

A RIGHT TO GOVERNMENT FUNDED COUNSEL: A PROPOSAL TO ADDRESS
UNREPRESENTED IMMIGRANTS IN DEPORTATION PROCEEDINGS

by
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Abstract

Earlier this year in January, in another blow to immigrant rights, the Supreme Court ruled that the Department of Homeland Security could implement their new “public charge” ground of inadmissibility rule. This decision came at a time when US immigration policy is increasingly more punitive enforcement centered, with thousands of detained immigrants awaiting their day in court, without legal representation. The goal of this policy proposal is to eliminate the number of unrepresented immigrants in immigration court deportation proceedings and provide them with legal representation to adequately present their cases. The secondary goal is to as a result lower the overall rates of immigrants in detention and those that are deported nationwide. This objective will be accomplished through an amendment to Section 292 of the Immigration and Nationality Act, Title 8 – Aliens and Nationality, U.S.C. 1362, Right to Counsel. In amending the section, the proposal will also allow for the creation of a new body, the federal New American Representation Office (NARO) to oversee and carry out this program. Versions of the present proposal have been successful at the local level in cities like New York, through the collaborative efforts of the municipality, non-profit organizations and pro bono attorneys. Despite political and legislative obstacles, it is imperative that policymakers recognize the importance of affording immigrants in detention government funded right to counsel, in the interest of family unity, due process and in an effort to cut insurmountable detention costs.

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To: Democratic Nominee for President Bernie Sanders
From: Helena Coric
Re: The Right to Government Funded Counsel for Immigrants
Date: January 28, 2020

I. Action Forcing Event

On January 27, 2020 the U.S. Supreme Court lifted the last remaining injunction against the public charge rule and allowed the Trump administration’s ground of inadmissibility to go into effect. This action will permit U.S. Citizenship and Immigration Services (USCIS) to implement the Inadmissibility on Public Charge Grounds final rule on Adjustment of Status applications effective February 24, 2020, with the exception of Illinois where the rule remains enjoined by a federal court.¹ Under this Final Rule, USCIS will be able to make determinations on whether an immigrant is likely to become a public charge based on analyzing factors such as “age, health, income, education and skills, among others”.²

II. Statement of the Problem

President Trump’s inauguration in January of 2017 resulted in the implementation of hardline executive enforcement actions designed to increase the already high number of deportations, bypassing Obama-era rules that strictly targeted convicted criminals. The measures directly impacted U.S. immigration law and policy and the lives of countless immigrant detainees through the increased construction of detention facilities and detention of immigrants, limiting access to asylum, separation of families, suspension of visas to certain countries and increased ICE enforcement raids. The lack of a right to government-funded counsel within the immigration court system may be contributing to a frightening reality of mass deportations as a result of these executive measures. The latest Transactional Records Access Clearinghouse (TRAC) report at

¹ USCIS News Release, “USCIS Announces Public Charge Rule Implementation Allowing Supreme Court Stay of Nationwide Injunctions” January 30, 2020. Retrieved from: <https://www.uscis.gov/news/news-releases/uscis-uncesanno-public-charge-rule-implementation-following-supreme-court-stay-nationwide-injunctions>

² Ibid

Syracuse University details of deportation proceedings in immigration court shows that the rates of those immigrants not represented have risen over the years.³

Findings have shown that immigrants with legal representation are ultimately more successful at each step of their immigration process and less likely to be deported. The American Immigration Council found that nationwide only 37 percent of immigrants secured legal representation in their deportation and removal cases during their immigration court proceedings in 2016.⁴ That means that 63 percent of immigrants requiring legal assistance were left to fend for themselves in an adversarial court system with complex legal jargon and regulations, that if misunderstood could mean removal from American soil. This figure was further compounded by only 14 percent of those in detention obtaining legal counsel, which differed widely from the two-thirds of those immigrants not in detention.⁵ For sensitive asylum cases in particular, the proportion of asylum seekers unable to obtain representation has risen from 13.6% in 2007 to 20.6% in 2017 at the same time that denial rates have soared.⁶ These individuals are fleeing persecution, so a deportation due to lack of counsel is a literal matter of life and death.

A University of Pennsylvania study analyzing access to counsel in immigration courts from 2007 until 2012 showed that only 5 percent of those individuals who were granted relief from deportation, did so without legal assistance.⁷ A review of 1.2 million deportation cases over six years has shown that those with counsel are more likely to be released from detention, have their cases terminated, seek relief from deportation and have the desired immigration benefit granted.⁸ The American Immigration Council further reports that represented immigrants that are not detained are five times more likely to apply for relief and in turn win their cases, with

³ TRAC Immigration, *Asylum Representation Rates Have Fallen Amid Rising Denial Rates*, (2017) Retrieved from: <https://trac.syr.edu/immigration/reports/491/>

⁴ Ingrid V. Eagly and Steven Shafer, "Access to Counsel in Immigration Court," *American Immigration Council*, no. 1 (September 2016), 2.

⁵ Ibid

⁶ TRAC Immigration, 2017

⁷ Eagly, 2016, 2.

⁸ Ibid, 23

detained immigrants 11 times more likely to pursue relief.⁹ Additionally, evidence from a current Syracuse University report shows that there are 1,101,061 pending cases, steadily increasing within the immigration court backlog.¹⁰ Efficient legal representation by attorneys, available interpreters and qualified judges are necessary in order to even attempt to tackle these delays. Instead, this past December 2019, the Executive Office for Immigration Review (EOIR) swore in 28 new immigration judges, 11 with no immigration law experience.¹¹ Actions like this indicate a fundamental disregard at addressing the actual problem at hand and restoring justice within the court system.

Individuals that are deported are physically separated from a place they have called home, isolated from family, lose employment and may face persecution and death when returned to their homeland.¹² These people are not only undocumented individuals, but can be asylum seekers, longtime legal residents, spouses and parents of U.S. citizens and even minor children. To paint them strictly as criminals as some opponents do is wrong and wholly inaccurate. The United States may have been the only place these individuals have truly called home and they may not recognize, nor be welcomed back to the country to which they are deported.

Barriers to representation include finances, limited access and legal guidance, lack of language skills and the location of immigration courts in rural areas and smaller cities.¹³ ICE leadership contends that detainees have access to phones and videoconferencing with their legal counsel, but immigration attorneys say the reality is filled with roadblocks including poor service connections, limited quantity of phones, little to no access to translators, and extremely restricted

⁹ Ibid, 2

¹⁰ TRAC Immigration, Immigration Court Backlog Tool: Pending Cases and Length of Wait by Nationality, State, Court and Hearing Location. (2020) Retrieved from: https://trac.syr.edu/phptools/immigration/court_backlog/

¹¹ Justice News. 2019. “Executive Office for Immigration Review to Swear in 28 Immigration Judges, Bringing the Judge Corps to Highest Level in History”. Washington, DC: Department of Justice. <https://www.justice.gov/opa/pr/executive-office-immigration-review-swear-28-immigration-judges-bringing-judge-corps-highest>

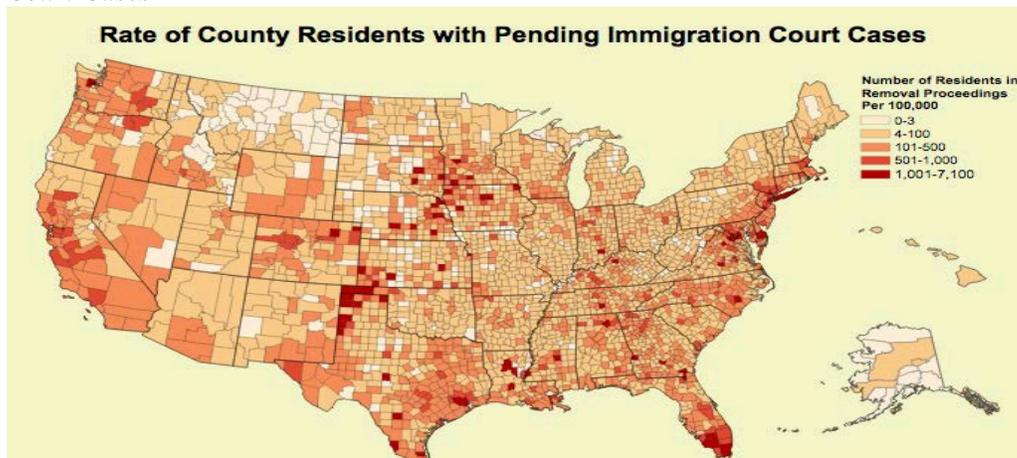
¹² Berberich, Karen, Chen, Annie, Lazar, Corey and Tucker, Emily. Advancing Universal Representation: A Toolkit (Module 1: The Case for Universal Representation), *Vera Institute for Justice*, (December 2018).

¹³ TRAC Immigration, *The Hidden Impact of Removal Proceedings on Rural Communities*, (2020) Retrieved from <https://trac.syr.edu/immigration/reports/602/>

visiting hours.¹⁴ The National Immigrant Justice Center (NIJC) executed a comprehensive national survey analyzing access to counsel in detention facilities, finding that while the US detained 400,000 immigrants in 2010, there were only 102 non-governmental organizations available to provide legal assistance to detainees, averaging less than five staff members.¹⁵ The key findings that came out of this report were frightening: 80 percent of detainees were held in facilities with insufficient access to counsel, with a ratio of 500 detainees per non-profit attorney.¹⁶

While immigration court backlogs appear to be concentrated in larger cities, TRAC data shows that 59% of those in removal proceedings are located in rural counties referred to as “legal deserts” characterized by less qualified attorneys, longer commutes to detention centers and courts and higher rates of poverty.¹⁷ *Figure 1* below is a map of the proportion of immigrant detainees in each county currently in the immigration court backlog, with the rate represented as the number per 100,000 residents in removal proceedings.¹⁸

Figure 1. TRAC Immigration – April 2020: Rate of County Residents with Pending Immigration Court Cases



¹⁴Noguchi, Yuki. Unequal Outcomes: Most ICE Detainees Held In Rural Areas Where Deportation Risks Soar. *National Public Radio*, (August 15, 2019) Retrieved from: <https://www.npr.org/2019/08/15/748764322/unequal-outcomes-most-ice-detainees-held-in-rural-areas-where-deportation-risks>

¹⁵ “Isolated in Detention: Limited Access to Legal Counsel in Immigration Detention Facilities Jeopardizes a Fair Day in Court”. *National Immigrant Justice Center*. September 2010 https://immigrantjustice.org/sites/default/files/uploaded-files/no-content-type/2017-04/Isolated-in-Detention-Report-FINAL_September2010.pdf

¹⁶ Ibid, 3

¹⁷ TRAC, 2020

¹⁸ Ibid

Respondents without counsel are concerning to begin with, but the fact that their case is further complicated due to geographic location points to an inherent problem within the U.S. legal system. The Trump administration's Department of Justice rescinded a policy from the Obama presidency urging the end of private incarceration facilities, and instead mandated that the Department of Homeland Security increase its capacity to hold immigrant detainees, in turn expanding the privatization of these centers.¹⁹ In rural and hard to reach areas or simply due to language barriers, for attorneys and nonprofit organizations there is a delay in notifying these resources that an immigrant requires counsel. The Southern Poverty Law Center sued ICE and the Department of Homeland Security with respect to the conditions at the La Salle, Irwin and Stewart detention facilities in Alabama, accusing the agency of "deliberately detaining people in immigration prisons far from legal resources".²⁰ ICE has contracted with private for-profit prison corporations that house about 50,000 immigrants, with the civil immigration detention system cited as the fastest growing part of the US system of mass incarceration, especially in the last few years under the Trump administration.²¹

These for-profit prison corporations geared towards immigrant detention are particularly concerning as money inevitably motivates political decisions. Two of the largest private prison corporations in the United States including the GEO Group Inc. and Corrections Corporations of America (CCA) have both sponsored and aided in the drafting of the most expansive and strictest anti-illegal immigration bill Arizona SB 1070 and dedicated over 90% of their lobbying funds from 2003 to 2012 campaigning for and proposing similar xenophobic and discriminatory legislation.²² Successful lobbying results in the passage of legislation and expanded privatized

¹⁹ Bennett, Brian. 2017. Not just "bad hombres": Trump is targeting up to 8 million people for deportation. *Los Angeles Times*. February 4, 2017 <http://www.latimes.com/politics/la-na-pol-trump-deportations-20170204-story.html>.

