

**Testimony by the New York Legal Assistance Group (NYLAG)  
before the NYC Council Committee on the Whole regarding:**

*Oversight: Examining the City's Response and Delivery of Services to Migrants*

**December 20, 2022**

Chair Hanif, Council Members, and staff, good afternoon and thank you for the opportunity to speak to City's response in regards to newly arrived migrants. My name is Jodi Ziesemer, 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 Committee on the Whole regarding recently arrived migrants. 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 migrant 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. We have been hamstrung by the City's proposal for legal funding with untenable deliverables which we felt would not allow us to provide quality, ethical services to truly respond to the needs of this population. We ask that the City Council support legal services and advocate for newly arrived migrants in the following ways.

**Request Resources and Reasonable Proposals for Legal Services**

In the absence of viable resources from the City to serve this population, there has been a small input of funding from the state and private funders. However, these sources are not sufficient to build sustainable programming to properly address the overwhelming and ongoing need. NYLAG in collaboration with two of our existing partners, received a small increase in existing funding from the state of New York Office of New Americans.<sup>1</sup> This allows us and our partners to serve newly arrived migrants who already have removal orders due to the chaos at the Immigration Courts and the failings of due process for this population. However, comprehensive funding to build new programs and sustainably serve the full needs of this population is still desperately needed. Small influx of new dollars helps legal service providers pilot programs or serve discrete needs but is no substitute for holistic, multi-year funding to establish robust and programming to address the evolving and growing need over the next few years.

NYLAG, along with 10 other city-based immigration legal service providers, signed a recommendation letter regarding City programming and resources for newly arrived migrants. I have attached that letter to this testimony but want to highlight a few critical points. First, it is essential that the City engage with legal service providers when assessing the needs on the ground and allow for innovative and flexible proposals from legal service providers to address those needs. Dictating rigid programming with high deliverables does not appreciate the range of strengths, capacity, and models that our organizations bring the city and disrespects our collective expertise on responding to the legal needs of the communities we have served for decades. Second, we recommend permitting and encouraging flexibility in the delivery of legal services which promotes creativity in the effective use of public resources. Third, because the city's diverse array of legal service providers each bring different models and strengths to the table, we recommend that the City encourage multiple bids. As we have demonstrated through many other City contracts, our organizations work well together and we build coalitions

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<sup>1</sup> <https://www.governor.ny.gov/news/governor-hochul-announces-legal-services-program-aid-newly-arrived-immigrants-new-york-city>

and partnerships to draw on each other's expertise. The city should encourage multiple bids to reduce administrative costs and allow us to funnel resources towards service instead of bureaucracy. Moreover, it will allow legal service providers and their partners to bring what they are best at to the table, to encourage broader and more responsive programming.

### **Build Programming to Properly Address the Legal Need**

The legal need is twofold 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 deep confusion about the process, and inconsistencies and nuances in the legal postures of individual cases, broad group orientations and general information packets alone are insufficient to address this information gap. Noncitizens want and need individual guidance and counsel on their options, next steps, and process. 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 human resources in our city. Ideally, this initial triage and information would be provided through innovative programming which could incorporate mobilized volunteers, both in person and remote screening clinics, and one-on-one consultations by empowered and trained community-based organizations with oversight by legal service organizations.

Second, legal triage must be accompanied by a renewed investment in robust advice and counsel, *pro se* application assistance, and ongoing removal defense representation. The need for attorneys to screen, and advise 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).<sup>2</sup> 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.

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

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. Additionally, with the imminent fall of Title 42 border policy, there are likely to be additional waves of migrants coming into the U.S. and to New York in the upcoming months and years and any programming and services should be forward looking and flexible to address future needs as well as the needs from migrants who migrated to New York City this summer.

These legal needs for a large and expanding population of newly arrived migrants cannot be met by attorneys alone. A full response requires an expansion of knowledge and empowerment of communities to provide education, information, support, and assistance. Attorneys and legal services can provide technical assistance, guidance, and collaboration but should not be the gate-keepers and should not bear the sole burden of addressing these needs. We need to create flexible structures that are funded by the city to empower communities to work alongside advocates to expand representation.

