

August 20, 2010

Thomas G. Snow
Acting Director
U.S. Department of Justice
Executive Office for Immigration Review
5107 Leesburg Pike, Suite 2600
Falls Church, VA 22041

BY ELECTRONIC MAIL

Re: New Requirement in Automated Case Information System Will Create Barriers
for Immigrants and Immigration Attorneys

Dear Director Snow:

We write to express our concerns about the new charging document date requirement for the Executive Office for Immigration Review's (EOIR) case information system. We learned of the new requirement in an EOIR press release dated August 16, 2010. We are concerned about the barriers that this new requirement will pose on immigrants and immigration attorneys. In addition, we are concerned that EOIR instituted this change without consulting with stakeholders.

The case information hotline in its current form serves as a critical screening tool for effective representation. As immigration attorneys and advocates, we rely on the case information system every day to obtain essential information for clients, prospective clients, and community members, as many immigrants do not have their Notice to Appear (NTA). Currently the hotline is the only tool that enables individuals without counsel, or with ineffective counsel, to find out if they have a final order. The hotline is the easiest way for individuals in detention or released from detention to find out the date and address of their court hearing. Legal services providers, including Legal Orientation Program providers that are funded through EOIR, will be significantly hindered as they will no longer be able to reliably determine the posture of a case when deciding whether or not to provide representation any individual without an NTA in hand.

The current form of the hotline not only serves immigrants and advocates, but also EOIR and Immigration and Customs Enforcement (ICE) by helping respondents appear at the proper place and time for hearings. In addition, because the hotline is automated, it reduces EOIR and ICE resources in answering phone calls from immigrants, attorneys, and family members trying to find case information.

Respondents trying to obtain legal assistance will be adversely impacted by this change. Under the new requirement, individuals who do not have access to their NTA will not be able to access their case information and will likely miss their immigration hearing. As you know, missing a court hearing date can destroy the possibilities for relief for many immigrants. Many immigrants at intake or in detention do not have their NTA for myriad reasons, including shortcomings of service by mail, practitioners who fail to provide clients with copies, and inaccessible or lost documents. Respondents who do not have

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their NTA will find it more difficult to locate counsel willing to accept their case without waiting for a Freedom of Information Act (FOIA) request. Attorneys who do accept such clients will likely ask for continuances at initial master calendar hearings as they will be learning basic case information for the first time.

The new requirement will particularly affect vulnerable immigrants such as those eligible for various benefits and forms of relief including VAWA, T and U visas, and NACARA, who are often unaware of prior *in absentia* removal orders.

Immigrants detained in ICE custody will also be gravely affected by the new requirement. Detained immigrants are routinely not in possession of their NTAs either because ICE did not serve the NTA on them or detention officers placed the NTA in the property room or other area that may be very difficult for the detainee to access. Since 84% of detained immigrants appear *pro se*, the new requirement will add to their confusion, lead to added strain on the court, and likely prolong detention. Additionally, many advocates and organizations who serve detained immigrants depend on the accessibility of the EOIR hotline to determine the best resources to provide indigent detainees. Many detainees are unaware of their case status and therefore what relief they may be eligible, or the best course of action for their case. Given the exceptionally high prose rate for detained immigrants, it is unrealistic to assume that even 50% of those detained will have access to an attorney or other assistance to explain the location of the charging document date, or how to acquire a charging document. Adding this requirement will make it impossible for many organizations that are not able to engage in full representation, including the LOP providers mentioned above, to provide proper advice or guidance. This additional roadblock in an already complicated and difficult process can only serve to further burden this incredibly vulnerable population and the advocates who serve them.

For all of the reasons articulated above, we strongly believe that the new requirement will lead to increased inefficiencies in the court system, difficulties in obtaining legal counsel, additional time in detention, and an increase in missed hearings and accompanying *in absentia* orders. These outcomes would be an injustice to individuals who are pursuing their cases in immigration court. Therefore, we respectfully request that you delay any changes to the EOIR hotline and engage key stakeholders in consultation on ways to protect individuals' privacy without creating barriers to access.

Thank you for your attention to our concerns. We look forward to your response. Please contact Susan E. Reed at the Michigan Immigrant Rights Center at susanree@lsscm.org or (269) 492-7196 with any questions.

