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U.S. Struggles With Afghan Evacuees Weeded Out, and Now in Limbo

No final decisions have been made, but dozens red-flagged for apparent criminal pasts or links to militants have been sent to a base in Kosovo, where their fate is uncertain.

By Charlie Savage

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WASHINGTON — Two months after the evacuation of 80,000 Afghans fleeing the Taliban takeover, most have cleared subsequent vetting for admission into the United States. Some initially raised possible security issues — like evacuees who shared a name with terrorism suspects — but were absolved on closer scrutiny.

But several dozen have been red-flagged, despite having helped the United States during its 20-year war in Afghanistan, because screenings uncovered apparent records of violent crime or links to Islamist militants that follow-up evaluations have not cleared, officials said. The derogatory information has raised the question of what to do with them, leaving them in limbo.

The military transferred most of the still-flagged evacuees — some with relatives — to Camp Bondsteel, a NATO base in Kosovo, which agreed to let Afghans be housed there for up to a year if they stayed on the base. They are designated as requiring further investigation, and no final decision has been about whether they will receive permission to enter the United States, officials said.

But in an acknowledgment that many are likely to be barred from the United States, the Biden administration's national security team has been meeting to grapple with how to handle them.

Officials declined to provide a precise number for the group deemed problematic, saying it fluctuates as the assessment work continues. A few of the evacuees sent to Camp Bondsteel were later cleared to travel to the United States after further evaluation, they said.

But several officials said that of the group of evacuees drawing longer-term scrutiny, those who appear to have committed violent crimes number in the single digits, and several dozen have been flagged for apparent links to Islamist militants — mostly the Taliban.

The internal deliberations about the evacuees deemed problematic have centered on two novel questions, the officials said.

One is short-term: whether American troops can detain Afghans if they grow fed up with waiting and decide to walk out the gates of Camp Bondsteel, contrary to the agreement the United States struck with Kosovo. It is not clear what legal authority the military has to hold non-Americans who are not wartime detainees — the evacuees are not — indefinitely abroad.

That scenario may never happen: To date, none has tried to walk off the base, they said. But interviews with several current and former officials suggested that there might not be clear consensus about what guards could or should do in such a situation.

For example, one official said that U.S. troops could only tell local police that an Afghan had left the base so that those authorities could arrest the person for violating Kosovo law — the conditions of the evacuees' temporary admission to the country. But another official insisted the base commander had authority to temporarily detain any such Afghan, pending transfer to local authorities.

The other question is longer-term: what to do with evacuees ultimately deemed ineligible to come to the United States if diplomatic efforts fail to persuade other countries to take them in.

In light of that prospect, officials said, an early assumption that no evacuee would be repatriated to Afghanistan has come under further scrutiny. Under international law — the Convention Against Torture — it is illegal to repatriate people who fled their country if it is more likely than not they would be abused if returned.

Officials are said to be discussing whether that rule would bar returning evacuees who helped the United States in Afghanistan but have been deemed problematic because of ties to the Taliban. Those evacuees may face less risk from the new Taliban government than evacuees flagged for criminal issues or for links to other militant groups — especially if any turn out to have ties to the Islamic State, which is fighting the Taliban.

Taliban members in Kabul, Afghanistan. Officials are weighing the fate of evacuees who helped the Americans during the war but also may have had ties to the Taliban. Victor J. Blue for The New York Times

Further complicating matters, other Afghans fled by “rogue” charter flights rather than the military airlift; some have since been living in hotels in Albania rather than on a military base. It is possible the Biden administration could leave responsibility for resolving the fate of any of those evacuees deemed problematic to the governments that are hosting them.

About 76,000 Afghan evacuees have now arrived in the United States after clearing the screening process abroad, officials said. About 4,000 remain overseas, but most them are said by officials to have been cleared, and they are simply waiting for recent vaccinations to take effect.

The vetting procedures and the deliberations over the fate of the evacuees were described by nearly a dozen officials on condition of anonymity. The discussions are playing out as some Republicans have pivoted from attacking the Biden administration for abandoning allies in the messy exit from Afghanistan to stoking fears that it is recklessly importing dangerous people.

Former President Donald J. Trump claimed to Fox News last month that there were “absolutely” terrorists and “very bad people” among the evacuees. “The people they are resettling — it’s the worst,” he said. “There was no vetting.”

