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Rená Cutlip-Mason
Chief
Division of Humanitarian Affairs
Office of Policy and Strategy
U.S. Citizenship and Immigration Services
Department of Homeland Security
5900 Capital Gateway Drive
Camp Springs, MD 20588

RE: DHS Docket No. USCIS-2021-0012, Comments on Procedures for Credible Fear Screening and Consideration of Asylum, Withholding of Removal, and CAT Protection Claims by Asylum Officers

Dear Ms. Cutlip-Mason,

The American Psychological Association (APA), the leading scientific and professional organization representing psychology in the United States, with more than 133,000 researchers, educators, clinicians, consultants and students as its members, submits these comments in response to the Department of Homeland Security's (DHS) proposed interim final rule, DHS Docket No. USCIS-2021-0012, on Procedures for Credible Fear Screening and Consideration of Asylum, Withholding of Removal, and CAT Protection Claims by Asylum Officers. We applaud the Administration's willingness to revise the proposed rule to improve the system for immigrants entering the country.

While we emphasize the importance of psychological expertise, we also want to mention the importance of limiting detention or at least limiting the amount of time individuals are held. While we appreciate the Department's emphasis on making the process more efficient, the expedited timeline should allow for sufficient time to allow immigrants to prepare for their hearings and proceedings. Also, we wish to emphasize the psychological importance of keeping families together.

Importance of Psychological Expertise

Border patrol officers, immigration enforcement officers, adjudicators and immigration judges are rarely trained to make educated assessments of credible or reasonable fear when dealing with immigrants applying for immigration relief.¹ Assessment of fear is a complex area of psychological expertise. Psychologists assessing credible fear utilize specialized methods and instruments that together with their cultural competence training helps them understand the individual's psychological picture. For instance, it is not unusual that when recounting traumatic experiences, an individual engages in self-protective strategies which may include minimization, dissociation of emotions, forgetfulness, resistance, or emotional disorganization that may confuse an untrained observer and lead them to misunderstand, understate, or ignore bona fide symptoms of credible fear to return to their country.²

In particular, these self-protective mechanisms can limit clear memory of traumatic events and make it difficult for such individuals to reveal their experience in a coherent fashion. Many refugees suffer from post-traumatic stress disorder, depression, anxiety, or other mental health difficulties in addition to the fact that they are in the process of making sense of the new country and the strangers with whom they are interacting.³ These are all important factors to consider when the immigrants are being evaluated. The role of psychologists during this process cannot be forgotten either. Given these considerations, we would recommend having as many mental health experts available as possible during these proceedings.

Expedited Timeline

The expedited timeline proposed by the Department is problematic and may lead to streamlined removals because it demands the applicant proceed in an organized and systematic manner to relate their fears and experiences that prevent them from returning to their country safely. This process does not seem to take into consideration the manner in which trauma effects interfere with memory.⁴ If an individual is forced to narrate their fears and experiences of trauma before they have had time to heal, it is likely that the asylum applicant may not be able to communicate effectively with officials and service providers, inadvertently omitting key events that are essential to the finding of credible or reasonable fear. One of the key elements of a trauma diagnosis is the avoidance of reminders of past trauma.⁵ This is particularly challenging for young adults because the biological development of the brain, particularly those areas related to

¹ Filone, S. & DeMatteo, D. (2017) Assessing "credible fear": A psychometric examination of the Trauma Symptom Inventory-2 in the context of immigration court evaluations. *Psychological Assessment*, 29 (6), 701-709.

² Filone, S.

³ Filone, S.

⁴ Scott, J., et al., (2015) A Quantitative Meta-Analysis of Neurocognitive Functioning in Posttraumatic Stress Disorder, 141 *Psych. Bulletin* 105.

⁵ Pechtel P. & Pizzagalli, D., (2010), Effects of early life stress on cognitive and affective function: An integrated review of human literature, 214 *Psychopharmacology* 55.

cognition, memory, and executive functioning, continues beyond the age of 18 and into the mid- or late-20s.⁶

Holding Time and Psychological Impacts

We appreciate the Department's efforts to limit the amount of time immigrants are held in detention. The mental health problems that children and families experience as a result of family detention are well documented.

