

Examples: Assessing Credibility in the Interview

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Examples: Assessing Credibility in the Interview

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***Was applicant informed of credibility concern?
Given an opportunity to explain?***

Examples

Handouts: Moldovan case; Congolese case

	Interview	Assessment
Step 1	(b)(7)(e)	
Step 2		
Step 3		
Step 4		
Step 5		

Conclusion

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FDNS Basics

Brought to you by your friendly neighborhood FDNS IO

(in this case)
(b)(7)(c)

Road Map

- Who We Are
- Ways of Interacting with FDNS
- FDNS “Product Lines”

- 
-
-

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- FDNS Extras – 

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Who We Are

- FDNS Supervisory Immigration Officers (SIOs)
 -
- FDNS Immigration Officers (IOs)
 -
- FDNS Intelligence Research Specialist (IRS) –
- FDNS Immigration Assistant (IA) –
- FDNS Immigration Services Assistant (ISA) –

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What We Do

- Vet cases with National Security concerns
- Refer Egregious Public Safety cases to ICE
- Investigate Fraud
- Liaise with Law Enforcement
- Facilitate handling of classified information
- Document all of our actions and findings in FDNS-DS database

Ways of Interacting with FDNS

- Pre-Interview Screening Notifications (PISNs)
- FDNS Duty Officer
- FDNS ECN

Pre-Screening Sheets

- Aspirationally Green, Sometimes White
- Right Hand Side of the A File
- Indicates that A file has been reviewed by an FDNS IO before you get it
- May have comments about a Fraud, National Security or Public Safety element of the case
- May request return of A file to FDNS IO

THIS INFORMATION IS INTENDED TO ASSIST ASYLUM OFFICERS WITH DEVELOPING THEIR OWN LINES OF QUESTIONING
To be interfiled on the top, non-record side, of the Alien File.
DO NOT DISCLOSE INFORMATION TO APPLICANT

FDNS PRE-INTERVIEW SCREENING NOTIFICATION

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Which Files Does FDNS Pre-Screen?

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Required SMD and EFR Vetting

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SMD and EFR Vetting (Cont'd)

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Possible SMD and EFR Results

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SMD and EFR Sign Offs

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FDNS Duty Officer

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ECN

-
- Currently a work in progress (!)
 - “I am an FDNS Team Member” ECN Page:
 - Duty Officer for the week, FDNS Contact Info, Outdated Team Photo

[Redacted]

(b)(7)(e)

- “I need FDNS Resources” ECN Page:

- [Redacted]
- [Redacted]

[Redacted]

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Any Questions?

- Pre-Screening Sheets
- SMD/EFR Vetting
- FDNS Duty Officer
- FDNS ECN

Knowledge Check: SMD Grant

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Knowledge Check: SMD Referral

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FDNS “Product Lines”

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FRAUD

-
- Please contact FDNS or submit a Fraud Referral if:

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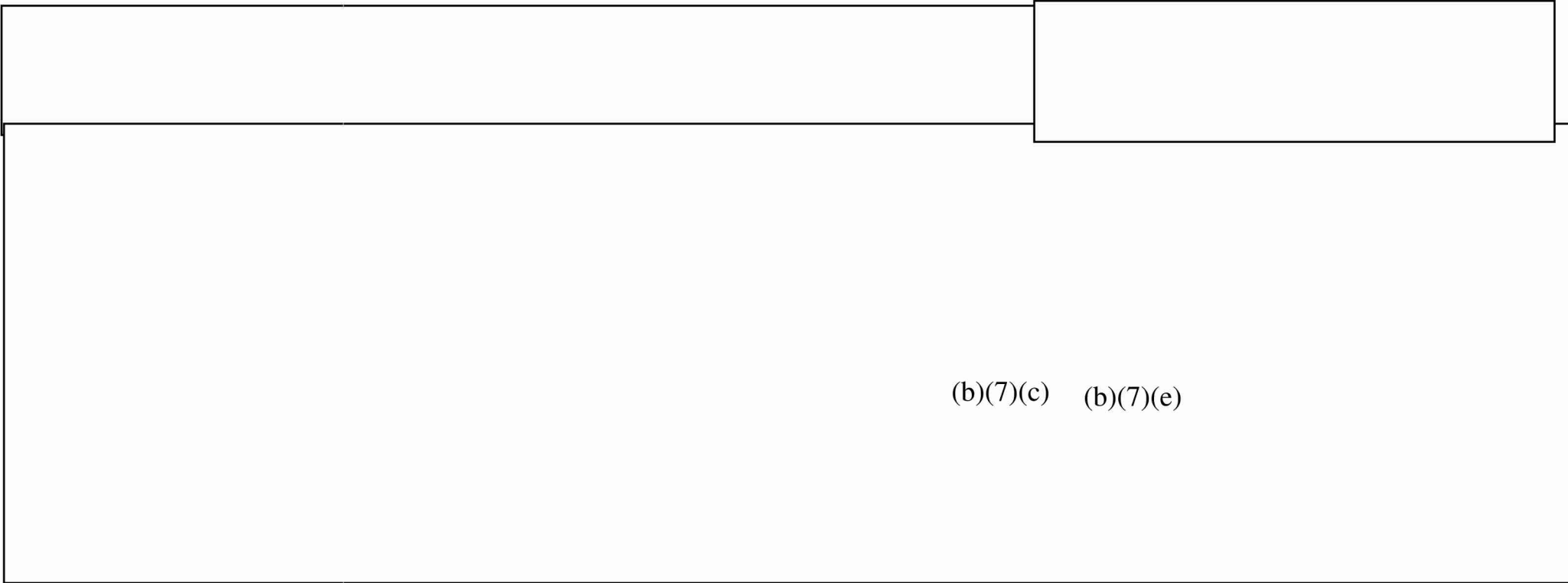
(b)(7)(e)

Your Fraud Referrals
(or even just word of mouth tips!)
become the Leads
that FDNS investigates
and potentially then the Cases that
the AUSA prosecutes.

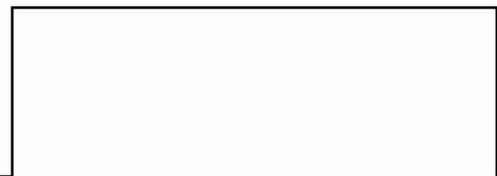
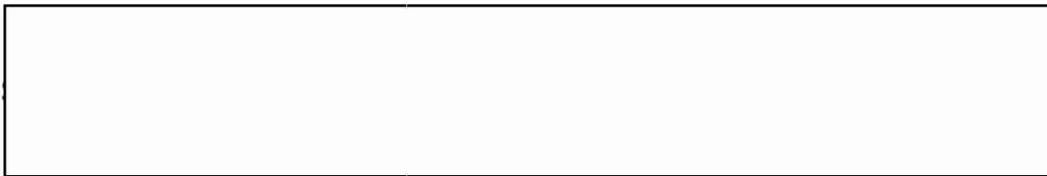
FDNS Support for AOs - Fraud

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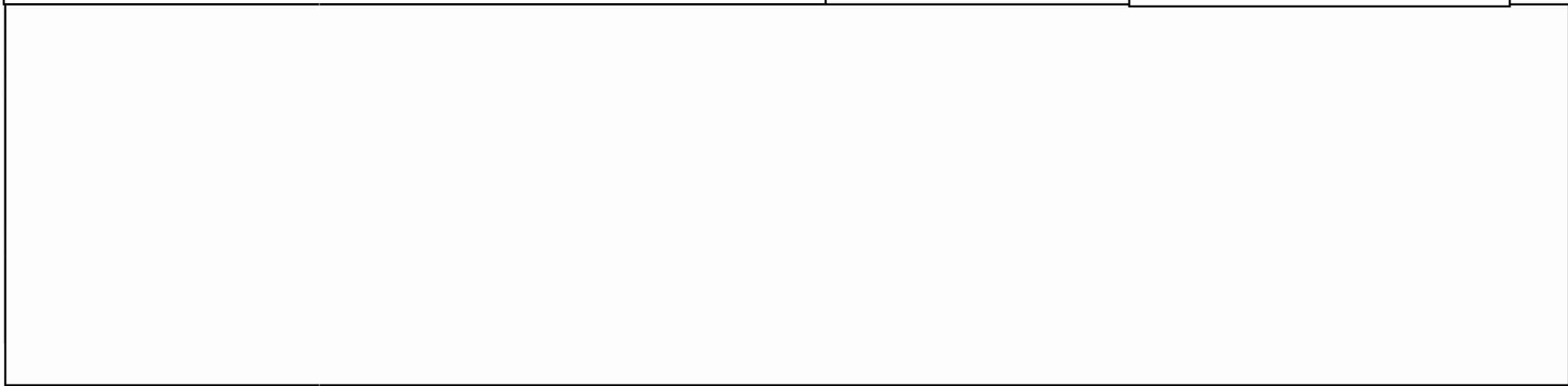
Fraud Referrals via DS



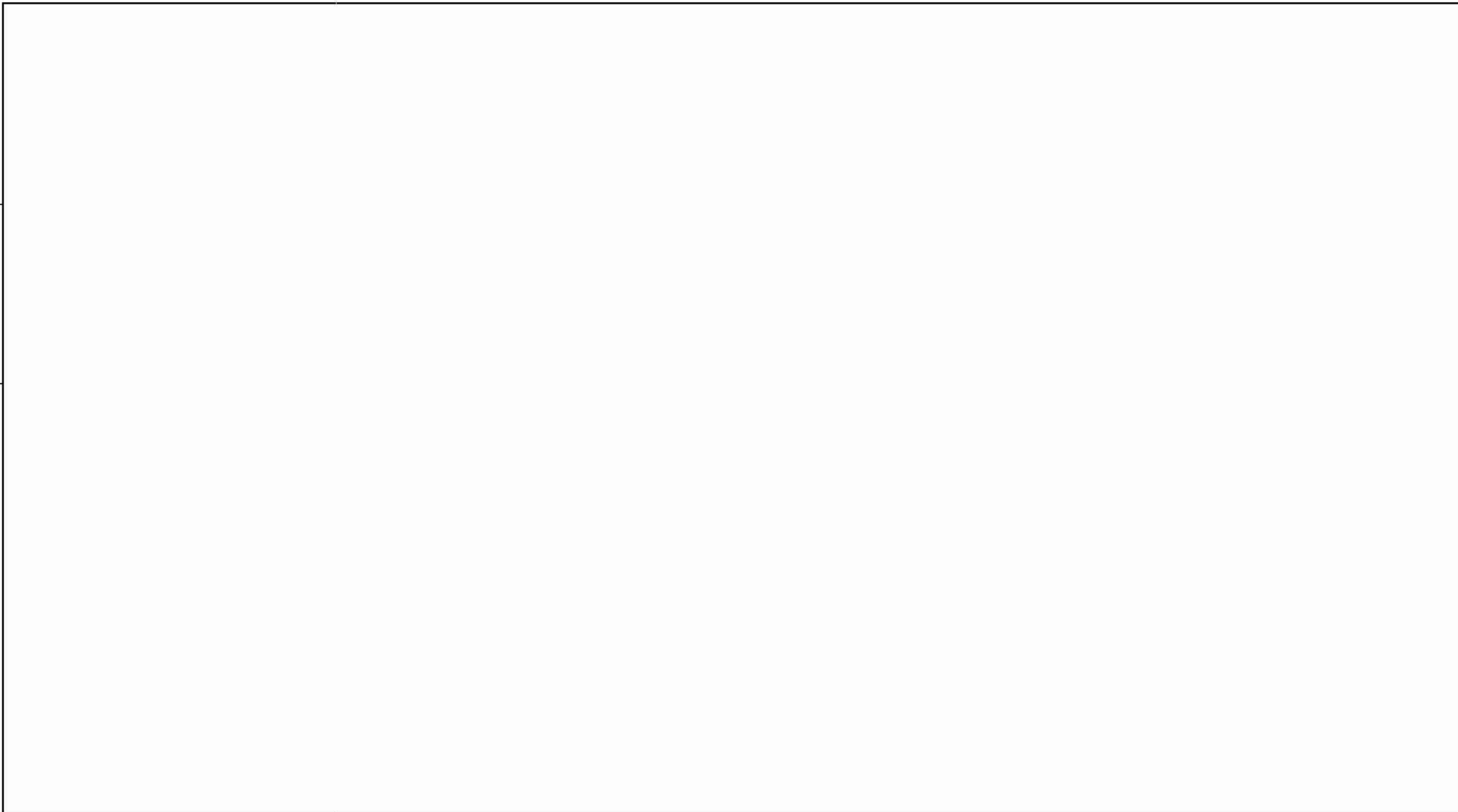
(b)(7)(c) (b)(7)(e)



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(b)(7)(e)

Any Questions?

- Fraud Resources
- Fraud Referrals

Knowledge Check: Fraud

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Post-Interview FDNS Limitations

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NATIONAL SECURITY

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NS Concerns

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KSTs

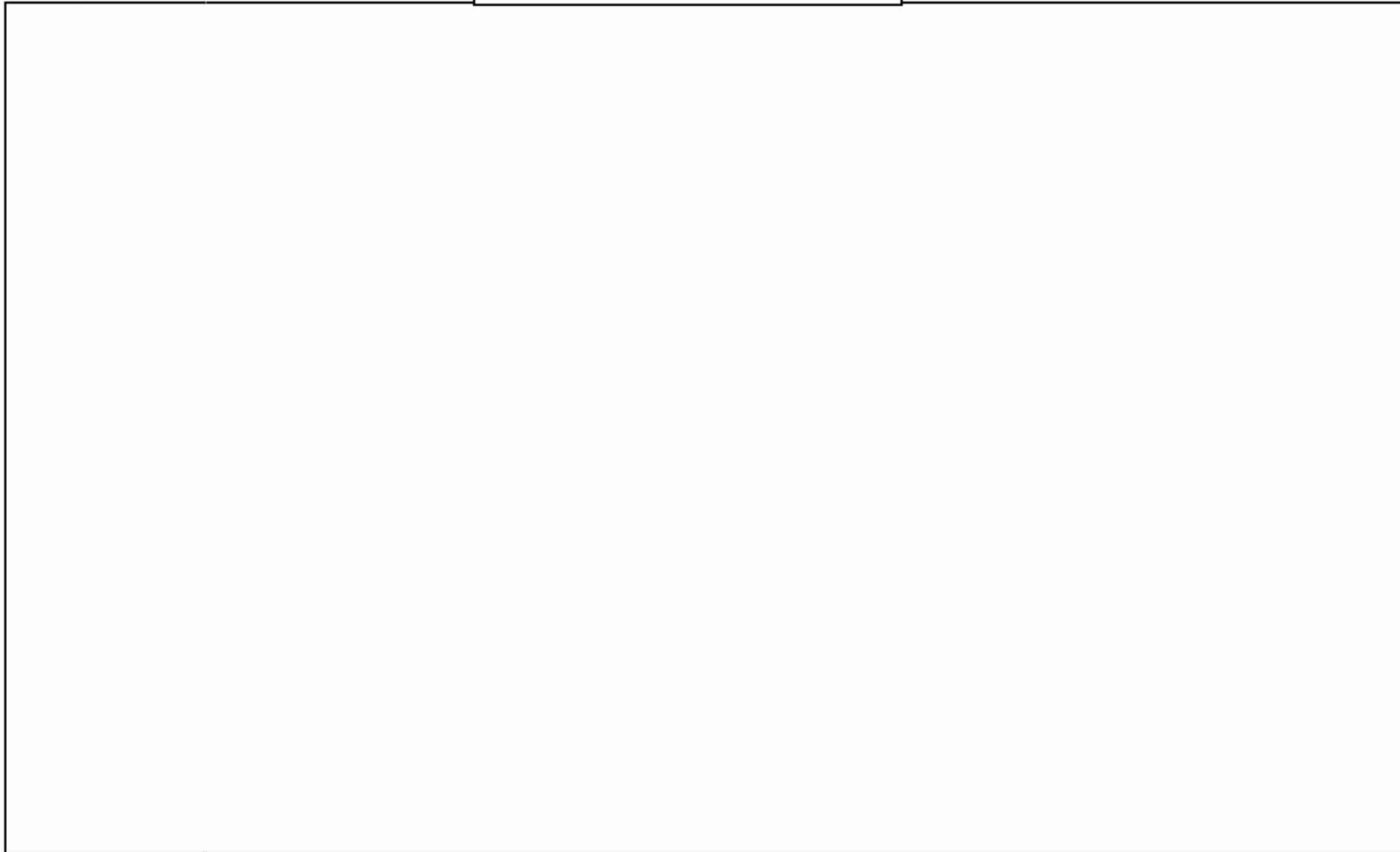
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KSTs

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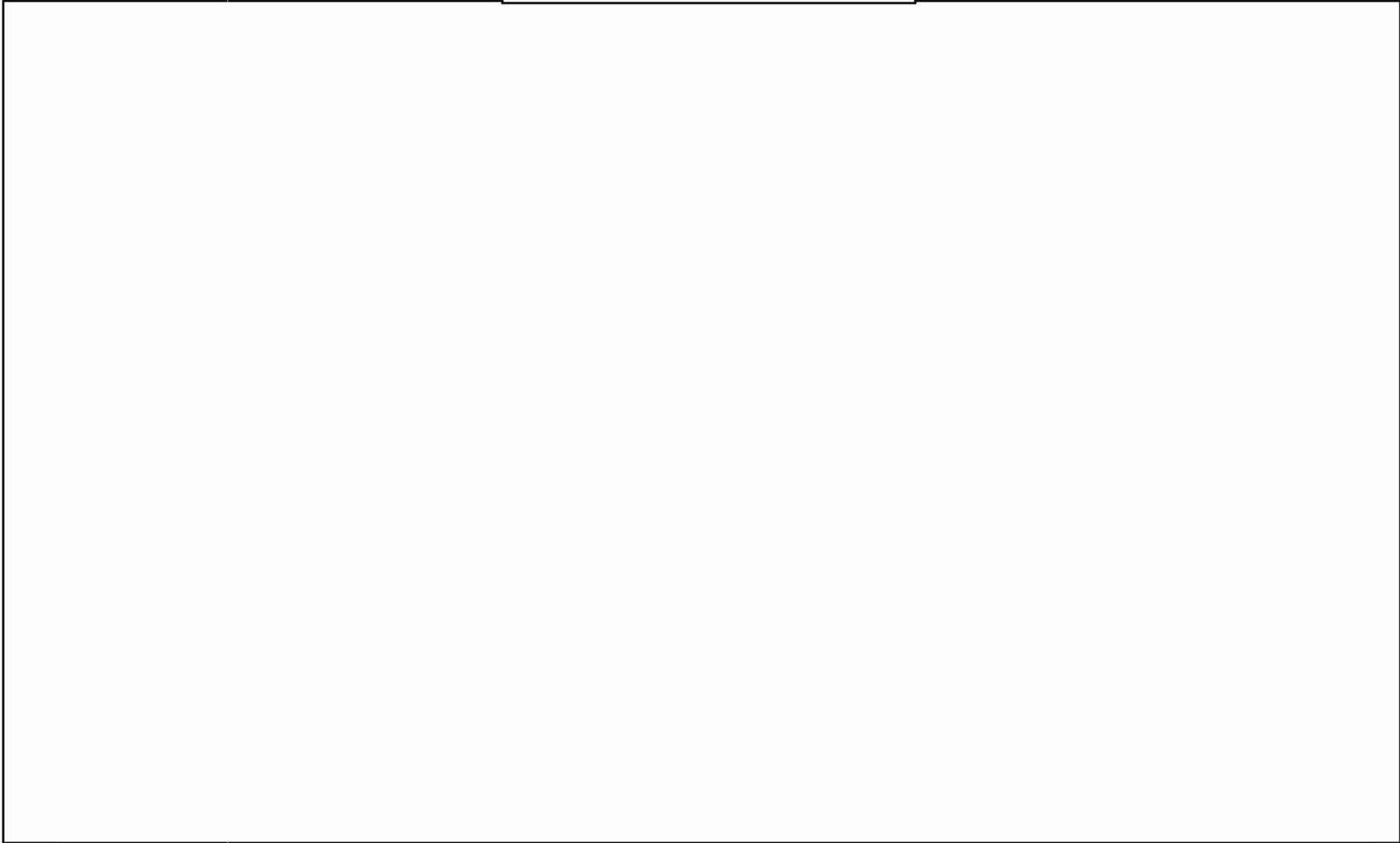
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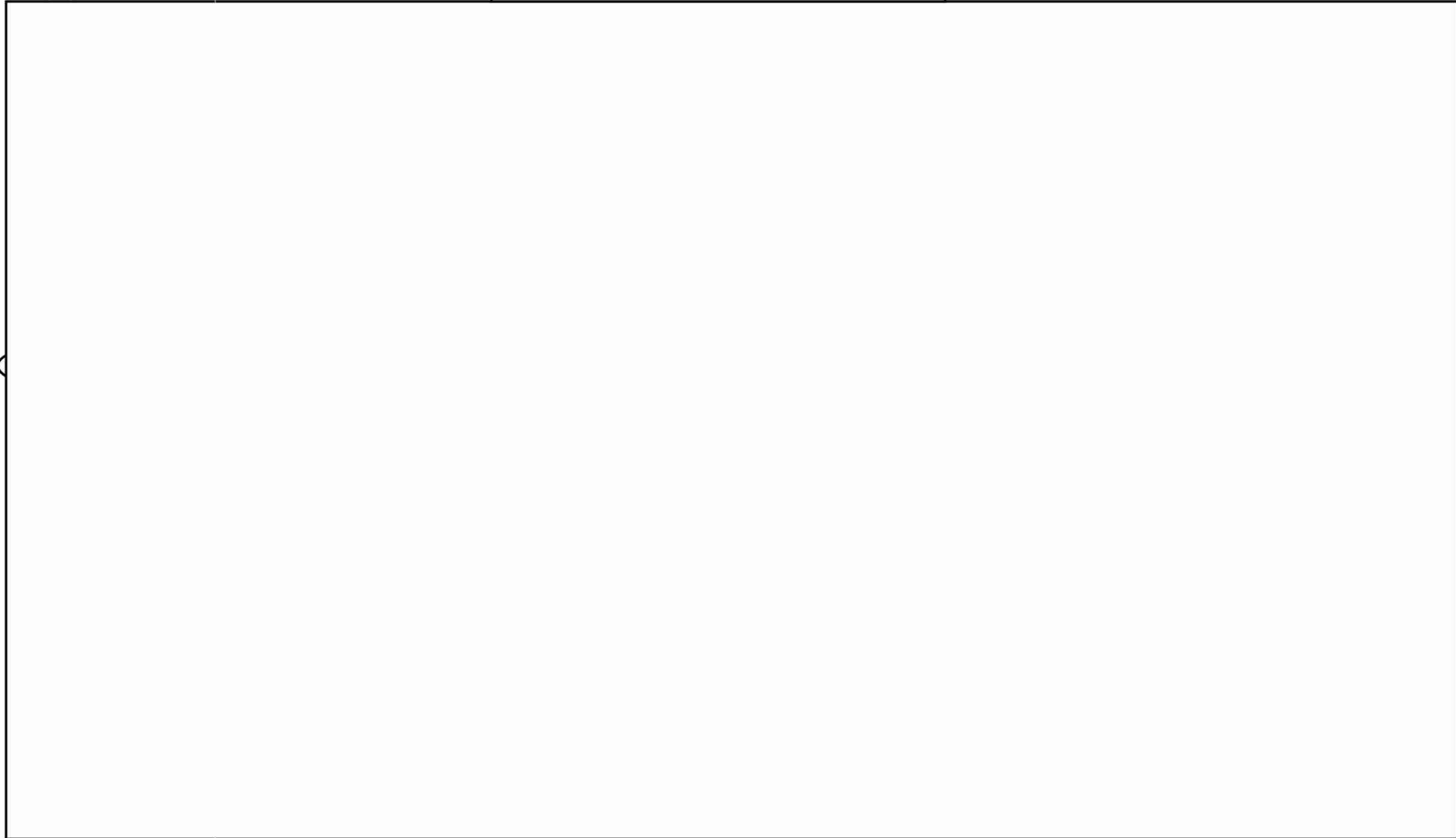
For Official Use Only / Law Enforcement Sensitive

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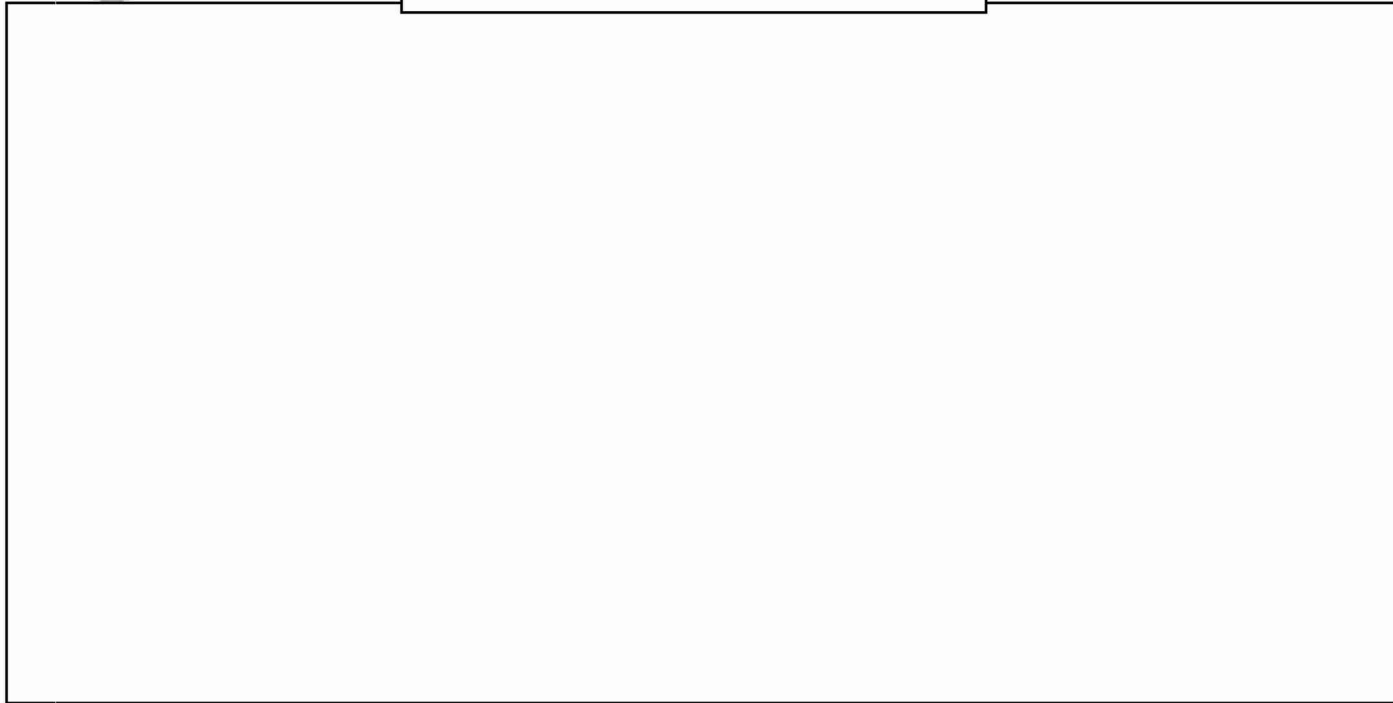
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NCIC NIC/T Hit Example

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Non-KSTs

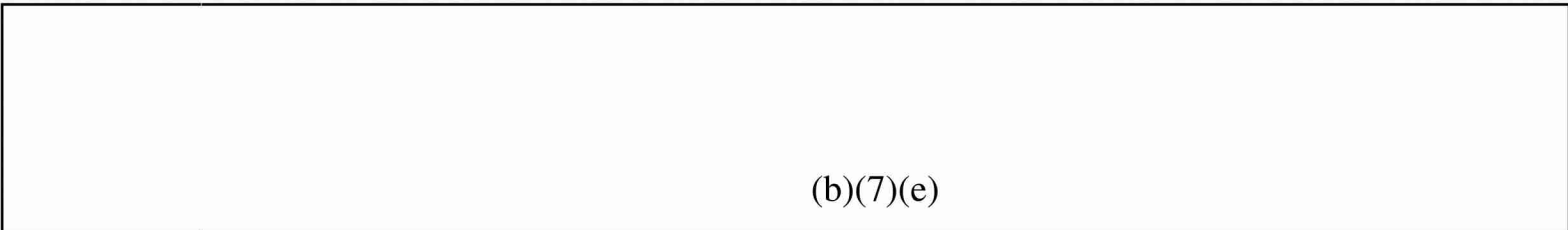
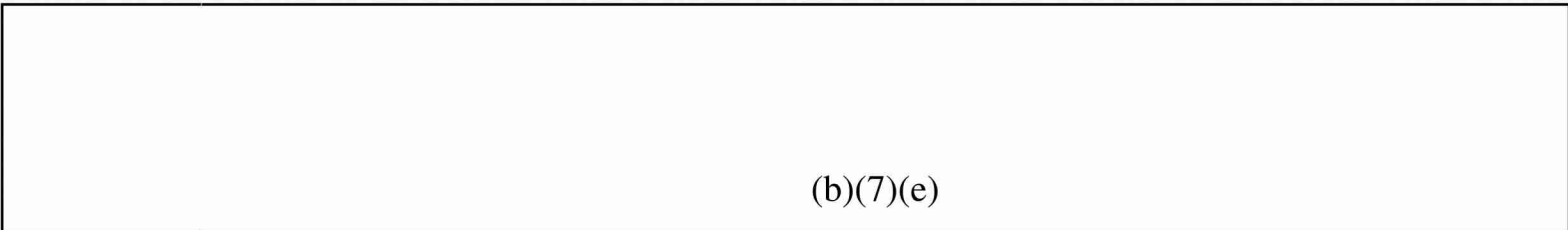
(b)(7)(e)

You, as the AO,
are on the frontlines
identifying Non-KST
National Security concerns
during your file review
and interviews!

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NS Legal Grounds

- NS Grounds are described in INA section 212(a)(3)(A), (B) or (F) or 237(a)(4) (A) or (B).
- NOTE: That section of the INA looks familiar because NS grounds include TRIG grounds!

