



NO SAFE HARBOR

Challenges in Obtaining Immigration Legal Services in New York State (2018 Update)

*A report by The New York Immigration Coalition
& The Immigrant Advocates Response Collaborative*

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TOP LINE FINDINGS

- In FY 2018, combined New York funding for immigration legal services was \$65.2 million. Moving forward, and to capitalize on this extraordinary investment, New York State, New York City, and counties providing public funding support must remove burdensome contracting requirements and develop transparent methods of distributing the resources. This is the only way to ensure that providers will be able to meet the needs of the communities they serve and that the services offered reach the communities most in need of help.
- The main barriers to immigrants obtaining legal representation are:
 - Political barriers
 - Geographic Barriers
 - Financial Burdens
 - Long Wait Lists
 - Language Access
- The main barriers to organizations' abilities to increase the rate of representation among immigrant New Yorkers are:
 - Lack of sufficient overall funding
 - Lack of funding that addresses actual needs.
 - Lack of sufficient numbers of supervising attorneys able to train, mentor and oversee more junior attorneys.
 - Lack of physical space to support expansion.
 - Criminal carve out restrictions on New York City Contracts.
- The near-constant need for attorneys to engage in rapid response, participate in know your rights presentations, or invest more time and resources in responding to frivolous allegations and erroneous interpretations of law by government agencies.
- There are 158 organizations providing legal services to immigrants in New York State, 121 of which are in New York City (75%).
- At current capacity levels, non-profit organizations are serving only a fraction of immigrants in New York. One quarter of organizations have a total caseload of 250 or less. Forty percent of organizations have a total caseload of 1,000 or less.
- To increase capacity, organizations need:
 - More experienced attorneys solely dedicated to supervision . Currently, 75% of organizations' supervising attorneys carry nearly full or full caseloads in addition to their supervisory duties.
 - More staff attorneys to expand overall capacity and relieve supervisors of some or all of their caseloads.
 - Funding for expansion of physical spaces and technology.
- Current legal service provider caseloads consist of:
 - The most common light touch case applications are for DACA and TPS, two forms of relief that are either ending or at risk of ending.
 - The most common complex case representations is non-detained removal defense, but while 58% of organizations took on Board of Immigration Appeals cases, 46% of all providers had less than 10 appeals of immigration court cases on their dockets. Three quarters of providers do not currently handle federal appeals.

- The most common humanitarian relief applications were affirmative asylum, Special Immigrant Juvenile Status and U visa applications.
- The biggest needs faced by communities seeking legal services are (from highest to lowest frequency of need):
 - Defense of Removal
 - Representation before ICE
 - Complex case representation
 - Humanitarian forms of relief
- New York State Funding
 - For FY 2017, the State invested \$7,138,100 in immigrant legal services. The biggest investment in legal services by New York State was for citizenship (80% of available funding).
 - For FY 2018, the State more than doubled that amount and invested \$16,388,100 in immigrant legal services.
 - Liberty Defense Project funds were allocated to nine organizations:
 - Asian American Federation (\$600,000): legal help, direct representation, outreach, trainings, know your right presentations.¹
 - Catholic Charities (\$1 million): legal help, direct representation, outreach, trainings, know your right presentations.
 - Empire Justice Center (\$1 million): legal help, direct representation, outreach, trainings, know your right presentations.
 - Hispanic Federation (\$2 million): legal help, direct representation, outreach, trainings, know your right presentations.
 - New York Immigration Coalition (\$700,000)²: legal help, direct representation, outreach, trainings, know your right presentations.
 - Northern Manhattan Coalition for Immigrant Rights (\$1 million): legal help, direct representation, outreach, trainings, know your right presentations.
 - Vera Institute of Justice (\$4 million): New York Immigrant Family Unity Project representation of detained immigrants at the Batavia Immigration Court, Ulster Immigration Court, Downstate Immigration Court, Bedford Hills Immigration Court, and New York City Immigration Courts).
 - At time of publishing this report, the geographic breakdown of LDP-associated services has not been not made public.
- New York City Funding
 - For FY 2017, New York City invested \$27,200,000 in immigrant legal services. While the City's funding was more evenly spread between removal defense, simple cases, and general support than State funding over the same year, over twenty percent of available funding was retained by government agencies to administer the programs.
 - For FY 2018, New York City invested \$47,500,000 in immigrant legal services. \$35,400,000 went to established funding streams with some increases in certain programs. At time of publishing this report, the additional \$13,300,000 in the Mayor's budget for legal services had not been allocated and no Request for Proposals had been released to distribute that amount.

¹ \$300,000 of the Asian American Federation's grant was charged to the Liberty Defense Project and \$300,000 has been provided from other funds.

² The New York Immigration Coalition was allocated \$1 million in the final FY 2018 budget, but that amount was reduced to \$300,000 which went to the Asian American Federation to provide services to the Asian community.

- The new White House administration has exacerbated an already existing crisis of representation by creating new procedural road blocks, infringing on due process rights, and causing widespread fear and distrust among immigrant communities and immigration attorneys alike.

EXECUTIVE SUMMARY

One of the greatest barriers to integration and stability for immigrants in the United States is the difficulty in accessing competent legal help when they need it. This, in turn, leaves many unable to protect their rights, defend themselves against deportation, and fully understand their eligibility for legal status in the United States. The arrival in 2017 of a fiercely anti-immigrant administration in the White House has further destabilized immigrant communities. Now, more than ever, the immigration system is operating as a de-facto criminal system with the possibility of arrest and detention, adversarial proceedings, and punitive consequences. These consequences attach even when an individual simply misunderstood requirements (or could not understand them due to language barriers), made a mistake, or was misled by an unscrupulous service provider. Despite its similarities with the criminal system, because immigration laws are categorized as civil by Congress and the Courts, none of the traditional protections offered those in the criminal justice system apply. This means that immigrants under our federal laws do not have the right to an appointed attorney, to a speedy trial, or to protections from cruel and unusual punishment.

In response, cities and states have sought to mitigate the damage done by providing these communities with resources and, to the extent possible, protection. New York State and City have made significant investments to that end and have been at the forefront of many of these programs. Nonetheless, challenges remain both for communities seeking help and as well as for organizations trying to provide it.

New York State is a large, geographically and politically varied state that creates as many challenges as the opportunities it provides. New York City is by far the largest city, and is home to both 75% of the state's immigrant population and 75% of its legal service providers. Unfortunately, the remaining 25% of providers are so spread out that many regions are left with no providers, or only one or two. Because New York does not offer driver's licenses to undocumented immigrants, and public transportation infrastructure is lacking outside urban and suburban areas, geographic barriers are one of the top challenges to finding legal help. Other challenges include organizations unable to provide services (such as complex removal defense) needed by community members, long waitlists to obtain help, language access, financial barriers when low-cost or free providers are not available, and political barriers in the more conservative parts of the State.

Even when individuals are able to connect with lawyers, these legal service providers face their own unique challenges. The biggest issue faced by providers is funding streams that are too restricted and do not allow them to take on the types of cases prevalent in their communities. In 2017, a new hurdle presented itself when the New York City Mayor announced that no city funds could be used to represent individuals with one of 170 criminal convictions. This limitation on funding presents logistical hurdles and undermines the supposed commitment to justice that City Hall has made a hallmark of their administration. Beyond this New York City specific issue, legal service providers are unable to grow their field or adequately supervise attorneys because tight, restricted funding streams require supervisors to carry enormous caseloads and do not permit hiring of sufficient support staff. Short funding cycles also create hardship as organizations are reluctant to make hires or take on cases that will last for years with funding streams that are only guaranteed for a year.

Like other challenges concerning immigrants, the immigration policy shifts of 2017 have exacerbated these issues. Since the election of Donald Trump, fiercely anti-immigrant rhetoric has made community fears soar while aggressive and chaotic immigration enforcement has forced lawyers to spend time on rapid response and crisis management. At the same time, regular attorney workloads are greatly expanded by increased administrative agency re-interpretations and misinterpretations of law, baseless requests for evidence, and continued administrative shifts promoting inefficiency and confusion. Simply put, there is no longer such a thing as a "simple" immigration case.

The solution for New York is to ensure flexibility in its funding streams, allowing providers to hire the types of support they need, and allowing for reduced deliverable numbers to ease the burden on supervisors. This

would, in turn, allow supervisors to focus on growing their attorney's depth and breadth of expertise in immigration law. New York should also permit legal providers to offer representation without consideration of criminal history, therefore allowing providers to serve the needs of the community that seeks help. In addition, funding streams should be made multi-year to align with the reality that most immigration cases take between 1 to 4 years (and increasingly even longer) to resolve. Finally, we need an investment of time and money to determine technological or other solutions that would allow legal services to reach even the most remote parts of New York State.

INTRODUCTION

New York has always been a gateway for immigrants starting life in the United States. We are a state with a proud and rich immigrant history, which manifests itself in our landmarks, in our street life, and in our culture. Today, New York has one of the largest populations of immigrants in the country, second only to California. One in five New Yorkers, 4.3 million in all, were born outside the United States.³ Over 200 languages are spoken throughout the State⁴ and over 30% of New Yorkers speak a language other than English at home.⁵ Of these foreign-born New Yorkers, an estimated 20% of the population, or 850,000, are undocumented.⁶

New York's diversity is an asset to our social, cultural, and economic life. Immigrants are vital contributors within their communities and to New York as a whole. Immigrants are responsible for over \$229 billion of economic output in New York State, and make up over 28% of the workforce.⁷ They play roles in every sector, from finance and banking, to law, to STEM fields, to farming, domestic work, manufacturing, and hospitality industries.⁸ In 2014, immigrant New Yorkers paid more than \$42 billion in taxes, spent over \$100 billion, led more than half of the state's Fortune 500 companies, and employed nearly half a million New Yorkers.⁹

In addition to making up a large portion of economic life in the state, immigrant New Yorkers are active in civic and education sectors. By 2014, over 1,000,000 of New York's foreign-born immigrants had received a college education, with a 41.9% increase between 2000 and 2011.¹¹ In fiscal year 2016, over 90,000 immigrants became naturalized citizens in the metropolitan area of New York City, Newark, and Jersey City.¹² Over 23% of registered voters in the state are considered "New Americans" who are naturalized citizens or US-born children of immigrants.¹³

³ "New Americans in New York," American Immigration Council Fact Sheet (Jan. 1, 2015), available at <https://www.americanimmigrationcouncil.org/research/new-americans-new-york>

⁴ "New York City Population: Population Facts," Department of City Planning available at <https://www1.nyc.gov/site/planning/data-maps/nyc-population/population-facts.page> (last visited Dec. 16, 2016)

⁵ "Quick Facts New York," United States Census Bureau available at <http://www.census.gov/quickfacts/table/PST045215/36> (last accessed Dec. 16, 2016).

⁶ Migration Policy Institute: "Profile of the Unauthorized Population: New York" available at <http://www.migrationpolicy.org/data/unauthorized-immigrant-population/state/NY>

⁷ "New Americans in New York," American Immigration Council Fact Sheet (Jan. 1, 2015), available at <https://www.americanimmigrationcouncil.org/research/new-americans-new-york>

⁸ New American Economy Fact Sheet: "Immigrants and the Economy in New York" available at <http://www.newamericaneconomy.org/locations/new-york/>

⁹ Id.

¹⁰ Jie Zong and Jeanne Batalov, "College-Educated Immigrants in the US" Migration Policy Institute <http://www.migrationpolicy.org/article/college-educated-immigrants-united-states> (Feb.3, 2016)

¹¹ Id.

¹² "Naturalization Fact Sheet" U.S. Citizenship and Immigration Services <https://www.uscis.gov/news/>

¹³ Id.

Despite the enormous contributions immigrants make to New York State, there remains an enormous gap in the critical services made available to them. Notably, immigrants, particularly low-income immigrants, face significant challenges in obtaining legal representation. This challenge stems mainly from the existence of an overly-complicated and increasingly outdated immigration legal system that is nearly impossible to navigate without the help of an attorney, while at the same time it refuses immigrants the right to free legal counsel similar to that available in criminal or family court proceedings. Recent changes in immigration policy from the new White House administration have further exacerbated consequences for immigrants lacking access to counsel, and have made ensuring immigrants' access to legal help more difficult, but also more necessary than ever before. Legal services are crucial to helping immigrants achieve legal status, obtain work authorization, and stabilize their lives in the United States so that they may increase their contributions to our economic and civil life. In the current increasingly arbitrary immigration enforcement regime, lawyers also ensure that basic due process requirements for immigrants are met and can challenge the legality of destructive policies in court. Yet the 158 organizations in New York State serving immigrant communities struggle to meet the crushing demand.

Methodology

The methodology of data collection for this report was fourfold: 1) a detailed survey consisting of 81 questions was circulated to legal service providers throughout New York State. Responses were collected from November 2017 to January 2018, with a total of 34 responses. 2) Follow-up interviews with legal service providers were conducted to gather closer snapshots of the legal needs reported by organizations. 3) Group and one-on-one conversations were conducted at the monthly meetings of the Immigrant Advocates Response Collaborative (Immigrant ARC or I-ARC) and the 2018 New York Immigration Coalition Member Congress. 4) Finally, based on the most prominent areas identified through the legal service provider responses and community based organization interviews, outside research was conducted to illustrate background or analyze outside conditions which could be responsible for the responses.

