

Exemption B5

Training Presentation

March 11, 2020

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

Objective

- To understand how Exemption (b)(5) relates to immigration documents and to apply the exemption correctly.
- At the completion of this module you will be able to:
 - Define Exemption (b)(5).
 - Name the three primary privileges of discovery.
 - Describe three types of reasonably foreseeable harm.
 - Analyze documents and apply the exemption correctly.



Processing Legend



Processing Acronym Legend

WIF = Withhold in Full

RIF = Refer in Full

OOS = Out of Scope



Exemption (b)(5)

- Protects “inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency.” 5 U.S.C. § 552(b)(5)
- Scope of the exemption – Exemption (b)(5) clearly incorporates all civil discovery rules into FOIA.
- Exemption (b)(5) protects documents and records that are privileged from disclosure in civil litigation discovery. (Court of Appeals, District of Columbia Circuit)



Exemption (b)(5)

- To be protected, an agency record must meet **both** requirements;
 - The inter-agency or intra-agency requirement and
 - Be a court-recognized discovery privilege.
- Inter-agency or intra-agency memoranda or letters include
 - Communications within DHS.
 - Communications between and among federal agencies.
 - Communications between agencies and consultants used by the agency.
- The first requirement is MUCH LESS IMPORTANT than the second requirement.
- You must determine if it is a court-recognized discovery privilege and you must evaluate for harm.



Discovery

- Compulsory disclosure, at a party's request, of information that relates to the litigation. (Black's Law Dictionary)
- FOIA Guide, p. 357: "to exempt those documents, and only those documents that are normally privileged in the civil discovery context."



Privileged (Black's Law Dictionary)

- Not subject to the usual rules or liabilities. Not subject to disclosure during the course of a lawsuit; “a privileged document.”
- Deliberative-Process privilege: A privilege permitting the government to withhold documents relating to policy formation to encourage open and independent discussion among those who develop government policy.
 - This privilege lasts 25 years from the date the document was created –FOIA Improvement Act 2016.
- Attorney-Client Communication privilege: The client's right to refuse to disclose and to prevent any other person from disclosing confidential communications between client and attorney.



Three Primary Privileges of Discovery

- **Deliberative Process** – the thought-process used to make a decision. This excludes government attorneys.
- **Attorney Work-Product** – Notes, documents and other items used by the attorney to process the case that are not releasable under the rules of discovery.
- **Attorney-Client Communication** – Almost all communication between our attorneys and people within our organization(federal government).
 - This does not apply to communication between the alien and his or her attorney/representative that happens to be in the file – that’s his or her privilege, not ours.



Deliberative Process and the 25 Year Sunset Provision

- The protection of the Deliberative Process Privilege goes away if the records were produced 25 years or more before the date of the request.
- The 25 year Sunset provision and reasonably foreseeable harm only apply to the deliberative process privilege and do not apply to attorney work product or attorney-client communication.



Reasonable Segregable

- When a document contains both deliberative and factual information which is intertwined, and the information that remains after redacting make no sense, the document should be withheld in full.
- When a document selects specific facts out of a larger group of facts, and the very act of the selection is deliberative in nature, we can withhold it.
- You may decide to withhold a draft document because of deliberative process. You must evaluate reasonably foreseeable harm.



Deliberative Process

- Questions to consider in applying the (b)(5) exemption to deliberative process material in a first party request:
 - Is this a factual accounting of a case? If so, then it is usually releasable(with the exception of Attorney Work Product or Attorney-Client Communication).
 - Are the comments sensitive? Is there reasonably foreseeable harm in releasing the information?
 - Is this a summary of the interview with the subject or a summary of the results of the subject's case?



Deliberative Process Indicators

- Some key words to look for in a document in determining if the Deliberative Process part of (b)(5) applies:
 - Draft (A draft that contains nothing but facts is not exempt unless it has insertions, deletions, reordering or unadjudicated).
 - Suggestion
 - Proposal
 - Idea
 - Opinion
 - Recommendation
- Once you determine that (b)(5) applies, evaluate the information for reasonably foreseeable harm on disclosure. Consult your supervisor when you are unsure.



Is it Deliberation

- What are you looking for as you process the case?
- Factual information – Does the subject of the file already know this? Did they provide us with the information? If the subject of the file provided the information to us, we have no sound legal basis for withholding it.
- Comments – Is this comment an opinion or recommendation? Or is it notes that have nothing to do with the case? Or is it notes that are nothing more than gibberish?



Reasonably Foreseeable Harm

- Under the Obama administration as a memorandum, and now by law under the FOIA Improvement Act, FOIA processors must consider releasing information even though they would be permitted to withhold it under (b)(5), based on an analysis of foreseeable harm. The emphasis is on giving the information, or justifying why you have to withhold it.
- Agencies “shall withhold information” under the FOIA “only if the agency reasonably foresees that disclosure would harm an interest protected by an exemption” or “disclosure is prohibited by law.”
- Agencies shall “consider whether partial disclosure of information is possible whenever the agency determines that a full disclosure of a requested record is not possible.”
- Agencies shall “take reasonable steps necessary to segregate and release nonexempt information.”
- This provision does not require disclosure of information “that is otherwise prohibited from disclosure by law, or otherwise exempted from disclosure under [Exemption] 3.”



Reasonably Foreseeable Harm

- We have to evaluate the reasonably foreseeable harm that could be caused by disclosure.
- We must administer FOIA with a clear presumption that in the face of doubt, openness prevails.
- Exemption (b)(5) is not available to protect against embarrassment, but if we can describe reasonably foreseeable harm, then we can cite (b)(5).



Deliberative Process

3 Kinds of Harm (The 3 C's)

- Release could cast a Chilling effect upon open, frank and honest discussions on matters of policy between subordinates and superiors;
- Release could cause premature disclosure of proposed policies before they are finally adopted; (Cat out of the bag)
- Release could cause public Confusion that might result from disclosure of reasons and rationales that were not in fact ultimately the agency's action.



Pre-Decisional Character of Deliberation

- The pre-decisional character of a document is not altered by the fact that an agency has or has not made a final decision. Nor is it altered by the passage of time.
- Regardless of the age of the case or that a final decision has been made deliberative notes or worksheets are always deliberative. Even though it may be deliberative, the privilege to withhold expires in 25 years.
- You must evaluate the information for reasonably foreseeable harm on disclosure. Consult your supervisor when you are unsure.



Segregate Fact From Deliberation

- Segregable information – Separating facts from deliberative information.
- If, for instance, there are Westlaw cases printed out in an alien file, and the service is either in litigation or contemplating litigation, the cases selected will disclose the service attorney's thought process to the alien's attorney. (Distillation of facts)
- A draft that contains nothing but facts is not exempt unless it has insertions, deletions, reordering or unadjudicated.



Deliberative Process - Stokes

- A marriage fraud interview is frequently part of the process of removing the conditions on permanent residency.
- You don't usually see a marriage fraud interview in the A-file if the outcome was favorable.
- Marriage fraud interviews frequently contain deliberative process.
- Both (b)(5) and (b)(7)(C) may apply, depending on the situation.



The Stokes Interview

- Review the stokes interview for deliberative statements.
- If nothing deliberative, fully release the subject's Q & As.
- WIF third party Q & As (b)(7)(C), add (k)(2) if a PA case. If there are deliberative statements add (b)(5).

Note: Review for other exempted information on these pages.



Example Stokes Interview

- You are looking carefully at the marriage interview and it contains nothing except questions and answers. There is not a single deliberative statement on the interview.
- Fully release the subject's Q & As.
- WIF third party Q & As (b)(7)(C), add (k)(2) if a PA case.

Note: Review for other exempted information on these pages.



Asylum Interview Notes and Credible Fear Worksheets

- We will usually fully release asylum interview notes, yet we need to look for deliberative notes from an adjudicator.
- We will review worksheets and redact (b)(5), add (d)(5) if a PA case.
- On all worksheets and interview notes that asylum officers fill out If it is not deliberative, then you do not have (b)(5).
- Remember the Sunset provision on the Deliberative Process, it is good for 25 years.



Asylum Interview Should Be Facts Only

(b)(6)

- This interview takes place in San Francisco. We release "[redacted]" & "[redacted]" because it is not overseas.
- All of the notes on this page are releasable.