Sincerely,

National Organizations

ASISTA Immigration Assistance
American Civil Liberties Union
Church World Service
Family Violence Prevention Fund
Florence Immigrant and Refugee Rights Project
Hebrew Immigrant Aid Society (HIAS)
Immigration Equality
Lutheran Immigration and Refugee Service
National Immigrant Justice Center (NIJC)
National Immigration Forum
National Immigration Law Center
National Immigration Project of the National Lawyers Guild
Post-Deportation Human Rights Project-
Center for Human Rights and International Justice
World Organization for Human Rights USA
World Relief

State and Local Organizations

California

Central American Resource Center (CARECEN)
Coalition for Humane Immigrant Rights
Immigrant Legal Resource Center
International Institute of the Bay Area
International Institute of Los Angeles
Legal Services for Children
Legal Aid Foundation of Los Angeles
Public Counsel
San Francisco Immigrant Legal & Education Network
Survivors of Torture, International
UC Davis Immigration Law Clinic

Colorado

Colorado Coalition Against Sexual Assault
Rocky Mountain Immigrant Advocacy Network

District of Columbia

Central American Resource Center (CARECEN)
Immigrant and Refugee Rights Project of the Washington Lawyers' Committee
for Civil Rights and Urban Affairs
National Center for Transgender Equality (NCTE)

Florida

Florida Coastal School of Law Immigrant Rights Clinic
Gulfcoast Legal Services, Inc.
The Legal Aid Society of the Orange County Bar Association

Illinois

Immigrant Child Advocacy Project at the University of Chicago

Kentucky

Kentucky Coalition for Immigrant and Refugee Rights
Maxwell Street Legal Clinic, a program of the Kentucky Equal Justice Center

Maine

Immigrant Legal Advocacy Project

Massachusetts

Boston College Immigration and Asylum Project
Greater Boston Legal Services (GBLS)
Political Asylum Immigration representation Project
Massachusetts Immigrant and Refugee Advocacy Coalition (MIRA)

Michigan

Michigan Immigrant Rights Center
Center for Civil Justice
Diocese of Kalamazoo Immigration Assistance Program
Farmworker Legal Services
Gamaliel of Michigan
Gamaliel of Michigan, Cristo Rey Church Chapter
Justice for Our Neighbors West Michigan (JFON)
Legal Services of South Central Michigan
Michigan Migrant Legal Assistance Project, Inc. (MMLAP)
Michigan Organizing Project
Pax Christi Michigan
Reform Immigration FOR America
State Representative Rashida Tlaib (D-12th District)
St. Vincent Catholic, Immigration Law Clinic
The Bangladeshi American Democratic Caucus
Washtenaw Interfaith Coalition for Immigrant Rights

Minnesota

Immigrant Law Center of Minnesota
The Advocates for Human Rights

Nebraska

Sisters of Mercy West Midwest Justice Team

North Carolina

Southern Coalition for Social Justice

New Jersey

American Friends Service Committee
La Casita
Legal Services of New Jersey

New Mexico

ACLU of New Mexico Regional Center for Border Rights
Catholic Charities of the Diocese of Las Cruces, Inc.

New York

Bellevue/NYU Program for Survivors of Torture
Cornell Law School Immigration Appellate Law and Advocacy Clinic
Immigration Justice Clinic
inMotion, Inc.
New York State Defenders Association, Criminal Defense Immigration Project
The Neighborhood Defender Service of Harlem, Immigration Services Project

North Carolina

North Carolina Justice Center, Immigrants Legal Assistance Project
The Hispanic Community Development Center

Oregon

Immigration Counseling Service (ICS)
Lane County Legal Aid and Advocacy Center

Pennsylvania

Hebrew Immigrant Aid Society and Council Migration Service
Pennsylvania Immigration Resource Center

Texas

Catholic Charities of Dallas Immigration & Legal Services, Patricia Freshwater
Diocesan Migrant & Refugee Services, Inc.
Human Rights Initiative of North Texas
Refugio del Rio Grande, Inc.

Virginia

Just Neighbors

Washington

Northwest Detention Center Roundtable
Northwest Immigrant Rights Project
Washington Defenders Association's Immigration Project

Individual Attorneys and Representatives

Sioban Albiol
Sophie M. Alcorn
Flavio Alfie, Alfie & Alfie, P.A.
Maria F. Alfie, Alfie & Alfie, P.A.
Vanessa Allyn
Moses Apsan
Janell N. Avila
Laura F. Bachman
Sarah K. Bazzi, Esq.
Ethan O. Beatties, Esq.
Lloyd E. Bennett, Esq.
Dara L. Berger
Alison Berry, Esq.
Joseph E. Best, Esq.
Rebecca Black
Juan C. Blanco, P.A.
Samuel D. Blanco
Victoria L. Block
Lisa S. Bodyaga, Refugio del Rio Grande, Inc.
Ally Bolour
Raymond Reza Bolourtchi, Cofman & Bolourtchi LLC
Diana Boruchin
Rosina Boulos
Tanya Brannan, Law Office of Tanya Brannan
Jeffrey N. Brauerman
Steven P. Brazelton, Law Office of Steven P. Brazelton
Fr. David Brooks, SJ, Esq.
Alison Brown
Meredith Brown
Suzanne Brown, Law Offices of Suzanne Brown, P.C.
Susan N. Burgess
Rosenny Burgos, Esq.
Penny Burillo
Franklin G. Bynum
Rebecca L. Caballero
C. Lynn Calder
Magali Suárez Candler
M. Audrey Carr, Esq.
Ramon Carrion, P.A.
Beth Caskie
Nelson A. Castillo
Ricardo Cavallera Esq.
Gerard M. Chapman
Andrea Chavarria, The Chavarria Law Firm

