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Congress of the United States
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Washington, DC 20515-4611

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MIDDLE EAST, NORTH AFRICA, AND INTERNATIONAL
TERRORISM
ASIA, THE PACIFIC, AND NONPROLIFERATION

July 15, 2021

U.S. Citizenship and Immigration Services (USCIS)
Camp Springs, MD 20588
Attn: Acting Director Tracy Renaud

Dear Director Renaud,

On behalf of the 11th Congressional District of Virginia, I would like to thank you for the service that you provide to our nation.

On February 9, 2021, a member of my staff submitted questions in preparation for the S21/ZAR Joint Virtual Stakeholder Outreach event that was held virtually on February 23, 2021. During this meeting it was noted that these questions were received but additional time was needed for a response. The following day, my office contacted the USCIS Arlington Asylum Office requesting an estimated time frame to receive answers to our questions.

After several follow up inquiries from my staff, on March 25, 2021 we received a response for the first two questions, however the liaison noted that the last two would require a response from Asylum Headquarters which they were hoping to receive the following day.

Since this time, my office has submitted eight additional email inquiries to the USCIS Congressional Inquiries e-mailbox. It has now been almost five months and these questions remain unanswered. While I understand that there may be a backlog, this timeframe for answers is well outside normalcy. I request that the USCIS Arlington Asylum Office provides answers to the following questions by July 30, 2021:

1. Will you please update our office on the number of cases that are currently waiting to be scheduled for an interview?
2. How many of these pending cases were submitted before January 29, 2018?
3. What action has the agency taken to address this backlog?
4. Has there been any policy change regarding priority since the change in presidency?

I respectfully request an immediate response to questions three and four, and for an update on questions one and two since so much time has passed. Should you require any additional information please contact my Annandale District office at (703) 256-3071 or Marlon.Dubuisson@mail.house.gov.

Sincerely,



Gerald E. Connolly
Member of Congress
11th District, Virginia

GC/MG

U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of the Director (MS 2070)
Camp Springs, MD 20588-0009



U.S. Citizenship
and Immigration
Services

July 29, 2021

The Honorable Gerald Connolly
U.S. House of Representatives
Washington, DC 20515

Dear Representative Connolly:

Thank you for your July 15, 2021 letter to U.S. Citizenship and Immigration Services (USCIS) regarding asylum cases pending interviews at the Arlington Asylum Office.

I appreciate your patience while USCIS identified and validated the information necessary to fully respond to your request. Detailed responses to each of your questions are enclosed.

Thank you again for your letter and interest in this important issue. Should you require any additional assistance, please have your staff contact the USCIS Office of Legislative Affairs at (240) 721-3801.

Respectfully,

A handwritten signature in black ink that reads "Tracy L. Renaud".

Tracy L. Renaud
Acting Director

Enclosure

U.S. Citizenship & Immigration Services' Response to Representative Gerald Connolly's July 15, 2021 Letter

1. Will you please update our office on the number of cases that are currently waiting to be scheduled for an interview?

As of July 20, 2021, the U.S. Citizenship and Immigration Services (USCIS) Arlington Asylum Office has 46,535 Form I-589 affirmative asylum cases pending interview for all locations within their jurisdiction.

2. How many of these pending cases were submitted before January 29, 2018?

Of the asylum cases pending interview by the USCIS Arlington Asylum Office, 20,626 were submitted before January 29, 2018.

3. What action has the agency taken to address this backlog?

In order to understand the actions USCIS has taken to address the backlog, one must first understand the underlying factors that contributed to its creation. In addition to adjudicating affirmative asylum applications, the USCIS Asylum Division is also responsible for conducting credible fear screening for noncitizens placed in expedited removal proceedings at the southwest border as well as making reasonable fear screening determinations and other fear assessments for certain other individuals not in expedited removal proceedings.

The overall workload for which the USCIS Asylum Division is responsible has increased dramatically over the last several years. In fiscal year (FY) 2012, USCIS received 41,900 affirmative asylum applications, 13,880 credible fear screening referrals, and 5,070 reasonable fear screening referrals. In FY 2017, USCIS received 141,965 affirmative applications, 78,564 credible fear referrals, and 10,273 reasonable fear referrals. In FY 2019, USCIS received record numbers of credible fear and reasonable fear referrals, while also beginning to conduct non-refoulement assessments of individuals enrolled into the Migrant Protection Protocols (MPP) who expressed a fear of returning to Mexico.

By statute and regulation, only specially trained adjudicators can conduct these adjudications. The increase in the credible fear and reasonable fear caseload required a majority of the USCIS' available asylum officers to conduct those screening determinations, thus reducing the number of asylum officers available to conduct affirmative asylum adjudications.