A [redacted] December 4, 2012	
Where did you stay overnight on the way?	We basically walked at night time, didn't stay in forest
How long did you stay in Houston	Approx. two weeks
Then from Houston what did you do?	There was part of money left to pay agents on entering U.S.; my father paid the rest of the money; one mexican guy helped me reach gurdwara in Houston in Covington
How did you get Houston to seattle?	Mexican guy drove me all the way
How long did that take?	Approx. 2 days
So am going to start with general question then ask for more details; general question is why seeking asylum?	There's a danger to my life in india
Danger from whom?	The indian government and police
Why are they a danger to you?	Because I support shiromani dal Amritsar
When did you join that group?	August 16, 2005
What did you have to do to join?	They came to my sikh temple; over there, there was a speech and we became members
Who gave the speech?	It's not actually a speech, it is a religious ceremony where you become official member of party;
Do you belong to any religion?	I am a worker of shiromani akali dal amritsar, that's it
That's political party - do you belong to any religion?	Sikh religion
How do you practice your religion?	Go to temple, have religious brooks to read
Do you practice any of the five Ks?	Bracelet
How about others in family?	My mother is fully religious, but my father doesn't; but he has long hair, but doesn't practice all the 5 k's
Why did you join SAD?	Basically, I joined because the govt wanted us to be under them
Can you explain a little more?	Thred three things - 1) they want us to take drugs; 2) they want us to take drugs; 3) they torture and try to beat
Who do they try to torture and beat?	They are harassing people like us who are asking for khalistan
And what is khalistan?	We wat out own rule, our own country; the name we want to give that is khalistan
Are there and SADs besides SAD Amritsar?	Yes, SAD Badal, SAD gurdwara committee, and there are more other groups that belong
Is there a reason you joined this one?	There were lots of groups before 1994, for example, longewal, mann; then one

Page 5 of 11

A [redacted]
December 4, 2012

AFFIRMATIVE ASYLUM INTERVIEW

Four Parts: 1) Intro, 2) Review Basic information in your application, 3) we will talk about why you are applying for asylum, 4) ask yes/no questions and discuss what happens from here, decision

PART I. PRELIMINARY

- Greeting
 - IDs
 - G-282
 - Atty Waiver?
- Purpose
- Confidentiality
 - Cell phones off, on desk
- My duties
 - All info important to making decision
 - Take notes
- Applicant's Duties
 - Truthful
- Interpreter's Duties
 - No side conversations
- Monitor's duties
- Oaths
 - Interpreter
 - Do you swear or affirm that you will fully and accurately translate from Punjabi to English and English to Punjabi
 - Applicant
 - Do you swear or affirm that the statements you are about to make today are the whole truth and nothing but the truth?
 - Sign Oath form
 - Monitor - ID 1332; start time: 3:16
 - Language Line 9-800-784-8194
 - Make sure to have office #, officer pin #, etc.
 - Call back procedures
 - Give officer #
 - Give office # ph number
 - Do you swear or affirm to
 1. that you will truthfully literally and fully report to me any mistranslation observed during the course of this interview?
 2. to notify me if you are unable to monitor in a neutral manner due to bias against the applicant because of race.



Asylum Interview With Deliberative Process

If the asylum interview notes say:

- *“Birth certificate appears forged. Fwd to FDNS for analysis/verify with Embassy Manila.”*
- We know that was not supposed to be in the asylum interview notes. We also know that we should not release that. Since the AO is deliberating, we have reasonably foreseeable harm, hold (b)(5), add (d)(5) if a PA case.
- Is it also possible that a person could use that information to circumvent the law, if they had advance notice that the U.S. Embassy in Manila was going to be contacting their hometown to verify the authenticity of a birth certificate.



Credible Fear Determination Checklist

- Officer determines if the applicant could establish that he or she has suffered harm, persecution or torture.
- This is deliberative.
- WIF (b)(5), add (d)(5) if a PA case.
- Release if after 25 years per the Sunset provision.

(b)(5) (b)(6)

The image shows two overlapping forms, each titled "CREDIBLE FEAR DETERMINATION CHECKLIST AND WRITTEN ANALYSIS". The forms are mostly obscured by large black redaction boxes. The top form has a redaction box covering its main content area. The bottom form is partially visible, showing its title and a large redaction box covering its main content area. The text "(b)(5) (b)(6)" is positioned above the top form.



Form I-870 (Record of Determination/Credible Fear Worksheet)

- This is a multi-page form
- If it belongs to your subject, release in full.

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

Record of Determination/Credible Fear Worksheet

District Office Code	Asylum Office Code	Alien's File Number	Alien's Last Family Name
Asylum Officer's Last Name	Asylum Officer's First Name	Alien's Nationality	

All statements in italics must be read to the applicant

SECTION I: INTERVIEW PREPARATION

1.1 / / Date of arrival [MM/DD/YY] 1.2 Port of arrival

1.3 / / Date of detention [MM/DD/YY] 1.4 Place of detention

1.5 / / Date of AO orientation [MM/DD/YY] 1.6 If orientation more than one week from date of detention, explain delay

1.7 / / Date of interview [MM/DD/YY] 1.8 Interview site

1.9 Applicant received and signed Form M-444 and relevant pro bono list on / / Date signed [MM/DD/YY]

1.10 Does applicant have consultant(s)? Yes No

1.11 If yes, consultant(s) name, address, telephone number and relationship to applicant

1.12 Persons present at the interview (check which apply)

1.13 Consultant(s)

1.14 Other(s), list:

1.15 No one other than applicant and asylum officer

1.16 Language used by applicant in interview:

1.17 Yes No Interpreter Service, Interpreter ID Number: Interpreter Has Forms: Time Started: Time Ended:

1.18 Yes No Interpreter Service, Interpreter ID Number: Interpreter Has Forms: Time Started: Time Ended:

1.19 Yes No Interpreter Service, Interpreter ID Number: Interpreter Has Forms: Time Started: Time Ended:

1.20 Interpreter was not changed during the interview

1.21 Interpreter was changed during the interview for the following reason(s):

1.22 Applicant requested a female interpreter replace a male interpreter, or vice versa

1.23 Applicant found interpreter was not competent 1.24 Applicant found interpreter was not neutral

1.25 Officer found interpreter was not competent 1.26 Officer found interpreter was not neutral

1.27 Bad telephone connection

1.28 Asylum officer read the following paragraph to the applicant at the beginning of the interview:

Form I-870 (Rev. 11/21/03) N Page 1



U.S. Citizenship and Immigration Services

Assessment to Refer, Terminate or Grant

- Partially deliberative; therefore, they are subject to the 25-year Sunset provision.
- Redact the deliberative information (b)(5), add (d)(5) if a PA case.
- If you see 'The applicant credibly testified', this is deliberative. Redact (b)(5), add (d)(5) if a PA case.
- Release the factual information.

Note: If the file contains the Referral Notice to the SOR, you can release the decision and title. If the Referral Notice to the SOR is not in the file, redact the decision and title (b)(5), add (d)(5) if a PA case.

ASSESSMENT TO REFER	
	(b)(5) (b)(6)
	<u>V. CREDIBILITY DETERMINATION/EVIDENCE ASSESSMENT</u>
	<u>VI. DECISION</u>
	Assessment is to refer to the Immigration Judge.

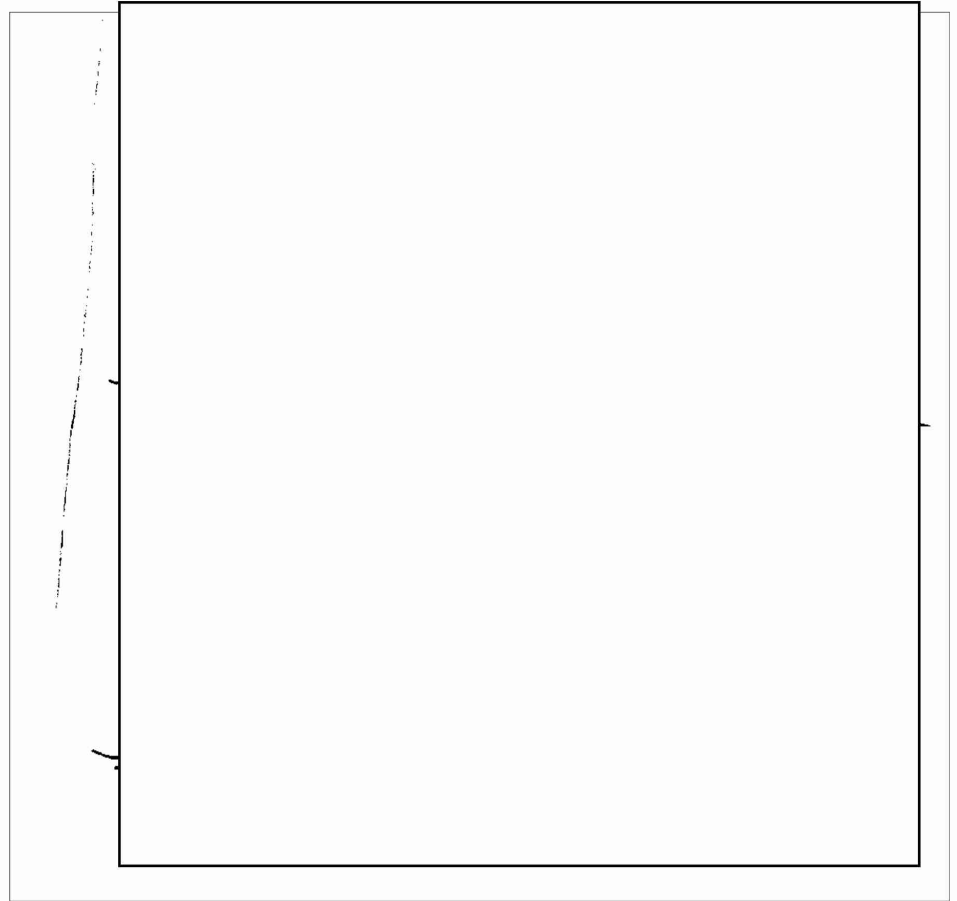


Interviewing Officer/Adjudicator

Notes

(b)(6)

- Withhold (b)(5)? We have to consider the rest of the case. Mr. Davis was confronted with the fact that L is still legally married.
- L may not know Davis was told by the officer.
- If there is a letter to L saying the petitioner withdrew the petition because the marriage is invalid, you can release it.