²⁰ Southern Poverty Law Center v. US Department of Homeland Security, 1:18 cv 00760 (4th Cir. 2018) https://www.splcenter.org/sites/default/files/2018-04-04_dkt_0001_complaint.pdf

²¹ Jefferis, Danielle C. "Constitutionally Unaccountable: Privatized Immigration Detention." *Indiana Law Journal* 95, no. 1 (Winter 2020): 149. <http://search.ebscohost.com/login.aspx?direct=true&db=asn&AN=141623137&site=ehost-live&scope=site>.

²² Saldivar, Karina M., and Price, Byron E. "Private Prisons and the Emerging Immigrant Market in the US." *Central European Journal of International & Security Studies* 9, no. 1 (January 2015): 40–65. <http://search.ebscohost.com/login.aspx?direct=true&db=tsh&AN=102727616&site=ehost-live&scope=site>.

prison construction directly correlates to increased enforcement measures and detention. Taking the Arizona bill which encouraged racial profiling as an example of one of many pieces of legislation for which the likes of GEO and CCA have monitored and lobbied, 30 of the 36 cosponsors that wrote that bill also received political contributions from the private prison industry.²³

The majority of these private prison companies have built these detention centers in the most rural and remote locations of the Southeastern United States, thousands of miles away from major metropolitan areas, law firms, advocacy organization and professional translators.²⁴ Travel to these remote centers is difficult for family members, further complicating the ability to retain counsel. The civil suit filed by the Southern Poverty Law Center details how detainees in rural detention centers find it next to impossible to obtain counsel and for those that do hire attorneys; limited visitation rooms; arbitrary rules and barriers to communication complicate attorney-client meetings.²⁵ *Figure 2* below shows that the top 10 counties with high rates of residents in removal proceedings are rural. From the map above in *Figure 1*, urban centers like Los Angeles, New York City and Miami appear as locations with high numbers of pending cases, which makes sense considering there are more immigrants and people in urban areas. Yet, when the amount of pending cases is analyzed relative to county population, the top 100 counties with the highest proportion of residents in removal proceedings were 90% more likely to be rural as illustrated in *Figure 2*. Private prisons used for immigrant detention are not a new phenomenon, yet since the start of Trump's presidency, at least 24 detention centers have been built, totaling 17,000 additional beds, resulting in a \$3 billion per year expense to house a majority of individuals without criminal records.²⁶

²³ Ibid, 41

²⁴ Southern Poverty Law Center v. Department of Homeland Security, 3

²⁵ Ibid, 5

²⁶ Alvarado, Monsy, Balcerzak, et. al. "The Detainees: These people are profitable: Under Trump, private prison companies are cashing in on ICE detainees". *USA Today*. December 20, 2019 <https://www.usatoday.com/in-depth/news/nation/2019/12/19/ice-detention-private-prisons-expands-under-trump-administration/4393366002/>

Figure 2. TRAC Immigration – February 2020: Counties in the Top 100 by Number and Rate of Residents with Pending Immigration Court Cases

Rank (Top 100) on:		County	Total Residents	Residents in Removal Proceedings		Rural or Urban
Number	Rate*			Number	Rate*	
	1	Stewart County, Georgia	5,832	414	7,099	Rural
	2	Frio County, Texas	19,110	976	5,107	Rural
	3	Hamilton County, Kansas	2,621	118	4,495	Rural
	4	Parmer County, Texas	9,871	423	4,285	Rural
	5	Winn Parish, Louisiana	14,631	625	4,269	Rural
	6	Colfax County, Nebraska	10,616	451	4,252	Rural
	7	Nobles County, Minnesota	21,854	874	3,999	Rural
	8	LaSalle Parish, Louisiana	14,930	548	3,669	Rural
	9	Bailey County, Texas	7,098	257	3,618	Rural
	10	Manassas Park city, Virginia	16,117	577	3,578	Urban

As of January 2020, the Executive Office for Immigration Review has found that during the beginning of fiscal year 2020 only 65 percent of immigrants secured representation. This data is important as it identifies the hundreds of thousands of potential current victims of a flawed immigrant justice system that disproportionately exposes them to the threat of deportation, due to lack of adequate due process within the U.S Department of Justice’s immigration courts. The chart below details the distinct case types and respective representation rates during the first quarter of fiscal year 2020:

Figure 3. Executive Office for Immigration Review Adjudication Statistics - Current Representation Rates as of January 23, 2020.

Fiscal Year	Universe	Unrepresented	Represented	Total	Representation Rate
2020 (First Quarter) ⁴	Overall Pending ²	374,717	687,113	1,061,830	65%
	All Pending UAC Cases ²	29,794	64,252	94,046	68%
	UAC Cases Pending More than One Year ²	14,515	60,204	74,719	81%
	Pending Asylum Cases ²	68,314	452,199	520,513	87%
	Completed Asylum Cases ³	7,207	24,848	32,055	78%
	All Completed Appeals	1,700	6,147	7,847	78%

The current political climate and executive administration’s outlook on immigration policy suggests continued political and judicial attacks on this population, which is why the issue of right to government appointed counsel is paramount. While there has been increased attention towards immigration as a hot-button issue, ramping up pro-bono initiatives and government-

funded programs, increasing the supply of attorneys to meet the greater demand, the continued court backlog has made these efforts difficult.²⁷ While previous demand may not have been met adequately, the ever-increasing new cases are pushing the slow system to the breaking point.

III. History/Background

Immigration proceedings are considered civil in nature since no violation of criminal law is typically under consideration, yet in 2010, the Supreme Court recognized that deportation was indeed an extreme punishment in their decision in *Padilla v. Kentucky*.²⁸ The landmark decision reversed the Kentucky Supreme Court, and decided that criminal defense attorneys must advise noncitizen clients of the risk of deportation and cannot remain silent on immigration related consequences, should the defendant enter a guilty plea.²⁹ The fact that this was considered a new landmark decision speaks to the unfortunate reality of a legal system whereby respondents can be subjected to “permanent exile from loved ones” in the United States or even death, and still not be entitled to equivalent due process of those defendants in criminal court.³⁰ Federal legislation passed in 1996 greatly expanded the range of criminal acts and dispositions that can result in deportation and mandatory detention during removal proceedings so the issue of counsel has become increasingly important.³¹ At the same time that the range of acts has increased which can land a foreign national into detention, the protections for the foreign respondent continue to be at a stand still.

The Illegal Immigration Reform and Immigrant Responsibility Act (IIRAIRA) and the Antiterrorism and Effective Death Penalty Act (AEDPA) from 1996 resulted in more immigrants

²⁷ TRAC, 2017

²⁸ Supreme Court Decision *Padilla v. Kentucky*, No. 08–651. Argued October 13, 2009—Decided March 31, 2010 <https://www.supremecourt.gov/opinions/09pdf/08-651.pdf>

²⁹ *Ibid*

³⁰ *Ibid*

³¹ The Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRAIRA), Pub. L. 104-208, div. C, Sept. 30, 1996, 110 Stat. 3009-546, and, Antiterrorism and Effective Death Penalty Act of 1996 (AEDPA), Pub. L. 104-132, Apr. 24, 1996, 110 Stat. 1214.

deported between 2000 and 2015 than in the preceding 150 years.³² In particular the annual deportations peaked during the Obama administration at 237,941 in 2011, averaging 155,311 removals per year, whereas the Trump administration is averaging 87,640 people per year at present.³³ While the numbers may have decreased, the greater threat still remains for those unrepresented immigrants.

The issue of an immigrant's right to counsel is complicated by both the terminology and the various sources of law and regulations that define the topic. In determining the procedure to follow *right to counsel* for immigrants is derived from a combination of the Fifth and Sixth Amendments to the U.S. Constitution, the Immigration and Nationality Act (INA) and associated federal statutes and regulations.³⁴ The Fifth Amendment ensures that immigrants have a right to counsel at their own expense during removal proceedings, enshrined in the guarantee that “no person shall be deprived of life, liberty, or property” without due process of law.³⁵ As the constitutional and statutory rights of immigrants currently stand, the government will not provide counsel in administrative removal and deportation proceedings. The Immigration and Nationality Act decrees “the person concerned shall have the privilege of being represented (at no expense to the Government) by such counsel, authorized to practice in such proceedings, as he shall choose”.³⁶ This contrasts to the Sixth Amendment to the Constitution as ruled in *Gideon v. Wainwright*, which ensures a criminal defendant's right to counsel, even if he or she cannot afford to pay.³⁷

The *Gideon* case was instrumental in developing an institutional criminal defense system, which did not transcend into the non-citizen immigration court system. Criminal counsel under

³² Office of Immigration Statistics, *2015 Yearbook of Immigration Statistics* (Washington, DC: DHS, 2016), 103 & table 39, <https://perma.cc/6ZQ9-ATKY>.

³³ Nowrasteh, Alex. “The Trump Administration’s Deportation Regime is Faltering”. *CATO at Liberty* (December 12, 2019). Retrieved from: <https://www.cato.org/blog/trump-administrations-deportation-regime-faltering>

³⁴ Manuel, Kate M. 2016. *Alien’s Right to Counsel in Removal Proceedings: In Brief*. CRS Report No.R43613. Washington, DC: Congressional Research Service. <https://fas.org/sgp/crs/homesec/R43613.pdf>

³⁵ U.S. Const. amend. V.

