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**RE: RIN 1615-AC67; Public Comment on Proposed Rules on Procedures for Credible Fear Screening and Consideration of Asylum, Withholding of Removal, and CAT Protection Claims by Asylum Officers**

New York Lawyer for the Public Interest (NYLPI) submits this comment urging the Department of Homeland Security (DHS) and Department of Justice (DOJ) (collectively, the Departments or the agencies), to withdraw or substantially revise the proposed rules regarding Procedures for Credible Fear Screening and Consideration of Asylum, Withholding of Removal, and CAT Protection Claims by Asylum Officers (hereinafter, the proposed rules). We appreciate that the Departments are open to re-envisioning certain aspects of the asylum system. However, we have grave concerns that, as written, the proposed rules will lead to many asylum seekers being rushed through a “streamlined” system where they do not receive a full hearing on their claims and where their due process rights are greatly reduced.

NYLPI is a community-driven civil rights organization with a long commitment to immigrant justice and to addressing the challenges faced by immigrant communities. We address the human rights crisis in immigration detention; operate a medical-legal-community partnership to increase access to healthcare in immigration detention and to support release; connect

undocumented and uninsured immigrants with serious health conditions to state funded healthcare; and advocate for healthcare coverage for all New Yorkers. Our clients' experiences inform our work and are the basis for this submission. NYLPI provides direct immigration representation and social services support to immigrants, including asylum seekers, and helps immigrant New Yorkers gain access to better healthcare coverage that provides otherwise unattainable lifesaving treatments. Specifically, through our UndocuCare TGNCI+ program, we provide direct legal services to transgender, gender-nonconforming, intersex (TGNCI) and undocumented individuals living with HIV by filing for viable immigration relief, including asylum, U- and T-visas, and family-based applications to ensure access to gender-affirming healthcare, housing, and other state and local public benefits.

NYLPI's comment will focus on the aspects of the proposed rules that will have an outsized effect on our client populations. We are most concerned with the following:

1. the proposed rule's focus on "streamlining" would deny asylum seekers their day in court; and
2. the proposed rule eliminates asylum seekers' ability to seek reconsideration from the asylum office of credible fear interviews.

We support the following changes:

1. allowing the CFI to serve as the asylum application, which is, in theory, a positive change; and
2. adding to the grounds on which parole consideration may be given to individuals awaiting a credible fear determination.

**1. 8 CFR §§ 1003.48 and 208.14—The Proposed Rule's Focus on "Streamlining" Would Deny Asylum Seekers Their Day in Court**

Proposed sections 8 CFR §§ 1003.48 and 208.14(c)(5) would dramatically alter the rights of asylum seekers<sup>1</sup> who have been placed in expedited removal and who have passed their credible fear interview<sup>2</sup> (CFI). Under the proposed rule, asylum seekers who pass their CFI would have their applications for asylum and related relief heard by an asylum officer rather than being referred to immigration court for full proceedings under section 240 of the Immigration and Nationality Act (INA). If the asylum seeker is not granted asylum by the United States Citizenship and Immigration Services (USCIS) asylum officer, under the new rule, the asylum seeker would not be placed into § 240 removal proceedings and instead could only seek "review" of the asylum officer's decision and the interview transcript. If the asylum seeker wants to present further evidence to the immigration court, they "must establish that the testimony or documentation is not duplicative of testimony or documentation already presented to the asylum

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<sup>1</sup> To the extent that this comment addresses issues that affect applicants for asylum, withholding of removal and protection under the Convention Against Torture, it will use the term "asylum seekers" to mean applicants for all of these forms of protection.

<sup>2</sup> To the extent that this comment addresses asylum seekers who have undergone reasonable fear interviews, it will use the term "credible fear interview" to mean applicants who have undergone credible fear or reasonable fear interviews.

officer, and that the testimony or documentation is necessary to ensure a sufficient factual record upon which to base a reasoned decision on the application or applications.” 8 CFR § 1003.48(e)(1). The preamble to the rule states that the intent of this change is for these proceedings “to be more streamlined than section 240 removal proceedings.” 86 Federal Register (Fed. Reg.) 46906, 46919 (Aug. 20, 2021).