Adjudicator Notes

- This page should be WIF (b)(5), add (d)(5) if a PA case.
- It is deliberative. The 25 year Sunset Provision would apply.

A / _____ INTERVIEW DATE: _____
CDL / L.D. _____ DATE ISSUE: _____
INTERPRETER: _____ (b)(5) (b)(6)
UNDER OATH: _____



Form I-696 (Legalization/SAW Examinations)

- Block B is a recommendation not a decision redact (b)(5), add (d)(5) if a PA case.
- The 25 year Sunset Provision would apply.

(b)(5) (b)(6) 1

U.S. Department of Justice
Immigration and Naturalization Service

Legaliz [Redacted]

Applicant's Name		A - Number	Fee Receipt Number
Examiner's Name and I.D. Number		L.O.	Date 3/3/89
Qualified Designated Entity I.D. No.		Attorney or Volag I.D. No.	

A. Check blocks for each type of supporting documents attached to application:

<input checked="" type="checkbox"/> 1. Bases/Rent Receipts	<input type="checkbox"/> 8. Utility/Phone Receipts	<input type="checkbox"/> 15. SAW Employment Documentation
<input type="checkbox"/> 2. Employer/Union/ Business Records	<input type="checkbox"/> 9. School Records	<input type="checkbox"/> 16. Government Employment Records
<input type="checkbox"/> 3. Tax Records	<input type="checkbox"/> 10. Bank/Check Records	<input type="checkbox"/> 17. Farm Labor Contractor Records
<input type="checkbox"/> 4. U.S. licenses and I.D.'s	<input type="checkbox"/> 11. Passports/Foreign I.D.'s	<input type="checkbox"/> 18. Union Records
<input type="checkbox"/> 5. Marriage Certificates	<input type="checkbox"/> 12. Child's Birth Certificate(s)	<input type="checkbox"/> 19. Pay Stubs/Work Receipts
<input type="checkbox"/> 6. Church/ Baptismal Records	<input type="checkbox"/> 13. Affidavits of Friend(s)/ Relative(s)	<input type="checkbox"/> 20. Tax Records
<input type="checkbox"/> 7. Postmarked Mail	<input type="checkbox"/> 14. Other:	<input type="checkbox"/> 21. Affidavits of Growers, Foremen, Farm Labor Contractors, or Union Officials
		<input type="checkbox"/> 22. Other:

B. Denied Statutorily because of the following:

1. Documents do not establish: (a) Identity (b) Residence (c) Employment

2. Inadmissible under Section 212 (a) _____ of the Act.

3. In Legal Status during eligibility period.

D. Denied - Positive Fraud Established:

1. Documentary (List fraudulent document(s) presented, by category described above.)

2. False statements

E. For Secondary Review Only:

Reviewer's Name	Date of Review
Reviewer's Signature	Reversal Warranted? <input type="checkbox"/> Yes <input type="checkbox"/> No
Reasons for Reversal (If applicable)	

www / www / www / www /

Form I-696 (04/7/87)



Unserved Forms

- You will typically WIF any unserved form (b)(5), add (d)(5) if a PA case.
- This is to protect against premature disclosure of an action the service intends to take because it has not yet taken that action. Disclosure would help the person evade apprehension; or
- To protect against confusion that might result from disclosure of an action that was not ultimately the agency's decision.
- For example: The Deportation and Removal Office prepares a Warrant of Deportation (see next slide) while a person is in a removal hearing. The Immigration Judge might decide to grant asylum or adjustment of status. The agency does not now have any intention to deport the person, and releasing the Warrant may only serve to confuse.



Form I-205 (Warrant of Removal/Deportation)

Before deciding how to process the Warrant of Removal/Deportation, review page 2 of the Warrant.

- If page 2 does not show the Warrant was executed, WIF (b)(5), add (d)(5) if a PA case
- If the warrant has been executed by a CBP official release in full.
- If the warrant has been executed by an ICE official, ~~refer to ICE.~~

Note: The Form I-205 (Warrant) and Form I-294 (Warning) are issued at the same time.

(b)(6)

UNITED STATES OF AMERICA
DEPARTMENT OF JUSTICE
IMMIGRATION AND NATURALIZATION SERVICE

WARRANT OF DEPORTATION No.

To any Officer or Employee of the United States Immigration and Naturalization Service.

After due hearing before an authorized officer of the United States Immigration and Naturalization Service, and upon the basis thereof, an order has been

who entered the United States at or near Brownsville, Texas

on or about the 25th day of October 19 95, is subject following provisions of the laws of the United States, to wit:

SECTION 241(a)(1)(B) OF THE IMMIGRATION AND NATIONALITY ACT OF 1990.

I, the undersigned officer of the United States, by virtue of the authority vested in the Attorney General under the laws of the United States command you to take into custody and deport the said alien pursuant to the Appropriation: "Salaries & Expenses, Immigration and Naturalization Service, including the expenses of an attendant, if necessary.

(b)(7)(c)

Signature:

Title: _____

Date: _____

Place: _____

Form I-205
(Rev. 11-29-79)

WARRANT FOR DEPORTATION OF _____
(Name of Deportee)

Deported at Port of _____ on _____
(Port of departure from the U.S.) (Date of departure)

via _____
(Mode of departure: Identify airline or ship; if other, state: afoot, car, etc.)

Departure witnessed by _____
(Signature and title of officer)

If actual departure not witnessed, fully identify source or means of departure verification: _____

If self-deportation pursuant to 8CFR 243.5, check here []

Officer Executing Warrant: _____
(Signature and title)

Date Form Completed: _____

Comments: _____

(Signature of person fingerprinted)

(Signature of official taking print)

(Title of official taking print)

right thumb print

GPO 845



Draft Examples

- This is a DRAFT.
- Therefore, this is a part of the deliberative process. WIF (b)(5), add (d)(5) if a PA case.

Note: A draft that contains nothing but facts is not exempt unless it has insertions, deletions, reordering or unadjudicated.



U.S. Citizenship
and Immigration
Services

U.S. Department of Homeland Security
2901 Metro Drive, Ste 100
Bloomington, MN 55425

U.S. Citizenship
and Immigration
Services

Refer to File No.

(b)(6)

NOTICE OF INTENT TO DENY IMMEDIATE RELATIVE PETITION

Dear

On you filed a Petition ("Form I-130") to classify as the spouse of a United States Citizen under Section 204 of the Immigration and Nationality Act ("Act") as amended. The record reflects you married on in (the beneficiary).

This is notice of intent to deny your Form I-130 petition.

Section 204 of the Act states, in relevant part:

Any citizen of the United States claiming that an alien is entitled to classification by reason of a relationship described in paragraph (1), (3), or (4) of section 203(a)...or to an immediate relative under section 201(b)(2)(A)(i)...may file a petition with the Attorney General for such classification.

Title 8, Code of Federal Regulations, Part 204.2(a)(2) states in part:

If a petition is submitted on behalf of a wife or husband, it must be accompanied by a certificate of marriage to the beneficiary and proof of legal termination of all previous marriages of both wife and husband.

Service records indicate that on xx, the beneficiary filed a [redacted] on his form I-534 the beneficiary's Application for Admission and [redacted] Withholding of Deportation [redacted] claimed a prior marriage to [redacted] in [redacted] sometime during [redacted]. The application [redacted] by [redacted] and dated [redacted]. You testified during your interview on [redacted] that you knew your husband was married once before, but you did not know his name. [redacted] testified during the interview that he was married once before in [redacted]. He testified that it was a customary marriage, not legal. He did not remember the month or year he was married to [redacted] but claimed that he received a verbal divorce over the phone during the end of [redacted].

the marriage between [redacted] and [redacted].

You have not produced a divorce decree for [redacted] and [redacted]. Being you have not provided evidence of the termination of the marriage between [redacted] and [redacted] the Service is unable to determine if [redacted] was legally free to marry you at the time of your marriage.

See attached page.

(b)(6) www.dhs.gov

Draft Examples

(b)(6)

Form I-181 (Memorandum of Creation of Record of Lawful Permanent Residence) and corresponding letters that are unadjudicated WIF (b)(5).

If a PA, release (the subject would already have status).

