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United States Senate

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The Honorable Alejandro Mayorkas
Secretary of Homeland Security
U.S. Department of Homeland Security
301 7th Street, SW
Washington, DC 20528

The Honorable Ur Jaddou
Director
U.S. Citizenship and Immigration Services
111 Massachusetts Avenue, NW
Washington, DC 20001

Dear Secretary Mayorkas and Director Jaddou:

I and several of my colleagues have previously written to you about the slow pace at which the Department of Homeland Security (DHS) has adjudicated applications from Afghan nationals for humanitarian parole into the United States.¹ In September, my staff reached out to DHS with follow-up questions I had about the status of pending applications. In November, DHS responded, and I appreciate the effort that was made to pull together the data I requested. But the answers to my most recent questions only heighten the concerns I have long had. With tens of thousands of Afghan parole applications pending for more than two years, it is taking DHS far too long to adjudicate far too few of them. I urge DHS to move more quickly.

Following the U.S. withdrawal from Afghanistan in August 2021, President Biden directed DHS to lead and coordinate ongoing efforts across the federal government to support vulnerable Afghans seeking to resettle in the United States.² That initiative — Operation Allies Welcome — anticipated that most Afghans would be paroled into the United States under the Immigration and Naturalization Act, which gives the Secretary of Homeland Security discretion to temporarily parole individuals into the United States on a case-by-case basis for urgent humanitarian

¹ See Letter from Senator Edward J. Markey et al. to President Joseph R. Biden, Jr. et al. (May 26, 2022), https://www.markey.senate.gov/imo/media/doc/oversight_letter_redisparate_treatment_of_afghan_and_ukrainian_refugees.pdf; Letter from Senator Edward J. Markey et al. to President Joseph R. Biden, Jr. et al. (Dec. 20, 2021), [https://www.markey.senate.gov/imo/media/doc/\(12.20.21\)%20FINAL%20Afghan%20Humanitarian%20Parole%20letter%202021.12.20%20\(002\).pdf](https://www.markey.senate.gov/imo/media/doc/(12.20.21)%20FINAL%20Afghan%20Humanitarian%20Parole%20letter%202021.12.20%20(002).pdf).

² Operation Allies Welcome, U.S. Dep't of Homeland Sec., <https://www.dhs.gov/allieswelcome> (last updated Nov. 27, 2023).

reasons.³ As recently as this past June, Secretary Mayorkas reiterated that “DHS is proud to have led Operation Allies Welcome and we are committed to supporting our Afghan allies as they continue to settle into their communities across the country.”⁴

According to DHS’s answers to my recent questions, by its own reckoning, DHS’s pre-October 2022 performance adjudicating Afghan parole applications was abysmal — an approval rate of approximately only 3 percent.⁵ Even that metric is generous, inasmuch as it includes the period immediately after the U.S. withdrawal from Afghanistan when nearly all Afghan humanitarian parole applications were granted.⁶ From November 2021 to July 2022, the approval rate was 1.04 percent.⁷ In October 2022, U.S. Citizenship and Immigration Services (USCIS) revised its parole guidance — continuing other reforms enacted earlier that year — “to further clarify the types of strong positive factors that may be considered by adjudicators when assessing urgent humanitarian reason and significant public benefit requests for parole and the exercise of discretion for Afghan beneficiaries.”⁸ According to DHS, this led to an increase in the approval rate since October 2022 to 44 percent.⁹

Although that recent improvement is welcome, the bigger picture remains bleak. Overall, according to the information DHS provided to my office in November, it has received approximately 52,870 parole requests filed on behalf of Afghan nationals since August 1, 2021. Yet, USCIS has adjudicated approximately only 16,470 of them — conditionally approving only 1,860 cases and finding only another 1,446 individuals initially eligible for parole (those currently located in Afghanistan or another location with no U.S. embassy or consulate presence) — a positive result for a mere 20 percent of the approximately 30 percent of adjudicated applications.¹⁰ These figures are simply unacceptable.

The post-October 2022 changes also provide little comfort to the more than 10,000 Afghans whose applications were denied under the previous guidance. It is a perplexing outcome to them that, generally speaking, early filers saw their applications denied, while later filers are seeing a reasonable grant rate, albeit — as discussed more fully below — at an unacceptably slow pace. Fairness suggests that USCIS ought to reconsider under the new standards applications previously denied or provide expedited treatment for re-filed applications.