We strongly object to this radical change in the rights of asylum seekers in the United States. Under this change, asylum seekers could be ordered removed without ever having a fair day in court. Asylum officer interviews are conducted by asylum officers and give limited opportunity for counsel to question the applicant or present other witness testimony, such as expert testimony.<sup>3</sup> If the application is denied by the asylum officer, the asylum seeker would have to request review by an immigration judge to avoid an immediate, final removal order. While the rule calls the review by the judge “de novo” we are deeply troubled that the asylum seeker can only present new evidence at the discretion of the judge. We fear that this “streamlined” approach will allow immigration judges to review an interview transcript and rubber stamp denials from asylum officers with little due process and without meaningful participation by asylum seekers’ counsel, in violation of INA § 292, which provides a right to counsel in removal proceedings. Moreover, without a traditional trial transcript to review, we are concerned that BIA and federal circuit court review will likewise be cursory.

***Immigration judges may be hostile towards or require more education about asylum claims for transgender and gender nonconforming (TGNC) asylum seekers or people who are living with HIV.***

Time to acquire evidence, obtain legal representation and take testimony, including expert testimony, are particularly crucial in our cases. NYLPI currently represents an asylum seeker living with HIV, Mr. Z, whose asylum application was initially denied by an immigration judge while he was detained. The reason for denial was in-part because he did not have access to expert testimony or legal representation to argue his asylum claim that heavily relied on fear of discriminatory denials of health care, and likely death, based on his HIV-positive status. NYLPI is currently representing Mr. Z on a motion to reopen his asylum case. Mr. Z’s case now relies on expert testimony that can speak to the targeting of organizations giving humanitarian assistance and medication to persons living with HIV. Without access to such testimony, it is not likely that our client would prevail. Further, had this client not been paroled from detention and afforded the opportunity to find an attorney to represent him on a motion to reopen his case, he would have likely already been deported to his death. The proposed focus on “streamlining” forecloses the possibility for asylum seekers to reopen a meritorious asylum claim and seek expert testimony to support complicated country conditions, and prove changed country conditions, if needed.

Asylum officers and immigration judges may also be particularly hostile towards or require more education about asylum claims for transgender and gender nonconforming (TGNC) asylum seekers. TGNC folks are more vulnerable to trafficking, physical and emotional violence, and

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<sup>3</sup> The proposed rule explicitly allows the representative to “ask follow-up questions” and make a statement but only at the completion of the interview. 8 CFR § 208.9(d)(1).

assaults by police forces. They may have experienced sexual assault and abuse from a young age that can result in posttraumatic stress disorder (PTSD), or general memory lapses due to trauma's effect on the brain.<sup>4</sup> One of our clients, Ms. J, had several seemingly inconsistent statements during her CFI that nearly led the asylum officer to deny her credibility. After Ms. J was released from detention on parole and retained NYLPI for legal services, we found that potential inconsistencies in her CFI were due to trauma-related memory lapse and the asylum officer's lack of cultural competency working with transgender asylum seekers. Trauma science through expert testimony and psychological evaluations will be crucial components of Ms. J's asylum case in her section 240 proceedings moving forward. Without access to counsel and expert testimony to diligently explain adverse credibility findings, immigration judges will likely focus on any inconsistency identified by an asylum officer as an opportunity to deny an asylum case. More recently, in the 2nd circuit, immigration judges have been increasingly scrutinizing credibility.<sup>5</sup> Thus, the need for expert testimony and psychological evaluations is even more dire. Importantly, immigration judges could easily deny motions to present further evidence regarding credibility as "cumulative" if the proposed rule goes into effect.

We do not object in theory to the rule's change that would allow asylum seekers to have the opportunity to present their cases in a non-adversarial interview as a first step, but we strongly object to the changes that could result if most asylum seekers who come through the expedited removal system are never afforded a full hearing in which counsel of their choosing presents evidence to an immigration judge. We suggest that, if the agencies move forward with this new asylum hearing process, asylum seekers who are not granted asylum by the Asylum Office, be referred for full INA § 240 proceedings.

***This proposed change could be weaponized by future anti-immigrant administrations against asylum seekers.***

The Asylum Office has, in the past, been subject to politically motivated changes in training material and culture that have affected outcomes in cases.<sup>6</sup> While asylum officers and immigration judges alike are bound by federal court, attorney general, and Board of Immigration Appeals (BIA) precedent, immigration judges are given the ability to function more independently than their USCIS officer counterparts.<sup>7</sup> Asylum seekers should know that they will receive a fair adjudication of their claim without fear of politicization. With the new power that would be given to asylum officers to be primary decision makers in asylum claims,

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<sup>4</sup> See Belinda Graham et al., *Overgeneral memories in asylum seekers and refugees*, 45 J. Behav. Ther. & Exp. Psychiat. 375-380 (2014).

