AGENDA ITEMS FOR FEBRUARY 9, 2017
COMBINED AILA SOUTH FLORIDA-USCIS MIAMI AND FLORIDA BAR COMMITTEE LIAISON MEETING

EXCESSIVE WAIT TIMES AT LOCAL FIELD OFFICES FOR INTERVIEW AND INFOPASS APPOINTMENTS

At our last meeting on August 11, 2016, USCIS indicated that it considers a wait time of more than one hour for an interview or InfoPass appointment to be excessive. Unfortunately members continue to report having excessive wait times of over 1 hour for interviews and/or INFOPASS appointments at the local field offices. AILA has provided USCIS leadership with monthly reports with numerous examples reported from members, as requested by CIS at our last meeting. Additionally, at our monthly luncheon on January 11, 2017, we polled the audience of over 100 members to see how many have been experiencing wait times of over 1 hour at the local field offices, and nearly every member raised their hands. There does not seem to be any sign of improvement, particularly in the Miami and Oakland Park offices.

Additionally, we have received numerous reports from members that if an applicant arrives early for an appointment (for example, 15 minutes), and turns in the appointment notice at the reception desk, they are not checked in until their appointment time or even 10-15 minutes after the appointment time, thus potentially making the wait times appear to be less than they actually are.

1. **Please advise what is being done by USCIS to address the continuing and increasing delays in wait times for appointments?**

   RESPONSE: We continue to reassess interview intervals to ensure the upmost customer service. Wait time includes file review by the officers before the applicant is called for interview.

   USCIS indicated that the wait times at the USCIS Miami District are ½ hour less than national average times. The delays being reported by AILA members is not consistent with the check-in mechanisms they have in place for recording wait times.

2. **What is the standard operating procedure for checking applicants in?**

   RESPONSE: Check-in is done during the 15-minute window preceding the interview.

Often there is only 1 InfoPass desk open, creating long waits for InfoPass appointments.

For each office, please provide the following information:

3. **How many InfoPass appointments are available each day? How many officers are dedicated to InfoPass appointments each day? How many days of the week are InfoPass appointments made available?**

   RESPONSE: We open appointments every day and frequently on Saturdays. The number of InfoPass appointments and officers available at each field office varies by day and time of day. The number of appointments offered at each office may be up to 650 a week and often results in excess availability.

4. **How does USCIS measure the effectiveness and/or efficiency of InfoPass appointments?**

   RESPONSE: We have various internal control and monitoring mechanisms to evaluate the effectiveness and efficiency of InfoPass appointments.

REQUEST FOR REIMPLEMENTATION OF USCIS APPOINTMENT SYSTEM AND/OR EMAIL INQUIRY SYSTEM FOR AILA MEMBERS

In the past the Miami District operated an appointment system for AILA members, which was discontinued. The West Palm Beach Field Office has reinstated AILA InfoPass Appointments as of November 2016. By all accounts the program has been a success. At the WPB Field Office, AILA coordinates the scheduling of a limited number of daily slots (5) available exclusively to our members. The program has yielded efficiencies for both AILA and USCIS and many cases are adjudicated during these appointments. For AILA it is especially helpful when a case issue arises suddenly and requires immediate action but no traditional InfoPass appointments are available for weeks into the future. This is a very common occurrence.

In the Miami District our members have to juggle with cases pending at four different field offices, and it has become increasingly cumbersome for our members to effectively follow up and receive adjudications on our clients' cases by having to make at least 3 inquiries over a 4 month time period before it can be escalated to District Leadership through our existing complaint system. It has become burdensome from both a logistical and practical standpoint. There have been additional complications, such as medical examinations aging out, due to the delays in adjudications.

Especially in light of the fact that no such requirements are necessary for congressional inquiries, we respectfully request a modification in how our members can communicate with the local field offices.

5. **Is the Miami District open to discussing the possibility of reinstating a USCIS Appointment System for AILA members? Is the Miami District open to discussing the possibility of reinstating an email inquiry system for AILA members?**

RESPONSE: No, but thank you for bringing this to our attention. The Acting Tampa District Director was unaware of the Infopass practice at WPB and has ceased the attorney appointment system in order to be consisted with all Florida offices.

