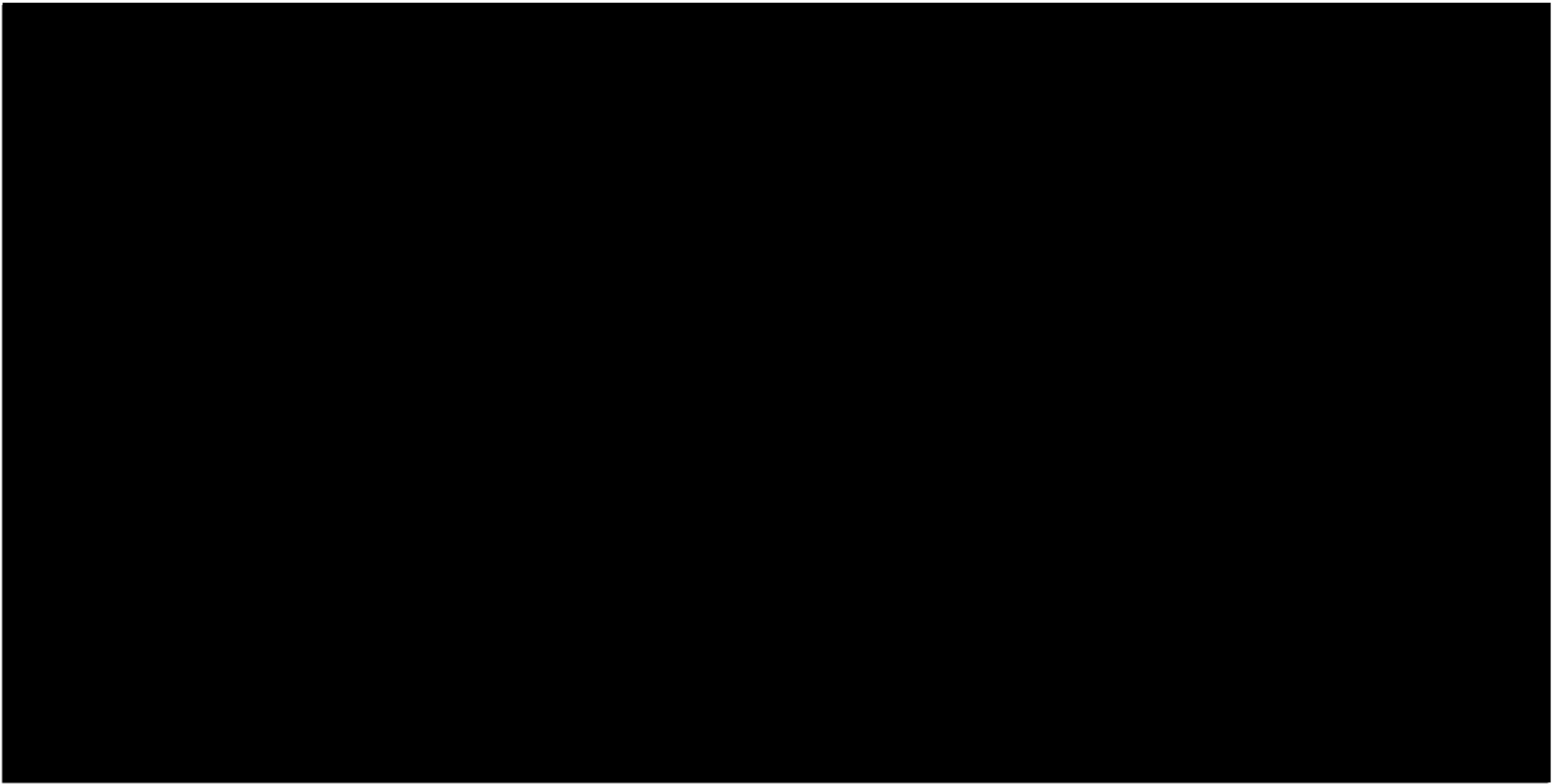
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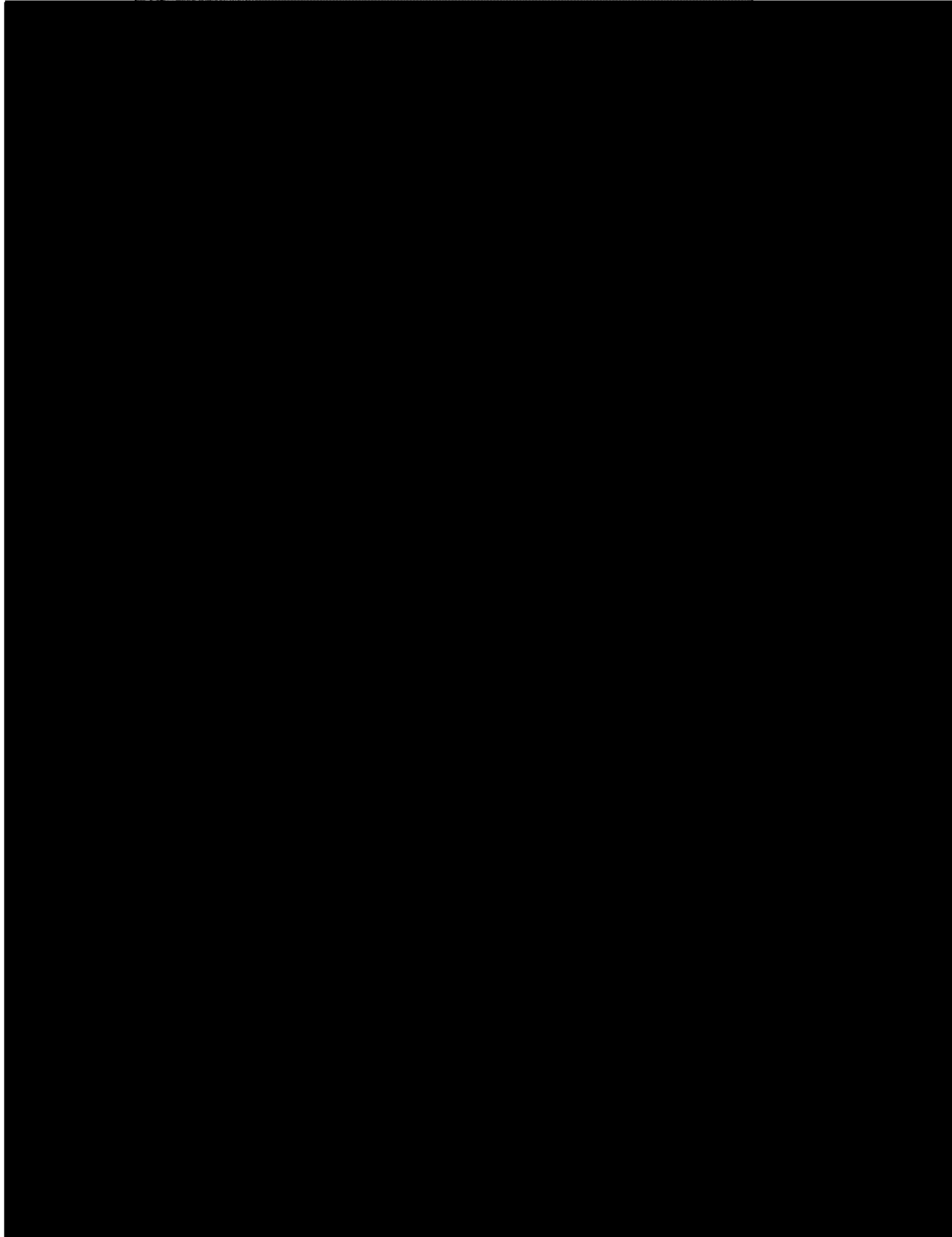
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Have a Checklist



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After the Interview

- Review all documents/materials/files/applications to determine whether you have an articulable reason to doubt the applicant's credibility.




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After the Interview

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After the Interview:

Review all documents/materials to determine whether you have enough information to deny application based on credibility/inconsistencies.



INA §212(a)(6)(C)


(C) Misrepresentation.

(i) In general; Any alien who, by fraud or willfully misrepresenting a material fact, seeks to procure (or has sought to procure or has procured) a visa, other documentation, or admission into the U.S. or other benefit provided under this Act is inadmissible.




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 U.S. Citizenship and Immigration Services **Keep in Mind**

INA §212(a)(6)(C)
(C) Misrepresentation.

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If so and you are adjudicating an I-485 application, you may be able to use:

INA §212(a)(6)(C) [8 U.S.C. §1182(a)(6)(C)] provides in part:

Misrepresentation.

In general.-Any alien who, by fraud or willfully misrepresenting a material fact, seeks to procure (or has sought to procure or has procured) a visa, other documentation, or admission into the United States or other benefit provided under this Act is inadmissible.

Instructor’s Note: Asylum Application - Refer based on credibility under 8 CFR §208.13.



U.S. Citizenship
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Questions?



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Litigation Strategies and Landmines

Section X



U.S. Citizenship
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Services



Pressure for Decisions




- LAW
- REGULATIONS
- COURT DECISIONS
- MEDIA COVERAGE
- OTHER FACTORS

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U.S. Citizenship and Immigration Services **Pressure for Decisions**



- LAW
- REGULATIONS
- COURT DECISIONS
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- OTHER FACTORS

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Within the national security workloads are a number of cases that present special problems—particularly in the naturalization area. Law, regulations, court decisions, media coverage, and a number of other factors work to create pressure for decisions, often before USCIS has resolved all national security issues. It is important to know your options when managing these cases. Over time, NSAU/NATZ has developed strategies to ensure that “no decision is issued before its time.” These strategies do not promote needless delay of decisions; indeed, it is in the national interest to move on a national security threat as soon as possible and refer the case for further proceedings whenever possible. Rather, the goal is to ensure that no individuals who pose a threat to national security are granted benefits.




Shepherd Your Cases

- Know your cases and next steps
- Be aware of court deadlines and what they mean
- Goal: Adjudicate when ready, not before
- Communication




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 U.S. Citizenship and Immigration Services

Shepherd Your Cases

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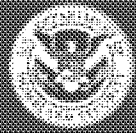


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Know your cases and the next steps you need to take to resolve the case. Be aware of court deadlines and what they mean. Remember, the goal is to adjudicate when ready and not before. And always remember to communicate.

Following are some of the problems you are likely to encounter as you work N-400 national security cases, as well as some solutions you may consider. Keep in mind that you have a number of resources for guidance in these matters, including local CIS and/or ICE Counsel, Operations management, and NSAU.



336(b) Cases

- Court has jurisdiction
- Applicant can file case 120 days
after interview
- Know your local court
- Communication is vital




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U.S. Citizenship and Immigration Services **336(b) Cases**

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336(b)—or 1447(b)—Actions : Naturalization applicants may file Federal Court actions asking the court to naturalize them when USCIS has not adjudicated an Application for Naturalization within 120 days of an interview. With these types of actions, the court has sole jurisdiction. Make sure you know the local court you are dealing with and always communicate with USCIS Counsel and/or the AUSA handling the case.



Mandamus Actions

- USCIS has jurisdiction
- Be mindful of court deadlines
- Don't make promises you can't keep
- Communication

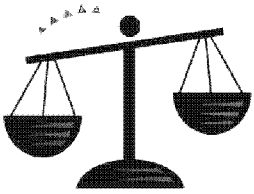


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U.S. Citizenship and Immigration Services **Mandamus Actions**

- USCIS has jurisdiction
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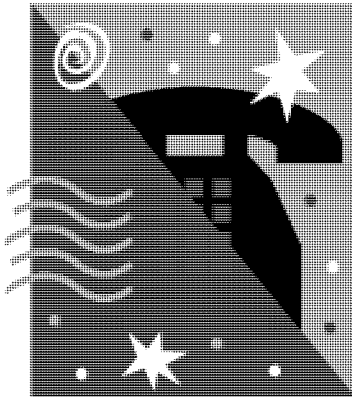
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Mandamus Actions: Applicants and petitioners often file Federal Court actions to compel USCIS to act on an application or petition when the applicant/petitioner feels that he/she has been waiting too long for a decision. In these cases, the court will issue instructions to USCIS and other agencies to complete certain tasks within certain timeframes. For instance, a court may order the FBI to complete name checks within 45 days of the court's order with USCIS instructed to adjudicate the application within 45 days of the completion of name checks. But, for these types of cases you need to remember that USCIS has jurisdiction over the case. It's important to be mindful of the court deadlines and notify Counsel as early as possible if you cannot meet those deadlines and it's better to ask for an extension than it is to be found in contempt of court.

In either case, it is important that adjudicators be mindful of court orders, restrictions on adjudicative authorities, and the need for communication between operations, USCIS Counsel, and the Assistant US Attorney (AUSA) handling the case. Don't make promises you can't keep and remember, communication.



Coordination with Counsel



- Communication
- Communication
- Communication

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Litigation?




- Subject to Court Action – contact local USCIS counsel
- Counsel is link between USCIS and AUSA
- Notify supervisor if litigation case
- Discuss status
- May indicate existence of, but *MAY NOT DISCUSS*, classified information
- “Need to Know”

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U.S. Citizenship and Immigration Services

Litigation?



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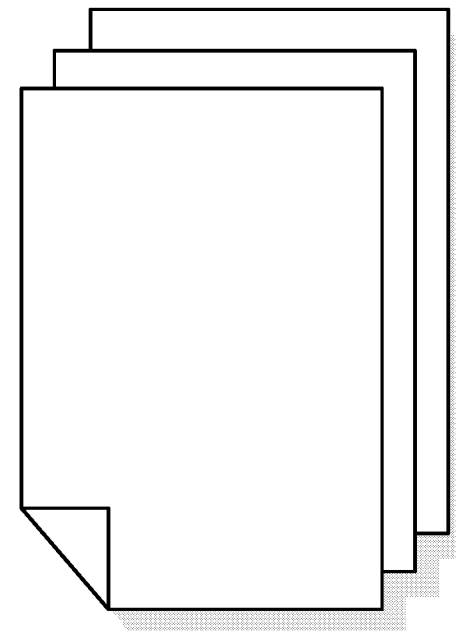
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When learning that an application or petition is subject to a court action, adjudicators must contact local USCIS Counsel. USCIS Counsel is the link between the adjudicator and the AUSA and must be kept aware of the development of the litigation as well as the status of the application/petition. The adjudicator must also notify his or her supervisor that the case is subject to litigation so that the supervisor can prioritize the case and allot time for it to be worked. The adjudicator should discuss the status of the case with the CIS attorney and offer to be a part of any exchanges with the AUSA where eligibility is discussed. The adjudicator may indicate the existence of classified information, but **may not** discuss the substance of that information except when certain that all parties to that discussion have the appropriate clearance **AND** need to know. When determining “need to know”, it is important to remember that if denial is contemplated based on unclassified information, the classified will not usually need to be discussed and may not even need to be mentioned.




Keep in Mind . . .

- Maintain custody of A-file, T-file and receipt files
- Copy for USCIS counsel and/or AUSA
- Court hearing may be held to determine eligibility
- Adjudicator – help to develop courtroom lines of questioning

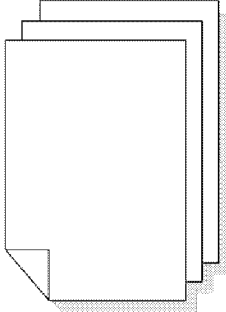


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 U.S. Citizenship and Immigration Services **Keep in Mind . . .**

- Maintain custody of A-file, T-file and receipt files
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The adjudicator should maintain custody of the A-file, T-file, or receipt files, but may make a copy for CIS Counsel and /or the AUSA as needed and requested. The adjudicator is the key to defending against mandamus actions as well as any other court activity. While CIS Counsel will work with the AUSA to address court inquiry, the adjudicator holds the application which is the root of the court’s interest. In some cases, court hearings will be held to determine an applicant’s eligibility for a benefit. The adjudicator, better than anyone, understands eligibility standards that are applied to immigration benefits applications and must be ready to articulate those standards to USCIS Counsel, the AUSA, and possibly the court. As such, the adjudicator will be instrumental in developing courtroom lines of questioning in matters where a judge will determine eligibility.




Be Prepared

- Court deadlines
- Know local basic court procedures
- Anticipate court actions and respond appropriately
- Concurrent jurisdiction vs. exclusive jurisdiction




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 U.S. Citizenship and Immigration Services **Be Prepared**

- Court deadlines
- Know local basic court procedures
- Anticipate court actions and respond appropriately
- Concurrent jurisdiction vs. exclusive jurisdiction



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The adjudicator must be mindful of court deadlines for answers, hearings, and other activities and must coordinate with CIS Counsel in a manner that will allow USCIS to meet those deadlines. Adjudicators should become familiar with basic court procedures in their respective areas so that they can anticipate court orders and actions and respond appropriately. Adjudicators should also become familiar with local precedent on matters that affect immigration benefit applications. For instance, in some Federal Circuits, concurrent jurisdiction is observed – effectively giving USCIS the opportunity to interview and request evidence from an applicant while the case is subject to court action. In other Circuits, courts hold that they have exclusive jurisdiction and that USCIS cannot take any action without the permission of the court, either through a remand or specific instructions.




Information Sharing and Third Agency Rule

- USCIS counsel coordinates information sharing
- Third Agency rule
 - Third Agency Rule Restrictions
 - Legal Restrictions
 - 18 USC § 798 Disclosure of Classified Information
- FOUO



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U.S. Citizenship
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Services

Information Sharing and Third Agency Rule

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The Local USCIS counsel will coordinate appropriate information-sharing activities with the AUSA and will identify appropriate parties to the discussion. Since the AUSA is employed by the Department of Justice, the Third Agency rule prohibits the disclosure to the AUSA of any law enforcement sensitive information in the possession of USCIS which originated with another agency, unless that source agency has consented to such a disclosure to the AUSA. [See Department of Homeland Security, Management Directive System, *Safeguarding Sensitive but Unclassified (For Official Use Only) Information*, MD 11042.1, Part 6 H.8, (January 1, 2005). The term used with DHS for law enforcement sensitive information and similar information is “For Official Use Only” information.]

In addition to restrictions imposed by the third agency rule, where information is classified, additional legal restrictions exist on any dissemination of such information. Violation of those restrictions can bring administrative or criminal penalties. [See 18 U.S.C § 798 (Disclosure of Classified Information); 50 U.S.C. § 783(b) (Communication of classified information by Government officer or employee); Executive Order 12958, 60 Fed. Reg. 7977 (February 26, 1996), *as amended by* Executive Order 13292, 68 Fed. Reg. 15315, 15324-15325 (March 25, 2003), Sec. 4.1 (c), (e) (covering classified information); 32 CFR § 2001.61(b) (4) (vi) (A), (B) (covering classified information).].




