



Bob Ferguson

ATTORNEY GENERAL OF WASHINGTON

Administration Division

PO Box 40100 • Olympia, WA 98504-0100 • (360) 753-6200

July 19, 2023

Sent via Electronic and U.S. Mail

The Honorable Alejandro Mayorkas
Secretary of Homeland Security
245 Murray Lane, SW
Washington, DC 20528

The Honorable Ur M. Jaddou
Director, U.S. Citizenship and Immigration Services
20 Massachusetts Ave., NW
Washington, DC 20001

Dear Secretary Mayorkas and Director Jaddou:

We write regarding your agencies' inaction and apparent disregard for tens of thousands of Afghan humanitarian parole (HP) applicants who were not evacuated before the U.S. withdrawal. The HP process should have quickly provided safe passage for Afghans left in danger when the U.S. withdrew its military presence in Afghanistan in 2021. This did not happen.

Records obtained through Freedom of Information Act (FOIA) requests by the International Refugee Assistance Project (IRAP) and American Immigration Council (AIC) show that between January 1, 2020 and April 6, 2022, USCIS received 44,785 applications, and as of April 6, 2022, only 114—0.25%—had been conditionally approved. Astonishingly, 94% of applications were not adjudicated.

The records also demonstrate that *the day after* the U.S. embassy in Kabul closed, USCIS officials directed staff to stop expediting all Afghan parole requests, and noted: “The decision to expedite those cases initially was about getting people out on flights and now that the flights have ended, we need to go back to the ‘normal’ expedite process based on triage, not nationality.”¹ Less than one week later, staff were directed to hold all decisions on Afghan parole

¹ USCIS FOIA Response to request by American Immigration Council and International Refugee Assistance Project, 2022-11-30_Afghan HP_Prod.3 (22-cv-05312) US 0246-0376, <https://www.documentcloud.org/documents/23352884-us-0246-us-0376#document/p18/a2179603>, p. 18. (last accessed July 18, 2023).

ATTORNEY GENERAL OF WASHINGTON

The Honorable Alejandro Mayorkas
The Honorable Ur M. Jaddou
July 19, 2023
Page 2

cases,² and the hold was not lifted until late October.³ This defies any understanding of the risks or circumstances of those applying for HP in the immediate aftermath of U.S. withdrawal.

In addition to the lack of action by your agencies to adjudicate applications, USCIS collected \$19 million in fees from Afghan humanitarian parole applicants between March 2021 and 2022, and rejected nearly half of the fee waiver applications associated with these applications.⁴ It appears that you continued to collect these fees during September and October 2021 when you were not adjudicating any cases. It is deeply unethical to take a \$575 fee *per person* from vulnerable people seeking refuge, many of whom worked for or supported the United States in Afghanistan, made even worse by the lack of action to adjudicate applications.

Records regarding the fee waiver denials indicate that they were rejected because the form was signed by the wrong party or not signed, or deficiencies in the supporting documents.⁵ The same records indicate that USCIS required an email address, phone number, and physical address.⁶ From these records, it appears that your agencies failed to consider—or dismissed—the circumstances and vulnerabilities people seeking HP might face, such as being unable to return to an address due to safety fears, lack of a consistent address, separation from family or economic insecurity as the country’s economy collapsed. Neither option is justifiable. All agency communications and actions, including forms and websites, should have been, and should be going forward, designed to be as accessible as possible for those who will use them.

The Uniting for Ukraine program demonstrates that DHS and USCIS can do better. As you know, through that program, more than 117,000 Ukrainians have arrived in the U.S.,⁷ and the U.S. government did not collect fees.⁸ Many of the barriers for those who applied for HP but

² USCIS FOIA Response to request by American Immigration Council and International Refugee Assistance Project, 2022-11-30_Afghan HP_Prod.3 (22-cv-05312) US 0246-0376, <https://www.documentcloud.org/documents/23352884-us-0246-us-0376#document/p26/a2179613>, p 26. (last accessed July 18, 2023).

³ USCIS FOIA Response to request by American Immigration Council and International Refugee Assistance Project, 2022-11-30_Afghan HP_Prod.3 (22-cv-05312) US 0246-0376, <https://www.documentcloud.org/documents/23352884-us-0246-us-0376#document/p119/a2227265>, p. 119. (last accessed July 18, 2023).

