

**Testimony by the New York Legal Assistance Group (NYLAG)
before the NYC Council Committee on Immigration regarding:
Resources and Services for Newly Arrived Asylum Seekers**

September 30, 2022

Chair Hanif, Council Members, and staff, good afternoon and thank you for the opportunity to speak to the Immigration Committee about resources for newly arrived asylum seekers. My name is Jodi Zieseimer, and I am the Director of the Immigrant Protection Unit at the New York Legal Assistance Group (NYLAG). NYLAG uses the power of the law to help New Yorkers in need combat social, racial, and economic injustice. We address emerging and urgent legal needs with comprehensive, free civil legal services, impact litigation, policy advocacy, and community education. NYLAG serves immigrants, seniors, the homebound, families facing foreclosure, renters facing eviction, low-income consumers, those in need of government assistance, children in need of special education, domestic violence victims, persons with disabilities, patients with chronic illness or disease, low-wage workers, low-income members of the LGBTQ community, Holocaust survivors, veterans, as well as others in need of free legal services.

We appreciate the opportunity to testify to the Immigration Committee regarding recently arrived asylum seekers. NYLAG is proud to operate in a City that values its immigrant citizens and supports much-needed services to them and to respond to urgent needs as a ‘sanctuary city’ that models programming and services to the nation. NYLAG along with other legal service providers have engaged with newly arrived asylum seeking families through our various community based sites, at our central offices, and by sending staff on a voluntary basis to the newly opened Asylum Resource Navigation Center.

The Immigration Landscape

The current ‘crisis’ stems from the intersection of various federal policies which have closed our borders to most asylum seekers for the last three years while failing to put in place strategies or resources to safely, effectively, and humanely anticipate the influx of vulnerable migrants who cannot be subjected to rapid expulsion. This has created chaos and confusion at the border and inconsistent treatment of these asylum seeking families. The federal government has failed to provide systems or support to manage the flow and processing of families and this burden has fallen heavily on border states. In response, the Governors of Texas, Arizona, and Florida have marshalled resources to transport newly arrived migrants to other jurisdictions. While this has been messaged as political stunting and certainly has an element of sensationalism, it has also distributed the urgent need to locales better resourced to absorb and address them.

The majority of families and individuals who are being bussed and flown to New York are from Venezuela and Cuba with a smaller number from other South American countries such as Colombia, Ecuador, Peru, and Brazil. The broad public health barrier to admitting asylum seekers at the border—Title 42—is still operational; however, due to the lack of diplomatic ties and ability to effectuate expulsions to certain South American countries, nationals from those countries presenting at our borders are exempted from Title 42 and permitted to enter the U.S. The federal government has chosen to subject these migrants to intense surveillance by ICE and subject them to removal proceedings—a policy choice that the Administration has not forced on other vulnerable populations seeking safety in the U.S. such as Ukrainians and Afghans. Adding to the confusion, both ICE and the Immigration Court system, already at a saturation point prior to this recent influx, have buckled under the current inundation of charging documents and the number of people they are being suddenly asked to monitor, surveil, and schedule for appointments and hearings. The result is a haphazard application of existing processes with some families being scheduled for hearings rapidly—as soon as a week or two after

their arrival—while many others languish without charging documents, being told to attend appointments to begin their removal process in the summer of 2024.

