

# Understanding the Asylum Process in the United States After May 31, 2022

This guide was prepared by the staff of American Gateways and was written for detained immigrants in Pearsall, Texas who are representing themselves *pro se* in their removal proceedings. American Gateways is a nonprofit legal services organization that provides services to immigrants in Central Texas.

*This guide is not intended to provide legal advice or serve as a substitute for legal counsel.*

If you would like to speak with someone from American Gateways, please call **210-521-4768 ext. 250**

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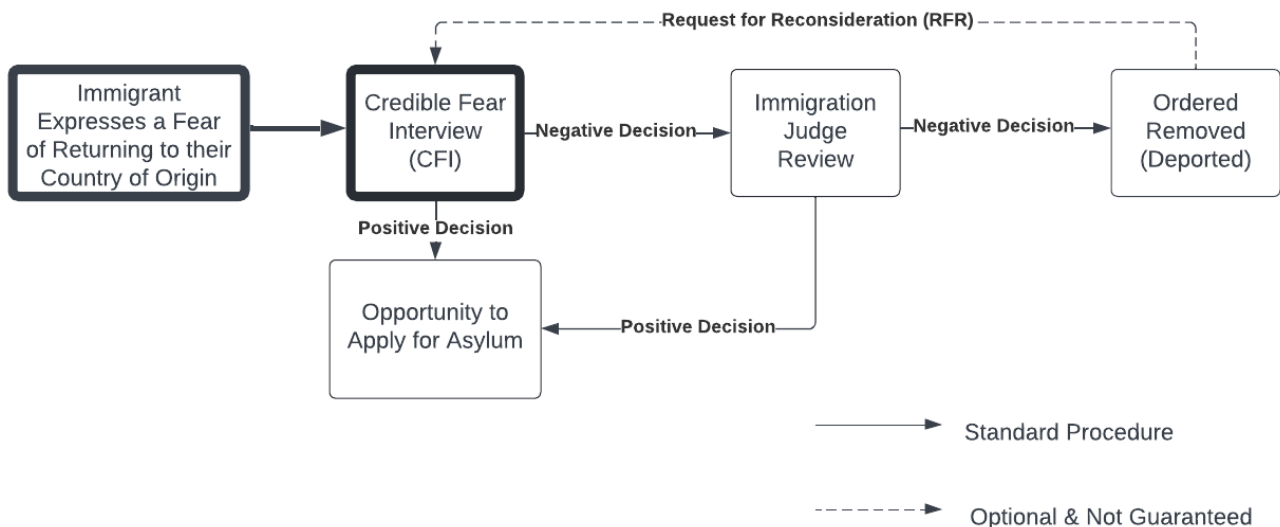
### I. WHY ARE YOU BEING DETAINED?

You are being detained by the Immigration and Customs Enforcement (ICE), which is a part of the United States Department of Homeland Security (DHS). Sometimes ICE/DHS are simply referred to as “Immigration.” You are here because the United States government thinks you broke an immigration law – that you came to the United States without permission.

The government is trying to remove you from the United States. This process is also sometimes called “deportation.” If you do not fight your case, you will be ordered to leave the United States and may not be able to legally return to the United States for many years. If you are still in detention when you receive a final removal order, the United States government will physically send you back to your home country.

You may qualify to stay in this country. Most of you requested asylum when you first entered the country or when you were detained by an immigration official after entering the country without permission.

### II. EXPEDITED REMOVAL PROCEEDINGS



## Requesting Asylum

You are probably in one of the following two situations:

- You are an **Arriving “Alien.”** This means you came to the Port of Entry at the border and told the immigration officer that you have a fear of returning to your country; OR
- You **Entered Without Inspection.** This means you entered the United States without permission and were here for some period of time before you were arrested by an immigration official. When you were arrested, you informed an official that you have a fear of returning to your country.