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, with capacity built through volunteers, law school students, and pro bono attorneys, 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. Moreover, the model of what is traditionally considered *pro se* must also evolve to include robust programming that includes more than just the filling out of applications, but to include education about claims, prepared support materials, and fuller support for non-citizens to prepare them to advocate for themselves effectively. 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.

### **Pass a Resolution for Re-Designation of Venezuelan Temporary Protected Status**

This current crisis is largely a failure of the federal government to develop humane policies for processing vulnerable migrants and there is no simple fix. However, the policy decision to subject all newly arrived migrants at the border to surveillance and removal proceedings has overwhelmed already strained systems within the federal government and will result in tens of thousands of migrants who will not be able to apply for asylum or request immigration status. Most of the recently arrived migrants are from Venezuela, a country which was recognized as a dangerous and untenable place to which migrants should not be forced to return to when it was initially designated for TPS on March 9, 2021. A re-designation of Temporary Protected Status for Venezuela would allow many of these recent arrivals to apply for employment authorization documents and would at least pause, if not end, their removal proceedings. This Administration designated Ukraine and Afghanistan (and re-designated Haiti) for TPS and that has significantly reduced the legal burden on those populations and has given populations the ability to quickly obtain identity documents and benefits. The City Council should pass a resolution to push the Biden Administration to re-designate TPS for Venezuelans.

Respectfully submitted,

New York Legal Assistance Group

November 17, 2022

To:

Commissioner Gary P. Jenkins  
New York City Human Resources Administration  
Commissioner Manuel Castro  
Mayor's Office for Immigrant Affairs

cc:

Councilmember Shahana Hanif  
Immigration Chair, New York City Council

Dear Commissioner Jenkins and Commissioner Castro,

For years, our city has led the way in improving access to representation for immigrants. Robust programs like ActionNYC, the New York Family Unity Project, and others have improved the lives of so many immigrant New Yorkers. We, the undersigned, New York City immigration legal services providers who have helped or supported these programs offer the following reflections and recommendations in light of the recent request for proposal (“RFP”) concerning newly-arrived migrants. We urge you to consider our recommendations prior to the issuance of any subsequent RFP to provide legal services in response to this emerging need, as well as for any future RFP for immigration legal services. We welcome the opportunity for collective engagement with you to discuss our perspectives in the spirit of constructive problem solving and our mutual commitment in serving migrants and asylum-seekers as effectively and efficiently as possible.

While the City may be considering a subsequent RFP for emergency immigration legal services for recent arrivals, we also recommend that the City seize the opportunity to address structural issues with the current city-contracted immigration service delivery systems. Given the state of migration and the national political context, we all share a collective goal of improving a legal services delivery system that responds nimbly to sudden, urgent emergencies and also one that meets the significant backlog of existing and eligible cases. We address first our recommendations concerning any subsequent RFP for newly-arrived migrants and then recommendations for ongoing funding for these and other immigrants in New York City.

The previously issued RFP only anticipated about \$110 per immigration legal screening of an entire household, and included an untenable number of 100 households screened per day; we could not responsibly provide services in this manner.

As a threshold matter, newly-arrived migrants are often seeking asylum or other protections in the United States and are being universally routed through a removal process. We urge the City to:

- Recognize that applying for asylum-based immigration relief is a complicated and time-consuming endeavor. As opposed to limited immigration relief options, such as Temporary Protected Status, the standards for qualifying for asylum are more complex. Due to long-existing processing delays with federal Asylum Offices and the Immigration Courts, asylum applications may not be decided for years. Further, applying for work authorization for asylum seekers takes time; as a general matter, an asylum seeker with a pending asylum application must wait at least 150 days before applying for work authorization. The actual processing of these work permits may take a significant amount of time as well.

**For any subsequent RFP for newly-arrived migrants, we recommend that the City consider permitting flexibility in the delivery of legal services to promote effective and efficient utilization of public resources.** More specifically:

- Consider permitting immigrant legal screenings: (1) by non-attorney staff under the close supervision of expert attorney staff; as well as (2) by appropriately trained and effectively supervised attorney and non-attorney volunteers. This model would take into account the current reality of the legal services' workforce. Like other employers and sectors, providers are facing historic levels of vacancies. Current hiring practices show that recent graduates are an important pool for staffing new legal programs. Hiring of experienced and/or supervisory staff is extremely difficult and often takes many months. It is also inefficient, as it draws mostly from one pool of experienced attorneys, who end up rotating from one non-profit to another, leaving behind caseloads that then have to be transferred to their colleagues. The unprecedented challenge in recruiting and retaining staff is due, in part, to high caseloads caused by court and USCIS backlogs, and by constant reshuffling of cases when vacancies occur.
- Consider permitting screening to occur at multiple locations, with providers determining community partners with whom to collaborate for onsite service programs. We also recommend floating clinics that change location based on need and other logistical considerations determined by the providers themselves.
- Consider allowing immigration legal service providers discretion to provide immediate *pro se* or full legal representation to certain newly-arrived migrants. These migrants are in different legal postures – some are already in Immigration Court removal proceeding, others are not, and some combination may have parallel obligations to report regularly with Immigration and Customs Enforcement– and immigration legal service providers need to be able to utilize their expertise to assess exact legal needs. This would include addressing the timely filing of asylum applications, work authorization applications, motions to change venue, and change of address notifications.

- Provide access to appropriate and adequate language interpretation and translation services, particularly in the context of *pro se* assistance.
- Include provisions for social worker assistance. These recently-arrived migrants may have substantial trauma histories that are most appropriately addressed by a social work professional. Immigration legal service providers' ability to effectively assist a trauma survivor requires social worker support.
- Consider how technology could enhance access to legal information, *pro se* resources, and Know-Your-Rights presentations, as well as more coordinated screening.
- Consider, as one component of the RFP, funding a provider to coordinate service delivery for the other providers selected to provide services, without requiring a subcontracting model. We believe that operationalizing large-scale screening requires extensive coordination and administration.
- Consider other effective contract models for immigration legal services, such as those for rapid response and naturalization services through statewide and/or national consortia. These contracts permit providers to exercise discretion in how to deliver services strategically, informed by deep connections to impacted communities. These models set price points based on levels of service rendered, a proven approach, rather than through individual negotiations.
- Consider communicating directly with legal services organizations concerning the development of programming to serve recent arrivals, as opposed to umbrella organizations such as the Immigrant Advocates Response Collaborative (I-ARC) and/or the New York Immigration Coalition (NYIC) because of our experience in providing direct legal services.

**For any subsequent RFP for newly-arrived migrants, we recommend that the City consider selecting multiple bids.** We believe that responding to the current crisis cannot be accomplished efficiently or effectively by a single organization and that the administrative burden of that requires a sole lead provider to subcontract to other services providers needlessly taxes limited legal services resources. New York City has the advantage of numerous, diverse legal services providers with varied areas of expertise and strengths--many of whom work closely with one another and have long-standing partnerships.

**For any subsequent RFP for newly-arrived migrants, we recommend that the City acknowledge that conflicts in family units are often present and that multiple family members of the same family unit need their own individualized screenings and service provision and referral mechanisms.** Domestic violence and/or other family-based issues may be present between spouses and/or between parents and children, and these sensitive dynamics are often the bases for humanitarian relief. Asylum-seeking families often have members with distinct and sometimes conflicting legal claims, such as minor members who may be eligible for Special Immigrant Juvenile Status. Investing in provider capacity to conduct individualized screenings and provide directed referrals relating to conflicts within households is essential for the success of any emergent legal response.



**For any subsequent RFP for newly-arrived migrants, we recommend that the City consider providing for immediate legal support and wraparound services in addition to screening and referrals.** In meeting the immediate needs of newly-arrived migrants, it would be more efficient and effective for the City to fund capacity for appropriate follow-up for clients served. Thousands of asylum seekers are already in removal proceedings and require either full representation or *pro se* assistance. For the thousands who are not currently in proceedings, they will need timely support filing for asylum and then applying for work authorization. In addition, effective service delivery necessarily includes appropriate and adequate language interpretation and translation, particularly in the context of *pro se* assistance and should be accounted for in overall funding allocations

**For any subsequent RFP for newly-arrived migrants, we recommend that the City consider dialoguing with providers regarding the resources needed to properly serve clients.** Based on our experience, we have recommendations we would like to share regarding the timeline for delivery of services and rate per case that realistically reflects the staffing necessary to carry out various services. We anticipate that, appropriately structured, \$5 million might fully serve only 10% of the estimated 22,000 recent Venezuelan arrivals.

