

United States Senate
WASHINGTON, DC 20510

June 25, 2024

VIA ELECTRONIC TRANSMISSION

The Honorable Alejandro Mayorkas
Secretary
Department of Homeland Security

Dear Secretary Mayorkas:

As a result of the Biden administration's failed withdrawal from Afghanistan, as well as the collapse of the Afghan government and security forces in 2021, the U.S. military conducted Operation Allies Refuge and Operation Allies Welcome (OAW), leading to the evacuation and resettlement of 97,000 evacuees from Afghanistan to the United States.¹ Roughly 77,000 of these individuals were granted humanitarian parole for two years.² The Department of Homeland Security (DHS) had the responsibility to identify, vet, and monitor the individuals entering the United States as a result of OAW.³

I've previously raised the alarm regarding the vetting process of Afghan evacuees.⁴ On May 26, 2022, and August 22, 2022, I wrote to the Federal Bureau of Investigation (FBI), regarding Afghan evacuees who were flagged for the FBI by the National Ground Intelligence Center (NGIC) as "potentially significant concerns" after being paroled into the country.⁵ More recently, on May 8, 2024, the DHS Office of Inspector General (OIG) released a report titled, *DHS Has a Fragmented Process for Identifying and Resolving Derogatory Information for Operation Allies Welcome Parolees*, which highlighted the vulnerabilities in DHS's process to

¹ Office of the Inspector General of the Department of Homeland Security, Office of Inspector General, *DHS Has a Fragmented Process for Identifying and Resolving Derogatory Information for Operation Allies Welcome Parolees* (OIG-24-24), at 1 (May 6, 2024), <https://www.oig.dhs.gov/sites/default/files/assets/2024-05/OIG-24-24-May24.pdf>.

² *Id.*

³ *Id.* at 7-8.

⁴ Letter from Sen. Charles E. Grassley, Ranking Member, Senate Judiciary Committee, Sen. Rob Portman, Ranking Member, Senate Homeland Security and Government Affairs Committee, and Sen. James M. Inhofe, Ranking Member, Senate Armed Services Committee, to the Honorable Christopher Wray, Director, Federal Bureau of Investigation (May 26, 2022), https://www.grassley.senate.gov/imo/media/doc/ceg_et_al.tofbiupdateonafghanevacueevetting.pdf; see also Letter from Sen. Charles E. Grassley, Ranking Member, Senate Judiciary Committee, Sen. Rob Portman, Ranking Member, Senate Homeland Security and Government Affairs Committee, and Sen. James M. Inhofe, Ranking Member, Senate Armed Services Committee, to the Honorable Christopher Wray, Director, Federal Bureau of Investigation (Aug. 22, 2022), https://www.grassley.senate.gov/imo/media/doc/grassley_portman_inhofe_to_fbi_-_afghan_vetting_follow-up.pdf.

⁵ *Id.* Specifically, I highlighted that, according to a report by the Department of Defense (DOD) Office of Inspector General (OIG), DHS paroled 50 Afghan evacuees that DOD found would not qualify for parole or admission onto U.S. military bases used as temporary housing for evacuees based on these concerns. These "significant security concerns," the OIG explained, included individuals whose latent fingerprints have been found on improvised explosive devices and known or suspected terrorists. Additionally concerning, DOD OIG's report noted that at least 28 of these evacuees could not be located once they were flagged by DOD.

identify and resolve potential derogatory records for Afghan parolees and substantiated the concerns I've raised for years.⁶ According to the DHS OIG report, DHS and its component agencies, such as Customs and Border Protection (CBP), United States Citizenship and Immigration Services (USCIS), and Immigration and Customs Enforcement (ICE), are responsible for identifying and resolving derogatory information for OAW parolees, as well as monitoring parole expiration and determining re-parole.⁷ However, the DHS OIG report found several vulnerabilities and process failures within DHS and its component agencies:

- a potential USCIS enforcement action gap for OAW parolees denied immigration benefits;
- USCIS' case referral criteria do not align with ICE's case acceptance criteria;
- changes to DHS immigration law enforcement priorities that may result in different enforcement action thresholds for certain cases; and
- a complex ICE process for removing OAW parolees to Afghanistan that depends on a third-party country.

DHS OIG found that gaps exist in USCIS enforcement actions for OAW parolees who are denied immigration benefits.⁸ Specifically, the report found that USCIS will not move forward with removal proceedings against an OAW parolee or terminate parole when it denies a benefit application due to derogatory information.⁹ Derogatory information includes any information that prompts a request for additional investigation or clarification that may relate to national security concerns, criminal conviction, potential fraud, or other misconduct.¹⁰

The DHS OIG also stated that USCIS would not begin removal proceedings for a parolee whose application it had denied and whose parole later expired.¹¹ Specifically, the report noted that, "an OAW parolee whose parole has expired and who already has been denied a benefit may not face enforcement consequences for remaining in the United States without legal status."¹² According to the DHS OIG report, as of March 2023, USCIS had not initiated removal proceedings for any OAW parolees.¹³

The report found that ICE frequently declined certain USCIS case referrals, causing both USCIS and ICE to utilize resources on referrals that do not result in ICE enforcement actions.¹⁴ According to the report, the discrepancy between USCIS referrals and ICE enforcement actions is partially due to an internal ICE policy which states that "ICE may only accept cases involving noncitizens convicted of an EPS [Egregious Public Safety] crime, and not those where the

⁶ *Supra* note 1.

