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March 31, 2023

FOIA Request: DOS, DOD & DHS

U.S. Department of State
Office of Information Programs & Services
2201 C Street N.W., Suite B266
Washington, D.C. 20520

U.S. Department of Defense
Defense Freedom of Information Division
1155 Defense Pentagon
Washington, D.C. 20301-1155

U.S. Department of Homeland Security
Chief Privacy Officer/Chief FOIA Officer
The Privacy Office
245 Murray Lane, S.W.
STOP-0655
Washington, D.C. 20528-0655

Re: Freedom of Information Act Request

To Whom It May Concern:

This is a request (“Request”) pursuant to the Freedom of Information Act, 5 U.S.C. § 552 *et seq.*, (“FOIA”), to the Department of State (“DOS”) implementing regulations, 22 C.F.R. § 171.11, Department of Defense (“DOD”) implementing regulations, 32 C.F.R. § 285, and Department of Homeland Security (“DHS”) implementing regulations 6 C.F.R. § 5.1, by the Center for Constitutional Rights (“CCR”). Please direct this request to all appropriate offices, field offices, departments, bureaus, missions, and officials within each agency, including but not limited to DOS’s Office of the Under Secretary for Political Affairs, Bureau of South and Central Asian Affairs, Office of the Under Secretary for Public Diplomacy and Public Affairs, Office of the Under Secretary for Civilian Security, Democracy, and Human Rights, Bureau of Population, Refugees, and Migration, and Office of the Coordinator for Afghan Relocation Efforts (“CARE”); DOD’s Office of the Secretary of Defense and Joint Staff (OSD/JS), Office of the Under Secretary of Defense for Policy, Mission of the Deputy Assistant Secretary of Defense for Afghanistan, Pakistan, Central Asia, Department of the Army, and U.S. Central Command¹; and

¹ Per 32 C.F.R. § 286.7(c) and (d), we expect DOD to forward our request to the appropriate offices and components within DOD.

DHS's Office of the Secretary, Operation Allies Welcome, and U.S. Citizenship & Immigration Services ("USCIS").²

A. Background

This Request seeks records pertaining to specific locations ("Sites")³, where the United States brought and subsequently held tens of thousands of Afghan evacuees as their asylum, humanitarian parole, immigration, or other pending visa applications to the United States were, or continue to be, processed, decided, approved, or rejected;⁴ the Request seeks these documents from the period starting January 1, 2021 continuing through to the time this request is reviewed.⁵ Specifically, this Request seeks information regarding or relating to Afghan evacuees held at the following Sites:

1. **Camp Liya** and **Camp Bondsteel** in Kosovo;
2. **Camp As Sayilah** and **Park View Villas** in Doha, Qatar;
3. **Emirates Humanitarian City** in Abu Dhabi, United Arab Emirates ("UAE");
4. **Rhine Ordnance Barracks** and **Ramstein Air Base** in Germany; and
5. Any other third country Sites where Afghan nationals are being held at, in U.S. bases or U.S.-operated Sites.

In general, CCR seeks records relating to how the U.S. government makes decisions regarding how, where, and under what circumstances it decided to route, direct, hold or otherwise coordinate the holding of Afghans in these Sites. More detailed descriptions of documents sought are set forth below.

Following the U.S. withdrawal from Afghanistan on August 31, 2021, Afghans who evacuated as the Taliban took over were sent to several processing Sites around the world and subsequently held there while they were medically screened, vetted for "security purposes," and processed in order to receive visas to the U.S.⁶ Afghans have been held at U.S. military bases,

² Per 6 C.F.R. § 5.3(a)(2), we expect DHS to forward our request to the appropriate offices and components within DHS.

³ In this request, "Sites" refers to any and all geographic locations and places where Afghan evacuees were held. These Sites have also been referred to by U.S. officials as "host country," "third country," or "lily pad" sites, among other terms. These Sites include, but may not be limited to, all of those Sites listed in Section A, #1-5 of this Request.