Hector J. Chinchilla
Alice Clapman
L. Ruth Clark
Richard L. Coshnear
Mariana Collins-Romero, Law Offices of Roy Petty
Phyllis R. Colman, Law Office of Phyllis R. Colman
Carlos M. Colombo
Salvador Colon
Jeremy W. Conrad, Esq.
Martha Cordoba, Esq.
Cherylle C. Corpuz, Orlow Kaplan & Hohenstein
Humberto J. Corrales, Esq.
Gabriel A. Couriel
Karen J. Crawford
Michelle Crawford
Caryn Crosthwait
Sara Dady, Dady Law Office
Justine M. Daly, Esq.
Christie Anne Darias Daniels
Mikiel Davids
Kai W. De Graaf, Esq.
Scott D. Devore
Katerina Diamantis, Esq.
Leslie Diaz, Esq.
Ana Duncan Pardo
Carol A. Dvorkin
Monica Eav
Rachel Effron, The Effron Law Firm, LLC
Brendan K. Egan, Esq.
Lana Svitlana V. Elliott, Law offices of Lana Elliott
Sepideh Eskandari, Esq.
David Estrella, Esq.
Corina Farias
Karen Katz Feldman
Angela J. Ferguson, Austin & Gerguson, L.L.C.
Julie C. Ferguson, P.A.
Valerie Fisk
Judy C. Flanagan, P.C.
David R. Fletcher
Maria Christina Flores, Esq.
Jordan G. Forsythe
Rochelle A. Fortier Nwadibia, Law Offices
Tammy Fox-Isicoff
Juan C. Freire, Esq. Corona Law Firm P.A.
R. Mark Frey, Frey Law Office
Lance Gallardo, Esq.

Carlos M. García
Elvia Garcia
John W. Gehart
Karin Gerardin, Esq. Gerardin Law Firm
Denise Gilman
Grace Gomez, Law offices of Gomez and Lackey, LLC
Gittel Gordon
Celia Gore
Sophia M. Goring-Piard, Esq.
Silvia Graves
William E. Graves Jr., Graves & Doyle
Rachel Groneck, Esq.
Jose A. Guerrero
Lourdes Guiribitey, Esq.
Charla Haas
Daniel P. Hanlon, Esq.
Clare Hanusz, Esq.
Stacey-Ann Harris
Sheila N. Hayre
Geoffrey Heeren
Alicia M. Heflin, Esq.
Bryony Heise, Heise Law Office
William F. Henning
Peggy Herman, Law Office of Peggy L. Herman
Barbara Hines
Laila Hlass
Joseph C. Hohenstein, Orlow Kaplan & Hohenstein
Alex G. Isbell, Esq.
Marcus B. Jaynes, Esq.
Maria V. Jones, Esq., Law office of Maria V. Jones
David Kaplan, Orlow Kaplan & Hohenstein
Rona Karacaova
Rose Kasusky, Esq., Kasusky Law
Tracie L. Klinke, Esq.
Faye M. Kolly
Jillian Kong-Sivert, Law Office of Jillian N. Kong-Sivert, P.L.L.C.
Fred Korkosz
Daniel M. Kowalski
Augie Kreivenas
Richard Kulics
Ira Kurzban
Joseph Lackey
Sandra Lambert, PA
Karla Lammers, Esq., Acevedo, Lammers & Associates, P.A.
Jon Landau
Vincent W. Lau

Emily Leung
Steven R. Lawrence Jr.
Joanne Lewis
Hans Christian Linnartz
Andres Lopez, Forsythe Immigration Law Firm
Peter J. Loughlin, Goldman & Loughlin, PLLC.
Douglas Lux
Mallory Lynn, Esq.
Sara Mailander
Susy Mancina, Esq.
Margarita Manduley, Esq.
Lynn Marcus, Immigration Law Clinic, James E. Rogers College of Law
Sheilia Vélez Martinez
Silvia Martinez
Toni Maschler
Kenneth A. Mayeaux
Francois-Ihor Mazur, Esq.
Elizabeth McCormick
Michael K. Mehr, Law Office of Michael Mehr
Laura Menchero
Nancy-Jo Merritt, Fennemore Craig, P.C.
Brian E. Mezger
Mathew L. Millen
Judith Seeds Miller
Nancy E. Miller, Reeves & Associates
Leonore Millibergity
Susan Mills
Christina L. Misner-Pollard, J.D., LL.M.
Susham Modi
Alisha Mohammed, Esq.
Annie Monahan
Susan C. Montalvo-Gesser
Angelique Montano
Ana M. Montiel, Esquire
Sarah Monty
Alex Morales
Myron Morales
Susan S. Morris, Esq.
Mark Morrison
Simon Moshenberg
Peter J. Murrett, III, VIVE Inc.
Lori Nakaoka
Natalie Nanasi
Mac Nayeri, Esq.
John C. Nelson
Nicole Hope Nelson