As survey and interview responses began flagging major issues set out below, we consulted information from other sources to confirm legal service provider observations and identify areas where there may not be as much work being conducted to address specific needs. Sources consulted included reports and statistics from major research and reporting institutions, governmental agencies, and materials compiled by legal service providers.

Unless otherwise noted in the footnotes, funding purposes and totals were determined by the Requests for Proposals put out by each agency and, in the case of legislative appropriations, by the Budget bills.

CHALLENGES IN ACCESSING LEGAL SERVICES

There are many obstacles to immigrant New Yorkers obtaining legal representation, starting with political, legal and legislative, as well as geographic barriers. Spatial availability of lawyers and immigration legal service providers varies greatly between metro New York and more rural areas. Additionally, different immigrant communities face obstacles unique to that community, such as language access, or cultural trends that make seeking help or approaching figures of authority more difficult.

Types of Legal Service Providers

Legal services are provided through a variety of ways in New York State. The organizations that responded to the survey fell in one or more of the following categories:

1. Organizations that only provide immigration legal services;
2. Organizations that provide multiple types of legal services, with at least one department dedicated to immigration legal services;
3. Organizations that provide all types of immigration legal services with the exception of business-based immigration;
4. Organizations that provide only certain types of immigration legal services (e.g. only citizenship) or serve only specific populations (e.g. indigent women immigrants or Arab and South Asian clients).
5. Community-based organizations that provide limited legal services as part of their broader agenda (e.g. organization that offers English classes also offering citizenship application assistance).

Legal & Legislative Barriers

Under the 14th amendment, undocumented immigrants have constitutional rights, including the fundamental 5th amendment right to due process of the law and right to counsel.¹⁴ However, the right to obtain counsel is at an immigrant's own expense.¹⁵ Unsurprisingly, most undocumented immigrants do not have the resources to secure competent paid representation, or are in detention centers with little access to help or the outside world. At the same time, almost all pro bono legal service providers in New York are at near maximum capacity representing immigrants in dire need of counsel.¹⁶

In addition, the immigration legal system as a whole continues to deteriorate under the weight of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA) and subsequent reform laws, which have transformed the immigration system into a quasi-criminal system without due process protections of assigned counsel. Over the past twenty years, IIRIRA has criminalized immigration on three fronts by narrowing who can attain legal status, broadening who can be excluded, and punishing those whom it doesn't know what to do with. The results have been catastrophic. Families have been broken apart, mothers and children have been jailed, and asylees have been sent home to certain death. IIRIRA also has had devastating procedural ramifications, with the entire immigration court system backlogged with tens of thousands of cases.¹⁷

¹⁴ *Orantes-Hernandez v. Thornburgh* 919 F.2d 549 (9th Cir. 1990)

¹⁵ *Id.*

¹⁶ NYIC Legal Service Provider Survey (November 2017 – January 2018), See "Profile of New York's Legal Service Providers: Results of the New York Immigration Coalition Survey" *Infra*.

¹⁷ TRAC Immigration Court Backlog Tool, "Pending Cases and Length of Wait by Nationality, State, Court, and Hearing Location." (Last Update December, 2017) http://trac.syr.edu/phptools/immigration/court_backlog/

For many immigrants in need of counsel, the difference between having a lawyer or not is the difference between life and death. A recent study identified eighty-three US deportees who had been murdered from January 2014 to October 2015 after their forced deportation to El Salvador, Honduras, and Guatemala.¹⁸ When immigrants have counsel, they are much more likely to win their legal claims. For example, when women and children had access to legal representation in deportation proceedings, 73% were found to have legitimate claims and were allowed to remain in the United States from 2012 to 2014.¹⁹

Providing legal representation in immigration, one of the most complex areas of law in the United States, helps to lower the overall costs of the current immigration system. Immigration and Customs Enforcement's (ICE) annual budget for detention is about \$2 billion dollars, where providing counsel and releasing those with counsel would cut down on detention costs immensely, as approximately 380,000 to 442,000 people are detained awaiting proceedings per year.²⁰

Providing representation also speeds up processing times for those with legitimate claims, and lessens the current backlogs in immigration courts. Legal representation for immigrants protects the integrity of the judicial system by preventing the miscarriages of justice that occur when most people do not understand charges leveled against them, do not know they are entitled to relief at all, and are not able to preserve claims for appeal.

Political Barriers

Immigration has become one of the most hot-button issues in our national conversation. With opinions sharply divided on how to address the 11 million undocumented immigrants living in the United States, the thousands of refugees arriving daily at the Southern Border, and the ongoing debate on sanctuary city policies, to name a few, meaningful immigration reform has been stalled in Washington for a very long time.

In 2017, immigrant communities faced new fears of even harsher enforcement and less hope of reform as Donald Trump, who ran on a largely nationalist, anti-immigrant platform, assumed control of the Executive Branch while Congress remains firmly conservative. From public statements by the President made during the campaign and since the election, fiercely anti-immigrant political appointments, and tough rhetoric from certain anti-immigration Congressional Republicans, it is clear that the next three years will be continue to be challenging for immigrants and their allies. For a longer description of the challenges posed by the Trump Administration, please see Section V "One Year Later: the Trump Administration's Biggest Challenges to the Immigration Legal System," *infra*.

In New York, the welcoming spirit that has been the hallmark of this state is also at risk. While Hillary Clinton won the State's overall vote, Donald Trump beat her in 46 of 62 counties,²¹ most of them in rural areas where the immigrant labor force is necessary but heavily discriminated against. The Senate remains in the control of Republicans, including some that have run on fiercely anti-immigrant platforms. Already in 2016, New York saw anti-immigrant laws specifically targeting refugees introduced at the State level.²²

¹⁷ TRAC Immigration Court Backlog Tool, "Pending Cases and Length of Wait by Nationality, State, Court, and Hearing Location." (Last Update December, 2017) http://trac.syr.edu/phptools/immigration/court_backlog/

¹⁸ Sibylla Brodzinsky and Ed Pilkington "US Government Deporting More Central American Migrants To Their Death" *The Guardian* (Oct. 12, 2015)

¹⁹ TRAC Fact Sheet: Representation for Children in Immigration Court (Nov. 25, 2014) available at <http://trac.syr.edu/immigration/reports/371/>

²⁰ Nicki Fleischner "Weekly Chart: The Cost of US Immigrant Detention" *Americas Society/Council of the Americas* (Sep. 8, 2016); Human Rights First Fact Sheet "Immigration Detention: How Can the US Government Cut Costs?"

²¹ *National Review*: "New York's Vote was a Microcosm of America in 2016" (Dec. 8, 2016)

²² S6253, Sen Reg, Sess. 2015-2016 (NY 2016)

This follows years of local ordinances and other municipal acts targeting immigrants, largely outside of the main urban centers.

In 2017, both New York State and New York City significantly increased funding for immigration legal services while they also sought to introduce enhanced protections for immigrants interacting with immigration authorities. Some of these measures, however, were tempered by restrictions on the use of funds. For example, the \$48 million invested by New York City are subject to the so-called “criminal carve out”, which prevents legal-service providers from using the funds to provide representation to individuals who have been convicted of certain crimes.²³ At the same time, the State provided its largest ever investment of legal services to immigrants – over \$17 million, but with no guarantee that the funding would be renewed many providers were left scrambling to decide how they could hire new positions and take on cases with years-long processing and litigation timelines.

Geographic Barriers

Organizations that provide immigration legal services are highly concentrated in New York City. Of the 158 organizations in New York State, 121, or 77%, operate within the five boroughs.²⁴ By contrast, the remaining 37 organizations were spread out throughout the rest of the state, with rural areas being the most underserved.²⁵ Advocates interviewed outside of New York City noted the scarcity of both nonprofit and private bar attorneys in rural areas.²⁶ This lack of available resources led to many immigrant New Yorkers spending large sums of money on hiring private lawyers in urban areas, requiring taking unpaid days off from work and incurring significant travel costs.²⁷ Many others become victims of fraudulent providers, who seek to exploit this gap in the legal services market.²⁸

The geographic disparity in the distribution of immigration legal resources is significant, and leaves many immigrants outside of New York City vulnerable to harsh immigration policies because it effectively cuts them off from access to services. New York State does not offer driver’s licenses to undocumented immigrants, and public transportation options become scarcer and more unaffordable as communities get further away from expensive urban centers. Apart from expense, needing to travel hours to meet with an attorney often means taking entire days off from work, which results in lost wages and, sometimes, puts their continued employment at risk.²⁹

Finally, geographic barriers are compounded by the fact that trained, experienced lawyers are often difficult to find outside urban areas. In New York City, merely 58% of organizations also hire Department of Justice accredited representatives, who are non-lawyer staff of nonprofit organizations accredited by the US Department of Justice to provide low-cost immigration legal services.³⁰ In contrast, 81% of organizations outside New York City relied on accredited representatives.³¹

²³ For a longer discussion on the subject of the carve out, please see Section III: Challenges in Providing Legal Representation, *infra*.

²⁴ Immigrant Advocates Network Legal Service Provider Directory, available at <https://www.immigrationadvocates.org/nonprofit/legaldirectory/>

²⁵ *Id.*

²⁶ Interviews with advocates: Emma Kreyche (Workers Justice Center), Sister Mary Beth Moore (Centro Corazon de Maria), Janet Rolon (Community Resource Center), Gail Golden (Rockland Immigration Coalition)

²⁷ *Id.*

²⁸ *Id.*

²⁹ Interview with Advocate: Betsy Plum (New York Immigration Coalition)

³⁰ US Department of Justice Recognition and Accreditation Rosters, available at <https://www.justice.gov/eoir/recognition-accreditation-roster-reports>

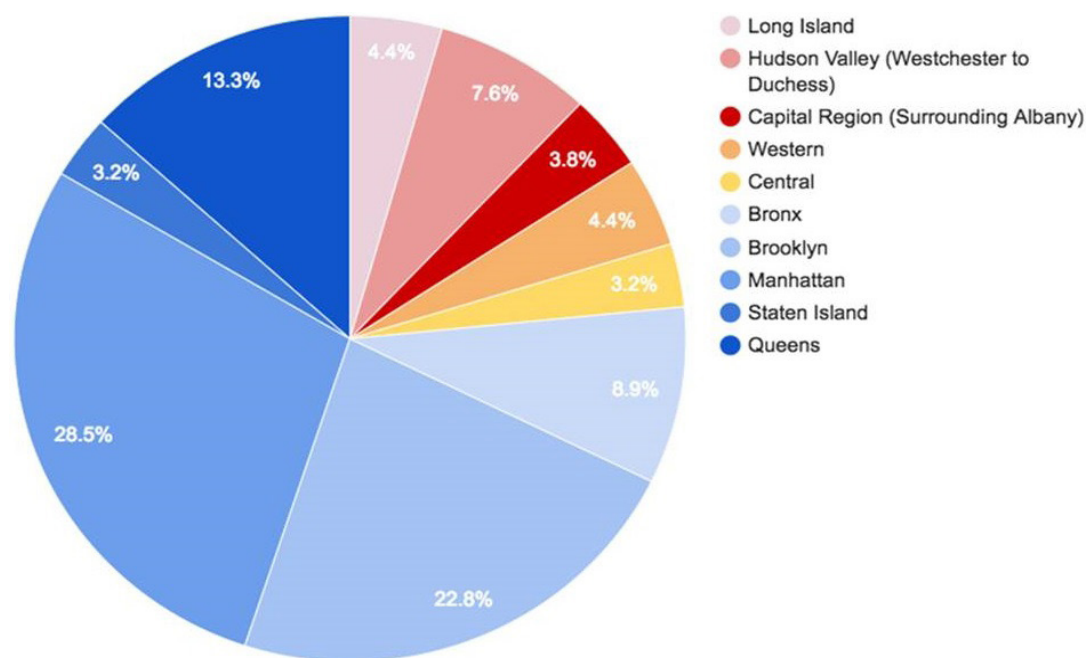
³¹ *Id.*

While accredited representatives can handle many straightforward immigration cases, and with time can become expert in complex matters as well, many do not have the ability to perform complicated legal analysis which is often required when helping undocumented immigrants.³² This scarcity of lawyers creates dual obstacles: the potential client cannot find representation, and the chances that they find quality representation are limited.³³

Table 1: Legal Service Providers by Region

Region	Legal Service Providers (Total) ³⁴	Recognized by the Office of Legal Access Programs ³⁵
Long Island	7	6
Lower Hudson Valley (Westchester to Dutchess)	12	10
Capital District (Surrounding Albany)	6	4
Western New York	7	6
Central New York & Finger Lakes	5	4
New York City	121	70
Total	158	100

Figure 1: Legal Service Providers by Region



³² NYIC Legal Service Provider Survey (Nov. 2016), Interview with Advocate: Betsy Plum (New York Immigration Coalition)

³³ "Accessing Justice: The Availability and Adequacy of Counsel in Immigration Proceedings" New York Immigrant Representation Study (Study Group on Immigrant Representation), Cardozo School of Law http://www.cardozolawreview.com/content/denovo/NYIRS_Report.pdf (Dec. 2011)

³⁴ Immigrant Advocates Network Legal Provider Directory. Available at <https://www.immigrationadvocates.org/nonprofit/legaldirectory/>

³⁵ Roster of Recognized Agencies maintained on website of the Executive Office for Immigration Review. Available at <https://www.justice.gov/eoir/recognized-organizations-and-accredited-representatives-roster-state-and-city>

Wait Lists

Because most organizations lack capacity to meet the demand for services, it can be difficult for community members to find help.³⁶ Organizations reported wait times for an initial appointment being between zero and three months, with one third offering appointments 1 to 2 weeks after someone first requests it, and 14% offering a first appointment two to three weeks after the initial request. In 2016,³⁷ only 35% of organizations had waitlists, and providers noted that they often refrained from maintaining them because they became too overwhelming.³⁸ Of organizations that did maintain waitlists, the highest numbers of cases on those lists were for citizenship and naturalization services.³⁹ Follow-up interviews with legal service providers in the months since the election have indicated that the demand for services has skyrocketed and wait list backlogs are increasing.