<sup>5</sup> See, e.g., *Liang v Garland*, 10 F.4<sup>th</sup> 106 (2d. Cir. 2021) (holding that a small omission can lead to an adverse credibility finding).

<sup>6</sup> See *Kiakombua v. Wolf*, 498 F. Supp. 3d 1 (D.D.C. 2020), appeal dismissed *sub nom. Kiakombua v. Mayorkas*, No. 20-5372, 2021 WL 3716392 (D.C. Cir. July 19, 2021); see also Nick Miroff, *Chief of U.S. Asylum Office Reassigned as White House Pushes for Tighter Immigration Controls*, THE WASHINGTON POST, Sep. 4, 2019, [https://www.washingtonpost.com/immigration/chief-of-us-asylum-office-reassigned-as-white-house-pushes-for-tighter-immigration-controls/2019/09/04/0ac3705e-cf4e-11e9-8c1c-7c8ee785b855\\_story.html](https://www.washingtonpost.com/immigration/chief-of-us-asylum-office-reassigned-as-white-house-pushes-for-tighter-immigration-controls/2019/09/04/0ac3705e-cf4e-11e9-8c1c-7c8ee785b855_story.html).

<sup>7</sup> See 8 CFR § 1003.10(b), ("immigration judges shall exercise their independent judgment and discretion and may take any action consistent with their authorities under the Act and regulations that is appropriate and necessary for the disposition of such cases.").

and with a reduced role for immigration judges, an administration hostile to asylum would likely find it easier to issue asylum office guidance that would result in reduced asylum grants. Likewise, policy memoranda by the Executive Office for Immigration Review (EOIR) or an attorney general decision could lead to a process where immigration judges generally review only the asylum office record without allowing any further evidence or testimony.

Furthermore, the prior administration sought to greatly expand the use of expedited removal. While the current administration may envision this rule as streamlining border processes for recent arrivals, a future administration that seeks to expand the use of expedited removal could prevent many noncitizens, far from the border, from accessing full removal proceedings.

Likewise, with the “streamlined” procedure proposed, a hostile administration could expedite the process further, giving asylum seekers who pass a CFI their merits “asylum hearing” within a few days or weeks, and keeping them detained throughout the process in remote border facilities. If the immigration judge conducting review of the decision listens to the recording rather than waiting for a transcript of the interview, the entire process could be completed within a few days or weeks of the asylum seeker’s arrival in the United States, like the widely criticized PACR and HARP procedures under the prior administration.<sup>8</sup> Asylum seekers are far more likely to succeed on their claims if they have competent counsel and the time required to gather evidence and, if needed, obtain mental health services.

***This proposed change would create a massive new USCIS infrastructure, the cost of which would be borne by other applicants for USCIS benefits.***

The proposed rule would require USCIS to add over 800 new employees to handle an additional 75,000 cases per year. 86 Fed. Reg. 46921. According to the Notice of Proposed Rulemaking (NPRM), there are currently backlogs in the immigration court of over 1.4 million cases, 86 Fed. Reg. 46908, and in the asylum offices of over 400,000 cases. 86 Fed. Reg. 46921. Siphoning off a tiny percentage of noncitizens cases for a “streamlined” process, will do little to address these backlogs and will require extraordinary resources; the agencies should provide needed resources to EOIR and the Asylum Offices to address the existing backlogs before creating an unwieldy new system.

The agencies estimate in the preamble to the NPRM that as the newly designed Asylum Office hearing system hears more cases in the future, USCIS will need to raise application fees by 13-26 percent, above and beyond any other needed fee increases in order to meet the costs of the additional staff. 86 Fed. Reg. 46937. The United States has a legal and moral obligation to offer protection to those fleeing persecution or torture. By shifting the primary burden of hearing asylum applications from the appropriations-funded immigration court to the USCIS-funded asylum office, the rule would force noncitizens to pay for asylum adjudications rather than having the cost of these important protections shouldered by all taxpayers, including U.S. citizens. Building this elaborate new USCIS system will significantly increase fees for all USCIS applications when such fees are already too high for many noncitizens to afford.

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<sup>8</sup> See Kate Huddlestone, *Just Security, Ending PACR/HARP: An Urgent Step Toward Restoring Humane Asylum Policy* (Feb. 16, 2021), <https://www.justsecurity.org/74678/ending-pacr-harp-an-urgent-step-toward-restoring-humane-asylum-policy/>.

