June 21, 2021

Hon. Merrick B. Garland  
Attorney General  
Department of Justice  
950 Pennsylvania Avenue, NW  
Washington, DC 20530

Hon. Alejandro N. Mayorkas  
Secretary  
Department of Homeland Security  
2707 Martin Luther King Jr. Avenue, SE  
Washington, DC 20528

Hon. Susan Rice  
Director, Domestic Policy Council  
1600 Pennsylvania Ave. NW  
Washington, DC  20500

Dear Attorney General Garland, Secretary Mayorkas and Director Rice,

We are writing regarding the joint announcement on May 28, 2021, by the Department of Justice (DOJ) and the Department of Homeland Security (DHS) expressing your agencies’ intent to create a “dedicated docket process” for certain asylum seekers in ten cities around the country.¹ The undersigned are providers of legal immigration services in those cities as well as allied organizations, and we wish to express our strong opposition to this announcement and the process it unveiled. We urge you to abandon this proposal before its implementation begins, or at a minimum delay implementation until you can take the steps outlined below to ensure that the families undergoing this process have guaranteed access to legal representation and to a restored and enhanced asylum system.

We first want to express that our communities stand ready to welcome and support asylum seekers, as we have been doing for decades. To the extent that this proposal represents a shift away from current and past practices that have focused on detaining families and individuals seeking protection, we fully support the end of those practices. We also reaffirm our call for the Administration to end its use of Title 42 restrictions which is preventing those seeking protection from being able to pursue asylum as they are entitled to do under our immigration laws. Asylum

seekers should be welcomed with dignity and provided a meaningful opportunity to seek humanitarian protection while residing in our cities and other communities around the country.

We also share your concern regarding the backlog in the immigration adjudication systems; the tremendous delays cause our clients and their loved ones to live with uncertainty for years, an outcome desirable for no one. However, those adjudication systems remain badly broken. Because of Trump-era decisions and policies, access to justice remains compromised across the board. While we applaud Attorney General Garland’s decision to overturn the prior Administration’s rulings in Matter of A-B- and Matter of L-E-A-, no one should be subjected to expedited adjudications until all of the Trump-era policies and practices undermining the asylum process are reversed.

We are especially concerned that the “dedicated docket process” announced on May 28 is premised on the faulty assumption that the ten cities selected for this proposal have excess or spare capacity to provide legal representation on a pro bono basis to a large number of families seeking asylum and facing removal proceedings. The announcement implies that the ten cities were identified as having “established communities of legal services providers” and because those legal services providers will help facilitate referrals of “families to pro bono legal service providers for possible representation.” However, no one from DOJ or DHS made any meaningful attempt to contact legal providers in these cities in advance of the announcement. If DOJ or DHS had, we would have conveyed unequivocally that the capacity to provide pro bono legal services in each of these cities is already unable to keep up with the demand for legal services from people facing removal hearings and unable to secure representation from the private bar. We would also have conveyed that Legal Orientation Program (LOP) or Immigration Court Helpdesk (ICH) programs, although important resources for the pro se population, are insufficient measures in this context; what your Administration should urgently be pursuing are methods to ensure full legal representation.

Yet the reality on the ground is that legal providers in each of these ten cities are already under-funded and must reject a large number of requests for pro bono legal representation from non-citizens facing removal proceedings. In fact, according to data from the Executive Office for Immigration Review (EOIR) analyzed by the Transactional Records Access Clearinghouse (TRAC) at Syracuse University, as of the end of May 2021, there were 143,532 unrepresented individuals with pending removal cases in the immigration courts located in the ten cities named in the May 28 announcement.2 Given that the “dedicated docket process” does not entail any federal resources to help supplement the existing capacity of the legal services providers in

