

November 17, 2021

Chairman Patrick Leahy
U.S. Senate Committee on Appropriations
Room S-128, The Capitol
Washington, D.C.
20510

Chair Rosa L. DeLauro
U.S. House Committee on Appropriations
H-307, The Capitol
Washington, D.C.
20515

Chair Jeanne Shaheen
Subcommittee on Commerce, Justice, Science,
and Related Agencies
Room S-128, The Capitol
Washington, D.C.
20510

Chairman Matt Cartwright
Subcommittee on Commerce, Justice, Science,
and Related Agencies
H-310, The Capitol
Washington, D.C.
20515

Dear Chairman Leahy, Chair DeLauro, Chair Shaheen, and Chairman Cartwright,

The undersigned 118 bar associations and immigration, civil rights, human rights, and service organizations specializing in providing legal representation to immigrants write in support of including funding for appointed counsel for immigration proceedings as you revisit appropriations for the remainder of fiscal year 2022. Funding for appointed counsel is critical to increasing due process and government efficiency. As we approach the expiration of the continuing resolution funding the government through December 3, and as Congress again attempts to pass legislation to fund the executive branch for the remainder of FY 2022, we urge you to adopt the \$50 million proposed in the FY 2022 House Commerce, Justice, Science, and Related Agencies Appropriations bill (H.R.4505) for legal representation programs, and to include that amount in the companion Senate bill.

While federal law provides the right to legal counsel in removal proceedings, the law does not guarantee the government will provide attorneys for immigrants who are unable to afford one on their own. The most recent data available indicate that a full 46 percent of all cases pending before our immigration courts involve non-citizens facing deportation without attorneys.ⁱ These figures are even higher for people stuck in immigration detention, among whom 70 percent did not have legal counsel between 2015 and 2017.ⁱⁱ And immigrants with attorneys are far more likely to succeed in defending against their deportation. Studies have shown that immigrants in general are *five times more likely* to obtain relief from removal when represented by counsel, with those in detention being *ten-and-a-half times more likely* to succeed.ⁱⁱⁱ These low levels of representation are a crisis given the exceptionally complex nature of immigration law, the fact that it is nearly impossible for immigrants to navigate our complex immigration system without the assistance of an attorney, and the potentially severe consequences associated with deportation. Due process should not turn on whether or not an individual can afford to pay for a private attorney.

In addition to increasing due process and making immigration proceedings fairer, providing legal representation would also reduce costs and increase efficiency in the detention and removal system by dramatically reducing costs associated with immigration enforcement, detention, and court proceedings. People represented by counsel appear for their hearings over 96 percent of the time because a lawyer can help them navigate a complex system generally conducted in a language that is often not their own.^{iv} People who are represented by counsel are also typically more prepared to proceed in their cases and less likely to request continuances. When combined, these factors mean that expanded legal representation will reduce the time judges spend on each case and contribute to more efficient court processing.

The Biden administration and Congress have both recognized the dire need for appointed counsel previously. In 2020, the Commerce, Justice, Science, and Related Agencies Appropriations Act that passed the House of Representatives (H.R.7667) included \$15 million for a pilot program for representation for arriving asylum seekers. And the President’s FY 2022 budget calls for additional funding for legal representation for families and children. Most recently, the FY 2022 House Commerce, Justice, Science, and Related Agencies Appropriations bill (H.R.4505) includes \$50 million for legal representation programs. The Senate counterpart to this bill, however, does not include any funding for appointed counsel—a grave omission given the tremendous need.

Given all of the above, we firmly believe that the \$50 million included in H.R.4505 for FY 2022 can and must be maintained, and the same funding level should be incorporated in any Senate counterpart. It is long past time for Congress and the executive branch to acknowledge the harm created by our immigration detention and removal system, and to implement sensible policies that will help immigrants navigate the system more effectively while also reducing overall costs to the government and increasing its efficiency.