It is important for the mental health of immigrants to avoid detention during the credible and reasonable fear process. Unless there are extreme circumstances, detention should be minimized to avoid creating greater stress for the immigrants and worsening their mental health conditions. Many immigrants have experienced some form of trauma, but trauma affects a person in a variety of ways.⁷ Because many immigrants experience traumatic and stressful events throughout the migration journey, they may not demonstrate any symptoms or experience the scope of their emotions, including credible and reasonable fear to return to their country, until they are in a safe environment.⁸ Detention may not always make the immigrant feel safe and immigrants may present with blunted affect and suppression of their emotions due to the stress of their detention. It is important not to equate a blunted affect, suppression of symptoms, or personal minimization, with an underestimation of the impact of their traumatic experiences and fear.⁹

If it is absolutely necessary to detain immigrants, we cannot underscore enough the importance of considering the mental health of the detainees and the strong possibility that the longer individuals are held, the more likely their mental health will suffer – this is especially the case for children.¹⁰ Prolonged family detention could also damage the primary relationship between parents and children because a child has many non-parental authority figures in detention centers.¹¹ Not only is the child likely to disregard the parents as strong authority figures the longer the period of detention, but this is also true for the parents' view of themselves. Meaningful access to trauma-informed mental health care is critical to ensure that both adult and child survivors of trauma heal and ultimately achieve self-sufficiency. The longer survivors go without such desperately needed services, the more challenging the healing process may be.¹²

⁶ Pechtel, P.

⁷ Bailey, C.A., McIntyre, E., Arreola, A., & Venta, A. (2019). What are we missing? A glance at immigrant narratives in two languages. *Journal of Child and Adolescent Trauma*. <https://doi.org/10.1007/s40653-019-00263-3>.

⁸ Venta, A., (2016). Migration experiences interview (unpublished manuscript). Department of Psychology & Philosophy, Sam Houston State University.

⁹ Evans, F.B. & Hass, G. (2018). *Forensic Psychological Assessment in Immigration Court: A Guidebook for Evidenced Based and Ethical Practice*. New York: Routledge.

¹⁰ Cervantes, W. (2015). Family detention: The harmful impact on children, *First Focus*, <https://firstfocus.org/wp-content/uploads/2015/07/Family-Detention.pdf>.

¹¹ Cervantes, W., (2015).

¹² Barbash, E., Overcoming sexual assault: Symptoms and recovery. *Psychology Today*. April 18, 2017. <https://www.psychologytoday.com/us/blog/trauma-and-hope/201704/overcoming-sexual-assault-symptoms-recovery>

Family Separation

We would also like to highlight the importance of keeping families together during this process. Based on evidence of the psychological harm of parent-child separation, we appreciate and urge the Department's continued commitment to the humane policy of keeping families together to protect immigrants from further trauma.

Decades of psychological research have determined that it is in the best interest of the child and parents to keep families together. Families fleeing their homeland to seek sanctuary in the United States are already under a tremendous amount of stress.¹³ Sudden and unexpected family separation, such as separating families during immigration proceedings, can add to that stress, leading to emotional trauma for children.¹⁴ Research also suggests that the longer children and parents are separated, the greater the reported symptoms of anxiety and depression are for children.¹⁵ Therefore, continuing the practice of keeping families together is vital to their mental health.

Thank you for the opportunity to comment on this important issue. Should you have any questions, please feel free to contact Serena Dávila at sdavila@apa.org.

Sincerely,



Katherine B. McGuire
Chief Advocacy Officer
American Psychological Association

¹³ Chaundry, A. (2011). Children in the aftermath of immigration enforcement. *The Journal of the History of Childhood and Youth*, 4 (1), 137-154.

¹⁴ Dreby, J. (2012). The burden of deportation on children in Mexican immigrant families. *Journal of Marriage and Family*, 74, 829- 845. doi:10:1111/j.1741-3737.2012.00989x.

¹⁵ Suárez-Orozco, C., Bang, H.J. & Kim, H.Y. (2010). I felt like my heart was staying behind: Psychological implications of family separations and reunifications for immigrant youth. *Journal of Adolescent Research*, 26 (2), 222-257.