**We recommend that the City consider securing additional funding as current levels do not meet the ongoing needs of recently-arrived migrants.** Without access to representation in removal proceedings, screening and referral alone will exacerbate the existing strained immigration legal services networks and result in additional inefficiencies. The immigration legal services provider community is at a critical juncture and, indeed, in crisis. The current structure is unsustainable and grossly under-resourced. Without structural reforms, the provider community and the City itself will be unable to address both the current and future immigration legal services demands of our city's migrant population. While we acknowledge that \$5 million reflects commitment by the City to address the needs of recent arrivals meeting the legal services needs of newly-arrived migrants with viable cases will require a greater investment of funds. The City's largest investment in removal defense representation, the Immigrant Opportunities Initiative (IOI), cannot meet increased need. As full representation on removal cases can often last many years (e.g., 3-7 years), legal service providers receiving IOI funding cannot absorb the thousands of additional viable cases that will require representation in removal proceedings.

**We recommend that the City consider establishing multi-year rapid response immigration legal services contracts and commit to collaborative advocacy at the federal level in those tailored procurements.** The emergencies faced by local governments, including here, stem from the federal government's intent to maximize deportation as much as possible. This regrettable reality is unlikely to change. It is imperative that the City's legal services delivery system anticipate and plan for inevitable recurring emergencies and surges in need for legal services.

Presently, immigration legal services providers have no excess reserves or capacity to effectively respond to such events and meet their other existing contractual obligations.

**We recommend that the City consider structuring contracted service delivery requirements so that legal services providers are supported in maintaining ethical professional responsibilities.** Procurements associated with removal defense representation must be multi-year bids because full representation of removal defense cases last years, which makes accepting cases risky as providers may be left with large numbers of unfunded complex matters.

**We offer these additional recommendations for consideration for any RFP to follow IOI.**

- Grantees' experience with IOI has led us to request flexible contracts that allow providers to shape the delivery of services including responding to emerging needs and crises while balancing staff retention and ethical service.
- We also recommend that the City consider permitting multi-year contracts to adjust numerical goals, year-to-year, given how long many cases take to fully resolve.
- We recommend that the City grant contracted providers discretion with regard to screening by, for example, permitting the screening of referrals based on capacity and priority. Such discretion would promote the efficient use of limited staff resources and equity in selection of cases given the significant demand and waitlists for services.
- We recommend that the City permit contracted providers to re-enroll cases and clients at our professional discretion and without burdensome reporting requirements. We recommend that intensive case review of matters transferred from departed staff members to their colleagues be considered sufficient for the purpose of case re-enrollment. Unfortunately, due to backlogs, the lengthy lifespan of immigration cases, and staff turnover, cases change hands, necessitating time-consuming reviews, client meetings, and strategy re-assessment.
- We recommend that the City consider a phasing in of legal services delivery systems and effective referral partnerships that acknowledges the time it takes to hire and build systems.

Our network of immigration legal services providers is on the front lines of serving immigrant communities and is uniquely positioned to respond to the ever-evolving and inevitable crises that engulf our city, time and again. Our commitment to doing so through high-quality, client- and community-centered services is unwavering, and we appreciate the City's commitment to supporting our work and the immigrant communities we serve. We look forward to the opportunity to discuss our recommendations with you to help bring forward these mutually-shared goals.

Thank you in advance for your consideration.

Respectfully,

Terry Lawson  
Executive Director  
UnLocal

Piibe Jogi  
Managing Attorney, Refugee Representation  
Human Rights First

Heather Axford  
Legal Director  
Central American Legal Assistance

Jojo Annobil  
Executive Director  
Immigrant Justice Corps

Raluca Oncioiu  
Managing Attorney, Immigration Program  
Catholic Migration Services

Deborah Lee  
Attorney-in-Charge, Immigration Law Unit  
The Legal Aid Society

Maryann Tharappel  
Attorney-in-Charge, Immigrant & Refugee Services  
Catholic Charities Community Services

Jodi Ziesemer  
Director, Immigration Protection Unit  
New York Legal Assistance Group (NYLAG)

Harold Solis  
Deputy Legal Director  
Make the Road New York

Monique Francis

Deputy Director  
CUNY Citizenship Now!

Antonia House  
IOI Program Manager/CILEC Coordinator  
Take Root Justice