You'll Hear from YOUR Attorney!

- ICE and USCIS attorneys – familiar with court procedures in their areas
- AUSA's familiar with court procedures and preferences of judges
- Contemplate an action – advise counsel
- USCIS has final decision
- Remember - COMMUNICATION

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 U.S. Citizenship and Immigration Services

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Whether you are working a 336(b) case or a mandamus case, you will likely find that you are working with counsel more frequently than you normally do. ICE and CIS attorneys are familiar with court procedures in their areas, and they are used to working with the AUSAs who are assigned to immigration work. AUSAs are familiar with court procedures and the preferences of individual judges. Whenever you contemplate taking an action (scheduling an interview, issuing a Request for Evidence, issuing a decision, etc.) make sure that counsel is aware of the action. Counsel may offer advice regarding decisions, to include review of the decision to determine legal sufficiency and/or risk of bad case law. However, **the decision is ultimately yours.**



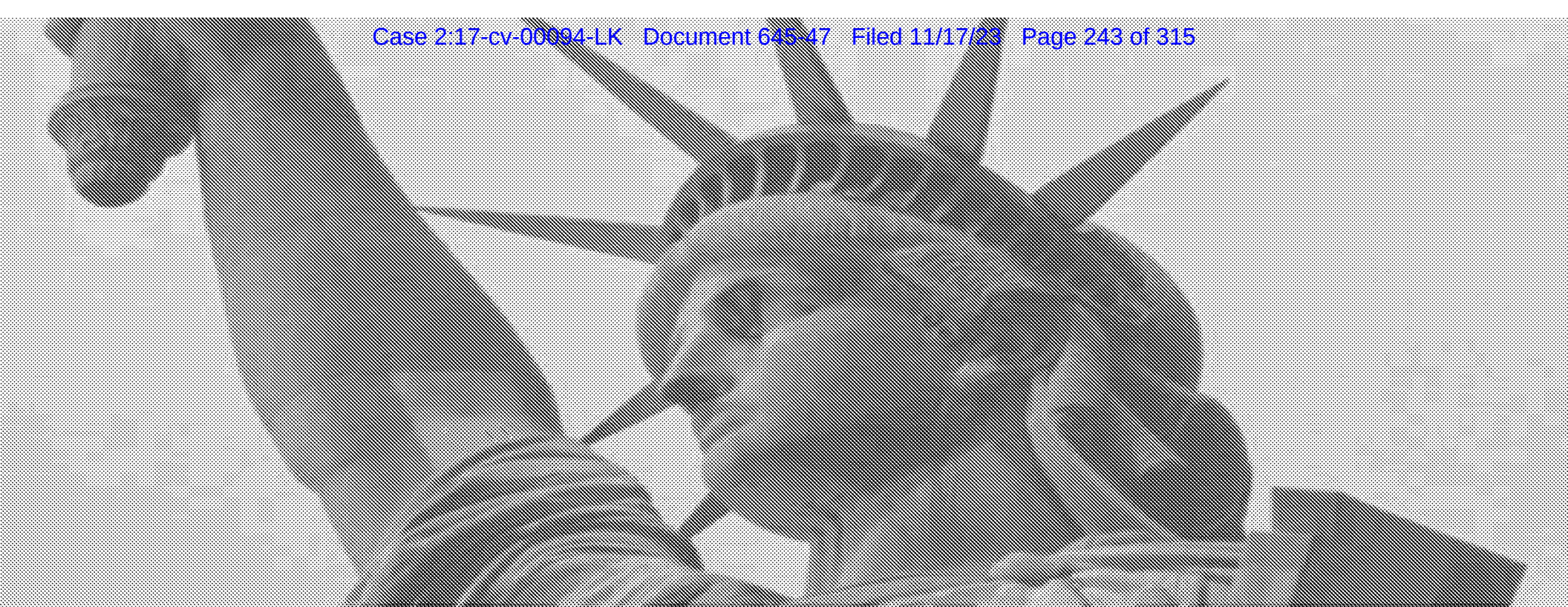
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Questions?



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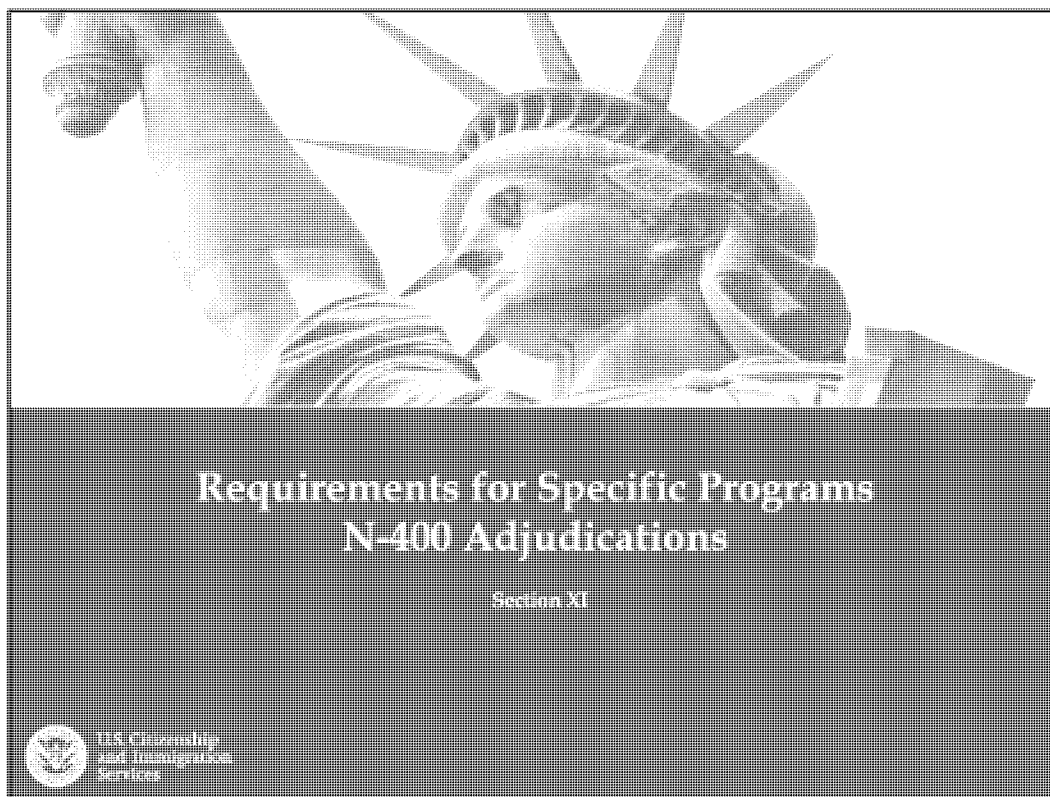
A grayscale, halftone-style image of the Statue of Liberty's head and crown, looking slightly to the right. The image is positioned at the top of the page, above a dark gray horizontal band.

Requirements for Specific Programs N-400 Adjudications

Section XI



U.S. Citizenship
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Services



N-400 Adjudications

The purpose of this section on N-400's is not to tell you how to adjudicate them, but rather to give you reminders, pointers, and assistance on adjudicating N-400's with national security concerns.



Review N-400




- Look at every page
- Compare info with previous applications
- Identify issues for additional questions

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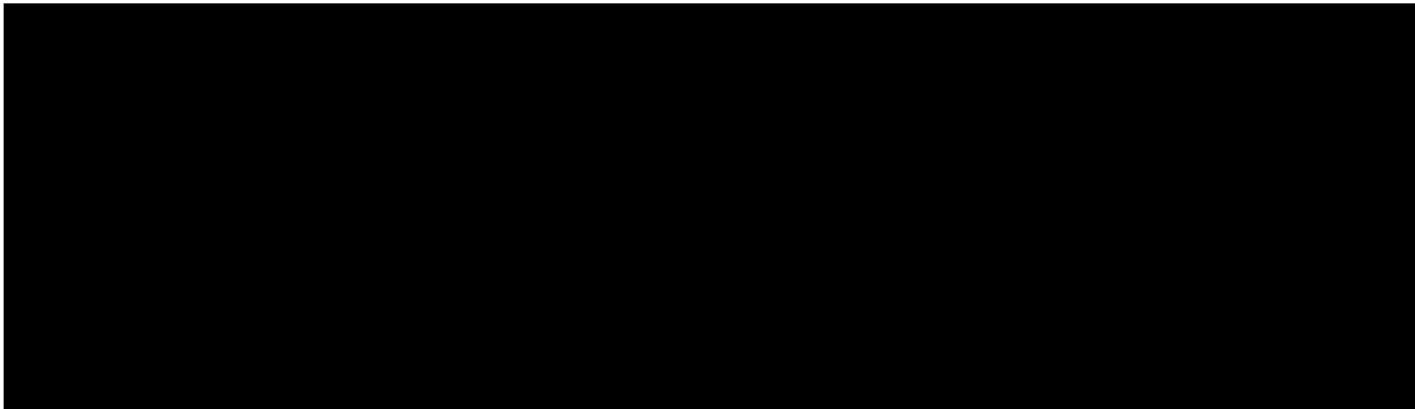
U.S. Citizenship and Immigration Services **Review N-400**



- Look at every page
- Compare info with previous applications
- Identify issues for additional questions

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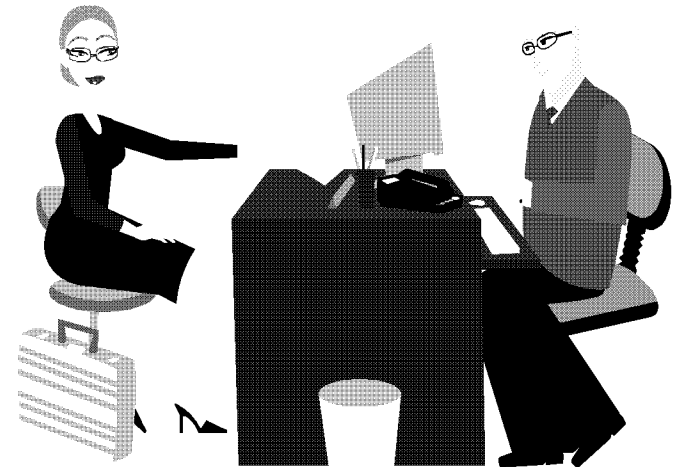
134






The Interview

- Ask the questions on the N-400
- Additional questions
- Document Responses
 - Check off questions
 - Make legible notations



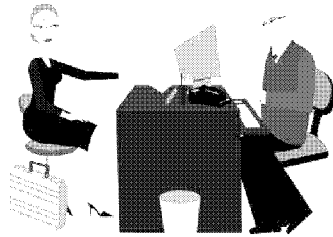
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 U.S. Citizenship and Immigration Services

The Interview

- Ask the questions on the N-400
- Additional questions
- Document Responses
 - Check off questions
 - Make legible notations



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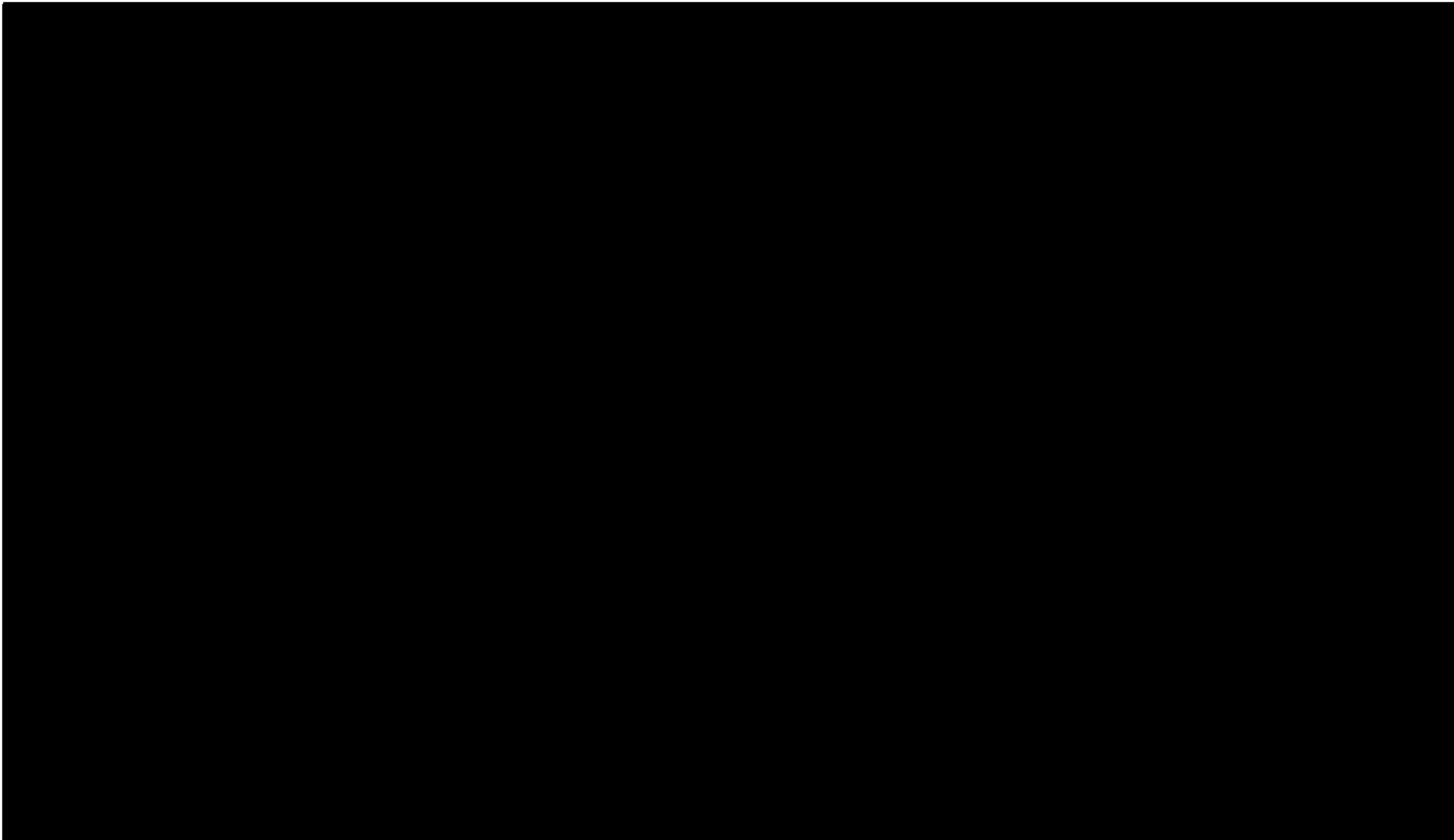
Ask the questions on the N-400. Do not skip over questions.

Document that you have asked the question. If you check off the questions in red on the N-400 as you verify the answer, then do that consistently on all N-400s. If you are ever asked to testify in court about an application, it will be helpful to know that a checkmark beside a question means you asked the question and the applicant answered. If you need to write additional information on the N-400, make it legible, for easier review by others in the future.



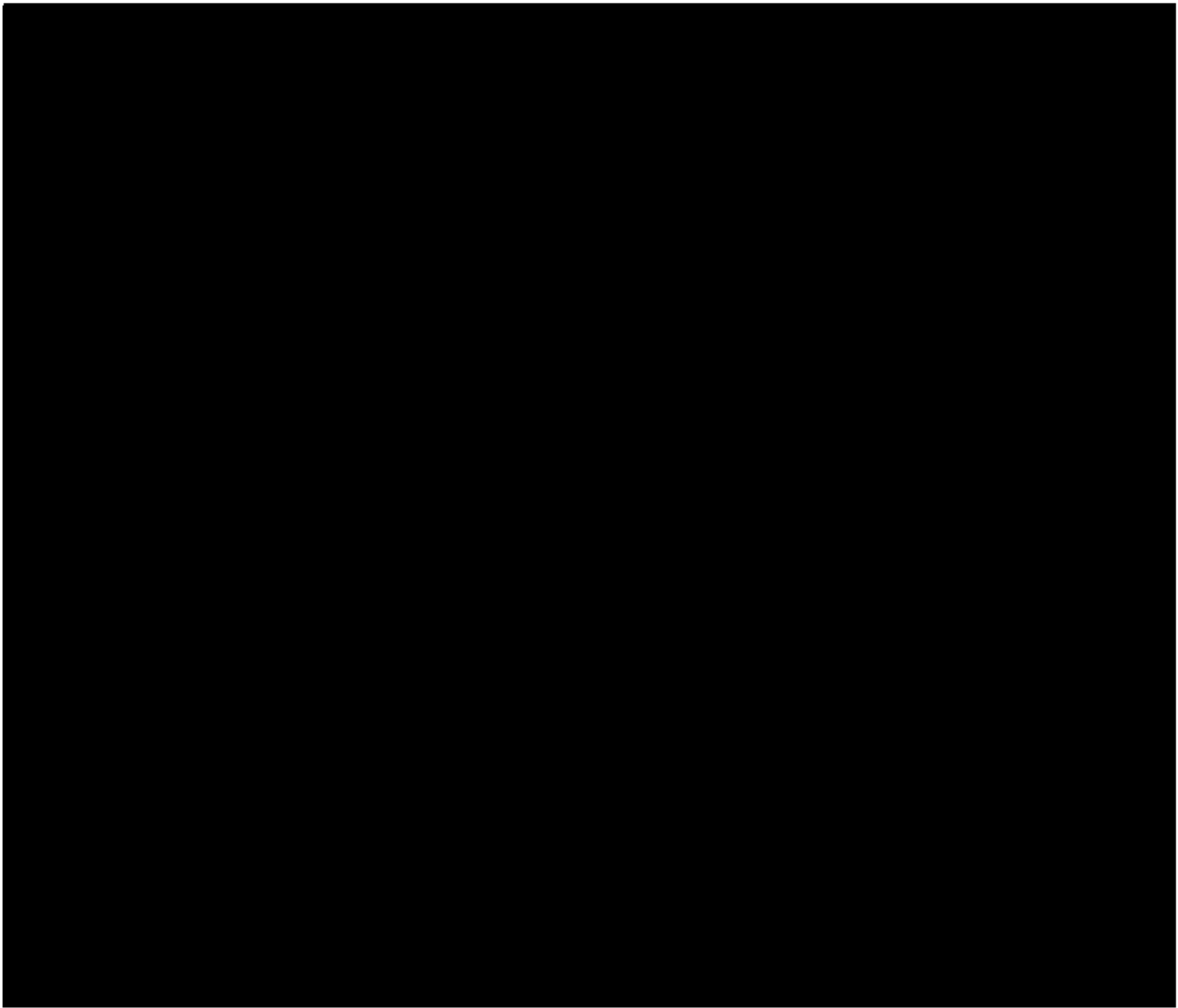
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Areas of Concern



