Claiming Asylum in the United States: Entering at a Port of Entry

Immigration law allows individuals to apply for asylum in the United States who are fleeing their country and seeking protection based on “persecution or a well-founded fear of persecution on account of their race, religion, nationality, membership in a particular social group, or political opinion.” Individuals can present themselves for asylum at ports of entry before U.S. Customs and Border Protection (CBP) officers. As these charts show, U.S. officials also have significant discretionary powers over what to do with individuals who are inadmissible to the United States, which can impact when and how individuals make their credible fear claim as they enter different processes for removal from the United States based on these official decisions.

This chart provides a general overview of the process. Individual cases may vary.

### BOX KEY:
- **CBP**
- **USCIS**
- **Immigration Courts**
- **Additional ICE Involvement**

### Individual appears at a Port of Entry (PoE)

1. **Person has a visa or is otherwise determined to have legal authorization to enter the U.S. and chooses not to make an asylum claim**
   - Person has 1 year to file for asylum

2. **If not admissible due to misrepresentation or insufficient docs, CBP officer can place the individual in expedited removal and they are deported without seeing an immigration judge**
   - Person is allowed to remain in the U.S.

3. **For other cases, CBP officer refers individual to immigration court for determination of admissibility**
   - Person is allowed to remain in the U.S.

4. **CBP officer allows individual to withdraw without immigration penalty**
   - Person is allowed to remain in the U.S.

5. **Asylum seeker is placed in detention until they receive a credible fear interview to determine if they have an arguable case for asylum**
   - Person is allowed to remain in the U.S.

6. **Does the individual, when interviewed by CBP, express a fear of return to their home country?**
   - **Yes**
     - Asylum seeker is either kept in detention or paroled until their day in front of an immigration judge, who makes the determination of their asylum status
     - Asylum Granted
     - Asylum Denied
   - **No**
     - Asylum seeker is either kept in detention or paroled until their day in front of an immigration judge, who makes the determination of their asylum status
     - Asylum Granted
     - Asylum Denied

### Sources:
1. Congressional Research Service
2. Additional ICE Involvement
Claiming Asylum in the United States: Entering Between Ports of Entry

Immigration law allows individuals to apply for asylum in the United States who are fleeing their country and seeking protection based on “persecution or a well-founded fear of persecution on account of their race, religion, nationality, membership in a particular social group, or political opinion.” Individuals who are apprehended by CBP between ports of entry can also express fear of returning to their country and seek asylum as a defense against removal. U.S. officials have significant discretionary powers over how to process and whether to prosecute individuals who are apprehended, which can impact when and how individuals make their credible fear claim as they are processed for removal from the United States based on these official decisions.

This chart provides a general overview of the process. Individual cases may vary.

**BOX KEY:**
- CBP
- USCIS
- Federal Courts
- Immigration Courts
- Additional ICE Involvement

**Individual is apprehended between Ports of Entry (PoEs)**

1. Government has three main options
   - CBP officer can place the individual in expedited removal and they can be deported without seeing an immigration judge
   - CBP officer refers individual to the U.S. Attorney’s Office for criminal charges for attempted illegal entry

2. Does the individual, when interviewed by CBP, express a fear of return to their home country?
   - No
   - Yes

   **No Prison Sentence**
   - Individual goes before a magistrate judge and is convicted of illegal entry
     - Sentenced to Time in Prison
     - No Prison Sentence

   **Individual is imprisoned for immigration related offenses**
   - Asylum seeker is either kept in detention or paroled until their hearing before an immigration judge, who makes the determination on their asylum claim
     - Asylum Denied
     - Asylum Granted

   **Asylum seeker is placed in detention until they receive a credible fear interview to determine if they have an arguable case for asylum**
     - No Credible Fear
     - Credible Fear

**Removal**

**Person is allowed to remain in the U.S.**

Sources: Congressional Research Service 1, 2