Community Based Organizations (“CBOs”) reported frustration in trying to make referrals to legal service providers, with several noting that they often call and wait for weeks before being finally told that the legal service provider can not take on representation of the case.

Organizations in more remote parts of the state expressed additional frustration at these challenges, given that the options for legal services are so scarce in their regions.

Language Access

Access to appropriate language services is an enormous need for immigrants seeking legal assistance. Of the 8.5 million people living in New York City, half speak a language other than English at home and nearly 1.8 million people, 25% of the City’s population, is not English proficient.⁴⁰

In the last few years, the New York court system has significantly improved language access services to Limited English Proficient (LEP) litigants. For example, the court system has begun translating many manuals and pamphlets instructing pro se litigants on how to bring or defend a lawsuit.⁴¹ Judges have also been provided with “bench cards” to better assist them in interacting with LEP litigants,⁴² while the New York courts websites provide a glossary of housing court terminology in Simple Chinese, and orders of protection are translated into Spanish.⁴³ Yet, even with these promising initiatives, there is a shortage of court interpreters in New York courts.

A recent report, produced by Legal Services NYC, notes that although New York State court rules mandate interpretation for LEP and deaf or hard of hearing litigants in civil and criminal cases, there is a lack of qualified, certified interpreters in the court system and in clerks offices. There are also few signs in languages other than English to assist LEP litigants navigate courthouses and understand courthouse procedures.⁴⁴

³⁶ For more on legal service provider capacity, see “IV. Challenges in Providing Representation”, *infra*.

³⁷ Because of the changes in how legal service providers have had to implement in response to the new needs for legal services, the question of whether an organization maintained a listserv was omitted from the 2017 survey.

³⁸ NYC Legal Service Provider Survey (Nov. 2016)

³⁹ *Id.*

⁴⁰ New York City Department of Planning Fact Sheet available at <http://www1.nyc.gov/site/planning/data-maps/nyc-population/population-facts.page> (last retrieved January 23, 2017).

⁴¹ Interpreting Justice: Language Access in the New York Courts, Legal Services NYC (December 2016).

⁴² *Id.*

⁴³ *Id.*

⁴⁴ *Id.*

The federal court system provides interpreters for federal criminal cases or in immigration removal proceedings.⁴⁵ These interpreters are only available in cases commenced by the U.S. government. The Southern District of New York’s website explicitly promotes the use of “a trusted family member or friend” to assist with interpretation.⁴⁶ Even in the immigration context, LEP persons must provide their own interpreters at interviews conducted at the U.S. Citizenship and Immigration Services’ (USCIS) offices.⁴⁷

The dearth of proper language services for immigrants creates many delays and adjournments in court for LEP litigants.⁴⁸ Frequently, courts schedule an interpreter, who does not speak the proper language or dialect of the non-English speaking litigant.⁴⁹ At other times, courts only have access to interpreters who speak a certain language during specific days of the month.⁵⁰ This requires that LEP litigants repeatedly return to court if an interpreter who speaks their language is unavailable. For low-income New Yorkers, who must pay for transportation, find child care or seek time off from work, these delays are burden that limits their access to justice.

Limited language services also mean that a huge burden is placed on legal services providers to provide interpretation and translation services to ensure that immigrants can adequately present their cases in court and at government agencies. The legal service providers that responded to the survey detailed that the top languages in which they provide services to immigrant clients include, Spanish (91% of providers), French (35% of providers), Mandarin (9%), and Arabic (9%). Additionally, 9% of the legal services providers reported using telephone interpretation services as an added way to provide LEP persons with language services.

Interpreters and translated documents are crucial to ensuring that New York’s LEP immigrants can adequately obtain civil legal services. Without access to interpreters, a vast section of the state’s population is denied the means to properly seeking help in a variety of legal matters.

Financial Obstacles

Ability to pay also poses a significant barrier to immigrants seeking legal representation. In 2016, over half of survey respondents noted that between 90 and 100% of their clients lived below the poverty line, and 65% of respondents noted that at least 2/3rds of their clients live below the poverty line.⁵¹ At least half of survey respondents reported that 50% or more of their clients or clients’ family members receive means tested benefits.⁵² Sixty-one percent of respondents had at least one client living in a homeless shelter, with 20% reporting having at least 50 clients in shelters.⁵³ One legal service provider noted that “this was becoming a problem”.⁵⁴

⁴⁵ Id.

⁴⁶ New York City Fact Sheet “Representing Yourself in Federal Court (Pro Se)” http://www.nysd.uscourts.gov/courtrules_prose.php?prose=faq.

⁴⁷ The Role and Use of Interpreters in Domestic Field Office Interviews, U.S. Citizenship and Immigration Services PM-602-0125.1 (January 17, 2017). USCIS only provides interpreters for asylum, credible fear and Nicaraguan Adjustment and Central American Relief Act interviews.

⁴⁸ Interpreting Justice: Language Access in the New York Courts, Legal Services NYC (December 2016).

⁴⁹ Id.

⁵⁰ Id.

⁵¹ NYC Legal Service Provider Survey (Nov. 2016) (note: this question was not repeated in the 2017 survey)

⁵² Id.

⁵³ Id.

⁵⁴ Id.

Other Challenges

Age

In one-on-one interviews, some respondents noted that age can often be a factor in whether someone will look for legal assistance. Specifically, younger immigrants were more likely to seek out legal help, particularly if their concerns regarding their immigration status related to their ability to pursue educational opportunities. On the other hand, elderly immigrants with health issues, or who may have other obstacles such as illiteracy or language access typically have a harder time accessing legal services.

Cultural Norms

A study conducted by Bronx Legal Services and the Bronx Domestic Violence Roundtable around intimate partner violence, but which included immigration issues, noted the importance of multicultural and culturally sensitive lawyering and need for service providers to be more attune with their communities. In one-on-one interviews, other providers noted that gender and age sometimes were factors in seeking out legal help, particularly if the client was from a culture where women or younger individuals are not permitted to make decisions on their own.

CHALLENGES IN PROVIDING REPRESENTATION

Funding

Overall State Funding

In the past, Statewide public funding for immigrant legal services has been extremely limited. In FY 2017, most state funding on this issue was directed to the Office for New Americans (ONA), which provides grants to 27 community-based organizations and 6 legal service providers to provide services limited to citizenship, DACA screenings, and beginning in 2016, limited U & T visa help. In FY2016, ONA re-granted nearly \$5.7 million to community-based groups to carry out these services. In addition, ONA provided a small grant of \$50,000 to help providers representing unaccompanied children on Long Island. That same year, the Assembly also provided \$400,000, and the Independent Democratic Caucus in the Senate gave \$250,000, to a Statewide New York Immigrant Family Unity Project (NYIFUP), which provided legal representation to some detained immigrants housed at the Batavia Federal Detention Center and the Ulster County Correctional Facility.

In FY 2018, the State more than doubled funding for civil immigration legal services, mainly through the creation of the Liberty Defense Project (LDP). The LDP was conceived by the Governor as a public-private partnership to increase access to representation of immigrants across the state. The LDP was funded at an initial \$10,000,000 through a joint effort by the Governor and the Independent Democratic Caucus (IDC) of the Senate. An additional \$1,000,000 was raised in private funds for the development of a pro-bono representation network and \$300,000 was allocated from the Department of State budget specifically for services to the Asian community.

⁵⁵ Advocate Interview: Molly Delano (Hostos Community College)

⁵⁶ Bronx Legal Services and Bronx Domestic Violence Roundtable: "More People to Listen: Legal and Social Services Needs of Bronx Communities Affected by Intimate Partner Violence:" (<http://www.legalservicesnyc.org/storage/PDFs/bronx%20ipv%20report.pdf>).

⁵⁷ Advocate Interview: Emma Mondadori (International Rescue Committee)

⁵⁸ See www.newamericans.ny.gov

⁵⁹ "New York State Office for New Americans, Immigrant Advocates and Philanthropic Organizations Announce Partnership to increase Community Services for Recently Arrived Central American Children on Long Island" (Feb. 23, 2015) available at <https://www.dos.ny.gov/press/2015/immigrant2-23.html>

⁶⁰ "Governor Cuomo Launches First-In-The-Nation" Public-Private Liberty Defense Project," March 24, 2017.

The LDP is divided between \$4 million dedicated to funding the state-wide New York Immigrant Family Unity Project, which provides public-defender style representation to immigrants detained and facing deportation outside of New York City, and the remaining funds which are providing screenings, representation, defense of deportation, outreach, and community education across the State. At the time of writing of this report, the regional breakdown of funds and specific allocations to legal services vs. outreach and community education was not yet known.

Furthermore, civil legal service providers can obtain funding from the Office of Court Administration and the Interest On Lawyers Account (IOLA) Fund, including providers that include immigration assistance as part of their work. Because the funding is not immigration specific, and it is not possible to determine which providers use a portion for immigration services or how much they allocated, those grants are not included in the breakdowns below. Finally, some organizations receive county funds to provide legal services to immigrants, including in Westchester and Suffolk Counties.

Table 2: FY 2017 New York State Funding Streams Dedicated to Immigration Legal Services by Funding Source

Source	Purpose	Awardees	Amount
Office for New Americans	Citizenship services, DACA screenings, and limited U & T Visa applications	27 opportunity centers, 6 legal counsels, 1 trainer and technical assistance providers	\$5,738,100
Office for New Americans	Representation of Unaccompanied Children on Long Island	Long Island Unaccompanied Children Collaborative	\$50,000
Assembly	NY Immigrant Family Unity Project	Vera Institute of Justice	\$400,000
Senate Independent Democratic Caucus	NY Immigration Family Unity Project	Vera Institute of Justice	\$250,000
Assembly	Legal Services/Additional Appropriations	Various Legal Service Providers	\$700,000
Total			\$7,138,100

Table 3: New York State Funding Streams Dedicate to Immigration Legal Services by Type

Source	Purpose	Awardees	Amount
Liberty Defense Project	Civil Immigration Legal Services, Outreach, Community Education	Asian American Federation, Catholic Charities Community Services, Empire Justice Center, The Hispanic Federation, The New York Immigration Coalition, Northern Manhattan Coalition for Immigrant Rights, The Vera Institute ⁶¹	\$10,000,000
Office for New Americans	Citizenship services, DACA screenings, and limited U & T Visa applications	27 opportunity centers, 6 legal counsels, 1 trainer and technical assistance providers.	\$5,738,100
Assembly	Legal Services/ Additional Appropriations	Various Legal Service Providers	\$650,000 ⁶²
Department of State	Civil Immigration Legal Services, Outreach, Community Education	Asian American Federation	\$300,000 ⁶³
Private Funds Raised by Governor	Pro-Bono Legal Representation Coordination	Catholic Charities	\$1,000,000 ⁶⁴
Total			\$7,138,100

⁶¹ Most grantees of LDP funding have chosen to re-grant part of their funds. A list of re-grantees and the types of cases to be handled by the awards was not available at the time of publishing this report, except for the \$4 million awarded the Vera Institute, which was to fund the New York Immigrant Family Unity Project, which provides removal defense representation to detained immigrants with cases in immigration courts outside New York City.

⁶² The appropriations are: Emerald Isle Immigration Center (\$50,000), Albany Law School - Immigration Clinic (\$150,000), The Legal Aid Society (\$150,000), Make the Road (\$150,000, Legal Services NYC (\$150,000) See A. 3003-D (2017).

⁶³ In addition to the \$10 million allocated in the Budget bills for the Liberty Defense Project, the Asian American Federation received an additional \$300,000 from the Department of State that will need to be renewed as part of FY 2019 funding allocations.

⁶⁴ In addition to the \$10 million allocated in the Budget bills for the Liberty Defense Project, Catholic Charities received an additional \$1 million in private funding raised by the Governor's office that will need to be renewed as part of FY 2019 funding allocations.

