

Congress of the United States
Washington, DC 20510

July 27, 2023

The Honorable Alejandro Mayorkas
Secretary
U.S. Department of Homeland Security
301 7th Street SW
Washington, D.C. 20528

The Honorable Ur Jaddou
Director
U.S. Citizenship and Immigration Services
U.S. Department of Homeland Security
Washington, D.C. 20528

Dear Secretary Mayorkas and Director Jaddou:

We write to reaffirm our concerns regarding the affirmative asylum application backlog at U.S. Citizenship and Immigration Services (USCIS), as previously expressed in the letter to you dated September 9, 2021. Since that time, the number of pending asylum applications has continued to climb and as of November 2022, USCIS reported it had 607,651 asylum applications pending, with over 202,000 affirmative asylum applications from FY 2022 alone.¹ Meanwhile, external trackers at Syracuse University reported an even higher number—778,084 asylum seekers were waiting for an assessment by USCIS asylum officers at the end of 2022.² USCIS also reported that approximately 27 percent of pending cases were filed prior to October 1, 2017, meaning that about 180,000 cases were filed more than 5½ years ago.³

As you are aware, since January 2018, USCIS has been processing asylum applications under a “last in, first out” (LIFO) approach. Except for a three-year period when USCIS briefly switched to a “first in, first out” policy, LIFO has been the approach that USCIS has used to process affirmative asylum applications for more than 25 years. As a result of LIFO, 180,000 applications have been pending for more than five years. This has caused psychological distress, uncertainty and lengthy periods of family separation for people who have no hope of being scheduled for an asylum interview.

While we understand that USCIS has taken action to address some of the oldest cases in the backlog,⁴ many meritorious cases remain unresolved. In 2021, when we first wrote to you, Human Rights First estimated that their clients stuck in the backlog had been waiting—on average—four years for an interview. Now, that time has stretched to six years.⁵ This reality leaves trauma survivors in a state of limbo, often unable to be reunited with their families while

¹ *Asylum Quarterly Engagement and Listening Session Script & Talking Points*, U.S. CITIZENSHIP & IMMIGRATION SERV., 5 (Dec. 13, 2022), https://www.uscis.gov/sites/default/files/document/foia/Asylum_Quarterly_Engagement-FY23_Quarter_1_Script_and_Talking_Points.pdf.

² *A Sober Assessment of the Growing U.S. Asylum Backlog*, TRAC (Dec. 22, 2022), <https://trac.syr.edu/reports/705/>.

³ *Affirmative Asylum Backlog Grows at Unprecedented Rate*, THE ASYLUMIST (Apr. 5, 2023), <https://www.asylumist.com/2023/04/05/affirmative-asylum-backlog-grows-at-unprecedented-rate/>.

⁴ U.S. CITIZENSHIP & IMMIGRATION SERV., at 6-7.

⁵ Cora Wright, *Asylum Office Delays Continue to Cause Harm*, HUMAN RIGHTS FIRST (Oct. 3, 2022), <https://humanrightsfirst.org/library/barriers-and-backlog-asylum-office-delays-continue-to-cause-harm/>.

they wait for processing.⁶ Such uncertainty exacerbates the trauma applicants have already faced and makes a difficult situation even harder on families. One applicant, who had been waiting nearly five years for an interview, said she twice considered suicide and was desperate to visit her sick mother overseas before she passed away.⁷

Several of our offices have also heard directly from asylum seekers, including LGBTQI+ asylum seekers and torture survivors, who have been waiting for more than seven years to be interviewed by USCIS. They shared how this long wait has retraumatized them and exacerbated mental health challenges they already faced due to the persecution they experienced in their home countries.

We recognize and commend USCIS's efforts to address the dire situation that the backlog creates for asylum seekers. However, we are concerned that these efforts have not been enough.

We therefore request that for each of the 10 asylum offices, by August 18, 2023 you:

1. Commit to designating asylum officers to work "back to front" to address the backlog, giving those asylum seekers moved to the back of the line by the 2018 change to LIFO the opportunity to receive more timely decisions on their cases.
2. Commit to a five-year "cutoff period," after which time a pending application is moved to the front of the line, ensuring that applicants will not wait decades for an interview.

We believe that these commitments will give asylum seekers, especially those currently disadvantaged by LIFO, a much-needed sense of certainty for the future.

In order to better understand the current status of the asylum "queue," we also request that you provide us with answers to the following questions:

1. For each of the 10 asylum offices, how many cases pending for more than five years have not been adjudicated?
2. Which of the 10 asylum offices have asylum officers specifically designated to address the backlog of cases filed over five years ago? For asylum offices that have designated officers, how many and what percent of these officers are dedicated to cases pending more than five years? Is that percent constant or does it fluctuate? If it fluctuates, is there a maximum amount of time officers may leave their backlog post?
3. How do asylum offices without any officers dedicated to adjudicating cases pending more than five years handle these cases?
4. Does USCIS take into account the difficulties caused by lengthy adjudication times in making decisions on asylum cases in the backlog?
5. Once an asylum officer picks up a case that has been pending for more than five years, how long does it take on average for the case to be completed and for the applicant to be notified?
6. How many asylum interviews were conducted in FY 2022 in each of the asylum offices with officers dedicated to adjudicating cases filed over five years ago? How many of these

⁶ Designing a Trauma Informed Asylum System in the United States, Center for Victims of Torture (2021), https://www.cvt.org/sites/default/files/attachments/u101/downloads/2.4.designing_a_trauma_informed_asylum_repo.rt.feb42021.pdf.

