



KNOW YOUR RIGHTS:

Afghan & Iraqi Special Immigrant Visa (SIV) Holders Arriving to the United States Without Attorney Representation

The International Refugee Assistance Project (IRAP) provides free legal help to refugees and displaced people. IRAP is not part of the U.S. government or IOM. This guide provides general information about SIV holders arriving in the United States. It is not meant as legal advice for individual applications.

This information was revised in April 2019. Requirements may change.

IRAP developed this guide because in the past few years several SIV holders have been detained at the airport when they arrived to the United States. We believe it is important for SIV recipients to prepare for this possibility.

Preparing for Your Trip

- Come up with a plan for contacting someone in the United States – your U.S. point person – as soon as possible after you land in the United States so that at least one person will know if you are detained at the airport. This person can be a family member, a friend, or a former supervisor.
 - Give the person your flight information, including the date, time, and airport where you will arrive.
 - Decide how you will contact the person. Will you call them using your cell phone? Will they be waiting for you at the airport?
 - Discuss with them an emergency plan for how they will respond if you are detained: Should they tell your story in the media? Should they ask for help from elected officials? Should they try to find a lawyer to file a case in court?
- Keep these documents with you in your carry-on luggage and not in your checked baggage:
 - Your passport and travel documents. DO NOT OPEN THE PACKET OF TRAVEL DOCUMENTS THAT YOU RECEIVE FROM THE U.S. EMBASSY.
 - Documents from your SIV application
 - The contact information for your U.S. point person

- This know-your-rights document

Before Reaching Immigration Inspection

When you first land in the United States, try to get in touch with your point person if it is possible. If you cannot send a message because you do not yet have phone service, try connecting to the airport's WiFi to send an email or a text. Once you reach the immigration and customs area, you will generally not be allowed to use your cell phone.

Going through Immigration Inspection

After getting off the plane, you will get in line for the primary inspection point. At the primary inspection point, give the officer your travel documents and the unopened packet of documents that you received from the Embassy. ANSWER QUESTIONS TRUTHFULLY.

You will be fingerprinted and photographed. The United States claims the right to inspect all property you bring in to determine whether you should be allowed into the country. This means that officers might look at the files, videos, or photos that are stored on your electronic devices like cell phones and laptops.

Most SIV holders are able to enter the United States after this screening, but it is possible that officers will decide to take you to secondary inspection for more questions. If you are taken to secondary inspection, you will be brought to another room. You have the right to access food, water, a space for prayer, and the bathroom while you are waiting. You should tell the officers if you need access to medications. If you are waiting in secondary screening for over two hours, ask to be allowed to call your U.S. point person.

You have the right to request an interpreter if you have difficulty communicating in English.

Claiming Asylum If It Appears That You Will Be Denied Entry

It is important for you to know that you have the right to apply for asylum in the United States if it appears that the officers will deny you entry.

Claiming asylum means claiming that you meet the definition of a refugee after you have arrived in the United States. A refugee is someone who has a fear of

persecution or has suffered past persecution due to race, religion, nationality, membership in a particular social group, or political opinion. Because you experienced serious threats or persecution because of your work with the United States, you are likely to meet the definition of a refugee. If you are traveling with your family members, you can include your spouse and children on your asylum application.

If it appears likely that you will be denied entry and you want to stay in the United States to claim asylum, give the officer a copy of the attached letter from IRAP and take the following steps:

1. Ask the officer to parole you into the United States. Parole is temporary entry into the United States. Once you are paroled in, you can find a lawyer to help you with your situation. Tell the officer you should be paroled in because:
 - You have been approved for admission to the United States as a SIV holder with lawful permanent resident status,
 - You were employed by the United States in Iraq or Afghanistan,
 - You have shown that you would be at serious risk of threats and persecution in Iraq or Afghanistan because of your service to and affiliation with the United States,
 - You have passed through the security and medical screening processes for a SIV,
 - (And if true:) You have family members already living in the United States with whom you want to be reunited.
2. Tell the CBP officer that you are afraid of returning to Iraq or Afghanistan, as shown in your SIV application. Tell the officer that you have a right to a “credible fear interview” where you can show that you have a significant possibility of eligibility for asylum.

DO NOT SIGN ANY DOCUMENTS THAT YOU DO NOT UNDERSTAND. In the past, SIV holders have been asked to sign documents withdrawing their SIV application. If you want to stay in the United States, do not sign any documents withdrawing your application.

3. Once you have expressed a fear of returning to Iraq or Afghanistan, you cannot be deported from the country. You will be either held at the airport or taken to another detention facility until the credible fear interview takes

place. Reach out to your U.S. point person at this point if you have not already and ask them to find an attorney.

4. Use the waiting period before the credible fear interview to talk to an attorney and prepare for the interview. In the interview, you will be asked questions about your SIV application, so make sure to review your SIV application materials.
5. The credible fear interview may be in-person or it may happen over the phone. You have the right to bring an attorney with you to your in-person interview or to have an attorney participate on the phone in your telephonic interview.
6. Once you pass the credible fear interview, you can apply for asylum before an immigration judge. While you apply for asylum, you may continue to be held in detention. You could ask for release from detention through parole. Under the current policy, people who have passed the credible fear interview may be released on parole if they establish their identity, that they will come to their immigration hearings, and that they are not a danger to the community.

Most SIV holders are admitted to the country after inspection and will not have to claim asylum. Please contact your U.S. point person as soon as you can so that they know whether you have cleared inspection or if you are being detained.

The logo for the International Refugee Assistance Project (IRAP) features the acronym "IRAP" in large, bold, white capital letters on a dark blue rectangular background.

International Refugee
Assistance Project

TO: U.S. Customs & Border Protection,
Department of Homeland Security
FROM: International Refugee Assistance Project
DATE: April 16, 2019
RE: Rights of Special Immigrant Visa Holders

If you are inspecting an Afghan or Iraqi national with a Special Immigrant Visa (“SIV”), the U.S. State Department issued the visa to this person because they provided a crucial service to the U.S. by working on behalf of the U.S. government and/or NATO, experienced ongoing serious threats in their home country as a consequence of their service, and do not pose a security threat to the United States.¹ By applying for and receiving the SIV, this person has expressed fear of persecution in their home country. Therefore, **you cannot deport this person or their family from the United States without referring them to a credible fear interview.**²

By presenting this document, the SIV holder requests the following:

- **Referral to a credible fear interview.** This person fears persecution in their home country as documented in their SIV application and intends to apply for asylum if you do not admit them to the United States under the SIV. They will not withdraw their SIV application without first consulting a lawyer.
- **Release on parole under INA 212(d)(5).** The approval of their SIV application by the State Department demonstrates that the individual does not pose a security or flight risk, that it would be of significant public benefit to allow parole, and that there are urgent humanitarian reasons for parole.
- **Access to an attorney.** The individual seeks to speak with U.S. persons who are waiting their arrival so that they can contact a lawyer.

¹ Afghan and Iraqi SIV holders may have received their SIVs under the Afghan Allies Protection Act of 2009 or the Refugee Crisis in Iraq Act of 2007 (“SQ” category visa) or under the National Defense Authorization Act for Fiscal Year 2006 (“SI” category visa).

² INA, §235(b)(1)(A)(ii) (prohibiting the officer from removing individuals who “indicate[] either an intention to apply for asylum under section 208 or a fear of persecution”) (emphasis added).