Table 4: FY 2017 New York State Funding Streams Dedicated to Immigration Legal Services by Type

Type	Source	Awardees	Amount
Citizenship	Office for New Americans	27 opportunity centers and 6 legal counsels	\$5,625,000
DACA ⁶⁵	Assembly appropriations	Legal Services NYC – DREAM Clinics	\$150,000
Unaccompanied children representation	Office for New Americans	Long Island Unaccompanied Children Collaborative	\$50,000
Detained immigrants representation	Assembly and Senate Independent Democratic Caucus	Vera Institute of Justice	\$650,000
General immigration legal services	Assembly appropriations	Various legal service providers	\$550,000
Related (training, pro se assistance software)	Office for New Americans	New York Immigration Coalition and Immigrant Advocates Network	\$113,100
Total			\$7,138,100

Table 5: FY 2018 New York State Funding Streams Dedicated to Immigration Legal Services by Type

Type	Source	Awardees	Amount
Citizenship	Office for New Americans	27 opportunity centers and 6 legal counsels	\$5,625,000
Exclusively detained immigrants representation	Liberty Defense Project	Vera Institute of Justice	\$4,000,000
General immigration legal services including legal representation, outreach, and other immigrant support services	Liberty Defense Project, Private Funding, Department of State, Assembly Appropriations	Various immigrant service providers including legal service providers and community groups	\$7,950,000
Related (training, pro se assistance software)	Office for New Americans	New York Immigration Coalition and Immigrant Advocates Network	\$113,100
Total			\$17,688,100

⁶⁵ ONA opportunity centers also handled DACA screenings, but not application assistance

Table 6: 2017-2018 Comparison of New York State Funding Streams Dedicated to Immigration Legal Services by Type

Type	FY 2017	FY 2018	Net Increase
Citizenship	\$5,625,000	\$5,625,000	\$0
DACA	\$150,000	\$0	-\$150,000
General immigration legal services (including legal representation, outreach, and other immigrant support services)	\$600,000	\$7,950,000	\$7,350,000
Exclusively detained immigrants representation	\$650,000	\$4,000,000	\$3,350,000
Related (training, pro se assistance software)	\$113,100	\$113,100	\$0
Total	\$7,138,100	\$17,688,100	\$10,550,000

New York City Funding⁶⁶

Legal service providers in New York City, who make up nearly 77% of all providers, also have access to funding - via several initiatives - from the New York City government. In 2018, New York City nearly doubled the amount of funding dedicated to legal services for immigrants via these initiatives, supporting the New York Immigrant Family Unity Project (NYIFUP), which provides representation to detained immigrants facing deportation with \$10 million, the Unaccompanied Minors Initiative (UMI) and Immigrant Children Advocates Relief Effort (ICARE) project to represent unaccompanied refugee children and refugee adults with children from Central America with \$1.5 million, the Immigrant Opportunity Initiative (IOI) which funds a variety of immigration legal services with \$8.5 million, and CUNY Citizenship Now! with \$2 million to place immigration attorneys at various agencies and Council District offices around the city to provide consultations in all areas of family and naturalization law and application assistance for Citizenship, Family-based petitions, DACA and TPS.

In addition to the New York City funding distributed to legal service providers, in 2015, the NYC Mayor’s Office for Immigrant Affairs (MOIA), the City University of New York (CUNY) Research Foundation and the Human Resources Administration (HRA) launched ActionNYC to “expand capacity in the field of immigration legal assistance in NYC”⁶⁷ by doing targeted outreach, employing trained non-lawyer staff of non-profits (labeled “navigators”) to screen clients and help them with “straightforward” applications,⁶⁸ lawyers to supervise the navigators, and a clinic coordinator to organize monthly mass-assistance events. The total budget for ActionNYC for the last 9 month period in FY 2016 was \$7.9 million,⁶⁹ \$2.7 million of which was

⁶⁶ New York City Office of Civil Justice 2016 Annual Report (June 2016), available at https://www1.nyc.gov/assets/hra/downloads/pdf/services/civiljustice/OJ%202016%20Annual%20Report%20FINAL_08_29_2016.pdf

⁶⁷ New York City Office of Civil Justice 2016 Annual Report, p. 56

⁶⁸ In the addendum to the ActionNYC RFP, MOIA and HRA stated that “the initiative is primarily focused on helping people complete straightforward applications such as naturalization, TPS, Green Card renewals, DACA, etc.” ActionNYC Addendum p. 22 (June 2015)

⁶⁹ Liz Robbins, “New York to Aid Immigrants Amid Stalled Immigration Reforms” New York Times (Dec. 14, 2015). <https://www.nytimes.com/2015/12/15/nyregion/new-york-city-to-aid-immigrants-amid-stalled-national-reforms.html>

re-granted for services directed to legal service delivery (including outreach, navigators, a clinic coordinator, and legal services in community schools⁷⁰). In FY2017, the total budget for ActionNYC was increased to \$8.4 million to cover a full year, and contracts for outreach, navigation, legal supervisors, and community schools were extended and increased proportionally to cover the longer time period. The clinic coordinator role was terminated and a new Legal Coordinator grant, was created, as well as a medical-legal partnership in New York City's Health + Hospitals⁷¹. Finally, MOIA received \$750,000 from private funders to administer citizenship services in libraries and schools through NYCitizenship,⁷² of which \$375,000, or 50%, is given to one legal service provider. In FY 18 the budget for ActionNYC was increased to \$8.7 million that was used similarly to 2017, with an increased focus on serving hard-to-reach communities through increase in navigator sites and an ActionNYC Legal And Outreach Capacity Building Fellowship program, which funds 15 fellows at various community based organizations around the country.

CASE STUDY: The Criminal Carve Out for City Funding

In FY 2018, Mayor Bill De Blasio's administration introduced a new restriction on funding for immigration legal services, preventing anyone who has been convicted of certain crimes from receiving legal help through city-funded programs.⁷³ Specifically, the list of crimes includes the 170 deemed to not qualify for protection from ICE detainers under New York City's detainer laws. The fight first began immediately after the budget season ended, when the "criminal carve out" was introduced into NYIFUP contracts.⁷⁴ At the time, City Council members, including then-Speaker Melissa Mark Viverito, were strongly opposed to the funding restriction, particularly on money allocated by the Council, but ultimately the issue was resolved when an anonymous private funder came forward to pay for the difference.⁷⁵ In the late fall of 2017, however, as the City Administration turned to extending and executing contracts for the additional funds provided in the FY 2018 budget, it became apparent that the carve out had been applied to all legal services funding. Advocates have consistently argued that the carve out is wrong, and should be lifted. Specifically, advocates argue that the carve out:

1. is contrary to New York City's long standing tradition as a welcoming city, and undermines its elected leaders' attempts to position the city as a protector of those values against the current administration's anti-immigrant agenda;
2. creates discrimination concerns as it arbitrarily excludes certain individuals from being eligible for city services;

⁶⁹ Liz Robbins, "New York to Aid Immigrants Amid Stalled Immigration Reforms" New York Times (Dec. 14, 2015).

<https://www.nytimes.com/2015/12/15/nyregion/new-york-city-to-aid-immigrants-amid-stalled-national-reforms.html>

⁷⁰ ActionNYC runs a program in community schools, run through Catholic Charities Legal Services, that differs from the overall model of pairing non-attorney navigators with immigration attorneys to provide legal services in community based organizations. Instead, the community schools project of ActionNYC brings experienced immigration attorneys into NYC-run community schools to organize legal screening clinics and provide direct representation in complex case matters to clients who would otherwise not qualify for services from a majority of legal service providers, such as Special Immigrant Juvenile Status (SIJS) for applicants at risk of aging-out of the program.

⁷¹ Request for Applications: "ActionNYC in New York Health + Hospitals" available at

https://www.rfcun.org/FilesDirectory/News/documents/ActionNYC%20H.H%20LTC%20Pilot%20RFP_7%2029_16_.pdf

⁷² New York City Office of Civil Justice 2016 Annual Report, p. 56

⁷³ Gloria Pazmino, "De Blasio Defends Policy to Exclude Some Immigrants From Receiving Free Legal Help," Politico, (December 29, 2017) <https://www.politico.com/states/new-york/albany/story/2017/12/29/de-blasio-defends-policy-to-exclude-some-immigrants-from-receiving-free-legal-help-164372>.

⁷⁴ Liz Robbins, "All Immigrants Should be Given Lawyers, Some City Council Members Say," New York Times, (May 31, 2017)

<https://www.nytimes.com/2017/05/31/nyregion/immigrant-legal-services-new-york.html>.

⁷⁵ Id.

3. exacerbates inequities and racial tensions within our criminal justice system and immigration legal system;
4. is an attack on due process, which is often lacking in the immigration context which is what give rise for a need to counsel in the first place;
5. risks leaving individuals who should qualify for help but-for erroneous convictions without lawyers;
6. creates administrative burdens for the providers, who may often not know of convictions until substantial work has already been done;
7. for that reason could dissuade providers from taking on new cases out of fear of doing work for which they will not be able to get paid;
8. undermines the purpose of ActionNYC, in which the administration has invested \$8.4 million, and the purpose of which is specifically to screen for relief any New Yorker who calls 311 needing immigration help;
9. imposes an unreasonable burden on 311 operators to determine whether callers have disqualifying crimes before transferring them to ActionNYC, or shifts that burden to already at-capacity providers.

Table 7: FY 2017 New York City Funding Streams Dedicated to Immigration Legal Services by Funding Sources by Type

Source	Purpose	Awardees	Amount
New York City Council	Representation of detained immigrants, Central American refugee families, general immigration services	Various non-profit legal service providers	\$12,624,000
New York City Mayor	Straightforward applications, complex case representation, outreach, citizenship	Various non-profit legal service providers and city agencies	\$14,850,000
Total			\$27,474,000

Table 8: FY 2018 New York City Funding Streams Dedicated to Immigration Legal Services by Funding Source

Source	Purpose	Awardees	Amount
New York City Council	Representation of detained immigrants, Central American refugee families, general immigration services	Various non-profit legal service providers	\$16,600,000 ⁷⁶
New York City Mayor	Straightforward applications, complex case representation, outreach, citizenship.	Various non-profit legal service providers and city agencies.	\$30,900,000
Total			\$47,500,000

⁷⁶ FY 2018 Schedule C also include \$500,000 for an “Immigrant Resource Center”, but details had not been made public as of the writing of this report and it is not clear that legal services would be provided there.

Table 9: FY 2017 New York City Funding Streams Dedicated to Immigration Legal Services by Type

Type	Source	Awardees	Amount
Citizenship	NYCCitizenship	New York Legal Assistance Group	\$375,000
Straightforward applications and related support (including outreach, training, technical support, community education)	ActionNYC (MOIA and HRA)	Community organizations and legal service providers	\$2,700,000
Complex case representation	HRA	Two consortiums comprised of legal service providers and community based organizations	\$2,700,000 ⁷⁷
Detained immigrants representation	New York City Council	Vera Institute of Justice, Legal Aid Society, Bronx Public Defenders, Brooklyn Defender Services	\$6,582,000
Central American Refugees Representation	New York City Council	Various legal service providers	\$1,500,000
General immigration legal services	New York City Council and HRA	Various legal service providers through IOI and CUNY Citizenship Now!	\$7,650,000
Administration of programs	HRA and MOIA	Mayors Office of Immigrant Affairs	\$5,967,000
Total			\$27,474,000

⁷⁷ Numbers with asterisks are approximate as current total funding made available to non-profit organizations is not public information. Some funding, including the ActionNYC Community Schools and Legal Technical Assistance Provider were not made via requests for proposals. In addition, 2017 ActionNYC funding was distributed via contract extensions in lieu of a second RFP process.

Table 10: FY 2018 New York City Funding Streams Dedicated to Immigration Legal Services by Type

Type	Source	Awardees	Amount
Citizenship	NYCCitizenship	New York Legal Assistance Group	\$375,000
Straightforward applications and related support (including outreach, training, technical support, community education)	ActionNYC (MOIA and HRA)	Arab American Association of New York; Atlas: DIY; Bronxworks; CAMBA; Catholic Charities Community Services; Catholic Legal Immigration Network; Center for Family Life; Center for Popular Democracy; Little Sisters of the Assumption Family Health Services; Lutheran Social Services of New York; Make The Road New York; New York Immigration Coalition; New York Legal Assistance Group; Northern Manhattan Improvement Corporation	\$8,700,000 ⁷⁸
Complex case representation	Administration IOI, HRA	Two consortiums comprised of legal service providers and community based organizations as well as Sanctuary for Families and Urban Justice Center for domestic violence victims only	\$6,400,000
Detained immigrants representation	New York City Council	NYIFUP providers (Legal Aid Society, Bronx Public Defenders, Brooklyn Defender Services)	\$10,000,000
Central American Refugees Representation	New York City Council	ICARE providers (Catholic Charities, Legal Aid Society, Make the Road, Safe Passage Project, Kids In Need of Defense, Central American Legal Assistance, and The Door)	\$2,000,000
General immigration legal services	New York City Council IOI and City Council Funding	Various legal service providers through IOI and CUNY Citizenship Now!	\$4,600,000
Legal Services to Victims of Domestic Violence	Community Services Block Grants ⁷⁹	Brooklyn Defender Services; Legal Services NYC; Make The Road New York; NYLAG; NMIC; Sanctuary for Families; The Door; Urban Justice Center	\$2,100,000
Unallocated Funds at Time of Writing	MOIA, HRA		\$13,700,000
Total			\$47,500,000

⁷⁸ This includes \$189,750 for the ActionNYC in Health + Hospitals which provides immigration screenings and legal representation on all types of cases, including complex cases (See RFA, fn. 71).

