

Congress of the United States

Washington, D.C. 20515

April 29, 2022

The Honorable Matt Cartwright
Chairman
Subcommittee on Commerce, Justice,
Science, and Related Agencies
House Committee on Appropriations
U.S. House of Representatives
H-310 The Capitol
Washington, DC 20515

The Honorable Robert Aderholt
Ranking Member
Subcommittee on Commerce, Justice, Science, and
Related Agencies
House Committee on Appropriations
U.S. House of Representatives
1036 Longworth House Office Building
Washington, DC 20515

Dear Chairman Cartwright and Ranking Member Aderholt:

As the Subcommittee considers the Commerce Justice Science Fiscal Year (FY) 2023 Appropriations Bill, we write to support \$300 million in funding to expand federal programs that provide legal representation for the thousands of indigent adult immigrants; including asylum seekers, families, and other vulnerable individuals who face federal immigration court removal proceedings each year without the advice of counsel. We thank you for including \$50 million in the fiscal year 2022 House Commerce, Justice, Science Appropriations Bill and believe additional funding is desperately needed.

Our nation's immigration laws are complex and confusing, and the severe consequence of deportation is life-changing for individuals and families. Despite these facts, the federal government does not guarantee legal counsel for people in removal proceedings. Without legal counsel, it is nearly impossible for people in removal proceedings, who typically do not speak English, to understand the immigration system or how to apply for humanitarian and other legal relief.

Legal representation is the most determinative factor in ensuring people facing removal have a fair day in immigration court. If represented by counsel, people are five times more likely to obtain legal relief compared to those who are unrepresented.^{[1][1]} People who are detained during proceedings are 10.5 times more likely to succeed in their cases when represented.^{[2][2]} Despite the critical role of legal counsel, nationwide more than 40 percent of those appearing in immigration court go unrepresented by counsel, and a staggering 70 percent of detained persons face proceedings without counsel.^{[3][3]}

^{[1][1]} Ingrid Eagly and Steven Shafer, *Access to Counsel In Immigration Court* (Washington, DC: American Immigration Council, September 2016), https://www.americanimmigrationcouncil.org/sites/default/files/research/access_to_counsel_in_immigration_court.pdf.

^{[2][2]} Eagly and Shafer, *Access to Counsel in Immigration Court*, 19.

^{[3][3]} See Executive Office for Immigration Review, "Current Representation Rates," October 13, 2020, <https://www.justice.gov/eoir/page/file/1062991/download>; Transactional Records Access Clearinghouse, "Who Is Represented In Immigration Court?" October 16, 2017 (finding that detained individuals were represented at a rate of about 30 percent from 2015 to 2017), <https://trac.syr.edu/immigration/reports/485/>.

Allowing greater access to legal counsel will help the court system operate more efficiently and effectively. Studies of immigration court data over the past decade have found that people represented by counsel appear in court over 96 percent of the time.^{[4][4]} Having access to a lawyer can help noncitizens navigate a complex system, which is generally conducted in a language not their own. Additionally, legal representation avoids delays in court and saves time that judges typically spend explaining procedures to unrepresented people.^{[5][5]}

Furthermore, more than 50 states and localities have launched their own programs to provide legal representation to individuals facing removal proceedings.^{[6][6]} For example, California currently allocates over \$50 million in funding per year to immigration legal services, which includes representation in immigration court.^{[7][7]} A federal pilot program is needed to help ensure that all immigrants, regardless of location, have access to legal representation as they navigate a confusing process.

Currently the federal government operates pilot legal representation programs that serve two populations: unaccompanied children and individuals with mental disabilities. We support additional funding for the Executive Office for Immigration Review to expand legal representation programs to other vulnerable populations including, but not limited to, asylum seekers, families, people who speak rare languages, and those deprived of their liberty while awaiting their court hearings. President Biden is requesting \$150 million in funding for direct legal representation, but we believe that more funding is needed to help ensure fundamental fairness and allow immigrants facing removal a fair hearing.

Thank you for your consideration of this request and we look forward to working with you to ensure due process for all individuals.

Sincerely,

^{[4][4]} Ingrid Eagly and Steven Shafer, “Measuring In Absentia Removal in Immigration Court,” *University of Pennsylvania Law Review* 168, no. 4 (March 2020), 9, https://www.pennlawreview.com/wp-content/uploads/2020/06/Eagly-Shafer_Final.pdf (finding that people with legal representation received *in absentia* orders of removals in four percent of cases); American Immigration Council, “Immigrants and Families Appear in Court” (Washington, DC: July 2019), <https://www.americanimmigrationcouncil.org/research/immigrants-and-families-appear-court> (noting a 97% appearance rate over the past decade for all individuals placed in removal proceedings who are represented by counsel).

^{[5][5]} See U.S. Department of Justice Office of the Inspector General Evaluation and Inspections Division, Management of Immigration Cases and Appeals by the Executive Office for Immigration Review, October 2012, 30, <https://oig.justice.gov/reports/2012/e1301.pdf>.

^{[6][6]} <https://www.vera.org/initiatives/safe-initiative>

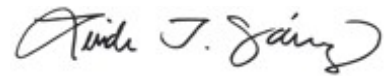
^{[7][7]} <https://www.vera.org/initiatives/safe-initiative>



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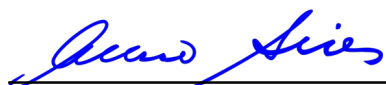
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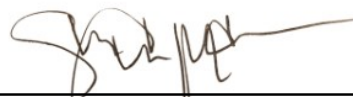
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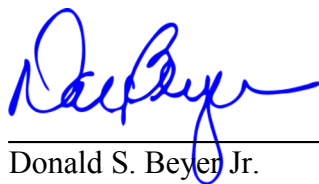
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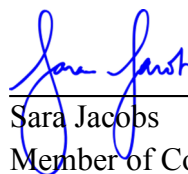
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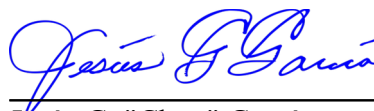
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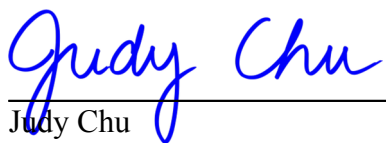
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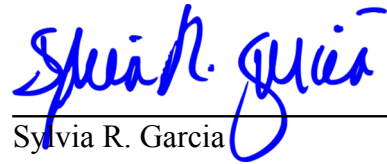
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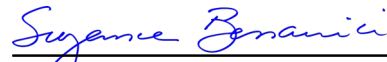
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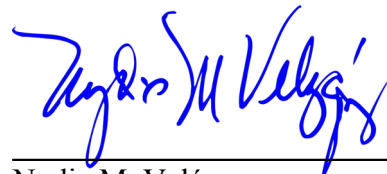
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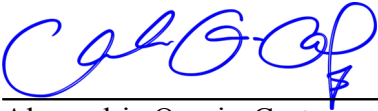
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