³⁶ 8 U.S.C. § 1362 (2012); *Biwot v. Gonzales*, 403 F.3d 1094, 1098 (9th Cir. 2005) (explaining that “[t]he right to counsel in immigration proceedings is rooted in the Due Process Clause and codified” in the Immigration and Nationality Act).

³⁷ U.S. Const. amend. VI.

Gideon must “satisfy a minimum constitutional standard of competency.” meanwhile such an equivalent standard of effective representation is not apparent for immigrant counsel.³⁸ Presently, the key legal services available to immigrants include nonprofit organizations with funding from government and philanthropic initiatives, pro bono legal services and law school legal clinics.³⁹ While immigration law is civil in nature, the problem arises in the punishments for violating the law being equivalent to or worse than those experienced by criminal defendants – loss of liberty, forced separation from family, loss of employment, loss of child custody, and the very real possibility of persecution once deported to their homelands.⁴⁰ While history has recognized the vulnerability of US citizens unable to represent themselves in court, immigrants overwhelmingly remain unprotected.

Exceptions to representation exist on a case-by-case basis, where individual immigrants may be allowed counsel at the government’s expense if found unable to represent themselves due to “age, ignorance, or mental capacity”.⁴¹ Four court circuits have also noted in that failing to appoint counsel, under certain circumstances could potentially result in a due process violation.⁴² Unfortunately, this case-by-case approach did not make much headway in other circuits or in lower immigration courts.⁴³ These people are left to rely on overworked non-profit attorneys or accredited representatives or to simply navigate this complex system alone, while confronted by trained U.S. Citizenship and Immigration Services (USCIS) Office of Chief Counsel (OCC) government attorneys that are experts in the judicial immigration process.

There is a clear difference between the treatment of immigrants and U.S. citizen low-income defendants in search of legal aid. The affected immigrant populations may additionally be

³⁸ Eagly, Ingrid V. 2013. “Gideon’s Migration.” *Yale Law Journal* 122 (8): 2282–2314.

<http://search.ebscohost.com/login.aspx?direct=true&db=bsu&AN=88990935&site=ehost-live&scope=site>.

³⁹ *Ibid*, 2289

⁴⁰ Corser, Maggie. 2017. “Access to Justice: Ensuring Counsel for Immigrants Facing Deportation in the D.C. Metropolitan Area”. *The Center for Popular Democracy*.

https://populardemocracy.org/sites/default/files/DC_Access_to_Counsel_rev4_033117%20%281%29.pdf

⁴¹ Manuel, 2016

⁴² Good, Benjamin. 2014. “A Child’s Right to Counsel in Removal Proceedings.” *Stanford Journal of Civil Rights & Civil Liberties*.109-157. <https://law.stanford.edu/wp-content/uploads/2018/05/good.pdf>

⁴³ *Ibid*

facing language barriers and be operating from remote detention centers in rural areas compounding their difficulty in accessing counsel.⁴⁴ In reviewing current immigration policy, the issue of right to government funded counsel for all immigrants remains at a standstill. Thus far, courts have rejected suits and proposals with the goal of ensuring a right to counsel for immigrants under the Constitution's Sixth Amendment.⁴⁵ Nevertheless, immigrant advocacy organizations have sought to find ways to at least eliminate some of the barriers to counsel including conditions in rural detention centers, insufficient telephone access impeding communications for those immigrants that are detained and focusing in on appointing counsel specifically for minors.⁴⁶

There has been progress in terms of litigation in recent years, as immigration advocates have brought the issue of representation to light with specific focus areas such as detained immigrants with mental disabilities. In 2013, The ACLU of Southern California filed and won a class action lawsuit, *Franco-Gonzalez v. Holder* on behalf of immigration detainees with mental disabilities who were unable to adequately represent themselves in immigration court.⁴⁷ It stemmed from an earlier case filed by immigrant Jose Antonio Franco-Gonzalez, with a cognitive disability who had spent five years in federal immigration detention without a hearing or attorney.⁴⁸ Following the *Franco-Gonzales* decision, the Departments of Justice and Homeland Security enacted a nationwide policy addressing immigrant detainees without representation that suffered from serious mental disorders or conditions that would undermine their ability to represent themselves in court proceedings.⁴⁹ The affected immigrant individuals with mental disabilities would thereby be offered "reasonable accommodation" and entitled access to

⁴⁴ Noguchi, 2019

⁴⁵ Narea, Nicole. 2019. "3 Cases That Could Boost Immigrants' Access to Counsel", *Law 360*, February 10, 2019. <https://www.law360.com/articles/1124682/3-cases-that-could-boost-immigrants-access-to-counsel>

⁴⁶ Ibid

⁴⁷ Bhandari, Esha and Iguina, Carmen. 2013. "Historic Decision Recognizing Right to Counsel for Group of Immigration Detainees". *ACLU*. April 24, 2013 <https://www.aclu.org/blog/immigrants-rights/immigrants-rights-and-detention/historic-decision-recognizing-right-counsel>

⁴⁸ Ibid

⁴⁹ Dep't of Justice, Press Release, Department of Justice and the Department of Homeland Security Announce Safeguards for Unrepresented Immigration Detainees with Serious Mental Disorders or Conditions, Apr. 22, 2013, available at <http://www.justice.gov/eoir/press/2013/SafeguardsUnrepresentedImmigrationDetainees.html>.

qualified representatives, which included not only licensed attorneys, but also law students and graduate supervised by attorneys.⁵⁰ Additionally, *Franco-Gonzales* ensured accredited representatives employed by non-profit, religious, and charitable and social service organizations accredited by the Board of Immigration Appeals (BIA) would also be available.⁵¹

Legal representation of immigrant children has also received increased attention in response to the Trump administration's zero-tolerance policy and resulting separation of immigrant families. An immigration judge made headlines a few years ago when asserting he could explain immigration law to toddlers representing themselves pro se during removal proceedings, saying "they get it, you can get a fair hearing".⁵² This is of course a ridiculous and flawed statement, with one court speaking to the actual reality, "the immigration laws are second only to the Internal Revenue Code in complexity".⁵³ To argue that a child or person who does not understand English, let alone the legal letter of the law should not be afforded counsel is problematic. Basic standards of care set for children in immigration detention that were previously established under the 1997 *Flores* Settlement Agreement are being threatened with recent initiatives such as the Migrant Protections Protocol, forcing asylum seekers to queue in Mexico instead of seeking asylum at the border.⁵⁴ With this concerning reality, U.S. courts have recently been silent on the issue of whether children have a right to government appointed counsel during immigration proceedings.⁵⁵ Statistics show that only 30% of unaccompanied migrant children are represented in deportation proceedings, with only 15% of children without legal representation being allowed to remain in the United States.⁵⁶ This contrasts sharply with

⁵⁰ Manuel 2016

⁵¹ Ibid

⁵² Jerry Markon, *Judge Says Three-Year-Old Girl Can Represent Herself in Immigration Court*, INDEPENDENT (Mar. 4, 2016, 4:45 PM), <https://www.independent.co.uk/news/world/americas/judge-says-three-year-old-girl-can-represent-herself-in-immigration-court-a6912336.html>.

⁵³ *Castro-O'Ryan v. INS*, 847 F.2d 1307, 1312 (9th Cir. 1988)

⁵⁴ Roth, Benjamin J., Breanne L. Grace, and Kristen D. Seay. 2020. "Mechanisms of Deterrence: Federal Immigration Policies and the Erosion of Immigrant Children's Rights." *American Journal of Public Health* 110 (1): 84–86. doi:10.2105/AJPH.2019.305388.

⁵⁵ *C.J.L.G v. Barr*, "Opinion". Case 16-73081. Filed May 3, 2019: <http://www.publiccounsel.org/tools/assets/files/1166.pdf>

⁵⁶ Roth, 2020, 85.

73% of those with legal representation receiving relief from deportation.⁵⁷ The most recent lawsuit in 2019, *C.J.L.G v. Barr* tackled the issue of whether immigrant children in deportation proceedings should be entitled to a government appointed attorney.⁵⁸ The Ninth Circuit Court of Appeals found that the Petitioner did not receive a fair hearing, yet did not address the critical matter of whether due process required counsel for children in deportation.⁵⁹ This ruling ultimately contributed to the disorder the system continues to experience as children are expected to face trained government lawyers over complex immigration matters. Yet, media attention and public reaction to this particular vulnerable population has helped the issue of unrepresented children come to the forefront; which is often harder to do for the adult population.

As the Trump administration increasingly tightened immigration policies and enacted xenophobic executive orders soon after inauguration, Democrats responded with legislation including the Funding Attorneys for Indigent Removal (FAIR) Proceedings Act in July of 2018 during the 115th Congressional session. The intention of this bill was to “improve immigration court efficiency and reduce costs by increasing access to legal information” by providing immigrants complete copies of their files immediately.⁶⁰ It would specifically guarantee legal representation, at government expense during removal proceedings for a select group of immigrants including: children, individuals with disabilities, victims of abuse, torture and violence and those below 200% of the federal poverty level.⁶¹ This piece of legislation ultimately did not get far past introduction and referral to the Subcommittee on Immigration and Citizenship, and was not enacted.

With yet another failed piece of immigration legislation with the FAIR Act, in 2019, Democrats led by Maryland Representative Anthony Brown introduced the Equal Justice for Immigrants Act. The purpose of the bill is to increase legal representation for particular

⁵⁷ Ibid.

⁵⁸ *C.J.L.G v. Barr*, 2

⁵⁹ Ibid

⁶⁰ H.R. 6527 — 115th Congress: Funding Attorneys for Indigent Removal (FAIR) Proceedings Act.” [www.GovTrack.us](https://www.govtrack.us). 2018. Accessed: April 21, 2020 <<https://www.govtrack.us/congress/bills/115/hr6527>

⁶¹ Ibid

immigrants falling under the “vulnerable population” categories of: asylum seekers, victims of torture or trafficking, pregnant or nursing mothers, individuals younger than 21 or older than 60 years of age, those identifying as LGBTQ, U-Visa applicants, mentally or physically handicapped, language barriers, or assessed by an Immigration Judge or DHS official to have suffered extreme trauma.⁶² The bill specifically addresses the issue of representation and right to counsel by proposing an amendment to the Immigration and Nationality Act purposefully striking “at no expense to the government”.⁶³ The proposed legislation additionally tackles access to counsel for unaccompanied alien children more specifically in light of the recent family separation policies. Furthermore, this legislation if approved would cost \$720 million and limit the screening of applicants to USCIS alone, instead of the Trump administration’s decision to train Customs and Border Patrol (CBP) officers to conduct very sensitive credible fear interviews.⁶⁴

With an 80% increase in deportation orders entered in 2019 under the Trump administration, compared to 2018, individual states like New York have created legal aid programs and introduced legislation to address this crisis for their respective immigrant communities.⁶⁵ Larger cities around the United States have joined New York’s pioneer program including Seattle, Los Angeles, San Francisco, Chicago, Washington D.C. and Austin have designated public dollars to be used for providing counsel to immigrants during removal proceedings.⁶⁶ What these cities all have in common are their larger immigrant populations, more liberal minded policies and designations as “sanctuary cities”.⁶⁷

⁶² The Equal Justice for Immigrants Act (H.R.3775, 116th Cong.) (2019)

⁶³ Ibid.