⁴ International Refugee Assistance Project, “We Were Robbed”: Advocates React to Afghan Humanitarian Parole FOIA Findings, <https://refugeerights.org/news-resources/we-were-robbed-advocates-react-to-afghan-humanitarian-parole-foia-findings>. (last accessed July 18, 2023).

⁵ USCIS FOIA Response to request by American Immigration Council and International Refugee Assistance Project, 2022-10-31_Afghan HP_Prod.2 ((22-cv-05312) FOIA US 0141-US 0245, https://www.documentcloud.org/documents/23316412-2022-10-31_afghan-hp_prod1-22-cv-05312-foia-us-0141-us-0245#document/p2/a2199753, p 2. (last accessed July 18, 2023).

⁶ Id.

⁷ Ainsley, J. “U.S. has admitted 271,000 Ukrainian refugees since Russian invasion, far above Biden’s goal of 100,000,” NBC News, Feb. 23, 2023. <https://www.nbcnews.com/politics/immigration/us-admits-271000-ukrainian-refugees-russia-invasion-biden-rcna72177>. (last accessed July 18, 2023).

⁸ IRAP, “We Were Robbed,” <https://refugeerights.org/news-resources/we-were-robbed-advocates-react-to-afghan-humanitarian-parole-foia-findings>.

ATTORNEY GENERAL OF WASHINGTON

The Honorable Alejandro Mayorkas
The Honorable Ur M. Jaddou
July 19, 2023
Page 3

were not evacuated and are still seeking safety in the U.S., including the significant fees, can be removed if there is a will to do so. The lack of will for HP applicants from Afghanistan is indefensible.

We request that you publicly and clearly explain the lack of action from your agencies to assist Afghan HP applicants, and clearly articulate your plan to urgently adjudicate HP applications as quickly as possible. This plan must not include blanket denials, and should presume eligibility to the fullest possible extent. Applicants should receive regular updates on the status of their applications, and we expect an increase in the number of approved applications. We also ask that you provide an opportunity for applicants to remedy any mistakes or deficiencies in their application, particularly for applicants whose errors are technical, or due to the inaccessibility of the process. If your agencies are unable to expediently adjudicate applications for any reason, we expect you to return the application fee in full to all applicants awaiting adjudication.

Afghans are at risk every day, even if media attention has turned away from Afghanistan. Taliban soldiers beat and torture Afghans deemed to have broken Taliban edicts or worked with the former government.⁹ Public floggings and executions are on the rise.¹⁰ A former teacher, whose father-in-law worked for the previous government and whose family lived in fear of retribution, applied for humanitarian parole in late 2021, with no answer as of August 2022. She described: “Our only hope was getting approved in humanitarian parole... We are in our homes. We don’t go out. We don’t go shopping. We don’t go to the park. We don’t go anywhere. We just stay at home; we’re in a very bad situation, economic and mental situation. And we do not know how long we can continue to stay safe.”¹¹ Women and girls live under extreme institutionalized gender-based discrimination, creating a widespread mental health crisis and an escalation of suicides.¹² These threats are real, and constant. You must act with urgency.

Each day your agencies fail to take action leaves Afghans at risk and in limbo, and is a betrayal of both the commitments the Biden Administration made in 2021 and the purpose of HP to provide an expedited process. We urge you to explore every possible option and use every

⁹ “One Year of the Taliban’s Broken Promises, Draconian Restrictions and Violence,” Amnesty International, Aug. 15, 2022, <https://www.amnesty.org/en/latest/news/2022/08/afghanistan-one-year-of-the-talibans-broken-promises-draconian-restrictions-and-violence/>. (last accessed July 18, 2023).

¹⁰ Faiez, R. “UN urges Afghanistan’s Taliban to end floggings, executions,” Associated Press, May 7, 2023, <https://apnews.com/article/un-report-taliban-punishment-death-penalty-bf9fca3e2a177f9fb9fec8d52e57b91d>. (last accessed July 18, 2023).

¹¹ Aminy, N. and Mehrotra, D., “The US Has Approved Only 123 Afghan Humanitarian Parole Applications in the Last Year,” Reveal News, Aug. 19, 2022, <https://revealnews.org/article/the-us-has-approved-only-123-afghan-humanitarian-parole-applications-in-the-last-year/>. (last accessed July 18, 2023).

