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Congress of the United States
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SUBCOMMITTEES:
MIDDLE EAST, NORTH AFRICA, AND GLOBAL
COUNTERTERRORISM
ASIA, THE PACIFIC,
CENTRAL ASIA, AND NONPROLIFERATION

February 22, 2022

The Honorable Ur Mendoza Jaddou
Director
U.S. Citizenship and Immigration Services
One Capital Gateway Drive
Camp Springs, MD 20588

Dear Director Jaddou:

On behalf of Virginia's 11th Congressional District, I write to express my concern regarding the extensive backlog of Form I-589, Application for Asylum and for Withholding of Removal and the overall lack of transparency conveying estimated delays in interviewing and processing.

From displacement in Europe during WWII to the drafting and signing of Article 14 of the Universal Declaration of Human Rights, for the past 70 years, the United States has established itself as a beacon of hope for those in other countries fleeing violence or persecution.

The Trump administration challenged this ironclad commitment, eviscerating our asylum system to restrict who could apply and qualify for asylum, removing minimum standards for the treatment of children, and limiting whether asylum seekers could stay in the U.S. while their claim was reviewed.¹ Specifically, the Last in First Out (LIFO) policy awarded swift processing for some cases, while others languish for years awaiting interview scheduling or officer review, without any information indicating processing time for expected adjudication. These lengthy waits have a significant impact on my constituents and as more cases are filed this backlog will continue to grow. For example, as the cases remain pending, applicants are required to repeatedly file EAD renewal applications which are costly. In turn, it can be difficult for applicants to find affordable or pro bono counsel to assist with these reoccurring filings, not to mention the burden placed on the USCIS service centers that are already facing backlogs.

During the previous administration, many women, men, and children fleeing violence or persecution were returned to face imminent danger or remain to this day in limbo to no fault of their own. I commend the Biden Administration's commitment to restoring dignity in our country's immigration policies by reversing many of these draconian measures.

Notwithstanding, there remain structural obstacles in our country's processing of asylum applications, such as the backlogs of cases that go back five years or further, that have effectively constrained the internationally recognized right to seek asylum in our country. To make matters worse, USCIS has been

¹ International Rescue Committee, "How the Trump Administration is eliminating asylum in the U.S.," February 4, 2020

unable to provide a timeline for how long it will take them to process cases that were submitted before the Last in First Out (LIFO) policy was implemented.

For these reasons, I respectfully request information on the progress of:

- Review and processing of Form I-589 applications filed before the LIFO policy was implemented.
- Efforts to publish online or inform Congress the timeline for processing I-589 applications submitted from before LIFO policy was implemented.
 - o This should include processing times for those that filed before the LIFO policy was implemented, and those after.
 - o This should also include information on how many cases were adjudicated under LIFO vs. those that joined the backlog
- Consideration of the proposal to automatically issue EADs to applicants who have filed a Form I-589, Application for Asylum, or otherwise indicate an intent to apply for asylum, without requiring a separate EAD application form.²

The right to seek asylum is a human right that we must uphold. Processing asylum applications in a timely manner and improving transparency surrounding the wait times of the backlogs will greatly benefit those seeking refuge in the United States, as it will the United States from their important contribution to our country. Additionally, these processing times are pertinent in responding to my constituents.

I respectfully request a response to the above points detailing USCIS's strategy for addressing longstanding Form I-589 applications, and transparency regarding informing the public of the estimated wait times by March 31, 2022.

Should you require any additional information, please contact my staff Matthew McLaughlin at (202) 225-1492 or at Matthew.McLaughlin@mail.house.gov. Thank you in advance for you attention to this matter.

Sincerely,



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

² "Joint Letter to DHS Secretary Mayorkas and USCIS Director Jaddou," November 17, 2021



**U.S. Citizenship
and Immigration
Services**

April 13, 2022

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

Dear Representative Connolly:

Thank you for your February 22, 2022, letter to U.S. Citizenship and Immigration Services (USCIS) regarding backlogs of Form I-589, Application for Asylum and for Withholding of Removal, and estimated delays in interviewing and processing these applications.

