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COMMITTEE ON IMMIGRATION

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

Of the

COMMITTEE ON IMMIGRATION

December 19, 2018
Start: 1:37 p.m.
Recess: 1:57 p.m.

HELD AT: COUNCIL CHAMBERS - CITY HALL

B E F O R E: CARLOS MENCHACA
Chairperson

COUNCIL MEMBERS:
DANIEL DROMM
MATHIEU EUGENE
MARK GJONAJ
ROBERT F. HOLDEN
I. DANEEK MILLER
KALMAN YEGER

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

1
2
3 Bitta Mostofi
4 Commissioner of the Mayor's Office of Immigrant
Affairs, MOIA

5 Steven Banks
6 Commissioner of the New York City Department of
7 Social Services, DSS; Overseeing the Human
Resources Administration, HRA and Department of
Homeless Services, DHS

8 Axel Rolando Harry Herrera
9 Speaking on Behalf of the Safe Passage Project

10 Amy Taylor
11 Co-Legal Director of Make the Road New York

12 Andrea Saenz
13 Attorney in Charge of the New York Immigrant
14 Family Unity Project, NYIFUP, team in Immigration
15 Practice at Brooklyn Defender Services, BDS

16 Sarah Deri Oshiro
17 Managing Director of the Immigration Practice at
18 Bronx Defenders

19 Terry Lawson
20 Director of the Family and Immigration Unit of
21 Bronx Legal Services, the Bronx Office of Legal
22 Services NYC

23 Rich Leimsider
24 Executive Director of the Safe Passage Project

25 Hasan Shafiqullah
Attorney in Charge of the Immigration Unit at the
Legal Aid Society

Lauren Reiff
Supervising Attorney at the New York Legal
Assistance Group, NYLAG

Franco Torres
Special Project Attorney at Catholic Charities

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

Camille Mackler
Director of Immigration Legal Policy at New York
Immigration Coalition

Marc Valinoti
Managing Immigration Attorney at Northern
Manhattan Improvement Corporation, NMIC

Anne Pilsbury
Director of Central American Legal Assistance

Persephone Tan
Associate Director of Immigration and Policy at
Asian American Federation

Carlyn Cohen
Chief Policy and Public Affairs Officer of the
Chinese American Planning Council

Jojo Annobil
Executive Director of the Immigrant Justice Corps

Bridget Crawford
Legal Director for Immigration Equality

[gavel]

CHAIRPERSON MENCHACA: We're going to get started in, in the next minute, so if you can find your seats. I'm Carlos Menchaca, Chair of the New York City Council's Committee on Immigration and I would like to recognize the members of our Committee who are here today right now, and I want to welcome Council Member Holden from Queens. This is our last immigration hearing for the year and it's allowing us to actually take stock of where we've come and where we will continue to go as we fight for the rights of our immigrant families. You know specifically our Committee today will focus on ways in which the need for legal representation in immigration court has changed since the inauguration of President Trump. Since the beginning of the presidential campaign Trump has made aggressive immigration enforcement a policy priority. Since his inauguration, they did not waste time, Trump and the new White House team have exposed their true nature though proposing xenophobic, xenophobic measures that we knew... that we know are designed to fuel white supremacy policies. He has used every tool at his disposal; executive orders, rulemaking and agency guidance to radically

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2 change the immigration landscape in this country with
3 the focus of removing through deportation and
4 detention our black and brown immigrant neighbors.
5 Trump wants a whiter America, an America that is
6 ethnically cleansed. And this reality has shaken us
7 to our core. I feel this personally as a proud
8 Mexican American who grew up on the border in El
9 Paso, Texas, that watched the militarization of a
10 wall and as a gay man this administration has made
11 every attempt to strip protections of the LGBTQ
12 gender non-conforming community as well. In fact, we
13 are all, all feeling these changes on a personal
14 level and we will begin today by hearing from members
15 of our community about their experiences under this
16 administration. It was almost two years ago that a
17 rushed executive order led to what is now known as
18 the Travel Ban and many of you outraged protested,
19 organized that protest against the cruel and ill-
20 conceived policy at JFK and across the country at
21 other air ports. Because of the court challenges and
22 the public outrage of this... at this Islamic phobic
23 policy we witnessed the President issue a new
24 executive order tailored to avoid court objections
25 and we saw it upheld in the courts this last summer.

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2 In October 2017, Trump announced the rescission of
3 the deferred action for childhood arrivals, DOCA
4 jeopardizing the futures of more than 700,000 DOCA
5 recipients nationwide and at least 30,000 DOCA
6 recipients in New York City. Similarly, the
7 Department of Homeland Security under Trump has
8 failed to renew their temporary protected status, TPS
9 for Sudan, Haiti, Nicaragua, El Salvador, and
10 Honduras putting thousands of TPS recipients at risk
11 of falling out of status, many of whom have been in
12 this country let alone our city and surrounding area
13 for over a decade. In April of 2018 with the
14 announcement of a newly implemented zero tolerance
15 policy at the US, Mexico border, we heard of the
16 shocking family separation policy that has been
17 underway since at least October 2017 under Trump. We
18 sat in this same room and heard from the service
19 providers and the Mayor's Office about the
20 approximately 300 children who were removed from
21 their parents at the border and sent to foster care
22 agencies here in the city. To this day it remains
23 unclear if every child has been returned to their
24 parents and it has... recently as of November 27th
25 ProPublica reported that there are at least 16 new

1
2 child separation cases in New York City and the
3 number of unaccompanied minors continues to grow.
4 Simultaneously we are seeing a rise in immigration
5 enforcement as Trump used executive orders to discard
6 previously established criteria that limited
7 removals. In the first eight months of the Trump
8 Administration, Immigration and Customs Enforcement,
9 ICE, arrests rose 67 percent, the number of arrests
10 of individuals with no criminal convictions rose by
11 225 percent. Not only this but it is now commonplace
12 for ICE to detain individuals at administrative
13 check-ins, visa interviews, military bases,
14 workplaces, court houses, and in our own
15 neighborhoods. It breaks my heart every time I hear
16 stories that are coming out and this overenforcement
17 has become every day commonplace and it's that that
18 destabilizes our communities and so we ask what are
19 we doing as a city? Most recently we have a... we... most
20 recently we have experienced the harmful impacts of
21 the proposed public charge rule and by expanding the
22 categories of government programs that are grounds
23 for denying a green card or visa this proposed rule
24 penalizes poor immigrants forcing them to choose
25 between their wellbeing and being able to stay in

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2 this country... in this country lawfully. This rule
3 proposal has caused mass confusion throughout our
4 city with legal and social service providers
5 reporting a spike in calls from impacted individuals
6 and families asking for simple basic information. As
7 we can see from this brief retrospective, the
8 immigration landscape has shifted radically, the need
9 has grown dramatically, and it outstrips the services
10 that we have. Where we may have previously matched
11 the need under prior administrations however
12 unevenly, we are now in uncharted waters. How are
13 we, the city of New York preparing to continue the
14 long battle to protect the rights of our immigrant
15 families. I believe that we, the people, the people
16 of this great city of New York have a moral
17 responsibility to protect due process and the right
18 to counsel of all our neighbors, our immigrant
19 families. Every person must have the opportunity for
20 a fair day in court and data and research, research
21 show that represented individuals experience
22 exponentially more successful legal outcomes than
23 those without representation. Because individuals
24 with cases in immigration court are not entitled to
25 government appointed legal representation those who

1 cannot afford legal counsel may have no way to
2 adequately protect themselves in immigration court
3 proceedings and they may face serious consequences
4 such as separation from their families and
5 deportation from their home. This is unacceptable,
6 what is our city doing about this? And that's where
7 our legal service providers come in, they have
8 stepped up to this need and responded with tremendous
9 courage and perseverance against the impossible odds.
10 Many of our legal service providers are here today
11 and I thank you for being here today. Thank you for
12 the work tirelessly to fight against this federal
13 administration's cruel and discriminatory policies
14 and I thank you... and I thank you for fighting to keep
15 our communities and families together every single
16 day again going above and beyond. As the policies and
17 the guidance and the executive orders continue to
18 pile up and the legal landscape becomes more crowded
19 and convoluted, the need for legal expertise grows
20 exponentially and that's why we are here today. We
21 want to explore how the needs of immigration legal
22 services have shifted and how those needs have grown
23 and how we as a City Council can continue to support
24 the legal service providers and ensure that all
25

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2 immigrants, all immigrants, all our neighbors have
3 access to representation that they deserve. We look
4 forward to hearing testimony from the administration,
5 advocates and community members as we better protect
6 our immigrant communities from this indiscriminate
7 and rapidly growing deportation machine. And before
8 we begin with our first public panel I want to thank
9 our staff who put this incredible hearing together
10 and if you haven't read the, the briefing, this
11 briefing reads like a book, I mean it's a horror
12 story of course but it is really important to kind of
13 capture the actual understanding that we have today
14 and with the new data that we're going to get
15 presented today I think we're going to have a fuller
16 picture of the gap of services. And with that I want
17 to thank our Committee Counsel Harbani Ahuja;
18 Committee Policy Analyst Elizabeth Kronk; Finance
19 Analyst Jin Lee and my staff including my Senior
20 Advisor Cesar Vargas and Socheatta Meng my Chief of
21 Staff and Communications Director Tony Chiarito. With
22 that I also want to welcome Brooklyn Council Member
23 Mathieu Eugene and our first panel... oh, you know what
24 also we, we have to mention this, the breaking news,
25 I think all of you have probably received already but

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2 for folks who are listening online, just moments ago
3 news broke that a federal judge struck down Donald
4 Trump's policies that were designed to ban victims of
5 domestic violence or gang violence from seeking
6 asylum. Our courts are working. US District Judge
7 Sullivan ruled that the Trump policies were unlawful,
8 he also ordered that the administration... he, he also...
9 he ordered the administration to return to the US
10 asylum seekers who were unlawfully deported under the
11 policy so we're going to be welcoming back those who
12 have been deported. This is a major victory that
13 could help Sara and Henry, two of my Sunset Park
14 constituents who came here from Honduras escaping,
15 escaping awful gang violence. This legal win however
16 comes with challenges as these vulnerable groups of
17 immigrants mostly women and children from central
18 America who are seeking asylum under these grounds
19 will now be in dire need of legal representation
20 hence our hearing today. And I'm going to hold... I'm
21 going to bring the first panel; Axel Henry from Safe
22 Passage Project if you can please come on up and
23 Samantha Norris from the Safe Passage, Passage
24 Project, this is our first public panel and is there
25 a Christine Johnson in the room? Okay, thank you. And

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2 Axel you can start. Make sure the, the light is on,
3 the red light. Thank you for... [cross-talk]

4 AXEL ROLANDO HARRY HERRERA: Thank you.

5 Good afternoon, thank you to everyone for being here
6 and listening to me this afternoon. My name is Axel
7 Rolando Harry Herrera. I am 19 years old. I am from
8 Honduras from La Lima Cortes. I currently live here
9 in New York in the Bronx. In June I graduated from
10 Harlem Renaissance High School. Now I study in
11 Guttman Community College, I study human services to
12 be able to continue my goal of becoming a social
13 worker. I came to the United States in 2013, I
14 decided to immigrate from my country because there is
15 a lot of delinquency there and less chance of getting
16 ahead. Also, I had my mother here in the US, I wanted
17 to reunite with her because it had been seven years
18 since I last saw her. When I came, I was 14 years
19 old, it wasn't easy to separate from my grandparents
20 and make the decision to leave because I knew that
21 the trip was dangerous, but my biggest motivation was
22 to get ahead and see my mom. My first dream was to be
23 an actor and have the opportunity to be in the
24 theatre and to be in a movie where I could act, sing
25 and dance at the same time. Then with time I

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2 discovered other motivations to be a social worker
3 because I liked to communicate with and help people
4 just like they helped me. In August of 2014, my mom
5 and I contacted safe passage project. We went to the
6 office and they interviewed me. Afterwards they
7 called me to tell me that they found a lawyer who was
8 interested in my case. I felt happy, but I also felt
9 nervous because I knew that I was going to have to
10 tell my story, there were moments that were really
11 hard to express myself because a lot of hurtful
12 things had happened in my childhood but with time, I
13 established a trustful relationship with my lawyer
14 and she made me feel comfortable. I felt more secure
15 in court, with my lawyer I learned to feel more
16 confident in myself to tell my experience and respond
17 to the questions they asked me. More than giving me a
18 lawyer, Safe Passage gave me other opportunities to
19 know more youth like me who immigrated to the United
20 States and know their stories. Four years after my
21 first interview with Safe Passage I received a call
22 from them telling me that immigration had accepted my
23 application for permanent residency, I felt very
24 happy because therein I realized that all of my
25 efforts to come here were worth it. Being an

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2 immigrant without documents is not easy, one doesn't
3 feel part of the United States, sometimes I walked in
4 fear that I could be returned to my country. But more
5 than anything I thought about my grandma and the
6 possibility of never being able to go back and see
7 her. When I received that call, I remember that I
8 cried from the happiness. Now with my residency I
9 have more motivation to get ahead and excel, what I
10 thought was an illusion is now a reality. All of this
11 is thanks to Safe Passage for having helped me all of
12 this time in my immigration process and helping me
13 achieve my dreams. Thank you for listening to me
14 today.

15 CHAIRPERSON MENCHACA: [foreign dialogue]

16 AXEL ROLANDO HARRY HERRERA: [foreign
17 dialogue]

18 CHAIRPERSON MENCHACA: [foreign dialogue]

19 AXEL ROLANDO HARRY HERRERA: [foreign
20 dialogue]

21 CHAIRPERSON MENCHACA: Awesome, I just... I
22 asked a little bit about... I don't know if you want to
23 translate but I, I asked a little bit about... or
24 commented on, on the fact that the testimony really
25 focused on love for family and this is all what we're

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2 talking about, how to... how to... how to bring families
3 together and that kind of bond of love makes, makes
4 the world better and it, it forces us to, to be a
5 better, better world and, and that's what the core I
6 think of what we're trying to do here and what, what
7 work does he do with youth people that come to Safe
8 Passage that might not be so confident to come and
9 talk to a lawyer and, and I think his story is one
10 that talks about lawyers doing a lot of the work to
11 bring people in and make you feel like family and,
12 and that's, that's beautiful. Thank you. we're going
13 to move on to the administration and thank you for
14 being here today. We are... oh and before I do that, we
15 have Council Member Gjonaj from the Bronx here and
16 Council Member Yeger from Brooklyn, thank you so much
17 for being here today. So, if we can have Commissioner
18 Steve Banks and Commissioner Bitta Mostofi. We're
19 going to swear you in.

20 COMMITTEE CLERK: Do you affirm to tell
21 the truth, the whole truth and nothing but the truth
22 in your testimony before this committee and to
23 respond honestly to Council Member... to Council Member
24 questions?

25 STEVEN BANKS: Yes.

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2 BITTA MOSTOFI: Yes.

3 COMMITTEE CLERK: Thank you.

4 CHAIRPERSON MENCHACA: You may begin.

5 BITTA MOSTOFI: Thank you to Chair

6 Menchaca and members of the Committee on Immigration.

7 My name is Bitta Mostofi, I'm the Commissioner for

8 the Mayor's Office of Immigrant Affairs. I'm joined

9 today by Commissioner Steven Banks who will testify

10 about the Department of Social Services/Human

11 Resources Administration's Immigration Legal Services

12 program. Thank you very much for calling a hearing,

13 hearing on this crucial issue. The Mayor and the City

14 Council have made historic investments to promote

15 access to justice for immigrant residents. With these

16 investments and in collaboration with other city

17 agencies, legal service providers and community

18 partners, MOIA and HRA's Office of Civil Justice have

19 worked to address the legal needs of immigrant New

20 Yorkers at a time of, of acute crisis. As the Trump

21 Administration continues to attack immigrants on all

22 fronts, New York City's investment in immigration

23 legal services, which is the largest municipal

24 investment in our country's history, stands in stark

25 and proud contrast on the side of immigrant's rights.

