

GUIDE TO CREDIBLE & REASONABLE FEAR PROCEEDINGS

If you have recently come to the United States without permission and are afraid to return to your home country, you may be in the “**credible fear**” process. If you have been deported before, have a prior deportation order, or have been convicted of an aggravated felony and are not a lawful permanent resident and you are afraid to a return to your home country, you may be in the “**reasonable fear**” process.



These processes refer to two different types of **interviews** you may have with an **Asylum Officer** to determine if you can apply for asylum protection.

The credible fear and reasonable fear processes are different from the regular deportation process and can be complicated, especially when you are detained. This guide was written to explain the process you are in and prepared you to advocate for yourself.

Your Right to Ask for Protection

Under the law you have the right to ask the United States to protect you from persecution or torture in your home country. This right is only to **ask** for protection. It does not necessarily mean that the United States must let you stay here or that the government cannot deport you. In practice, it means that if you **express fear** by telling an immigration officer or judge you are afraid to be deported to your home country, then you must have the chance to see an asylum officer and tell your story. By expressing fear you are exercising your right to seek protection and starting the credible fear or reasonable fear process. It means you **may** then get the opportunity to apply for asylum.

What is Asylum?

Asylum is a type of protection from deportation. If an immigration judge grants you asylum he or she has decided that you will be persecuted in your home country if you are deported. You may win asylum if you have been persecuted in the past or if you can show that you will be persecuted in the future if you are deported. This is a very general explanation



of asylum. For more information you should refer to the Florence Project's Guide on Asylum, Withholding of Removal, and Convention Against Torture protection.

What is the Difference Between the Credible Fear and Reasonable Fear Process?

Credible Fear

If you do not have a prior order of deportation or an aggravated felony and you have expressed fear and not been before an immigration judge you are most likely in the credible fear process. You should have an interview with an asylum officer within 10 days of expressing fear but in reality in Arizona you will probably have to wait longer for your interview. During this time you are not able to see an immigration judge or ask for a bond.

When you have your interview, which is explained more below, the asylum officer will be deciding whether you have demonstrated a "credible fear" of being deported, or, whether there is a "significant possibility" you could win a case for asylum before an immigration judge.

Reasonable Fear

If you have been deported before or have an in absentia order of deportation or if you have an aggravated felony conviction you are probably in the reasonable fear process. Unfortunately, in practice in Arizona, your wait time for your interview will be even longer. We have seen people wait for 6 months to 12 months for their reasonable fear interviews. We are hopeful that that period will shorten in the future, but there is no guarantee that it will.

When you have your reasonable fear interview, the asylum officer will be deciding if based on what you show in your interview there is a "reasonable possibility" you will be persecuted or tortured if you are deported.



What If I Change My Mind and Don't Want to Wait For My Interview?

You have the absolute right to wait for your interview and have the opportunity to apply for asylum. You may face pressure or be told your case is not strong enough or you will have to be detained for years before you have your interview. We know it is hard to wait in detention but it is important to remember that this may be your only chance to get the opportunity to apply for asylum.

But, you do not have to stay in detention waiting for your interview if you don't want to. If

you want to leave you can contact your deportation officer and tell him or her that you no longer want to wait for an interview, and that you will accept deportation or voluntary departure, if that is available. But please know that if you do this, it might make it much harder or even impossible to apply for asylum in the future. It may mean that your level of proof will be higher in the future, and the government attorney might argue that you were not really afraid, because you chose to go back to your country. You must weigh the risk of these things against the possibility of harm that you face in your country, and the time you would spend in detention waiting for your interview and possibly fighting your case.

How Can I Prepare for My Interview?

Your interview is your chance to explain why you are afraid to be deported. The asylum officer will ask you questions about yourself and your family and will ask you specific questions about why you are afraid.

You need to answer all questions **honestly** and tell the asylum officer if you aren't sure if you don't know the answer.

If you need an **interpreter** for the interview you should tell the asylum officer this right away. If there is a problem with the interpreter or you don't understand each other well, make sure to tell the officer immediately. You can lose your case because the interpreter didn't translate properly and the officer assumes that the mistakes or errors were caused by you.