These newly arrived migrants, mostly from Venezuela, also differ from past waves of asylum seeking families in that they lack familial and community ties to the U.S. They are truly fleeing a repressive regime that has precipitated an economic collapse. Venezuela is currently the source of the second largest external displacement crisis in the world.¹ Because of the absence of family or friends to receive them, many of these newly arrived migrants do not have a set destination in the U.S. or a fixed address to provide to officials at the border. This has compounded the confusion with immigration paperwork as ICE and CBP do not know where to file court documents, have no address to send follow up paperwork, and cannot effectively direct people to the resources that they will need to navigate the removal process. Instead of confronting these barriers, ICE and CBP have employed a variety of deceitful and legally prejudicial policies such as fabricating addresses on their charging documents, sending their cases to far flung jurisdictions, and supplying nonsensical or contradictory information and instructions. Funneling large numbers of people to a small handful of ‘sanctuary cities’ has also overburdened all of the systems in those cities especially the ICE Enforcement and Removal Office—in charge of the surveillance and monitoring of migrants who have been parole across the border with the anticipation of a removal process. People with ICE appointments are waiting in line outside of 26 Federal Plaza at one or two in the morning to ensure being admitted for a 9am appointment.

The Legal Need

The legal need is two fold and must be addressed with two distinct programs and funding structures. The first need is for information, individual engagement to provide guidance on the posture and next steps on the immigration process, and assistance in changing addresses and venue. Because of the deep

¹ <https://www.unhcr.org/en-us/venezuela-emergency.html#:~:text=In%20the%20past%2C%20Venezuela%20hosted,displacement%20crisis%20in%20the%20world.>

confusion and inconsistencies and nuances in individual cases, group orientations and general information packets are insufficient to address this need. Migrant wants and need individual guidance and counsel on their options, next steps, and process. Although this information giving should be overseen by legal employees, lawyers should not be the primary on-the-ground staff for this element of the response. The need is too great and too broad for staff line attorneys at non-profit legal service organizations to cover and it is not an effective use of the limited the human resources in our city. Ideally, this initial triage and information would be provided by mobilized volunteers—pro bono attorneys and/or community organizers—with the framework, training, and oversight provided by a legal service organization.

Legal triage must be accompanied by a renewed investment in robust removal defense representation and advice and counsel. The need for attorneys to screen, advise, and represent individuals and families in removal proceedings has been growing exponentially in the past five years. The New York Immigration Court expanded from one location to three and from 35 judges to 69 judges (with 8-10 additional judges to be onboarded in the next two months).² Likewise, the number of immigrants in removal proceedings has skyrocketed to more than one million pending cases nationwide while funding for removal defense legal services has largely remained static. As has often been reported, having representation makes a significant difference in the outcome of an asylum claim. It is critical that the city re-invest in attorneys to provide robust advice and counsel and full representation to not only this population of newly arrived asylum seekers but the thousands of other New York-based asylum seekers who have been on the waitlists of non-profit organizations for years. These are not legally distinct populations and the need should be addressed holistically.

Many non-profit legal service organizations are facing a crisis with recruitment, training, supervision, and space for new attorneys. There are a limited number of attorneys who have the language and substantive skills for this challenging work and it takes resources to properly train and supervise

² <https://www.justice.gov/eoir/eoir-immigration-court-listing#NY>

inexperienced law graduates. An influx of funding—which is what we are requesting—would also create competition amongst legal services organization for staffing which is why it is best to limit the use of attorneys to the areas in which they can be most effective—full representation in removal proceedings. The flexibility of the IOI removal defense program or the ICARE funding provide models for effective removal defense programming to cover asylum seekers.

Finally, legal triage and full representation will not be able to immediately or comprehensively meet the need. There needs to be investment in pro se models of legal assistance for those who cannot be represented. Pro se application assistance clinics, pro bono mentoring, law school clinics, and large scale volunteer efforts with quality control from legal services organizations are critical to fill in the gaps, provide bridge programming while services ramp up, and to flex as the needs shift and change. Coalition building and coordination amongst these various entities is essential to ensuring streamlined service delivery and effective deployment of resources. Funding innovative programming and incubating new models is important to shift and evolve with the need.

I want to once again take the opportunity to thank Chair Hanif and the members of the Committee for their exceptional leadership and commitment to overseeing issues related to immigration in New York City, and for working to schedule this hearing today. I welcome the opportunity to discuss any of these matters with the Committee further.

Respectfully submitted,

New York Legal Assistance Group