

U.S. House of Representatives

Committee on the Judiciary

Washington, DC 20515-6216
One Hundred Sixteenth Congress

July 30, 2019

The Honorable William P. Barr
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, D.C. 20530

Dear Attorney General Barr:

Congress has repeatedly worked in a bicameral and bipartisan fashion to address the scourge of human trafficking. The keystone of the Abolish Human Trafficking Act of 2017, Congress's most recent effort to remediate the impact of human trafficking, is the support provided to survivors of human trafficking. Providing victims of human trafficking a fresh start through vacatur and expungement is an essential element of restorative justice and important to reducing future barriers to employment, housing, and education.

As Congress moves to buttress victims, the Department of Justice moved in the opposite direction by adopting policies that prohibit the use of grant funding for survivors of human trafficking to access critical legal representation that enables them to achieve safety and self-sufficiency by clearing their criminal records. Specifically, the Office of Justice Programs has made changes to the allowable use of funds authorized under the Trafficking Victims Protection Act and Victims of Crime Act to now bar the use of funds for legal aid providers to assist victims when they submit vacatur and engagement applications. These changes fly in the face of the spirit and plain language of the Trafficking Victims Protection Act and Victims of Crime Act and are inconsistent with the criminal justice reforms championed by the President. Furthermore, in recent appropriations bills, Congress has endorsed the Office for Victims of Crime Vision 21 goals, encompassing a broad range of supportive legal services and assistance for victims of crime, including victims of human trafficking.¹

Support for assisting trafficking victims with vacatur and expungements and other legal aid support is critically needed. Victims often report wage theft and abuse at the hands of their traffickers, leading to significant economic costs for states and the nation.² Expungement,

¹ THE OFFICE FOR VICTIMS OF CRIME, U.S. DEP'T OF JUST., *Vision 21: Transforming Victim Services* (May 2013), https://ovc.ncjrs.gov/vision21/pdfs/Vision21_Report.pdf.

² Busch-Armendariz, Noël et al, *Human Trafficking by the Numbers: The Initial Benchmark of Prevalence & Economic Impact for Tex.*, U.TEX. INSTIT. ON DOMESTIC VIOLENCE & SEX ASSAULT (Dec. 2016), <https://repositories.lib.utexas.edu/handle/2152/44597>.

traffickers, leading to significant economic costs for states and the nation.² Expungement, vacatur, and other similar measures are small investments in public safety that provide tangible results. Other studies have shown that when records are cleared wages and employment rates go up, and recidivism goes down.³

More than half the states in the U.S. have vacatur or expungement laws allowing victims to petition to have their records cleared if they can show that their crimes arose from their victimization. Every state has some mechanism for expunging or sealing a criminal record. Yet most survivors do not know the procedure is available, and even if they do, resource constraints limit the ability of criminal and civil legal services providers to offer help to the legions of trafficking survivors who need it. While DOJ limited the use of funds to assist victims, the U.S. Department of State has stayed the course and has emphasized the *importance* of expungement and vacatur.⁴

Congress has an important role in ensuring federal funds are used to support victims as they rebuild their lives. To that end, we respectfully request you provide complete responses and produce the relevant documents and communications listed below by no later than August 15, 2019:

1. Documents and communications dated from February 1, 2017 to the date of this letter, that detail the rationale for the Office of Justice Programs policy that prohibits use of funds for legal representation for expungement or other vacatur. In your response, please provide communications the Office of Justice Programs has had with grantees concerning the change in policy and the legal justification for limiting the provision of funds.
2. Documents and communications dated from February 1, 2017 to the date of this letter, informing grantees from the Office of Justice Programs, that grant funds may not be used for legal representation for expungement or other vacatur.
3. Documents and communications dated from February 1, 2017 to the date of this letter, from the Office of the Attorney General, Office of the Deputy Attorney General, and Associate Attorney General, including emails from Deputy Associate Attorney General Stephen Cox, concerning the prohibition on the use of funds for legal representation for expungement or other vacatur.

² Busch-Armendariz, Noël et al, *Human Trafficking by the Numbers: The Initial Benchmark of Prevalence & Economic Impact for Tex.*, U.TEX. INSTIT. ON DOMESTIC VIOLENCE & SEX ASSAULT (Dec. 2016), <https://repositories.lib.utexas.edu/handle/2152/44597>.

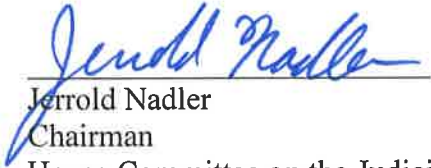
³ J.J. Pescott & Sonja B. Starr, *Expungements of Crim. Convictions: An Empirical Study*, HARV. L. REV. (posted 24 May 2019) (forthcoming 2019), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3353620.


⁴ OFF. TO MONITOR & COMBAT TRAFFICKING IN PERSONS, DEP'T. OF STATE, PROTECTING VICTIMS FROM WRONGFUL PROSECUTION & FURTHER VICTIMIZATION: FACT SHEET (Jun. 28. 2019), <https://www.state.gov/protecting-victims-from-wrongful-prosecution-and-further-victimization/>.


4. A list of all Department grants or programs that have limited the use of funds for legal representation for expungement or other vacatur since February 1, 2017. In your response, please provide the justification for limiting the provision of funds.

Thank you for your prompt attention on this matter. We look forward to working more closely with your office as the 116th Congress progresses.

Sincerely,


Jerrold Nadler
Chairman
House Committee on the Judiciary


Mary Gay Scanlon
Vice Chair
Committee on the Judiciary


Karen Bass
Chairman
Subcommittee on Crime, Terrorism, and
Homeland Security


Sheila Jackson Lee
Member of Congress

Cc: Honorable Doug Collins, Ranking Member, House Committee on the Judiciary
Honorable John Ratcliffe, Subcommittee Ranking Member, House Committee on the
Judiciary