The amount of time it is taking DHS to adjudicate Afghan parole applications is also troubling. DHS was unable to tell me the average amount of time that has elapsed from the filing of an Afghan parole application to approval. DHS explained that, because it processes a variety

³ *Id.*, Immigration and Naturalization Act § 212(d)(5)(A).

⁴ Press Release, DHS Announces Re-parole Process for Afghan Nationals in the United States, U.S. Dep’t of Homeland Security (June 8, 2023), <https://www.dhs.gov/news/2023/06/08/dhs-announces-re-parole-process-afghan-nationals-united-states>.

⁵ See Ex. A hereto.

⁶ See *Roe v. Mayorkas*, 22-cv-10808-ADB, Pls.’ App. Admin. Record Docs at 154 (D. Mass. Oct. 3, 2023).

⁷ *Id.*, Decl. of John F. Quill at 8 (D. Mass. Oct. 3, 2023).

⁸ See Ex. A hereto.

⁹ *Id.*

¹⁰ *Id.*

of parole requests, including expedited processing for certain exigent cases, and does not “categorically adjudicate” parole requests “on a first-in, first-out basis,” it could not provide a standard processing time.¹¹ According to the USCIS website, “[n]ormally, the USCIS Humanitarian Affairs Branch [HAB] adjudicates most parole requests within 90 days of receipt.”¹² And while these are not normal times — with an explosion in the annual number of applications from “approximately 1,500 to 2,000 parole requests from all nationalities” to “more than 57,000 parole requests for all nationalities, including 49,000 on behalf of Afghan nationals” between August 1, 2021 and July 31, 2022 alone¹³ — the fact remains that tens of thousands of Afghan parole applications have been pending for more than two years.

Decision rates on appeals of denials — Form I-290B — are another area of concern. According to the information provided to my office, of the 416 Afghan parole-related Forms I-290B received since August 1, 2021, 346 of them, or 83 percent, are still pending. And of those 416 appeals, only 27 have been granted — a success rate of 0.06 percent. At a minimum, USCIS must promptly adjudicate the I-290Bs for those individuals who have filed them, and do so giving consideration to how the standards initially applied to them have changed. USCIS should also accept I-290Bs from anyone whose application was denied between November 2021 and October 2022, and timely adjudicate the appeal in light of new standards.

DHS’s responses to my question about the staffing resources it is committing to reducing this backlog are also disconcerting. USCIS has long-acknowledged that it would “take time . . . to work through the extremely high number of parole requests received since fall 2021 and return to normal processing times”; advised that it has been “taking the necessary steps to return to target processing times by the end of fiscal year 2023, if not sooner”; and “diverted staff from other workloads to help with the unprecedented number of parole requests.”

But according to the information provided to me, the number of staff assigned to this important task has shrunk over time, even as the backlog has remained large. In its June 14, 2022 response to my letter of December 20, 2021, DHS advised that “USCIS has dramatically increased the number of officers working on parole cases by approximately nine-fold to assist with the surge in requests and improve processing times. Approximately 90 adjudication officers are assigned to adjudicate parole applications, along with additional supervisory and support staff.” Yet, in its response to my questions last November, DHS wrote: “Beginning in October 2021, 54 adjudicative staff were detailed to HAB, including 43 adjudicators and 11 supervisors. These detailees were assigned to support parole adjudications for a period of 90 to 180 days.”¹⁴ USCIS went to explain that although it “has solicited additional detailees at regular intervals,” there are currently only “33 adjudicators and supervisors detailed to HAB to assist with case

¹¹ *Id.*

¹² Frequently Asked Questions About Urgent Humanitarian and Significant Public Benefit Parole for Afghans, USCIS, <https://www.uscis.gov/humanitarian/humanitarian-parole/information-for-afghan-national-on-requests-to-uscis-for-humanitarian-parole/frequently-asked-questions-about-urgent-humanitarian-and-significant-public-benefit-parole-for> (last updated Dec. 15, 2023).

