



CHIRLA
Coalition for Humane
Immigrant Rights

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February 12, 2020

Honorable Zoe Lofgren
Chair, Immigration and Citizenship Subcommittee
House Judiciary Committee
1401 Longworth House Office Building
Washington, D.C. 20515

Honorable Ken Buck
Ranking Member, Immigration and Citizenship Subcommittee
House Judiciary Committee
2455 Rayburn House Office Building
Washington, D.C. 20515

Re: Support for H.R. 5581, the Access to Counsel Act of 2020

Dear Chair Lofgren, Ranking Member Buck, and members of the Immigration and Citizenship Subcommittee:

On behalf of the Coalition for Humane Immigrant Rights (CHIRLA), the largest immigrant rights organization in California, I write to express our strong support for H.R. 5581, the Access to Counsel Act of 2020. Obtaining immigration relief for which an immigrant may be eligible is increasingly difficult even with the assistance of effective legal counsel. Still, the chances are exponentially greater than for the majority who have no access to such counsel, and it is therefore unconscionable that the Trump Administration is creating obstacles that hinder communication between counsel and their immigrant clients. This bill will remove those obstacles.

On our southern border, “tent courts” are popping up in which asylum seekers fleeing for their lives come face to face not with Lady Liberty but with Big Brother from George Orwell’s 1984.¹ Judges appear on big screens, the public is shut out, reporters banned and lawyers cannot observe the cases to screen for potential clients. Many are subject to the Remain in Mexico policy, known by the Orwellian term “Migrant Protection Protocol”, which also prevents anyone from meeting with a lawyer should they have one, unless the lawyer is able to travel to Mexico. As the Wall Street Journal has

¹ <https://www.buzzfeednews.com/article/adolfoflores/immigration-tent-courts-arent-allowing-full-public-access>

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reported, attorneys are unlikely to travel to certain parts of Mexico due to fear of crime, and as a result a shrinking number of immigrants have any kind of representation in court.²

This bill offers immigrants a redress option to ensure that immigrants with a lawyer will actually have a chance to discuss the case with him or her, and this during the first hour of detention, questioning or apprehension. This is a crucial time frame for the immigrant who may otherwise be subject to ruses by U.S. Customs and Border Protection (CBP) or U.S. Immigration and Customs Enforcement (ICE) to give up their rights. Further, the bill prohibits ICE and CBP from extracting withdrawals of application for admission from immigrants who have been denied access to counsel.

As the Supreme Court has recognized, immigration law is extraordinarily complex. In *Padilla v. Kentucky*, the Court ruled 7-2 that criminal defendants must be informed of the potential immigration consequences, particularly deportation, of any guilty plea they enter.³ This decision is less than ten years old, but the Justices then could not have imagined cruel creations like the tent courts or MPP. The consequences for an asylum seeker being denied access to counsel will almost certainly be deportation today and for many, the risks may be greater still when they are forced to return from whence they fled.

CHIRLA believes that all immigrants should have a right to counsel and supports federal legislation to that effect. In California and Los Angeles, we have successfully pushed for funding to provide access to affordable immigration counsel for those in need. This keeps families together and allows America to shine as the beacon it should become once more. We ask that you move this bill out of committee.

Sincerely,

Angelica Salas
Executive Director, CHIRLA

² <https://www.wsj.com/articles/fewer-asylum-seekers-have-lawyers-under-trump-administration-policy-11580472003>

³ *Padilla v. Kentucky*; 559 U.S. 356 (2010).

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