

November 18, 2019

U.S. Department of Justice
Executive Office for Immigration Review
Office of General Counsel – FOIA Service Center
5107 Leesburg Pike, Suite 1903
Falls Church, VA 22041

E-mail address: EOIR.FOIARequests@usdoj.gov

Re: Request under the Freedom of Information Act for EOIR statistics on *in absentia* removal orders issued by representation status

Dear FOIA Officer:

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

I. Request for Information

CLINIC requests records¹ related to Executive Office for Immigration Review (EOIR) statistics on *in absentia* removal orders issued by representation status. Specifically, CLINIC requests any and all records in the custody or control of EOIR, which refer or relate to the following categories:

- (1) The number of orders issued *in absentia* in removal cases per year from 2008 through the date this request is processed by representation status (*i.e.*, respondent represented or *pro se*) and by immigration court.
 - Please provide this data with unique identifying numbers, including date of initial hearing, date of any subsequent hearings, continuance codes for any continuances, and date of *in absentia* decision.
- (2) The number of orders issued *in absentia* in removal “Family Unit” (FAMU) cases from November 16, 2018 through the date this request is processed by representation status (*i.e.*, respondent represented or *pro se*) and by immigration court.

¹ 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, emails, faxes, files, guidance, guidelines, evaluations, instructions, analyses, memoranda, agreements, notes, orders, policies, procedures, protocols, reports, rules, manuals, technical specifications, training materials, and studies.

- Please provide this data with unique identifying numbers, including date of initial hearing, date of any subsequent hearings, continuance codes for any continuances, and date of *in absentia* decision.
- (3) The number of orders issued *in absentia* in removal Unaccompanied Alien Child (UAC) cases from 2008 through the date this request is processed by representation status (*i.e.*, respondent represented or *pro se*) and by immigration court.
- Please provide this data with unique identifying numbers, including date of initial hearing, date of any subsequent hearings, continuance codes for any continuances, and date of *in absentia* decision.

Note that CLINIC does not seek any personally identifiable information about any third party including any 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, Microsoft Excel 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.

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. 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 requests 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.²

A. Disclosure of the records and information is in the public interest.

Disclosure of the requested information will contribute significantly to the public's understanding of the effects of representation on the respondent's likelihood to receive an *in absentia* order. 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 those affecting individuals in proceedings before EOIR. In addition, CLINIC's materials are disseminated to the public through its website, www.cliniclegal.org. 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 proceedings and before the BIA.

Finally, CLINIC has regular contact with national print and news media and may share information gleaned from this request with interested parties.

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 members of the public who have access to our public website and other free publications, 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, providing 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 the timeframe provided by law.

If portions of the requested materials are claimed to be exempt, 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 U.S.C. § 552(b).

² 5 U.S.C. § 552(a)(4)(A)(iii); *see also* 6 C.F.R. § 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). CLINIC is a 501(c)(3) organization that promotes the dignity and protects the rights of immigrants in partnership with a dedicated network of Catholic and community legal immigration programs. CLINIC's network originally was comprised of 17 programs. CLINIC has grown to more than 370 programs in 49 states, Puerto Rico, and the District of Columbia. For additional information, see <https://cliniclegal.org>.

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

Sincerely,

A handwritten signature in black ink, appearing to read "Michelle Mendez". The signature is fluid and cursive, with the first name "Michelle" and the last name "Mendez" written in a similar style.

Michelle N. Mendez
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