

Congress of the United States

Washington, DC 20515

December 20, 2021

The Honorable Joseph R. Biden, Jr.
President of the United States
The White House
1600 Pennsylvania Avenue, NW
Washington, DC 20500

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 President Biden, Secretary Mayorkas, and Director Jaddou:

We write to express our alarm regarding the restrictive and inconsistent approach the Department of Homeland Security's (DHS) U.S. Citizenship and Immigration Services (USCIS) has adopted towards the more than 30,000 Afghans who have applied for humanitarian parole to the United States. We seek justification for the changes to the parameters applied to humanitarian parole of Afghan applicants¹ and the basis for the numerous denials being reported.² We also seek a better understanding of what staffing issues are inhibiting USCIS from adjudicating applications in a timely manner.

As Secretary Alejandro Mayorkas has stated, the United States has a moral imperative to protect vulnerable Afghans,³ including the tens of thousands left behind after the United States' withdrawal and those stranded in third countries who have since sought a pathway to protection and family reunification via humanitarian parole. Filippo Grandi, U.N. High Commissioner for

¹ Information for Afghan nationals on requests to USCIS for humanitarian parole. USCIS. <https://www.uscis.gov/humanitarian/humanitarian-parole/information-for-afghan-nationals-on-requests-to-uscis-for-humanitarian-parole>

² Sophia Cai, S. W. K. (2021, December 9). U.S. begins denying Afghan immigrants seeking humanitarian parole. Axios. <https://www.axios.com/us-turns-away-afghans-66bf3aac-4c93-46b1-828b-e08d503c007c.html>.

³ Readout of secretary Mayorkas's engagement with community leaders regarding Operation Allies Welcome. Department of Homeland Security. (2021, September 3). <https://www.dhs.gov/news/2021/09/03/readout-secretary-mayorkas-s-engagement-community-leaders-regarding-operation-allies>

Refugees, warned that a “humanitarian crisis is just beginning,” as up to 500,000 Afghans are likely to seek refuge outside of the country by the end of the year, and half of the country’s population are in need of aid. Just as Operation Allies Refuge was a visible display of U.S. commitment to evacuate Afghan allies out of harm’s way, we can and must show our commitment to the displaced and non-displaced Afghan people.

The Secretary of DHS holds broad discretionary authority to grant parole to applicants for admission temporarily on a case-by- case basis for urgent humanitarian reasons or significant public benefit.⁴ Congress limited the parole authority by restricting its use with respect to those who are refugees, unless the Secretary determines that “compelling reasons in the public interest with respect to that particular alien require that the alien be paroled . . . rather than be admitted as a refugee.”⁵ The current situation in Afghanistan clearly meets the criteria of “compelling reasons” in light of the life-threatening circumstances for applicants and the inability of the U.S. Refugee Admissions Program (USRAP) to quickly accommodate the requirements of rescue and resettlement. USCIS’s own websites state that in some circumstances “protection needs are so urgent that obtaining protection through...the USRAP is not a realistic option.”⁶ We recognize that parole does not confer immigration status, but its application here would provide stranded Afghans with the ability to travel to the United States for humanitarian reasons, and give those in the United States some form of security while they await the processing of their Special Immigrant Visas, immigrant visas, asylum claims, or other legal protections.

Previous administrations have acted on this authority to provide relief to individuals in times of pressing humanitarian need. For instance, in 2014 the Obama administration started the Haitian Family Reunification Parole Program, and in 2010 the Obama administration created a parole program for children orphaned as a result of the earthquake in Haiti. In addition, the United States used parole authority during the 1994 Cuban Migration Crisis. USCIS should not force the Afghan situation into a narrow reading of the purpose of humanitarian parole, but rather should use its expansive authority to best address and prescribe solutions tailored to this humanitarian crisis. We therefore urge USCIS to create a special parole program for Afghan nationals that will meet the unique and large-scale needs of this population, and the urgency the situation demands.

Another point of concern is the speed at which these applications are being adjudicated. We have received feedback that the office adjudicating humanitarian parole applications is extremely understaffed, despite the sharp increase in demand for their services in the last few months.⁷ This is especially concerning as USCIS has received a filing fee of \$575 per individual for the vast majority of humanitarian parole applications, assumedly to support the costs of staffing necessary for processing and adjudication in a timely manner.

