

Step-by-Step Guide for Defensive Asylum Cases

Detained and non-detained merits representation

Purpose and Scope of This Guide

Thank you for partnering with IJC to take on full-scope defensive asylum, withholding of removal, and CAT protection merits representation for your client. This guide walks through the core tasks, documents, and timing considerations for detained and non-detained defensive asylum cases. Confirm case-specific requirements with your mentor.

Two practice reminders

Use only the IJC templates to prepare filings unless your mentor instructs otherwise. The templates are designed for this work and help make mentor review smoother and more efficient. **Also, do not wait for the signed engagement letter to come back before starting work.** Once the client gives verbal consent to representation, begin working immediately.

Required Forms, Documents, and Case Materials

Your case may require the following forms, documents, evidence, and filings:

- Engagement letter with the client.
- [Form EOIR-28](#), Notice of Entry of Appearance in Immigration Court.
- [Form I-589, Application for Asylum](#), Withholding of Removal, and Protection Under the Convention Against Torture.
- Client written declaration or personal statement describing the persecution, harm, or fear of future harm.
- Country-conditions evidence.
- Supporting lay witness statements, as appropriate.
- Other corroborating evidence, such as photographs, letters, police reports, medical records, identity documents, or other proof supporting the claim.
- Legal brief or pre-hearing statement.
- Motions as appropriate in Immigration Court, such as motions to appear virtually, motions to continue, or motions for telephonic testimony.

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Workflow Overview

Stage	Main Tasks	Mentor Checkpoint
Within one week / first contact	Review the referral materials, Orientation Manual, detention center information sheet if applicable, and case materials. Confirm the court location, hearing date, hearing type, and any urgent deadlines. Meet with your mentor, prepare the engagement letter, contact the client, confirm goals and scope, read the engagement letter, obtain verbal consent, and begin work immediately.	Contact your mentor immediately if the next hearing is an individual hearing, deadlines are unclear, or you cannot reach the client within one week. Do not wait for the signed engagement letter before starting case preparation.
Case planning and court file review	Enter your EOIR-28 in ECAS, review the court file, NTA, prior filings, scheduling orders, and any prior credible or reasonable fear materials. Confirm whether the client has already filed an I-589 and identify the theory of relief for asylum, withholding of removal, and CAT protection.	Discuss procedural posture, venue issues, prior filings, biometrics, pleadings, bond issues for detained clients, and any necessary motions with your mentor.
Application, declaration, and evidence development	Use only IJC templates and sample materials to prepare the Form I-589, client declaration, exhibit list, and related filings. Review every answer with the client in their best language. Gather corroborating evidence, country conditions, witness statements, expert evidence if appropriate, translations, and certificates of translation.	Flag inconsistencies, records barriers, evidence gaps, expert needs, or case-specific legal issues early so your mentor can help you address them before filing.
Mentor review and filing	Send your mentor drafts of the I-589, declaration, brief or pre-hearing statement, index, exhibits, witness list, translations, certificates of translation, and any motions before filing. File all materials according to the Immigration Court Practice Manual and the judge's scheduling order.	Build in enough time for mentor review and revisions. Detained case timelines may move quickly, so confirm judge-specific deadlines and filing requirements as early as possible.
Hearing preparation and post-hearing steps	Prepare direct examination, client testimony, witness testimony, likely DHS cross-examination issues, and closing argument. Conduct preparation sessions with the client and witnesses when possible. After the hearing, reserve appeal if denied and follow up on any next steps.	Schedule an individual hearing preparation call with your mentor. After the hearing, email your mentor with the result and any appeal or post-hearing deadlines.

Step 1: Within One Week of Case Assignment

Initial review and mentor contact

- ☐ Review the Orientation Manual, the detention-center information sheet if applicable, the case referral form, and all case materials you received. Contact your mentor with questions.
- ☐ Use the Orientation Manual to set up an ECAS account if you have not already done so.
- ☐ Check the client's case status through the [ACIS portal](#). Enter the client's A-number, note the next hearing date, and confirm that the court is correct.
- ☐ If the client is detained, note the hearing date and time.

