



AMERICAN
IMMIGRATION
LAWYERS
ASSOCIATION

September 26, 2019

Acting Secretary Kevin K. McAleenan
U.S. Department of Homeland Security
Washington, DC 20528

Acting Director Matthew T. Albence
U.S. Immigration Customs Enforcement
500 12th Street, SW
Washington, DC 20536

Acting Commissioner Mark A. Morgan
U.S. Customs and Border Protection
1300 Pennsylvania Ave. NW
Washington, DC 20229

The Honorable William P. Barr
Attorney General
U.S. Department of Justice
950 Pennsylvania Ave. NW
Washington, DC 20530

Director James McHenry
Executive Office for Immigration Review
U.S. Department of Justice
Skyline Towers,
5107 Leesburg Pike
Falls Church, VA 22041

Re: The American Immigration Lawyers Association Requests Information and Access to Tent Court Facilities to Observe Immigration Court Hearings

Dear Acting Secretary McAleenan, Acting Director Albence, Acting Commissioner Morgan, Attorney General Barr, and Director McHenry:

On behalf of the American Immigration Lawyers Association (AILA), the private bar association of more than 15,000 immigration attorneys and law professors, we write to request access to the tent court facilities to observe the Migration Protection Protocol hearings. We also request answers to operational procedures and information related to the new tent court facilities.

AILA National Office

1331 G Street NW, Suite 300, Washington, DC 20005
Phone: 202.507.7600 | Fax: 202.783.7853 | www.aila.org

AILA Doc. No. 19092600. (Posted 9/26/19)

Earlier this year, the U.S. Department of Homeland Security (DHS) announced the [Migration Protection Protocols](#) (MPP), a policy also known as “Remain in Mexico,” which requires individuals seeking asylum at our southern border to remain in Mexico while their U.S. removal proceedings are pending. Since the implementation of this program, [more than 47,000 vulnerable asylum seekers](#) have been forced to wait for their proceedings in some of the most dangerous locations in Mexico. Nongovernmental organizations (NGOs) have expressed grave concerns over the MPP program. AILA has [raised concerns](#) that this program curtails an asylum seekers ability to be represented by counsel. Of particular concern to AILA is that DHS and the U.S. Department of Justice (DOJ) recently expanded this program into Laredo and Brownsville, Texas, and built massive new temporary tent facilities to adjudicate hearings via video teleconference (VTC) for MPP asylum seekers, [without notice to the legal community](#). To date, little information has been confirmed by DOJ or DHS, but hearings in the new port courts [began on September 11 in Laredo and on September 12 in Brownsville](#).

During the week of September 16, representatives from several NGOs, including AILA, the National Immigrant Justice Center, Amnesty International, and Women’s Refugee Commission, traveled to Laredo and Brownsville to obtain access to the tent facilities and to view the hearings occurring at each facility. At both locations, ICE officers denied the NGO representatives access to the facilities as attorney observers on varying grounds—sometimes indicating that the denial of access was due to ICE and other times indicating that CBP was responsible for denying access to the facilities. Additionally, DHS has limited [press access](#) for hearing observation at the tent court facilities. CBP has [stated](#) publicly that these hearing facilities are within CBP’s secure port of entry property, and therefore, access to these temporary immigration hearing facilities will be assessed on a case-by-case basis.

Unlike in other immigration courts, attorney observers have not been permitted to access the Laredo and Brownsville tent court facilities to observe hearings. After ICE officers denied AILA representatives entry to the tent courts last week, ICE indicated that the AILA representatives could view the hearings at the brick and mortar courts at the [San Antonio Immigration Court](#), the [Harlingen Immigration Court](#), and the [Port Isabel Immigration Court](#). This is an unacceptable denial of access. In order to ensure that immigration hearings are conducted fairly and consistent with due process, it is critical that the attorney observers and the press have access to the hearings conducted in these tent court facilities. Furthermore, DOJ and DHS have failed to provide the public with advance notice of the names of the immigration judges (IJs) hearing these cases, the correct locations of the hearings, and times of the hearings. Without providing this critical information to the public, the administration is violating its own regulations and blocking public access to immigration court hearings.

As of the date of this letter, despite several requests, no NGO representatives have been allowed to enter the tent court facilities to view the facility or the hearings occurring within them. AILA respectfully requests that the agency provide access to attorneys to observe the MPP hearings taking place at the tent court facilities.

In addition, we ask that you provide the following information to the public:

1. EOIR [indicated](#) that the tent court facilities are considered “DHS facilities” and “DHS controls access to its facilities and determines conditions of access.”
 - What steps have DHS and DOJ taken to ensure that respondents have meaningful access to counsel prior to their hearing?
 - What are the business hours or hearing hours for the cases heard at these tent court facilities?
 - Please identify where the attorney entrance is located for each tent facility.
 - Will attorneys representing MPP clients have the opportunity to meet with their clients prior to the scheduled hearings? If so, how much time will clients be provided with to meet with their clients in advance of hearings?
 - Will attorneys have access to their clients after the scheduled hearings at these facilities? If so, how much time?
 - Please attorneys confirm that attorneys will be able to accompany their clients to the non-refoulement interviews?
 - Will attorneys have private rooms to meet with their clients?
 - Will witnesses or family members be permitted to appear in these facilities? If not, where will they appear? Will they be required to travel to the immigration judge’s (IJ) location?
 - Where will attorneys submit documents on behalf of their clients that are required for them to apply for asylum (e.g., I-589, E-28’s, supporting evidence, etc.)?
 - ICE trial attorneys are permitted to utilize laptops, phones, and internet in the tent courts. How will DHS and DOJ facilitate providing all parties with equal access to technology in the tent facilities?
2. EOIR [stated](#) that San Antonio is the administrative control court for the Laredo facility and Harlingen is the administrative control court for Brownsville.
 - Please verify that this information is still correct.
 - If an IJ hearing the case is located in El Paso, Port Isabel, or another immigration court, where should the attorney of record for the MPP respondent submit documents on behalf of their clients?
3. Please identify the names of the IJs that have been assigned to hear MPP cases via VTC for the tent court facilities and include the dates on which they will hear these cases. Going forward, how will DHS and DOJ plan on notifying the public on any changes and/or updates to this information?
4. Will DOJ and/or EOIR provide on the ground personnel at these facilities? If so, please identify which positions.
5. Unlike other immigration courts, the public has not been permitted to access the Laredo and Brownsville tent court facilities. Please outline the proper information and procedures that the public should be aware of in order to access these tent court facilities.
6. BuzzFeed [reported](#) that DHS officials expect about 150 IJs from across the U.S. to handle MPP cases.

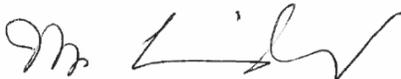
- How many IJs will be detailed to MPP cases?
 - Which immigration court dockets will be affected and for how long does DHS anticipate that these dockets will be affected?
 - How many cases will be postponed due to the prioritization of MPP cases?
7. Are DHS and DOJ planning to open up additional soft-sided facilities along the border to adjudicate MPP cases?
- Please identify the (1) number of soft-sided facilities that DHS expecting to erect, (2) the locations of these facilities, and (3) the timeline of opening these facilities.

Thank you in advance for your cooperation with these requests. If you have any questions or concerns, please do not hesitate to contact Laura Lynch, AILA's Senior Policy Counsel, (llynch@aila.org) at (202) 507-7627.

Sincerely,



Benjamin E. Johnson, Esq.
AILA Executive Director



Marketa Lindt, Esq.
AILA President