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2 While today's hearing is about legal representation
3 and immigration court, we as a city have recognized
4 that the need for immigration legal services extends
5 beyond immigrants facing deportation. It is also
6 critical to provide representation for immigrants
7 filing family-based applications, applying for
8 citizenship or seeking affirmative humanitarian
9 relief. This is not only because a change in status
10 can provide an avenue to new economic and civic
11 opportunities, but also because naturalization and
12 regularization of immigration status can prevent
13 deportation and protect families from being ripped
14 apart. In today's testimony, I will speak briefly
15 about the need for immigration legal services in a
16 hostile federal climate, discuss the city's response
17 and give an overview of the success of MOIA's
18 immigration legal services program. In this second
19 year of the Trump Administration, we have seen an
20 assault on our immigrant communities and on the
21 immigration system as a whole. Our analysis of the
22 latest ICE data shows that the Trump Administration
23 ramped up its overbroad immigration enforcement
24 actions in 2018, total civil immigration arrests in
25 the New York City area are 88 percent higher over the

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2 last federal fiscal year than in the last year of the
3 Obama Administration. Even more shocking, arrests of
4 individuals in the New York City area with no
5 criminal conviction whatsoever is now 414 percent
6 higher than in the last year of the Obama
7 Administration. Moreover, through a set of regulatory
8 actions, the Trump Administration has made it... making
9 a more... even more complex and risky for immigrants to
10 apply for immigration benefits. With high processing
11 times at U.S. Citizenship and Immigration Services
12 and an ever-growing backlog in the immigration
13 courts, the federal government's actions have
14 highlighted the fact that our immigration system is
15 indeed broken. Legal services are crucial for
16 immigrants. But there is no right to appointed
17 counsel funded by the federal government for
18 immigrants, detained or non-detained, in immigration
19 court. Instead, the lion's share of immigration legal
20 services provided in New York City today is funded
21 through the historical investments of Mayor De Blasio
22 and the City Council. Access to high quality, trusted
23 immigration legal services can be the difference
24 between becoming a citizen and languishing in
25 detention. Immigrants who do not have access to

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2 immigration legal services are particularly
3 vulnerable to exploitation and to fraud. In response
4 to these challenges, the De Blasio Administration and
5 the City Council have invested historic amounts.
6 These investments and the hard work of our legal
7 service providers and community-based organizations
8 and partners, many of whom are here today, are what
9 make New York City a model for other cities across
10 the nation. Given the scope of the administration's
11 attacks on immigrants, the De Blasio Administration
12 and City Council have focused on funding the
13 provision of wide spectrum of services, which allows
14 us to respond quickly to the ever-shifting federal
15 landscape. The investments of the administration and
16 the Council work hand in hand in addressing some of
17 the deep problems plaguing our immigration system. In
18 Fiscal Year 2018, the De Blasio Administration and
19 the Council dedicated 48 million dollars in funding
20 with about 30 million as baseline funding from the...
21 from the administration, to a continuum of free legal
22 services programs for immigrant New Yorkers. Our
23 funding supports the provision of crucial and timely
24 information about immigrant's rights, support for
25 affirmative applications to adjust immigration status

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2 or naturalize, and legal representation to defend
3 against deportation. This includes city programs like
4 ActionNYC, the Immigrant Opportunities Initiative and
5 federal community services Block Grant fund services
6 at HRA as well as council funded programs like
7 NYIFUP, the Unaccompanied Minors Initiative/Immigrant
8 Child Advocates Relief Effort and others. This
9 funding structure provides great flexibility for the
10 city to respond to the new needs. For example, and as
11 Commissioner Banks will testify, the IOI program's
12 contracting model allows for rapid deployment of
13 staff and resources to address the continuum of these
14 legal needs from brief legal counseling to full
15 representation and removal in asylum cases. Of
16 course, the city and the Council are not the only
17 funders for immigration legal services. In
18 coordination with the Mayor's Fund to Advance New
19 York City and other sister agencies, MOIA has
20 engaged, engaged extensively with private funders to
21 support additional resources for our community
22 partners and to help address any gaps. Turning to
23 MOIA's work in this area. MOIA plays a critical role
24 in the provision of immigration legal services in the
25 city. We engage with providers, review data, monitor

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2 shifts in immigration policy to inform the city
3 investment and ensure that resources are being
4 allocated to respond to urgent needs. It is in this
5 role that MOIA is able to provide guidance to and
6 work in partnership with our sister agencies as we
7 survey the immigration legal landscape. As an
8 example, in the wake of the family separation crisis,
9 MOIA worked closely with DSS/HRA's OCJ to identify
10 further legal services needs for separated children
11 and... children and their families. In response, the
12 city announced an allocation of 4.1 million dollars
13 to provide assistance for migrant children, including
14 both unaccompanied minors and separated children in
15 our city. MOIA also operates two immigration legal
16 services programs in partnership with HRA: ActionNYC
17 and NYCitizenship. ActionNYC is a citywide,
18 community-based immigration legal services program
19 that provides access to legal services for residents,
20 as well as resources for providers to grow the
21 immigration services field. Immigrant New Yorkers
22 receive free, safe, and high-quality immigration
23 legal services in their community and in their
24 language. Through its citywide hotline, centralized
25 appointment making system and accessible service

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2 locations at CBOs, in schools and hospitals,
3 ActionNYC serves as an entry point for New Yorkers
4 seeking immigration legal services. For those who
5 need straightforward legal help, these providers
6 provide full legal representation in these matters
7 including but not limited to citizenship
8 applications, green card renewals, and TPS renewals.
9 When capacity permits, they provide full
10 representation in complex cases such as special
11 immigrant juvenile status and U visas. For legal
12 cases outside the team's scope of services or
13 capacity, ActionNYC connects clients to the city
14 funded programs such as IOI. MOIA also provides
15 connections to ActionNYC through outreach and Know
16 Your Rights programming. Responding to the need for
17 immigration legal services among New York City's hard
18 to reach immigrant populations, earlier this year
19 ActionNYC selected six additional CBOs to provide
20 services to underserved groups. ActionNYC has also
21 increased local providers' ability to provide high
22 quality legal services through a capacity building
23 fellowship started last year in partnership with the
24 Office of Economic Opportunity. Demand for ActionNYC
25 services has remained consistently high throughout

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2 the life of the program, including in Fiscal Year
3 2018. In 2018, ActionNYC providers screened about
4 8,600 clients at community-based sites, schools, and
5 hospitals. Of those clients, we found that the
6 majority had straightforward cases, about a tenth of
7 all cases were complex and about a quarter of
8 screened clients had no relief available. In Fiscal
9 Year '18, ActionNYC opened 5,600 cases and filed more
10 than 3,200 applications. New York Citizenship
11 provides free citizenship application assistance,
12 including screenings and full legal representation,
13 as well as financial empowerment services. MOIA
14 operates NYCitizenship in partner, partnership with
15 the Brooklyn, Queens and New York public library
16 systems, DSS/HRA, New York Legal Assistance Group and
17 the Mayor's Fund to Advance New York City. In FY '18,
18 NYCitizenship provided services at 12 public library
19 branches across all five boroughs. Through a
20 partnership with DSS/HRA, the program also offered
21 services to vulnerable populations, including seniors
22 and those facing health barriers such as disability.
23 In total, in, in 2018, New York Citizenship provided
24 legal screenings for about 1,700 immigrant New
25 Yorkers. As I have described, it is crucial to

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2 recognize that the need for legal representation for
3 immigrants stretches from removal proceedings to
4 assistance with naturalization applications. Across
5 this entire swath of need, MOIA has consistently
6 provided important policy guidance and leadership for
7 the Administration. MOIA works to identify needs and
8 trends based on changes in federal, federal law and
9 practice and we are committed to continuing to do so.
10 My colleague, Commissioner Banks, will speak to the
11 Office of Civil Justice's important work
12 administering additional immigration legal services
13 programs, including the Immigrant Opportunities
14 Initiative and the Council's crucial initiatives. I
15 want to thank Chair Menchaca for calling this
16 important hearing. I also want to thank the legal
17 service providers and community-based organizations,
18 our partners truly in the fight against cruel and
19 draconian federal immigration policies, for the
20 extraordinary work that you do day in and day out to
21 protect immigrant New Yorkers. Simply put, this work
22 would be impossible without the partners in the
23 field, many of whom are here today. The Trump
24 Administration's continuous attacks on our immigrant
25 communities have created a deep and enduring need for

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2 immigration legal services. Both the Council and
3 Mayor De Blasio have stepped up to help meet this
4 need and we look forward to working together with our
5 partners in the community and other stakeholders to
6 provide further resources for immigrant New Yorkers.

7 CHAIRPERSON MENCHACA: Thank you so much.

8 STEVEN BANKS: Good afternoon, thank you
9 Chair Menchaca and members of the Immigration
10 Committee for giving us this opportunity to testify
11 today. My name is Steven Banks and I am the
12 Commissioner of the New York City Department of
13 Social Services, which oversees the Human Resources
14 Administration, HRA and the Department of Homeless
15 Services, DHS. I would like to thank my colleague
16 Commissioner Mostofi and the Mayor's Office of
17 Immigrant Affairs for their partnership in this
18 essential work that this Administration has
19 undertaken to provide legal services for immigrant
20 New Yorkers. Before proceeding with the testimony for
21 this hearing, I'd just like to restate my remarks
22 from the testimony that I gave Monday before the
23 General Welfare Committee to address the extremely
24 troubling incident at one of our Brooklyn client
25 locations which culminated in the arrest of an HRA

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2 client. What happened at the Human Resources
3 Administration's DeKalb Center on Friday, December 7,
4 was completely unacceptable and should never happen
5 again in New York City. On behalf of our agency and
6 our dedicated front-line staff in all five boroughs,
7 I apologize to Jazmine Headley and her one-year-old
8 son and to the people of the City of New York for the
9 actions that were taken that day. As reflected in the
10 NYPD body worn camera videos, there were multiple
11 points at which this incident could have and should
12 have been defused. Last Monday, I placed two HRA
13 Peace Officers on modified duty with no client
14 contact. Consistent with their collective bargaining
15 agreement, last Friday I suspended these two officers
16 without pay for the maximum period of time and DSS
17 will file disciplinary charges against them that
18 could result in termination. Going forward, unless
19 there is an immediate safety threat, I am directing
20 that HRA Peace Officers shall not request the
21 intervention of the NYPD without first contacting a
22 Center Director or Deputy Director or her/his
23 designee to attempt to defuse the situation by
24 addressing a client need. Within the next 90 days,
25 DSS will conduct retraining sessions for all HRA

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2 Peace Officers, with an emphasis on techniques for
3 deescalating disputes in HRA Centers. Thereafter,
4 this enhanced training will be a mandatory annual
5 requirement for each officer. I intend to attend each
6 of these retraining sessions to speak to the HRA
7 Peace Officers about the importance of deescalating
8 disputes. DSS has directed the City's contracted
9 security services vendor to provide retraining
10 sessions for all security guards assigned to HRA
11 Centers, with an emphasis on techniques for
12 deescalating disputes at HRA Centers. Thereafter,
13 this training will be a mandatory annual requirement
14 for any contracted security officer assigned to an
15 HRA office. In addition to existing DSS customer
16 service staff training, DSS has requested and
17 received an OMB funding commitment to develop
18 implicit bias training for all 17,000 DSS staff
19 members to promote diversity in the workplace and
20 dignity-centered client services. Building on our
21 reforms through which 85 percent of SNAP/food stamps
22 applications and recertifications are submitted
23 online without the need for clients to even come to
24 an HRA office, HRA will continue to move forward with
25 expanding online access to cash assistance clients,

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2 subject to any necessary State approvals. Together
3 with the NYPD Commissioner, we will take the
4 following actions: The NYPD and DSS will develop a
5 protocol for determining appropriate instances in
6 which HRA Peace Officers in HRA Centers should seek
7 the assistance of the NYPD. The NYPD and DSS will
8 develop a protocol to deploy an NYPD supervisor to be
9 part of the NYPD response team for any such HRA
10 assistance requests. And finally, the NYPD and DSS
11 will develop a protocol for transferring control of
12 an incident to the NYPD when the NYPD arrives at an
13 HRA Center. Now I'd like to begin my testimony today
14 and focus on our continued commitment to immigrant
15 New Yorkers. It's important to me at a time when the
16 policies of the Trump Administration have become
17 increasingly inhumane and punitive, to unequivocally
18 restate our commitment to ensuring all New Yorkers in
19 need, including immigrants, have access to our
20 agencies' benefits and services. Each year HRA
21 addresses the needs of more than three million low-
22 income New Yorkers, including immigrants. This
23 Administration, in partnership with the City Council,
24 has made a historic and unprecedented investment in
25 legal services for immigrant New Yorkers, to

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2 dramatically increase access to a range of legal
3 supports through a variety of programs. At the same
4 time, the Administration and the Council have created
5 and fostered the infrastructure to allow the... our
6 City to respond quickly and forcefully to an
7 immigration legal landscape that changes often and to
8 meet emergent legal needs of immigrant families and
9 individuals in New York City. I am pleased to report
10 that New York City is a national leader in providing
11 access to justice for people in need. We work to... in
12 close partnership with our colleagues at MOIA and
13 with legal services providers and community-based
14 organizations to understand the legal needs
15 experienced by immigrant New Yorkers and to design
16 and implement the most effective service to quickly
17 respond to those needs. As Commissioner Mostofi said
18 we couldn't do this important work without the
19 tremendously important work of our partners in the
20 community, the legal services providers and
21 community-based organizations. One major component of
22 our effort is HRA's Office of Civil Justice. The
23 Office of Civil Justice was created in 2015 pursuant
24 to Local Legislation to oversee, manage and monitor
25 the City-supported civil legal services available for

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2 low income New Yorkers and other residents in need.
3 The establishment of the office coincides with New
4 York City's unprecedented investment in civil legal
5 services programs for New Yorkers at the start of the
6 De Blasio Administration 2014. This fiscal year, the
7 Administration committed 142 million dollars towards
8 civil justice programs at our Office of Civil
9 Justice. The De Blasio Administration's investment in
10 civil legal services in Fiscal Year 2019 includes 31
11 million dollars, 31 million dollars in legal services
12 for immigration legal services. This represents a
13 thirteen-fold increase in Mayoral funding for
14 immigration legal assistance programs since Fiscal
15 Year 2013, when it was 2.1 million. With this funding
16 the Administration supports programs that address the
17 variety of legal needs of immigrant New Yorkers by
18 providing access to high-quality legal assistance. As
19 you have heard from Commissioner Mostofi, the
20 ActionNYC program provides free, safe, and high-
21 quality immigration legal services to immigrant New
22 Yorkers in need, including free comprehensive legal
23 screenings for possible forms of relief at locations
24 across the City as well as Know Your Rights forums
25 and other outreach efforts designed to widely

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2 disseminate accurate and reliable information about
3 the immigration legal system, to reduce fraud,
4 misinformation and confusion in the community. At
5 HRA, the Office of Civil Legal Justice, the largest
6 and most expansive of our immigration legal services
7 programs is the Immigrant Opportunity Initiative or
8 IOI. Through this program, which was first
9 established through the award of discretionary
10 funding by the City Council, networks of nonprofit
11 legal providers and community-based organizations
12 conduct outreach in immigrant communities across the
13 city and provide legal assistance to primarily low-
14 income immigrant New Yorkers in matters ranging from
15 citizenship and lawful permanent residency
16 applications, to more complex immigration matters
17 including asylum applications and removal defense
18 work. Starting in Fiscal Year 2017, following an RFP
19 and a competitive bidding process for multi-year
20 contracts, the Administration increased our funding
21 for immigration legal services through IOI. IOI was
22 initially funded by the Administration at 3.2 million
23 annually, but in the spring of 2016, after working
24 with the Council, including the Chair, and in
25 recognition of the need for additional quality legal

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2 representation for immigrant New Yorkers facing more
3 complicated legal cases, IOI providers received
4 supplemental Mayoral funding of 2.7 million for... to
5 provide representation to 1,000 complex immigrant
6 immigration cases, including asylum applications,
7 Special Immigrant Juvenile Status or SIJS cases, and
8 U and T visa applications. Baseline Mayoral funding
9 for immigration legal services programs was
10 dramatically increased again in Fiscal Year 2018 and
11 the outyears to include 16.4 million in additional
12 baseline funding to respond to the pressing need for
13 representation in removal proceedings, support
14 assistance with seeking alternate forms of
15 immigration relief for Dreamers and other immigrant
16 New Yorkers, as well as to meet the increasing
17 challenges posed by a shifting landscape for federal
18 immigration law and policy. With this investment the
19 Administration has been able to continue to support...
20 our support for legal representation in complex cases
21 as well as dramatically increase the availability of
22 free legal representation in removal proceedings. The
23 flexibility of the IOI program has enabled the City
24 to provide additional funding to a variety of legal
25 services providers including community- and borough-

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2 based nonprofit legal offices and groups. These
3 partners specialize in providing legal services to
4 vulnerable populations such as children and domestic
5 violence survivors, as well as citywide legal
6 provider organizations, allowing for a rapid increase
7 in much needed service capacity. Particularly in
8 light of the ever-changing federal immigration policy
9 landscape, it is more important than ever to have a
10 nimble structure that allows us to stand up legal
11 services where they are most needed. The contracts
12 with the IOI service provider consortia that HRA
13 administers through the Office, Office of Civil
14 Justice allow for rapid deployment of funding and
15 staff and resources to assist the immigrant community
16 across the continuum of services, from brief legal
17 counseling to full legal representation in cases like
18 removal and asylum matters. In total, the City's IOI
19 program is funded at 22 million in Fiscal Year 2019,
20 including 19.5 million in Administration funding as
21 well as 2.6 million in Council discretionary grants,
22 and funds over fifty different nonprofit
23 organizations and legal providers serving immigrant
24 communities across the city. This funding is expected
25 to provide legal services in over 10,000 immigration

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2 matters this year, including legal representation in
3 approximately 2,500 removal cases in defense of
4 immigrant New Yorkers ensnared in the Trump
5 Administration's deportation machine. The
6 Administration's support for IOI includes a dedicated
7 4.1 million in Mayoral funding this year to help
8 address the legal needs of unaccompanied youth here
9 in New York City facing the threat of removal,
10 including legal help for those children separated
11 from their parents or loved ones at the southern
12 border by the Trump Administration. This funding was
13 finalized this fall following the rapid response to
14 the border crisis and it has allowed us to partner
15 with legal services providers to: Further increase
16 capacity for legal defense in deportation proceedings
17 for over 900 separated and unaccompanied immigrant
18 youth; to increase funding for social work and case
19 management resources to address the acute needs of
20 these children; and to provide resources to address
21 legal screening and risk assessment needs of family
22 members seeking to be sponsors of separated children
23 in facilities in the custody of the federal Office of
24 Refugee Resettlement in New York City, facilitating
25 their release from such facilities. In addition to

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2 IOI, HRA manages immigration legal services programs
3 funded through federal Community Service Block Grants
4 totaling 2.1 million, administered in partnership
5 with the Department of Youth and Community
6 Development. With CSBG funding, legal services
7 organizations provide a range of services such as
8 legal assistance to help immigrant adults and youth
9 attain citizenship and lawful immigration status, as
10 well as services targeted at groups such as immigrant
11 survivors of domestic violence and human trafficking,
12 low-wage immigrant workers at risk of exploitation
13 and violations of their employment rights, and
14 immigrant youth in foster care. In addition to the
15 Administration's commitment, I want to again
16 acknowledge the ongoing commitment of the City
17 Council, Speaker Corey Johnson. the Chair of this
18 Committee and this Committee in expanding access to
19 justice by funding legal services. HRA also oversees
20 immigration legal services programs funded through
21 Council discretionary grants. This year, in addition
22 to the Council's 2.6 million allocation for providers
23 through IOI, the New York Immigrant Family Unity
24 Project or NYIFUP is funded by a City Council
25 discretionary grant providing legal representation

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2 for low-income detained immigrants facing removal at
3 the Varick Street Immigration Court. This year,
4 NYIFUP is funded at 10 million and is expected to
5 serve approximately 1,600 individuals in deportation
6 proceedings. HRA also administers the Unaccompanied
7 Minors Initiative and the Immigrant Children's
8 Advocates Relief Effort which, which were developed
9 by the City Council in partnership with the Robin
10 Hood Foundation and the New York Community Trust to
11 provide legal and social services to address the
12 surge of immigrant children living in New York City.
13 The program provides unaccompanied immigrant and
14 refugee children in New York City with counsel and
15 the opportunity to apply for relief from removal, and
16 the opportunity to receive much-needed social,
17 medical and mental health services. Many of these
18 children are eligible for a range of statutory
19 protections, including asylum, for those fleeing past
20 and future persecution; Special Immigrant Juvenile
21 Status, SIJS, for children who have been abused,
22 neglected, or abandoned; U or T visas for those who
23 have been victims of certain crimes or human
24 trafficking and other relief. With 2 million in City
25 funding for FY '19, the program is expected to serve

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2 approximately 550 immigrant youth facing removal. In
3 all, the City's total investment in legal assistance
4 programs for immigrants exceeds 48 million in FY '19,
5 an exponential increase from just 7 million in FY '13
6 that's including the Council and the Administration's
7 resources. Moving forward, the importance of
8 continued citywide collaboration. As Commissioner
9 Mostofi aptly laid out in her testimony, this City
10 has much to be proud of regarding the accomplishments
11 in our efforts to provide a continuum of legal
12 services to immigrant New Yorkers, whether they need
13 accurate and reliable legal advice on their options,
14 help with adjusting their status, expert guidance in
15 the naturalization process, a defender in their
16 removal proceedings or emergency legal assistance in
17 immigration court. Still, there is more work to be
18 done and we remain committed to working closely with
19 our partner agencies, legal service providers, and
20 community-based organizations to build on our
21 progress to maximize the effectiveness and efficiency
22 of these programs. New York City is a proud city of
23 immigrants and we will to do everything we can to
24 mitigate the impact of the federal government's
25 divisive actions and rhetoric. We are committed to

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2 continue providing services that evolve with the
3 ever-changing federal policy landscape to address the
4 most pressing needs of immigrant New Yorkers. With
5 the partnership of this Council, our unprecedented
6 investments to these programs continue to place New
7 York City as the leader in ensuring that low-income
8 New Yorkers have access to justice. Thank you for the
9 opportunity to testify today, and I look forward to
10 your questions.

