

# United States Senate

WASHINGTON, DC 20510

March 27, 2023

The Honorable Alejandro Mayorkas  
Secretary of Homeland Security  
U.S. Department of Homeland Security  
2801 Nebraska Avenue, NW  
Washington, DC 20528

The Honorable Troy A. Miller  
Acting Commissioner  
U.S. Customs and Border Protection  
U.S. Department of Homeland Security  
1300 Pennsylvania Avenue NW Washington, D.C. 20229

Dear Secretary Mayorkas and Acting Commissioner Miller,

I write to express my grave concerns about the implementation of the CBP One mobile application as the sole method for migrants to seek asylum at the border and for Haitians, Nicaraguans, Cubans, and Venezuelans to seek humanitarian parole. Public reporting has showed that users continue to experience a multitude of technical problems, which could ultimately lead to more migrants turning to potentially fatal, unregulated border crossings.<sup>1</sup>

Since the app became the primary method for seeking asylum and humanitarian parole in January 2023, it has been plagued by inconsistencies that have created an inequitable process. U.S Customs and Border Protection (CBP) releases a limited number of appointments each day. Successfully receiving an appointment is akin to winning the lottery for the thousands of migrants living in camps waiting to secure an interview slot. Beyond the odds of getting an appointment, technical issues make it virtually impossible for many migrants to access the app – antiquated devices, poor cell phone service, or language access have all become barriers.

When CBP established the app as the sole method for Haitians, Nicaraguans, Cubans, and Venezuelans to seek humanitarian parole, the app was only available in English and Spanish. This overlooked the fact that the majority of Haitian nationals speak only Haitian Creole.<sup>2</sup> I applaud CBP for quickly addressing the problem and offering a Haitian Creole translation in February 2023. However, error messages still only appear in English, leaving non-English speakers without direction when they encounter an issue.<sup>3</sup>

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<sup>1</sup> Bernard Debusmann Jr., *At U.S. Border, Tech Issues Plague New Migrant Applications*, BBC NEWS (March 8, 2023) <https://www.bbc.com/news/world-us-canada-64814095>.

<sup>2</sup> Dara Lind, *How To Seek Asylum (Under Biden's Proposed Asylum Transit Ban)*, In *12 Not-At-All-Easy Steps*, IMMIGRATION IMPACT (Feb. 22, 2023) <https://immigrationimpact.com/2023/02/22/steps-to-seek-asylum-biden-transit-ban/>.

<sup>3</sup> *Id.*

News reports in early February indicated that Black migrants attempting to use CBP One faced additional challenges because the app is failing to register the photo of their faces.<sup>4</sup> Despite staff-level assurances that this issue was due to user error and not a problem with the app itself, these reports have continued.<sup>5</sup> I remain deeply concerned that the technology used to capture faces with darker complexions has not been adequately tested and structurally disadvantages Black asylum seekers and urge the agency to address the issue.

During a recent visit to Matamoros, Mexico, I had the opportunity to speak with migrant mothers who shared their experience attempting to sign up for appointments through the app. CBP and State Department officials also acknowledged problems, confirming recent reports of families with children who cannot secure appointments for their entire family. For example, by the time a family with two parents and two children has completed the application for an appointment, all of the appointments made available that day are usually filled. This results in family members who have appointment times presenting themselves and abandoning their children or other member of their family that did not successfully obtain an appointment.<sup>6</sup> I am glad that CBP recently addressed this issue to make it easier for family units to secure appointments by releasing appointments in larger batches at fewer intervals of time. Even with this improvement, I urge CBP to review and assess its implementation and efficiency to ensure families are not faced with the difficult decision of separating at the border in order to seek asylum.

The process for registering for appointments is also in need of improvement. Many migrants have antiquated mobile devices that are slow to connect to the internet. Some migrants do not have phones at all, while others cannot use CBP One because they do not read or write. These difficulties result in a select group of asylum seekers securing appointments. Additional impediments include the requirement that asylum seekers be in Mexico in order to register for an appointment, leading them to wait, sometimes for months at a time, in migrant camps at the border in deplorable conditions. Occasionally, the app wrongly identifies migrants who are in Mexico as already inside the U.S. and blocks them from registering for appointments.

