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Via Electronic and Priority Mail

February 3, 2020

Dana Salvano-Dunn
Director
Investigations
Office for Civil Rights and Civil Liberties
U.S. Department of Homeland Security
Building 410, Mail Stop #0190
Washington, D.C. 20528

RE: Mohammad Shahab Dehghani Hossein Abadi, DOB: [REDACTED] 1996

Dear Director Salvano-Dunn:

We are filing this complaint with regard to the obvious mistreatment of Mr. Mohammad Shahab Dehghani Hossein Abadi by Customs and Border Protection ("CBP") at Logan International Airport on January 19-20, 2020, including, but not limited to:

- 1) the legally unsupportable inadmissibility finding and expedited removal order pursuant to INA Sec. 212(a)(7)(A)(i)(I) that was entered into Mr. Dehghani Hossein Abadi's record;
- 2) the incomplete and legally insufficient documentation of Mr. Dehghani Hossein Abadi's case;
- 3) the refusal of the CBP Officer to include his name on the expedited removal order form I-860A&B, which suggests a deliberate attempt to evade review or responsibility for the treatment of Mr. Dehghani Hossein Abadi;
- 4) the threatening and uncivil interrogation focused on Mr. Dehghani's personal religious and political beliefs and lacked any relevance to grounds of inadmissibility;
- 5) the refusal of CBP-Boston to communicate with Mr. Dehghani Hossein Abadi's attorneys, allow Mr. Dehghani Hossein Abadi to communicate with his attorneys, cooperate with congressional inquiries on his behalf, or allow access to information

legally requested by his attorneys despite the production of a G-28 Notice of Appearance, which CBP refused to accept;

- 6) CBP's false statements regarding whether Mr. Dehghani Hossein Abadi had been removed from the United States;
- 7) Mr. Dehghani Hossein Abadi's removal from the United States in violation of a Massachusetts Federal District Court order against CBP staying such removal; and
- 8) the release of false information to specific members of the press by CBP in violation of the Privacy Act and Mr. Dehghani Hossein Abadi's rights.

Please also accept this Complaint as a formal request to begin an investigation by the Office of Inspector General. This letter will address four of these points in more detail.

As your office is aware, Mr. Dehghani Hossein Abadi is not the only Iranian citizen to have been treated in a similar manner and resulting in an identical outcome by CBP-Boston at Logan International in the last ten months. We are getting similar reports from other POE's as well¹. It is also not the first unlawful release of confidential or sensitive information by CBP.²

Mr. Dehghani Hossein Abadi is a citizen and national of Iran. His date of birth is [REDACTED], 1996 and he was admitted to the United States on three occasions prior to his Jan. 19, 2020 application for admission, all without incident—once in 2015 and twice in 2017. He has been the recipient of two multiple-entry F-1 student visas, the most recent issued on January [REDACTED] 2020. He was eager to return to Northeastern University (NEU), especially because he was arriving late for the start of classes as a result of the long delay in issuing him his most recent visa. Mr. Dehghani Hossein Abadi has been studying economics and math at NEU. Prior to the issuance of his visa on Jan. 13, Mr. Dehghani Hossein Abadi was under "administrative processing" for almost one year.

Having been issued two multiple-entry visas and having entered the U.S. on three prior occasions without incident, Mr. Dehghani Hossein Abadi was not prepared for what awaited him in Boston Logan Airport on Sunday, Jan. 19, 2020. He was taken into secondary inspection but once there, he was then subjected to numerous rounds of often aggressive and demeaning questioning. In addition to the officers' unprofessional and inappropriate behavior, it is clear the individual involved in Mr. Dehghani Hossein Abadi's inspection knows very little about Iran by the nature of his questions. Despite clear and truthful answers from Mr. Dehghani Hossein Abadi denying all the false accusations made by the officer, CBP made devastating findings against Mr. Dehghani Hossein Abadi. The Department of State had cleared Mr. Dehghani Hossein Abadi's travel to the United States less than a week prior to his application for admission at Boston Logan. Despite this, he was attacked by CBP and improperly found to be inadmissible and expeditiously removed.