CUBAN PAROLE

The Obama administration announced the end of the "Wet Foot, Dry Foot" policy for Cuban nationals on January 12, 2017. The announcement indicates that the new policy applies to Cuban nationals who entered and/or who were "encountered" in the U.S. after January 12, 2017. A member's client appeared at an InfoPass appointment at the Miami Field Office on Friday, January 13, 2017 requesting a Cuban parole, and was given a hand-out instructing them to contact Deferred Inspections (CBP). At Deferred Inspections, he was instructed to appear at CBP in Dania Beach. The attorney called CBP in Dania Beach and was informed that if a Cuban national appeared to seek parole, they would be detained and processed as any other person who had entered without inspection.

6. **Has USCIS' policy and procedure changed regarding Cuban Parole after this recent announcement? If so, what is the new policy and procedure?**

   RESPONSE: Yes, we are following the January 12, 2017 DHS Secretary's directive. Any Cuban national who makes a request for parole to USCIS on or after 4:59 pm 1/12/17 will be treated as any other foreign national making a parole request.

7. **Is USCIS still following the procedures outlined on the USCIS memo dated March 4, 2008, titled "Processing of Initial Parole or Renewal Parole Requests Presented by Natives or Citizens of Cuba to USCIS Field Offices?"**

   RESPONSE: No. The memorandum titled, "Processing of Initial Parole or Renewal Parole Requests Presented by Natives or Citizens of Cuba to USCIS Field Offices" has been superseded.

Obama's statement said that "Effective immediately, Cuban nationals who attempt to enter the United States illegally and do not qualify for *humanitarian relief* will be subject to removal, consistent with U.S. law and enforcement priorities."

8. **What is considered to be *humanitarian relief*? Would that include humanitarian parole? If not, why not?**

   RESPONSE: Procedures for humanitarian parole remain the same. Humanitarian parole is granted by USCIS on a case-by-case basis.

9. **If an individual entered prior to January 12, 2017, but has not yet been "encountered," will that individual still be eligible for parole from USCIS?**

   RESPONSE: No.

10. What evidence will be required to prove entry prior to January 12, 2017?

RESPONSE: The individual must provide evidence of his or her encounter with **CBP** or of having made a request for parole with USCIS on or before 4:59pm EST on January 12, 2017.

***USCIS indicated that Infopass appointments made before* 4:59pm EST on January 12, 2017, will also be considered as evidence to prove entry.**

The Meissner memo issued April 19, 1999 speaks to parole and release. It provides . . . "Finally, the Office of the General Counsel has advised the Service concerning the relationship between **parole** under § 212(d)(5) and **"release"** under § 236. Memorandum from Paul W. Virtue to Executive Associate Commissioners for Policy and Planning and for Field Operations, and to Regional, District and Sector Counsels (August 21, 1998). In a case involving an applicant for admission, the General Counsel concluded that: . . . release under § 236 of the Act and 8 C.F.R. § 236.1(d)(1) should not be seen as a separate form of relief from custody. **Any release of an applicant for admission from custody, without resolution of his or her admissibility, is a parole**. (Citations omitted.) In the case of an **applicant for admission who is not an "arriving alien," therefore, § 212(d)(5)(A) and § 236 should be seen as complementary, rather than as alternative release mechanism**. For this reason, if the Service releases from **custody an alien who is an applicant for admission because the alien is present in the United States without having been admitted, the alien has been paroled.** This conclusion applies even if the Service officer who authorized the release thought there was a legal distinction between paroling an applicant for admission and releasing an applicant for admission under § 236. When the Service releases from custody an alien who is an applicant for admission because he or she is present without inspection, the Form I-94 should bear that standard annotation that shows that the alien has been paroled under § 212(d)(5)(A)."

11. Does USCIS still consider this Meissner memo as valid?

RESPONSE: No. The "Meissner Memo" has been superseded by this new policy.

12. Will USCIS still consider issuing paroles for eligible Cubans, pursuant to the Meissner memo dated April 19, 1999?

RESPONSE: No.

13. If a Cuban national is detained at entry, claims a fear of persecution, passes a credible fear interview and is subsequently paroled out of detention, will that parole be deemed sufficient for purposes of the Cuban Adjustment Act?

RESPONSE: Only if the Cuban national was paroled under the provision of INA 212(d)(5)(A).

14. What forms of parole does USCIS recognize as sufficient for purposes of adjustment of status under the Cuban Adjustment Act?

RESPONSE: Parole under 212(d)(5)(A).

ISSUES WITH MEDICAL EXAMS

We are aware that in the past 6 months the CDC has modified requirements for medical exams twice.