The questions will be focused on your **fear**, not on whether you are a good person or whether you deserve to stay here. Many people think that if they can show that they are good people and they only came to the United States to work and support their families, they will be allowed to stay. But this is not true. What's important is why you are afraid to go back to your country.

The officer will want to know these things in your interview:

- **WHO** harmed, persecuted, or tortured you (or will do so in the future)? If it was the police or someone in the government, be sure to say this!
- **WHY** did they do it (or will do it)? It is not essential, but does help if it was something about you in particular, rather than just because the person wanted

money, or was drunk, or something like that. For example, was the person motivated by:

- Your race;
- Your religion;
- Your nationality;
- Your political opinion;
- Your membership in a group (sexual orientation, gender, disability)

Be really **specific about the WHY**. If you tell the officer that you know it was because of your political ideas that you were harmed, then explain very precisely how you know that was the reason.

- Did the person who hurt you *say something* that told you about their reason?
- Was the person wearing some kind of clothing or have a hairstyle that let you know the reason?

Think about all of the clues that the persecutor gave that helped you reach a conclusion about their motivation.

- How was the **GOVERNMENT** in your country involved? If the government didn't harm, persecute, or torture you itself, what did the government of your country—including the police—try to do about it? Did you report it to them? Did they do anything about it? Did it help? In other words, can you prove that the government of your country, including the local authorities, were either unwilling or unable to protect you?
- Can you **SAFELY LIVE SOMEWHERE ELSE** in your country? It is not enough to say that you can't go somewhere else "because you don't have family there." You have to be able to show that if you tried to go somewhere else in your country, either:
 - The people who harmed you (or want to harm you) are still there and still want to harm you;
 - The people who will harm you will find you wherever you go, or;
 - It would be unreasonable for you to go anywhere else, maybe because you would be at great risk of harm in general somewhere else.

What Happens After My Interview?



In the days after your interview, the asylum officer will determine whether your fear is credible or reasonable and whether you should be able to apply for asylum before the immigration judge. He or she will write a summary of what you said in the interview and send it to you with the decision. So, it is especially important that you **correct** him or her if it sounds like they misunderstood what you said.

In a **reasonable fear** interview for people who have been deported before or have an aggravated felony, **the asylum officer will read the**

interview back to you. Once again, it is ***extremely*** important that you speak up and correct everything that they got wrong in writing down what you said.



If you pass your interview it does NOT mean you have won your case. It only means that you will have the opportunity to see an immigration judge to apply for asylum, withholding of removal, or Convention Against Torture protection and tell your story.

If you do not pass your interview you can ask the immigration judge to review the asylum officer's decision but generally it is very difficult to get these decisions overturned so you should prepare for the reality that you will probably be deported.

How Can I Get Help From the Florence Project?

If you pass your interview, the Florence Project will see you approximately one week before your first hearing with an immigration judge. If you are waiting for a credible or reasonable fear interview you will probably not see the Florence Project until you pass and are waiting for your first hearing. Once you have a court date, it is a good idea to send us a request form or letter to let us know when your court date is. We schedule our presentations based on the court list but sometimes there are mistakes or you may get scheduled at the last minute. When someone from the Florence Project meets with you, we will ask you questions and assess your case and give you a more detailed, individualized orientation about the process of applying for asylum with the immigration judge. Please bring a copy of the asylum officer's written summary to your first appointment with us.

Guide to Credible & Reasonable Fear Proceedings was prepared and updated by the staff of the Florence Immigrant & Refugee Rights Project and was written for immigrant detainees in Arizona who are representing themselves pro se in their removal proceedings. This guide is not intended to provide legal advice or serve as a substitute for legal counsel. The Florence Project is a nonprofit legal services organization and does not charge for its services to immigrant detainees in Arizona. This guide is copyright protected but can be shared and distributed widely to assist indigent immigrants around the country. All of our guides are available to download on our website: www.firrp.org. We kindly ask that you give credit to the Florence Project if you are adapting the information in this guide into your own publication.