11 CHAIRPERSON MENCHACA: I want to thank
12 you both for being here testifying, describing I
13 think what we can all feel proud of right now in
14 terms of what the city has done not just in here... not
15 just here in the city but the impacts to other cities
16 who are actually following our lead, I think that's
17 an incredible testament to the work that we do and
18 how we do that in partnership and so I don't want to...
19 I don't want to... I don't want to miss that
20 opportunity to say thank you as a... as a real partner
21 in this. I also want to thank you for, for...
22 Commissioner for restating your, your work around,
23 around Jazmine and her family and her son, I think...
24 nothing can take away the impact that happened both
25 the physical and psychological impact to her, her

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2 son, the people around her and as we all watched
3 that, that trauma is, is real. I think what makes it
4 so important here in this discussion is we, we think
5 about the gravity that these instances have in our
6 country and in our borders and when, when families
7 are ripped, ripped away we, we have a response, an
8 emotional response but here you have taken action,
9 you've taken action as a city Commissioner and with a
10 lot of power to make influence, an impact. As we move
11 towards the immigration conversation we have that
12 same feeling when we see families separated and our...
13 and our role becomes more complicated and so the
14 focus today is to think about how we can understand
15 that gap, what is that gap so that we can get to
16 justice in the city way as I believe the city is...
17 we're almost... we're the courts and the courts today
18 just delivered a great, great blow against Trump but
19 our city has a role and responsibility to respond and
20 to get it right for families and so that's our, our
21 role today. and the two different bullets that we're
22 going to be asking questions around are really the
23 mechanism, when you talk about the nimble mechanism
24 and how we support our service providers and work
25 together and then also the dollar gap, what is that

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2 dollar gap and what are we... what are we talking about
3 in terms of, of funding need and I think those are
4 the... those are the two different categories from all
5 the different questions that we have and prepared for
6 you today? And so what I'm going to start with is
7 the... part of the mechanism conversation is really
8 thinking about how, how, how you're doing this work
9 and so I want to ask Commissioner Mostofi to talk a
10 little bit about the task force and whether or the
11 not the task force is involved in this question about
12 legal services and have, have you conveyed the task
13 force for this question at hand about, about legal
14 services and that gap in a time of Trump?

15 BITTA MOSTOFI: So, thank you for the
16 question, as it relates to I guess the way that other
17 agencies have interacted or been involved in
18 conversations with... around legal services we have not
19 centralized this issue with the task force yet, its..
20 that's something that we could, could certainly do
21 and I think would be an important conversation to
22 bring. We have worked closely as you heard from
23 Commissioner Banks together in ensuring that the work
24 that we're doing across our agencies both in terms of
25 understanding the landscape and the need is closely

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2 in sync, we've also worked with agencies who have
3 addressed issues with us including the Mayor's Office
4 to End Domestic Violence and Gender Based Violence
5 and in looking at funding needs that they had to
6 address the needs of the clients that they were
7 serving or rather are serving that's one area, we've
8 worked in coordination with many city agencies to be
9 responsive to the particular shifts in immigration
10 policies, most recently around public charge and in
11 so doing recognizing that there is an efficiency at
12 the agency level to be able to have the right
13 information on how they're able to direct people to
14 those needs and so kind of doing cross agency
15 education on how to direct... how to direct clients or
16 New Yorkers that are coming interaction... interactions
17 with our agencies to immigration legal services,
18 we've additionally done that work really closely with
19 the Department of Education, that's one of the
20 tenants of the ActionNYC program is actually bringing
21 the legal services within the school system so being
22 responsive to what the needs are at the individual
23 school level and then separately with H and H at the
24 hospitals. So, looking directly at what the needs are
25 of the patient base that they're seeing, and I know

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2 the council has increased funding as well to
3 immigration legal services in H and H. So, there's a
4 couple of key agencies that we've worked with to
5 actually provide the provision of legal services
6 through the agency's work and then more broadly
7 across all agencies how they can actually direct
8 people to those services, we've done that education
9 at both senior levels and programmatic levels but
10 also at training outreach teams.

11 CHAIRPERSON MENCHACA: Alright, so what
12 I'm wondering... and understanding is that you haven't
13 activated the, the task force for this conversation
14 but you're working individually with all the
15 different agencies to get a sense of access points
16 for legal services and developing ways to either
17 bring that to the agency or, or... that's, that's it?

18 BITTA MOSTOFI: Or training their...

19 [cross-talk]

20 CHAIRPERSON MENCHACA: Direct... [cross-
21 talk]

22 BITTA MOSTOFI: ...staff so that they can
23 direct... [cross-talk]

24 CHAIRPERSON MENCHACA: Training staff at...
25 [cross-talk]

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2 BITTA MOSTOFI: ...yeah... [cross-talk]

3 CHAIRPERSON MENCHACA: ...at city agencies,
4 okay and that's, that's the agency side. Tell me a
5 little bit about your, your communication with the
6 legal service providers and... well even before the
7 providers how are you getting the information about
8 legal representation needs of immigrant New Yorkers
9 directly, is there a mechanism that, that's allowing
10 you to, to get that data rather than an agency or a
11 service provider but directly from New Yorkers?

12 BITTA MOSTOFI: Sure, so a couple of ways
13 I would say that that comes in recognizing that it's
14 all a little bit imperfect so from a purely kind of
15 data perspective we look at what's publicly
16 available, data mostly through track on the
17 immigration court system. From a sort of on the
18 ground perspective, MOIA as well as OCJ are on
19 constant conversation with providers understanding
20 sort of what their needs are, they raise with us
21 where they... when they see sort of an increase or a
22 spike in case load. We, through ActionNYC very
23 closely monitor our hotline that's a really key
24 indicator for us when there are increased spikes or
25 demands in appointments, why, understanding it,

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2 making sure we're effectively triaging it and then I
3 would say the, the last piece that's really important
4 is through the know your rights programming work. So,
5 last year we required in partnership with the Robin
6 Hood Foundation with that initiative that at every
7 single forum we were noting how many legal referrals
8 were needed from it so to kind of gauge what the need
9 in the communities were where folks were deeply
10 engaged, that's part of what we'll continue to do and
11 track this year.

12 CHAIRPERSON MENCHACA: And is... [cross-
13 talk]

14 STEVEN BANKS: If, if I could just add to
15 that answer, I mean as you know I spent most of time
16 outside of government but I, I think one of the
17 things that's unique about the approach is actually
18 the collaboration between MOIA and HRA and so, so
19 often you see, you know agencies just replicating the
20 same thing but the partnership here gives the ability
21 and relationship from MOIA to be analyzing and that
22 sort of interaction with, with community groups and,
23 and, and the advocacy community and at the same time
24 HRA has the role of managing the legal service
25 relationships and so we're getting multiple sources

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2 of information and of course the groups that we
3 contract with are on the ground, trusted
4 organizations and so the, the process of.. that, that
5 goes into each federal change for example is
6 information coming to MOIA, information coming to us
7 from the providers, collaboration where, where we're
8 both analyzing what the change means and there's an
9 ability to respond in real time because there's
10 already.. we set up the relationship that's there
11 before the crisis and I think that is helping us
12 through a very difficult time for New Yorkers and for
13 our providers and, and for all of us watching what's
14 going on and responding to it rapidly.

15 CHAIRPERSON MENCHACA: And I think the,
16 the, the source of this question is really around
17 understanding, understanding how, how nimble this is
18 internally so that we can at the City Council figure
19 out how, how the mechanism for gathering data and its
20 really great to hear about the know your rights
21 piece, how we can actually see that ourselves as
22 well, so how are you tracking that so that we can get
23 a report about, about this in real time as well. I
24 think it benefits us when we think about budget
25 priorities and we're going to soon be in the middle

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2 of the budget throes and I welcome our Finance Chair,
3 immigration committee member, past Immigration Chair,
4 Council Member Danny Dromm to this conversation and,
5 and, and really kind of think about this together
6 and, and so it's helpful for us to get that
7 information as well. So, I, I don't know how you can
8 prepare that and, and share that with us, we'll
9 probably put that in a letter requesting some of that
10 and, and how... what data you're getting so you can... we
11 can... we can learn together about that. We have our
12 ways of doing that through our district offices of
13 course but, but more data gives you a better picture
14 and sharing that would be... would be good. I'm
15 specifically wondering if you have track changes in
16 case outcomes or the length of case over time using
17 the EOIR data, is that something that you've used
18 before and have been able to analyze?

19 BITTA MOSTOFI: You mean the track data?

20 CHAIRPERSON MENCHACA: The track data.

21 BITTA MOSTOFI: She's shaking her head...

22 [cross-talk]

23 CHAIRPERSON MENCHACA: Well there's data
24 that we... the EOIR data using... so we're trying to

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2 figure out if, if, if you've seen a, a change in case
3 length of time... [cross-talk]

4 BITTA MOSTOFI: Uh-huh... [cross-talk]

5 CHAIRPERSON MENCHACA: ...using the EOIR
6 data, I think that's the question.

7 BITTA MOSTOFI: Yeah, so I think it is
8 the track data that you're referring to, which is the
9 EOIR data but I... but... [cross-talk]

10 CHAIRPERSON MENCHACA: Is it just like
11 we're, we're just on... we're not saying the same... are...
12 is there a data...

13 BITTA MOSTOFI: I just want to make sure
14 we're speaking my language... the same language.

15 CHAIRPERSON MENCHACA: Yeah, me too.

16 [off mic dialogue]

17 CHAIRPERSON MENCHACA: Okay, so it might
18 be the same data...

19 BITTA MOSTOFI: Okay...

20 CHAIRPERSON MENCHACA: How bout you give
21 us the data and then... [cross-talk]

22 BITTA MOSTOFI: Sure... [cross-talk]

23 CHAIRPERSON MENCHACA: ...we'll, we'll
24 confirm... [cross-talk]

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BITTA MOSTOFI: Okay, that sounds good. So, I think as, as you're aware EOIR is not super, super forthcoming with all of their data so what ends up happening is track, which is I believe based in Syracuse requests all of this data and then they publish it. So, back to your question in terms of what we're seeing in terms of backlogs, is that what you indicated?

CHAIRPERSON MENCHACA: And backlog and also just the case... the length of time for case...

BITTA MOSTOFI: For... per case... [cross-talk]

CHAIRPERSON MENCHACA: ...in real time as we move from Obama into... [cross-talk]

BITTA MOSTOFI: Yeah... [cross-talk]

CHAIRPERSON MENCHACA: ...Trump.

BITTA MOSTOFI: So, I think it's hard for us to speak to that quite yet, I think largely our understanding of what that looks like is based on the increase in cases that are backlogged and what we're hearing from providers in terms of cases being scheduled out two years plus for their merits hearings and so... and even a delay for continuation. We've separately engaged in conversation with the new

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2 acting Chief Judge of the Immigration Court on this
3 question to understand what they're seeing and to see
4 what their plans are to address this issue. They have
5 plans as they've stated to us to expand the number of
6 judges in both the non-detained and the detained
7 courts and we have asked to remain in continued
8 conversations to understand what those changes will
9 look like and obviously to work and share that with
10 providers so that there can be better coordination
11 and preparation for, for those changes.

12 CHAIRPERSON MENCHACA: Got it. So, I'm
13 just going to read what my Council is telling me here
14 that the track uses EO... EOIR data to do the analysis...
15 [cross-talk]

16 BITTA MOSTOFI: Yeah... [cross-talk]

17 CHAIRPERSON MENCHACA: ...so... [cross-talk]

18 BITTA MOSTOFI: Okay... [cross-talk]

19 CHAIRPERSON MENCHACA: ...so, I think
20 we're, we're good... [cross-talk]

21 BITTA MOSTOFI: Good, great... [cross-talk]

22 CHAIRPERSON MENCHACA: ...on that but I
23 guess what I want to... actually what I want to do now
24 is, is hand it over to Council Member Dromm, he has a
25 specific question and then I'm going to have... I'm

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2 going to continue with, with mine, Council Member
3 Dromm.

4 COUNCIL MEMBER DROMM: Thank you very
5 much. My question really is around language
6 accessibility. I think I've asked this... asked this
7 before but... [clears throat] excuse me, I have a bit
8 of a cold and I had a vote before this which is why
9 I'm late getting here but my understanding is that
10 the largest number of deportation cases are among
11 Asian Americans and particularly Chinese speakers and
12 I'm wondering if there's any demographics or
13 statistics on what types of services are being
14 provided to those communities in particular because
15 that's really important in terms of preventing those
16 deportations.

17 BITTA MOSTOFI: Yeah, thank you so much
18 for that question, I want to see if we have some
19 break downs, I think we do that we can share with you
20 and I'll start while searching for that by quickly
21 stating that we recognize through our first sort of
22 run, running things with ActionNYC that even though
23 that was an area where we were seeking to increase
24 services in underserved communities our first... the
25 first grantees, there were still gaps, right, we were

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2 seeing real strong gaps in underserved communities
3 include, including the Asian community both Chinese,
4 Korean services, south Asian services so we issued a
5 new RF, RFP process to directly get at some of those
6 concerns, I'm happy to say that through... thank you,
7 through that... through that we were able to provide...
8 do grants to community based organizations that are
9 particularly focused on serving some of the
10 populations that you described so that includes Chia
11 CHI, SEDC, COPO, the Chinese Planning Council and
12 Korean services center so that is new for this fiscal
13 year and I think... I think directly goes to what we
14 also had seen and observed and, and your question I
15 think in terms of break downs about the top five
16 languages spoken as kind of a control in, in speaking
17 to this question in our fiscal '17 IOI NCSBG cases
18 about four percent were of Chinese dialect so
19 Cantonese, Mandarin, Fozu and, and others. So, we
20 agree underserved are just part of why we did that
21 grant funding.

22 COUNCIL MEMBER DROMM: Excuse me, so with
23 the... with the grant and the RFP that went out that's
24 currently in the works now?

25 BITTA MOSTOFI: Yeah, so... [cross-talk]

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2 COUNCIL MEMBER DROMM: And we don't have
3 numbers on how successful that's been yet?

4 BITTA MOSTOFI: Not yet, this is... [cross-
5 talk]

6 COUNCIL MEMBER DROMM: When will that...
7 [cross-talk]

8 BITTA MOSTOFI: ...the first year... [cross-
9 talk]

10 COUNCIL MEMBER DROMM: ...come back?

11 BITTA MOSTOFI: So, this is the first
12 year for that programming, we, we definitely modeled
13 it recognizing that the need was in smaller
14 organizations, so the model is for slightly lower
15 cases, caseloads but targeted for those populations
16 so we'll have something soon to speak from on, on
17 what we project will be the cases for those... for
18 those grounds.

19 COUNCIL MEMBER DROMM: And Commissioner
20 how are we making folks in the Asian communities in
21 particular aware of the services and the programs
22 that are available?

23 BITTA MOSTOFI: A couple of different
24 ways. So, that, that grant funding and the program as
25 a whole also included money for outreach in the know

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2 your rights forums so those service providers are
3 able to use a community based navigator to boot... both
4 do intake but also outreach and engagement and they
5 do use that, they go to ESL classes that the
6 providers might be doing, they do off sight events
7 and, and so on and so forth to engage their
8 population. Additionally, one of the things that we
9 aim to do as MOIA is increase access to information
10 through community and ethnic media, we, we did so in
11 response to the robocalls that we heard were going
12 out, meeting directly with different community media
13 outlets, actually producing a one pager about what
14 was happening and how they could access free and
15 confidential legal services that was published in, in
16 papers directly Chinese paper outlets and we do also
17 through the know your rights programming so in this
18 recent initiative for the next several months one of
19 the providers is AAMF who will focus primarily on the
20 Asian community.

21 COUNCIL MEMBER DROMM: Okay, so by... when
22 did you say it was going to be done, finished, you'll
23 have an update on it?

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BITTA MOSTOFI: We can get you an update on where we are, but this is the first full fiscal year.

COUNCIL MEMBER DROMM: Okay, because when we go into the budget season, I would really like to know what those numbers are.

BITTA MOSTOFI: Okay...

COUNCIL MEMBER DROMM: Okay. Alright, thank you.

BITTA MOSTOFI: Thank you.