U.S. DEPARTMENT OF JUSTICE
Immigration and Naturalization Service

Memorandum of Creation of Record of Lawful Permanent Residence

Place _____

Status as a lawful permanent resident of the United States is accorded: _____

Name In Care of _____
Street Address Apt. No. _____
City, State, Zip _____

City of Birth _____
Country of Nationality _____
Country of Last Residence _____

Marital Status _____ Occupation _____ NI Class at time of A.S. _____ Year Adm. to U.S. or Year of Change to Present NI Class (whichever most recent) _____

Priority Date (Month/Day/Year) _____ Preference (if any) _____ Country to Which Chargeable (if any) _____

Section 212 (b) (5) Label Certification
Last NVI issued at U.S. Consulate Port _____ Date of Issuance of Last NVI _____ Number of Last NVI _____ Classification of Last NVI _____

Under the following provision of law

<input type="checkbox"/> Public Law 95-412	<input type="checkbox"/> Sec. 209 (a) of the I & N Act	<input type="checkbox"/> Sec. 249 of the I & N Act	<input type="checkbox"/> Other law (Specify)
<input type="checkbox"/> Public Law 96-212	<input type="checkbox"/> Sec. 209 (b) of the I & N Act	<input type="checkbox"/> Sec. 1 of the Act of 11/2/66	
<input type="checkbox"/> Private Law No. _____ of the _____ Congress, _____ Session	<input type="checkbox"/> Sec. 244 (1) of the I & N Act	<input type="checkbox"/> Sec. 13 of the Act of 8/15/57	
	<input type="checkbox"/> Sec. 245 of the I & N Act	<input type="checkbox"/> Sec. 214 (d) of the I & N Act	

As of / / at _____

Class of admission _____

RECOMMENDED BY: (Designative Officer) (Initial) _____ DATE OF ACTION _____ DO _____ DISTRICT _____

FOR USE BY VISA CONTROL OFFICE

Date _____
Foreign State _____
Preference Category _____
Number _____
Month of Issuance _____
Signed _____ (Type Office, Dept., or Div.)

CC: Page 2 Master Index copy sent on _____
CC: Page 3 ADIT and Statistical report copy sent on _____

Form I-181 (Rev. 3-1-83) N 3. ADIT AND STATISTICAL COPY

File Number _____

Your application for status as a permanent resident has been retained for processing. You will be notified when further action has been taken in your case. Your request to accept employment has been adjudicated and the result is shown below. This employment authorization is valid only for the time necessary to decide your application for permanent residence.

If you change your address, marital, or employment status notify this office, referring to the above file number. To avoid delay in the processing of your application, please do not call or write to inquire about the current status of your case.

Sincerely yours,

District Director

DATE OF ACTION _____
DATE OF OFFICE _____

EMPLOYMENT GRANTED DENIED

Form I - 181a (Rev. 3-1-83) N

UNITED STATES DEPARTMENT OF JUSTICE
IMMIGRATION AND NATURALIZATION SERVICE

REFER TO THIS FILE NO. _____

Date: _____

The processing of the application for adjustment of status to that of permanent resident filed by the above named individual has been completed. A request has been forwarded for the allocation of a visa number.

Sincerely yours,

District Director

ATTORNEY _____



U.S. Citizenship and Immigration Services

Attorney Work Product

Attorney-Client Communication

- Paraphrasing Federal Rules of Civil Procedure, Rule 26(b)(3):
 - We protect against disclosure of mental impressions, conclusions, opinions, or legal theories of our attorneys or other representatives concerning the litigation.
- FOIA cannot be used as a way to circumvent discovery:
 - FOIA does not expand scope of criminal discovery permitted under Rule 16 of Federal Rules of Criminal Procedure; United States v. U.S. Dist. Court, Cent. Dist. of Cal., 717 F.2d 478, 480 (9th Cir. 1983)

Note: Foreseeable Harm and the 25 year Sunset Provision ONLY apply to the Deliberative Process and DO NOT apply to Attorney Work Product or Attorney-Client Communication.



Attorney Work Product

- The privilege is not limited to civil proceedings, but rather extends to administrative proceedings (such as asylum or adjudications, in our case) and to criminal matters as well.
- Attorney Work Product, within the civil discovery context, can extend to witness statements.
- Exemption (b)(5) can never apply to a document rendering the final decision, but regardless of the age of the case or that a final decision has been made Exemption (b)(5) still applies to the trial attorney notes or worksheets.
- Attorney work product must have been prepared in reasonable anticipation of litigation, whether or not litigation eventually occurred.
- The privilege does not extend to any document prepared by an attorney because litigation might someday occur. The anticipation must be real, not speculative or remote.
- You, the processor, have to decide if it is reasonable anticipation of litigation, based on what you see in the file. If you have a doubt, discuss it with a supervisor.



Attorney Work Product Example

An attorney emails another attorney saying “Aggravated felon is not the issue. He’s got three misdemeanor shoplifting convictions.”

Redact the note citing (b)(5), add (d)(5) if a PA case.

It is prepared by an attorney, and it is prepared in reasonable anticipation of litigation. The note sheds light on the attorneys’ thought-process and would provide scrutiny to attorney preparation of the case. Withhold that note.

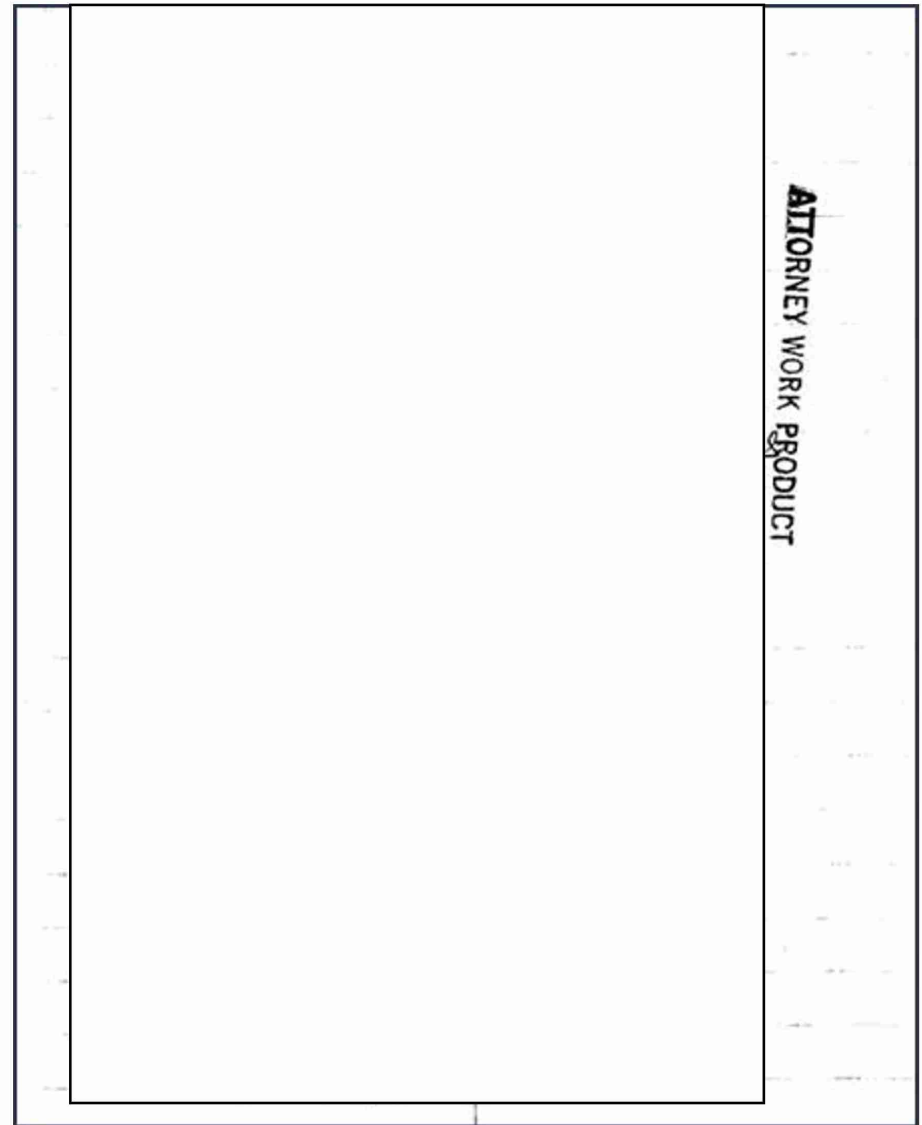
Note: Foreseeable Harm and the 25 year Sunset Provision ONLY apply to the Deliberative Process and DO NOT apply to Attorney Work Product or Attorney- Client Communication.



Attorney Work Product

(b)(5)

The stamp on this page does not relieve you of the responsibility of evaluating whether it is attorney work product or not. Because this was a deportation hearing, the attorney work product belongs to ICE, ~~so we refer it.~~ We have to know that from the surrounding pages.



Form I-703 (Record of Action/Attorney Worksheet)

- Is almost always ICE attorney work product.
- If attorney work product has to do with detention, removal or deportation, **refer it to ICE.**
- If it is not associated with deportation or removal, i.e., it is CIS or CBP attorney work product. Review it for withholding under (b)(5), add (d)(5) if a PA case.
- If it was prepared by the subject's attorney, release it back to the subject.

