

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

Of the

COMMITTEE ON IMMIGRATION

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February 25, 2014

Start: 1:10 p.m.

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HELD AT: Council Chambers
City Hall

B E F O R E: Carlos Menchacca
Chairperson

COUNCIL MEMBERS:

Mathieu Eugene
Daniel Dromm
Peter A. Koo
Raphael L. Espinal, Jr.

A P P E A R A N C E S (CONTINUED)

Judge Robert Katzmann
US Court of Appeals for Second Circuit

Monica Tavares
Acting Commissioner of Mayor's Office of
Immigrant Affairs

Brittney Saunders
Center for Popular Democracy

Vincente Mayorga
Make the Road New York

Cynthia Carrion
Representing Angela Fernandez of Northern
Manhattan Coalition for Immigrant Rights

Paula Shulman
Immigrant Justice Committee

Peter Markowitz
Professor at Cardozo Law School

Oren Root
Center on Immigration and Justice at the Vera
Institute of Justice

Jojo Annobil
Legal Aid Society

Mark Noferi
New York City Bar Association

Anne Pilsbury
Direction of Central American Legal Assistance

Claire Thomas
Safe Passage Project

Judge Sara Burr

A P P E A R A N C E S (CONTINUED)

Marianne Yang
Brooklyn Defender Services

Jennifer Friedman
Bronx Defender Services

Juan Guzman

Ruben Loyo
Brooklyn Defenders

Oscar Hernandez

Lori Adams
Human Rights First

Bitta Mostofi
Safe Horizon Immigrant Law Project

Neena Dutta
American Immigrant Lawyers Association New York
Chapter

Raluca Oncioiu
Director of Immigration Legal Services New York

Camille Mackler
New York Immigration Coalition

Irina Matiychenko
New York Legal Assistance

Laurie Izutsu
Brooklyn Legal Services

Lynn Ventura
Manhattan Legal Services

CHAIRPERSON MENCHACCA: Buenos

tardes. Good afternoon. We are about to start the hearing and so I just wanted to make sure everyone has a seat or doesn't have a seat finds a seat and gets comfortable. We're very excited today to be starting this hearing. This is my first hearing as Chair of Immigration here at the New York City Council, and I'm so excited to be here on behalf of a incredible council that is going to be fighting for so many of our immigrant populations. The issues that face this population are near and dear to my heart. I am a first generation Mexican-American raised by a single mother, a product of public housing and public schools. My background makes me keenly aware of the issues facing our immigrant New Yorkers, and I am motivated to do whatever I can as Chair of this committee to address these issues in the best way possible. The purpose of today's hearing is to examine models for providing legal services to immigrants in deportation proceedings. New York city is home to immigration courts, one at 26 Federal Plaza, which served non-detained

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2 immigrants and the other at Varick Street,
3 which serves immigrants detained in upstate New
4 York and New Jersey. It's also a place that I
5 recently visited to see one of the programs
6 we're going to be talking today about In Action
7 [phonetic]. Now, combined, these courts have
8 one of the largest case loads among immigration
9 courts nationwide. Individuals in deportation
10 proceedings are not entitled to have legal
11 counsel appointed to them. So those who cannot
12 access an attorney for any number of reasons go
13 unrepresented before an immigration judge when
14 trying to stay here at home in the United
15 States. There are reported 4,000 unrepresented
16 immigrants facing deportation in New York
17 City's two immigration courts every year. These
18 unrepresented individuals are at a disadvantage
19 when trying to challenge their own cases. Since
20 2008, more than 7,000 immigrants have been
21 deported from New York City each year and
22 studies have shown that immigrants facing
23 deportations who have legal representation are
24 500 percent more likely to win their cases.
25 That's incredible. There are many legal

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2 practitioners, community-based organizations
3 and law firms that provide various legal
4 services for immigrants, but few that provide
5 deportation defense for detained immigrants. In
6 order to address this gap in service, the
7 Honorable Judge Robert Katzmann of the US Court
8 of Appeals for the Second Circuit spearheaded the
9 study group on immigrant representation which
10 has led to the creation of the New York
11 Immigrant Family Unity Project. This initiative
12 is a groundbreaking pilot program to offer
13 legal defense to those facing deportation in
14 our city's immigration courts. I'm happy to say
15 that the New York City Council included 500,000
16 dollars in funding to support this pilot
17 initiative. This afternoon, I look forward to
18 hearing from the Honorable Judge Katzmann and
19 all of you here today to learn about the
20 immigrant representation crisis, the challenges
21 faced by New Yorkers in deportation
22 proceedings, the Council funded New York
23 Immigrant Family Unity Project and other
24 services currently available for immigrants in
25 detention, and lastly, ideas on how and what

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2 more we can do to address the needs of this
3 population. I would like to thank my
4 colleagues and everyone here today. We have a
5 long list of hearings that are happening today,
6 and so what we want to make sure is give them
7 an opportunity when they come into the hearing.
8 There is, I think, Antonio Reynoso walked in
9 earlier today. He'll be back, but we have an
10 incredible group of Council Members here that
11 are going to be fiercely fighting for this
12 population. In addition, I would like to
13 acknowledge that Monica Tavares, the Acting
14 Commissioner of the Mayor's Office of Immigrant
15 Affairs--is she here right now? Yes, thank
16 you. Thank you for being here, Monica. Is here
17 with us today to learn about the New York
18 Immigrant Family Unity Project and other models
19 for representation for immigrant New Yorkers in
20 deportation proceedings. So with that, I would
21 like to thank everyone attending this
22 afternoon's hearing and call our first panel,
23 the Honorable Judge Robert Katzmann of the US
24 Court of Appeals for the Second Circuit. Thank
25 you.

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2 JUDGE KATZMANN: Thank you, Mr.
3 Chairman. It's a privilege to be here with you
4 and--[off mic] privilege to be here with you
5 and your colleagues and I want to thank you and
6 to thank your committee for inviting me to this
7 hearing and I want to applaud the City Council
8 for its essential work to improve the
9 availability and adequacy of counsel for
10 immigrant New Yorkers. The City Council has led
11 the way, has led the country to become the
12 first in our nation's history to create a
13 system of institutionally provided counsel to
14 immigrants facing deportation. And this
15 project, Family Unity Project, is a great
16 example of the good that can be accomplished
17 when public, private, and non-profit sectors
18 work together. I'm here today to speak briefly
19 about the crisis of representation which you
20 outlined so eloquently that exists in our city
21 and to discuss some of the efforts underway to
22 help mitigate the problem. I should note that I
23 speak here not on behalf of the court, but
24 solely in my individual capacity. We as judges
25 are committed, in fact, we're encouraged to

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2 contribute to the law, the legal system and the
3 administration of justice so long as our
4 impartiality is not compromised. The subject
5 of today's hearing, what can be done to enhance
6 immigrant's access to justice is critically
7 important. We live, as you said, Mr. Chairman,
8 in a city of immigrants whose contributions
9 have been vital to who we are and what we hope
10 to be, and as the son of a refugee from Nazi
11 persecution and grandson of Russian immigrants,
12 I can attest as all of you can who are here
13 today to how immigrants have made this great
14 city even greater. As a judge, I'm often called
15 upon to resolve immigration cases. While there
16 are multiple players in immigration cases and
17 they have different roles, I think all would
18 agree that deficient representation frustrates
19 the work of the courts and ill-serves
20 litigants. All too often, courts across the
21 country addressing immigration matters must
22 contend with the absence of adequate legal
23 representation. A break-down of crisis
24 proportions, a break-down of profound human
25 consequences that has tested the federal courts

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2 ability to render justice. Immigrants are often
3 vulnerable individuals and their families who
4 come to this country in hopes of a better life,
5 who often do not know the English language or
6 the culture, lack economic resources and live
7 in fear. The problems they face in
8 representation is two-fold. First, there is a
9 dearth of affordable competent attorneys to
10 represent people facing deportation.

11 Nationwide, only some 40 percent of non-
12 citizens in deportation proceedings have
13 representation, and that percentage is even
14 lower for those who are detained. Second, the
15 quality of counsel is substandard in all too
16 many deportation cases. Immigrants are easy
17 prey for unscrupulous lawyers who gouge their
18 clients out of scarce resources and provide
19 shoddy legal services. Indeed, we've seen a
20 recognition of this problem in New York as
21 efforts to combat fraudulent legal services
22 have ramped up in recent years. You may have
23 seen the article in the New York Times over the
24 weekend of Kirk Sepple [phonetic] and his
25 colleagues on fraud in the Chinese New Yorker

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2 community. In all too many immigration cases I
3 have personally seen deficient representation.
4 For example, all too frequently I've had cases
5 in which briefs are boiler plate submissions.
6 In other words, the briefs are the same from
7 case to case. The only thing that changes is
8 the name. So the attorneys haven't taken the
9 time to actually see what this case really
10 involves with respect to the individual. There
11 have been cases before me where lawyers have
12 failed to ensure that documents are filed on
13 time, where attorneys had failed to show up in
14 immigration court hearings. For immigrants the
15 stakes could not be higher. These cases
16 determine whether they can remain in this
17 country, whether they can remain with their
18 families or be separated from their loved ones,
19 their children, where they face being barred
20 from this country, barred from returning for
21 many years. In all too many cases, I had the
22 feeling that only if there had been competent
23 attorney at the very outset of the case, that
24 the outcome would have been different. Because
25 by the time a case gets to the Court of

1 Appeals, it's gone through many different
2 layers and when it gets to us, the die has
3 already been cast. If you had really good
4 lawyers on the ground at the outset, you would
5 see a tremendous difference in terms of the
6 outcomes in these cases and the quality of the
7 lawyering. For New Yorkers, the impact is
8 devastating. At this moment, over 500,000
9 noncitizens and their children are living in
10 poverty in New York City, and many are
11 immigrants who cannot afford an attorney.
12 Indeed, approximately 3,500 people face
13 deportation without counsel each year in the
14 City. This has serious consequences for our
15 entire community. When noncitizen New Yorkers
16 are deported, families lose critical wage
17 earners and caretakers making them
18 significantly more likely to turn to public
19 benefits and community support. Having a lawyer
20 significantly increases a non-citizen's
21 likelihood of prevailing in legal proceedings
22 as you pointed out, Mr. Chair. This means that
23 by providing representation we can help
24 thousands of New Yorkers each year access
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1 justice, keep their families together, and
2 protect their basic rights to live and work in
3 our city. Hoping to raise awareness and to
4 affect change, I had the privilege of starting
5 a working group, the study group on immigrant
6 representation some years ago, along with
7 several others. The group is made up of some
8 50 to 60 lawyers from a wide range of firms,
9 non profits, bar organizations, immigrant legal
10 service providers, immigrant organizations, law
11 schools, federal, state and local governments
12 along with some judicial colleagues. Our work
13 is focused on the subject at issue today,
14 increasing the availability of counsel. I want
15 to briefly describe two of our initiatives that
16 we think are important. Today, you will hear
17 much about the New York Immigrant Family Unity
18 Project, which you apply described, Mr.
19 Chairman, as a path breaking enterprise. This,
20 the groundwork for that project was a study
21 group initiative, the New York Immigrant
22 Representation Study, which was a two year
23 project that documented the areas of urgent
24 representational needs of indigent non-citizens
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2 facing removal in New York with a goal of
3 advancing recommendations. We were very
4 fortunate to work with the Veer [phonetic]
5 institute in this work. And I sought this
6 information because although anecdotally I
7 could see that there was a problem in
8 representation. I wanted really hard data.
9 Senator Moynihan used to say, "You're entitled
10 to your own opinion, but not to your own
11 facts." And so we wanted to find the hard
12 facts. And that study resulted in two reports
13 that provide for the first time ever
14 comprehensive data about the scope of the
15 immigrant representation challenging New York
16 and a plan for addressing it. I wanted to pause
17 to describe some of the striking findings from
18 our 2011 report, because they powerfully show
19 the depth of the problem which we are all
20 concerned with here today. First, the report
21 showed that a striking percentage of immigrants
22 appearing before New York Immigration Courts do
23 not have representation. Twenty-seven percent
24 of immigrants who are not detained during the
25 pendency of the deportation proceedings do not

1 have counsel by the time their cases were
2 completed, and a full 60 percent of immigrants
3 who are detained during the pendency of their
4 deportation proceedings did not have counsel by
5 the time their cases were completed. According
6 to the providers surveyed, cases in which non-
7 citizens are held in detention during
8 deportation proceedings are re-served by
9 existing immigration attorneys, particularly
10 nonprofit or pro-bono resources. Now, this is
11 important to keep in mind. The two most
12 important variables effecting the ability to
13 secure a successful outcome which means either
14 a grant of relief or termination of the
15 deportation case are having representation and
16 being free from detention. The absence of
17 either factor in a case, being detained but
18 represented or being unrepresented but not
19 detained decreases the success rate
20 dramatically. When neither factor is present,
21 the rate of successful outcome decreases even
22 more substantially. So if a person is
23 represented and released or never detained,
24 listen to this, 74 percent have successful
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1 outcomes, 74 percent. People who are
2 represented--who are unrepresented but released
3 or never detained have successful outcomes in
4 only 13 percent of the time. People who are
5 represented but detained have successful
6 outcomes 18 percent of the time, and at the
7 bottom of this range, people who do not have
8 attorneys and who are detained are successful
9 only three percent of the time. So you can see
10 having a lawyer, having a good lawyer makes a
11 substantial difference. We had a survey of our
12 New York Immigration judges and what that
13 survey revealed that nearly half of all legal
14 representatives in Immigration Courts were
15 viewed as substandard in terms of performance.
16 So the problem is not just the absence of
17 lawyering, which is a real problem, but when
18 you have a lawyer, it's 50/50, whether you're
19 going to have less than--it's about 50/50
20 whether you're going to have a good lawyer. And
21 if you're paying for a lawyer and you're poor,
22 you're being--and the lawyer isn't good, you're
23 being gouged, and your family is being gouged
24 and that's a real problem that we need to face.
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2 Our studies show that the two greatest
3 impediments to increasing the availability and
4 adequacy of legal services for immigrants are a
5 lack of funding and a lack of resources to
6 build a qualified core of experienced attorneys
7 who can provide deportation defense. The second
8 part of our study, the New York, of the New
9 York Immigrant Representation Study, which was
10 released in November of 2012 sought to develop
11 some concrete proposals to address the
12 immigrant representation crisis in New York,
13 and it was out of that that the New York
14 Immigrant Family Unity Project was born. You're
15 going to hear from the real experts on that
16 project in the course of your hearings, and I
17 can only say bravo for the work that they are
18 doing, and bravo to the City Council for its
19 500,000 dollars in funding for this, the
20 nation's first assigned counsel system for
21 immigrants, and I might note that this project
22 already has attracted attention throughout the
23 country. Others want to follow New York City,
24 and I think that is a great compliment to what
25 the City Council has done. Now, the second

1 major initiative that I just want to mention
2 briefly and then wrap up is the Immigrant
3 Justice Core, a recently launched fellowship
4 program that I proposed that will allow lawyers
5 and young college graduates as well as senior
6 lawyers of retirement age to provide pro-bono
7 legal service, to provide legal services to
8 immigrants. This project was begun with seed
9 money from the Robin Hood Foundation. More
10 money is needed, but we're well under way, led
11 by Executive Director Nisha Agarwal. The
12 concept borrows from the idea of other programs
13 to call young people to public service. It's
14 the first dedicated program for immigrants,
15 immigrant legal services, and each year, 25 of
16 the most talented and promising young lawyers
17 will be selected for two to three year
18 fellowships providing a wide range of legal
19 service for poor immigrants. Moreover, each
20 year 15 college graduates will be awarded two
21 year fellowships to serve the immigrant
22 community and community based organizations. By
23 the third year of its existence, it is our hope
24 that the Immigrant Justice Corps will double
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2 the capacity of nonprofit providers. Our hope
3 is to add--to be of service to existing
4 nonprofit providers. We're not taking anything
5 away from them. We're adding to their capacity
6 to do things. There will be training and a boot
7 camp. The fellows will be placed in some of
8 the leading services, legal services in
9 community based organizations in the city. So,
10 the two programs, the Immigrant Justice Corps,
11 the New York Family Unity Project are highly
12 complementary. So, what the Family Unity
13 Project does is it provides a structure of
14 legal services delivery in a very cost-
15 effective imaginative way. What the Immigrant
16 Justice Corps does is it provides lawyers who
17 can work in the Family Unity, for the Family
18 Unity Project among other entities. And so we
19 see that the synergies that will develop with
20 the city with our various projects, with
21 foundations, will very much help secure justice
22 for immigrants, and all of us have an
23 obligation, not just a legal obligation, but a
24 moral obligation to assure that justice is done
25 for our fellow New Yorkers, just as we hope

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2 that justice was done for our parents and our
3 grandparents. There is so much work to be done.
4 What I think is so exciting about the work of
5 this committee and of the council is that you
6 are working at a point of historic moment. If
7 there is immigration reform, you're going to
8 need more lawyers than ever, more competent
9 lawyers than ever because everybody who might
10 be eligible over the long term for some kind of
11 relief is going to need a good lawyer. If there
12 isn't comprehensive reform, you still have what
13 we have, a terrible situation, a situation of
14 dire consequence for immigrants, and your
15 capacity to provide support, I think, will have
16 a multiplying effect as others will want to
17 also provide support, and we've already seen
18 that in the last few months of this project's
19 early birth, the Family Unity Project's early
20 birth. And so I thank you for your great
21 courtesy and I hope that this has been of some
22 modest help to you as you think through these
23 problems.

24 CHAIRPERSON MENCHACCA: Thank you,
25 Judge Katzmman for your testimony and really

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2 your insight and commitment to creating a
3 better court system, creating a better eco
4 system for like you said, a delivery service
5 for this population that continues to just by
6 the fact that this is a ground breaking public
7 defender response by the city. And so one
8 question that I had for you and before I get to
9 questions I want to make sure that council
10 members here can offer questions. But I want to
11 acknowledge that Council Member Koo, Council
12 Member Espinal and Council Member Reynoso are
13 up here as well, and my question to you is
14 really understanding this eco system that
15 you're talking about. It's so groundbreaking
16 and so can you give us a sense about this kind
17 of vision that you see from your vantage point
18 of a in the courts legal process, and then all
19 the legal needs that a family would need post
20 that, and just give us a sense of what you see
21 that looking like.

22 JUDGE KATZMANN: Well, that's a
23 great question that really gets to the heart of
24 what this project is trying to do. If you can
25 have legal services at the very outset of these

1 kinds of proceedings or even before they become
2 proceedings. You have families that are living
3 in the shadows. You have families that are
4 concerned about their status. If you want to
5 make a difference to bring those families out
6 of the shadows and their children out of the
7 shadows, a very effective way to do this is to
8 provide legal support, because if you provide
9 legal support as to what are your options, how
10 do you--how do you get the kinds of legal
11 support that you need, that'll allow you to
12 participate fully in the governmental--in the
13 American system in terms of benefits? You are
14 going to be saving families. You're going to
15 be preventing families from being separated.
16 You can't put a dollar amount on it, although
17 some have, but to the extent that you keep
18 families together, to the extent that these
19 families feel that they come out of the
20 shadows, you're going to have a much more
21 vibrant city. You're going to have much
22 healthier families, and so I see this project
23 as helping at the very foundation of our
24 process. We often think in terms of the law, in
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2 terms of precedence and doctrines, but I always
3 think it's important to remember that at the
4 end of every case, there's a human being, and
5 to the extent that we can keep our focus in the
6 Administration of justice on those human beings
7 and develop projects and programs like this
8 Family Unity Project, which gives people access
9 to justice, this project doesn't ensure a
10 particular result one way or another. Someone
11 has to be able to make his or her case, but
12 what it does is as the data show if you have a
13 lawyer, you're just so much better off, and
14 it's just elemental, it seems to me that we
15 should be doing this.

16 CHAIRPERSON MENCHACCA: If I could
17 follow up with a question on to have a lawyer
18 is incredible and the success rate as you
19 reported is incredible, but what's really the
20 barrier and the challenge to getting good
21 representation at that court level? What are
22 the barriers of getting excellent--'cause
23 ultimately what we're here to do is understand
24 how we can not only increase some
25 representation period, but also quality

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2 representation. What are some of the
3 challenges that you're seeing from that?