CHAIRPERSON MENCHACA: Agreed and, and we'll work together on that. Alright, Council Member Dromm. And so I, I want to start kind of big and ask both of you as Commissioners and, and the team effort that you're putting into this larger question about legal representation and, and if you've identified any specific gaps in city funded services related to ensuring legal serve, services, legal representation and immigration court, have you identified that gap, I'd like kind of your... both of your perspectives on that?

BITTA MOSTOFI: Sure, so I can start and largely I think as you heard through our testimony a lot of what we've done in the last two years is set

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2 the... set this sort of larger landscape or spectrum of
3 how people can kind of start and enter into getting
4 immigration legal services in the city and how these
5 different programs are speaking to one another
6 through the work that we do. I think we've heard from
7 providers as we've started to make decisions around
8 the increased funding on what the needs are, we had
9 really hoped and targeted a lot of that funding
10 resource to be around removal defense and deportation
11 defense. We... that is the reality but we also heard
12 from providers that given the moment in time we're in
13 with the sort of complexity of the federal
14 immigration legal landscape with the end of TPS, with
15 the end of DOCA, thankfully not on both fronts
16 exactly yet and Muslim ban and so forth that there
17 was a need to, to maintain more flexibility in other
18 kinds of cases at this time and not to, to solely
19 focus on deportation defense so we were responsive to
20 that and it makes perfect sense in, in the way that
21 we structured the funding stream which, which
22 Commissioner Banks can speak to. We also know that
23 this is a lot of new resources infused in the
24 community and a lot of organizations are hiring so I
25 think it will time... a little bit of time will tell in

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2 terms of kind of where remains big gaps and what that
3 looks like.

4 CHAIRPERSON MENCHACA: And Commissioner
5 before you go... Commissioner Banks before you go,
6 Commissioner Mostofi I just want to get a sense from,
7 from you... because you're right, the, the, the
8 testimony really kind of gave the work that's done up
9 and to this point and it sounds like what you're
10 saying is that the gap here really is, is one,
11 allowing for the, the services to kind of mature in
12 some ways both through hiring, there's a lot of
13 infusion of money into the services world, the legal
14 services world and we're... you're still kind of
15 waiting to kind of see how, how its going but I
16 didn't hear necessarily that there was a... there's a
17 real gap of, of need, is that... I just want to... is
18 there... do we have a gap in need from your perspective
19 and I guess that's the question, is there a gap in
20 need?

21 BITTA MOSTOFI: I mean if, if the
22 question is are there people who don't have
23 representation who are immigrants in the city, I
24 think the answer is yes, right going... [cross-talk]

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2 CHAIRPERSON MENCHACA: Right, so... and so
3 how are you defining that... [cross-talk]

4 BITTA MOSTOFI: Yes... [cross-talk]

5 CHAIRPERSON MENCHACA: How are you
6 defining that need?

7 BITTA MOSTOFI: Sure, so... [cross-talk]

8 CHAIRPERSON MENCHACA: For those... this
9 immigrant, immigrant community members who aren't
10 getting legal services... [cross-talk]

11 BITTA MOSTOFI: Yes... [cross-talk]

12 CHAIRPERSON MENCHACA: ...today?

13 BITTA MOSTOFI: So, in terms of... in terms
14 of the removal defense context, you know I think... as
15 I said some of that is, is fluctuating and hard to
16 know because of the backlog in other things but
17 estimates could be anywhere close to 10,000 New York
18 City residents who are in removal proceedings who
19 might be unrepresented at this time. I think that the
20 broader question that you're asking in representation
21 generally I think that's something that through the
22 work that we're doing particularly in the outreach
23 space and in the work that we're doing with agencies
24 just to be in locations we are, you know being
25 responsive where we see that there's a need, we're

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2 trying to triage and be smart about that, I think
3 it's hard to pin point like a particular area at this
4 time. We felt good in the last several months at the
5 capacity to make appointments for people who are
6 calling through ActionNYC that's something we're
7 closely monitoring to see what the needs are there.

8 CHAIRPERSON MENCHACA: Thank you.

9 STEVEN BANKS: So, I, I think there's a,
10 a couple of I think pieces of information that I want
11 to provide you with in answer to your question but I
12 also want to emphasize something that you said and
13 Commission Mostofi said and I said too, we're in an
14 ever changing environment and there are things the
15 legal services providers are responding to today that
16 none of us could have imagined two years ago so to me
17 that's why the work that frankly we did together
18 Commissioner, Commissioner and myself MOIA and, and
19 HRA, Jordan Dressler the Civil Justice Coordinator
20 and the US Chair that we did several years ago to
21 actually create a way to respond, it... you know it
22 seemed very bureaucratic at the time when you talk
23 about building an, an infrastructure but I do and I,
24 I think it merits putting on the record because we
25 worked together on that with the Council, I, I do

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2 remember, you know when I ran legal aid every time
3 there'd be a new problem there'd have to be a new RFP
4 and a... and a new procurement process and that meant
5 delay and delay and delay responding to need so when
6 you use the word gap I keep thinking to myself are we
7 able to respond to emerging need quickly, that's an
8 important indicia of, of responsiveness of the
9 infrastructure we put together so creating those IOI
10 contracts two years ago or so that were consortia
11 based both large organizations and community based
12 organizations that part of the approach there was to
13 say let's create an ability to respond without having
14 to issue a new RFP every time something new happened.
15 The number of new things that have happened since
16 January 2017 were certainly not anticipated in 2016
17 when we began this route down this path with you but
18 I think we're all in good stead in terms of
19 addressing gap that way, the ability to respond
20 quickly because second and, and the issue with
21 respect to, to any question about a gap between need
22 and, and, and availability of service is capacity and
23 you know as, as you know and, and you were, were very
24 supportive of this and helpful actually, all members
25 of, of the council were, the issue about implementing

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2 greater access in housing court cases. We found... we
3 had pilot... we had put pilots in place, we found what
4 the issues were but it wasn't just a question of
5 money, it's a question of building capacity, we have
6 terrific legal services providers on the ground and
7 so I don't mean building their capacity to serve but
8 building the capacity to absorb and expand and have...
9 and have the same trusted quality assurance that the
10 legal services communities had historically;
11 supervision, training, oversight, that's how clients
12 can be assured when they come to a legal services
13 provider they get something that meets their needs to
14 go back to that word, that if they go to somebody
15 who's going to file some application and charge them
16 money for something that they weren't even eligible
17 for. So, another important piece of analyzing need
18 versus available services is the... that capacity
19 building function and I think what we've seen as we
20 expanded the funding in this dramatic expansion over
21 the last several years is the need to make sure we're
22 respectful and working collaboratively with the legal
23 services providers so that the capacity can expand.
24 Lastly, I just want to highlight the council had the
25 foresight to require us to have an annual report,

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2 it's due in March and we will certainly be
3 considering based upon available information what
4 we're seeing on the ground but I want to caution us
5 all that part of how we think about planning and, and
6 MOIA and, and HRA is space within the capacity to
7 respond to new things that we haven't even projected
8 might occur and that's a really important part of
9 capacity, not just saying well how many people are
10 seeking your services today and how many can you
11 serve, we think it's important to continue to build
12 in that responsiveness which has really characterized
13 these last two years or so in the community being
14 very responsive to things that the council and we
15 have identified as the most imergent issue of the
16 day. So, it's... there are multiple levels in, in
17 looking at this need question, I think.

18 CHAIRPERSON MENCHACA: And I guess my,
19 my, my immediate question is trying to anticipate
20 that nature of need that might not be present today
21 but will be, all you have to do is look at the last
22 two years, how much of that unknown will prevent us
23 from moving forward and will it even have an impact
24 in allowing us to move forward?

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2 STEVEN BANKS: Yeah, there, there again I
3 think you really have to look at that second part of
4 defining a, a gap or a need is building capacity to
5 absorb increased funding and to expand services and I
6 think one of the things that we're very much engaged
7 in with the providers now is believe it or not the
8 three years of the contracting process have, have
9 gone past us and now we're in a renewal, all those
10 baseline contracts are registered and so it's a
11 question of working with already existing registered
12 contracts because of the things that you and we did
13 together a couple of year ago to build this delivery
14 system and we're very much engaged in those
15 conversations with the providers now in terms of what
16 they're seeing on the ground and, and, and what the
17 capacity is to respond.

18 CHAIRPERSON MENCHACA: And we're going to
19 hear from some of the service providers too later
20 which is... which is good and I guess maybe it's an
21 opportunity to go into the IOI questions that, that
22 we have really with... in, in some ways you're kind of
23 giving us that update that, that you're kind of
24 moving through it, you're working with the legal
25 service providers to understand capacity, is, is

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2 there... is there a way that you can give us a
3 breakdown of the 19.6 million and categorically kind
4 of give us a sense about how the IOI is being spent.

5 STEVEN BANKS: So, let me... [cross-talk]

6 CHAIRPERSON MENCHACA: Through, through
7 IOI?

8 STEVEN BANKS: So, if I could let me
9 maybe try to give you a, a top line of it and then we
10 can proceed from there. So, in, in looking at the... I
11 guess I'm going to define it as the HRA administered
12 programs so IOI, CSBG, not ActionNYC, we saw in '17
13 that approximately 6,250 cases were handled, we saw
14 in '18 8,000 cases were handled and we're projecting
15 in '19 again looking at IOI and CS, CSBG only we're
16 projecting approximately 11,000 cases being handled
17 so you can see... and the same way we saw in the
18 housing area... [cross-talk]

19 CHAIRPERSON MENCHACA: Uh-huh... [cross-
20 talk]

21 STEVEN BANKS: ...our investments and, and
22 working together with providers there's... there is a
23 significant increase in the capacity of the providers
24 and then ultimately the actual services that New
25 Yorkers are getting. I also want to lay out a little

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2 bit again sort of more of a, a top line level about
3 sort of the, the breakdown if you will of the
4 services. About ten percent of the 16-million-dollar
5 number, you know that was really the increase but ten
6 perdcnt of that is specifically budgeted for case
7 management and social work outreach and
8 administrative costs and I know this was something in
9 our prior I thought very productive conversations you
10 had wanted us to focus on. I also want to.. you know
11 sometimes.. I used to feel this way when I ran a legal
12 service program but sometimes there's a lot of focus
13 on cases instead of case load and I think what we're
14 trying to contract for is a case load as opposed to a
15 certain, you know mechanistic view of, of cases, why
16 do we say that because these are terrific providers
17 and for example you might invest in removal defense
18 but they're also going to need to do an asylum case
19 because the defense of the.. of the removal is only
20 part of what needs to happen so we're looking at it
21 as a holistic case load of what needs to get done to
22 deliver the services and so I think we're projecting
23 in FY '19 about 32 percent of the case load and I
24 want to be careful with that term, 32 percent of the
25 case load is going to be removal defense and the

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2 other 68 percent are going to be both straightforward
3 and complex applications to obtain status, to obtain...
4 or maintain a status so like asylum, SIJS cases, DACA
5 but again this, this is operating very much the way
6 when we first had some of those conversations about
7 the interplay between complex cases and other cases
8 and I think you can see a lot of what you were, were
9 asking us to do reflected in, in the way we're trying
10 to approach this, you know having said that again if
11 FY... for FY '20 we're very much engaged in
12 conversation with providers about the next iteration
13 of this going forward.

14 CHAIRPERSON MENCHACA: When, when is the
15 next contract renewal, renewal for IOI?

16 STEVEN BANKS: It is for... effective July
17 one '19 to FY '20, begging of FY '20.

18 CHAIRPERSON MENCHACA: July one... July... so
19 that... [cross-talk]

20 STEVEN BANKS: July, July one of, of
21 calendar year 2019 but it's in FY '20 budget... [cross-
22 talk]

23 CHAIRPERSON MENCHACA: FY '20, got it so
24 the, the, the renewal will happen in July?
25

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2 STEVEN BANKS: Yeah, the... but the, the
3 negotiations... [cross-talk]

4 CHAIRPERSON MENCHACA: Are happening now...

5 STEVEN BANKS: Are happening now...

6 CHAIRPERSON MENCHACA: Got it.

7 STEVEN BANKS: And again... [cross-talk]

8 CHAIRPERSON MENCHACA: So, when, when
9 does that end, when are... when do the negotiations end
10 for that?

11 STEVEN BANKS: So, here's, here's the,
12 the sort of complexity of negotiations...

13 CHAIRPERSON MENCHACA: Uh-huh...

14 STEVEN BANKS: At some point if you say
15 well this is it, take it or leave it you don't get as
16 good a result if you keep having the iteration back
17 and forth or back and forth, if you keep having the
18 back and forth then you have why did it take you so
19 long but I actually think the back and forth is a
20 valuable exercise in and of itself.

21 CHAIRPERSON MENCHACA: Got it, I think I
22 got it. On the... on the point that you made about the,
23 the flexibility is... [cross-talk]

24 STEVEN BANKS: Uh-huh... [cross-talk]

25

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2 CHAIRPERSON MENCHACA: ...the

3 administration considering change in the policy of
4 the contracting with the groups, you talked about
5 case loads so is this one of those conversations
6 about the back and forth of... and you, you described
7 the issue here with case load versus the kind of case
8 specificity but are you thinking about reconfiguring
9 that for the next contract for IOI and I, I think... I
10 think you kind of said it, but I just want to kind of
11 hear some clarity around, around how, how we build in
12 the name of flexibility and ability for, for one case
13 to bring five others and be able to kind of move
14 forward.

15 STEVEN BANKS: I think that's part of
16 the, the very good conversation that's going on, look
17 in the immigration area... [cross-talk]

18 CHAIRPERSON MENCHACA: So, you're open...
19 that's, that's something that people are... and your
20 administration are open to discussing?

21 STEVEN BANKS: I think we're certainly
22 having a productive engagement, I guess I would put
23 it that way but I, I think for context, you know when
24 we do a housing legal services contract kind of
25 representation, the trajectory of the case, there

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2 are... you know nothing... no two cases are necessarily
3 going to go the same route when you... when you look at
4 them to begin with but there's some parameters of how
5 they're going to proceed. In this area with these
6 changes, with the... with the emergent issues that are
7 rising a case could be very active this year and in a
8 dormant state next year and then active three years
9 from now, this is what the challenge is, is for the
10 providers and for us to come up with a framework to
11 deal with this... with this complexity because its not
12 only the complexity of what the Trump Administration
13 is trying to do to our clients, it's the complexity
14 of the ability of the providers to manage through it
15 with all of these different factors going on.

16 CHAIRPERSON MENCHACA: Any... and I... we, we
17 need to understand it on our side as well, one just
18 for the budget piece and really pushing for budget
19 but also joining you in thought around how we
20 construct these, these contracts as we think about
21 our, our constituents and the legal service providers
22 as well so thank you for sharing that. I think one of
23 the other things that comes up a lot in discussions
24 with legal service providers are supervising
25 attorneys and whether or not... how do... how do they

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2 become part of the discussion not just in
3 negotiations but the system itself, the nimbleness of
4 the system, the responsiveness of the system?

5 STEVEN BANKS: And look, I think... I was a
6 supervisor in legal services, I think... a line
7 supervisor at one point, I think that supervisors are
8 an important part of the service delivery, I know
9 that, you know our, our criminal... our civil justice
10 coordinator, Jordan Dressler is carrying on those
11 negotiations, I think he knows how I feel which is
12 important to have supervisors be an active part of
13 the delivery system, I think, you know from our prior
14 conversations I always had some cases that I handled,
15 the case load so I think all this is part of a
16 conversation about the best way to, to take the
17 resources we've got, the needs of the providers and
18 the needs of the clients and come out with an
19 appropriate, you know way of proceeding forward for
20 the next year.

21 BITTA MOSTOFI: I'll, I'll just add to
22 that by saying a couple of things, so, I think Steve,
23 you know aptly noted that part of it is, you know
24 your... you as a provider are thinking about what it
25 takes for your operation to, to deliver on this

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2 deliverable and we hope that that takes into
3 consideration the importance of supervision and all
4 of those things. I think separately and this builds
5 on the capacity question to one of the reasons that
6 we structured ActionNYC the way that we did is because
7 of this, this need to support newer providers,
8 smaller base... smaller community based providers and
9 being able to build their capacity to do this work
10 and you can't do that without supervision so the, the
11 whole program is structured so that there's a
12 partnership between the community based providers and
13 the legal services organizations that brings in the
14 supervision and so that is specifically delineated in
15 that way for that program because it seeks to address
16 I think the question that you're asking which is how
17 are you ensuring that you have kind of different
18 kinds of providers able to do this work and that
19 supervision is at the heart of their ability to do
20 it.

21 CHAIRPERSON MENCHACA: Right and I think
22 it's important for everyone to know who is trying to
23 follow this really technical conversation, ActionNYC
24 is not part of IOI.

25 BITTA MOSTOFI: Right...

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2 CHAIRPERSON MENCHACA: And so you've been
3 able to kind of maneuver through a different program,
4 smaller program through supervising attorneys that
5 have shown some good responses and now the question
6 is how do you put it into this larger contract,
7 negotiate with a lot more and different providers
8 mostly I think, some, some overlap but, but how... and
9 how... and how do we keep moving that forward for a
10 better... a better program and you're saying ActionNYC
11 has actually shown and proven the value of additional
12 supervising attorneys, is that what I... [cross-talk]

13 BITTA MOSTOFI: As a way to... [cross-talk]

14 CHAIRPERSON MENCHACA: ...heard?

15 BITTA MOSTOFI: As a way to build
16 capacity in smaller organizations and I think that is
17 a question that's probably different depending on the
18 organization that you're talking to, you know if
19 you're talking about some of the larger providers who
20 do this work kind of day in and day out and it's
21 their bread and butter and are doing the complex and
22 revomal defense work that, that fall within the IOI
23 contracting there might be a different calculus on,
24 on what matters in the way that you're structuring

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2 your contract and I think that's part of our ongoing
3 conversation.

4 STEVEN BANKS: But... and just again for
5 context take for example, you know the IOI... the IOI
6 program as a series of, you know several consortia in
7 addition to some citywide providers. So, take the
8 Urban Justice Center consortia for example, like
9 within... under the Urban Justice umbrella you've got
10 African community together, Catholic Charities
11 Community Services, Catholic Migration Services,
12 Chinese Staff and Workers Association, Desis Rising
13 up and Moving, Make the Road, Min Quan Center,
14 National Mobilization Against Sweat Shops, new
15 immigrant community empowerment, Workers Justice
16 Project so you've got a... you've got both sort of are
17 strands of work here that are connected that
18 ActionNYC with very much on the ground organizations
19 plus the legal overlay and then within IOI you have a
20 similar approach so we're, we're trying to get at
21 trusted, respected, expert legal providers in, in, in
22 collaboration with on the ground respected community
23 based organizations.

