



October 30, 2023

Sent via email to: [record@judiciary-dem.senate.gov](mailto:record@judiciary-dem.senate.gov)

Senator Richard J. Durbin  
Chair  
United States Senate, Judiciary Committee  
Washington, D.C.

RE: Formal request from the Senate Committee on the Judiciary, Subcommittee on Immigration, Citizenship, and Border Safety for answers to attached questions for the record of the hearing entitled “Preserving Due Process and the Rule of Law: Examining the Status of Our Nation’s Immigration Courts” on Wednesday, October 18, 2023.

Dear Chair Durbin,

Thank you for the opportunity to answer additional questions following the Senate Committee on the Judiciary, Subcommittee on Immigration, Citizenship, and Border Safety hearing entitled “Preserving Due Process and the Rule of Law: Examining the Status of Our Nation’s Immigration Courts” on Wednesday, October 18, 2023.

**Question 1: During your testimony, you discussed some of the unique challenges with presiding over immigration cases. In your experience, how often are immigrants coming before your court adequately informed of their legal rights and options?**

It is my observation that the unrepresented respondents who appear on my docket have very limited understanding of the complexities of immigration law, immigration court proceedings,

how to complete applications for relief, and how to represent themselves in immigration court proceedings. They often do not speak or understand the English language, the dockets are very heavy with limited court time, and nearly all respondents request additional time to seek representation which causes delays in adjudication. Presiding over cases with unrepresented non-citizens are resource-intensive and require the court to expend additional resources.

The Department of Justice, Executive Office for Immigration Review, maintains a Legal Orientation Program (LOP), at which representatives from nonprofit immigration legal service organizations provide explanations about immigration court procedures. However, this resource is available to adult individuals who *are in* U.S. Department of Homeland Security (DHS) custody. Because the parties that appear on my docket at New York Federal Plaza Immigration Court are not in DHS custody, they do not benefit from the vast majority of the LOP resources including group and individual orientations, interactive general overviews of immigration removal proceedings and forms of relief, and access to self-help workshops. Of the nearly 2.8 million cases in the backlog nationwide,<sup>1</sup> only about one percent of the non-citizens are in custody and are able to access LOP resources.<sup>2</sup>

On most Tuesdays, the Catholic Charities Archdiocese of New York operates a ‘Helpdesk’ program (ICH) at the New York Federal Plaza Immigration Court on a ‘first come, first served - registration required’ basis. The purpose of the program is to educate non-detained respondents about the court process with the aim of helping them make more informed decisions about their cases. These free services are offered in a wide range of languages, and registrants gain access to individual information sessions, self-help workshops, *pro bono* outreach, and group information sessions. In addition, the New York Federal Plaza Immigration Court provides some limited self-help written materials, presented on a courthouse wall display, such as ‘How to File a Motion to Change Venue’, which assist individuals in learning about the immigration court process and their responsibilities.

**Question 2: The Legal Orientation Program (LOP) provides information to detained immigrants about their rights and the immigration court process. Have you presided over cases where an immigrant has received information or education from the LOP?**

I have presided over thousands of cases where the parties are in DHS custody who have had access to LOP program resources. Since I joined the bench in November 2006, I have presided at immigration courts in detention facilities located at Lancaster Immigration Court (California),

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<sup>1</sup> TRAC Immigration, Immigration Court Backlog, September 2023, *available at* <https://trac.syr.edu/phptools/immigration/backlog/>.

<sup>2</sup> TRAC Immigration, Immigration Detention Quick Facts, September 24, 2023, *available at* [trac.syr.edu/immigration/quickfacts/detention.html#detention\\_held](https://trac.syr.edu/immigration/quickfacts/detention.html#detention_held).

Tacoma Immigration Court (Washington), Aurora Immigration Court (Colorado), Varick Immigration Court (New York), Laredo Immigration Court (Texas), and San Francisco Immigration Court (California). It is my observation that the adjudicative process benefits from the LOP program because access to its resources enables non-citizens to make informed decisions about their cases, and enables the court to conserve limited resources and support efficiency and judicial economy.

Sincerely,



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