As of August 1, 2016 Civil Surgeons have to provide additional information about gonorrhea testing. The new gonorrhea component applies to all Form I-693 reports completed on or after August 1, 2016. USCIS considers a Form I-693 complete on the date the Civil Surgeon signs it. For applicants requiring treatment, Civil Surgeons must document the laboratory test used to make the diagnosis; the drug regimen received (including doses, dosage units, and administration routes of all medications), start date, completion date, and any periods of interruption; and the clinical course observed, such as clinical improvement or lack of improvement during and after treatment, including resolution of symptoms and signs, as well as any drug reactions.

On November 23, 2016 the CDC issued technical guidance that Civil Surgeons must specifically document testing an applicant for syphilis, and if an applicant tests positive, the treatments provided. To date and to our knowledge there has been no USCIS practice advisory addressing this newer requirement, but please advise if there have been any updates.

We have received reports from multiple members that indicate the following:

a) For medical exams completed before August 1 and are still current (less than 1 year old), there are officers requesting that new medical exams with laboratory results be submitted even though the medical is still valid.
b) For medical exams completed after August 1, there are officers requiring that laboratory results be submitted, when this is not a requirement.

15. Please make sure your officers are aware of the current requirements, and please advise our members how they should best address issues encountered in a timely manner in the event that an RFE is issued and is unwarranted.

RESPONSE: It is not a new requirement to provide the laboratory test used to make the diagnosis. The CDC updated their website on Nov. 23, 2016 to make their instructions clearer. CDC's website has the information below pertaining to Syphilis and Gonorrhea. You will notice on the website under Gonorrhea there is a special note about August 1st changes, but this note is not under the Syphilis instructions. Therefore, the I-693 documentation should have always included the laboratory test results as outlined on the CDC's website. Officers will continue to issue RFEs for a new I-693 when the lab results are missing.

https://www.cdc.gov/immigrantrefugeehealth/exams/ti/civil/technical-instructions/civil-surgeons/required-evaluation-components/syphilis.html

The following is highlighted for documentation requirements on the CDC Website:

"All medical documentation, including any laboratory reports, must be included with the required I-693 forms."

INCORRECT ADJUDICATION OF SIJS APPLICATIONS

A few months ago we brought to your attention an issue reported to us regarding the incorrect adjudications of SIJS (Special Immigrant Juvenile Status) applications under the new guidelines issued by USCIS, and we have not yet received a response from your office.

Practitioners throughout Florida are reporting an issue with how USCIS officers are interpreting the new SIJS guidelines issued by USCIS. The new guidelines are being interpreted to require the denial of SIJS status where the underlying state court order is a custody order under Chapter 751 of the Florida statutes. As explained in detail in the attached comments to USCIS about the guidelines, the guidelines cannot be interpreted to bar Chapter 751 orders on the grounds that they are "temporary," as opposed to permanent, orders.

Custody orders under Florida Statutes Chapter 751 are not "temporary" in the sense contemplated by the USCIS guidelines. Chapter 751, Florida's statute for custody by extended family members, is misleadingly entitled "Temporary Custody of Minor Children by Extended Family". In fact, Chapter 751 custody orders only terminate when the child ages out, marries, or becomes emancipated or by judicial intervention. Further, family court judges are authorized to make findings of abuse, abandonment or neglect under Chapter 39 (the dependency statute). It should also be noted that neither the TVPRA nor the regulation bar "temporary" orders from establishing SIJS eligibility.

We presented two examples of cases in which local USCIS has misinterpreted the guidelines. In both cases, the underlying custody orders under Chapter 751, Florida Statutes, included findings of abuse, abandonment or neglect and a finding that reunification was not viable. Each also included best interest language. In both cases, United States Citizenship and Immigration Services (USCIS) took issue with the fact that the orders granted "temporary" custody. The NOID also demonstrates some confusion over the difference between dependency (conducted in a different court under Chapter 39, Florida Statutes) and custody proceedings (conducted under Chapter 751, Florida Statutes) but it does not appear that this confusion impacted the decision. Practitioners are receiving similar RFEs, NOIDs and Notices of Intent to Revoke across the state of Florida.

In both of the cases presented, the custody orders contained all of the required language—that the parent or parents abused, abandoned or neglected the child, that reunification was not viable and that it was not in the child's best interest to be returned to the country of origin. No more should have been required for approval.