⁷ Wright, *supra* note 5.

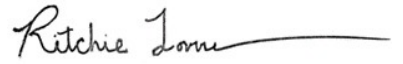
cases were completed, and the applicant notified? What percentage of those completed cases were filed over five years ago?

7. How many asylum interviews were conducted in FY 2022 in each of the asylum offices where USCIS did not designate asylum officers to adjudicate cases pending for more than five years? How many of these cases were completed, and the applicant notified? What percentage of those completed cases were filed over five years ago?

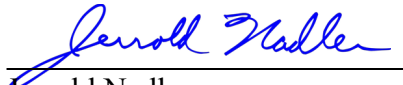
Sincerely,



Mark Pocan
Member of Congress



Ritchie Torres
Member of Congress



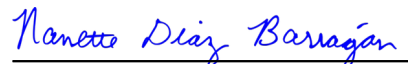
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Pramila Jayapal
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Eleanor Holmes Norton
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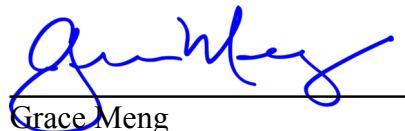
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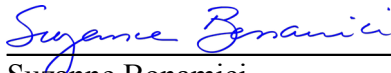
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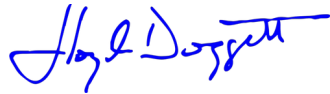
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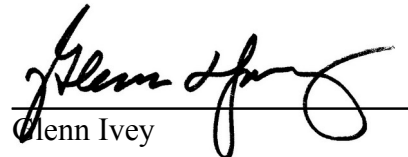
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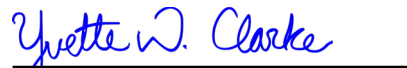
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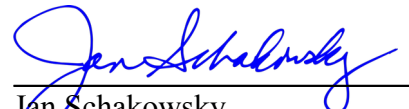
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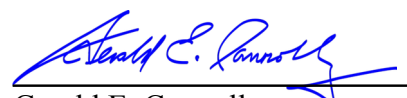
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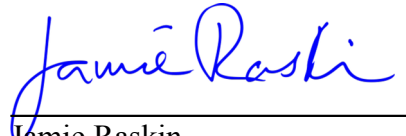
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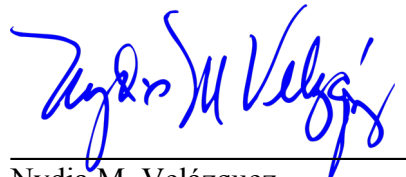
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Chair, Congressional Asian
Pacific American Caucus
(CAPAC)



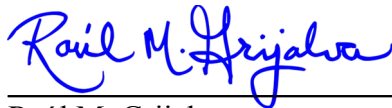
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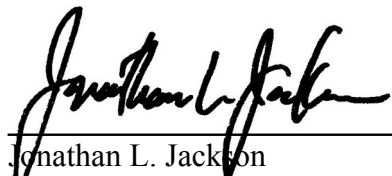
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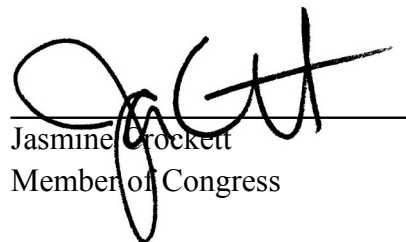
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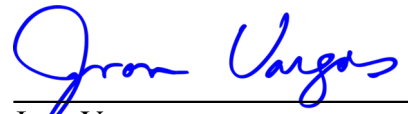
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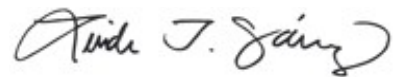
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Nikema Williams
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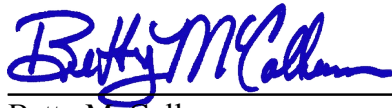
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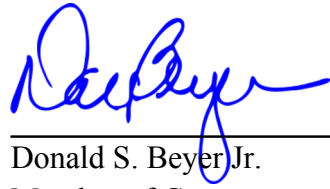
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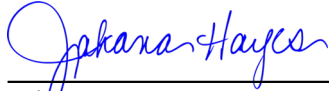
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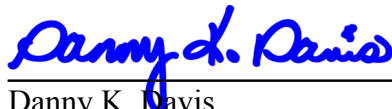
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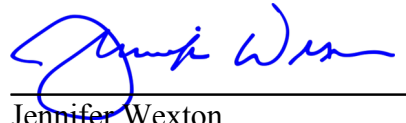
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