Pregnant or nursing mothers are also particularly harmed by the current CBP One process because they do not qualify for a life-threatening injury or medical emergency exemption to Title 42. Service providers in the area have communicated to my staff that this interpretation has forced some pregnant women to cross outside ports of entry and present themselves to CBP agents in the United States, where they can receive adequate and safe medical care.

I welcome the changes CBP made to the app to respond to these glaring problems, but several issues remain that must be addressed. First, the process does not consider the how long it has been since a person registered on the app when that person then tries to secure an appointment. Since appointments open every day and fill within minutes of opening, CBP One has created a

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<sup>4</sup> Arelis Hernández, *Desperate Migrants Seeking Asylum Face a New Hurdle: Technology*, WASHINGTON POST (Mar. 11, 2023) <https://www.washingtonpost.com/nation/2023/03/11/asylum-seekers-mexico-border-app/>.

<sup>5</sup> Melissa Del Bosque, *Facial Recognition Bias Frustrates Black Asylum Applicants to US*, ADVOCATES SAY, THE GUARDIAN (Feb. 8, 2023) <https://www.theguardian.com/us-news/2023/feb/08/us-immigration-cbp-one-app-facial-recognition-bias>.

<sup>6</sup> Andrea Castillo, *Asylum Seekers Face Decision to Split up Families or Wait Indefinitely Under New Border Policy*, LA TIMES (Feb. 24, 2023) <https://www.latimes.com/politics/story/2023-02-24/asylum-seeking-families-consider-separation-shortage-mobile-app-appointments>.

luck-based lottery system to gain an appointment. Some migrants could obtain an appointment the same day they register, others could be forced to wait for months. Reports have indicated that some asylum seekers have turned to use automation apps that employ “inhumanly fast reflexes” previously employed by ticket scalpers to gain access to one of the limited daily appointments.<sup>7</sup> CBP must implement a more orderly process does not reward people seeking to game the system.

Even if the CBP One app was as efficient, user friendly, fair, and inclusive as possible – which I hope one day it will be – it would still be inherently discriminatory. To use the app, a person must have a working cell phone, a reliable internet connection, and must have adequate resources and be in good enough health to safely stay in a single location either near the southern border or in their country of origin. This situation is not the reality for asylum seekers whose lives are threatened in their home country or in northern Mexico. It is not a reality for pregnant women, who do not qualify for a humanitarian exception to the CBP One appointment process. And it is not a reality for asylum seekers who travel to our border or stay in their country of origin but do not have phone or internet access, or are unable to use a cell phone.

These shortcomings are the logical result of a rushed and inadequate development and testing process. Documents detailing the development of the CBP One app acquired by the American Immigration Council indicate that the rapid implementation of the app has confused CBP officials, and that there has been little consideration of the app’s flaws or transparency surrounding the app’s functions.<sup>8</sup> While the expansion of opportunities for asylum seekers to have their claims heard is vital, I am disappointed that precautions were not taken before our government made the CBP One app the sole avenue to schedule appointments.

As your agency prepares for the long-overdue end of Title 42 expulsions in May 2023, I strongly support increasing the number of appointments available on CBP One to accommodate as many legitimate asylum claims of migrants who cannot return to their homes. I also encourage you explore additional pathways that would allow people without the resources necessary to secure CBP One appointments to safely claim asylum at ports of entry.

Thank you for your attention to this important matter.

Sincerely,



Cory A. Booker  
United States Senator

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<sup>7</sup> Stephania Corpi Arnaud, *Once a Ticket Scalpers’ Tool, Auto Clickers Now Help Migrants Enter the U.S.*, REST OF THE WORLD (Feb. 22, 2023) <https://restofworld.org/2023/auto-clicker-migrants-us-mexico/>.

<sup>8</sup> Government Documents Reveal Information about the Development of the CBP One App, AMERICAN IMMIGRATION COUNCIL (Feb. 28, 2023) <https://www.americanimmigrationcouncil.org/FOIA/government-documents-reveal-information-about-development-cbp-one-app>.