## Expedited Removal

You were put in “expedited removal” proceedings. This is a type of removal (or deportation) proceeding for people who come to the United States without proper documentation and have been in the United States for a short amount of time. This is generally a quick process to decide if you will be given an opportunity to apply for asylum.

## Credible Fear Interview (CFI)

Because you expressed a fear of returning to your home country, an asylum officer will interview you and decide whether you have a credible fear of persecution if you are returned to your country.

- **What does it mean to have “credible fear of persecution?”** During the interview, the asylum officer will ask you about your fear of returning to your native country. The officer will give you a ***positive decision*** if they believe that you are afraid to return to your native country because you would be persecuted because of your ***race, religion, nationality, political opinion, or membership in a particular social group.***

## Immigration Judge Review

If you received a negative decision after your credible fear interview, you will then have the opportunity for an immigration judge to decide whether they believe you have a credible fear.

- If they give you a positive decision, you will then have the opportunity to apply for asylum.
- If they give you a negative decision, you will be ordered deported but have the option of sending the asylum office a Request for Reconsideration.

## Parole\* (Conditional Release)

Individuals may be considered for parole (or release from detention) throughout the expedited removal process.

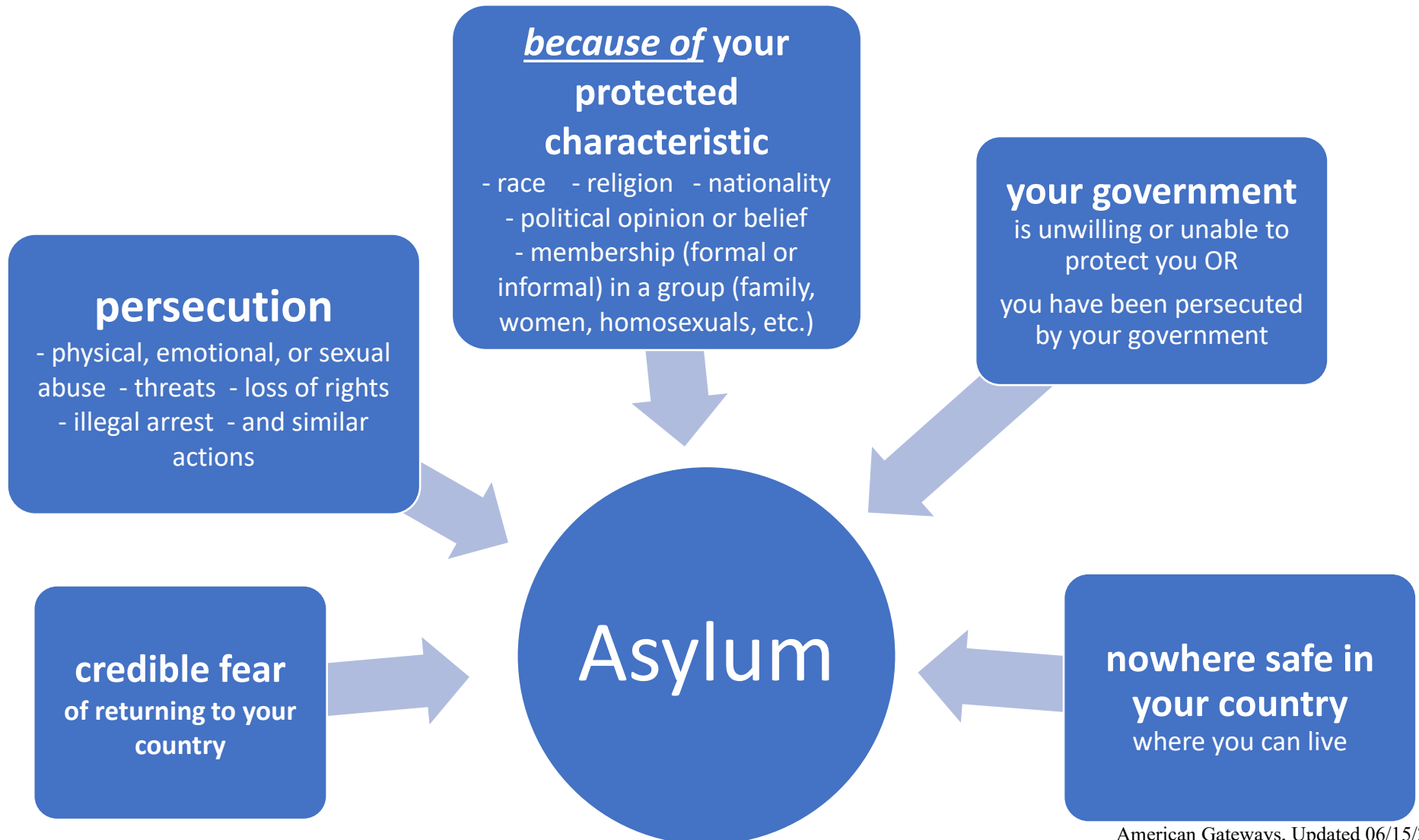
- If you are released on parole, that does not mean your case is over. Your case will continue at the Asylum Office and Immigration Court nearest to you.
- Please see the detention center library for additional resources on seeking parole.