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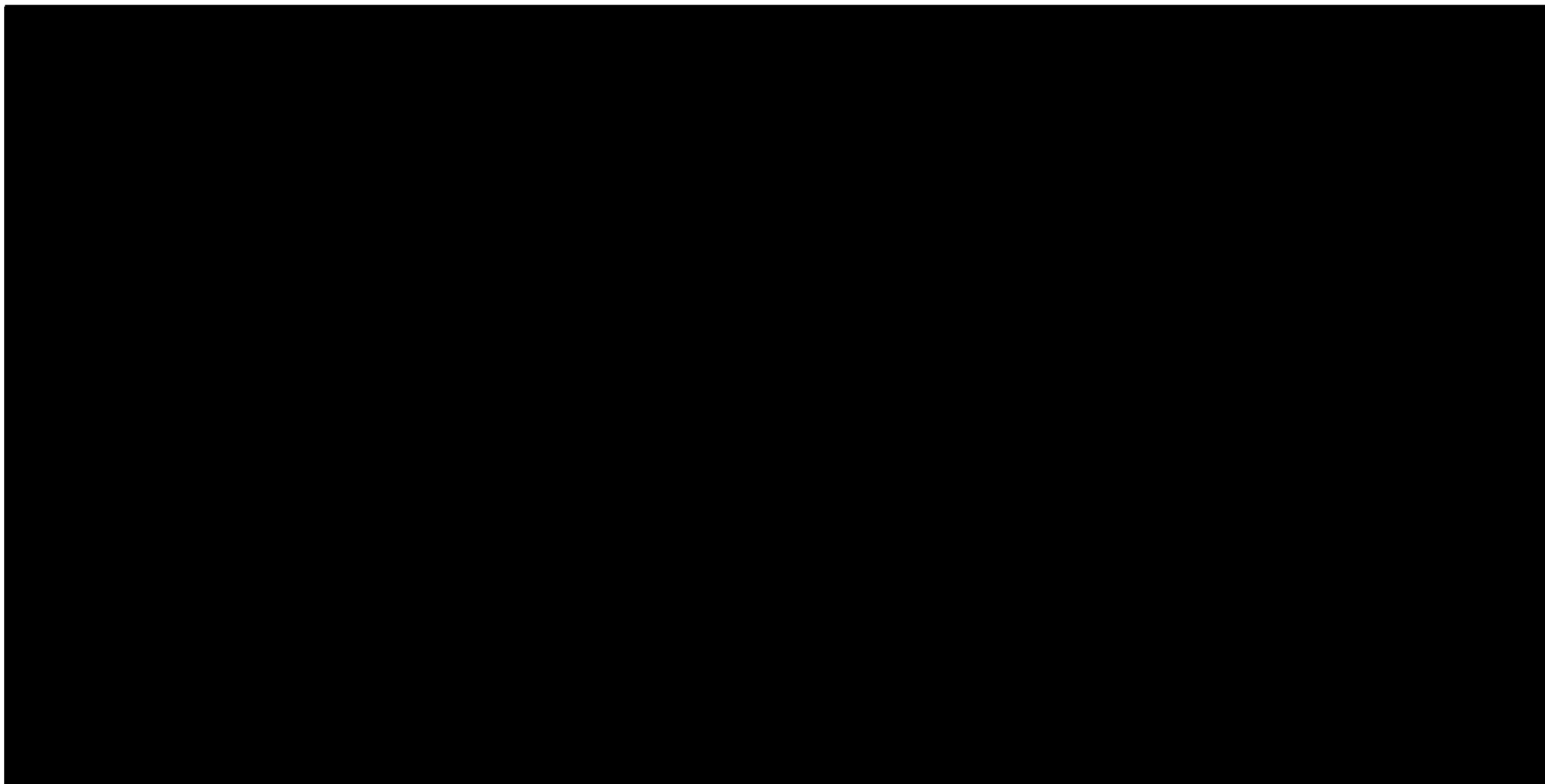
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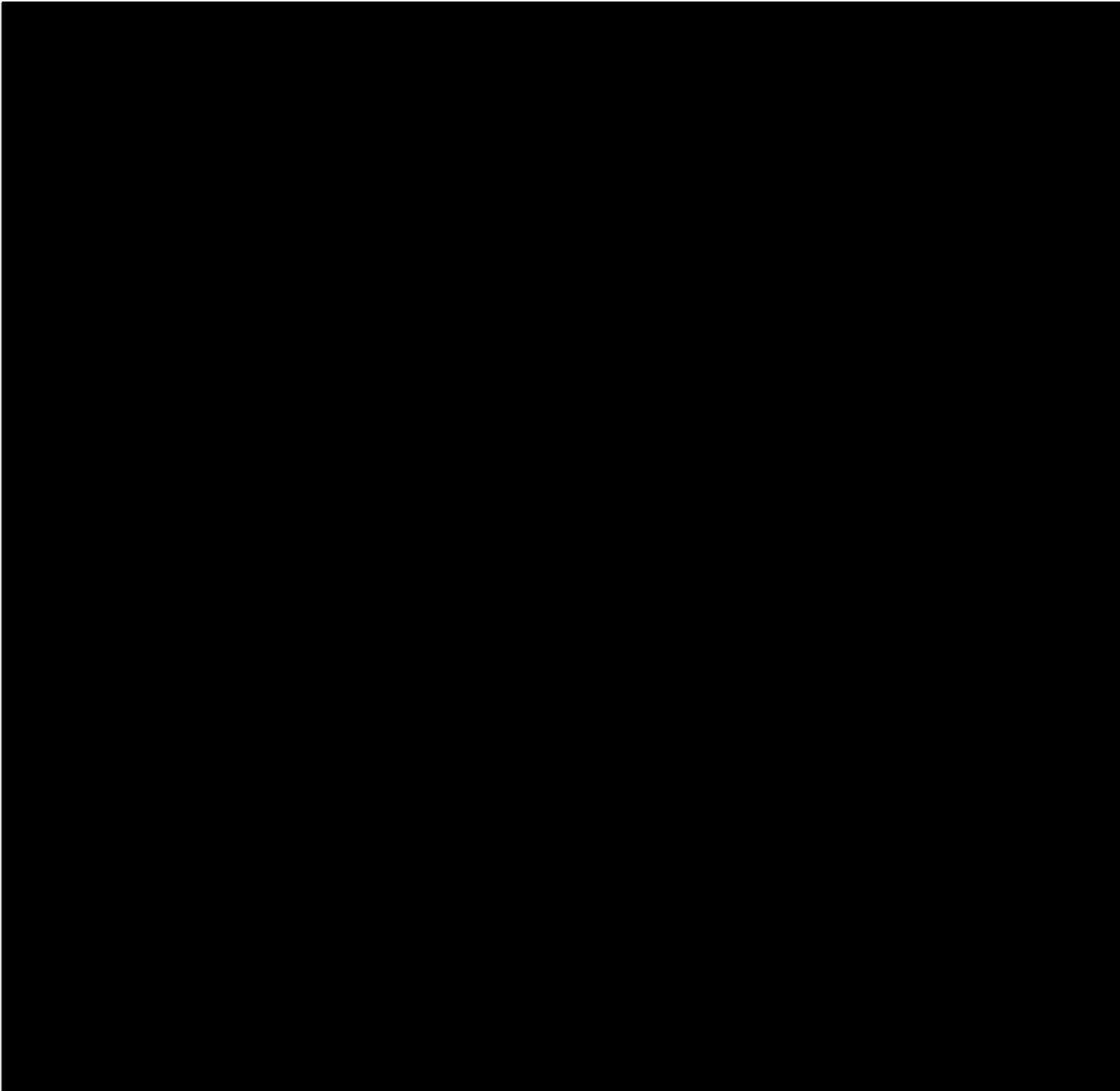
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Travel



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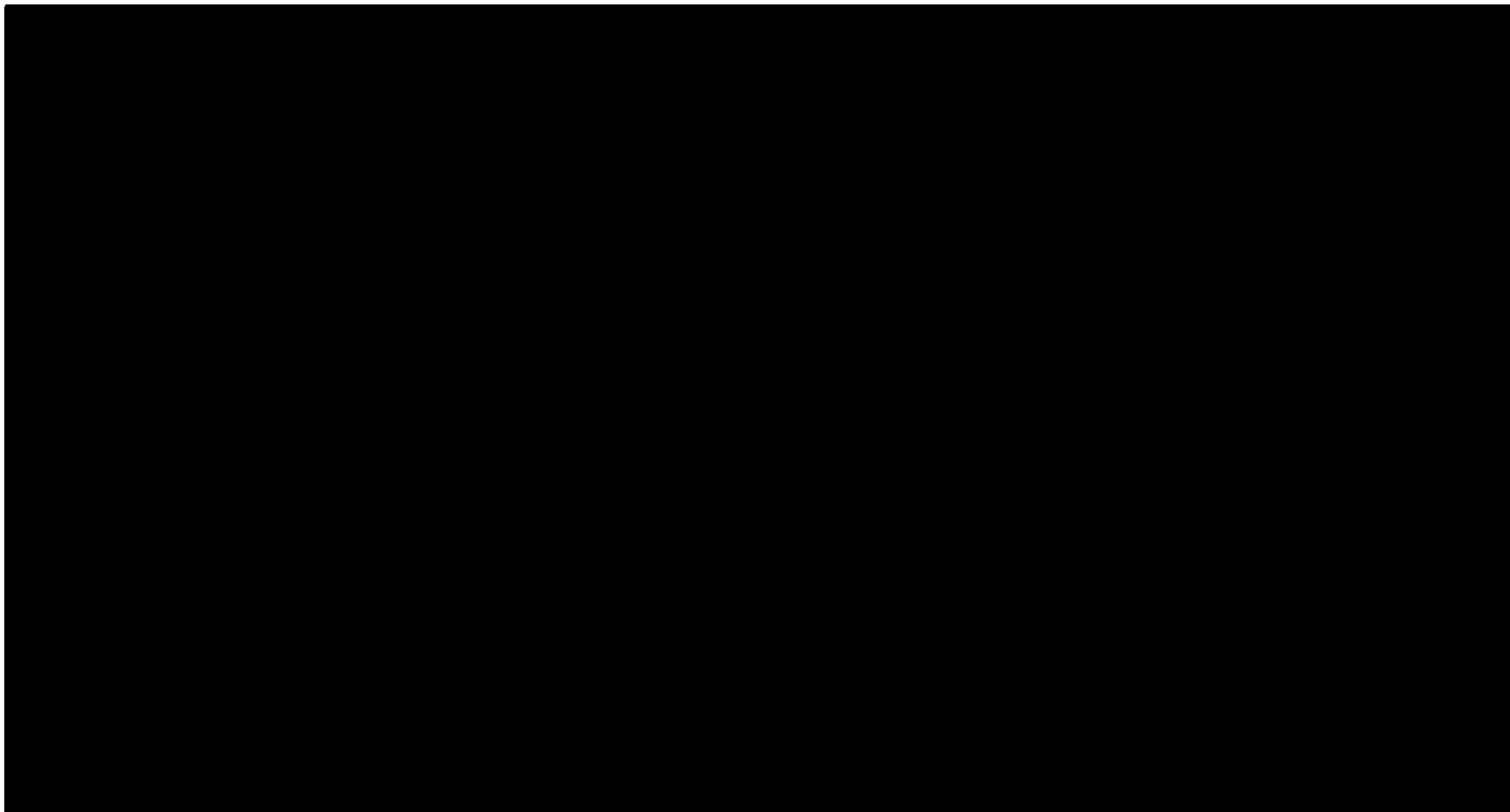
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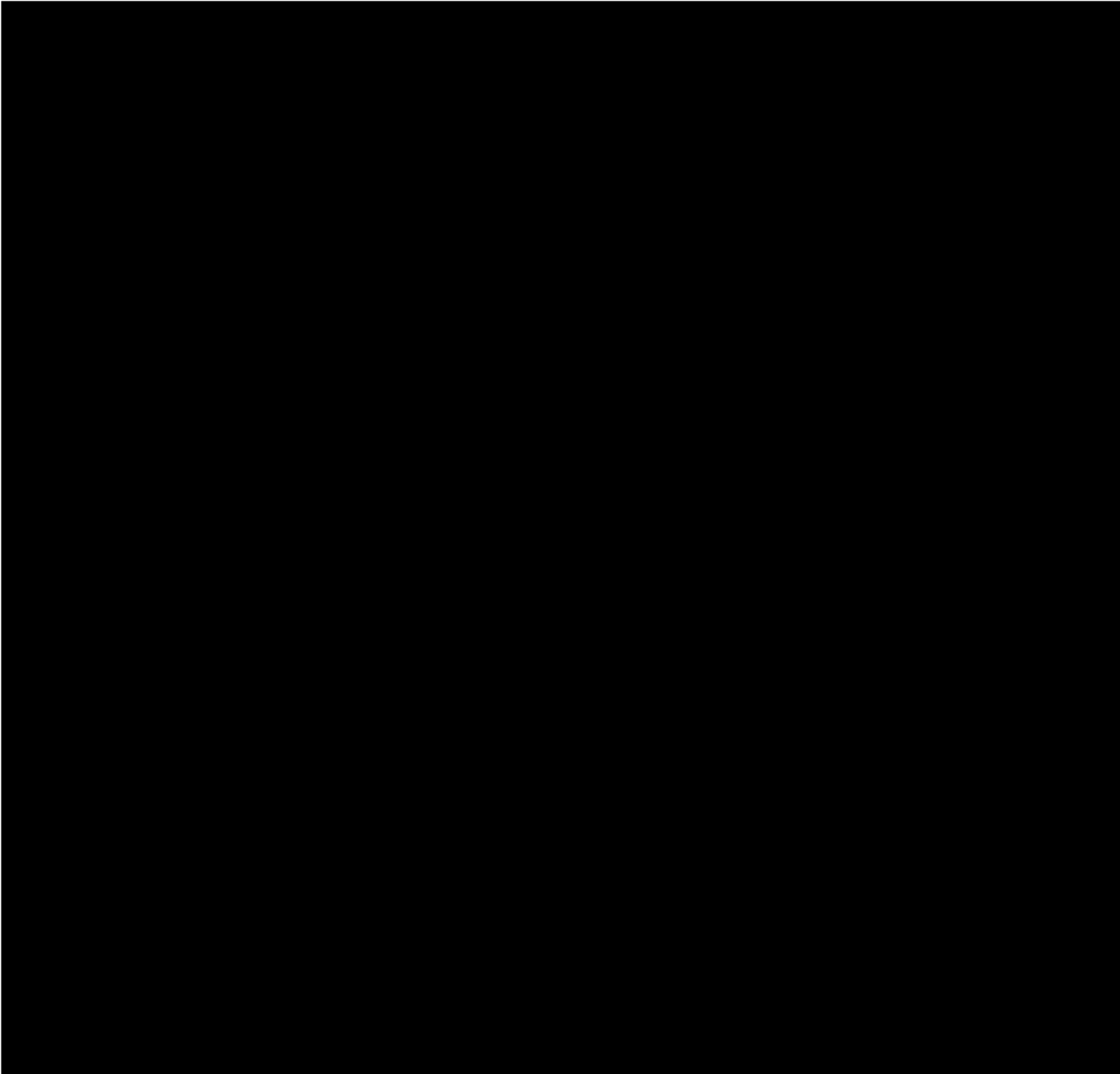
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Criminal History



