Southeast Immigrant Freedom Initiative Guide for Pro Bono Counsel

MISSION
The Southeast Immigrant Freedom Initiative (SIFI) provides high-quality, holistic pro bono legal representation to immigrants detained in the southeastern United States. By ensuring that skilled attorneys are available to protect detained immigrants' due process rights, the SIFI endeavors to win every meritorious deportation defense case arising out of recent and anticipated immigration enforcement actions.

Pro bono attorneys are involved in the following SIFI project phases (click link to advance to description):
- **Phase 1:** Observing Immigration Court Proceedings
- **Phase 2:** On-the-Ground, Detention Center-Based Intake, Bond Representation, and Initial Preparation of Deportation Defense
- **Phase 3:** Merits Representation of Detained Immigrants

PROJECT COLLABORATORS
The Southeast Immigrant Freedom Initiative was developed by and is coordinated by the Southern Poverty Law Center (SPLC). Implementation at the Stewart Detention Center is a collaboration between SPLC, the American Immigration Lawyers Association (AILA), the American Immigration Council (Council), the Innovation Law Lab (Law Lab), and the American Immigration Representation Project (AIRP). We fully anticipate that other national, regional, and local partners will join the SIFI at the Stewart Detention Center and as it expands to other detention centers in the Southeast.

OBJECTIVES
**Objective 1: Protect Immigrants’ Due Process Rights**
**Why:** When an attorney is not present to hold them accountable, immigration prosecutors and judges often place expediency and, at times, ideology ahead of immigrants’ fundamental due process rights.

On the other hand, detained immigrants with counsel are more than 10 times as likely to succeed in their cases as detained immigrants without a lawyer. Immigrants who are released from detention and are able to secure counsel are almost 20 times as likely to succeed as pro se detained immigrants.

Deportation separates parents from their children, leads to economic instability and potential impoverishment for both deportees and the families they leave behind, and may result in persecution for deportees. Lives, families, and futures are on the line.

**How:** By providing aggressive, high-quality, and professional representation, we endeavor to win every meritorious case brought on behalf of immigrants detained in the southeastern United States – and to
the extent possible bonded or paroled immigrants who had been detained – as a result of recent and anticipated immigration enforcement.

**Objective 2: Slow Down the Deportation Machine**

**Why:** Congress has ensured that noncitizens have a right to a hearing in many cases and to administrative process in others. Yet the complexity is daunting. When a detainee lacks counsel, the system runs like a crushing machine. The process rolls over the immigrant, and detention is used as the ultimate leverage.

The deportation machine only functions because the vast majority of immigrants swept up in raids and apprehended through other enforcement actions do not have lawyers. The efficacy of the machine depends upon the assumption that immigrants will pass through detention centers and be quickly processed for removal, and that immigrants will not be informed of and exercise their rights.

**How:** If held accountable by counsel who insist on due process for their clients and assist those clients in seeking bond and relief on the merits of their cases, the machine will grind to a halt. There simply will not be enough immigration prosecutors, judges, or detention bed space.

**Objective 3: Educate the Public about Immigrants and Thereby Change the Narrative**

**Why:** Current immigration policies that have expanded removal priorities are based on hate and fear, not facts. Some of the advisors and agency chiefs who have recently advocated for vast expansion of immigration enforcement and the scaling back of immigrants' due process rights have close ties with anti-immigrant hate groups and parrot their rhetoric.

They have attempted to take control of the narrative by spreading misinformation, describing immigrants as criminals, job-stealers, and even terrorists. These narratives dehumanize and vilify immigrants to justify unchecked enforcement and an erosion of fundamental rights.

Yet, draconian enforcement did not begin with the current administration. The last eight years saw more deportations than in any prior administration. While the motives may have been different – a failed effort to achieve comprehensive immigration reform by mollifying advocates for strict enforcement – the results were still devastating for immigrant communities and similarly relied upon the erosion of immigrants' due process rights. These earlier policies laid the foundation for the current expansion of detention and deportation, now propelled by amplified anti-immigrant rhetoric.

As long as this is the narrative the public hears, efforts to implement immigration laws and policies rooted in human rights (and in actual facts) will fail.

**How:** We counter the current false narrative by helping raise detained immigrants' voices and by reminding the public that these immigrants are our families, friends, and neighbors. These are regular – and sometimes extraordinary – people who came here seeking refuge and the opportunity to provide better lives for their families.

We will publicize real stories – backed by empirical evidence – of the women, men, and children we serve. These stories will defuse the fear of, and hatred toward, immigrants by demystifying who they are.