4 JUDGE KATZMANN: Some of the
5 challenges are really resource based. In other
6 words, if you had funds that would support
7 counsel for people who can't ordinarily afford
8 counsel, that would be a great help, and that's
9 something that this project does, The Family
10 Unity Project does, and the pool of lawyers
11 through the Immigrant Justice Corps will aid in
12 that effort. I think you also need to devise
13 legal service strategies that get into the
14 communities themselves so that you can break
15 the chain between the schlocky lawyers who are
16 like ambulance chasers in these particular
17 communities, and so I think a service delivery
18 program--it's already being done with the aid
19 of a terrific nonprofit providers in this city
20 that gets you into those communities, I think
21 is important. So what do we need to do? We need
22 to increase the resources. We need to increase
23 a number of lawyers providing quality
24 representation and we need to get into the
25 communities where there is distrust and if we

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2 do those things, I think that we are going to
3 very quickly improve the quality of
4 representation, and as the word gets out,
5 people in the communities will feel more
6 comfortable about reaching out to us, our legal
7 services, providers who are doing such a fine
8 job. So what you have is you've got a great
9 model to work with with the Family Unity
10 Project, and it's not for me to say how
11 resources should be spent. That would be
12 inappropriate, but as I see this developing
13 project, I feel a sense of excitement and I
14 think it's been impressed by the very careful
15 in which it's been designed, in which it's--the
16 way in which it's been being managed, and it's
17 a project that everybody here can be very proud
18 of and justifiably so. So I need to
19 congratulate you on all that.

20 CHAIRPERSON MENCHACCA: We're going
21 to be hearing today from so many folks that are
22 at the other end of this. So I just wanted also
23 acknowledge Council Member Reynoso who had a
24 question.

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2 COUNCIL MEMBER REYNOSO: How are you
3 today? I just want to say in Spanish [speaking
4 Spanish] So thank you very much, Council
5 Member. I want to say the culture in these
6 court rooms for a lot of these folks that are
7 under represented or unrepresented, what would
8 you say the culture looks like? What are they
9 dealing with on a daily basis when they go in?
10 And has this program in any way helped change
11 that culture when they do see someone that's
12 represented, do they automatically start
13 searching for the same resources? How has the
14 culture changed within the court room, if
15 you've experienced that?

16 JUDGE KATZMANN: I think--I know that
17 Judge Burr is here, who's a former Immigration
18 Court Judge, and she can give you an even
19 better, much better answer than I can at my
20 level, my vanish point at the Court of Appeals.
21 But I think that when you have a lawyer, a good
22 lawyer, this is how it makes a difference, it
23 means that the case is being made for the
24 noncitizen that would not ordinarily have been
25 made or not made as easily. When you've got

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2 bad lawyering, the onus is really on the
3 Immigration Judge who doesn't actually have
4 that burden technically, but feels the burden
5 because the Immigration Judge notices the lack
6 of resources and the disparity in the quality
7 and wants to do something. But if you don't
8 have the records that are made, if you don't
9 have the background that a lawyer provides it's
10 very difficult for the noncitizen to win, and I
11 think that having a lawyer improves everybody's
12 game. It actually helps the government because
13 the government has a sharper sense of what case
14 it needs to make in order to prevail. It helps
15 the Immigration Court, because the Immigration
16 Court has the confidence that there is quality
17 lawyering going on. When you don't have that
18 kind of quality lawyering you've got a
19 situation where you don't know if you're a
20 judge how bad things really are for the
21 noncitizen because--or how good the case is for
22 the noncitizen because the case hasn't been
23 made. And so it's very elemental, and that's
24 one of the great things about this project is
25 that in so many projects where resources are

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expended, it's very hard to grasp the outcomes.
What is the outcome? How do we measure success?
Here you can get a sense of the measure of
success by looking at the quality of the
learning and the outcomes.

CHAIRPERSON MENCHACCA: Thank you.

Follow up?

COUNCIL MEMBER REYNOSO: No, I just
want to say thank you for giving me the
opportunity, Chair, and I have to go to an
Education hearing, so I'm going to be stepping
out, but great hearing, good job. Thank you.

CHAIRPERSON MENCHACCA: Thank you
Council Member. Are there any other questions
from other--yeah? Council Member Espinal?

COUNCIL MEMBER ESPINAL: Yeah, first
and foremost I want to congratulate you,
Carlos, you're doing a great job and I think
that starting off with a bang, this is a very
important topic. You know, coming from a
family of Dominican immigrants and growing up
I've personally seen people deported and go
through the process and how hard it is, and I
truly believe this is a human rights issue, and

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2 it's a violation of someone human's rights when
3 they're being deported. So, I want to talk
4 about pretty much the process from the
5 beginning, because I know a lot of folks who
6 are being deported they usually might come
7 across a criminal case. Are their lawyers
8 required to tell them that they are going to be
9 deported if they plead guilty or if they are
10 found guilty in their case?

11 JUDGE KATZMANN: This is one of the
12 cutting edge areas of the law and that is that-
13 -and you've raised a critical issue that is to
14 what extent are lawyers obligated to tell their
15 clients about the deportation consequences of
16 their pleas, and I think increasingly there is
17 a move in the law towards giving--requiring
18 some kind of disclosure about the immigrant,
19 about the consequences. There is a very
20 important case written by Justice Stevens a few
21 years ago, the Padilla case, that is moving in
22 a law in that direction. One of the things
23 that I think is great about the Family Unity
24 Project and the Immigrant Justice Corps is that
25 the lawyers who are trained in immigration will

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2 be also trained to understand about the
3 intersection between immigration and the
4 criminal law and it's a real problem where the
5 lawyers don't understand the criminal
6 consequences of a plea, the deportation
7 consequences of a plea, and the law is--has
8 been, as applied, has been very harsh with
9 respect to matters that pre-dated the Padilla
10 decision, and we can only hope that post
11 Padilla that there will be greater attention to
12 the problem that you've identified because that
13 is a problem. I mean, I--we've all see it where
14 somebody accepts a plea bargain to a minor,
15 relatively minor offense, only to find out
16 later, maybe years later that it has
17 deportation consequences whereas if the person
18 had been told at the time that the plea was
19 being negotiated that it could have this kind
20 of consequence. The person might not have--
21 might very well have said, "Well, I'm not going
22 to plea to this."

23 COUNCIL MEMBER ESPINAL: Right,
24 right. Now, how is at a--how can a person find
25 out about the program? How are they--how can

1
2 they find, you know, who points them to the
3 direction of letting them know that these
4 programs are available for them?

5 JUDGE KATZMANN: I'm going to leave
6 that to the experts to give you all of the
7 exact ways in which one can find out about the
8 program, and I think that's going to be one of
9 the next panels. And we've got lots of
10 information about how it can be accessed and
11 we're excited about--

12 COUNCIL MEMBER ESPINAL:
13 [interposing] Thank you.

14 JUDGE KATZMANN: that happening.

15 CHAIRPERSON MENCHACCA: And so we're
16 going to hear a lot more from the mechanics of
17 it, but I just want to say someone who was
18 witnessing--who had witnessed the court in
19 action through several cases, like you said,
20 it's night and day and the court system, the
21 judges really want to make sure their court is
22 working, it's moving, that everyone has fair
23 representation and while you can't get the
24 outcome that it's--that even before you get to
25 the outcome that now you have a fair playing

1
2 field, and so it was just really wonderful to
3 see that in action at Varick Street and as we
4 continue to move forward, I just wanted to say
5 thank you for being here, for testifying before
6 the City Council. This is an ongoing
7 conversation as we continue to break more
8 ground in this world of immigrant legal
9 services defending our communities, and really
10 building that delivery of resources, not just
11 within the court, but within our communities,
12 and this is a perfect model that we're hearing
13 from, from you and from everybody else that
14 we're going to be hearing from today. So, thank
15 you.

16 JUDGE KATZMANN: I want to thank you
17 and just by way of a coda to what you just
18 said, and then I'll of course exit the scene.
19 Right, not long after the funds were provided
20 for this initial project, I had a meeting in
21 the courthouse with representatives from the
22 Department of Homeland Security, Department of
23 Justice, the Immigration Court, the provider
24 community, and what was--what I was--what
25 struck me was how everybody thought this

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2 project was a good idea. You know, often times
3 you have a project and there are those who say,
4 "That's not a good idea," or you know, "That's
5 a waste." But there was a coming together that
6 this was a project that would realize justice
7 and efficiency all at once. So congratulations
8 to you on this effort.

9 CHAIRPERSON MENCHACCA: Well, and
10 thank you for all your work in getting us here.

11 JUDGE KATZMANN: Thank you.

12 CHAIRPERSON MENCHACCA: Thank you.

13 JUDGE KATZMANN: Any time I can be of
14 help let me know.

15 CHAIRPERSON MENCHACCA: You got it.
16 We're going to--we know where to find you.
17 Thank you, Judge Katzmann. Thank you so much.
18 And so I want to remind everyone that if you
19 want to speak at today's hearing to fill out
20 these pieces of paper that will alert us of
21 your testimony today, and I want to call up the
22 second panel, which will include Brittny
23 Saunders, Cynthia Carrion, Vincente Mayorga Is
24 everyone here? Oh, and I need to remind
25 everyone that we're going to be using the

1
2 clock, and it'll be a three minute testimony.
3 If there's written testimony, we'll take that
4 as well and submit that to the record, and we
5 will begin when we're ready. Okay, Brittany?

6 BRITTNY SAUNDERS: So, my name is
7 Brittany Saunders, I'm Supervising Attorney for
8 Immigrant Rights and Racial Justice at the
9 Center for Popular Democracy, and on behalf of
10 CPD, I'd like to thank Chairman Menchacca and
11 the Council for convening this hearing today
12 and for inviting us to speak. At CPD we promote
13 equity, opportunity and dynamic democracy in
14 partnership with base building groups right
15 here in New York and across the country and we
16 are incredibly proud to be working with the
17 Northern Manhattan Coalition for Immigrant
18 Rights, the Vera Institute of Justice, the
19 Kathryn O. Greenberg Immigration Justice Clinic
20 at Cardozo School of Law to Make the Road New
21 York on this New York Immigrant Family Unity
22 project. As our partners will attest NYIFUP is
23 an exemplary model for providing legal services
24 to immigrants. It's rooted in the values of
25 fairness and due process that underlie our

1 legal system. It draws upon learning from the
2 New York immigrant's representation study
3 convened by Judge Robert Katzmann. It operates
4 through partnerships with deeply experienced
5 institutional providers of legal services and
6 most compellingly of all thanks to the wisdom
7 and investment of the Council, it's a model
8 that's already demonstrating some powerful
9 results. But my task this afternoon is to
10 share with you some of the lessons from a study
11 conducted by CPD and its partners that was
12 released last fall which looks at the cost of
13 our current system and looks at the benefits
14 that we would realize from a system of
15 universal representation for all immigrants who
16 are detained and facing deportation. So we
17 looked across the board at what are the costs
18 of our current broken system in which people
19 can fall through the cracks simply because they
20 don't have the resources to retain counsel and
21 these are some of them. So we found that
22 employers in New York face something like 9.1
23 million dollars in costs each year because they
24 lose employees to detention and deportation and
25

1
2 have to then replace them and train the
3 replacements. We found that on an annualized
4 basis there is something like 3.1 million
5 dollars of cost to New York state tax payers
6 because young people whose parents are
7 caregivers are deported or detained, then are
8 unable to complete their education and this has
9 long term impacts. It means that individuals
10 have lower earnings over time. It means that
11 they have less in terms of tax revenue--less
12 taxes to contribute, and it also means that
13 they become more reliant on public health and
14 other public programs. We also looked at costs
15 to other public programs including the state
16 child health insurance program. So when a young
17 person loses a parent to detention or
18 deportation they may also lose employer
19 provided healthcare coverage and then they also
20 have to deal with psychological and physical
21 health impacts associated with that, and we
22 estimate that on an annual basis, this costs
23 the state health insurance program some 685,000
24 dollars a year. Finally, we looked at costs of
25 the foster care system, because as many

1
2 advocates have noted, again, when a young
3 person loses a parent or caregiver to detention
4 or deportation, this also has--reduces their--
5 will increase great cost to the state for
6 foster care as well. In any case, we encourage
7 the Council and the city more broadly to make a
8 budget appropriation to expand this valuable
9 program and really build on the lessons of the
10 pilot.

11 CHAIRPERSON MENCHACCA: Thank you,
12 Ms. Saunders. And if we could have Mr. Mayorga.

13 VINCENTE MAYORGA: Buenos tardes.

14 CHAIRPERSON MENCHACCA: Buenos
15 tardes.

16 VINCENTE MAYORGA: [speaking
17 Spanish]

18 UNKNOWN: [speaking Spanish]

19 CHAIRPERSON MENCHACCA: We're going
20 to have the testimony read in English for the
21 record.

22 TRANSLATOR: Testimony of Vincente
23 Mayorga, Immigration Organizer of Make the Road
24 New York. Good Morning, my name's Vincente
25 Mayorga and I am a community organizer with

1
2 Make the Road New York in Queens. Every day I
3 work with members of our community who don't
4 have documents, who are facing deportation and
5 many other situations. I can tell you that
6 there is no harder situation in my work than
7 when a mother comes to our office with her
8 husband detained by immigration. It's
9 traumatic. Sometimes they have not spoken in
10 days. They don't know where the person is, they
11 know nothing. Sometimes they are in a state of
12 desperation. These people would do whatever
13 they can to know something, to get their loved
14 one out of detention. They would pay whatever
15 cost to stop deportation, but sometimes it's
16 impossible. It's because of these situations
17 that I believe it is crucial to provide legal
18 representation to detained people facing
19 deportation. If the person has representation
20 many things happen. First, the family can
21 breathe a little easier knowing that they have
22 someone to guide them through the process. This
23 means they won't spend thousands of dollars on
24 lawyers, and lowers the chance of them becoming
25 victims of fraud. It also means that they can

1
2 make decisions with all of the necessary
3 information. If there is a way to win the
4 case, they will find out, but if there is no
5 way to win, they will also know. This way, they
6 can confront the truth and not spend money and
7 time waiting for a decision that will be even
8 more painful. It is incredible that people
9 facing deportation or they could be separated
10 from their families, sent to countries that
11 perhaps they don't know well are not guaranteed
12 legal representation. Providing these legal
13 services is a good investment of public money
14 because that money comes from us in the
15 community, the ones who are outside waiting,
16 crying, trying to do something for our loved
17 ones. I believe that the Council and the City
18 should invest in legal representation in these
19 cases and make it a right for all residents of
20 New York. Thank you.

21 CHAIRPERSON MENCHACCA: Thank you
22 Joleen [phonetic] for reading that into the
23 record. And now, if we can have our third
24 panelist, Ms. Cynthia Carrion
25

1
2 CYNTHIA CARRION: Good afternoon. I
3 want to thank members of the City Council for
4 this opportunity to speak. I'm speaking on
5 behalf of Angela Frenandez, the Executive
6 Director of the Northern Manhattan Coalition
7 for Immigrant Rights. That's my screaming
8 daughter in the back, so I apologize in
9 advance. So, the Northern Manhattan Coalition
10 for Immigrant Rights is a 30 year old community
11 based organization that serves 6,000 immigrants
12 a year. The bulk of individuals served by our
13 organization are residents of the Bronx and
14 Manhattan. Our organization together with the
15 Center for Popular Democracy, Make the Road New
16 York, The Vera Institute, and the Kathryn O.
17 Greenberg Immigration Justice Clinic at Cardozo
18 Law School is co-leading a broad coalition of
19 advocacy, legal and community groups that
20 pioneered an unprecedented universal
21 representation pilot program for detained
22 immigrants at Varick Street Immigration Court
23 this year. First, we would like to thank the
24 New York City Council for making the pilot
25 program a reality by allocating funding for the

1
2 program this fiscal year, and secondly, we
3 would like to thank the City Council for
4 holding this hearing to learn more about the
5 benefits of this particular program and why
6 this program should be expanded and made
7 permanent. In the last three decades we have
8 seen an alarming trend of increased
9 deportations on both undocumented immigrants
10 and legal permanent residents. Thousands from
11 our community who have been deported or
12 prematurely removed from the United States
13 without a fair hearing and have been deported
14 without representation from legal counseling.
15 Many of these individuals had a legal right to
16 stay, but without an attorney to help them
17 navigate one of the most complex areas of law,
18 immigration law, they have seemed permanently
19 separated from their families and communities.
20 The lack of adequate affordable representation
21 that Immigration Court has been recognized as a
22 crisis in New York City and in the United
23 States. Indeed, only yesterday the New York
24 Times Editorial Board published a piece about
25 the crisis, that the lack of due process

1
2 protection has brought on immigrants in our
3 detention and deportation system. Unlike in
4 criminal proceedings, immigrants in deportation
5 proceedings can be held in jail and forced to
6 proceed against trained government lawyers
7 alone without any legal assistance whatsoever.
8 Data was uncovered by the Katzmann Study Group
9 on Immigrant Representation demonstrates that
10 it is virtually impossible to win our
11 deportation proceedings if you are detained in
12 a precedent and under-represented. But lawyers
13 make a huge difference. Lawyers can increase
14 success rates by approximately 1,000 percent.
15 At our coalition we receive countless calls and
16 letters from detainees and their families
17 seeking help in one of the most complex and
18 silent seams of systems. Our members consist
19 primarily of people of color who may not be
20 fluent in English and reside in neighborhoods
21 that have strong police presence. Such is the
22 case of one of members, Carlos Rodriguez
23 Vasquez [phonetic] who was arrested after an
24 NYPD clean hall swept inside an apartment
25 building. Even though the charges were dropped,

1
2 Carlos was transferred to an immigration
3 holding facility and languished in detention
4 for eight months. When Carlos called our
5 coalition seeking help we were able to secure
6 legal representation for him through Cardozo
7 Law School's Immigration Clinic. Almost as soon
8 as he received an attorney who could advocate
9 for him, he was released and reunited with his
10 US citizen wife and US citizen daughter. If it
11 were not for the call to our coalition, he
12 would still be detained and possibly deported,
13 but instead through that call he was provided
14 with representation and released. Most who are
15 detained are not this lucky, and in the case of
16 detention and deportation, luck should not be
17 the primary factor under which one's rights and
18 due process protections are exercised. When a
19 child is wondering when or if they will ever
20 see their father again, luck should not be part
21 of this equation. This is why a formalized
22 universal representation program for detained
23 immigrants should become a reality for all who
24 are eligible.

1
2 CHAIRPERSON MENCHACCA: Thank you so
3 much for this panel. I have a question that if
4 I can get a better understanding. We have a
5 Make the Road [speaking Spanish] and we also
6 have kind of an analysis testimony. What do
7 you think one of the biggest barriers will be
8 once a program like this is ramped up to make
9 sure that folks understand that this is a
10 positive--that is the positive high quality
11 solution for their family?

12 BRITTON SAUNDERS: Sure. So I'll
13 start off by saying a little bit. I think one
14 of the things that we need to make sure
15 happens, right, we need to one, ramp up the
16 program and make sure that it's expanded, but
17 then we also I think need to make it clear that
18 this is not just a program that benefits
19 immigrants families, immigrants individuals and
20 their families, but that it has broad far
21 reaching benefits. Because I think if that were
22 better understood then we could kind of
23 neutralize any opposition. So, making sure that
24 its clear that individuals understand that this
25 benefits employers who create business, that it

1
2 benefits the workers who drive the growth of
3 our economy, that it benefits the tax payers
4 themselves. I think all of that is necessary.

5 VINCENTE MAYORGA: [speaking Spanish]

6 TRANSLATOR: We have more than
7 14,000 members in our organization and meetings
8 every single day of the week with community
9 members. So we would like to use these
10 channels.

11 VINCENTE MAYORGA: [speaking Spanish]

12 TRANSLATOR: And we should be in a
13 permanent state of reaching out as all
14 organizations who with immigrants communities
15 to let them know.

16 CHAIRPERSON MENCHACCA: So, I want to
17 get just a little bit deeper into this because
18 ultimately there are services out there. We
19 hear folks that offer services. There's legal
20 services out there, but really try to
21 understand how, what information are we going
22 to need even from this pilot on what makes this
23 a special program that people are going to know
24 that this is the kind of high quality option
25 for communities. Because ultimately, if we

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2 increase the eco system, we increase the eco
3 system for everybody, and so how do we make
4 sure that we brand whatever we're doing
5 together in a way that's going to reach a hard
6 to reach community like the immigrant
7 community. And Brittny, I don't know if you
8 have also-- [speaking Spanish]

9 VINCENTE MAYORGA: [speaking
10 Spanish]

11 TRANSLATOR: Actually, in our
12 organization right now we provide legal
13 services, but it's very frustrating because we
14 also have to tell a lot of people that we
15 cannot help them because we don't have enough.