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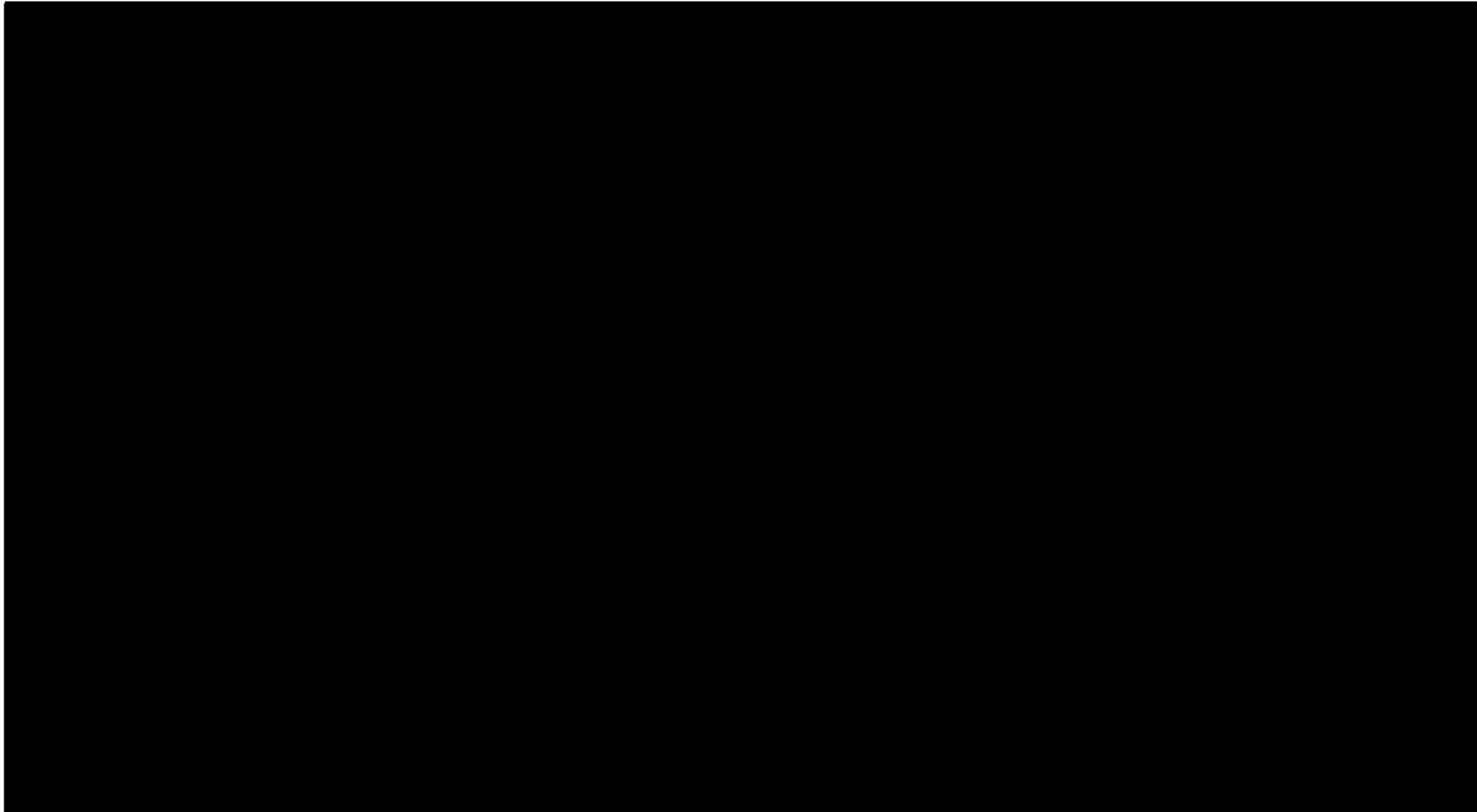
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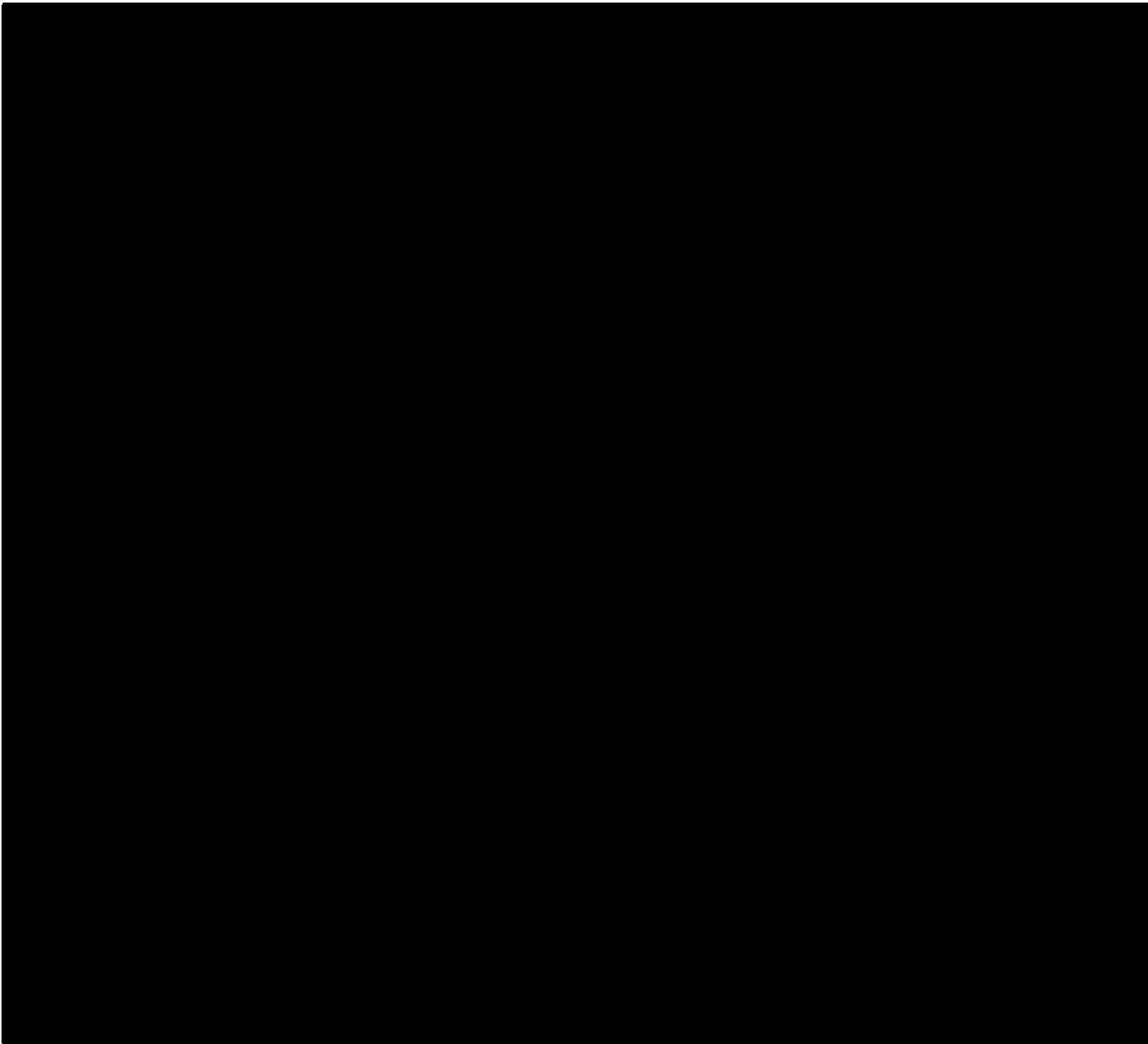
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Taxes



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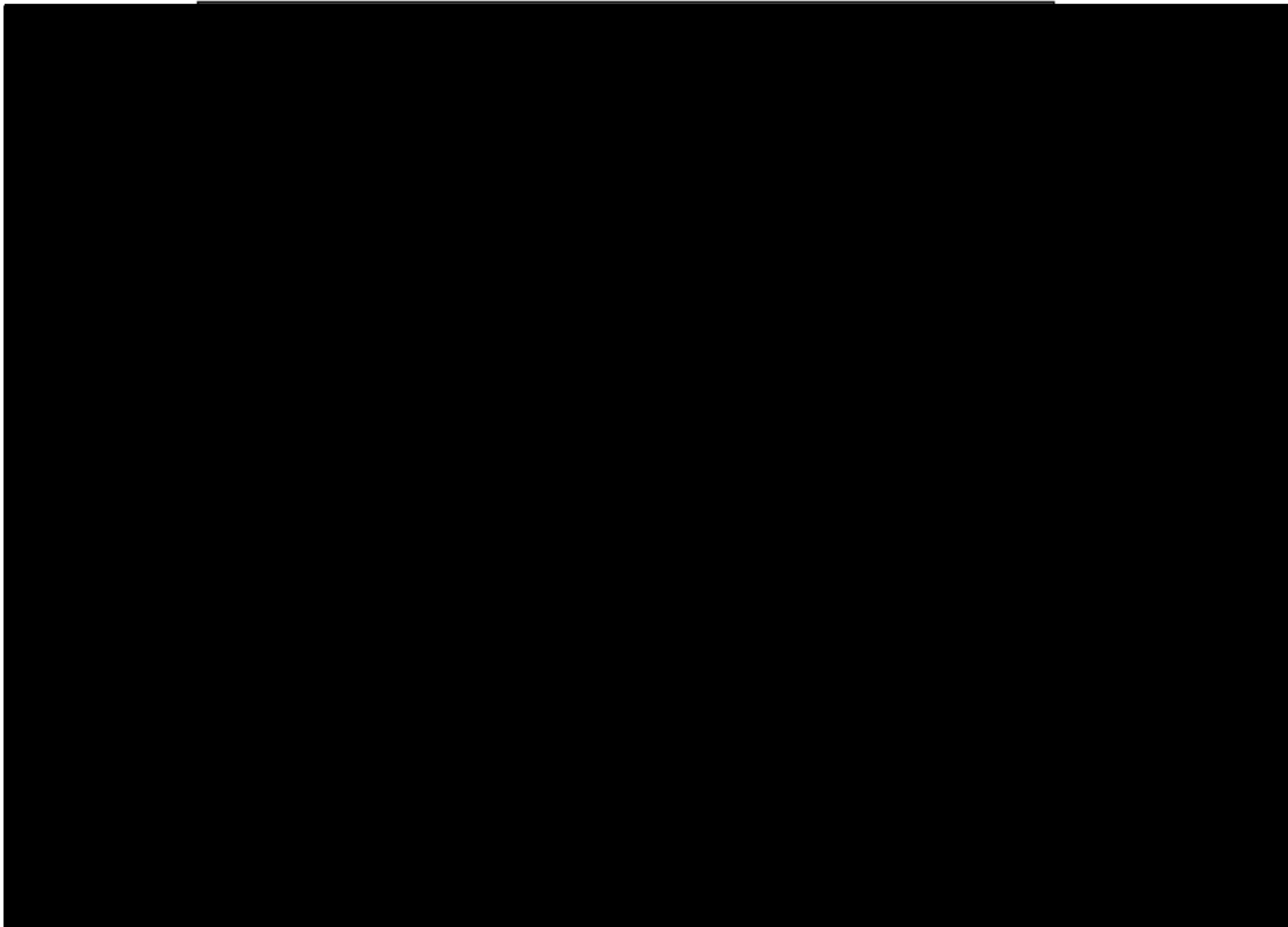
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Membership in Groups



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Good Moral Character

Good Moral Character for Naturalization – False Testimony Section 101(f) of the INA and 8 CFR 316.10(b)(2)(vi)

- False testimony under oath for the purpose of obtaining an immigration benefit precludes a finding of good moral character.
- Case law supports the idea that a misrepresentation need not be material for a finding of poor moral character.
- Courts, however, tend to insist that the misrepresented fact be linked to some area of eligibility.

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 U.S. Citizenship and Immigration Services **Good Moral Character**

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Good Moral Character – 8 CFR 316.10 Criminal offenses, controlled substances, false testimony, prostitution, alien smuggling, polygamy, gambling offenses, habitual drunkard, willfully failed to support dependents, had an extramarital affair which tended to destroy an existing marriage; or committed unlawful acts that adversely reflect upon the applicant’s moral character.




Credibility and Consistency

- Look at applicants testimony versus documented information and evidence provided
- Testimony needs to be consistent throughout
- Testimony needs to be credible

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 U.S. Citizenship and Immigration Services

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Are answers consistent? Do explanations make sense?

Did they provide everything required to make a decision on this case?



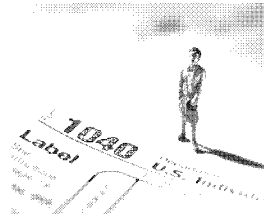
U.S. Citizenship and Immigration Services

N-14 for Additional Evidence

- Passport



- Taxes or transcript from IRS



- Proof of Child Support payments



- Proof of residence



- Employment verification

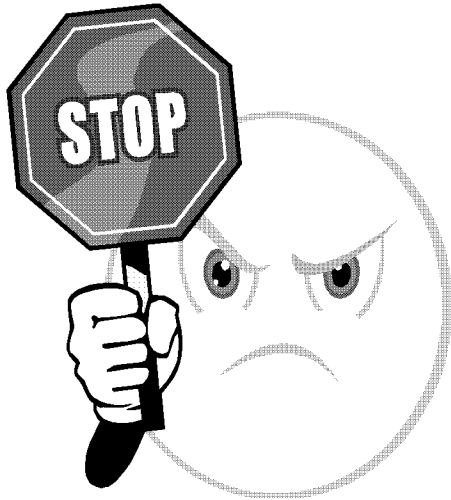


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No Grounds to Deny

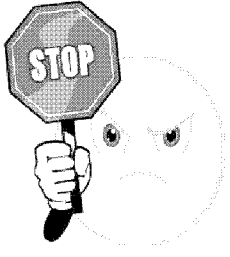


- KST
 - Confirm still on list
- You CANNOT approve application
- Seek assistance from HQFDNS (see Operational Guidance)

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U.S. Citizenship and Immigration Services **No Grounds to Deny**



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KST – You must seek assistance if you cannot deny.

KST - Confirm still on list

You CANNOT approve application

Seek assistance from HQFDNS




No Grounds to Deny

- Non-KST
- Seek advice from supervisor
- Seek assistance from HQFDNS (see Operational Guidance)
- Approval requires supervisory approval and concurrence from local management



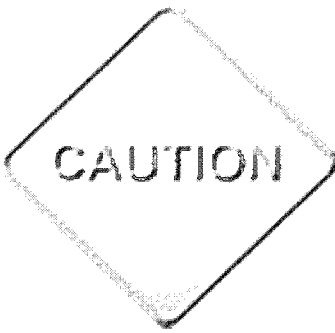
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 U.S. Citizenship and Immigration Services

No Grounds to Deny

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Non-KST – If you cannot deny, and if your recommendation is to approve the case, your supervisor must approve and senior-level management must concur with approval.

Non-KST

Seek advice from supervisor

Seek assistance from HQFDNS

Approval requires local management concurrence



DENIALS: Do's and Don'ts

Do's


- Seek advice from Counsel
- Be creative and imaginative in research and decision writing
- Consider (when available and appropriate) classified material

• Don'ts

- Do Not rely on Counsel for decision
- Do Not let A-File contents limit your research
- Do Not Use classified information as basis for denial

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 U.S. Citizenship and Immigration Services		DENIALS: Do's and Don'ts	
Do's		• Don'ts	
<ul style="list-style-type: none"> • Seek advice from Counsel 		<ul style="list-style-type: none"> • Do Not rely on Counsel for decision 	
<ul style="list-style-type: none"> • Be creative and imaginative in research and decision writing 		<ul style="list-style-type: none"> • Do Not let A-File contents limit your research 	
<ul style="list-style-type: none"> • <u>Consider</u> (when available and appropriate) classified material 		<ul style="list-style-type: none"> • Do Not <u>Use</u> classified information as basis for denial 	
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Denial Dos and Don'ts

Do's

Seek advice from Counsel

Be creative and imaginative in research and decision writing

Consider (when available and appropriate) classified material

Don'ts

Do Not rely on Counsel for decision

Do Not let A-File contents limit your research

Do Not use classified information as basis for denial




Fawaz Mohammed Damrah

- Found in a videotape introducing Sami Al Arian, an individual indicted for Material Support to Terrorism
- Failed to disclose his membership or affiliations with the Palestinian Islamic Jihad (PIJ) on his application for naturalization
- Arrested by ICE JTTF Cleveland and subsequently convicted for criminal violations of Unlawful Procurement of Citizenship or Naturalization
- Judge ordered his citizenship revoked
- Removed from the United States January 3, 2007




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 U.S. Citizenship and Immigration Services

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This is Imam Fawaz Mohammed Damrah, lead the Islamic Center of Cleveland, Ohio’s largest mosque. He gained citizenship in 1994 by providing false information about his membership and affiliation to a terrorist organization. He was a permanent resident since 1988. Local TV stations broadcasted a videotape from a Chicago gathering showing him making anti-Jewish comments in a speech. He called for rifles to be directed at Jewish people, and referring to them as “the sons of monkeys and pigs.”

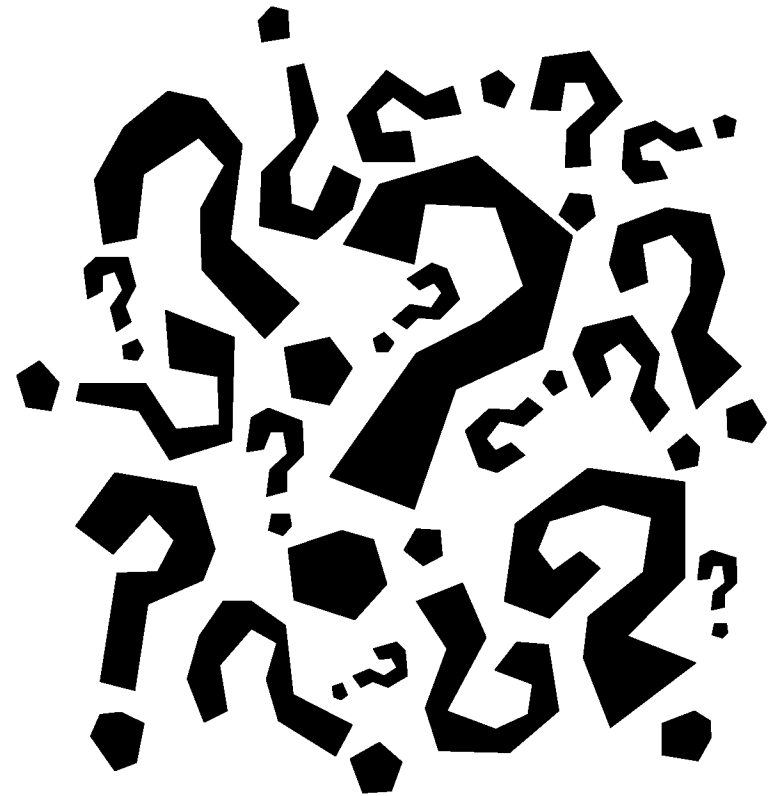


Questions?

- Comments

- Discussion

- Handouts
 - Good moral character
 - Opening statement
 - Interview questions
 - Sample N-14



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A grayscale, halftone-style image of the Statue of Liberty, showing her head with the crown and her right arm raised holding the torch. The image is positioned in the upper half of the page.