\*NOTE: Being released on parole while in expedited removal proceedings only allows you to leave detention, it does NOT make you eligible to apply for work authorization.

### III. PREPARING TO TALK ABOUT YOUR ASYLUM CASE

Before your credible fear interview, immigration judge review, or the review of your asylum application, think about what you want to say. You can focus on your current fear and why you came to the United States at this time. **Everything you say is confidential.** No one in your home country will know the information you share. To practice, answer the questions: Why are you afraid to return? What has happened to you in your country of origin? Why did that happen to you? When did it happen? What would happen if you had to return? How do you know that the authorities in your country are not going to protect you? Is there anywhere you can live safely in your country?

Your job is to tell the truth and show that your case meets the asylum requirements listed here:



#### IV. SEEKING ASYLUM AFTER MAY 31, 2022

On May 31, 2022, new asylum processing rules went into effect. The new rules do not currently affect everyone in expedited removal proceedings; however, they do affect certain individuals who the United States government has selected based on where they plan to live in the United States.

**The information from this point forward applies only to those subject to the new rules.**

#### REQUESTS FOR RECONSIDERATION (RFR)

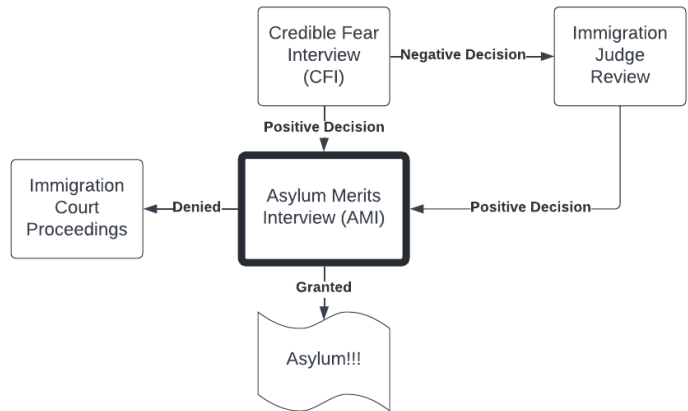
- A Request for Reconsideration (RFR) can be sent to the Asylum Office if the immigration judge also gives you a negative decision. An RFR is a request for another interview with an asylum officer. You are not guaranteed another interview.
- You must submit an RFR within 7 days of receiving a negative decision from the immigration judge.
- You can only submit one RFR.
- *Please see the detention center library for additional resources on how to write and submit an RFR to your local Asylum Office.*