⁷⁹ CSBG grants come from the Federal government to the State, which then allocates the funds amongst different regions according to a specific formula.

Table 11: 2017-2018 Comparison of New York City Funding Streams Dedicated to Immigration Legal Services by Type

Type	2017	2018	Net Difference
Citizenship	\$375,000	\$375,000	\$0
Straightforward applications and related support (including outreach, training, technical support, community education)	\$2,700,000	\$8,700,000	\$300,000
Complex case representation	\$2,700,000	\$6,400,000	\$300,000
Detained immigrants representation	\$6,582,000	\$10,000,000	\$3,418,000
Central American Refugees Representation	\$1,500,000	\$2,000,000	\$500,000
General immigration legal services	\$7,650,000	\$4,600,000	\$3,050,000
Legal Services to Domestic Violence Victims	Unknown	\$2,100,000	N/A
Administration of program	\$5,967,000	Unknown	N/A
Unallocated Funds at Time of Writing	\$0	\$13,700,000	\$13,700,000
Total	\$27,474,000	\$47,500,000	\$22,726,000⁸⁰

Private Funding

Most providers rely on private philanthropy in addition to government funding. Sources of funding were too varied to establish trends, but the most consistent funder was the Immigrant Justice Corps (IJC), which, yearly, places 25 recent law school graduates at legal service providers for two-year positions (for a total of 50 legal fellows in the field at any given time).⁸¹

In addition, the IJC funds 10 “community fellow” positions every year (for a total of 20 fellows in the field at any given time). Community fellows are recent college graduates who become accredited by the Department of Justice to provide basic legal services.⁸² Nearly half of survey respondents hosted IJC fellows. Other major funders include community trusts, such as the New York Community Trust and Long Island Community Foundation, and the Robin Hood Foundation, and individual donors.⁸³ Twenty-one percent of respondents did not receive any private funding.⁸⁴ One third of those who the supplemental survey also charge some type of fees.⁸⁵

⁸⁰ The initial ActionNYC funding was distributed via Requests for Applications (RFAs), which allowed us to determine how much was spent on direct legal services, versus outreach, community education, and other work. Subsequent funding was added through contract extensions and other non-public determinations, making determining the exact amount funding allocated to actual legal services impossible. The totals for FY 2018 as well as the differences in totals between FY 2017 and FY 2018 thus include an estimated \$6 million in funding for non-legal services such as outreach, community education, English for Speakers of Other Languages (ESOL) classes, etc.

⁸¹ NYC Legal Service Provider Survey (November 2017 – January 2018), Immigrant Justice Corps website: www.justicecorps.org

⁸² Immigrant Justice Corps website: www.justicecorps.org

⁸³ NYC Legal Service Provider Survey (November 2018 – January 2018)

⁸⁴ Id.

⁸⁵ Id.

⁸² NYC Legal Service Provider Survey (November 2018 – January 2018)

Lack of Resources to Address Needs

Funding that does not match need

Legal Service Providers noted the following three case types as those they most frequently identified and were asked to handle (in order of prevalence)⁸⁶:

- Defense of Removal
- Representation before ICE
- Complex case representation

In FY 2016, the State did very little to fund these types of cases. Defense of removal accounted for 67% of the work required of legal service providers, yet was only 18% of the total funding included in the budget. Moreover, that funding only went to fund services provided by 8 organizations: 3 organizations providing services to unaccompanied children on Long Island (\$50,000), 5 organizations providing services to detained immigrants held in the Batavia Federal Detention Facility and the Ulster County Correctional Facility (\$650,000), and 4 organizations for general services (\$550,000). During that year, as had been the trend in previous years, 79% of funding from the State covers citizenship services, whereas, based on survey answers, naturalization assistance only accounted for 8% of work done by legal service providers.

That same year, NYC made significantly more funding available to legal service providers, but the case-specific nature of the funding did not allow organizations to meet the needs of most immigrants who came through their doors asking for help. As with the State, much City funding was not directed to the types of cases legal service providers encountered most frequently. Seventeen percent of funding went to services provided by ActionNYC (\$2.7 million in re-grants) and CUNY Citizenship Now! (\$2 million) for general consultations and straightforward cases only. An additional 22% was kept by the Mayor's Office for Immigrant Affairs to administer their programs. Twenty-eight percent of the funding was dedicated to defense of removal through NYIFUP and the Central American refugee initiatives (UMI and ICARE), which helped 3,029 immigrants who are currently facing deportation in the New York City immigration courts.⁸⁷ The remaining 33% comprised the IOI funds (\$8.3 million), which served a mix of complex and straightforward cases.

Of the \$8.3 million that was granted through IOI in 2016, \$3 million, or 36% of the total IOI fund, was baselined and distributed via an RFP administered by HRA and MOIA to fund consortiums of groups that provide legal services and perform outreach and case management. Because RFP responses and contracts are confidential, the breakdown between legal services and outreach services was unknown. Additionally, \$2.6 million, or 31%, given via City Council was meant for general legal services, but most providers reported using the funds for simpler applications. This was largely due to the low case price of \$750 per case, which did not allow providers to take on complex cases using this grant. Finally, in 2016, the Mayoral administration added \$2.7 million to the IOI fund specifically to take on representation of 1,000 complex cases referred by the ActionNYC sites. This additional amount was added to the awards given to the two consortiums funded through the baselined IOI money.⁸⁸

⁸⁶ NYIC Legal Service Provider Survey (November 2017 – January 2018)

⁸⁷ PRI The World "In New York City, Lawyers Make All the Difference For Immigrant Detainees Facing Deportation" (Sept. 20, 2016), noting that 1,898 individuals have been represented through NYIFUP and New York City Council release: "New York City Council Unaccompanied Minors Initiative Continues to Prevent Needless Deportations" noting that as of FY 2016, 1,131 cases have been represented.

⁸⁸ New York City Office of Civil Justice 2016 Annual Report, p. 56 In 2018, NYIFUP providers reported that the total number of cases served by the project since inception was 2,788.

Table 12: Percentage of New York Funding Streams Dedicated to Immigration Legal Services by Type in FY 17⁸⁹

Type	Source	Awardees	Percentage
Citizenship & Straightforward Cases	NYCNaturalize, ActionNYC, CUNY Citizenship Now!	Various legal service providers and community based organizations	19%
Complex cases	ICARE, NYIFUP, \$2.7 million additional funds placed in IOI	Various legal service providers	38%
General Immigration Representation	Remaining IOI and Council appropriations	Various legal service providers	21%
Administration of programs	HRA and MOIA	Mayor's Office of Immigrant Affairs	22%

While significantly increased in FY2018, funding breakdowns for that year were much more difficult to calculate because most of it was distributed without public RFPs. In addition, at time of writing, 28% of City funds had not been allocated and several LDP contracts had not been finalized. These delays and lack of transparency caused significant hardship on providers, which then translated to reduced services for the immigrant communities they serve. At Immigrant ARC monthly meetings providers reported the following issues:

New York City Funding

- The criminal carve out was one of the biggest concerns regarding City funding, with legal service providers worried that the most in need of quality legal services would be arbitrarily cut off from accessing them while increasing administrative burdens on the organizations receiving the funds.
- The lack of transparency led to smaller groups being unable to access funding, a criticism echoed in previous years when the initial RFPs were issued and the requirements were too onerous for many small, community-based legal service groups to take on, but no incentives were included for larger providers to include them.
- The high level of deliverables and strict number of cases that can be carried over from one grant year to the next do not allow for flexibility in how the funding is used, emphasizing case completion numbers at the expense of hours that can be spent on case work. This has the dual impact of forcing providers to choose what clients they can serve based on what kinds of case types they can reasonably bill under a grant, and to require supervisors to carry substantial case-loads at the expense of supervisory time.

New York State Funding

- The Liberty Defense Program funds were given directly to certain named organizations, bypassing a competitive bidding process and excluding many groups that had hoped for State support in the 2017 calendar year.
- The exact parameters of the program, and subsequently the contracts, were slowed down by

⁸⁹ Numbers with asterisks are approximate as current total funding made available to non-profit organizations is not public information. Some funding, including the ActionNYC Community Schools and Legal Technical Assistance Provider were not made via requests for proposals. In addition, 2017 ActionNYC funding was distributed via contract extensions in lieu of a second RFP process.

bureaucratic hurdles which consequently delayed getting funds out to the field. At the time of writing this report, not all grantees had been able to sign contracts for the funds, though urgency in getting services to the field led several to issue – and front the costs for – sub-contracts to on the ground providers.

- The lack of commitment to renewing the funding beyond one year created a significant hurdle for grantees, who were reluctant to hire positions and take on cases without assurances that the funding would continue. Nonetheless, all decided to move forward with both due to the urgent need in the field, assuming a significant risk for themselves should the funding not be renewed.

Lack of Funding Leading to Lack of Capacity and Organizational Stress

Across the board, only 6% of organizations felt that they had capacity to meet the needs of clients who sought services from them.⁹⁰ The main gaps in capacity identified by survey respondents were: ability to hire experienced supervising attorneys, ability to hire support staff, and the ability to obtain larger office space and equipment.⁹¹ In one-on-one interviews, some providers noted that the necessity of having staff play multiple roles, such as attorney but also writing proposals, doing outreach, and connecting them to other services, further reduced their ability to properly provide legal services.⁹²

These findings are consistent with a larger trend within the human services sector in New York, which “has been chronically under-resourced for decades and is reaching a critical juncture.”⁹³ The Human Services Council has found that New York requires critical changes to how it approaches the non-profit human services sector, including contracting that covers the real costs of providing services and investing in core programs necessary to lift up communities.⁹⁴ Another study highlights the fragility of New York’s non-profit field, noting that 18% of New York City health and human services nonprofits are insolvent, 40% have no cash reserve, and 40% may have lost money since 2013.

⁹⁰ NYC Legal Services Provider Survey (November 2017 – January 2018)

⁹¹ Id.

⁹² Advocate Interview: Marie Mark Immigrant Defense Project and Christina’Elhaddad (Arab American Associatin of New York).

⁹³ Restore Opportunity Now, “Voices of New York’s Human Services Sector” available at <https://humanservicescouncil.org/wp-content/uploads/Initiatives/RestoreOpportunityNow/Voices-of-Human-Services.pdf>

⁹⁴ Id.

⁹⁵ Dylan Roberts, George Morris, John MacIntosh, Daniel Millenson, “Risk Management for Nonprofits,” Oliver Wyman & SeaChange Capital Partners (March 2016) <http://seachangecap.org/wp-content/uploads/2016/03/SeaChange-Oliver-Wyman-Risk-Report.pdf>

ONE YEAR LATER: CHALLENGES TO THE IMMIGRATION SYSTEM UNDER THE TRUMP ADMINISTRATION

Aggressive Enforcement

The Trump administration's biggest, and perhaps most obvious, impact on immigration policies have related to heightened enforcement. While the debate on building a wall at the Southern Border has continued in Washington, enforcement in the interior of the U.S. has exploded. ICE agents often carry out their duties using aggressive tactics, including the use of force, and select targets in arbitrary ways.

In his first days in office, the President signed a series of Executive Orders aimed at dramatically shifting immigration policy.⁹⁶ On February 21st, the Department of Homeland Security released a set of memos detailing how these executive orders would be implemented.⁹⁷ In relevant parts, these memorandums significantly expanded the categories of immigrants deemed priorities for removal to include, inter alia, all undocumented immigrants, required the detention of any immigrant suspected of violating immigration law, ordered massive increases in immigration law enforcement staffing, reinstated the Secure Communities program and use of ICE detainers as well as calling for new 287(g) agreements that deputize local law enforcement as immigration agents, and gave instructions to build a wall along the Southern Border of the United States.

One of the most visible ways that ICE has undertaken its new mission of increased enforcement is through a large number of operations that occur with greater frequency and that are usually coupled with media releases. ICE has been clear in its intent to target jurisdictions it deems to be non-cooperative with their immigration enforcement strategies, so called "sanctuary cities" or "sanctuary jurisdictions", of which they view New York City as a leading example. For example, a September, 2017 operation named "Operation Safe City" specifically "focused on cities and regions where ICE deportation officers are denied access to jails and prisons to interview suspected immigration violators or jurisdictions where ICE detainers are not honored."⁹⁸

The "Safe City" press release is one example of how ICE, and the Trump administration, has both used the media to influence the narrative around immigrants and the dangers they pose and also widened the net far beyond the 1 million "bad hombres" the President promised to deport during the presidential campaign. Out of the 45 immigrants whose arrests were reported in this release, only 30, or two-thirds, had any type of criminal conviction. Of the 8 cases singled out for special mention in the release, only 6 had a criminal conviction, one of which was for disorderly conduct. At least one was a green card holder.