16. **To avoid the widespread erroneous denial of SIJS petitions, we have respectfully requested that USCIS suspend its RFEs and NOIDs on this issue until it can be clarified with USCIS headquarters. Has there been any update on receiving guidance from USCIS Headquarters?**

    RESPONSE: The USCIS Policy Manual, Volume 6, Part J, Chapter 2.D.2. states the following with respect to court orders submitted in support of petitions for special immigrant juvenile (SIJ) classification:

    > The juvenile court must find that reunification with one or both parents is not viable due to abuse, neglect, abandonment, or a similar basis under the relevant state child welfare laws. Lack of viable reunification generally means that the court intends its finding that the child cannot reunify with his or her parent (or parents) remains in effect until the child ages out of the juvenile court's jurisdiction. The temporary unavailability of a child's parent does not meet the eligibility requirement that family reunification is not viable.

    Please note that the SIJ case workload was centralized at the National Benefits Center as of November 1, 2016. However, field offices will continue to adjudicate SIJ petitions that were pending at the field office on or before November 1, 2016 as well as cases that otherwise fall under the field office's jurisdiction.

17. **Is there language that USCIS would deem acceptable in temporary custody orders under Section 751 of the Florida Statutes, such as the guardianship remaining in effect until the child turns 18?**

    RESPONSE: See response above and refer to The USCIS Policy Manual, Volume 6, Part J, Chapter 2.D.2.

EMERGENCY ADVANCE PAROLE

It is our understanding that USCIS Field Offices have been issued new guidance relating to the handling of emergency advance parole requests, including guidelines for eligibility, specific criteria when applicable (such as for DACA recipients), and new Form I-512 templates for all requestors including DACA recipients.

18. **Please provide our members with the current emergency advance parole guidance so that we are better able to work with USCIS in these situations.**

RESPONSE: Current emergency advance parole guidance is located on the USCIS Emergency Travel webpage at https://www.uscis.gov/green-card/green-card-processes-and-procedures/travel-documents/emergency-travel.

SWORN STATEMENTS PROVIDED DURING INTERVIEWS

During our February 11, 2014 liaison meeting, USCIS indicated that officers would provide a copy of sworn statements taken during an interview upon request. We understand that new guidance was issued on a national level in August 2016, which appears consistent with the Miami District's previous ongoing practice.

19. **Please confirm that the Miami District will continue to provide copies of sworn statements provided during an interview upon request. Is there anything different in the new guidance recently issued that our members should be aware of?**

    RESPONSE: Sworn statements are provided to applicant or petitioner taken during the course of the interview if requested. If a sworn statement is requested at a later time the applicant must submit a FOIA request to obtain documents from the A File.

    USCIS indicated that it is a national policy that an Applicant or his attorney MUST request a copy of the statement at the time of the interview. If the statement is not requested at the time of the interview then the only means for obtaining a copy of the statement is through a FOIA request.

20. **Additionally, what is USCIS's policy on providing the sworn statements upon request at a later time, for example, at a subsequent InfoPass appointment?**

    RESPONSE: See answer to #20 above.

TRAFFIC RECORDS FOR NATURALIZATION APPLICATIONS

On Form N-400, Application for Naturalization, part 12 #23 asks if the applicant has ever been arrested, *cited,* or detained by any law enforcement officer for any reason. This language would seem to call for disclosure of simple traffic citations, such as speeding. However, with respect to supporting documents, both the instructions to the form and Chapter 3 Part B of the USCIS Policy Manual indicate that certified records are required for criminal charges and cases involving an arrest. Neither the form instructions nor the Policy Manual indicate that certified records are required for traffic citations that are not criminal in nature and for which there was no arrest. Nonetheless, at naturalization interviews, officers do sometimes request certified records of a traffic citation (not criminal, no arrest, purely traffic), telling attorneys that they are required. Often it can be resolved by calling for a supervisor, but not always. One member reports being scheduled for a second interview, and the interview notice requires the applicant to bring certified records for simple traffic citations. While we understand that in a particular case there

may be a particular incident that causes an officer to request a traffic record, some officers seem to refer to it as a general requirement across the board, as if the same policy for criminal cases applies to traffic citations.

21. **Please clarify whether an applicant is generally required to provide certified copies of all *traffic citations* which do not involve a criminal charge or arrest. If not, kindly instruct officers in the field that an applicant should generally not be required to produce certified records for all simple traffic citations.**

    RESPONSE: Applicants are not required to submit records for minor traffic violations, unless the violations are drug or alcohol-related, resulted in an arrest, or in which the penalty was a fine of more than $500.