24 CHAIRPERSON MENCHACA: And final question
25 on this... but I think it's important the, the whole

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2 conversation about supervising attorneys, do the
3 contracts today prohibit organizations from hiring
4 additional supervisory attorneys?

5 STEVEN BANKS: I think that's part of the
6 budget negotiations, we're looking for... [cross-talk]

7 CHAIRPERSON MENCHACA: That's for the
8 next contract but... I guess I'm talking about these
9 current... [cross-talk]

10 STEVEN BANKS: No, no but I think it's
11 fair to say... I, I want to be fair for answering the
12 question to make sure that I'm being fair to both
13 what we're trying to accomplish and what the
14 providers are interested in accomplishing, its part
15 of a budget negotiation whether its our current
16 budget for any particular provider's contract or next
17 year looking at awht we're... what we're trying to
18 procur as the case load from a particular provider
19 which ultimately is individual New Yorkers getting
20 help that's what the... I referred to before is we
21 think it's important to keep going back and forth
22 rather than saying here's what it is eventually you
23 do get to, hey we're at the end but I think it's an
24 important to enter a process.

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2 CHAIRPERSON MENCHACA: Okay, well, I
3 think... I think you know what, what I'm pushing anyway
4 is, is a real look at, at an ecosystem that is
5 healthy and I'm hearing additional as per ActionNYC
6 kind of showing us the model, the ability and the
7 flexibility for that. You mentioned the four... both of
8 you mentioned the 4.1 million dollars allocated for
9 legal assistance for migrant children back in
10 September...

11 STEVEN BANKS: I just need to reply to a
12 text message.

13 CHAIRPERSON MENCHACA: Okay.

14 BITTA MOSTOFI: I can start, yeah.

15 CHAIRPERSON MENCHACA: Well, Commissioner
16 Mostofi if you can start... [cross-talk]

17 BITTA MOSTOFI: Sure... [cross-talk]

18 CHAIRPERSON MENCHACA: ...the breakdown
19 that we understand is the... there's 3.2 million for
20 legal services and then the 907,500 for case
21 management services, is this allocation only for FY
22 '19, is this like a one time shot for, for this
23 community specifically the migrant children community
24 and, and then I guess the, the, the kind of other
25

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2 question is what was this money doing back in FY '18
3 and did that change?

4 BITTA MOSTOFI: Sure, so this money was
5 part of the, the expansion of money, the 16 or so
6 million that we were speaking with providers about
7 and, and having the back and forth about what
8 capacity there was to take how many cases. As we had
9 sort of ended that back and forth... initial back and
10 forth and allocated the funding but the providers had
11 indicated they would be able to take there remained
12 some additional funding for this fiscal year and in
13 the aftermath of the family separation crisis based
14 on the structure created by the council over the
15 ICARE program and the providers really coming
16 together and assessing what the increased need for
17 unaccompanied children were and separated families in
18 the city, they came to us and indicated that in order
19 for them to meet the need they could increase their
20 capacity and indicated to us what that would entail
21 so we were able to allocate the remainder of those
22 funds so they're part of the IOI administration so
23 similar to the, the newer conversations about those
24 contracts we'll engage those but it's baselined
25 funding.

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CHAIRPERSON MENCHACA: Baseline funding
recommitted in a propose with a specific focus?

BITTA MOSTOFI: Yes.

CHAIRPERSON MENCHACA: And, and it... it
was because you had extra funding coming into the new
Year, money that was not... [cross-talk]

BITTA MOSTOFI: We had unallocated
funding from the conversations we'd been having
around capacity from the providers.

CHAIRPERSON MENCHACA: Got it, this is a
really important piece... [cross-talk]

BITTA MOSTOFI: Yeah... [cross-talk]

CHAIRPERSON MENCHACA: ...so we're, we're
saying... what, what you're saying is the bud... the
budget is X and the need that was presented was Y and
there was a... there was a, a kind of unallocated need
that the providers... after talking to, to providers
left you a gap of extra money and this extra money
in, in coordination with what we were seeing at the
separate for the border allowed you to reprogram that
money because there was a gap... or there was a... not a
gap a... [cross-talk]

BITTA MOSTOFI: Unallocated... [cross-talk]

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2 CHAIRPERSON MENCHACA: ...excess... [cross-
3 talk]

4 BITTA MOSTOFI: ...sum, yeah, that's right.

5 CHAIRPERSON MENCHACA: So, that's, that's
6 really interesting in this conversation about need
7 because how, how does that happen and, and we're
8 going to get to a point where we're going to define
9 soon what the gap is because I'm assuming, I think
10 we're assuming, I asked you earlier, we're all
11 assuming that, that there are 10,000 New Yorkers who
12 do not have... that are... that go unrepresented in the
13 city so how, how does... how does that happen?

14 STEVEN BANKS: Again, I'm sorry that I
15 had to turn away to do something that was urgent. It,
16 it really is like that question of capacity that I
17 talked about before which is the mere fact of making
18 the dollars available doesn't mean that the capacity
19 to provide the services are available. We are... the
20 capacity is there now to make use of all the dollars
21 but the... that period of time where there was a lag
22 between capacity to deliver the services and now gave
23 us the benefit of having these extra... these
24 additional dollars to respond to yet another emerging
25 problem.

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2 BITTA MOSTOFI: And I think, you know
3 credit goes to providers for sort of coming together
4 to figure out how they could take an increased case
5 load in an urgent time for unaccompanied children and
6 you know coming to us with ideas and proposals on how
7 they would do that. So, I think they were also
8 responding to the moment and sort of figuring out how
9 to expand their ability to do that work in a
10 sensitive crisis.

11 CHAIRPERSON MENCHACA: And, and I think
12 we're, we're all thankful that we had that ability to
13 do it... [cross-talk]

14 BITTA MOSTOFI: Yeah... [cross-talk]

15 CHAIRPERSON MENCHACA: ...I think our, our
16 question is really trying to understand how, how real
17 the situation is on capacity so I think what
18 Commissioner Banks was saying is we... which begs a
19 question about the 16 point... what is it, four million
20 for IOI, the... that number became a number because of
21 a reason and that, that was a reason that... I think
22 you have to go back a few years how we came up with
23 that need, IOI and then now we're at a point where
24 essentially we can't spend the money fast enough
25 because it's difficult in our legal service provider

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2 world and the ecosystem that's still trying to take
3 this money leaving us with excess for a crisis moment
4 and so I guess... I'm trying to figure out how, how we...
5 how we get better at allocating funding or maybe this
6 is a strategy, right, you just kind of like over,
7 over budget and have flexibility but that's not the
8 policy that we all agreed on and there was a 16.4
9 million that said this is the need, here's, here's
10 the spend down and, and yet here we are.

11 STEVEN BANKS: Right, I think the
12 challenge for both you and us is that we make
13 decisions about how much money to allocate but at the
14 end of the day the providers still have to be the
15 ones implementing it and that's why I think this
16 process of iteration and working through together is
17 so important here that you're right, neither you, nor
18 we or the providers would have wanted not to be able
19 to provide services on day one but there, there is a
20 reality of hiring and training and having people on
21 board and able to provide these services and making
22 sure that the quality is the quality that the
23 organizations have, have traditionally provided.

24 CHAIRPERSON MENCHACA: And if that is the
25 goal then I think we can align on that goal and then

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2 make some decisions in this next budget those that
3 are directly connected to the contracting component
4 but also just the larger understanding of need as we
5 get towards some... and I have some other questions
6 about, about that but... [cross-talk]

7 STEVEN BANKS: Just, just to maybe close
8 that up but I, I can show you in '19 and, and moving
9 forward into '20 all... everything is aligned between
10 dollars and, and capacity for the ability to not have
11 that... not have the issue that arose with, with '18.

12 CHAIRPERSON MENCHACA: So, it was a
13 special moment, it was a... [cross-talk]

14 STEVEN BANKS: Yes... [cross-talk]

15 CHAIRPERSON MENCHACA: ...it was a, a fluke
16 of the system and now you're, you're ramping up and
17 you can kind of get more dollars out, you... I mean you
18 gave us 6,000 dollars... 6,000 case, 8,000, 11,000
19 cases so the cases are going up which means that more
20 dollars are getting out into the community... [cross-
21 talk]

22 STEVEN BANKS: Yep... [cross-talk]

23 CHAIRPERSON MENCHACA: ...and, and I still...
24 I still... I guess I can't... I'm not the legal service
25 provider but I'm trying to understand it as the Chair

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2 of this Committee how, how you can respond to a
3 crisis with 4.1 million dollars when you can't spend
4 it already but you're going back to the same service
5 providers to address a very specific issue, how... so
6 help me unpack that.

7 STEVEN BANKS: Yeah, this is honestly
8 some... this is something that providers have done
9 since they've been providers manage the complexity of
10 the funding process and the ability to get, get staff
11 on board and provide services to clients. So, I think
12 its part of... [cross-talk]

13 CHAIRPERSON MENCHACA: So, this is just
14 how, how it works.

15 STEVEN BANKS: Part of the benefit of
16 actually having these contracts in place with, you
17 know expert well regarded providers that they're able
18 to manage many of these challenges so I mean its
19 easier for them, doesn't mean its easy for, for, for
20 responding at all but it, it means that it... the...
21 having enough time to train... hire, train and make
22 sure that people are ready to do cases is part of
23 what they do best.

24 CHAIRPERSON MENCHACA: Right, so my, my
25 last questions are about ActionNYC, but I have a... I

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2 have a more broad question for both of you. What is
3 the administration's position on due process and the
4 right to counsel for immigrants without the means to
5 afford representation, we'll start there?

6 BITTA MOSTOFI: Sure, so, I think as, as
7 you all know, and I noted in my testimony there is no
8 right to counsel at the federal level for
9 immigration... immigrants who are in removal
10 proceedings or period. Our position broadly is that
11 we, we believe that all individuals should be able to
12 access a right to counsel and would advocate at the
13 federal level that that be something that becomes a
14 requirement piece of the, the federal
15 administration's deportation policies. I think you,
16 you are well aware as, as well as others in the room
17 that the city and the Council have made a decision as
18 to individuals who are public safety risks in the
19 city who have been convicted of one of a, a series of
20 violent or serious felonies for which the city would
21 corporate with immigration enforcement and in so
22 doing the Mayor announced that the use of city
23 funding immigration legal services funding
24 specifically would not go to those, those particular
25 individuals for legal services. We believe very

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2 strongly that there should be an ability for
3 everybody to get a universal screening and so have
4 created such programs where individuals can get
5 universal screening like ActionNYC, like NYIFUP that
6 have no income barriers to them and so everybody can
7 get those screenings and at a very minimum know what,
8 what they might have the right to or how they might
9 be able to proceed in getting access to counsel if
10 we're unable to do so. So, I think that's the
11 question you're asking so hopefully I responded it.

12 CHAIRPERSON MENCHACA: Commissioner
13 Banks.

14 STEVEN BANKS: I, I don't have anything
15 to add to Commissioner Mostofi's very comprehensive
16 answer.

17 CHAIRPERSON MENCHACA: I, I do... I want to
18 make sure that we, we kind of clarify the, the policy
19 that you spoke to or I'll, I'll step back and say
20 the, the, the goal here is similar I think, universal
21 representation for all immigrants so that anyone who
22 needs a lawyer can get one in the city of New York
23 and we do not have that at the federal policy and I...
24 and I... and I agree with you that is far, far away in
25 possibility but where that begins is here in the city

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2 and, and so we do... we have been fighting on this for
3 a while now because it is not the policy of the City
4 Council that this carve out exist, it's not... it's not
5 what we want, it is what the Mayor wants and so
6 that's why it exists and so, so that's, that's...
7 we're, we're at a crux there but we're at... we're at a
8 bigger question here, what, what are we doing as a
9 city, where... what's our role as a city, what can we
10 do as a city, this is something that we can do, we
11 don't need the federal government to tell us its okay
12 to fund these cases and all cases and that's the
13 power of your response to Jazmine, that's our power
14 when, when we responded to the separation of families
15 and that's our duty, that's what we can do and I
16 think that's where we're going to be focused on
17 understanding what that gap is and getting there with
18 every ounce of power from our community
19 neighborhoods. So, I know we're in disagreement there
20 but... and I guess... I guess the next question would
21 have been understanding exceptions, other than the
22 carve out, the criminal carve out as we understand it
23 what other exceptions are you thinking of in terms
24 of, of almost getting to the universal
25 representation, are there any other things that we

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2 should be aware of as we move into budget
3 negotiations that we should all know with service
4 providers in the room who are also going to be part
5 of this ecosystem that we're trying to provide.

6 STEVEN BANKS: That was a... I apologize I
7 didn't realize there was a question posed.

8 CHAIRPERSON MENCHACA: Okay, well...
9 [cross-talk]

10 STEVEN BANKS: I, I think that the...
11 [cross-talk]

12 CHAIRPERSON MENCHACA: Do you... do you get
13 the question?

14 STEVEN BANKS: I Think I know... [cross-
15 talk]

16 CHAIRPERSON MENCHACA: Okay...

17 STEVEN BANKS: I, I... [cross-talk]

18 CHAIRPERSON MENCHACA: I think it's
19 important.

20 STEVEN BANKS: No, I do too I just
21 wasn't, wasn't quite tracking to your... to your
22 question. I don't think there's any thing new, I
23 think that always in legal services delivery you
24 think about income for example that's certainly been
25 how we've looked at legal services delivery in the

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2 housing area in terms of income eligibility and the
3 legal service providers themselves all have income
4 eligibility of different sorts so that's certainly...
5 it, it has been an issue and I think it will continue
6 to be an issue.

7 CHAIRPERSON MENCHACA: Okay, well again
8 we're going to continue this debate, I think it's an
9 important debate, I think we're aligned on so many
10 other policy goals here and I think... I think what's
11 important here is that our times are, are filled with
12 crisis and our city has a, a moral obligation to
13 respond to our community the backbone of our... of our...
14 of our neighborhoods and our city and so when we
15 think about giving immigrants just a screening and
16 the understanding of their immigration need and not
17 be able to provide them a lawyer because they might
18 be part of a carve out of some sort. One carve out
19 creates opportunities for other carve outs and so
20 it's a slippery slope and I want to just make that
21 very, very clear that universal representation is
22 powerful because it's exactly what it is, it's
23 everyone getting a lawyer if they cannot afford it
24 and, and this is going to get even more and more
25 intense as we get through the next two years and

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2 potentially the next six years and so how... and we
3 got to prepare for that and I think that the, the,
4 the dismantling of our... of our system and the new
5 land of immigration is different today and it's going
6 to have long lasting impacts, it's going to take a
7 while to reverse and so we're, we're not looking just
8 for screening we're looking for full representation,
9 we're not looking just for spending down X amount of
10 dollars, we're saying we're going to commit all the
11 dollars necessary and the mechanism that is nimble
12 and proactive not just reactive with our legal
13 service providers and help them be healthy and that's
14 everything that we've been doing already but if there
15 are very specific things that we're hearing from our,
16 our service providers and our members, city council
17 members that are doing the work on the ground in
18 their districts we're going to present that and
19 we're going to... we're going to confront that and
20 we're going to do that here because we have the power
21 to get to universal representation, we have that
22 power, we have that moral responsibility the question
23 is how we do that and it's going to be through the
24 will of the people and that's how we're going to do
25 that and let's do that together.

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2 STEVEN BANKS: I'd just add to that,
3 we've had a lot of productive discussions with you
4 and with the Council as a whole that have gotten us
5 to the place we're at and I'm sure we'll continue to
6 have productive discussions.

7 CHAIRPERSON MENCHACA: Good and there are
8 two very specific questions that are going to be
9 important for us, have you done any assessment of the
10 need for immigration legal services at other H and H
11 sites specifically H and H sites?

12 BITTA MOSTOFI: I would say we are in
13 conversations with H and H about this in, in looking
14 at sort of what the needs are and how we're meeting
15 those needs with what our existing locations and, and
16 existing services, certainly I think it's through
17 this fiscal year there's increased funding through
18 the Council so that creates a whole lot of taking
19 that need where it exists, we also had funded a
20 discreet long term care legal services funding in H
21 and H so we're looking at what that continue need
22 looks like as they've really done a tremendous job of
23 exhausting folks who are in long term care so
24 definitely something that we're looking at and
25 evaluating with H and H.

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CHAIRPERSON MENCHACA: And then moving over to schools, the ActionNYC held clinics in I think over 33 DOE schools..

BITTA MOSTOFI: Yeah..

CHAIRPERSON MENCHACA: What do these clinics, clinics consist of, is there a legal component to the clinic if so, which group provides the legal services at the clinics held at schools right now?

BITTA MOSTOFI: Sure, so we slightly restructured the schools programming this year and I can report but so far it seems to be going even better which is great in that we've focused outreach to be really narrow on building out the school's clinics and so we're seeing an increase in participants in the schools. The outreach... [cross-talk]

CHAIRPERSON MENCHACA: Participants, like just people coming to the schools for... [cross-talk]

BITTA MOSTOFI: Yeah... [cross-talk]

CHAIRPERSON MENCHACA: ...legal... [cross-talk]

BITTA MOSTOFI: ...parents, parents and students.

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2 CHAIRPERSON MENCHACA: Okay...

3 BITTA MOSTOFI: The providers who do the
4 outreach engagement include Make the Road New York,
5 Little Sisters of the Assumption, Atlas DIY and the
6 providers who provide the legal services are Catholic
7 Charities, they, they take every... almost every single
8 case that comes from those clinics and if they're
9 unable to are able to refer it to one of our other
10 providers.