Requirements for Specific Programs Adjustment of Status

Section XI (cont'd)

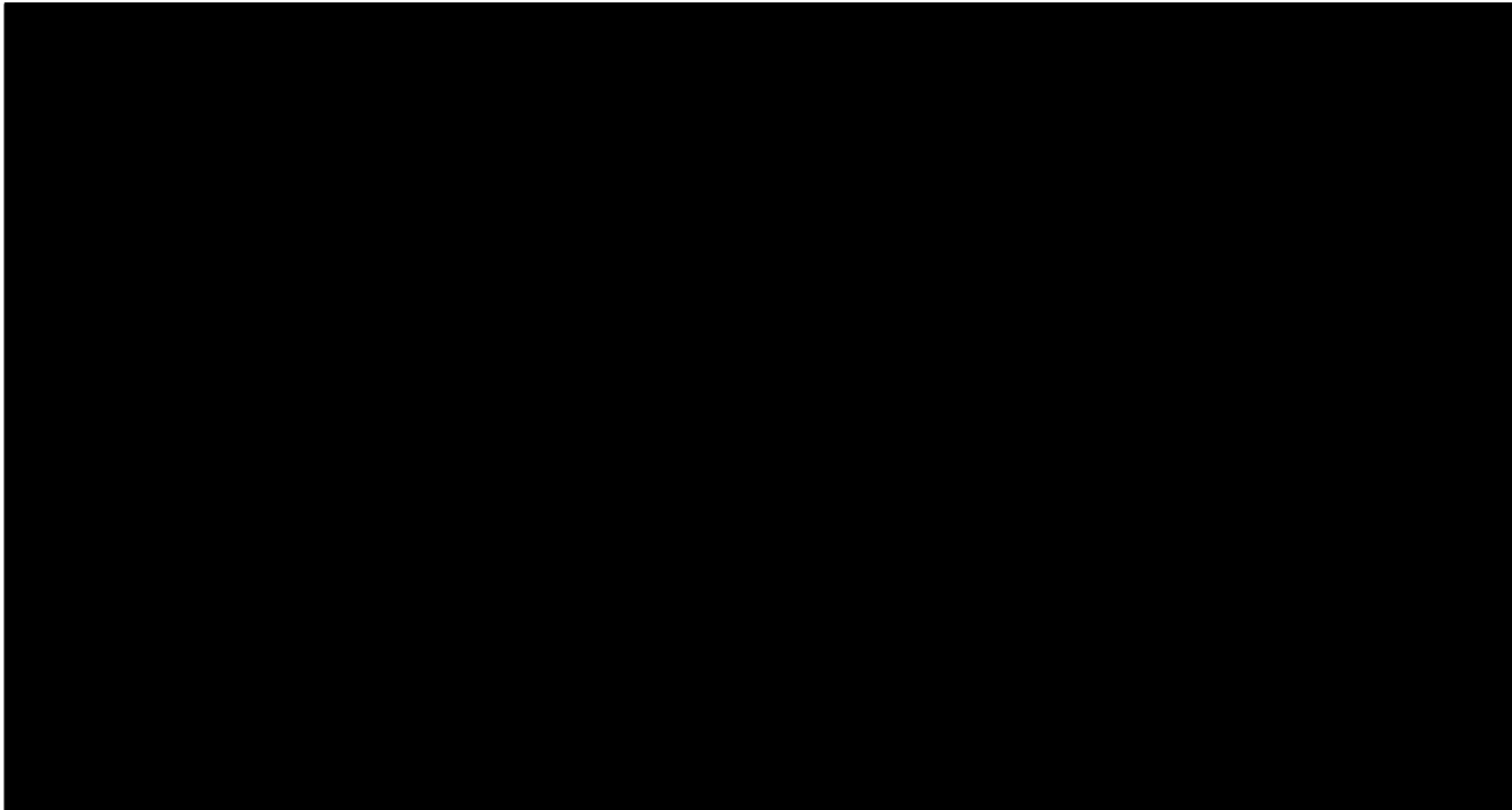


U.S. Citizenship
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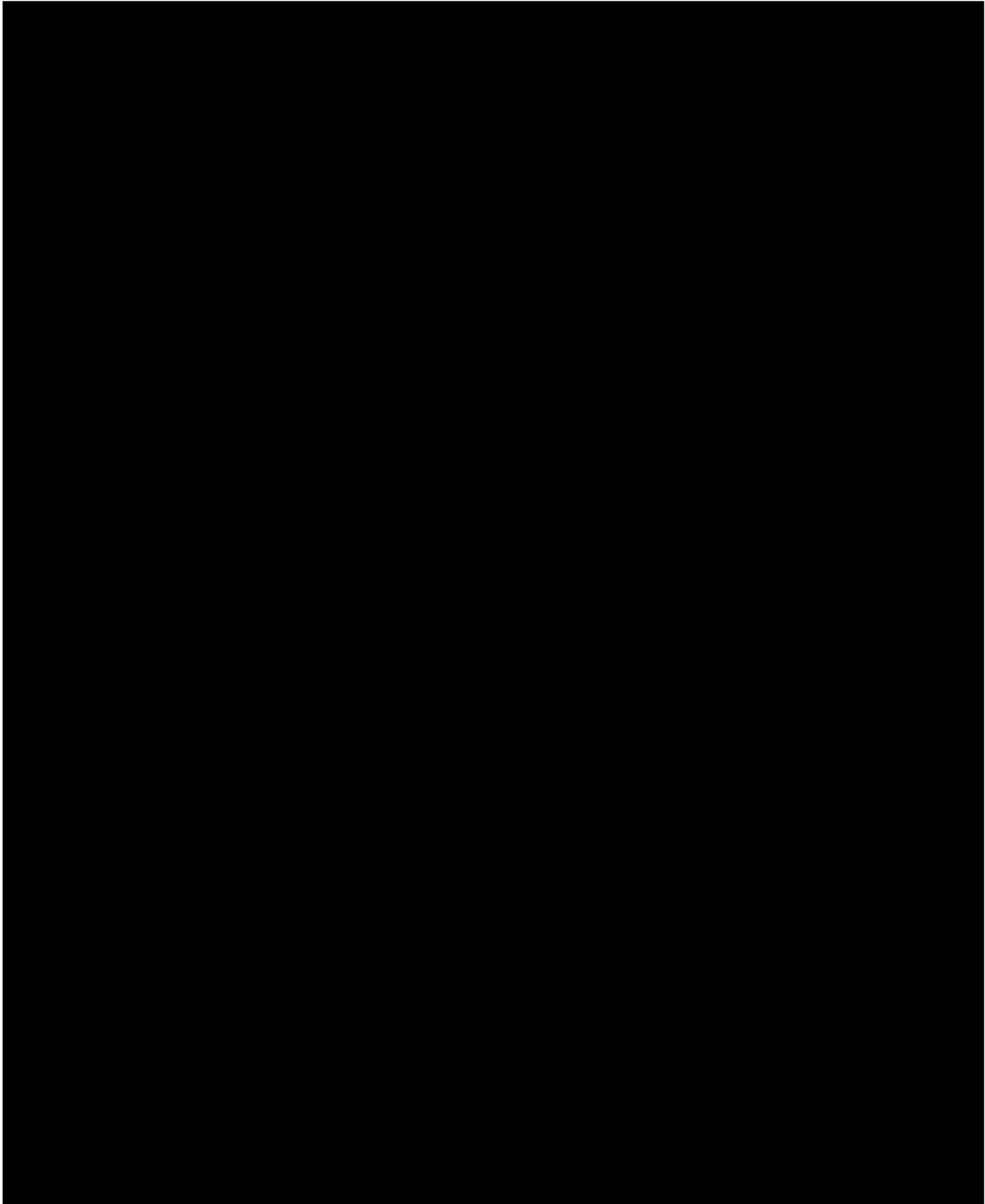
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Dig All the Way to the Beginning . . .



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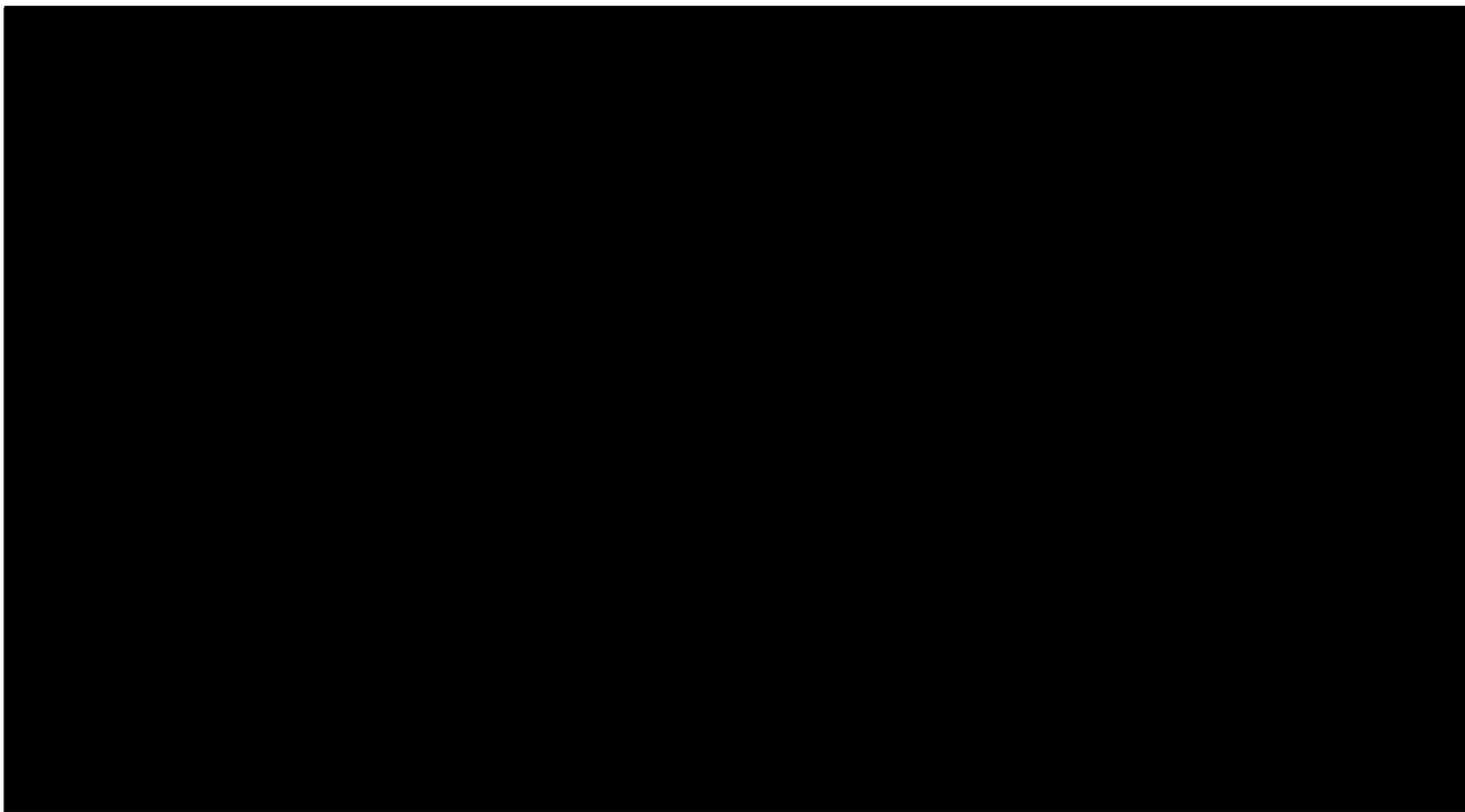
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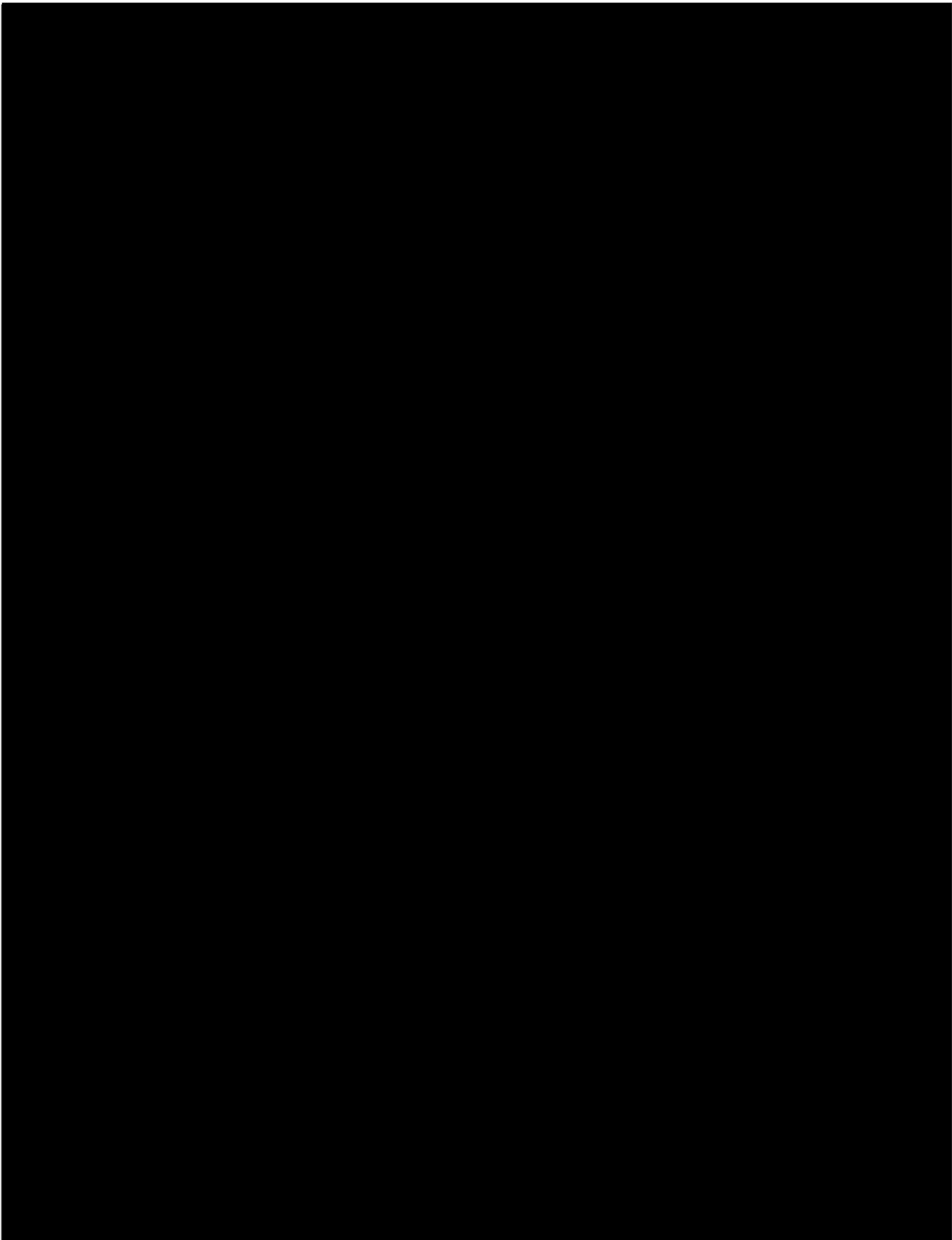
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Fraud Indicators



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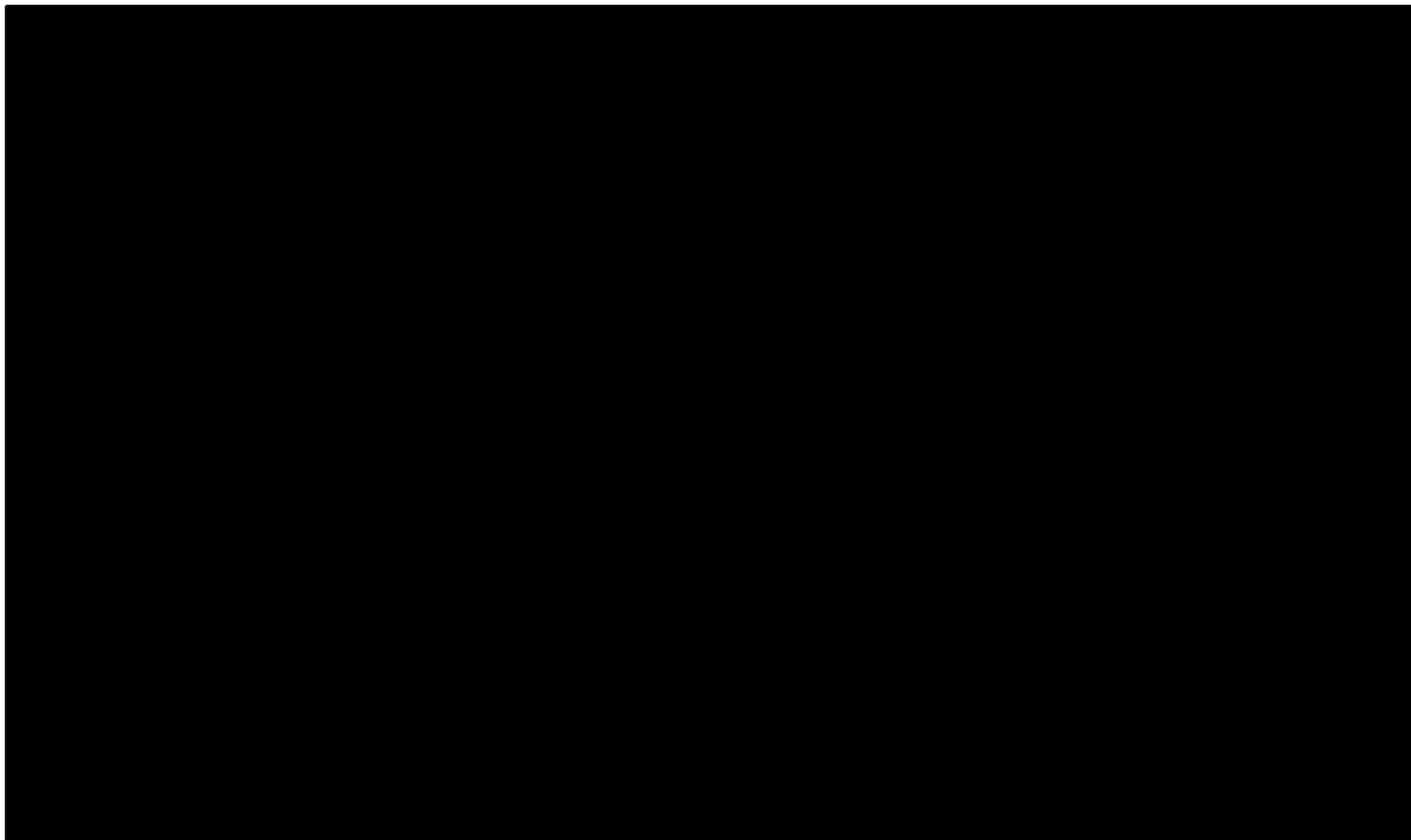
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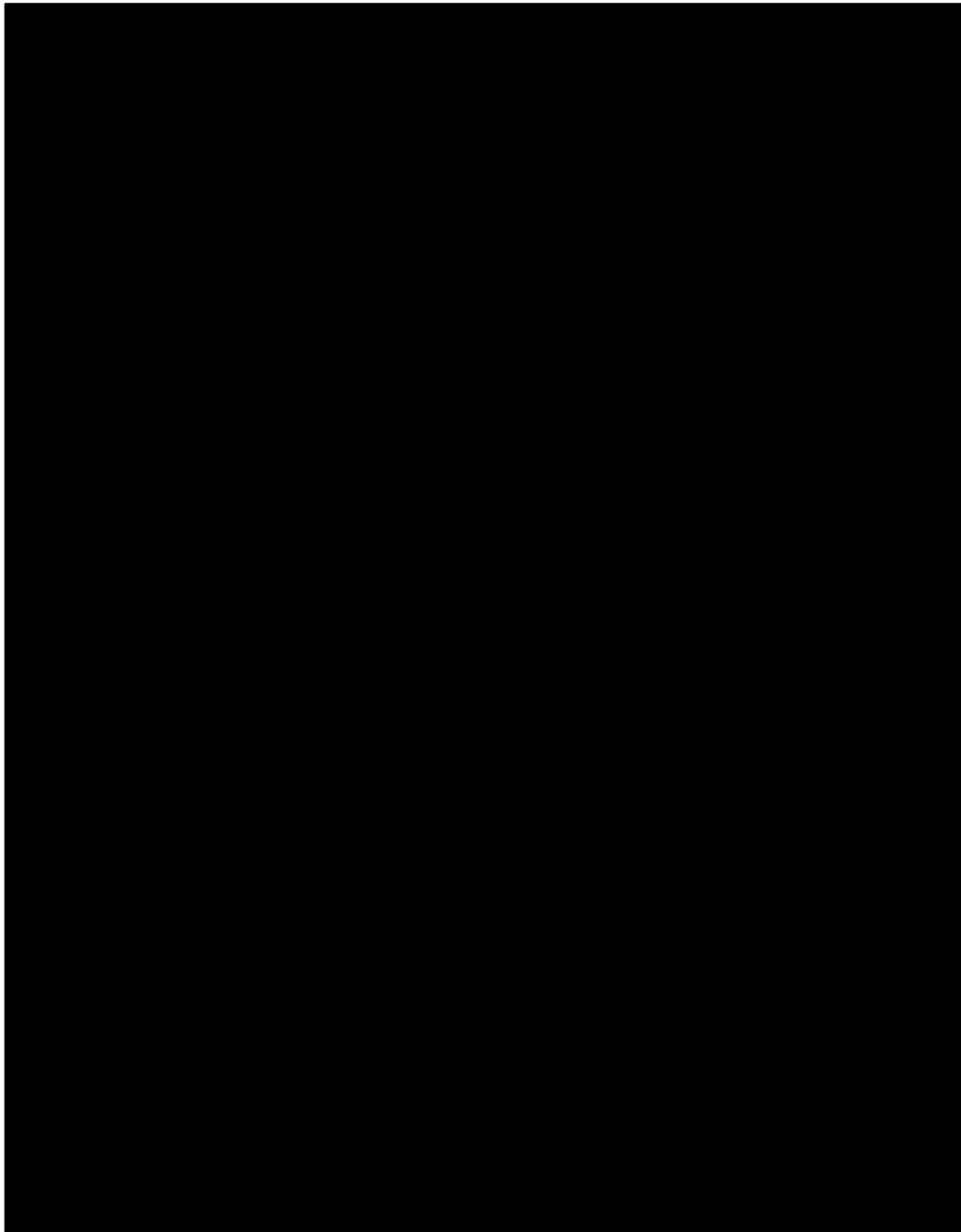
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Fraud Indicators Tips