16 VINCENTE MAYORGA: [speaking
17 Spanish]

18 TRANSLATOR: [off mic] Knowing that
19 these high quality services are out there and
20 that there is an increase in the services that
21 are available for immigrants communities will
22 be very useful because people trust our
23 organizations and we are able to tell them the
24 truth and that will really help us be able to
25 inform folks.

1
2 CHAIRPERSON MENCHACCA: Thank you.
3 Thank you so much for your testimony. We'll
4 call up the third panel now.

5 BRITTNY SAUNDERS: Thank you.

6 CHAIRPERSON MENCHACCA: Thank you.
7 This is a bigger panel, so we're going to need
8 a little bit more chair space up on the table.
9 Sarah--judge Sarah Burr, Jennifer Friedman,
10 Marianne Yang, Ruben Loyo, Quanlos Mann
11 [phonetic] and Oscar Hernandez. And we're
12 going to start with Judge Burr. So we can go
13 ahead and start with you.

14 JUDGE BURR: Okay, you can tell I'm
15 not that used to this. Thank you for having me
16 here today. From 2006 until 2011 I served as
17 the Assistant Chief Immigration Judge with
18 jurisdiction over the immigrants courts at 26
19 Federal Plaza and at 201 Varick Street here in
20 New York City. I served as an immigration judge
21 from 1994 until my retirement last year. Prior
22 to serving as a judge I worked at the Legal Aid
23 Society as a criminal defense attorney, as an
24 immigration lawyer and as a supervisor for 13
25 years. I am also a member of Judge Katzmann's

1
2 study group and I have served on the Steering
3 Committee for the two year study that laid the
4 foundation for the New York Immigrant Family
5 Unity Project. I'd like to note that today I
6 speak solely on my on behalf and not behalf of
7 the Immigration Court or the Federal
8 Government. To me and I dare say to my former
9 colleagues, it is truly gratifying to see your
10 commitment to making New York City a city that
11 is welcoming all immigrants. Furthermore, this
12 committee is ensuring that all New Yorkers have
13 access to due process and a working justice
14 system. Those are two goals that have been of
15 utmost importance to me as a lawyer and as a
16 judge. I am thrilled to watch the
17 establishment through the leadership of this
18 council of the nation's first immigration
19 public defender system for New Yorkers facing
20 deportation. As someone who has been in the
21 field of immigration law for almost 25 years, I
22 have seen thousands of immigrants who are
23 placed in deportation proceedings and struggle
24 to find competent counsel. As you know, an
25 immigrant in removal proceedings or deportation

1
2 proceedings does not have an automatic right to
3 counsel as a person in criminal proceedings
4 does. The study group on immigrant
5 representation has been able to document
6 precisely the representation crisis in New York
7 and how the dual problems of lack of counsel
8 and being an immigration detention makes
9 success in immigration court extremely
10 difficult. As has been noted by judge Katzmann,
11 you know there's a problem with access to
12 counsel is particular acute for detained New
13 Yorkers and here we're speaking, or I'm
14 speaking, of the situation at Varick Street.
15 This has placed enormous burdens not only on
16 the respondents and their families, but on an
17 already overworked court system. When a person
18 in deportation proceedings appears before a
19 judge unrepresented, the judge has the
20 responsibility to explain to them the nature of
21 the immigration court system, their rights
22 under the law, the charges against them, and
23 any possible defenses against deportation. The
24 judge must then work to develop the record,
25 identify whether the respondent is eligible for

1 relief or bond or any other applications,
2 explain how to further those applications and
3 what evidence to gather. If necessary, the
4 judge must conduct an individual hearing which
5 is the equivalent of a bench trial and question
6 the respondent and his or witnesses at length
7 because there's no lawyer to represent the
8 respondent. The judge is in the awkward
9 position of acting as both lawyer and judge.
10 This is an extremely delicate balancing act
11 and definitely falls short of most people's
12 view of due process in an adversarial system.
13 A key player is missing, the forceful and
14 competent attorney for the person facing the
15 very serious outcome of possible deportation.
16 Briefly, there are three major consequences to
17 having an unrepresented person in immigration
18 proceedings. Number one, increase docket time
19 for the respondent and the court. Like every
20 other court in New York City, the immigration
21 court has a very large docket and is back
22 logged. When per say respondents appear in
23 court, the judge must question that person at
24 length about their family background, their
25

1
2 work background, their criminal record if they
3 have, conditions in their native country, and a
4 number of other factors. All of this is to
5 ascertain whether they're eligible for bond and
6 further if they're eligible for relief from
7 deportation. This results in multiple
8 continuances before the court in order to seek
9 counsel and if counsel is not available or if
10 they're unsuccessful in seeking counsel to have
11 the respondent and their family gather
12 documentation, seek witnesses and present a
13 case. The obvious result is that an already
14 beleaguered system is further bogged down. Can
15 I keep going? Okay. Number two, there is on
16 the theory that time is money. There is an
17 increased cost to the Federal Government and to
18 the Immigration Customs Enforcement for longer
19 detention times. These, in these days of budget
20 concerns, this is obviously an important
21 consideration. Three, and probably most
22 important is that there--when a respondent is
23 not represented before the court, in
24 particularly when that respondent is detained,
25 there is the appearance of an unequal playing

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2 field as you referred to earlier. While the
3 immigration judges take their responsibility to
4 protect per say respondents seriously, there
5 are limitations as to what a judge can do. A
6 judge, after all, is an impartial arbiter. A
7 judge cannot have confidential off the record
8 conversations with the respondent. A judge has
9 limited ability to investigate the facts beyond
10 what the parties submit to the court. A judge
11 cannot interview and prepare witnesses. A judge
12 cannot help respondents initiate collateral
13 proceedings in other courts such as criminal
14 court or family court in order to possibly help
15 with their immigration case. Despite a judge's
16 best efforts, their role as an impartial
17 arbiter is in conflict to a certain extent with
18 a proper role of a being a diligent attorney.
19 For these reasons the project has enormous
20 benefits, not just to the immigrants who
21 receive competent counsel, but also to the
22 immigration court, which will operate most
23 efficiently when all parties are represented by
24 competent counsel. I would note that the pilot
25 project here represents all qualified low

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2 income individuals regardless of whether they
3 have a strong case or a weak case. This means
4 the cases are not continued needlessly or I
5 shouldn't say needlessly, but they are
6 continued for weeks or months with a person
7 still in detention at cost to the government
8 and at cost to their family. The attorneys are
9 able to move cases around quickly at the first
10 hearing, and that means that the attorneys
11 identify what relief is available to a person
12 or if no relief is available, going over any
13 and all options with the respondent and having
14 that person accept an order of deportation so
15 that they minimize their time in immigration
16 detention. Importantly to the judges is when
17 they see a person represented by one of the
18 attorneys from this pilot project sitting
19 alongside their client, they know and are
20 comfortable with the fact that they are
21 receiving high quality representation. This
22 representation results in better prepared
23 cases, fewer continuances, less time in
24 detention, less strain on judges, and a more
25 efficient and fair system around. Although I am

1
2 retired I have spoken to some of my colleagues
3 at Varick Street, and I have to say that they
4 are thrilled with the representation that is
5 being provided by the attorneys in this pilot
6 project. They are absolutely more than pleased
7 with their diligence, with their intelligence
8 and with their compassion in serving the
9 unrepresented respondents at Varick Street. I
10 want to stress that because I want you to know
11 that the money that you've allocated for this
12 project is being very well spent. Given these
13 benefits, I hope that the city will continue
14 and expand it's commitment to access to justice
15 in New York City. Recent years have shown a
16 huge increase in resources for immigration
17 enforcement without any correspondent increase
18 in resources for the immigration court or for
19 programs such as what you have started here.
20 The immigrations laws have only become harsher
21 and much more complex since I began my career
22 in 1994. As a result, the need for immigrants
23 to be able to access quality counsel is greater
24 than ever. The work of this Council in funding
25 this project has started a much needed

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2 conversation about the representation crisis
3 and I thoroughly encourage you to keep that
4 conversation going. I would have to say that
5 this project is the realization of a dream that
6 many of us have shared over the years. New York
7 has started something that I believe will
8 transform the quality of justice in our
9 immigration courts, and I hope that you will
10 continue this critical endeavor. Thank you very
11 much.

12 CHAIRPERSON MENCHACCA: Thank you,
13 Judge, for your time and your testimony today,
14 and that reporting really from Varick Street
15 and the positive nature of the pilot.

16 JUDGE BURR: Absolutely.

17 CHAIRPERSON MENCHACCA: If we can
18 have Ms. Marianne Yang, please.

19 MARIANNE YANG: Good afternoon.

20 CHAIRPERSON MENCHACCA: Good
21 afternoon.

22 MARIANNE YANG: Thank you so much
23 for this opportunity to testify today. I'm
24 Marianne Yang, I'm the Immigration Unit
25 Director at Brooklyn Defender Services.

1
2 Together with Bronx Defenders, Jennifer
3 Friedman to my far left, I co-direct the New
4 York Immigration Defenders which is the legal
5 service provider consortium representing
6 indigent detained New Yorkers at the Varick
7 Street Immigration Courts under the pilot
8 project that was started in November. BDS is
9 one of the largest public defenders here in New
10 York City. We represent a total of more than
11 40,000 individuals every year. Bronx Defenders
12 is also a public defender office and it
13 represents more than 35,000 people every year.
14 Together we have undertaken 132 clients thus
15 far under the pilot and we are on track to
16 represent a promised total of 190 individuals
17 before the pilot period ends. So as you've
18 heard from other people over the past decades,
19 the immigration detention and deportation laws
20 have become increasingly intricate, much more
21 complicated and it's therefore been difficult
22 if not impossible for immigrants and their
23 families to navigate these cases on their own
24 most of the time. And never, not until New York
25 City launched this first in the nation program

1
2 last year was any immigrant ensured the right
3 to assigned counsel in her defense if she can
4 afford one. So in the absence of the right to
5 counsel, poor immigrants and their families
6 have been left largely to fend for themselves.
7 Advocates have had some significant progress
8 over the years in trying to make the system
9 fair. For example, we've started "Know Your
10 Rights" programs. You may have heard of the
11 legal orientation programs, to at least orient
12 people as they came in through immigration
13 detention. We take on a few cases at a time
14 where a limited capacity has allowed. Or we've
15 recruited pro-bono counsel from programs at law
16 firms whenever possible. As important as these
17 developments have been, of course they cannot
18 substitute or even come close to meeting the
19 universal representation that all poor
20 immigrants need. BDS and Bronx Defenders,
21 together as the New York Immigration Defenders
22 are now in our fourth month of this pilot
23 towards such universal representation when made
24 possible by this City Council's visionary
25 leadership. Through this program we have been

1
2 able to say to our immigrant New Yorkers that
3 yes, we can represent you even though you can't
4 pay for an attorney. That yes, we can defend
5 you no matter how difficult your case may be or
6 how long it might take. We've been at the
7 Varick Street court rooms now day in and day
8 out for close to four months. We can attest
9 based on this experience to the significant and
10 positive changes that this assigned counsel
11 model through our constant presence and
12 advocacy has brought to the overall culture and
13 practice of detained removal proceedings. I
14 believe Council Member Reynoso asked this
15 question. We can say for example, immigration
16 judges have acknowledged that we've been
17 raising the bar on the standards of legal
18 practice in the courts. We've been doing this a
19 number of ways, putting the government to its
20 burden of proof, questioning its positions
21 where they are unfounded, challenging
22 removability or establishing eligibility for
23 relief with sophisticated legal arguments. BDS
24 and Bronx Defenders, because we are already
25 public defenders in criminal cases primarily,

1 we know from deep experience that these
2 cultural shifts are bound to occur when counsel
3 are in the courts day in and day out. Judges
4 become accustomed to lawyers mounting layers of
5 defenses and build trust in the fact that the
6 proceedings take a fairer turn. Opposing
7 counsel become accustomed to freer flows of
8 communications between the parties and work
9 with us more frequently to achieve negotiated
10 outcomes for the sake of fairness and
11 efficiency, and court clerks more readily
12 facilitate our scheduling requests to ensure
13 better case flow all around. We believe these
14 positive shifts in culture and practice
15 absorbed over the long term are an important
16 part of the bigger picture of the difference
17 that a universal representation model can make
18 in deportation proceedings. Thank you again so
19 much for this opportunity to share with you
20 today how impactful the NYIFUP project has
21 been, how much the City Council's support of
22 this endeavor has been worth, and from the
23 perspective of the legal service providers for
24 the pilot.
25

1
2 CHAIRPERSON MENCHACCA: Thank you,
3 Ms. Yang, for that testimony. And if I could--
4 how do we want to have--okay. Okay. Okay. So
5 Ms. Jennifer Friedman first, and then Mr.
6 Guzman [phonetic]. Thank you.

7 JENNIFER FRIEDMAN: Thank you. Good
8 afternoon and thank you for this opportunity to
9 testify about the New York Immigrant Family
10 Unity Project and for your ongoing support of
11 this project. My name is Jennifer Friedman. I
12 am the Director of Immigration Advocacy at the
13 Bronx Defenders and along with Marianne Yang I
14 co-direct the New York Immigration Defenders
15 Consortium. So and together since November, we
16 have been providing the legal service
17 representation to a segment of all detained New
18 Yorkers at the Varick Street Immigration Court.
19 As has been said, under our universal
20 representation model, we represent all
21 financially qualified unrepresented individuals
22 who are facing the immigration judge on the
23 days we're assigned. And I want to tell you a
24 little bit about what that looks like. Our
25 intake days begin at eight o'clock in the

1 morning. When we begin to meet clients who are
2 scheduled to appear before an immigration judge
3 that afternoon. Most of the clients that we
4 meet at Varick Street have already been
5 detained for more than week, between 10 to 14
6 days before we meet them. Some have been
7 transferred into ICE custody directly from a
8 New York City jail. Others were picked up at
9 home at work often early in the morning, or
10 other still were stopped at the airport
11 reentering the country. The vast majority of
12 them have had some prior experience with the
13 criminal justice system and most of them are
14 aware of one crucial difference between
15 immigration and criminal court, they do not
16 expect to be assigned a free lawyer in their
17 removal proceedings. By the time we meet them,
18 knowing this, many of them have nearly lost
19 hope and are anxious to get deported simply to
20 get out of detention. At those initial intake
21 meetings we engage in a detailed interview and
22 assessment of our client's legal options.
23 After that intake, in many cases, we advise our
24 clients that we do not believe they have a
25

1
2 viable application for relief from removal. In
3 those cases, the immigration proceedings may
4 conclude the same day, with either an order of
5 deportation or voluntary departure. In other
6 cases, that morning's conversation is the first
7 of many to come as we develop a relationship
8 with our client and applications for relief on
9 their behalf. Regardless, it all starts at 8:00
10 a.m. on the fourth floor at 201 Varick Street
11 where we tell our clients that contrary to what
12 they've heard, they will not be standing up
13 alone before the immigration judge that
14 afternoon. Having a lawyer there matters, even
15 for those clients who decide to accept
16 deportation on their first appearance. It's one
17 of the most significant decisions many of them
18 will make in their lives. It may mean leaving
19 family, jobs, and community here in New York
20 City. In order to make that decision with
21 confidence, it's absolutely important that a
22 client have the advice of an attorney and a
23 full understanding of the options, having the
24 chance to tell their attorney their story and
25 with the benefit of compassionate and reliable

1 legal education, our clients are able to move
2 forward with eyes open and without lingering
3 doubts about what their options are. They save
4 themselves time and detention by not adjourning
5 while seeking counsel and they can move on with
6 their lives instead of languishing in
7 detention, and they can save their family from
8 scraping together thousands of dollars for an
9 attorney who can do nothing but deliver the
10 same sad news, that they're not eligible to
11 remain in the United States. Our representation
12 for those who continue on past the first day is
13 comprehensive and holistic, includes
14 identifying applications for relief, making
15 innovative legal arguments, and filing those
16 collateral applications mentioned by Judge
17 Burr, which may include criminal matters,
18 family court, custody challenges, and it
19 involves working with other advocates on our
20 client's behalf, social workers, psychologists
21 and other civil advocates. I'll share one
22 client's story of Mr. Emanuel's case who
23 illustrates this point. When we met him in
24 immigration detention he had given up hope.
25

1
2 Despite having lived here for 27 years nearly
3 all his life as a permanent resident, he told
4 his immigration attorney that he just wanted to
5 get deported or get out of detention. He didn't
6 even want to stay detained long enough to
7 pursue the application for relief that he was
8 eligible for. His lawyer struck a deal with him
9 that first day. He would remain in detention
10 for a short window to see if we could prevail
11 in his case quickly. His lawyer challenged the
12 sufficiency of the allegations against Mr.
13 Emanuel, arguing that his convictions did not
14 in fact make him deportable. Two days later he
15 was released from detention and returned home
16 with his family, and shortly after that, the
17 deportation proceedings against him were
18 withdrawn completely. Without an attorney, he
19 would have been deported. So I want to thank
20 the Council's support of--for their support of
21 NYIFUP and for taking the time to hear about
22 the New York Immigration Defenders and to hear
23 about the impact this project has had on our
24 clients. We're thrilled to be part of this
25 project, setting a national example and hope to

1
2 have the opportunity to continue to provide
3 these services moving forward.

4 CHAIRPERSON MENCHACCA: Thank you,
5 Ms. Friedman. And if now we can hear from Mr.
6 Guzman. Thank you so much for coming--

7 JUAN GUZMAN: Thank you for inviting
8 me.

9 CHAIRPERSON MENCHACCA: to the
10 Council.

11 JUAN GUZMAN: My name Juan Carlos
12 Guzman [phonetic]. I'm 39 years old. I came to
13 the United States with my green card in 1993
14 when I was nine years old. I have lived in the
15 United States as an LPR for the past 30 years.
16 My entire family is in New York, my father,
17 mother, grandmother, grandfather, my brother,
18 sister and aunt. They all resident and US
19 citizens. This past summer I went to the
20 Dominican Republic for vacation. I was arrested
21 by immigration at John F. Kennedy airport on my
22 way back. They locked me up and I tried to
23 deport me because of two marijuana misdemeanor
24 from 1997 and 1999. I haven't been convicted
25 of any crime since then. Before going to the

1
2 ICE custody, the last time I spent time in jail
3 was in 1996 when I spent 20 days in jail for a
4 Bronx, for a misdemeanor conviction. I am
5 different person now than I was back in the
6 days when I was getting into trouble. Being
7 detained was scary. I was stopped on October
8 28th, 2013 at the airport and I was told the
9 old cases came up and they detained me because
10 of those. They took me to the Hudson County
11 Correctional Facility. At first, my family
12 didn't know where I was until a week later when
13 my telephone card came through, I could call
14 them and tell them what was happening. When I
15 got to the immigration jail I found out that I
16 was not going to get a pre-immigration lawyer.
17 After I got to call my family, they told me
18 they were going to try to find a free lawyer
19 for me but they couldn't find anyone to take my
20 case for free. My family does not have money to
21 pay for a lawyer for me. When I found out that
22 I was going to have to see the immigration
23 judge without a lawyer, I lost all hope that I
24 could fight my case. I thought I was going to
25 get deported. I have mental health problem and

1
2 being locked up made me feel worse. I had a
3 really hard time emotionally. I had trouble
4 sleeping in a bunk of 60 other detainees with
5 noises all night long. When I'm not detained I
6 go to my grandmother's house every day to help
7 her out in any way I can, but beside my
8 grandmother, I prefer to just be alone. Being
9 surrounded by so many other guys in jail all
10 day was upsetting. While I was in Hudson County
11 I didn't get to do much. I would stay in bed
12 just to past the time. There isn't any real
13 outside space, just a handball wall. We would
14 watch TV or play dominoes. I felt surprised
15 that I was locked up for something that
16 happened so long ago, that they could hold
17 something that old against me. I felt hopeless
18 while I was locked up. I thought I was going to
19 get deported, but then on the first day I saw
20 the judge, I met the lawyer Sarah Deri-Oshiro.
21 She works at the Bronx Defender is from New
22 York Immigrant Family Unity Project. I told her
23 about my history and she told me she would help
24 try to get me out of jail and fight my
25 deportation case. She got me released on

1
2 medical and humanitarian parole, even though I
3 was not eligible for bond. She's also helping
4 me apply for pardon from the immigration judge
5 so that I can get my green card back. There was
6 a mistake in my criminal record, so at first
7 the judge said I wasn't eligible to get
8 pardoned. Sarah got proof that there was a
9 mistake in my record and since she got those
10 paper, the judge agreed that I can apply for
11 pardon. She told me that the immigration judge
12 will get to hear about the mistake I made in
13 the past and also about what my life is like
14 now, and if they think I deserve another chance
15 in this country, they let me stay here with my
16 green card. If I hadn't met Sarah I would
17 definitely have been deported by now. I don't
18 know how to fight my case all by myself or get
19 the papers I needed for the judge. I worry what
20 would happen to be in my country without my
21 doctors, medication, or family, especially
22 because of my mental health problems. Thanks to
23 Sarah and this project I am back home feeling
24 stable and hopeful that I will be able to
25 remain in America with my family.