⁶⁴ Ibid.

⁶⁵ Hoylman, Brad. 2020. “Senator Brad Hoylman And Assembly Member Catalina Cruz Introduce “Access To Representation Act” To Provide Attorneys To Immigrants Facing Deportation.” Official Press Release. New York State Senate. <https://www.nysenate.gov/newsroom/press-releases/brad-hoylman/senator-brad-hoylman-and-assembly-member-catalina-cruz>

⁶⁶ Ewing, Maura. 2017. “Should Taxpayers Sponsor Attorneys for Undocumented Immigrants?” *The Atlantic*, May 4, 2017. <https://www.theatlantic.com/politics/archive/2017/05/should-taxpayers-sponsor-attorneys-for-undocumented-immigrants/525162/>

⁶⁷ Ibid

In January of 2020, Senator Brad Hoylman (D/WF-Manhattan) and Assembly Member Catalina Cruz (D-Queens), with support from the New York State Bar Association proposed the “Access to Representation Act”, Senate Bill S7261 to provide a statutory legal right to legal counsel for immigrants facing deportation, who could otherwise not afford an attorney on their own.⁶⁸ The legislators propose an amendment to the executive law ensuring right to counsel to serve income-eligible non-citizens of New York State that have immigration court proceedings.⁶⁹ As it stands, attorneys are available to immigrants by non-profit legal service organizations, but these are dependent on funding availability from state and local governments. With this new legislative proposal, the concerns of legal service workload and funding would be eliminated through the Office of New Americans administration of this right to counsel program.

The current policy regime is not functioning since it is jeopardizing the livelihood and chance for a future of deserving immigrants in this country. While opponents to right to counsel for immigrants may try to make it an issue of illegal immigrants receiving taxpayer money; it is actually a matter of principle and basic rights to defend oneself, through the assistance of counsel.

IV. Description of Policy Proposal

The primary goal of this policy proposal, *The Universal Access to Appointed Counsel for Immigrants Act* is to lower and ultimately eliminate the amount of unrepresented immigrants during immigration court deportation proceedings and afford these individuals legal aid to adequately represent their claims. The secondary goal is to in turn lower the overall rates of immigrants in detention and those that are deported nationwide. The federal government in collaboration with state and local governments, in concert with experienced legal providers including law firms, nonprofit organizations and philanthropic donors will be responsible for facilitating the provision of legal representation to immigrants requiring it.

⁶⁸Access To Representation Act NY 7261, 2020, 1.

⁶⁹ Ibid

As immigration deals primarily with federal law, this policy will be authorized by an amendment to the federal Immigration and Nationality Act to provide a statutory right to a lawyer to any immigrant who cannot afford one. This bill will be presented in the House of Representatives and reported by the Committee on Judiciary and Committee on Homeland Security. The particular part to be amended is Section 292 of the Immigration and Nationality Act, Title 8 – Aliens and Nationality, U.S.C. 1362, Right to Counsel. The amendment should substitute the wording “at no expense to the Government” and replace with “provided by the government through the newly instituted New American Representation Office” as established in *The Universal Access to Appointed Counsel for Immigrants Act of 2020*. The amendment will further outline that the targeted individuals will be eligible whether or not they are detained, based on low income and inability to retain private counsel. This present proposal is similar to the pending New York Senate legislation as it similarly targets the indigent immigrant population in the state of New York requiring counsel.⁷⁰ The New York bill differs as it expands its purview beyond the present proposal to both afford counsel to not only federal immigration proceedings, but also addresses related proceedings such as special findings orders or cooperation in state court.⁷¹

To implement the present proposal, this amendment will further require the creation of a body to oversee the federal New American Representation Office (NARO). This newly created office will primarily be responsible for oversight to ensure that immigrants requiring representation are afforded it and will further monitor and evaluate the ongoing legal services provided nationwide. This office will be the custodian of the respective grants given to different municipalities and legal providers as they carry out the programmatic goals of this new policy. Instead of hiring additional government attorneys, the grant funding will be directed at experienced immigration non-profit agencies and law firms to finance their existing attorneys and

⁷⁰ Ibid

⁷¹ Ibid

BIA accredited legal representatives, providing new fellowships specific to this program to meet any additional demand. This office would closely monitor the representation status of all detained immigrants and communicate with the appropriate local legal providers and nonprofit organizations that will in turn be required to take on cases and report results.

This office would oversee five principle components to ensure the success of this initiative including: the Advising Mechanism, Information Gathering, Staff Development, Language Access and Direct Immigration Service or Referral Process.⁷² Law firms and nonprofit organizations will act as both partners and collaborators in issuing guidance for best practices by attorneys handling immigration removal defense cases. NARO will be responsible for ensuring that partners are equipped with sufficient staffing to handle the influx of cases, and when at capacity to ensure the immigrant is still assisted and referred to another partner promptly. While local organizations typically cater to their ethnic immigrant populations in terms of language access, NARO will serve as an additional resource in matching up immigrants to specific service providers and interpreters that meet their language needs. Detention centers will be required to provide NARO daily statistics regarding their unrepresented immigrant populations and NARO will in turn advise the relevant municipalities and legal service providers of the detained individual's relevant information. As detainees are matched with legal providers within 24-48 hours by NARO, the attorney will be obligated to file G-28, Entry of Appearance documentation and thereafter responsible for the individual's legal case.

The targeted individuals represented under this program will be entitled to legal representation based on low income and the lack of private counsel. The U.S. Federal Poverty Guidelines will be used to determine whether the individual is financially eligible for this federal program. Under the 2020 Guidelines, a household of one qualifies if earning \$12,760 or below,

⁷² Markowitz, Peter. (2009) "Protocol for the Development of a Public Defender Immigration Service Plan", *Immigrant Defense Project and New York State Defenders Association*. <https://www.immigrantdefenseproject.org/wp-content/uploads/2011/03/Protocol.pdf>

while a family of four qualifies is making \$26,200 or below.⁷³ In cases where a legal provider's resources are limited, those immigrants in detention will be offered priority as far as immediate representation, while NARO will search for an alternative. The feasibility of winning the case or being afforded legal relief will not be a barrier to representation and this proposal would ensure access to counsel regardless of circumstances. As immigration cases and hearings can be quite lengthy, this legal representation will be continuous until the point where a final decision is issued on the matter.

The burden of the cost of instituting this program will be shared between different levels of government including federal, state and local and therefore public taxpayer dollars will be allocated towards this cause. While the amended federal statute will allow the action to be carried out, it will be up to coordinated federal guidance and gradual implementation at the state and local levels to implement the proposal. A pillar from the Vera Institute of Justice's Universal Representation Model explains how the protection of an individual's basic right of due process is a public duty, and therefore the investment of public funds will form a national system of deportation defense.⁷⁴ Certain municipalities, in concert with local advocacy organizations are already funding public defender programs for immigrants, such as the Vera Institute of Justice's New York Immigrant Unity Project, piloted in 2013.⁷⁵

In calculating the quantitative details of this proposal, an economist from NERA Economic Consulting determined that both the attorney and support-staff time of the Office of Chief Counsel (government side) and that of the respondent are roughly equivalent.⁷⁶ The Sanders Presidential Campaign put forth under its immigration platform, setting a national salary for immigrant public defenders and put in place national quotas for public defenders based on

⁷³ U.S. Department of Health & Human Services. 2020. *2020 Poverty Guidelines for the 48 Contiguous States and the District of Columbia*. (January 2020) <https://aspe.hhs.gov/poverty-guidelines>

⁷⁴ Berberich, p.6.

⁷⁵ Stave, Jennifer and Markowitz, Peter. 2017. "Evaluation of the New York Immigrant Freedom Unity Project: Assessing the Impact of Legal Representation on Family and Community Unity". *Vera Institute for Justice*. Retrieved from: <https://www.vera.org/downloads/publications/new-york-immigrant-family-unity-project-evaluation.pdf>

⁷⁶ Montgomery, John D. 2014. "Cost of Counsel in Immigration: Economic Analysis of Proposal Providing Public Counsel to Indigent Persons Subject to Immigration Removal Proceedings." *NERA Economic Consulting*: 1-37.

population and need.⁷⁷ The current Department of Homeland Security budget for this activity has been \$205,584,000.⁷⁸ Under the assumption that 63% of immigrants require the assistance of the universal counsel access annually (374,717 out of 1,061,830), the government funded immigration counsel would cost about \$208 million per year. A higher estimate has been proposed in immigration attorney and advocacy circles for a budget of \$300 to \$400 million to hire 10,000 attorneys for 530,000 foreign nationals in 2017.⁷⁹ This estimate does not take into account, that just like in criminal law, some defendants do have the means to access and hire a private attorney. Regardless, the estimated fiscal savings in detention and enforcement costs, due to successful cases and released respondents will offset even the most extreme estimate of this new program's costs.

This investment in legitimate legal representation and resources will ensure that the rights of immigrants are protected during complicated immigration and enforcement matters. The alternative exposes these vulnerable communities to fraudulent unauthorized providers like notarios or inexperienced representatives unequipped to handle the complex immigration law landscape. Existing interest from legal providers at law firms and nonprofit organizations will ensure this demand is met, thereby decreasing the marketing and expenses of the federal government. A government-sponsored immigration legal program will not create an additional burden, as the funds of this proposal will be directed toward the immigrant service providers and law firms handling the cases and therefore ensure sufficient capacity. This is evidenced through an existing local program, the New York Immigrant Family Unit Project for example, which has instituted a successful public defender program for immigrants through collaboration between the local New York City governments and nonprofit legal provider, Vera Institute for Justice. The success of this program is relevant as New York has an immigrant population of over 4 million,

⁷⁷ Bernie Sanders. (2020). "A Welcoming and Safe America for All: A Border Policy and Adjudication Process Rooted in Human and Civil Rights" Retrieved from: <https://berniesanders.com/issues/welcoming-and-safe-america-all/>

⁷⁸ Montgomery, 2014, p.23

⁷⁹ Chardy, Alfonso. 2017. "Free 'public defender's office' would represent immigrants in deportation proceedings". *Miami Herald*, March 26, 2017. <https://www.miamiherald.com/news/local/immigration/article140760208.html>

with at least 1 million without lawful status and an immigration court backlog of over 110,000; so this is an ideal sample of a diverse group that may be vulnerable to deportation.⁸⁰

While advocacy groups may be championing initiatives to help immigrants, government sponsored counsel directed at experienced legal service providers and extensive coordination and oversight with courts, detention facilities and the public will ensure the services are appropriately distributed. Law firms and members of the private bar require at least 50 *pro bono* hours annually by the American Bar Association.⁸¹ The coordination is currently lacking at the federal level to institute and enforce this recommended program. The timing of this proposal is essential and should be executed as one of the first immigration policy measures of a Democratic administration in 2021, with the amendment to take effect 180 days after the date of the enactment of the proposed legislation.