Sixteen Republican senators later signed a letter declaring the screening procedures “insufficient to preserve the safety of the American homeland.” Senator Tom Cotton, Republican of Arkansas, said on Fox News that “there’s really no vetting” of the evacuees. This week, some House Republicans mounted fresh claims that the Biden administration is bringing tens of thousands of Afghan evacuees to the United States without screening them.

Against that backdrop, some Biden officials privately say they see a political silver lining: Their Kosovo problem demonstrates that contrary to such criticism, Afghans hoping to begin new lives in the United States must first pass a serious security vetting process.

“Any claims that we are taking in unvetted Afghans are false,” Emily Horne, a National Security Council spokeswoman, said in a statement, adding, “The fact that some people have been flagged by our counterterrorism, intelligence or law enforcement professionals for additional screening shows our system is working.”

The political sensitivity of the matter has been underscored by allegations of some crimes — including child molestation, spousal abuse, sexual assault and theft — committed on American military bases by several Afghan evacuees who had cleared vetting. Gen. Glen D. VanHerck, who leads the U.S. Northern Command, has told reporters that the crime rate among the evacuees has been lower than the American average.

Understand the Taliban Takeover in Afghanistan

Who are the Taliban? The Taliban arose in 1994 amid the turmoil that came after the withdrawal of Soviet forces from Afghanistan in 1989. They used brutal public punishments, including floggings, amputations and mass executions, to enforce their rules. Here's more on their origin story and their record as rulers.

No one disputes that there was no time in Kabul to vet the desperate people thronging the airport in August. Many faced particular danger because they had worked for the United States during the conflict and were trying to get out with their families. In the emergency, the government's focus was getting people out of harm's way.

But the United States took them to military bases in Persian Gulf countries and Europe for scrutiny. At these transit zones, known as "lily pads," teams drawn from Customs and Border Protection, the Federal Bureau of Investigation, the National Counterterrorism Center and intelligence agencies interviewed the Afghans and took their biometric and biographical information.

Hundreds of analysts and agents were dispatched to work at the transit sites, officials said. Others contributed from the United States, working through the weekends and sharing information in secure videoconference calls.

Some of the evacuees had already applied for special immigrant visas, while others were newly enrolled for processing when they landed at the overseas bases. The screeners took their fingerprints, photographs, names, dates of birth, previous addresses, and any phone or passport numbers, and ran them through law enforcement, military and intelligence databases.

Some cases that initially raised red flags were cleared within hours, officials said. They included evacuees whose names were in a database of known or suspected terrorists but who turned out to be different people.

Harder cases are said to have included instances in which database queries showed that someone using a phone number associated with an evacuee had called suspicious people, or that the evacuee had once been denied access to an American installation. Such database hits may not always provide context, requiring further digging and discussion.

Officially, it is the Homeland Security Department that decides whether to allow particular evacuees into the United States because the legal authority to grant someone "humanitarian parole" resides with its secretary, Alejandro Mayorkas. But as a matter of informal practice, the officials said, recommendations have required interagency consensus.

The executive branch and its sprawling security bureaucracy wield sweeping power to decide whether to admit a foreigner into the country. Under American law, noncitizens abroad have little recourse if officials reject them.

Senior administration officials said the White House had given no instructions about what standards the career analysts carrying out the vetting should use, so they are following the same principles that have long been in place for deciding which visa applicants and other foreigners to let into the country.

In particular, they said, that meant admitting no one flagged for terrorism or violent crime.

"The fact that our rigorous, multilayered screening and vetting process has prevented individuals from entering the United States demonstrates that the system is working as it should to protect the safety and security of the American people," Mr. Mayorkas said in a statement.

The officials declined to detail any standard for how much certainty would be needed to decide that an ambiguous fact rose to the level of disqualifying derogatory information. They also declined to explain how officials weigh nonviolent law enforcement concerns, like fraud or theft convictions.

Those evacuees approved for entry into the United States go through an additional layer of Customs and Border Protection screening at domestic airports. Some are then steered into secondary screening, which on rare occasions has raised a new issue, officials said.

As a result, a “very small” number of those have voluntarily left the United States or been put into removal proceedings for deportation, officials said — including some joining the group in limbo in Kosovo.

Lara Jakes and Eileen Sullivan contributed reporting.