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All the Ways to be an NS Concern

Area of National Security Concern Include:	Section of the INA
Espionage	§212(a)(3)(A), and §237(a)(4)(A)
Sabotage	
Exporting sensitive goods, technology, or information	
Overthrowing the U.S. government by force or violence	
Hijacking or sabotaging transportation	§212(a)(3)(B), and §237(a)(4)(B)
Hostage-taking	
Attack or assassination of any government official (U.S. or any other government)	
Using biological, chemical, or nuclear weapons	
Using other weapons to harm people or cause damage (other than for personal monetary gain)	§212(a)(3)(F), and §237(a)(4)(B)
People or groups the Secretaries of State and/or Homeland Security have determined are terrorists	

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NS Indicators =

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NS Indicators to Look For

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Identifying Non-KSTs

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CARRP Referrals in Practice

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CARRP Referrals in Practice

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CARRP SUBMISSION WORKSHEET

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NS/CARRP Resources

(links in PPT Notes below)

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Questions?

- NS Concerns
- Articulate Links
- CARRP

Knowledge Check: CARRP

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Knowledge Check: CARRP

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Knowledge Check: CARRP

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EGREGIOUS PUBLIC SAFETY (EPS)

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- Remember:

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- But don't worry: EPS includes it!

Area of National Security Concern Include:	Section of the INA
Espionage	§212(a)(3)(A), and §237(a)(4)(A)
Sabotage	
Exporting sensitive goods, technology, or information	
Overthrowing the U.S. government by force or violence	
Hijacking or sabotaging transportation	§212(a)(3)(B), and §237(a)(4)(B)
Hostage-taking	
Attack or assassination of any government official (U.S. or any other government)	
Using biological, chemical, or nuclear weapons	
Using other weapons to harm people or cause damage (other than for personal monetary gain)	
People or groups the Secretaries of State and/or Homeland Security have determined are terrorists	§212(a)(3)(F), and §237(a)(4)(B)

NOTE:

EPS Grounds

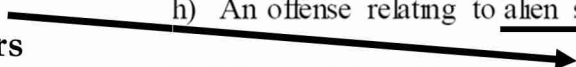
An EPS case is defined by USCIS and ICE as a case where information indicates the alien is under investigation for, has been arrested for (without disposition), or has been convicted of, any of the following:

- a) Murder, rape, or sexual abuse of a minor as defined in section 101(a)(43)(A) of the INA.
- b) Illicit trafficking in firearms or destructive devices as defined in section 101(a)(43)(C) of the INA.
- c) Offenses relating to explosive materials or firearms as defined in section 101(a)(43)(E) of the INA.
- d) Crimes of violence for which the term of imprisonment imposed, or where the penalty for a pending case, is at least one year as defined in section 101(a)(43)(F) of the INA.
- e) An offense relating to the demand for, or receipt of, ransom as defined in section 101(a)(43)(H) of the INA.
- f) An offense relating to child pornography as defined in section 101(a)(43)(I) of the INA.
- g) An offense relating to peonage, slavery, involuntary servitude, and trafficking in persons as defined in section 101(a)(43)(K)(iii) of the INA.
- h) An offense relating to alien smuggling as defined in section 101(a)(43)(N) of the INA.
- i) Human rights violators, known or suspected street gang members, or Interpol hits.
- j) Re-entry after an order of exclusion, deportation or removal subsequent to a conviction for a felony where Form I-212, Application for Permission to Reapply for Admission into the U.S. after Deportation or Removal, has not been approved.

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Gang Members

Persecutors



NOTE:

EPS Grounds

An EPS case is defined by USCIS and ICE as a case where information indicates the alien is under investigation for, has been arrested for (without disposition), or has been convicted of, any of the following:

- a) Murder, rape, or sexual abuse of a minor as defined in section 101(a)(43)(A) of the INA.
- b) Illicit trafficking in firearms or destructive devices as defined in section 101(a)(43)(C) of the INA.
- c) Offenses relating to explosive materials or firearms as defined in section 101(a)(43)(E) of the INA.
- d) Crimes of violence for which the term of imprisonment imposed, or where the penalty for a pending case, is at least one year as defined in section 101(a)(43)(F) of the INA.
- e) An offense relating to the demand for, or receipt of, ransom as defined in section 101(a)(43)(H) of the INA.
- f) An offense relating to child pornography as defined in section 101(a)(43)(I) of the INA.
- g) An offense relating to peonage, slavery, involuntary servitude, and trafficking in persons as defined in section 101(a)(43)(K)(iii) of the INA.
- h) An offense relating to alien smuggling as defined in section 101(a)(43)(N) of the INA.
- i) Human rights violators, known or suspected street gang members, or Interpol hits.
- j) Re-entry after an order of exclusion, deportation or removal subsequent to a conviction for a felony where Form I-212, Application for Permission to Reapply for Admission into the U.S. after Deportation or Removal, has not been approved.

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Identifying EPS Concerns

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EPS Indicators

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Gang Indicators

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Gang Indicators (Cont'd)

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Life Cycle of an EPS Case

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Public Safety Referral Sheet

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EPS Resources

(links in PPT Notes below)

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Questions?

- EPS Indicators
- Gang Indicator
- EPS Referral Process

Knowledge Check: EPS

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Knowledge Check: EPS

(b)(7)(e)

FDNS Extras

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FDNS Extras (cont'd)

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FDNS Extras (cont'd)

(b)(7)(e)

FDNS Extras (cont'd)

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MAVNI

- Military Accessions Vital to the National Interest (MAVNI) allowed immigration status based on U.S. military service
- Cancelled in December 2016
- Many former recruits expelled from U.S. military applied for asylum

- [Redacted]
- [Redacted]
- [Redacted]

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CONTACT INFO

Supervisory IOs

- [] (office) | [] (mobile)
- [] (office) | [] (mobile)

IOs

- [] (office) | [] (mobile)
- [] (office) | [] (mobile)
- [] (office) | [] (mobile)
- [] (office) | [] (mobile)
- [] (office) | [] (mobile)
- [] (office) | [] (mobile)
- [] (office) | [] (mobile)

FDNS Duty Officer Mailbox: ZNK FDNS []

All FDNS: #ZNK FDNS (Includes All ZNK FDNS Staff + [] + ZBO FDNS IOs)

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(b)(7)(c)

CONTACT INFO (cont'd)

FDNS Intelligence Research Specialist (IRS):

- [redacted] (office)

FDNS Immigration Assistant (IA)

- [redacted] (office)

FDNS Immigration Services Assistant (ISA)

- [redacted] (office)

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U.S. Citizenship and Immigration Services

Fraud Detection and National Security 2016 Asylum Division Fraud Prevention and Detection Training

Date

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USCIS004439

USCIS Fifth Production Part 1
524 of 877



Performance Objectives

ENABLING PERFORMANCE OBJECTIVES

- Provide adjudicators a general understanding of fraud and USCIS' approach to fraud deterrence
- Familiarize adjudicators and FDNS officers with their roles and responsibilities in the adjudication process
- Familiarize adjudicators with national and local fraud trends in asylum
- Provide adjudicators with a foundation to properly elicit testimony and develop the interview record
- Familiarize adjudicators with the fraud life cycle, Terminations/PAER process, and Post Conviction Clean Up Response Framework
- Enable adjudicators to identify fraud indicators related to asylum, refugee, identity, and relationships
- Enable adjudicators to recognize and understand primary fraud detection resources



GAO REPORT 16-50

- In December of 2015, the GAO issued a report on *Asylum: Additional Actions Needed to Assess and Address Fraud Risks*
- The GAO made 10 recommendations on which Asylum agreed to take action
 - conduct regular fraud risk assessments across the affirmative asylum application process;
 - develop and implement a mechanism to collect reliable data, such as the number of referrals to FDNS from asylum officers, about FDNS's efforts to combat asylum fraud;
 - identify and implement tools that asylum officers and FDNS immigration officers can use to detect potential fraud patterns across affirmative asylum applications;
 - require FDNS immigration officers to prescreen all asylum applications for indicators of fraud to the extent that it is cost-effective and feasible;



GAO Report cont.

- 10 recommendations cont'd.
 - develop asylum-specific guidance on the fraud detection roles and responsibilities of FDNS immigration officers working in asylum offices;
 - develop and deliver additional training for asylum officers on asylum fraud;
 - develop and implement a mechanism to regularly collect and incorporate feedback on training needs from asylum officers and supervisory asylum officers;
 - develop and implement a method to collect reliable data on asylum officer attrition;
 - include a review of potential fraud indicators in future random quality assurance reviews of asylum applications; and
 - develop and implement timeliness goals for all pending termination reviews of affirmative asylum cases.



Identified Fraud and Security Risks

Type

Serials

Priority (F + PI)

Offices

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Identified National Security Risks

Office	Identified National Security/Public Safety/Fraud Risk
	(b)(7)(e)



Identified Document Fraud Risks

Office	Identified National Security/Public Safety/Fraud Risk
	(b)(7)(e)



Identified Identity Fraud Risks

Office	Identified National Security/Public Safety/Fraud Risk
	(b)(7)(e)



Identified Immigration Service Provider Fraud Risks

Office

Identified National Security/Public Safety/Fraud Risk

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Identified “Boilerplate” Fraud Risks

Office

Identified National Security/Public Safety/Fraud Risk

(b)(7)(e)



Identified Jurisdiction Fraud Risks

Office

Identified National Security/Public Safety/Fraud Risk

(b)(7)(e)



Identified Public Safety Risks

Office

Identified National Security/Public Safety/Fraud Risk

(b)(7)(e)



Identified Gang Affiliation Risks

Office	Identified National Security/Public Safety/Fraud Risk
	(b)(7)(e)



Identified Relationship Fraud Risks

Office

Identified National Security/Public Safety/Fraud Risk

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Identified Visa Fraud Risks

Office	Identified National Security/Public Safety/Fraud Risk
	(b)(7)(e)



Fraud Prevention at USCIS

U.S. Citizenship and Immigration Services

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About Us

U.S. Citizenship and Immigration Services (USCIS) is the government agency that oversees lawful immigration to the United States.

Mission Statement

USCIS will secure America's promise as a nation of immigrants by providing accurate and useful information to our customers, granting immigration and citizenship benefits, promoting an awareness and understanding of citizenship, and ensuring the integrity of our immigration system.

We are the 18,000 government employees and contractors of USCIS working at 250 offices across the world. Achieving our goals becomes possible when the different elements of our organization are engaged and acting as partners working toward a common outcome. USCIS' strategic goals include:

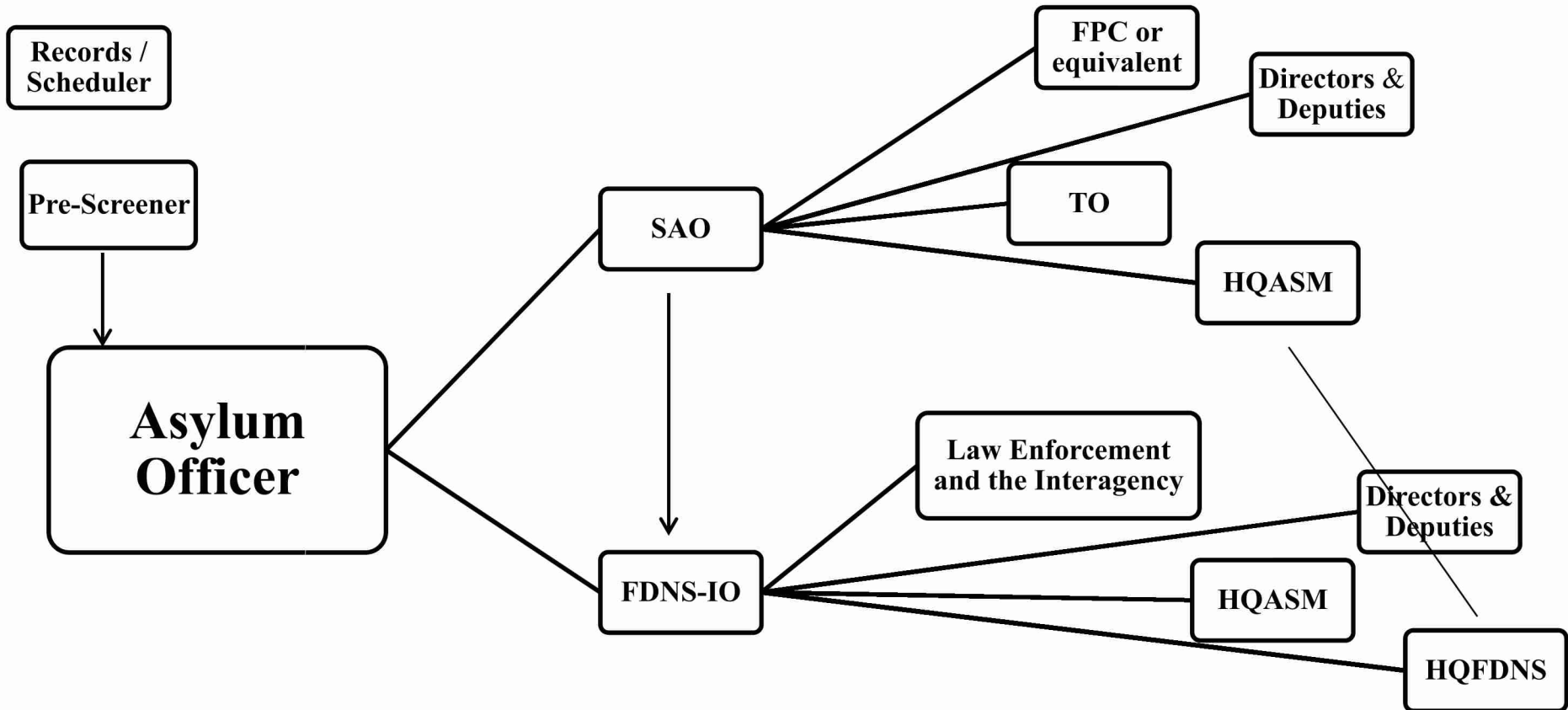
- Strengthening the security and integrity of the immigration system.
- Providing effective customer-oriented immigration benefit and information services.
- Supporting immigrants' integration and participation in American civic culture.
- Promoting flexible and sound immigration policies and programs.
- Strengthening the infrastructure supporting the USCIS mission.
- Operating as a high-performance organization that promotes a highly talented workforce and a dynamic work culture.

USCIS Mission Statement:

“USCIS will secure America’s promise as a nation of immigrants by providing accurate and useful information to our customers, granting immigration and citizenship benefits, promoting an awareness and understanding of citizenship, and ensuring the integrity of our immigration system.”



Fraud is Everyone's Responsibility





FDNS Roles & Responsibilities

Purpose – The purpose of this memorandum is to clarify existing guidance and provide additional information regarding the roles and responsibilities of FDNS Immigration Officers (FDNS IO) within the Asylum Division.

Scope – In addition to the traditional FDNS roles and responsibilities as articulated in national HQFDNS policy memoranda, training, guidance material, and standard operating procedures, this memorandum and any additional Asylum-specific guidance within it applies only to the Asylum Division staff and FDNS IOs working within the Asylum Division.

Shared – Preventing fraud, ensuring our national security, and addressing public safety concerns is a shared responsibility of all Asylum Office personnel.



FDNS Roles & Responsibilities

- **FDNS Officer**
 - It is the principal role of FDNS officers to provide direct support to the Asylum Office in furtherance of adjudications by:
 - responding to issues referred for assistance
 - conducting administrative investigations of suspected fraud
 - resolving national security concerns
 - coordinating with law enforcement partners
- **FDNS Supervisory Immigration Officer**
 - It is the primary role of supervisory immigration officers to provide direct supervision of day-to-day FDNS operations to their team of immigration officers.



Adjudicator Roles & Responsibilities

- **Asylum Officer**

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- **Supervisory Asylum Officer**

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Fraud Lesson Plan Highlights

FRAUD LESSON PLAN

FRAUD OVERVIEW

- Definition of Fraud
- Perpetrators of Fraud
- Fraud Indicators
- Where are Fraud Indicators Found?
- Types of Fraud in Asylum Adjudications
- Partnering with FDNS

FDNS OVERVIEW

- FDNS Structure
- RAIO's FDNS Program
- FDNS Officer Roles & Responsibilities
- Fraud Referral Process



Fraud Life Cycle

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Post Conviction Clean Up Response Framework

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Recent/Emerging Clean up Efforts

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Terminations – FDNS IO’s Role

ROLE OF THE FDNS IO

- FDNS IO conducts a “work-up” on each asylum case to gather all possible evidence
- Completes updated checks for the *Termination* and *PAER Checklist*
- Completes an FDNS *Statement of Findings* (SOF)
- Creates or updates record in the FDNS-DS database



Terminations Process

TERMINATIONS PROCESS

- Asylum Office reviews evidence and determines if sufficient to proceed
- Prima Facie evidence supporting termination ground is needed for issuance of Notice of Intent to Terminate Asylum Status (NOIT)
- Preponderance of the evidence is needed to terminate asylum status – for termination, the burden of proof is on the government, not the asylee
- Asylum Office issues NOIT, stating ground(s) for termination with a brief summary of the evidence



Terminations Process cont'd

- Termination interview* scheduled at least 30 days after mailing of NOIT (If they FOIA, we reschedule)
 - *Exception: *Nijar v. Holder*, 689 F.3d 1077 (9th Cir. 2012), which provides that DHS (USCIS) does not have the authority to terminate asylum status
- AO conducts termination interview and considers any rebuttal evidence
- AO assesses evidence and determines if preponderance of evidence supports termination
- If yes, AO issues Notice of Termination (NOT)
- If no, AO issues Notice of Continuation of Asylum Status
- AO updates RAPS throughout the terminations process



Eliciting Testimony

ELICITING TESTIMONY

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Eliciting Testimony cont.

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Documenting the Record

DOCUMENTING THE RECORD

- The interview notes serve as a record that allows a reviewer to reconstruct what transpired during the interview
- Notes must be clear and legible
- Notes must include all information elicited during the interview regarding the interviewee's eligibility for a benefit, petition, or request
- Notes must accurately reflect the questions asked and the applicant's response
- Notes must support the decision made by the AO
- Notes must not include the officer's opinions, suppositions, or personal inferences
- Notes must indicate instances when the officer confronts an applicant with adverse information and the applicant's response



Fraudulent Documents

(b)(7)(e)



Fraud Scheme Briefing Slides

Fraud Scheme Briefing Slides

- *briefly discuss the identified scheme overview. This should be a high level overview that minimizes PII. If warranted, create a hard copy handout with all the relevant PII information.*
- *briefly list what an AO needs to know to identify related files during the course of an adjudication.*
- *briefly list what an AO needs to know to identify related files during the course of an adjudication.*

*For examples of how to use this slide, please see the accompanying
EXAMPLE.ppt*



Scheme Indicators

Use this slide to briefly list what an AO needs to know to identify related files during the course of an adjudication.

For examples of how to use this slide, please see the accompanying EXAMPLE.ppt



Actions and Follow Up

Use this slide to briefly list what an AO needs to know to identify related files during the course of an adjudication.

For examples of how to use this slide, please see the accompanying EXAMPLE.ppt



Practical Exercise

PRACTICAL EXERCISE

- *Text*



Questions/Comments?

LGBT Credibility Training Potential Lines of Questions

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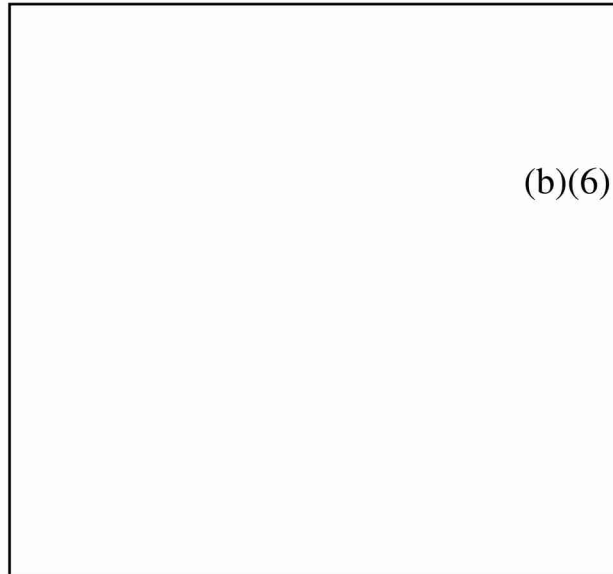
SPLIT /CREDIBILITY totality of the circumstances



With Black Belt Experts
SAO Scott Miller and QAT Lauren Vitiello
July 30, 2012

What it is not

- Split Credibility is not a personality disorder.



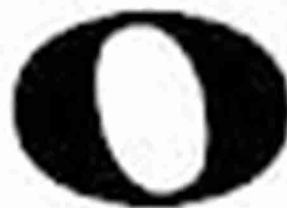
Split Credibility

- ... is a tool that will allow an AO to more precisely address issues that may arise during an asylum interview.

Credibility Evaluation

- Evaluation of the credibility of an applicant's testimony is fundamental to the evaluation of asylum eligibility and, in many cases, is the determining factor.
- The asylum officer must make an independent judgment as to the applicant's credibility in every asylum case. (Credibility Lesson Plan)

**whole
note**



aka

Totality of the Circumstances

- Asylum officers must evaluate credibility in every case
- The statute requires that the officer consider *the totality of the circumstances, and all relevant factors, when making a credibility determination.* (Credibility Lesson Plan)

You must consider *all* the evidence

“The whole picture must be taken into account since testimony is not a discrete, self-contained unit of evidence examined and weighed without context, it is part of the body of evidence which is intertwined and consist[s] in its totality.” *Matter of S-M-J-*, 21 I&N Dec. 722, 728 (BIA 1997)

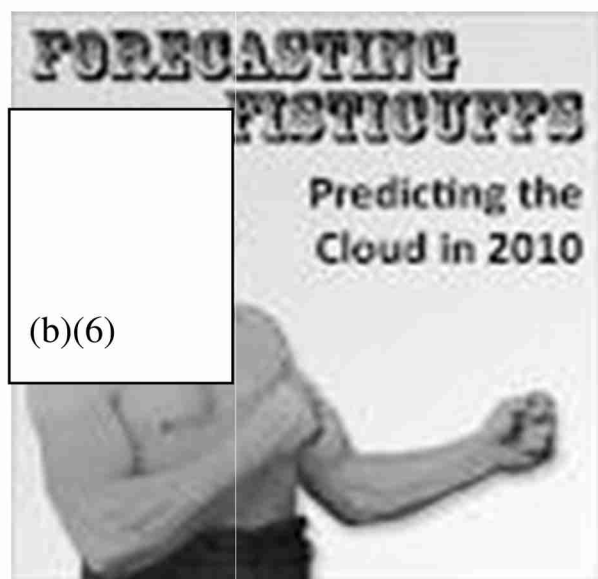
An overall credibility determination does not necessarily rise or fall on each element of the witness's testimony, but rather is more properly decided on the cumulative effect of the entirety of all such elements. Jishiashvili v. Attorney General, 402 F.3d 386, 396 (3rd Cir.2005)

Asylum officers must evaluate credibility in every case

- If the factual analysis indicates that the applicant's testimony, or a portion of the applicant's testimony, is not credible, regardless of whether it “goes to the heart of the applicant’s claim,” a determination whether any credibility flaw is relevant to the claim is required.
(Credibility Lesson Plan)

REAL ID Act

- This is where I thought I would have to “have it out” with Scott...



... but I was patient.
And you know? It
turned out all right!

Next page please

REAL ID Act

- For asylum applications filed on or after May 11, 2005, the REAL ID Act supersedes prior case law that limited reliance on inconsistencies that did not go to the “heart of the claim.”
- Credibility Lesson Plan

REAL ID Act

- Under the INA as amended by the REAL ID Act, asylum officers may base a credibility determination on inconsistencies, including omissions, “without regard to whether an inconsistency, inaccuracy, or falsehood goes to the heart of the applicant’s claim,” as long as it is relevant to the evaluation in light of the totality of the circumstances.
- Credibility Lesson Plan

If one of you kids tells me a lie, so help me – you *all* are punished!



Falsus in uno, falsus in omnibus

Falsus in uno, falsus in omnibus
[false in one thing, false in everything]

- “A single false document or a single instance of false testimony may (if attributable to the petitioner) infect the balance of the alien’s uncorroborated or unauthenticated evidence”
- Credibility Lesson Plan

Falsus in uno, falsus in omnibus

- Some circuit courts have taken the position that the credibility provisions of the Real ID Act have opened the door for adjudicators to apply the doctrine of *Falsus in uno, falsus in omnibus* to credibility determinations.
- Credibility Lesson Plan

Falsus in uno, falsus in omnibus

The Second Circuit has...identified five situations in which the *falsus in uno* doctrine may not apply:

(b)(6)



Felix Norbert SIEWE, Petitioner,
v.
Alberto R. GONZALES, Attorney
General, Respondent.
480 F.3d 160



1

A finding that the petitioner adduced false evidence does not excuse [in the sense of *mitigate* or *discount*] the assessment of evidence that is independently corroborated.



2

The presentation of fraudulent documents that were created to *escape* persecution may actually tend to support an alien's application. (This generally does not include false documents submitted as genuine in support of the asylum application.)



3

False evidence that is wholly ancillary to the alien's claim may, in some circumstances, be insufficient by itself to warrant a conclusion that the entirety of the alien's uncorroborated material evidence is also false.



4

A false statement made during an airport interview, depending on the circumstances, may not be a sufficient ground for invoking *falsus in uno*.

(b)(6)

Aliens may “not be entirely forthcoming” during the initial interview due to their perception that it is “coercive” or “threatening,” particularly aliens who may have a well-founded fear of government.



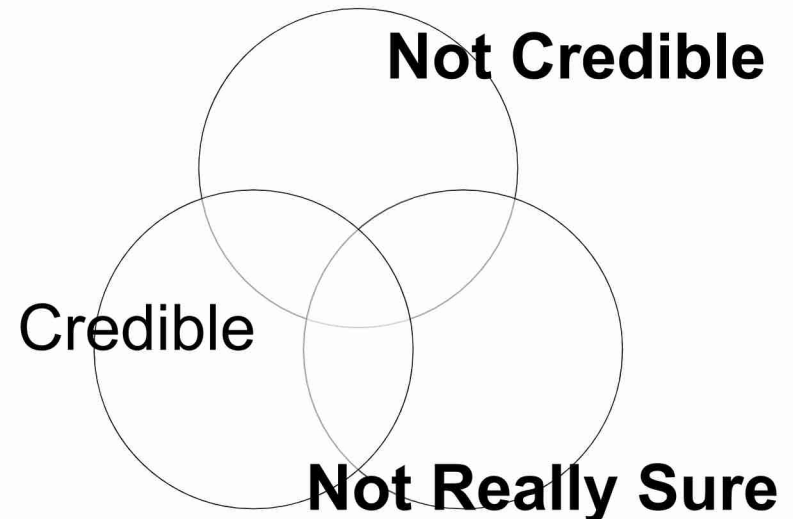
Continued



An alien's submission of documentary evidence that the alien does not know, and has no reason to know, is inauthentic, is no basis for falsus in uno.

SPLIT /CREDIBILITY

- In some cases, the asylum officer may determine that part of the applicant's testimony is not credible, but that another part is credible.

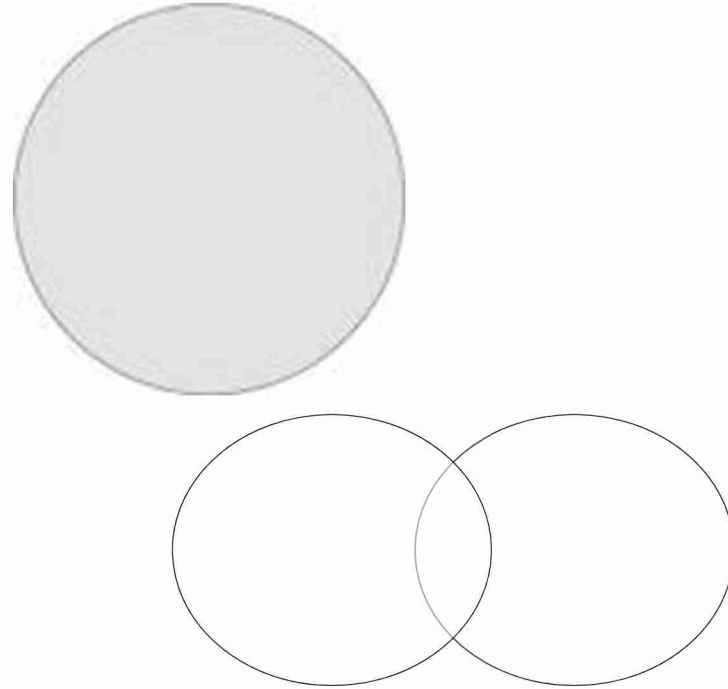


SPLIT /CREDIBILITY

- The asylum officer should then identify those parts of the testimony that were found not credible, explain why they were found not credible, and state whether they are relevant to the applicant's claim. The assessment should also identify those parts of the claim that were deemed credible.

WHY USE SPLIT CREDIBILITY

- Although Real ID generally allows a finding that encompasses a negative credibility finding when part of the testimony is found not credible, circumstances may justify separating aspects of a claim.



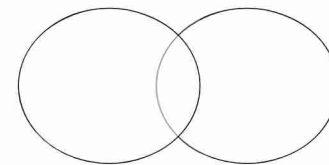
WHY USE SPLIT CREDIBILITY

-  (b)(7)(e)

- AO finds applicant not credible because testimony regarding claims of past harm were not detailed and at odds with other evidence.
- AO grants based on well founded fear.

SPLIT /CREDIBILITY

- Where the applicant is found *wholly* not credible, analysis should stop, without further discussion of WFF. But ...when you have this situation: ~~~~>



SPLIT /CREDIBILITY

- ... AO could have come up with a split credibility finding. Applicant could be found not credible in part (as it relates to past persecution), but credible with regard to being an Egyptian Coptic Christian living in Cairo. AO could then address WFF.



But before you jump to conclusions

Make Questions!





You take it
from here!

SPLIT /CREDIBILITY

- There have been few precedent decisions that deal with split credibility.
- Paul v. Gonzales, 444 F.3d 148 (2d Cir. 2006)
- Zuh v. Mukasey, 2008 WL 4983837 (4th Cir. 2008)
- Siewe v. Gonzalez, 480 F.3d 160 (2d. Cir. 2007)

SPLIT /CREDIBILITY

- *Matter of S-M-J-*, 21 I&N Dec. 722, 728 (BIA 1997)
- *Jishiashvili v. Attorney General*, 402 F.3d 386, 396 (3rd Cir.2005)

How To Do It

(in the assessment, continued)

Step 1: Identify the issue

Step 2: Present the evidence

Step 3: Present the explanation or lack of explanation provided

Step 4: Address if the explanation is or isn't reasonable, and why

Step 5: Explain how this issue is or is not material (relevant) to the applicant's claim

How To Do It

(in the assessment)

CREDIBILITY

In order to receive asylum... 8 U.S.C. §§ 1158, 1101(a)(42); 8 C.F.R. § 208.13(b).