U.S. Department of Justice
Immigration and Naturalization Service

RECORD OF ACTION

District Office: *SEA*

Alien Name: [Redacted]

Attorney for: [Redacted]

Address: [Redacted]

INS Attorney of Record: [Redacted]

Date Issued: [Redacted] Action: [Redacted] Discussion: [Redacted]

703 (Rev. 5-10-85)Y

(b)(5)

(b)(6)

ATTORNEY WORKSHEET

Name: [Redacted] Hrg. Date: 4/17/2002 Lang: [Redacted] District: [Redacted]
Nationality: [Redacted] Race: [Redacted]

NOTES:

PROCEEDINGS

Removal Bond Master Detained

Other

EIP at:

Resp admit:

Resp deny:

Concedes or Denies removable

Resp or Court designate:

No fear of return stated

CASE CONT. TO: 4/17/2002

Work attorney Pretrial Other (Specify)

Bond Master Motion Other (Specify)

RELIEF SOUGHT:

VD

Suspension

Adjustment

240A(a)

240A(b)

Asylum/WD

CAT

Waiver

DUE DATES:

VD

Suspension

Adjustment

240A(a)

240A(b)

Asylum/WD

CAT

Waiver

Serving 30/90 Day

Other (Specify)

ORDERS:

Removed In Absentia

Dismissed by Court INS

Relief denied granted

VD Grant to: / / VD Bond \$

If Decision pending

Admin. Closed for: (See Notes)

APPEALS:

Appeal waived by: Alien INS Both

Appeal reserved by: Alien INS Both

Appeal due: / / Set tickler for: / /

BOND: Bond now is: \$

↑ ↓ OR Stay Other

No bond change Stay EQR-43 filed

Special Flags:

Legally sufficient Criminal NACARA IPR

Appeal Filed Agg Felon Pre-IRIRA No Show

Final Order Terrorist Sensitive Pro Se

Federal Court FBI Interest Juvenile No File

Prints returned: NS Interest

Prints sent: Call up on: / /

NTA Filed: 11/16/01

FOIA-DO NOT RELEASE NOTES OR FLAGS ABOVE HERE

File Routing: D&R A-6 Inv. File Room Records Other COV to:

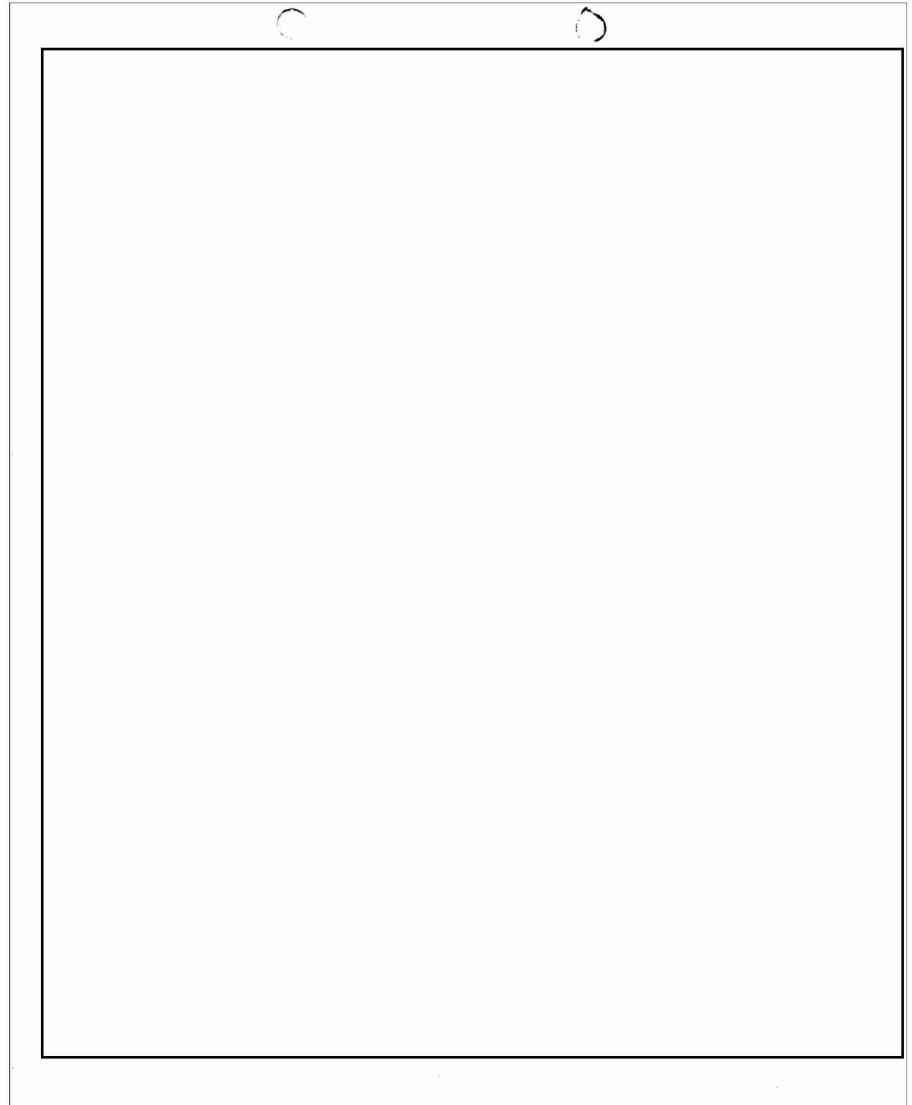
4885 (Rev. 04/01/2002) Print Date: 4/8/2002 Page 1 of 1



U.S. Citizenship
and Immigration
Services

Attorney Work Product Example (b)(5) (b)(6)

WIF (b)(5), add (d)(5)
if a PA case.



Communication Privilege

- Attorney-Client Communication privilege – why is it “Almost all communication?”
- “Advice and Appeals memoranda that explain decisions by the general counsel not to file a complaint are final decisions made in the adjudication of cases, within the meaning of §552(a)(2)(A), and therefore fall outside the scope of exemption5.”
- An example of Attorney-Client communication that is not privileged:
- “Prosecution declined by AGC Rodriguez.”



Attorney Work Product

Attorney-Client Communication Examples

- You could see attorney advice to CBP agents telling them not to charge an alien under a particular paragraph of the INA, because that paragraph does not apply. That is Attorney-Client communication.
- You could see a note from an attorney that says “The service will not oppose the defense if they file a motion to terminate.” That is probably ICE Attorney work product, ~~so you should refer it to ICE.~~
- The “reasonable segregation” obligation of FOIA is less important if disclosure of factual material would provide scrutiny to the attorney’s preparation of the case.



Examples of Documents or Information that Cannot be WIF

- Document envelope
- Handwritten or typewritten notes that are factual, notes that are trivial in nature and notes that have no bearing on the decision making process
- E-mail that is factual, or trivial in nature or has no bearing on the decision making process
- Memoranda that are factual (except attorney work product)
- Worksheets or checklist such as the N-400 Checklist
- Fax transmittals
- Envelopes used to transmit intra-office documents
- Notes that are factual or trivial in nature
- Internal e-mail that is administrative in nature; has nothing to do with the case
- Worksheets, processing sheets that are blank, or do not contain comments



Notes

- It doesn't matter if the note is handwritten or typed.
- Handwritten notes you can't redact: "Please return file ASAP." "Charged 237(a)(2)(A)(ii)" "Contacted WAS, unable to locate." "This STINKS!"
- Treat typewritten comments on worksheets the same way you would treat handwritten notes. Review the comments and weigh factual vs. deliberative, discoverable or not discoverable, etc.

Note: All of these examples can be released in full.

Jupe

→ This case has been reviewed in detail by a senior officer. (me)

→ The applicant's I-485 was denied on 3/5/03 on grounds of ~~the applicant is~~ immigrant without ~~proper~~ visa


→ The Applicant's motion to Reopen was dismissed on 11/8/04

→ The service will take no action on this closed case at this time.

→ ^{Applicant's} contention that he is not inadmissible under INA 212(a)(7)(A)(i)(I) is incorrect.

PER BETS
INTERVIEWED ON 08/06/02.
NO DISPOSITION?

Russell needs to send out



(b)(6)

HH 6666

[Signature]

U.S. Department of Homeland Security
Bureau of Citizenship and Immigration Services Texas Service Center - Transmittal Sheet

Date Sent: 9-26-03 (Date Format: MM/DD/YYYY)

FROM TO

Name: [Redacted] Name: [Redacted]
Last First
FILE ROOM / TSC HELP DESK

ID/ZZ Code: [Redacted] ID/ZZ Code: [Redacted]

BLDG	FLOOR	SEQ LOC	BLDG	FLOOR	SEQ LOC
7	4S	422	4		

WHAT ARE YOU SENDING?
Please describe what you're sending and include the total count in box provided.

CIS PRINT OUT AND/OR COPY OF NATURALIZATION CERTIFICATE FOR	COUNT
SRC [Redacted]	1

WHY ARE YOU SENDING THESE ITEMS?
Please explain when you want done:

- I-130 LAWFUL PERMANENT RESIDENT HAS BEEN UPGRADED TO USC
- CLAIMS HAS BEEN UPDATED BY FAMILY DIVISION TO REFLECT NEW STATUS
- PLEASE INSERT THE PRINT OUT/NATURALIZATION CERTIFICATE INTO THE SRC RECEIPT FOLDER CONTAINING THE I-130

AND

- MOVE THE SRC RECEIPT FOLDER FROM THE LAWFUL PERMANENT RESIDENT CATEGORY ON THE SHELF TO THE IMMEDIATE RELATIVE CATEGORY ON THE SHELF.