1
2 CHAIRPERSON MENCHACCA: Thank you.
3 Thank you Mr. Guzman and for your testimony
4 today, and I also want to acknowledge Council
5 Member Eugene who--another committee member was
6 here for the hearing. Now we're going to move
7 over to Oscar and so I want to make sure that
8 we have both of you speak. Oscar will go
9 first?

10 RUBEN LOYO: I'll introduce him.
11 Good afternoon members of the Committee. My
12 name is Ruben Loyo. I'm an attorney with
13 Brooklyn Defenders Services and I have the
14 privilege of being one of the attorneys
15 staffing the Family Unity Project. I'm here
16 today to present the testimony of one of my
17 clients who has been impacted by this project
18 and I just want to preface his testimony by
19 letting you know that one of the benefits of
20 this program that we've seen is that through
21 the project we've been able to touch the lives
22 of people who are uniquely vul--would otherwise
23 be uniquely vulnerable in a system where
24 there's no representation and that includes
25 immigrant youth like my client.

1

OSCAR HERNANDEZ: Buenos tardes.

2

[speaking Spanish]

3

4

RUBEN LOYO: Good afternoon. My

5

name is Oscar Hernandez. I was born in 1993 in

6

Mexico in the state of Pueblo. I am 20 years

7

old. I live in Brooklyn, New York in Sunset

8

Park with my two sister, my older sister Sulema

9

[phonetic] and my younger sister Dulce

10

[phonetic].

11

OSCAR HERNANDEZ: [speaking Spanish]

12

RUBEN LOYO: On November 12th, 2013,

13

I was taken into immigration custody where I

14

lost all hope and knew nothing about any laws

15

that might help me. I was convinced that I

16

would consent to my deportation and go back to

17

Mexico when I was brought to the building on

18

Varick Street and got to know an organization

19

of lawyers. When I got there, they asked me

20

about my situation and the lawyer, Ruben Loyo,

21

started to explain to me that I qualified for

22

protection under certain laws and asked me to

23

fight my case. I had been convinced that I

24

would not, but this lawyer told me that I

25

should fight because it was a good opportunity,

1
2 and he defended me and this past January I was
3 released from immigration jail. To this day, he
4 is working on my case so that I can stay in
5 this country with my sisters.

6 OSCAR HERNANDEZ: [speaking Spanish]

7 RUBEN LOYO: In Mexico, when I was
8 six years old, my father was killed. Just about
9 three years ago my older brother was also
10 killed. For these reasons I don't feel safe in
11 Mexico. It is why I have become accustomed to
12 this country. I have been living in the United
13 States in New York for more than six years now.
14 In the United States I feel free and with many
15 opportunities to get ahead as a family. For
16 these reasons I have promised to get my GED and
17 to learn English and I have started to take
18 English classes.

19 OSCAR HERNANDEZ: [speaking Spanish]

20 RUBEN LOYO: I thank Brooklyn
21 Defender Services and the pilot program that
22 has given me a lawyer to defend me. Knowing
23 this organization and knowing the program has
24 been the best thing that has happened in my
25

1
2 life. I thank this country for giving me many
3 opportunities and thank you everyone.

4 CHAIRPERSON MENCHACCA: Gracias
5 Oscar. So I have--you have some questions too?
6 I wanted to ask the first question to the two
7 clients where they were detained and the kind
8 of experience that you had while in detention,
9 I think would be important for us to hear in
10 the City Council.

11 OSCAR HERNANDEZ: [speaking Spanish]

12 RUBEN LOYO: He was detained at
13 Hudson County in New Jersey and he encountered
14 many individuals who did not have any
15 representation.

16 OSCAR HERNANDEZ: [speaking Spanish]

17 RUBEN LOYO: And to have an
18 attorney, in my case, I felt very blessed and
19 blessed by God because it was something that
20 other people in detention didn't have.

21 OSCAR HERNANDEZ: Gracias.

22 JUAN GUZMAN: Well, I felt very
23 upsetting because it was 60 of us in there in
24 one floor. Other than that I just stayed in bed
25 basically. There wasn't that much space to

1
2 move around other than a few tables to play
3 dominoes or just sit there to watch TV.

4 CHAIRPERSON MENCHACCA: And this is
5 just something we--and for me, as I continue to
6 learn more about the level of service on the
7 legal side, it's also the kind of--the
8 amenities that are provided for people that are
9 held in detention. So it's important to kind of
10 get the whole picture about what's happening
11 and why it's important to remove people from
12 detention as quickly as possible, and it sounds
13 like this is a pilot project that helps remove
14 people from that experience. And I wanted to
15 give the mic over to Council Member Espinal.

16 COUNCIL MEMBER ESPINAL: Thank you,
17 Carlos. First I want to congratulate Juan and
18 Oscar for being able to get out of the process
19 and just congratulations. It makes me happy to
20 see that you were able to avoid deportation.
21 Just questions to, I guess, Marianne or
22 Jennifer, can you walk me through a process
23 again? So every morning you go to Varick Street
24 at 8:00 a.m., and do you wait for people who
25 come in or do you see the pool of people who

1
2 are under the proceedings, or how does it work
3 exactly?

4 JENNIFER FRIEDMAN: So, in take,
5 people who are seeing the immigration judge for
6 the first time are grouped into afternoon
7 calendars on Monday, Tuesday, and Wednesday
8 afternoons, and under the pilot project we are
9 not there all three of those days a week. We're
10 there either one or two of those days a week.
11 So there will be a group of generally around,
12 in the range of 10 people who are scheduled to
13 see the immigration judge at 1:00 in the
14 afternoon on a Monday, Tuesday or Wednesday for
15 the first time, and they will all be brought to
16 a space on the fourth floor of Varick Street
17 where we'll be able to give it sort of a short
18 group presentation about who we are and what
19 our services are, conduct a financial
20 screening, and start doing individualized
21 interviews with people and for those who are
22 financially qualified and don't have attorneys,
23 we'll do a full intake and be prepared to start
24 representing them at 1:00 that afternoon, and
25 then we will enter our appearances on all of

1
2 the clients who are going to be representing
3 that afternoon.

4 COUNCIL MEMBER ESPINAL: Now, I know
5 there's cases where some people who are facing
6 deportations are actually flown to El Paso,
7 Texas, let's say. Is there a way for their
8 families to be able to approach you and say,
9 "Hey, listen, we need your help with a member
10 of our family who actually lived in New York,
11 but now they're in El Paso because they're
12 facing deportation?"

13 MARIANNE YANG: Not right now, no,
14 but I mean, I think that's part of what we're
15 looking at in terms of--if our attorney/client
16 relationship attached at the first hearing, but
17 for whatever reason the client was still
18 transferred out of the New York jurisdiction, I
19 think under those circumstances we would do
20 everything that we can to get that person back
21 into New York jurisdiction and keep the
22 representation going. But if the person is
23 transferred in advance of our attorney client
24 relationship attaching, that's a very difficult
25 conundrum for this individual and the family to

1
2 face. Thankfully, we believe that in more
3 recent years, the situation around transfers
4 has actually been better than it has been in
5 years past. It's not perfect, but it's better,
6 and there is a policy memorandum that ICE would
7 like to follow and not transfer people out of
8 the jurisdiction where there's intended counsel
9 or family members nearby, which hopefully
10 ameliorates the situation.

11 CHAIRPERSON MENCHACCA: I have a
12 question for the judge. Are prosecutors
13 changing the way they do what they do in the
14 courts with the lawyers present? What's
15 happening with the prosecutors?

16 JUDGE BURR: You mean as a result of
17 this pilot project?

18 CHAIRPERSON MENCHACCA: Of the
19 lawyers being in the room?

20 JUDGE BURR: Yeah. I--this is a
21 hearsay comment, okay?

22 CHAIRPERSON MENCHACCA: Okay. Can
23 take hearsay.

24 JUDGE BURR: It's my understanding
25 that yes, that it has changed. It has raised

1 the level of practice in the court room.
2 Obviously when you're an attorney representing
3 the government and there's no attorney on the
4 other side, your job is a lot easier. If you
5 are facing competent counsel, your job in some
6 ways gets easier because the issues are defined
7 and dealt with in a much more intelligent
8 fashion, but also you know, you probably are
9 going to have to do more work. I think that
10 it's my understanding that everybody is happy
11 with the pilot project because it facilitates
12 the process of justice. You know, most--
13 everybody wants everybody to be represented.
14 The judges certainly want it, and I would say
15 that the government attorneys want it too. It's
16 the way it should be, and it makes everything
17 move more smoothly. You know, you're confident
18 that the respondent is represented by someone
19 who knows what they're doing and who--and that
20 means that the respondent is going to be calmer
21 and as an aside, you know, there are a number
22 of mental health issues for people in detention
23 and when you have that mental health issue with
24 a respondent who's not represented, you're in a
25

1
2 very, very difficult situation. But if they
3 are represented, not only are they getting good
4 legal advice, but the attorney can intervene in
5 the detention facility and make sure that
6 they're getting the medications that they
7 should be getting, that they are appropriately
8 screened by mental health professionals with
9 regard to their competency to even be in the
10 proceedings. So there are very--there are many,
11 many benefits to this program, and yes, I do
12 think to answer your question, it affects the
13 government attorneys in a positive way also.

14 CHAIRPERSON MENCHACCA: Positive to
15 hear. And so question for the Defenders, is
16 there a process for individuals who don't meet
17 the criteria for financial--for the financial
18 piece of eligibility, and where to they get
19 referred to? What happens to them?

20 MARIANNE YANG: Those who don't meet
21 our financial eligibility guidelines and don't
22 already have identified potential counsel, we
23 can do one of two things or both. One is that
24 we can provide them information to numbers and
25 contacts of people who can lead them to private

1
2 bar referrals of good reputation and the other
3 thing that we can do in the absence of our
4 ability to access them is to at least help them
5 explain, to ask for adjournments in time to
6 seek counsel as well as adjournments so that
7 their next master calendar hearing dates fall
8 on a legal orientation program date. When we're
9 not there picking up cases, the legal
10 orientation program is there to screen and give
11 brief advice to people short of representation
12 if they would want it. So, that's an option for
13 them to pursue, and then we'll also give them
14 leads to procure private counsel within their
15 needs if possible.

16 CHAIRPERSON MENCHACCA: Well thank
17 you so much for this panel in testifying.
18 Again, this is going to be an ongoing
19 conversation with everybody, but we're just
20 really also thankful for Oscar and Mr. Guzman
21 for coming today and talking about your
22 experience. I know that these things are not
23 easy to talk about, but we welcome you here at
24 the City Council as a body who is interested in
25 learning more about your experience. So thank

1
2 you so much. We'll have the next panel come
3 up. Mr. Oren Root, Mr. Peter Markowitz, and Ms.
4 Paula Shulman, please. Thank you so much, and
5 if we can start with Peter Markowitz.

6 PETER MARKOWITZ: Respectfully,
7 Paula Schulman is going to be giving the
8 prepared testimony--

9 CHAIRPERSON MENCHACCA: Prepared
10 testimony, first? Okay. Ms. Schulman, please,
11 thank you.

12 PAULA SHULMAN: Good afternoon
13 Chairman Menchacca and Council Members. My
14 name is Paula Shulman, and I am a law student
15 with the Immigration Justice Committee at the
16 Cardozo School of Law. I am here with Professor
17 Peter Markowitz who directs the clinic. The
18 clinic has been working with the NYIFUP
19 Coalition Partners whom you have already heard
20 from today and will hear from in a moment, for
21 the last two years to create the New York
22 Immigrant Family Unity Project. Prior to that,
23 Professor Markowitz chaired the New York
24 Immigrant Representation study, which gave rise
25 to NYIFUP. You have my written testimony so in

1 the interest of time, I will emphasize three
2 quick points. First, I want to emphasize the
3 incredible difference that lawyers can make for
4 families in New York and the 2,000 children
5 each year who have a parent locked up and
6 facing deportation. Before NYIFUP, if they
7 could not afford an attorney, the chances that
8 those families would be reunited with that
9 loved one was an abysmal three percent. The New
10 York Immigrant Representation study revealed
11 that a lawyer can increase the likelihood of a
12 successful outcome in immigration court by as
13 much as 1,000 percent. The early results of the
14 NYIFUP pilot support this data. While it is too
15 early to analyze data on case outcomes, the
16 NYIFUP attorneys have identified potentially
17 viable defenses in over half of the cases and
18 the first three cases litigated to completion
19 have resulted in the termination of
20 proceedings, the release of the client, their
21 lawful status and being returned to the
22 families. In some cases, New Yorkers simply
23 have no chance of success without the help of a
24 lawyer. Take for example Oscar Hernandez who
25

1
2 you already heard from today and others like
3 him, young people eligible for special juvenile
4 immigrant--special immigrant juvenile status,
5 but there is simply no way that they could
6 obtain the necessary finding in family court if
7 they were detained and unrepresented. Second,
8 while you have heard a lot today about what
9 happens to the lucky families who have
10 benefited from NYIFUP, you have not heard a lot
11 about the unlucky 80 percent who cannot be
12 served at the current funding level. By way of
13 example our clinic met a woman named Ruth a few
14 months ago in immigration detention. She had
15 been locked up for two years fighting her cases
16 without a lawyer in New York City's Immigration
17 Court. Ruth, a domestic violence victim who
18 came to the United States lawfully was told
19 incorrectly that she was ineligible for a bond
20 hearing. She was in deportation proceedings
21 because she had shoplifted baby clothes. She
22 had a two and a five year old child at the time
23 After finally being screened by a pro-bono
24 lawyer, the lawyer immediately realized that
25 she was in fact bond eligible and called our

1
2 clinic. Within a couple of weeks we had her
3 released and reunited with her children now
4 ages four and seven. Had NYIFUP been in place
5 two years ago, Ruth would have never been
6 separated from her children. Until NYIFUP is
7 fully implemented, there will continue to be
8 New Yorkers who are wrongfully detained and
9 deported. Finally, I want to convey to the
10 committee how excited the national immigrant
11 community is about what New York City has
12 started here with NYIFUP. Nowhere else in the
13 nation has anything like NYIFUP ever been done
14 before. NYIFUP marks to see change in the
15 quality of justice afforded immigrants in New
16 York and in time we will look back and see that
17 has started here with the council is the spark
18 that has led to the fairer treatment of
19 immigrants across this country. The committee
20 and this council should applauded for their
21 leadership and commitment to NYIFUP. We look
22 forward to working with the council and the
23 Mayor to bring NYIFUP to scale this year. Thank
24 you very much.

1
2 CHAIRPERSON MENCHACCA: Thank you,
3 Ms. Shulman, and I share your enthusiasm and
4 vision of what we're going to be able to do in
5 this country and so thank you for sharing your
6 testimony. We'll have Mr. Oren, please. Thank
7 you.

8 OREN ROOT: Thank you, Chairman
9 Menchacca and Council Member Espinal for giving
10 me the opportunity to testify before the
11 committee this afternoon. I am Oren Root, I am
12 the Director of The Center on Immigration and
13 Justice at the Vera Institute of Justice. Vera
14 is the recipient of the funding from the City
15 Council that is funding NYIFUP as we call the
16 New York Immigrant Family Unity Project. We
17 are working, we at Vera are working in
18 coalition, principally with four other
19 organizations you've heard testify here this
20 afternoon. My testimony is quite long. It talks
21 about the written testimony. It talks about the
22 NYIFUP goals. It talks about the process of
23 launching the pilot. It talks about the pilot
24 in operation, which you head some before from
25 Jennifer Friedman. It talks about data analysis

1
2 and evaluation that we're going to be doing
3 here. What I'm going to do in my oral testimony
4 is go over some preliminary results from the
5 pilot which starts on page four of my written
6 testimony, and then go over at least as many
7 examples as I have time for of how
8 representation has made a difference. I
9 approximately 20 examples in my written
10 testimony that identifies people by age and
11 borough where they live and shows the
12 difference that representation makes. So
13 looking at some of the preliminary results from
14 the time the pilot started on November 6th
15 through the end of January. The New York
16 Immigration Defenders had accepted 101 cases
17 for representation. Of those 101 cases, 52
18 percent of them are still being litigated and
19 this compares to what we saw in the New York
20 Immigrant Representation study that Judge
21 Katzmann told you about where only five percent
22 of detained unrepresented individuals were able
23 to identify relief. While cases proceed fairly
24 slowly through the process, four cases have
25 reached successful conclusion allowing those

1
2 individuals to remain in the United States
3 without fear of deportation. Those numbers will
4 clearly go up significantly. The only case to
5 go to a merits hearing thus far, the equivalent
6 of a trial, resulted in the client getting
7 relief and maintaining his lawful permanent
8 resident status. A robust and impressive 23
9 percent of clients have been released from
10 custody and as you heard from Judge Katzmann
11 getting out of custody makes a huge difference
12 in your likelihood of success. In nine percent
13 of the cases, the New York Immigration
14 Defenders have filed or secured other counsel
15 to pursue ancillary proceedings. Five percent
16 of the cases have ended in a voluntary
17 departure order. Now, if I could have time just
18 to give a couple of the 20, I'm not going to go
19 through all 20 examples of where how the
20 lawyers made a difference. The--a 56 year old--
21 so just knowing what claims to make requires a
22 sophistication that is very rare, that somebody
23 without legal training would be able to
24 identify, much less somebody who, you know, has
25 difficulty with English. So a 56 year old

1
2 lawful permanent resident from Queens who's
3 lived in the country for more than 40 years
4 with three United States citizen children, four
5 United States citizen siblings and a citizen
6 mother won his case by filing for a form of
7 relief that was abolished in the 1996, but
8 which is subsequent in United States Supreme
9 Court decision stated applied to people with
10 convictions that pre-date that statutory
11 change. The--Jennifer Friedman told you about
12 Mr. Emanuel who was a 37 year old lawful
13 permanent resident from Staten Island who had
14 been in the country for 27 years, who was going
15 to throw in the towel until he met his lawyer,
16 and then two days after he was there he was
17 released from custody and several days
18 thereafter his case was terminated because the
19 charges were not sufficient to support a
20 deportation, but an argument that a person who
21 is not legally trained would never have
22 identified. You heard from Oscar Hernandez
23 today and to pursue his special immigrant
24 juvenile status, an application has been filed
25 in the Family Court in Brooklyn to get

1 guardianship and special findings. A person
2 who's locked up in Hudson County is not going
3 to be able to file a proceeding in Family Court
4 in Brooklyn. So even if he has to claim he
5 couldn't possibly pursue it without a lawyer.
6 Getting released from custody in--is incredibly
7 difficult. For those who have familiarity with
8 bail applications and criminal court, it is
9 far, far more complicated in immigration court
10 to get released. The burden of proof is on the
11 respondent, the individual to show that they
12 need to get out, and immigration judges
13 typically require all kinds of written
14 documentation to let somebody out. So it is a
15 much more formal and difficult process than
16 occurs in the criminal court for those are
17 familiar with it. You heard just in the last
18 panel from Mr. Guzman and he explained some of
19 the issues and he in fact was not even legally
20 eligible for bond. So another application had
21 to be made by the lawyers for what's known as
22 humanitarian and medical parole to get him out,
23 despite the fact that his convictions were only
24 two marijuana misdemeanors from back in the
25

1
2 90s. But there's also another aspect that Mr.
3 Guzman referred to and that is the court
4 records from the Bronx erroneously showed that
5 he had two other convictions, and his lawyer on
6 an informed hunch went and ordered the
7 transcripts of those decisions, of those
8 proceedings back from the early 1990s and those
9 transcripts showed that he in fact did not have
10 a conviction even though the official court
11 record showed that he did. And again, a person
12 who is locked up in Hudson County is not going
13 to be able to order that transcript and he
14 would have been deported and long gone if he
15 didn't representation. A 38 year old man from
16 Brooklyn with a US Citizen wife who was a truck
17 driver for a well-known multinational
18 corporation was turned over to ICE in violation
19 of New York City's detainer discretion law
20 through a court paper work error. He was held
21 despite the minor nature of his arrest. He was
22 held by ICE on no bond, and when he went into
23 court initially with his lawyer, the
24 immigration judge because of this minor pending
25 case declined to set any bond even though it

1 was legally permissible. So the lawyer then
2 prevailed upon this criminal defense lawyer in
3 Brooklyn to get the case advanced in Brooklyn,
4 to get it dismissed, then they went back to ICE
5 and they asked ICE on the changed circumstances
6 to set a bond which the client was able to
7 make. The final category, you've already heard
8 about how the New York Immigration Defenders
9 persuade clients not to give up when they have
10 claims. The final category that I just want to
11 give you a couple of examples from, and then as
12 I say, there's more in my written testimony, is
13 that the lawyers provide valuable services even
14 to clients who are ordered deported. So in a
15 notable example, a 24 year old Mexican man was
16 the victim of labor law violations by his
17 former employer. So the New York Immigration
18 Defenders connected or brought his case to the
19 New York State Department of Labor. They were
20 able to get him back 3,700 in back wages, but a
21 significant for his immigration case, there is
22 then a U-Visa procedure, where if you're a
23 victim of a crime, you can apply it to be led
24 into the country on that basis. So even though
25

1
2 this man, because this would have taken a
3 number of months and he didn't want to sit in
4 detention all this period of time, he went back
5 to Mexico, but he has now been certified to
6 apply for a u-visa and the New York Immigration
7 Defenders are going to apply for that with the
8 US Citizen and Immigration Services so that he
9 will be able to lawfully come back to the
10 country. And just one final example, a further
11 example. There was a 29 year old Guatemalan
12 man who was ordered deported and ICE believed
13 that he was from Mexico, and despite the New
14 York Immigration Defenders pointing out to the
15 ICE officials that he was from Guatemala, they
16 insisted they thought he was from Mexico. And
17 so the Immigration Defenders intervened with
18 both the Guatemalan Consulate to get documents
19 and with the Mexican Consulate not to accept
20 him, and had it not been for their
21 intervention, he would have been deported to
22 the wrong country. So thank you, and I really
23 appreciate the opportunity to testify here, and
24 I'm hopeful that this evidence that we are
25 presenting as well as all the other

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2 circumstances that you learned Council Members
3 are aware of will allow the New York Family
4 Unity Project to come to scale so that
5 everybody at Varick Street and New Yorkers
6 whose cases are heard in New Jersey will be
7 able to be represented in the next fiscal year.
8 Thank you so much.