¹² “Afghanistan: Women tell UN rights experts ‘we’re alive, but not living,’” UN News, May 5, 2023, <https://news.un.org/en/story/2023/05/1136382>. (last accessed July 18, 2023).

ATTORNEY GENERAL OF WASHINGTON

The Honorable Alejandro Mayorkas
The Honorable Ur M. Jaddou
July 19, 2023
Page 4

available tool to meet the commitment to “safely, securely and effectively welcom[e] our Afghan allies and Afghans at-risk.”¹³

Sincerely,



BOB FERGUSON
Washington State Attorney General

In partnership with the following organizations:

#AfghanEvac

Afghan American Alliance of Georgia

Afghan American Artists and Writers Association

Afghan American Community of Washington

Afghan American Cultural Association

Afghan Cultural Society

Afghan Health Initiative

Afghan Refugee Relief

Afghan-American Community Organization (AACO)

Afghan-American Foundation

Afghans Empowered

Afghans For A Better Tomorrow

¹³ “Fact Sheet: Private Sector Leaders Are Stepping Up to Welcome Afghans,” The White House, October 26, 2021, <https://www.whitehouse.gov/briefing-room/statements-releases/2021/10/26/fact-sheet-private-sector-leaders-are-stepping-up-to-welcome-afghans/>. (last accessed July 18, 2023).

ATTORNEY GENERAL OF WASHINGTON

The Honorable Alejandro Mayorkas
The Honorable Ur M. Jaddou
July 19, 2023
Page 5

Afghans of Puget Sound Alliance

Afghans of Seattle

Asian Americans Advancing Justice | AAJC

Brooklyn Raga Massive

CAIR-WA

Church World Service

Coalition of Seattle Indian Americans

El Centro de la Raza

Faith Action Network

Husaynia Islamic Society of Seattle

Indian American Community Services International Refugee Assistance Project (IRAP)

Islamic Circle of North America - WA Chapter

Khalsa Gurmat Center

Landlords Association of Washington

Lutheran Community Services Northwest

MADRE

Minority Veterans of America

Muslim Advocates

Muslim American Youth Foundation

Muslim Association of Puget Sound - American Muslim Empowerment Network (MAPS-AMEN)

Muslim Counterpublics Lab

ATTORNEY GENERAL OF WASHINGTON

The Honorable Alejandro Mayorkas
The Honorable Ur M. Jaddou
July 19, 2023
Page 6

Muslim Forum of the Pacific Northwest

Muslims for Community Action and Support

Muslims for Just Futures

National Iranian American Council

Northwest Immigrant Rights Project

OneAmerica

People of Color Community Coalition

Project ANAR

Refugee & Immigrant Services Northwest

Seattle Indivisible

Sustainability Concepts

The 5ive Pillars Organization

The Firestarter Group

Truman National Security Project - Seattle/PNW Chapter

Uplift Afghanistan Fund

US Veterans for Peace

Washington Immigrant Solidarity Network (WAISN)

Women for Afghan Women

World Without Hate



U.S. Citizenship
and Immigration
Services

March 1, 2024

The Honorable Bob Ferguson
Attorney General
State of Washington
PO Box 40100
Olympia, WA 98504

Dear Attorney General Ferguson:

Thank you for your July 19, 2023 letter to the Department of Homeland Security (DHS). I am responding on behalf of the Department and regret the delay in response. DHS is committed to our mission to serve all with fairness, integrity, and respect, and we take seriously our responsibility to vulnerable Afghans who have filed for benefits with U.S. Citizenship and Immigration Services (USCIS).

USCIS strives to maintain the highest professional standards across all form types. Currently, USCIS is proactively addressing an unprecedented humanitarian parole caseload. Historically, in a typical year, across *all* nationalities, USCIS received fewer than 2,000 filings of Form I-131, Application for Travel Document, requesting humanitarian parole. However, between July 1, 2021, and February 26, 2024, USCIS received over 53,000 requests for parole filed on behalf of Afghan nationals while also experiencing a surge in requests filed for other nationalities. As of February 26, 2024, USCIS has completed a case-by-case adjudication for more than 19,000 Form I-131 parole requests filed for Afghan beneficiaries. In addition, USCIS completed roughly 9,100 additional Form I-131 parole requests during the same period for all other nationalities. USCIS was able to do so by redirecting resources from across USCIS, including increasing the number of officers working on Form I-131 requests for humanitarian parole approximately ninefold to assist with the surge in applications and to improve processing times.

