

RECEIVED  
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August 15, 2023

President Joseph R. Biden  
The White House  
1600 Pennsylvania Avenue NW  
Washington, DC 20500

The Honorable Alejandro Mayorkas  
Secretary of Homeland Security  
301 7th Street SW  
Washington, DC 20520  
U.S. Department of Homeland Security

CC: Troy Miller, Senior Official Performing the Duties of Commissioner, U.S. CBP

**Re: Department of Homeland Security must stop conducting Credible Fear Interviews in Customs and Border Protection Custody**

Dear President Biden and Secretary Mayorkas:

We are writing as 375 Jewish clergy signed below to implore you to instruct the Department of Homeland Security (DHS) to halt the [expanded](#) *expedited removal* program, which forces asylum seekers to undergo rapid fear screenings while in U.S. Customs and Border Protection (CBP) custody.

As religious leaders, we are appalled by the treatment of asylum seekers in CBP custody and urge you to act quickly to ensure that asylum seekers are treated justly. Our own tradition speaks to the importance of this. The Torah recounts that in the earliest days of the Jewish people, we struggled with an overwhelmed and inadequate judicial system. The solution mandated by our tradition was not simply to expedite cases. It was to build out a more robust, functional system that could adequately address every petitioner's case, and by extension, affirm their rights and dignity. In the expanded system, each judge was chosen based on a possession of "wisdom, understanding and knowledge." In other words, judicial success was not defined by efficiency alone, but also by the ability to adequately, accurately, and morally mete out judicial decisions. Performing credible fear interviews for asylum seekers while in CBP custody may be efficient, but it fails to meet every other standard of a functioning judicial system – especially when lives hang in the balance. Asylum seekers deserve a foundation not a façade of justice.

The new policy forces people, many of whom have experienced extreme trauma, to undergo a credible fear interview (CFI) during which they must present to and convince an asylum officer that they can prove their asylum case in court. They do so within 24 hours of entering the country, exhausted from their journey, and with virtually no access to legal counsel. This process includes a detailed interview (sometimes several hours) about their entire life story, including dates, names, and specific details about all harm they have faced in their lives that government attorneys can use against them later in court should they make a mistake under these conditions. Sometimes, these interviews are conducted in a language in which the asylum seekers do not feel proficient. These expedited timelines additionally leave virtually no time to gather documentation and other evidence.

This program does not accelerate the fair screening of asylum seekers, it expedites their deportation. In only three months, since the end of Title 42, your administration has returned nearly [85,000 individuals](#) - a 65% increase from last year. Almost certainly this includes people who will face persecution upon return to their countries of origin, which is a violation of U.S. and international law. If we have the resources to process and deport this many individuals, we have the resources to ensure due process of their claims.

For example- in [April](#), the US resumed deportation flights to Cuba to punish unlawful entrants to the United States despite known dangerous conditions in Cuba. The U.S. Department of State has documented many of the human rights abuses that have been shown to exist in Cuba, including “credible reports of unlawful or arbitrary killings, including extrajudicial killings, by the government; torture and cruel, inhuman, and degrading treatment of political dissidents...” Given the political nature of the abuse, it is hard to imagine that it would be safe to send back any individual who sought refuge in the U.S.

In addition, the difficulty asylum seekers face in accessing legal counsel in CBP custody is profoundly concerning. On July 22, the New York Times [reported](#), “[l]awyers cannot meet with clients in the custody of Border Patrol. Or call them. Or leave messages for them. There is no system to find out where a client is being held. And the government sets the schedule for key meetings when a lawyer should be present.” The growing number of reports of abuses under the auspices of this program cannot be ignored.

There is a community of NGOs, faith-based organizations, shelters, and volunteers waiting to support asylum seekers and other migrants entering through the U.S. southern border. In our communities, we are doing our part to help meet the needs of these asylum seekers and we beseech you to do yours:

- Immediately end the program subjecting asylum seekers to credible fear screenings in CBP custody;
- Provide clear and accurate information to asylum seekers about what is required to seek asylum in the United States rather than relying on the “Do not come” rhetoric, which ignores the realities of the conditions - well known to the U.S. government - that people are fleeing and subject to misinformation and disinformation by those who prey on their vulnerability.
- Ensure that every asylum seeker has meaningful access to counsel and due process protections, without which, countless asylum seekers would be undoubtedly forced back into harm’s way.

The policies as they exist today violate our religious sensibility of what we owe to our fellow human beings. We feel compelled to write you as Jewish leaders regarding these procedures because they offend our most deeply held moral conviction about the value of human life. Each life is created in the divine image and worthy of protection. Our tradition teaches us that the work of establishing a fair legal system that honors this dignity is hard. It is also the foundation of a just society.

