THE GIBSON REPORT – 07-09-18 – Compiled by Elizabeth Gibson, Esquire, NY Legal Assistance Group

[**NTA Memo Suggests U/T/VAWA Denials Will Be NTAed**](https://www.uscis.gov/sites/default/files/USCIS/Laws/Memoranda/2018/2018-06-28-PM-602-0050.1-Guidance-for-Referral-of-Cases-and-Issuance-of-NTA.pdf)

Memo: “USCIS will issue an NTA where, upon issuance of an unfavorable decision on an application, petition, or benefit request, the alien is not lawfully present in the United States.” + “In cases involving the confidentiality protections at 8 U.S.C. § 1367(a)(2), [U visas, T visas, VAWA, etc.] USCIS must follow the guidelines established in this PM, once the benefit request has been denied. 8 U.S.C. § 1367 does not preclude USCIS from serving an NTA upon the attorney of record or safe mailing address.” [For anyone not aware, previous policy was that NTAs would not be issued in these denials since that would undermine the purpose of these protections by discouraging people from reporting crimes.] See also: [A quiet change in US policy threatens immigrants who apply for a change in status](https://qz.com/1323136/a-uscis-immigration-policy-change-threatens-non-citizens-with-deportation-if-they-lose-status/amp/)

[**1-Year-Old Shows Up In Immigration Court**](https://www.npr.org/2018/07/08/627082032/1-year-old-shows-up-in-immigration-court)

NPR: John W. Richardson, the judge at the Phoenix courthouse, said he was "embarrassed to ask" if the defendant understood the proceedings. "I don't know who you would explain it to, unless you think that a 1-year-old could learn immigration law," he told Johan's attorney. The boy had been separated from his father, who left the United States for their country of Honduras under the impression that his son would go with him, Johan's lawyer said.

[**California, long a holdout, adopts mass immigration hearings**](https://abcnews.go.com/Politics/wireStory/california-long-holdout-adopts-mass-immigration-trials-56440713)

ABC: [Today], the court will try to curb the caseload by assigning a judge to oversee misdemeanor immigration cases and holding large, group hearings that critics call assembly-line justice. The move puts California in line with other border states, and it captures the strain that zero tolerance has put on federal courts, particularly in the nation's most populous state, which has long resisted mass hearings for illegal border crossing.

[**Immigrant NYC Grandparents Detained While Visiting Son-in-Law at Fort Drum, Family Says**](https://www.nbcnewyork.com/news/local/Brooklyn-Couple-Detained-While-Visiting-Son-in-Law-Army-Sergeant-Fort-Drum-New-York-487548821.html)

NBC: A Mexican family from Brooklyn says they were headed upstate to Fort Drum to celebrate Independence Day with an Army sergeant family member when border patrol agents questioned their parents' New York City IDs, and then took them to a detention facility hundreds of miles away.

[**Sessions rescinds DOJ guidance on refugees, asylum seekers' right to work**](http://thehill.com/regulation/international/395440-sessions-rescinds-guidance-on-refugees-asylum-seekers-right-to-work)

The Hill: Attorney General Jeff Sessions on Tuesday rescinded 2011 Department of Justice (DOJ) guidance that dictated refugees and asylum seekers have the right to work in the U.S…. A Justice Department spokesperson told The Hill that the document was rescinded after a 2014 document laid out similar guidelines, including those on refugees and asylum seekers being allowed to work indefinitely. See also: [Refugees and Asylees: What You Need to Know about the Form I-9](https://www.aila.org/infonet/osc-flyer-for-refugees-and-asylees)**;**[Refugees and Asylees Have The Right To Work: What Employers Should Know](https://www.aila.org/infonet/osc-issues-flyer-for-employers-of-refugees-and-asy)**;**[DOJ Employment Rights and Resources for Refugees and Asylees](https://www.justice.gov/crt/page/file/924681/download)**.**

[**US Army quietly discharging immigrant recruits**](https://www.apnews.com/38334c4d061e493fb108bd975b5a1a5d/AP-NewsBreak:-US-Army-quietly-discharging-immigrant-recruits)

AP: The AP was unable to quantify how many men and women who enlisted through the special recruitment program have been booted from the Army, but immigration attorneys say they know of more than 40 who have been discharged or whose status has become questionable, jeopardizing their futures.