⁴ Mica Rosenberg, et. al, *'NOBODY WANTS TO COME THIS WAY'*, Reuters (Feb. 1, 2023), <https://www.reuters.com/investigates/special-report/usa-immigration-afghanistan/>; Ben Fox, *Stuck in Limbo in Kosovo Camp, Afghan evacuees await entry to the U.S.*, PBS News (June 5, 2022), <https://www.pbs.org/newshour/world/stuck-in-limbo-in-kosovo-camp-afghan-evacuees-await-entry-to-the-u-s/>; Rebecca Beitsch, *Majority of Afghan evacuees left in limbo abroad*, The Hill (Sept. 3, 2021), <https://thehill.com/policy/international/570669-majority-of-afghan-evacuees-left-in-limbo-abroad/>.

⁵ Caroline Coudriet, *First evacuation flight for Afghan allies arrives in US*, Roll Call (July 30, 2021), <https://rollcall.com/2021/07/30/first-evacuation-flight-for-afghan-allies-arrives-in-us/>.

⁶ The Media Line, *Blinken Visits Afghan Refugees at US Base in Qatar*, (Nov. 11, 2022), <https://themedialine.org/mideast-daily-news/blinken-visits-afghan-refugees-at-us-base-in-qatar/>. See also Beitsch, *supra* note 4.

such as Camp As Sayliyah in Doha, Qatar,⁷ Camp Liya and Camp Bondsteel in Kosovo,⁸ Rhine Ordnance Barracks and Ramstein Air Base in Germany,⁹ and non-military sites such as the Doha Park View Villas¹⁰ and the “Humanitarian City” in Abu Dhabi, UAE.¹¹ Although nearly 88,500 Afghans have been evacuated and have arrived in the U.S. for resettlement as of the date of this request,¹² thousands of Afghans have been stranded in these third country Sites for prolonged periods surpassing fifteen months in some instances.¹³ They have limited mobility; little to no access to lawyers, the media, and health care; and no information about when—or if—they will be resettled in the U.S. or another country.¹⁴ Others have had their applications rejected, and are now awaiting resettlement to a third country Site.

1. *Camp Liya & Camp Bondsteel*

Camp Liya, an enclosure within the confines of the U.S. Base Camp Bondsteel, is controlled by DOS, as well as the DOD through the U.S. Army Europe and Africa, 21st Theater Sustainment Command’s Area Support Group (“ASG”) in the Balkans.¹⁵ In 2021, U.S. embassy officers were working with Afghan evacuees at Camp Liya, whose applications for asylum required additional processing at the time.¹⁶ At the end of 2022, there were at least 39 Afghans still present in Camp Bonsteel, with a number of Afghans facing uncertainty as to whether they will remain in Kosovo after they were denied entry by the U.S.¹⁷ If Afghan refugees leave Camp Liya, they are considered disqualified from seeking Humanitarian Parole in the U.S., leaving

⁷ Camilo Montoya-Galvez, *U.S. Setting up expedited processing hub in Qatar for some at-risk Afghans*, CBS News (Feb. 8, 2022), <https://www.cbsnews.com/news/afghanistan-us-expedited-processing-hub-qatar/>.

⁸ Inspector General (DOD), *Evaluation of DoD Security and life Support for Afghan Evacuees at Camp Bondsteel* (Oct. 25, 2022), <https://media.defense.gov/2022/Oct/27/2003103804/-1/-1/1/DODIG-2023-008.PDF>.

⁹ *Id.*

¹⁰ France 24, *Afghan evacuees prefer life in Qatar to Taliabn rule* (Apr. 3, 2022), <https://www.france24.com/en/live-news/20220304-afghan-evacuees-prefer-life-in-qatar-to-taliban-rule>.

¹¹ Alexander Cornwell, *Afghan refugees, migrants protest in UAE over uncertain future*, Reuters (Aug. 14, 2022), <https://www.reuters.com/world/afghan-refugees-migrants-protest-uae-over-uncertain-future-2022-08-23/>.

¹² Aline Barros, *US Immigration Paths Available for Afghans and Ukrainians*, VOA News (Jan. 1, 2023), <https://www.voanews.com/a/us-immigration-paths-available-for-afghans-and-ukrainians/6869026.html>. See, e.g., Camilo Montoya-Galvez, *Tens of thousands of Afghans in U.S. could lose deportation protections unless Congress acts*, CBS News (Feb. 16, 2023), <https://www.cbsnews.com/news/afghan-adjustment-act-evacuees-parole-legal-status-deportation-protections/>.

