April 17, 2018

United States Senate
Committee on the Judiciary
Dirksen Senate Office Building
2nd Street NE
Washington D.C. 20002

Re: Public Comment -- April 18, 2018 Hearing on “Strengthening and Reforming America’s Immigration Court System”

Dear Committee Members:

Public Counsel writes to express our shock and concern at the sudden suspension of the Executive Office for Immigration Review’s Legal Orientation Program (LOP) and the Immigration Court Help Desk (ICHID). Over the past decade, Public Counsel’s Immigrants’ Rights Project has served thousands of immigrants detained in the Los Angeles area, as well as scores of pro se immigrants in non-detained removal proceedings. We have seen firsthand the acute need for legal assistance, where the vast majority of people face complex immigration court proceedings without counsel. LOP and the ICHID provide critical services to these individuals: informing them of their rights, educating them about their legal options, and in some cases connecting them to pro bono attorneys. Without these essential programs, both our communities and our courts will suffer irreparable harm.

The vast majority of immigrants facing deportation lack legal counsel. In California, 68% of detained immigrants have no lawyer. Yet immigration law is notoriously complex. And its consequences are severe: banishment from the country, permanent family separation, loss of access to medical treatment and educational opportunities, to name a few. For that reason, the immigration court system has been compared—by its own judges—as akin to trying death penalty cases in traffic court. See http://www.cnn.com/2014/06/26/opinion/immigration-judge-broken-system/index.html.

LOP is one of the few bulwarks of due process in our troubled immigration detention system. At the 38 detention facilities where it operates, LOP helps tens of thousands of people a year. LOP can take the form of structured group classes that explain what to expect in immigration courts and the most common forms of relief. It may also take the form of individual orientations. In many instances, LOP gives those detained their only contact with someone who is not responsible for detaining or deporting them. As a result, detained
immigrants who would otherwise have no access to counsel are able to make informed decisions about their legal cases. A few examples serve to highlight the importance of the program:

- “Emilia,” a lawful permanent resident from Peru and the mother of two U.S.-citizen children, attended LOP. She was detained after she failed to appear for an immigration court hearing and was ordered removed in absentia. Emilia’s failure to appear was due to severe domestic violence. She was hospitalized with bone fractures to her face at the time of her hearing. Now, she was on the brink of deportation. At LOP, Emilia learned that she had the option to ask the immigration court to reopen her case. She did so and, ultimately, Emilia was reunited with her children and won the right to keep her green card.

- “Jennifer,” a transgender human rights activist from El Salvador, fled to the United States after Salvadoran police officers raped and left her for dead. She sought help at the U.S. border and was detained. At LOP, Jennifer learned about the asylum process. That knowledge helped her to prepare for and pass her credible fear interview with an asylum officer. Her case was then referred to immigration court. At that point, LOP connected her with a pro bono attorney. Jennifer went on to win asylum, and has continued her advocacy on behalf of the LGBTQ community.

- “Cristian,” a lawful permanent resident and U.S. military veteran from Nicaragua, attended LOP. After completing a tour of duty in Iraq, he struggled with substance abuse. He was detained by immigration authorities following a conviction. At LOP, Cristian learned about cancellation of removal, a form of relief that would allow him an opportunity to keep his green card. He also learned what evidence he would need to gather to support his application. Cristian went on to win cancellation, receiving the second chance he deserved to remain in this country for which he risked his life.

Detained immigrants are not the only ones who reap the benefits of LOP: The federal government does as well. When people are informed about the court process and their options, the immigration system runs more smoothly. Those who have no relief from removal are more likely to acquiesce to deportation quickly, saving the government in detention costs. Those who have relief options can more efficiently navigate the court process, taking up less of the immigration court’s time and resources. This is not conjecture. The Department of Justice itself concluded that LOP saves the federal government $17.8 million a year in reduced detention and court costs. See https://www.justice.gov/sites/default/files/eoir/legacy/2013/03/14/LOP_Cost_Savings_Analysis_4-04-12.pdf.

The Immigration Court Help Desk is equally critical. In the five cities where it operates, ICHD provides orientations to help non-detained immigrants understand what will happen in court and how to prepare to present their case to the judge. This very basic assistance is critical to pro se respondents’ ability to participate in court proceedings when they are unable to obtain representation. The services provided at the ICHD, like those in LOP, save lives. Public Counsel regularly refers to our local ICHD pro se asylum seekers whom we do not have the resources to represent. At the ICHD, they have the opportunity to meet with a lawyer who can review the
asylum application with them, and walk them through how to timely file for relief. Without this assistance, these individuals would be barred from asylum. Similarly, without ICHD, pro se litigants struggle to properly file a Motion to Change Venue, to fill out an application for a work permit for which they are eligible, or to understand a Notice of Hearing that they received by mail. As with LOP, the Department of Justice has lauded ICHD’s ability to increase “court efficiency and improve outcomes in the immigration courts.” See https://www.justice.gov/eoir/self-help-materials.

Recognizing these benefits, Congress rightly appropriated funding to ensure the continuity of the Legal Orientation Program and the Immigration Court Help Desk for FY2018. Public Counsel proudly stands by the Vera Institute of Justice and nonprofit legal service providers across the nation in demanding that those funds be used, as Congress intended, to sustain the life-saving work of LOP and the ICHD. This body must not remain silent while the Administration, in its haste to deport, ignores Congress’ determination and undermines the fairness of our courts.

Sincerely,

Talia Inlender
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Immigrants’ Rights Project
Public Counsel