STAND-ALONE I-212 WAIVERS

As USCIS is aware, in August 2016 the regulations regarding provisional waivers were expanded to allow those with final orders of removal to seek a provisional waiver of unlawful presence if they have first obtained approval of an I-212 Application for Permission to Reapply for Admission to the United States after Removal or Deportation. The instructions on uscis.gov provide that if the applicant is seeking conditionally granted advance permission to reapply for admission prior to departure and is inadmissible only under INA section 212 (a)(9)(A) (irrespective of whether another waiver under section 212(g), (h), (i), or 212 (a)(9)(B) is needed), the applicant must file with the USCIS Field Office with jurisdiction over the place the applicant is residing.

22. **Since the regulations have been modified, has there been an increase in stand-alone I-212 filings at the local field offices?**

    RESPONSE: Yes, slightly.

23. **How many stand-alone I-212 waivers are currently pending at the Miami District Field Offices?**

    RESPONSE: There are less than 100 pending I-212 District Wide.

24. **What is the current processing time for stand-alone I-212s?**

    RESPONSE: There is no processing time for stand-alone I-212.

25. **Has the Miami District received any guidance from headquarters as to criteria or procedures for adjudicating these waivers, and if so, can you please share with our members?**

    RESPONSE: No additional guidance has been provided.

I-751s PENDING ADJUDICATION

Members have reported long delays in adjudications of pending I-751 Petitions to Remove Conditions on Residence, including petitions for individuals in removal proceedings, which according to the USCIS Policy Manual should be expedited.

26. What is the current processing time for I-751s that are referred for interviews at the Field Offices in the Miami District?

RESPONSE: The timeframe from the initial filing of the application varies as the Field Offices have no control of when the A-File is shipped from the Service Centers. The offices are making every effort to schedule these cases as soon as they arrive in the office.

27. Is USCIS taking any steps to clear the present backlog?

RESPONSE: All of the offices have plans in place to schedule these cases for initial interview. All of the offices in District 9 have been scheduling I-751 cases every month or every other month as needed. Currently all field offices report that their backlog of I-751 cases pending initial interview has been significantly reduced.

RETURN OF ALIEN RESIDENT CARDS WHEN REMOVAL PROCEEDINGS HAVE BEEN TERMINATED

When permanent residents are placed in removal proceedings, usually their Alien Resident Cards (ARCs) are confiscated by DHS/ICE/CBP. Subsequently, when removal proceedings are terminated and the LPR requests that the ARC be returned, they are often instructed by ICE/CBP and/or DHS to schedule an InfoPass appointment with the USCIS Field Office in their home zip code area, provide a copy of the order terminating proceedings, and request that USCIS order the file to return the ARC. When the individual follows these instructions, InfoPass officers at some of our local USCIS field offices advise the individuals that they will not order the file and the individuals should file an I-90 and request a new ARC. This is costly and in many cases the ARC seized has years of validity left.

28. What is USCIS' policy on this issue?

RESPONSE: See answer to #30 below.

29. Why can't USCIS order the file, confirm identity and return the ARC when proceedings have been terminated and the individual provides proof of the proceedings being terminated?

RESPONSE: See answer to #30 below.

30. If there is no policy place, can one be established?

RESPONSE: USCIS Procedures for Returning Original Documents

Individuals should file Form G-884, Request for the Return of Original Documents, with USCIS to request the return of original documents submitted to establish eligibility for an immigration or citizenship benefit. For this process, original documents are defined as documents of a personal nature such as an I-551, Permanent Resident Card. Requestors may mail in Form G-884, or schedule an InfoPass appointment. There is no fee to file Form G-884.

Additional instructions and information relating to Form G-884, Request for the Return of Original Documents can be located at https://www.uscis.gov/sites/default/files/files/form/g-884instr.pdf.

CASHIER'S WINDOWS

A few members have reported difficulty in feeing in applications at the cashier windows. For example, one member was told that a motion to reopen for Immigration Court could not be feed in at the USCIS cashier's window, and had to wait over 20 minutes for a supervisor to confirm that the fee could be paid. Another member reported having to wait over 40 minutes for someone to appear at the cashier's window to fee in an applications.

31. Please confirm for our members which applications may be feed in at the cashier's window.

RESPONSE: Filing fees are accepted at the local field office only in limited circumstances. Presently, local field offices can only accept filing fees for motions to reopen for the Immigration Court and for the Board of Immigration Appeals, Form EOIR 29, and Form I-131 (only in cases of emergency) and Form I-212 (in limited circumstances). These filings can be fee'd in at a local field office during normal business hours (7:00 am – 3:00 pm), Monday through Friday, except for Federal holidays.