USCIS has taken significant steps to address the affirmative asylum backlog pertaining to Form I-589, Application for Asylum and for Withholding of Removal, through the expansion of operations at U.S. Citizenship and Immigration Services (USCIS) asylum offices and the allocation of adjudicative resources at these offices according to workload priorities. For example, USCIS increased the number of authorized asylum officer positions from 273 positions in 2013 to 810 positions by 2020, which was intended to reduce the affirmative asylum backlog and to increase the capacity to handle the rising number of credible fear and reasonable fear claims at the border by reducing the need to reassign asylum officers from the affirmative asylum workload to those cases. However, the COVID-19 pandemic has made it necessary to reduce the number of in-person interviews that could be safely conducted, thus slowing the rate at which USCIS could adjudicate affirmative asylum applications. In 2021, USCIS implemented the use of video technology to conduct affirmative asylum interviews to help maintain the number of interviews conducted safely during the pandemic.

Although current affirmative asylum completions and interviews remain below pre-pandemic levels, further increases in interviews conducted and case completions are expected in the remainder of fiscal year (FY) 2022 as COVID-19 restrictions are lifted. Additionally, USCIS received funding under the FY 2022 Continuing Resolution (CR) for USCIS Operations and Support and under the 2022 Consolidated Appropriations Act, specifically for application processing and reduction of backlogs across the agency, including asylum offices. The funding release amounted to \$275 million agency-wide. The Asylum Division is using its portion of this funding to hire nearly 200 Asylum Division staff who will be focused on work related solely to affirmative asylum backlog reduction.

In FY 2022, asylum offices are prioritizing the processing of pending affirmative asylum cases filed before January 31, 2018. There are currently 210,000 affirmative asylum cases pending that were filed before this date. This volume represents 45% percent of the total pending

affirmative asylum caseload.¹ These cases were received during years of the highest levels of affirmative asylum filings. In FY 2016, USCIS received 114,965 new applications and in FY 2017 USCIS received 141,695 new applications. The affirmative asylum backlog dating from these years is the result of a prolonged, significant increase in affirmative asylum application filings and credible fear screenings, both of which are processed by an asylum office. Between FY 2013 and FY 2017, despite significant staffing increases, increased receipts outpaced increased staffing and the establishment of new or expanded facilities needed to support additional staffing growth. These circumstances, along with resources and changes in the scheduling system for asylum cases, resulted in backlog growth.

Historically, USCIS has had a practice of scheduling for interview the most recent applicants to file an application, known as last in, first out (LIFO). The LIFO system was intended to discourage individuals from potentially filing meritless asylum applications to take advantage of the backlog to obtain employment authorization during the period in which their case was pending in the backlog. By giving priority to the newest cases, applicants who may have filed asylum applications solely to obtain work authorization risked having their cases heard more quickly and denied during the waiting period, meaning that any efforts to file solely to obtain work authorization would be fruitless. Between 2014 and 2017, USCIS shifted to a first in, first out (FIFO) scheduling system for asylum cases. On January 31, 2018, USCIS announced that it would return to the LIFO scheduling system. Since reinstating LIFO, the annual growth of the backlog has dropped to a 10-percent growth in FY 2018, a 7-percent growth in FY 2019, and a 13-percent growth in FY 2020.

Of the 374,000 affirmative asylum applications received during the period USCIS implemented FIFO scheduling, a significant number of these cases remain pending in 2022. During FY 2022, asylum offices have assigned more staff to the completion of applications filed before 2018. Between October 1, 2021, and February 22, 2022, asylum offices have completed more than 3,700 applications filed from this period. This effort has decreased the number of total pending applications filed before January 31, 2018, from 214,000 on October 1, 2021, down to 210,300.

We agree with your request that USCIS begin publishing more information about the processing of affirmative asylum applications filed on or before January 31, 2018. By May 31, 2022, USCIS plans to post online regularly updated processing information for affirmative asylum backlog cases to provide the public with a better understanding of our progress.

Finally, USCIS is continuously looking for mechanisms that promote efficiency in processing applications for Employment Authorization Documents (EADs) and reduce their backlogs and processing times. Although the adjudication of EAD applications for asylum seekers is somewhat complex, and has been compounded by regulatory changes and litigation, we appreciate your suggestion and will bear it in mind in ongoing discussions of ways in which the agency can leverage technology to reduce operational burdens and improve processing times for those we serve.

¹ The total pending affirmative asylum caseload as of January 31, 2022 was 446,710.

The Honorable Gerald E. Connolly
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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, appearing to read "Ur M. Jaddou", with a long horizontal flourish extending to the right.

Ur M. Jaddou
Director