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- ☐ If the client is not detained, confirm that the case is in the correct court for where the client currently resides. If not, discuss a motion to change venue with your mentor.
- ☐ For detained and non-detained cases, identify whether the next hearing is a master calendar hearing or an individual merits hearing. If it is an individual hearing, contact your mentor right away.
- ☐ Before contacting the client, attend your mentor's office hours or follow the instructions in your placement email. Review the first client-contact section before that meeting.
- ☐ Review the [IJC asylum materials](#), including the relevant templates and introductory training materials.
- ☐ Draft the engagement letter so it is ready to read to the client during the first meeting. You may use the [sample legal representation agreement](#).
- ☐ After your first mentor call, contact the client. For detained clients, use the Orientation Manual and detention-center information sheet to arrange a phone or video call. If you cannot reach the client within one week of placement, contact your mentor immediately.

Step 2: First Client Contact

Initial call checklist

- ☐ Introduce yourself and explain that the client's case has been referred to you.
- ☐ Make sure the client understands the scope of your representation.
- ☐ Review the referral form with the client to confirm that the information is correct.
- ☐ Review the client's goals and confirm that they have not changed since the referral, such as a client who originally wanted asylum but now wants to request voluntary departure.
- ☐ Ask whether the client has already seen a judge. If so, ask:
 - Did the judge say the client needs to submit an asylum application? If yes, what deadline did the judge give?
 - Has the client already prepared an asylum application with anyone? If yes, was it already sent to the judge?
 - If detained, did the client talk to the judge about bond? If so, what did the judge say?
- ☐ Ask whether the client has friends or relatives in the United States who may have more information about the case or may be able to provide support.
- ☐ Ask whether the client has immediate relatives in the United States, whether detained or not detained. Immediate family includes a legally married spouse, children age 21 or younger, father, mother, or sibling.
- ☐ Read the engagement letter to the client. Explain that you will send a copy for signature and return.
- ☐ Set the next call date and time and confirm the best communication method.

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- **IMPORTANT.** If your client indicates that they have hired private counsel to file a **writ of habeas corpus** in federal court, or that they filed one themselves pro se and it was accepted by the court, talk to your mentor immediately about how the habeas petition may impact the removal case. This is especially important because a federal court may order a bond hearing or other remedy that could affect strategy and require coordination with habeas counsel.

Start work after verbal consent

It is critical to keep an engagement letter on file that explains the scope of representation. **However, do not wait for the signed engagement letter to come back before starting your work.** Once the client gives verbal consent to representation, begin working immediately.

Mailing or Sending Initial Signature Documents

After the client gives verbal consent to representation, explain that you will send documents for signature and, when mailing, include a return envelope.

For detained clients, mail these documents urgently:

- Engagement letter.
- Blank signature page of the I-589.
- Declaration signature page. This can be a Word document printout with this language at the top: “I declare under penalty of perjury that the above statements are true and correct to the best of my knowledge.” Include signature and date lines below.
- **Practice tip:** Use sticky tabs to clearly show where the client should sign.
- Mail documents through U.S. Postal Service with tracking. Do not use FedEx for detained clients.
- Address the envelope with the client’s full name and full A-number.
- Include your name and address as the sender and mark the envelope “Legal Mail - Confidential.”
- Include a prepaid, self-addressed USPS Priority Mail envelope (includes tracking) so the client can return the signed documents to you.
- **Practice tip:** Some detention centers use a mailing address, often a P.O. Box, that differs from the physical location. Verify the correct mailing address through [the ICE detention-facility directory](#) before sending.

For non-detained clients

- Mail or email the signature documents depending on the client’s preference and capacity. If mailing documents, tracking and a prepaid, self-addressed return envelope are recommended.
- Re-review the [IJC asylum materials](#) as you move into case planning.

