

William P. Barr
US Attorney General
US Department of Justice

James McHenry
Director
Executive Office for Immigration Review

Chad Wolf
Acting Secretary
Department of Homeland Security

Ken Cuccinelli
Acting Director
US Citizenship and Immigration Services

Matthew Albence
Deputy Director
Immigration and Customs Enforcement

Dear Attorney General Barr, Director McHenry, Acting Secretary Wolf, Acting Director Cuccinelli, Deputy Director Albence,

On behalf of the 208 undersigned non-profit legal services organizations, law firms, and immigration legal representatives we write to ask that you immediately implement policies and protocols to fully and effectively respond to the crisis currently being caused by COVID-19. We appreciate that The Executive Office for Immigration Review, The United States Citizenship and Immigration Services, and U.S. Immigration and Customs Enforcement have heeded the call of health experts and cancelled all non-detained operations that require the public to travel to and congregate in your respective offices. However, further action is needed. So long as these agencies continue to operate under existing protocols and near-normal conditions during these unprecedented times, immigrants and the providers and advocates who help them to navigate these systems will suffer serious hardships that raise due process concerns.

During these extraordinary times, it has become difficult to the point of being nearly impossible for individuals and their legal representatives to prepare cases and meet deadlines even if the submission will only happen via mail. The challenges faced by legal services and/or community members include, but are not limited to:

- Clients and advocates cannot safely conduct in-person meetings: Legal representatives and their clients cannot meet in person without risking exposing each other and their communities to this extremely contagious virus, both via their in-person interactions and via traveling to each other's locations;

- Remote client meetings are often not an option because clients lack access to technology. Telephonic and televideo meetings are often impossible as many clients, especially individuals who are homeless, live in shelters, or are otherwise in unstable housing situations, lack reliable access to the internet or access to technology. Additionally, places where low-income immigrants can normally access technology when they don't have it at home, such as schools or libraries, are currently closed;
- Even when clients have access to reliable technology, it is extremely challenging to interview clients remotely because of the difficulty of establishing a personal connection and a relationship of trust over video or telephone. These challenges are magnified when working victims of trauma such as asylum-seekers, victims of domestic violence, or victims of crime;
- Communication with clients, especially those who need interpreters, becomes increasingly complicated over telephone and televideo.
- Most remote meeting options pose serious confidentiality concerns. These concerns include the lack of confidentiality protections on the platforms that facilitate the meetings. They also include the presence of other persons in the room (listening to otherwise confidential information) if the representative, client, or interpreter live and/or work in shared space.
- Difficulties in communicating with and preparing clients remotely are magnified when working with trauma victims. Many of the trauma-informed strategies usually employed by providers do not translate to remote-type work, meaning that many applicants for relief including but not limited to asylum, U visas, T visas, VAWA-based relief, Special Immigrant Juvenile Status will not be able to submit applications that adequately articulate their eligibility for the benefits sought.
- It has become extremely difficult to collect supporting documents. Even when systems are in place to limit one-on-one interaction between the legal representative and the client, exchanging documents will often require both sides to travel to offices to mail and retrieve the shared materials. Very few clients have the at home ability to scan and share electronic versions of supporting documents, and the services they would normally rely on to do so, like copy/print centers, are now closed. Even for clients who have access to scanners at home, the volume of documents that must be shared with counsel in even simple cases is prohibitive without access to sophisticated scanning technology.
- *With the New York on Pause Executive Order, signed by Governor Andrew Cuomo on Friday March 20th, getting to necessary offices, including post offices, printing offices, and regular offices, is now no longer allowed, making these challenges impossible to navigate. In addition, lawyers will no longer have access to case statuses and requests

received via the mail, especially for cases with confidentiality protections that make the information inaccessible via online tools.

- Evidence in support of immigration cases often comes from government sources whose offices are closed because of the crisis, which will make it considerably more difficult, if not impossible, to obtain certain types of evidence in a timely way. For example, many documents supporting immigration court cases will come from hospitals or law enforcement agencies, both of which are focused entirely on addressing the current health crisis. It would be unconscionable to ask attorneys to make requests for documents from these agencies, risking diverting necessary resources away from the effort to combat the virus.
- Finally, immigrant communities and those that support them are facing grave competing challenges. Immigrant communities are some of the most vulnerable to the immediate economic and social implications of COVID-19. Many immigrants are not able to work from home, are at risk of losing their jobs or their small businesses, are struggling to balance ongoing work obligations to make ends meet with schools being shut down, and are facing numerous other stressors that make them unable to fully participate in the preparation of their cases at the moment. In addition, those they usually rely on for help, such as legal representatives and community advocates, are navigating their own challenges and may be less available as a result.

Consequently, we are calling on your respective agencies to immediately take the following steps:

Immigration Courts

- Immediately toll all BIA appeal deadlines, but for those that apply to detained cases, during the length of the crisis. Have filing deadlines become effective again a minimum of six (6) months after the courts reopen and motions to reopen or re-consider due twelve (12) months after the courts reopen to give all sides time to re-engage and address any procedural issues that arose as a result of the court closures.
- Immediately issue a Policy Memorandum, to supplement the one issued March 18, 2020, to clarify that all EOIR deadlines will be extended or tolled during the length of the crisis, and will become effective again a minimum of six (6) months after the courts reopen, and motions to reopen or re-consider due twelve (12) months after the courts reopen, to give all sides time to re-engage.
- Immediately close all non-detained immigration courts, retaining only a skeletal staff to handle emergency issues including bond hearings and hearings for detained cases.