⁷ *Id.* at 7-8.

⁸ *Id.* at 8.

⁹ *Id.* at 8-10.

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.* at 9.

¹³ *Id.*

¹⁴ *Id.* at 10-12.

noncitizen is under investigation or arrest, as outlined in the MOA [referring to the “Memorandum of Agreement Between USCIS and ICE Regarding the Referral of Immigration Benefit Fraud Public Safety Cases”].¹⁵ According to the report, ICE placed some blame on the FBI for their limited enforcement actions because ICE lacks access to the FBI’s National Crime Information Center (NCIC) Interstate Identification Index, which contains criminal history data.

The report also found data errors in USCIS and ICE records, specifically Alien numbers (A-numbers), for the OAW population.¹⁶ For instance, USCIS officials told DHS OIG that OAW parolee records are either missing A-numbers or include multiple A-numbers assigned to one individual.¹⁷ The DHS OIG also identified at least one occasion of two different individuals sharing the same A-number.¹⁸ Another example of incorrect data DHS OIG highlighted was a case in which ICE records had two different spellings for an OAW parolee’s name with a different A-number assigned to each spelling.¹⁹ According to the OIG, these inaccuracies in the data could “negatively impact USCIS and ICE staff’s ability to identify individuals quickly and accurately within the OAW population and appropriately connect individuals with accurate information such as biographic or criminal history data.”²⁰

As a result of this report, DHS OIG made five recommendations, all of which DHS concurred with.²¹ It is vitally important that DHS addresses and implements these recommendations to ensure vulnerabilities in the identification and resolution of derogatory information are shored up for national security purposes.

Accordingly, please answer the following questions no later than July 9, 2024:

1. What steps has DHS taken, or plans to take, to close the open recommendations from the May 6, 2024, report? Provide all records.²²

¹⁵ *Id.* at 10. (USCIS, ICE, and the DHS OIG place blame on the FBI, in part, because “USCIS lacks access to applicants’ complete criminal history from the FBI National Crime Information Center Interstate Identification Index (Triple I) system.”)

¹⁶ *Id.* at 20.

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ *Id.*

²¹ *Id.* at 21. DHS OIG stated, “Recommendation 1: We recommend the Director of USCIS develop guidelines on terminating OAW parole and making referrals to ICE for enforcement action. Recommendation 2: We recommend the Director of USCIS and Director of ICE update the USCIS-ICE MOA in consideration of USCIS data access limitations. Recommendation 3: We recommend the Director of USCIS and Director of ICE continue to review and update records for OAW parolees to improve data accuracy for individual records. Recommendation 4: We recommend the DHS Secretary clarify DHS component responsibly for monitoring and addressing parole expiration for OAW parolees without other long-term status to ensure individuals are lawfully present in the United States after parole expiration. Recommendation 5: We recommend the Undersecretary for Strategy, Policy, and Plans coordinate with USCIS and ICE to develop guidelines for consideration of factors such as derogatory information and prior decisions on behalf requests during the re-parole and extension of parole processes.”

²² “Records” include any written, recorded, or graphic material of any kind, including letters, memoranda, reports, notes, electronic data (emails, email attachments, and any other electronically created or stored information), calendar entries, inter-office communications, meeting minutes, phone/voice mail or recordings/records of verbal communications, and drafts (whether they resulted in final documents).

2. For Afghan evacuees paroled into the country under OAW, please answer the following:
- a. How many have derogatory information associated with their immigration file? For each, provide the type of derogatory information at issue and all records.
 - b. How many have been removed from the United States for (1) derogatory information that existed prior to being paroled into the country but identified after being paroled into the country or (2) derogatory information that occurred after being paroled into the country? For each, note the type of derogatory information at issue.
 - c. How many were issued ICE detainers? Provide all records.
 - d. How many have been subject to removal proceedings? Provide all records.
 - e. How many have had their parole status extended by DHS? Provide all records.
 - f. How many have expired parole status, yet remain in the United States? Provide all records.
 - g. How many had inaccurate data in USCIS and ICE data repositories? Provide all records.

Thank you for your prompt review and responses. If you have any questions, please contact Tucker Akin on my Committee staff at (202) 224-0642.

Sincerely,



Charles E. Grassley
Ranking Member
Committee on the Budget