¹³ Human Rights Watch (“HRW”), *UAE: Arbitrarily Detained Afghans Stuck in Limbo* (March 15, 2023), <https://www.hrw.org/news/2023/03/15/uae-arbitrarily-detained-afghans-stuck-limbo>.

¹⁴ *Id.* See also European Commission, *Kosovo 2022 Report* at p. 55 (Dec. 10, 2022), <https://neighbourhood-enlargement.ec.europa.eu/system/files/2022-10/Kosovo%20Report%202022.pdf>; Samaritan’s Purse International Relief, *Safe but not Settled: The 10,000 Afghans Stranded in the UAE* (March 2022), https://reliefweb.int/attachments/8c52f0cc-b72e-392c-b1ba-33a95ba25c0e/EHC%20Report_SP.pdf; Ben Fox, *Secrecy Shrouds Afghan Refugees Sent by US to Base in Kosovo*, AP News (Oct. 23, 2021), <https://apnews.com/article/europe-middle-east-migration-kabul-kosovo-1d9a9998ec36d144a168a0330637580e>;

¹⁵ Inspector General (DOD), *Evaluation of DoD Security and life Support for Afghan Evacuees at Camp Bondsteel* (Oct. 25, 2022).

¹⁶ U.S. Embassy in Kosovo, *Statement from the U.S. Embassy Pristina* (Sept. 4, 2021), https://xk.usembassy.gov/st942021/?fbclid=IwAR23VlyfobgwGCjn8K4cMGyoh8xaxUgbhgdUwv9j_vpQYlnntlOQmONof-Y.

¹⁷ European Commission, *Kosovo 2022 Report*, at 55 (Dec. 10, 2022).

them constructively confined and guarded within the walls of the Camp.¹⁸ There have been reports coming out of Camp Liya of deteriorating conditions, with residents of the Camp calling it “Little Guantánamo” because of the lack of information about their cases and the austere living conditions.¹⁹ Afghan evacuees have even staged a protest over reported plans to “forcibly” relocate them and to highlight the suffering of the women and children being held at the Camp.²⁰

2. *Camp As Sayliyah & Doha’s Park View Villas*

Little information has been made publicly available about the exact number of people still living at Camp As Sayliyah, a U.S. Army base outside of Doha. Similar to Camp Liya, Afghan evacuees were taken to Camp As Sayliyah to complete asylum interviews with U.S. officials, medical checks, and security screenings.²¹ The U.S. expanded these facilities in 2021, but the conditions of these facilities have been heavily criticized.²² Doha’s Park View Villas were opened following these criticisms. Similar to Camp Liya, Afghans can only leave Park View on guided day trips.²³

3. *Emirates Humanitarian City*

The U.S. has had a disparate policy for processing Afghan evacuees through Abu Dhabi. According to the State Department, “Afghans who were evacuated to the UAE before Aug. 31, 2021, were effectively guaranteed permission to enter the U.S. if they passed certain medical and security checks.”²⁴ However, those who arrive after that date are required to prove that they qualify for a U.S. immigration benefit.²⁵ Afghan evacuees, who have been living in the Humanitarian City for over a year and a half with no end in sight, have said the process has been carried out “unfairly and slowly,”²⁶ contributing to widespread mental health crises, including severe depression among adults and children alike.²⁷ In addition to cases of psychological and mental health distress, the conditions at Humanitarian City have recently sparked widespread and

¹⁸ Inspector General (DOD), *Evaluation of DoD Security and Life Support for Afghan Evacuees at Camp Bondsteel* (Oct. 25, 2022),

¹⁹ Jessica Donati, *U.S. in Talks with Suriname to Take Afghans Stranded in Kosovo*, WSJ (Sept. 16, 2022), <https://www.wsj.com/articles/u-s-in-talks-with-suriname-to-take-afghans-stranded-in-kosovo-11663329632>.

²⁰ Mike Ludwig, *Stranded Afghans Who Fled the Taliban Say the U.S. Left Them Behind*, TruthOut (Sept. 28, 2021), <https://truthout.org/articles/stranded-afghans-who-fled-the-taliban-say-the-us-left-them-behind/>; Teri Schultz, *Afghans Adrift on US ‘lily pad’ in Kosovo*, Deutsche Welle (DW) (Aug. 28, 2022), <https://www.dw.com/en/afghans-adrift-on-us-lily-pad-in-kosovo/a-62942555/>.