Sender's phone number (optional) EXT

Form CR-333 (6/27/2003)



U.S. Citizenship and Immigration Services

National Benefits Center-Contractor Processing Review Checklist for AOS I-485

- If we disclose this checklist to an attorney, the government will benefit because attorneys can review this list to make sure the I-485 they are submitting is good.
- That does not include attorney checklists. Those are almost always fully exempt under (b)(5), add (d)(5) if a PA case.

National Benefits Center-Contractor Processing Review Checklist for AOS I-485
 Complete entire checklist before completing request for evidence on second page. RFE for all missing documents at one time. Update C3 after RFE has been completed and is ready to mail.

A. Evidence of eligibility?

1. Concurrently filed I-130?	Yes <input type="checkbox"/> Goto B01	No <input checked="" type="checkbox"/> Goto A02
2. Concurrently filed I-360 with Part 2, block "c" marked, concurrently filed I-360 with Part 2, block "k" annotated "SIJ" or "Special Immigrant Juvenile", or I-797 Notice of Action for I-360 with "Special Immigrant Juvenile" next to "Section" or "Class"?	<input type="checkbox"/> STOP - Transfer to District Office	<input checked="" type="checkbox"/> Goto A03
3. Concurrently filed I-360 (Petition for Amerasian, Widow(er), or Special Immigrant)?	<input type="checkbox"/> Goto A14	<input checked="" type="checkbox"/> Goto A04
4. Page 1, Part 1, of Form I-485 "Current USCIS status" K-4; Page 2, part 3 of Form I-485 "In What State did you last enter?" K-4; Form I-94 Arrival/Departure record "K-4"; K-4 non-immigrant visa page from passport; or US immigration admission stamp with "K-4" classification (K-4 in on at least one)?	<input type="checkbox"/> Goto A05	<input checked="" type="checkbox"/> Goto A06
5. I-797 Notice of Action receipt or approval notice for Form I-130 with I-485 applicant's name listed as "Beneficiary" on I-797 notice?	<input type="checkbox"/> Goto E01	<input type="checkbox"/> Goto E01 RFE(A02)
6. I-797 Notice of Action for I-130, I-129F, I-360 or I-171 Notice from Consular Office for I-130, I-129F, I-360?	<input checked="" type="checkbox"/> Goto E01	<input type="checkbox"/> Goto A07
7. Child riding with parent who has I-797 or I-171 for I-129F, I-130, I-360?	<input checked="" type="checkbox"/> Goto	
8. Petitions Form I-129F (Petition for Alien Fiancé(e)), Form I-130 (Petition for Alien Relative), or Form I-360 (Petition for Amerasian, Widow(er), or Special Immigrant) in file (check other A or T files)?	<input checked="" type="checkbox"/> Goto	
9. Form I-485, Part 2, block "e" marked?	<input checked="" type="checkbox"/> Goto	
10. Form I-485, Part 2, block "f" marked?	<input checked="" type="checkbox"/> Goto	
11. Form I-485, Part 2, block "d" marked?	<input checked="" type="checkbox"/> STOP Trans IJN	
12. Form I-485, Part 2, block "g" marked?	<input checked="" type="checkbox"/> ORB	
14. Concurrently filed I-360 with other than block "c" in Part 2 marked?	<input checked="" type="checkbox"/> STOP Recall Recd	
17. Diversity visa lottery winner?	<input type="checkbox"/> ORB	
18. Block "h" marked on Form I-485 and NOT a diversity visa lottery winner?	<input type="checkbox"/> ORB	

E. Form I-864, Form I-864EZ, or I-864W included?

1. Form I-360 in file or I-797 Notice of Action for Form I-360 in file?	Yes <input type="checkbox"/> Goto
2. I-360 or I-797 for I-360 filed as battered spouse or child or widow/widower?	<input checked="" type="checkbox"/> Goto
3. I-360 or I-797 for I-360 filed under any other "Section"?	<input type="checkbox"/> ORB
5. Form I-485, Part 2, block "e" or "f" marked?	<input checked="" type="checkbox"/> Goto
6. Form I-864 submitted?	<input checked="" type="checkbox"/> Goto RFE
7. Is revision date of I-864 (Rev.) before January 15, 2006 (1/15/2006)?	<input checked="" type="checkbox"/> Goto
8. Form I-864EZ submitted?	<input type="checkbox"/> Goto
9. Form I-864W submitted?	<input checked="" type="checkbox"/> Goto

M. Medical and Vaccination Supplement

1. Block "c" in Part 2 on first page of I-485 checked, "Current: INS Status" on first page of I-485 shows K-1, K-2, K-3, or K-4, or I-94 or visa shows K-1, K-2, K-3, or K-4 (obtain other A-files if necessary to locate visa packet)?	Yes <input type="checkbox"/> Goto
---	-----------------------------------

Please route file to Call-up shelf.

NBC February 9, 2006 MSCBJ/C01 1/19/2007 10:17:45 AM Revision 8

Complete entire checklist before completing request for evidence on second page. RFE for all missing documents at one time. Update C3 after RFE has been completed and is ready to mail.

2. Form I-693 Medical Exam submitted for I-485 applicant? Goto M03 Goto M03 RFE(D02) RFE(E03)

3. Vaccination Supplement (Supplemental Form to I-693) submitted for I-485 applicant (MUST be on Supplemental Form to I-693 Adjustment of Status Applicant's Documentation of Immunization)? Goto N01 Goto N01 RFE(F03)

N. Applicant's/Beneficiary's (person listed on I-485) Birth Certificate

1. Applicant birth certificate submitted?	Yes <input checked="" type="checkbox"/> Goto N03	No <input type="checkbox"/> Goto N02
2. Birth Affidavit for Applicant submitted?	<input type="checkbox"/> Goto N04	<input type="checkbox"/> Goto O01 RFE(G01)
3. If birth cert not in English, English translation submitted?	<input checked="" type="checkbox"/> Goto O01	<input type="checkbox"/> Goto O01 RFE(G02)
4. Check the DOS FAM for the applicant's COB. Are the documents submitted acceptable?	<input type="checkbox"/> Goto O01	<input type="checkbox"/> Goto O01 RFE(G03)

O. Applicant's/Beneficiary's Lawful Entry

1. Are you an Adjudicator/Officer with USCIS?	Yes <input type="checkbox"/> Goto O02	No <input checked="" type="checkbox"/> Goto O06
6. Form I-797 for Form I-360 as Special Immigrant Juvenile or Battered Spouse or child of United States citizen (USC) or Lawful Permanent Resident (LPR)?	<input type="checkbox"/> STOP HERE!	<input checked="" type="checkbox"/> Goto O07
7. Form I-485, Part 2, block "e" or "f" marked?	<input type="checkbox"/> Goto O08	<input checked="" type="checkbox"/> Goto O11
8. Form I-94 Arrival/Departure Record, entry stamp in passport for applicant, or SQ94 record of admission? (SQ94 record for Adjudications only)	<input type="checkbox"/> Goto O09	<input checked="" type="checkbox"/> RFE(H02) & STOP
9. Arrival date on I-94 or entry stamp at least one year before I-485 received date?	<input type="checkbox"/> STOP HERE!	<input checked="" type="checkbox"/> ORB2 STOP
11. Address on Form I-485 in the country of Saipan, or CNMI (Commonwealth of the Northern Mariana Islands) and file contains I-797 for I-130 or I-360 or concurrently filed I-130?	<input type="checkbox"/> STOP HERE!	<input checked="" type="checkbox"/> Goto O12
12. Evidence of applicant's lawful entry into U.S. included? (SQ94 record for Adjudications only) Examples (need only one type): Copy of I-94 Arrival/Departure Record, Passport page with stamp from U.S. Immigration Port of Entry, Copy of Border Crossing Card (if from Mexico), If Canadian, exempt entry documents SQ94 screen print as proof of lawful entry	<input checked="" type="checkbox"/> STOP HERE!	<input type="checkbox"/> Goto O13
13. Applicant pat without inspection, EWI, WI, or left blank all the following: "Current INS Status" in Part 1 of I-485, "in what status did you last enter?" in Part 3 of I-485, or number 14 on I-130?	<input type="checkbox"/> Goto O14	<input checked="" type="checkbox"/> RES(D1) & STOP
14. I-797 or I-171 Notice of Action for Form I-130 Priority Date or Receipt Date on or before April 30, 2001?	<input type="checkbox"/> Goto O18	<input type="checkbox"/> ORB2 STOP
18. Supplement A to Form I-485 submitted?	<input checked="" type="checkbox"/> STOP HERE!	<input type="checkbox"/> RFE(H01) & STOP

Please route file to Call-up shelf.

NBC February 9, 2006 MSCBJ/C01 1/19/2007 10:17:45 AM Revision 8



U.S. Citizenship and Immigration Services

Form N-400 (Continuation Processing Worksheet)

The comments are purely factual. This is not deliberative process.

N-400 transfer in from Boise ID. Case still pending for namecheck. New address has been updated in CIS by DAO... on 2/22/07. File has been routed to SNJ - ... pending namecheck clearance.