Your testimony provides for a split credibility analysis. Your testimony regarding being a student and participating in demonstrations is found credible because it is sufficiently detailed, internally consistent, and generally consistent with your written application. Additionally, the evidence submitted is consistent with known country conditions.

How To Do It

(an example)

1. However, your testimony about your arrest and subsequent harm on 3/11/12 because of your political activism was inconsistent with medical evidence you provided to document injuries you said you sustained that day. During oral testimony, you said you were treated for a broken arm and knife cuts to your hands.
2. However, although the medical statement from Hospital X, (dated “11 March 2012”) makes reference to treatment received for “lacerations and contusions, left shoulder”, there is no reference to treatment for a broken arm or to lacerations on your hands.

How To Do It

(example continued)

3. When asked to explain why the letter did not mention treatment for the broken arm or cuts, you said the arm was treated the next day at the same hospital, but the doctor forgot to provide a receipt for his services. You also said that the hospital confused your records with another patient's.
4. This explanation does not excuse the inconsistency. It is reasonable to assume that the same medical facility would properly document the patient as well as the nature of the injuries sustained. It is also reasonable to assume the same hospital would also provide a receipt for services provided on both days.

How To Do It

(example continued)

5. This inconsistency is relevant to the applicant's claim because it goes to whether the applicant was ever arrested and beaten by the authorities on the day he said he was and on account of his student activism, which is the basis of his claim for asylum

Decision Writing - Credibility Analysis

(b)(7)(e)



THE [SPLIT]
END !

ZNK CONSOLIDATED FRAUD ALERTS TABLE

ATTORNEYS	PREPARERS	INTERPRETERS	PHYSICIANS
(b)(7)(c)			

ZNK CONSOLIDATED FRAUD ALERTS TABLE

ZNK FRAUD ALERT LIST

(b)(7)(e)

Shirk, Georgette L

From: [redacted] (b)(7)(c)
Sent: Thursday, June 18, 2020 1:10 PM
To: [redacted] (b)(7)(c)
Subject: FW: [redacted] Cases
(b)(7)(e)

For FOIA request. Thank you.

[redacted] (b)(7)(c)

From: [redacted] (b)(7)(c)
Sent: Wednesday, April 17, 2019 3:59 PM
To: [redacted]
[redacted]
Cc: [redacted]; #ZNK Supervisory
Asylum Officers [redacted]
#ZNK FDNS [redacted] > (b)(7)(c)
Subject: RE: [redacted] Cases
(b)(7)(e)

Hi [redacted] (b)(7)(c) (b)(7)(e)

[redacted]

From: [redacted] (b)(7)(c)
Sent: Wednesday, April 17, 2019 12:54 PM
To: [redacted]
[redacted]
Cc: [redacted]; #ZNK Supervisory
Asylum Officers [redacted]; [redacted]
#ZNK FDNS [redacted] (b)(7)(c)
Subject: RE: [redacted] Cases
(b)(7)(e)

Looping in the rest of the FDNS team for their awareness.

[redacted]

(b)(7)(c) (b)(7)(e)

Thanks,
[redacted] (b)(7)(c)

From: [redacted] (b)(7)(c)
Sent: Wednesday, April 17, 2019 12:04 PM
To: [redacted]
Cc: [redacted] #ZNK Supervisory
(b)(7)(c)

Asylum Officers [redacted]

Subject: RE: [redacted] Cases

(b)(7)(c)

Hey [redacted] (b)(7)(e)

(b)(7)(c)

If it helps, [redacted] and I started a similar conversation several months ago. I can forward those to you as well.



From: [redacted]

Sent: Wednesday, April 17, 2019 11:53 AM

(b)(7)(c)

To: [redacted]

Cc: [redacted]

[redacted]

[redacted]

Subject: [redacted] Cases

(b)(7)(e)

Hi, (b)(7)(c)

I just wanted to bring to your attention a similar fact pattern that I have encountered with [redacted] backlog cases. So far I have come across two cases [redacted] that are very interestingly similar.

(b)(7)(c)

Similarities between both cases include:

- [redacted] (b)(7)(e)
- [redacted]
- [redacted]
- [redacted]
- [redacted]
- [redacted]
- [redacted]
- [redacted]

[redacted] (b)(7)(e)

Anyone come across anything like that?

Best,

[redacted]

(b)(7)(c)

Shirk, Georgette L

From: [redacted] (b)(7)(c)
Sent: Thursday, June 18, 2020 12:59 PM
To: [redacted] (b)(7)(c)
Cc:
Subject: FW: found it!
Attachments: Fraud Referral Sheet [redacted] 2.docx; Fraud Referral Sheet [redacted] 1.docx
(b)(7)(e) (b)(7)(e)

From: [redacted] (b)(7)(c)
Sent: Wednesday, April 17, 2019 1:28 PM
To: [redacted]
Cc: [redacted]; #ZNK Supervisory Asylum Officers <#ZNKSupervisoryAsylumOfficers@uscis.dhs.gov>; [redacted] #ZNK FDNS <#ZNKFDNS@uscis.dhs.gov> (b)(7)(c)
Subject: FW: found it!

(b)(7)(c)
[redacted] and I encountered a few of these cases on detail in [redacted] and referred them to FDNS with the attached forms. I later passed these on to [redacted] when he was asking about them. (b)(7)(e)
(b)(7)(c)

From: [redacted] (b)(7)(c)
Sent: Wednesday, May 2, 2018 8:15 AM
To: [redacted] (b)(7)(c)
Subject: found it!

Attached are 2 FDNS referral sheets for the [redacted] fraud ring in [redacted] (b)(7)(e)
(b)(7)(e)

Here's the basic fact pattern:

(b)(7)(e)

(b)(7)(c) (b)(7)(e)



U.S. Citizenship
and Immigration
Services

Fraud Referral Sheet

A large, empty rectangular box with a double-line border, intended for entering information on a Fraud Referral Sheet.



(b)(7)(c) (b)(7)(e)

Fraud Referral Sheet

[A large empty rectangular box, likely a redaction or placeholder for content.]



Fraud Referral Sheet

FOR FDNS USE ONLY	
FDNS - DS Lead Number:	FDNS - DS Lead Name:
Reviewing FDNS Officer:	Telephone:
Lead Status:	<input type="checkbox"/> Open <input type="checkbox"/> Closed <input type="checkbox"/> Declined (<i>see comments</i>)
Reason Closed/Declined:	

(b)(7)(c) (b)(7)(e)



U.S. Citizenship
and Immigration
Services

Fraud Referral Sheet

A large, empty rectangular box with a double-line border, intended for entering information on a fraud referral sheet.



(b)(7)(c) (b)(7)(e)

Fraud Referral Sheet

A large, empty rectangular box with a double-line border, intended for entering information on a fraud referral sheet.



Fraud Referral Sheet

FOR FDNS USE ONLY	
FDNS - DS Lead Number:	FDNS - DS Lead Name:
Reviewing FDNS Officer:	Telephone:
Lead Status:	<input type="checkbox"/> Open <input type="checkbox"/> Closed <input type="checkbox"/> Declined (<i>see comments</i>)
Reason Closed/Declined:	

Shirk, Georgette L

From: [redacted] (b)(7)(c)
Sent: Wednesday, April 17, 2019 12:27 PM (b)(7)(c)
To: [redacted]
Cc: #ZNK Supervisory Asylum Officers; #ZNK FDNS
Subject: Previous emails to FDNS on [redacted] (b)(7)(e)

Hi all,
(b)(7)(c)
See below for a previous exchange between [redacted] and me that were documenting some of these cases. We, at one point, started to preview [redacted] circuit ride cases where [redacted]
[redacted] (b)(7)(e) (b)(7)(e)

Best,
[redacted]
(b)(7)(c)
[redacted]
Senior Asylum Officer
U.S. Department of Homeland Security- Newark Asylum Office

From: [redacted] (b)(7)(c)
Sent: Monday, May 14, 2018 11:18 AM
To: [redacted]
Cc: [redacted] (b)(7)(c)
Subject: RE: Hey [redacted]

Hi [redacted] (b)(7)(c)
[redacted]
(b)(7)(c) (b)(7)(e)

[redacted] (b)(7)(c)

From: [redacted] (b)(7)(c)
Sent: Tuesday, May 08, 2018 8:29 AM
To: [redacted] (b)(7)(c)
Cc: [redacted]
Subject: RE: Hey [redacted] (b)(7)(c) (b)(7)(e)

Also, [redacted]

From: [redacted] (b)(7)(c)
Sent: Tuesday, May 08, 2018 8:25 AM
To: [redacted] (b)(7)(c)

(b)(7)(c)

Cc: [redacted]

Subject: RE: Hey [redacted]

(b)(7)(c) (b)(7)(e)

From: [redacted] (b)(7)(c)

Sent: Wednesday, May 02, 2018 2:21 PM

To: [redacted] (b)(7)(c)

Cc: [redacted]

Subject: FW: Hey [redacted]

We'll know more once we see the files, and [redacted]

[redacted]

(b)(7)(c) (b)(7)(e)

From: [redacted] (b)(7)(c)

Sent: Wednesday, May 02, 2018 2:18 PM

To: [redacted] (b)(7)(c)

Cc: [redacted]

Subject: RE: Hey [redacted]

Hi All,

(b)(7)(c)

(b)(7)(c)

I've added IO [redacted] to this case. [redacted] is our IO up at ZBO and they deal with these populations more often than we do. She will be looking for common themes and/or connections to cases that they in ZBO.

-Bill

[redacted] (b)(7)(c)

Supervisory Immigration Officer
Office of Fraud Detection and National Security
U.S. Citizenship and Immigration Services
1200 Wall Street West
Lyndhurst, NJ 07071

Office: [redacted] (b)(7)(c)
Mobile: [redacted]

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From: [redacted] (b)(7)(c)

Sent: Wednesday, May 02, 2018 2:15 PM

To: [redacted] (b)(7)(c)

Cc: [redacted]

Subject: RE: Hey [redacted]

Here are my cases. May have more info once we get the actual files.

[Large redacted area containing (b)(7)(c) (b)(7)(e)]

From: [redacted] (b)(7)(c)

Sent: Wednesday, May 02, 2018 1:50 PM

To: [redacted]

Cc: [redacted]

Subject: RE: Hey [redacted] (b)(7)(c)

Hey all,

(b)(7)(c)

Here's my list. [redacted] may have some to add to this as well. Thanks so much!

(b)(7)(c) (b)(7)(e)

From: [redacted] (b)(7)(c)
Sent: Wednesday, May 02, 2018 1:13 PM
To: [redacted] (b)(7)(c)
Cc: [redacted]
Subject: RE: Hey [redacted]

Just get the info to me first. I will have both our NJ and Boston teams look at it.

[redacted] (b)(7)(c)
Supervisory Immigration Officer
Office of Fraud Detection and National Security
U.S. Citizenship and Immigration Services
1200 Wall Street West
Lyndhurst, NJ 07071
Office: [redacted] (b)(7)(c)
Mobile: [redacted]

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From: [redacted] (b)(7)(c)

Sent: Wednesday, May 02, 2018 1:03 PM

To: [redacted] (b)(7)(c)

Cc: [redacted]

Subject: Hey [redacted] (b)(7)(e)

[redacted]

[redacted] Thanks so much.

[redacted] (b)(7)(c)

Senior Asylum Officer
U.S. Department of Homeland Security
Newark Asylum Office
1200 Wall Street West, 4th Floor
Lyndhurst, NJ 07071

From: Pogrebinsky, Zina
Sent: Thursday, June 28, 2012 8:11 AM
To: Miller, Scott
Subject: un-adjudicated Portland cases
Hi Scott,

Here is the break-down of un-adjudicated Portland cases that we have now (interviewed by Melanie & Sunil) that appear on the dregs list:

Grants –assessment to Grant in the file

(b)(6)

Referrals - assessment to Refer in the file

(b)(6)

No assessment in the file

(b)(6)

Zina Pogrebinsky
FDNS Immigration Officer
Newark Asylum Office
1200 Wall Street West 4th Floor
Lyndhurst, NJ 07071
Phone: 201-531-0555x [] (b)(6)

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not to be released to the public or other personnel who do not have a valid "need-to-know" without prior approval from the originator. If you are not the intended recipient please contact the originator for disposition instructions.

Shirk, Georgette L

From: Pogrebinsky, Zina
Sent: Monday, December 08, 2014 8:47 AM
To: O'Connor, William P
Subject: FW: [redacted] Portland, ME Field Office (POM)

(b)(6)

FYI – see below

[redacted]

Zina

(b)(6)

From: Plourde, Toby R
Sent: Friday, December 05, 2014 3:52 PM
To: Blauvelt, Sally
Cc: Pogrebinsky, Zina
Subject: RE: [redacted] / Portland, ME Field Office (POM)

(b)(6)

Hi Sally,

[redacted]

(b)(6)

Toby

Toby R. Plourde
Immigration Officer
Office of Fraud Detection & National Security
United States Citizenship & Immigration Services/DHS
South Portland, ME 04106
Phone [redacted] (b)(6)
Fax 207-253-3001/207-253-3002
[redacted]

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From: Blauvelt, Sally
Sent: Friday, December 05, 2014 1:58 PM
To: Plourde, Toby R
Subject: FW: [redacted] Portland, ME Field Office (POM)

(b)(6)

Toby, before I elevate this up to Denis and John and Joann for guidance, I want to make sure I understand.

(b)(6)

Sally Blauvelt
Field Office Director, Maine
US Citizenship and Immigration Services

(b)(6)

Referred to Department of Homeland Security

Shirk, Georgette L

From: Plourde, Toby R
Sent: Friday, December 05, 2014 2:52 PM
To: Blauvelt, Sally
Cc: Pogrebinsky, Zina
Subject: RE: [redacted] Portland, ME Field Office (POM)

(b)(6)

Hi Sally,

[redacted]

(b)(6) (b)(7)(e)

Toby

Toby R. Plourde
Immigration Officer
Office of Fraud Detection & National Security
United States Citizenship & Immigration Services/DHS
South Portland, ME 04106
Phone [redacted] (b)(6)
Fax 207-253-3001/207-253-3002
[redacted]

~~FOR OFFICIAL USE ONLY (FOUO)-LAW ENFORCEMENT SENSITIVE~~

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From: Blauvelt, Sally
Sent: Friday, December 05, 2014 1:58 PM
To: Plourde, Toby R (b)(6)
Subject: FW: [redacted] Portland, ME Field Office (POM)

Toby, before I elevate this up to Denis and John and Joann for guidance, I want to make sure I understand. [redacted]

[redacted]

(b)(6)

Sally Blauvelt
Field Office Director, Maine
US Citizenship and Immigration Services
[redacted] (b)(6)
[redacted]

Referred to Department of Homeland Security

Shirk, Georgette L

From: Berry, Robert C
Sent: Tuesday, June 06, 2017 8:20 AM
To: Morel, Alana C
Subject: [redacted] (b)(6)
Attachments: [redacted].docx

Dear Alana,

Per our discussion, please find the notes for another case [redacted]

[redacted]

(b)(6) (b)(7)(e)

Thank you,

Robert

Robert Berry

Asylum Officer | DHS | USCIS | Newark Asylum Office
1200 Wall St. West, Lyndhurst, NJ 07071 | ☎ [redacted] / fax 201.531.1877 | ✉ Robert.C.Berry@uscis.dhs.gov

(b)(6)

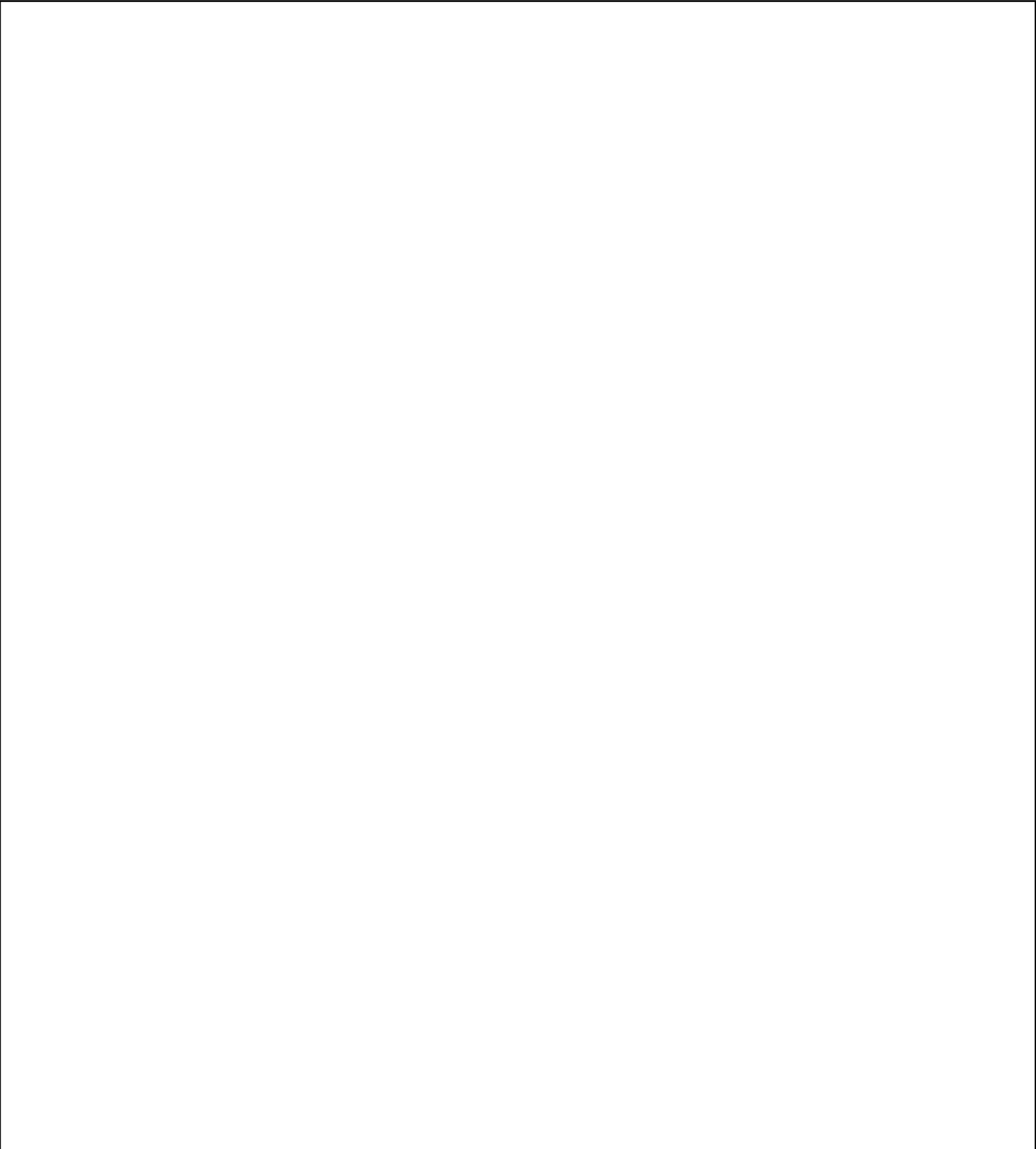
(b)(6)

Applicant Name:

Country:

AO: Robert Berry/ZNK234

Date: March 30, 2015



A#: [redacted]
Applicant Name [redacted]
Country: [redacted]
AO: Robert Berry/ZNK234
Date: March 30, 2015

(b)(6)



A#:

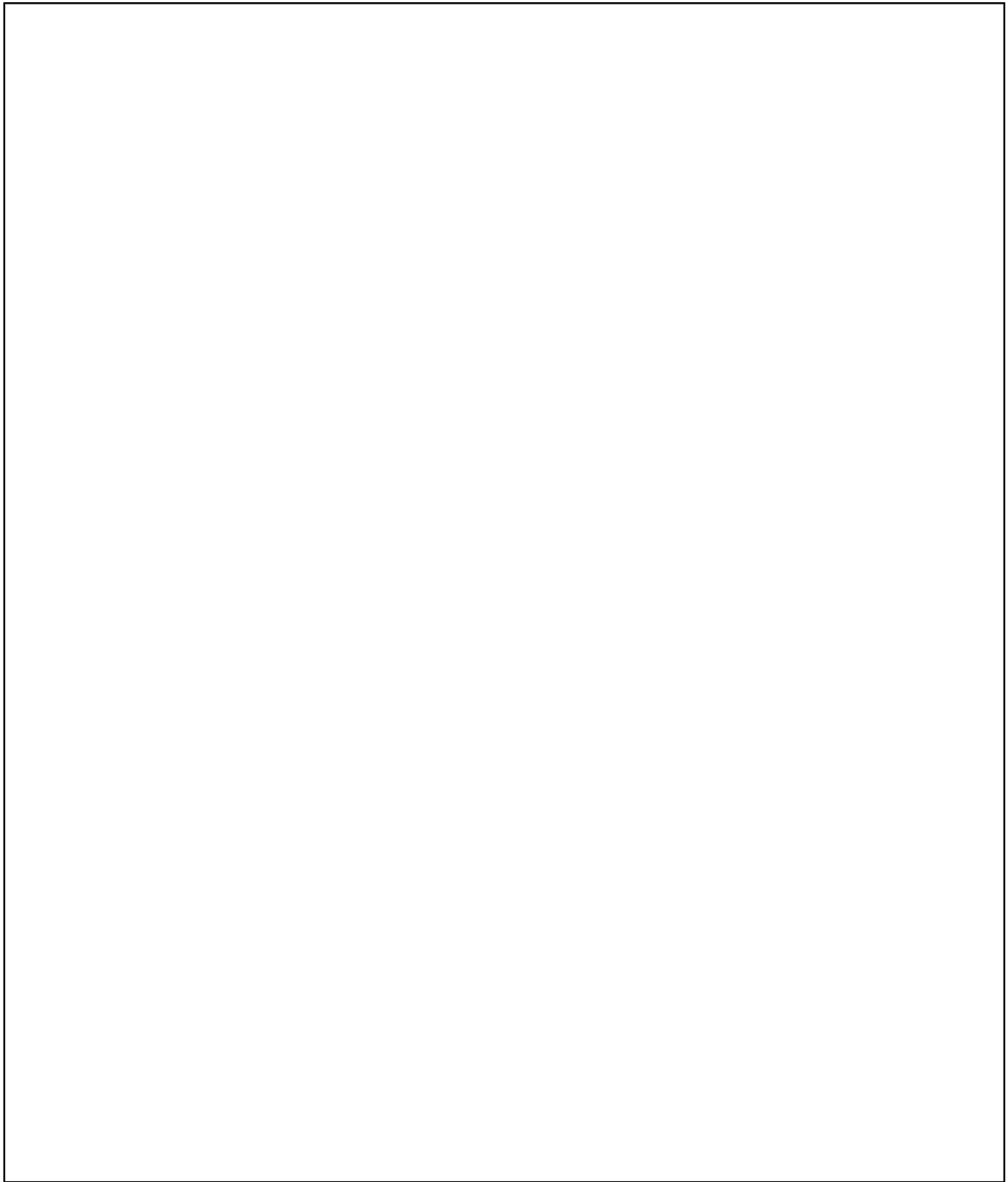
Applicant Name:

Country:

AO: Robert Berry/ZNK234

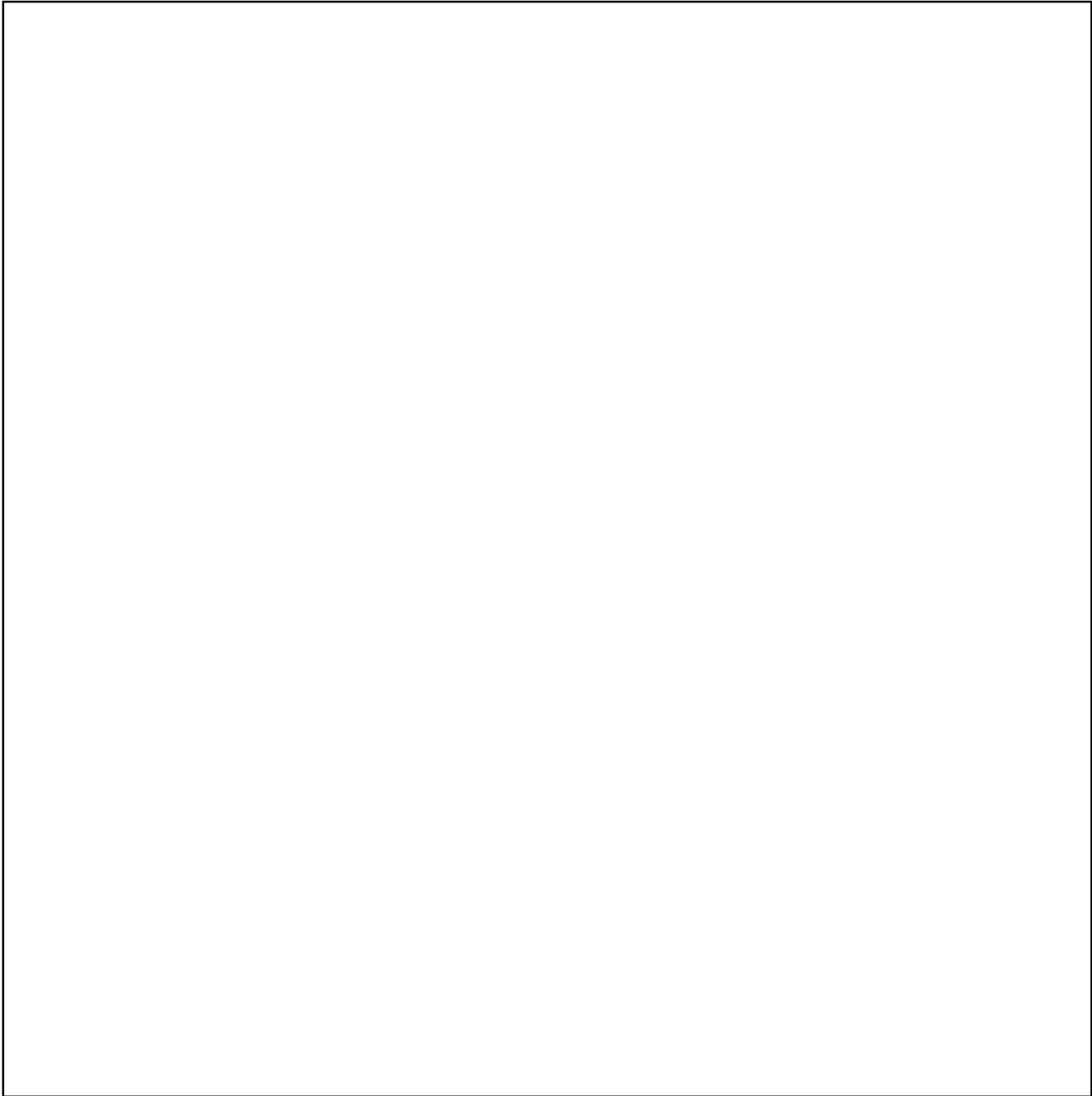
Date: March 30, 2015

(b)(6)



Applicant Name: A#:
Country:
AO: Robert Berry/ZNK234
Date: March 30, 2015

(b)(6)



A#:

[Redacted]

Applicant Name

[Redacted]

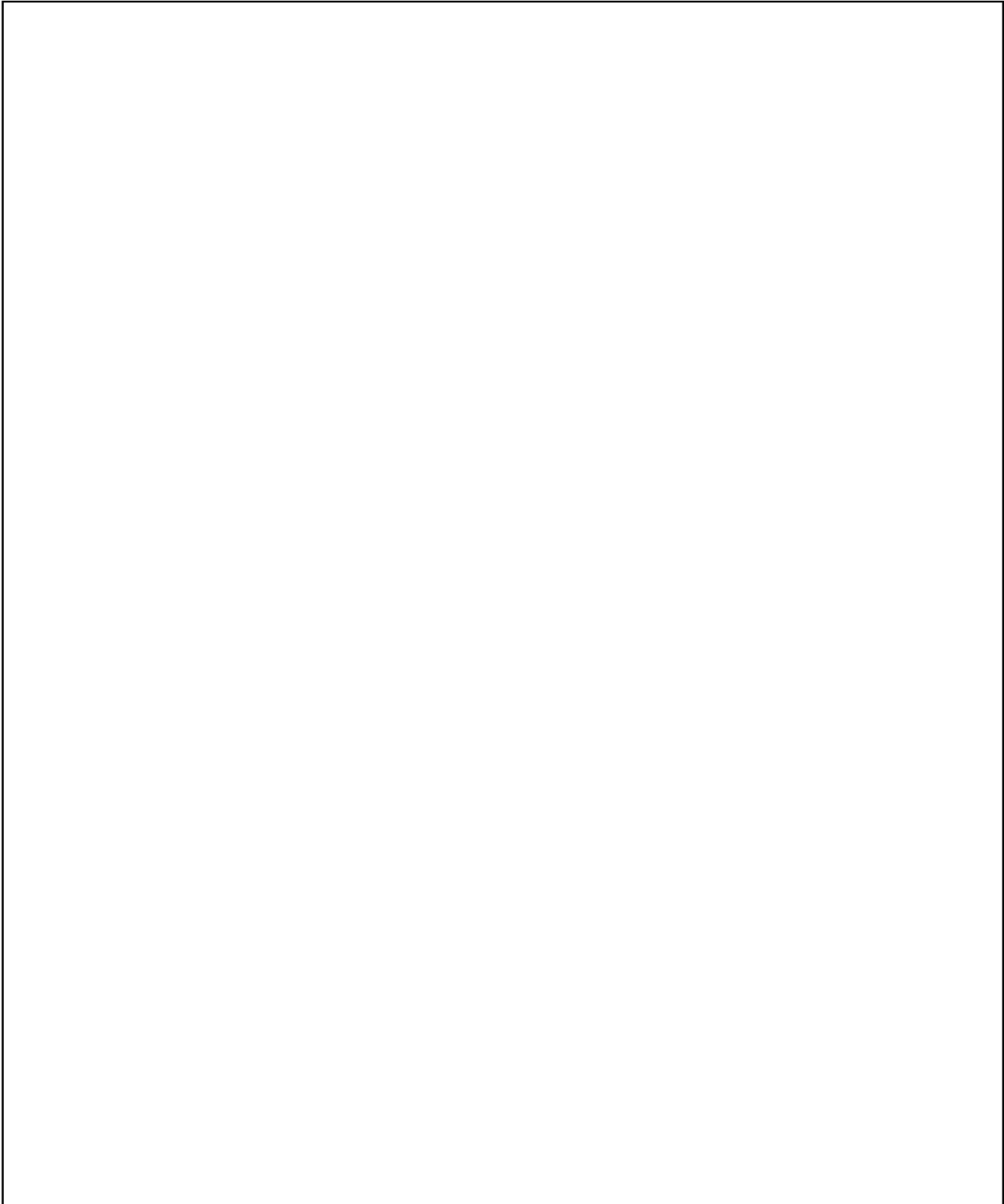
Country:

[Redacted]

(b)(6)

AO: Robert Berry/ZNK234

Date: March 30, 2015



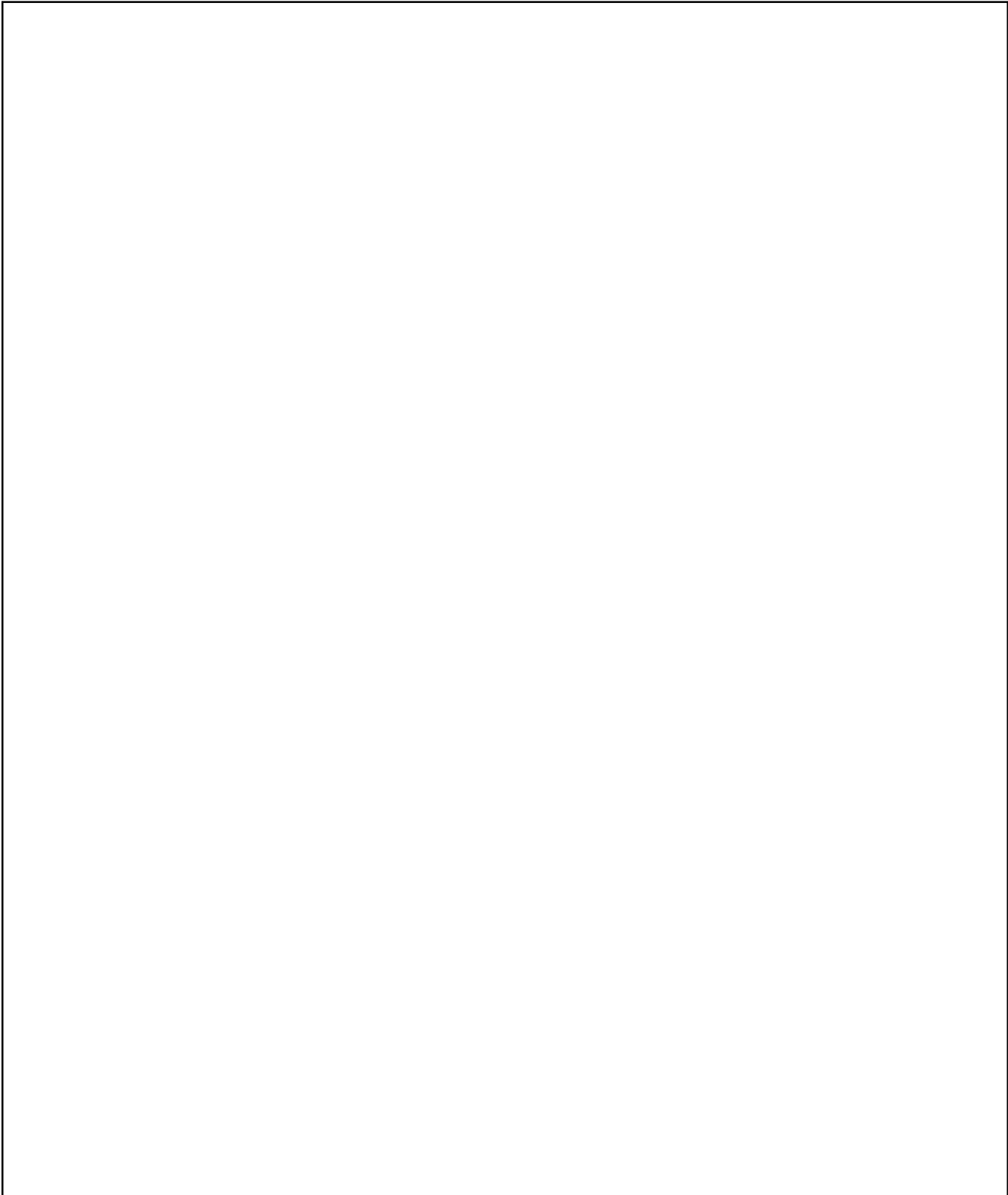
A# [redacted]

Applicant Name: [redacted]

Country: [redacted]

(b)(6)

AO: Robert Berry/ZNK234
Date: March 30, 2015



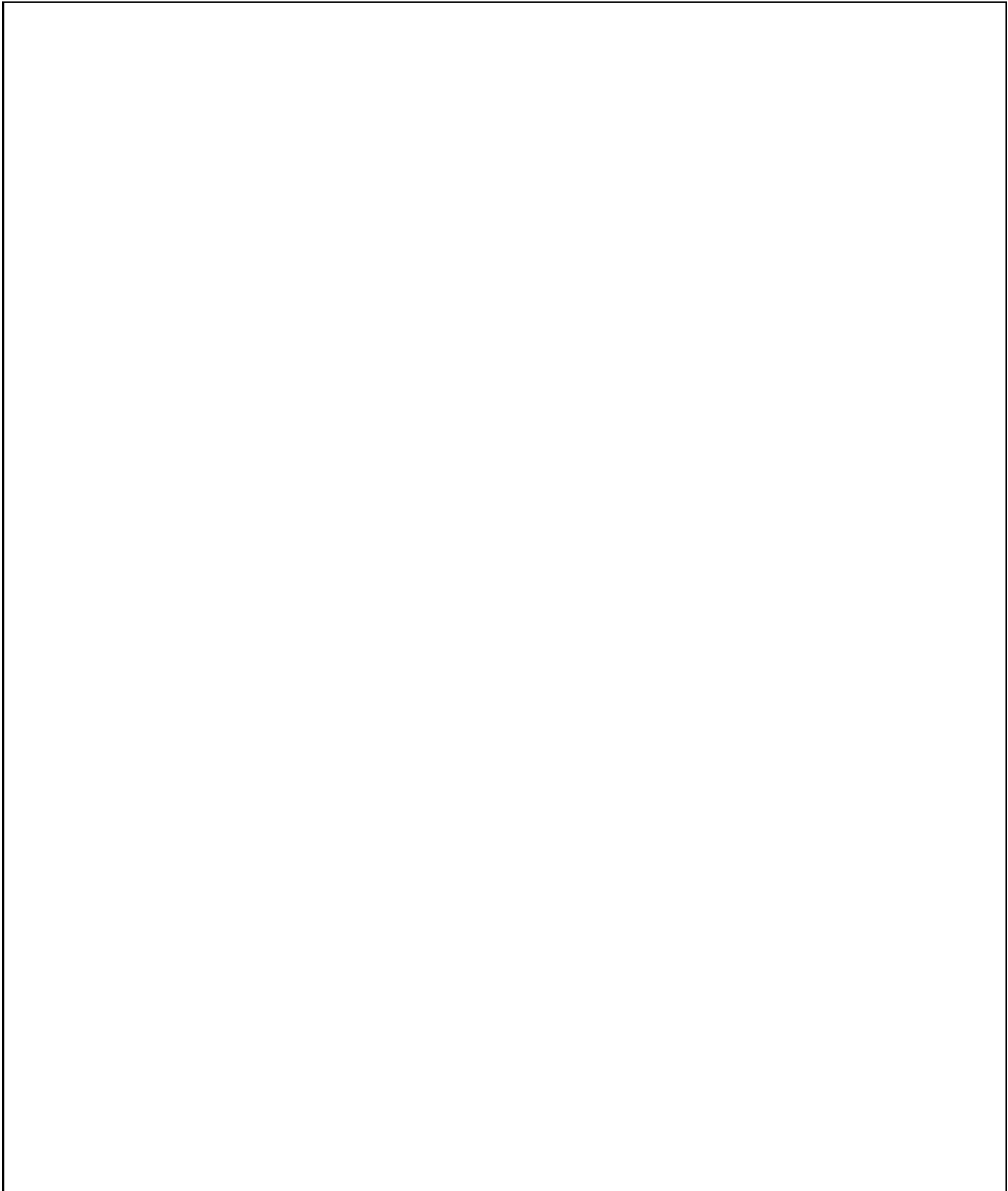
Applicant Name: A# [redacted]

Country: [redacted]

(b)(6)

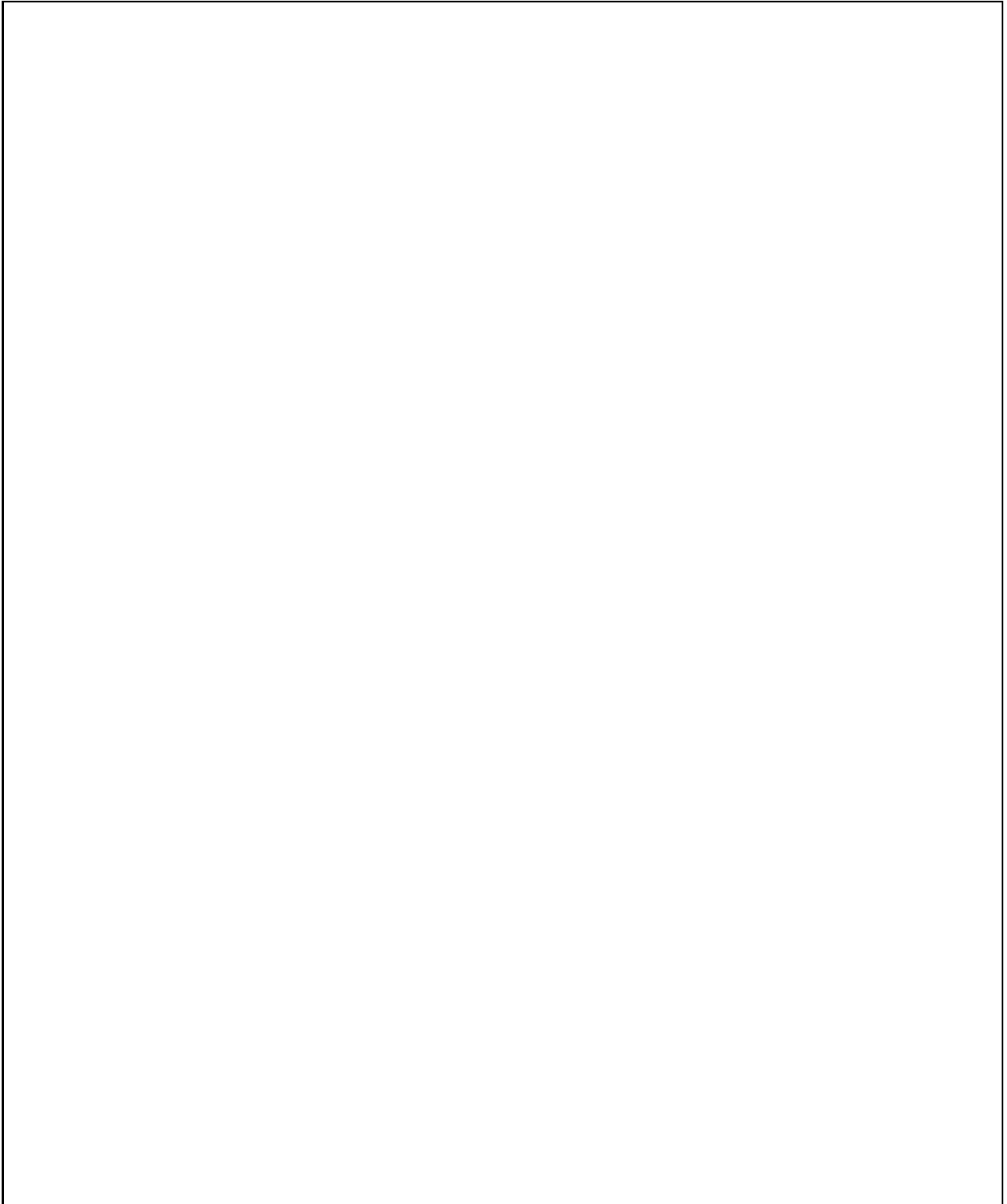
AO: Robert Berry/ZNK234

Date: March 30, 2015



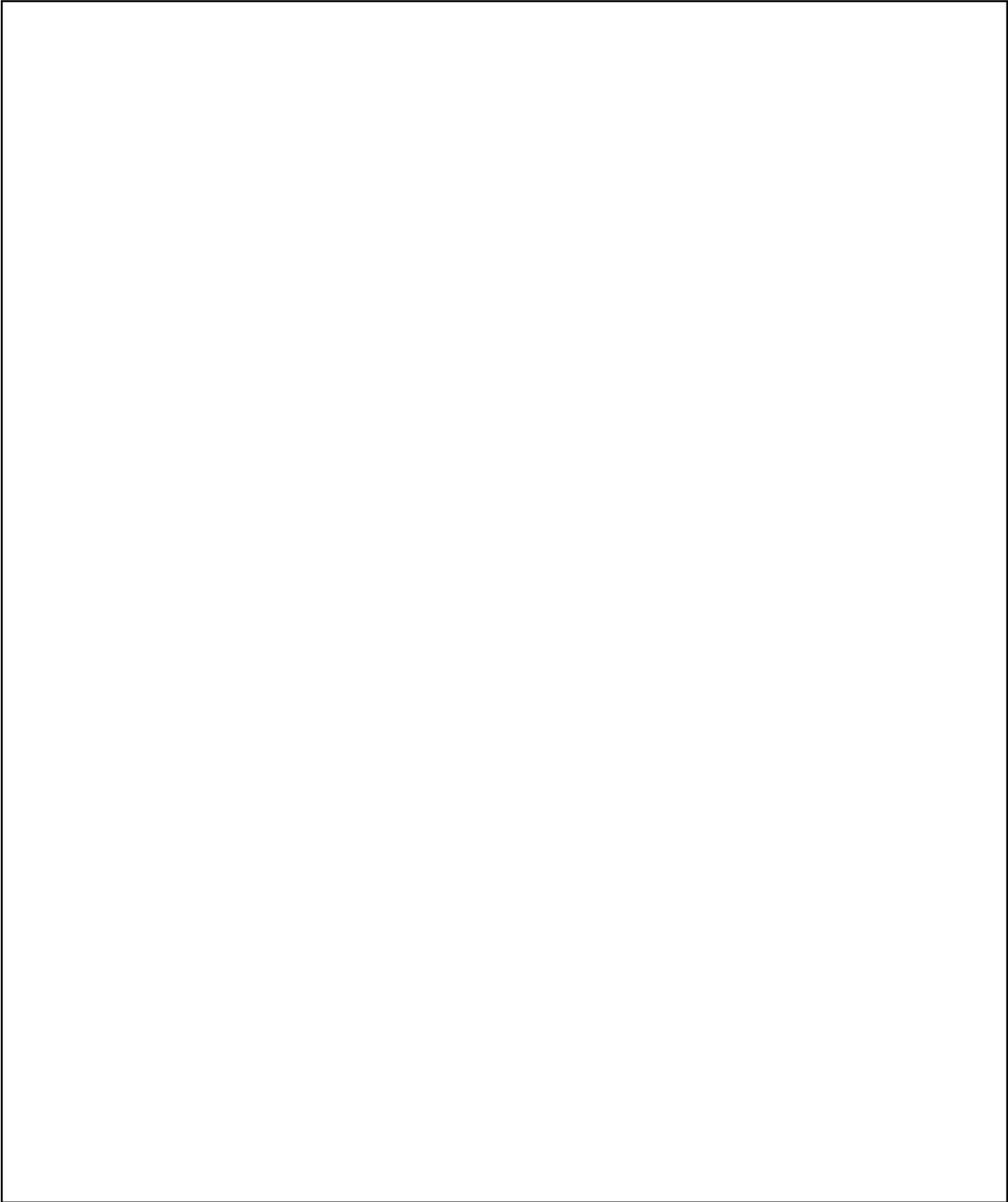
A#: [redacted]
Applicant Name: [redacted]
Country: [redacted]
AO: Robert Berry/ZNK234
Date: March 30, 2015

(b)(6)



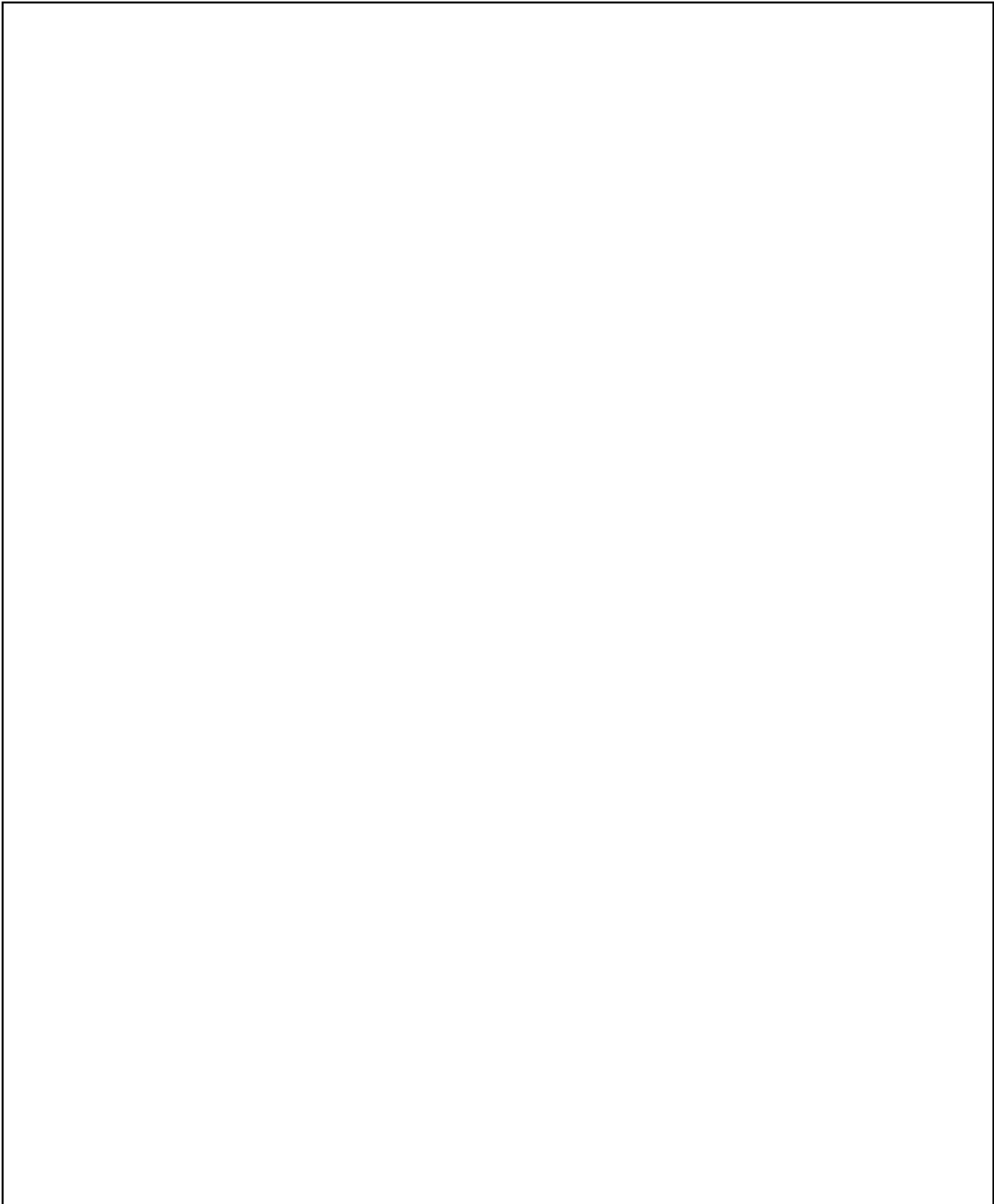
A#: [redacted]
Applicant Name: [redacted]
Country: [redacted]
AO: Robert Berry/ZNK234
Date: March 30, 2015

(b)(6)



Applicant Name: A#
Country:
AO: Robert Berry/ZNK234
Date: March 30, 2015

(b)(6)



A#:

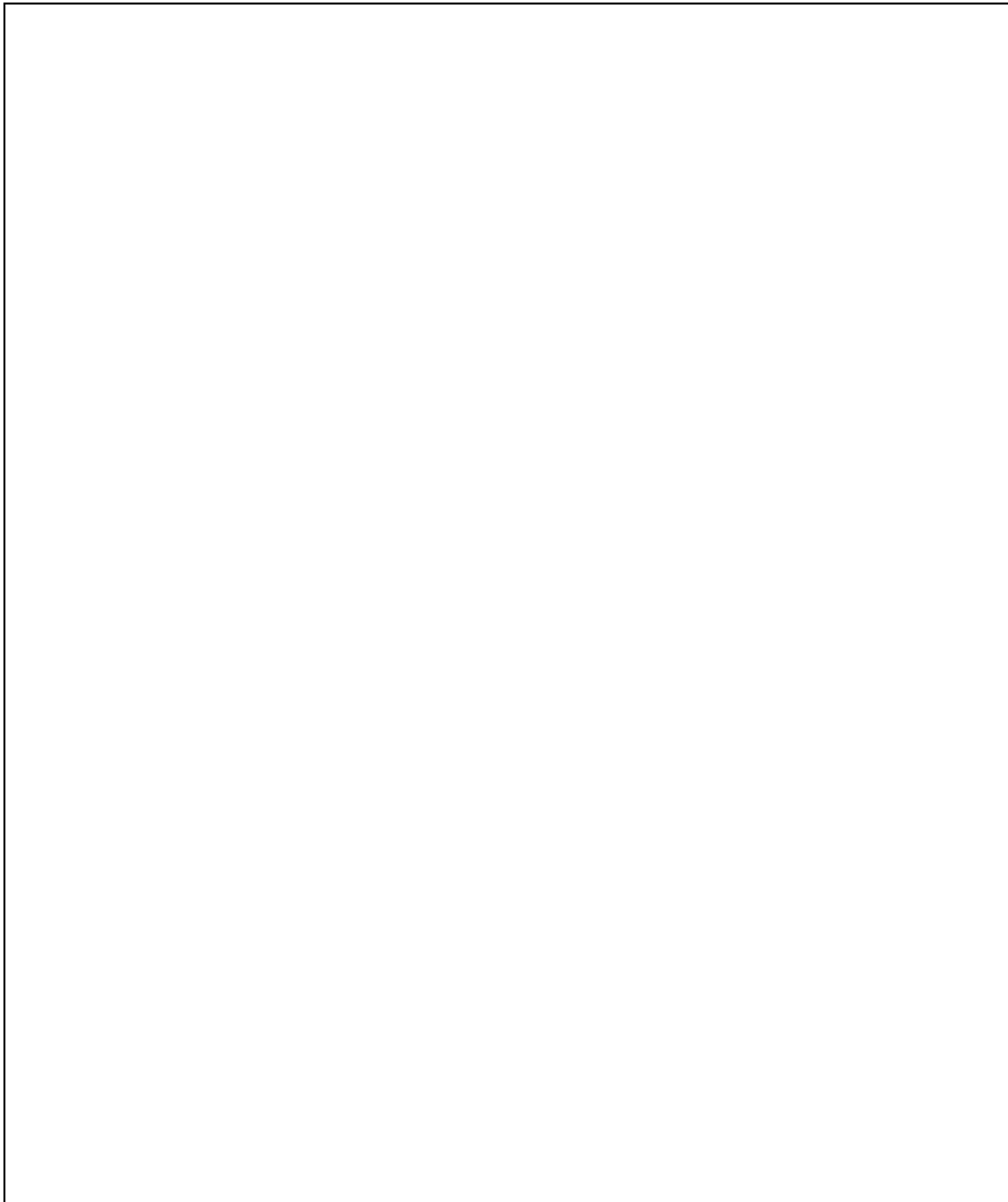
Applicant Name:

Country:

(b)(6)

AO: Robert Berry/ZNK234

Date: March 30, 2015

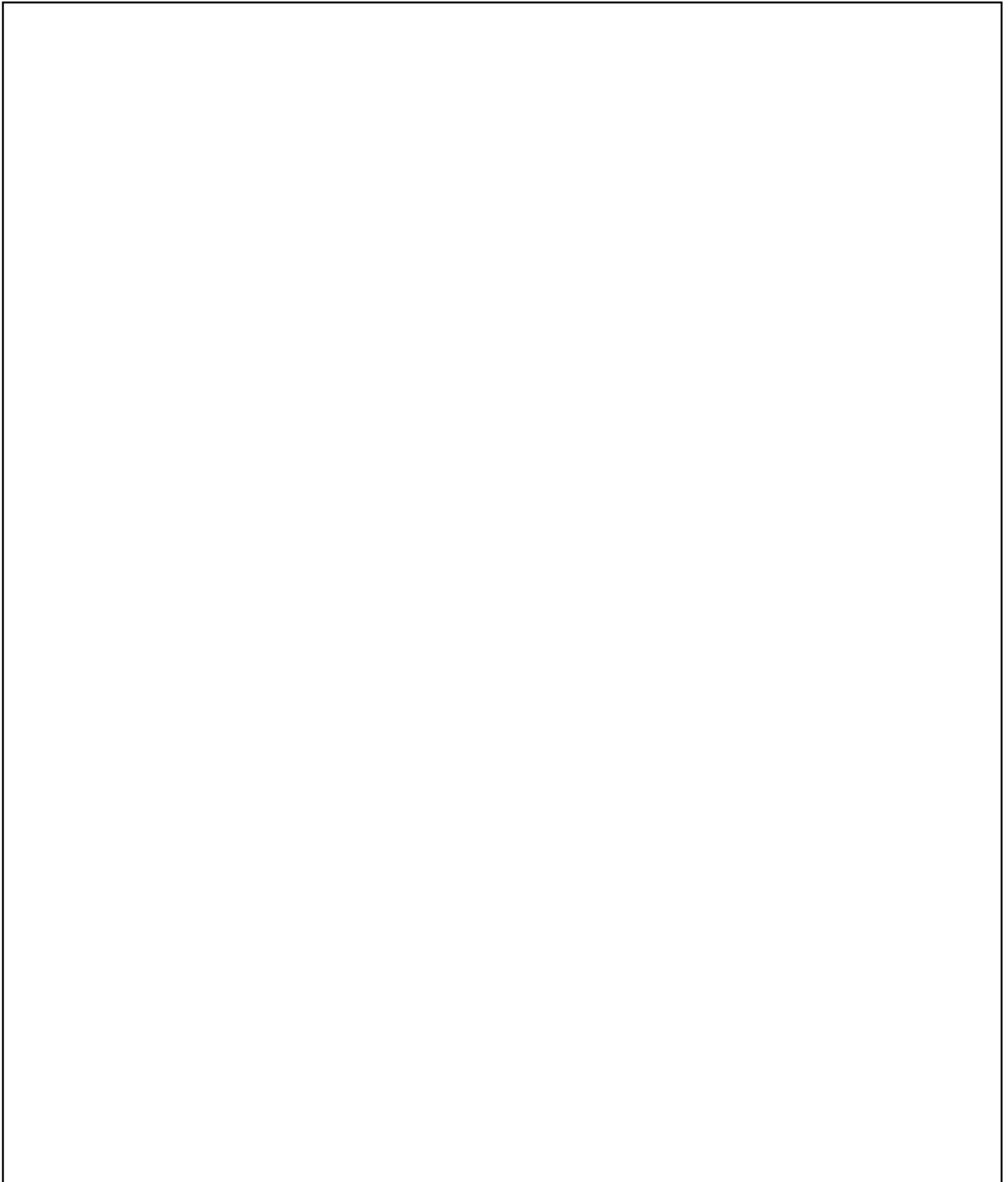


A#: [redacted]
Applicant Name: [redacted]

Country: [redacted]

AO: Robert Berry/ZNK234
Date: March 30, 2015

(b)(6)



A#: [redacted]

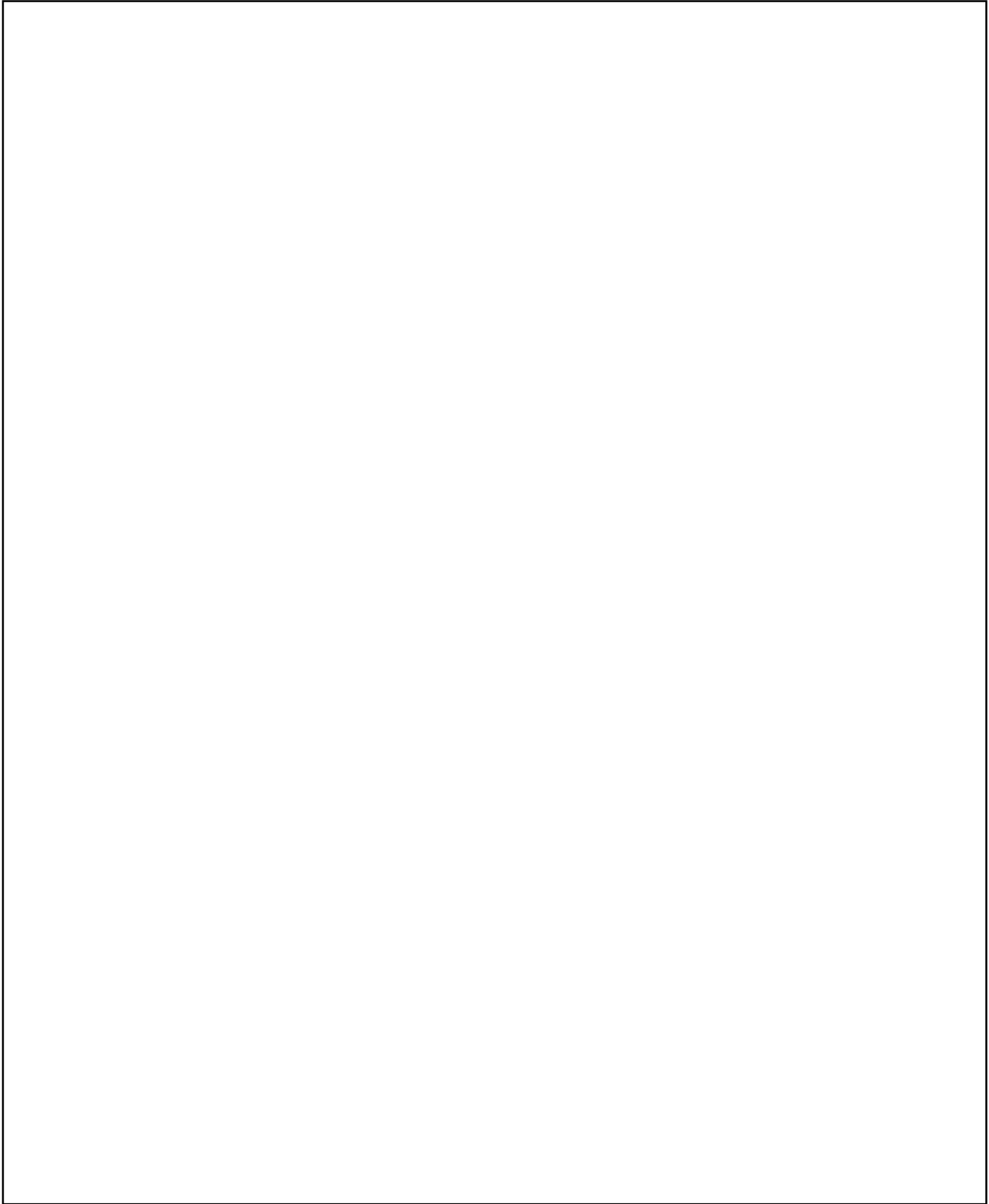
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Country: [redacted]