**Objective 4: Hold Law Enforcement and Detention Facility Personnel Accountable for Violations of Immigrants' Civil Rights**

**Why:** The history of immigration enforcement in the United States also is a history of racial profiling, unconstitutional searches, surveillance, and arrests, and instilling fear in immigrant communities.

The history of immigrant detention in the United States also is a history of cruel conditions of
confinement in geographically isolated and often for-profit prisons; little or no access to counsel; and, at times, indefinite incarceration without trial, conviction, or the ability to post bond. This is fundamentally at odds with the constitutional and human rights of all people, including immigrants.

**How:** We will gather information and data during the intake process at immigrant detention centers. Where raids or other immigration enforcement actions violated immigrants’ constitutional rights, we will refer the cases to civil rights attorneys, including members of the SIFI, for litigation. Where DHS prosecutors attempt to introduce evidence seized in violation of immigrants’ constitutional rights, we will file motions to suppress.

Through ongoing communication with detained immigrants, we will monitor conditions of confinement, particularly focusing on efforts prevent access to legal counsel. We will advocate and, if necessary, litigate to challenge any efforts by detention officials and immigration judges to deny or limit immigrants’ ability to be represented by an attorney. Further, where the duration of detention violates an immigrant’s constitutional rights, we will represent that immigrant in a federal habeas corpus action.

**Objective 5: Cultivate and Expand Attorney Engagement**

**Why:** There are more attorneys in the U.S. Senate, the U.S. House of Representatives, and in state legislatures than almost any other profession. Attorneys advise all levels of government. Through individual representation and strategic litigation, attorneys have the power to challenge constitutional deprivations and other injustices. Yet, many attorneys don’t know how immigration policies affect real people.

**How:** We need to make the lives of detained immigrants visible. For too long, immigration enforcement and detention has been allowed to expand outside of the public’s view. We are more likely to run into a burning building to rescue someone we care about. By working directly and developing relationships with individuals harmed by the raids and other enforcement actions, pro bono attorneys will no longer see the immigration policy debate as purely theoretical. Rather, they will understand that draconian immigration policy and enforcement has a terrible impact on real people. Once an attorney completes her or his work with the project, she or he will take the experience home. The attorney will be more likely to remain engaged in immigrant advocacy.

**THE ROLE OF SIFI PRO BONO ATTORNEYS IN A NUTSHELL**

**Phase 1: Observing Immigration Court Proceedings**

**Purpose:** Court accountability, public advocacy, and attorney training. Document problems with access to counsel; equal treatment of pro se litigants; and the conduct of interpreters, counsel, and judges.

Anticipated dates: 3-4 weeks between March 20, 2017, and April 14, 2017; possible dates thereafter.

Location: Stewart Detention Center, Lumpkin, Georgia. Training: Approximately 2 hours of online orientation.

Supervision: Minimal.

Length of commitment: For Phase 1, 1-5 days per attorney. Though not required, we request that each attorney also take part in Phase 2 (described below).

What attorneys will do: Two pro bono attorneys will observe each of the four courtrooms at the Stewart Detention Center for the duration of a day’s proceedings (generally from 8:00 a.m. until 4:00 p.m., with a morning, lunch, and afternoon recess). Pro bono attorneys will complete a one-page form SIFI provides to gather information about each proceeding and will write down...
additional observations in a notebook for later reference. At the end of the day, pro bono attorneys will complete a comprehensive online form based on the one-page form and the additional observations.

SIFI provides: Orientation, court monitoring forms, minimal oversight, advocacy support in the event of court access issues, and logistical support. SPLC will compile the results of the court observation for advocacy efforts, including a fact sheet or report and, if warranted, a complaint to the Executive Office for Immigration Review.

Attorney provides: The attorney will pay for her or his travel, accommodations, and meal expenses. Each attorney should bring a laptop computer or tablet. For access to the courtroom, attorneys should bring a Bar card or certificate of good standing, and a government-issued photo ID.

Phase 2: On the Ground (OTG) Detention Center-based Intake, Bond Representation, and Initial Preparation of Deportation Defense

Purpose: Intake, initial legal representation, OTG support for Phase 3, litigation support and development, court accountability, and public advocacy.

Anticipated dates: Starting April 17, 2017, continuing until reforms make project no longer necessary.

Locations: Starting at Stewart Detention Center, Lumpkin, Georgia. Expanding to additional detention centers in the Southeast every 1-3 months.

Training: Approximately 4 hours of online training and 6 hours of onsite inperson training. Though not required, we also recommend that attorneys participate in Phase 1 before joining Phase 2.

