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December 19, 2018

Office of the General Counsel  
Attn: FOIA Service Center  
Executive Office for Immigration Review  
5107 Leesburg Pike, Suite 1903  
Falls Church, VA 22041

Via e-mail to: [EOIR.FOIARequests@usdoj.gov](mailto:EOIR.FOIARequests@usdoj.gov)

**Re: Request Under the Freedom of Information Act (FOIA) for Records Regarding  
Telephonic Participation in Immigration Court Hearings**

Dear FOIA Officer:

The Catholic Legal Immigration Network, Inc. (CLINIC) submits this letter to request information under the Freedom of Information Act (FOIA), 5 USC § 552, *et seq.* CLINIC also asks that any fees associated with this request be waived.

**I. Request for Information**

CLINIC requests Executive Office for Immigration Review (EOIR) records<sup>1</sup> regarding immigration court adjudication of motions related to telephonic appearances, telephonic and video hearings, and telephonic and video testimony. Specifically, CLINIC requests any and all records in the custody or control of EOIR, which refer or relate to the following:

- Records regarding **motions to permit respondent's counsel's telephonic appearance**—specifically the number of such motions filed, granted, and denied at each immigration court, from 2012 to 2018, broken down by year and immigration court. *See* Immigration Court Practice Manual Ch. 4.15(n) (discussing telephonic appearances).
- Records regarding **motions filed by a pro se respondent to permit the respondent's telephonic appearance**—specifically the number of such motions filed, granted, and denied at each immigration court, from 2012 to 2018, broken down by year and immigration court. *See* Immigration Court Practice Manual Ch. 4.15(n) (discussing telephonic appearances).
- Records regarding **motions filed by a represented respondent to permit the respondent's telephonic appearance**—specifically the number of such motions filed, granted, and denied at each immigration court, from 2012 to 2018, broken down by year

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<sup>1</sup> The term “records” as used herein includes all records or communications preserved in electronic or written form, including but not limited to correspondence, documents, data, videotapes, audiotapes, e-mails, faxes, files, guidance, guidelines, evaluations, instructions, analyses, memoranda, agreements, notes, orders, policies, procedures, protocols, reports, rules, manuals, technical specifications, training materials, and studies.



and immigration court. *See* Immigration Court Practice Manual Ch. 4.15(n) (discussing telephonic appearances).

- Records regarding **motions filed by DHS requesting a telephonic hearing (hearing by telephone conference)**—specifically the number of such motions filed, granted, and denied at each immigration court, from 2012 to 2018, broken down by year and immigration court. *See* Immigration Court Practice Manual Ch. 4.7(a) (discussing telephonic hearings).
- Records regarding **motions filed by a pro se respondent requesting a telephonic hearing (hearing by telephone conference)**—specifically the number of such motions filed, granted, and denied at each immigration court, from 2012 to 2018, broken down by year and immigration court. *See* Immigration Court Practice Manual Ch. 4.7(a) (discussing telephonic hearings).
- Records regarding **motions filed by a represented respondent requesting a telephonic hearing (hearing by telephone conference)**—specifically the number of such motions filed, granted, and denied at each immigration court, from 2012 to 2018, broken down by year and immigration court. *See* Immigration Court Practice Manual Ch. 4.7(a) (discussing telephonic hearings).
- Records regarding **motions filed by DHS requesting a hearing by video conference**—specifically the number of such motions filed, granted, and denied at each immigration court, from 2012 to 2018, broken down by year and immigration court. *See* Immigration Court Practice Manual Ch. 4.7(a) (discussing hearings by video conference).
- Records regarding **motions filed by a pro se respondent requesting a hearing by video conference**—specifically the number of such motions filed, granted, and denied at each immigration court, from 2012 to 2018, broken down by year and immigration court. *See* Immigration Court Practice Manual Ch. 4.7(a) (discussing hearings by video conference).
- Records regarding **motions filed by a represented respondent requesting a hearing by video conference**—specifically the number of such motions filed, granted, and denied at each immigration court, from 2012 to 2018, broken down by year and immigration court. *See* Immigration Court Practice Manual Ch. 4.7(a) (discussing hearings by video conference).
- Records regarding **motions filed by DHS to present telephonic witness testimony**—specifically the number of such motions filed, granted, and denied at each immigration court, from 2012 to 2018, broken down by year and immigration court. *See* Immigration Court Practice Manual Ch. 4.15(o)(iii) (discussing telephonic witness testimony).
- Records regarding **motions filed by a pro se respondent to present telephonic witness testimony**—specifically the number of such motions filed, granted, and denied at each immigration court, from 2012 to 2018, broken down by year and immigration court. *See* Immigration Court Practice Manual Ch. 4.15(o)(iii) (discussing telephonic witness testimony).