¹³ *Id.*

¹⁴ *See* Ex. A.

processing, along with 20 permanent staff in these roles.”¹⁵ Given the unprecedented number of Afghan parole applications pending for so long, I fail to understand why there are now *fewer* adjudicators working on them than there were two years ago. The delay in adjudicating applications is particularly concerning for those Afghans who fled their country for Pakistan and are now being forcibly returned.¹⁶

Finally, there is still a no-approvals policy for Afghans in Afghanistan.¹⁷ I understand that applications filed by Afghans who are in Afghanistan may be either denied or administratively closed; in the latter case, the applicant receives a “notice of continued parole processing.” When recipients of a notice of continued parole processing arrive in a country with a U.S. consulate, they can reach back out to USCIS in order to have their cases processed. But I understand that many applicants who receive this notice feel it provides insufficient assurance to warrant leaving Afghanistan for a third country where they have no home and no means of survival if USCIS denies their application. USCIS should consider returning to the policy in effect in late August and early September 2021, during which it was issuing “conditional approval” notices to Afghans in Afghanistan (as it does for non-Afghans in countries with no U.S. consulate). Otherwise it will remain the case that only Afghans cannot be approved for parole when they are in a non-U.S.-consulate country. Of course, USCIS could establish for Afghans a system that bypasses consular processing altogether, just as it has done for Ukrainians.

If a shortage of personnel or other resources is contributing to the slow pace of Afghan parole application adjudication, I am committed to working with my colleagues in Congress to get DHS what it needs to make much more progress on this important task. Too many Afghans to whom the United States made the promise of safe haven in the United States have been waiting too long for us to fulfill it. We must do better.

Sincerely,



Edward J. Markey
United States Senator

¹⁵ *Id.*

¹⁶ Ishaan Tharoor, *Pakistan carries out a mass expulsion*, Wash. Post (Nov. 6, 2023), <https://www.washingtonpost.com/world/2023/11/06/pakistan-undocumented-afghanistan-refugee-expel-migrants/>.

¹⁷ See *Roe v. Mayorkas*, 22-cv-10808-ADB, Pls.’ App. Admin. Record Docs at 29-40 (D. Mass Oct. 3, 2023); *id.* Pls’ Mem. Law Supp. Mot. Prelim. Inj. at 11-13 (D. Mass Oct. 3, 2023).

Exhibit A

USCIS November 6, 2023 responses to inquiry from Senator Markey:

1. **Since August 1, 2021, how many humanitarian parole applications has USCIS received from Afghan nationals?**

Response: Since August 1, 2021, USCIS has received approximately 52,870 Form I-131 parole requests filed on behalf of Afghan nationals.*

1. **How many of these applications are pending?**

Response: Approximately 36,400 parole requests are pending.

2. **How many of these applications have been approved?**

Response: USCIS has conditionally approved 1,860 cases. When a case is conditionally approved, the parole beneficiary proceeds to additional required steps at a U.S. embassy or consulate abroad, including identity verification, biometrics collection, and additional security checks, in order to obtain the documentation needed for travel to the United States. In addition to the 1,860 conditional approvals, USCIS found 1,446 individuals currently located in Afghanistan or another location with no U.S. embassy or consulate presence initially eligible for parole. The notices issued in these cases inform the petitioner that the parole beneficiary must arrange their own travel to a location with a U.S. embassy or consulate before processing of the parole request can be completed.

3. **How many of these applications have been denied?**

Response: 13,180 parole requests have been denied.

4. **What is the average time from filing of an application to approval? To denial?**

Response: The USCIS Humanitarian Affairs Branch (HAB) processes a variety of Form I-131 parole requests for individuals outside of the United States, including expedited processing for cases involving life-threatening or extremely urgent circumstances, litigation-related settlement processing, and policy-related processing priorities. Because of this, HAB does not categorically adjudicate these requests on a first-in, first-out basis, and USCIS is not able to provide a standard processing time for this type of application.

5. **How many of these applications have been issued Requests for Evidence?**

Response: Since August 1, 2021, USCIS has issued approximately 9,500 requests for evidence (RFEs) for parole requests filed on behalf of Afghan nationals, indicating additional evidence is necessary to determine eligibility for those requests (as of October 18, 2023).

6. **How many Afghan parole-related I-290Bs has USCIS received?**

Response: Since August 1, 2021, USCIS has received 416 Afghan parole-related Forms I-290B, Notice of Appeal or Motion as of October 16, 2023.