⁴ 8 U.S.C. § 1182(d)(5) <https://www.law.cornell.edu/uscode/text/8/1182>

⁵ 8 U.S.C. 1182(d)(5)(B) <https://www.law.cornell.edu/uscode/text/8/1182>

⁶ Information for Afghan nationals on requests to USCIS for humanitarian parole. USCIS. <https://www.uscis.gov/humanitarian/humanitarian-parole/information-for-afghan-nationals-on-requests-to-uscis-for-humanitarian-parole>

⁷ U.S. Citizenship and Immigration Services Briefing to Congressional Staff. (2021, October 12).

As the Taliban continues to search for and target vulnerable Afghans, including but not limited to journalists, women, human rights activists, and those who identify as LGBTQ+, it is our duty to ensure that they have a safe place to relocate. Many of these individuals have been forced into hiding, moving from location to location to evade torture, capture, or execution. The United States must continue to support their evacuation from the country. Despite the fact that our withdrawal had a role in the current chaos and untenable situation, many Afghans are starting to receive denials of their parole applications. From the evidentiary requirement to prove serious harm, necessitating a demonstrated individualized threat instead of generalized, and the inconsistent standards applied to applications from those in Afghanistan or in a third country, we seek justification to the changes made to the humanitarian parole parameters for Afghan nationals. We urge that USCIS adjudicate humanitarian parole applications with the discretion warranted under the extraordinary circumstances we find ourselves in.

In light of the ongoing crisis in Afghanistan and the reports of blanket denials without a Request for Evidence, we ask that you answer the following questions:

1. How many humanitarian parole applications have you received from Afghan nationals since August 1, 2021?
 - a. How many of these applications have been approved?
 - b. How many of these applications have been denied?
 - c. How many of these applications have been issued Requests for Evidence?
 - d. How many of these applications have been conditionally approved for Afghans in Afghanistan?
 - e. How many of these applications have been denied for Afghans in Afghanistan?
2. A 2017 USCIS training manual⁸ explicitly provides that USCIS may grant parole to individuals who are facing fear of harm due to generalized violence. However, USCIS has recently changed that standard, including for Afghan nationals, by requiring third-party evidence of severe, targeted, or individualized harm or threats.⁹ Why did USCIS change its guidance and requirements?
3. USCIS has communicated that priority adjudication will be given to Humanitarian Parole applicants outside of Afghanistan due to the closure of the U.S. Embassy in Kabul. Is USCIS applying a different adjudicatory standard for those who remain in Afghanistan?
 - a. Afghans who were able to flee to a third country to apply for humanitarian parole are also being denied because they are no longer in “imminent danger,”

⁸ U.S. Department of Homeland Security (2017, March 8). International Operations Officer Training. U.S. Citizenship and Immigration Services. Retrieved from <https://refugeerights.org/wp-content/uploads/imported-files/HP-FOIA-min.pdf>

⁹ Guidance on Evidence for Certain Types of Humanitarian or Significant Public Benefit Parole Requests. USCIS. <https://www.uscis.gov/humanitarian/humanitarian-parole/guidance-on-evidence-for-certain-types-of-humanitarian-or-significant-public-benefit-parole-requests>

according to USCIS.¹⁰ What are the legal and policy justifications for this approach? Is this the standard being applied to all applicants who have fled to third countries?

4. Since the U.S. withdrawal from Afghanistan, ongoing evacuations have focused mainly on American citizens and lawful permanent residents, yet there are thousands of at-risk Afghans with pending humanitarian parole applications, immigrant visa applications or referrals to the USRAP who remain in Afghanistan.
 - a. What efforts is DHS making to ensure that such at-risk Afghans are identified and prioritized for evacuation?
 - b. To what extent are Afghan nationals who applied to USCIS for humanitarian parole considered for inclusion in the Operation Allies Welcome parole pipeline?
5. What is the total dollar amount that USCIS has collected from humanitarian parole application fees for Afghan nationals since August 1?
6. How many USCIS officers are currently adjudicating humanitarian parole applications? How many officers does USCIS anticipate will be assigned to adjudicate these applications in the near future?
 - a. What are the limiting factors on USCIS's ability to adjudicate Humanitarian Parole applications in a timely manner related to the Afghan crisis?
7. If the agency believes refugee processing through the USRAP is more appropriate than humanitarian parole for certain cases, what actions is the agency taking to quickly transition those cases into the USRAP pipeline?

We call on USCIS to use its broad authority to favorably exercise discretion by granting individual humanitarian parole applications for eligible Afghans, accepting widely documented country conditions, embracing an approach in line with the generalized standard laid out in the 2017 USCIS training course, and not basing denials on lack of individualized third-party evidence of threats of harm.

