Six Processing "Pain Points" Impeding Increased U.S. Refugee Admissions

Without significant operational, vetting, and processing reforms, it will be extremely difficult for the Biden administration to meet its goal of admitting significantly higher numbers of refugees in FY 2021 and 125,000 refugees in FY 2022. Refugee Council USA (RCUSA) has identified six key pain points in the U.S. Refugee Admissions Program (USRAP) processing that merit immediate attention. Overcoming these challenges is a necessary step to enable increased efficiency without compromising stringent security and integrity standards.

1. Enable Remote USCIS Interviewing To Overcome Circuit Ride Scarcity.
During the COVID-19 pandemic, circuit rides and overseas interviews have been severely limited. Tens of thousands of refugees who have completed an initial USCIS interview have been halted in the process due to case information that requires clarification. As a result of fewer circuit rides, refugees requiring follow-up have been unable to move forward with their application and progress to travel. Expanding the use of virtual interviews is a necessary prerequisite to a functioning USRAP in this pandemic era.

Recommendations
- Pursuant to President Biden's Executive Order 14013 Sec.4(c)(ii), DHS, in consultation with DOS, should expand the use of virtual interviews at a minimum for low complexity cases, for follow-up interviews, and for hard-to-reach populations. The strategic use of virtual interviewing would save limited travel resources, decrease the application backlog, and allow refugees to progress to travel.
- We urge DHS to issue a report updating on this effort, including how many interviews were conducted remotely or by video; what infrastructure was created to do so; and what the Department needs to overcome any challenges in implementation.

2. Exempt Applicants Aging Into Fingerprint Requirements.
Resettlement applicants ages 14 and over are required to provide biometric information, including fingerprints, at the time of USCIS interview or in some cases beforehand. If a child turns 14 after their family's USCIS interview but before departure, they age into this requirement and this biometric data must be retroactively collected. In these cases, applicants must wait for another USCIS circuit ride for their case to proceed. This barrier is halting hundreds of people in the processing pipeline. Given the limited circuit rides over the past years, this seemingly small barrier has become significant.

Recommendations
- USCIS should implement a one-time exception per applicant through the end of Fiscal Year 2021 for all 14-year-old and over applicants for refugee resettlement who aged into the requirement to provide biometric information including fingerprints.
- Alternatively, USCIS and the Embassies should allow other U.S. Government staff already in-country to travel to collect this biometric data to allow for the expeditious progression of refugee resettlement applications.

3. Address the Refugee Access Verification Unit (RAVU) Backlog for Priority 3 Cases.
RAVU is the unit responsible for reviewing case composition of Priority 3 (P-3) family reunification applications prior to initial case processing. RAVU is an additional processing step only for P-3 family reunification cases and is holding large numbers of P-3 cases from undergoing the usual refugee processing. No Resettlement Agency has received an approval letter for more than a year. RAVU's responsibility is merely administrative and involves reviewing case composition to approve, deny, or screen-off select case members before the case can continue with processing and interviews. RAVU is not prioritizing these cases, causing thousands of family reunification applications to be at a standstill and unable to move forward with refugee processing. In order to meet its commitments to increasing refugee admissions, the administration must rebuild the P-3 family reunification pipeline. To do so, it is critical that RAVU is properly resourced to complete its reviews expeditiously.

Recommendations
- DHS should improve and expedite P-3 processing by reducing lengthy delays in USCIS's RAVU initial paper review of claimed relationships between the anchor relative and overseas family member listed on the Affidavit Of Relationship (AOR).
- DHS should increase resourcing to RAVU to ensure it is consistently staffed with a minimum of 4 full-time dedicated personnel specialized in these reviews.
- DHS should set a time limit benchmark for each RAVU review of 30 days.

4. Create Alternative Processes for DNA Testing For P-3 Cases.
Unlike other caseloads, P-3 cases require DNA testing that necessitates two additional interviews before a case can be prescreened: one for DNA counselling and a second for DNA testing. This process is causing extensive delays, particularly in more remote locations and given the travel restrictions during the pandemic.

Recommendations
- DHS should allow applicants to use other approved means of submitting tests, such as via IOM, a panel physician, a U.S. Embassy, or an accredited lab, which would be more accessible by the applicant and would reduce delays caused by waiting for a U.S. citizen RSC staff member to plan and execute their travel. Consider covering the applicant's cost of transport to these alternative locations so as to not impose financial barriers and reimbursing for cancelled tests.
- Alternatively, USCIS should complete DNA testing during interviews. The USCIS Officer would enter a "No Decision" result pending the DNA and RAVU result, and once these results came back clear, the case would be free to depart.

5. Expedite Family Reunification for the Follow-to-Join (FTJ) and P-3 Cases.
The significant backlog of FTJ cases involves reportedly more than 380,000 immigrant visa applicants, as of December 31, 2020, who were awaiting a consular interview. Resettlement agencies note that the processing time for FTJ cases, particularly Visa 93 applicants, has doubled, and we note significant processing delays for family members arriving through P-3/AOR, mentioned above. Ongoing separation from family members due to unexplainable administrative and bureaucratic delays and concerns for their safety and security in unstable situations are the biggest factors contributing to the overall negative mental health outcomes and self-sufficiency goals of our refugee and asylee anchors. When family member(s) arrive through the P-3/AOR and Form I-730/Visa 92/Visa 93 programs, they are able to integrate and become self-sufficient faster, as they are joining existing households.