## **2. 8 CFR § 208.30(g)—The Proposed Rule Eliminates Asylum Seekers’ Abilities to Seek Reconsideration from the Asylum Office of Credible Fear Interviews**

Proposed 8 CFR § 208.30(g) would strip the Asylum Office of the ability to reconsider CFI denials if an immigration judge upholds the denial. The CFI process is generally completed quickly, while asylum seekers are detained, and often after lengthy and arduous travel to reach the U.S. border. For asylum seekers who have suffered severe past persecution or trauma, it is often difficult to recount past harms immediately at a CFI. While immigration judge review is supposed to protect the rights of asylum seekers who do not pass a CFI, these reviews are often cursory. In many cases, it is only after several meetings with an advocate in a detention center that the asylum seeker can recount past trauma. In other instances, language barriers, especially for indigenous language speakers, may prevent fluent communication with adjudicators. The ability to file a request for reconsideration has saved countless asylum seekers from being returned to countries of feared persecution or torture without having their claim heard and it should not be removed in the name of “efficiency.”

### **We Applaud Some Positive Changes to the CFI Procedure**

We applaud the agencies for clarifying in the regulations that the CFI must be performed by a USCIS officer. 8 CFR § 208.30(d). Under the prior administration, DHS allowed Customs and Border Protection officers with limited asylum law training, and with a background in law enforcement rather than protection, to conduct these critical interviews. A federal court enjoined that practice in *A.B.-B. v. Morgan*, No. 20-CV-846 (RJL), 2020 WL 5107548, at \*1 (D.D.C. Aug. 31, 2020). The proposed rule would keep future administrations from again seeking to have DHS officers without the appropriate background conduct CFIs.

We also applaud the agencies for rejecting changes to the credible fear standard put forth in the “Global Asylum” rule and “Security Bars” rule and restoring the standard to what has been in effect for the past two decades. 8 Fed. Reg. 46914. The proposed rule, at 8 CFR § 208.30(e)(2), clarifies that asylum seekers need only demonstrate “a significant possibility” that they can prevail on their claim for asylum, withholding of removal, or Convention Against Torture protection. These changes provide important protections to those who are in expedited removal and comport with INA §235(b)(1)(B).

## **3. 8 CFR §§ 208.3-208.4—Allowing the CFI to Serve as the Asylum Application Is, in Theory, a Positive Change**

We support the general idea that a positive CFI should be considered the filing of an asylum application both for purposes of meeting the one year filing deadline for asylum applications under INA § 208(a)(2)(B) and to start counting required days towards Employment Authorization Document (EAD) eligibility. People who flee harm and express fear at the border should not be barred from asylum by the one year filing deadline which was established by Congress based on an assumption that bona fide asylum seekers would file relatively soon after entering the United States. Processes at the border are often chaotic and seemingly arbitrary. Many asylum seekers have missed the one year filing deadline through lack of notice

of the deadline, through confusion about the roles of different immigration agencies, or through the lack of coordination between DHS and DOJ leading to court proceedings not being timely initiated. *See Mendez Rojas v. Johnson*, 305 F. Supp. 3d 1176 (W.D. Wash. 2018).

Due to chaos at the border at the start of the COVID-19 pandemic, six of our clients had credible fear interviews while detained and were released before receiving their results, without an NTA or notice of the one-year asylum filing deadline. It took about 17 months for these clients to finally receive their positive CFI results and an NTA. By that time, the one-year asylum filing deadline had passed. Had they not obtained legal representation who had informed them of the deadline and that they could file an asylum application affirmatively to preserve their case, they could have missed the opportunity to apply for asylum. If the CFI could serve as the initial asylum application, that would avoid the one-year filing deadline issues resulting from scenarios like the one described above.

We do have some concerns, however, about the asylum officer's CFI notes forming the basis of the application because these notes are not always accurate, complete, or fully encompassing of the range of potential claims to asylum that may be available to our clients. This is particularly clear in cases where a nuanced understanding of a claim of "fear of future harm" is based on an applicant's medical condition or disability. Proposed 8 CFR § 208.4(c) leaves it within the discretion of the asylum officer whether or not to permit an asylum seeker to amend or supplement their application; asylum seekers should be afforded this opportunity as of right.

