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U.S. BORDER SCREENING ERRORS BLOCK REFUGEES FROM ASYLUM PROCESS

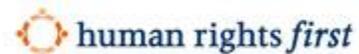
Civil Rights Complaint Details Systemic Failures by Customs and Border Protection

WASHINGTON, D.C. (November 13, 2014)— U.S. Customs and Border Protection (CBP) regularly obstructs access to the asylum process for individuals who may qualify for protection, according to a civil rights complaint filed today on behalf of nine men and women who were unjustly deported by CBP officers to countries where they faced persecution.

A complaint filed today with the Department of Homeland Security (DHS) Office of Civil Rights and Civil Liberties, demonstrates that CBP officers at the southern border frequently flout federal law by failing to ask asylum seekers whether they fear persecution in their home countries, and intimidating and ignoring individuals who do express fear.

“CBP officers have tremendous power over the fate of people who come to our borders seeking refuge, and with that comes a corresponding obligation to ensure our government does not deport anyone back to countries where they may be persecuted or tortured,” said Keren Zwick, managing attorney for Heartland Alliance’s National Immigrant Justice Center. “Unfortunately, many officers abuse that power.”

The complaint provides detailed accounts of asylum seekers—individuals who fled Mexico, Central America, or South America because of gender-based violence, persecution by gangs, and persecution based on their indigenous or LGBT identities—whose efforts to obtain protection were thwarted by CBP officers who improperly



screened them soon after their arrival or blatantly ignored their expressions of fear. In all of the cases, the individuals were processed for expedited removal and deported, without a hearing, to countries where they faced renewed persecution. When they were forced to flee to the United States again, they were deemed ineligible for asylum because of the original erroneous removal orders. The best they can hope for now is to live in a legal limbo called withholding of removal, in which they remain subject to removal orders which the government agrees to “withhold” for an indefinite period.

The complaint also contains statements from six legal service providers in Texas, California, and Arizona, showing that the complainants’ experiences are not isolated incidents but symptoms of systemic failures that result in permanent and life-threatening harm to hundreds, potentially thousands, of asylum seekers.

NIJC filed the complaint in collaboration with American Gateways, American Immigration Lawyers Association, the Center for Gender & Refugee Studies, Centro Legal de la Raza, Human Rights First, Lawyers’ Committee for Civil Rights of the San Francisco Bay Area, the Texas Civil Rights Project, the University of Texas at Austin’s Immigration Clinic, and the Women’s Refugee Commission. The groups request that the DHS civil rights office make the following recommendations to CBP:

1. Train CBP officers to ensure they understand the agency’s asylum screening requirements and are sensitive to the circumstances of recently arrived asylum seekers.
2. Improve oversight to ensure officers comply with proper asylum screening procedures during the expedited removal process.
3. Reinforce to CBP officers that they are not responsible for adjudicating individuals’ asylum claims, but must refer individuals who express a fear of persecution to the U.S. Citizenship and Immigration Services Asylum Office.

To arrange interviews with lawyers or asylum seekers involved in this complaint, contact Candice Francis, Communications Director, Lawyers’ Committee for Civil Rights; cfrancis@lccr.com; 415-543-9697 ext. 216.

About the complainants:

KAB is a young man from Honduras who first entered the United States in early 2014, fleeing severe abuse by his father. He told a CBP officer he was afraid to return, but the officer did not acknowledge his statements, accused KAB of lying, and told him he did not have a right to fight for his case. KAB was deported without speaking to an asylum officer, and spent three days in hiding in Honduras before fleeing a second time. This time, a CBP officer referred KAB to an asylum officer for a reasonable fear interview. KAB was permitted to proceed with his case in court, and is currently detained awaiting a decision on whether he qualifies for withholding of removal.

BBM is a young man from Honduras who was targeted because he was a vocal opponent of the gang violence that has plagued his country. The violence eventually drove BBM to flee in 2013, and he was apprehended in the United States. During his detention he submitted written requests to apply for asylum. Jail guards yelled at him and said he had no right to see a judge. BBM was deported without a hearing, and was again targeted by gang members. He fled again in 2014. This time, BBM's statements of fear were acknowledged, and he was referred to the Asylum Office. He was given a reasonable fear interview and eventually was granted withholding of removal.