(b)(6)

AO: Robert Berry/ZNK234

Date: March 30, 2015



A#: [redacted]

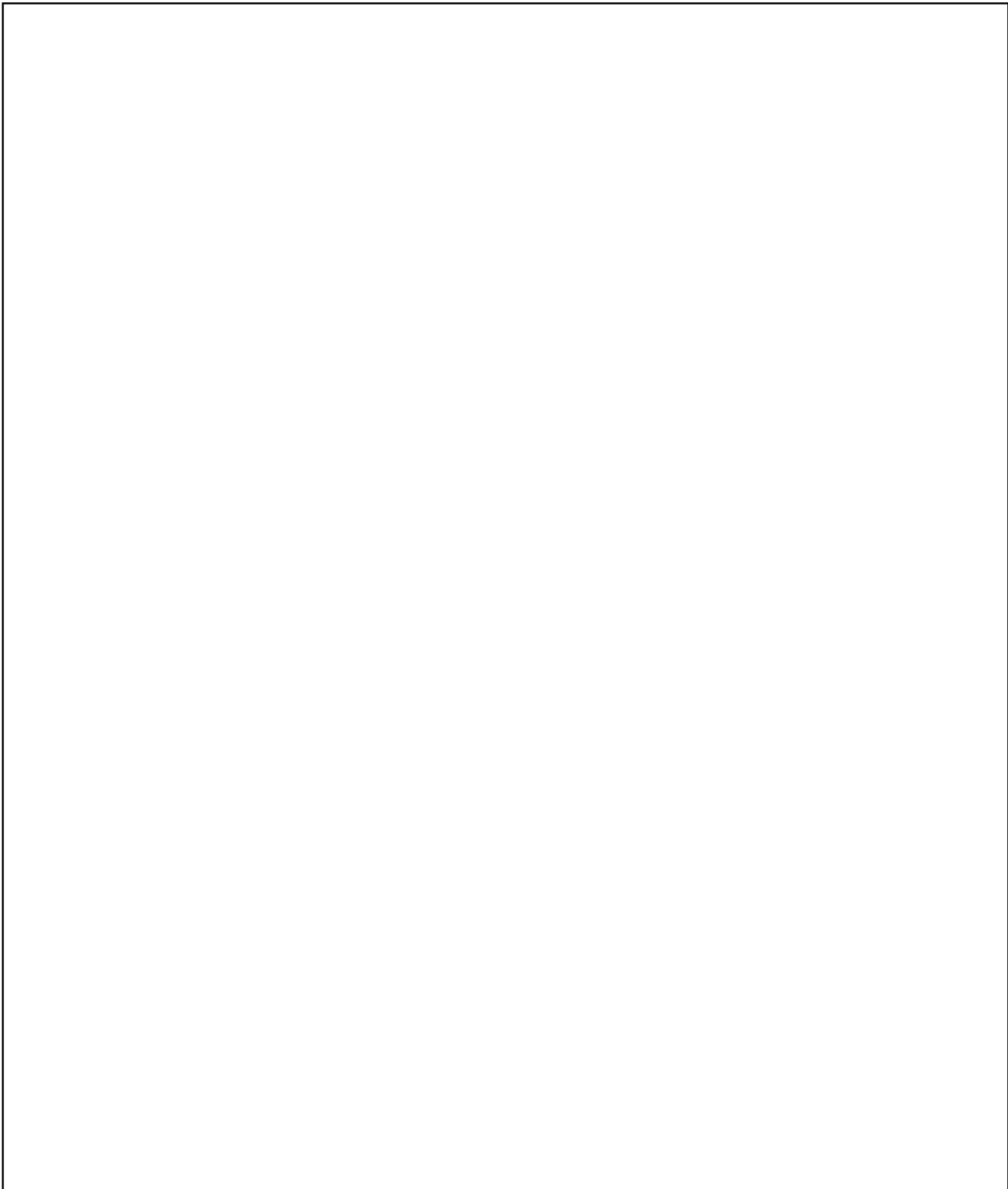
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Country: [redacted]

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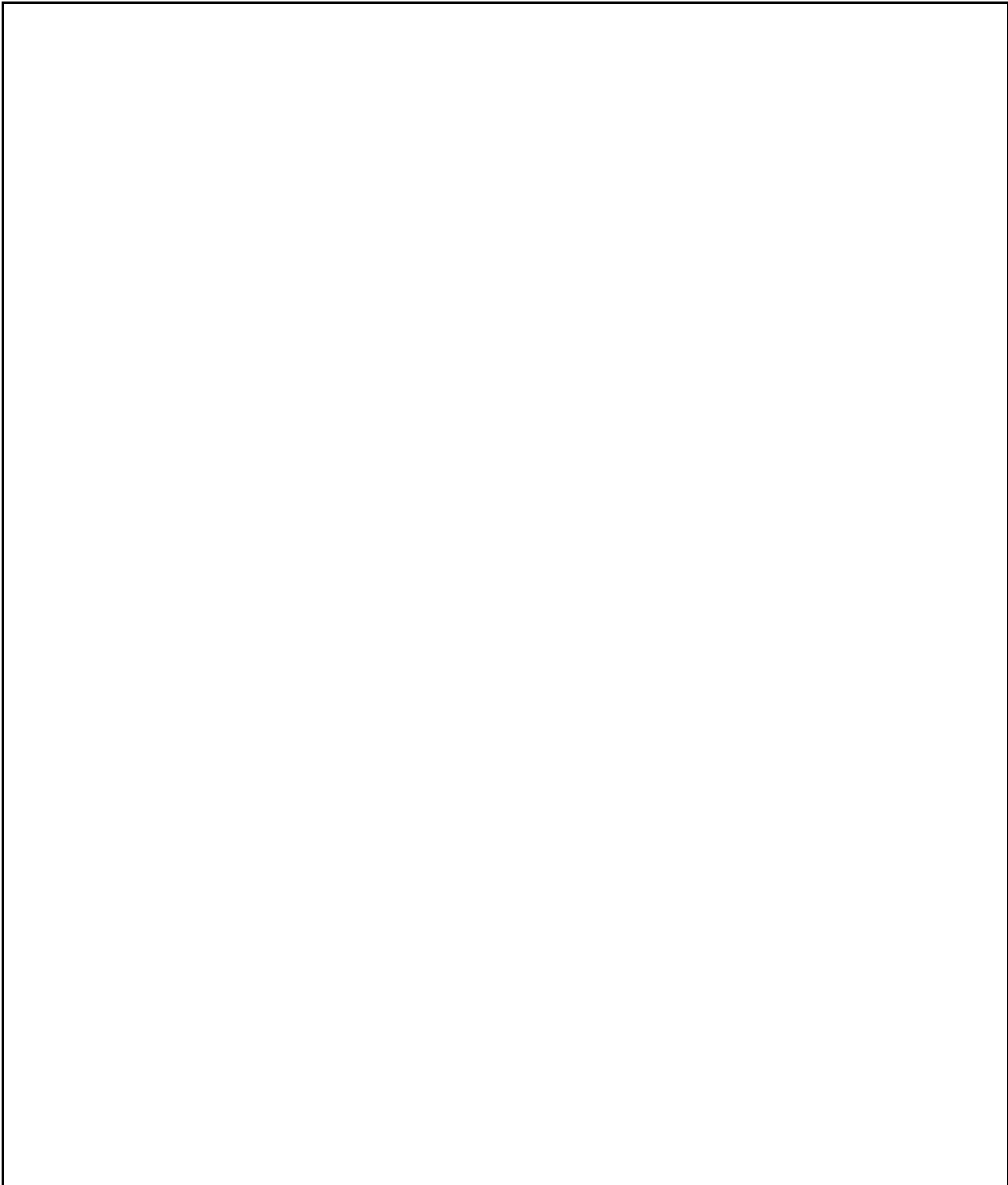
AO: Robert Berry/ZNK234

Date: March 30, 2015



A#:
Applicant Name:
Country:
AO: Robert Berry/ZNK234
Date: March 30, 2015

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BURUNDI

(b)(7)(e)

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(b)(7)(e)

Shirk, Georgette L

From: Nauss, Jennifer L
Sent: Friday, August 31, 2018 1:26 PM
To: Pinkham, Tara A
Cc: Morel, Alana C
Subject: RE: FDNS Questions

Hi Tara,

I'm assuming Jon is interested in common fraud schemes where issues material to the adjudication hinge on the veracity of documents. These are the type of fraud + documents cases I've seen in recent history and seem to be recurring:

(b)(7)(e)



[Redacted]

Hope this is helpful.

(b)(7)(e)

Jen

From: Pinkham, Tara A
Sent: Thursday, August 30, 2018 3:57 PM
To: Nauss, Jennifer L; Morel, Alana C
Subject: RE: FDNS Questions

No, we don't need an answer for Jon today. ☺ Don't worry. We have time. I was just thinking about this training and what is realistic.

Tara Pinkham
Training Officer
Newark Asylum Office
1200 Wall St West, 4th Fl
Newark, NJ 07071

Email: [Redacted]

Phone: [Redacted]

(b)(6)

Fax: 201-531-1877

Please consider the environment before printing this message, including any attachments.

From: Nauss, Jennifer L
Sent: Thursday, August 30, 2018 3:48 PM
To: Pinkham, Tara A; Morel, Alana C
Subject: RE: FDNS Questions

Hi Tara,
This day sorta got away from me. Is tomorrow soon enough to hear from me on this? If you really must get this info to Jon by end of day today, let me know. Thank you.
Jen

From: Pinkham, Tara A
Sent: Thursday, August 30, 2018 10:42 AM
To: Morel, Alana C; Nauss, Jennifer L
Subject: FDNS Questions

Hey ladies!

I had a couple of questions:

1. Would it be possible for you to send me a summary of the various fraud schemes we have seen lately?
2. Does our local FDNS keep originals of weird documents issued by non-govt entities? If so, would you be able to share those with me?

I mentioned this to Alana, but Jon Casper who taught a document training at FLETC will be giving a training at ZNK and I wanted to share with him some of the issues our AOs face.


Thanks,

Tara Pinkham
Training Officer
Newark Asylum Office
1200 Wall St West, 4th Fl
Newark, NJ 07071

Email:

Phone: (b)(6)

Fax: 201-531-1877

 Please consider the environment before printing this message, including any attachments.

Shirk, Georgette L

From: [redacted] (b)(7)(c)
Sent: Tuesday, May 22, 2018 1:39 PM
To: [redacted]
Cc: [redacted] (b)(7)(c)
Subject: RE: Hey [redacted]

(b)(7)(e)

Also, we have an upcoming [redacted] circuit ride. [redacted]

Thanks.

From: [redacted] (b)(7)(c)
Sent: Tuesday, May 22, 2018 11:46 AM
To: [redacted] (b)(7)(c)
Cc: [redacted]
Subject: RE: Hey [redacted] (b)(7)(c) (b)(7)(e)

Regarding [redacted]

From: [redacted] (b)(7)(c)
Sent: Monday, May 14, 2018 11:24 AM
To: [redacted]
Cc: [redacted] (b)(7)(c)
Subject: RE: Hey [redacted]

[redacted]
(b)(7)(c) (b)(7)(e)

From: [redacted] (b)(7)(c)
Sent: Monday, May 14, 2018 11:18 AM
To: [redacted]
Cc: [redacted] (b)(7)(c)
Subject: RE: Hey [redacted]

Hi Vikram.

[redacted]
(b)(7)(e)

[redacted] (b)(7)(c)

From: [redacted] (b)(7)(c)
Sent: Tuesday, May 08, 2018 8:29 AM
To: [redacted] (b)(7)(c)
Cc: [redacted]
Subject: RE: Hey [redacted]

(b)(7)(c) (b)(7)(e)

Also, [redacted]

From: [redacted] (b)(7)(c)
Sent: Tuesday, May 08, 2018 8:25 AM
To: [redacted] (b)(7)(c)
Cc: [redacted]
Subject: RE: Hey [redacted]

(b)(7)(c) (b)(7)(e)

From: [redacted]
Sent: Wednesday, May 02, 2018 2:21 PM
To: [redacted]
Cc: [redacted]
Subject: FW: Hey [redacted]

We'll know more once we see the files [redacted]

(b)(7)(c) (b)(7)(e)

From: [redacted]
Sent: Wednesday, May 02, 2018 2:18 PM (b)(7)(c)
To: [redacted]

Cc: [redacted]

Subject: RE: Hey [redacted] (b)(7)(c)

Hi All, (b)(7)(c)

I've added IO [redacted] to this case. [redacted] is our IO up at ZBO and they deal with these populations more often than we do. She will be looking for common themes and/or connections to cases that they in ZBO.

[redacted] (b)(7)(c)

[redacted]

Supervisory Immigration Officer
Office of Fraud Detection and National Security
U.S. Citizenship and Immigration Services
1200 Wall Street West
Lyndhurst, NJ 07071

Office: [redacted] (b)(7)(c)
Mobile: [redacted]

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From: [redacted] (b)(7)(c)

Sent: Wednesday, May 02, 2018 2:15 PM

To: [redacted]

Cc: [redacted]

Subject: RE: Hey [redacted] (b)(7)(c)

Here are my cases. May have more info once we get the actual files.

[redacted]

(b)(7)(c) (b)(7)(e)

From: [redacted] (b)(7)(c)

Sent: Wednesday, May 02, 2018 1:50 PM

To: [redacted]

Cc: [redacted]

Subject: RE: Hey [redacted] (b)(7)(c)

Hey all,

(b)(7)(c)

Here's my list. [redacted] may have some to add to this as well. Thanks so much!

[redacted]

(b)(7)(c) (b)(7)(e)

From: [redacted] (b)(7)(c)
Sent: Wednesday, May 02, 2018 1:13 PM
To: [redacted]
Cc: [redacted] (b)(7)(c)
Subject: RE: Hey [redacted]

Just get the info to me first. I will have both our NJ and Boston teams look at it.

[redacted] (b)(7)(c)
Supervisory Immigration Officer
Office of Fraud Detection and National Security
U.S. Citizenship and Immigration Services
1200 Wall Street West
Lyndhurst, NJ 07071
Office: [redacted]
Mobile: [redacted] (b)(7)(c)

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From: [redacted] (b)(7)(c)
Sent: Wednesday, May 02, 2018 1:03 PM
To: [redacted] (b)(7)(c)
Cc: [redacted]
Subject: Hey [redacted]

[redacted]
[redacted] Thanks so much.

[redacted] (b)(7)(c)
Senior Asylum Officer
U.S. Department of Homeland Security
Newark Asylum Office
1200 Wall Street West, 4th Floor
Lyndhurst, NJ 07071

(b)(7)(e)

RWANDA

(b)(7)(e)

(b)(7)(e)

From: Pogrebinsky, Zina
To: #ZNK Asylum Officers; #ZNK Supervisory Asylum Officers; #ZNK Quality Assurance Trainers
Cc: #ZNK Anti Fraud Officer
Subject: [redacted] (b)(7)(e)
Date: Monday, November 09, 2015 2:21:53 PM
Attachments: [redacted] (b)(7)(e)

Good afternoon,

[redacted] (b)(7)(e)

Thanks,

Zina Pogrebinsky
FDNS Immigration Officer
Newark Asylum Office
1200 Wall Street West 4th Floor
Lyndhurst, NJ 07071
Phone: [redacted] (b)(6)

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Burundi: Movement for Solidarity and Democracy (MSD), including its structure and membership card; participation at the meeting organized by the Frodebu party on 18 November 2012; treatment of the party and its members by the authorities (2010-January 2013)

Publisher Canada: Immigration and Refugee Board of Canada

Publication
Date 22 February 2013

Citation /
Document BDI104286.FE
Symbol

Related Burundi : information sur le Mouvement pour la solidarité et la démocratie (MSD), y
Document compris sa structure et la carte de membre; participation à la réunion organisée par le parti
Frodebu le 18 novembre 2012; traitement réservé au parti et à ses membres par les autorités
(2010-janvier 2013)

Cite as Canada: Immigration and Refugee Board of Canada, *Burundi: Movement for Solidarity and Democracy (MSD), including its structure and membership card; participation at the meeting organized by the Frodebu party on 18 November 2012; treatment of the party and its members by the authorities (2010-January 2013)*, 22 February 2013, BDI104286.FE, available at: <http://www.refworld.org/docid/52ab0ae54.html> [accessed 9 November 2015]

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1. General Information

According to the Political Handbook of the World (PHW), the Movement of Solidarity and Democracy (Mouvement pour la solidarité et la démocratie, MSD) is a political party founded in December 2007 (PHW 2012, 213). Sources indicated, however, that the government refused to allow the MSD to register as an official political party (ibid.) until June 2009 (UN 31 Aug. 2009, para. 13). According to a report on Burundi prepared by the UN High Commissioner for Human Rights, the reasons for the refusal was that the party's first name, the Movement for Security and Democracy (Mouvement pour la sécurité et la démocratie), [UN English version] "usurped the function of ensuring security, which was the sole prerogative of the State" (ibid.).

In a telephone interview with the Research Directorate, a Burundian professor teaching philosophy at the University of Sudbury, who observes the political situation in Burundi and writes about the subject, stated that the MSD is a [translation] "splinter group" whose members are "few" and "not very visible"

(Professor of philosophy 28 Jan. 2013). Also, a professor emeritus of political science at the University of Florida who writes about Central Africa and Burundi stated in a telephone interview with the Research Directorate that the MSD is little known (Professor Emeritus 29 Jan. 2013).

However, also in a telephone interview with the Research Directorate, an independent consultant in Burundi, who has been working with NGOs and international organizations for more than 25 years and who writes about the political situation in the country, stated that the party in power considers the MSD [translation] "a threat," and that the party is "is the government's second target, after the FNL [National Liberation Forces]" (28 Jan. 2013). According to the PHW, the FNL participated in armed rebellions against various governments in Burundi and was registered as a political part in 2009 (PHW 2012, 213).

The Professor of philosophy stated that, although members of the MSD are not [translation] "afraid" of the regime in place, the contrary is true for the leader of the MSD, Alexis Sinduhije (28 Jan. 2013). According to PHW, Alexis Sinduhije is also the founder of the MSD (PHW 2012, 213). Alexis Sinduhije lives in exile (Professor Emeritus 29 Jan. 2013; Professor of philosophy 28 Jan. 2013; independent consultant 28 Jan. 2013).

According to the independent consultant, the MSD is seen as a possible source for revolt against the government in place in Burundi (28 Jan. 2013). A report from a group of UN experts on the Democratic Republic of Congo (DRC) published in December 2011 about the role of foreign groups in the DRC indicates that Alexis Sinduhije [UN English version] "is a particularly active supporter of FNL combatants and armed rebellion in Burundi," and that

FNL combatants told the Group that Sinduhije had been tasked with convincing regional and international Governments that the Burundian Government's abuses and corruption justified an armed rebellion. (UN 2 Dec. 2011, para. 138)

2. 2010 Elections

According to the PHW, the MSD won 3.84 percent of the votes in the 2010 municipal elections, taking fifth place (PHW 2012, 213). However, the MSD and several other opposition parties withdrew from the electoral process following the elections (Professor Emeritus 29 Jan. 2013; Afrique-express.com n.d.). Those parties claimed the municipal elections were fraudulent (Professor of philosophy 28 Jan. 2013; Professor Emeritus 29 Jan. 2013). However, sources indicated that international observers noted no evidence of fraud (ibid.; Professor of philosophy 28 Jan. 2013). According to the Professor Emeritus, those parties refused to participate in the legislative and presidential elections that took place later in 2010 (29 Jan. 2013).

The MDC is a member of the Democratic Alliance for Change (Alliance démocratique pour le changement, ADC) (Professor Emeritus 29 Jan. 2013; Afrique-express.com n.d.). The ADC is a coalition formed by the political opposition parties that withdrew from the electoral process in 2010 (ibid.; Professor Emeritus 29 Jan. 2013). The ADC is also known as the Democratic Alliance for Change (Alliance des démocrates pour le changement) (PHW 2012, 212) or the ADC-Ikibiri (Afrique-express.com n.d.). The ADC is headed by the president of the Front for Democracy in Burundi (Front pour la démocratie au Burundi, Frodebu) (ibid.), the party that gave rise to the creation of the Alliance (PHW 2012, 212.)

3. Structure of the MSD

Information on the MSD's structure was scarce among the sources consulted by the Research Directorate.

According to an article published on the website of the Civil Society Coalition for Electoral Monitoring

(Coalition de la société civile pour le monitoring électoral, COSOME), a Burundi NGO, the party held preliminary internal elections in March 2010 to determine its presidential candidate (COSOME 17 Mar. 2010). Those elections were held at the national level (ibid.). The article stated that, according to the president of the commission charged with organizing the elections for the MSD, 912,415 people participated in the national consultations, but the article also noted that that number corresponds to approximately one third of all eligible voters in Burundi (ibid.).

In correspondence with the Research Directorate, an investigator with the Great Lakes Region Human Rights League (Ligue des droits de la personne dans la région des Grands Lacs) stated that it [translation] "is difficult to identify the number of MSD members because there are sympathizers who support the party in secret out of fear of being mistreated by the government" (LDGL 21 Feb. 2013). The investigator also stated that the MSD office is located in the Kinanira district, near the Bujumbura international school in the southern part of the capital (ibid.). Corroborating information could not be found among the sources consulted by the Research Directorate.

A news summary published by the Association for Reflection and Information on Burundi (Association de réflexion et d'information sur le Burundi, ARIB) cites Radio sans frontières Bonesha as indicating that there is a youth chapter of the MSD (ARIB 23 Nov. 2012). According to the summary, the youth chapter criticized the actions of police against members of the ADC in a release signed by Donatien Kwizera (ibid.). Further information on the youth chapter could not be found among the sources consulted by the Research Directorate.

4. Membership Cards

An article published on the COSOME website indicates that, in the internal primary elections held by the party, some party militants were in possession of membership cards, but those who were not had also been able to vote (17 Mar. 2010).

In correspondence with the Research Directorate, the LDGL investigator stated that, according to an active MSD member he had consulted, [translation] "the party had issued membership cards before the 2010 elections. The cards bear the party's emblem of a hand-held torch in a rectangle of three colours: orange, blue and white" (LDGL 13 Feb 2013). The investigator added: [translation] "According to the same source, other cards have just been issued this year, in 2013. The distinctive feature of those cards is that there is an area reserved for a contributions schedule" (ibid.).

In follow-up correspondence, the LDGL investigator noted that to obtain a membership card, a person must be considered a [translation] "strong and competent activist" and must be on the membership list (LDGL 21 Feb. 2013). The investigator added that the card costs 500 Burundian francs (approximately \$0.32 US) for people living in rural areas, and 1,000 Burundian francs (approximately 0.63 \$ US) for those living in urban areas (ibid.).

Further information on MSD membership cards and information corroborating that provided by the LDGL investigator could not be found among the sources consulted by the Research Directorate.

5. Meeting Organized by the Frodebu

Sources indicated that in November 2012, the police prevented a political meeting organized by the Frodebu from taking place in the city of Gatumba, west of Bujumbura (RFI 19 Nov. 2012; COSOME 19 Nov. 2012). According to Radio France internationale (RFI), the Frodebu had invited other members of the ADC to the meeting but they were blocked from travelling to the location by approximately 100 policemen (RFI 19 Nov. 2012). Sources indicated that as many as 10 people were injured in altercations

with the police (ibid.; COSOME 19 Nov. 2012). Police reportedly used tear gas (ibid.; RFI 19 Nov. 2012). RFI also indicated that the police used batons, billy clubs and water canons (ibid.).

In a telephone interview with the Research Directorate, a researcher working at the Research Institute for Development (Institut de recherche pour le développement) in France and who writes about the political situation in Burundi stated that it is [translation] "very likely" that members of the MSD take part in ADC meetings (5 Feb. 2013). Corroborating information could not be found among the sources consulted by the Research Directorate within the time constraints for this Response.

6. Treatment of MSD Members by the Authorities

According to the independent consultant, MSD members are [translation] "targeted" by the regime and may be intimidated, imprisoned and, "in extreme cases, they may even be killed" (independent consultant 28 Jan. 2013). He added that, in particular, the association of youths with the ruling party [translation] "operates as a sort of paramilitary militia" on behalf of the regime (ibid.). Corroborating information could not be found among the sources consulted by the Research Directorate within the time constraints for this Response.

According with the PHW, the spokesperson for the MSD, François Nyamoya, was arrested in September 2010 for having criticized the army, and he was imprisoned until October 2010 (PHW 2012, 213). The PHW indicated that the arrest prompted Alexis Sinduhije to leave Burundi (ibid.). However, Agence France-Presse (AFP) reported, rather, that he fled the country because of the violence that ensued after the 2010 elections were contested (AFP 17 Jan. 2012).

According to the Professor Emeritus, after Alexis Sinduhije went into exile, the police searched his home and found military uniforms (29 Jan. 2013). The researcher stated that the MSD offices had been searched and that the police had also found weapons (5 Feb. 2013). According to the Professor Emeritus, those items may have been planted in order to suggest that a revolt was being planned (29 Jan. 2013). Corroborating information could not be found among the sources consulted by the Research Directorate within the time constraints for this Response.

Human Rights Watch reported that the decapitated body of an MSD member was found in the city of Giheta in November 2011 (Human Rights Watch May 2012, 39). Men in police uniforms driving what appeared to be a police vehicle went to look for him at his home the previous day without giving any explanations (ibid.). The family of the deceased was not able to claim the victim's body despite actions taken with the local and provincial authorities (ibid.).

Sources indicated that in January 2012, Alexis Sinduhije was arrested by police while he was in Tanzania (RFI 25 Jan. 2012; AFP 17 Jan. 2012). Some sources reported he was arrested on the request of the government of Burundi (ibid.; Professor of philosophy 28 Jan. 2013). However, he was released and returned to Europe (ibid.; RFI 25 Jan. 2012).

This Response was prepared after researching publicly accessible information currently available to the Research Directorate within time constraints. This Response is not, and does not purport to be, conclusive as to the merit of any particular claim for refugee protection. Please find below the list of sources consulted in researching this Information Request.

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Additional Sources Consulted

Publication: Political Parties of the World 2009

Oral sources: professor emeritus at the Université catholique de Louvain, a professor of sociology and demography at the Université du Burundi, and a post-doctoral intern at the University of Antwerp were not able to provide any information for this Response. Attempts to contact the head of an NGO working to decrease violence and promote reconciliation in Burundi and a representative of the Ligue burundaise des droits de l'homme Itaka were unsuccessful.

Internet sites, including: Agence de Presse Africaine; AllAfrica; Amnesty International; Burundi Bwacu; Burundi Réalités; Commission électorale nationale indépendante; eoi.net; Factiva; Freedom House; International Crisis Group; Iwacu; United Nations - Refworld, Integrated Regional Information Networks; Radio Isanganiro; Radio sans frontières Bonesha; Radio Télévision nationale du Burundi.

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Reason Closed/Declined:	

From: Heinrich, Lorie R
To: #ZNK Everyone
Subject: [REDACTED] (b)(7)(e)
Date: Tuesday, March 10, 2015 12:24:08 PM
Attachments: [REDACTED]

Hello All,

[REDACTED]

(b)(7)(e)

Lorie

Lorie Heinrich
Chief of Staff
USCIS-Newark Asylum Office
1200 Wall Street west, 4th Floor
Lyndhurs, NJ 07071
Tel. [REDACTED] (b)(6)
[REDACTED]

From: Cherubin, Giliane
Sent: Tuesday, March 10, 2015 11:53 AM (b)(7)(e)
To: Rauffer, Susan; Heinrich, Lorie R
Cc: Zeleke, Aster N
Subject: ZNK on my mind! - [REDACTED]

Hi there Sue and Lorie!

Hope you are both doing well!