Tragically, tens of thousands of Afghans and their families now face persecution and death threats from the Taliban, as well as threatened deportation back to Afghanistan for those who made it to third countries. We urge you to ensure that all vulnerable Afghans, including those in third countries and those still stranded in Afghanistan, are paroled into the United States and not left to languish in legal limbo. We look forward to working with you on this urgent issue and receiving your response by December 31, 2021.

¹⁰ U.S. Citizenship and Immigration Services. (2021, November 24) Parole Denial Notice. <https://documentcloud.adobe.com/link/track?uri=urn%3Aaaid%3Aascds%3AUS%3A7cec3e48-a1c8-4a64-9aa8-0f4702ea95fd#pageNum=2>

Sincerely,



Edward J. Markey
United States Senator



Cory A. Booker
United States Senator



Sherrod Brown
United States Senator

/s/

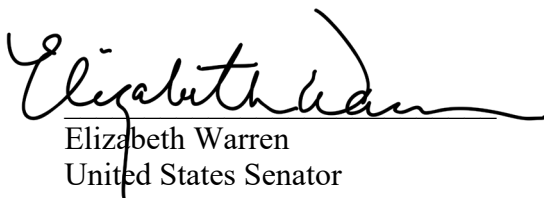
Brian Schatz
United States Senator



Alex Padilla
United States Senator



Tina Smith
United States Senator



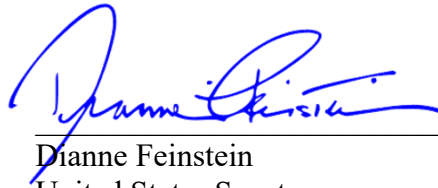
Elizabeth Warren
United States Senator



Seth Moulton
Member of Congress



Bernard Sanders
United States Senator



Dianne Feinstein
United States Senator

/s/

Ben Ray Luján
United States Senator

/s/

Mazie Hirono
United States Senator



Ron Wyden
United States Senator

/s/

Chris Van Hollen
United States Senator

_____/s/_____
Patrick J. Leahy
United States Senator

_____/s/_____
Tammy Baldwin
United States Senator

_____/s/_____
Kirsten Gillibrand
United States Senator



Richard J. Durbin
United States Senator

_____/s/_____
Michael Bennet
United States Senator



Patty Murray
United States Senator



Richard Blumenthal
United States Senator



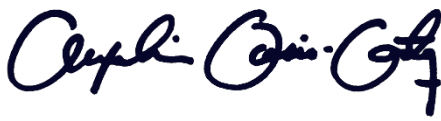
Jeff Merkley
United States Senator



Martin Heinrich
United States Senator

_____/s/_____
Robert P. Casey, Jr.
United States Senator

_____/s/_____
Tom Carper
United States Senator



Alexandria Ocasio-Cortez
Member of Congress



James P. McGovern
Member of Congress



Mike Doyle
Member of Congress



Eleanor Holmes Norton
Member of Congress



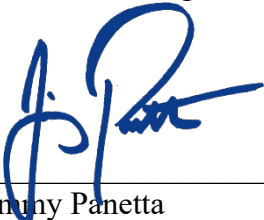
Sara Jacobs
Member of Congress



Dina Titus
Member of Congress



James R. Langevin
Member of Congress



Jimmy Panetta
Member of Congress



Mark DeSaulnier
Member of Congress

/s/

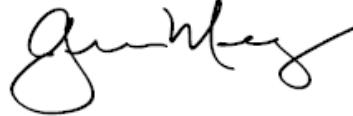
Susan Wild
Member of Congress



Henry C. "Hank" Johnson, Jr.
Member of Congress



Jim Cooper
Member of Congress



Grace Meng
Member of Congress



Jim Costa
Member of Congress



Brian Higgins
Member of Congress



Kaiali'i Kahele
Member of Congress



Gerald E. Connolly
Member of Congress

/s/

Bill Keating
Member of Congress



Jake Auchincloss
Member of Congress



Adam Smith
Member of Congress



Diana DeGette
Member of Congress



Barbara Lee
Member of Congress



Madeleine Dean
Member of Congress



Chellie Pingree
Member of Congress



Rick Larsen
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Jamie Raskin
Member of Congress

/s/

Suzanne Bonamici
Member of Congress

/s/

Nydia M. Velázquez
Member of Congress

/s/

Suzan DelBene
Member of Congress

/s/
Joseph Morelle
Member of Congress



Amy Klobuchar
United States Senator