11 CHAIRPERSON MENCHACA: And does... how does
12 MOIA identify the, the, the school?

13 BITTA MOSTOFI: So, part of that is a
14 coordination between MOIA and the outreach providers
15 so we work really closely with DOE, we look at
16 schools where there are large foreign born
17 populations and work directly with the principals and
18 administrative staff at the schools to assess and
19 try to understand what the needs would be to provide
20 the clinics and also the outreach community
21 organizers many of whom have their own independent
22 relationships with schools will, will make
23 recommendations so its kind of a shared coordination
24 process between MOIA and the providers in deciding
25 where we should be and working with DOE to make sure

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2 we have a, a larger kind of understanding of what the
3 need throughout the city is.

4 CHAIRPERSON MENCHACA: Thank you for
5 that, I think it's, it's really important to
6 understand how the, the kind of tentacles of access
7 points... [cross-talk]

8 BITTA MOSTOFI: Yeah... [cross-talk]

9 CHAIRPERSON MENCHACA: ...are decided and,
10 and, and I think those offer new touch points for
11 need and understanding need and how that need changes
12 and, and really if we're going to get to universal
13 representation these are... these are critical access
14 points, we know that our immigrant families have
15 trusted partners and that changes family to family
16 and so this is... this is really critical; hospitals,
17 schools, organizations, their adult literacy class
18 whatever that is, they should be able to connect and
19 what I'll say... I think that's it for questions
20 unless... no. I'll say that the responsibility isn't
21 just on the city, this responsibility is also on the
22 state and we have leadership that's coming into the
23 state and I hope that this becomes an agenda item for
24 all of you, for you and definitely for us as we
25 advocate for not just funding but structurally

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2 changing the laws to ask for new initiatives that can
3 allow for the empowerment of our immigrant brothers
4 and sisters, our families in our... in our communities
5 and that's going to require real leadership and
6 connection and conversation and coalition building
7 and I think... I think we have more, more than any
8 other city probably in the state, a model that we can
9 take to the state as well to, to support us because I
10 think we do more than the state does period. And, and
11 so there's... that's a lot... that's a lot of pride there
12 but we need to do more.

13 BITTA MOSTOFI: I'll just add one thing
14 on that note in particular is we're often outreached
15 to from other cities and localities in counties
16 throughout the state to provide technical assistance
17 and best practice which is something we readily
18 provide and something we're... we will continue to do
19 as is helpful.

20 CHAIRPERSON MENCHACA: Great and it'd be
21 great to report back to us to kind of see what,
22 what's, what's happening there... [cross-talk]

23 BITTA MOSTOFI: Sure... [cross-talk]

24 CHAIRPERSON MENCHACA: ...as a partner...
25 [cross-talk]

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BITTA MOSTOFI: Yep... [cross-talk]

CHAIRPERSON MENCHACA: ...who you're
talking to, how, how... [cross-talk]

BITTA MOSTOFI: Uh-huh... [cross-talk]

CHAIRPERSON MENCHACA: ...things are being
implemented in other cities... [cross-talk]

BITTA MOSTOFI: Yep... [cross-talk]

CHAIRPERSON MENCHACA: ...thank you both...
[cross-talk]

BITTA MOSTOFI: Thank you... [cross-talk]

CHAIRPERSON MENCHACA: Happy holidays...
[cross-talk]

BITTA MOSTOFI: Likewise... [cross-talk]

STEVEN BANKS: You too, thank you...
[cross-talk]

CHAIRPERSON MENCHACA: ...happy new year...

[cross-talk]

BITTA MOSTOFI: Hope you get a break...

CHAIRPERSON MENCHACA: If I can say that,
yes and I hope... are you leaving staff as well from
HRA and... [cross-talk]

BITTA MOSTOFI: Yes... [cross-talk]

STEVEN BANKS: Yes... [cross-talk]

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2 CHAIRPERSON MENCHACA: Okay, great, so
3 I'll, I'll, I'll ask you to identify yourselves a
4 little bit later, thank you. Thank you both. And
5 thank you for all of you who are staying to testify,
6 thank you so much and I hope this was as productive
7 for you as it was for us. We're moving to our next
8 panel; Amy Taylor, Make the Road come on up please;
9 Rich Leimsider from the Safe Passage Project; Andrea
10 Saenz from the Brooklyn Defender Services; Sarah Deri
11 Oshiro, the Bronx Defenders and then Terry Lawson
12 from the Brooks... the Bronx Legal Services in Legal
13 Services of New York City. Thank you, Amy do you want
14 to start? Make sure that the, the, the light is red..

15 AMY TAYLOR: Okay. Good afternoon. My
16 name is Amy Taylor, I am Co-Legal Director of Make
17 the Road New York. Thank you to Committee Chair
18 Menchaca and to the Committee on Immigration for the
19 opportunity to testify today on behalf of Make the
20 Road New York and our 24,000 members. First off, we
21 than the City Council for supporting increased
22 funding for immigrant legal services which has begun
23 to address the vast unmet need for immigrant legal
24 representation in New York City. City funding has
25 greatly increased the capacity of organizations like

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2 ours to represent immigrant clients and the city's
3 commitment has sent a powerful signal of standing by
4 the immigrant community in funding access to counsel.
5 However, despite the increase in funding for these
6 services over the past few years, we still turn away
7 individuals seeking legal services every day. Make
8 the Road is here today to support a bold
9 recommendation to create a program in New York City
10 to guarantee universal representation for all
11 immigrants in removal proceedings. New York City's
12 NYIFUP program is a nationally recognized successful
13 model for universal representation for detained
14 immigrants. Today we propose that this model be
15 expanded to non-detained individuals. The communities
16 we represent are under greater attack than ever
17 before. Our federal government is increasingly
18 hostile to immigrants of all backgrounds, even those
19 who are the most vulnerable and the most... and the
20 most in need. The Trump Administration is working to
21 end DACA, TPS, asylum and is waging a piecemeal war
22 to slowly tear apart our nation's immigration system
23 and deport as many of our neighbors as possible. It
24 is New York City's responsibility to be a model city
25 and a leader across the country for bold smart

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2 initiatives that protect immigrants. A universal
3 representation program for individuals in removal
4 proceedings would vastly increase their likelihood of
5 success in proceedings that are harder to win and
6 more resource intensive every day. Without access to
7 counsel, immigrants are forced to either represent
8 themselves against trained government attorneys in
9 one of the most complex areas of law or spend money
10 many do not have to hire a private attorney. We urge
11 the Council to take this step in the face of
12 unprecedented attacks from Washington. This new
13 program will set the stage for replication across the
14 country to fight back against the assaults on
15 immigrant communities happening everywhere. Absent
16 universal representation, what we know as a fact is
17 that New Yorkers will continue to be deported not
18 because they lack a valid claim to status but solely
19 because they lack access to counsel. We also want to
20 highlight the need for support for community-based
21 emergency legal representation arising out of raids
22 response work that many community-based organizations
23 are engaged in. Every week community members come
24 through our doors to report a family member recently
25 detained by ICE. This emergency support includes

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2 legal advice and counseling, time sensitive bond
3 hearings, preparation for reasonable fear interviews,
4 filing motions to reopen for people with prior orders
5 of deportation and habeas petitions in federal court.

6 This is work that requires legal resources and
7 expertise on emergency timelines that most
8 organizations are unable to provide. We also support

9 continued and expanded funding for two initiatives,

10 I'll just quickly say NYIFUP obviously which is an
11 incredibly successful program and faces more

12 challenges than ever interfacing with EOIR and ICE
13 and the city's support and flexibility in order to

14 address each new challenge when fighting the
15 detention and deportation machine is more important

16 than ever and also the ICARE program. We fully
17 support the City Council's endeavor to provide

18 guaranteed representation for all unaccompanied

19 minors and I did also want to ask the City Council to
20 resume its fight to oppose the criminal carve out.

21 Thank you for your question just now. We feel that
22 limiting legal representation in this way stands in

23 conflict with everything that we stand for as a

24 community. We know you're on our side in this fight

25 and we really just want to reiterate that we know

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2 that this will cause families to be separated and
3 individual... you know people will lose breadwinners
4 and parents and this is a huge priority for us and
5 our membership. Thank you very much, sorry to go over
6 time.

7 SARAH DERI OSHIRO: So, Andrea and I are
8 here to talk about NYIFUP together, she's going
9 start... [cross-talk]

10 ANDREA SAENZ: I'm going to go first and...
11 okay, thank you. Good afternoon, I'm Andrea Saenz,
12 I'm the Attorney in charge of the New York Immigrant
13 Family Unity Project team at Brooklyn Defender
14 Services. And since 2014 we've been proud to have the
15 Council's support to work alongside the Legal Aid
16 Society and the Bronx Defenders to represent over
17 3,000 detained immigrants who would have otherwise
18 faced detention and deportation alone. Having done
19 detention work since 2008, I can tell you that
20 detained deportation defense has always been time
21 intensive, complex, adversarial and draining.
22 However, it's also incredibly rewarding and
23 meaningful and under this administration it's also
24 now more difficult than ever. I want to quickly touch
25 on three aspects of how changes in court practice and

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2 policy have affected our work and made immigration
3 court a more hostile place for immigrant New Yorkers
4 even a part of how many there... cases there are. I'm
5 focusing on the detained docket because I know other
6 people will speak to what's happening at federal
7 plaza. First as you know, as of June I stopped
8 producing our clients in person to their own hearings
9 and forced them to beam in via video conference
10 causing serious due process issues, clients who can't
11 understand interpreters of their own hearings, make
12 eye contact with their own family members in the room
13 or speak confidentially to their attorneys until we
14 drive hours out to the jails. Second, the Department
15 of Justice is exerting unprecedented political and
16 job pressure on immigration judges to prioritize
17 speed and deportations over due process including
18 case completion quotas, instructions to rush parents
19 and children to final hearings with or without
20 counsel and warnings to issue fewer continuances. And
21 third, the attorney generals issued new case law at
22 an unprecedented rate certifying long standing cases
23 to himself and replacing them with anti-immigrant
24 decisions that strip judge's ability to close low
25 priority cases and narrow or destroy grounds for

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2 asylum for people fleeing life threatening violence
3 that their governments will not protect them from.

4 And I regret to say that today's court victory
5 doesn't apply to immigration court or it doesn't yet,
6 so we're still fighting that fight. And in addition,
7 ICE counsel in New York do not exercise prosecutorial
8 discretions to close cases and on a daily basis
9 especially on the detained docket almost never agree
10 to release or grants of relief, in fact they
11 frequently appeal our victories of requiring us to
12 fully document and litigate nearly everything that we
13 do and work on frequent appeals and federal court
14 actions. All of these factors have made it harder and
15 more resource intensive to provide the services that
16 we now provide on the cases we already have and are
17 continuing to intake every day including today under
18 our contract and we look forward to speaking more
19 with you about how to continue to provide high
20 quality legal services to detained New Yorkers in the
21 face of these challenges. I know you're going to
22 continue to hear a lot of bad news today, so I also
23 wanted to take this time to say that my team at BDS
24 is tired but not defeated and we plan to stay in this

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2 fight for the liberty and the humanity of immigrants
3 with your support. Thank you.

4 SARAH DERI OSHIRO: Hi, good afternoon,
5 my name is Sarah Deri Oshiro and I'm the Managing
6 Director of the Immigration Practice at the Bronx
7 Defenders, so I oversee our NYIFUP program and our
8 Padilla practice and I'd like to thank the Council
9 for it's consistent and generous support of
10 immigration legal services and as Andrea started to
11 outline for the Committee we are faced with numerous
12 different challenges right now to the delivery of
13 legal services and again I'm also only going to be
14 focusing on the issues we're seeing on the detained
15 docket but in addition to the significant problems
16 that have been caused by the refusal to produce our
17 clients for in person hearings and the, the ways in
18 which we're seeing no prosecutorial discretion in our
19 cases and, and in... and in addition to the just... you
20 know every week it feels like there's a new terrible
21 presidential decision from the attorney general that
22 are limiting our client's ability to have due process
23 under the law and seek the protections that they are
24 entitled to we're also seeing the indiscriminate
25 enforcement in terms of whose being arrested by ICE.

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2 We're seeing as the Commissioner was testifying on
3 the previous panel, it... a stark increase in the sheer
4 numbers of how many people are being arrested and
5 we're also seeing a spike in the numbers of people
6 who have no criminal record whatsoever being
7 arrested. Some of these are... sometimes they're
8 referred to as collateral arrests but ICE might go to
9 one house looking for a particular person and pick up
10 other individuals as well and I think we can
11 confidently say that under the previous presidential
12 administration with a system of, of the priorities
13 for whom they were prosecuting for removal there... we
14 could serve... more safely say certain people were not
15 as, as subject... as, as vulnerable to be arrested and
16 put their proceedings and we can't say that anymore
17 and the other I think... one other huge problem is the
18 spike in courthouse arrests that we're seeing in New
19 York City and outside of the city as well but, you
20 know in terms of what we're seeing here in New York
21 City this problem is... it's, it's penalizing people
22 who are responsibly attending court hearings, this is
23 a problem for immigrant community members and their
24 families and it is exacerbating actually the court
25 backlog and the... and the numbers of people who are in

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2 detention because essentially what... they're pitting
3 people's fear of deportation against somebody's
4 desire to exercise their rights within the criminal
5 justice system or any of the court systems and when
6 people end up in ICE custody with open criminal cases
7 the impact on those... on those people and on the
8 process is it, it prolongs the amount of time the
9 case lasts because then those people don't go forward
10 with their deportation cases seeking bond or seeking
11 relief because they can't because the criminal case
12 is opened and you actually have instances where the
13 public defender and the... and the district attorney
14 are working together to get their clients produced
15 back to the court to, to the jurisdiction in which
16 they have a criminal case to resolve that case and
17 ICE won't honor those writs of production. So, you
18 know that... in addition to being a problem for the due
19 process rights of the person who has to go to court
20 or the witness or whatever it might be its also then
21 creating more problems for the immigration proceeding
22 to finish and particularly to finish favorably
23 because of the... those open cases. So... [cross-talk]

24 CHAIRPERSON MENCHACA: Can I ask about
25 that one, one piece... [cross-talk]

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2 SARAH DERI OSHIRO: Yes... [cross-talk]

3 CHAIRPERSON MENCHACA: ...is, is that
4 situation in which ICE will refuse to allow for the
5 criminal... open criminal case to be resolved is that...
6 is that essentially the final decision or is that... is
7 that... can that be challenged by a district attorney,
8 what happens when you get to that point?

9 SARAH DERI OSHIRO: I mean there are
10 instances in which you can have a resolution of a
11 particular case through like a paper plea if your
12 client is still in ICE custody and you... and you just
13 cannot get ICE pick them up and bring them to that
14 court hearing, that presumes that the client is
15 willing to plead guilty to something for, for a paper
16 plea but you know it's, it's, it's not easy and
17 frankly, you know not everybody wants to plead guilty
18 and, and shouldn't have to so I suppose theoretically
19 there are court actions one could take in federal
20 court maybe to seek the mandamus to compel ICE to
21 produce that person but again that's, that's capacity
22 that we just don't have right now because we're just
23 flooded in the immigration courts alone.

24 CHAIRPERSON MENCHACA: And that's the
25 point that I wanted to drive home is that that,

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2 that's going to be the case over and over again more
3 and more as people collateral and beyond are going to
4 get picked up and you need a lawyer to be able to
5 have the capacity to follow that case and be able to
6 advocate through the multiple courts that they need
7 to, to resolve all of the different pieces to get a
8 good resolution, a final just resolution, whatever
9 that might be through the courts period, without a
10 lawyer you're, you're... [cross-talk]

11 SARAH DERI OSHIRO: You, you can't... you
12 can't do it without a lawyer and you know and in
13 addition to the problem of, of courthouse arrests in
14 particular yet another issue I think is like in the
15 past two years we've... or our clients have lost the
16 ability to seek Lara Bond hearings from the
17 immigration court which just means that if somebody
18 is subject to mandatory detention and not eligible
19 for a bond if you want to even try to get a bond
20 hearing you have to go into federal court and file a
21 habeas corpus petition which at the volume that
22 we're... we need to do that is... it's, it's just... it is
23 a huge challenge and those cases take months to
24 adjudicate, hours and hours of time, it takes a
25 specialization that is... really needs to be keenly

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2 developed in particular staff so that's another area
3 I think that we're under a lot of pressure with. And,
4 and... [cross-talk]

5 CHAIRPERSON MENCHACA: Thank you... [cross-
6 talk]

7 SARAH DERI OSHIRO: ...and just you know
8 thank you to the Council for supporting this program,
9 we... as Andrea said we are... we are tired but we're not
10 giving up.

11 CHAIRPERSON MENCHACA: Thank you, thank
12 you for that and, and, and just stay strong and
13 NYIFUP is, is a jewel... is a jewel of a... of a... not
14 just a program initiative but a life changing, game
15 changing operation and that's not a council thing
16 this is a community driven... community concept that
17 had a lot of support so we're, we're happy to do
18 that, thank you.

19 TERRY LAWSON: Good afternoon, my name is
20 Terry Lawson, I'm the Director of the Family and
21 Immigration Unit of Bronx Legal Services, the Bronx
22 Office of Legal Services NYC. I also Co-Lead the
23 Bronx Immigration Partnership which is a
24 collaboration of community organizations providing
25 legal and social services throughout the Bronx. Thank

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2 you for the opportunity to testify. Legal Services
3 NYC is grateful for the vital immigration funding it
4 receives through the New York City's IOI, DoVE, CSBG
5 and... in addition to the generous discretionary grants
6 that we receive from Council Members. Through these
7 programs and other funding, we provided legal
8 assistance in 5,485 immigration cases benefiting over
9 12,000 immigrants and their family members last year
10 and so far, this year we've opened over 1,200 case...
11 cases... new cases for over 1,200 new clients and are
12 currently representing 71 immigrant youth in removal.
13 City funding allows staff in our borough offices and
14 outreach sites to meet with hard to reach community
15 members, enabling them to come out of the shadows.
16 Allow me to illustrate the importance of City
17 Council... City Council funding for immigration court
18 representation through the story of one Garifuna
19 woman I'll call Ana. Through the Bronx Immigration
20 Partnership, Bronx Legal Services works closely with
21 Garifuna Community Services and its leader Gregoria
22 Flores. As the Council knows and as you hear from a
23 young man today working with Safe Passage, there is a
24 large Garifuna population, with many recent Honduran
25 arrivals, in the Bronx. This summer Ana and her 16-

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2 year-old daughter were connected with Garifuna
3 Community Services after they arrived from the
4 border. Gregoria reached out to Bronx Legal Services
5 for help reuniting Ana and her 19-year-old daughter
6 who was detained at the border. At, at an event this
7 fall with Council Member Salamanca, Gibson, Ayala,
8 Torres, and other Bronx delegation members, Ana spoke
9 in heartbreaking detail about the pain of being
10 separated from her 19-year-old daughter and their
11 efforts to reunite. With support from our social
12 worker, Ana, a Far Rockaway resident, was connected
13 with Queens Legal Services, our Queens office. In the
14 two weeks between Ana's impassioned speech and her
15 intake appointment with Queens Legal Services, her
16 19-year-old daughter was deported and in absentia
17 removal order was issued against her because the
18 immigration court didn't give her notice of her
19 hearing. A disturbing trend in an overloaded New York
20 immigration court is to label arrivals of parents
21 with children as FAMU and to require these families
22 to appear for their first master calendar hearing
23 within 30 days of being served with an NTA,
24 permitting only one continuance of 30 to 45 days to
25 find legal representation and requiring that their

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2 merits hearing be completed within five to six
3 months. On top of this accelerated timeline, the
4 immigration court frequently changes court dates,
5 providing individuals and their counsel little to no
6 warning subjecting them to the very high risk of in
7 absentia removal orders. When our social worker
8 notified Queens Legal Services of the removal orders,
9 Queens Legal Services immigration director Cristina
10 Velez quickly filed a motion to reopen. That motion
11 was granted last month, and Queens Legal Services
12 will be representing Ana and her younger daughter in
13 immigration court on their asylum applications.