7. **How many of these I-290Bs are pending?**

Response: Of the 416 Afghan parole-related Forms I-290B received since August 1, 2021, 346 are pending. USCIS has prioritized adjudication of pending Form I-131

requests during recent months. USCIS is in the process of issuing updated Form I-290B guidance to adjudicators on the Form I-290B fee exemption and consideration of service motions to reopen for denied Afghan parole beneficiaries. With this anticipated guidance, adjudicators will begin reviewing Form I-290B motions relating to denied Afghan parole requests, in addition to pending Form I-131 parole requests.

8. **How many of these I-290Bs have been approved? Denied?**

Response: Of the 416 Afghan parole-related Forms I-290B received since August 1, 2021, USCIS granted 27, dismissed 35, administratively closed 7, and rejected 1.

9. **How many adjudicating officers were added to the Humanitarian Affairs Branch (HAB) in the fall of 2021? How many officers remain in the unit now?**

Response: Beginning in October 2021, 54 adjudicative staff were detailed to HAB, including 43 adjudicators and 11 supervisors. These detailees were assigned to support parole adjudications for a period of 90 to 180 days. USCIS has solicited additional detailees at regular intervals. There are currently 33 adjudicators and supervisors detailed to HAB to assist with case processing, along with 20 permanent staff in these roles.

*As of October 12, 2023, for question 1 responses, including parts a-i, unless otherwise noted.

2. **Is any of this information publicly available on the DHS or USCIS website? Is there a reason it is not? Are there any plans to publish it regularly?**

Response: With respect to processing times, as noted above, HAB processes a variety of Form I-131 parole requests for individuals outside of the United States, including expedited processing for cases involving life-threatening or extremely urgent circumstances, litigation-related settlement processing, and policy-related processing priorities. Because of this, HAB does not categorically adjudicate these requests on a first-in, first-out basis, and USCIS is not able to post a standard processing time for this type of application.

However, USCIS provides information on its website about the parole process generally, and for Afghan nationals specifically, at “[Humanitarian or Significant Public Benefit Parole for Individuals Outside the United States](#)” and “[Information for Afghan Nationals on Requests to USCIS for Parole](#),” which includes information on expedited processing and prioritizing parole requests for Afghan nationals outside of Afghanistan. USCIS also mailed notices to all petitioners with parole requests pending with HAB on behalf of Afghan beneficiaries to provide updated information on evidence relevant for requests for parole for Afghan nationals.

In addition, guidance on the types of evidence to submit in support of various types of parole requests, including those based on a need for protection from targeted harm, is available on the USCIS website at “[Guidance on Evidence for Certain Types of Humanitarian or Significant Public Benefit Parole Requests](#).”

3. **Can you shed any light on policy changes at DHS/USCIS that resulted in the very low approval numbers we have previously seen? Are there any other changes in the works that would help increase the number of approvals?**

Response: Beginning in late 2021, USCIS began reassessing its guidance on humanitarian parole requests based on a need for protection from targeted harm and revised the guidance in April 2022. USCIS publicly posted its revised “[Guidance on Evidence for Certain Types of Humanitarian or Significant Public Benefit Parole Requests](#),” expanding the types of evidence that may be relevant in evaluating parole requests based primarily on protection concerns.

Additionally, in October 2022, USCIS revised its parole guidance to further clarify the types of strong positive factors that may be considered by adjudicators when assessing urgent humanitarian reason and significant public benefit requests for parole and the exercise of discretion for Afghan beneficiaries. This information is available in the “Eligibility” section of the webpage “[Information for Afghan Nationals on Requests to USCIS for Parole](#).” All petitioners with requests for parole pending with HAB on behalf of Afghan petitioners received a mailed notice informing them of the strong positive factors that may be considered by adjudicators when assessing requests for parole on behalf of Afghan beneficiaries and explaining how they may submit additional relevant evidence if they wished to do so.

Since the October 2022 guidance was implemented, the approval rate for Form I-131 parole requests filed on behalf of Afghan nationals has increased from approximately 3% to approximately 44%. This approval rate includes both individuals who have been conditionally approved and individuals found initially eligible and for whom case processing cannot be completed while they are currently located in Afghanistan or another location with no U.S. embassy or consulate presence. As noted above, USCIS has also issued approximately 9,500 requests for evidence (RFEs) for parole requests filed on behalf of Afghan nationals, indicating additional evidence is necessary to determine eligibility for those requests. USCIS continues to monitor the impact of these policy changes on parole requests.

USCIS continues to evaluate its humanitarian parole policies and seeks ways to make adjudications more efficient, while maintaining the integrity of the case-by-case adjudication process.