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Via electronic mail only

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RE: REQUEST FOR NEW ENGLAND MEMBERS OF CONGRESS TO ENGAGE USCIS DIRECTLY ON BIAS IN THE BOSTON ASYLUM OFFICE

Dear Mr. Cohen, Mr. D'Aloisio, Ms. Pearson, Ms. Schnell, Mr. Connolly, Ms. Buhl, Ms. Rogers, Mr. Taichman, Ms. Groh, and Ms. Bykerk:

The undersigned 42 immigration services organizations and law firms serving and advocating for asylum seekers in New England respectfully request that your offices engage directly with the office of USCIS Director Jaddou to request information and plans to address bias and lack of access to asylum at the Boston Asylum Office. These serious issues at the Boston Asylum Office were documented in the report *Lives in Limbo: How the Boston Asylum Offices Fails Asylum Seekers*¹ based on analysis of extensive documents produced by USCIS in a Freedom of Information Act request and more than one hundred interviews with asylees, asylum seekers, immigration attorneys, asylum officers, and supervisory asylum officers.

We remain grateful to your offices for your call on the Department of Homeland Security Office of the Inspector General to investigate the inner workings of the Boston Asylum Office earlier this year. We hope to see the investigation request granted and believe it would be a key step in bringing accountability to the Boston Asylum Office. However, given the urgency of these issues, and life or death consequences for those impacted, we ask you to engage directly with USCIS at this time and reach out to additional members of the New England Congressional delegation to join you in taking action.

¹ *Lives in Limbo: How the Boston Asylum Offices Fails Asylum Seekers*, <https://ilapmaine.org/ilap-news/3/23/2022>.

I. UPDATES ON USCIS RESPONSE TO REPORT FINDINGS:

Meghann Boyle, Director of the Boston Asylum Office, responded publicly to the report through comments made at a USCIS stakeholders meeting on June 20, 2022. For the reasons outlined below, the Office's response does not adequately address the report's findings or need for action.

First, Director Boyle stated that the data in the report—provided by USCIS itself in response to a FOIA request and showing that the Boston Asylum Office has an unusually low asylum grant rate in general and an *incredibly* low grant rate for applicants from certain Central African countries, El Salvador, Syria and other countries—was incorrect or should be ignored for two reasons. Director Boyle asserted that over a shorter period of time, from fiscal year 2021 to present, the numbers are less egregious. She further stated that the Boston Asylum Office sees disproportionately high numbers of certain cases, and if those types of cases are removed from the calculus (including those who apply for asylum as a means to access the court system and those who apply outside the one-year filing deadline), Boston's numbers are closer to the national average. Director Boyle also stated that referring cases to immigration court is a default tool at the Boston Asylum Office—according to her comments, if a case is not easy to grant, it is automatically referred to immigration court.

Director Boyle's response is inadequate and does not reflect the findings of the report. To begin with, even looking only to fiscal year 2021, the Boston Asylum Office's grant rate remains extremely low and below the national average. The Office self-reported that in that time period its approval rate was only eleven percent, which is less than half the national average of twenty-seven percent. In addition, Director Boyle offered no explanation for why the Boston Office would see a higher proportion of certain types of cases than other asylum offices, nor can we determine any reason that would happen. We also have no information to indicate that the averages at other Asylum Offices reported by USCIS remove these types of cases. Therefore, removing them would not be an accurate comparison with other Asylum Offices across the country.

Moreover, in the first quarter of 2022, Boston's approval rate remained at eleven percent,² suggesting that even if there were an improvement in fiscal year 2021 (as Director Boyle states), it was short lived. And finally, it is no defense that the Boston Asylum Office may be using referrals to immigration court incorrectly, as a way to hand off all but the easiest cases. Referring cases to immigration court should happen only when an asylum officer makes certain findings by a preponderance of the evidence. 8 C.F.R. § 208.13(b)(1)(i). Referrals should not be used as a default or catch-all procedure, particularly when immigration courts are currently facing extreme backlogs.

Second, Director Boyle responded to the report's findings and recommendations on training by stating that the Office hired a training officer in 2017 who improved and diversified their trainings. Director Boyle emphasized that since hiring that officer, there have been 50 trainings a year and, based on her review, only two or three each year focus on fraud. This is not supported by the data the report's authors received in response to a FOIA request. In the request—submitted in 2019, two years after the officer was

² U.S. Citizenship & Immigration Servs., *I-589 Asylum Summary Overview* 10, https://www.uscis.gov/sites/default/files/document/data/Asylum_Division_Quarterly_Statistics_Report_FY22_Q1_V4.pdf.

hired—the report authors sought *all* trainings used at the Boston Asylum Office. In response, for 2021, USCIS produced twenty-one trainings (not fifty) and of those, two-thirds were focused on fraud and credibility. Director Boyle’s characterization of trainings at the Boston Asylum Office are directly contradicted by the information USCIS itself produced.