14 Without city funding, our representation of Ana and
15 her daughter and the hundreds of other immigrants we
16 stand with in immigration court would not be
17 possible. At the same time that we applaud the city
18 for the vital funding, we feel the pain of all that
19 we cannot do, wondering whether more funding could
20 have helped us to stop the deportation of Ana's older
21 daughter from... in Texas. We ask the City Council to
22 continue to fund immigration court representation as
23 well as critical social work services for, for New
24 York's nonprofit community. we are stronger together,
25 and with the City Council's support, we will fill the

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2 halls of New York's immigration court with talented,
3 bright, fearless advocates and social workers who
4 will do everything possible to protect immigrant New
5 Yorkers, regardless of when they arrived. Thank you.

6 RICH LEIMSIDER: Thank you Chairman
7 Menchaca and the other members of the Committee for
8 convening this very important hearing today and thank
9 you also for such a warm welcome for Axel earlier
10 this afternoon. He was pretty excited, he was
11 delighted on his way out so thank you for giving him
12 that opportunity to tell a very important story. My
13 name is Rich Leimsider, I'm the Executive Director of
14 the Safe Passage Project and we're a nonprofit
15 organization based here in New York that does only
16 one thing, we provide free lawyers to refugee
17 children who are being deported. Safe Passage was
18 founded in 2013 with a half time staff person, a
19 small budget working alongside many of the
20 organizations in this room in response to what was
21 called the surge of unaccompanied minors arriving in
22 New York and we will end 2018 with 28 staff working
23 with more than 400 pro-bono attorneys, supported by a
24 2.4 million dollar budget and having the privilege of
25 representing more than 800 children in removal

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2 proceedings at New York's immigration court. Today I
3 want to talk about three things; one I want to give a
4 little bit more context and data and chime in with
5 the very able and thoughtful testimony you've already
6 heard. I want to share a little bit of good news
7 about what's been possible because of the support of
8 the Council and the city over the past few years and
9 I want to add my voice to the encouragement, thanks
10 for the support so far, encouragement to continue
11 that support and especially to chime in excitedly
12 about this conversation on universal representation
13 and how we can work together to move towards that
14 very important goal. So, data from the track program
15 at Syracuse, which has been referenced earlier today,
16 says that without an attorney unaccompanied minors at
17 New York's immigration court will win their case only
18 17 percent of the time and that's data that goes back
19 almost 15 years based on their monthly FOIAs. So,
20 they're unable to argue for the protections that they
21 actually qualify for and more than 80 percent of
22 children are issued removal orders. The federal
23 government is increasingly sophisticated in its
24 administrative and procedural obstacles to this work
25 and there's a whole alphabet soup that's going on

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2 these days; RFEs, NOIDs, NOIRs, Request for Evidence,
3 Notice of Intent to Deny, Notice of Intent to Revoke
4 to status that's previously been granted. In one
5 recent example with a Passage Project we had been
6 pursuing relief for one of our clients based a law
7 that that offers protection for children who'd been
8 abandoned by their parents and in this case the
9 government rejected our... the federal government
10 rejected our claim because the children's parents had
11 died and the government wanted to argue that that
12 didn't constitute abandonment. So, this is the sort
13 of administrative obstacle that we're now facing. We
14 are still generally winning most of these cases. When
15 we get to the end of the case, we often see a
16 positive outcome, but it takes longer than it ever
17 did before. And so, when the child does have an
18 attorney the statistics are exactly the opposite, we
19 see that 80 percent of children who do have an
20 attorney by their side will win their case. And I'll
21 just finish up by saying that, you know we know that
22 together we can do more, the support of the Council
23 for the ICARE program bringing together a coalition
24 of providers has made a tremendous difference, we
25 encourage the, the full support and full funding of

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2 that program, we agree that the Council should
3 continue to advocate to oppose the criminal carve out
4 and we'd love to work together with the Council and
5 the Administration to figure out how to make
6 universal representation a reality. Thank you.

7 CHAIRPERSON MENCHACA: Well there's
8 really only one person that needs to get convinced
9 and his, his name is Bill De Blasio and he happens to
10 be the Mayor of this great city and, and so I think
11 he's the only one that's really blocking this and so
12 we'll, we'll figure out a way to create that pressure
13 point and as we build that narrative I want to ask a
14 little bit about how... and, and Rich maybe I'll start
15 with you, you really make it clear that there's a
16 mission to get to 2020 and have no child in NYC face
17 deportation in immigration court and so how do we...
18 how do we get there, what's the plan for Safe
19 Passage, what, what does that look like? We talked a
20 lot about the mechanism of... or the different kind of
21 components of mechanism for universal representation,
22 one of them is the actual apparatus itself, you all
23 as providers and then there's the funding gap,
24 clearly we saw a year where there wasn't enough spend
25 down and there was money left over thank goodness but

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2 help me understand as a team here one for, for Safe
3 Passage, Passage 2020 and then for the whole... really
4 for the whole panel what can we help you with in
5 determining the things that are most critical to
6 getting you there, capacity wise, funding wise, the
7 contract, I know... I know we're engaging in open
8 communication on a negotiation that's a back and
9 forth, I get that, but we're partners, we're, we're,
10 we're with... we're with you and, and in tandem with
11 the city itself, we have the opportunity to advocate
12 and so tell us what do we need to do?

13 RICH LEIMSIDER: I'll just very briefly
14 say that the flexibility that many of my colleagues
15 have spoken about is really important. I think we can
16 continue to work together, we can build data models
17 and we can talk about exactly how many immigrants
18 we're, we're speaking of, Safe Passage is more able
19 to talk to unaccompanied minors to children but who
20 are not in detention, not in the detained setting but
21 we can build that, that understanding but the
22 flexibility to understand that each of the providers
23 brings different strengths and different models. For
24 example, some providers come with a direct
25 representation model, all the clients are served by

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2 staff attorneys, others work more broadly with pro-
3 bono's. There are different strengths that different
4 models can bring and it's, it's helpful when the city
5 can understand and appreciate that we may bring
6 different levels of.. numbers of supervising
7 attorneys, different sort of approaches to how we do
8 the work but as long as we're getting the job done
9 together if there's that flexibility in that funding
10 we can get to those numbers a lot faster.

11 CHAIRPERSON MENCHACA: And the

12 flexibility has changed for the better, question mark
13 and I guess I want to get a sense about.. let's just
14 stick on that topic on flexibility and the contracts
15 as they moved through time, we.. and, and Commissioner
16 Banks did reference a moment where there was real
17 conversation and I remember those conversations where
18 we wanted to build something that was both robust in
19 the number of dollars but really thinking about
20 flexibility and, and, and then there was
21 conversations about staff or, or kind of pay rates
22 and contracts or multiyear.. so there was a lot of
23 different pieces to it, so tell us a little bit about
24 where we are on flexibility, where we need to go on
25 flexibility?

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2 AMY TAYLOR: I'll say a few words on
3 that. Specifically on IOI, I think... you know IOI has
4 been absolutely critical, it's allowed many, many
5 organizations to vastly expand services for immigrant
6 New Yorkers and I think the administration has had
7 some increasing flexibility around some really
8 important pieces of that contract to allow us to
9 adjust to new challenges, address, you know new
10 patterns that we're seeing in immigration court. A
11 couple of things where there's been less flexibility
12 that I think are really critical one is the cap on
13 matters per participant so there... you know they have
14 imposed a restriction on the number of cases quote,
15 unquote that each person can have and we heard, you
16 know in Commissioner Bank's testimony today he, he...
17 you know I was delighted to hear that he understands
18 that someone in removal proceedings can have multiple
19 other cases at the same time. We also... that contract
20 a lot of people forget that it also covers employment
21 cases so many of our organizations have a holistic
22 model where if someone comes in the door because they
23 may, you know be eligible for some form of
24 immigration relief which in itself could be two,
25 three, four, five cases and then they also have wage

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2 theft and they're facing discrimination by their
3 employer and we can only enroll two of those cases on
4 that contract. So, that, that is crucial and we've
5 raised it more in contract negotiations as they
6 mentioned and we're talking about it but I mean I
7 think that's a huge priority for many of the
8 providers and then the other piece is we're doing a
9 lot of things these days all of us that we haven't
10 normally done because we're... there are new things
11 happening, you know coming out of Washington so for
12 example, we are all doing a ton of habeas litigation
13 in federal court or we're bringing like massive
14 federal actions on behalf of our clients who are
15 facing newfangled fraud schemes and other types of
16 things. There's been very little flexibility to count
17 those cases on the IOI contract so for example, we
18 represent 33 New Yorkers who were defrauded by an
19 immigration attorney and have been placed in the
20 deportation pipeline and we have like a massive team
21 of attorneys on that case and it counts as one case
22 on IOI and we're... you know it's like huge. So, that
23 type of flexibility has, has been difficult and then
24 on the... on the contract itself like the mechanism, I
25 think one challenge in terms of capacity and this

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2 came up earlier is that the, the money... the funding
3 is a case rate funding so the more money you get the
4 more cases you do and as we all expand our programs
5 we need space, we need to hire supervisors, we need
6 overhead, we need to buy a copier if we have five new
7 lawyers, you know all these things there's nowhere to
8 charge those expenses and so, you know I think really
9 looking at what it takes to build capacity at
10 organizations beyond how many more cases can we do
11 for this funding is important.

12 CHAIRPERSON MENCHACA: Is there a cap to
13 the, the supervisory attorneys?

14 AMY TAYLOR: There's not a... there's not a
15 cap, it's just that you don't... the... all of the money
16 comes with cases so if you want to hire a supervisor
17 to supervise five attorneys, they're not going to be
18 able to have a full caseload and so I think we all
19 struggle with that.

20 TERRY LAWSON: Can I just add two things
21 quickly on... while we're on IOI and then I'm sure
22 there's more to be said about NYIFUP. Two quick
23 things, we agree wholeheartedly about the stack in
24 cap and its limitation on what we can report but also
25 another piece of that is what we can reenroll each

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2 year so there's a limitation on how many cases we can
3 reenroll each year and as the cases get longer and
4 longer, as the dockets get longer and longer and the
5 cases get put out two and three and four years for a
6 hearing we're still doing work on those cases but
7 when there starts to be limitations on what we can
8 reenroll when we... our, our caseloads will just keep
9 getting larger but the... what we can report and get
10 credit for gets smaller so that's a big issue for us
11 that will come up in, in contract negotiations. The
12 other thing... sorry...

13 CHAIRPERSON MENCHACA: Be, before you go
14 to the second thing, so how do we solve that?

15 TERRY LAWSON: I mean we... our position
16 has been as providers that we should get paid for the
17 work that we do regardless of... [cross-talk]

18 CHAIRPERSON MENCHACA: Amen, yes... [cross-
19 talk]

20 TERRY LAWSON: Regardless of some
21 calculation that was created about what we... what we
22 should be reporting, if we're doing the work no
23 matter how many cases, we're doing for a client
24 we're, we're putting in the hours and we should get
25 paid for that. The same thing with supervision, so...

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2 you know as we are supervising these cases, we should
3 get paid for that and it shouldn't always be a per
4 case rate. So, that... and that... I just... the last sort
5 of thing, Amy alluded to this but in terms of putting
6 in... something into the contract for space, you know
7 trying to find the money for the rent and for
8 paralegal support and social work support these are
9 all things especially when we're representing more
10 and more kids, if you don't have really a robust team
11 of social workers it becomes really hard to work with
12 children and to be able to get the information that
13 you need to be successful in their cases.

14 CHAIRPERSON MENCHACA: And, and, and for
15 organizations do you feel like you have a plan that
16 you can propose that says as we grow there's a, a
17 formula that says as, as the number of clients grows
18 the space need will be X as we move... is that
19 something that can be developed and if it can I'd
20 like to have that as we move into negotiations for
21 the budget and then... and I think that there's,
22 there's... and I like categories, there's a category of
23 kind of capital investment that's a onetime buy, I
24 think the, the kind of maintenance, copiers is one
25 thing... like... well actually I don't even know how

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2 copiers are, are bought these days, maybe it's a
3 lease, I don't know. I guess what I'm saying is, is
4 there... is there something right now that can bring
5 relief to you as you expand and then what's the...
6 what's the kind of year to year need that we can
7 build into the contract?

8 TERRY LAWSON: And one last thing that...
9 it hasn't been brought up yet but our fee waiver
10 applications are all getting denied and so we're
11 going to start... we're going to need a fund to help
12 pay people... pay, pay people's fees to USCIS and these
13 are huge fees and USCIS has just been denying our fee
14 waiver applications left and right so if the council
15 can help us with... develop a fund for that that would
16 help us to, to pay those application fees.

17 CHAIRPERSON MENCHACA: Got it, yeah now
18 those are the kind of things we need to, to hear and...
19 that are, are barrier for, for representation.

20 SARAH DERI OSHIRO: So, I would echo what
21 Amy and Terry had said and also just going back to
22 the point about flexibility in the middle of a
23 contract year, I would be remiss not to mention that
24 like this minute as we speak this week NYIFUP is
25 undergoing a huge crisis of how our clients or our

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2 future clients are being calendared all of a sudden
3 at 26 Federal Plaza instead of at Varick Street, we
4 have, you know systems in place that are now five
5 years old of how each providers staff the Varick
6 Street courtrooms every week, we have systems, we
7 have staff ready to go who are there present. Today
8 is Wednesday... today is... to... you know today there was
9 one NYIFUP client picked up at Varick and why is
10 that, everybody is currently at 26 Federal Plaza
11 essentially getting funneled through rocket dockets
12 that we are not staffing because we don't have the
13 capacity to just all of a sudden send eight attorneys
14 to 26 Federal Plaza when we have another eight
15 attorneys scheduled for Varick today. The immigration
16 court is telling us they just want people to have the
17 opportunity to go home for Christmas... to have the
18 opportunity to have a bond hearing before Christmas,
19 nobody is having bond hearing, in fact we have pro-
20 bonos volunteering there as we speak asking those
21 judges at 26 Federal Plaza to please reset them over
22 for Varick Street intake days. So, I mean this is an
23 issue that's going to be ongoing as we see the
24 immigration court trying to address the backlog, it
25 is in fact valuable to address the backlog, Bronx

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2 Defenders just sued about the delay in how long you
3 have to wait between when you're arrested by ICE and
4 when you first see an immigration judge but just
5 opening up courts from one day to the next with no
6 advance notice, no ability to have the providers
7 prepare accordingly so that we can get the money to
8 hire the people to staff these, these dockets that's
9 a... it's a problem of epic proportions and we need the
10 flexibility to have emergency infusions of cash into
11 our services in the middle of a contract year and
12 yeah...

13 CHAIRPERSON MENCHACA: Have you asked for
14 resources to address this problem from the
15 administration?

16 ANDREA SAENZ: So, this, this kind of
17 just happened so we'd love to follow up with you
18 about that ASAP... [cross-talk]

19 CHAIRPERSON MENCHACA: Okay, yes... [cross-
20 talk]

21 ANDREA SAENZ: And so... [cross-talk]

22 CHAIRPERSON MENCHACA: This is... this is
23 incredibly concerning...

24 ANDREA SAENZ: Yes, so we had learned
25 literally weeks ago that EOIR is, you know nearing

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2 completion on, on construction of new courtrooms at
3 the Varick Street building and that they're planning
4 to open those as of February and that at least two of
5 those courtrooms will be detained courtrooms so we
6 just learned that information and had just started to
7 talk within ourselves, we need to talk to the
8 administration, we need to talk to our city.. you know
9 our directors to figure out how, how many new cases
10 would that be, how many dollars would that be, how
11 many staff would that be so we're literally putting
12 that together now and then we had kind of this drama
13 this week which we think we're going to mostly
14 overcome through like sheer teamwork and volunteer
15 power but the bigger.. the bigger thing that's coming
16 down the road is that EOIR is about to increase the
17 detained docket and they're going to do that not on
18 July 1st but in February and so, you know as you
19 know... [cross-talk]

20 CHAIRPERSON MENCHACA: When essentially,
21 it's kind of happening now.

22 ANDREA SAENZ: Right but... [cross-talk]

23 CHAIRPERSON MENCHACA: So... and not...
24 [cross-talk]

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2 ANDREA SAENZ: ...we, we think... [cross-
3 talk]

4 CHAIRPERSON MENCHACA: ...just... [cross-
5 talk]

6 ANDREA SAENZ: ...we think that what's
7 happening this week is not going to happen every week
8 until February, we think, we're in communication with
9 them but we do... we do know that they are planning to
10 more permanently staff more judges on the detained
11 docket and... [cross-talk]

12 CHAIRPERSON MENCHACA: And help clarify
13 the, the, the video conferencing move... [cross-talk]

14 ANDREA SAENZ: Yeah... [cross-talk]

15 CHAIRPERSON MENCHACA: ...from, from ICE
16 and whether or not the video conferencing will
17 continue with these two... with these two court... the
18 two courts... courtrooms that are opening up.

