

Congress of the United States

Washington, DC 20515

March 21, 2024

The Honorable Alejandro Mayorkas
Department of Homeland Security
300 7th St. SW
Washington, D.C. 20024

Dear Secretary Mayorkas,

We write to follow up on our previous correspondence expressing serious concerns that the Biden administration's expanded use of the Customs and Border Protection mobile application (CBP One) is contravening the rights of asylum seekers and contributing to dysfunction within our immigration system. We call on the Department of Homeland Security (DHS) to take immediate steps to both improve CBP One and resolve accessibility issues to protect the safety of asylum seekers and support border communities and other cities that receive new arrivals.

A year has passed since the implementation of CBP One as the primary mechanism for managing asylum interview requests. While CBP has implemented minor changes to address serious glitches within the app, there are still several critical issues that require immediate attention and resolution. As asylum seekers remain in danger, CBP must address these access issues to ensure safe and humane asylum processing and relief for those at risk.

CBP One Application Limits Access to Asylum

First and foremost, CBP's decision to require asylum seekers to use the still-faulty CBP One app fundamentally undermines the accessibility of the asylum process. Because individuals seeking asylum at our southern border are required to pre-schedule an appointment through the app, the current process obstructs the right to seek asylum by forcing individuals to remain in Mexico while waiting for their asylum cases to be heard. CBP One itself is technologically complex and has significant language limitations, creating inherent barriers for applicants who are not familiar with mobile devices or who speak a language other than the three currently offered in the app. We strongly believe the requirement to use CBP One to apply for asylum contradicts President Biden's Executive Order 14012 directive to "ensure full participation by immigrants and eliminate barriers to accessing government services."

Emboldening Criminal Actors and Endangering Asylum Seekers

To date, many vulnerable individuals have been forced to wait in unsafe and impoverished Mexican border regions for an appointment through CBP One.¹ The appointment system operates like a lottery system, with far fewer appointments than needed. Individuals are only permitted to present their cases at ports of entry that can be hundreds of miles apart. For example, the DeConcini Port of Entry in Nogales, Arizona is the only port that accepts CBP One appointments in the 700 miles between Calexico, California, and El Paso, Texas, and it only

¹ *Inhumane and Counterproductive: The Expansion of Expedited Removal to the Interior and its Impact*, Human Rights First (October 2023), <https://humanrightsfirst.org/wp-content/uploads/2023/10/Inhumane-and-Counterproductive-final-report.pdf>

accepts 100 appointments a day.² This limitation has resulted in prolonged waiting periods, sometimes extending up to six months, forcing families to wait in Mexico in areas rife with criminal activities, including kidnapping, extortion, robbery, and assaults. Requiring asylum seekers to wait for a rare CBP One appointment, available only in a limited number of ports of entry, inadvertently fuels gang violence as criminal groups exploit these vulnerable individuals for financial gain.

The difficulties with CBP One increase the likelihood that asylum seekers will rely on cartel-backed smugglers to enter the United States instead of applying through legal pathways. If these challenges continue, our country could see more tragedies like the June 2022 mass death incident in San Antonio, Texas, where 53 people died after being trapped in the back of a sweltering tractor-trailer. There is also strong evidence that smugglers themselves have been actively spreading misinformation to capitalize on CBP One's faulty implementation. Multiple organizations have reported that smugglers falsely claim that the app will soon be discontinued and suggest that crossing between ports of entry is quicker and more straightforward than waiting for an appointment. There have also been reports of unscrupulous shadow businesses that charge asylum seekers to register for appointments outside of eligible geographic areas in northern or central Mexico. Such deceptive practices, combined with insufficient CBP One appointment availability, confuse asylum seekers about their place in line. At minimum, CBP needs to improve agency communications and outreach to help asylum seekers avoid misinformation and exploitation and reliably navigate the CBP One app.

