EXHIBIT E

Congress of the United States
Washington, DC 20515

September 8, 2025

The Honorable Pete Hegseth
Secretary of Defense
U.S. Department of Defense
1000 Defense Pentagon
Washington, DC 20301-1000

Dear Secretary Hegseth,

I am writing to share serious concerns about the recent decision to allow up to 600 military attorneys to serve as temporary immigration judges. While I have deep respect for the men and women who serve as military lawyers, this plan raises troubling questions about military readiness, training, fairness, and the role of the military in our civilian justice system.

I am especially concerned about the impact this decision could have on military readiness. Judge advocates are a relatively small community of professional officers, yet they play an outsized role in the daily functioning of the armed forces, such as advising commanders, supporting courts-martial, and ensuring compliance with the law of armed conflict. Diverting as many as 600 attorneys from these core military missions risks creating gaps in legal coverage that could directly affect operations, and it is not clear that the impact to readiness was fully considered before moving forward with this proposal.

Despite a backlog of more than 3.4 million cases, this administration has chosen to reassign military attorneys while refusing to hire qualified immigration judges.[1] At the same time, more than 100 immigration judges have left or been dismissed in recent years, including at least 17 who were reportedly fired without cause this summer.[2] I understand the urgent need for more judges, but instead of adding trained professionals, the administration is turning to judge advocates with little background in immigration law. Career immigration judges typically go through months of training, mentorship, and a probationary period before taking on full caseloads.[3] Expecting military attorneys to step into this role after only a short preparation period is unrealistic and unfair to the people whose futures depend on these decisions.

An equally troubling issue is the risk to judicial impartiality. The recent removal of immigration judges under questionable circumstances has already raised doubts in the fairness of the system. Judge advocates are not just lawyers, they are also officers who operate within the military chain of command. No one questions their professionalism or integrity but placing them in

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[1] Transactional Records Access Clearinghouse (TRAC), Immigration Court Quick Facts, tracreports.org/immigration/quickfacts/eoir.html.

[2] Toropin, Konstantin, *Pentagon authorizes up to 600 military lawyers to serve as temporary immigration judges*, Associated Press, September 2, 2025, Pete Hegseth approves 600 military lawyers to be temporary immigration judges | AP News; Santana, Rebecca, *Trump administration fires 17 immigration court judges across ten states*, union says, Associated Press, July 15, 2025, Trump administration fires 17 immigration court judges across ten states | AP News.

[3] U.S. Department of Justice, Executive Office for Immigration Review Immigration Judge Training Fact Sheet, June 2022, https://www.justice.gov/eoir/page/file/1513996/dl?inline.

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immigration courts puts them outside their usual apolitical military role and into a civilian process where, given the current climate and the well-known positions of the Commander-in-Chief on noncitizens, there may be added pressure or at least the perception of it. That dual responsibility, serving as both lawyer and officer, creates tension and puts them in a precarious position, through no fault of their own. For families awaiting immigration decisions, including military families, even the appearance of political influence doesn't just look unfair; it risks undermining confidence in the fairness of the hearing itself.

I am deeply concerned that assigning military attorneys to serve as immigration judges risks blurring the line between military and civilian roles in our justice system and could set a damaging precedent for future administrations. While the Department may argue that safeguards exist to ensure compliance with the Posse Comitatus Act, which prohibits the use of the military in domestic law enforcement, the very act of placing judge advocates in this role raises serious questions about whether those limitations are going beyond what was intended.[4]

Finally, this plan does not appear to provide the administrative resources, such as translators and case staff, that judges need to manage caseloads fairly and efficiently.[5] Without that support, the risks of error and delay only increase.

For these reasons, I respectfully request answers to the following questions:

1. What analysis has the Department conducted to evaluate how reassigning up to 600 judge advocates would affect military readiness, including the capacity to advise commanders, conduct courts-martial, and meet operational legal requirements across the Services?

2. What training will judge advocates receive before working as immigration judges?

3. What criteria will be used to select these attorneys? How many volunteered for this duty, and how many were directed to serve as an immigration judge?

4. How many Judge Advocates assigned to this role are active duty, Reserves/National Guard, or civilian Department of Defense attorneys?

5. How will the Departments ensure compliance with the Posse Comitatus Act and prevent unlawful use of military personnel in domestic law enforcement roles?