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2 According to TRAC’s analysis of EOIR data, these are the numbers of cases that are pending before the relevant immigration court that are coded as not having representation: Denver - 4,778; Detroit - 1,703; El Paso - 9,545; Los Angeles - 13,647; Miami - 38,555; Newark - 26,851; New York City - 20,816; San Diego - 6,849; San Francisco - 15,190; Seattle - 5,598. See Transactional Records Access Clearinghouse, Syracuse University, “State and County Details on Deportation Proceedings in Immigration Court,” available at: https://trac.syr.edu/phptools/immigration/nta/. It should be noted that these numbers capture primarily individuals in the non-detained dockets of these immigration courts. In many of these cities, nonprofit legal services providers are also trying to provide assistance to individuals in immigration detention, the large majority of whom are facing removal hearings without legal representation.
these regions, this will mean that the implementation of the proposal will result in providers having to either reject even more requests for assistance for the existing removal cases or reject all of the new cases resulting from this expedited docket. The end result will be that even more people will face removal hearings without legal representation. In sum, the implementation of the proposed dedicated dockets stands as a troubling departure from the Biden Administration’s stated commitment to increase access to legal representation.³

This is not the only reason, however, that we urge you to reject this proposal. Both the Obama and Trump Administrations attempted to implement similar “rocket dockets” that sought to rush the cases of asylum seekers through the overburdened immigration court system.⁴ And both attempts accomplished little more than to undermine due process for individuals seeking humanitarian protection and exacerbate dysfunctions within the immigration court system. Moreover, the Trump Administration implemented a range of troubling changes that make it more difficult for asylum seekers to qualify for humanitarian protections. Fully undoing those changes and broadening opportunities to seek protection should take precedence before forcing even more people to go through an asylum process that was gutted by the prior Administration.

Finally, it is our understanding that those placed on the dedicated dockets will automatically be subjected to a surveillance-based Alternative to Detention program, an alarming course of action for a population studies have shown to have near 100% rates of compliance when provided information and counsel.

We urge you to rescind the proposed “dedicated docket process” announced on May 28 and to instead work to develop solutions that are centered on ensuring that those seeking humanitarian protection have a meaningful opportunity to do so. At the very least, we ask you to delay implementation of this proposal until there is adequate funding available to ensure every family selected for the dedicated dockets has access to government-appointed counsel and until asylum protections rolled back under the Trump Administration are fully restored. More broadly, we urge you to work toward ensuring that all non-citizens facing removal hearings have access to government-appointed counsel when they cannot afford private representation.

Respectfully,


Legal Services Providers Serving Immigration Courts in Ten Cities Named in May 28 Announcement

**Denver**

Colorado Asylum Center
Rocky Mountain Immigrant Advocacy Network

**Detroit**

Adrian Dominican Sisters Immigration Assistance
Law Office of N.J. Saleh
Michigan Immigrant Rights Center
University of Detroit Mercy Immigration Law Clinic
Wayne State Asylum & Immigration Law Clinic

**El Paso**

Beckett Law Firm, P.C.
Catholic Charities of Southern New Mexico
Diocesan Migrant & Refugee Services, Inc.
Immigrant Justice Corps
Las Américas Immigrant Advocacy Center
Miles Immigration Law

**Los Angeles**

Al Otro Lado
California Rural Legal Assistance Foundation
Central American Resource Center - CARECEN- of California
Coalition for Humane Immigrant Rights (CHIRLA)
Esperanza Immigrant Rights Project
Human Rights First
Immigrant Defenders Law Center
Immigrant Legal Defense
Immigration Center for Women and Children
Kids in Need of Defense
Los Angeles Center for Law and Justice
Public Counsel
Public Law Center
San Joaquin College of Law - New American Legal Clinic
Solidarity - Camino Immigration Services
Young Center for Immigrant Children's Rights
Miami

Americans for Immigrant Justice  
Catholic Legal Services, Archdiocese of Miami  
Florida Legal Services, Inc.  
Immigrant Justice Corps

Newark

American Friends Service Committee, Immigrant Rights Program  
Human Rights First  
Immigrant Justice Corps  
Kids in Need of Defense  
Legal Services of New Jersey  
Morris County Organization for Hispanic Affairs