²¹ Camilo Montoya-Galvez, *U.S. Setting up Expedited Processing Hub in Qatar for Some at-Risk Afghans*, CBS News (Feb. 8, 2022), <https://www.cbsnews.com/news/afghanistan-us-expedited-processing-hub-qatar/>.

²² France 24, *Afghan Evacuees Prefer Life in Qatar to Taliban Rule* (Apr. 3, 2022), <https://www.france24.com/en/live-news/20220304-afghan-evacuees-prefer-life-in-qatar-to-taliban-rule>; Aline Barros, *US Streamlining Visa Process for At-Risk Afghans*, VOA News (Aug. 23, 2022), <https://www.voanews.com/a/us-streamlining-visa-process-for-at-risk-afghans-/6713601.html>.

²³ France 24, *Afghan Evacuees Prefer Life in Qatar to Taliban Rule* (Apr. 3, 2022), <https://www.france24.com/en/live-news/20220304-afghan-evacuees-prefer-life-in-qatar-to-taliban-rule>.

²⁴ Camilo Montoya-Galvez, *6,500 Afghans Evacuated to UAE Still Stuck in Limbo Awaiting U.S. Resettlement*, CBS News (Aug. 9, 2022).

²⁵ *Id.*

²⁶ AMU TV, *Afghan Refugees in UAE Camp Protest Over Uncertain Future* (Jan. 28, 2023), <https://amu.tv/en/33971/>.

²⁷ HRW, *supra* note 13.

immediate concern amongst civil society and legal organizations, as instances of sexual assault and rape, as well as inadequate medical care including inadequate reproductive health care resulting in “miscarriages and life-threatening pregnancy complications”²⁸ have been reported.

Like the evacuees at Camp Liya, Afghan evacuees in the Humanitarian City engaged in a protest in early January 2023, sealing off the main gate to the camp, with some evacuees even going on hunger strikes.²⁹ One Afghan evacuee spoke of the conditions of Humanitarian City saying: “Nearly one year, we have been here in detention and the camp is like a modern prison. No one is allowed to go out, they don't know when (we) will be settled permanently to any country.”³⁰ According to a Report released by HRW on March 15, 2023, “between 2,400 and 2,700 Afghans remain arbitrarily detained in the UAE” as of January 2023.³¹

Against this background, and absent a clear and recent statement or updates from U.S. officials on why thousands of Afghan evacuees are being held in multiple U.S.-operated or U.S.-coordinated third country Sites indefinitely, information as to why there has been limited media and legal access to the Afghan evacuees or the Sites more generally, what timeline is to be expected for resettlement, and whether Afghan evacuees will be forced to resettle in other countries, it is critical that the DOS, DOD, and DHS immediately release this information to the public, so that the media, lawyers, human rights and humanitarian organizations, and most importantly affected communities and family members have access to this crucial information as they explore different legal pathways for stranded, detained, or otherwise held Afghan evacuees.

A. Request for Information

CCR requests any and all RECORDS created from January 1, 2021 continuing through to the date at which agencies commence their searches responsive to this FOIA request that were prepared, received, transmitted, collected and/or maintained by the DOS, DOD, and DHS regardless of the identity of the correspondence party/ies, relating or referring to the following:³²

1. A list of all Sites worldwide (including the respective country, city, and location) where Afghans have been evacuated to by U.S. forces or U.S.-affiliate forces, or transferred to by or on behalf of the U.S. government, partners, contractors, or affiliates.

²⁸ Global Detention Project & Migrant-rights.org, “*THIS IS A SLOW DEATH: An Urgent Appeal on the Plight of Afghan Refugees Indefinitely and Arbitrarily Detained in the UAE*” (March 13, 2023), <https://www.globaldetentionproject.org/urgent-appeal-plight-of-afghan-refugees-indefinitely-and-arbitrarily-detained-in-uae>.

²⁹ AMU TV, *Afghan Refugees in UAE camp protest over uncertain future*.

³⁰ Alexander Cornwell, *Afghan refugees, migrants protest in UAE over uncertain future*, Reuters (Aug. 14, 2022), <https://www.reuters.com/world/afghan-refugees-migrants-protest-uae-over-uncertain-future-2022-08-23/>.

