

Congress of the United States
Washington, DC 20515

January 23, 2020

Mark A. Morgan
Acting Commissioner
U.S. Customs and Border Protection
U.S. Department of Homeland Security
Washington, D.C. 20528

Dear Acting Commissioner Morgan,

We write to express our serious concern regarding the pattern of U.S. Customs and Border Protection (CBP) targeting Iranian students for secondary inspection and, in many cases, its subsequent issuance of expedited removal orders, as the recent case of Mohammad Shahab Dehghani Hossein Abadi exemplifies. We are also deeply troubled by the manner in which CBP handled the detention and removal of Mr. Dehghani, especially its apparent refusal to comply with an emergency federal court order to stay his deportation.

Since August 2019, CBP officials at Logan Airport have been refusing entry to Iranian students with valid F1 visas.¹ Notwithstanding the extensive vetting already required through the visa adjudication process, CBP has seemingly been targeting Iranian citizens for secondary inspection — that is, pulling them aside at the airport and subjecting them to prolonged questioning. In at least seven cases,² CBP has arbitrarily found the students to be inadmissible and ordered them removed — orders that stand in direct conflict with the students' previously issued visas, and in some cases, prior admission to the United States.

Similar CBP conduct has occurred in other states. Most notably, on January 4, 2020, CBP officers in Washington state detained more than sixty Iranians and Iranian-Americans in a non-routine inspection for several hours.³ To date, CBP has released no information explaining why these detentions, inspections, and entry denials are taking place, and whether they are occurring on a systemic basis. We have also heard from immigration attorneys that multiple Iranian-American residents of Massachusetts have been subjected to heightened scrutiny at a New England port of entry in previous months. CBP has denied the existence of any directive requiring enhanced screening of Iranians or those of Iranian descent, but has provided no further

¹ Caleb Hampton, *'Treated like a terrorist': US deports growing number of Iranian students with valid visas from US airports*, THE GUARDIAN, Jan. 14, 2020, <https://www.theguardian.com/us-news/2020/jan/14/they-treated-me-like-a-terrorist-the-vetted-iranians-blocked-from-the-us>.

² Spencer Buell, *Another Promising Student Has Been Kicked Out by Customs in Boston*, BOSTON MAG., Jan. 21, 2020, <https://www.bostonmagazine.com/news/2020/01/21/iranian-northeastern-student-shahab-dehghani>.

³ Zolan Kanno-Youngs et al., *U.S. Stops Dozens of Iranian-Americans Returning From Canada*, N.Y. TIMES, Jan. 5, 2020, <https://www.nytimes.com/2020/01/05/us/politics/iranian-americans-border.html>.

guidance. Indeed, CBP has failed to respond to multiple congressional inquiries on this matter, including letters from each of us asking CBP to clarify its policies.

Though this pattern of behavior in itself demands answers, we also write to request an explanation for CBP's outrageous actions in the case of Mr. Dehghani. On January 19, 2020, Mr. Dehghani attempted to enter the United States on a valid student visa, but was instead detained, questioned, and ordered removed by CBP officials. Mr. Dehghani's attorneys filed an emergency petition in federal court in Boston to prevent his departure. But despite CBP's knowledge of the court's pending adjudication of this petition, CBP proceeded with his removal and required Mr. Dehghani to board a return flight to Paris. A Massachusetts district court judge granted an emergency stay of removal at 9:28 p.m. — information that was known to CBP officials before the flight departed. Nevertheless, CBP officials did not remove Mr. Dehghani from the plane, despite allegedly assuring his lawyers that officials had done so at approximately 9:30 p.m. CBP officials confirmed to Senator Markey that the plane departed for Paris at 9:56 p.m. — nearly half an hour after the court issued its emergency order and in complete violation of its mandate. This is shameful, irresponsible, and completely unacceptable.

Unnamed "federal law enforcement officials" reportedly claim that Mr. Dehghani has "familial connections" to individuals in a designated terrorist organization, but they allege no connection between that organization and Mr. Dehghani himself.⁴ Moreover, they do not explain why Mr. Dehghani — who previously underwent background vetting and security checks — was granted a visa if he posed a threat to the United States. Of note, Mr. Dehghani's lawyers call the officials' claims baseless. Nor do these allegations justify deporting Mr. Dehghani in violation of a stay of removal from a federal judge.

