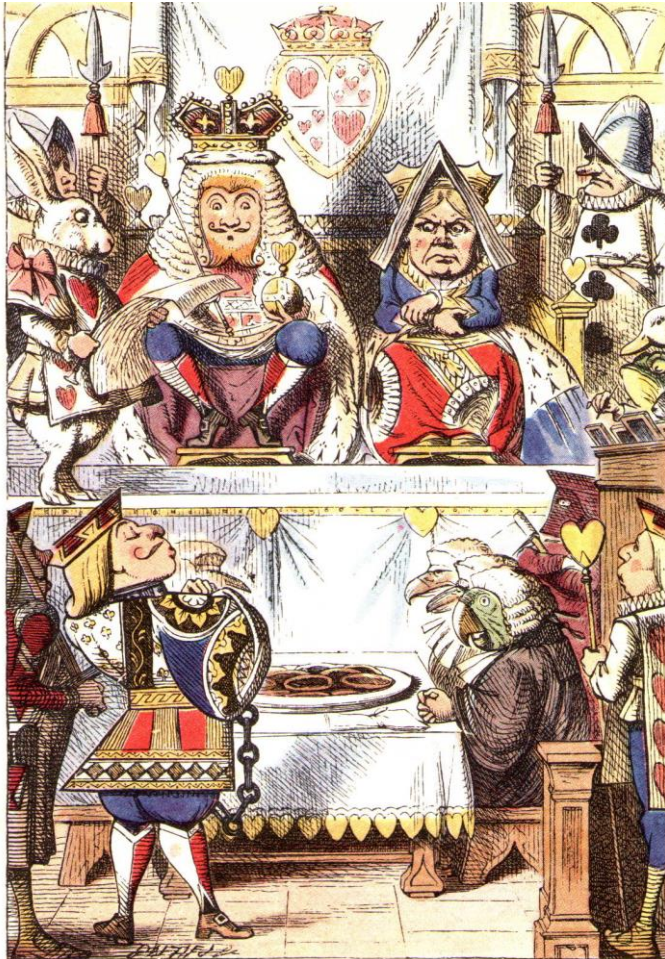


AFFIDAVITS AND IMMIGRATION COURT



Basics

- ❖ You are writing for a Judge!
 - ✓ *Use non-technical language as much as possible*
 - ✓ *Do not talk down to the Judge/the Court*
- ❖ Immigration courts prefer affidavit-style report formatting
 - ✓ *Paragraphs are numbered*
 - ✓ *Use section headers to clarify elements of your exam and impression*
- ❖ Reconcile your report with the attorney/client affidavit

Affidavit Contents

- ❖ Introduction (credentials of clinician, referral information)
- ❖ History (only what was told to *you*, not what is in case documents)
- ❖ Physical exam and/or Psychiatric exam
- ❖ Attribution of findings by client and continuing symptoms
- ❖ Fear of return
- ❖ Your expert conclusions and diagnoses

Written Reports

❖ Credentials of Evaluator

- *Education, specialized training and experience in assessment and/or treatment of trauma including experience with refugees and/or asylum seekers – today’s training would be included!*
- *Include CV with your report*

❖ Referral source and referral questions

❖ Assessment Procedures

- *Interview: “On **DATE** I conducted a detailed clinical interview of Mr. **** at ****...”*
- *Any standardized testing*

Based on “Examining Asylum Seekers: A Clinician’s Guide to Physical and Psychological Evaluations of Torture and Ill Treatment”, Physicians for Human Rights, 2012

Written Reports

- ❖ Any collateral sources of information
 - *Medical records*
 - *Client's written statement*
- ❖ Informed consent, limitations of confidentiality
- ❖ Relevant background history
 - *Family background including ethnicity, tribal or clan affiliation, religion, social status, political affiliation or involvement*
 - *Relevant developmental history including sexual orientation and gender identification (RIWW, Ahola and Shidlo, 2011 SOGI assessment tool)*
 - *Prior trauma including domestic violence and child abuse*
 - *Educational and Occupational History*

Written Reports

- ❖ History of torture and ill treatment
 - *Include details only to the level of specificity that the individual can reliably recall – you do not want to introduce inconsistencies*
 - *Include sensory details and dialogue*
 - *If there were many episodes, note this and focus narrative on the most severe and/or what triggered flight*
 - *Do not include all details that are in the client's affidavit, do not include political detail or country facts unless relevant to your forensic opinion*