To address the growing workload, USCIS increased the number of authorized asylum officer positions from 273 in 2013 to 771 in 2019. However, on March 18, 2020, USCIS temporarily closed all its asylum offices due to the COVID-19 pandemic and was unable to begin to reopen offices again until June 4, 2020. Even after reopening the asylum offices, necessary health precautions allowed for only limited interviewing of cases in-person. To allow asylum interviews to continue during the pandemic, USCIS implemented the use of video technology for interviews wherein asylum officers sit in a separate physical space from the applicant. These efforts have allowed several offices to reduce case backlogs in recent months and have allowed others to slow backlog growth to very low levels.

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In addition, to curb the growth of pending asylum cases, USCIS prioritizes scheduling new cases first, under the “last in, first out” (LIFO) policy. Other asylum cases are scheduled for interview as resources permit. Asylum offices may also continue to devote portions of their schedules to backlog applications, including those requiring expeditious handling. Specifically, asylum office directors may consider, on a case-by-case basis, an urgent request to be scheduled for an interview outside of the LIFO priorities.

In addition to the efforts outlined above, the President's proposed FY 2022 budget includes \$345 million to reduce USCIS backlogs, including the affirmative asylum backlog. If approved, after sufficient time has elapsed to allow for the recruitment and hiring of additional asylum officer personnel, USCIS anticipates a steady reduction in the pending affirmative asylum caseload. In the meantime, USCIS will continue to take action to reduce the pending caseload by implementing innovative solutions to maximize efficiency and utilize all available resources to assist with completing affirmative asylum cases.

4. Has there been any policy change regarding priority since the change in presidency?

No, there has not been a change in interview scheduling priorities since President Biden assumed office. The LIFO scheduling policy was initially implemented during asylum reforms on January 4, 1995. LIFO was in place for 20 years until the end of December 2014, when “first in, first out” (FIFO) scheduling was temporarily put in place until January 2018.

It is important to emphasize that LIFO did not cause the backlog. The backlog is the result of the mathematical reality that USCIS receives more cases than it can adjudicate given current resources. LIFO is a critical tool in controlling non-meritorious or fraudulent applications filed to take advantage of the backlog in order to obtain work authorization. But for LIFO, the backlog would doubtlessly be worse.

USCIS experience during the last period of asylum-related backlog in the 1990s showed that many applications were meritless and were filed in order to obtain work authorization. To address this issue, the legacy Immigration and Naturalization Service implemented several reforms, including the scheduling system known as LIFO, whereby the Asylum Division scheduled recently filed cases for interview ahead of older cases. By giving priority to the newest cases, applicants who may have filed asylum applications solely to obtain work authorization risked having their cases heard quickly, meaning that their efforts to file solely to obtain work authorization would be fruitless. During the first 20 years of LIFO, the backlog was reduced from a high of 400,000 to just under 5,000 cases by 2009. By the beginning of FY 2013, just over 4,200 cases were pending adjudication longer than six months.

In December 2014, USCIS temporarily adopted a FIFO scheduling system. At that time, most USCIS asylum officers were assigned to address the surge of credible fear, reasonable fear, and unaccompanied child asylum cases. Further, at that time, the Department of Justice (DOJ) decided that asylum referrals from USCIS to DOJ immigration courts would no longer have priority in its scheduling of cases. Consequently, the effectiveness of the

**U.S. Citizenship & Immigration Services' Response to
Representative Gerald Connolly's July 15, 2021 Letter**

LIFO scheduling system in discouraging frivolous, fraudulent, or otherwise non-meritorious filings was limited.

After announcing the end of LIFO scheduling in December 2014, the number of affirmative asylum applications filed per year increased from 56,898 in FY 2014 to 83,197 in FY 2015 (+46%); to 114,965 in FY 2016 (+38%); to 141,695 in FY 2017 (+23%). The affirmative asylum application backlog grew correspondingly. In FY 2015, the year after dropping LIFO, the backlog grew by 77%; in FY 2016, it grew by 79%; and in FY 2017, it grew by 49%. In order to stem the growth of the agency's asylum application backlog and identify earlier in the process any frivolous, fraudulent, or otherwise non-meritorious asylum claims, USCIS announced on January 31, 2018 that it would return to the LIFO scheduling system.

After the re-imposition of LIFO, the number of affirmative asylum applications filed per year decreased from 141,695 in FY 2017 to 106,147 in FY 2018 (-25%); to 95,959 in FY 2019 (-10%); and to 94,077 in FY 2020 (-2%). Since re-instituting LIFO, the annual growth of the backlog has dropped dramatically to only a 10% growth in FY 2018, a 7% growth in FY 2019, and a 13% growth in FY 2020.