³¹ HRW, *supra* note 13. Section A(7) of this Request specifically pertains to requested RECORDS relating to HRW’s Report.

³² The term “RECORD(S)” includes, but is not limited to, all records or communications preserved in electronic (including metadata) or written form, such as correspondences, emails, documents, data, videotapes, audio tapes, voicemails, faxes, files, text messages, cables, guidance, guidelines, evaluations, instructions, analyses, memoranda, agreements, notes, orders, policies, procedures, legal opinions, protocols, reports, rules, talking points, technical manuals, technical specifications, training manuals, studies, powerpoints, or any other record of any kind. Without limitation, the records requested include records at any stage of development, whether proposed, draft, pending, interim, final, or otherwise.

2. All RECORDS relating to or regarding the total number of Afghan evacuees held in each of these Sites, broken down by:
 - a. Gender;
 - b. Age;
 - c. Accompanying Family Members;
 - d. Destination Prior to Arrival at the Site;
 - e. Arrival Date to Site;
 - f. Departure Date from Site (if applicable);
 - g. Date of Asylum, Humanitarian Parole, or Other Visa Application;
 - h. Status of Asylum, Humanitarian Parole, or Other Visa Application; and
 - i. Average Length of Stay for Each Facility and/or Site

3. All RECORDS relating to or regarding any DOS, DOD, or DHS criteria for review to determine whether individuals can be transferred to the U.S., including the criteria or methodology of priority of transfer to the U.S., as well as the following statistics of the legal status of Afghan evacuees at each Site broken down by:
 - a. Number of Approvals to the U.S.;
 - b. Number of Denials to the U.S. and the Basis for the Denial;
 - c. Number of Pending Applications Requesting Transfer to the U.S.;
 - d. Total Number of Afghan Evacuees Remaining in All Sites;
 - e. Total Number of Afghan Evacuees Who Returned to Afghanistan; and
 - f. Total Number of Afghan Evacuees Transferred to Another Site.

4. All RECORDS relating to any DOS, DOD, or DHS policies, methodology, legal basis or framework for the decision to hold certain Afghans in any third country Sites. This includes:
 - a. Documents sufficient to explain the conditions Afghan evacuees are subjected to while held, confined, or otherwise arbitrarily detained;
 - b. Documents sufficient to explain whether Afghan evacuees are free to leave and return to the Sites;
 - c. Documents responding to Congressional inquiries, or created in response to Congressional inquiries, relating to questions about conditions of being held, confined, or otherwise arbitrarily detained;
 - d. Documents relating to or regarding what authorities and legal standards Afghan evacuees are being held, confined, or otherwise arbitrarily detained under including, but not limited to, whether U.S. immigration law, laws of armed conflict, and/or any international human rights law governs.

5. All RECORDS of or relating to the following DOS, DOD, or DHS policies and procedures pertaining to the operation of any third country Sites as set forth below:
 - a. A list of all U.S. government agencies, offices, branches, bureaus, departments, and/or private contractors who have personnel at any Sites and/or who traveled on behalf of, or with permission from, U.S. government officials, affiliates, or partners to these Sites.

- b. Policies and procedures specifically relating to which U.S. government officials and/or private contractors are at third country Sites and their respective agencies, departments, bureaus, or contractors who have access to the Afghan nationals held in any third country Sites.
 - c. In regards to those individuals referenced in request (5)(a) above, please identify each of their titles and roles, including in relation to the Sites. To the degree these individuals are in leadership positions, have been publicly appointed, and/or are in public-facing roles with the agencies, please identify their names.
 - d. We also request any agreements, assessments, or reviews made by DOS, DOD, or DHS including in coordination with host country Sites and/or any private military contractors involved in operating or facilitating these sites.
6. All RECORDS relating to the August 9, 2022 CBS News Article by Camilo Montoya-Galvez, entitled, *6,500 Afghans evacuated to UAE still stuck in limbo awaiting U.S. resettlement*,³³ including but not limited to any DOS, DOD, or DHS communications, conclusions, reports, or assessments relating to the mentioned statement specified below, the “U.S. policy,” referenced in the article, or other policies and/or practices set forth in the article :

“U.S. policy is responsible for the disparate processing. Afghans who were evacuated to the UAE before Aug. 31, 2021, were effectively guaranteed permission to enter the U.S. if they passed certain medical and security checks, the State Department told CBS News. But those who arrived after Aug. 31, 2021, have been required to prove they qualify for a U.S. immigration benefit, such as a visa or refugee status.”