This release was one of many issued during the first year of the Trump presidency, despite numerous evidence that the facts used within were not reliable. For example, the online news site The Intercept obtained internal emails showing that during the first series of large-scale arrests in 2017, "ICE leadership instruct[ed] field offices to highlight the worst cases for the media and attempt[ed] to distract attention from the dozens of individuals who were apprehended despite having no criminal background at all."⁹⁹

⁹⁶ Available at <https://www.dhs.gov/executive-orders-protecting-homeland>

⁹⁷ Id.

⁹⁸ Immigration and Customs Enforcement "ICE Arrests 45 in New York During Operation 'Safe City'" (Sept. 29, 2017) available at <https://docs.google.com/document/d/1Erl15UEPiwb78T8FmKXKhSoNV1ItxWUJ5zeeZstOxSA/edit#>

⁹⁹ Alice Speri "Internal Emails Show ICE Agents Struggling to Substantiate Trump's Lies About Immigrants", The Intercept (Oct. 4, 2017) <https://theintercept.com/2017/10/04/ice-raids-trump-immigration-deportation/>

Case Study: Gang Enforcement on Long Island

Under the Trump administration the Department of Homeland Security and the Department of Justice have taken a renewed and more aggressive approach to anti-gang enforcement, specifically against the Central American gang MS 13. This has specifically manifested in Operation Matador, which was launched in 2017 as part of Operation Community Shield. Matador specifically seeks to “target violent gang members and their associates, eradicate the violence they inflict upon our communities and stop the cash flow to transnational organized crime groups.”¹⁰⁰

However, the Operation has put many immigrants at risk while raising concerns that the community will be too afraid of immigration consequences to cooperate with law enforcement.¹⁰¹ There are also concerns that gang databases, which are notoriously unregulated and rife with errors,¹⁰² have created too wide of a dragnet in which innocent individuals, many fleeing persecution from the same gangs in their own countries, are being caught. Providers have reported an increase in unwarranted and unsubstantiated gang allegations as a basis to detain their clients, or to deny applications for benefits such as Special Immigrant Juvenile Status (SIJS) or asylum.¹⁰³

ICE agents themselves have made comments seeming to confirm the agency’s intention to use gang enforcement work as a pretext to pursue its anti-immigrant agenda and policies. During a Matador-connected sweep in the fall of 2017, the ICE-Homeland Security Investigations agent in charge told a reporter shadowing the team that one of their targets was not classified as a gang member yet and, in fact, had no criminal record. According to the agent, “the purpose of classifying him as a gang member or a gang associate is because once he goes in front of an immigration judge, we don’t want him to get bail, because the whole point of this operation is to get these known gang members off the street.”¹⁰⁴

This circular reasoning – that he had to be classified as a gang member so he could be considered a gang member despite no apparent evidence or facts to support it, is the type of approach to enforcement that raises such significant concerns. It is also representative of how the Trump Administration has sought to confuse immigration enforcement and gang enforcement to further its narrative that immigrants are dangerous to the United States. While Matador has focused on immigrants, large Operation Community Shield sweeps have shown a far fewer prevalence of immigrants involved in gangs. For example, in the last sweep, two-thirds of those arrested were US Citizens, and only 7% of the total were members of MS-13.¹⁰⁵ Meanwhile, attorneys have spent increasing amounts of time seeking evidence and developing arguments to rebut these baseless accusations.

¹⁰⁰ ICE News Release, “Operation Matador Nets 39 MS-13 Arrests in Last 30 Days,” ICE (June 14, 2017) <https://www.ice.gov/news/releases/operation-matador-nets-39-ms-13-arrests-last-30-days>

¹⁰¹ Liz Robbins, “How Can MS-13 be Stopped? Long Island Officials are Divided,” New York Times (October 13, 2017) <https://www.nytimes.com/2017/10/13/nyregion/division-stop-ms-13-gang-long-island.html>

¹⁰² K. Babe Howell, “Fear Itself: The Impact of Allegations of Gang Affiliation on Pre-Trial Detention,” 23 St. Thomas L. Rev. 620 (2011).

¹⁰³ Christopher J. Eberhart and Seth Harrison, “Ecuador: N.Y. Teen Facing Deportation Not Involved in Gang Activity,” USA Today Network (June 17, 2017)

¹⁰⁴ CBS News “Inside ICE’s controversial crackdown on MS-13” (November 16, 2017) <https://www.cbsnews.com/news/ms-13-gang-ice-crackdown-thomas-homan/>

¹⁰⁵ Immigration and Customs Enforcement, “ICE-led gang surge nets 1,378 nationwide,” (May 11, 2017) <https://www.ice.gov/news/releases/ice-led-gang-surge-nets-1378-arrests-nationwide>

One of the biggest changes to enforcement policy has been made noticeably real during routine ICE check-ins. For years, immigrants who had been apprehended by ICE but were not considered a priority for deportation were given check-in dates with ICE, much like a probation office appointment, to show that they were complying with requirements imposed on them. Under the Trump Administration, those on check-in schedules will no longer be permitted to remain in the United States. Unless they can prove they have a pending application to obtain legal status, most individuals appearing at check-ins are now being detained or told to leave the United States.¹⁰⁶ While most individuals are given a chance to buy their own ticket to leave the country, others are taken into custody and will spend days, weeks, or more in detention before being released or deported.¹⁰⁷ This sudden change in policy, after years of amicable relationships with the government, has upended countless families since early 2017.¹⁰⁸

Case Study: ICE in Courts

Since 2017, there has been a significant increase in the number of ICE agents seeking individuals and making arrests in New York's courthouses. A survey by the Immigrant Defense Project (IDP) showed that one third of respondents had noticed ICE in courthouses throughout New York City and New York State.¹⁰⁹ Three-quarters of providers have worked with immigrants afraid of going to Court, and nearly half (45%) have worked with immigrants who have either failed to file a petition or withdrawn one out of fear of encountering ICE in the courthouse.¹¹⁰ Over a quarter, 28%, have worked with immigrants who failed to appear in Court out of fear of ICE being present and 67% have had clients who are survivors of domestic violence choose to not seek the protection of the courts out of the same fear.¹¹¹ The impact on immigrants' access to justice is dramatic: it forces immigrant criminal defendants to make impossible choices between defending themselves, taking guilty pleas to avoid future court appearances, or not showing up at all and risking worse consequences.

In one example, after several months of adjournments, JP (not her real name) was ready to finish her criminal case. Since her arrest the previous year, JP had sought mental health treatment to address her long history as a victim of sexual abuse and rape. Seeing her progress, the district attorney's office had agreed to a conditional discharge for misdemeanor charges

But when JP showed up to Manhattan criminal court for sentencing, she was met by several plain-clothes ICE agents. Her public defender asked if the agents could produce a warrant for JP and they refused. She warned them that, due to JP's history of suicide attempts, that detention could be very dangerous. When the attorney asked the agents if they would take her client to a hospital if anything happened, they just shrugged. When she tried to give the agents a letter from JP's psychiatrist detailing her condition, they refused to take it. Crying and trembling, JP finally exited the courtroom and was taken away by ICE to face deportation.

These new approaches have had numerous effects on immigrant communities and those who seek to serve them. Lawyers have routinely had to engage in rapid response, be called at any time to give know your

¹⁰⁶ Joel Rose "Once Routine, ICE Check-Ins Now Fill Immigrants In US Illegally With Anxiety", National Public Radio (April 18, 2017) <https://www.npr.org/2017/04/18/524365639/once-routine-ice-check-ins-now-fill-immigrants-in-u-s-illegally-with-anxiety>

¹⁰⁷ Liz Robbins "Once Routine, Immigration Check-Ins Are Now High Stakes" New York Times (April 11, 2017) https://www.nytimes.com/2017/04/11/nyregion/ice-immigration-check-in-deportation.html?_r=0

¹⁰⁸ Fernanda Echavarri and Nicole Acevado, "The Person Sitting Next to You On a Plane Could be Getting Deported," LatinoUSA (August 4, 2017) <http://latinousa.org/2017/08/04/person-sitting-next-plane-getting-deported/>

¹⁰⁹ Immigrant Defense Project, "ICE in New York State Courts Survey," <https://www.immigrantdefenseproject.org/ice-courts-survey>

¹¹⁰ Id.

rights presentations, and continuously explain changes in policy, often at a moment's notice, to clients. In addition, much of their time is now spent responding to new allegations or handling onerous requests from the agencies adjudicating immigration cases, which often involves additional legal research and spending substantial time drafting responses while counseling clients through the hardships caused by delays. Simply put, immigration providers report that, in the current climate, there is no longer such a thing as a "simple" case.

Meanwhile, immigrants living in the United States have begun looking for other options, and are increasingly starting to look abroad. At a meeting of Immigrant ARC in early January, 2018, attorneys sought to learn about Canadian immigration law to better be able to respond to the questions they are getting from clients. Many immigrants have also decided to leave the United States on their own, either seeking refuge in Canada¹¹² or returning home¹¹³.

Case Study: Canadian Migration & the Safe Third Country Agreement

Anti-immigrant policies have led to many new approaches by immigrant communities and their allies. One, increasingly, is to look North to Canada and its far more immigrant-friendly policies. Attorneys have reported an increase in questions they get from clients regarding Canadian options. Many more, however, are seemingly taking matters into their own hands and heading Northward.

However, what often stands in their way is the Safe Third Country Agreement (STCA), which prevents most individuals who have arrived in either the US or Canada from seeking asylum in the other country.¹¹⁴ While some non-profits along the Northern Border have created networks to help individuals qualifying for exceptions to the STCA,¹¹⁵ many others try their luck at irregular border crossings in an attempt to circumvent STCA restrictions.¹¹⁶ Ground zero for irregular border crossings has become Roxham Road, a small country road in Champlain, NY.¹¹⁷ Once the last stop on the underground railroad, this part of New York State, tucked away between Lake Champlain and the Adirondacks, is an untouched and un-served part of the state's rust belt.¹¹⁸ Civil response from local volunteers has been the only assistance provided to the thousands of migrants who have sought to cross into Canada, often in frigid temperatures and with no clear plan once they arrive on the other side of the border.¹¹⁹

Barring an STCA exception, those who do attempt to cross through the legal border crossing are returned to US officials, who often detain them before processing them for deportation. The local county

¹¹² Roberto Federman, "The Canadian Dream: Vice News Tonight on HBO," Vice News (March 20, 2017) <https://www.youtube.com/watch?v=CTwXBUzpqPA>

¹¹³ Brittny Mejia, "Leaving America: With Shaky Job Prospects and Trump Promising Crackdowns, Immigrants Return to Mexico with US-Born Children," LA Times (September 19, 2017) Roberto Federman, <http://www.latimes.com/local/la-me-ln-dual-citizenship-20170808-htmistory.html>

¹¹⁴ Canadian Government, "Canada-US Safe Third Country Agreement" (last updated June 23, 2016) <https://www.canada.ca/en/immigration-refugees-citizenship/corporate/mandate/policies-operational-instructions-agreements/agreements/safe-third-country-agreement.html>

¹¹⁵ Roberto Federman, "The Canadian Dream: Vice News Tonight on HBO," Vice News (March 20, 2017) <https://www.youtube.com/watch?v=CTwXBUzpqPA>

¹¹⁶ Dan Levin, "A Surge of Migrants Crossing Into Quebec Tests Canada's Welcome," New York Times (August 10, 2017) <https://www.nytimes.com/2017/08/10/world/americas/a-surge-of-migrants-crossing-into-quebec-tests-canadas-welcome.html>

¹¹⁷ Associated Press, "Country Road to Canada is Route to Hope for Many Migrants," published on CBS News (August 9, 2017) <https://www.cbsnews.com/news/migrants-flood-canada-roxham-road/>

¹¹⁸ Dan Levin, "A Surge of Migrants Crossing Into Quebec Tests Canada's Welcome," *Supra*.

¹¹⁹ Lorne Matalon, "The Other Side of Roxham Road: Canada Grapples with Border Refugees," (December 5, 2017)

jail, Clinton County, has a contract to hold up to 45 ICE detainees at any given time, though ICE can send detainees to any jail in the country where they have bed space.¹²⁰ Though statistical evidence does not exist, interviews with detainees demonstrate that, at least some may have been eligible for immigration relief in the United States but chose not to pursue it.¹²¹

Diminishing Use of Prosecutorial Discretion

Under the current Administration all immigration agencies, including not just the enforcement-focused agencies such as ICE and Customs and Border Protection (CBP) but also USCIS, the benefits adjudications arm of our immigration system, and the Executive Office for Immigration Review (EOIR), which oversees the immigration courts and operate as the justice system for immigration, have become adversarial against immigrants.