Language Barriers

Another significant issue with CBP One is the language and technological barriers asylum seekers face. As you are well aware, the demographics of asylum seekers have diversified, including rises in extra-continental asylum seekers arriving at our southern border from Ukraine and Nepal among other countries. Notably, since its launch, CBP One has only been offered in English, Spanish, and Haitian Creole. Many asylum seekers who do not speak these languages find themselves at a significant disadvantage, struggling to access critical information and navigate our complex asylum process. One recent report identified that many African asylum seekers are completely unaware of the CBP One application, and those who are aware are unable to use it due to language barriers.³

Even for individuals who do speak one of the three main operating languages, the app can be difficult to understand. For example, accessing the Haitian Creole version of the app requires navigating initial questions in English or Spanish, and there are poor translations for critical and contextual words like "Customs." Moreover, the Spanish version of the app is not fully or accurately translated. While there have been additions to Russian and Portuguese language factsheets, these languages are not integrated into the app's core sections.⁴ These limitations are extremely problematic because the app is the only way for arriving asylum seekers to schedule an appointment and get screened for asylum. Individuals who cannot use CBP One due to language barriers, technical failures, or other obstacles and present at a port of entry must demonstrate to often-skeptical CBP officials that it was not possible to apply through the app.⁵

² *A Line that Barely Budes: Nogales, Arizona*, Human Rights First (June 2023), https://humanrightsfirst.org/wp-content/uploads/2023/06/A-Line-That-Barely-Budes_Nogales-Arizona-1.pdf

³ *Asylum Policies Harm Black Asylum Seekers*, Human Rights First (February 2024), <https://humanrightsfirst.org/wp-content/uploads/2024/02/Asylum-Policies-Harm-Black-Asylum-Seekers-FACTSHEET-formatted.pdf>

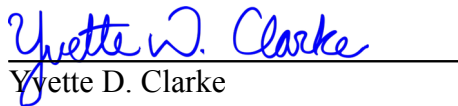
⁴ *CBP One – Ficha Técnica (Português)*, U.S. Customs and Border Protection, <https://www.cbp.gov/document/fact-sheets/cbp-one-ficha-tecnica-portugues>



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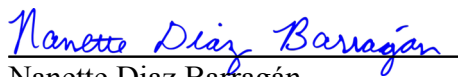
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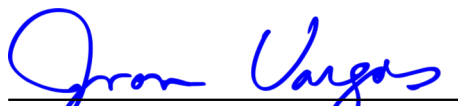
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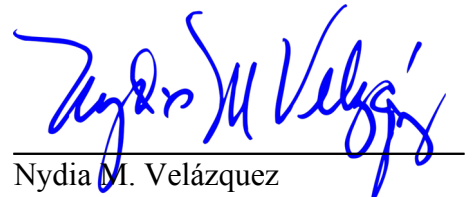
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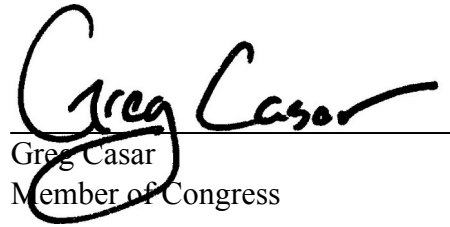
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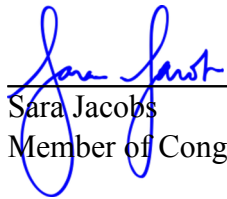
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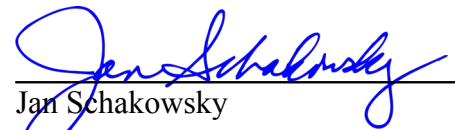
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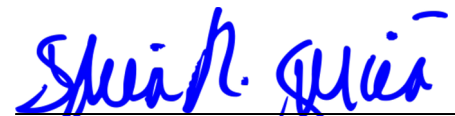
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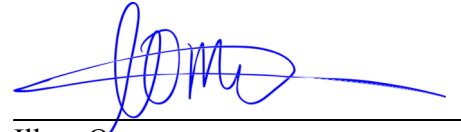
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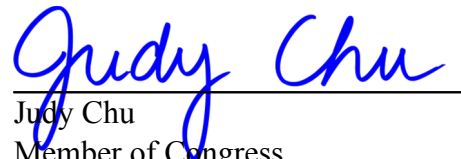
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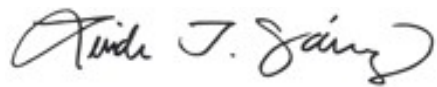
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