Note that the USCIS humanitarian parole process requires beneficiaries to appear in-person at a U.S. embassy or consulate to collect biometrics and undergo additional vetting and issuance of travel documents. Following the suspension of operations at the U.S. Embassy in Kabul on August 31, 2021, and the end of the evacuation period, USCIS reassessed its historic practice of denying humanitarian parole applications as a matter of discretion where the beneficiary was in a location without a U.S. embassy or consular presence. While USCIS still does not grant conditional approval of parole, the agency issued revised guidance in November 2021, to provide individuals requesting parole on behalf of beneficiaries in Afghanistan who are initially found eligible a Notice of Continued Processing explaining USCIS is unable to help the

beneficiary leave Afghanistan and they must arrange their own travel outside of Afghanistan to a country where there is a U.S. embassy or consulate to complete parole processing.

It is also important to note USCIS addresses protection needs through established protection pathways, including the U.S. Refugee Admissions Program (USRAP), in which eligible individuals are admitted into the U.S. with an immigration status which provides a potential pathway to permanent status and access to certain refugee resettlement benefits. Parole is generally not used to circumvent regular refugee processing. In certain circumstances, however, protection needs are so urgent that obtaining protection through the USRAP is not realistic and parole can be considered.

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 the risk of imminent, serious harm to a beneficiary.¹ In October 2022, USCIS again revised its parole guidance to expand the types of “strong positive factors” that may be considered by adjudicators when assessing urgent humanitarian and significant public benefit reasons for parole and the exercise of discretion for Afghan beneficiaries.² These expanded “strong positive factors” were also publicly posted on USCIS’ “Information for Afghan Nationals on Requests to USCIS for Parole” webpage.

For those petitioners who filed a Form I-131 on behalf of an Afghan national and whose cases were denied from August 1, 2021, through September 30, 2023, USCIS may also exempt the filing fee for a Form I-290B, Notice of Appeal or Motion, filed to request reopening or reconsideration of the denied parole request and will review any associated evidence to determine whether a Service Motion to Reopen may be appropriate even if the Form I-290B is not filed within the 33-day regulatory time frame.³

USCIS has also launched several initiatives to improve the application process for those seeking parole, including for Afghan nationals. In June 2023, USCIS sent a Courtesy Notice of Policy Change to all petitioners and representatives with pending parole requests for Afghan nationals. This courtesy notice was also sent electronically to petitioners and representatives who provided an email address with their Form I-131. The courtesy notice highlighted the changes to USCIS’ adjudicative guidance as it relates to requests for parole on behalf of Afghan nationals and the types of evidence that may help support a pending parole request, along with instructions for submitting additional evidence through a USCIS online account. In addition, all applicants, regardless of nationality, may submit additional evidence prior to a final adjudication of their application. More information and specific instructions for relevant form types are available at uscis.gov/allieswelcome. USCIS tracks the reasons for rejection for various form types, including Form I-131, and continues to communicate the most commonly encountered filing errors both online and through multiple stakeholder engagements. Lastly, individuals can also obtain case status updates at uscis.gov/tools/checking-your-case-status-online.

¹ See <https://www.uscis.gov/humanitarian/humanitarian-parole/guidance-on-evidence-for-certain-types-of-humanitarian-or-significant-public-benefit-parole-requests>.

² See “Eligibility” at <https://uscis.gov/humanitarian/humanitarian-parole/information-for-afghan-nationals-on-requests-to-uscis-for-parole>.

³ See “After Filing Your Parole Request” at <https://uscis.gov/humanitarian/humanitarian-parole/information-for-afghan-nationals-on-requests-to-uscis-for-parole>.

USCIS continues to explore ways to improve the adjudication process for humanitarian parole filings, address its backlog of humanitarian parole requests, and remains committed to assisting Afghan nationals in urgent situations who lack other feasible options for protection.

Thank you again for your letters and interest in this important issue. Please share this response with your fellow State Attorneys General who cosigned your letter. Should you require any additional assistance, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Ur M. Jaddou", followed by a long horizontal flourish.

Ur M. Jaddou
Director