



Testimony in Support of Legal Services Funding
Submitted by the New York Immigration Coalition

My name is Patrick Young and I am the Downstate Advocacy Director at the New York Immigration Coalition (NYIC). The NYIC is an advocacy and policy umbrella organization for more than 200 multi-ethnic, multi-racial, and multi-sector groups across the state working with immigrants and refugees, including many immigration legal service providers.

The NYIC is grateful to the Assembly and Senate for convening this important hearing. We have long been vocal advocates of the critical importance of access to legal representation for immigrants in removal proceedings and while applying for immigration benefits. We urge the inclusion of \$25 million in funding for immigration legal services in the FY 2022 New York State Budget.

Never has the need to fund immigration legal services been greater. Because immigration law is civil and overseen by administrative courts, constitutional protections do not apply, including the right to a lawyer if you cannot afford one. Nonetheless, and despite its civil designation, the immigration legal system is quasi-criminal in nature. Denials of applications for benefits can lead to deportation proceedings. These proceedings occur in an adversarial context, with the government being represented by a trained attorney regardless of the immigrant's ability to obtain legal representation. Arrests by Immigration and Customs Enforcement (ICE) have every semblance of a criminal arrest and can lead to weeks or months of detention, often in county jails or private detention centers many states away.

Such a system is primed for overreach. For example, ICE warrants are administrative, meaning they are not reviewed by an independent fact-finder who can determine whether probable cause has been established. Within 100 miles of the border, Border Patrol can suspend constitutional protections and stop anyone they deem suspect of being unlawfully present in the United States, often based on the color of their skin or the language they are speaking.

While the arrival of a new administration in Washington, D.C. holds hopeful signs for New York's immigrant communities, the urgent need for legal representation will not go away. In fact, because of the Trump administration's aggressive enforcement activities and the near total shutdown of immigration Courts during the pandemic, there is a record backlog of cases awaiting adjudication.

Once placed in the deportation pipeline, New Yorkers, most of whom have lived here for decades, all face the

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same challenge of defending themselves against deportation charges in one of New York's six immigration courts. Once arrested and placed in deportation proceedings by ICE, and without assigned counsel, it is up to the individual to defend themselves if they cannot afford an attorney. This includes providing evidence to rebut the government's assertion that they should be deported, establishing that they qualify for legal status in the United States or that the government is wrong in alleging that the legal status they were previously in has expired, taking testimony for themselves and any witness they wish to call as well as cross-examining government witnesses, and making arguments of law.

We know from extensive research that having an attorney on a case significantly affects the outcome. A study published in 2018 on the impact of the New York Immigrant Family Unity Project (NYIFUP) in New York City, a state-wide version of which was fully funded for the first time in FY 2018, shows that having an attorney increased chances of winning and gaining the ability to legally remain in the United States by 1,100 percent.

Detained immigrants are not the only ones who need lawyers, however. According to the Transactional Records Access Clearinghouse (TRAC) at Syracuse University, as of January, 2020 there were nearly 130,000 cases pending in front of New York's immigration courts. Nearly 120,000 of those were non-detained individuals facing one of 41 judges in the New York City courts, which holds jurisdiction over the city, Long Island, and the lower Hudson Valley. Over 2,000 cases were non-detained and before one of the four judges in the Buffalo immigration court, which has jurisdiction over the remainder of the state. While non-detained individuals may have a better chance of finding counsel while their cases are pending, indigent and low-income immigrants struggle to find affordable and trustworthy legal representation and face the same challenges as their detained counterparts.

Approximately one in ten immigrants in New York are currently facing deportation. There is no way to estimate how many may unknowingly qualify for immigration benefits, but undocumented immigrant New Yorkers have massive difficulties in accessing counsel to simply determine their options and make choices for themselves and their families.

In FY 2020, New York made an extraordinary investment into immigration legal services. Local and State Governments invested \$75 million for immigration legal services, including nearly \$17 million from the State, \$58 million from New York City, and various other funding from counties and municipalities. State funding was mainly funneled through New York's Office for New Americans (ONA), with \$6.4 million being allocated to ONA programming and an additional \$10 million for the Liberty Defense Project (LDP), which is also administered through ONA. The remaining funding was made through appropriations to specific organizations.



To ensure these investments have a meaningful impact, it is crucial that they be renewed and funding increased for one very specific reason: immigration cases, whether a deportation proceeding or an affirmative application for an immigration benefit, take years to resolve. By not renewing the funding now, the practical effect would be that New Yorkers who were able to gain access to counsel through these programs will effectively lose their lawyers halfway through their cases. By not increasing the funding, legal representatives will not have the capacity to take on new cases in addition to working on the cases they have already opened in previous years. In addition, while the investments are significant, they remain insufficient to meet the huge need, particularly in areas outside of New York City.

The new administration has indicated a willingness to expand affirmative programs like Deferred Action for Childhood Arrivals (DACA) and Temporary Protected Status (TPS), and the tens of thousands of New Yorkers who may be eligible will need a place to go for advice and assistance if they are to take advantage of these programs.

Therefore, the NYIC endorses the continued funding of the Liberty Defense Project and ONA Opportunity Centers and the expansion of funding to \$25 million.

Thank you, for your work on behalf of immigrant communities, for calling this hearing, and for the opportunity to testify today.