New York City

Asylum Seeker Advocacy Project (ASAP)  
Human Rights First  
Immigrant Justice Corps  
Justice For Our Neighbors  
Kids in Need of Defense  
UnLocal  
Young Center for Immigrant Children’s Rights

San Diego

Al Otro Lado  
Immigrant Defenders Law Center  
UURISE - Unitarian Universalist Refugee & Immigrant Services & Education

San Francisco

California Rural Legal Assistance Foundation  
Central American Resource Center of Northern California  
Centro Legal de la Raza  
Community Legal Services in East Palo Alto  
Dolores Street Community Services  
Human Agenda / CLARO  
Immigrant Legal Defense  
Immigrant Legal Resource Center  
Immigration Center for Women and Children  
Immigration Institute of the Bay Area
Kids in Need of Defense  
Latin Advocacy Network - LATINAN  
Law Office of Peggy J. Bristol  
Mustard Seed Immigration Law Project  
Open Immigration Legal Services  
Pangea Legal Services  
San Joaquin College of Law - New American Legal Clinic  
Tahirih Justice Center  
University of San Francisco Immigration & Deportation Defense Clinic  

Seattle  

Central Washington Justice For Our Neighbors  
Colectiva Legal del Pueblo  
Entre Hermanos  
Kids in Need of Defense  
Law Office of Shara Svendsen PLLC  
Kitsap Immigrant Assistance Center  
Northwest Immigrant Rights Project  
Washington Defender Association’s Immigration Project  
The West African Community Council  

Allied Organizations  

The Advocates for Human Rights  
Aldea - The People’s Justice Center  
American Friends Service Committee  
American Immigration Lawyers Association  
Apostle Immigrant Services  
Ascentria Community Services, Inc., Immigration Legal Assistance Program  
Asian Pacific Institute on Gender-Based Violence  
ASISTA  
Asylum Program of Arizona  
Bridges Faith Initiative  
Capital Area Immigrants' Rights Coalition  
Capital District Women's Bar Association Legal Project, Inc.  
Catholic Legal Immigration Network, Inc.  
Center for Gender & Refugee Studies  
Centro de Trabajadores Unidos: United Workers' Center  
Church Council of Greater Seattle  
Church World Service  
Coalition for Our Immigrant Neighbors  
Community Visions  
Congregation Beth Shalom, Seattle, WA
Doctors for Camp Closure
Freedom For Immigrants
HIAS Pennsylvania
Immigrant Justice Idaho
Immigrant Legal Advocacy Project
Immigration Advocates Network
Immigration/Race Justice Group
Immigration Resource Center of San Gabriel Valley
Innovation Law Lab
Japanese American Citizens League
Jewish Voice for Peace, Tacoma, WA
Legal Aid Justice Center
LIFT, Local Immigrant Family Treasury
Long Beach Immigrant Rights Coalition
Louisiana Advocates for immigrants in detention
Loyola New Orleans College of Law Stuart H. Smith Law Clinic and Center for Social Justice
Lustgarten Global PLC
Lutheran Immigration and Refugee Service
Maryland Against ICE Detention
MCC EC Florida
Mid-South Immigration Advocates
Mississippi Center for Justice
National Immigrant Justice Center
National Immigration Law Center
National Immigration Project
National Network for Immigrant & Refugee Rights
National Partnership for New Americans
NETWORK Lobby For Catholic Social Justice
New York Immigration Coalition
Orange County Justice Fund
Pacific County Immigrant Support
Pennsylvania Immigration Resource Center
Prisoners' Legal Services of New York
Pueblo Unido PDX
Puentes
RAICES
Sanctuary DMV
Save the Children Action Network
SB County Immigrant Legal Defense Center
SEIU 775
St. Mark's Episcopal Cathedral
Strengthening Sanctuary Alliance
Survivors of Torture, International
Tulane Immigrant Rights Clinic
UFCW21
Van Der Hout, LLP
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Wind of the Spirit Immigrant Resource Center
Witness at the Border
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