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BIA Pro Bono Project Evaluation

An Executive Office for Immigration Review (EOIR) evaluation of the Board of Immigration Appeals (BIA) Pro Bono Project indicates that the project has been successful in increasing the level and quality of “pro bono” (free of charge) representation for “respondents” (persons in immigration removal proceedings) who appeal their cases to the BIA. The majority of these respondents are detained by the Department of Homeland Security (DHS). Moreover, based on input from BIA members and staff attorneys, as well as from the private attorneys and members of the non-governmental organizations (NGOs) who participate in the project, the study finds that both respondents and the government benefit from the increased level and quality of legal representation.

The evaluation is available on the EOIR website at <http://www.usdoj.gov/eoir/reports/BIAProBonoProjectEvaluation.pdf>.

Evaluation Findings

The October 2004 evaluation, which reviewed the first 3 years of the BIA Pro Bono Project since its inception in January 2001, found that the project:

- Increased the number of respondents with pro bono counsel. Nearly 300 respondents, who would not have had legal counsel otherwise, obtained pro bono legal representation through the BIA Pro Bono Project.
- Facilitated the BIA’s legal review of cases by increasing the number and enhancing the quality of legal briefs filed in support of BIA appeals. While most “pro se” (self-represented/without legal representation) respondents do not file a brief in support of their appeals, nearly all of the project cases included briefs which clearly articulated the key issues on appeal.
- Fostered continuous learning throughout the immigration advocacy community. For example, the project provides real-world educational opportunities to law students who intern in law firms and law clinics that participate in the project.

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BIA Pro Bono Project Evaluation

Page 2

Background

Under U.S. law, individuals in immigration proceedings are not provided legal representation by the government. While they may obtain legal representation at their own expense, many times they cannot afford to pay for private legal counsel. EOIR's BIA Pro Bono Project assists several NGOs in their efforts to link volunteer legal representatives nationwide with aliens, most of whom are detained, who have immigration cases on appeal to the BIA and cannot afford legal representation.

The project seeks to remove traditional obstacles private attorneys face in identifying, locating, and communicating with unrepresented aliens by providing EOIR case tracking and summary information to facilitate the initial contact. Generally, the process is as follows:

- EOIR identifies certain types of cases for pro bono representation, based upon criteria determined by the NGOs.
- NGOs review and summarize the selected cases and then distribute them via e-mail to pro bono representatives throughout the country.
- Volunteers who accept a case then receive a copy of the court record and, in most cases, additional time to file the appeal brief.

The Catholic Legal Immigration Network, Inc. (CLINIC) has provided critical assistance in coordinating the project with other NGOs, which include the American Immigration Law Foundation, the American Immigration Lawyers Association, the Capital Area Immigrants' Rights Coalition, and the National Immigration Project of the National Lawyers Guild. To date, EOIR's NGO partners have recruited more than 350 attorneys, law students, and accredited representatives, and have matched 310 individuals — who would not have been represented by counsel — with pro bono legal representation.

The BIA Pro Bono Project is one of three major EOIR Pro Bono Program initiatives that are managed by the EOIR Pro Bono Coordinator with the goal of facilitating access to pro bono legal assistance and creating new incentives for attorneys and law students to take on pro bono cases before the Immigration Courts and the BIA. The other two Pro Bono Program efforts are:

- Legal Orientation Program — provides comprehensive briefings about Immigration Court procedures and other basic legal information to detained individuals at seven DHS detention facilities nationwide; and
- Unaccompanied Alien Children initiative — a cooperative effort with DHS, the Office of Refugee Resettlement (Department of Health and Human Services), and NGOs to provide pro bono assistance and improve legal services for these children.

Additional information about EOIR's Pro Bono Program is available on the EOIR website at <http://www.usdoj.gov/eoir/probono/probono.htm>. Questions regarding participation in the BIA Pro Bono Project may be directed to Molly McKenna at CLINIC via e-mail at mmckenna@cliniclegal.org. Information concerning appellate practice before the BIA is available on the EOIR website at <http://www.usdoj.gov/eoir/bia/qapracmanual/apptmtn4.htm>.

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EOIR is responsible for adjudicating immigration cases. Specifically, under delegated authority from the Attorney General, EOIR interprets and administers federal immigration laws by conducting Immigration Court proceedings, appellate reviews, and administrative hearings. EOIR consists of three components: the Office of the Chief Immigration Judge, which is responsible for managing the numerous immigration courts located throughout the United States where immigration judges adjudicate individual cases; the Board of Immigration Appeals, which primarily conducts appellate reviews of immigration judge decisions; and the Office of the Chief Administrative Hearing Officer, which adjudicates immigration-related employment cases. EOIR is committed to providing fair, expeditious, and uniform application of the nation's immigration laws in all cases.

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