[REDACTED]

(b)(7)(e)

(b)(7)(e)

Thanks!
Giliane

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(b)(7)(c) (b)(7)(e)

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	1/21/2020	1/21/2020		143 Referral	Red	Guatemala	Affirmative	
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	1/21/2020	1/22/2020		385 Referral	Red	Ecuador	Affirmative	
	1/22/2020	1/22/2020		376 Grant	Red	Egypt	Affirmative	
	1/22/2020	1/22/2020		336 Referral	Red	China	Affirmative	
	1/22/2020	1/22/2020		365 Referral	Red	Ecuador	Affirmative	
	1/22/2020	1/23/2020		343 Referral	Red	China	Affirmative	
	1/23/2020	1/23/2020		321 Grant	Red	Turkey	Affirmative	
	1/23/2020	1/23/2020		300 Grant	Red	Turkey	Affirmative	
	1/23/2020	1/23/2020		357 Referral	Red	Russa/Armenia	Affirmative	
	1/23/2020	1/23/2020		344 Grant	Red	El Salvador	Affirmative	
	1/23/2020	1/23/2020		375 Grant	Red	Turkey	Affirmative	
	1/23/2020	1/23/2020		291 UFW	UFW	Ivory Coast	UFW	
	1/23/2020	1/23/2020		375 Grant	Red	Nigeria	Affirmative	
	1/24/2020	1/24/2020		290 Referral	Red	Ukraine	Affirmative	
	1/24/2020	1/24/2020		324 Referral	Red	India	Affirmative	
	1/24/2020	1/24/2020		356 Referral	Red	Jamaica	Affirmative	
	1/24/2020	1/24/2020		361 Grant	Red	Turkey	Affirmative	
1/24/2020	1/24/2020		364 Referral	Green	El Salvador	Affirmative		

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1/24/2020	1/24/2020	351 Referral	Green	Venezuela	Affirmative
1/24/2020	1/24/2020	365 Grant	Red	Mauritania	Affirmative
1/27/2020	1/27/2020	371 Grant	Red	Russia	Affirmative
1/27/2020	1/27/2020	343 Referral	Red	Guatemala	Affirmative
1/27/2020	1/27/2020	375 Referral	Red	Nigeria	Affirmative
1/27/2020	1/27/2020	336 Referral	Red	China	Affirmative
1/27/2020	1/27/2020	375 Referral	Red	Venezuela	Affirmative
1/27/2020	1/27/2020	375 Referral	Red	Bangladesh	Affirmative
2/18/2020	2/18/2020	254 NOID	Red	Nigeria	Affirmative
2/18/2020	2/18/2020	368 Referral	Red	Jamaica	Affirmative
2/18/2020	2/18/2020	254 Referral	Red	Nicaragua	Affirmative
2/18/2020	2/18/2020	358 Referral	Red	Venezuela	Affirmative
2/18/2020	2/18/2020	367 Referral	Red	India	Affirmative
2/19/2020	2/19/2020	343 Referral	Red	Venezuela	Affirmative
2/19/2020	2/19/2020	143 Referral	Red	El Salvador	Affirmative
2/19/2020	2/20/2020	371 Referral	Red	El Salvador	Affirmative
2/19/2020	2/20/2020	371 Grant	Red	Turkey	Affirmative
2/19/2020	2/20/2020	352 Referral	Red	Morocco	Affirmative
2/20/2020	2/20/2020	369 Grant	Red	Kazakhstan	Affirmative
2/20/2020	2/20/2020	368 Grant	Red	Turkey	Affirmative
2/20/2020	2/20/2020	361 Grant	Red	Turkey	Affirmative
2/20/2020	2/20/2020	364 Grant	Red	Turkey	Affirmative
2/20/2020	2/20/2020	321 Grant	Red	Nigeria	Affirmative
2/21/2020	2/21/2020	349 NOID	Red	Egypt	Affirmative
2/21/2020	2/21/2020	343 Grant	red	honduras	Affirmative
2/21/2020	2/21/2020	365 Referral	Red	Guatemala	Affirmative
2/21/2020	2/21/2020	362 Referral	red	montenegro	Affirmative
2/21/2020	2/21/2020	310 Grant	Red	Burma	Affirmative
2/24/2020	2/24/2020	361 Referral	Red	Sri Lanka	Affirmative
2/24/2020	2/24/2020	361 Referral	Red	Guatemala	Affirmative

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2/24/2020	2/24/2020	351 Referral	Red	Senegal	Affirmative
2/24/2020	2/24/2020	324 Referral	Red	Venezuela	Affirmative
2/24/2020	2/24/2020	300 Referral	Red	India	Affirmative
2/24/2020	2/24/2020	356 Grant	Red	Turkey	Affirmative
2/24/2020	2/24/2020	367 Grant	Red	Belarus	Affirmative
2/25/2020	2/25/2020	295 Referral	Red	Uganda	Affirmative
2/25/2020	2/25/2020	349 Referral	Red	El Salvador	Affirmative
2/25/2020	2/25/2020	362 Referral	Red	Brazil	Affirmative
2/25/2020	2/25/2020	358 Referral	Red	Guatemala	Affirmative
2/25/2020	2/25/2020	331 Referral	Red	Mexico	Affirmative
2/26/2020	2/26/2020	290 Referral	Red	Mexico	Affirmative
2/26/2020	2/26/2020	365 Grant	Red	Turkey	Affirmative
2/26/2020	2/26/2020	193 NPT	Red/Backlog	Liberia	Affirmative
2/27/2020	2/27/2020	368 Referral	Red	China	Affirmative
2/27/2020	2/27/2020	367 Referral	Red	Haiti	Affirmative
2/27/2020	2/27/2020	336 Referral	Red	DR	Affirmative
2/27/2020	2/27/2020	319 Referral	Red	Mexico	Affirmative
2/27/2020	2/27/2020	143 Referral	Red	Guatemala	Affirmative
3/2/2020	3/2/2020	376 Grant	Red	Honduras	Affirmative
3/2/2020	3/2/2020	319 Referral	Red	Guatemala	Affirmative
3/2/2020	3/2/2020	369 Grant	Red	Moldova	Affirmative
3/2/2020	3/2/2020	290 Referral	Red	Ecuador	Affirmative
3/2/2020	3/2/2020	350 Referral	Red	El Salvador	Affirmative
3/3/2020	3/3/2020	376 Referral	Red	Brazil	Affirmative
3/3/2020	3/3/2020	336 Grant	Green	DR	Affirmative
3/3/2020	3/3/2020	376 Referral	Red	China	Affirmative

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3/3/2020	3/3/2020	371 Referral	Red	Burma	Affirmative
3/3/2020	3/3/2020	343 Grant	Red	Burma	Affirmative
3/3/2020	3/3/2020	376 Referral	Red	Burma	Affirmative
3/4/2020	3/4/2020	371 Grant	Red	Turkey	Affirmative
3/4/2020	3/4/2020	290 Referral	Red	Mexico	Affirmative
3/4/2020	3/4/2020	367 Grant	Red	Burkina Faso	Affirmative
3/4/2020	3/4/2020	368 Grant	Red	Egypt	Affirmative
3/4/2020	3/4/2020	372 Referral	Red	Belarus	Affirmative
3/23/2020	3/26/2020	Referral	Red	Kenya	Affirmative
3/30/2020	3/30/2020	365 Grant	Red	Nigeria	Affirmative
3/30/2020	3/30/2020	Grant	Red	Venezuela	Affirmative
3/30/2020	4/1/2020	295 Grant	Red	Egypt	Affirmative
3/30/2020	4/1/2020	364 Referral	Red	Haiti	Affirmative
3/30/2020	4/1/2020	367 Referral	Red	China	Affirmative
3/30/2020	4/1/2020	361 Grant	Red	Ecuador	Affirmative
3/30/2020	4/1/2020	378 NOID	Red	Tajikistan	Affirmative
4/2/2020	4/2/2020	361 Referral	Red	Nigeria	Affirmative
4/2/2020	4/3/2020	336 Referral	Red	El Salvador	Affirmative
4/2/2020	4/3/2020	300 Referral	Red	Nigeria	Affirmative
4/2/2020	4/3/2020	349 Referral	Red	Belarus	Affirmative
4/6/2020	4/6/2020	Grant	Green	Guatemala	Affirmative
4/6/2020	4/6/2020	365 Referral	Red	Guatemala	Affirmative
4/6/2020	4/13/2020	310 Referral	red	Iraq	Affirmative
4/6/2020	4/14/2020	235 Grant	Red	El Salvador	NACARA
4/6/2020	4/14/2020	376 Grant	Red	Turkey	Affirmative
4/13/2020	4/14/2020	368 Grant	Red	Egypt	Affirmative
4/13/2020	4/14/2020	365 Grant	Red	Turkey	Affirmative
4/13/2020	4/15/2020	346 Referral	Red	El Salvador	Affirmative

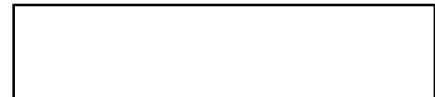
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4/13/2020	4/15/2020	346 Referral	Red	Guatemala	Affirmative
4/13/2020	4/15/2020	368 Referral	Red	Egypt	Affirmative
4/13/2020	4/15/2020	361 Referral	Red	Mexico	Affirmative
4/13/2020	4/15/2020	364 Referral	Red	Guatemala	Affirmative
4/20/2020	4/21/2020	355 Referral	Green	Guatemala	Affirmative
4/20/2020	4/21/2020	355 Referral	Green	Mexico	Affirmative
4/20/2020	4/21/2020	264 Referral	Green	Honduras	Affirmative
4/20/2020	4/21/2020	324 Referral	Green	El Salvador	Affirmative
4/20/2020	4/21/2020	264 Referral	Green	Ecuador	Affirmative
4/20/2020	4/21/2020	319 Referral	Green	Ecuador	Affirmative
4/20/2020	4/21/2020	324 Referral	Green	Ecuador	Affirmative
4/20/2020	4/21/2020	359 Referral	Green	El Salvador	Affirmative
4/20/2020	4/21/2020	262 Referral	Green	Mexico	Affirmative
4/20/2020	4/21/2020	355 Referral	Green	Mexico	Affirmative
4/20/2020	4/21/2020	262 Referral	Green	Costa Rica	Affirmative
4/20/2020	4/21/2020	374 Referral	Green	Peru	Affirmative
4/20/2020	4/21/2020	290 Referral	Green	Mexico	Affirmative
4/20/2020	4/21/2020	264 Referral	Green	Ecuador	Affirmative
4/20/2020	4/21/2020	355 Referral	Green	El Salvador	Affirmative
4/20/2020	4/21/2020	355 Referral	Green	Honduras	Affirmative
4/20/2020	4/22/2020	274 Referral	Green	Mexico	Affirmative
4/20/2020	4/22/2020	274 Referral	Green	Guatemala	Affirmative
4/20/2020	4/22/2020	274 Referral	Green	Honduras	Affirmative
4/20/2020	4/22/2020	324 Referral	Green	Ecuador	Affirmative
4/20/2020	4/22/2020	324 Referral	Green	Mexico	Affirmative
4/20/2020	4/22/2020	324 Referral	Green	Mexico	Affirmative
4/20/2020	4/22/2020	264 Referral	Green	Guatemala	Affirmative
4/20/2020	4/22/2020	290 Referral	Green	Ecuador	Affirmative
4/20/2020	4/22/2020	290 Referral	Green	Brazil	Affirmative
4/20/2020	4/22/2020	359 Referral	Green	Mexico	Affirmative
4/20/2020	4/22/2020	355 Referral	Green	Mexico	Affirmative
4/20/2020	4/22/2020	274 Referral	Green	India	Affirmative
4/20/2020	4/22/2020	274 Referral	Green	Honduras	Affirmative
4/20/2020	4/22/2020	274 Referral	Green	Mexico	Affirmative
4/20/2020	4/22/2020	359 Referral	Green	Ecuador	Affirmative
4/27/2020	4/28/2020	324 Referral	Green	Honduras	Affirmative



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4/27/2020	4/28/2020	274 Referral	Green	Mexico	Affirmative
4/27/2020	4/28/2020	355 Referral	Green	Mexico	Affirmative
4/27/2020	4/28/2020	324 Referral	Green	Poland	Affirmative
4/27/2020	4/28/2020	324 Referral	Green	Honduras	Affirmative
4/27/2020	4/28/2020	319 Referral	Green	Mexico	Affirmative
4/27/2020	4/28/2020	274 Referral	Green	Mexico	Affirmative
4/27/2020	4/28/2020	355 Referral	Green	El Salvador	Affirmative
4/27/2020	4/28/2020	355 Referral	Green	Honduras	Affirmative
4/27/2020	4/28/2020	359 Referral	Green	Senegal	Affirmative
4/27/2020	4/28/2020	359 Referral	Green	Guatemala	Affirmative
4/27/2020	4/28/2020	274 Referral	Green	Ecuador	Affirmative
4/27/2020	4/28/2020	274 Referral	Green	Ecuador	Affirmative
4/27/2020	4/28/2020	274 Referral	Green	Peru	Affirmative
4/27/2020	4/28/2020	274 Referral	Green	China	Affirmative
4/27/2020	4/29/2020	254 UFW	UFW	Mexico	Affirmative
4/27/2020	4/29/2020	254 UFW	UFW	Honduras	Affirmative
4/27/2020	4/29/2020	254 UFW	UFW	Peru	Affirmative
4/27/2020	4/29/2020	254 UFW	UFW	Mexico	Affirmative
4/27/2020	4/29/2020	254 UFW	UFW	Senegal	Affirmative
4/27/2020	4/29/2020	254 UFW	UFW	Mexico	Affirmative
4/27/2020	4/29/2020	254 UFW	UFW	Mexico	Affirmative
4/27/2020	4/29/2020	254 UFW	UFW	Mexico	Affirmative
4/27/2020	4/29/2020	254 UFW	UFW	Guatemala	Affirmative
4/27/2020	4/29/2020	254 UFW	UFW	Mexico	Affirmative
4/27/2020	4/29/2020	254 UFW	UFW	Mexico	Affirmative
4/27/2020	4/29/2020	254 UFW	UFW	Ecuador	Affirmative
4/27/2020	4/29/2020	254 UFW	UFW	Mexico	Affirmative
4/27/2020	4/29/2020	254 UFW	UFW	Mexico	Affirmative
4/27/2020	4/29/2020	254 UFW	UFW	Mexico	Affirmative
4/27/2020	4/29/2020	254 UFW	UFW	Guatemala	Affirmative
4/27/2020	4/29/2020	254 UFW	UFW	Mexico	Affirmative
4/27/2020	4/29/2020	254 UFW	UFW	Guatemala	Affirmative
4/27/2020	4/29/2020	254 UFW	UFW	Senegal	Affirmative
4/27/2020	4/29/2020	254 UFW	UFW	Guyana	Affirmative
5/4/2020	5/5/2020	349 Referral	Red	Mexico	Affirmative

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5/4/2020	5/5/2020	349 Referral	Red	Mexico	Affirmative
5/4/2020	5/5/2020	264 Referral	Red	Costa Rica	Affirmative
5/4/2020	5/5/2020	350 Referral	Red	Honduras	Affirmative
5/4/2020	5/5/2020	193 Grant	Red	Nigeria	Affirmative
5/4/2020	5/5/2020	364 Referral	Red	Guatemala	Affirmative
5/4/2020	5/6/2020	319 Referral	Red	Mexico	Affirmative
5/4/2020	5/6/2020	264 Referral	Red	Mexico	Affirmative
5/4/2020	5/6/2020	264 Referral	Red	Mexico	Affirmative
5/4/2020	5/6/2020	254 Referral	Red	Guatemala	Affirmative
5/4/2020	5/6/2020	319 Referral	Red	Colombia	Affirmative
5/4/2020	5/6/2020	364 Referral	Red	Guatemala	Affirmative
5/4/2020	5/6/2020	254 Referral	Red	Haiti	Affirmative
5/4/2020	5/6/2020	393 Grant	Red	El Salvador	Affirmative
5/4/2020	5/6/2020	346 Grant	Red	Burkina Faso	Affirmative
5/11/2020	5/11/2020	Backlog Grant	Red	Saudi Arabia	Affirmative
5/11/2020	5/12/2020	264 Referral	Red	Mexico	Affirmative
5/11/2020	5/12/2020	361 Referral	Red	Nigeria	Affirmative
5/11/2020	5/12/2020	264 Referral	Red	Mexico	Affirmative
5/11/2020	5/12/2020	274 Referral	Red	Guatemala	Affirmative
5/11/2020	5/12/2020	358 Referral	Red	Venezuela	Affirmative
5/11/2020	5/12/2020	254 Referral	Red	Trinidad	Affirmative
5/11/2020	5/12/2020	358 Referral	Red	Mexico	Affirmative
5/11/2020	5/13/2020	371 Grant	Red	Russia	Affirmative
5/11/2020	5/13/2020	349 Referral	Red	Ecuador	Affirmative

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	5/11/2020	5/13/2020	349 Referral	Red	Guatemala	Affirmative
	5/11/2020	5/13/2020	364 Referral	Red	Ecuador	Affirmative
	5/11/2020	5/13/2020	366 Grant	Red	Ghana	Affirmative
	5/18/2020	5/21/2020	358 Referral	Red	Colombia	Affirmative
	5/18/2020	5/21/2020	264 Referral	Red	Guatemala	Affirmative
	5/18/2020	5/21/2020	274 Referral	Red	Mexico	Affirmative
	5/18/2020	5/21/2020	274 Referral	Red	Mexico	Affirmative
	5/18/2020	5/21/2020	264 Referral	Red	Guatemala	Affirmative
	5/18/2020	5/21/2020	358 Referral	Red	Mexico	Affirmative
	5/18/2020	5/21/2020	355 Referral	Red	Ecuador	Affirmative
	5/18/2020	5/21/2020	349 Referral	Red	Ecuador	Affirmative
	5/18/2020	5/21/2020	274 Referral	Red	Honduras	Affirmative
	5/27/2020	5/28/2020	264 Referral	Red	Honduras	Affirmative
	5/27/2020	5/29/2020	262 Referral	Red	Guatemala	Affirmative

(b)(7)(c)

(b)(7)(e)

Shirk, Georgette L

From: Kumar, Vikram
Sent: Thursday, March 28, 2019 10:13 AM
To: #ZNK Asylum Officers
Subject: FW: New FAQ on Attending Demonstrations & research paper on Movement for Solidarity and Democracy (Burundi) - TRIG

Hi all,

See below for an FAQ regarding the TRIG implications of attending protests.

(b)(7)(e)

Vikram Kumar
Senior Asylum Officer
U.S. Department of Homeland Security- Newark Asylum Office

From: Mathew, Ajai [redacted] (b)(6)
Sent: Thursday, March 28, 2019 11:09 AM
To: Knowlton, Nicholas D [redacted]; Berman-vaporis, Rachel P [redacted]
[redacted]; Sullivan, Laura C [redacted]; Cleary, Heather M
[redacted]; McMillan, Jill [redacted]; Clark, Dusty L
[redacted]; McEvoy, Erin B [redacted]; Beck, LaToya S
[redacted]; Trinh, Kimberly B [redacted]; Lynn, Mallory L
[redacted]; Kim, Alejandra [redacted]; Dominguez, Maria R
[redacted]; Talamantes, Eudelia A [redacted]; Coto, Yolanda R
[redacted]; Baj, Ewa [redacted]; Dragan, Mariusz [redacted]
Fouda, Lauren T [redacted]; Kumar, Vikram [redacted]; Lewis, Victoria E
[redacted]; Swen, Oluremi A (Remi) [redacted]; Sundborg, Rachael S
[redacted]; Krause, Paige M [redacted]; Vasquez, Arnoldo A
[redacted]; Romano Ferreira, Nicole I [redacted]; Damron,
Andrew T [redacted]; Totter, Stephen [redacted]; Satia, Kimberly I
[redacted]; Lehman, Danielle E [redacted]
Cc: Whalen, Ellen A [redacted]; Metzger, Evelyn S [redacted]; Picciotto,
Giacomo A [redacted]; Kirkland, Brooke A [redacted]
Subject: New FAQ on Attending Demonstrations & research paper on Movement for Solidarity and Democracy (Burundi)

(b)(6)

Hi TRIG POCs,

Just sending this email to notify you of a new FAQ on Attending Demonstrations, which posted to the TRIG ECN yesterday and discusses whether there are any TRIG implications relating to attending demonstration, shouting slogans at a demonstration, attending demonstrations organized by Tier III groups, attending demonstrations that turn violent, and providing support to demonstrators at a violent demonstration.

[RAIO TRIG FAQ on Attending Demonstrations](#)

(b)(7)(e)

Movement for Solidarity and Democracy

Thank you,
Ajai

Shirk, Georgette L

From: Sundborg, Rachael S
Sent: Thursday, August 23, 2018 6:37 AM
To: #ZNK Asylum Officers
Cc: #ZNK Supervisory Asylum Officers
Subject: FW: NEW! NDAA of 2019: Rwandan Patriotic Front/Army exclusion

Good morning!

Please see below regarding the timeline for when the Rwandan Patriotic Front and Rwandan Patriotic Army meet the definition of a terrorist organization.

Please let any of your TRIG POCs ([redacted] at ZNK; [redacted] at ZBO) know if you have any questions.

(b)(7)(c)

Thank you,

Rachael

From: Whalen, Ellen A
Sent: Thursday, August 23, 2018 6:52 AM
To: Alvertos, Darice I; Baj, Ewa; Beck, LaToya S; Clark, Dusty L; Damron, Andrew T; Dominguez, Maria R; Dragan, Mariusz; Fouda, Lauren T; Kim, Alejandra; Kirkland, Brooke A; Knowlton, Nicholas D; Koelsch, David C; Kumar, Vikram; Lehman, Danielle E; Lynn, Mallory L; Mathew, Ajai; McEvoy, Erin B; McMillan, Jill; Metzger, Evelyn S; Onisko, Merrilyn A; Picciotto, Giacomo A; Romano Ferreira, Nicole I; Satia, Kimberly I; Schoser, Joseph R; Schupp-Star, Rachael M; Sullivan, Laura C; Swen, Oluremi A (Remi); Totter, Stephen; Trinh, Kimberly B; Vasquez, Arnoldo A; Whalen, Ellen A
Cc: Henson, Courtney A
Subject: FW: NEW! NDAA of 2019: Rwandan Patriotic Front/Army exclusion

Greetings Asylum TRIG POCs,

Please note the message below regarding the National Defense Authorization Act for Fiscal Year 2019. It creates a timeline for the Rwandan Patriotic Front and Rwandan Patriotic Army. They do not meet the definition of a terrorist organization under the Act for any period before August 1, 1994.

Note exception in section (2), which allows the Secretaries, in consultation with each other, to suspend application of the above and find the group to be a Tier III terrorist organization pre-August 1, 1994.

Please message to your offices as appropriate.

Ellen

From: Sohrakoff, Karen A
Sent: Tuesday, August 21, 2018 1:27 PM
To: Anderson, Kathryn E; Busenkell, Kathleen R (Katie); Chiorazzi, Anne; Cho, Jeannette S; Croizat, Jessika S; Dougherty, Linda M; Greeley, Kevin A; Greene, Salina F; Hicks, Celia F; Howard, Frank E; Katz, Jonathan E; Kirkland, Brooke A; Leigh, Jessica K; Mathew, Ajai; Metzger, Evelyn S; Micker, Jennifer N; Perry-Elby, Diana D; Prelogar, Brandon B; Schwartz, Claudia R; Sohrakoff, Karen A; Tarr, David S; Tomlyanovich, William J (Bill); Whalen, Ellen A; Whitney, Ronald

W; Wilson, Jennifer S; Zengotitabengoa, Colleen R; Zill, Katherine F
Subject: NEW! NDAA of 2019: Rwandan Patriotic Front/Army exclusion

TRIG WG Colleagues,

Last week, the 2019 NDAA was passed into law. It contains a section that creates a statutory exclusion from the provisions of 212(a)(3)(B) for 1) the Rwandan Patriotic Front/Rwandan Patriotic Army from the Tier III definition for any period before August 1, 1994 and 2) any activity undertaken by the alien in association with the Rwandan Patriotic Front or the Rwandan Patriotic Army before August 1, 1994. We will be participating in interagency communication to ensure that DOS, DHS, and DOJ implement the legislation consistently and will keep you updated with any developments. In the meantime, please alert your component about this legislation.

The TRIG History page has been updated: <http://ecn.uscis.dhs.gov/team/raio/TRIG/SitePages/TRIGHistory.aspx> and we will be revising the relevant paper in the Researched Organization library as well as all impacted training materials.

If your component encounters a case in which an exception outlined in 2(A) might apply, please ask the office to loop in local counsel and HQ TRIG POC.

Thank you,
Karen

H.R. 5515: John S. McCain National Defense Authorization Act for Fiscal Year 2019

Introduced:

Apr 13, 2018

115th Congress, 2017–2019

Status:

Enacted — Signed by the President on Aug 13, 2018

This bill was enacted after being signed by the President on August 13, 2018.

Law:

Pub.L. 115-232

SEC. 1291. TREATMENT OF RWANDAN PATRIOTIC FRONT AND RWANDAN PATRIOTIC ARMY UNDER IMMIGRATION AND NATIONALITY ACT.

(a) REMOVAL OF TREATMENT AS TERRORIST ORGANIZATIONS.—

H. R. 5515—449

(1) IN GENERAL.—Except as provided in paragraph (2), the Rwandan Patriotic Front and the Rwandan Patriotic Army shall be excluded from the definition of terrorist organization (as defined in section 212(a)(3)(B)(vi)(III) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)(vi)(III))) for purposes of such section 212(a)(3)(B) for any period before August 1, 1994.

(2) EXCEPTION.—

(A) IN GENERAL.—The Secretary of State, in consultation

with the Secretary of Homeland Security and the Attorney General, or the Secretary of Homeland Security, in consultation with the Secretary of State and the Attorney General, as applicable, may suspend the application of paragraph (1) for the Rwandan Patriotic Front or the Rwandan Patriotic Army in the sole and unreviewable discretion of such applicable Secretary.

(B) REPORT.—Not later than, or contemporaneously with, a suspension of paragraph (1) under subparagraph (A), the Secretary of State or the Secretary of Homeland Security, as applicable, shall submit to the appropriate committees of Congress a report on the justification for such suspension.

(b) RELIEF FROM INADMISSIBILITY.—

(1) ACTIVITIES BEFORE AUGUST 1, 1994.—Section 212(a)(3)(B) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)) shall not apply to an alien with respect to any activity undertaken by the alien in association with the Rwandan Patriotic Front or the Rwandan Patriotic Army before August 1, 1994.

(2) EXCEPTIONS.—

(A) IN GENERAL.—Paragraph (1) shall not apply if the Secretary of State or the Secretary of Homeland Security, as applicable, determines in the sole unreviewable discretion of such applicable Secretary that—

(i) in the totality of the circumstances, such alien—

(I) poses a threat to the safety and security of the United States; or

(II) does not merit a visa, admission to the United States, or a grant of an immigration benefit or protection; or

(ii) such alien committed, ordered, incited, assisted, or otherwise participated in the commission of—

(I) an offense described in section 2441 of title 18, United States Code; or

(II) an offense described in Presidential Proclamation 8697, dated August 4, 2011.

(B) IMPLEMENTATION.—Subparagraph (A) shall be implemented by the Secretary of State and the Secretary of Homeland Security, in consultation with the Attorney General.

(c) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this section, the term “appropriate committees of Congress” means—

(1) the Committee on the Judiciary, the Committee on Foreign Relations, the Committee on Homeland Security and Governmental Affairs, and the Committee on Appropriations of the Senate; and

(2) the Committee on the Judiciary, the Committee on Foreign Affairs, the Committee on Homeland Security, and

H. R. 5515—450

the Committee on Appropriations of the House of Representatives.

<https://www.govtrack.us/congress/bills/115/hr5515>

Shirk, Georgette L

From: [redacted] (b)(7)(c)
Sent: Wednesday, April 17, 2019 2:59 PM
To: [redacted] (b)(7)(c)
Cc: [redacted] #ZNK Supervisory Asylum Officers; [redacted] #ZNK FDNS
Subject: RE: [redacted] Cases

(b)(7)(e)

Hi [redacted]

[redacted]

(b)(7)(c) (b)(7)(e)

From: [redacted] (b)(7)(c)
Sent: Wednesday, April 17, 2019 12:54 PM
To: [redacted]
[redacted]
Cc: [redacted]; #ZNK Supervisory Asylum Officers; [redacted] #ZNK FDNS
Subject: RE: [redacted] Cases

(b)(7)(c)

(b)(7)(e)

Looping in the rest of the FDNS team for their awareness.

[redacted]

(b)(7)(c) (b)(7)(e)

Thanks,
[redacted] (b)(7)(c)

From: [redacted] (b)(7)(c)
Sent: Wednesday, April 17, 2019 12:04 PM
To: [redacted]
Cc: [redacted]; #ZNK Supervisory Asylum Officers; [redacted]
Subject: RE: [redacted] Cases

(b)(7)(e)

Hey [redacted] (b)(7)(c)

If it helps, [redacted] and I started a similar conversation several months ago. I can forward those to you as well.



From: [redacted]
Sent: Wednesday, April 17, 2019 11:53 AM
To: [redacted] (b)(7)(c)

Cc: [redacted]

[redacted]; #ZNK Supervisory Asylum Officers

(b)(7)(c)

Subject: [redacted] Cases

(b)(7)(e)

Hi,

I just wanted to bring to your attention a similar fact pattern that I have encountered with [redacted] backlog cases. So

(b)(7)(c) (b)(7)(e)

Best,

[redacted]

(b)(7)(c)

Shirk, Georgette L

From: Dragan, Mariusz
Sent: Wednesday, June 13, 2018 3:49 PM
To: #ZNK Asylum Officers
Cc: #ZNK Supervisory Asylum Officers
Subject: Rwanda cases

Colleagues,



Has anyone seen a similar claim recently?

(b)(6)

Thanks for your input.

Mariusz Dragan
Supervisory Asylum Officer
Newark Asylum Office
1200 Wall Street
Lyndhurst, NJ 07071
Phone: [redacted]
Cell: [redacted] (b)(6)

Shirk, Georgette L

From: Kumar, Vikram
Sent: Tuesday, June 05, 2018 2:52 PM
To: #ZNK-Lyndhurst Everyone
Subject: [Redacted] (b)(7)(e)

Hey everyone,

[Redacted]

[Redacted]

Thanks so much.

Best,
Vikram

(b)(7)(e)

Vikram Kumar
Senior Asylum Officer
U.S. Department of Homeland Security
Newark Asylum Office
1200 Wall Street West, 4th Floor
Lyndhurst, NJ 07071

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Is Genocide Predictable? Researchers Say Absolutely

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December 20, 2018 · 8:47 AM ET

Heard on Weekend Edition Saturday



JASON BEAUBIEN

History unfortunately does repeat itself.

Two thousand years ago the Romans laid siege to Carthage, killing more than half of the city's residents and enslaving the rest.

Hitler attempted to annihilate the Jews in Europe. In 1994 the Hutus turned on the Tutsis in Rwanda. The Khmer Rouge killed a quarter of Cambodia's population. After the breakup of Yugoslavia, Serbs slaughtered thousands of Bosnians at Srebrenica in July of 1995.