\*The local Asylum Office for individuals detained in Pearsall, Texas is\*

Houston Asylum Office  
16630 Imperial Valley Dr. #200  
Houston, TX 77060

#### ASYLUM MERITS INTERVIEW (AMI)

- If you received a positive decision after your credible fear interview and are released after your CFI to one of the following six cities: **Boston, Los Angeles, Miami, New York, Newark, or San Francisco**, you will likely then have an Asylum Merits Interview (AMI). At your AMI, an asylum officer (not an immigration judge) will review your case and all of the evidence presented.
- Your Asylum Merits Interview (AMI) should be held 21-45 days from when you received a copy of the record of your positive credible fear decision.
- The information you provide at your CFI becomes your asylum application (no form is required).
  - o The date you receive a copy of your CFI record is considered the date you applied for asylum.
- All changes, corrections and additional information or evidence are due to the Asylum Office 7 days before the AMI (10 days if sent by mail).
  - o Asylum officers may consider late submissions for good cause.
  - o Generally, asylum officers will not consider late submissions that would prevent them from making a decision within 60 days after you receive the CFI record.
- **You have the right to:**
  - o Have an attorney represent you at the AMI, but the Government will not provide a lawyer;
  - o Make a closing statement at the end of the AMI; AND
  - o Request an interpreter in your native language or a language you are **fluent** in.
- If the Asylum Officer grants your application for asylum, you have won your case and now have legal immigration status in the United States as an asylee – congratulations!
- If the Asylum Officer denies your application for asylum, you will have the opportunity for an immigration judge to review your asylum application in streamlined immigration court proceedings.



## Streamlined Immigration Court Proceedings After Denial at Asylum Merits Interview



### Initial Master Calendar Hearing (MCH)

- This is a preliminary hearing where the judge will inform you of your rights and review the information in the Notice to Appear.
- The MCH should be scheduled 30-35 days after an asylum officer denies your application for asylum after an AMI.
- You should receive a full transcript of your AMI at this hearing, if not sooner.

### Status Conference (SC)

- This is another preliminary hearing where both the asylum applicant and the government attorney must provide the court with specific information.
- The SC should be scheduled 30-35 days after the MCH.
- At the SC you must tell the court:
  - o If you will testify;
  - o Who you will call as witnesses;
  - o If you plan to file additional evidence;
  - o If there were mistakes or things left out from the AMI record;
  - o If you wish to continue with your application for asylum; AND
  - o If you will apply for any other immigration relief besides asylum.
- Generally, you must submit all additional evidence no later than the SC.

### Individual Calendar Hearing (Merits Hearing)

- This is your final hearing in front of the immigration judge where you will present your case.
- The Merits Hearing should be scheduled 30 days after the SC or 60-65 days after the MCH.
  - o The Merits Hearing must be held within 135 days of the MCH unless fundamentally unfair
- The immigration judge may make a decision without a Merits Hearing:
  - o If the immigration judge decides they can approve the case based on the AMI record and evidence submitted; OR
  - o If no one requests testimony and the government attorney does not ask to speak with you.

### **\*\*\*IMPORTANT NOTES\*\*\***

- **You have the right to:**
  - o A lawyer, but the Government will not provide a lawyer;
  - o An interpreter in your native language or a language you are fluent in;
  - o Offer testimony;
    - Waiving your right to offer testimony could result in not having a final Merits Hearing.
  - o Present all defenses you qualify for; AND
  - o Appeal the immigration judge's decision.
- If you choose to apply for a defense other than asylum and meet the basic requirements, your case will not move on the same timeline and will likely move more slowly.
- It is possible to ask for deadline extensions if you can show there is a good reason for the extension.
  - o Each extension cannot be longer than 10 days unless the immigration judge decides a longer extension would be more efficient.
  - o You cannot receive more than a total of 30 days of extensions throughout your case.
  - o If there are scheduling delays caused by the immigration court or government attorney, those days **should not** be considered in your requests for extensions.
    - DHS' failure to meet deadlines also does not mean you advance to the next step automatically or that you will be automatically granted asylum.