V. Policy Analysis

This policy proposal presents an effective and ultimately cost-efficient solution in meeting the legal needs of vulnerable immigrant populations and decreasing high detention rates and expenses. By equipping those in detention with qualified legal representation, the proposal increases their chances of not being deported, while simultaneously decreasing the amount of days the government is responsible for financing housing, food and additional necessities of those in detention.

The National Association of Immigration Judges believes that more legal representation for immigrants would expedite processing times as those with adequate counsel would have a higher likelihood of successful case outcomes, than those navigating the complex channels on

⁸⁰ New York State Bar Association. Report of the Special Committee on Immigration Representation. “The Need for Access to Counsel in Immigration Proceedings in New York.” (2012) <https://nysba.org/NYSBA/Practice%20Resources/Substantive%20Reports/PDF/Agenda%20Item%208%20Immigration%20Representation.pdf>

⁸¹ American Bar Association Standing Committee on Pro Bono and Public Service. “A Guide and Explanation to Pro Bono Services”. *American Bar Association*. July 26, 2018 https://www.americanbar.org/groups/legal_education/resources/pro_bono/

their own and pursuing cases with no legal basis or little chance to appeal.⁸² For both those immigrants on the detained docket or those on their own outside of confinement, the provision of legal counsel expedites the process and reduces the overall national immigration court backlog. Appointing additional judges and ensuring experienced attorneys are presenting cases, rather than *pro se* litigants would move the pipeline faster and does not require establishing additional immigration courts, rather success hinges on efficient representation. Immigration attorneys understand the judicial process and would therefore know how to efficiently handle the case, identify whether any obstacles to removability exist and apply for appropriate relief immediately, requiring fewer continuances in the long run which tie up the court processing.

A U.S. Department of Justice, Office of the Inspector General review of the Executive Office for Immigration Review (EOIR) processing and management of immigration cases and appeals found that the quantity and length of continuances immigration judges granted was the most significant contributing factor to increased case processing times and the current backlog.⁸³ The review found that: 53% of cases had one or more continuance, each case averaged four continuances, each granted continuance was usually 90 days, resulting in an average of 368 days for continuances per case.⁸⁴ This ultimately translates to a year of lost time for unrepresented immigrant respondents in removal proceedings. In addition to fewer continuances, legal guidance is also likely to reduce detention times since those without legitimate claims will request deportation earlier; while others will obtain bond and release sooner.⁸⁵

The Capital Area Immigrants' Rights (CAIR) Coalition, a leading immigrant non-profit organization based out of the Washington D.C. metropolitan area reports that it typically takes an attorney two to four weeks to prepare a detained immigrant for a preliminary hearing.⁸⁶ In

⁸²Sen. Mazie Hirono, Written Questions for the Record, U.S. Senate Committee on the Judiciary, Apr. 18, 2018.

⁸³ U.S. Department of Justice, Office of the Inspector General, Evaluation and Inspections Division, Management of Immigration Cases and Appeals by the Executive Office for Immigration Review, pp. iii, 28-31 (October 2012), <http://www.justice.gov/oig/reports/2012/e1301.pdf>

⁸⁴ Ibid, iii.

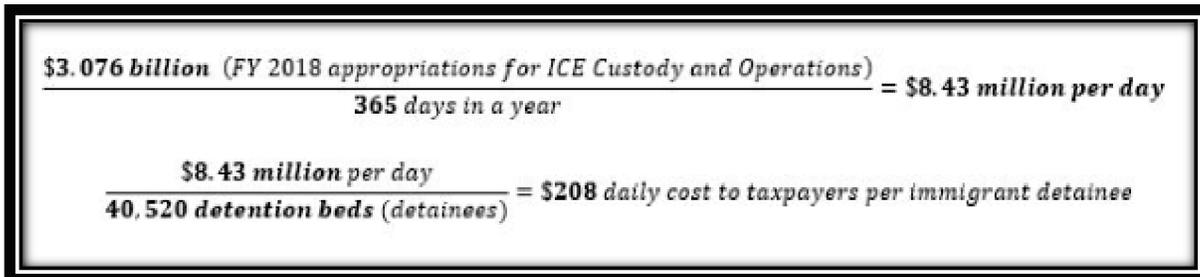
⁸⁵ Montgomery, 2017, p. 14.

⁸⁶ Corser, 2017, p. 14.

contrast the same case study shows that an unrepresented detained immigrant undergoes two to three preliminary Master hearings, resulting in four to six weeks of continuances ahead of each hearing as the individual tries to understand proceedings, prepare the case and complete necessary forms required when applying for relief.⁸⁷ Oftentimes, simply the stress of case preparation, incarceration, being separated from family and the confusing legal process itself, results in these unrepresented detainees just giving up and instead of fighting accepting voluntary departure or a deportation order.⁸⁸ The provision of guaranteed representation would ultimately lower federal immigration enforcement costs, lower the court backlog and avoid the injustices perpetrated against immigrants without representation.

Guaranteed access and provision of legal representation would reduce the current federal expenditures dedicated to immigration enforcement, detention and deportation by decreasing the total number of days that respondents are held in detention. The National Immigration Forum issued a report, *The Math of Immigration Detention*, analyzing the costs of detention, estimating the taxpayer cost of detainee at \$208 per day:

Figure 4. Fiscal Year 2018 Average Daily Cost per Immigrant Detainee



The immigrant advocacy group cautions that Congress and executive administrations have neglected to consider opportunities that may have saved taxpayer funds continually directed at detention of thousands of people without criminal records.⁸⁹ One such opportunity and alternative to detention is placing individuals under ICE Intensive Supervision Appearance

⁸⁷ Ibid.

⁸⁸ Ibid.

⁸⁹ Benenson, Laurence. 2018. "The Math of Immigration Detention, 2018 Update: Costs Continue to Multiply". *National Immigration Forum*. Retrieved from: <https://immigrationforum.org/article/math-immigration-detention-2018-update-costs-continue-multiply/>

Program (ISAP) Orders of Supervision, where they are required to report to case management appointments and hearings, a contract that costs an average of \$5 per day per individual.⁹⁰ This existing program could be expanded and executed in concert with proposed access to counsel legislation.

An economic analysis of a similar proposal to provide public counsel to indigent immigrants in removal proceedings has found that federal detention costs and associated legal orientation programs, transportation and foster care would result in a total savings of at least \$204 - \$208 million annually.⁹¹ This estimate is determined since those otherwise unrepresented and deported immigrants are allowed to stay due to a successfully argued legal case for relief through the provision of counsel. The social costs of financing foster care for the children of deported parents and associated costs of transportation and travel costs when an immigrant is deported would be eliminated through this proposal.⁹² The idea is that the provision of publicly funded immigration counsel would finance itself in the long run through the fiscal detention cost savings.⁹³

As the current immigrant detention system stands, the fiscal year 2020 Presidential Budget request for Immigration and Customs Enforcement (ICE) requires \$2.7 billion for 54,000 detention beds.⁹⁴ The previous fiscal year budget had allocated funds for an average of 45,000 people in detention, the largest budget in ICE history.⁹⁵ Yet, in recent years the agency has largely overspent its detention budget and in turn allocated funds from elsewhere within the Department of Homeland Security, like a combined \$200 million originally earmarked for FEMA, the Coast Guard and the Domestic Nuclear Detention Office.⁹⁶ Instituting this proposal

⁹⁰ Ibid

⁹¹ Montgomery, p. 36.

⁹² Ibid, p. 6.

⁹³ Ibid, p. 3.

⁹⁴Department of Homeland Security. 2020. Budget-In-Brief Fiscal Year 2020. Washington, DC: https://www.dhs.gov/sites/default/files/publications/19_0318_MGMT_FY-2020-Budget-In-Brief.pdf (pp3)

⁹⁵ Herrera, Jack. 2019. "ICE is Hugely Overspending its Detention Budget Again". *Pacific Standard*. May 21, 2019 <https://psmag.com/news/ice-is-hugely-overspending-its-detention-budget-again>

⁹⁶ Ibid

will meet the urgent need for due process in immigration matters, while simultaneously decreasing federal detention costs overtime with the implementation of this legislation.

The creation of the New American Representation Office recognizes that one agency is not equipped to implement this policy alone; rather a coordinated response and additional resources are required. Interviews with various nonprofit organizations in regards to a cost sharing between different levels of government for an initiative specific to expanding representation for Unaccompanied Alien Children (UACs) have shown that the willingness of state and local governments to participate varies significantly, with some states and municipalities already involved in such programs, and others as more resistant.⁹⁷ This is important to consider since this proposal, although federally mandated will depend on the coordination of other partners and receptive municipalities.

Recent local and state focused policy proposals aiming to address the urgent need of legal representation for indigent immigrants have proven successful by producing economic benefits for the state as well as helping the individual. A microcosm example from the diverse and heavily immigrant populated state of New York serves as an effective example to analyze the impact of universal representation on federal, state and city tax revenue. Around 4.4 million immigrants live in New York, where one-third of the population of New York City is foreign-born and accounts for 32 percent of total earnings in the city.⁹⁸ These statistics are important since the success of the New York Immigrant Family Unity Project (NYIFUP) has resulted in receipt or renewal of work authorization for many immigrants, who now contribute to state and local tax revenue for New York.⁹⁹ Successful termination of removal proceedings and relief from deportation, made possible through the provision of counsel has resulted in estimated tax

⁹⁷ Roberts, Bryan and Latshaw, Nathaniel. (2019) "A Benefit-Cost Analysis of Expanding Federally Funded Counsel Programs for Unaccompanied Immigrant Children in Removal Proceedings in the United States". *Institute for Defense Analyses*. p.74

⁹⁸Stave and Markowitz 2017, 53.

⁹⁹ Ibid, p. 55

revenues of \$2.7 million during one year of this NYIFUP cohort being able to reenter society and transition to tax-paying positions.¹⁰⁰ These numbers are only expected to grow in coming years.

Considering the D.C. metropolitan area's efforts at ensuring counsel for detained immigrants has also resulted in a positive economic impact for the immigrant communities, cities and states as a whole. A report by the Perryman Group cautions that if all undocumented immigrants in Virginia were deported, the state would lose: \$11.2 billion in economic activity, \$5 billion in Gross State Product (GSP) and 62,000 jobs.¹⁰¹ It is estimated that Maryland would suffer even more with a loss of \$15.3 billion in economic activity, \$6.8 billion GSP and 73,000 jobs.¹⁰² These localized case studies speak to the potential of a nationwide program aiding not only the individual immigrant, but in benefiting the national economy.