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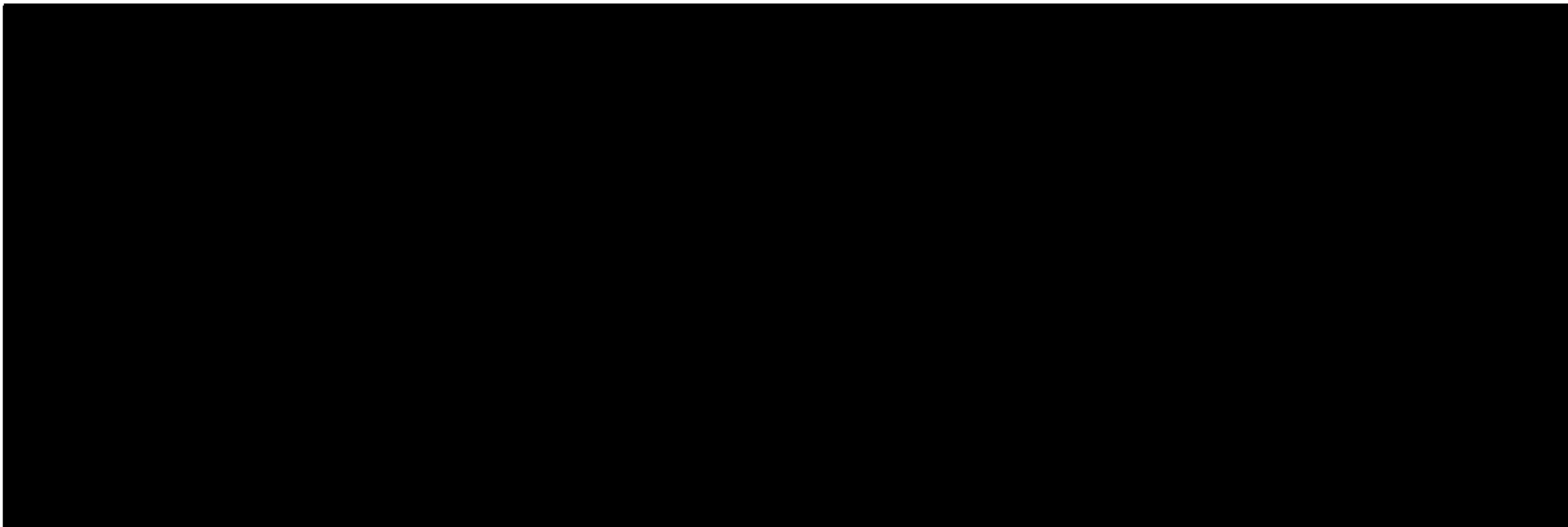
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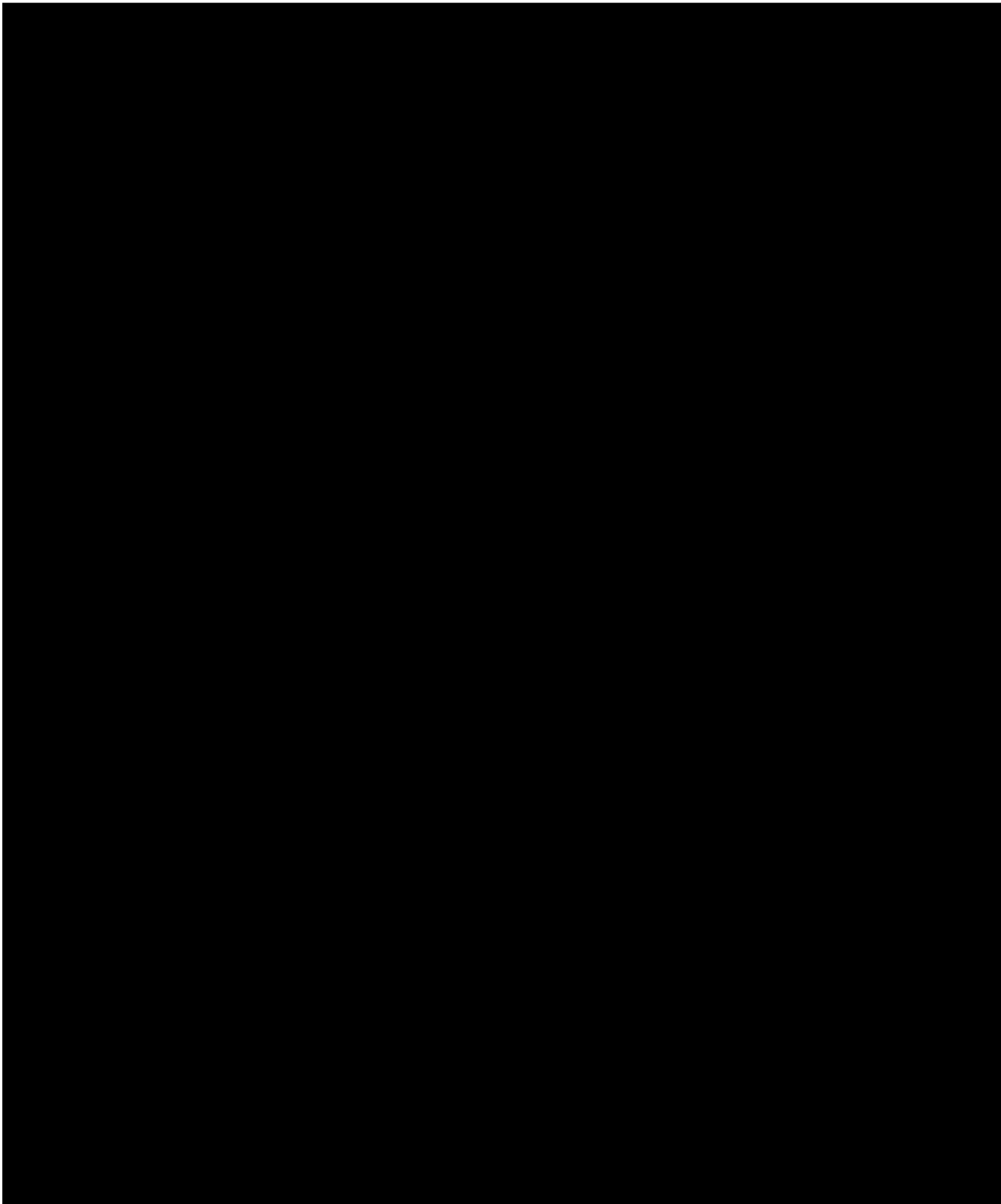
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During the Interview



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Investigation uncovered that ALGHAZOULI smuggled illegal Freon from Mexico to the U.S. then sold it to car repair shops and gas stations in the San Diego area.

- Proceeds were sent to Syria in support of HAMAS

Convicted in March 2006 for:


- 18 USC 545, Goods imported contrary to law (smuggling)
- 18 USC 1956, Money laundering
- 42 USC 7413, Unlawful sale of Freon
- 18 USC 982, Criminal forfeiture (assets)

- \$37,000 cash seized
- \$250,000 residence seized
- Lawful Permanent Resident status was revoked based upon giving false statements on his immigration application.



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Amar Alghazouli


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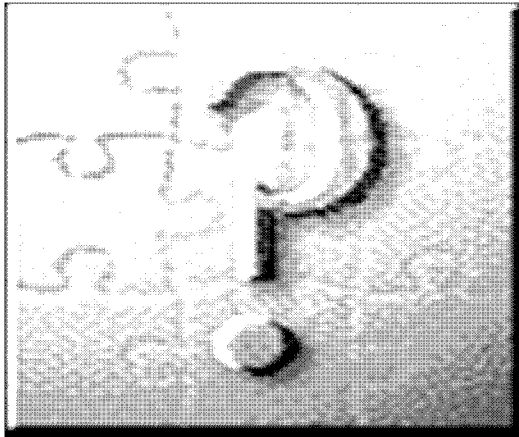
This is Amar Alghazouli. Another example how false statements can affect the eligibility of an individual. On December 7, ALGHAZOULI was sentenced to 30 months in prison, 3 years supervised release, and was ordered to pay a \$6,000 fine on a charge of conspiracy to launder money in connection with the sale of illegally imported R-12 Freon refrigerant. R-12 Freon is used primarily in automobile air conditioning units and is considered by EPA to be a hazardous material because of its ozone-depleting properties.

Proceedings were sent to Syria to support Hamas. Subject's residence status was revoked based upon giving false statements on his immigration application.



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Questions?



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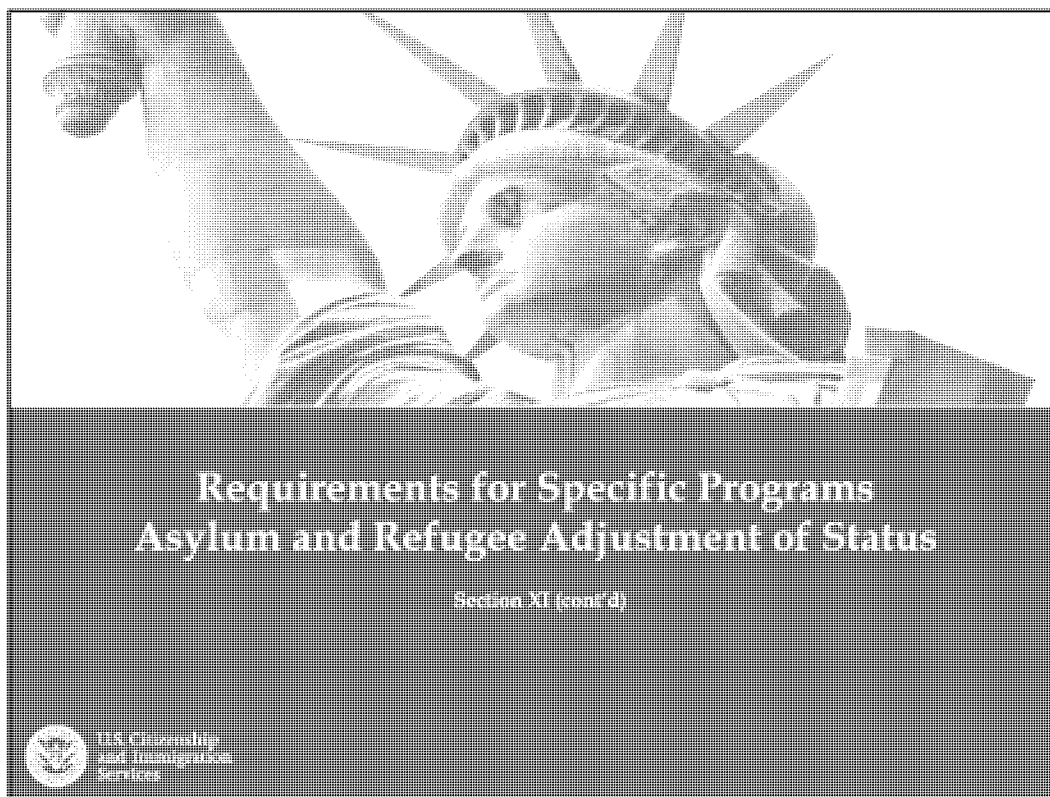
A grayscale, halftone-style image of the Statue of Liberty's head and crown, looking slightly to the right. The image is positioned in the upper half of the page.

Requirements for Specific Programs Asylum and Refugee Adjustment of Status

Section XI (cont'd)



U.S. Citizenship
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The difference between an Asylee and a Refugee is that the Asylee is in the United States at the time that it is determined they can no longer return to their home country and they are granted their Asylee status while in the United States; while a Refugee has been displaced outside of his/her country and is outside of the United States when he/she is declared a Refugee.



U.S. Citizenship
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Remember . . .

You are adjudicating in accordance with


INA §209

NOT

INA §245

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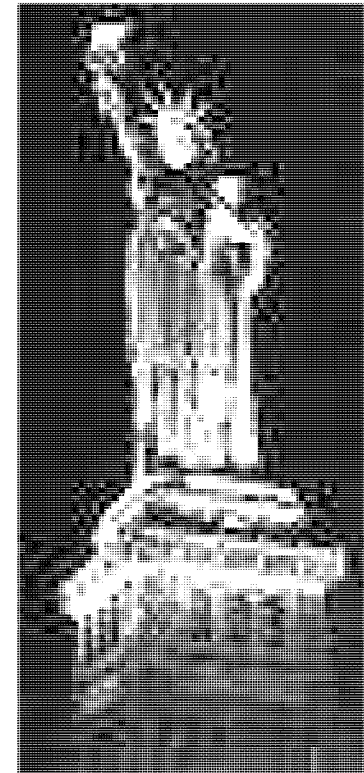
***** Please note that when adjudicating asylum and refugee adjustments you are adjudicating them according to INA §209 and NOT INA §245. *****

Some of the inadmissibility grounds that apply to 245 adjustments do not apply to 209 adjustments, it is therefore imperative to be familiar with the asylum and refugee laws and section 209 when adjudicating these applications.




Asylum INA 209 (b)

- Must apply for adjustment
- Physically present for at least one year after being granted Asylum
- Continue to be a Refugee, or spouse/child of one
- Not firmly resettled
- Be admissible



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Asylum:

When adjudicating an I-485 based on adjustment of status of an asylee it is important to look at the underlying application, the I-589. Asylees may adjust their status to lawful permanent residents under INA §209(b). To qualify for adjustment of status, the asylee must:

- (1) Apply for such adjustment,
- (2) Have been physically present in the United States for at least one year after being granted asylum.
- (3) Continue to be a refugee within the meaning of section 101(a)(42)(A) or a spouse or child of such a refugee,
- (4) Not be firmly resettled in any foreign country, and
- (5) Be admissible.

Adjustment of status may be granted or denied to an asylee based on discretion.

The term “refugee” means (A) any person who is outside any country of such person’s nationality or, in the case of a person having no nationality, is outside any country in which such person last habitually resided, and who is unable or unwilling to return to, and is unable or unwilling to avail himself or herself of the protection of, that country because of persecution or a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion. (B).....The term “refugee” does not include any person who ordered, incited, assisted, or otherwise participated in the persecution of any person on account of race, religion, nationality, membership in a particular social group, or political opinion.



U.S. Citizenship
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Asylum INA 209 (b)

Asylum status granted by the IJ can only be terminated by the IJ!




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 U.S. Citizenship and Immigration Services

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While looking at the I-589 you must determine whether the Asylum status was granted by an Immigration Judge or by USCIS.

If granted by an Immigration Judge:

If Asylum is granted by an Immigration Judge, only the IJ may terminate that asylum status. In that instance ICE will have to file a motion to re-open and bring the case back to the IJ's attention.



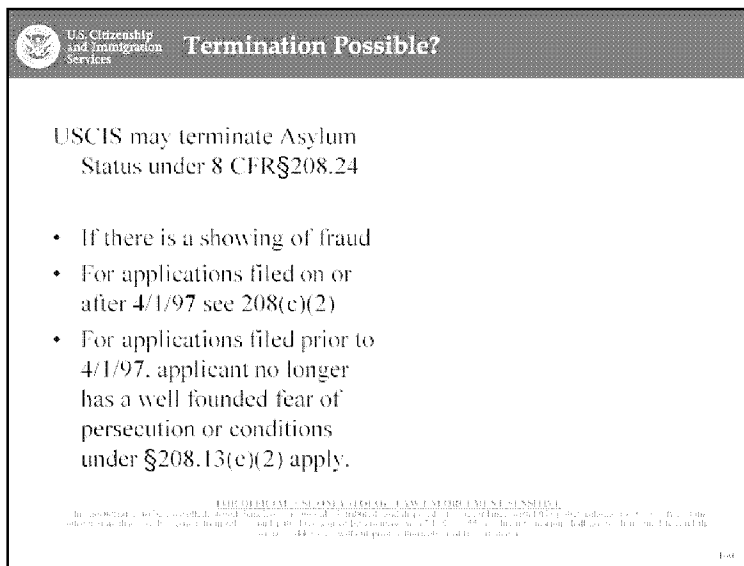
Termination Possible?

USCIS may terminate Asylum Status under 8 CFR§208.24

- If there is a showing of fraud
- For applications filed on or after 4/1/97 see 208(c)(2)
- For applications filed prior to 4/1/97, applicant no longer has a well founded fear of persecution or conditions under §208.13(c)(2) apply.

