

EXHIBIT M

**DECLARATION OF DOUGLAS STEPHENS
FORMER ASYLUM OFFICER**

I, Douglas Stephens, make this declaration based on my own personal knowledge and if called to testify I could and would do so competently as follows:

Background and Experience

1. My name is Douglas Stephens. I received my Bachelor of Arts from the University of Colorado and my Juris Doctor from Emory University School of Law.
2. I was employed as an Asylum Officer at the San Francisco Asylum Office from September 19, 2017, until August 31, 2019. Prior to serving as an Asylum Officer, I worked as a staff attorney for the San Francisco Immigration Court from September 2015 until September 2017. I am currently a supervisory removal defense attorney at Catholic Charities in San Francisco.
3. As an asylum officer, I performed approximately 430 asylum interviews and assessments, of which about half were credible fear and reasonable fear interviews, commonly referred to by USCIS as asylum pre-screening interviews (“APSO”). I conducted approximately 190 credible fear interviews. I telephonically interviewed asylum seekers detained in California, Washington, Texas, and Oklahoma, including in Bakersfield, CA; Contra Costa, CA; Yuba County, CA; Tacoma, WA; Raymondville, TX; Laredo, TX; and Tulsa, OK. I traveled regularly to Tacoma, Washington, where I conducted in-person credible fear interviews. I also conducted in-person credible fear interviews and orientations at the South Texas Family Residential Center in Dilley, Texas.
4. As an asylum officer, I also conducted orientations to the APSO process, and service of APSO determinations, for asylum seekers in the Northwest Detention Center in Tacoma, Washington, and the South Texas Family Residential Center in Dilley, Texas.

Access to Counsel in the Credible Fear Process

5. As an asylum officer, I regularly conducted orientations for asylum seekers detained in the Tacoma, Washington area. In those orientations, pursuant to my training and understanding of the law, I explained to asylum seekers that they had the right to be represented by an attorney at their own expense.
6. When I conducted credible fear interviews as an asylum officer, I followed a script for initiating credible fear interviews provided by the Asylum Office. Following the exact wording of the script was not mandatory for asylum officers, so long as key information was conveyed and accurately documented in the interview notes. As part of that script, prior to beginning substantive questions about the applicant's fear, I ensured that the applicant had been oriented to the APSO process and had received or was, at a minimum, read the M-444 in their native language.
7. Pursuant to the script for credible fear interviews, once the applicant acknowledged orientation and had no questions, I read a paragraph included in the Form I-870 which again summarized the purpose of the credible fear interview. I then asked the asylum seeker whether they had an attorney or consultant and if they had consulted with an attorney or anyone else about their credible fear claim. If they did not have an attorney, or if their attorney was not present, I then read a statement telling the asylum seeker that they were not required to have an attorney but that they had the right to consult with an an attorney and have them present during the interview. I read this statement in all credible fear interviews where there was no attorney present.
8. If they had not yet consulted with an attorney, I then asked them if they wanted to continue with the interview or reschedule for a later date in order to locate an attorney. With

supervisor approval, I would then reschedule the interview to give the asylum seeker more time to obtain an attorney. Such approvals were routine for a first request.

9. Similarly, I regularly stopped interviews if the applicant had an attorney but the attorney was not present. This usually happened either because the Asylum Office had not yet received contact information for the attorney, or the attorney had not been made aware that their client would be called out for an interview. In those instances, I obtained the attorney's contact information from the asylum seeker so that the Asylum Office could coordinate with the attorney. My office regularly rescheduled credible fear interviews in coordination with attorneys so that the attorney could appear either telephonically or in-person at the detention facility with the applicant.
10. As an asylum officer, pursuant to my legal background, my training, and the responsibilities that I carried out for USCIS, it was my understanding that asylum seekers' right to representation by counsel at their own expense was embedded in the credible fear process.
11. In my experience, many asylum seekers from Central America and from Mexico have complicated claims for relief. Their claims are usually premised on the nuanced legal question of whether violence or threats they have experienced have a nexus to the particular social group ground for asylum or withholding of removal.
12. Based on my knowledge and experience, it is difficult for an asylum seeker, even one who is well educated, to establish membership in, and a nexus to, a particular social group in the credible fear interview without assistance from an attorney in understanding what facts are relevant to do so. Establishing membership in a particular social group often requires the asylum seeker to discuss cultural norms, attitudes, and practices that they have internalized and take for granted as understood by everyone. Without knowledge of cultural distinctions

between their home country and the United States, it is often difficult for asylum seekers to explain norms and behaviors that would establish the existence of, and membership in, a social group. Establishing nexus often hinges on individuals describing statements that were made to them that demonstrate that they were harmed because of a particular characteristic. Without specialized knowledge of immigration law and what social groups are cognizable, it is not obvious to an asylum seeker which statements are relevant to nexus.

13. In my experience, individuals who had consulted with an attorney and seemingly discussed their claim prior to the credible fear interview could respond more clearly—with greater relevant detail—to questions I asked that were intended to elicit whether the harm they had experienced had a nexus to a particular social group and whether they fit within a particular social group.
14. When I conducted credible fear interviews, I observed that asylum seekers who had counsel present seemed generally more at ease. There is an inherent power imbalance between the asylum officer and the asylum seeker, and having an attorney present helped with this dynamic. Asylum seekers generally seemed more willing to talk about, and more comfortable discussing in detail, harm that they had experienced.
15. When I conducted interviews at the detention center in Dilley, Texas, many of the asylum seekers I interviewed had claims with a domestic-violence or sexual-violence component. I observed that those asylum seekers who had counsel present were more likely, generally, to bring up and to describe the details of domestic or sexual violence.
16. Understanding whether an individual has a credible or reasonable fear requires time. The more time that a person with legal knowledge can spend building rapport with an asylum seeker, the more likely they are to elicit relevant information that establishes whether the

asylum seeker has a claim. Asylum officers experience significant time pressure, including completion goals for credible fear interviews, and meet with an asylum seeker only once. It is helpful for the asylum officer in the credible fear interview when an asylum seeker has already met with an attorney, and the attorney has had an opportunity to explain the law and what is relevant, because the asylum seeker is then more likely to not require re-orientation and to clearly explain the facts which will help the asylum officer to discern the nature of the claim and whether it meets the legal standard.

17. An attorney who has already spoken with a client in-depth about their claim can also then clarify or draw out additional information in the credible fear interview if needed. If an attorney was present, it was my practice to give the attorney an opportunity to speak and to ask questions of the asylum seeker at the end of the interview. At times, the attorney thought of slightly different ways to phrase questions of the asylum seeker that elicited relevant information. In my experience, there were interviews in which the attorney's intervention at the end of the interview elicited sufficient additional facts to change the outcome of the interview.

I, Douglas Stephens, swear under the penalties of perjury that the foregoing declaration is true and correct to the best of my knowledge and belief.



Douglas Stephens

San Francisco, CA

Location

12/20/2019

Date