Sincerely,

American Immigration Council

American Immigration Lawyers Association

Accompaniment & Sanctuary Coalition Colorado Springs

ADL (Anti-Defamation League)

Aldea - The People’s Justice Center

Alianza Americas

Alianza Nacional de Campesinas

American Civil Liberties Union

American Friends Service Committee

American Gateways

America's Voice

Arkansas United

Asian American Legal Defense and Education Fund (AALDEF)

Asian Americans Advancing Justice | AAJC

Asian Pacific Institute on Gender-Based Violence

ASISTA

Black Alliance for Just Immigration (BAJI)

Brooklyn Defender Services

CAIR Coalition

California Collaborative for Immigrant Justice (CCIJ)

Cameroon Advocacy Network

CASA

Catholic Charities of Long Island

Catholic Legal Services, Archdiocese of Miami

Center for Gender & Refugee Studies

Center for Victims of Torture

Central American Resource Center of Northern CA - CARECEN SF

Centro de los Derechos del Migrante

Chacón Center for Immigrant Justice, University of Maryland Carey School of Law

Chicago Jewish Coalition for Refugees

Church World Service

Coalition for Humane Immigrant Rights (CHIRLA)

Colorado Immigrant Rights Coalition (CIRC)

Community Asylum Seekers Project

Community Immigration Law Center (CILC)

Connecticut Shoreline Indivisible
Cooper, Barton & Cooper, LLP
De Novo Center for Justice and Healing
DePaul Sanctuary Community Group
Disciples Immigration Legal Counsel
Disciples Refugee & Immigration Ministries
Doctors for Camp Closure
Envision Freedom Fund
Esperanza Immigrant Rights Project
Faith in Public Life
First Focus Campaign for Children
Florence Immigrant & Refugee Rights Project
Freedom Network USA
Friends Committee on National Legislation
Global Cleveland
HI Coalition for Immigrant Rights
HIAS
HIAS Pennsylvania
Hispanic Federation
Human Rights First
Human Rights Watch
Illinois Coalition for Immigrant and Refugee Rights
Immigrant Action Alliance
Immigrant and Refugee Services, Catholic Charities Community Services New York
Immigrant Defenders Law Center
Immigration Center for Women and Children
Immigration Hub

Innovation Law Lab

International Rescue Committee

Jewish Family Service of San Diego

Justice in Motion

Keep Tucson Together

Kids in Need of Defense

Lawyers for Good Government (L4GG)

Legal Aid Justice Center

Mainers for Accountable Leadership Action

Michigan Immigrant Rights Center

Mid-South Immigration Advocates

Mississippi Center for Justice

Mobilization for Justice, Inc.

National Education Association

National Immigrant Justice Center

National Immigration Law Center

National Immigration Litigation Alliance

National Network for Arab American Communities (NNAAC)

National Network for Immigrant and Refugee Rights

National Partnership for New Americans

New York Immigration Coalition

North Carolina Justice Center

Northwest Immigrant Rights Project

Ohio Immigrant Alliance

Orlando Center for Justice, Inc.

Poder Latinx

Presente.org

Prisoners' Legal Services of New York
Public Counsel
Public Defenders Coalition for Immigrant Justice
RAICES
Raksha, Inc
Refugee Action Network
RefugeeOne
Rocky Mountain Immigrant Advocacy Network
Santa Fe Dreamers Project
Save the Children
South Asian Bar Association of North America
SPLC Action Fund
St. Francis Community Services
St. George's Episcopal Church, Hawthorne, CA
STERN Law, LLC and CrImmigration Experts, LLC
SyrianCommunityNetwork
Tahirih Justice Center
The Advocates for Human Rights
The Human Trafficking Legal Center
The Legal Clinic, Hawai'i affiliate of Justice for Our Neighbors
THE MASLIAH FIRM PC
The Resurrection Project
U.S. Immigration Policy Center (USIPC) at UC San Diego
UndocuBlack Network
United Sikhs
United We Dream
Vera Institute of Justice

Wind of the Spirit Immigrant Resource Center

Women's Refugee Commission

ⁱ Transactional Records Access Clearinghouse (TRAC), “State and County Details on Deportation Proceedings in Immigration Court,” last accessed November 11, 2021, <https://trac.syr.edu/phptools/immigration/nta/>.

ⁱⁱ Transactional Records Access Clearinghouse (TRAC), “Who is Represented in Immigration Court?,” October 16, 2017, <https://trac.syr.edu/immigration/reports/485/>.

ⁱⁱⁱ Ingrid Eagly, Esq. and Steven Shafer, Esq., *Access to Counsel in Immigration Court*, September 28, 2016, <https://www.americanimmigrationcouncil.org/research/access-counsel-immigration-court>.

^{iv} Ingrid Eagly, Esq. and Steven Shafer, Esq., *Measuring In Absentia Removal in Immigration Court*, January 28, 2021, <https://www.americanimmigrationcouncil.org/research/measuring-absentia-removal-immigration-court>.