Written Reports, Physical

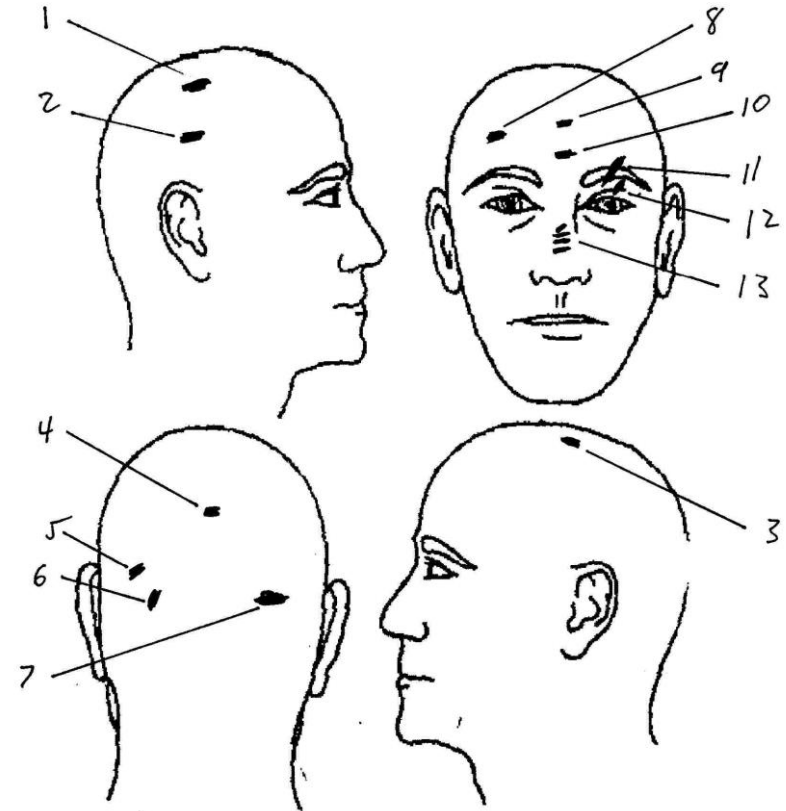
- ❖ List client's attribution for each physical finding
- ❖ List client's attribution for symptoms and diagnoses, as appropriate
- ❖ Usually do not need to present negative findings in this context
- ❖ Evaluate each finding or closely related group of findings for consistency with history

The Language of Consistency per Istanbul Protocol

- ❖ **Not consistent with:** the lesion could not have been caused by the trauma described
- ❖ **Consistent with:** the lesion could have been caused by the trauma described, but it is non-specific and there are many other possible causes
- ❖ **Highly consistent with:** the lesion could have been caused by the trauma described, and there are few other possible causes
- ❖ **Virtually diagnostic of:** the lesion could not have been caused in virtually any other way other than that described
- ❖ **Not related to:** not related to alleged torture/ill treatment

Written Reports, Physical

- ❖ Use photographs but only if good quality
- ❖ Use drawings or templates to show locations for scarring or other injuries



Written Reports, Psychiatric

- ❖ Current psychological complaints
 - *How is the individual suffering now as a result of trauma history presented?*
 - *Include affective, cognitive, and behavioral signs and symptoms and frequency*
- ❖ Medical history prior to torture or persecution
- ❖ Psychiatric history
 - *Any evidence that current symptoms pre-date torture or persecution?*
 - *Prior treatment?*
- ❖ Substance use and abuse history
 - *Use of substances to manage symptoms?*
- ❖ Post-torture history
 - *Flight from country of origin, current life circumstances*

Written Reports, Psychiatric

- ❖ Mental Status Examination, behavioral findings
 - ✓ *Appearance, cooperation, behavior*
 - ✓ *Affect, thought process, thought content*
 - ✓ *Note relationship between observation of affect and narrative*
- ❖ Standardized assessments
 - Use only if you are very comfortable with the assessment tool, assessments can be difficult to explain in court
 - Include reference ranges, limits of standardized interpretation based on normative data when applicable

Written Reports, Psychiatric

❖ Clinical Impression

- *Answer specific referral questions*
- *Are reported symptoms and clinical observations consistent with the alleged report of torture?*
- *Is there a formal diagnosis? Suicidal risk?*