Please consult the USCIS website (www.uscis.gov) for current filing instructions.

32. Please provide the hours for the cashier's window at all 4 field offices, so that members know when they can expect the window to be open.

RESPONSE: These filings can be fee'd in at a local field office during normal business hours (7:00 am – 3:00 pm), Monday through Friday, except for Federal holidays.

USCIS indicated that no one sits at the cashier window attorneys need to inform the person at the front desk that they want to fee something in and they will send someone to take the payment at the window.

COMMUNICATING WITH LOCAL ASC/BIOMETRICS OFFICES

We have received a few inquiries lately as to what is the best method to contact the local ASC/ Biometrics Office in the event of a problem. We have been informed that the ASC/Biometrics department is managed by an independent contractor, not by the actual USCIS office that it is housed in. Problems range from individuals missing their scheduled Biometrics appointments to being told that Biometrics could not be performed due to a lack of identity document.

33. What is the best way for our members to communicate with the local ASC/Biometrics Offices?

RESPONSE: The Biometrics Appointment Notice lists a toll-free number to call for inquiries. For reschedules, they can mark the appropriate box on the Biometrics Notice and return the notice to the address listed on the notice.

34. Can we have a list of the Supervisors or Directors of each office?

RESPONSE: In the Miami and Caribbean District, all ASCs and field offices are colocated, therefore, to address unresolved matters pertaining to a specific field office, please contact field office leadership via the USCIS Attorney Liaison.

35. Can we have phone numbers to contact the individual offices?

RESPONSE: As noted, all ASCs and field offices are colocated, therefore, to address unresolved matters pertaining to a specific field office, please contact field office leadership via the USCIS Attorney Liaison.

FLORIDA BAR AGENDA ITEMS (in coordination with, and in supplement to, AILA's Agenda Items)

There is significant concern regarding your office's policy with respect to inadmissible aliens who adjusted status due to a Service error. In particular, this relates to cases that are not due to any fraud or misrepresentation by the alien and the error is discovered more than five years later during the adjudication of an N-400. It is our understanding that your office is not willing to: 1) reopen the cases (to cure the defect); 2) affirmatively approve the N-400 applications; 3) issue NTAs and refer the cases to ICE for removal proceedings; and/or 4) approve the N-400 applications if ICE decline to file the NTAs or if ICE is unable to sustain the charge(s) in court. Please confirm that our understanding is correct, and if so, why exactly your office is not willing to try to correct/resolve the Service error by pursuing one of the aforementioned avenues of relief. If our understanding is incorrect, what exactly is your office's policy with respect to this issue and how can we resolve such cases with your office.

Along the same lines, kindly address your office's policy with respect to the following scenarios:

36. When an inadmissible alien was admitted with an immigrant visa due to a Service or DOS error (and not due to any fraud or misrepresentation by the alien) and the error is discovered years later during the adjudication of an N-400.

RESPONSE: Each case is evaluated individually. Applicants for naturalization must meet their burden of establishing that they have been lawfully admitted for permanent residence.

USCIS indicated that it is the Applicant's burden to show that the error was through no mistake of their own and that they will then evaluate whether to reopen the case on a case by case basis.

37. When the adjustment was granted in error due to fraud or misrepresentation by the alien, and the error is discovered years later during the adjudication of an N-400.

RESPONSE: Each case is evaluated individually to determine whether or not to issue an NTA. USCIS will continue to follow the USCIS Policy Memorandum PM-602-0050, "Revised Guidance for the Referral of Cases and Issuance of Notices to Appear (NTAs) in Cases Involving Inadmissible and Removable Aliens" (Nov. 7, 2011). The memorandum is available on the USCIS website if further information is needed regarding the issuance of NTAs by USCIS.

USCIS indicated that they do issue NTAs but it is up to ICE-OCC to file them with EOIR. They informed us that a new position was created within ICE that is the equivalent of the Community Relations Officer for USCIS. They said they would send the person's contact information via e-mail.

38. When the immigrant visa was issued in error due to fraud or misrepresentation by the alien, and the error is discovered years later during the adjudication of an N-400.

RESPONSE: Each case is evaluated individually to determine whether or not to issue an NTA. USCIS will continue to follow the USCIS Policy Memorandum PM-602-0050, "Revised Guidance for the Referral of Cases and Issuance of Notices to Appear (NTAs) in Cases Involving Inadmissible and Removable Aliens" (Nov. 7, 2011). The memorandum is available on the USCIS website if further information is needed regarding the issuance of NTAs by USCIS.

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