¹ <https://www.nytimes.com/2020/01/25/us/iran-students-deported-border.html>

² https://www.washingtonpost.com/world/national-security/customs-and-border-protection-examining-agents-questioning-of-national-security-reporter/2018/06/12/05dac696-6e74-11e8-afd5-778aca903bbe_story.html

After the inadmissibility finding was made on Sunday, Jan. 19, however, Mr. Dehghani Hossein Abadi's case came to our attention and we moved quickly to collect information to find out what had occurred between CBP-Boston and Mr. Dehghani Hossein Abadi. About midday Monday, January 20, 2020, undersigned counsel, Kerry E. Doyle, as well as attorneys Susan Church, Heather Yountz, Derege Demissie and Jennifer Klein began reaching out to CBP in various forms including through the American Immigration Lawyers Association and directly at the CBP-Boston window in Terminal E in Boston, MA Logan International Airport. Counsels had spoken with both friends and family members of Mr. Dehghani Hossein Abadi, who requested assistance.

Unlike prior occasions, on this day, CBP refused to share any information with Mr. Dehghani Hossein Abadi's attorneys including refusing to take a G-28 Notice of Appearance to permit counsel to receive private information about Mr. Dehghani Hossein Abadi.³ Likewise, initial Congressional inquiries resulted in no information being shared, despite personal calls made by Senator Edward Markey and Representative Joseph Kennedy to CBP-Boston.

After failing to get information from Boston-CBP through the afternoon, Mr. Dehghani Hossein Abadi's attorneys filed a habeas and mandamus action in the Massachusetts Federal District Court at . 7:30 pm Sunday January 20, 2020.⁴ At 9:27 PM, Judge Burroughs of the District Court issued a stay of removal in the case. The government was notified immediately of all developments in the case through the court's electronic filing system. Moreover, one CBP officer asked for an email copy of the complaint and indicated he had to discuss the matter with "legal." Counsel had also informed this Officer that the Federal District Court generally followed a 48 hour rule, issuing stays of removal in response to habeas corpus complaints for 48 hours after filing of a Habeas Petition.⁵ Despite this, CBP-Boston failed to de-plane Mr. Dehghani Hossein Abadi and the flight took off from Boston Logan Airport heading to Paris, France at approximately 9:58 PM with Mr. Dehghani Hossein Abadi on board. It is our clear understanding and belief that CBP-Boston was aware of the stay order but chose instead to ignore it. We have come to understand that CBP may have a belief or policy that they need not abide by a Federal Court stay orders in relation to arriving aliens. This is extremely concerning.

³ Individuals "subject to examination under this chapter" have a right to representation. 8 CFR § 292.5. Although CBP takes the position that no right to counsel exists at the border, this is a different question as to whether a person who asks to consult with counsel can do so and whether counsel seeking information has a right to obtain it.

⁴ See Massachusetts Federal District Court local Rule 5.4(a) ("Unless exempt or otherwise ordered by the court, all pleadings and other papers submitted to the court must be filed, signed, and verified by electronic means as provided herein.").

⁵ Indeed the Judge issued the exact order counsel informed CBP that it would: "Removal stayed for 48 hours or until further order of the court. Petitioner to remain in CBP custody. CBP to transport petitioner to US District Court for the District of Massachusetts for a hearing before US District Judge Richard G Stearns at 10:00 am in Courtroom 21 on Tuesday, January 21, 2020."

Finally, throughout the development of this case on the afternoon and evening of January 20, 2020, CBP not only refused to share any information but actually began providing affirmatively false information to counsel. At first, Attorneys were told that Mr. Dehghani Hossein Abadi would receive his Attorneys' phone numbers and be given access to a phone. That did not happen. Second, after the Federal stay order issued, Attorneys were told Mr. Dehghani Hossein Abadi was taken off his plane and that they would see him "soon." That was untrue. In fact, despite the Judicial Order, he was whisked out of the United States by CBP.⁶

Recently, Mr. Dehghani Hossein Abadi's attorneys were able to review the documentation given to him by CBP-Boston. There are a number of irregularities that should be investigated as discussed *supra*. Some of the serious problems include the officers' names not being legible on the forms, the Q&A showing the officer's clear lack of knowledge of Iran and the impermissible questioning of Mr. Dehghani Hossein Abadi regarding his religious and political beliefs.⁷

Third, the expedited removal finding is legal indefensible. No facts in Mr. Dehghani Hossein Abadi's Q&A support a finding that Mr. Dehghani Hossein Abadi was an intending immigrant as he was charged. As you are aware, individuals can only be subject to expedited removal (ER) if they can be found inadmissible pursuant to subsection (6) for fraud or (7) for being an intending immigrant or lacking documentation.⁸ Neither of these sections if the INA apply to Mr. Dehghani Hossein Abadi. The generic language used by CBP that states: CBP "cannot determine your intent" is not only legally insufficient but absurd. This identical language has appeared nonetheless in the expedited removal orders from a number of other Iranian cases from the Boston POE. Any investigation should include a determination as to the scope and rational behind the directive issued by DHS to utilize ER improperly.