Third and finally, Director Boyle identified recent efforts to diversify staff and overhaul supervisory staff at the Boston Asylum Office. Director Boyle also stated that the Office has created the position of “section chief,” a person whose role it is to ensure that asylum officers make legally correct decisions rather than decisions that will impress their supervisor. These changes *may* be promising—indeed, we hope that they are—but it is too early to say whether they will have any effect. In particular, we are concerned that no changes have been made as to how asylum officers are evaluated by their supervisors, or to supervisors’ ability to dispense negative performance reviews when asylum officers make decisions they disagree with.

In short, the Boston Asylum Office’s response does not reassure us. The Office’s defensive and misleading response fails to demonstrate that it has fully grappled with its problems, let alone formulated any meaningful plan to remedy those problems. Perhaps most troubling is the Office’s continued insistence that its extraordinarily low grant rate can be explained away. The Office’s biases and hostility towards granting asylum can be remedied, but only if they are acknowledged. New hires and training procedures will not make the Boston Asylum Office more equitable if there is no acknowledgment that it ever has been inequitable.

II. REQUEST FOR MEMBERS OF CONGRESS TO DIRECTLY ENGAGE WITH USCIS:

Because of the concerning response from Director Boyle, we write to request that you convey the below questions to the office of USCIS Director Jaddou. It is our hope that answers to these questions from USCIS leadership could provide valuable information to Congress to determine what additional oversight action is needed, ensure that USCIS leadership is aware and responding to the issues in the Boston Asylum office, and ensure a fair and accessible asylum system for asylum seekers in New England who would face life-threatening conditions if forced to return to home countries.

We respectfully request that you ask USCIS leadership:

- 1) What steps has the Boston Asylum Office or USCIS taken (or plan to take) to address both the office’s extraordinarily low grant rates for asylum seekers from Central Africa, El Salvador, Syria, and other countries, and evidence of bias in decision making?
- 2) Recognizing the extreme backlog immigration courts face and the Boston Asylum Office’s stated practice of over-referring to immigration court, what steps will USCIS take to ensure that the Boston Asylum Office uses referral *not* as a catch all, but rather only for those cases which actually require referral?
- 3) Does USCIS plan to implement accountability measures recommended in the report, such as recording and/or creating transcripts of asylum interviews and making those recordings

and transcripts readily available to applicants and their attorneys? If so, what is the timeline for implementation?

4) What steps will USCIS take to ensure that asylum officers in Boston are discouraged from defaulting to presumed fraud from using small, irrelevant inconsistencies to deny or refer asylum cases?

5) What steps will USCIS take to revise the tools used to assess asylum officers to ensure that asylum officers (in Boston and elsewhere) are not compelled or encouraged to make decisions their supervisors agree with?

6) What will USCIS do to ensure that other asylum offices with low grant rates (below the national average) are compelled to examine and reform their practices?

7) How does USCIS plan to monitor the Boston Asylum Office in the future to ensure that the low grant rate is remedied?

8) What reforms to asylum officer hiring and training will USCIS implement to address bias in asylum adjudications at the Boston Asylum Office and elsewhere?

Thank you again for your leadership on these issues. We look forward to continuing to engage with you to build a more just and accessible asylum system in New England and beyond. Please contact Anahita Sotoohi, ACLU of Maine at asotoohi@aclumaine.org, and Lisa Parisio, Immigrant Legal Advocacy Project at lparisio@ilapmaine.org for any questions.

Sincerely,

African Communities Together
African Human Rights Coalition
Alianza Americas
American Civil Liberties Union of Maine
Beverly & Terison LLC
BOS Legal Group, LLC
Center for Gender & Refugee Studies
Children's Law Center of Massachusetts
De Novo Center for Justice and Healing, Cambridge, MA
Greater Boston Legal Services
Hagenimana Law PLLC
Human Rights First
Immigrant Legal Advocacy Project
Immigrants' Assistance Center, Inc.
Immigration Equality
Immigration Legal Assistance Program, Ascentria Community Services

Institute for Justice & Democracy in Haiti
La Raza Community Resource Center
Law Office of Amariyls Marrero, LLC
Law Office of James Wagner
Law Office of Johanna Herrero
Law Office of Molly McGee
Law Office of Robyn G. March
Maine Immigrants' Rights Coalition
Mariposa Legal
Massachusetts Law Reform Institute
MetroWest Legal Services
National Immigration Law Center
National Immigration Litigation Alliance
National Immigration Project of NLG
National Partnership for New Americans
New Hampshire Legal Assistance
Northeast Justice Center
Northeastern University School of Law
Northeastern University School of Law Immigrant Justice Clinic
Oasis Legal Services
Preble Street
Refugee and Human Rights Clinic, Maine Law
Sojourner House
Student Clinic for Immigrant Justice
The Right to Immigration Institute
Vermont Immigrant Assistance clinic at Vermont Law and Graduate School