Eleanor J. Newhoff
Brian D. O'Neill
James J. Orlow, Orlow Kaplan & Hohenstein
B. John Ovink, Esq.
Ren Rong Pan
Loredana G. Pantano, Esq.
Helen Parsonage
Meeta A. Patel, Esq.
Sunil C. Patel, Esq., Patel Law Office, PL
William Pavlov, Esq.
Jose I. Perez
Fernando Perez III, Esq.
Tom Perkinson
Leonor Perretta
Michael Pezzuto
Charles A. Phipps, LLC
Alary E. Piibe, Esq.
Ralph L. Pineda
Elizabeth C. Pines, P.A.
Louis M. Piscopo, Esq.
Sandy Placido
Barbara Plantiko
Steven C. Planzer, Esq.
Taryn Pleva, Esq.
Pablo E. Polastri, Esq.
Scott D. Pollock, Scott D. Pollock & Associates, P.C.
Cathy Potter
John P. Pratt, Esq.
John Quinn
Mathew Quinn, Butler and Quinn, PLLC
Ana Lorena Quiros
Jennifer Rampton
Rosslyn Read, Trefonas Law, PC
Gina L. Reynolds, Esq.
Leda. Mirba N. Rivera Andino, Esq.
Jorge M. Robert, Esq.
Jorge Rodriguez Choi
Paul H. Roalsvig, Esq.
Maria R. Rosciglione, Esq.
Carrie Rosenbaum, Esq.
Jonathan P. Rose
Amy M. Royalty, MacDonald Hoague & Bayless
Walter H. Ruehle
Ilene D. Sager, Esq.
Corina E. Salazar
Anis N. Saleh

Luis Salgado, Esq.
Elizaveta V. Samorukova, P.A
Zachary Sanders, Esq.
Beatriz A. Sandoval
Julia A. Cruz Santana, Esq.
John Carlos Sarmiento
Michael W. Schoenleber
Philip G. Schrag
Sister Veronica Schueler, FSE
Stephen V. Scribner
Dale Schwartz
Gail S. Seeram, LL.M, JD, BBA
Maria Fatima Seife, Esq.
Rachel Settlage
Nikhil Shah
Nera Shefer
Anthony F. Siliato
Howard A. Silverman
Nicole Simon, Baumann, DeSeve & Landau
Ricardo Skerrett
Steven A. Sklar
Kevin D. Slattery, P.A.
Kathleen Slocum
Jamilia N. Smith
Jennifer M. Smith, Esq.
Phillip Smith
Susan R. Smolens, Esq.
Julie Soininen, Montagut and Sobral PC
Carlos E. Solomiany
Martin M. Solomon
David Sperling
Tim Straus
Andy G. Strickland, Esq.
Gene Sun
Vivian N. Szawarc, Esq., Law Offices of Vivian N. Szawarc
Deborah Temples, Wendt & Temples LLC
Mary Teruya, Esq.
Rev. Linda Theophilus
Erica Tomlinson
Elisabeth Trefonas, Trefonas Law P.C.
Francisco Ugarte, Esq.
Calvin Uomoto
Delfino Varela, Esq.
Caroline van der Harten, Ecumenical Ministries of Oregon
Rosemary Vega
Isadora Velazquez, Aigen & Velazquez, P.A.

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Gloria Vera
Ricardo E. Vicerra
Rocio Villalobos
Nancy M. Vizer, P.C.
Christopher B. Vreeland
Moneque S. Walker, Esq.
Katrina Watson
Barbara Weiner, Senior Attorney, Empire Justice Center
Deborah M. Weissman
Anna R. Welch
Jesse Westover, Esq., Westover Law Firm PLLC
Ysabel Williams, Law Office of Ysabel Williams, LLC.
Sujata Gupta Winfield, LLC
Mary E. Womboldt, Esq.
Susan P. Worm, Esq.
F. Woodside Wright
Alex Yu, Esq.
Jenny Zanner
Samuel J. Zermeno
Heather M. Ziemba

cc: Brian M. O'Leary, Chief Immigration Judge
Juan Osuna, Associate Deputy Attorney General
Robin M. Stutman, General Counsel
Gary Grindler, Acting Deputy Attorney General
David Neal, Chair, Board of Immigration Appeals
Steve Lang, EOIR Legal Orientation and Pro Bono Program Coordinator