6. How will you safeguard the independence of military immigration judges?

Sincerely,

Chrissy Houlahan
Member of Congress

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[4] Toropin, *Pentagon authorizes up to 600 military lawyers to serve as temporary immigration judges.*
[5] *Ibid.*

ACTION MEMO

FOR: SECRETARY OF DEFENSE DepSecDef Action _____

FROM: Elbridge A. Colby, Under Secretary of Defense for Policy (b) (6) for AUG 25 2025

SUBJECT: (U) Detail of Judge Advocate General Officers and Civilian Attorneys to the Department of Justice as Immigration Judges

- **(CUI) Purpose.** This memorandum seeks (1) your approval and signature at TAB A to direct the Secretaries of the Military Departments to identify judge advocate officers from the Military Services and civilian attorneys for detail to the Department of Justice (DOJ) for up to 179 days in cohorts of up to 150; and (2) your authorization to the Department of Defense (DoD) Executive Secretary (ExecSec) to respond (TAB B) to a DOJ request for assistance (RFA) (TAB C), dated August 23, 2025, by confirming that DoD will detail individuals to serve as Immigration Judges on a reimbursable basis to enhance DOJ's capacity to address the current backlog of immigration cases.

- **(CUI) Background.** DOJ is facing a significant backlog of immigration cases, and the Attorney General has expressed interest in exploring all available options to address this challenge.

  - (CUI) The Economy Act (31 U.S.C. § 1535) authorizes federal agencies to enter into agreements for the provision of goods and services on a reimbursable basis.

  - (CUI) The highly qualified and experienced judge advocate officers within the Military Services and civilian attorneys within the Military Departments and Services possess legal expertise and experience making them suitable for service as Immigration Judges.

- **(CUI) Discussion.** DOJ has requested 600 DoD judge advocate officers from the Military Services and civilian attorneys to support all 72 Immigration Courts throughout the United States.

  - (U) These individuals will perform details of up to 179 days, with cohorts of up to 150 attorneys rotating every 180 days. Details can be renewable and are reimbursable.

  - (U) The attorneys may preside over hearings in person in traditional courtrooms or detention centers, or they may preside over cases virtually from other space made available by DOJ. During the period of support, DoD attorneys will not perform their regularly assigned DoD duties.

  - (U) These DoD attorneys will receive special instructions and training on presiding over the various types of Immigration Court proceedings from experienced, senior DOJ Executive Office for Immigration Review personnel.

SD CA		DSD SA	
SD SMA		DSD SMA	
SD MA		DSD MA	
CoS	(b) (6)	DSD CA	
SD Action Grp		DSD CoS	
ES		ESB Rvw	(b) (6)
ESR	(b) (6)	ESD	

Controlled By: ASD(HD&HA)
CUI Category: OPSEC
LDC: FEDCON
POC: HDI&DSCA, (b) (6)

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- (U) The attached memorandum to the Secretaries of the Military Departments (TAB A) directs them to identify qualified judge advocate officers from either the Active or Reserve Components to be detailed to DOJ. The officers should possess a strong record of legal experience, sound judgment, exceptional wisdom and discernment, and a suitable demeanor for adjudicating complex immigration cases. Given that DOJ has requested 600 judge advocate officers and/or civilian attorneys, I recommend they be allocated proportionally across the Military Services.

- (CUI) The memo at TAB A directs the Secretaries of the Military Departments to provide initial lists of 100 candidates to the DoD General Counsel by September 11.

- (CUI) Simultaneously, the memo at TAB B is a draft response from the DoD ExecSec to the DOJ Executive Secretary's August 23 request for support.

- (CUI) The provision of such support is contingent upon several factors:

  1) Qualified officers and civilian attorneys must be available, as identified by the Military Departments.

  2) DOJ must conduct its own appropriate vetting and selection processes for any potential detailees identified by DoD, including legal analysis to confirm that the envisioned use of detailed military officers as immigration judges would not violate the Posse Comitatus Act.

  3) DoD and DOJ must reach agreement on reimbursement rates and terms under the Economy Act.

  4) the availability of Reserve Component officers, if required, is contingent upon applicable legal authorities and regulations permitting their mobilization.

- The letter to the Military Departments (TAB A) will note the possibility of involuntary mobilization, if necessary. It will also note that the Services may rotate legal personnel to reduce the burden on the Services and the National Guard Bureau.

- (U) The memo to the Secretaries of the Military Departments reflect a recommended parameter (effectively a planning assumption for the Military Departments) that DoD support will be required through the end of fiscal year 2027.

(CUI) RECOMMENDATION 1: Sign TAB A directing the Secretaries of the Military Departments to identify qualified JAG officers and civilian attorneys for detail to DOJ.