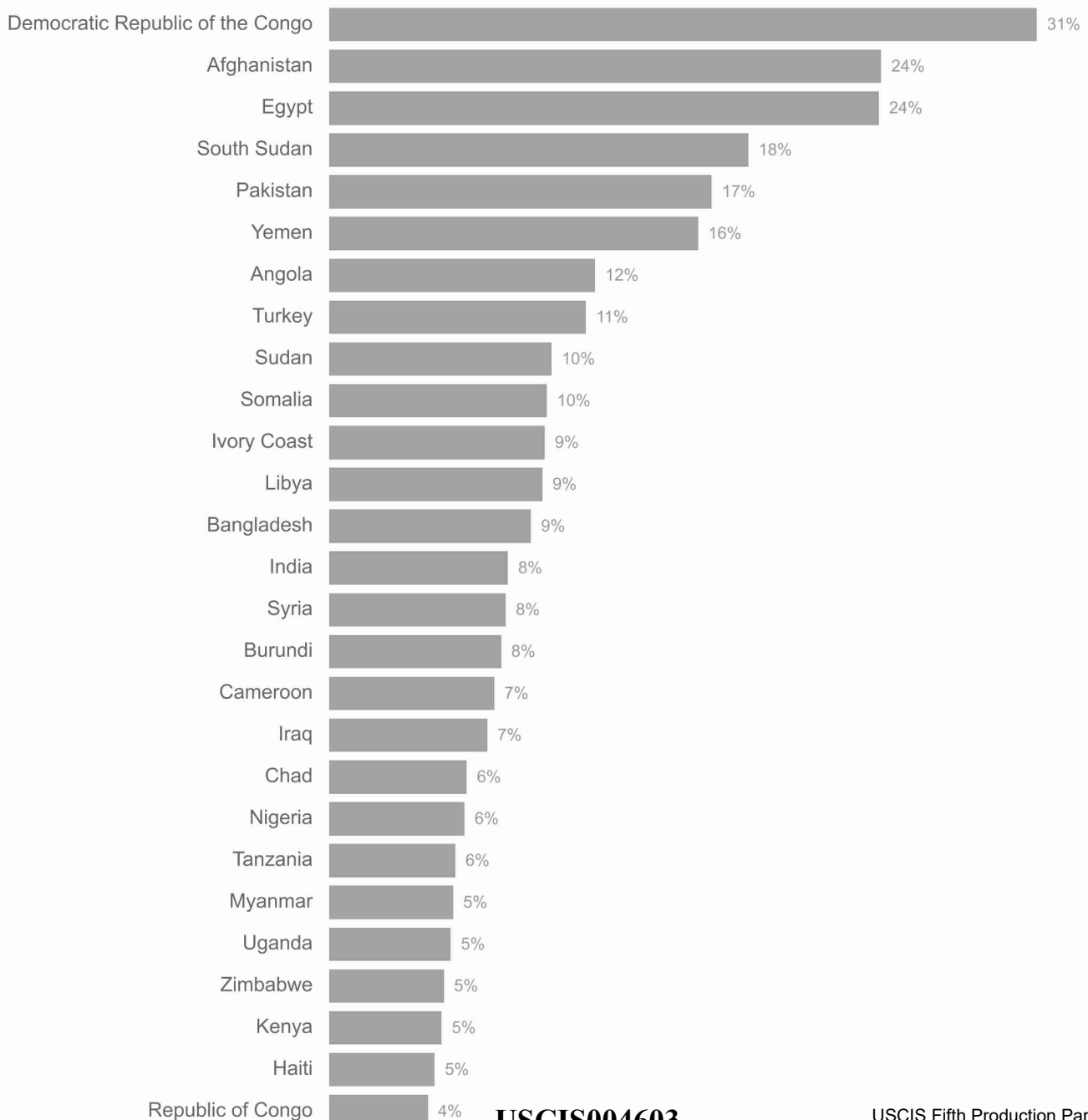
Last year when Buddhists attacked Rohingya Muslims in Myanmar, many people were shocked to hear that mass killings still occur in the 21st century. But they do – and there's growing evidence that these events follow familiar patterns. And if they do, we should be able to see them coming.

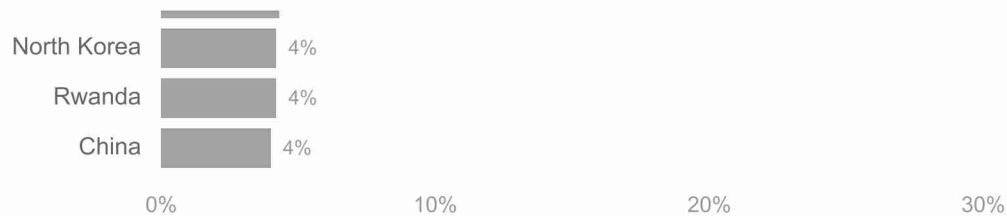
"Genocides are not spontaneous," says Jill Savitt, acting director of the Simon-Skjodt Center for the Prevention of Genocide at the U.S. Holocaust Memorial Museum in Washington, D.C. "In the lead-up to these types of crimes we do see a consistent set of things happening."

Since 2014, the Holocaust Museum and scholars from Dartmouth have mapped the conditions that precede a genocide. They built a database of every mass killing since World War II. Then they went back and looked at the conditions in the countries where the killings occurred just prior to the attacks. And now they use that computer model to analyze which nations currently are at greatest risk.

Countries At 'High Risk' Of Genocide

The Early Warning Project, run by the U.S. Holocaust Memorial Museum, analyzes social and political conditions in 162 countries to assess their potential risk of genocide. These are the 30 countries identified as most likely in the next year to have a targeted killing of more than 1,000 people.





Source: Early Warning Project

Credit: Alyson Hurt/NPR

Don't see the graphic above? Click here.

"We're not forecasting with precision. That's not the intention of the tool," Savitt says. "What we're doing is trying to alert policymakers that here's a situation that is ripe for horrors to happen and give them a heads up that there are actions that can be taken to avert it."

In the three years prior to the attacks on the Rohingya, Myanmar ranked as the country most likely to have a mass killing for two of those years and ranked No. 3 the other year.

The museum's computer model analyzes statistics that you might think have nothing to do with genocide — fluctuations in per capita gross domestic product, infant mortality rates, overall population. Such factors, they believe, are indicators of inequality, poverty and economic instability.

They also plug in data about recent coup attempts, levels of authoritarianism, civil rights, political killings and ethnic polarization.

Lawrence Woocher, the research director at the Simon-Skjodt Center for the Prevention of Genocide at the U.S. Holocaust Museum, has worked on the Early Warning Project since 2014. He says that the form of government is one of the key data points in their computer model. The most dangerous appears to be a regime that's not a full dictatorship but also not a full democracy.

"The prevailing view about why mass atrocities occur is that they tend to be decisions by political elites when they feel under threat and in a condition of instability,"

Woocher says. "And there's lots of analysis that suggests that these middle regime types are less stable than full democracies or full autocracies."

The Early Warning Project ranks 162 countries by their potential for a new mass killing to erupt in the coming year. They define a "mass killing" as more than 1,000 people being killed by soldiers, a militia or some other armed group. The Democratic Republic of the Congo is currently the most at risk followed by Afghanistan.

Egypt is No. 3 on the list. The researchers note that Egypt was ranked so high because of a variety of factors including a lack of freedom of movement of men, a history of mass killings and a recent coup d'etat. They add that Egypt faces multiple security threats and that "there have been reports of large-scale attacks by extremist groups, including IS [Islamic State], on Christians and Sufi Muslims, and violence against civilians perpetrated by both insurgents and government forces in the Sinai Peninsula."

War-torn South Sudan is No. 4 on the list. Its incredibly brutal civil war is expected to get even worse.

Greg Stanton, a professor at George Mason University and the president of Genocide Watch, agrees with the goal of the Early Warning Project rankings but disagrees with their methods. Stanton says the Holocaust Museum's model is overly dependent on national data that's often released only once a year.

"They tend to notice that there is a risk of genocide too late," Stanton says.

Rather than looking at statistics to try to predict mass killings, he argues that you should look at events.

"In other words, it's not enough to know that you have an authoritarian regime," he says. "It's important to know what that authoritarian regime is doing."

Stanton has come up with a genocide prediction model based on 10 stages of genocide. His model starts with classification of people by ethnicity, race or religion, moves through dehumanization, persecution and extermination before stage 10 — denial during and immediately after a genocidal act.

Interestingly, the U.S. currently ticks off many of the early stages of a country headed for a bloodbath, according to Stanton. There's polarization, discrimination, dehumanization. But strong legal and government institutions in the U.S. are likely to block such a disaster from happening, he says.

The information that Genocide Watch and the Holocaust Museum are sifting through has been available to national security agencies for decades. The big question is what to do with this information. At the time of the Rwandan genocide in 1994, Stanton was working in the State Department; he says top government officials knew that the violence was about to begin.

"When President Clinton said after the Rwandan genocide, 'We really didn't know.' I'll be direct. He was lying. He did know," Stanton says. "I've read the confidential cables that came in from Rwanda from our ambassador there months before that genocide. And they knew it was coming."

Stanton's 10 stages of genocide and the Holocaust Museum's Early Warning Project are both attempts to spread information more widely about the early rumblings of a genocide so that world leaders and others might be able to stop it.

u.s. holocaust memorial museum mass killing genocide

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Democratic Republic of Congo

Events of 2018

A polling official counts votes in a school in Kinshasa after the Democratic Republic of Congo's general elections, December 30, 2018.

© 2018 Luis Tato/AFP/Getty Images

AVAILABLE IN

Throughout 2018, government officials and security forces carried out widespread repression and serious human rights violations against political opposition leaders and supporters, pro-democracy and human rights activists, journalists, and peaceful protesters. The December 30 elections were marred by widespread irregularities, voter suppression, and violence. More than a million Congolese were unable to vote when voting was postponed until March 2019 in three pro-opposition areas.



4.5 million

people were **displaced from their homes** due to clashes among armed groups and government forces.



13 million +

people need **humanitarian assistance**.



140+

armed groups were active in eastern Congo's North Kivu and South Kivu provinces.

In central and eastern Congo, numerous armed groups, and in some cases government security forces, attacked civilians, killing and wounding many. Much of the violence appeared linked to the country's broader political crisis. The humanitarian situation remained alarming, with 4.5 million people displaced from their homes, and more than 130,000 refugees who fled to neighboring countries. In April, government officials denied any humanitarian crisis and refused to attend an international donor conference to raise US\$1.7 billion for emergency assistance to over 13 million people in need in Congo.

Freedom of Expression and Peaceful Assembly

Throughout 2018, government officials and security forces banned peaceful demonstrations; used teargas and in some cases live ammunition to disperse protesters; restricted the movement of opposition leaders; and arbitrarily

detained hundreds of pro-democracy and human rights activists, opposition supporters, journalists, peaceful protesters, and others, most of whom were eventually released.

During three separate protests led by the Lay Coordination Committee (CLC) of the Catholic Church in December 2017, and January and February 2018, security forces used excessive force, including teargas and live ammunition, against peaceful protesters within and around Catholic churches in the capital, Kinshasa, and other cities. Security forces killed at least 18 people, including prominent pro-democracy activist Rossy Mukendi. More than 80 people were injured, including many with gunshot wounds.

Catholic Church lay leaders had called for peaceful marches to press Congo's leaders to respect the church-mediated "New Year's Eve agreement" signed in late 2016. The agreement called for presidential elections by the end of 2017 and confidence-building measures, including releasing political prisoners, to ease political tensions. These commitments were largely ignored, however, as President Joseph Kabila held on to power through repression and violence.

On April 25, security forces brutally repressed a protest led by the citizens' movement Lutte pour le Changement (Struggle for Change, LUCHA) in Beni, in eastern Congo, arresting 42 people and injuring four others. On May 1, security forces arrested 27 activists during a LUCHA protest in Goma, in eastern Congo. Leading democracy activist Luc Nkulula died under suspicious circumstances during a fire in his house in Goma on June 9. Fellow activists and others believe he was the victim of a targeted attack.

In July, two journalists and two human rights activists were threatened and went into hiding following the release of a documentary about mass evictions from land claimed by the presidential family in eastern Congo.

In early August, Congolese security forces fired teargas and live ammunition to disperse political opposition supporters, killing at least two people—including a child—and injuring at least seven others with gunshot wounds, during the candidate registration period for presidential elections.

Authorities also restricted the movement of opposition leaders, arrested dozens of opposition supporters, and prevented one presidential aspirant, Moïse Katumbi, from entering the country to file his candidacy.

Congolese police arbitrarily arrested nearly 90 pro-democracy activists and injured more than 20 others during peaceful protests on September 3. The protesters had called on the national electoral commission to clean up the voter rolls after an audit by the Organisation Internationale de la Francophonie (OIF) found that over 16 percent of those on the lists had been registered without fingerprints, raising concerns about potentially fictitious voters. They also called on the commission to abandon the use of controversial voting machines that were untested in Congo and could potentially be used to tamper with results.

A Congolese court sentenced four members of the Filimbi (“whistle” in Swahili) citizens’ movement to one year in prison in September. Carbone Beni, Grâce Tshunza, Cédric Kalonji, Palmer Kabeya, and Mino Bompomi were arbitrarily arrested or abducted in December 2017 as they mobilized Kinshasa residents for nationwide protests on December 31, 2017. Kabeya was freed in September. The four others finished serving their sentence on December 25.

In November, authorities arrested and detained for a few days 17 pro-democracy activists in Kinshasa. They also abducted and tortured a LUCHA activist in Goma, who was released after three days.

Government security forces across the country forcibly dispersed opposition campaign rallies ahead of the national elections. From December 9 to 13, security forces killed at least 7 opposition supporters, wounded more than 50 people, and arbitrarily detained scores of others.

Attacks on Civilians by Armed Groups and Government Forces

More than 140 armed groups were active in eastern Congo's North Kivu and South Kivu provinces, and many continued to attack civilians, including the largely Rwandan Democratic Forces for the Liberation of Rwanda (FDLR) and allied Congolese Nyatura groups, the Ugandan-led Allied Democratic Forces (ADF), the Nduma Defense of Congo-Renové (NDC-R), the Mazembe and Yakutumba Mai Mai groups, and several Burundian armed groups. Many of their commanders have been implicated in war crimes, including ethnic massacres, rape, forced recruitment of children, and pillage.

According to the Kivu Security Tracker, which documents violence in eastern Congo, assailants, including state security forces, killed more than 883 civilians and abducted, as well as kidnapped for ransom, nearly 1,400 others in North Kivu and South Kivu in 2018.

In Beni territory, North Kivu province, around 300 civilians were killed in nearly 100 attacks by various armed groups, including the ADF.

In May, unidentified assailants killed a park ranger and kidnapped two British tourists and their Congolese driver in eastern Congo's Virunga National Park. The park has since been closed for tourism. The tourists and driver were later freed.

Between December 2017 and March 2018, violence intensified in parts of northeastern Congo's Ituri province, where armed groups launched deadly attacks on villages, killing scores of civilians, raping or mutilating many others, torching hundreds of homes, and displacing an estimated 350,000 people.

Also in northeastern Congo, the Ugandan-led Lord's Resistance Army continued to kidnap large groups of people and commit other serious abuses.

In December, large-scale ethnic violence broke out in Yumbi, in western Congo's Mai-Ndombe province, leaving reportedly hundreds dead in a previously peaceful region.

During the December elections, state security forces and armed groups in eastern Congo's North Kivu province intimidated voters to vote for specific candidates.

Justice and Accountability

The trial of Bosco Ntaganda, accused of 13 counts of war crimes and five counts of crimes against humanity allegedly committed in northeastern Congo's Ituri province in 2002 and 2003, continued at the International Criminal Court (ICC) in the Hague.

In June, an ICC appeals chamber overturned the war crimes and crimes against humanity convictions against former Congolese Vice President Jean-Pierre Bemba for crimes committed in neighboring Central African Republic. In September, the court sentenced Bemba on appeal to 12 months for a related conviction of witness tampering. Interpreting witness tampering as a form of corruption prohibited by the Congolese electoral law for presidential candidates, Congo's electoral commission later invalidated Bemba's presidential candidacy in what appears to be a politically motivated decision.

Sylvestre Mudacumura, military commander of the FDLR armed group, remained at large. The ICC issued an arrest warrant against him in 2012 for nine counts of war crimes.

The Congolese trial into the murders of UN investigators Michael Sharp and Zaida Catalán and the disappearance of the four Congolese who accompanied them in 2017 in the central Kasai region was ongoing at time of writing. A team of experts mandated by the United Nations secretary-general to support the Congolese investigation had not been granted the access or cooperation needed to effectively support a credible and independent investigation. Human Rights Watch research implicates government officials in the murders.

A UN Human Rights Council-mandated investigation into the broader, large-scale violence in the Kasai region since 2016 found that Congolese security forces and militia committed atrocities amounting to war crimes and crimes against humanity. In July, the council called on the UN High Commissioner for Human Rights to dispatch a team of two international human rights experts to monitor and report on the implementation by Congolese authorities of the Kasai investigation's recommendations.

The trial against Congolese security force members arrested for allegedly using excessive force to quash a protest in Kamanyola, eastern Congo, in September 2017, during which around 40 Burundian refugees were killed, and more than 100 others wounded, had yet to begin at time of writing.

The trial of militia leader Ntabo Ntaberi Sheka, who surrendered to the UN peacekeeping mission in Congo (MONUSCO), began on November 27. Sheka was implicated in numerous atrocities in eastern Congo, and he had been sought on a Congolese arrest warrant since 2011 for crimes against humanity for mass rape.

In July, Kabila promoted two generals, Gabriel Amisi and John Numbi, despite their long involvement in serious human rights abuses. Both generals have also been sanctioned by the United States and the European Union.

Key International Actors

In 2018, the UN Security Council, which visited Kinshasa in October, the UN secretary-general, the African Union, the Southern African Development Community (SADC), the US, the EU, and many individual states called for the electoral calendar to be respected. They emphasized the need for full respect of the New Year's Eve agreement, including the confidence building measures, and for the elections to be credible and inclusive.

Belgium announced in January 2018 that it was suspending all direct bilateral support to the Congolese government and redirecting its aid to humanitarian and civil society organizations.

Angolan Foreign Minister Manuel Domingos Augusto said in August that Kabila's decision not to make an unconstitutional bid for a third term was "a big step," but that more needed to happen "for the electoral process to succeed and achieve the objectives that have been set by the Congolese." At a SADC summit in Namibia in August, the Namibian president and new SADC chairman, Hage Geingob, said that the crisis in Congo could lead to more refugees fleeing to neighboring countries if it was not resolved.

In December 2017, the US sanctioned Israeli billionaire Dan Gertler, one of Kabila's close friends and financial associates who "amassed his fortune through hundreds of millions of dollars' worth of opaque and corrupt mining and oil deals" in Congo, as well as several individuals and companies associated with Gertler. In June 2018, the US announced the cancellation, or the denial, of the visas of several Congolese officials, due to their involvement in human rights violations and significant corruption related to the country's electoral process.

On December 28, the government expelled the EU ambassador, Bart Ouvry, with 48-hours' notice. This followed EU's decision on December 10 to renew sanctions against 14 senior Congolese officials, including the ruling coalition's presidential candidate, Emmanuel Ramazani Shadary.

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Keynote



World's Autocrats Face Rising Resistance

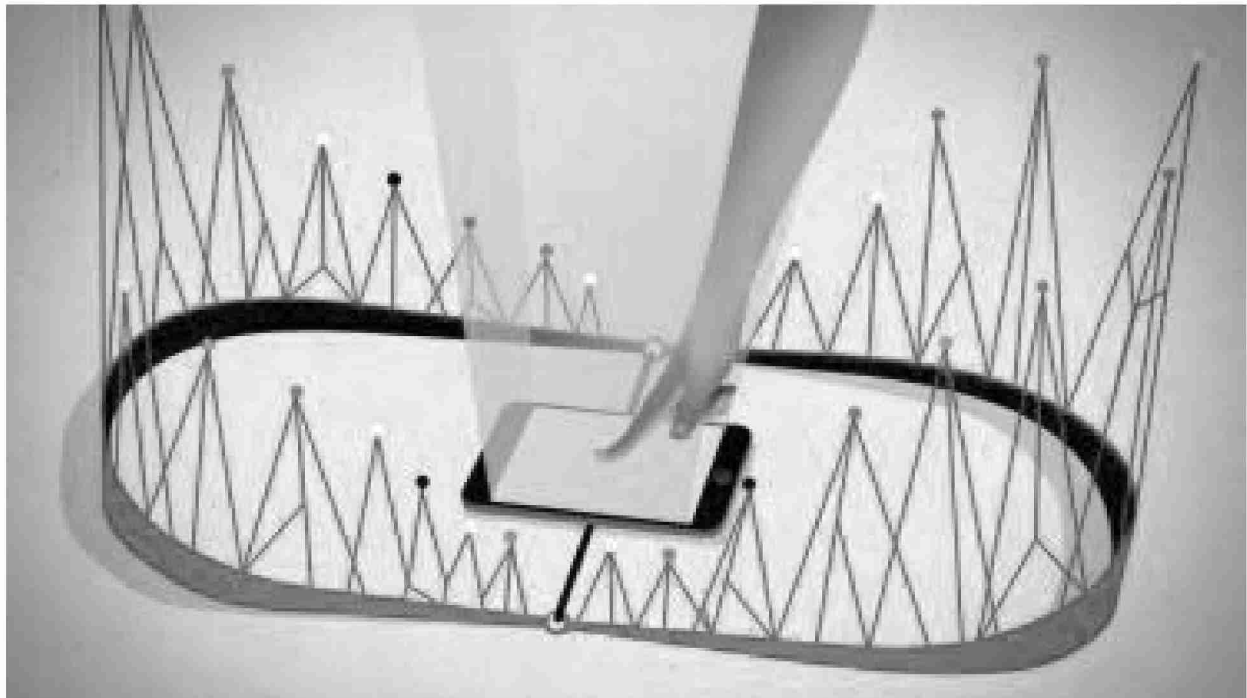


Kenneth Roth
Executive Director

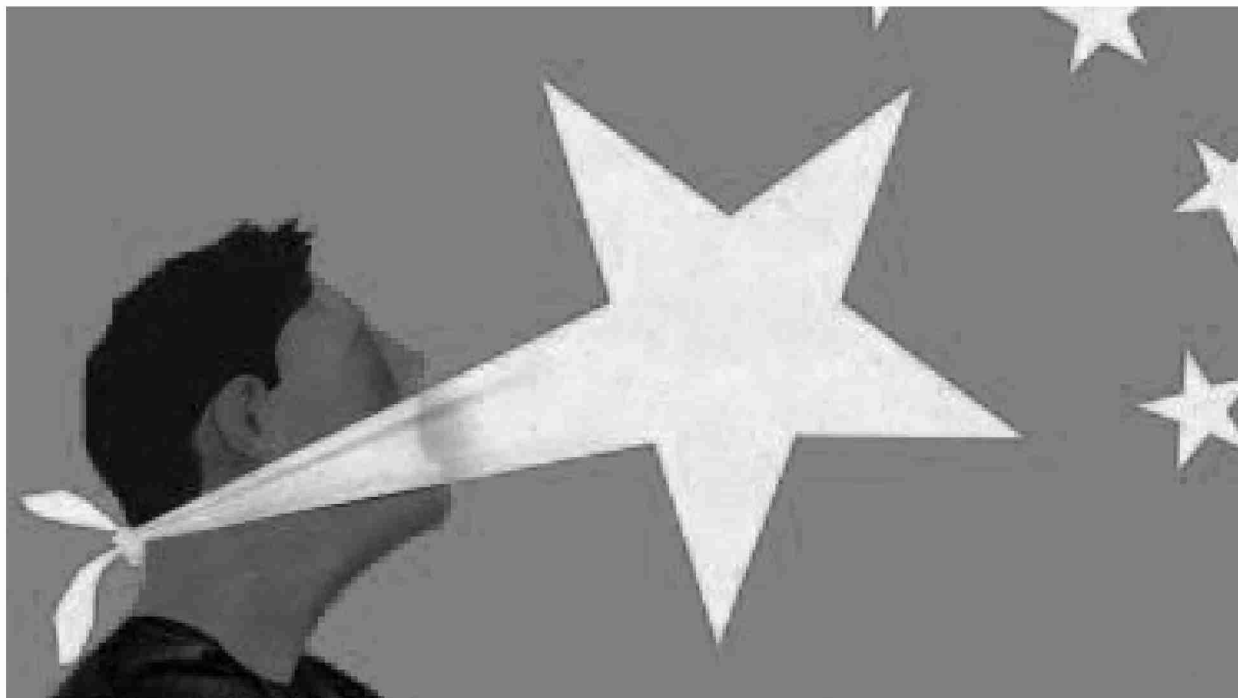
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Human Judgment and Responsibility in the Age of Technology



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Advanced Fraud Training for Adjudicators

Refugee, Asylum and International Operations (RAIO)

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Performance Objectives



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- Identify the role of the RAIO adjudicator in fraud detection
- Describe fraud indicators commonly encountered in RAIO adjudications
- Explore resources and strategies for addressing fraud indicators
- Review current fraud trends
- Assess the requirements of a well-articulated fraud referral to FDNS

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Your Role in Addressing Fraud



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Step 1: Identify fraud indicators in the record

When reviewing the A-file and systems checks prior to interview, identify any potential fraud indicators.

Step 2: Make a plan for developing the record

Develop lines of inquiry to address indicators before and during the interview. This may include consultation with your supervisor and FDNS.

Step 3: Develop testimony related to indicators

During the interview, develop the record so the fraud concerns are fully articulated and addressed.

Step 4: Refer fraud concerns to FDNS

Write a concise but specific and well-articulated fraud referral.

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FDNS General Definition of Fraud



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In the context of FDNS investigations, fraud is generally defined as a willful misrepresentation of the truth or concealment of a material fact in order to obtain a benefit for which one would otherwise not be eligible.

Fraud in RAIO adjudications tends to be encountered in several discreet, identifiable categories, which we will explore throughout this training module.

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Categories of Fraud Encountered in RAIO Adjudications



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1. Document Fraud
2. Identity Fraud
3. Relationship Fraud
4. Jurisdiction Fraud
5. Immigration Service Provider Fraud
6. Fraud in the Claim
7. Fraud Intended to Conceal National Security or Public Safety Risks
8. Access Fraud

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Document Fraud

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Document Fraud: Types of Fraudulent Documents



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There are three types of fraudulent documents:

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It is critical that matters involving suspected fraudulent documents are referred to FDNS and that applicants not leave the office with fraudulent documents.

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Document Fraud: Types of Fraudulent Documents



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Document Fraud: Types of Fraudulent Documents



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Document Fraud: Types of Fraudulent Documents



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Document Fraud: Types of Fraudulent Documents



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Document Fraud: Guidance on Retention of Suspected Fraudulent Documents



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In accordance with the *Affirmative Asylum Procedures Manual (AAPM)*, an Asylum Officer may receive a document as evidence and consider it in connection with the adjudication of the asylum application. During the course of the adjudication, the Asylum Officer may retain the original document for the purpose of determining its authenticity. If you wish to retain an original document at interview, you are to provide the applicant with a receipt using a Retention of Original Document letter that states the name of the retained document, why it is being retained, and includes your contact information.

See memo: Authority of Asylum Officers to Retain Fraudulent Documents or Documents Fraudulently Obtained

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Document Fraud: Indicators



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- Based on existing, verified exemplars, the document in question does not appear to be issued by the competent authority asserted

-
-
-
-

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-

(b)(7)(e)

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Document Fraud: Can You Spot the Indicators?



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(b)(7)(c) (b)(7)(e)

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Document Fraud: Can You Spot the Indicators?



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On the previous slide, the document was provided for the purpose of establishing past harm rising to the level of persecution.

- Fraud Indicators include:

(b)(7)(e)

- During the interview, the officer asked questions about the issuance, chain of custody, and contents of the document. The applicant was unable to explain with a reasonable level of detail the medical evaluation itself or how this document was obtained. At the end of the interview, the applicant admitted to the fraud.

Document Fraud: What You Can Do



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For concerns with the authenticity of government issued documents, please see:

-
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- **Consult with your local FDNS team**

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Document Fraud: Interview Strategies



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Identity Fraud

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Identity Fraud: Types of Identity Fraud and Indicators



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Two types of identity fraud:

- [Redacted]
- [Redacted]

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Common Indicators:

- [Redacted]
- [Redacted]
- [Redacted]
- [Redacted]
- [Redacted]
- [Redacted]
- [Redacted]
- [Redacted]

Identity Fraud: Indicator –



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Identity Fraud: What You Can Do



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- Consult with your local FDNS team if there are grounds to suspect fraud

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Identity Fraud: Interview Strategies



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Relationship Fraud

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Relationship Fraud: Indicators



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Relationship Fraud: Indicator Example



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Relationship Fraud: Documents Available Online



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Relationship Fraud: Documents Available Online



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Remember to request original documents.

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Relationship Fraud: What You Can Do



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- Review what is required to obtain the documents that establish family relationships
 - DOS reciprocity tables indicate which documents are available to establish relationship in specific countries
- Request original birth certificates, divorce documents, or marriage certificates
- Consult with your local FDNS team

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Relationship Fraud: Interview Strategies



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Jurisdiction Fraud

Jurisdiction Fraud: Indicators



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Jurisdiction Fraud: Indicator Example



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Jurisdiction Fraud: Interview Strategies



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Immigration Service Provider Fraud

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Immigration Service Provider Fraud: What Would You Do?