PMA is a young woman from Honduras who suffered severe gender-based violence from partners, friends, and family. When PMA first entered the United States in 2007, immigration officials apprehended and detained her for 22 days. During that time, no one explained to her she had a right to seek asylum protection. After PMA was deported, she suffered abuse that became so unbearable she again fled to the United States. Years later, PMA was taken into immigration custody from her home. With the help of lawyers, PMA is now applying for withholding of removal. However, withholding will not allow her to reunite with her son in the United States.

JLC is a young man from Mexico whose family and classmates beat and abused him for being effeminate. He made six attempts to escape to the United States; four of those times, U.S. immigration authorities apprehended him and deported him without a hearing and without asking if he had a fear of return. JLC eventually was referred to the Asylum Office after filing a written grievance from detention explaining his fear. The asylum officer found that JLC had a reasonable fear of persecution. Had he previously been afforded access to the asylum process, he would have qualified for that protection at any of the prior points when he was instead deported. JLC was recently granted withholding of removal.

NBS is a young woman from Peru who fled gender-based violence. She fled to the United States in 2012. During her initial entry, NBS tried telling a CBP officer that she feared returning to Peru. The officer told her that entering the United States without documents was a crime and that she was being immediately deported. Back in Peru, the persecution grew worse. She fled again in 2014, and this time was referred to the Asylum Office, where she was found to have a reasonable fear of persecution. She is awaiting adjudication for withholding of removal. Her children remain in Peru, and even if she is granted withholding of removal, she will not be permitted to petition for them to join her in the United States.

RAM is a 37-year-old gay man from El Salvador who was sexually abused as a child and who spent the majority of his life trying to hide his sexual orientation. In 2009, RAM fled to the United States and was caught by CBP at the border. When he was detained, RAM expressed his desire to apply for asylum. The officer told him that he did not qualify and that he had no rights. RAM continued to press the issue, but was continually told that he did not qualify for asylum and was eventually deported. After again being targeted for persecution, he returned to the United States in 2010. He has not yet been apprehended, but knows that his prior removal order makes him ineligible for asylum or

other immigration benefits, including adjustment of status through his relationship with a U.S. citizen. RAM knows that, because of the prior erroneous expedited removal order, any action he takes with immigration could lead to deportation.

JVC is a young woman from Guatemala who fled to the United States to seek safety from her abusive ex-partner, who regularly extorted money from bus drivers and appeared complicit with local officials. JVC first entered the United States in 2014 and was apprehended by immigration authorities shortly thereafter. Though JVC expressed her fear of return to Guatemala to an immigration officer, she was told not to fight her case because she would be detained with criminals for nine months. JVC was issued an expedited removal order and deported to Guatemala. JVC was in Guatemala for about 10 days before she left again for the United States. This time, JVC was able to obtain legal representation and a reasonable fear interview. She is currently awaiting a court hearing to request withholding of removal.

RSC is a woman from Guatemala who suffered persecution on account of her indigenous identity. Though RSC filed reports with the police, she was unable to obtain protection. The first time she fled to the United States, she told border officers she was afraid to return to Guatemala but was told: “Don’t talk. These are all lies. Stop speaking.” Terrified, RSC signed a removal order without having the opportunity to speak to an asylum officer. RSC spent only 10 days back in Guatemala—during which she was drugged, raped, and impregnated—before returning to the United States. Again, RSC was not given an opportunity to express her fear of return and was deported within days. RSC fled again with her eight-year-old son in 2014 and presented herself to border officials. The pair was detained at the family detention center in Artesia, New Mexico. With the help of a lawyer, she finally was able to obtain a reasonable fear interview and now is awaiting proceedings to obtain withholding of removal.

EYT is a young man from Honduras. He fled his country after gangs killed several family members and threatened to kill him for cooperating with law enforcement in the arrest of two gang members. EYT first entered the United States in 2013 and was kidnapped at the border, beaten severely, held for ransom, and then again assaulted and left for dead. A man found EYT in the desert and called CBP officers, who took him to the hospital. EYT told the officers about the kidnapping and tried to raise his fear of return, but the officers ignored him. Instead, while EYT was disoriented and semi-conscious, the CBP officers grabbed his hand to sign expedited removal forms. EYT was deported, but when his uncle met him at the airport to warn him that his life was in danger, he turned around immediately and traveled back to the United States. EYT re-entered the United States, was apprehended by CBP, and eventually was transferred to a DHS detention center in Illinois. He is pursuing withholding of removal.