Supervision: Continuous, by onsite and remote immigration attorneys.

Length of commitment: For Phase 2, 6 days onsite (Sunday through Friday) per attorney. Though not required, we request that each attorney also represent one client through Phase 3 (described below).

What attorneys will do: Pro bono attorneys will conduct intakes, counsel clients (based on screening by SIFI Managing Attorneys), attend nightly meetings to coordinate strategy and review progress, and record case events in LawLab software. Pro bono attorneys also may draft and compile legal documents and certain applications for relief, prepare clients for credible/reasonable fear interviews, represent clients in bond hearings, liaise with family members of detainees, advocate directly with Stewart Detention Center officials, provide OTG support for Phase 3 attorneys, refer related civil rights matters to SPLC and other counsel, and other legal work as needed.

Project provides: Training (CLE credit may be available), immigration forms and templates, legal research materials, continuous oversight and mentoring by immigration attorneys, advocacy support, logistical support, intake screening, and investigation support. A remote (non-OTG) bond team will be available to assist with bondrelated information gathering. A shared workspace near the detention center will be available. The project may provide interpretation and translation services under certain circumstances. For the duration of Phase 2, represented detained immigrants will be clients of the SIFI Managing Attorneys, but Phase 2 pro bono attorneys may need to enter appearances on behalf of certain clients if necessary.
**Phase 3: Merits Representation of Detained* Immigrants**

**Purpose:** Applications for defensive relief, legal representation in merits proceedings and appeals, court accountability, and public advocacy.

**Anticipated dates:** Starting April 17, 2017, continuing until reforms make project no longer necessary.

**Locations:** Starting at Stewart Detention Center, Lumpkin, Georgia. Expanding to additional detention centers and Immigration Courts as Phase 2 expands and cases are transferred. Most of the case work may be done remotely from the pro bono attorney’s law office. However, some in-person court appearances will be necessary. Some OTG support may be provided by the Phase 2 attorneys.

**Training:** 6-20 hours, depending on complexity of case and attorney’s immigration law experience. Though not required, we also recommend that attorneys participate in Phase 2 before joining Phase 3.

**Supervision:** Continuous, by onsite and remote subject matter expert immigration attorneys (the tactical team).

**Length of commitment:** Duration of case, through appeals to the BIA and Article III courts as appropriate.

**What attorneys will do:** With close mentoring by SIFI subject matter experts, each Phase 3 pro bono attorney will represent a client in the merits phase of his or her case, through any appeals. The representation may include detailed client interviews, overseeing investigations in support of client’s claims, liaising with family members of detainees, preparing applications for immigration relief, preparing legal briefing, filings and appearances in federal habeas corpus proceedings, appearing at merits hearings, briefing and arguing BIA appeals, briefing and arguing appeals (if warranted) to the appropriate Article III court, and other legal work as necessary.

Phase 3 attorneys also may represent detainees in certain bond hearings.

**Project provides:** Training (CLE credit may be available), immigration forms and templates, legal research materials (not including online research platforms such as Lexis or Westlaw), continuous oversight and mentoring by immigration attorney subject matter experts, advocacy support, logistical support, and investigation support. A shared workspace with an internet connection and standard office supplies may be available, depending on location. The project may provide interpretation and translation services under certain circumstances.

---

*SIFI non-OTG staff will seek pro bono and low bono referrals for immigrants who are bonded out or paroled.*
Attorney provides: The attorney will pay for her or his travel, accommodations, and meal expenses. Each attorney should have a laptop computer or tablet and have her or his own account to access an online legal research platform such as Lexis or Westlaw. Each attorney must be licensed to practice law in any U.S. jurisdiction and be admitted or eligible for admission (directly or pro hac vice) in Article III courts in the jurisdiction where the client is detained. The client will be represented by the pro bono attorney. Each attorney must carry malpractice insurance that would cover pro bono representation. The attorney will be expected to cover all costs, including filing fees and the costs of any expert witnesses. Generally, with limited exceptions, attorneys will be expected to pay interpretation and translation costs associated with the cases they are handling.


4 8 USC §1229(a)


11 Alan Gomez, Trump’s quick deportation plan may be illegal, past immigration chiefs say, USA Today (Feb. 24, 2017) (available at http://www.usatoday.com).


17 In 1984, advocate for the homeless Mitch Snyder, when asked why he went on a 31-day hunger strike to force the U.S. Department of Health and Human Services to convert an abandoned building into a homeless shelter, answered, “It’s the equivalent of running into a burning building to save those you love. We love those people at the shelter.”