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If granted by USCIS:

Under 8 CFR §208.24 the service may terminate asylum status if it is determined that:

There is a showing of fraud in the alien's application such that he or she was not eligible for asylum at the time it was granted;

As to applications filed on or after April 1, 1997, one or more of the conditions described in section 208 (c)(2) of the Act exist; or

As to applications filed before April 1, 1997, the alien no longer has a well-founded fear of persecution upon return due to a change of country conditions in the alien's country of nationality or habitual residence or the alien has committed any act that would have been grounds for denial of asylum under §208.13(c)(2) .

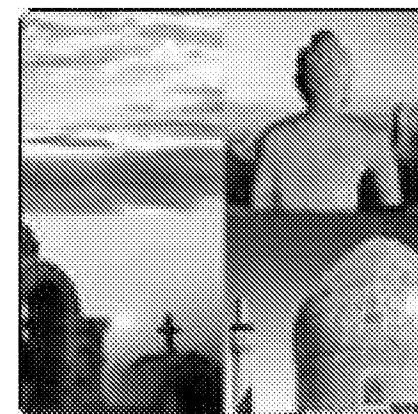
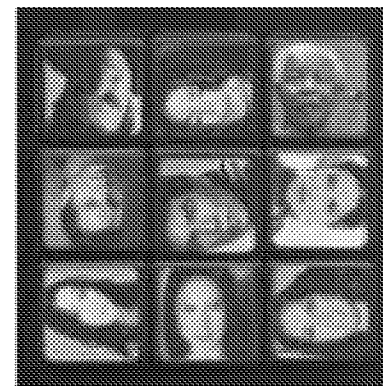
(A) the alien no longer meets the conditions described in subsection (b)(1) owing to a fundamental change in circumstances; (B) the alien meets a condition in subsection (b)(2); (C) the alien may be removed, pursuant to a bilateral or multilateral agreement, to a country (other than the country of the alien's nationality or, in the case of an alien having no nationality, the country of the alien's last habitual residence) in which the alien's life or freedom would not be threatened on account of race, religion, nationality, membership in a particular social group, or political opinion, and where the alien is eligible to receive asylum or equivalent temporary protection; (D) the alien has voluntarily availed himself or herself of the protection of the alien's country of nationality or, in the case of an alien having no nationality, the alien's country of last habitual residence, by returning to such country with permanent resident status or the reasonable possibility of obtaining such status with the same rights and obligations pertaining to other permanent residents of that country; or (E) the alien has acquired a new nationality and enjoys the protection of the country of his or her new nationality.

(i) An immigration judge or asylum officer shall not grant asylum to any applicant who filed his/her application before April 1, 1997, if the alien: (A) Having been convicted by a final judgment of a particularly serious crime in the United States, constitutes a danger to the community; (B) Has been firmly resettled within the meaning of §208.15; (C) Can reasonably be regarded as a danger to the security of the United States; (D) has been convicted of an aggravated felony, as defined in section 101(a)(43) of the Act; or (E) Ordered, incited, assisted, or otherwise participated in the persecution of any person on account of race, religion, nationality, membership in a particular social group, or political opinion. (F) Is described within section 212(a)(3)(B)(i)(I)(II) and (III) of the Act as it existed prior to April 1, 1997, and as amended by the Anti-terrorist and effective Death Penalty Act of 1996 (AEDPA), unless it is determined that there are no reasonable grounds to believe that the individual is a danger to the security of the United States.

Why was Applicant Granted Asylum?

Protected Characteristics:

- Race/Ethnicity
- Membership in a particular social group
- Political Opinion
- Religion
- Nationality

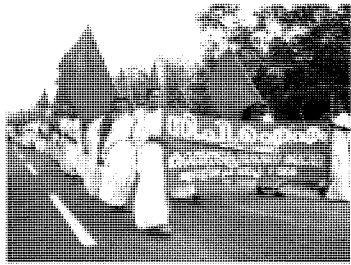


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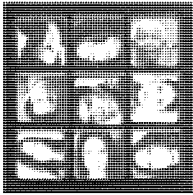
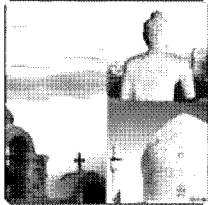
U.S. Citizenship and Immigration Services

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Why was applicant granted asylum?

To qualify for asylum:

Subject must have a protected characteristic:

Race/ethnicity - Hutu

Membership in a particular Social Group- Women who are forced to undergo FGM and oppose such practice.

Political Opinion- Member of the Liberal Party

Religion- Muslim

Nationality - Chinese



Key Considerations

- An asylee must have been persecuted or have a well founded fear of return to his/her country on account of his/her protected characteristic.
- An asylee must overcome all bars to asylum in order to be eligible.

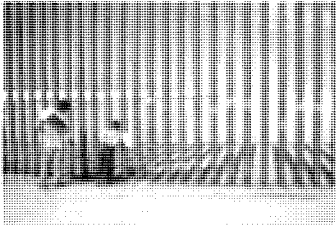


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U.S. Citizenship and Immigration Services **Key Considerations**

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Subject must have been persecuted or have a well founded fear of return to his/her country on account of that protected characteristic.

Subject must overcome all bars to asylum

An asylum-seeker is ineligible to apply for asylum under the INA if he or she: of

Failed to file an asylum application (Form I-589) within one year of his or her last arrival in the United States or April 1, 1997, whichever is later

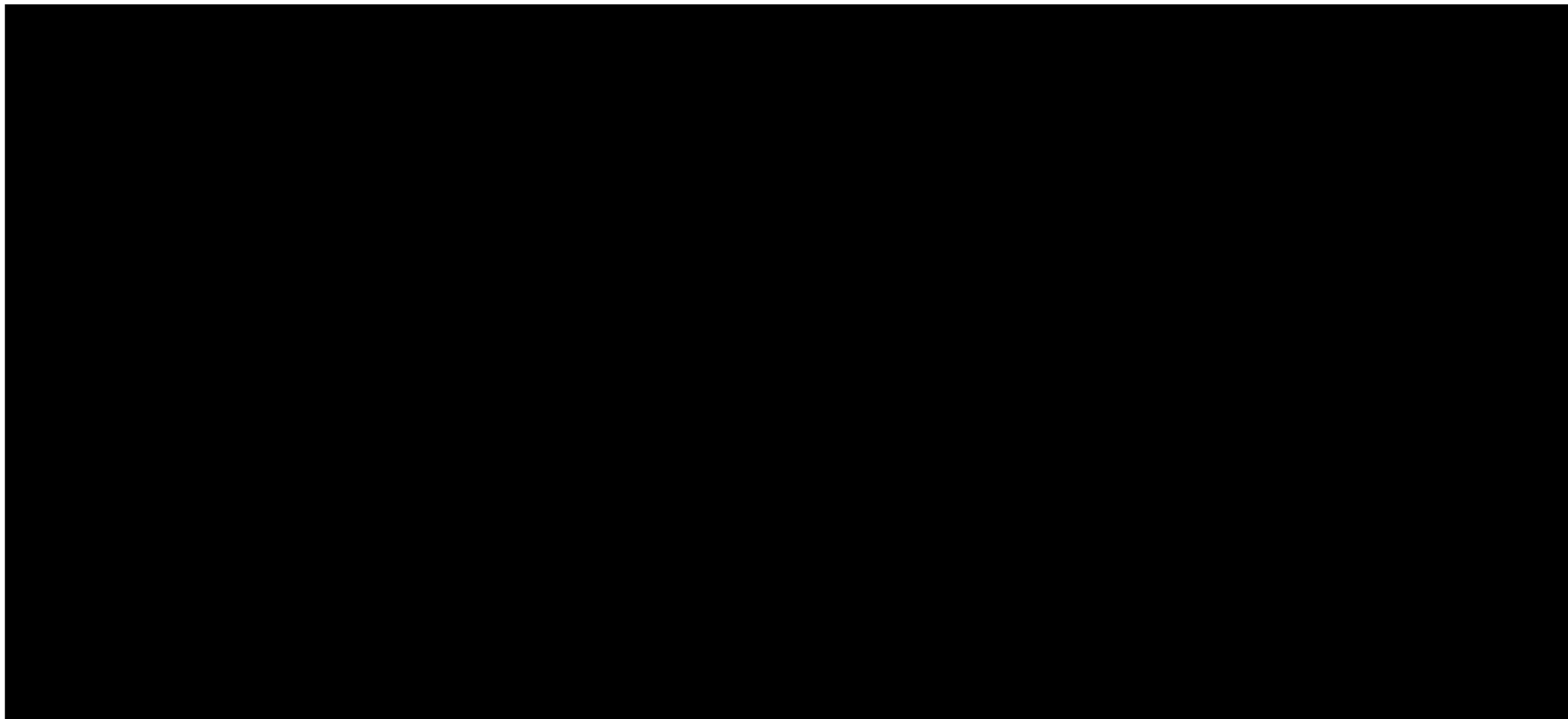
Previously applied for asylum and was denied by an Immigration Judge or the Board of Immigration Appeals

Can be removed to a safe third country pursuant to a bilateral or multilateral agreement



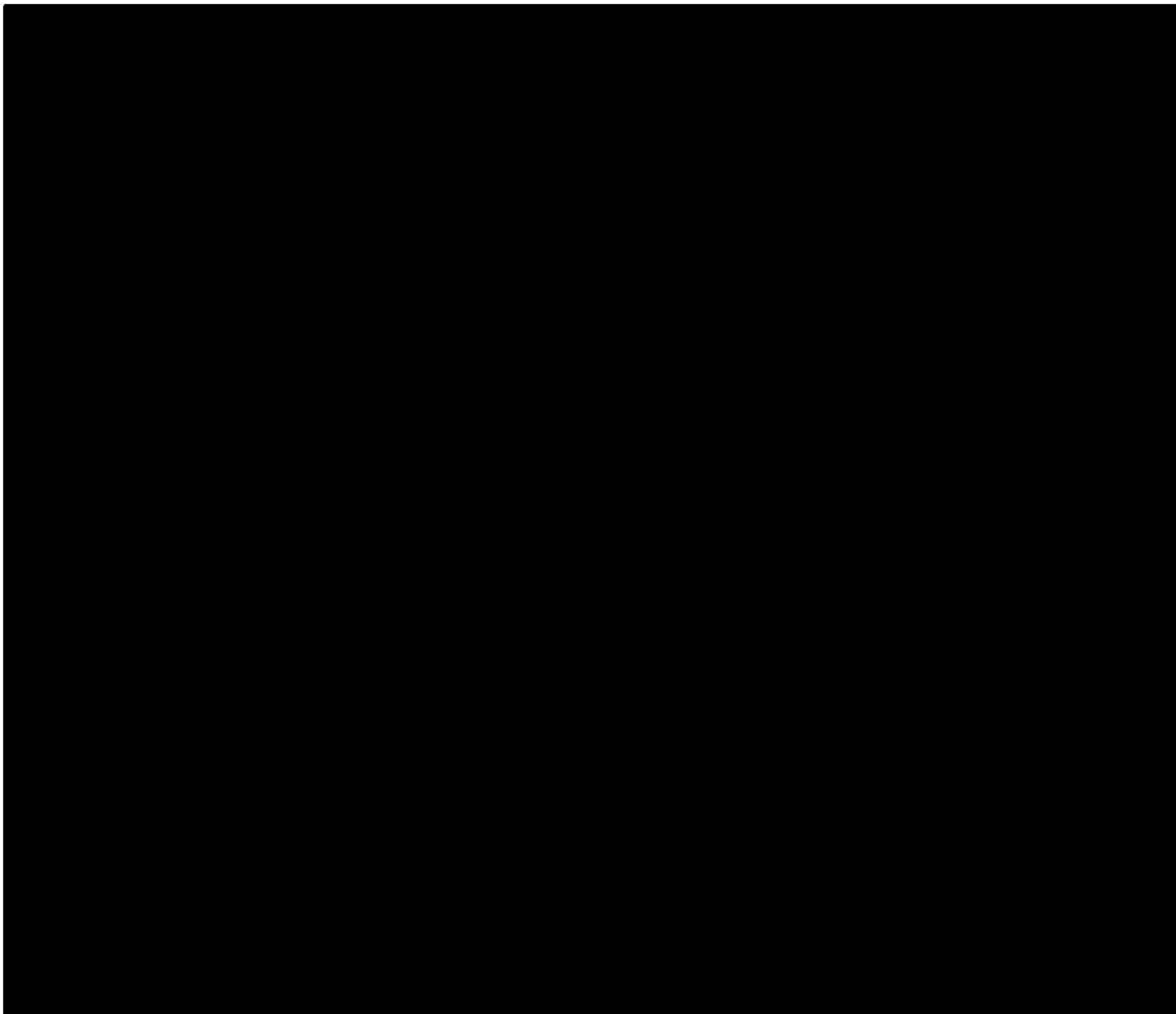
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What to Look For



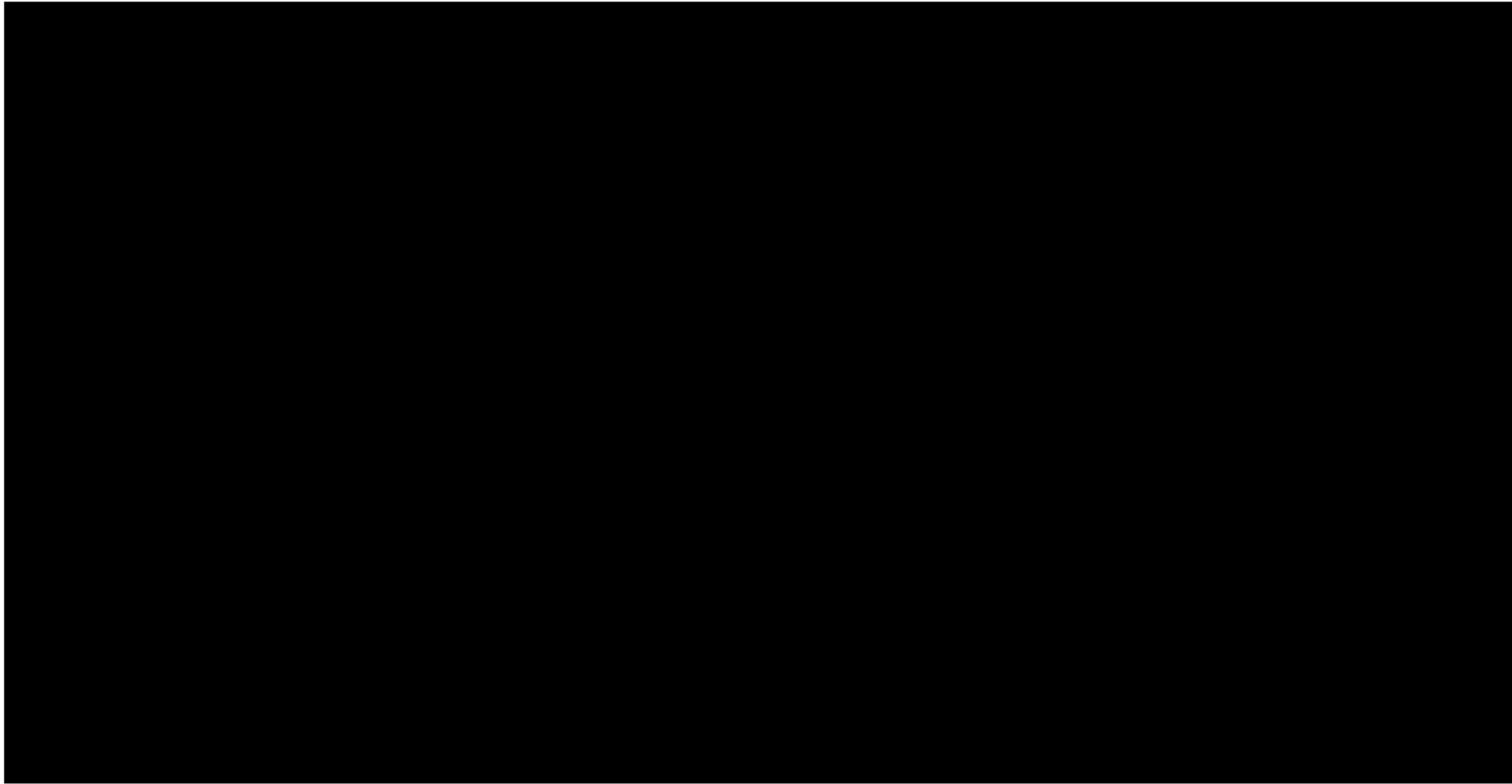
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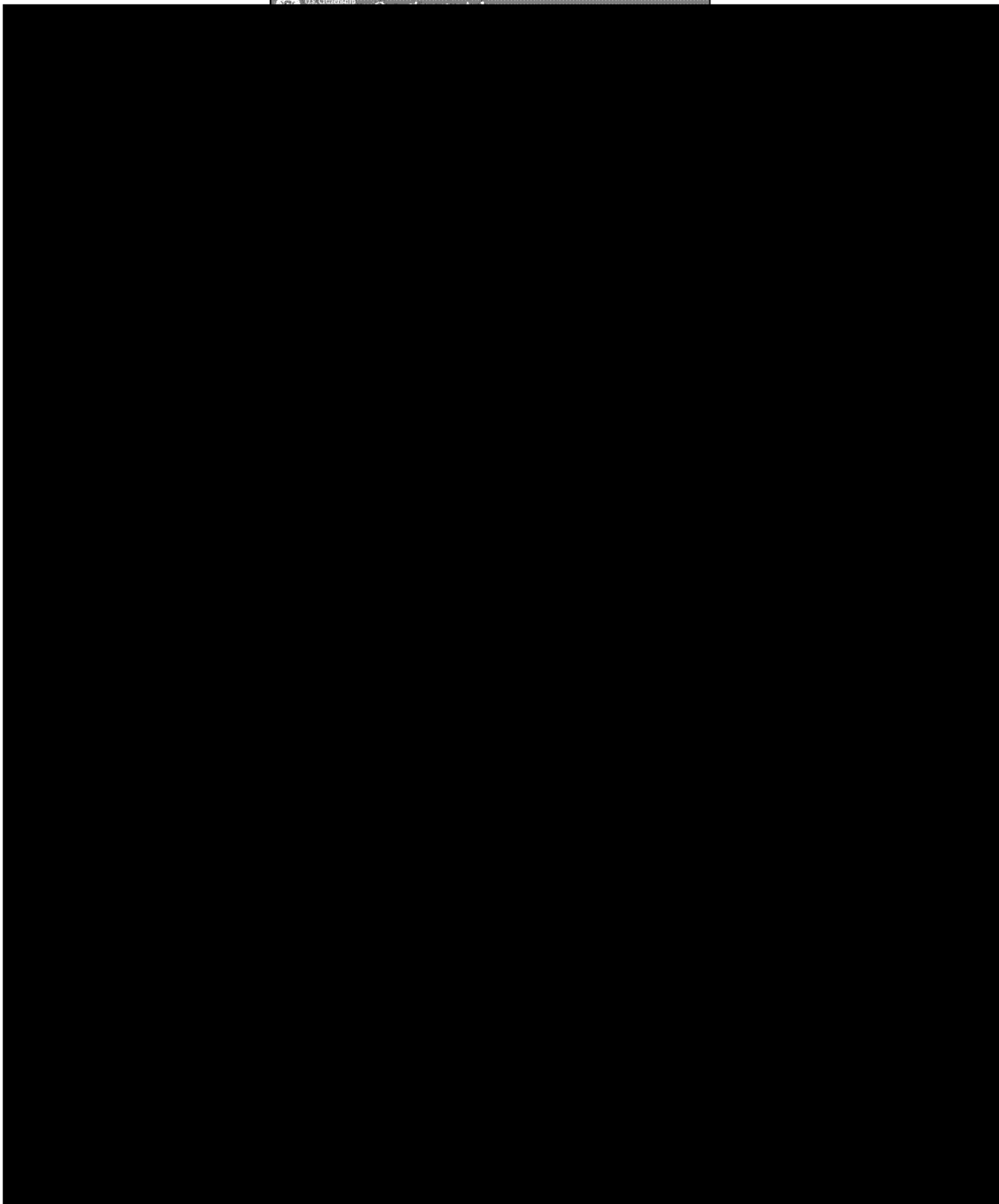