***The ability for our TGNC clients to quickly obtain work authorization is crucial.***

We strongly support procedural changes that would make it easier for asylum seekers to obtain Employment Authorization Documents (EAD) as quickly as possible. TGNC folks are highly vulnerable to trafficking. Lack of access to work authorization compounds this vulnerability because it furthers dynamics of power and control that exist between traffickers and their victims. If TGNC folks have legal outlets to work, they will be less likely to be coerced or threatened into trafficking situations. Additionally, EADs serve as a gender-affirming ID for TGNC people. In the last 5 months, 5 of our clients were able to obtain work permits in their chosen legal name after a legal name change that affirmed their gender identity. Their EAD is their first form of ID that uses their chosen name and correct gender marker.

Most asylum seekers come to the United States with virtually no financial resources and often live in poverty until they can obtain lawful employment. It is critical to their well-being, including having the ability to pay for competent legal counsel, that they be able to obtain an EAD as quickly as possible.

**4. 8 CFR 235.3(b)(2)(iii) and (b)(4)(ii) – Adding to the Grounds on Which Parole Consideration May Be Given to Individuals Awaiting a Credible Fear Determination Is a Positive Change**

We support the expansion of the grounds on which parole consideration may be given to individuals awaiting a credible fear determination. Previously, parole was allowed only when

necessary to meet a medical emergency or for a legitimate law enforcement objective. The proposed change would allow for parole when “detention is unavailable or impracticable,” including situations in which continued detention would unduly impact the health or safety of individuals with special vulnerabilities. NYLPI’s work has documented these exact situations. Thousands of immigrant New Yorkers receive abysmal health care in immigrant detention facilities in and around New York. Through NYLPI’s published reports and ongoing investigation, we have documented this growing human rights crisis – including denials of vital treatment, delayed surgeries, missed life-threatening diagnoses, and horrendous surgical errors.<sup>9</sup> Conditions have only worsened during the Coronavirus pandemic, and as such the proposed expansion of parole is vitally important. Immigrant populations remain vulnerable to the spread of the virus within detention, especially those who are already seriously ill.

***Immigration detention is “impracticable” and unduly harmful to the health or safety of people with “special vulnerabilities” supporting the proposed change to expand parole.***

NYLPI operates a Medical-Legal Community Partnership, that includes a volunteer Medical Providers Network (MPN), a growing network of healthcare professionals who provide medical advocacy to support release and access to necessary healthcare for people confined to immigration detention in the New York area. The MPN has provided scores of medical advocacy letters for people in immigration detention, including people seeking asylum where detention was detrimental to their health and wellbeing.

For example, NYLPI’s MPN advocated for the release of Mr. W, an asylum seeker whose diagnosis of osteoarthritis and associated mobility impairments made detention impracticable. Mr. W was repeatedly denied requests for a walking cane, an assistive medical device that was necessary for him to safely maneuver through the detention center. After advocating that a cerebral setting was not appropriate or safe for him, Mr. W. was released and was able to obtain the care he needed in the community. Unfortunately, Mr. W’s case is not unique, many asylum seekers living with disabilities are denied necessary assistance devices despite repeated requests, underscoring the need for this proposed change to the grounds on which parole may be considered. NYLPI has also documented numerous cases in which asylum seekers with both diagnosed and undiagnosed mental health and neurocognitive conditions have suffered while detained. In several cases, clients who were living with Post Traumatic Stress Disorder (PTSD), Traumatic Brain Injury (TBI), or similar trauma-based diagnoses severely decompensated as a result of prolonged detention with inadequate mental health services. Detaining people with mental health and neurocognitive diagnoses or those who have suffered complex trauma, as is true of many asylum seekers, is inappropriate and inhumane. Immigrant detention centers are not equipped to provide the services this population needs, the resulting harm can be devastating for the person and their ability to fully participate in their immigration hearings.

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<sup>9</sup> See NYLPI, *Still Detained and Denied* (2020), <https://www.nylpi.org/wp-content/uploads/2020/06/NYLPI-report-detainment.pdf>.

***The dangers posed by COVID-19 in immigration detention for people with “special vulnerabilities” support the expansion of parole.***