- Issue standing orders in the courts holding hearings in detained cases to immediately allow all appearances to be conducted via telephone and allow for electronic filings via email. Adopt a policy of encouraging the granting of requests for continuances when attorneys file motions to do so because of their inability to properly prepare their cases.
- Encourage parties to stipulate to bond amounts on paper.
- Issue a blanket extraordinary circumstances exception to (1) the one-year filing deadline for asylum applications and (2) the 180 day deadline for motions to reopen based on exceptional or changed circumstances that would be due between March 1, 2020 and no less than six (6) months after the reopening of the courts or, when applicable, the date of the next scheduled master calendar hearing, whichever comes last.
- Commit to flexibly and favorably addressing COVID-19 cause “age-outs” on a case by case basis, including in applications for non-LPR Cancellation of Removal and Special Immigrant Juvenile Status.

Immigration and Customs Enforcement

- Immediately cease all interior enforcement and release individuals in ICE custody. Absent a meaningful assurance that enforcement will in fact be suspended, immigrant community members will fear seeking medical and other help. We note that ICE’s initial announcement to this effect was almost immediately contradicted by DHS Senior Official Ken Cuccinelli on Twitter.
- Whenever possible, and particularly in detained proceedings, stipulate to relief so as to close out cases.
- Stipulate to bond amounts in writing.
- Further suspend ICE check-ins for pre and post-detention populations during the length of the pandemic.
- Issue automatic 3-month extensions of existing grants of deferred action, renewable as necessary during the length of the pandemic. Exercise discretion in favor of new requests of deferred action.
- Suspend E-Verify during the length of the pandemic.

US Citizenship and Immigration Services

- Issue a blanket exceptional exception to the one-year filing deadline for asylum applications that would be due between March 1, 2020 and no less than six (6) months

after the reopening of the USCIS offices as was done after Hurricanes Katrina and Rita.

- Commit to flexibly and favorably addressing COVID-19 caused “age-outs” on a case by case basis, including in applications for Special Immigrant Juvenile Status and late filings for relief under VAWA.
- Issue automatic of work authorizations, VAWA Prima Facie determinations, and grants of deferred action, including Deferred Action for Childhood Arrivals, for the same length of time as previously granted, and renewable as necessary during the length of the pandemic.
- In connection with U visa applications, commit to accepting law enforcement agency certifications that have expired in the time period between March 1, 2020 and six months after agency offices reopen.
- Where it exists, waive the requirement for original signatures and original photographs.
- Suspend the issuance of any new Requests for Evidence (RFE) and Notices of Intent to Deny (NOID) until offices are able to resume normal operations, including accessing their mail. Issue blanket extensions for all previously-issued RFE deadlines, as well as appeals to the Board of Immigration Appeals and the Administrative Appeals Office, to 45 days after the end of the restrictions announced in the New York on Pause executive order.

Thank you for your prompt considerations of these matters.

Cc: Cameron Quinn, Department of Homeland Security Civil Rights Civil Liberties Office
Joseph V. Cuffari, Department of Homeland Security Office of the Inspector General
Michael Dougherty, Citizenship and Immigration Services Ombudsman
Senator Chuck Schumer, New York
Senator Kristen Gillibrand, New York
Congressman Jerrold Nadler, New York

Signed:

African Services Committee
American Immigration Lawyers Association
- New York Chapter
Association of Deportation Defense
Attorneys, Inc.
Brooklyn Defender Services
Cabrin Immigrant Services of NYC
CAMBA, Inc.

CARECEN NY
Catholic Charities Community Services,
Immigrant & Refugee Services
Catholic Migration Services
Center for Family Representation
Center for Safety & Change
Central American Legal Assistance
Community Legal Advocates of New York

Community Resource Center
Cornell Law School Asylum Clinic
Council on American-Islamic Relations New York (CAIR-NY)
CUNY Citizenship Now!
Domestic Violence Project at the Urban Justice Center
Emerald Isle Immigration Center
Empire Justice Center
Faith in New York
GMHC
Her Justice
HIAS NY
Hofstra Law School Asylum Clinic
Human Rights First
Immigrant Advocates Response Collaborative
Immigrant and Non-Citizen Rights Clinic, CUNY School of Law
Immigrant Defense Project
Immigrant Justice Corps
Immigration Advocacy Services
Immigration Justice Clinic, John Jay Legal Services, Inc.
International Refugee Assistance Project
Journey's End Refugee Services
Justice in Motion
LegalHealth of New York Legal Assistance Group
Lutheran Social Services of New York
Make the Road NY
Mobilization for Justice, Inc.
National Immigration Project of the National Lawyers Guild
Neighborhood Defender Service of Harlem
Neighbors Link Community Law Practice
New Immigrant Community Empowerment (NICE)
New York City Gay and Lesbian Anti-Violence Project (AVP)
New York County Defender Services
New York Immigration Coalition
New York Justice for Our Neighbors, Inc

New York Law School Asylum Clinic
New York Lawyers for the Public Interest
Northern Manhattan Coalition for Immigrant Rights (NMCIR)
NY-JUSTICE For Our Neighbors
NY-Justice For Our Neighbors
RSHM LIFE Center
Safe Harbor Clinic, Brooklyn Law School Legal Services
Safe Horizon
Safe Passage Project
Sanctuary for Families
TakeRoot Justice
The Bronx Defenders
The Door
The Legal Aid Society (New York)
The Legal Aid Society of Rochester, NY
The Legal Project
U.S. Committe for Refugees and Immigrants
UnLocal, Inc.
Urban Resource Institute
Worker Justice Center of New York
Yemeni American Merchant's Association (YAMA)
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