One clear example is ICE's refusing to grant an overwhelming number of requests for stays of removal, as evidenced by the number of ICE check-ins that result in detention and deportations. In the past, as noted above, individuals not deemed a priority for deportation were routinely granted stays and put on check-in schedules as a way to prioritize the use of resources for those that were deemed a priority for removal. Under today's policies, all immigrants are viewed as priorities for removal, with very little weight being given to the equities they have built in the United States, the contributions they have made, or the harm suffered by their business, family members, and communities as a result of each individual's life being thrown into uncertainty by deportation.

The adversarial approach now employed by all government agencies towards immigrants also manifests in more prosaic, every-day interactions with the agencies. Materials have been removed from websites, as information based on anti-immigrant assumptions has been added. For example, the training manuals for asylum officers that provide insight on how asylum adjudications are handled have been removed, while the USCIS website page for the marriage-based green card sponsorship application now includes an email hotline for anyone to report suspected marriage fraud.¹²² Similarly, social media posts increasingly urge anyone to report suspected fraud, which incentivizes those with anti-immigrant sentiment to report even baseless suspicions while making most immigrants feel like they are being targeted and discriminated against because of their appearance or language skills. Grants given to non-profit organizations for citizenship preparation work were renamed "Citizenship and Assimilation Grants", formerly "Citizenship and Integration" grants.¹²³

Finally, the most significant impact is the alteration in direct engagement with stakeholders and those seeking benefits from the agencies. Advocates have overall reported more difficulty in reaching leadership in Washington, DC. Engagement with EOIR has dwindled to being essentially non-existent, even as nonprofit groups in New York have lost the use of rooms in the immigration court previously given to them for pro bono work and the EOIR-funded Immigration Court Help Desk has been reduced to attorneys holding clipboards in the hallways. Leadership of all relevant agencies have stopped appearing at stakeholder-led events in which they had participated routinely during prior administrations. At least one group, the ICE-NGO working group, has been disbanded after ICE leadership invited known hate groups to

¹²⁰ Zach Hirsch, "Seeking Asylum in Canada, Some End Up In a Clinton County Jail Cell Instead," North Country Public Radio (Oct. 4, 2017) <https://www.northcountrypublicradio.org/news/story/34795/20171004/seeking-asylum-in-canada-some-end-up-in-a-clinton-county-jail-cell-instead>

¹²¹ Id.

¹²² US Citizenship and Immigration Services, "I-130, Petition for Alien Relative" (last updated December 29, 2017) www.uscis.gov/forms/i-130

¹²³ <https://www.uscis.gov/about-us/citizenship-and-assimilation-grant-program>

the first meeting. Political appointments of known anti-immigrant individuals, such as Julie Kirchner¹²⁴ as USCIS Ombudsman, have had a dramatic chilling effect on stakeholders' willingness to come forward and collaborate.

Increased Hostility Leading to Increased Inefficiency

The shift towards a more adversarial, less responsive approach to stakeholder engagement has led to inefficiencies at every level of the immigration system by slowing down the adjudicative process, creating burdens on both the applicants (and their representatives) and the agencies, at the same time as there appears to be a steep increase in arbitrary denials of benefit applications.

One of the most widely reported examples of how this increased inefficiency has played out is in the difference between immigration arrests versus actual deportations. Fiscal Year 2017 numbers showed that while arrests had risen by 42% (111,000), actual deportations had dropped by 6% (226,000).¹²⁵ The most obvious explanation for this difference being that, while ICE can arrest anyone they believe is deportable from the United States, most individuals have the right to a deportation hearing before an immigration judge which significantly slows down their removal from the United States. The current level of arrests have exacerbated backlogs at already-clogged immigration courts, where, according to the President of the Immigration Judge's union, the current case loads (which neared 660,000 at the end of 2017)¹²⁶ threaten to collapse a court system where 39% of the judges are already eligible to retire.¹²⁷

The comparison of arrests versus deportation numbers and immigration court backlogs illustrate one facet of the increased inefficiencies triggered by the Trump administration however. Overall adjudications of immigration benefits have slowed down tremendously - as one example, in January 2018 the processing time for a green card renewal was over a year long.¹²⁸ Attorneys report that this inefficiency has also been compounded by a sharp increase in Requests for Evidence (RFE) or Notices of Intent to Deny (NOID) applications for benefits. Many RFEs or NOIDs appear to be boilerplate, ask for evidence already submitted or not relevant to the inquiry, or suddenly change previous interpretations of immigration law. Attorneys also have noted an increase in actual denials based on agency discretion or on facts not previously considered in denials.

This overall slowdown has had many negative consequences. First, it can often lead to a breakdown of the attorney-client relationship, with clients getting frustrated and believing the delays are caused by attorney errors or inattention. Clients who decide to seek other help are often more vulnerable to fraudulent providers, who have no problem saying what the client wants to hear regardless of the truth. Second, it prolongs the period of vulnerability for a client. Delays in application adjudications means it can take months longer for an individual to obtain work permission, for example. Third, the delays can prolong by months or years how long it will take for an individual to obtain permanent residence and be set on a path

¹²⁴ Ms. Kirchner is the former Executive Director of the Federation for American Immigration Reform (FAIR), a Southern Poverty Law Center-labeled hate group. (see official biography at <https://www.dhs.gov/person/julie-kirchner> and also the SPLC's entry on FAIR at <https://www.splcenter.org/fighting-hate/extremist-files/group/federation-american-immigration-reform>)

¹²⁵ Yeganeh Torbati, "U.S. Deportations Down in 2017, But Immigration Arrests Up", Reuters (Dec. 5, 2017) <https://www.reuters.com/article/us-usa-immigration/u-s-deportations-down-in-2017-but-immigration-arrests-up-idUSKB N1DZ205>

¹²⁶ Transactional Records Access Center, "Immigration Court Backlog Tool" (Last Updated November, 2017) http://trac.syr.edu/phptools/immigration/court_backlog/

¹²⁷ John Yang, "How a 'dire' immigration court backlog affects lives," Public Broadcasting System (September 18, 2017) <https://www.pbs.org/newshour/show/dire-immigration-court-backlog-affects-lives>

¹²⁸ <https://egov.uscis.gov/cris/processingTimesDisplay.do;jsessionid=abcWX6NQe2Hk26aNKOXdw>

to citizenship, postponing the moment of citizenship even further off into the future.

Infringement on Legal Status and Legal Rights

No discussion of how the Trump Administration has harmed immigrant communities and impacted attorneys' abilities to provide legal assistance would be complete without an overview of how, in 2017, nearly every category of immigrants were impacted by the restrictionist, anti-immigrant views of government leaders. From January 20, 2017 to January 10, 2018, President Trump:

- Put 800,000 immigrants brought to the United States as children at risk of deportation by ending the DACA program;
- Put an additional 300,000 individuals, many who have been living in the United States for 10 to 20 years, at risk of deportation by ending Temporary Protected Status (TPS) for Sudan, Haiti, Nicaragua, and El Salvador;¹²⁹
- Banned in various ways immigrants from nine countries and made it significantly more difficult for citizens of many other countries to come to the United States by imposing heightened security screenings;¹³¹
- Lowered refugee numbers to 45,000 per fiscal year, the lowest number in over 60 years;¹²⁷
- Made all immigrants priorities for deportation;¹³²
- Announced they would be going after at least 300,000 naturalized citizens to review whether their citizenship should be revoked.¹³³

Many of these decision have lead to court cases, at least some of which have drawn share rebukes from the Courts.¹³⁴

¹²⁹ At the time of writing of this report, Honduras, Nepal, Somalia, and Syria have not officially gotten notification that the programs will be terminated. Yemen was renewed in the Spring of 2017 and will continue to be designated until September, 2018.

¹³⁰ "Presidential Proclamation Enhancing Vetting Capabilities and Processes for Detecting Attempted Entry Into the United States by Terrorists or Other Public-Safety Threats" (September 24, 2017) <https://www.whitehouse.gov/presidential-actions/presidential-proclamation-enhancing-vetting-capabilities-processes-detecting-attempted-entry-united-states-terrorists-public-safety-threats/>

¹³¹ Ben Westcott, "US To Resettle Fewest Refugees in Under a Decade Under Trump's Cuts," CNN (September 28 2017) <http://www.cnn.com/2017/09/28/politics/trump-refugees-by-the-numbers/index.html>

¹³² Johny Kelly, "Memorandum: Enforcement of the Immigration Laws to Serve the National Interest," (February 20, 2017) <https://www.dhs.gov/publication/enforcement-immigration-laws-serve-national-interest>

¹³³ Department of Justice Press Release: "Justice Department Secures First Denaturalization As A Result of Operation Janus" (January 9, 2018) <https://www.justice.gov/opa/pr/justice-department-secures-first-denaturalization-result-operation-janus>

¹³⁴ *Regents of the University of California v. US Department of Homeland Security*, 3:17-cv-05211 WHA (N.D. Cal. January 9, 2018) stating in part "If the instant order is correct that DACA fell within the statutory and constitutional powers of the Executive Branch, than a policy supported as high up as our Chief Executive has been the victim of a colossal blunder." See also *Washington v. Trump*, 2:17-cv-00141 JLR (W.D. Wash. February 3, 2017).

Case Study: DACA Renewal Rejections

On September 5, 2017, Acting Secretary of Homeland Security Elaine Duke issued a memorandum formally ending the DACA program.¹³⁵ In ending the program, Secretary Duke gave DACA recipients whose grants expired before March 5, 2018 a 30 day window to renew, so long as the applications were “accepted by” USCIS on or before October 5, 2017. This set off a frantic rush by eligible DACA recipients to submit applications on time.

In the month following the DACA deadline, however, conversations between legal providers showed a worrying trend of applications mailed with plenty of time that had been either delivered on the deadline day but not accepted by USCIS until October 6th, or that had not been delivered by the postal service until it after the deadline had passed. Some of these applications had been mailed three or more weeks ahead of the October 5th cut-off date. An investigation by the New York Times revealed that some of these applications had been delivered to the mail center on time, but failed to make it to the USCIS Lockbox on time.¹³⁶ Many more, however, had been impacted by a USPS error that led to nearly 2,000 applications filed on time to be rejected.¹³⁷ Beyond these issues, providers reported a number of applications were rejected due to clerical errors, such as blank fields or erroneous check amounts, that would normally have been accepted with an invitation to submit a corrected check or form under prior processing rules.

Despite the fact that the late-filings, at least, were beyond the applicants’ control, USCIS initially refused to allow affected individuals to re-apply.¹³⁸ They ultimately reversed course, working with the US Postal Service to identify applications affected by both delivery and mail service issues and inviting those individuals to re-apply.¹³⁹ In the end, hundreds of DACA recipients spent weeks in fear of losing their ability to live and work in the United States, with an untold number who began accruing unlawful presence for the first time in their lives.

Fraud

For a long time, dishonest individuals have taken advantage of immigrants and their desire to live in the United States by promising to help them receive legal status in exchange for exorbitant sums of money. Fraudulent service providers charge high fees and either do not do any work, or file applications for benefits for which the client is not eligible.¹⁴⁰ Often, fraudulent providers are not lawyers and are not authorized to provide legal services. In New York State, it is a crime to provide immigration legal services if you are not a

¹³⁵ Elaine Duke, “Memorandum: Rescission of the June 15, 2012 Memorandum Entitled “Exercising Prosecutorial Discretion with Respect to Individuals Who Came to the United States as Children” (September 5, 2017) <https://www.dhs.gov/news/2017/09/05/memorandum-rescission-daca>

¹³⁶ Liz Robbins, “Post Office Fails to Deliver on Time, and DACA Applications get Rejected,” New York Times (November 10, 2017) <https://www.nytimes.com/2017/11/10/nyregion/post-office-mail-delays-daca-applications.html>

¹³⁷ Liz Robbins, “At least 1,900 Immigrants Were Rejected Because of Mail Problems,” New York Times (January 5, 2018) <https://www.nytimes.com/2018/01/05/nyregion/mail-problems-daca-denial-of-work-permits-for-1900-immigrants.html>

¹³⁸ Liz Robbins, “Post Office Fails to Deliver on Time, and DACA Applications get Rejected” supra.

¹³⁹ Rebecca Savransky, “DACA Recipients Whose Apps Were Delayed in Mail Can Resubmit Them,” The Hill (November 16, 2017) <http://thehill.com/homenews/administration/360625-daca-recipients-whose-apps-were-delayed-in-mail-can-resubmit-them>

¹⁴⁰ “Collaborating to Protect New Yorkers from Immigration Fraud: A Resource Guide for Law Enforcement, Government Agencies, and Advocates” Protecting Immigrant New Yorkers Task Force (2016)

lawyer or someone authorized by the US Department of Justice to help immigrants.¹⁴¹ In the best case the victim of immigration fraud only loses money, while in the worst case, the individual may lose their ability to apply for status in the future, and sometimes may be placed in removal proceedings and deported.¹⁴²

Recently, fraudulent providers have taken particular advantage of the dysfunction in our immigration system to prey upon immigrant communities.¹⁴³ Asylum fraud and the so-called 'ten year visa' both manipulate the backlog in the immigration court system to provide clients with temporary work permits without advising them about the consequences of these applications or even that they have been filed.¹⁴⁴ Scammers often take advantage of uncertainty during periods of change in immigration law or policy.¹⁴⁵ As the current administration continues to target immigrants, reports of immigration legal services fraud have already increased while immigrants, fearful of law enforcement, are reporting fraud at lower levels than ever before.¹⁴⁶

To compound the issue, most attorneys at non-profit organizations, where victims might turn to once the fraud is uncovered, often cannot take on the case, or will take it but won't be able to charge it to a grant. This is because undoing the harm, to the extent possible, in these types of cases often falls within non-traditional work that grants won't cover, such as negotiating the withdrawal of a fraudulent application with the agency, which can take hours but will not be counted as a completed case because no actual relief is obtained.