7. All RECORDS relating to the March 15, 2023 Report by HRW, entitled, *UAE: Arbitrarily Detained Afghans Stuck in Limbo*,³⁴ including but not limited to any DOS, DOD, or DHS communications, conclusions, reports, or assessments relating to the release of the report, including but not limited to the letter sent by the Coordinator for Afghan Relocation Efforts (“CARE”) as mentioned in the HRW Report.³⁵
8. All RECORDS relating to the March 13, 2023 Paper by Global Detention Project and Migrant-Rights.org, entitled, *“THIS IS A SLOW DEATH”: An Urgent Appeal on the Plight of Afghan Refugees Indefinitely and Arbitrarily Detained in the UAE*,³⁶ including but not limited to any DOS, DOD, or DHS communications, internal reactions, contributions, conclusions, reports, or assessments relating to the release of the Paper.

³³ Available at <https://www.cbsnews.com/news/afghanistan-refugees-united-arab-emirates-us-resettlement>.

³⁴ Available at <https://www.hrw.org/news/2023/03/15/uae-arbitrarily-detained-afghans-stuck-limbo>.

³⁵ See Report at p. 3, ““The Coordinator for Afghan Relocation Efforts (CARE) in the US Department of State responded in a letter to Human Rights Watch on March 14, 2023, stating that “the U.S. commitment to relocate and resettle all eligible Afghans is an enduring one. This includes those eligible Afghans located at the Emirates Humanitarian City (EHC) in the UAE.” The letter also states that “Emirati officials solely manage, control and operate the EHC.” (emphasis added)

³⁶ See Paper at <https://www.globaldetentionproject.org/urgent-appeal-plight-of-afghan-refugees-indefinitely-and-arbitrarily-detained-in-uae>.

9. All RECORDS related to any complaints made by or on behalf of Afghan evacuees regarding conditions of Camp Liya and Camp Bondsteel in Kosovo and Camp As Sayliyah in Qatar.
10. All RECORDS relating to any agreements regarding Afghan evacuees made between the U.S. and any third country Sites, such as Kosovo, Qatar, and the UAE, including but not limited to, agreements about how long Afghan evacuees can be held in third countries, agreements about the conditions under which they are required to be held, and why media access to Afghan evacuees has been restricted.
11. All RECORDS relating to investigations regarding or relating to complaints or concerns raised by Afghan evacuees including, but not limited to, the conditions or policies referencing or relating to third country Sites holding Afghan evacuees, and which were conducted by any division of DOS, DOD, or DHS.
12. All RECORDS created, sent, received, referenced, and/or used in fulfilling and/or responding to this Request.
13. All other RECORDS relating to the foregoing requests.

B. Format of Production

Please search for responsive records regardless of format, medium, or physical characteristics, and including electronic records, *see* 5 U.S.C. § 522(a)(3)(B). We request that the records be provided in the following format:

- Saved on a CD, CD-ROM, or DVD;
- In PDF or TIF format wherever possible;
- Electronically searchable text wherever possible;
- Each paper record in a separately saved file;
- “Parent-child” relationships maintained, meaning that the requestor must be able to identify the attachments with emails;
- Emails should include BCC and any other hidden fields;
- Any data records in native format (i.e. Excel spreadsheets in Excel); and
- With any other metadata preserved.

C. The Requester

The Requester, CCR, is a non-profit, public interest legal and advocacy organization that engages in the fields of civil and international human rights. CCR’s diverse issue areas include litigation and advocacy around militarism, mass incarceration and prisoners’ rights, Palestinian solidarity, and the protection of human rights defenders and the right to dissent.