We remain frustrated that there appears to be no clear chain of responsibility for the processing of AORs and I-730s and they continue to be processed as an afterthought, especially at embassy locations. For example, one case was an AOR filed in 2014 who still has yet to have a pre-screening interview. We are aware of the continuing obstacles to schedule circuit rides and camp access, and we urge the administration to consider alternative solutions to allow processing, especially for those who are beneficiaries of these petitions. Further, pre-screening interviews are conducted via circuit ride, which has meant that several locations have gone years without a circuit ride, whether due to smaller overall caseload, country conditions making travel inaccessible, or other reasons.

At most Embassies and Consulates, it is Foreign Service Consular Officers who are responsible for interviewing Form I-730 beneficiaries. However, Posts are inconsistent in their exposure to refugee/asylee issues. Many locations that frequently process Form I-730 cases have dedicated staff members involved in these programs. However, other locations where the volume of Form I-730 cases is smaller are forced to pull staff who regularly work on Form I-130 processing to interview refugee/asylee beneficiaries. This has resulted in misapplication of the burden of proof (I-730s are adjudicated by a "preponderance of the evidence" not the higher "clear and convincing" standard), and Consular Officers returning cases to USCIS based on doubt of the relationship's veracity. Of the cases returned by the Consulate to USCIS, many recommend re-adjudication (and for some offices, every single case involves a Consular Officer mis-applying the applicable statutes or regulations).

We hear regular distress from family members whose cases are not moving, while we are unable to provide concrete answers as to why their family member(s) are not here, after months, and often years of case processing delays. It is important to note that this is one of the biggest sources of vicarious trauma for advocates in our line of work. These cases weigh on us heavily, when both the advocate and the client feel that we are at the mercy of a system that is not fair, efficient, nor credible.

Recommendations
- Refugee/Asylee Family Reunification programs (both P-3/AOR and Form I-730/Visa 92/Visa 93) merit prioritization in processing *over* referrals that do not already have a U.S. tie. These cases *should* be easier to process, as there are fewer documentary requirements and additional staff support from resettlement offices to assist in providing information and communication.

- The administration should commit to accountability and transparency for these applicants. Resettlement Support Center (RSC) and Embassy staff should provide responses to inquiries for information in good faith, without resorting to opaque form responses. We request that the administration create a tracking system with processing timelines that anchors/petitioners could check for consular processing.
- The administration should produce regular reports for all resettlement agencies that provide AOR processing statistics, such as: the number of active P-3 cases compared to arrivals; duration of cases without movement; number of Refugee I-730 cases forwarded to Embassy since the previous reporting period; the number of Refugee I-730 cases resettled.
- The administration should consider opportunities to facilitate regular pre-screening interviews, to address a lack of circuit rides (including number of staff joining and duration of the circuit rides). For example, the administration should consider training local staff to conduct pre-screening interviews, or otherwise transporting the beneficiaries to a second location for interviewing.
- The administration should resolve significant delays in Form I-730 processing as a result of lengthy state case transfers and confusion as to which office/agency is responsible for adjudicating the Form I-730 stateside. For some cases, we have received as many as three or more separate case transfer notices for petition, spanning several years without any officer actually reviewing the merits of the case. The current security check requirements seem to be particularly redundant and illogical. We are particularly concerned about the "Administrative processing" section of review that appears interminable.
- The administration should address significant adjudication issues, such as with Requests for Evidence (RFEs) from USCIS, which frequently ask for documents that are needed in I-130 cases but are not statutorily required for Refugee/Asylee I-730s. Much of our time in responding to RFEs is spent outlining the applicable statutes and regulation for Form I-730 processing.
- The administration should improve and strengthen its training of Foreign Service Consular Officers on Form I-730 processing.
- The administration should fund travel for P-3 applicants located in remote locations unable to access processing sites except for through support from IOM or other UN agencies.

6. Expedite Security Advisory Opinion (SAO) Clearances.

Significant numbers of refugees have been approved by USCIS for admission to the United States, yet wait on hold pending the result of the Security Advisory Opinion (SAO) clearance. Current delays in SAO processing mean that entire nationalities with significant needs for resettlement are in effect restricted from meaningful resettlement consideration. Many cases have been pending this clearance for years and without recourse to follow up on the status of their case. Clearing SAOs would immediately reduce the hold of tens of thousands of individuals worldwide that would then be able to continue out-processing and arrive to the United States. Furthermore, it would allow additional individuals from "SAO nationalities" to be referred to the program and have a meaningful chance at being resettled.

Recommendations

- DHS should make decisions on SAO clearances as quickly as possible and institute an improved system for completing SAO assessments in a timely fashion.
- DHS, in partnership with DOS, should establish a plan to allow additional individuals from "SAO nationalities" to be referred to the program and have a meaningful chance at being resettled.