



**Asylum**  
Online Course

## Module 7: Border Issues

### Hypotheticals

#### Faculty Response

##### Hypothetical A:

You receive a call from a current client, Ana. Ana is frantic because her cousin, Sara, Whatsapp'd her last night saying she was crossing the border to turn herself into CBP and request asylum. However, Ana has not heard from her since. She wants to know how she can find her cousin and help her file an asylum application. Answer both of the following:

##### Faculty Response

1. Assuming that Sara was able to safely turn herself in to CBP, where could she be at this moment?
  - Detained with CBP
  - Detained with ICE: Her location could take up to 72 hours to be inputted into ICE locator and, finally, most likely
  - T42: If Ana is from a nation that Mexico is willing and able to take back, then the most likely answer is that she met with CBP, was processed and was immediately returned or was set to return.
  - It is also entirely possible that CBP simply released her to a local respite center, especially if she is from a country that Mexico does NOT accept.
2. How does your answer change if Sara is from a country that Mexico does NOT accept under T42?
  - If she is from a nation that Mexico does NOT accept under T42, then it is most likely that she is either detained by CBP or ICE; but, at least currently, it is also just as likely that she has been released from custody and sent to a local respite or nonprofit center.

##### Hypothetical B:

You helped Ana become a legal permanent resident many years ago. She just called to see if you could help represent her cousin, Sara, who's been detained at El Valle Detention Facility in Raymondville, TX. Ana knows that her cousin fled Colombia after the recent elections because she is a member of the opposition party. She also knows that her cousin turned herself in at Eagle Pass, TX, a few days ago and was transferred to El Valle a day or two ago. Ana says that her cousin hasn't been told anything yet by any official. Ana does not know more than that. Ana wants to help her cousin be released from

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detention and apply for asylum. Knowing what you do about asylum in general and, specifically, asylum at the southern border, please answer all of the following:

## Faculty Response

1. Before getting started, what is the first thing you should do?
  - Immediately contact local practitioners to see:
    - What does the CFI process look like at the detention center?
    - What is the typical time frame for CFIs and results at this center?
    - What is the procedure for contacting detainees at El Valle?
    - What does the parole process look like? What are the unique preferences of ICE in the region?
    - Generally, what is happening on the ground at the moment that might influence the process?
2. At what stage of the asylum process is Sara most likely in?
  - Because she is a recent arrival who is NOT (as of 09/23/2022) subject to T42 and because she is detained in an ICE facility, it is most likely that Sara is in Expedited Removal proceedings and that she is eligible for or waiting for a credible fear interview.
3. What can you do to help Ana request asylum?
  - You can help her request a CFI, if this has not already been done.
  - You can prepare her for the CFI
  - You can represent her in the CFI
  - You can represent her at an IJ review, if she does not pass
4. When can Sara request release from detention?
  - After she passes her CFI.
5. How can Sara request release from detention?
  - As of 09/23/2022, the vast majority of people can no longer request a bond before an immigration judge due to *Matter of MS*, 27 I&N Dec. 509 (A.G. 2019). Litigation is pending, but it is important to note that, for the time being, the only way to request release from detention is to pass CFI and then file a parole request with ICE.
  - Additional note: The full outlines of this current ban may vary circuit by circuit. Always make sure to check in with local practitioners.
6. How can Ana help Sara be released?
  - Along most of the border and in most circumstances, a detained person must have a sponsor who agrees to financially support and care for the detained person during the pendency of their hearings.
  - Along the Texas border, especially, there is a strong preference that the sponsor demonstrate that they: a) are related to the client, with the strongest preferences for close family connections; b) are a USC or LPR (and provide evidence of such); c) earn 125% above the poverty guidelines; d) prove income via taxes; e) sign a letter of support

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stating that they will financially support the asylum seeker and will make sure they help them get to court; f) submit proof of residence, such as a utility bill.

- **THE DETAILS OF THIS PROCEDURE VARIES WILDLY. PLEASE CHECK IN WITH LOCAL COUNSEL.** This is, however, exactly what you would do in the Rio Grande Valley, where this case is set.
- So, Ana can help Sara be released by submitting all the required documents to sponsor her.
- Ana can also find someone else to sponsor her cousin.
- Finally, she can pay the bond.

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