Prior to the COVID-9 pandemic, immigrant advocates in the New York and New Jersey area were denied access to clients as a result of an outbreak of mumps in the local detention centers.<sup>10</sup> Due to the extremely contagious nature of that virus and the crowded conditions of confinement, and frequent transfers of clients between detention centers, the illness was poorly contained and spread quickly among the detained population. This proved to be a foreboding forecast of what was to come. When the COVID-19 pandemic struck New York, it quickly spread to carceral settings and thousands of people became severely sick and many died. The MPN sprang into action advocating for individuals to be released from area immigration detention facilities and jails, and joined thousands of other medical providers to publicly urge Immigration and Customs Enforcement (ICE) to release all detained individuals as a matter of urgent public health and safety.<sup>11</sup> Specifically, the MPN noted that “[i]ndividuals and families, particularly the most vulnerable—the elderly, pregnant women, people with serious mental illness, and those at higher risk of complications” should be prioritized for release “while their legal cases are being processed to avoid preventable deaths and mitigate the harm from a COVID-19 outbreak.” With long documented evidence that immigrant populations are overburdened by lack of access to healthcare and health disparities that make medical conditions like diabetes, asthma, high BMI, and cardiac conditions more common, and a recent history of the detentions system’s inability to contain the spread of contagious diseases, it became clear that a large portion of the detained population was at risk of death or severe complication if exposed to COVID-19.<sup>12</sup>

Unfortunately, while our collective understanding of the virus that causes COVID-19 has expanded in the nearly two years since it brought the world to a halt, there are still many unknowns. The list of negative risk factors promulgated by the Centers for Disease Control and Prevention (CDC) has changed over time. The understanding of immunity with and without access to vaccines coupled with the continued spread and appearance of new variants have caused sometimes confusing and often contradictory recommendations from the CDC that have made it difficult to ensure the health and safety of detained asylum seekers.

We urge the Biden administration to halt the incarceration of asylum seekers and to adopt a policy that strongly favors release into the community where healthcare needs can be better met. Given the documented risks of spread of diseases within carceral settings, coupled with the high probability of adverse outcomes among immigrant populations, any form of confinement is impracticable because it comes at great risk to the health and wellbeing of asylum seekers.

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<sup>10</sup> Abigail Housloner, *U.S. immigration authorities fear mumps outbreak in crowded detention facilities*, The Washington Post (Jun. 14<sup>th</sup> 2019), [https://www.washingtonpost.com/immigration/us-immigration-authorities-fear-mumps-outbreak-in-crowded-detention-facilities/2019/06/14/de8baa64-8ee4-11e9-b08e-cfd89bd36d4e\\_story.html](https://www.washingtonpost.com/immigration/us-immigration-authorities-fear-mumps-outbreak-in-crowded-detention-facilities/2019/06/14/de8baa64-8ee4-11e9-b08e-cfd89bd36d4e_story.html).

<sup>11</sup> See *Open Letter to ICE from Medical Professionals Regarding COVID-19*, <https://www.nylpi.org/wp-content/uploads/2020/03/FINAL-LETTER-Open-Letter-to-ICE-From-Medical-Professionals-Regarding-COVID-19.pdf>.

<sup>12</sup> *Id.*

NYLPI is uniquely positioned, as an organization that is deeply committed to addressing the healthcare needs of people in immigration detention, to urge the expansion of the grounds on which parole consideration may be given to individuals awaiting a credible fear determination.

## Conclusion

In sum, the proposed rules would dramatically change adjudication procedures for asylum seekers who have been placed into expedited removal proceedings. While we acknowledge that it is often appropriate for asylum applications to be heard, in the first instance, in a non-adversarial interview setting, we strongly believe that prior to being removed from the United States, potentially to a country where a noncitizen would suffer persecution, torture, or undue risks to their health the applicant should have a full day in court where their counsel can present all necessary evidence. This system would be expensive to create and would not address the hundreds of thousands of asylum seekers already waiting for adjudication of their cases in the backlogs. The agencies should seek proper funding for the immigration court through Congress and hire more asylum officers to adjudicate the claims of asylum seekers who have been waiting for years to have their cases heard rather than building a new system to “streamline” proceedings for recent border crossings

It is imperative that we recognize, in the current climate, that fair and humane treatment of asylum seekers be of paramount concern. Recent documentation of the horrific treatment of Haitian immigrants at the border has drawn attention, long deserved, to the broad human rights abuses which characterize US handling of immigrants seeking asylum.<sup>13</sup> In line with NYLPI’s mission to advocate for the health and fair treatment of all immigrants, we urge you to rescind or substantially rewrite this NPRM.

We thank you for the ability to comment on these proposed changes.

Sincerely,

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<sup>13</sup> See Eileen Sullivan and Zolan Kanno-Youngs, *Images of Border Patrol’s Treatment of Haitian Migrants Prompt Outrage*, The New York Times (Sep. 21, 2021), <https://www.nytimes.com/2021/09/21/us/politics/haitians-border-patrol-photos.html>.