9 CHAIRPERSON MENCHACCA: Thank you,
10 Mr. Root and the Vera Institute. That was
11 again highly detailed and important testimony
12 for how institutions like yours are helpful to
13 understand this very incredibly difficult thing
14 to navigate for anybody, and as we continue to
15 talk to colleagues like Ritchie Torres, Council
16 Member from the Bronx who just walked in who
17 was with me at Varick Street in that room when
18 we talked earlier about the proceedings that we
19 had witnessed. I'm just thankful that he's here
20 in this room today. And so next I want to give
21 the floor to Mr. Peter Markowitz, and if you
22 want to share anything for the panel?

23 PETER MARKOWITZ: Sure, I was
24 really--Paula Shulman delivered the testimony
25

1
2 for our clinic. I was really here to assist
3 with any questions if there were any.

4 CHAIRPERSON MENCHACCA: Wonderful. We
5 do have questions, and so I want to make sure
6 that you guys--you want to say something?
7 Okay, go ahead. I have some very particular
8 fine point pieces, but I want to make sure that
9 my colleagues--

10 COUNCIL MEMBER ESPINAL: I just want
11 to say you guys did a great job and it was very
12 informative and I appreciate the testimony and
13 I'm looking forward to standing behind Carlos
14 when the time comes to put up a support program
15 at least.

16 OREN ROOT: Thank you so much.

17 CHAIRPERSON MENCHACCA: Thank you.
18 Ritchie?

19 COUNCIL MEMBER RITCHIE: Okay, so I'm
20 going to ask some questions. So here, one of
21 the things we want to get to the bottom of
22 right now is where we are in the snap shot of
23 how many cases we have seen thus far with the
24 pilot project, and as we continue to kind of
25 understand it, the cases individually and

1
2 getting an understanding what they are, but we
3 want to confirm what the actual number is. And
4 looking at the different testimonies, we have
5 testimony from your Vera Institute that gives
6 us at 101 and then the Defenders give us at 132
7 and so I just want to make sure that we got a
8 sense of what that is.

9 OREN ROOT: We only have the New
10 York Immigration Defenders report to the Vera
11 Institute to one of our important functions is
12 getting the data, reporting it to the city and
13 analyzing it and ultimately we hope to do a
14 full evaluation of the project to show in both
15 quantitative and qualitative terms its value.
16 So I only have--we only get data once a month,
17 so--

18 COUNCIL MEMBER RITCHIE:

19 [interposing] [cross-talk]

20 OREN ROOT: through January 31st, and
21 all the other data I gave is through January
22 31st, but as of today, they've done 132 cases.
23 So that's the explanation for the difference.
24
25

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2 COUNCIL MEMBER RITCHIE: Understood.
3 Thank you. That just is important as we move
4 forward.

5 PETER MARKOWITZ: And I can just add
6 we've provided all the members of the committee
7 with a pilot update sheet that's through
8 January and as soon as the date is available
9 through February we'll provide you with an
10 updated pilot update sheet.

11 CHAIRPERSON MENCHACCA: Wonderful. So
12 here's--here's the next kind of piece, because
13 one of the more important things as we move
14 forward in conversations, not just about the
15 quality of the project, but really the entire
16 kind of set of performance indicators for this
17 project as we continue to, again, talk to
18 colleagues and to the administration and to
19 others that are going to be able to be helpful
20 in this. So what analysis did the Vera
21 Institute and the Criminal Justice Coordinator
22 use in determining the cost savings measure for
23 this program in this pilot project?

24 OREN ROOT: Well, the cost savings
25 and this relates to the long term strategy for

1
2 the project, the principle cost savings are
3 going to be on the--for the federal government
4 on ICE from the process and so part of our long
5 term strategy is to document that and to try to
6 get the federal government to start
7 contributing to these costs because of their
8 cost savings, but there are also other savings
9 that are being realized by New York State
10 employers for people who are their employees.
11 They lose employees and then they have to
12 replace them and get and retrain and new
13 employees. It also, there are people because
14 often the person who is detained and may be
15 deported is a bread winner, and so there are--
16 and as you've heard many of these people have
17 citizen relatives so, and or lawful permanent
18 resident relatives, so they're eligible for
19 public benefits, so people who lose their jobs.
20 So we at the time when we do a full evaluation,
21 at the present time we don't have the funding
22 to do a full evaluation, so we're doing a
23 simpler data analysis, but when we have the
24 chance to do that we will document along with
25 the center for Popular Democracy that has

1
2 really taken the lead in our collaborative in
3 documenting the New York City and state
4 governmental costs, and we'll also be
5 documenting the city--I'm sorry, the federal
6 costs that it would have saved.

7 CHAIRPERSON MENCHACCA: Thank you for
8 that. And that's just part--really telling the
9 whole picture. This is an incredibly
10 complicated and multifaceted conversation to
11 have across the board. That would be helpful if
12 we could get that piece.

13 OREN ROOT: And if I could just
14 mention there is available a white paper that's
15 got an orange cover that talks about the
16 savings to the city and state from the project
17 assuming that it were at scale.

18 PETER MARKOWITZ: And copies of this
19 have also been provided to all committee
20 members.

21 CHAIRPERSON MENCHACCA: Yeah, thank
22 you. And we definitely have that and further
23 analysis as you said would be helpful just from
24 the data that's being collected currently
25 through the pilot. So the other component to

1
2 this and just from your perspective on the
3 quality of the representation itself and what
4 your--how you're gauging that quality of
5 service for the clients.

6 OREN ROOT: Well, some of it comes
7 anecdotally--

8 CHAIRPERSON MENCHACCA: [interposing]
9 Okay.

10 OREN ROOT: From, you know, Judge
11 Burr's testimony for instance really made clear
12 that from what she hears from her former
13 colleagues, immigration judges and the other
14 information she has that people there who are
15 used to not having this sort of representation
16 are seeing it. The other is, you know, I and
17 most of the members of our collaborative are
18 lawyers with quite a bit of good experience and
19 we simply can recognize and in my choosing some
20 of the examples, some of which I read and some
21 of which are in my written testimony, these
22 cases just cry out quality representation, and
23 the estimated typical cost for a deportation
24 case for someone in detention because those are
25 much more expensive than deportation cases for

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2 people who are released, you know, are usually
3 in the range of 15,000 dollars. But those don't
4 include the type of ancillary proceedings that
5 you heard that are brought in Brooklyn family
6 court, the post-conviction proceedings and
7 whatever, and frankly, only a really a wealthy
8 person could afford the level of representation
9 that they are now getting from the New York
10 Immigration Defenders. We will also when we
11 have the funding and there's been enough time
12 to do a full evaluation, we will be comparing
13 the results of the cases that are represented
14 under the NYIFUP project with similarly
15 situated cases both at Varick Street that are
16 now not being represented because as Ms.
17 Shulman said, 80 percent of the cases now are
18 not being covered by the pilot, and also in
19 other Immigration Court locations and the Vera
20 Institute with its other relationships that it
21 has with the Department of Justice Immigration
22 Court Agency will be able to get access to that
23 data to do quantitative comparison group,
24 scientific evaluation to show the--

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CHAIRPERSON MENCHACCA: [interposing]

So there will be empirical data--

OREN ROOT: to show the difference in the results.

CHAIRPERSON MENCHACCA: Okay, wonderful. Music to my ears. Thank you. I don't know if you wanted to add anything.

PETER MARKOWITZ: Just that, you know, the Bronx Defenders and the Brooklyn Defenders are among the public interest organizations in the city with kind of elite immigration units. They've been that for some time. In fact, among the organization in the country with elite immigration units, they're some of the places that are most competitive in terms of places to get jobs in those units, and we, you know, frankly we work as the non-profit immigration advocacy community in New York is a tight knit community and we're part of the same coalitions, and we sit down and we strategize together and frankly the quality of the work coming out of this project and his offices is really kind of sets the standard for immigrant representation, not only in New York. And

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2 there are other excellent, excellent
3 immigration providers in New York. I'm not
4 saying as compared to other nonprofits, but as
5 compared to what's going on generally in the
6 immigration courts in New York City and
7 nationally, people couldn't be luckier than to
8 have these attorneys.

9 OREN ROOT: And if I could just add
10 one thing. I mean, the example of the man who
11 was deported but who was defrauded by his
12 employer, and you know, so many lawyers once
13 somebody is deported, that would be the end of
14 the case, but the Defenders now are in fact--
15 they got him his money and they are pursuing
16 getting a u-visa to bring him back, and I just
17 think that that just speaks to the quality of
18 the representation.

19 CHAIRPERSON MENCHACCA: Yeah,
20 understood. Understood, and we're clearly
21 hearing that today just from the testimony and
22 we'll be very happy to take other types of data
23 really to show the picture that we're all
24 feeling. It's important to have both of those
25

1
2 pieces soon. So thank you. Thank you so much
3 for that commitment.

4 PETER MARKOWITZ: The two early
5 numbers that--and it is hard this early on to
6 show, to do any kind of real analytics of the
7 data, but the two early numbers that are quite
8 hopeful are the 52 percent number. That's 52
9 percent of cases they've identified a
10 potentially viable defense are pursuing that
11 defense. That compares to a number that we
12 looked at in the immigrant representation
13 study. Unrepresented people were only able to
14 identify a potentially viable defense in
15 approximately five percent of the cases. So
16 when we talk about, you know, we don't have
17 outcomes yet, but we know that they've
18 identified and are pursuing a defense in 52
19 percent of the cases, and that's an
20 extraordinary difference from what happens
21 before NYIFUP was around, and the 23 percent
22 number is also huge, right? That almost a
23 quarter of people are getting out because they
24 have these attorneys and as Judge Katzmann
25 pointed out at the beginning, when they walked

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2 in the door before they got that NYIFUP
3 attorney, they were sitting in three percent
4 land, unrepresented and detained. Once NYIFUP
5 gets them out, they're represented and un-
6 detained; 74 percent of those people win. So
7 the fact that they're getting almost a quarter
8 of the people out of custody is a huge early
9 indicator of the quality of our presentation.

10 CHAIRPERSON MENCHACCA: you know,
11 Peter, that reminds me of something we heard
12 earlier, I think it was Ruth and the bond
13 issue.

14 PETER MARKOWITZ: Correct.

15 CHAIRPERSON MENCHACCA: That's
16 another piece that I think kind of falls, and
17 someone who's just learning about this process.

18 PETER MARKOWITZ: Exactly. I mean--

19 CHAIRPERSON MENCHACCA: [interposing]
20 Incredibly difficult.

21 PETER MARKOWITZ: Yeah, exactly. I
22 mean, the complications around analyzing what's
23 referred to as the mandatory detention statute
24 in immigration law. There are so many
25 litigable issues related to mandatory detention

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2 and so many complexities about the way various
3 criminal convictions map onto the federal
4 scheme for mandatory detention that it is
5 insane to think that somebody unrepresented
6 could navigate that scheme. And so, you know, I
7 very much enjoyed with the Council Members and
8 on my own sitting and watching those NYIFUP
9 initial hearings and seeing these attorneys
10 identify those very kind of complicated legal
11 issues that make the difference between whether
12 someone is going to be Ruth sitting in jail for
13 two years, or is going to be you know, Oscar,
14 out and living their life with their family and
15 fighting their removal. It really is a
16 tremendous difference.

17 CHAIRPERSON MENCHACCA: Thank you
18 again to this panel.

19 PETER MARKOWITZ: Thank you very
20 much.

21 CHAIRPERSON MENCHACCA: We're going
22 to call up the next panel. Jojo Annobil, I hope
23 I said that right. Mark Noferi? Anne Pilsbury,
24 and Claire Thomas. So is there someone that has
25

1
2 been elected to go first? Jojo, you want to
3 start?

4 JOJO ANNOBIL: Sure. So good
5 afternoon, and thank you so much for the
6 opportunity to be here and--

7 CHAIRPERSON MENCHACCA: [interposing]
8 Good to see you again.

9 JOJO ANNOBIL: to talk a little bit
10 about legal service provision--provision of
11 legal services for deportation proceedings. So
12 I'm from the Legal Aid Society, and for a very
13 long time we've been involved in deportation
14 work, both detained, long detained and so the
15 experience that we've gained is important in
16 discussing this issue. We are very grateful
17 that the City Council is considering providing
18 funding for removal, because we have firsthand
19 experience of what it means to do this work,
20 especially detention work on this shoe string
21 budget. And a shoe string budget where you
22 have lawyers who also act as social workers,
23 lawyers who also act as tax preparers, lawyers
24 who have to go to social security and look for
25 documents because you have families who

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2 sometimes help and sometimes do not help. So it
3 would be really refreshing to have a program
4 that allows lawyers to be lawyers, to be able
5 to do to the work to be able to have the
6 support to do the work. Doing detention work is
7 labor intensive and its also resourced
8 challenged, and a lot of us who have been doing
9 it for a very long time have tried our best to
10 put our best foot forward and to represent our
11 clients. I have looked in the eyes of a client
12 and told a client I couldn't represent him
13 because we didn't have the resources, but if
14 the client could wait a few weeks, which
15 sometimes they don't have, we might be able to
16 represent them. It's very difficult doing this
17 work without recognizing that there are various
18 aspects to detention work, and so we look at
19 people who are currently detained who may have
20 the possibility of seeing a judge. At the same
21 time, there are others who would not see a
22 judge, and so on our visits to jails, because
23 our detention work has evolved over time. Where
24 at one time in 2000, the government wouldn't
25 give us an opportunity to into the jails and do

1
2 Know Your Rights. We've come a long way, and we
3 thank all the legal service providers who have
4 been part of it. We thank the City Council that
5 has been part of it, because I know you've been
6 part of that conversation. We are at a place
7 now where it's possible to do even more than
8 what we've done previously, and the city
9 council must be commended for it. I think Judge
10 Katzmann also has to be commended it for it,
11 for shining a light on this issue. But I also
12 would like because since we're also talking
13 about other models, we also want to share some
14 models that we've worked with, we've worked
15 with on models on the non-detained docket. So,
16 Chair, you talked about two courts, 26 Federal
17 Plaza and Varick. So we've been at 26 Federal
18 Plaza for probably 22 years with our partners
19 from Human Rights first and Catholic Charities
20 providing screening to immigrants who have
21 removal proceedings. These cases are referred
22 to us by judges sitting at 26 Federal Plaza and
23 so we have the--we have these screenings at 26
24 Federal Plaza one week each month, and we're
25 able to screen these immigrants and be able to

1 take some of the cases on for representation.
2 The interesting thing and the most significant
3 thing about this project that I'm mentioning is
4 that it combines the service delivery models of
5 three organizations and also the expertise of
6 these organizations. And I'm sure they'll be
7 here to talk to you about them, but Human
8 Rights First brings its expertise in asylum
9 cases. Catholic Charities brings its expertise
10 in asylum cases and also immigration
11 violations, and we bring our expertise in the
12 intersection between immigration and criminal
13 law, but what we've also done is to take this
14 model into the community, and so for example,
15 for a long time with funding from Columbia
16 Investing, we were in North Manhattan, we
17 collaborated with Northern Manhattan Immigrant
18 Committee Right of come [sic] Rights and had an
19 attorney present once a month to move people in
20 their community, because not everybody is
21 comfortable going to 26 Federal Plaza. It looks
22 like the place where you can get locked up
23 easily. So going into the community helps. In
24 the same vein, because of the success of this
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2 model, the court found it necessary to approach
3 us to support a juvenile docket, a docket
4 specifically for children 17 years, 17 and a
5 half years and younger who have removal
6 proceedings because they were--they violated
7 immigration laws, but they are also immigration
8 proceeding because they don't have a parent in
9 immigration proceedings with them. This is a
10 huge--there's been a huge spike in these cases.
11 When we started doing these cases back in 2003,
12 there are only 13 children appearing on that
13 monthly docket. Today, there are five dockets
14 staffed by six providers. The cases have
15 mushroomed. This year alone it's estimated that
16 probably about 44,000 children will find their
17 way into the country. Most of them find their
18 way to New York. New York is the place to come,
19 so most of them happen to have family here and
20 come to New York. So these are all challenges
21 that we are facing and again, I know my time is
22 up, so I'm going to wrap up, but I also know
23 that we submitted testimony and I would also
24 stay for a few minutes. As a matter of fact,
25 because of all this work that we do, we also

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2 have--we leverage our resources in teaching
3 classed or teaching clinics at various law
4 schools. We teach a clinic at Columbia and at
5 NYU, and actually I have to be in class in
6 about 30 minutes to teach 12 able students who
7 are interested in immigration and have been
8 helping us with immigration detention work. But
9 so, thank you so much for taking my testimony.

10 CHAIRPERSON MENCHACCA: Thank you
11 Jojo for just giving us a fuller picture in the
12 context of what we're dealing with here and
13 really the need to expand is not just in the
14 courts like you're saying, it's in multiple
15 avenues. Thank you so much for providing that
16 testimony. If we could have Mark?

17 MARK NOFERI: Can you hear me?

18 CHAIRPERSON MENCHACCA: Yes.

19 MARK NOFERI: Thanks.

20 CHAIRPERSON MENCHACCA: Is the red
21 light on?

22 MARK NOFERI: It is, yes.

23 CHAIRPERSON MENCHACCA: Okay, good.

24 MARK NOFERI: Thanks to the Council.
25 My name is Mark Noferi. I'm here representing

1
2 the New York City Bar Association, which is
3 25,000 lawyers in New York, and we thank Wilmer
4 Hale [phonetic] for supporting our efforts pro-
5 bono for immigration representation. Let me
6 highlight a few points not yet made today, and
7 I've written on appointed council myself. We
8 support continued and expanded funding for this
9 Family Unity Project and others like it for
10 three reasons. As a matter of fairness, as a
11 matter of good policy, and because it sparks
12 broader efforts for immigration counsel that
13 will pay benefits to this city long term. Let
14 me explain those three things. First, as a
15 matter of fairness, New York state already
16 provides lawyers in cases with high stakes. It
17 provides lawyers to those who are jailed pre-
18 trial in criminal cases. It provides lawyers to
19 those who are losing children or at risk of it
20 in civil cases. Deportation all too often
21 involves both, both the risk of going to jail
22 and both the risk of losing your children. Yet,
23 right now, no law provides counsel for that.
24 So the Council's funding is starting to fill
25 that gap to provide fairness when high stakes

1
2 are on the line in a case. Moreover, this
3 fairness extends to everyone in high stakes
4 proceedings, not just citizens. Whenever
5 America provides appointed counsel, there is no
6 citizenship test, not in any state, not in any
7 federal jurisdiction in this country. Or put
8 another way, when someone hears the words, "You
9 have a right to a lawyer," they don't hear,
10 "but please show me your papers first." They
11 get a lawyer in a criminal case, regardless of
12 their citizenship, because appointed counsel's
13 about our values of American fairness and due
14 process, not who the defendant is and not what
15 the defendant's citizenship status is. So we
16 salute the council for recognizing that.