In examining the key evaluative criteria of the proposal, it is helpful to compare the current debate concerning immigrant right to counsel to that of the Supreme Court's decision in the landmark case, *Gideon v. Wainwright* which ensured indigent criminal defendants be provided counsel at trial. First, in examining efficiency, immigrants, like those with public defenders today would finally have cost-effective and high-quality representation that would decrease the need for multiple continuances, frivolous claims and their time in detention. Former Attorney General Eric Holder commented on the efficiency rationale when examining an existing program in Arizona, the Florence Project noting that this initiative "only costs the government \$100 per detainee, but saves the government upwards of \$1,300 in court, detention and other costs".¹⁰³ The mentioned Legal Orientation Program (LOP) from the Executive Office for Immigration Review offered in multiple jurisdictions seeks to "improve judicial efficiency and

¹⁰⁰ Ibid, p.59

¹⁰¹ "An Essential Resource: An Analysis of the Economic Impact of Undocumented Workers on Business Activity in the US with Estimated Effects by State and by Industry" *The Perryman Group*, April 15, 2008, <https://www.perrymangroup.com/wp-content/uploads/Impact-of-the-Undocumented-Workforce-April-15-2008.pdf>, 67.

¹⁰² Ibid

¹⁰³ Eagly, 2309.

assist detained individuals to make timely and informed decisions”.¹⁰⁴ This existing program does not provide any direct legal assistance during court proceedings, rather it informs the immigrant of their legal rights and offers an information session of sorts. Interestingly enough, just the inclusion of this program has resulted in a reduction of 11 days in detention on average for respondents provided LOP services prior to their immigration court hearings.¹⁰⁵

Secondly, in terms of equity, the foundation of the current public defender system was based on this idea that the difference between a poor and rich individual should not presuppose guilt during a criminal trial.¹⁰⁶ The American Immigration Council has similarly advocated that the guarantee of access to counsel during removal proceedings is essential to the “American values of due process and fundamental fairness”.¹⁰⁷ In the existing immigration legal system, where sanctuary cities may be more receptive of foreigners versus rural detention centers with limited access to pro bono resources, a federal and universal system of representation would eliminate such inherent barriers to access and promote fairness.

Thirdly, the effectiveness of the present policy proposal will be measured in the long run in terms of meeting initial policy goals, but sanctuary cities and states around the country promoting similar programs are evidence of success. The critical point in this evaluation is that immigrants are afforded effective legal counsel, with the proper training and tools to prevail rather than exacerbate the cycle. A criticism in a post Gideon world is the reality of overworked and underpaid public defenders, showing that “a fair trial requires more than a formal right to an attorney”.¹⁰⁸ Due to the complexities of immigration law, proper training and experience is required but studies across the board show that the risks of an overworked public defender still

¹⁰⁴ The US Department of Justice, Executive Office for Immigration Review. “Executive Office for Immigration Review Expands Legal Orientation Program Sites”. (November 9, 2016). <https://www.justice.gov/eoir/pr/executive-office-immigration-review-expands-legal-orientation-program-sites>

¹⁰⁵ Siulc, Nina, Cheng, Zhifen, Son, Arnold, and Byrne, Olga. *Legal Orientation Program, Evaluation and Performance and Outcome Measurement Report, Phase II*, VERA Institute of Justice, p. 1 (May 2008), Retrieved from: <http://www.justice.gov/eoir/reports/LOPEvaluation-final.pdf>

¹⁰⁶ Eagly, 2306

¹⁰⁷ AM. IMMIGR. COUNCIL. *Two Systems of Justice: How the Immigration System Falls Short of American Ideals of Justice*, 1 (Mar. 2013), http://www.immigrationpolicy.org/sites/default/files/docs/aic_twosystemsofjustice.pdf.

¹⁰⁸ Eagly, 2311

outweigh the consequences of proceeding without representation. An attorney, by virtue of legal expertise will help enhance accuracy and facilitate efficient court proceedings, with Syracuse University's TRAC report finding that 97 percent of mothers in immigration court with representation have stayed in compliance with court obligations over a three-year period.¹⁰⁹ The objective of courts is to get cases resolved and keep the docket moving, otherwise the system is ineffective; this proposal directly addresses this problem.

The strengths of this authorization tool, if passed successfully is that it will become binding legislation that cannot be overturned with a different executive administration, and in turn it provides a more permanent solution for immigrants in danger of deportation. This formalized law would set a precedent for future immigration policy proposals to reach consensus and compromise if needed, but emphasize the permanence of this mechanism in enacting reform.

Analyzing weaknesses of the authorization tool shows that there may not be enough support within Congress at the moment to get any meaningful immigration bill implemented. Executive orders have been beneficial during times of extreme political partisanship in getting policies enacted, yet the risk is that they will be overturned with a subsequent administration. A legislative solution is necessary in terms of assuring right to counsel for immigrants, yet it must be presented to garner bipartisan support. The American Bar Association has found that opponents of this type of legislation disapprove of taxpayers funding legislation that could technically make it more difficult to deport those who would be otherwise removable.¹¹⁰ Yet, this opposition can be overcome by providing existing analysis from NERA Economic Consulting that shows very clearly that the fiscal savings from this legislation would actually exceed the estimated costs. This in turn would eliminate the primary concern that taxpayer money would increase, and instead this legislation would result in a fiscal savings for the long-term.

¹⁰⁹ Lynch, Laura. 2019. "Policy Brief: Facts About the State of Our Nation's Immigration Courts". AILA. May 14, 2019. https://www.naij-usa.org/images/uploads/newsroom/Facts_About_the_State_of_Our_Nation's_Immigration_Courts.pdf

¹¹⁰ Mulqueen, Matthew S. "Access to Counsel in Immigration Proceedings: Appointment of counsel for indigent minor respondents draws support". *American Bar Association*. Vol. 44(2) Winter 2019. Retrieved from: [https://www.bakerdonelson.com/webfiles/Bios/Mulqueen\(1\).pdf](https://www.bakerdonelson.com/webfiles/Bios/Mulqueen(1).pdf)

VI. Political Analysis

The *Universal Access to Appointed Counsel for Immigrants Act* policy proposal is directly in line with Democratic Party objectives of fighting for immigration reform and recognizing the contributions of this population to our shared history. The Obama administration prioritized immigration enforcement directed at those with criminal records, while simultaneously improving border security, keeping families together, enabling DREAMers to become active participants in society, without threat of deportation, all in an effort to strengthen the economy. Although Democrat-led immigration policy initiatives have been challenged with the recent executive administration, an urgency to act on immigration exists among policymakers and the public alike. The American Bar Association found that this administration's separation of thousands of immigrant children from their parents in an effort to promote a "zero-tolerance policy" in regards to immigration enforcement from July 2017 until June 2018 incited a very public debate on immigration and the issue of due process.¹¹¹ The lack of legal representation available for respondents in removal proceedings, with a specific emphasis on the indigent and unaccompanied minors came to light for the general public with scarring images of children in cages and toddlers representing themselves in court without adult supervision.

The American Immigration Lawyers Association conducted a survey to see where 2020 presidential candidates stood on immigrant access to counsel, including counsel paid by the government for those unable to afford it.¹¹² Democratic candidates including frontrunner Senator Bernie Sanders along with Senators Cory Booker and Beto O'Rourke, Mayor Pete Buttigieg, Senators Warren, Harris and Klobuchar overwhelmingly supported government-funded counsel.¹¹³ A key tenant of the Sanders Immigration Platform seeks to "ensure justice and due process for immigrants at the border and in the interior, including the right to counsel" through

¹¹¹ Ibid

¹¹² "Where Do the Candidates Stand on Access to Counsel. (2020). *AILA*. <https://www.aila.org/advo-media/tools/aila-2020-election-guide/access-to-counsel>

¹¹³ Ibid

the creation of a \$14 billion federal grant program for indigent defense.¹¹⁴ Similarly, a fellow Democratic leader, Senator Elizabeth Warren, in her plan has called for a nationwide immigration public defender corps to provide access to counsel in immigration court.¹¹⁵ Additionally, there is a more moderate sector of the Democratic Party on this issue including former Vice President Biden, and candidates Deval Patrick and Andrew Yang that had no stated position on access to counsel for individuals in removal proceedings.

Key stakeholders like Senator Kamala Harris (D-CA), with cosponsors including Senators Blumenthal (D-CT), Markey (D-MA), Warren (D-MA), Merkley (D-OR), Gillibrand (D-NY), and Booker (D-NJ) reintroduced *Access to Counsel Act* legislation in July of 2019 to promote the fair and just treatment of detained immigrants.¹¹⁶ Key nonprofit and advocacy organizations including UnidosUS, AILA, KIND, National Immigration Law Center, Amnesty International, Human Rights Watch, RAICES Texas, WOLA, United We Dream, Church World Services and many others supported this bill and would likely sign on as stakeholders on the present proposal. In some cases like the mentioned New York City pilot program, the Vera Institute of Justice organization has even spearheaded the New York Immigrant Family Unit Project (NYIFUP) public defender initiative as a leading partner in concert with the government.

Considering the evaluation of an existing state-level program, the *Access to Representation Act*, in New York, a recent poll from the Vera Institute of Justice found that over 90 percent of New Yorkers agree that legal representation for immigrants is imperative.¹¹⁷ Prior to this program, only 4 percent of unrepresented, detained cases in New York immigration court

¹¹⁴ Sanders, 2020

¹¹⁵ AILA, 2020

¹¹⁶ “Harris Reintroduces Legislation Addressing Rights and Conditions of Immigrants in Detention.” 2019. Official press release. Washington, DC: Kamala D. Harris, US Senator for California <https://www.harris.senate.gov/news/press-releases/harris-reintroduces-legislation-addressing-rights-and-conditions-of-immigrants-in-detention>

¹¹⁷ “Vera Institute of Justice Shares New Polling Data Finding Overwhelming Support Among New Yorkers for Immigration Legal Services Funding.” *Vera Institute for Justice*. March 3, 2020 <https://www.vera.org/newsroom/vera-institute-of-justice-shares-new-polling-data-finding-overwhelming-support-among-new-yorkers-for-immigration-legal-services-funding>

had produced positive outcomes for the respondents.¹¹⁸ In 2014, New York City through the New York City Council was the first city in the nation to guarantee government-appointed legal representation for immigrants in detention, which resulted in an increase of 1,000 percent in successful outcomes.¹¹⁹ Admittedly this polling may be from more liberal minded, Democratic strongholds; nevertheless it serves to show an overwhelmingly positive reception of the proposed program at the more local level.