Questions to Ask



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Refugee INA 209 (a)

- Admitted to the U.S. under §207
- Whose admission has not been terminated
- Who has been physically present for at least one year
- Who has not acquired permanent resident status
- Who is found to be admissible



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U.S. Citizenship and Immigration Services **Refugee INA 209 (a)**

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- Who has been physically present for at least one year
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A refugee may adjust their status to lawful permanent resident under: INA Section 209 [8 U.S.C. § 1159] Adjustment of status of refugees. Subsection (a) states in pertinent part:

(1) Any alien who has been admitted to the United States under section 207 [8 USCS §1157]

-
- (A) whose admission has not been terminated by the Secretary of Homeland Security or the Attorney General pursuant to such regulations as the Secretary of Homeland Security or the Attorney General may prescribe,
- (B) who has been physically present in the United States for at least one year, and
- (C) who has not acquired permanent resident status, shall, at the end of such year period, return or be returned to the custody of the Department of Homeland Security for inspection and examination for admission to the United States as an immigration in accordance with the provisions of sections 235, 240, and 241 [8 USCS §§ 1225, 1229a, and 1251].

(2) Any alien who is found upon inspection and examination by an immigration officer pursuant to paragraph (1) or after a hearing before an immigration judge to be admissible (except as otherwise provided under subsection (c)) as an immigrant under this Act at the time of the alien’s inspection and examination shall, notwithstanding any numerical limitation specified in this Act, be regarded as lawfully admitted to the United states for permanent residence as of the date of such alien’s arrival into the United States.

(c) . . . The provisions of paragraphs (4), (5), and (7)(A) of section 212(a) . . . shall not be applicable to any alien seeking adjustment of status under this section, and the Secretary of Homeland Security . . . may waive any other provision of such section (other than paragraph (2)(C) or subparagraph (A), (B), (C), or (F) of paragraph (3)) with respect to such an alien for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest.



§207.9 Termination of Refugee Status

- Refugee status of any alien admitted to the United States under section 207 of the Act shall be terminated by any district director in whose district the alien is found, if the alien was not a refugee within the meaning of section 101(a)(42) at the time of admission.




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U.S. Citizenship and Immigration Services

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§207.9 Termination of Refugee Status

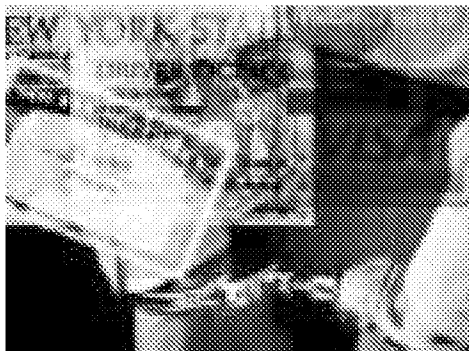
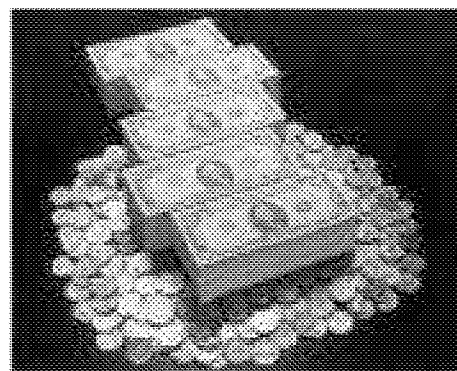
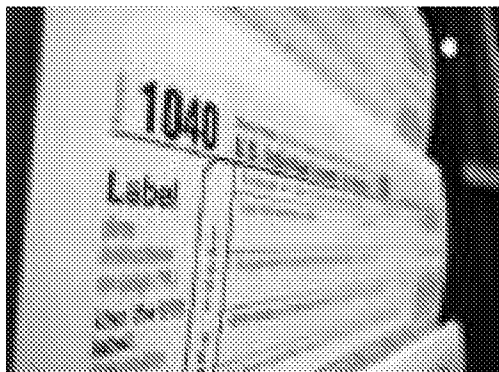
The refugee status of any alien (and of the spouse or child of the alien) admitted to the United States under section 207 of the Act shall be terminated by any district director in whose district the alien is found if the alien was not a refugee within the meaning of section 101(a)(42) of the Act at the time of admission. The district director shall notify the alien in writing of the Service's intent to terminate the alien's refugee status. The alien shall have 30 days from the date notice is served upon him/her or, delivered to his/her last known address, to present written or oral evidence to show why the alien's refugee status should not be terminated. There is no appeal under this chapter from the termination of refugee status by the district director. Upon termination of refugee status, the district director shall process the alien under sections 234, 240, and 241 of the Act.



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Adjustment of Status

Refugee adjustment may not be denied based on discretion, may only deny based on certain grounds of inadmissibility.



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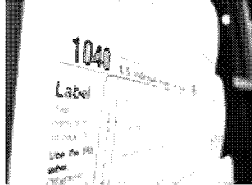
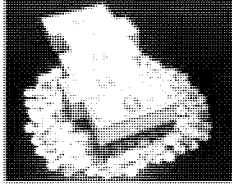
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**U.S. Citizenship
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Adjustment of Status

Refugee adjustment may not be denied based on discretion, may only deny based on certain grounds of inadmissibility.

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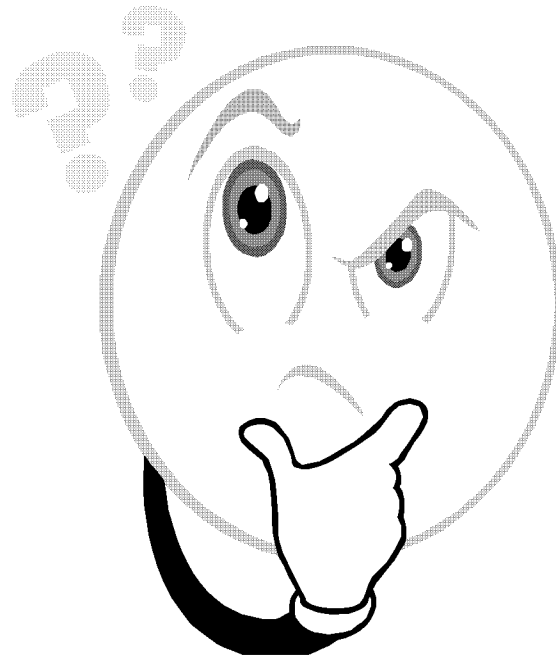
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USCIS does not have the discretion to deny a refugee adjustment of status, they can only be found inadmissible. Refugee adjustments are therefore sometimes more complicated to deny than other I-485s. It is therefore important to look at every detail in each application and document to determine if any inadmissibility grounds apply.



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Questions?



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National Security is the number one priority for USCIS!

“While our agency mission is to administer the benefit provisions of immigration law, our primary mission and obligation is to protect national security...There is an organizational network of nearly 200 Fraud Detection and National Security (FDNS) Immigration Officers throughout the Country to assist in this regard...It is the sum of all of our efforts that will ensure we do not grant benefits to those who pose a threat to national security...In closing, please allow me to thank each and every one of you for the extraordinary job you are doing protecting our Nation’s most precious commodity, legal immigration. You are to be applauded for keeping the door to America open, but diligently guarded against those intending to do us harm.”

Director Gonzalez, May 8, 2006

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 U.S. Citizenship and Immigration Services

Conclusion

National Security is the number one priority for USCIS!

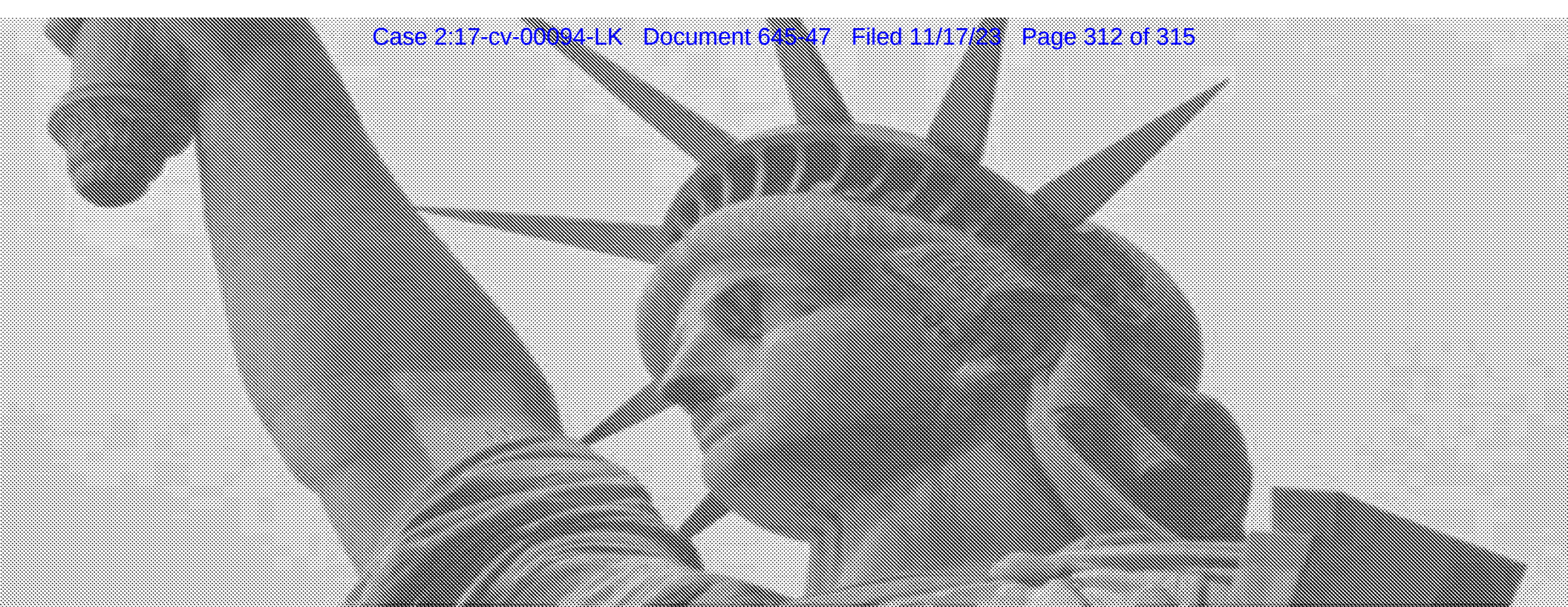
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Instructors note: Go over TPO and EPOs again. Ask if there are any questions on any of the subjects covered or if something wasn’t covered regarding CARRP which they have questions about

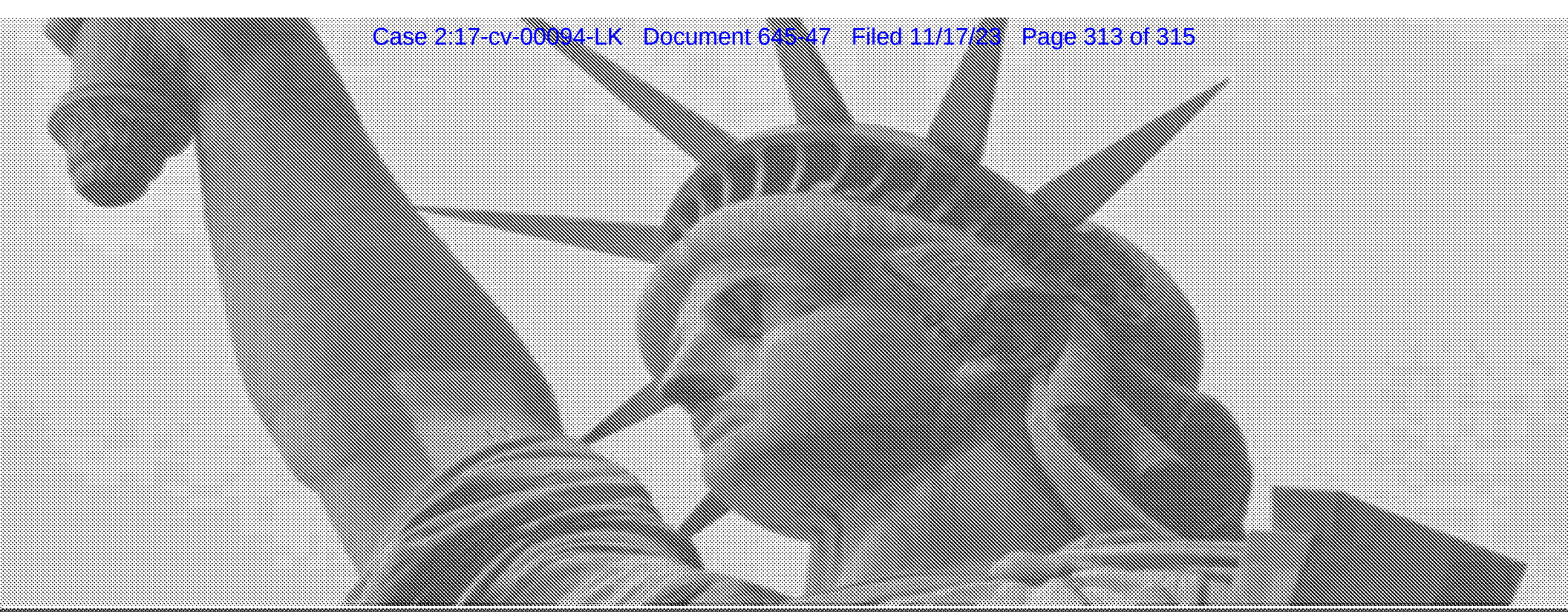


Practical Exercises

Section XII



U.S. Citizenship
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Conclusion

Section XIII

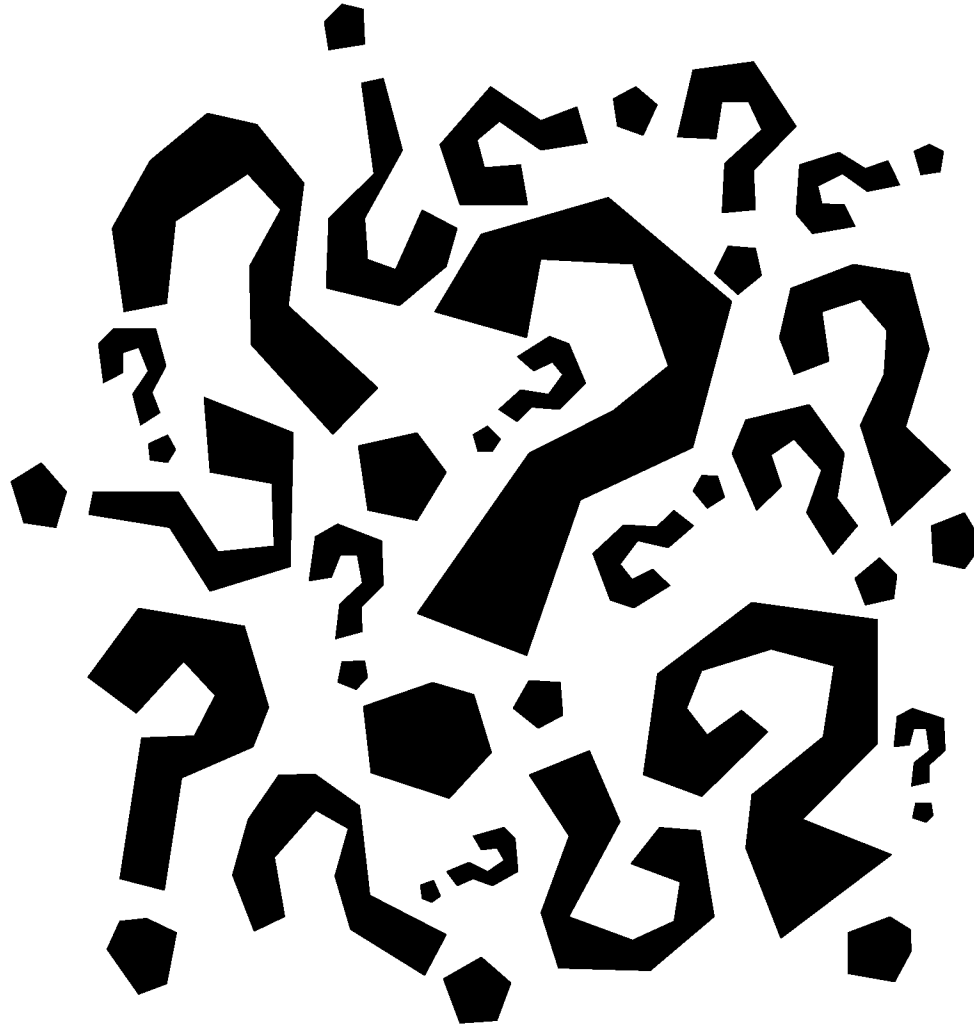


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Questions?



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