Finally, following Mr. Dehghani Hossein Abadi's departure from the United States, a member or members of CBP proceeded to release private and damaging false information about Mr.

⁶ See Attached, Exhibit A, Affidavit of Attorney Jennifer Klein

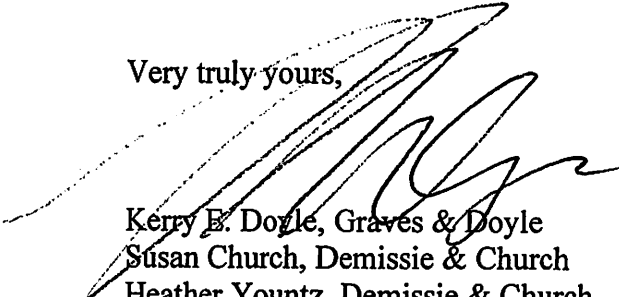
⁷ It is unclear whether the CBP officer followed protocol in refusing to sign his or her name. In addition, it does not appear that any substantive supervisor review, as is required by law, occurred because the supervisor did not sign his or her name. See 8 C.F.R. § 235.3(b)(7) "Any removal order entered by an examining immigration officer pursuant to section 235(b)(1) of the Act must be reviewed and approved by the appropriate supervisor before the order is considered final. . . . The supervisory review shall include a review of the sworn statement and any answers and statements made by the alien regarding a fear of removal or return. The supervisory review and approval of an expedited removal order for an alien described in section 235(b)(1)(A)(iii) of the Act must include a review of any claim of lawful admission or parole and any evidence or information presented to support such a claim, prior to approval of the order. In such cases, the supervisor may request additional information from any source and may require further interview of the alien."

⁸ Under the Immigration and Nationality Act (INA), any individual who arrives at a port of entry in the United States and who is inadmissible under either 8 U.S.C. § 1182(a)(6)(C) (misrepresentations and false claims to U.S. citizenship) or § 1182(a)(7) (lack of valid entry documents), is subject to expedited removal. 8 U.S.C. § 1225(b)(1)(A)(i)

Dehghani Hossein Abadi to the media.⁹ One release was made to the New York Times on or about Wednesday, January 22, 2020. In the following two days, additional release of false information—attributed by reliable members of the media to CBP—occurred. These releases of false information have seriously harmed both Mr. Dehghani Hossein Abadi and his father, putting their safety in Iran at risk and subjecting them to serious threats on social media in particular.

This entire situation is unacceptable and was handled in an utterly unprofessional manner both during Mr. Dehghani Hossein Abadi's interrogation by CBP-Boston, in the aftermath of the improper inadmissibility finding and illegal removal of Mr. Dehghani Hossein Abadi from the United States and in the days that have followed. Mr. Dehghani Hossein Abadi is a twenty-three-year old student of math and economics at NEU. He was terrified and upset not only by his illegal mistreatment at Boston Logan CBP but also by the malicious rumors that were set in motion by CBP. This behavior by members of Customs and Border Protection cannot stand. Their illegal actions in this case and their release of false information to the media only undercut the important work they do and the faith of the American public in the government. We look forward to hearing your response to our complaint by February 15, 2020.

Very truly yours,



Kerry E. Doyle, Graves & Doyle
Susan Church, Demissie & Church
Heather Yountz, Demissie & Church

Enclosure

CC: Senator Elizabeth Warren
Senator Edward Markey;
Representative Joe Kennedy III
Representative Ayanna Pressley

⁹ <https://www.nytimes.com/2020/01/21/us/iranian-students-deported.html>. The NYT reporter refers to unnamed officers familiar with what occurred at the airport. <https://www.wbur.org/news/2020/01/22/deported-iranian-student-allegations>