

Congress of the United States

Washington, D.C. 20515

February 15, 2022

The Honorable Nancy Pelosi
Speaker
U.S. House of Representatives
H-310 The Capitol
Washington, DC 20515

The Honorable Rosa L. DeLauro
Chairwoman
House Committee on Appropriation
H-307 The Capitol
Washington, DC 20515

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

Dear Speaker Pelosi, Chairwoman DeLauro, and Chairman Cartwright:

Thank you for your strong leadership in support of fairness in our immigration court system. As you move to conference with the Senate, we urge your continued support for the \$50 million currently included in the Fiscal Year (FY) 2022 Commerce, Justice, Science Appropriations Bill to expand federal programs that provide legal representation for the thousands of indigent immigrants, asylum seekers, families, and other individuals who face federal immigration court removal proceedings each year without the advice of counsel.

We applaud your effort to include this funding in the House bill. This increase reflects the significant need and the Administration's commitment to enacting legal and humane immigration reform. The Senate's FY 2022 CJS bill unfortunately did not include funding for DOJ for this pilot initiative. We urge you to include the House level of funding, as well as associated report language, in the final bill to ensure DOJ addresses this critical need.

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 People who are detained during proceedings are 10.5 times more likely to succeed in their cases when represented.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

Allowing greater access to legal counsel helps the court system operate more efficiently and effectively as it continues to face immense backlogs. 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 Additionally, legal representation avoids delays in court and saves time that judges typically spend explaining procedures to unrepresented people.⁵

Currently the federal government operates pilot legal representation programs that serve two populations: unaccompanied children and individuals with mental disabilities. This additional funding for DOJ would allow it to expand legal representation programs to more vulnerable immigrant populations who cannot afford counsel. We believe that this funding will help ensure immigrants facing removal receive a fair day in court.

This funding would help ensure our immigration system is efficient and fair. Thank you for your dedication to these critical issues and we look forward to working with you to ensure this funding is included in the final CJS legislation.

Sincerely,



Norma J. Torres
Member of Congress

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 Eagly and Shafer, *Access to Counsel in Immigration Court*, 19.

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/>.

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 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>.

/s/

Adam Smith
Member of Congress

/s/

Pramila Jayapal
Member of Congress

/s/

Jesús G. “Chuy” Garcia
Member of Congress

/s/

Joaquin Castro
Member of Congress

/s/

Sean Casten
Member of Congress

/s/

Eleanor Holmes Norton
Member of Congress

/s/

Rashida Tlaib
Member of Congress

/s/

Jimmy Gomez
Member of Congress

/s/

Jan Schakowsky
Member of Congress

/s/

Sara Jacobs
Member of Congress

/s/

Marie Newman
Member of Congress

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Ruben Gallego
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Adriano Espaillat
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Jimmy Panetta
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Ted W. Lieu
Member of Congress

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Juan Vargas
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Alan Lowenthal
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Mondaire Jones
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Nanette Barragán
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Yvette D. Clarke
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Raul M. Grijalva
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Jason Crow
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James P. McGovern
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Judy Chu
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Lucille Roybal-Allard
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Linda T. Sánchez
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J. Luis Correa
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Henry C. “Hank” Johnson, Jr
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Suzanne Bonamici
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Nikema Williams
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Tony Cárdenas
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Karen Bass
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Tom O’Halloran
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Joe Neguse
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Sheila Cherfilus McCormick
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Lucy McBath
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Lloyd Doggett
Member of Congress

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Anthony G. Brown
Member of Congress

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Jake Auchincloss
Member of Congress

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Donald S. Beyer Jr.
Member of Congress