While there is overwhelmingly positive reception of existing access to counsel programs at the state and local levels, field research has shown obstacles to their sustainability, due to continued anti-immigrant efforts at the federal level. The New York State Bar Association reports that new policies limiting immigrant's access to counsel, the state's diverse geography, irregular distribution of service providers and concentrated funding sources has presented obstacles for attorneys in the state.¹²⁰ As a result the leadership at the Special Committee on Immigration Representation at the association have proposed the only sustainable solution is the creation of a statutory right to counsel in immigration proceedings at the national level.¹²¹ Expanding the strategies of these local programs, with the backing of a national body would support due process and could in turn help all immigrants at risk of deportation.

Views on immigration over the years have become increasingly partisan. When surveyed on the access to counsel question by AILA, Republican candidates Roque De La Fuente, Mark Sanford, Joe Walsh and William Weld had no position on the measure.¹²² Opposition to the present proposal and similar pro-immigrant measures exists within the Republican Party and particularly within an executive branch led by Donald Trump. President Trump has rejected the idea of access to counsel for those in removal proceedings and his policies have actually

¹¹⁸ Mulqueen, 2019, p.4

¹¹⁹ Bettina Rodriguez Schlegel "New York Immigrant Family Unity Project lays groundwork for constitutional victory" Vera Center for Justice, ThinkJustice Blog, December 28, 2015, [https:// www.vera.org/blog/new-york-immigrant-family-unity-project-lays-groundwork-for-constitutional-victory](https://www.vera.org/blog/new-york-immigrant-family-unity-project-lays-groundwork-for-constitutional-victory)

¹²⁰ New York State Bar Association, 2012

¹²¹ Ibid

¹²² AILA, 2020

undermined existing legal programs. Under this administration, the Migration Protection Protocols (MPP) have jeopardized the rights of asylum seekers and the Department of Justice has sought to eliminate legal orientation programs for those in removal proceedings, with barriers to meeting with existing counsel also complicating matters.¹²³ Additionally, more conservative leaning advocacy organizations like the Center for Immigration Studies see the proposal as aiding “illegal aliens” that would be “guaranteed greater protections than citizens” and an INS official even alleged that deportation does not “propose to punish anyone”, clearly missing the ramifications of the act.¹²⁴ Republicans and affiliated advocacy groups, which support stricter immigration laws, have outright rejected the idea of government-funded access to counsel for immigrants. These opponents question a “legal defense fund for the illegals” and view access to counsel programs as “prolonging the stay” of individuals that do not have “legitimate” claims to be here.¹²⁵ Others focus on the funding measures as being unsustainable to be financed by local jurisdictions alone and instead urge the federal government to act in addressing a broken system rather than simply “putting a Band-Aid on the problem”.¹²⁶

A Morning Consult + POLITICO poll shows that support for the Trump administration’s expanded enforcement efforts through border security or ICE raids has come primarily from the president’s own party, with 85% of Republicans favoring ICE raids compared to 29% of Democrats.¹²⁷ While Republican Congressional representatives and voters may support restrictive measures to decrease immigration and enforcement policies, the majority of voters disagrees with these measures and has actively voiced their disapproval through nationwide protests and demonstrations. According to the latest UC Berkeley Institute of Governmental Studies poll,

¹²³ “Policies Affecting Asylum Seekers at the Border.” *American Immigration Council*. January 29, 2020 <https://www.americanimmigrationcouncil.org/research/policies-affecting-asylum-seekers-border>

¹²⁴ Urbina, Ian and Rentz, Catherine. 2013. “Immigrant Detainees and the Right to Counsel”. *New York Times*. March 30, 2013 <https://www.nytimes.com/2013/03/31/sunday-review/immigrant-detainees-and-the-right-to-counsel.html?pagewanted=all>

¹²⁵ Ewing, 2017.

¹²⁶ Ibid.

¹²⁷ National Tracking Poll. Morning Consult + POLITICO. July 12-14, 2019. <https://www.politico.com/f/?id=0000016b-fcca-d1de-ab6b-fe7b7bad0001>

80% of registers voters believe that immigrants make the United States stronger and a better place to live, according to 92% of Democrats and 60% of Republicans surveyed.¹²⁸ This semblance of agreement between parties as to the value of immigrants, suggests that voters may be able to reach consensus on certain immigration related issues.

The University of Chicago’s NORC Center for Public Affairs Research poll on *Domestic Issues Dominating the Public’s Agenda* finds immigration in the top five policy priorities for both Democrats and Republicans this year.¹²⁹ The same research group questioned how important “a fair judicial system and the rule of law” was to the United States’ identity as a nation finding that 87% of those surveyed found it “extremely important”.¹³⁰ Ensuring that every immigrant had a universal right to legal representation would directly equate with a more fair judicial system. Analyzing the public’s perception of detention conditions in *Figure 5* plays into the present proposal as those without counsel are typically already detained to begin with.

Figure 5. AP-NORC poll on Diversity and Immigration in America

"Do you think that the federal government is doing enough to ensure humane conditions in immigration detention centers, or don't you think so?"			
	Doing enough	Don't think so	Unsure/ No answer
	%	%	%
ALL	29	62	9
Republicans	58	31	11
Democrats	6	90	4
Independents	25	64	11

This Quinnipiac University poll from July 2019 shows that 62% of those surveyed (including Democrats, Republicans and Independents) don’t believe the federal government is doing enough

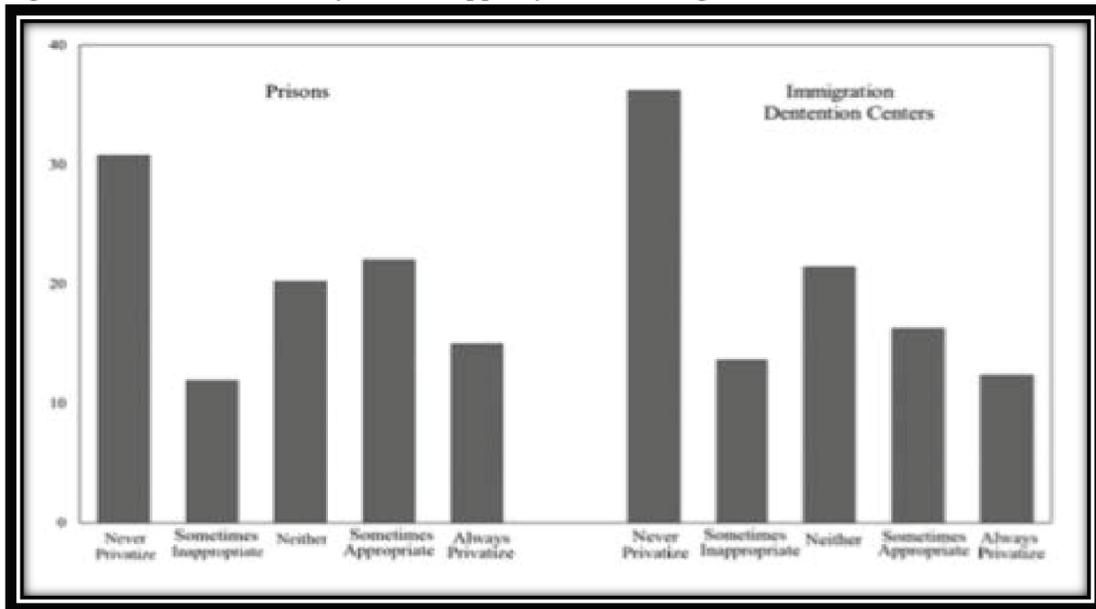
¹²⁸ Parvini, Sarah. 2019. “Most Republicans and Democrats agree: Immigrants make the U.S. a better place to live”. *Los Angeles Times*. October 16, 2019 <https://www.latimes.com/california/story/2019-10-16/la-me-california-immigrants-poll>

¹²⁹ “The Public’s Priorities and Expectations.” The Associated Press- NORC Center for Public Affairs Research. December 13-16, 2018. <http://www.apnorc.org/projects/Pages/HTML%20Reports/2019publicprioritiesexpectations.aspx>

¹³⁰ “Diversity and Immigration in America.” The Associated Press- NORC Center for Public Affairs Research. September 20-23, 2019. <http://www.apnorc.org/projects/Pages/Diversity-and-Immigration-in-America.aspx>

to ensure humane conditions for those in immigrant detention.¹³¹ When looking further into the issue of detention, a study analyzed what the public thought about privatizing prisons and immigration detention centers (*Figure 5*), a measure lauded by advocates for expanded enforcement.¹³²

Figure 6. The Distribution of Public Support for Privatizing Carceral Institutions



The study found that the public is largely divided on this issue, even though there is more resistance to private immigration detention centers than prisons.¹³³ Additionally, the researchers noted that any division or neutrality on the topic may actually push politicians to cater to specific interest groups.¹³⁴ The study concluded and cautioned that the less aware the public is of privatized immigration detention centers, the more likely politicians will continue expanding these institutions, without fear of election consequences.¹³⁵ As reported earlier, only 14% of those detained immigrants are able to obtain counsel according to the American Immigration Council. For the American public that is concerned about the inhumane treatment of immigrants, the

¹³¹ “Immigration/Border Security Gallup Poll.” Pollingreport.com. July 15-31, 2019
<https://www.pollingreport.com/immigration.htm>

¹³² Enns, Peter K. and Ramirez, Mark. 2018. “Privatizing Punishment: Testing Theories of Public Support for Private Prison and Immigration Detention Facilities.” *Criminology* 56 (3): 546–73. doi:10.1111/1745-9125.12178.

¹³³ *Ibid*, p. 563

¹³⁴ *Ibid*

¹³⁵ *Ibid*, p. 564

assurance of counsel would be the first step in protecting this vulnerable population and ending the privatization of prisons.

The political benefits of this specific proposal have a direct impact on family unity, which ultimately contributes to social and economic stability. The Congressional Budget Office released a report analyzing the impact of immigrants on government budgets, showing that “in aggregate and over the long term, immigrants pay more in taxes (federal, state and local) than they use in government services”.¹³⁶ When immigrants are deported, detained for long periods of time and not able to engage as participatory residents in the economy, these budgetary contributions cease to exist. Additionally, there is an effort amongst states to limit and going as far as banning private prisons and immigrant detention facilities in California.¹³⁷ The California *Assembly Bill 32* was implemented this January and prohibits new private prison contracts in the state, with a plan in mind to entirely phase out all existing facilities by 2028.¹³⁸ Mass incarceration has been a problem in the United States for decades and has tarnished its human rights record. A measure to provide access to counsel and in turn decrease the detention quota would directly harm the controversial private prison profit.

The associated political costs of moving forward with this proposal hinges on initial costs and convincing opponents that this is an issue of just treatment and due process, rather than a conversation on financing and aiding illegal immigration. Previous pro-immigrant legislation has been extremely partisan in recent years, and most recently with all the 50 cosponsors of the *Access to Counsel Act* (H.R. 5581, 116th Cong. (2020)) being Democrats.¹³⁹ This proposal will

¹³⁶ Congressional Budget Office, “The Impact of Unauthorized Immigrants on the Budgets of State and Local Governments” (Washington, D.C.: December 2007), <https://www.cbo.gov/sites/default/files/cbofiles/ftpdocs/87xx/doc8711/12-6-immigration.pdf>, 1.