[**For many waiting in Tijuana, a mysterious notebook is the key to seeking asylum**](http://www.latimes.com/local/california/la-me-asylum-seekers-notebook-holds-key-to-entry-20180705-story.html)

LA Times: The notebook became a way for the immigrants to keep track of who is next in line. The book’s guardian — always an asylum seeker — scrawls each person’s name and country of origin in blue ink. The names of those who already entered the port of entry to make their case for refuge are highlighted in yellow or pink.

[**Immigration Courts Are Rolling out an Electronic Filing Pilot Program in July**](https://click.everyaction.com/k/1596602/8549946/-357137797?nvep=ew0KICAiVGVuYW50VXJpIjogIm5ncHZhbjovL3Zhbi9FQS9FQTAwMS8xLzU4MjExIiwNCiAgIkRpc3RyaWJ1dGlvblVuaXF1ZUlkIjogIjE3NTdhNGQzLWVmODItZTgxMS04MGMyLTAwMGQzYTEyYmJiMSIsDQogICJFbWFpbEFkZHJlc3MiOiAiZWdpYnNvbkBueWxhZy5vcmciDQp9&hmac=w2BsPP6hjtgjjXa-0zn96UF05XgDFdOaL3F6WcVjTFQ=)

AIC: The immigration court system will begin to roll out an electronic filing pilot program in six immigration courts on July 16 this year, representing an important advancement for these courts that still heavily rely on paper documentation.

[**DHS OIG Finds ICE’s Inspections and Monitoring of Detention Facilities Do Not Lead to Sustained Compliance or Systemic Improvements**](https://www.aila.org/infonet/dhs-oig-report-on-ices-inspections)

DHS OIG found that neither the inspections nor the onsite monitoring of ICE’s 200 detention facilities ensure consistent compliance with detention standards, nor do they promote comprehensive deficiency corrections. OIG issued five recommendations and proposed steps and ICE concurred. AILA Doc. No. 18070263

[**TRAC: Three-fold Difference in Immigration Bond Amounts by Court Location**](http://trac.syr.edu/immigration/reports/519/)

Transactional Records Access Clearinghouse found that data, current through May 2018, revealed a three-fold difference across immigration courts in the median bond amount set. The highest median bond amounts were required by the Tacoma, WA Immigration Court and the Hartford, CT Immigration Court. AILA Doc. No. 18070233

**LITIGATION/CASELAW/RULES/MEMOS**

[**Immigration in the Supreme Court: The Final 2017 Term Scorecard**](http://lawprofessors.typepad.com/immigration/2018/07/immigration-in-the-supreme-court-the-final-2017-term-scorecard.html)

ImmProf: The Supreme Court decided four core immigration cases in the 2017 Term.  The travel ban case was significant but there was much more. Interestingly, immigrants won as much as the Trump administration.

[**Federal Judge Orders Immediate Release or Grant of Hearing for More Than 1,000 Asylum Seekers**](https://www.aila.org/infonet/district-court-damus-et-al-v-nielsen-7-2-18)

A U.S. District Court granted the plaintiffs’ motions for a preliminary injunction and provisional class certification, ordering the U.S. government to immediately release or grant hearings to more than 1,000 asylum seekers held at five ICE field offices. (*Damus, et. al., v. Nielsen*, 7/2/18) AILA Doc. No. 18070331

[**Class Action Lawsuit Filed Challenging Prolonged Detention of Immigrant Children in New York**](https://www.aila.org/infonet/dist-ct-lvm-v-lloyd-02-16-18)

A federal judge granted a preliminary injunction, ending a policy of the ORR Director Scott Lloyd personally reviewing and approving the release of any detained immigrant child who is or has ever been in a heightened supervision placement while in ORR custody. (*L.V.M v. Lloyd*, 6/27/18) AILA Doc. No. 18022262

[**ICE Separated Parent’s Removal Form Pursuant to *Ms. L. v. ICE*Lawsuit**](https://www.aila.org/infonet/ice-separated-parents-removal-form-pursuant)

This ICE form may be used by detained alien parents with administratively final orders of removal who are class members in the *Ms. L. v. I.C.E., No. 18-0428*, (S.D. Cal. Filed Feb. 26, 2018) lawsuit. AILA Doc. No. 18070532

[**Lawsuit Filed Against CBP, Alleging CBP Turned Away Asylum Seeker and Falsified Paper Trail**](https://www.aila.org/infonet/lawsuit-filed-against-cbp-alleging-cbp-turned-away)