Practical Impact On Ability to Provide Immigration Legal Services

The actual impact of these shifts in policies and approaches is that it has become exponentially harder to provide legal representation to immigrants in the United States because each case, no matter how simple it may appear, now comes with inherent risks. Moreover, the administration's attempt to stem the number of immigrants receiving benefits while increasing deportations have resulted in grave due process concerns.

In this day and age, there is no longer anything considered a "light touch case", generally defined as straightforward applications for various benefits that require little legal analysis, such as green card renewals, work permit applications, Temporary Protected Status or DACA applications, or a majority of citizenship applications. Because, as described above, every application is seemingly scrutinized for ways in which it may be denied, it is common to receive requests for additional evidence or notices of intent to deny based on sudden changes to established interpretations of law. In addition, with so many immigrants being detained, fearing detention, or suddenly losing existing status such as DACA or TPS, the majority of immigrants needing legal help require at least an assessment of their risk of removal, which requires specialized knowledge of deportation laws.

¹⁴¹ Id.

¹⁴² Id.

¹⁴³ Id.

¹⁴⁴ Id.

¹⁴⁵ Id.

¹⁴⁶ Beth Fertig, "For Immigrants, Reporting Fraud May be Scarier Than Ever" WNYC (January 11, 2018) <https://www.wnyc.org/story/why-immigrants-are-afraid-report-being-scammed>

RECOMMENDATIONS

1. Make providing and expanding access to counsel for immigrants a priority in funding streams and policy decisions. While there has been a growing awareness that a fundamental flaw in our current immigration legal system is the lack of guaranteed legal counsel, the Trump administration has exploited the cracks in the outdated system to slow down all forms of immigration while undermining due process and individual rights. In the current climate, a right to counsel has become imperative as not only do individuals need additional help navigating immigration laws, but even agencies charged with adjudicating or enforcing those same laws are often left confused and unsure as to how to proceed under conflicting, and at times unlawful, directives from Washington.
2. Make investments directly to on-the-ground providers in order to strengthen the field: Current funding sources are insufficient to meet the crushing need immigration legal service providers are facing, or to provide help to the thousands of New Yorkers now living in daily fear. Providers with experience and expertise in areas of immigration law and policy are best positioned to provide the required services in necessary timelines. As much as possible, funding should go directly to providers to maximize use of the trust they have within their communities as well as their intrinsic knowledge of the immigration system.
3. Invest in capacity building: Geographic, linguistic, and other barriers prevent immigrants from accessing vital legal services. Funding should enable organizations to make capital investments in areas surrounding technology and physical space to allow them to grow, as well as to develop staff to best supplement lawyers with accredited representatives and legal support. This should include time, resources, and funding to develop cross-state partnerships and technology tools that would help bring services to geographically remote and underserved areas.
4. Provide meaningful support of supervisory positions: Current funding structures are often tied to numbers of people served, requiring supervisors to carry their own caseloads. This, in turn, prevents them from effectively overseeing and teaching junior staff, or from properly supervising pro bono attorneys. With changes in how deliverables are counted, specifically in regards to supervising attorneys, New York could more effectively tap into the large pro bono pools available in the state, which could in turn expand capacity, and numbers of persons served.
5. Invest in critical integration and support services: Many attorney hours are often spent on work that could easily be carried out by others, such as case-workers (who could assist with connecting immigrants to necessary social services), mental health professionals (who could provide forensic evaluations to strengthen asylum and family-reunification claims), and adult education and English for Speakers of Other Languages (ESOL) classes (to help immigrants become self-sufficient). Investment in these services would allow attorneys to focus on legal work. Additionally, supporting other pro-immigrant policies such as driver's licenses and sanctuary legislation would give immigrant communities stability, resources, and the confidence to come forward.
6. Disburse funds and issue contracts for State and City grants in a timely and transparent manner to ensure that all providers have an equal chance to access public funds, to make these urgent services available to our communities as quickly as possible, and to allow for full evaluation and assessment of whether existing needs are being met and what, if any, course corrections may be necessary to achieve that goal. Ensure that funding for immigration legal services is renewable on a yearly basis to ensure continuity of services over the length of an immigration case. Since virtually all immigration cases last two to four years on average, one-year funding that is not renewed effectively cuts off services being provided to immigrants before resolution of their cases, diminishing the impact of the initial investment and leaving immigrants in a worse position than when they enrolled in the program.

PROFILE OF NEW YORK'S IMMIGRATION LEGAL SERVICE PROVIDERS: RESULTS OF NYIC SURVEY

Organizational Profiles

Number of Attorneys Per Organization:

- Less than 5 attorneys: 49%
- 5 - 9 attorneys: 33%
- 10 - 20 attorneys: 3%
- 20 or more attorneys (maximum: 50): 15%

Number of Partially Accredited Representatives Per Organization (Appearance before DHS only):

- No partially accredited representatives: 49%
- Less than 5 accredited representatives: 42%
- 5 - 10 accredited representatives: 6%
- More than 10 accredited representatives (maximum: 15): 3%

Number of Fully Accredited Representatives Per Organization (Appearance before DHS and EOIR):

- No fully accredited representatives: 85%
- One fully accredited representative: 12%
- Two fully accredited representatives: 3%

Case Loads:

- Under 250 cases: 27%
- 250 - 500 cases: 15%
- 500 - 1,000 cases: 21%
- 1,000 - 2,500 cases: 25%
- More than 2,500 cases (maximum 30,000): 12%

Average Wait Time for Initial Appointment:

- No wait: 24%
- 1 to 3 weeks: 26%
- 3 to 4 weeks: 12%
- 4 to 6 weeks: 18%
- Over 6 weeks: 20%

Main Languages Offered:

- All (access to language line): 55%
- Spanish: 55%
- French: 27%
- Creole: 21%
- Chinese: 18%
- Arabic: 15%
- Urdu: 9%

Attorney Experience

Less than 5 years experience:

- 5 or less on staff: 75%
- 5 to 10 on staff: 13%
- 10 to 15 on staff: 6%
- More than 15 on staff: 6%

5 to 10 years experience:

- 5 or less on staff: 82%
- 5 to 10 on staff: 9%
- More than 10 on staff: 9%

Over 10 years experience:

- 5 or less on staff: 91%
- 5 to 10 on staff: 0%
- 10 to 15 on staff: 6%
- More than 15 on staff: 3%

Average caseload of supervising attorneys:

- A handful of cases: 15.2%
- Half a case load: 12.1%
- Nearly full caseload: 30.3%
- Full caseload: 42.4%

Fees:

- Organizations that fixed fees: 3%
- Organizations that charge sliding-scale fees: 12%
- Organizations that do not charge fees: 73%
- Organizations that sometimes charge fees: 15%
- Organizations that accept donations: 3%

Sources of funding:

- 30% of organizations receive federal funding;
- 70% of organizations receive New York State funding;
- 61% of organizations receive New York City funding;
- 30% of organizations receive funding from the New York Community Trust;
- 21% of organizations receive funding from the Robin Hood Foundation;
- 46% of organizations host Immigrant Justice Corps fellows;
- 12% of organizations receive donations from private individuals.

Organizational Capacity

88% of organizations make referrals when they cannot take on a case and the remaining 12% attempt to make a referral.

91% of organizations do not have sufficient capacity to assist all individuals who come asking for help. The main reasons given were:

- 43% stated they need more supervising attorneys to teach and oversee more junior lawyers.
- 58% stated they need more staff attorneys to take on more cases and to relieve supervisors from having to carry heavy caseloads.
- 25% stated they need more physical space.
- Other: Need more help covering indirect costs and need help with pro-bono support, especially around interpretation.

Number of referrals to other providers made per month:

- Less than 10: 30%
- 10 to 50: 52%
- 50 to 100: 18%
- Over 100: None

Top Needs of Communities Served by Legal Service Providers (ranked):

- Removal Defense
- Representation Before ICE
- Complex Case Representation
- Humanitarian Representation

Caseload Breakdowns

Clients Previously Detained:

- None: 16%
- Less than 20: 12%
- 20 to 100: 36%
- 100 to 250: 12%
- 250 to 500: 12%
- 500 to 1,500: 12%

Clients Currently Detained:

- None: 55%
- Less than 5: 21%
- 5 to 9: 6%
- 10 to 14: 6.1%
- 15 to 90: 0%
- 90 to 150: 9%
- Over 150 (maximum 350): 3%

Caseloads - Light Touch Cases

Naturalization Cases in Case Load:

- None: 9%
- Less than 20: 27%
- 20 to 100: 25%
- 100 to 500: 30%
- Over 500: 18%

Naturalization Certification Applications (N-600):

- None: 33%
- Less than 20: 33%
- 20 to 50: 27%
- 50 to 100: None
- 100 to 200: 7%
- Over 200: None

Temporary Protected Status Applications:

- None: 36%
- Less than 100: 33%
- 100 to 500: 21%
- 500 to 1,000: 4%
- 1,000 to 2,500: 6%
- Over 2,500: None

Deferred Action for Childhood Arrivals Applications:

- None: 21%
- Less than 50: 39%
- 50 to 100: 15%
- 100 to 500: 9%
- 500 to 1,500: 3%
- 1,500 to 1,750: 3%

Green Card Renewals (I-90s):

- None: 15%
- Less than 50: 45%
- 50 to 100: 12%
- 100 to 200: 18%
- 200 to 500: 9%
- Over 500: None

Complex Caseloads

Family based petitions:

- None: 15%
- Less than 50: 39%
- 50 to 100: 3%
- 100 to 500: 30%
- 500 to 1,000: 6%
- Over 1,000: None

Waivers:

- None: 27%
- Less than 50: 55%
- 50 to 100: 12%
- 100 to 200: 6%
- Over 200: None

Removal of condition on permanent residency (excluding Battered Spouse Waivers) cases:

- None: 30%
- Less than 50: 52%
- 50 to 100: 9%
- 100 to 200: 3%
- 200 to 500: 3%
- Over 500: None

Non-detained removal cases:

- None: 12%
- Less than 50: 37%
- 50 to 100: 15%
- 100 to 250: 19%
- 250 - 500: 12%
- 500 to 1,200: 6%
- Over 1,200: None

Detained removal cases:

- None: 61%
- Less than 10: 28%
- 10 to 100: 4%
- 100 to 140: 7%
- Over 140: None

Non-detained BIA Appeals:

- None: 42%
- Less than 10: 46%
- 10 to 30: 12%
- Over 30: None

Federal Appeals:

- None: 76%
- Less than 5: 15%
- 5 to 10: 3%
- 10 to 55: 6%
- Over 55: None

Stays of Removal applications:

- None: 58%
- Less than 10: 24%
- 10 to 20: 19%
- More than 20: None

Humanitarian Relief

Affirmative Asylum Applications:

- None: 21%
- Less than 20: 37%
- 20 to 50: 16%
- 50 to 100: 16%
- 100 to 250: 4%
- 250 to 300: 6%
- More than 300: None

Violence Against Women Act Self-Petitions:

- None: 33%
- Less than 20: 33%
- 20 to 50: 18%
- 100 to 200: 13%
- 300 to 400: 3%
- Over 400: None

Battered Spouse Waivers to Joint Removal of Condition on Permanent Residency:

- None: 55%
- Less than 20: 27%
- 20 to 50: 12%
- 50 to 100: 3% 100 to 200: None 200 to 300: 3%
- Over 300: None

Special Immigrant Juvenile Status applications:

- None: 21%
- Less than 25: 33%
- 25 to 75: 21%
- 75 to 150: 9%
- 150 to 250: 6%
- 350 to 500: 9%
- Over 500: None

Humanitarian Parole / Parole in Place / Traditional Deferred Action:

- None: 61%
- Less than 10: 21%
- 10 to 25: 18%
- Over 25: None

U Visas:

- None: 3%
- Less than 20: 40%
- 20 to 50: 21%
- 50 to 100: 12%
- 100 to 350: 15%
- 300 to 500: None
- 500 to 600: 3%
- Over 600: None

T Visas:

- None: 46%
- Less than 10: 36%
- 10 to 50: 12%
- 50 to 100: 3%
- 100 to 200: 3%
- Over 200: None

Prosecutorial Discretion:

- None: 61%
- Less than 10: 24%
- 10 to 20: 6%
- 20 to 50: 6%
- 50 to 100: 3%
- More than 100: None



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