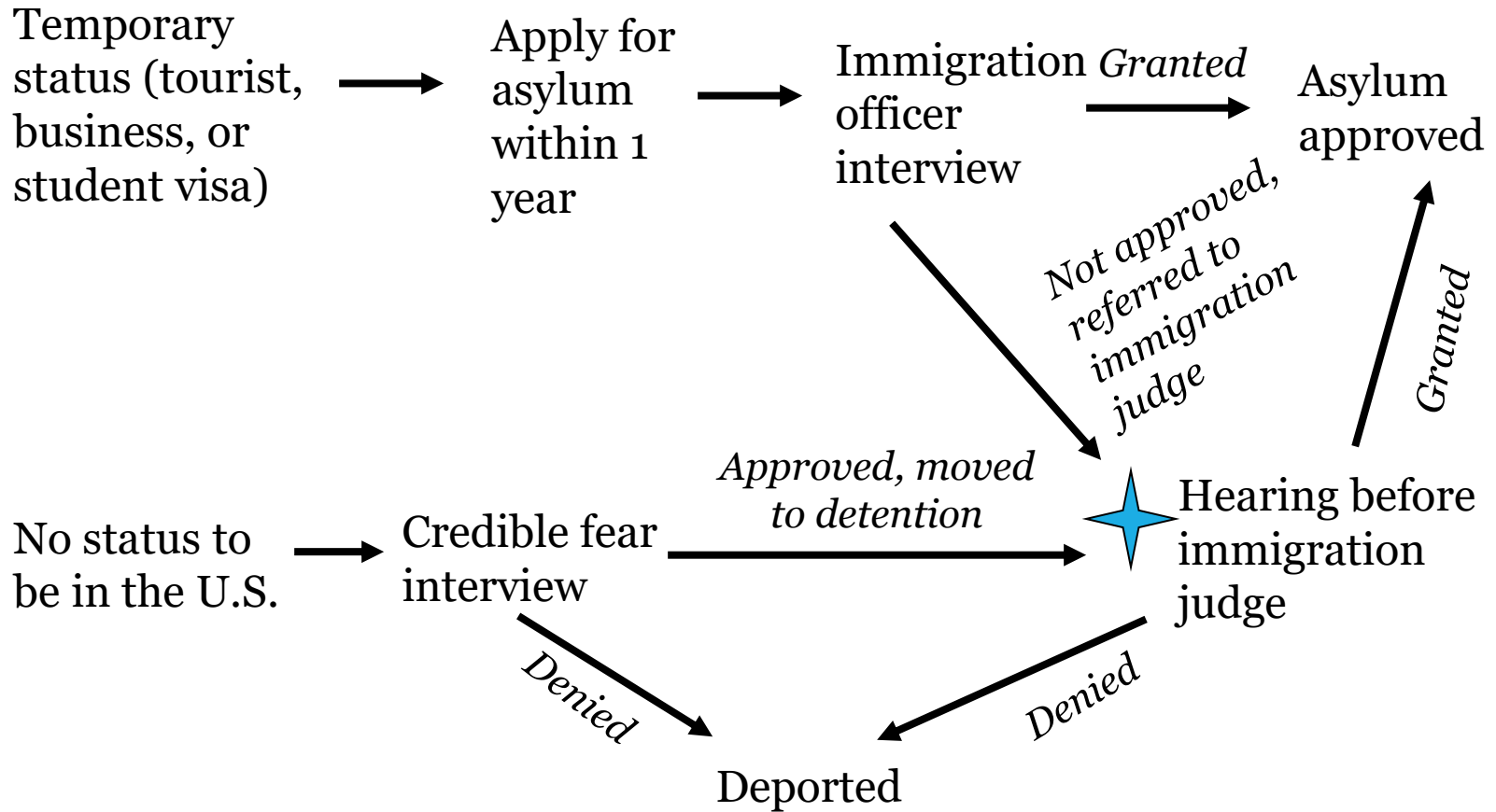
❖ Recommendations

- *Treatment recommendations as appropriate*
- *Include any limitations in client's ability to testify in immigration court (memory impairment, re-experiencing with trauma recall)*
- *Recommendations for accommodations such as closing hearing to observers, specifying gender of court interpreter*

Working with Attorneys

- ❖ Most attorneys in these cases are working pro bono or at a reduced fee
- ❖ Review your affidavit with the attorney prior to submitting your final version
- ❖ For more detailed questions, speak with the attorney directly for guidance prior to putting pen to paper (e.g. apparent inconsistencies)
 - ✧ *Medically and psychologically, we expect some inconsistencies in recall of traumatic events*
 - ✧ *In a court room inconsistency = LYING*
 - ✧ *Present your case in a way consistent with your findings, but by mindful of the intricacies of trauma memory*

Asylum Process Flowchart



★ The majority of psycho-medical evaluations occur before judge hearings.



Questions?

Thank you!