(b)(6)

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


N-400 Continuation Processing Worksheet

ADMINISTRATIVE CLOSURES	Initials	Date	Remarks
Administratively Closed			
Admin. Reopen/Applicant request w/in 1 year			New Filing Date: _____
OATH CEREMONY	Initials	Date	Remarks
Removed from Oath ceremony			
FAILED TO APPEAR FOR OATH	Initials	Date	Remarks
Indicate date of no-show under Remarks			No show on: _____ No show on: _____
MOTIONS TO REOPEN	Initials	Date	Remarks (Only circle standard motions when and if applicable)
			(GRANTED) (DISMISSED)
HEARING OFFICER	Initials	Date	Remarks (Only circle standard motions when and if applicable)
Appeared for Second Hearing			No show on: _____ Initial and date: _____
Second Hearing continued (see reasons in remarks)			
Recommendation, if supervisory review required (foreign T-File and/or disability cases)			CIRCLE RECOMMENDATION: (GRANT) (AFFIRM DENIAL)
SUPERVISORY CONCURRENCE WITH OFFICER'S RECOMMENDATION	Initials	Date	Remarks (Indicate non-concurrence letter(s) within remarks)
OFFICER	Initials	Date	CIRCLE DECISION:
Indicate Second Hearing decision in remarks			(GRANTED) (AFFIRM DENIAL)

Reverified (Second Hearing cases only) _____ Reverifier's Signature _____ Date _____

* Additional remark (b)(6)

[Redacted] (N-400) transfer in from Boise ID. Case still pending for name check. New address has been updated in CI by DAO w. Plaus on 2/22/07. File has been routed to SNJ - Records pending name / clearance.


2/22/07

* Check here if the reverse side is used



U.S. Citizenship
and Immigration
Services

JABS Personal History Report

(b)(6) (b)(7)(c)

- If this was a CBP document, you would have to process it.
- You have other exemptions on this page, but you do not have (b)(5).
- “AUSA Presscott declined prosecution” is not deliberative process, attorney work product, or attorney-client communication.

SENSITIVE – LIMITED OFFICIAL USE

U.S. Department of Justice
Joint Automated Booking System

JABS PERSONAL HISTORY REPORT

1. NAME (LAST, FIRST, MIDDLE, INITIAL)		2. BIRTHDATE	
3. NEXT OF KIN (NAME, ADDRESS, PHONE)			4. ALIAS (NAME)
5. ADDRESS (City, State, County, Zip Code)			
6. SOCIAL SECURITY #	7. PASSPORT #	8. DEA #	9. DEA FILE #
10. FBI #	11. FBI FILE #	12. INS #	13. INS FILE #
14. FBI #	15. INS #	16. INS FILE #	17. INS #
18. INS #	19. INS FILE #	20. INS #	21. INS FILE #
22. GENDER	23. HEIGHT	24. WEIGHT	25. HAIR COLOR
26. EYE COLOR	27. SKIN COLOR	28. BUILD	29. IDENTIFYING CHARACTERISTICS
30. OCCUPATION	31. EDUCATION	32. HEALTH STATUS	33. PRESCRIPTIONS
34. CITY OF BIRTH	35. STATE OF BIRTH	36. HEALTH STATUS	37. PRESCRIPTIONS
38. VEHICLE MAKE	39. VEHICLE YEAR	40. VEHICLE STATE	41. VEHICLE TAG
42. LAW ENFORCEMENT OFFICER'S NAME	43. CHARGE	44. CHARGE DATE	45. CITY OF ARREST
46. ARREST DATE	47. OFFENSE DATE	48. FEDERAL UNIT	49. ARREST DESCRIPTION
50. ARREST DATE	51. OFFENSE DATE	52. STUDY AND OBSERVATION	53. OTHER HISTORY
54. MENTAL COMPETENCY STUDY	55. INCARCERATION DATE	56. INCARCERATION LOCATION	57. SENTENCE
58. NAME (Last, First, Middle, Initial)	59. NAME (Last, First, Middle, Initial)	60. NAME (Last, First, Middle, Initial)	61. PHONE NO. (Include Area Code)

DOI Form - JABS 1 (July 1995)



Naturalization Prosecutorial Discretion Review Panel (NTA Panel)

- NTA Panel is convened when an ISO determines a naturalization applicant is eligible for naturalization but is removable or improperly adjusted to an LPR.
- NTA Panel consists of a local Supervisory Immigration Services Officer (SISO), a local USCIS Office of Chief Counsel attorney and a District representative. An ICE attorney is invited to participate only in an advisory role.
- The NTA Panel is a USCIS function. Although an ICE attorney may sign the Panel's memorandums it did not originate with ICE, was not authored by ICE nor is it addressed to ICE. ~~Do not refer to ICE.~~




Naturalization Prosecutorial Discretion Review Panel (NTA Panel)

- NTA Panels are both predecisional and deliberative for determining if the applicant should be issued a Notice to Appear for removal proceedings
- 2 Types of NTA Panel Memorandums commonly seen

(b)(6)

U.S. Department of Homeland Security
USCIS District 10


 U.S. Citizenship and Immigration Services

NATURALIZATION PROSECUTORIAL DISCRETION REVIEW PANEL

Officer:	[Redacted]	Date Issued:	6/6/2016
Supervisor:	[Redacted]	Supv. Concurrence:	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO

APPLICANT INFO:

U.S. Department of Homeland Security
2675 Prosperity Avenue
Fairfax, VA 20598

 U.S. Citizenship and Immigration Services

Interoffice Memorandum

To: NTA Review Panel, Washington Field Office

From: [Redacted]
ISO

Date: 12/2/14

Re: NAME: [Redacted] Number: [Redacted]
DOB: [Redacted] COB: [Redacted]

Recommendation Regarding Issuance of NTA per PM-602-0050 Dated November 7, 2011



U.S. Citizenship
and Immigration
Services

NTA Panel

(b)(5)

- Redact ISO and SISO's name (b)(7)(C), add (k)(2) if a PA case.
- Redact Referral Type and Charge(s) of Removability sections (b)(5), add (d)(5) if a PA case.

U.S. Department of Homeland Security
USCIS District 10
U.S. Citizenship and Immigration Services

NATURALIZATION PROSECUTORIAL DISCRETION REVIEW PANEL

Officer:		Date Issued:	6/6/2016
Supervisor:		Supv. Concurrence:	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO

APPLICANT INFO:

Name:		File Number:	
Country of Birth:		Date of Birth:	
Date of Entry:		Manner of Entry:	B-2 Visitor
Date of LPR status:		Classification Code:	F-16
<input checked="" type="checkbox"/> Section 316	<input type="checkbox"/> Section 319	<input type="checkbox"/> Section 329	<input type="checkbox"/> Other

FIELD OFFICE LOCATION:

<input type="checkbox"/> Tampa	<input type="checkbox"/> Orlando	<input type="checkbox"/> Jacksonville	<input checked="" type="checkbox"/> West Palm Beach
--------------------------------	----------------------------------	---------------------------------------	---

REFERRAL TYPE:

--



NTA Panel

- Redact the deliberative/predecisional information (b)(5), add (d)(5) if a PA case.
- Also look for possible law enforcement information/system results

Page 2
NTA Panel Memo

(b)(5)

EXPLANATION OF BASIS FOR REFERRAL:

CRIMINAL HISTORY:

Date of Arrest/Citation	Charge/Violation	Disposition
1/	Prostitution	Nolle Pres / COMP PT
0:	8 Prostitution	Adjudication Withheld / Fine & Co
4/	Soliciting Prostitution	Adjudication Withheld
7/	Trespassing and resist officer w/o violence	Adjudication Withheld

OTHER NEGATIVE CONSIDERATIONS: Civil Violations, Good Moral Character Issues

HUMANITARIAN CONCERNS & FAVORABLE CONSIDERATIONS: Family ties, Advanced Age, Medical Issues, U.S. Military Service, Community Ties/Attention, Cooperation with LEAs, etc.

Panel Form Rev. 6/4/2015 FOR OFFICIAL USE ONLY



NTA Panel

Redact ISO's recommendation (b)(5), add (d)(5) if a PA case.

(b)(5)

Page 3 NTA Panel Memo
ADDITIONAL COMMENTS:
OFFICER'S RECOMMENDATION:



(b)(6)
NTA Panel

- NTA Panel's ultimate decision can be release since it is no longer predecisional.
- Redact all panel members (b)(7)(C), add (k)(2) if a PA a case.

