



**Testimony in Support of Increased Immigration Legal Services Funding
Submitted by the New York Immigration Coalition
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My name is Patrick Young and I am the Downstate Advocacy Director at the New York Immigration Coalition (NYIC) and Campaign Lead for Immigrant Legal Services Funding. The New York Immigration Coalition, an umbrella policy and advocacy organization of more than 200 multiethnic, multiracial, and multisector groups across the state working with immigrants and refugees, including many immigration legal service providers. As an attorney, I served as Immigrant Legal Services Director at a Non-Profit Legal Services Organization on Long Island for more than three decades where I worked on state-funded immigrant legal services and saw the impact of the funding, as well as the gaps in services.

The New York Immigration Coalition 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. State funded legal services have provided help to children fleeing persecution in Central America, Afghan refugees newly arrived in the United States, and long-time Permanent Residents facing Deportation. The funding has protected access to justice and literally saved lives. We urge the inclusion of \$25 million in funding for immigration legal services in the FY 2023 New York State Budget.

Never has the need to fund immigration legal services been greater. Because immigration law is civil and overseen by administrative “immigration 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 prosecuting 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 factfinder 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.

Although the arrival of a new presidential administration in Washington, D.C. held hopeful signs for New York's immigrant communities, the need for legal representation is as urgent as ever. 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 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 previously held has expired, taking testimony for themselves and any witnesses they wish to call as well as cross-examining government witnesses, and making legal arguments.

Even young children facing gang violence in their home countries are forced to proceed in a complex asylum hearing without the help of a government-appointed attorney.

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 statewide 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 December 2021, there were nearly 168,000 cases pending in front of New York's immigration courts. Nearly 137,000 of those were non-detained individuals facing one of 61 judges in the New York City Federal Plaza and Broadway immigration courts, which hold jurisdiction over the city, Long Island, and the lower Hudson Valley. Over 3,200 cases were non-detained and before one of the five judges in the Buffalo immigration court, which has jurisdiction over the remainder of the state. Although 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 proceedings. There is no way to estimate how many may unknowingly qualify for immigration benefits, but undocumented immigrant New Yorkers experience massive difficulties in

accessing counsel simply to 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. Although the infusion of state resources for immigration legal services through LDP and ONA represented a sea change, the levels of funding have stagnated since FY 2020 despite the urgent and ever-increasing need for more robust investments.

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 like citizenship or Temporary Protected Status (TPS), 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, although Governor Hochul's proposed investments of \$12 million for LDP and \$8 million for ONA are significant, they remain insufficient to meet the huge need, particularly in areas outside of New York City.

The new presidential 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 New York Immigration Coalition endorses the continued funding of LDP and ONA 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.