17 Secondly, as a matter of good policy, when
18 people with the right to stay here are wrongly
19 detained and deported, the city bears costs as
20 people have said, social costs like foster
21 care, economic costs, lost jobs, businesses,
22 residents that would be investing in their
23 lives in America. A chief judge of this state,
24 Judge Litman [phonetic] his task force has
25 encouraged civil aid or legal services in civil

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2 proceedings such as housing, such as social
3 security because it's a way of putting money
4 back into the economy. In immigration
5 proceedings we support counsel because it's
6 putting people back into the economy and all of
7 those things that come with them, as such
8 investing jobs. And lastly, this council
9 funding is seed money. We see it as seed money
10 towards a broader right to council. We believe
11 the federal government should have provided
12 appointed council, but until this happens this
13 is sparking those broader efforts. And if I can
14 just wrap up in a couple seconds. One of the
15 questions was the type of data that the pilot
16 is putting out there to help make the case.
17 That data is helping us at City Bar right a
18 report right now on--we're preparing a report
19 on the costs and benefits if there was a
20 nationwide appointed council system. Some of
21 the steps that Vera provided today that they'll
22 provide as they continue with their data, that
23 helps us make the case nationally, in other
24 cities, in the federal government. So we see
25 this as seed money, much like a venture

1 capitalist towards the larger national effort.

2 Thank you so much.

3
4 CHAIRPERSON MENCHACCA: Thank you so
5 much for that and, again, like you said this is
6 an ongoing conversation that doesn't really
7 stop here and this is going to seed really, I
8 think not just an expansion in New York but
9 nationwide. So thank you. Thank you. Ms. Anne?

10 ANNE PILSBURY: Thank you.

11 CHAIRPERSON MENCHACCA: Anne
12 Pillsbury. Thank you.

13 ANNE PILSBURY: My name's Anne
14 Pillsbury. I'm the Director of Central American
15 Legal Assistance which is one of the NGOs. It's
16 been in this business for about 30 years, and
17 we're located in Brooklyn, but we represent
18 people citywide and there are variety of models
19 for delivering legal services, but the one we
20 use is one I think is particularly effective in
21 dealing with the Latino undocumented community.
22 People need a place they can go to that's
23 easily accessible, where they don't have to go
24 through a bureaucracy, where they don't have to
25 wait for a call back, where they can walk in

1 the door and talk to a person the same day. We
2 let people come in without appointments 9:00 to
3 5:00 days a week. Our intake guy Carlos Chavez
4 is here with me today. Some of our staff are
5 immigrants themselves. We're all bilingual, and
6 the think that I think is important for the
7 council to keep in mind is although the
8 detained immigrant representation project is a
9 marvel and wonderful and we're co-counsel on
10 some of those cases with Bronx and Brooklyn
11 Defenders when they involve asylum seekers from
12 Central America. The vast majority of people
13 are going through proceedings at federal plaza
14 and they're not detained. There are 45,000
15 cases every year, a back log of 45,000 cases in
16 the immigration courts. A lot of those people
17 officially do have lawyers, but as it's been
18 pointed out the quality of representation isn't
19 too hot, and by the time their case is over
20 often they've had to abandon the lawyer because
21 they couldn't pay it. So I hope the council
22 will not lose sight of the fact that it is
23 vitally important to fund expertise in
24 representing people in removal defense at
25

1
2 Federal Plaza. Right now, the city provides a
3 very important source of funding in the IOI,
4 Immigrant Opportunity Initiative funding, but
5 that money in the past several years has gotten
6 dispersed among a lot of organizations that
7 work with immigrants but don't provide
8 immigration defense. And the council needs to
9 become, I think, a little more literate in
10 what's really needed. The easiest thing is to
11 go from being an LPR to being a citizen,
12 although nothing is ever easy with immigration,
13 but that's the easier step. The hardest thing
14 is to go from being undocumented to being an
15 LPR, and right now, for instance, we're funded
16 at a modest level. We're very grateful for it
17 by IOI, and if we do an asylum case that takes
18 sometimes 10 years, that counts the same as
19 filling out an M400 citizenship application.
20 DYCD has never been able to wrap their minds
21 around how to distinguish between people who
22 are doing very difficult immigration defense
23 work and people who are just doing applications
24 assistance, and they've even acknowledged and
25 when we've had, you know, funder gatherings,

1
2 that they want to fund application assistants.
3 Now, that's fine, but the crying needs as
4 you've heard here today is for people who are
5 doing real hands on direct representation and
6 the Council needs to ask those questions of the
7 groups its funding, how many cases are you
8 handling. We do over 300 cases a year in
9 immigration court, both detained and non-
10 detained. So I appreciate you guys jumping in
11 with both feet on this issue. It's really,
12 really important. Thank you.

13 CHAIRPERSON MENCHACCA: Thank you,
14 Ms. Pilsbury, and that's going to be very
15 helpful as we move forward with conversations
16 around budget and we might be following up with
17 you on how that can work better from your
18 perspective. So thank you. And Ms. Claire
19 Thomas is next.

20 CLAIRE THOMAS: Good afternoon and
21 thank you so much for having me. My name is
22 Claire Thomas and I'm a staff attorney with the
23 State Passage Project. So I submit this
24 testimony today on behalf of the Safe Passage
25 Project and I want to talk to you a little bit

1
2 today about a vulnerable group that we've
3 talked a little bit about, but these are
4 children, children who are alone in immigration
5 deportation proceedings. Safe Passage believes
6 that no child should stand alone in immigration
7 court and that all children regardless of their
8 countries of birth are entitled to free legal
9 representation that is competent. Other
10 current law, as you know, immigrants including
11 those who are unaccompanied and under the age
12 of 21 are not entitled to government provided
13 legal representation in immigration
14 proceedings. So what we do at Safe Passage is
15 we try to bridge this gap. Professor Lenny
16 Benson at New York Law School created Safe
17 Passage in 2006 to address these unmet legal
18 needs of indigent immigrant youth living in New
19 York State by creating what's really an
20 innovative pro-bono model. So to further
21 explain, this model works with children in
22 deportation proceedings where we screen these
23 children for immigration relief. We accept
24 their cases universally and place them with
25 pro-bono attorneys and law student advocates,

1
2 and then staff attorneys such as myself mentor
3 those pro-bono attorneys and law student
4 advocates to make sure that adequate competent
5 counsel is provided to these children. So to
6 explain our model a little more clearly, I want
7 to tell you briefly the story of one of our
8 clients. His name is Miguel and he is seven
9 years old. Customs and border patrol
10 apprehended him at the southern border of the
11 United States. He was taken to a juvenile
12 detention center and the Federal Government
13 interviewed him at age seven and learned that
14 his father was living in New York City. They
15 contacted his father, Jose. After several weeks
16 they released Miguel to his father and they
17 handed them a packet of papers explaining that
18 Miguel is now in removal proceedings and will
19 receive a letter that tells him that he must
20 appear in immigration court in Manhattan. These
21 papers explain that if Miguel does not attend
22 the Department of Homeland Security can order
23 him deported. On the day of his hearing, he and
24 his father traveled to downtown Manhattan.
25 Miguel is in the court room. He wears his best

1 shirt and his jeans are clean and nicely
2 pressed. He grips the arm of the courtroom
3 chair and his feet do not touch the ground. He
4 is so small, but he still looks up at the
5 immigration judge when she speaks to him and
6 she speaks to him slowly and kindly. He looks
7 at his interpreter to understand what she's
8 saying to him. The judge is asking where his
9 father is, why he's not in the courtroom with
10 Miguel today. And through a little bit of
11 conversation, the judge learns that his father
12 is afraid to come into the courtroom because
13 his father does not have his papers. His father
14 is outside. The scene is repeated with several
15 variations, small variations every day in
16 immigration court here in New York. DHS, the
17 Department of Homeland Security has apprehended
18 more than 24,000 children in the fiscal year of
19 2012 and as we heard before, this number is
20 tripling, essentially. The on the record
21 testimony by DHS is that 60,000 children will
22 be apprehended this year alone. Some of these
23 children will be detained and most will be
24 released to family members, and as we have
25

1
2 heard many of those family members are here in
3 New York. So despite the vulnerability of these
4 children, they are not afforded legal counsel.
5 Over 12 percent of the New York Immigration
6 Courts docket, so more than 6,000 cases
7 involved juveniles, and this number of children
8 placed in removal proceedings is growing other
9 parts of the country as well. So what we found
10 at Safe Passage is that nearly 80 to 90 percent
11 of the children that we meet in court qualify
12 for some type of immigration relief. If those
13 children have adults who are willing to assist
14 them to secure such status. And that status is
15 often special immigrant juvenile status which
16 requires a proceeding in Family Court as well.
17 So when we staff the removal docket, the
18 juvenile removal docket in Immigration Court,
19 we bring approximately 10 law students, 10
20 volunteer interpreters and 10 to 15 volunteer
21 attorneys to interview these children. Based on
22 these interviews and follow up interviews if
23 necessary, we then recruit pro-bono attorneys
24 to help secure immigration status for this
25 child. We've been successful in our first year.

1
2 We've screened 215 children and placed over 60
3 percent with pro-bono counsel. So just to
4 finish up, City Council support matters here.
5 Financial support would allow nonprofit
6 organizations such as the ones here before you
7 to engage further in the mentoring of pro-bono
8 attorneys and deepen the skills of the 18B
9 panel attorneys. Those are the appointed
10 attorneys in Family Courts in New York who can
11 help children, to educate them further that
12 immigration does matter for these kids. This is
13 something that should be screened for and
14 there's ways to work together with immigration
15 lawyers to make sure that the best interest of
16 these children are indeed being met. So
17 strengthening safe passage along with other
18 nonprofit service providers to children would
19 make a huge difference in us making sure that
20 these immigrant youth have safe stable secure
21 lives here in New York. So it's basically an
22 area of law where attorneys who are experts in
23 family law, immigration law, as well as
24 international questions of custody and
25 guardianship. It means that our existing

1
2 programs, there aren't existing programs that
3 are adequately funded to help children with
4 these complex issues. There's jurisdictional
5 and procedural barriers, and in short, it's
6 complicated and we need more programs like Safe
7 Passage and more funding for programs to bridge
8 these gaps to make sure that children's best
9 interest are met. So thank you so much for your
10 time. More detailed testimony is provided for
11 you there. Thank you.

12 CHAIRPERSON MENCHACCA: Thank you so
13 much for that. You know, we--today's been so
14 great to really expose the multiple
15 constituencies but none other than the
16 children, our immigrant youth, it's just
17 incredibly devastating that we have that--that
18 we have that need for our immigrant community.
19 So thank you for that and again, like so many
20 of the nonprofits that are at this table, we're
21 going to continue to follow up on the exact
22 needs so that we can be able to articulate that
23 to the rest of the members and understand the
24 actual need that's out there. So thank you for
25

1
2 that. And then finally we have--I think that
3 might be it, right? Is that it? Okay.

4 UNKNOWN: [off mic]

5 CHAIRPERSON MENCHACCA: Hold on.
6 We're going to go into Q and A. So we're going
7 to allow our Council Member Ritchie Torres to
8 ask our first question.

9 COUNCIL MEMBER RITCHIE: No, I'm--
10 first, I'm strongly in favor of expanding
11 representation. I mean, I consider, you know,
12 immigrants facing deportation or other
13 struggles in the courts to be among the least
14 represented. So if we can have a role in
15 bringing equal justice, I can't--it's hard to
16 imagine a cause more important. But we're
17 focusing mostly--I'm just curious to know your
18 thoughts on--you know, when I went, when we
19 took the tour of immigration court, I noticed
20 that the judge made a real effort to ensure
21 that the respondent could keep up with the
22 proceedings, could keep pace with the
23 proceedings despite language barriers, and
24 we're largely--our conversation is largely
25 focusing on lawyers, but I'm curious to know

1
2 what role can judges play in bringing--in
3 rectifying the legal disparities in our court
4 systems?

5 ANNE PILSBURY: Depends very much on
6 the judge, and I suspect your being there put
7 the judge on his best behavior.

8 CHAIRPERSON MENCHACCA: Can you put
9 your mic--

10 ANNER PILSBURY: I was just saying
11 it depends very much on the judge, and your
12 being there I'm sure put that judge on his or
13 her best behavior. We have some wonderful
14 immigration judges in New York, both at Varick
15 Street and at 26 Federal Plaza. We also have
16 some real stinkers, and it's you know, judges
17 cannot do all that much if the person has--
18 because so many cases, especially asylum cases
19 are very fact based, and judges are just in no
20 position to eek that out. Now, when they have
21 an LPR before them who is eligible for LPR
22 cancellation, a judge can usually identify that
23 issue. So it really very much depends on the
24 status of the person, the facts in the case,
25 how fact specific it is, whether they already

1
2 have legal status or not. You can't count on
3 the judges too much. Judge Burr was an
4 unusually conscientious judge. Judge Vidella
5 [phonetic] also is, who's at Varick Street now.
6 I don't know if that's who you saw, but I
7 wouldn't say the same of all the judges.

8 JOJO ANNOBIL: I also think the
9 culture also depends on the--I also believe the
10 culture depends on the quality of
11 representation as well, right? Because if you
12 are competent and you know what you're doing,
13 right, the judge basically is on his good
14 behavior most times, right, because he's know
15 you're competent, you know the rules and you'll
16 be making the necessary arguments, and so that
17 also counts in terms of changing culture. I
18 also believe that changing culture as was just
19 mentioned, sometimes depends on the judge,
20 right, and there are tough judges and there are
21 judges who also give you a lot of leeway to
22 make your case, and so again, competence means
23 going to court regularly if you have to appear
24 before someone, going there to see how the
25 judge rules on matters, how the judge conducts

1
2 his court, and that helps knowing what the
3 culture is and you basically work towards that
4 to make sure that you improve that culture.

5 CLAIRE THOMAS: The juvenile docket,
6 the judged typically don't wear robes and it's
7 a bit more of a child friendly environment, but
8 not all kids are on the juvenile docket.

9 There's too many kids essentially. So kids have
10 a normal court room dockets where it's the same
11 as it is for everybody else. So it really
12 depends.

13 COUNCIL MEMBER RITCHIE: Yeah, no,
14 and I imagine there's wide variation in the
15 caliber of judges. Do you know of any--and I
16 apologize for going off topic, but do you know
17 if any systematic attempts to train judges to
18 handle these cases more professionally, more
19 delicately? I mean, I imagine based on your
20 experience you have recommendations on how to
21 change protocols or standardized best
22 practices, or any thoughts on that? I know
23 it's a mouthful, so.

24 JOJO ANNOBIL: A lot of the judges
25 have been around for a very long time. They

1
2 come from different practice backgrounds. Some
3 of them were prior immigration lawyers, some of
4 them were federal, worked in the federal
5 system, but they also have regular trainings. I
6 know they have yearly trainings that they go to
7 where a lot of these issues that we are talking
8 about come up. I also know that some judges
9 have been removed from the bench because of
10 some conduct in terms of either the way they've
11 approached respondents, and so I believe that
12 the DOJ is very much in tune and looking at
13 these issues, because the bottom line is at the
14 end of the day, a judge is supposed to be
15 impartial. A judge is supposed to make sure
16 that justice is done, you know? And a lot goes
17 into these cases when you're in court and the
18 stakes are so high, you know, and it doesn't
19 help when the judge--the judges' culture is
20 just that you fail to file something so because
21 of that you can never file that paper in court.

22 MARK NOFERI: Responding to that
23 too. So there are trainings for the judges and
24 there's been more over the last few years.
25 There's been efforts like producing a bench

1
2 book that sets out the law for immigration
3 judges. In the current immigration reform bill
4 that passed the senate, there is even more
5 funding for trainings, for law clerks, for the
6 judges, efforts to help them do their job,
7 which is all to the better, but there's
8 something irreplaceable about having a lawyer
9 advocate for your interest that a judge simply
10 can't do from the bench in 10 minutes. There's
11 something about having a lawyer who's consulted
12 with you who's asking you questions, who's
13 hashing out the best arguments for you to make
14 your case or to be frank, if there's no way you
15 can make your case to tell you that as well, to
16 give you the best advice that you can get in
17 that situation. Another way of looking at it
18 is, you know, the system where judges advise,
19 that was essentially in place in the criminal
20 system. And the first half of this century
21 before Gideon versus Wainwright said that there
22 is, you know, it's an obvious truth that nobody
23 can makes his case effectively without a
24 lawyer, someone to stand up for you. If judges
25 could do it alone, we wouldn't have criminal

1
2 public defenders right now. And in some ways,
3 as people have said today, immigration cases
4 are even more complicated than that. So yes,
5 there is things that can be done with judges,
6 but I still think there is something about
7 representation that is uniquely valuable in
8 this situation.

9 CHAIRPERSON MENCHACCA: Thank you.
10 Thank you for your time today, and again,
11 thanks for really exposing the level of service
12 that is happening across the board with other
13 organizations right now in the courts and we
14 look forward to continuing that support across
15 the board really. So thank you so much. The
16 next panel I want to bring up includes Bitta
17 Mostofi, Lori Adams, Raluca Ortruli [phonetic]
18 Ortrolu [phonetic], Neena Dutta. [off mic]
19 Okay, if we can have Ms. Adams first? Unless
20 there was a pre-determined--do you want to go
21 left to right? Okay, okay. Make sure that
22 you're speaking into the mic and that it has
23 the red light is on.

24 LORI ADAMS: Great. Thank you. My
25 names is Lori Adams, and I'm the Managing

1
2 Attorney in the Refugee Protection Program at
3 Human Rights First, and I submit these comments
4 on behalf of Human Rights First and thank the
5 City Council for the opportunity. I would like
6 to highlight three effective models of pro-
7 bono, or sorry, legal representation for
8 immigrants, the first of which is pro-bono, and
9 this is just a drop in the bucket. There are
10 many forms of immigration representation and
11 I'm happy to hear the range of them being
12 discussed today. First, the pro-bono model.
13 Human Rights First uses this model to bring
14 attorneys from leading law firms together with
15 indigent immigrants, mostly asylum seekers who
16 need representation. We mentor the law firm
17 attorneys in that representation. Second, I
18 want to cover the collaborative model. This is
19 the immigrant representation project or the
20 IRP, which we've heard Jojo Annobil talk a
21 little bit about at the New York Immigration
22 Court at 26 Federal Plaza. We partner there
23 with other legal service organizations to run a
24 screening and legal representation program at
25 the New York Immigration Court. Through that

1
2 collaboration we can help with a broader range
3 of types of cases than anyone of the
4 organizations could handle independently.