Note: Remember – ICE attorney may sign but ~~do not refer this document to ICE~~

Page 4
NTA Panel Memo

(b)(6)

PROSECUTORIAL DISCRETION PANEL RESULTS

Applicant's Name:		File Number:	A [REDACTED]
Date of Decision:	June 16, 2016	Field Office Location:	UPRG

Prosecutorial Discretion Panel convened and made a recommendation to:

EXERCISE PROSECUTORIAL DISCRETION

INITIATE REMOVAL PROCEEDINGS

RETURN TO OFFICER FOR THE FOLLOWING: _____

IN CONCURRENCE: (b)(7)(c)

_____ (PRINT NAME & TITLE)	_____ (SIGNATURE)	6-16-16 (DATE)
_____ (PRINT NAME & TITLE)	_____ (SIGNATURE)	6/23/16 (DATE)
_____ (PRINT NAME & TITLE)	_____ (SIGNATURE)	6/23/16 (DATE)
_____ (PRINT NAME & TITLE)	_____ (SIGNATURE)	_____ (DATE)
_____ (PRINT NAME & TITLE)	_____ (SIGNATURE)	_____ (DATE)

U.S. DEPARTMENT OF HOMELAND SECURITY
U.S. CUSTOMS AND BORDER PROTECTION
ICE

A representative from ICE's Office of Chief Counsel also participated in the panel discussion in an advisory capacity

IN DISSENSION:

_____ (PRINT NAME & TITLE)	_____ (SIGNATURE)	_____ (DATE)
_____ (PRINT NAME & TITLE)	_____ (SIGNATURE)	_____ (DATE)


Panel Form Rev. 6/4/2015 FOR OFFICIAL USE ONLY



NTA Panel

- Another version of an NTA Panel form.
- Redact ISO's name with (b)(7)(C), add (k)(2) if a PA case.
- Redact entire section as shown (b)(5), add (d)(5) if a PA case. This section contains the ISO's thought process. Both pre-decisional and deliberative.

U.S. Department of Homeland Security
2675 Prosperity Avenue
Fairfax, VA 20598

 U.S. Citizenship and Immigration Services

Interoffice Memorandum

To: NTA Review Panel, Washington Field Office

From: Jane Doe (b)(5) (b)(6)
ISO

Date: 12/2/14

Re: NAME Willy Wonka A Number
DOB: 6/31/58 COB: Bolivia
Recommendation Regarding Issuance of NTA per PM-602-0050 Dated November 7, 2011

Category A: SUBJECT may be eligible to naturalize, but is deportable. (For criminal convictions inside the statutory period, refer the case to ICE/ERO via FDNS.)

Category B: SUBJECT is not eligible to naturalize. SUBJECT was inadmissible at adjustment/admission.

ISO's Recommendation: Issue NTA No NTA

www.uscis.gov



NTA Panel

- Top section is a continuation of the ISO's recommendation. Redact entire section as shown (b)(5), add (d)(5) if a PA case.
- Redact SISO's name at bottom of page (b)(7)(C), add (k)(2) if a PA case.

(b)(5)

The SISO confirms by signing this document concurring with the decision that the WAS NTA Panel Referral Spreadsheet has been updated.

	SISO			Date <u>12/8/14</u>
	Concur.	or		
		Do not Concur		

www.uscis.gov



U.S. Citizenship
and Immigration
Services

NTA Panel

Redact all names except for the Field Office Director (b)(7)(C), add (k)(2) if a PA case.

Note: Although an ICE Attorney may sign, they are only acting in an advisory role. ~~Do not refer to ICE.~~

Pursuant to the November 7, 2011 USCIS PM, "Revised Guidance for the Referral of Cases and Issuance of Notices to Appear in Cases Involving Inadmissible and Removable Aliens," the N-400 NTA Review Panel met on _____ to review the case(s) listed below.

After careful consideration of the facts and circumstances involved in the case(s), the panel has rendered the following decision(s). If follow up actions are needed, a separate memo outlining such will accompany this memo.

Category A (criminal conviction outside stat period)	Category B (Inadmissible at adjustment/admission)
<input type="checkbox"/> No NTA. Adjudicate favorably	<input type="checkbox"/> No NTA. Adjudicate favorably
<input type="checkbox"/> No NTA. Deny N-400 per INA 318 (if applicable)	<input checked="" type="checkbox"/> No NTA. Deny N-400 per INA 318
<input type="checkbox"/> ICE will issue NTA. Place N-400 on hold	<input type="checkbox"/> Issue NTA. Place N-400 on hold

Field Office Director

, Section Chief

USCIS Counsel

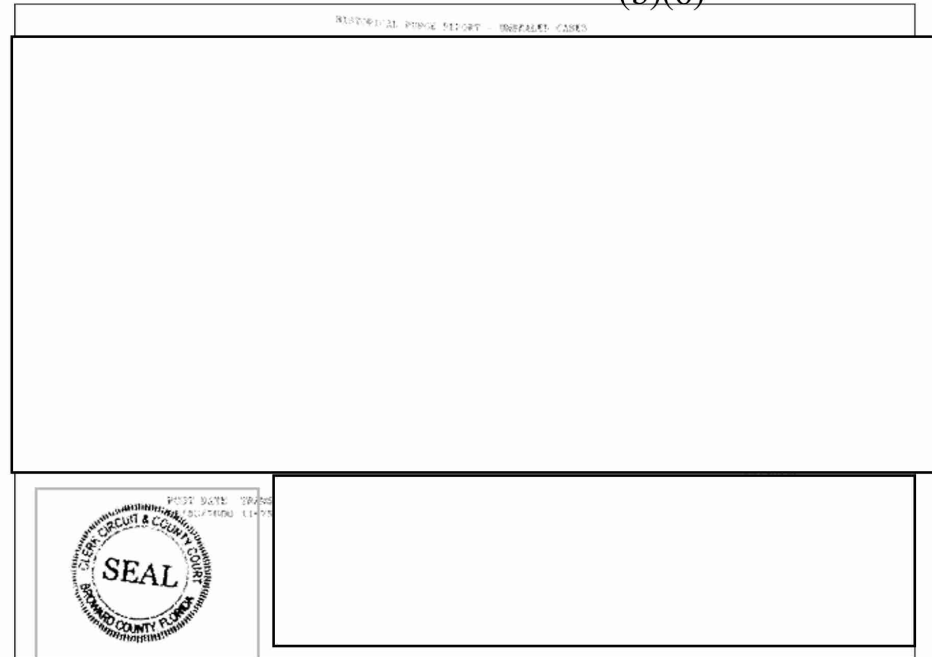
Office of Chief Counsel



Sealed

- If exhibits are filed or served with a state or local court (not EOIR) process each document accordingly.
- Use your analytical skills to determine the context of what is going on in the file to know whether to release, WIF, etc.

(b)(6)



Case Disposition Information:

Date	Court Action	Judge	Part

SEALED
pursuant to Section 160.50 of the CP*

NO FEE CERTIFICATION
GOVERNMENT AGENCY _____ COUNSEL ASSIGNED _____
NO RECORD OF ATTORNEY READILY AVAILABLE. DEFENDANT STATES COUNSEL WAS ASSIGNED
SOURCE ACCUSATORY INSTRUMENT DOCKET BOOK/CRIMS CRC3030 (CRS963)

I HEREBY CERTIFY THAT THIS IS A TRUE EXCERPT OF THE RECORD ON FILE IN THIS COURT.
COURT OFFICIAL SIGNATURE AND SEAL _____ DATE _____ FEE: NONE

(CAUTION: THIS DOCUMENT IS NOT OFFICIAL UNLESS EMBOSSED WITH THE COURT SEAL OVER THE SIGNATURE OF THE COURT OFFICIAL.)



Filed Under Seal or In Camera Ex Parte

If there is information in a pleading or exhibit clearly showing it was filed for In Camera or Ex Parte review or Filed Under Seal, WIF (b)(5), add (d)(5) if a PA case.

(b)(6)

1 ALEX G. TSE (CARN 152348)
Acting United States Attorney

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11 UNITED STATES OF AMERICA

12 v.

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FILED
JUN 20 P 2 52
CLERK OF DISTRICT COURT
SAN FRANCISCO, CALIF.

SEALED BY COURT ORDER

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

CRB

VIOLATIONS: Title 18, United States Code, Section 1962(d) - Racketeering Conspiracy; Title 18, United States Code, Section 1959(a)(1) - Murder in Aid of Racketeering; Title 18, United States Code, Section 1959(a)(5) - Conspiracy to Commit Murder in Aid of Racketeering; Title 18, United States Code, Section 1959(a)(6) - Conspiracy to Commit Assault with a Dangerous Weapon in Aid of Racketeering; Title 18, United States Code, Section 924(j)(1) - Use of Firearms Causing Murder; Title 18, United States Code, Section 2 - Aiding & Abetting; Title 18, United States Code, Sections 924(d) and 924(c), and Title 28, United States Code, Section 2461(e) Criminal Forfeiture

Case [redacted] Page 1 of 1 with Classified Information Security Officer

CISC [redacted]

Date [redacted]

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Alexandria Division

UNITED STATES OF AMERICA

v.

[redacted]

Defendant.

Case No. [redacted]

**IN CAMERA, EX PARTE
AND UNDER SEAL**

Filed with Classified Security Officer

GOVERNMENT'S NOTICE OF FILING OF UNREDACTED MEMORANDUM

SAN FRANCISCO VENUE

UNDER SEAL

JUN 15 2015

Commissioner

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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

FILED UNDER SEAL

Plaintiff,

v.

Defendants.

PLAINTIFF FEDERAL TRADE COMMISSION'S MEMORANDUM IN SUPPORT OF EX PARTE APPLICATION FOR A TEMPORARY RESTRAINING ORDER AND OTHER EQUITABLE RELIEF AND ORDER TO SHOW CAUSE WHY A PRELIMINARY INJUNCTION SHOULD NOT ISSUE

MEMORANDUM IN SUPPORT OF TRD APPLICATION



Questions?



U.S. Citizenship
and Immigration
Services