One of CCR’s primary activities is the publication of newsletters, know-your-rights handbooks, legal analysis of current human rights issues, and other similar materials for public dissemination. Records received through FOIA requests have served as the basis for some of these materials. These and other materials are available through CCR’s Development,

Communications, and Advocacy Departments. CCR operates a website, <http://ccrjustice.org>, which addresses the issues on which the Center works, as well as through its various social media channels. CCR staff members often serve as sources for journalists and media outlets, including on issues related to international human rights, war crimes, the War on Terror, detention practices, and abusive practices against refugees, asylum seekers, and immigrants, among others. In addition, CCR regularly issues press releases, has an active social media presence with tens of thousands of followers, and also issues regular email updates sent to over 50,000 supporters about developments and news pertaining to CCR's work.

D. Fees

The Requester, CCR, is entitled to a fee waiver pursuant to 5 U.S.C. § 552(a)(4)(A)(iii), 32 CFR § 1700.6(b), 22 CFR § 171.16(a), and 32 CFR § 286.12(l) on the grounds that “disclosure of the requested records is in the public interest because it is likely to contribute significantly to the public understanding of the activities or operations of the government and is not primarily in the commercial interest of the requester.” 5 U.S.C. § 552(a)(4)(A)(iii). The Requester meets the requirements for a fee waiver because the subject of the request concerns the operations or activities of the government, the disclosure of the information is likely to contribute to a significant public understanding of government operations or activities, the Requester's primary interest is in disclosure; and the Requester has no commercial interest in the information. *See* 22 C.F.R. § 171.16. CCR has a track-record of publicizing and explaining government records received through FOIA.³⁷

Since 2021, the media coverage and information coming out of these third country Sites where Afghan evacuees are being held at is, and continues to be, scarce because of the Sites' consistent denial of access to journalists, lawyers, and visitors who have attempted to access Afghan evacuees; for example, as HRW reported, “Those detained at Humanitarian City said they had not been able to receive visitors. ‘We are not allowed to go outside, and outsiders are not able to visit us,’ said one Afghan. Residents must receive advance permission for any visitors by first submitting a visitation request along with documents to the camp reception staff. Those interviewed who had made a request said it was denied.”³⁸ CCR is seeking these documents to gain critical information about the circumstances and conditions under which Afghan evacuees are still being held under, in order to disclose this information to our partners and directly impacted or interested communities.

Disclosure in this case therefore meets the statutory criteria, and a fee waiver would fulfill Congress' legislative intent in amending FOIA. *See Judicial Watch Inc. v. Rossotti*, 326 F.3d 1309 (D.C. Cir. 2003) (“Congress amended FOIA to ensure that it be ‘liberally construed in favor of waivers of noncommercial requesters’”).

In the alternative, if no fee waiver is granted and the fees exceed \$50.00, please contact the Requester's undersigned representative to obtain consent to incur additional fees. Processing fees should be limited pursuant to 5 U.S.C. § 552(a)(4)(A)(ii)(II) (“[F]ees shall be limited to

³⁷ *See* CCR, Open Records Project: FOIA for the Movement, <https://ccrjustice.org/home/what-we-do/projects/open-records-foia>.

³⁸ HRW, *supra* note 13. *See also* Cristina Mari, *Afghan Evacuees in Kosovo De Facto Detained*, Kosovo 2.0 (Sept. 16, 2021), <https://kosovotwopointzero.com/en/afghan-evacuees-in-kosovo-de-facto-detained/>.

reasonable standard charges for document duplication when records are not sought for commercial use and the request is made by ... a representative of the news media”).

E. Expedited Processing

CCR’s requests and is entitled to expedited processing pursuant to 5 U.S.C. § 552(a)(6)(E); 32 C.F.R. § 286.8(e)(1)(i), (e)(1)(ii)(B), and (e)(3); 22 C.F.R. § 171.11(f)(1)-(4); and 6 C.F.R. § 5.5(e)(1)(i)-(ii) on the ground that CCR has a compelling need for the information.

First, CCR’s primary professional activity and occupation is information dissemination, and CCR has an urgent need to inform the public concerning recent investigations and breaking news released by human rights and civil society organizations, and over a dozen news and media outlets,³⁹ about the treatment of Afghan evacuees held in the Sites, i.e. U.S.-military bases abroad or U.S.-affiliated detention or processing sites. 22 C.F.R. § 171.11(f)(2) and 6 C.F.R. § 5.5(e)(1)(ii). Due to the lack of access to media and lawyers, scarce to no information has been released to the public by the DOS, DOD, DHS, or other U.S. government officials. As a result, CCR urgently needs access to the requested records.