5 Third, the fellowship model. Through a two year
6 renewable fellowship we have created a

7 screening and legal representation program just
8 for asylum seekers at the New York Immigration
9 Court. This model is successful because it

10 works within our existing program. It is
11 modeled on the IRP program, and it also has the
12 support of a small group of dedicated law firms
13 who have committed to taking the cases that

14 result from that more targeted screening. Each
15 of these is a different model for the screening
16 of cases and provision of legal services, but

17 for any case accepted by Human Rights First,
18 the attorneys who volunteer their time on those
19 cases are provided with training, mentoring and

20 support until the successful resolution of the
21 case. That support is key. Human Rights First

22 is a nonprofit, nonpartisan international human
23 rights organization that challenges America to

24 live up to its ideals, the representation of
25 asylum seekers in particular is based on an

1 international law concept and we hold that
2 close to our hearts. We run one of the largest
3 pro-bono legal representation programs in this
4 country for asylum seekers and other
5 immigrants. So this brings together, as I said,
6 volunteer lawyers together with indigent
7 refugees to protect their human rights by
8 representation. Working in close coordination
9 with those dedicated pro-bono attorneys at, you
10 know, some of the big law firms here in New
11 York City, we've historically won asylum in
12 over 90 percent of our cases. This is
13 dramatically higher than, you know, you've
14 heard the stats of the representation rates
15 generally. Many of our cases are venued here in
16 the New York City Immigration Courts. Our model
17 for providing free high quality legal services
18 to indigent asylum seekers in the Immigration
19 Court system is one model that works. Since
20 1992, with the support of the fund for new
21 citizens at the New York Community Trust, we've
22 also been running a legal services and referral
23 project at the New York Immigration Court.
24 This is the IRP. Human Rights first
25

1 collaborates with other legal services
2 organizations, namely the Legal Aid Society,
3 Catholic Charities and the Huber [phonetic]
4 Immigrant Aid Society to provide comprehensive
5 screenings of individuals in removal
6 proceedings and then to provide free legal
7 representation to a number of those
8 individuals. This is the longest running
9 screening project of its kind in the country.
10 So we're thrilled to hear about the new
11 initiatives, but there is an existing model
12 just down the road as well for the nondetained
13 docket. The immigration judges and
14 administrative staff at the New York
15 Immigration Court recognize the value of the
16 IRP and they provide space in the same floor as
17 the court rooms for the screening of those
18 cases to take place one week out of every
19 month. The success of the IRP has also allowed
20 us to leverage that into another project called
21 the ARP, the Asylum Representation Project, and
22 this is the two year renewable fellowship that
23 is allowed us to increase by one day per month
24 the screenings that we do at the Immigration
25

1
2 Court and to place those cases with dedicated
3 pro-bono counsel. So moving along, time is
4 flying by. But I did want to say that in
5 addition to the cases we take on each year,
6 asylum in other cases on the non-detained
7 docket can often take three plus years,
8 sometimes much longer. So we're always working
9 on cases taken on in prior years as well. I
10 think this is a key factor when evaluating the
11 success of any model to know that those numbers
12 are not just the numbers of cases accepted at a
13 given point, but the number of cases
14 represented by a program over the very long
15 term. I'm also a member of the study group on
16 immigrants representation led by Judge Robert
17 Katzmann, who testified first, and with his
18 encouragement we were able to expand into that
19 IRP project. So, the partnership of the various
20 organizations, judges, law firms has been key
21 to that collaboration as well. It would be
22 interesting to explore whether additional
23 sources of funding might make it possible to
24 hire more attorneys to further expand on the
25 collaborative model of the IRP or the ARP.

1
2 Government funding might allow some of our
3 partner organizations to expand their work on
4 behalf of immigrants and removal proceedings.
5 Human Rights First does not accept government
6 funding, but this is an idea that may be of
7 interest to foundations or private donors as
8 well. And regardless of the source of the
9 funding, the capacity to hire additional staff
10 attorneys or fellows would allow us to expand
11 the schedule to provide more screening days
12 each month on the non-detained docket at 26
13 Federal Plaza and that can help families of New
14 Yorkers who have one member of the family in
15 proceedings there. And just to reiterate that
16 screening is a crucial first step, but the
17 mentoring the in depth representation on those
18 cases is key. So any funding model should
19 include the hiring and funding for experience
20 immigration attorneys, train the screeners to
21 provide the representation and/or to train and
22 mentor pro-bono attorneys in that
23 representation. So I would just--the rest is
24 in my written testimony, but I just wanted to
25 say again I'm grateful to the New York City

1
2 Council and its committee on immigration for
3 this opportunity to testify about effective
4 models for providing legal services to indigent
5 immigrants in proceedings and look forward to
6 further discussion of this important topic.

7 Thank you.

8 CHAIRPERSON MENCHACCA: Thank you so
9 much, and just for clarity, you mentioned that
10 you had a week--so you had a week screening per
11 month at your current levels of practice.

12 LORI ADAMS: Since 1992 the program-

13 -

14 CHAIRPERSON MENCHACCA: [interposing]
15 Since 1992.

16 LORI ADAMS: the program has one week
17 out of each month where we provide screening of
18 any indigent unrepresented person in the New
19 York Immigration Court.

20 CHAIRPERSON MENCHACCA: Right, okay.
21 And you're both courts?

22 LORI ADAMS: We're at--no, just the
23 New York Immigration Court just down the road
24 at 26 Federal Plaza.

25

1
2 CHAIRPERSON MENCHACCA: Federal
3 Plaza, gotcha. Thank you. And Ms. Bitta
4 Mostofi, please. Thank you.

5 BITTA MOSTOFI: Thank you, Chairman
6 and members of the committee for the
7 opportunity to testify before you today. My
8 name is Bitta Mostofi, I'm a senior attorney at
9 the Safe Horizon Immigration Law Project. Safe
10 Horizon for those who don't know is the
11 nation's leading victim assistance organization
12 and New York City's largest provider of
13 services to victims of crime and abuse, their
14 families and communities. We're very grateful
15 that the City Council is taking a look at this
16 important issue. Our immigration law project
17 has been in existence for over 25 years of
18 experience providng services to New York City's
19 immigrant communities with a specialization, as
20 I mentioned, in immigrant victims of domestic
21 violence, abuse, torture and other crimes.
22 With the help from New York City Council's
23 immigrants opportunities initiative and other
24 funders, we've been able to offer direct legal
25 assistance to over 1,000 clients each year in

1
2 many areas of immigration law, including
3 asylum, bower self [sic] petitions, u-visas,
4 deferred action for childhood arrivals, and of
5 course, defense in deportation proceedings. In
6 2013 alone we provided consultations,
7 referrals, hotline assistance, and direct
8 representation in proceedings for over 5,000
9 individuals from a very small office. SO you
10 can only begin to see what an increase in
11 funding and opportunity for service providers
12 that are already doing this work and really
13 grinding out as much as possible can do to
14 expand our reach and our capacity. As I said,
15 one of the things about our organization being
16 a crime victim's rights agency that makes us
17 unique in this is that we try to provide a more
18 holistic approach. We have the ability and the
19 capacity to receive referrals and give
20 referrals interagency to our shelters, to our
21 council, to our counseling services, to our
22 case workers and other legal services providers
23 including our attorneys in family court
24 proceedings. This allows us and creates a model
25 for us to complete our cases in a more timely

1
2 and efficient manner. However, clients find us
3 which is through many different avenues. It
4 takes an enormous amount of courage to self-
5 identify as an undocumented victim of a crime.
6 This is particularly true since the
7 implementation of the Federal Secure
8 Communities Program, which puts victims of
9 crime at significant risk of adverse
10 immigration proceedings. And while we do our
11 best to meet these needs it's just impossible
12 for us to really serve the community and
13 tremendous back log that we've heard, upwards
14 of 45,000 cases on the non-detained docket. But
15 by way of example, I want to just give you a
16 couple stories of my clients. So in 2012,
17 Diana, an immigrants from Columbia was a
18 witness to a brutal murder. When the killers
19 realized that she had seen the murder, they
20 chased her. She jumped out of a second floor
21 window, ran and hid underneath a truck until
22 she felt safe and could go to the police. Once
23 at the precinct she was placed under protection
24 for 24 hours and then proceeded to have to stay
25 within the precinct for eight days to provide

1 testimony and an account of what happened, and
2 then later to identify the perpetrators of the
3 murders. However, only two of the perpetrators
4 were actually caught, leaving two at large and
5 Diana at risk and fear of retaliation. So she
6 had to relocate. When Diana came to us she had
7 actually already been in immigration
8 proceedings for a number of years, but with
9 incompetent counsel and representation. Having
10 a number of different kinds of cases filed in
11 her behalf for which she was neither eligible
12 for nor should have had to pay the exorbitant
13 fees that she had been paying and the fees for
14 representation. We quickly identified that she
15 was eligible for a u-visa. We worked over
16 several months with the district attorney that
17 prosecuted the murder cases and eventually
18 secured a u-visa certification for her based on
19 her cooperation and witness to the murders. We
20 further motioned the court to return the case
21 from the individual docket to the master
22 calendar and had the case terminated and just
23 in December her u-visa was approved. She now is
24 working safely and prospering in New York City.
25

1
2 Another client of mine, Guiermo [phonetic] is
3 from Ecuador. He suffered years of abuse in his
4 home country because of his sexual orientation,
5 but after he was raped by police officers he
6 knew he would not survive is he remained there.
7 After entering the United States legally for
8 work he confided in a friend about what
9 happened and he was then introduced to a so-
10 called immigration expert. This expert provided
11 an asylum case for him filed at the asylum
12 office. Unfortunately due to the poor quality
13 of that filing, he was referred to immigration
14 proceedings. Because of the legal service
15 provider list that are given to clients,
16 Guiermo found his way to our office. We began
17 representation of Guiermo, preparing his asylum
18 case which can frankly take months to prepare
19 if you're going to do a good job, if not
20 longer, and we won his asylum case, thereafter
21 and most recently representing him in his
22 adjustment of status to that of a legal
23 permanent resident. He's now safe and
24 prospering in New York City. So we can't
25 emphasize the importance of these hearings, the

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2 gratitude we have of the council coming forward
3 on this issue so quickly and the Chair so soon
4 in your chairmanship, recognizing the need for
5 this kind of representation, and as you've
6 heard from different service providers, many of
7 us work together. Many of us make referrals to
8 one another. There is no shortage of clients
9 and there is indeed a competent base of
10 nonprofit and legal service providers that have
11 the ability to do much more than we currently
12 are doing if we're given the opportunity. Thank
13 you for this time.

14 CHAIRPERSON MENCHACCA: Thank you,
15 Ms. Mostofi, for that and just for elevating
16 the work that this, or I should say the
17 constituencies including the LGBT community
18 that is often not actually, not necessarily
19 lifted in conversations like this. And someone
20 who had been doing that so long in this work,
21 in the City Council, former Chair of the
22 Immigration Committee here at the City Council.
23 We've just been joined by Daniel Dromm here,
24 and I don't know if you want to say anything,
25 or? Who I continue to look to for guidance.

1
2 COUNCIL MEMBER DROMM: Just--well,
3 thank you very much. Just very quickly. I'm
4 sorry I haven't been able to attend the
5 hearing. I still intend to be an active member
6 of this committee, and I'm grateful that the
7 speaker placed me on this committee, but I'm
8 hearing a Education Committee next door so I
9 can't stay. As the Chair of--as the new Chair
10 of the Education Committee I have to return
11 over there, but you are in very good hands here
12 with our new Immigration Chairperson, Carlos
13 Menchacca. So thank you all and I do look
14 forward to coming to future meetings as well,
15 future hearings. Thank you.

16 CHAIRPERSON MENCHACCA: Thank you
17 Council Member. And let's move through the
18 testimony. If we can have Ms. Neena Dutta?

19 NEENA DUTTA: Good afternoon. My
20 name is Neena Dutta. I'm representing the
21 American Immigration Lawyers Association, the
22 New York Chapter. Chairman Menchacca, the AILA
23 Chapter commends the New York City Council for
24 considering and examining models for providing
25 legal services to immigrants in deportation

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2 proceedings. We applaud City Council for its
3 leadership with this issue, especially for
4 allocating 500,000 dollars in seed money to the
5 New York Immigrant Family Unity Project which
6 launched in 2013. We believe that ensuring high
7 quality legal representation for foreign
8 nationals in immigration court will help keep
9 families together and strengthen New York's
10 economy and ensure the immigrants have a fair
11 day in court. As stated in our testimony of
12 December 17th, 2013, immigration law is a
13 highly complex specialized practice involving
14 many agencies, many forms, many possible
15 benefits, many penalties and grounds that
16 trigger those penalties, many regulations,
17 statutes, agency manuals, memoranda and
18 abstract legal concepts and principles that
19 govern every aspect of the practice. An
20 immigration case may involve a great deal of
21 time, money, and an adverse result can result
22 in banishment from the US, permanent separation
23 for families and removal from the potentially
24 life threatening--sorry, to potentially life
25 threatening conditions. Thus, the US Supreme

1 Court therefore also stated that the ability to
2 remain in the United States may be more
3 important than any potential jail sentence,
4 which is why legal representation in criminal
5 proceedings must now include immigration
6 advice. The need for quality accessible legal
7 representation for immigrants is critical in
8 New York. With increase in Federal Immigration
9 Enforcement, the number of New Yorkers facing
10 deportation has risen significantly. As
11 reported by a widely used online immigration
12 court back log tool as of January 2014 there
13 were 49,539 cases pending in New York
14 Immigration Courts, representing almost twice
15 the number of cases at the end of 2008. As
16 documented by a report issued by the New York
17 Immigrant representation study in 2011, nearly
18 15,000 New Yorkers in removal proceedings, 27
19 percent of those were not detained, and even
20 more dramatically 60 percent of those were
21 jailed in detention did not have counsel by the
22 time their cases were completed. However, the
23 report found that those who did receive legal
24 representation are ten times more likely to
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2 obtain a successful outcome in immigration
3 court. I see my time is up, but just to
4 summarize, I've been here through the entire
5 proceeding and you can read the rest of my
6 testimony. You've asked repeatedly, you know,
7 what can we do, what are the major factors.
8 There's a huge amount of fear in the
9 communities and people go to Netarios
10 [phonetic], they go and get the worst
11 representation for themselves possible.
12 Education, working together, we all try to work
13 together and with our organization as well as
14 other attorneys who devote their time, give
15 pro-bono hours, give the outside of work
16 countless hours, we can certainly do as much as
17 we can, but a program like this will certainly
18 help to aid immigrants and will hopefully help
19 to reduce the back log and make sure that
20 people are properly represented. Thank you.

21 CHAIRPERSON MENCHACCA: Thank you for
22 that testimony, and for that, again, commitment
23 to working together as a team. I--we'll come
24 back to this, but we'll definitely want to
25 follow up on your testimony really looking at

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2 how terminology is important and it's
3 interesting that you--that you mentioned
4 remove, or I should say moving away from
5 immigration services and really just legal
6 advice, and so maybe that will play into how we
7 think about what we're offering and how people
8 receive it in the communities. So it'd be
9 interesting to continue that piece of the
10 conversation from the testimony that you
11 provided. So thank you so much. And our final
12 member of the panel, and I want to be very
13 thankful for your time and patience, and this
14 has been an incredibly long hearing but I--this
15 really I think in so many ways requires us to
16 kind of see the full depth of each of these
17 cases that we're going to be following up on.
18 So thank you. And so Ms. Raluca Oncioiu. And
19 the writing--can you say your last name for me?

20 RALUCA ONCIOIU: It's Oncioiu. It's--

21 CHAIRPERSON MENCHACCA: Oncioiu.

22 RALUCA ONCIOIU: It's very hard to
23 pronounce, so please don't feel bad.

24

25

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2 CHAIRPERSON MENCHACCA: Oncioiu,
3 okay, that's a "n", great. Thank you so much,
4 Ms. Oncioiu. You have the floor.

5 RALUCA ONCIOIU: Thank you. Good
6 afternoon and thank you for this opportunity.
7 My name is Raluca Oncioiu. I'm the Director of
8 Immigration Legal Services and New York State
9 Immigration Hotline, actually, I'm sorry,
10 formerly known as the New York State
11 Immigration Hotline, now known as the New
12 Americans Hotline, a Catholic Charities
13 Community Services Archdiocese of New York.
14 For more than four decades Catholic Charities
15 Community Services has worked with immigrants
16 in a variety of ways. We've helped with them
17 with asylum applications. We work with victims
18 of domestic violence. We--sorry. We help them
19 apply for naturalization. We help those about
20 to be deported to apply for a 10 year
21 cancellation of removal when that's the last
22 remedy available. A special concern to us in
23 another population that was mentioned earlier,
24 the unaccompanied immigrant minors with whom we
25 work. At two facilities where they're being

1
2 detained in Westchester County, but what's
3 important to know is that these minors go to
4 court in our court at 26 Federal Plaza and also
5 unaccompanied minors who are held all over the
6 country in facilities when they're reunited
7 with custodians or adults, they are reunited, a
8 lot of them in the New York area, and we
9 continue to work with them when they are
10 reunited. The first thing that I'd like to do,
11 and I think it's sort of appropriate that I'm
12 the last speaker, just because my major
13 recommendation is in having working on, having
14 served on the study group on immigration
15 representation that Judge Katzmann convened,
16 what I saw that study group do I would hope
17 would serve as a model to further, to take this
18 conversation that we're having today a step
19 further. So what Judge Katzmann did is he
20 called together this study group which was a
21 collaboration of immigration scholars and law
22 professors, private immigration lawyers,
23 nonprofit agency representative and
24 practitioners, bar associations members,
25 Federal Court and Immigration Judges, law

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2 clinics, and their first mission was to
3 document the lack of access to representation
4 by foreign born New Yorkers in removal
5 proceeding. Their second--the second mission
6 they were charges with was to propose a
7 solution to this crisis, and it's in the second
8 step that I had the honor and the privilege to
9 work with the study group. We worked for
10 almost one year to develop a solution, which
11 ended up being a public defender model for
12 foreign born New Yorkers who are detained and
13 face removal proceedings. They New York City
14 Council had the vision to actually take this
15 proposed solution and fund it as a pilot
16 project, and that is now the New York Immigrant
17 Family Unity Project. The recommendation I'd
18 like to share is that in developing a
19 comprehensive model for providing legal
20 services to all New Yorkers, whether they are
21 detained or non-detained should take a similar
22 approach. If it would be possible for New York
23 City Council to also convene a similar group
24 that's drawn from nonprofits, board of
25 immigration appeals agencies, pro-bono

1 immigration programs, law clinics and so forth
2 and charge that group with examining the
3 programs that are already existing that many of
4 our colleagues spoke about. There are many
5 models of representation that are already out
6 there and many resources that have been poured
7 into them for decades. And it would be very
8 important to take these into account in
9 developing anything comprehensive going
10 forward. These existing programs, which include
11 the IRP, Immigration Representation Program
12 that my colleagues from Human Rights First and
13 Legal Aid have spoken about, the juvenile
14 dockets that Safe Passages Program works with,
15 the legal orientation program and many others
16 have a lot to offer, including they already
17 have expertise in particular areas of removal
18 defense. Many of them work with specific
19 populations such as unaccompanied minors or
20 asylum seekers. They also have knowledge about
21 what works and what doesn't in a provision of
22 legal services. They have established
23 relationship with the local immigration courts
24 and with Department of Homeland Security, for
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2 example, by going to regular liaison meetings.
3 They also have economies of scales and systems
4 for leveraging scarce resources to serve more
5 immigrants. We already heard about the pro-bono
6 program, the pro-bono model that Human Rights
7 First uses. Catholic charities works with law
8 clinics to provide more services. They have
9 effective screening mechanisms such as the
10 immigration representation program at 26
11 Federal Plaza in the juvenile dockets in the
12 legal orientation program, and most
13 importantly, a lot of these programs already
14 have funding streams including federal and
15 private funding that should be incorporated
16 into and not replaced by a comprehensive model.
17 My two colleagues have--and my time is up and
18 my colleagues have already described the work
19 of the IRP project, the Immigration
20 Representation Project. I think it's important
21 to know that we've been in existence for more
22 than two decades. We were funded in 1992 with
23 generous funding from the New York Community
24 Trust to begin to address the unmet legal
25 representation needs of low income immigrants

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2 in removal proceedings. And as my colleague
3 already testified, with the resources that we
4 have, we can only provide screening for one
5 week per month at 26 Federal Plaza. Now,
6 through those screenings, I just wanted to give
7 you a synopsis of what we've done so far. For
8 the first 22 years of our existence we've
9 provided screenings and brief legal advice to
10 more than 19,700 immigrants and we've
11 represented more than 4,200 low income New
12 Yorkers facing removal proceedings. In our
13 last funding cycle we accepted 136 new cases
14 for a presentation, but at the same time also
15 completed work on 195 cases that had been
16 retained in previous years. We also provided
17 more than 600 legal consultation. I think this
18 collaborative model is very important to look
19 at because it brings together this particular
20 model nonprofits that have different areas of
21 expertise. Human Rights First, their expertise
22 is asylum. Legal Aid Society, consequences of
23 criminal convictions. Catholic Charities does
24 some of the other type of immigration cases,
25 family reunification, cancellation cases, under

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2 the violence against women act and so on. We
3 also have different service delivery models.
4 Some of us, all of us do some level of in house
5 representation. Others work with pro-bono
6 programs, law clinics, law student interns and
7 volunteer attorneys. So we have a
8 representation system between the three of us
9 that in different ways work together to ensure
10 continued capacity to conduct screenings, take
11 new cases and sustain the work on the existing
12 cases. I would say that this model can be
13 enhanced, expanded, replicated or incorporated
14 into a larger scale model for providing legal
15 services to low income New Yorkers in removal
16 proceedings. And I want to thank you very much
17 on the behalf of Catholic Charities, but also
18 the Immigration--the IRP program and of all the
19 other agencies that were able to come here
20 before you today for the opportunity to testify
21 and also we're hoping that this is the first
22 step in actually all working together to come
23 up with a solution that's comprehensive and
24 takes into account what already exists. Thank
25 you.