(CUI) RECOMMENDATION 2: Authorize the DoD ExecSec to sign TAB B informing the DOJ Executive Secretary of DoD's support to detail JAG officers and civilian attorneys to serve as Immigration Judges on a reimbursable basis.

Approve PBD Disapprove_____ Other_____

AUG 27 2025

OSD009165-25/CMD011717-25

Attachments:
TAB A – Memorandum to Military Departments
TAB B – ExecSec Letter to DOJ
TAB C – DOJ RFA
TAB D – Coordination

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SECRETARY OF DEFENSE
1000 DEFENSE PENTAGON
WASHINGTON, DC 20301-1000

AUG 27 2025

MEMORANDUM FOR SECRETARIES OF THE MILITARY DEPARTMENTS

SUBJECT: (U) Identification of Judge Advocate General Officers and Civilian Attorneys for Potential Detail to the Department of Justice

(CUI) The Department of Defense (DoD) is committed to supporting interagency efforts that enhance national security and the rule of law. DOJ is currently facing a significant backlog of immigration cases and has expressed interest in exploring options to augment its existing capacity. The Department of Justice (DOJ) submitted a request for assistance, on August 23, 2025, to detail up to 600 attorneys to serve as temporary immigration judges (TIJ). I am directing you to identify qualified judge advocate officers (in either Active or Reserve components) and civilian attorneys from within your Departments who may be suitable for detail to DOJ to serve as TIJs for up to 179 days in cohorts of up to 150. I envision that DoD will provide this support through the end of Fiscal Year 2027, with the personnel detailed rotating within that period.

(CUI) To assist DOJ in this endeavor, each Military Department Secretary shall identify attorneys who possess the requisite qualifications and characteristics, as described below. Up to 600 officers or civilians may be required from DoD, to be proportionately distributed across the Military Departments and Services. I understand that identifying officers and civilians who meet these criteria will require careful consideration of individuals from a wide range of legal experience. The attorneys identified should possess a Juris Doctor degree from an accredited law school, be active members in good standing of a state bar or the D.C. bar, and ideally have significant experience in administrative law, immigration law, as a military judge, or in related fields. Furthermore, identified attorneys' personnel must demonstrate a record of sound judgment, legal expertise, and analytical ability, coupled with exceptional wisdom, discernment, and impartiality. A professional demeanor, suitable temperament for the role of TIJ, and strong written and oral communication skills are also essential. To ensure we are postured to support DOJ, please also note that, subject to the necessary approval within DoD, officers from the Reserve Component who are identified may be subject to involuntary mobilization under applicable legal authorities and regulations, to meet DOJ's needs.

(CUI) The attorneys may preside over hearings in person in traditional courtrooms or detention centers, or they may preside over cases virtually from space made available by DOJ. DoD attorneys will receive special instructions and training on presiding over the various types of Immigration Court proceedings from experienced, senior DOJ Executive Office for Immigration Review personnel. Attorney details will occur in phased cohorts of up to 150 attorneys every 180 days, beginning as soon as practicable and no later than November 1, 2025. Support will be provided on a reimbursable basis with the potential for details to be renewed as needed.

Controlled By: ASD(HD&HA)
CUI Category: OPSEC
LDC: FEDCON
POC: HDI&DSCA, (b) (6)

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(CUI) You are directed to coordinate with the DoD Office of General Counsel to implement this task. Not later than 11 September, each Military Department will provide the DoD General Counsel an initial list of 100 names, respective rank, and duty location for each judge advocate and civilian attorney in your Military Department who is both available and suitable for detail to the DOJ to serve as an Immigration Judge. My point of contact for this action is John Cooper, Chief of Staff to the DoD General Counsel.



cc:
CJCS
Chief, National Guard Bureau
USD(P)
DoD GC

OFFICE OF THE SECRETARY OF DEFENSE
1000 DEFENSE PENTAGON
WASHINGTON, D.C. 20301-1000

AUG 27 2025

MEMORANDUM FOR EXECUTIVE SECRETARY, DEPARTMENT OF JUSTICE

SUBJECT: (U) Potential Department of Defense Support for Immigration Adjudication

(CUI) In response to your August 23, 2025 request for assistance I am writing to notify you that the Secretary of Defense has approved detailing up to 600 judge advocates from the Active and Reserve Components of the Military Services, as well as among Military Department civilian attorneys, to the Department of Justice (DOJ) to serve as Temporary Immigration Judges (TIJ), subject to the requirements below. Pursuant to your request and the Secretary's direction, individual details will not exceed 179 days, will be renewable, and, consistent with your request, will be on a fully reimbursable basis. Details will begin as soon as practicable and will be executed in cohorts of up to 150 individuals.