This is entirely consistent with, and central to, CCR’s core mission as a national non-profit legal and advocacy organization. CCR engages in litigation, public advocacy, and educational programming to defend constitutional and human rights law, and in particular, on issues pertaining to immigrants, asylum seekers, and civilians of countries the U.S. has waged war or violence in. Dissemination of information to the public is a crucial component of CCR’s mission and work. CCR disseminates information about government misconduct through the work of its staff, Board, and volunteer, cooperating, and co-counsel attorneys. Specifically, it publishes reports and newsletters, maintains a public website, issues press releases, and offers educational materials, and programming to the public within the U.S. and internationally. Additionally, CCR’s staff, Board, and volunteer, cooperating and co-counsel attorneys further disseminate information through press releases, interviews, reports, educational programming and other means.

Furthermore, and as explained above, the requested records, if not obtained, could reasonably be expected to pose an imminent threat to the life or physical safety of Afghan evacuees held on the Sites, 32 C.F.R. §286.8(e)(1)(i), 22 C.F.R. § 171.11(f)(1), and 6 C.F.R. § 5.5(e)(1)(i), and expected to harm substantial humanitarian interests, 32 C.F.R.

³⁹ For example, see Ahmad Mukhtar, *More than 2,000 Afghan still “arbitrarily detained” in UAE camp “exactly like a prison,” rights group says*, CBS News (March 16, 2023), <https://www.cbsnews.com/news/more-than-2000-afghans-still-arbitrarily-detained-in-uae-camp-exactly-like-a-prison-rights-group-says>; David Gritten, *UAE arbitrarily detained 2,400 Afghan asylum seekers - report*, BBC (March 16, 2021), <https://www.bbc.com/news/world-middle-east-64963423>; Jonathan Landay, *Human Rights Watch says over 2,000 Afghan evacuees in detention in UAE*, Reuters (March 15, 2023), <https://www.reuters.com/world/more-than-2000-afghan-evacuees-detention-uae-human-rights-watch-2023-03-15/>; HRW: *UAE has detained over 2,500 Afghan asylum seekers for over 15 months*, Middle East Monitor (March 15, 2023), <https://www.middleeastmonitor.com/20230315-hrw-uae-has-detained-over-2500-afghan-asylum-seekers-for-over-15-months/>; Up to 2,700 Afghans evacuees in arbitrary detention in UAE: HRW, *La Prensa Latina* (March 15, 2023), <https://www.laprensa-latina.com/up-to-2700-afghans-evacuees-in-arbitrary-detention-in-uae-hrw/>.

§286.8(e)(1)(ii)(B) and 22 C.F.R. § 171.11(f)(3). Afghan evacuees have been arbitrarily detained, in certain instances, for over fifteen months, in inhumane and prison-like conditions, and with their legal and medical needs gone unmet,⁴⁰ including recent reports of sexual assault, rape, and inadequate reproductive health care resulting in miscarriages and “life-threatening pregnancy complications.”⁴¹

Accordingly, CCR requests an expedited processing determination within 10 days of the receipt of this FOIA request, pursuant to 32 C.F.R. § 286.8(e)(1), 22 C.F.R. § 171.11(f)(4), and 6 C.F.R. § 5.5(e)(4).

F. Response

CCR expects each agency to make a determination of this request within 20 days, as provided by statute. *See* 5 U.S.C. § 552(a)(6)(A)(i).

If CCR’s request is denied, in whole or in part, we ask that each agency justify all deletions by reference to specific exemptions to FOIA. We also expect each agency to release all segregable portions of otherwise exempt material. CCR reserves the right to appeal each agency’s decision to withhold any information.

Thank you for your prompt attention to this matter. Please furnish all applicable records to: **Ian Head, Center for Constitutional Rights, at ihead@ccrjustice.org (preferred)** or by mail at **666 Broadway, 7th Fl., New York, NY 10012; (212) 614-6470**.

I certify that the above information is true and correct to the best of my knowledge.



Ian Head, Senior Legal Worker
Sadaf Doost, Legal Fellow
Center for Constitutional Rights
666 Broadway, 7th Floor
New York, NY 10012

⁴⁰ HRW, *supra*, note 13.

⁴¹ Global Detention Project, *supra* note 28.