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- Records regarding **motions filed by a represented respondent to present telephonic witness testimony**—specifically the number of such motions filed, granted, and denied at each immigration court, from 2012 to 2018, broken down by year and immigration court. *See* Immigration Court Practice Manual Ch. 4.15(o)(iii) (discussing telephonic witness testimony).
- Records regarding **motions filed by DHS to present video testimony**—specifically the number of such motions filed, granted, and denied at each immigration court, from 2012 to 2018, broken down by year and immigration court. *See* Immigration Court Practice Manual Ch. 4.15(o)(ii) (discussing witness testimony by video).
- Records regarding **motions filed by a pro se respondent to present video testimony**—specifically the number of such motions filed, granted, and denied at each immigration court, from 2012 to 2018, broken down by year and immigration court. *See* Immigration Court Practice Manual Ch. 4.15(o)(ii) (discussing witness testimony by video).
- Records regarding **motions filed by a represented respondent to present video testimony**—specifically the number of such motions filed, granted, and denied at each immigration court, from 2012 to 2018, broken down by year and immigration court. *See* Immigration Court Practice Manual Ch. 4.15(o)(ii) (discussing witness testimony by video).

**Please include the following non-exhaustive list of search terms in conducting a search for the items listed above:** telephonic testimony, video testimony, testify by telephone, testify by video, testify telephonically, telephonic appearance, appear by telephone, appear telephonically, telephonic hearing, video hearing, telephone conference, video conference, video teleconference, VTC, video, telephone, phone.

**Note that CLINIC does not seek any personally identifiable information about any third party including any particular respondent. If responsive records contain personally identifiable information, please redact such information and produce such redacted records in response to this request.**

**If EOIR has this information in electronic/computerized format, please provide it in that format, preferably in a publicly accessible format such as Microsoft Word or Adobe Acrobat.**

## **II. Expedited Processing Request**

CLINIC requests expedited processing of this request pursuant to applicable law and regulations. There is a “compelling need” for these records, as defined in the statute and regulations, because the information requested is urgently needed by an organization primarily engaged in disseminating information in order to inform the public about changes in government policy and procedure regarding immigration matters.



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CLINIC is “primarily engaged in disseminating information” within the meaning of the statute and regulations. Obtaining information about government activity, analyzing that information, and widely publishing and disseminating that information to the press and public are critical and substantial components of CLINIC’s work and are among its primary activities.

CLINIC plans to analyze, publish, and disseminate to the public the information gathered through this request. CLINIC also plans to use the disclosures to provide its legal services network with accurate technical assistance on telephonic participation in immigration court hearings. Telephonic participation in immigration court hearings requires meeting urgent immigration court deadlines. The records and information requested are not sought for commercial use and the requestors plan to disseminate the information disclosed as a result of this request to the public at no cost.

### **III. Fee Waiver Request**

CLINIC asks that all fees associated with this FOIA request be waived, because disclosure of the requested information will contribute significantly to public understanding of the governmental activities identified above and because the disclosure is not in CLINIC’s commercial interest. 5 USC § 552(a)(4)(A)(iii); *see also* 6 CFR § 5.11(k) (records may be furnished without charge or at a reduced rate if the information is in the public interest, and disclosure is not in commercial interest of the requester).

#### **A. Disclosure of the Information Is in the Public Interest**

Disclosure of the requested information will contribute significantly to public understanding of government operations and activities related to immigration court adjudication of motions related to telephonic hearings, appearances, and testimony. CLINIC has the capacity and intent to disseminate widely the requested information to the public. CLINIC provides technical support to the members of its network on a broad range of immigration law topics. The network includes approximately 1,200 attorneys and accredited representatives and assists some 600,000 clients, parishioners, and community members with immigration matters annually. CLINIC publishes books, produces a monthly newsletter, and provides in-person training, online courses, and webinars on a variety of immigration law issues including regarding procedures in removal proceedings. In addition, CLINIC disseminates its materials to the public through its website, [www.cliniclegal.org](http://www.cliniclegal.org), which for the past couple of months has received approximately 100,000 unique views per month.

Information obtained through this FOIA request will contribute to CLINIC’s public education materials on the immigration system, and will assist CLINIC in providing technical assistance to nonprofit legal services providers and pro bono attorneys who represent individuals in removal



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proceedings. Finally, CLINIC has regular contact with national print and news media and may share information gleaned from FOIA disclosures with interested media.

**B. Disclosure of the Information Is Not in CLINIC's Commercial Interest**

CLINIC is a not-for-profit organization. CLINIC seeks the requested information for the purpose of educating the public through our website, and not for the purpose of commercial gain. CLINIC will also use the information obtained to inform our organization's technical assistance and training programs, and many within CLINIC provide free consultation and resources to immigrants and their attorneys across the United States.

Thank you for your prompt attention to this request. Please reply to this request within 20 working days, as required by statute. 5 USC § 552(a)(6)(A)(i).

If USCIS claims exemptions for portions of the requested materials, please indicate the specific bases for the alleged exemptions, the number of pages of withheld records, and the dates of the records withheld, and provide the remaining non-exempt portions. 5 USC § 552(b).

If you have any questions, please do not hesitate to contact us by telephone or email.

Sincerely,

Michelle N. Mendez  
Training, Litigation, and Support Senior Attorney  
Defending Vulnerable Populations Project Manager

Catholic Legal Immigration Network, Inc. (CLINIC)  
8757 Georgia Avenue, Suite 850  
Silver Spring, MD 20910  
Cellular Phone: (540) 907-1761  
Email: [mmendez@cliniclegal.org](mailto:mmendez@cliniclegal.org)