(CUI) The Department of Defense (DoD) support is contingent upon several conditions. First, sufficient numbers of qualified officers and civilian attorneys must be available, as identified by the Military Departments. To that end, DoD is currently assessing the availability of qualified officers and civilian attorneys within the various Military Departments and Services; the Secretary of Defense has directed the Military Departments to identify an initial series of suitable attorneys by September 11, 2025. Second, the detail and, if necessary, the mobilization of Reserve Component officers, would be subject to applicable legal authorities, regulations, and interagency agreements. Third, DoD understands that DOJ would be responsible to confirm that its envisioned use of detailed military officers as immigration judges would not violate the Posse Comitatus Act or other U.S. law. Fourth, DoD and DOJ would need to conclude an interagency support agreement governing the details.

(CUI) The Secretary of Defense has directed the Military Departments to identify an initial series of suitable attorneys by September 11, 2025. Following this action DoD will be in a position to provide you with its first cohort of attorneys for training purposes. My point of contact for this action is John Cooper, Chief of Staff to the DoD General Counsel.

(b) (6)

COL, USA
Executive Secretary

cc:
Secretaries of the Military Departments
CJCS
USD(P)
Chief, NGB
DoD GC

Controlled By: OUSD(P)/HD&HA
CUI Category: OPSEC
Limited Dissemination Control: FEDCON
POC: OASD (HD&HA) (b) (6)



U.S. Department of Justice

Executive Office for Immigration Review

Office of the Director

Director

5107 Leesburg Pike, Suite 2600
Falls Church, Virginia 22041

August 23, 2025

MEMORANDUM

TO: Colonel (b) (6)
Executive Secretary
Department of Defense

FROM: Sirce E. Owen
Acting Director, Executive Office for Immigration Review
Department of Justice

SIRCE OWEN
Digitally signed by SIRCE OWEN
Date: 2025.08.23 09:26:05 -04'00'

SUBJECT: Request for Department of Defense Assistance

The Department of Justice ("DOJ"), Executive Office for Immigration Review ("EOIR"), requests that the Department of Defense ("DOD") detail up to 600 attorneys to serve as Temporary Immigration Judges ("TIJs") for a period not to exceed 179 days. The attorney details will occur in phased cohorts of up to 150 attorneys every 180 days, beginning as soon as practicable and no later than November 1, 2025. The details are renewable.

The DOD attorneys detailed as TIJs will support DOJ EOIR's 72 Immigration Courts throughout the United States. The attorneys may preside over hearings in person in traditional courtrooms or detention centers, or they may preside over cases virtually from available space within either DOD or DOJ. These DOD attorneys will receive special instructions and training on presiding over the various types of Immigration Court proceedings from experienced, senior DOJ EOIR personnel. The attorneys will be supervised by senior leadership who will work with local court administrators and the Department of Homeland Security to establish the dockets for the TIJs.

During the period of support, DOD attorneys will not perform their regularly assigned DOD duties; they will be detailed on a full-time basis to DOJ EOIR and function on a day-to-day basis in an entirely civilian DOJ EOIR capacity under the supervision of DOJ EOIR personnel.

DOJ EOIR will reimburse DOD for the full cost of the support, including for all pay and allowances, in accordance with title 31, U.S. Code, section 1535 (the Economy Act).

The EOIR point of contact is Sirce Owen, (b) (6)



OSD009165-25/CMD011723-25

Policy Coordination Sheet

Subject: (U) Detail of Judge Advocate General Corps Officers to the Department of Justice as Immigration Judges

Control Number: * USP001504-25 *

Title/ Organization	Name	Coordination Requested	Coordination Received	Response
Joint Staff	MajGen Liszewski	August 20, 2025	August 22, 2025	(b) (6)
OGC	HON Matthews	August 20, 2025	August 25, 2025	
USC	PTDO DUSD(C) McAndrew	August 20, 2025	August 22, 2025	
Army	HON Driscoll	August 20, 2025	August 22, 2025	
Air Force	HON Meink	August 20, 2025	August 22, 2025	
Navy	HON Phelan	August 20, 2025	August 22, 2025	
USD(P&R)	PTDO ASD Miller	August 20, 2025	August 21, 2025	
NGB	MG Rieger	August 20, 2025	August 22, 2025	