We cannot pursue expedience at the expense of justice for those who have little other hope or recourse. That would betray one of the most fundamental values of our identity as Jews and as Americans.

Sincerely,

The 375 Undersigned Jewish Clergy

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Rabbi Jonathan Aaron  
Rabbi Joshua Aaronson  
Rabbi Leora Abelson  
Rabbi Joel Abraham  
Rabbi Ruth Abusch-Magder  
Rabbi Rachel Ackerman  
Rabbi Rachel Adler  
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Rabbi Doug Alpert  
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U.S. Citizenship  
and Immigration  
Services

October 6, 2023

Vanessa Dojaquez-Torres  
Policy Counsel, U.S. Policy and Advocacy  
HIAS  
1300 Spring St  
Silver Spring, MD 20910-3616

Dear Ms. Dojaquez-Torres:

Thank you for your August 15, 2023 letter to the Department of Homeland Security (DHS). I am responding on behalf of the Department.

On May 10, 2023, DHS announced new measures to humanely manage the border by enforcing our immigration laws while expanding safe, orderly, and lawful pathways.<sup>1</sup> As noted in your letter, certain noncitizens are now processed for expedited removal within days of their initial encounter and while in U.S. Customs and Border Protection (CBP) or U.S. Immigration and Customs Enforcement (ICE) facilities. The enhanced use of expedited removal is part of these border management and enforcement measures, and U.S. Citizenship and Immigration Services (USCIS) has surged staff and resources to prioritize credible fear processing during the expedited removal process to ensure protection screenings are carried out in a fair, efficient, and timely manner. In addition to specialized training in asylum and refugee law, USCIS asylum officers conducting credible fear interviews are trained in non-adversarial interviewing techniques, including interviewing children, LGBTQIA+ individuals, and survivors of torture. The credible fear interview is a non-adversarial interview, and USCIS asylum officers elicit all relevant testimony when making a credible fear determination.

Facilitating access to counsel or a consultant during the credible fear process is a DHS priority. CBP and ICE have operationalized additional logistics to support increased credible fear referrals, including installation of hundreds of phone lines and privacy booths, and implemented procedures to allow noncitizens to access counsel. At the beginning of the credible fear interview, USCIS asylum officers confirm that the noncitizen received and understood the Form M-444, Information about Credible Fear Interview, that is provided to the noncitizen prior to the interview. The current version of the M-444 has been translated from English into 16 languages. Paper copies of the Form M-444 are also available in the interview booths. The M-

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<sup>1</sup> Fact Sheet: Department of State and Department of Homeland Security Announce Additional Sweeping Measures to Humanely Manage Border through Deterrence, Enforcement, and Diplomacy, May 10, 2023, available online at <https://www.dhs.gov/news/2023/05/10/fact-sheet-additional-sweeping-measures-humanely-manage-border>



444 provides basic information about the credible fear process, including the right to consult with a person of the noncitizen's choosing, and to have an attorney, representative, or consultant participate in the credible fear interview by telephone. USCIS asylum officers ensure that the noncitizen has no fewer than 24 hours for consultation before the credible fear interview is conducted.

Additionally, USCIS considers requests to reschedule the credible fear interview on a case-by-case basis, taking into account when the noncitizen arrived, whether they were given an opportunity to consult with a person of their choosing, including being provided access to a phone, and any extraordinary circumstances raised by the noncitizen. The USCIS asylum officer also asks the noncitizen if they have counsel or a consultant and whether counsel or a consultant should be contacted to participate in the credible fear interview telephonically. If so, the officer will add the counsel or consultant to the interview. Furthermore, in the credible fear process, a Form G-28, Notice of Entry of Appearance as Attorney or Accredited Representative, is not required for an attorney, representative, or consultant to participate in the interview.

Conducting immigration processing at the border in a safe, orderly, and humane manner maximizes the number of noncitizens who can be processed, and, accordingly, enables DHS to provide timely protection and relief to noncitizens who are eligible while supporting the swift return of those that do not establish a legal basis to remain in the United States. While we continue to make significant progress in increasing access to lawful pathways, it is clear that we are operating within a fundamentally broken and outdated immigration system that has not been updated in decades. DHS continues to call on Congress to work together—in a bipartisan manner—to update our immigration framework, including by modernizing our asylum system.

Thank you again for your letter and interest in this important issue. Please share this response with the other cosigners of 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", with a long horizontal flourish extending to the right.

Ur M. Jaddou  
Director