The American Immigration Council, along with partners, filed a lawsuit involving a Mexican national who feared persecution based on sexual orientation. Border Patrol officers deprived him of an opportunity to articulate his fear of return. (*Cagnant v. U.S.,*6/7/18) AILA Doc. No. 18070535

[**Documents Related to Lawsuit Over Discharge of Non-Citizens from U.S. Military**](https://www.aila.org/infonet/documents-lawsuit-discharge-non-citizens-military)

The plaintiff filed a complaint in district court arguing that his purported discharge order violated Army regulations, DOD regulations, and the fundamental requirements of due process. He was recruited by and enlisted through the MAVNI program. (*Calixto v. Department of the Army*, 6/28/18) AILA Doc. No. 18070900

[**Federal Judge Rules on Preliminary Injunction of California "Sanctuary" Laws**](http://lawprofessors.typepad.com/immigration/2018/07/federal-judge-rules-on-preliminary-injunction-of-california-sanctuary-laws.html)

ImmProf: In an order dated July 4, 2018, U.S. District Judge John A. Mendez (E.D. Cal.) ruled on the U.S. government's motion for a preliminary injunction barring implementation of various California "sanctuary laws."  In a 60 page order, the court declined to enjoin large portions of three California laws aimed at limiting state and local agencies’ cooperation with the Trump administration’s immigration enforcement.

[**CA1 Finds No Jurisdiction to Review Denial of Claim for Deferral of Removal**](https://www.aila.org/infonet/ca1-morris-v-sessions-05-30-18)

The court denied the petition for review, finding that the petitioner did not show that the record compels the conclusion that he is entitled to deferral of removal and that evidence of official acquiescence in torture was too speculative. (*Morris v. Sessions*, 5/30/18) AILA Doc. No. 18070264

[**DHS Announces Extension of Yemen’s TPS Designation for 18 Months**](https://www.aila.org/infonet/dhs-extension-yemen-tps-18-months)

DHS announced the extension of the Temporary Protected Status (TPS) designation for Yemen for 18 months, effective through 3/3/20. There are approximately 1,250 Yemeni TPS beneficiaries. Additional information will be published in the Federal Register. AILA Doc. No. 18070602

[**ICE Provides First Quarterly Report on VOICE**](https://www.aila.org/infonet/ice-provides-first-quarterly-report-on-voice)

ICE provided a quarterly report with information on those individuals who have been assisted as a direct result of their call to the VOICE Office. From April to September 2017, 4,602 calls came into the hotline, with 2,515 categorized as “other (commentary or unrelated).” AILA Doc. No. 18070330

[**DHS Released Its Seminannual Regulatory Agenda**](https://www.aila.org/infonet/dhs-83-fr-27138-6-11-18)

DHS released its semiannual regulatory agenda providing a summary of projected regulations, existing regulations, and completed actions of DHS and its components. (83 FR 27138, 6/11/18) AILA Doc. No. 18070630

**ACTIONS**

         [**EOIR Is Hiring 15 New Immigration Judges**](https://www.usajobs.gov/GetJob/ViewDetails/503840500)

         [**Learn How You Can Support the Fight Against Family Detention and Family Separation**](https://www.aila.org/about/announcements/learn-how-you-can-support-the-fight-against-family)

         [**Call for Examples - Travel Ban 3.0 Impact on Individuals**](https://www.aila.org/about/announcements/take-action-tuesday-travel-ban-30-impact)

         [**Call for Examples: Revocation of I-601A Approvals Based on a Public Charge Finding**](https://www.aila.org/advo-media/agency-liaison/case-examples/call-for-examples-revocation-of-i-601a-approvals)

**RESOURCES**

         [**Immigrant Connection Project To Help Reconnect Parents and Children**](https://www.aila.org/infonet/immigrant-connection-project-to-help-reconnect)

         [**CGRS’s practice advisory on *Matter of A-B-***](https://uchastings.box.com/s/57k2hk6rpyjh7bbmebld4195r2wsdzt0)

         [**NIPNLG practice advisory on how to use the Pereira decision with two sample motions**](http://nipnlg.org/pract_advisories/gen/2018_05Jul_Pereira.html)

         [**A Guide to Representing Asylum Seekers in Expedited Removal and Reinstatement of Removal Proceedings**](https://www.aila.org/infonet/vindicating-the-rights-of-at-the-border-and-beyond)