Distressingly, this is not the first time CBP has denied entry to foreign nationals in direct violation of the law. In a January 2018 report on the implementation of President Trump's Muslim travel ban, the Office of the Inspector General (OIG) stated that it had "concerns whether CBP reasonably obeyed" court orders that enjoined CBP from removing, detaining, or blocking the entry of persons with a valid visa.⁵ In many cases, CBP continued to issue "no board" instructions — actions that the OIG believed "were used to frustrate the overall spirit of the [court] order."⁶ At a minimum, we would expect CBP to have since recognized that it is not above the law and cannot defy a federal court order. It is highly concerning to us that CBP has instead decided to repeat this unlawful behavior.

In response to our concerns, we ask that you respond to the following questions and requests by February 6, 2020:

1. Provide us with any directives, instructions, policies, memos, or any guidance, written or communicated by any other means, relating to additional scrutiny, enhanced

⁴ Tom Winter and Daniella Silva, *Northeastern University student from Iran denied entry to U.S.*, NBC NEWS, Jan. 21, 2020, <https://www.nbcnews.com/news/us-news/northeastern-university-student-iran-denied-entry-u-s-n119726>.

⁵ DHS Implementation of Executive Order #13769 "Protecting the Nation From Foreign Terrorist Entry Into the United States". (2018). Washington, DC: Office of Inspector General. Available at: <https://www.oig.dhs.gov/sites/default/files/assets/2018-01/OIG-18-37-Jan18.pdf> [Accessed 21 Jan. 2020].

⁶ *Id* at 79.

screening, vigilance, and/or non-routine or secondary inspections at ports of entry and airports issued in the past year.

2. Have any agencies or personnel within the Department of Homeland Security, including CBP port directors, issued or received any directives, instructions or any policies, memos, or other guidance either in writing or communicated by any other means, (a) to engage in prolonged detainment or engage in enhanced screening of Iranians or individuals of Iranian descent entering the United States, or (b) related to the use of expedited removal?
3. Please list all instances in the past year in which a CBP official determined an Iranian visa holder to be inadmissible and issued an expedited removal order.
 - a. For each instance, please provide the specific statute under which the individual was found to be inadmissible, the name of the officer who made the determination and signed the order, and identify the port of entry from which the order was issued.
 - b. Can CBP confirm that its officials have followed applicable law, agency regulations, and the CBP Inspector's Field Manual in each circumstance? Will CBP certify that, in each case, officials provided the individual in question with an explanation of the expedited removal process, the inadmissibility charge, and his or her rights, as well as an opportunity to review the record of the facts and his or her sworn statement?
4. Does CBP conduct an independent review of ports of entry in which officials are issuing expedited removal orders at higher than usual rates?
5. Why, in circumstances where an individual has already been thoroughly vetted and is in possession of a valid visa, are CBP officials issuing expedited removal orders on the basis of immigrant intent (INA §212(a)(7))? Do CBP officials have qualifications beyond those of a country-specific consular officer? Considering that expedited removal carries a five-year re-entry bar, does CBP conduct an independent review of CBP officials' misuse and improper application of INA §212(a)(7)?
6. Why did CBP fail to comply with the federal court order staying the removal of Mr. Dehghani from the United States? Was this decision made at the direction of, or in consultation with, any individual(s) either within or outside of CBP? If so, please provide the name(s) of the individual(s).
7. Did CBP allow Mr. Dehghani access to counsel? Did CBP provide all relevant and requested information about Mr. Dehghani's case to his attorneys throughout the

entirety of his detention? If not, why not? Please provide any written policy or guidance refusing to allow a detained individual to speak with retained counsel.

8. In the wake of the OIG report detailing CBP's failure to fully comply with court orders enjoining the implementation of the travel ban in 2017, did CBP put into place policies to ensure that CBP officials follow the rule of law in the future? If not, why not?
9. What does CBP intend to do to remedy its failure to comply with the court order staying the removal of Mr. Dehghani?

Thank you in advance for your attention to this request. If you have any questions, please contact Callie Bruzzone of Senator Markey's staff at callan_bruzzone@markey.senate.gov.

Sincerely,


EDWARD J. MARKEY
United States Senator


ELIZABETH WARREN
United States Senator



AYANNA PRESSLEY
Member of Congress