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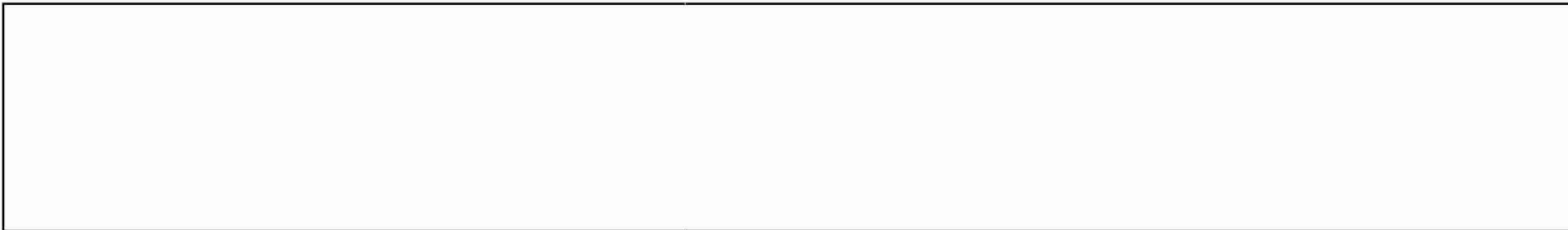
Immigration Service Provider Fraud: Indicators



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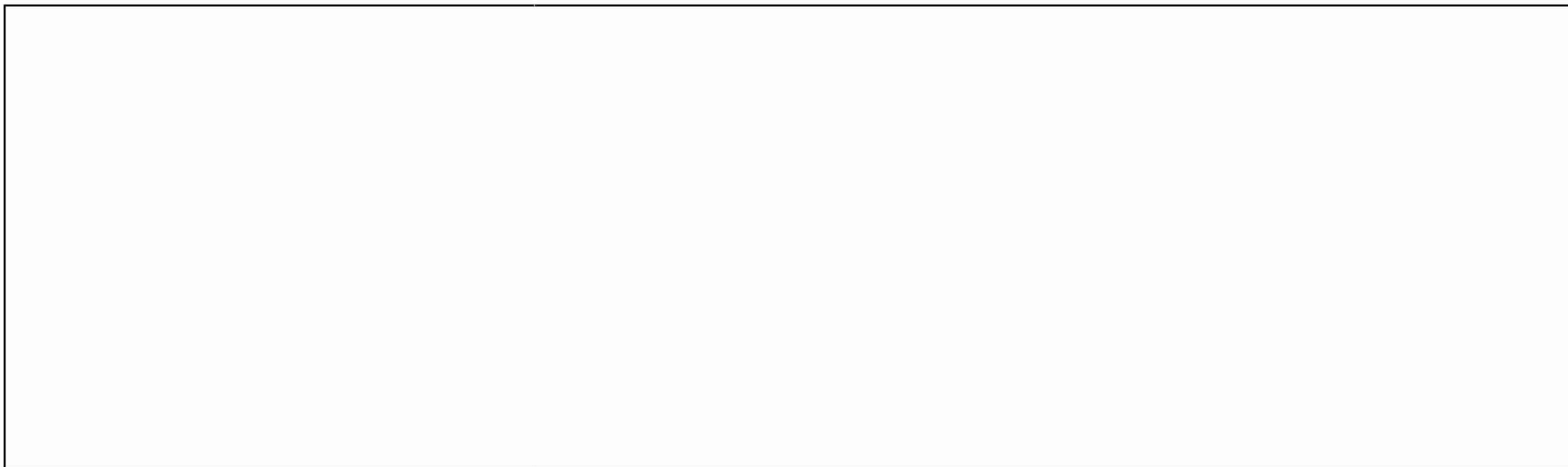
Immigration Service Providers (ISP) include: attorneys or legal representatives, preparers, interpreters

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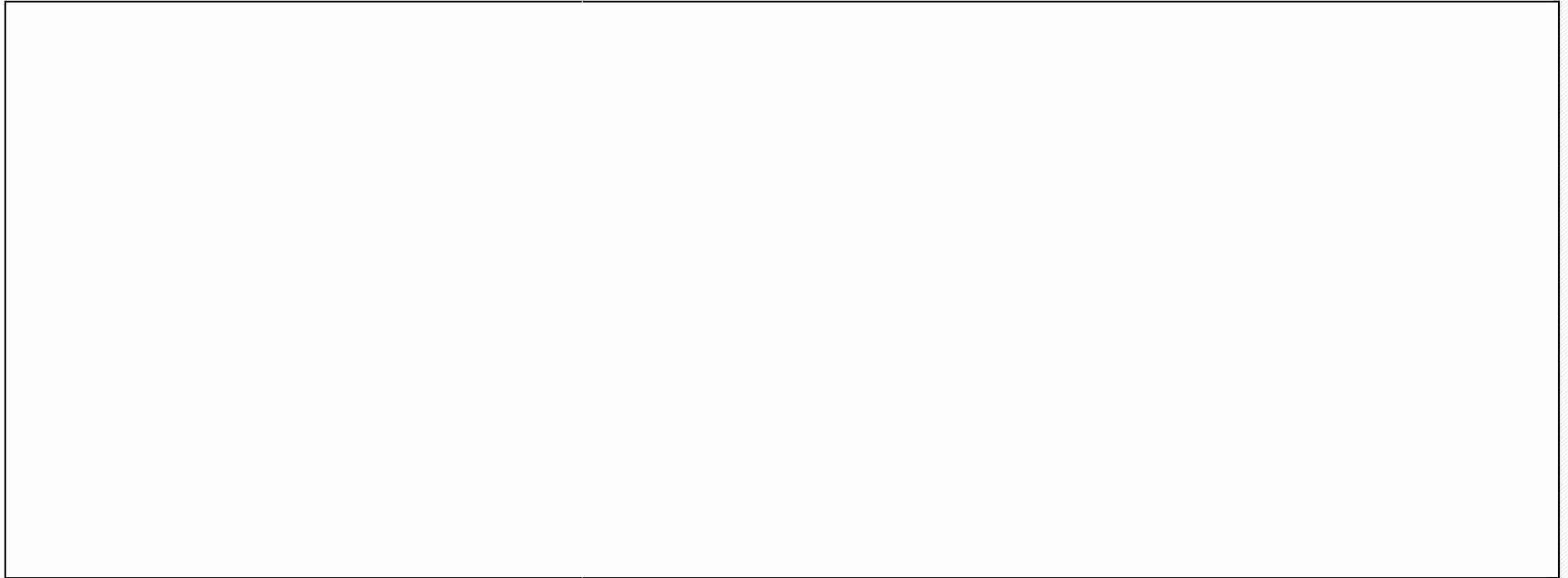


Immigration Service Provider Fraud: Indicator Example



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Immigration Service Provider Fraud: Tips



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Immigration Service Providers (ISP): attorneys or legal representatives, preparers, interpreters

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Immigration Service Provider Fraud: What You Can Do



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Immigration Service Provider Fraud: Interview Strategies

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Fraud in the Claim

Fraud in the Claim: What Would You Do?



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- How do you proceed?

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Fraud in the Claim: Types Commonly Encountered



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Fraud in the Claim: Indicators



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Services

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 - [Redacted]
 - [Redacted]
 - [Redacted]
 - [Redacted]
- (b)(7)(e)
- [Redacted]

Fraud in the Claim: What would you do?



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Fraud in the Claim: What You Can Do



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Fraud in the Claim : Interview Strategies



U.S. Citizenship
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Services

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Fraud Intended to Conceal National Security or Public Safety Risks

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Fraud Intended to Conceal NS or PS Risks: Indicator

What Would You Do?



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Fraud Intended to Conceal National Security or Public Safety Risks: Indicators



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Fraud Intended to Conceal NS or PS Risks: What Can You Do



U.S. Citizenship
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Fraud Intended to Conceal NS or PS Risks: Interview Strategies



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Access Fraud

Access Fraud in the Refugee Context: Indicators



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Access Fraud: Indicators (Cont.)



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Access Fraud: Indicator Example



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Access Fraud: What Can You Do



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Access Fraud: Interview Strategies



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and Immigration
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Access Fraud: Identified Trends



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General Interview Strategies for Addressing Fraud Indicators



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Articulating a Fraud Referral



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Submitting a Fraud Referral

Use the Fraud Referral Tab In FDNS DS



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Date of OCC review: 04/28/2020.

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Credibility Determinations

Noel Young, Training Officer

April 20, 2017

Is the applicant's testimony credible?

An applicant's testimony is credible if it is:

- Detailed
- Consistent
- Plausible

Legally Sufficient Credibility Determinations

In order to make a legally sufficient credibility determination, an Asylum Officer must employ the **five-part analytical framework** in both the interview *and* the assessment.

	Interview	Assessment
Step 1	(b)(7)(e)	
Step 2		
Step 3		
Step 4		
Step 5		

Legally Sufficient Credibility Determinations

Why do we use this five-step methodological approach?

To minimize subjectivity

A credibility finding must be clearly articulated and based on objective facts. It cannot be based on an AO's:

- “Gut” feelings
- Intuition
- Own personal experiences

Assessing Credibility in the Interview

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Assessing Credibility in the Interview

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Assessing Credibility in the Interview

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Assessing Credibility in the Interview

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Assessing Credibility in the Interview

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Assessing Credibility in the Interview

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Assessing Credibility in the Interview

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Examples: Assessing Credibility in the Interview

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Examples: Assessing Credibility in the Interview

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Examples: Assessing Credibility in the Interview

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Examples: Assessing Credibility in the Interview

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Examples: Assessing Credibility in the Interview

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Examples: Assessing Credibility in the Interview

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Examples: Assessing Credibility in the Interview

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Was applicant informed of credibility concern?

Given an opportunity to explain?

Examples

Handouts: Moldovan case; Congolese case

	Interview	Assessment
Step 1	(b)(7)(e)	
Step 2		
Step 3		
Step 4		
Step 5		

Conclusion

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Sorting out Credibility Concerns in the Moment

Prepared for the New Jersey Asylum Office
Jean Koh Peters, Yale Law School
January 13, 2014

Plan for Today

- *Two Hypotheticals*
Interspersed with
- *Review of key concepts, frameworks and aids along the way*

GOALS: 1) For each individual officer to have the questions and frameworks s/he needs to be asking in the moment of the interview clearly in mind.

2) For the Office to share its collective wisdom on addressing credibility concerns in the moment

Instructions for reading the Hypothetical

- Read only the single hypothetical assigned.
- In your individual time, note your *observations, confusions and planned actions* upon reading the hypothetical.
- When Jean prompts you, discuss the hypothetical with a neighbor. Note down any questions/insights your neighbor asks you that did not occur to you spontaneously.

Instructions for Discussion

STUDY GROUP—

What questions should the other group be asking themselves as they decide what to do in the moment during the interview?

FRESH EYES GROUP—

Offer your observations, confusions or planned actions upon reading the hypothetical.

RAIO / Asylum Five Step Analytical Framework for Credibility Determinations

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Elements of a Credibility Determination Under Real ID

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From RAIO Lesson on Credibility:

2. Is the Credibility Flaw Relevant?

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From the AOBTC Lesson on Credibility: General Considerations

1. Asylum Officers must consider the *totality of the circumstances* and all relevant evidence in making credibility determinations.
2. *Not all* misrepresentations do lead to a finding of ineligibility.
3. There is *no moral component* to credibility determinations.
4. The credibility determination must be made on *objective facts*.
5. There is *no presumption* of credibility.

Split Credibility Findings--RAIO

“In some cases, you may determine that part of the applicant's testimony is not credible, but that another part is credible. You should identify those parts of the testimony that were found not credible, explain why they were found not credible, and state whether they are relevant to the applicant's claim. You should also identify those parts of the claim that were deemed credible.”

The Three Dynamics of the Five Habits of Cross-Cultural Practice (Sue Bryant/JKP)

- NONJUDGMENT—Seek facts, delay conclusion
- ISOMORPHIC ATTRIBUTION—Seek the other person's authentic meaning when decoding their words and actions
- DAILY HABIT AND LEARNABLE SKILL—Seek daily incremental improvement in cross-cultural understanding

Takeaways on Credibility

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3 Aids for Discussing and Refining Credibility Determinations

I. Except When/Especially When

II. Parallel Universe Thinking

III. Doubting and Believing Scale

- Methodological Doubt and Belief
- Measuring Actual Doubt and Belief on a Scale
 - At Rest
 - In Flux

Aid #1: Except When/Especially When

*Goal: identify, articulate and test
generalizations to explore their validity*

How to do it: Test a generalization in three stages:

- 1) Articulate your generalization;
- 2) Add “except when” and brainstorm as many different circumstances as you can;
- 3) Add “especially when” and brainstorm as many different circumstances as you can.

Source: Binder and Bergman, Fact Investigation;

Adapted by Muneer Ahmad, Sue Bryant and Jean Koh Peters

A Sample Generalization:
falsus in Uno, falsus in Omnibus

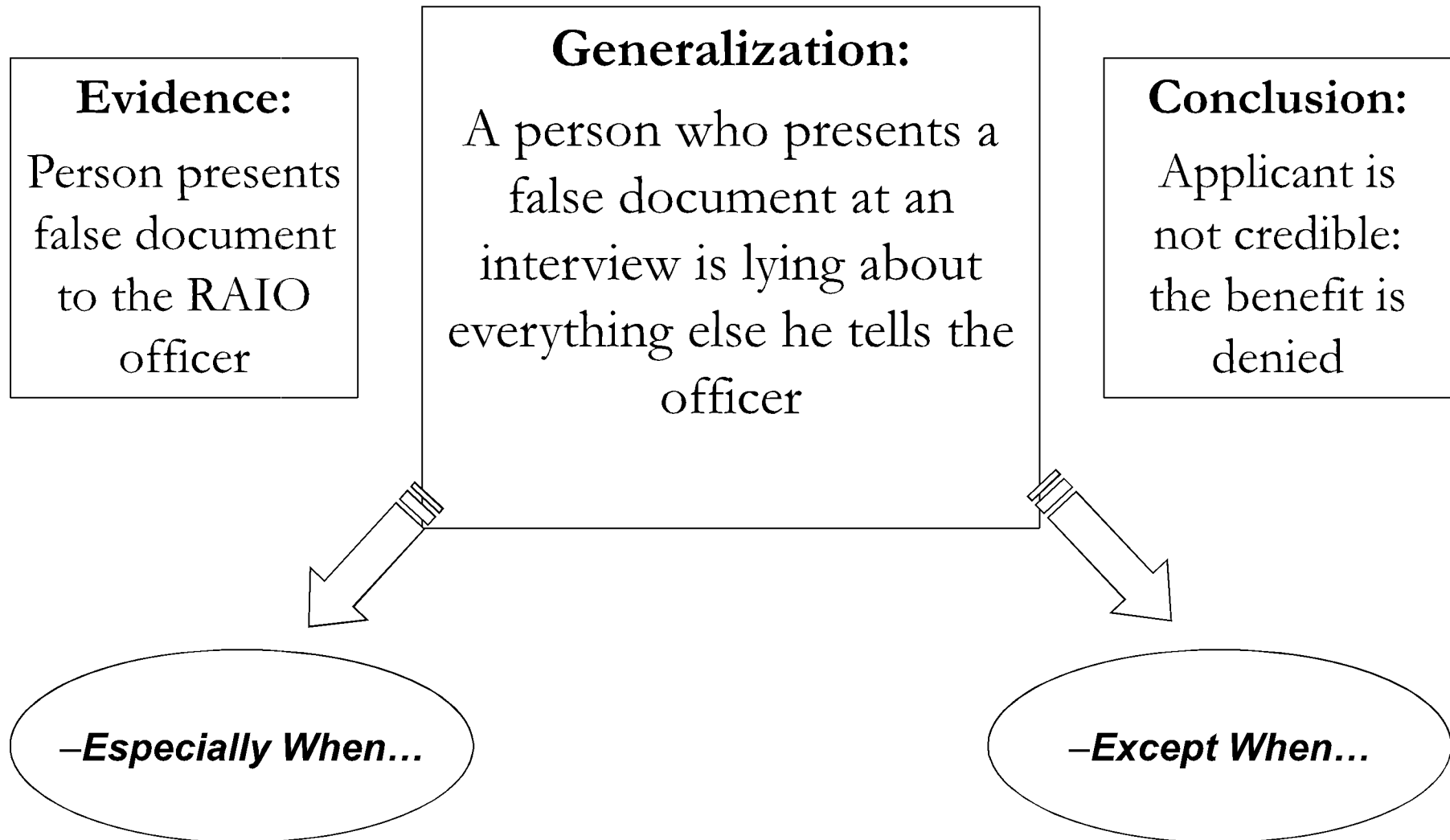
“false in One Thing, false in Everything”

Or

One who lies about one thing, lies about
everything.

Applying Except When/Especially

When to *falsus in uno*



Benefits of Except When/Especially When thinking

- “*Except When*” reveals exceptions and limits to the generalization:
 - ❖ If few exceptions are apparent, the generalization is likely accurate.
 - ❖ The more reasonable exceptions are found, the less persuasive one’s generalization is.
- “*Especially When*” analysis can narrow, refine and strengthen an overbroad generalization.

Siewe v. Gonzales (2d Cir. 2007)

FACTS:

- Siewe, a Cameroonian, produced a letter dated June 5th, 2002, appointing him the campaign manager for an SDF candidate for the national assembly, Jean-Michel Nintcheu. The letter noted that the date of the Election was June 30th, 2002.
- Siewe testified, and the DOS Human Rights report corroborated, that the elections were originally scheduled for June 23 but, on that day, were postponed to June 30th.

The Second Circuit

- The Second Circuit discussed concerns about another document in the case, an arrest warrant, and upheld the IJ's adverse credibility finding with respect to it.
- The Second Circuit focused on this letter and upheld the IJ's adverse credibility finding and denial of asylum, determining, *inter alia*:

Second Circuit in Siewe, 2007

- “a single false document or a single instance of false testimony *may* **(if attributable to the petitioner)** infect the balance of the alien’s ***uncorroborated*** or *unauthenticated* evidence.” (emphases added)

Restated:

“[A]n IJ may rely on the maxim *falsus in uno, falsus in omnibus* [false in one thing, false in everything] to discredit evidence that does not benefit from corroboration or authentication independent of the petitioner’s own credibility.”

Second Circuit in Siewe continues:

“However, there are limitations to the invocation of *falsus in uno*; they generally fall into five categories:”

Exceptions to *falsus in uno*

- **Exception 1:** A finding that the petitioner adduced false evidence does not excuse the assessment of evidence that is independently corroborated.

Exceptions to *falsus in uno*

- **Exception 2:** The presentation of fraudulent documents that were created to escape persecution may actually tend to support an alien's application. (This generally does not include false documents submitted as genuine in support of the asylum application.)

Exceptions to *falsus in uno*

- **Exception 3:** False evidence that is wholly ancillary to the alien's claim may, in some circumstances, be insufficient by itself to warrant a conclusion that the entirety of the alien's uncorroborated material evidence is also false.
 - This exception may have been modified in the asylum context by the adoption of the REAL ID Act.

Exceptions to *falsus in uno*

- **Exception 4:** A false statement made during an airport interview, depending on the circumstances, may not be a sufficient ground for invoking *falsus in uno*.
- Aliens may “not be entirely forthcoming” during the initial interview due to their perception that it is “coercive” or “threatening,” particularly aliens who may have a well-founded fear of government authorities in general.

Exceptions to *falsus in uno*

- **Exception 5:** An alien's submission of documentary evidence that the alien does not know, and has no reason to know, is inauthentic, is no basis for *falsus in uno*.

Note also in Siewe

- The Second Circuit had already found a second problematic document in that case.

More notes on *falsus in uno*

Justice Sotomayor, then on the Second Circuit, wrote that the *falsus in uno* maxim had “limited value” (2006).

Seventh Circuit: Repudiates *falsus in uno* and First Circuit reasoning in strong terms

Kadia v. Mukasey (7th Cir. 2007) on *falsus in uno*

“The immigration judge failed to distinguish between material lies, on the one hand, and innocent mistakes, trivial inconsistencies, and harmless exaggerations, on the other hand. In effect, he applied the discredited doctrine of, *falsus in omnibus* (false in one thing, false in all things), which Wigmore called "primitive psychology" ... and an 'absolutely false maxim of life.'”

3 Aids for Discussing and Refining Credibility Determinations

I. Except When/Especially When

II. Parallel Universe Thinking

III. Doubting and Believing

- Methodological Doubt and Belief
- Measuring Actual Doubt and Belief on a Scale
 - At Rest
 - In Flux

II. Parallel Universe Thinking:

“Entering the
cultural imagination
of the other”
--Raymonde Carroll

“Down the rabbit hole”
--Lewis Carroll

**Generate multiple
explanations
for the same facts**

GOALS:

- Suspending conclusions & judgments
- Enlarging & refracting understandings of how the world works
- Suggesting inquiries for future understanding

Source: Bryant and Peters, Five Habits of Cross Cultural Lawyering

3 Aids for Discussing and Refining Credibility Determinations

I. Except When/Especially When

II. Parallel Universe Thinking

III. Doubting and Believing

- Methodological Doubt and Belief
- Measuring Actual Doubt and Belief on a Scale
 - At Rest
 - In Flux

» Sources: Peter Elbow; Mark Weisberg and Jean Koh Peters; Sue Bryant and Jean Koh Peters

The Doubting/Believing Spectrum

Pure Belief

Pure Doubt



Real-Life Experiences of Pure Doubt and Pure Belief

III. Doubting and Believing

A. Locating yourself on the
Spectrum

B. Methodological Doubt,
Methodological Belief

C. Tracking your Actual Doubt
and Belief: The Lineup

The Doubting/Believing Scale: Tracking Actual Doubt and Belief at Rest

On a 100 point Doubting and Believing Scale, 0 being Pure Belief and 100 being Pure Doubt, in writing, plot the point at which your level of current **ACTUAL** belief or doubt of the interviewee's claim rests. Try to be as precise as possible.

Pure Belief

Pure Doubt

100

0

Source: Mark Weisberg and Jean Koh Peters

B. Methodological Doubt and Belief

KEY: undertake pure doubt and pure belief:

- i. consciously**
- ii. systematically**
- iii. explicitly**
- iv. with discipline**

Source: *Methodological Doubting and Believing: Contraries in Inquiry*, in Peter Elbow,
EMBRACING CONTRARIES: EXPLORATIONS IN LEARNING AND
TEACHING 258 (1986)

Individual Exercise: Methodological Doubt

– Consider the applicant's account and

- **doubt** everything,
- **no matter how compelling** it might seem
- to find **flaws or contradictions** we might otherwise miss.

Individual, then Group Exercise: Methodological Belief

– Consider the applicant's story and

- **believe** everything,
- **no matter how unlikely or repellent** it might seem
- to find **virtues or strengths** we might otherwise miss.

Introduction to Poetry

Billy Collins

I ask them to take a poem
and hold it up to the light
like a color slide
or press an ear against its hive.

I say drop a mouse into a poem
and watch him probe his way out,
or walk inside the poem's room
and feel the walls for a light
switch.

I want them to waterski
across the surface of a poem

waving at the author's name on
the shore.

But all they want to do
is tie the poem to a chair with
rope
and torture a confession out of it.

They begin beating it with a hose
to find out what it really means.

The Apple that Astonished Paris, 1996, University of Arkansas Press, Fayetteville, Ar

4 Observations about Methodological Doubt and Belief

1. Disciplines you to be wary of acting BEFORE you have subjected your action plan to both methodological doubt and belief.
2. Offers those who naturally gravitate to one pole or the other a way to check themselves.
3. Creates a practice for deeply exploring closely, passionately held views.
4. Balances out the widely held misconception that rigorous thinking requires doubt alone.

C. Doubting/Believing Spectrum: Tracking Actual Doubt and Belief in Flux

Source: Sue Bryant and Jean Koh Peters

FINAL REVIEW

I. ***RAIO/Asylum Five Step Analytical Framework for Credibility Determinations**

II. **REAL ID and Second Circuit Law**

II. **3 Aids in Credibility Determinations**

- *Except When/Especially When*
- *Parallel Universe Thinking*
- *Methodological Doubt and Belief*

Your Parting Thoughts

Thinking about Falsehood:
**How do we think differently about
different kinds of inaccuracies?**

In roughly how many cases do you believe you end up with inaccuracies, of any kind, in your final developed record?

- a. 0-20%
- b. 20-40%
- c. 40-60%
- d. 60-80%
- e. 80-100%

Kinds of Inaccurate Information

- Inaccurate as interpreted by Officer
- Inaccurate, 100% attributable to applicant
 - Unknowing—Mistake, Deceived by Others
 - Knowing
 - Knowing Falsehoods

Why would an Applicant knowingly tell
a falsehood to you?

Which Ones Trouble us the Most?

What troubles us the most about being
lied to?

Reviewing:

What is the Asylum Office's and the Second Circuit's general approach to credibility?

CREDIBILITY

**A ZNK Training Production
December 9, 2015**

RAIO's 5-Step Approach to Credibility Determinations

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No Presumption of Credibility

You must evaluate credibility in every case. The statute states, in pertinent part, that: “There is no presumption of credibility.” An applicant must establish his or her credibility as a component of meeting his or her burden of proof. The statute further requires that you consider “the totality of the circumstances, and all relevant factors,” when making a credibility determination. INA § 208(b)(1)(B)(iii).

*From the Credibility Training Module,
Asylum Division Supplement*

***As Lauren likes to say, make questions,
not conclusions.***

***You are a fact finder, not an interrogator who fits
evidence to an hypothesis.***

REAL ID Act and “Other Relevant Factors”

The REAL ID Act added a section on credibility to the INA. Congress’ purpose in adding guidance concerning credibility and corroboration to the INA was to “...bring clarity and consistency to evidentiary determinations by codifying standards for determining the credibility of applicant testimony, and determining when corroborating evidence may be required.” H.R. Rep. No. 109-72 (2005).

The major provisions of the REAL ID Act are:

- The requirement that the adjudicator consider the “totality of the circumstances”
- A listing of factors that an adjudicator **may** consider in making such a determination
- The removal of a requirement that credibility flaws must “go to the heart of the claim”

“It is not clear how much these provisions have actually changed what an adjudicator does in making a credibility determination... but in the BIA’s view, the changes brought about by the REAL ID Act amendments are minimal.” *Matter of J-Y-C, 24, I&N Dec. 260 (BIA 2007)*

*From the Credibility Training Module,
Asylum Division Supplement*

“... overall credibility determination does not necessarily rise or fall on each element of the witness's testimony, but rather is more properly decided on the cumulative effect of the entirety of all such elements. Where, as here [*Jishiashvili v. U.S. Attorney General*], the asylum applicant has presented testimony that was for the most part quite detailed, internally consistent, materially in accord with his asylum application, and ... there is supportive evidence of general country conditions and some corroborative documentation of the applicant's testimony...” In *Jishiashvili*, the adjudicator was not justified “...in concluding that the applicant is not credible based on a few equivocal aspects not logically compelled by the record or by reason or common sense.” [402 F.3d 386, 396 (3d Cir. 2005)]

Two Useful Qualities...

Open-minded

and

Skeptical

General Considerations

- 1) Must Consider the Totality of the Circumstances and All Relevant Evidence When Making a Credibility Determination
- 2) Misrepresentations Do Not Necessarily Lead to a Finding of Ineligibility
- 3) There is No Moral Component to Credibility Determinations
- 4) A Credibility Finding Must be Based on Objective Facts Only

Credibility Defined Under Real ID

“Considering the totality of the circumstances, and all relevant factors, a trier of fact may base a credibility determination on:

- the **demeanor, candor, or responsiveness** of the applicant or witness
- the **inherent plausibility** of the applicant’s or witness’s account
- the **consistency between the applicant’s or witness’s written and oral** statements (whenever made and whether or not under oath, and considering the circumstances under which the statements were made)
- the **internal consistency** of each such statement
- the **consistency of such statements with other evidence** of record (including the reports of the Department of State on country conditions)
- and **any inaccuracies or falsehoods** in such statements, without regard to whether an inconsistency, inaccuracy, or falsehood goes to the heart of the applicant’s claim
- or **any other relevant factor**.

Old Credibility

- 1) Factual Analysis -**
Does the Evidence
Indicate Applicant
Testified Credibly?

Consider:

- Consistency
- Plausibility
- Detail

- 2) Legal Analysis - Is**
the Credibility Flaw
Material?

New Credibility

- 1) Factual Analysis -**
Does the Evidence
Indicate Applicant
Testified Credibly?

Consider:

- All relevant factors

- 2) Legal Analysis - Is**
the Credibility Flaw
Relevant?

(considering the totality
of the circumstances)

Q: Is there *any* use for “gut feelings” 

A: Yes.

If you have a gut feeling that the applicant is lying, use the feeling to guide your interview – *ask more questions and see if the testimony holds up.*

Remember, other factors may affect candor:

(b)(7)(e)

Legal Analysis: “Is the Flaw Relevant?”

Relevant

1: tending logically to prove or disprove a fact of consequence or to make the fact more or less probable and thereby aiding the trier of fact in making a decision

Explain Why the Factor is Relevant

The AO must provide **specific, cogent reasons, or a legitimate articulable basis** for an adverse credibility finding.

Lack of corroboration ≠ Implausible

- ❖ The fact that no corroboration of the existence of a particular group or event is found in country reports does not necessarily render the claim implausible.

The weight to be given to the fact that country conditions information fails to corroborate a claim depends on the specific allegations, the country, and the context of the claim.

What consistency standard are we looking for in the interview



General rule:

Applicant's provision of statements that are internally consistent, consistent with their other statements, and consistent with other evidence in the record supports a positive credibility finding in light of the totality of the circumstances.

DETAIL

AO's Duty to Elicit Detail

We can't assume applicant knows how much detail to give us, we have to **ask** for it.





Step 1: Factual Analysis



- ⊕ Examine the credibility evidence:

- ⊕ Demeanor, candor, or responsiveness
- ⊕ Implausibility
- ⊕ Consistency
- ⊕ Inaccuracies or falsehoods
- ⊕ Any other relevant factor

Step 2: Legal Analysis

Asks the question:

Q: Is the flaw relevant?

Step 2: Legal Analysis: “Is the Flaw Relevant?”

Relevant

1: evidence tending to prove or disprove a matter at issue.

(Black’s Law Dict., 8th Ed. 2004)

Relevant Evidence

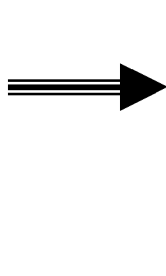
Relevant evidence is **probative**,
it affords proof of a matter.



Hence, relevant evidence tips the
credibility scale in one direction or
the other.

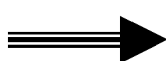
“Relevant” is broader than “Material”

The old standard
(*narrow*)



The credibility flaw had to be
material - *outcome*
determinative.

The new standard
(**w i d e**)



The credibility flaw has to be
relevant - *probative.*

A credibility factor does not have to go to the heart of the claim



From the RealID Act:

“...without regard to whether an inconsistency, inaccuracy, or falsehood goes to the heart of the applicant’s claim.”

What effect does the wider definition?
have on your credibility analysis ?

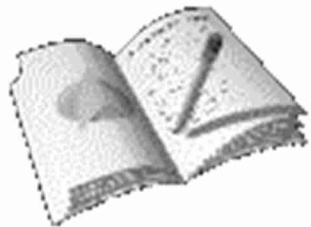


You can now examine more factors as an
indication of applicant's truthfulness.

Explain Why

The AO must provide **specific, cogent reasons, or a legitimate articulable basis** for an adverse credibility finding.

1. Explain why any factor relied upon is relevant
2. Explain why applicant's explanation is not reasonable.



Give the Applicant an Opportunity to Explain Every Discrepancy



Opportunity to Explain

- At The Interview and On The Record

⊕ You must provide an opportunity to explain any discrepancy or inconsistency that is discovered.

⊕ The applicant may have a legitimate reason for having related testimony that outwardly appears to contain an inconsistency, or there may have been a misunderstanding between the asylum officer and the applicant.

⊕ Similarly, there may be a legitimate explanation for a discrepancy or inconsistency between information on the I-589 and the applicant's oral testimony.

Explain Why Applicant's Explanation is Not Sufficient

ASSESSMENT TO REFER

(b)(6)

"The applicant's explanation is not reasonable because..."