¹³⁷ Assembly Bill No. 32 “Detention facilities: private, for-profit administrative services.” State of California Legislature. October 14, 2019 https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201920200AB32

¹³⁸ Ibid

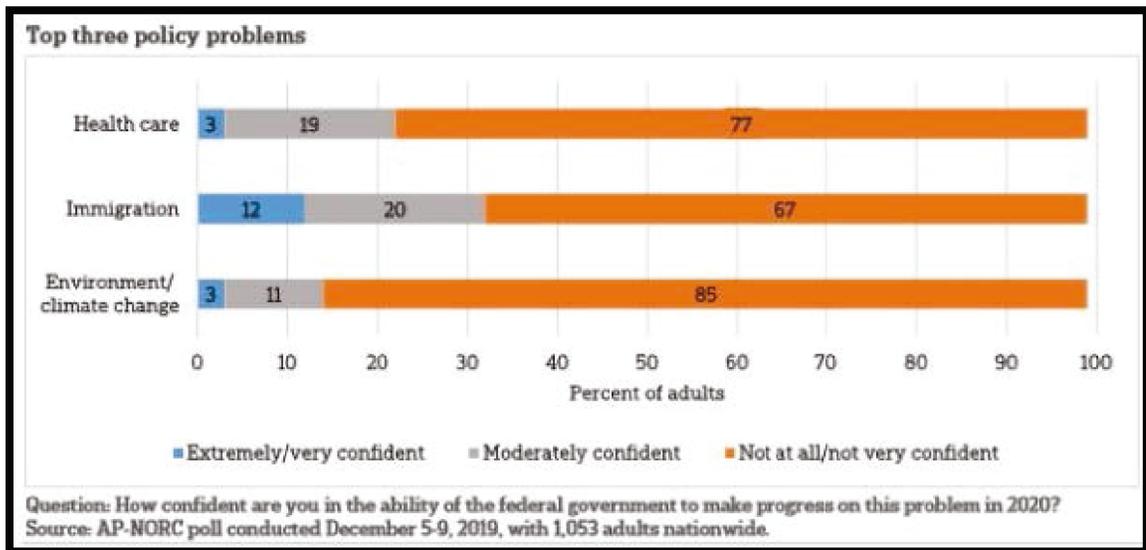
¹³⁹ Access to Counsel Act of 2020. H.R. 5581, 116th Cong. (2020). <https://www.congress.gov/bill/116th-congress/house-bill/5581/cosponsors?searchResultViewType=expanded&KWICView=false>

receive pushback from Republicans focused strictly on enforcement measures, yet this issue must be framed in a way that does not infringe on enforcement initiatives, but instead relieves costs.

While investing in this proposal may initially appear burdensome, the long-term benefits and savings in terms of detention funding will ameliorate the costs. In past legislation, much criticism has been raised in the increased spending directed at *illegal* immigrants through such a proposal. Economic analysis proves otherwise as the fiscally responsible step is to decrease a court backlog and mounting detention costs; through the provision of an efficient middleman – government funded counsel to expedite the process for immigrant respondents.

While both Democratic and Republican voters may prioritize immigration as a policy issue of national significance, a University of Chicago poll below in *Figure 7* shows that the general public ultimately lacks confidence in the government making any headway on addressing this top issue.¹⁴⁰

Figure 7. University of Chicago Poll, Top Three Policy Problems



¹⁴⁰ “2020” The Public’s Priorities and Expectations.” The Associated Press- NORC Center for Public Affairs Research. December 5-9, 2019 <http://www.apnorc.org/projects/Pages/HTML%20Reports/priorities2020.aspx#about-the-study-nav>

67% of respondents overwhelmingly were not at all confident in the ability of the federal government to make progress on the immigration issue in 2020.¹⁴¹ It is shameful that such a high percentage doubts progress on a critical policy priority, which should prompt policymakers to respond through action on immigration. In the alternative, the public perception can be correct and there may not be enough momentum and agreement among policymakers to reach consensus on any of the three key policy problems. In terms of leveraging power, the public may vote out the representatives that did not address the key policy priorities of the year, remembering politicians for their inaction. Immigration is a multifaceted policy concern ranging from border security, family separation, illegal and legal immigration issues, human rights and asylum seekers, detention center conditions, etc. Concessions have to be made on both sides and more liberally minded representatives may have to come to terms that a pathway to citizenship and complete immigration reform may be out of reach in a heavily partisan space and appear to be drastic measures by opponents due to the current divided political situation. *The Universal Access to Appointed Counsel for Immigrants Act* would act as a first step and still serve as profound action on a critical policy concern, but instead focus on human rights, cutting costs and improving our immigrant legal system.

VII. Recommendation

My recommendation is to move forward with the proposed *Universal Access to Appointed Counsel for Immigrants Act* legislation based on principles of equity and efficiency. Directing taxpayer funds at a national program that has already thrived at the local and state levels ensures equal treatment for all US residents, while simultaneously proving the commitment of policymakers to stronger, more united communities and economies. Under the direction of the New American Representation Office, the earlier collaborative work at the local level between municipalities and non-profit organizations can have national reach and ensure sustainability.

¹⁴¹ Ibid

This proposal has the potential to both help the immigrant community by increasing rates of representation, while also contribute to a fiscal savings of between \$204 and \$208 million, that will be saved over time by minimizing the insurmountable federal detention costs. The savings will also indirectly confront the growth of mass incarceration and the for-profit prison industry in the United States, by potentially minimizing its clientele as fewer immigrants are detained.

As detailed above, the recommendation resolves the problems of immigrants not being able to adequately represent their legal claims and has the potential to lower the overall rates of those immigrants deported nationwide. With the assurance of legal counsel, immigrants can avoid prolonged detention and deportation, with qualified attorneys to present their cases, as judges receive fewer requests for continuances, which have previously contributed, to the immigration court backlog. This proposal additionally helps alleviate the court backlog as qualified legal representatives will advise clients of the feasibility of their cases; so that those with fictitious claims accept orders of voluntary departure, while others are released from detention and pursue viable forms of relief.

While the current administration's priorities can stall and decrease the likelihood of passing this legislation through Congress, this proposal is not advocating for amnesty, a path to citizenship, promoting illegal immigration or encouraging any liberal call to immigration reform that may dissuade moderate to conservative audiences. It is specifically asking that the right to due process and that legal proceedings respect all individuals that come forward in courts of law, regardless of nationality and citizenship, by providing them their uninhibited day in court.

It is the responsibility of the federal government to provide due process in the United States and address the complicated matter of immigration. Increased detention costs and an immigration court backlog are a shameful reality for a country expanding funding for immigration enforcement and private prison systems, while not first addressing decades long processing delays and fundamental rights.

Curriculum Vitae

EDUCATION

M.A. Public Management 2020
Johns Hopkins University, Washington DC

B.A. Political Science & Spanish, Minor in Peace & Conflict Resolution 2013
Stonehill College, Easton, Mass.
Magna Cum Laude, Lambda Epsilon Sigma & Spanish Sigma Delta Pi Honor Societies

PROFESSIONAL EXPERIENCE

National Immigration Forum Washington, D.C.
Manager of Integration Programs January 2020-Present

- Manage citizenship program, including the online platform that assists employees in their citizenship application process by connecting with businesses, platform hosts and service providers to ensure successful implementation.
- Collaborate with Director of Integration Programs to manage corporate engagement outreach, including membership recruitment, expansion of services, and consultant support.
- Create and/or oversee designers producing program materials as needed for presentations, meetings, and outreach.
- Collaborate with communications team on program-related social media content and events.
- Develop and maintain program data tracking and reporting systems.
- Train and offer support to data tracking system users.
- Assist with creating reports for the Forum's board, funders, program partners, etc.
- Assist the Integration Programs team, in collaboration with the Development team, with program fundraising, including corporate contributions and foundation grants.
- Work closely with the team to coordinate and manage special Integration Programs events.
- Oversee seasonal intern recruitment, training, and management.
- Maintain partnerships with companies interested in naturalization services at the worksite.
- Serve as point person for local partners to ensure logistics for outreach events, workshops, etc. are completed in order to facilitate services that meet businesses partners' needs.

Baker & McKenzie LLP Washington, DC
Immigration Paralegal, Global & Executive Transfers Division Oct.2017-Dec.2018

- Evaluated case issues, strategy, immigration policy and assisted with client intake to obtain relevant case information. Regular review of files and drafted correspondence and responses to requests for information to clients, governmental agencies and companies.
- Compiled data, legal memos, and company letters for employment-based immigration filings for corporate clients.
- Assembled high-volume US immigration submissions in fast-paced deadline-driven environment for matters including H-1B, TN, L-1A, L-1B, O, E-3, PERM, Adjustment of Status and relevant applications. Prepared documentation to be submitted before the US DOS, USCIS, DHS and DOL.
- Evaluated job duties in comparison with occupational codes and research industry standards.
- Researched and interpreted extensive immigration laws and regulations, legislative history and precedent decisions.
- Coordinated Global Business Immigration cases including jurisdictions such as Australia, UK, India, and UAE.

- Prepared Probono cases and consulted for other practice groups regarding humanitarian immigration matters.
- Interpreted for Spanish speaking clients.

Beach Oswald Immigration Law Associates

Senior Legal Assistant

Washington, D.C.
June 2013-October 2017

- Served as liaison between attorneys, clients, government agencies (DHS, USCIS, DOS), consulates and law enforcement.
- Prepared nonimmigrant and immigrant visa applications, responses to requests for evidence and appeal briefs for humanitarian, family, removal-defense, and employment based immigration cases such as: Adjustment of Status, Naturalization, Violence Against Women Act, Deferred Action for Childhood Arrivals, Special Immigrant Juvenile Status, Victims of Criminal Activity: U Visa, Asylum and Cancellation of Removal.
- Coordinated social services with local partners for clients.
- Interpreted for Spanish speakers and translated documents for USCIS and Court submission.
- Responsible for Latin American client base, advocacy and marketing for Spanish-speaking communities in DMV.
- Conducted client intake interviews and prepared client affidavits and witness statements.
- Researched, evaluated and interpreted extensive immigration laws and regulations, policies, legislative history, precedent decisions, document review of FOIA results, regional conflict analysis and country conditions.
- Published articles for newsletter analyzing emerging trends in immigration policy and maintained social media accounts.
- Prepared talking points for webinars, instructional pamphlets, advocacy efforts, reports and presentations for firm addressing complex immigration issues and humanitarian policy trends ahead of speeches and panel discussions.
- Supervised new employees and legal interns on the office procedures and assignments.