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Step 3: After First Client Contact - Planning the Case

- ☐ Log into ECAS and enter your appearance with [Form EOIR-28](#).
- ☐ Use ECAS to review the client's court file or record of proceedings ("ROP"), when available. For cases initiated in immigration court after February 2022, ECAS should allow you to see the full court file.
- ☐ Use ECAS to review the Digital Audio recordings, so you know what was said in the prior court hearings, there is now an option to play the audio while logged into ECAS.
- ☐ Review the client's Notice to Appear, Form I-862. This is the charging document that initiates removal proceedings. It's usually the first document filed.
- ☐ Learn what happens at master calendar hearings by watching this [master calendar hearing webinar](#).
- ☐ If the client is detained, determine whether they may be eligible for release on [bond](#) and be prepared to discuss the issue with your mentor.
- ☐ If the client is detained, set up your [ERO eFile account](#) and enter your appearance with ICE with [Form G-28](#) in the portal.

Get clear about procedural posture and deadlines

- ☐ If the client has already submitted an I-589, make sure you have a copy and know what else has been submitted to the court.
- ☐ If the client has not submitted an I-589, identify the one-year filing deadline, based on the client's most recent physical entry to the U.S.
- ☐ Ensure that you know when your client's next hearing will take place and determine:
 - Whether the hearing is a master calendar hearing or an individual (merits) hearing.
 - Whether your client has already submitted oral pleadings.
 - Whether your client has already filed any documents with the court.
 - Determine whether the judge has set any filing deadlines (the judge refers to this as the "**call-up**" date) or issued a scheduling order. Scheduling orders are often issued after an application for relief has been filed.
- ☐ Do not be afraid to call the court clerk to ask about deadlines the judge may have set.

Get clear about the substance of the claim

- ☐ If an I-589 or declaration has already been filed, review it carefully with the client. Some clients receive help from unqualified people, and applications may contain serious errors or missing information. Talk to your mentor if you identify concerns.
 - This is **critical** because there have been recent precedential Board of Immigration Appeals decisions that allow immigration judges to pretermite an asylum application if it

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is incomplete or fails to state a claim under asylum law. Your mentor will advise you on how to amend the application.

- ☐ If the client had a credible or reasonable fear interview, review the [credible or reasonable fear interview notes](#) and go over them with the client for inconsistencies. If the client says they had an interview but were not served with notes, and the notes are not in ECAS, contact your mentor.
- ☐ Be prepared to enter pleadings on the client's behalf if necessary. Discuss this with your mentor.
- ☐ If needed, begin preparing the I-589 and the client's declaration using the IJC templates. At this stage, begin identifying the theory of the asylum claim. See the [sample client declaration](#).
- ☐ Discuss corroborating evidence with the client and work with them to [identify potential sources of evidence](#), including documents and possible witnesses.
- ☐ Assess whether a medical, psychological, or country-conditions expert would be helpful. Speak with your mentor if you think an expert may be useful.
- ☐ Begin preliminary [country conditions](#) research. Consider creating a case with [CGRS](#) for additional information.

Template reminder

Please use only the IJC templates to prepare your filings. They are designed for this purpose and help make the mentor review process smoother and more efficient. If you think a case requires a significant departure from a template, talk to your mentor first.

Step 4: Form I-589, Filing Fee, Declaration, and Biometrics

- Send a draft of the I-589 and client declaration to your mentor for review one to two weeks before you plan to file. In most detained cases, everything must be filed 15 days before the individual hearing, although the client may be asked to submit only the I-589 earlier in the process.
- Review the application with the client and make sure every question is read to the client in their best language. Confirm with the client if they can pay the asylum filing fee. If the client is detained and does not have family to pay the fee, speak with your mentor about funding assistance.
- Pay the [asylum fee](#) through the [EOIR Payment Portal](#) by selecting the Court I-589 initial application. You need proof of payment for the court to accept the I-589 filing. Talk to your mentor if the client's application has already been pending for over one year (more common in non-detained cases) to determine if the client must pay the Annual Asylum Fee.

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- Biometrics are critical after the I-589 is filed. The Immigration Judge cannot grant asylum unless required background checks are complete. Review the complete [biometrics instructions](#) and speak with your mentor if you have questions.
 - For non-detained clients, based on the Revised Biometrics instructions (revised Oct. 29, 2025), the client and/or attorney should be notified at the master calendar hearing if biometrics need to be collected. In many cases, DHS will use biometrics already in its repository. If not, a non-detained client may receive notice to report to a USCIS Application Support Center.
 - For detained clients, if the judge says biometrics must be collected, contact the assigned OPLA attorney and the client's ERO deportation officer to explain that biometrics must be arranged. If DHS does not fulfill this requirement, contact your mentor.