         [**AILA’s Litigation Toolbox: A Guide You Can Trust**](https://agora.aila.org/product/detail/2890)

         [**INA / USC Code Converter**](http://lawprofessors.typepad.com/immigration/2018/07/ina-usc-code-converter.html)

         [**Torn Apart / Separados: Map of Zero Tolerance Policy**](http://xpmethod.plaintext.in/torn-apart/)

         [**Threading the Needle: Challenging Trump's Travel Ban Despite Trump v. Hawaii By Cyrus D. Mehta and Sophia Genovese**](http://blog.cyrusmehta.com/2018/07/threading-the-needle-challenging-trumps-travel-ban-despite-trump-v-hawaii.html)

         [**The Basics of Motions to Reopen EOIR-Issues Removal Orders**](https://click.everyaction.com/k/1552943/8344083/1625537821?nvep=ew0KICAiVGVuYW50VXJpIjogIm5ncHZhbjovL3Zhbi9FQS9FQTAwMS8xLzU4MjExIiwNCiAgIkRpc3RyaWJ1dGlvblVuaXF1ZUlkIjogIjQ3ZDI1ZmM4LTNiN2UtZTgxMS04MGMyLTAwMGQzYTEyYjJiOSIsDQogICJFbWFpbEFkZHJlc3MiOiAiZWdpYnNvbkBueWxhZy5vcmciDQp9&hmac=cwZE9_OhkHcHof5PERmDZGCwr31mlqWR2dhVTzw9OWg=)

         [**Court Decision Ensure TPS Holders in Sixth and Ninth Circuits May Become Permanent Residents**](https://click.everyaction.com/k/1552944/8344084/757509610?nvep=ew0KICAiVGVuYW50VXJpIjogIm5ncHZhbjovL3Zhbi9FQS9FQTAwMS8xLzU4MjExIiwNCiAgIkRpc3RyaWJ1dGlvblVuaXF1ZUlkIjogIjQ3ZDI1ZmM4LTNiN2UtZTgxMS04MGMyLTAwMGQzYTEyYjJiOSIsDQogICJFbWFpbEFkZHJlc3MiOiAiZWdpYnNvbkBueWxhZy5vcmciDQp9&hmac=cwZE9_OhkHcHof5PERmDZGCwr31mlqWR2dhVTzw9OWg=)

         [**Crossing State Lines: A Practical Guide for Immigration Lawyers When Volunteering Their Services Out-of-State**](https://www.aila.org/practice/ethics/ethics-resources/2016-2019/crossing-state-lines-a-practical-guide)

         [**Warning: The “New Normal” Can Lead to Burnout**](https://www.aila.org/practice/self-care-center/warning-the-new-normal-can-lead-to-burnout)

         [**Resources on the Travel and Refugee Bans**](https://www.aila.org/advo-media/issues/all/immigration-2017-a-new-president-and-congress/executive-actions-on-the-muslim-and-refugee-bans)

**EVENTS**

         7/6/18 [**Immigrant Youth Advocates Lunch & Round Table Discussion**](https://www.eventbrite.com/e/immigrant-youth-advocates-lunch-round-table-discussion-tickets-46863271306?aff=ebdssbdestsearch)

         7/10/18 [**The ICE-Man Cometh**](https://agora.aila.org/Conference/Detail/1455?utm_source=aila.org&utm_medium=WebLink&utm_campaign=announcements_page_seminars) (best punny CLE title of the year)

         7/14-15/18 [**New York International Immigration Film Festival**](https://www.eventbrite.com/e/new-york-international-immigration-film-festival-july-14-15th-tickets-47498682839?aff=ebdssbdestsearch)

         7/26/18 [**Defending Immigration Removal Proceedings 2018**](x-webdoc://224A1786-417F-4C22-80A7-01F7F3BC734A/https%3a%2f%2fwww.pli.edu%2fContent%2fSeminar%2fDefending_Immigration_Removal_Proceedings%2f_%2fN-4kZ1z100g1%3fID%3d328375)

         7/27/18 [**Music: SANCTUARY - Season Finale**](https://www.eventbrite.com/e/sanctuary-season-finale-tickets-46322160830?aff=ebdssbdestsearch)

         8/9/18 [**How to File Winning Appeals with the BIA and AAO**](https://agora.aila.org/Conference/Detail/1458)

         9/26/18**Representing Children in Immigration Matters 2018: Effective Advocacy and Best Practices**