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2 CHAIRPERSON MENCHACCA: Thank you
3 again for your testimony and continued support
4 not just for the model itself, but the
5 expansion of the model, for the expansion of
6 the review that we all need to do across the
7 spectrum of services that are happening and so
8 for me it's just been an incredible education
9 to get into the world and there's nothing like
10 one small topic to expose the entire system,
11 and so I--you're probably not surprised, but I
12 am not overwhelmed. I am very invigorated by
13 this conversation and thank you to the panel.
14 We're going to have another panel come up, and
15 beyond this last set of four--is this the last
16 four? So we're in our final panel, and I just
17 want to say thank you again for everybody who's
18 been here since the beginning to really kind of
19 understand the collective thought process of
20 not just the folks that are part of the
21 project, the Family Unity Project, but everyone
22 that's been working on immigration work and
23 services and legal defense for our community.
24 So the last panel will include Ms. Camille
25 Mackler, Ms. Laurie Rudsu--or Izutsu? Sorry.

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2 Ms. Lynn Ventura and Ms. Irina Matiychenko--
3 Matiychenko. Okay. I hope I got those last
4 names right. And really, the other pieces you
5 guys are getting settled in is to make sure
6 that you all know how important this work is
7 for a city council member, but really without
8 the incredible staff that we have here,
9 Jennifer and Joleen here who have been on the
10 dais and all the rest of the staff here, Lee
11 and Vlad [phonetic] and others that have been
12 part of this process. I'm incredibly thankful
13 to them for making all preparations for this
14 first hearing. So I just want to publicly thank
15 them for their work. Thank you. So we're going
16 to start with Ms. Camille Mackler.

17 CAMILLE MACKLER: Good afternoon.

18 CHAIRPERSON MENCHACCA: Great, thank
19 you.

20 CAMILLE MACKLER: My name is Camille
21 Mackler, I'm the Director of Training at the
22 New York Immigration Coalition. I'm also an
23 American Immigration Lawyers Association
24 member, Co-Chair of the Advocacy Chapter, and I
25 was formerly a private practice attorney

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2 representing clients before the immigration
3 court, many of them were detained. So we want
4 to thank the City Council for having this
5 hearing today, this very important and crucial
6 issue and one that is very near and dear to my
7 own heart because of my background and also
8 because of the work that we do at the
9 coalition. The coalition has about 200 member
10 organizations throughout the state that
11 represent our immigrants communities. Many of
12 them do legal representation, and I personally
13 work with many of our legal service providers
14 across the state. I run a training program
15 there where we try to teach on immigration law
16 and also create networks for our providers and
17 act as a liaison to the immigration agencies to
18 help resolve cases. I'm not going to go over
19 what is in my written testimony and what's been
20 heard over and over again today, which is the
21 incredible need for representation in
22 immigration court. We all know the discrepancy
23 of--and the results between detained and non-
24 detained and represented versus non-
25 represented. It is incredible to think that in

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2 a setting which is supposed to be civil and
3 administrative in nature really the penalties
4 are far harsher than even in the criminal
5 context. I can tell you of client who were here
6 since they were teenagers who are no exiled
7 from their families forever because of the
8 outcomes of our immigration system. Immigration
9 law is incredibly complex. It needs lawyers. It
10 needs representations to guide anyone, even my
11 colleagues who are not court room lawyers but
12 are immigration lawyers may not want to take an
13 immigration court case because although they
14 are versed in immigration law, the stakes are
15 so high and the knowledge is so specialized.
16 For that reason we believe that programs such
17 as we've heard today are incredible and
18 groundbreaking. The idea of providing
19 representation and when you have to think that
20 courtrooms are scary to anyone, think if you
21 couldn't even understand the basic language,
22 not the terminology, the language in which the
23 proceedings are being held. We strive to create
24 networks and we think that that is something
25 that must be, that is important to consider as

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2 we move forward, not just for funding, for the
3 representation, although of course it is
4 crucial, but also the training, the ongoing
5 training, something that we do a lot of at the
6 New York Immigration Coalition, of course, but
7 also the support systems that must be in place
8 for the attorneys so that they have networks
9 availabilities, listers [phonetic] anything to
10 sort of be able to work together to provide the
11 best representation possible. I'm a little lost
12 in the time that I have left, and I don't want
13 to keep taking more of the council's time. I do
14 have it all in my written testimony. We look
15 forward to continue to work with the City
16 Council to provide this crucial benefit to
17 immigrant New Yorkers and to their families.

18 CHAIRPERSON MENCHACCA: Well, thank
19 you, and the coalition continues to be a
20 resource for us here and we are very thankful
21 that you're here to testify, and as we continue
22 to move forward, like you said this is just one
23 piece of many, many components but we're--we
24 can't even communicate with the defendants in a
25 court room, this is why we're here, and thank

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you for your testimony. Ms. Irina Mattech--can you say your last name for us?

IRINA MATIYCHENKO: Matiychenko.

CHAIRPERSON MENCHACCA: Okay.

Wonderful. Almost there. Almost there. If you can speak into the mic and if it has a red light on, you're good to go.

IRINA MATIYCHENKO: Good afternoon and thank you for this exceptional hearing. I have to say that it has been great in all respect except that it's really hot in here, but otherwise it's great and it's very productive and it's very comprehensive.

CHAIRPERSON MENCHACCA: Can we open up some windows in here?

IRINA MATIYCHENKO: Probably it's too late. I was supposed to have been first panel to address this. But my name is Irina Matiychenko. I'm the Director of Immigration Protection Unit of New York Legal Assistance Group. This is not for profit legal service. They provide assistance on all immigration issues including representation of people who are victims of domestic violence,

1 naturalization, adjustment of status. We are
2 known for our class action. We represent people
3 who are in removal proceedings in immigration
4 courts and before the Board Immigration appeal.
5 Totally we represent more 2,000 people, 2,000
6 immigrants in various immigration issues. Three
7 years ago we took over actually a pre order of
8 New York State and for order of immigration--
9 sorry. Judge Cocknick [sic] was appointed as a
10 receiver in a case that was closed by huge law
11 firms. It was closed general by providing for
12 providing fraudulent assistance to immigrants.
13 And just being at this hearing, I was thinking
14 that if this, all these folks and have reviewed
15 more than 10,000 cases, and if all these
16 folks had had access to appointed attorney
17 and would have never happened. All this
18 disaster, all this immigration cases that
19 were screwed up and in many cases people
20 haven't avoided costs. And also as a
21 practitioner, each time when they go to
22 immigration court for most their hearing,
23 I'm leaving with my heart broken because
24 each time I see how many people appear
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2 unrepresented and how many people were
3 removed as a result of their inability to
4 preserve a representation by counsel. As
5 you mentioned that sixth amendment doesn't
6 apply to immigrants in removal proceedings,
7 however is a immigrant enjoying rights and
8 the fifth amendment rights to have due
9 process in immigration court, in removal
10 hearings, but actually their rights
11 provides them to have a fair and--fair
12 hearing, but only on conditions that they
13 are able to secure representation by
14 counsel themselves. Which means that if--
15 I'm sorry.

17 CHAIRPERSON MENCHACCA: You can
18 finish. You can finish. Go ahead.

19 IRINA MATIYCHENKO: I just did it.
20 Sorry. It means that if they had means they
21 would be able to provide the--able to get
22 justice and I will try to be close to the topic
23 about model of representation. I think that the
24 best model of course to provide representation
25 by appointed counsel to all indigent minds, and

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2 today which you present only indigent or low
3 income clients. But meanwhile, if it's too--
4 wishful thinking, I have to acknowledge that
5 the first step in the right directions have
6 been done by City Council and we greatly
7 appreciate. The creation of this programs that
8 provide assistance to immigrants who are
9 detained and by creation of this program, you
10 actually created I see as a great example to
11 follow by all nations and also I think that
12 this example should be further extended to
13 provide assistance. Not only in the school and
14 in detention, but also to all indigent people
15 in the removal proceedings. Maybe first to
16 people who there's humanitarian claims, people
17 who claim--who apply for asylum, children,
18 victim of domestic violence, and we hope that
19 City Council with our assistance it will
20 happen. And this model becomes--it's not pilot
21 program, but become a permanent program in at
22 least in New York City. I have to say that I
23 have to compliment your choice of provider of
24 these services, even though to confess we have
25 also applied for this grant, but prior to your

1
2 choice of the Bronx Defenders and the Brooklyn
3 Defenders because it's very well deserved by
4 their reputation and by their great jobs they
5 are doing helping people who are in detention.
6 On the other side, we are also waiting for your
7 action and hoping for this that it would be
8 more program funding the representation for
9 people in the removal proceeding who are not
10 detained. We are doing everything to maximize
11 our assistance and the providers they said 36
12 percent people in the immigrants proceedings,
13 but trying to maximize use of pro-bono, low-
14 bono [phonetic] assistance and I have to say is
15 that we have been very successful in this. We
16 are also working with immigration court and you
17 called, actually raised very important issues
18 that immigration court has to be a very
19 significant player in creating the right model
20 for representation of people in the removal
21 proceeding, especially to those who are not
22 represented or represented if judge believes
23 that the person represented by ineffective
24 counsel. This right should be preserved by
25 immigration court judges. But knowing that my

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2 time has run out I just want to thank you again
3 for your great job and I hope to see--I hope to
4 be invited to testify on various immigration
5 issues, but thank you for moving in right
6 direction and thank you for securing fairness
7 and justice to people who are living in New
8 York and who need your assistance. Thank you.

9 CHAIRPERSON MENCHACCA: Thank you so
10 much, and really thank you for reminding us of
11 really the kind of continued theme of this
12 hearing is a sense of work that we need to do
13 not just for those who are detained but those
14 who are not detained but going through
15 proceedings, and this is really helpful for me
16 to understand the entire wrath of work that we
17 need to do on the legal services, and that's
18 not even--we're not even talking about social
19 services here. We're not even--and so there's
20 so much that you continue to express as the
21 need in the universe of work that is important
22 for us. So thank you so much and for your many,
23 many years in the organization's years of work
24 and I look forward to continuing to work with
25 you as I--

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IRINA MATIYCHENKO: Thank you.

CHAIRPERSON MENCHACCA: as the Chair of Immigration here at the City Council. So thank you. And now we're going to Ms. Izutsu?

LAURIE IZUTSU: Hi, I'm Lori Izutsu with Brooklyn Legal Services and--

CHAIRPERSON MENCHACCA: [interposing] You can move the mic up closer to you.

LAURIE IZUTSU: So I'm actually going to--I'm here with my colleague--

CHAIRPERSON MENCHACCA: [interposing] Okay.

LAURIE IZUTSU: Lynn Ventura who's from the Manhattan Legal Services and I'm going to have her begin.

CHAIRPERSON MENCHACCA: You're going to have her begin, great. Thank you so much.

LYNN VENTURA: Good afternoon. As Laurie mentioned we're both from Legal Services Office, part of Legal Services NYC which is the largest provider of civil legal services to the poor in the US. We have offices in every borough, and each of our offices has robust immigration law program. We thank the Council

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2 Members for giving us this opportunity. We
3 thank the Chair and we are recipients of IOI
4 money and we thank you for that as well. I'm
5 not going to repeat a lot of what's been said
6 today, I think because it's late and people are
7 sort of fading, but I just kind of want to talk
8 a little bit about some of the work that we've
9 done in our office and move onto what I think
10 is a good model. A lot of the stuff has been
11 said before. Early on in my career in Legal
12 Services, and this was right before 9/11, I
13 represented a client in detention in Varick
14 Street. I represented him there over the course
15 of a year, and the client lives in my
16 neighborhood. I see him to this day. We were
17 able to obtain a green card or a permanent
18 residence before the IJ. I see him to this day,
19 and he is one of the cases that I cite so much
20 when I speak to other people about the work
21 that we do. The client's wife is mentally ill
22 and she lost custody of their seven children.
23 He has custody of the children. The client's
24 also HIV positive. If the client had not been
25 represented 13 years ago when I represented

1
2 him, he would have been deported to the ivory
3 coast, possibly have died there, and his
4 children would be in foster care. And the
5 reason that he prevailed in his claim was not
6 because I'd like to think of myself as a pretty
7 smart lawyer, but it was really that we mounted
8 a defense. The client had a good defense that
9 he would never have been able to assert without
10 an attorney. In the prepared text that I've
11 given the city council I talk about how the
12 ninth circuit court of appeals and even Judge
13 Illito [phonetic] of the Supreme Court consider
14 immigration law extremely complicated and as
15 Illito referred to, a dizzying. It simply
16 impossible for an individual, somebody not from
17 this country, maybe not fluent in our language
18 to mount a defense at all. And, you know,
19 consequently as all of my colleagues this
20 afternoon have said, right to counsel really is
21 the goal. Right to counsel for detained and for
22 not detained as well. And it's an ambitious
23 goal, but big things are never achieved unless
24 you set a goal, and I think that that is a goal
25 that we as a community and we, speaking to you

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2 before the council should set. And the goal
3 should be universal access to legal services
4 for people in removal proceedings, detained and
5 not detained, and it may not happen overnight.
6 It's not going to happen overnight, but that
7 should be something that we think about.
8 Access to competent counsel, not No Dadios
9 [phonetic] and not, you know, fly by night
10 attorneys, people that have their heart in the
11 right place and that really want to do this
12 work. Fifteen more seconds. Culturally
13 confident--

14 CHAIRPERSON MENCHACCA: [interposing]
15 You can finish. Go ahead.

16 LYNN VENTURA: Yeah. Culturally
17 competent representation so that you know what
18 the culture of the client that you're
19 representing is, and accessible in the language
20 that is comfortable to the client. Easy access,
21 so one point of contact for an individual to
22 access legal services. There's a great study
23 that's been talked about today. Some of were
24 not part of it, but there's many organizations
25 in the city and I think that we can all pretty

1 much band together to try to achieve that goal.
2 Early intervention, if you see somebody at the
3 beginning, it's much better than if you see
4 them after they've had somebody else botch a
5 case after they spent 20,000 dollars to get
6 nothing. Buying and cooperation from the local
7 nonprofits. All of us are doing great work.
8 Some of us, most of us know about the work that
9 we're all doing, but we could probably
10 collaborate a lot better. Obviously funding to
11 achieve the call, and community education.
12 Regarding how not to fall into removal
13 proceedings, and there's ways to avoid it,
14 especially if you're a young person. There's a
15 lot of stop and frisk in the city still and
16 there are ways that we can educate young people
17 to avoid removal, including turn style jumpings
18 and things that are just youthful shenanigans.
19 And education with community leaders in
20 collaboration with community leaders so that
21 they can tell people in their community who is
22 competent to represent them and who isn't. And
23 finally, I just want to talk a little bit about
24 the special intention that should be given to
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2 domestic violence and crime victims who often
3 times will not identify this way because of
4 fear and because they've been traumatized, and
5 also the mentally ill. There are a lot of
6 organizations that provide services not only in
7 immigration but also in disability law and who
8 have social workers on site to be in removal
9 proceedings unrepresented is a terrible thing.
10 To be mentally ill, you have absolutely no
11 chance. We really want to thank the committee
12 for giving us this opportunity. I don't know,
13 Laurie, if you have some additional comments.

14 LAURIE IZUTSU: I just wanted to
15 mention the case of one of my clients as an
16 illustration of one of the survivors of the
17 domestic violence that our organization works
18 with, one of many. I do have one particular
19 client in mind who was somebody that was
20 unfortunately first abused in her home country
21 of Saint Vincent and, you know, throughout her
22 childhood and then came to the United States.
23 Unfortunately met a man who she married who was
24 a US citizen who was extremely physically and
25 emotionally abusive towards her, and this is

1
2 somebody who had also a teenage son. And this
3 man did agree to petition on her behalf so that
4 she could get a green card, however, at the
5 adjustment of status interview he sabotaged
6 that interview by deliberately, you know,
7 answering the questions inaccurately. So after
8 the interview this woman was placed in removal
9 proceedings. However, she didn't--she wasn't
10 aware of this because this person also kept the
11 mail from her. So she didn't see that notice to
12 appear at her removal hearing. So she was
13 ordered removed in absentia. And eventually
14 this, you know, this woman was able to hire an
15 attorney. She was a home health aide, as many
16 of our clients are and she made very little
17 money, but she was able to scrape together some
18 money from what little savings she had as well
19 as from members of the community, and paid this
20 lawyer several thousand dollars to help here
21 with a vow of self petition. He did file that
22 application for her, and the way he went about
23 it probably--it could have been done more
24 expeditiously and more comprehensively, but she
25 eventually did get approved for a vow of self

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2 petition and only after that did she come to
3 understand that she actually had a removal
4 order against her, and at that point the--she
5 could no longer afford to pay the attorney any
6 more money. She had tapped out. She had no, you
7 know, no one else to turn to for any further
8 funds and she was able to find us through
9 referral from one of our nonprofit partners.
10 And so when she came to us we were able to file
11 a motion to reopen her proceedings to stay the
12 removal and then to file a motion to terminate
13 her proceedings, and in the end the immigration
14 judge granted each of those orders, and so she
15 is now--we've since filed another adjustment of
16 status application on her behalf and she and
17 her son who is also at risk of removal are now
18 awaiting their adjustment of status interview,
19 and this is a fairly--it's a fairly straight
20 forward sort of case. It's not as complex as
21 some of the ones that you've heard about for
22 immigrants who are in detention, but this is a
23 woman who was not familiar with immigration
24 proceedings. She had been traumatized multiple
25 times throughout her life and there were other

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2 traumas and she was additionally a victim of
3 crime apart from the domestic violence, and
4 somebody who was, you know, continuous to this
5 day to receive mental health treatment for
6 post-traumatic stress disorder, and to have on
7 top of that this order of removal hanging over
8 her head made everyday life extremely stressful
9 to her. And so I think, you know, what I'm just
10 sort of echoing what other people have said
11 about the importance of having legal
12 representation not only for those individuals
13 who are in detention, but also non-detained
14 immigrants is just--is very important because
15 people--every immigrant has a story and we
16 can't even begin to fathom some of the
17 circumstances that these people have struggled
18 with on a daily basis, and so to give them--you
19 know, often times when they go to a legal
20 services organization, it's the first time
21 they're encountering somebody that actually
22 wants to help them and doesn't expect to get
23 paid, you know, doesn't want them--you know,
24 doesn't want anything from that person other
25 than to see them, you know, free of these

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2 removal proceedings. And so, again, I just
3 want to thank the members of the City Council
4 for inviting us here and for giving us the
5 opportunity to speak about this very important
6 issue.

7 CHAIRPERSON MENCHACCA: Thank you
8 again, and this--I mean, with this, this
9 concludes the final panel, and for someone who
10 is just kind of jumping in or I should say
11 diving into this world of immigration and the
12 work that this model has, or I should say the
13 exposure of the issue that this model has
14 allowed, it just goes to show how much vision
15 and with a little bit of seed money and some
16 data that we're going to be getting is going to
17 allow us to really transform this entire system
18 together. And so I look forward to continuing
19 this conversation with all of you. We are ready
20 to engage this budget process with, armed with
21 this information that we've gathered in this
22 hearing, with the support of our Council
23 Members who want to see this reformed as well.
24 We're going to be looking at the IOI funding.
25 We're going to be doing a lot of reflection

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2 about how we can take this opportunity to move
3 forward. And so just thank you to everybody who
4 stayed and testified. For anybody who hasn't
5 yet testify, doesn't want to speak but wants to
6 submit testimony, written testimony, make sure
7 that we see it, too, and if there's any--is
8 there any other thing that I have to say about
9 it? Okay. So with that, I want to officially
10 close the hearing unless my Council Member
11 colleague Antonio Reynoso wants to say
12 anything. No? Okay. Well, thank you again and
13 we look forward to working with you all. Thanks
14 to the Vera Institute for that data. We'll be
15 following up. And again, thank you to the staff
16 who put so much work in making this a
17 successful first hearing for me. Thank you.

18 [gavel]

19 LAURIE IZUTSU: Thank you.
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C E R T I F I C A T E

World Wide Dictation certifies that the foregoing transcript is a true and accurate record of the proceedings. We further certify there is no relation to any of the parties to this action by blood or marriage, and that there is no interest in the outcome of this matter.



Date 03/11/2014