Step 5: Litigation Strategy and Supplemental Filings

As you plan your litigation strategy

- Contact your mentor if questions or issues come up outside group mentor calls. If an individual strategy call would be helpful, ask for one.

Filing supplemental evidence and the legal brief before the individual merits hearing

- **For detained merits cases:** Send briefs, indices, and other drafts to your mentor for review and comments no later than three weeks before the individual hearing. Allow at least two to three days for review. Detained cases often do not receive a scheduling order, so ask the client whether the judge gave any specific deadlines for the I-589 or supplemental evidence.
- **For non-detained merits cases:** The default filing deadline is generally 30 days before the individual hearing, but some judges may set a 60-day deadline or another schedule. Carefully follow the judge's scheduling order.
- **For non-detained merits cases:** After filing Form I-589, stay in touch with your client and file a [change of address](#) form with the court if they move.
- If the individual merits hearing is within six months of receiving the case, send country conditions, briefs, indices, and other drafts to your mentor with at least two weeks for review, plus additional time for your revisions before the filing deadline.
- If the individual merits hearing is more than six months after receiving the case, send country conditions, briefs, indices, and other drafts to your mentor no later than four months after receiving the case. Allow at least two weeks for mentor review.
- If the Immigration Judge has not issued a scheduling order, the default filing deadline is 30 calendar days before the individual merits hearing. Call the court clerk to confirm that there was no call-up date issued by the judge.

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- File all supplemental documents according to court-designated timelines, including the brief or pre-hearing statement, client’s declaration, witness list, corroborating evidence, sworn lay or expert witness statements, motions to allow telephonic testimony, and country-conditions evidence.

Step 6: Preparing for the Individual Merits Hearing

- ☐ When you submit written filings, contact your mentor to arrange an individual hearing-preparation call.
- ☐ Draft direct examination questions and closing argument for mentor review.
- ☐ For non-detained matters, send direct examination questions and closing argument to your mentor at least three weeks before the hearing. The timeline may be faster for detained matters.
- ☐ Prepare the client and any potential witnesses for trial, including direct and cross-examination practice. Plan for at least two preparation sessions, though more may be necessary.

Step 7: After the Individual Merits Hearing

- ☐ If the case is denied, always reserve appeal at the merits hearing.
- ☐ Tell IJC what happened by emailing your mentor.

A Note About Work Permits for Non-Detained Clients

- Talk to your mentor first because government rules may affect work-authorization eligibility for asylum seekers.
- After the client’s asylum application has been pending with the court for 150 days, the client may be eligible to file for a work permit. Prepare the work permit application using the [I-765 instructions](#) and submit it to your mentor for review if you have questions.
- USCIS can adjudicate the work permit application only beginning 180 days after the asylum application has been pending.

Helpful Links Referenced in This Guide

IJC Training and Practice Materials

- [Immigration Justice Campaign Asylum, Withholding, and CAT resources](#)
- [IJC Timeline for Defensive Asylum Applications](#)
- [IJC One-Pager on Asylum Eligibility](#)
- [IJC Statutory Bars to Asylum practice guide](#)
- [IJC Asylum Application, Client Declaration, and Supporting Evidence materials](#)
- [IJC country conditions research materials](#)

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- [IJC motions in immigration court materials](#)
- [IJC drafting asylum brief materials](#)
- [IJC preparing for the individual hearing materials](#)
- [IJC index of sample materials](#)

Forms, Court Portals, and Government Resources

- [USCIS Form I-589 page](#)
- [EOIR eRegistry](#)
- [EOIR ECAS information](#)
- [EOIR Forms](#)
- [EOIR Payment Portal](#)
- [ACIS case status portal](#)
- [EOIR Immigration Court internet-based hearings information](#)
- [EOIR Immigration Court Practice Manual / OCIJ Practice Manual](#)
- [ICE Detention Facilities page](#)
- [ICE Online Detainee Locator System](#)
- [ERO eFile Portal](#)

Remote Appearance Tool

- [Webex downloads](#)