19 ANDREA SAENZ: I, I assume so, I mean we
20 continue to, you know try to figure out everything we
21 can do to bring our clients back but my understanding
22 is that both ICE and the EOIR are seeing video
23 conferencing as sort of the wave of the future, we
24 all have to get with the program and so that... they
25 would I assume run video hearings with all, all of

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2 their new courtrooms assuming they have the
3 technology to do so which has been a problem for the
4 last five months, they haven't had the actual lines
5 to run enough hearings and that's caused immense
6 delay on the detained docket.

7 CHAIRPERSON MENCHACA: Hence the lawsuit
8 that is really pushing for, for a decrease in the... in
9 the, the time of detention and so they're response is
10 great, we'll put more courtrooms... [cross-talk]

11 ANDREA SAENZ: We'll put them on when...
12 put... we'll put the cases on when you're not there,
13 we'll put them on without telling people, I mean this
14 effect the private bar as well, there are court, you
15 know hearings... [cross-talk]

16 CHAIRPERSON MENCHACA: Right... [cross-
17 talk]

18 ANDREA SAENZ: ...happening this week that
19 no one knew were happening, so we are trying very
20 hard to get it under control and you know I think
21 with the full court press we're going to, you know
22 hopefully be able to plan far enough ahead of time
23 that we can get more lawyers there.

24 CHAIRPERSON MENCHACA: And what can the
25 city do to provide a resource for you or is this

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2 something that just the, the providers, they're kind
3 of embedded into the system, you need funding, I hear
4 that very clear and we got a sense about exactly what
5 kind of funding you need for this emergency... [cross-
6 talk]

7 ANDREA SAENZ: Right... [cross-talk]

8 CHAIRPERSON MENCHACA: ...response but is
9 there anything and a role that we can play at a city
10 municipal level in this court that's federal and
11 immigration and civil but not in our jurisdiction,
12 what can we do, what can I do to support this, and
13 you don't need to have an answer now but... [cross-
14 talk]

15 ANDREA SAENZ: Sure... [cross-talk]

16 CHAIRPERSON MENCHACA: ...I'm just
17 offering... [cross-talk]

18 ANDREA SAENZ: Absolutely... [cross-talk]

19 CHAIRPERSON MENCHACA: ...everything we can
20 do... [cross-talk]

21 ANDREA SAENZ: I mean the, the, the
22 smallest and easiest thing to do which has already
23 started because we let HRA know about some of these
24 docketing issues we were having because they were
25 affecting intake is that is to reach out to ICE and

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2 EOIR in New York to let them know that you are
3 monitoring the situation and that you're concerned
4 about the way that, you know due process is, is
5 happening, you know or not happening in New York and
6 even if... even if you don't have the power to direct
7 them I think it's very powerful in the same way when
8 you bring observers and you bring, you know people
9 who are accompanying people to watch this court,
10 which I know you've been there that that's powerful
11 and that puts people sometimes on better behavior so
12 I think if... I think we want to continue to have the
13 city partner with us in talking to the agencies and
14 saying like, you know we all need to have meetings,
15 we need to talk to each other, you need to hear when
16 is the courtroom opening, how... you know we need to
17 plan so that we can get some more information.

18 CHAIRPERSON MENCHACA: Got it and I know
19 that both I as Chair and the Mayor's Office sent a
20 letter... [cross-talk]

21 ANDREA SAENZ: Yes, thank you... [cross-
22 talk]

23 CHAIRPERSON MENCHACA: ...when the first
24 cases be... when it became clear that the cases being
25 heard were going to be teleconferenced through

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2 television and so... here's a... here's... the, the, the
3 next question I have is really about, about this
4 world if we can't change the teleconferencing and
5 what happens to the need for more lawyers that are
6 traveling now and now you're essentially paying for
7 their travel time and like what happens in an
8 ecosystem where, where that doesn't change, I, I
9 don't see that changing, we're going... we're going to
10 move towards incredible pressure to change that...
11 [cross-talk]

12 ANDREA SAENZ: Right... [cross-talk]

13 CHAIRPERSON MENCHACA: ...but in the
14 meantime how, how does that change the need for more
15 lawyers that are able to kind of be present in, in a
16 world where the docket can be determined the morning
17 of... while in detention, how does that... you're, you're
18 closer to it, what does that do to the need for
19 lawyers?

20 SARAH DERI OSHIRO: I mean it... there's an
21 increased need for staff attorneys that are doing the
22 work because there's only so many hours in the work
23 week and you know to your point, yes it does take
24 more time to make those trips to do an initial
25 screening even just to tell somebody that they don't

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2 have relief, alright, that can take a half day of an
3 attorney's time whereas it used to take an hour in
4 the morning on the day of so there's definitely a
5 need for just, you know having a, a larger pool of
6 money to hire the attorneys to do the work then going
7 back to Amy's point before about funding work that's
8 not just the direct legal services in immigration
9 court but the, the litigation efforts to stew the
10 federal agencies who's policies are having such a
11 detrimental impact on our client population like it's
12 harder to fund impact litigation services but, you
13 know somebody might need to sue over VTC in the near
14 future because we don't... you know because that policy
15 hasn't stopped despite our attempt to meet with ICE
16 and to, you know explain to them what we think is so
17 legally problematic about this... about these policies
18 so, you know currently the, the lawsuit that the
19 Bronx Defenders brought about the initial
20 presentment, the... you know unlawful practices of
21 detaining people on average 80 days before they see
22 an immigration judge that's not funded under the
23 NYIFUP budget but it's impacting all of our NYIFUP
24 clients so I think taking a broader view of what
25 funding immigration legal services might entail given

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2 how necessary it is to bring these federal lawsuits
3 it could be a way to, to move forward as well.

4 CHAIRPERSON MENCHACA: Got it... [cross-
5 talk]

6 TERRY LAWSON: Including litigation on
7 ICE in courts, litigation on fee waivers, I mean
8 it's, it's... the list is endless... [cross-talk]

9 ANDREA SAENZ: Right, right, right.

10 CHAIRPERSON MENCHACA: And that's another
11 request too, what's, what's, what's the price tag on
12 suing the federal government on all the... on all the
13 cases that have yet to kind of go and do we have the
14 capacity to do that? I think... I think part of the
15 larger conversation that we're having here is how do
16 we... how do we bring lawyers in front of people so
17 that we can have that representation but the system
18 itself is changing and we got, got to figure out how
19 to constrain it so that it doesn't change for the
20 worse and when it does we can sue them and win and,
21 and that's our prerogative, that's, that's the
22 municipal government role... [cross-talk]

23 ANDREA SAENZ: Right... [cross-talk]

24 CHAIRPERSON MENCHACA: ...and, and I, I
25 dare anyone to say different and so how do we... how do

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2 we make that case but we, we're going to need a
3 budget request...

4 ANDREA SAENZ: Right...

5 CHAIRPERSON MENCHACA: And that's coming
6 up soon, so it'd be great to kind of figure out
7 where... how, how you're prioritizing what, what
8 lawsuits we, we can focus on and, and what kind of
9 resources we can bring from our own council as well
10 and join you in these lawsuits... [cross-talk]

11 ANDREA SAENZ: Exactly... [cross-talk]

12 CHAIRPERSON MENCHACA: ...through, through,
13 through time and that's another kind of visibility,
14 we're watching you and we're also suing you and, and
15 that's, that's the power that we can... that we can
16 bring and I'll have to talk to the lawyers to see
17 how, how that works internally but I think that's
18 the... that's initiative that I want to... I want to make
19 clear that we want to do and support you, but we got
20 to understand the plan that you're leading and how we
21 can support that. Any other items that you want to
22 point to, to kind of give, give us a sense about
23 need, I know there are a lot of other service
24 providers that want to... want to talk but I want to
25 make sure any other last minute things and thanks for

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2 alerting us of the... of the court... the courtrooms at
3 Varick and even just this week clients being moved to
4 26 Federal Plaza and, and how ridiculous that is and,
5 and contrary to due process and they're going to do
6 everything they can. Thank you.

7 SARAH DERI OSHIRO: Thank you...

8 CHAIRPERSON MENCHACA: Thanks to this
9 panel. Okay, we're going to get through the next
10 panels. We have a few more panels to go and... two more
11 panels... two more panels and we have here Hasan
12 Shafiqullah Legal Aid Society; from NYLAG Lauren
13 Reiff; Camille Mackler, New York Immigration
14 Coalition; Franco Torres, Catholic Charities
15 Community Services and Marc Valinoti, Northern
16 Manhattan Improvement Corporation please. This is
17 going to be a fun panel, don't hold anything back.
18 Hasan do you want to... do you want to start?

19 HASAN SHAFIQULLAH: Sure. So, good
20 afternoon, I'm Husan Shafiqullah, the Attorney in
21 Charge of the Immigration Unit at the Legal Aid
22 Society. The previous panel covered a lot of the
23 things I was going to say and so I don't want to
24 repeat a lot of it, but I may.. [cross-talk]

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2 CHAIRPERSON MENCHACA: Give us the fiery...
3 give us the, the... what do we need to do?

4 HASAN SHAFIQULLAH: Just alert about the
5 170, the, the criminal carve out and so... the... my
6 understanding of the administration's position on the
7 170 is that they will honor an ICE detainer for
8 somebody who has one of 170 convictions which means
9 that if I'm in New York custody and I'm about to be
10 released they'll give ICE a 48 hour heads up or give
11 them an, an opportunity to lodge a detainer so I can
12 be held for 48 hours and they will honor that
13 detainer request if one is lodged, so I get that that
14 the, the city is cooperating to that extent so... but I
15 have two points that I want to make about that. One
16 is most of the clients that we're seeing in ILU and
17 in IFUP and in ICARE and all the other funding
18 streams that are... that have been infected by the 170
19 carve out are not folks that are coming directly out
20 of New York custody and so the detainer law shouldn't
21 actually apply. The way that the administrative code
22 is written it's just for people who are in custody
23 who are about to be released and so if they want to
24 go by the strict reading of the admin code, fine but
25 it doesn't apply but it's actually not fine because

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2 even if it were to apply and if I'm going directly
3 into ICE custody if Congress in the Immigration
4 Nationality Act provided forms of relief that might
5 allow me to get status notwithstanding my conviction
6 don't tie the providers hands, you might not like
7 that immigrant if we're going to go into a bad
8 immigrant narrative but if, if we have tools and
9 immigration laws to fight for those people who'll let
10 us do it. A couple of points I want to say on other
11 things, the city bar association's task force on the
12 civil right to counsel just passed a... or issued a
13 statement yesterday about the right to counsel for
14 children in removal proceedings, these are some of
15 the most vulnerable folks facing deportation and I
16 encourage the city to really consider is, you know
17 this should be the moment that we say kids should not
18 be facing deportation by themselves and we really
19 need to make sure that there's an attorney for
20 everybody, for any child. In the... in the NYIFUP
21 context with video conferencing and with the, the
22 crazy dockets that are going on we are going to be
23 coming to the city for, for more resources to meet
24 that need because it's going to be incredibly
25 challenging, there's no way for us to provide

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2 universal representation which is what the City
3 Council has allowed us to do for the last several
4 years without, without additional resources, we just
5 can't do so much more with just the number of people
6 that we have already and so just as we get to budget
7 season that'll be the... one of the big asks that are
8 out there. We're doing a lot of habeas' to get people
9 out of prolonged detention or to stop deportations at
10 the last minute, we're doing a lot of class actions,
11 we're doing affirmative litigation, federal work is
12 expensive and that's another thing that we'll be
13 asking for and I know you're... you had flagged that
14 and like what does that cost and we'll be telling you
15 what that costs and, and we hope to have your support
16 in things like IOI... [cross-talk]

17 CHAIRPERSON MENCHACA: Well let's go back
18 with habeas really quick... [cross-talk]

19 HASAN SHAFIQULLAH: Yeah... [cross-talk]

20 CHAIRPERSON MENCHACA: ...so tell, tell us
21 a little bit about any data that you have on spikes
22 and, and that, that'll be a question to... for everyone
23 else, what is that spike, are we talking about an
24 exponential spike in habeas cases and what, what does
25 that do to the caseload, how does that change..

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2 HASAN SHAFIQULLAH: So, I mean it...

3 [cross-talk]

4 CHAIRPERSON MENCHACA: ...the apparatus?

5 HASAN SHAFIQULLAH: Yeah, there's so many
6 more clients for whom we're seeking to do it and it's
7 because of a range of factors, the changing
8 enforcement parties you don't get prosecutorial
9 discretion, ICE isn't going to consent to release
10 people, they're going to fight even on cases that
11 we've won so we had a client where the judge
12 terminated proceedings because they couldn't
13 establish removability but ICE was appealing and
14 they... and they fought us tooth and nail and we had to
15 like go and do a habeas to get this person out of..
16 out of detention. We've had a citizen client where we
17 showed with convincing evidence that he had derived
18 citizenship through one of his parents and they still
19 wouldn't release him we had to do a habeas even for
20 that, for someone over whom the immigration court has
21 no jurisdiction so they're fighting us tooth and nail
22 on cases that should be straightforward and on the,
23 the tougher ones they're certainly fighting us and so
24 we're having to go into the federal courts in ways
25 that we... at, at a volume that we never had to do

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2 before with no new resources. And so with IOI the,
3 the stacking cap which Terry talked about where if
4 I'm doing multiple forms of relief for a client like
5 family removal proceedings and seeking asylum that
6 this person was also abused by her partner so we're
7 seeking a UV asylum and a waiver of inadmissibility
8 grounds so there's multiple things that we're doing,
9 we can only bill two of those and so the stacking
10 limitation makes no sense. If we're doing complex
11 work and doing multiple forms of relief to try to
12 maximize this person's chance of success pay us for
13 that work and also the, the reenrollment limitations
14 that these cases... their... the city is I think properly
15 really emphasizing removal defense which is great but
16 these cases we all know don't end in two years, they
17 don't end in three years, they might last several
18 years in the normal course and with the IA appeals
19 and all that its going to get even longer and so to
20 have a limit on the number of times we can reenroll
21 it if we're still doing the work doesn't make any
22 sense, again just pay us for the work that we're
23 doing. And just to echo what others have said,
24 building social work support in, in these grants,
25 building space and money for fees. We did a go fund

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2 me campaign to try to raise some money for filing
3 fees, we're getting denials on fee waiver requests
4 and on certain things you have the luxury of trying
5 and maybe the client can like just scrounge money
6 together but if it's an appeal and you only have a
7 certain amount of time you don't have the luxury of
8 trying and so we're, we're paying for these clients
9 but its... our funds are limited, we're nonprofit and
10 so, so we're looking for help from the city on that
11 as well and with that I'll... [cross-talk]

12 CHAIRPERSON MENCHACA: What's the cost of
13 a... of a fee?

14 HASAN SHAFIQULLAH: So, it can be as, as
15 little as like 400 or it could be as high as almost
16 1,900 if I'm trying to prove citizenship... [cross-
17 talk]

18 CHAIRPERSON MENCHACA: And that's a
19 judge... the discretion of the judge?

20 HASAN SHAFIQULLAH: Certain things cannot
21 be waived at all, other things can be waived at the
22 discretion of usually USCIS, some of them are at the
23 discretion of an immigration judge. Okay, I'll stop
24 there, thanks.

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2 LAUREN REIFF: Good afternoon Chair

3 Menchaca and thank you for having me. My name is

4 Lauren Reiff, I'm the Supervising Attorney at the New

5 York Legal Assistance Group. I would like to keep my

6 remarks to things that have not already been

7 discussed but I do want to emphasize that NYLAG also

8 agrees with many of the comments that have been made

9 and many of the concerns that have been raised by

10 other providers. In particular regarding the case

11 stacking limitation and the limitations on

12 reenrollment and as well as the fees that we need

13 help paying fees. One particular issue that's, that's

14 come up is that not only are all cases affirmative

15 and defensive becoming significantly more complex as

16 a result of changes in policy and changes at the

17 level of effort that is put into trying to prosecute

18 people or scrutinize their applications, we now have

19 to assume that any case we undertake, take is going

20 to require extremely increased time and preparation

21 and may in almost any case now ultimately lead to

22 removal if an application is denied. In particular

23 the administration has issued guidance that

24 humanitarian cases like U visas, FALA, T visas, if an

25 application is denied in the absence of some reason

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2 they see to exercise their discretion they will be
3 putting all people who are not in authorized status
4 and who's application has been denied in immigration
5 courts so now pretty much any case we take on
6 affirmative or defensive we have to see it as
7 potentially a defensive case which is a lot to
8 undertake. In addition, changes in policy for example
9 the special immigrant juvenile status issue we've
10 seen recently where the... suddenly the government has
11 reversed course on whether you can qualify that if
12 you're over 18 but under 21. We're now looking at
13 these people if they're not already in removal being
14 put in removal and their case is denied and because
15 the policy was changed so abruptly we're looking at a
16 need to do appeals in order to try and protect these
17 people and that is expensive to do those appeals
18 which are not based on anything that we could have
19 predicted at the time we first accepted the case. So,
20 we are asking that the Council consider the increased
21 demands on our services, the increased time and
22 resources that we need to put in each and every case
23 in, in its budgeting. I do know that you wanted me to
24 mention that... representatives from, from our legal
25 health division which works with Health and Hospitals

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2 testified recently at a, a hearing on Public Charge
3 and they had certainly seen some impact, there's fear
4 and misunderstandings in immigrant communities and
5 people are making choices contrary to their own
6 interest in terms of their health and in terms of
7 their ability to feed their families out of fear that
8 they might no longer be eligible for benefits so in
9 terms of the impact that might have on, on people's
10 vulnerability to bad actors as well as the need for
11 information to the spread that the true information
12 about what impacts might exist we'd ask for the
13 Council's help in that as well.

14 CHAIRPERSON MENCHACA: And one quick
15 follow up question, the, the, the denials for
16 something like SIJ that you're seeing and then the
17 appeal process you said is really expensive, is that
18 able to be renegotiated in the current contract,
19 Hasan talked a little bit about, about the fact that
20 you can only kind of go back a couple times for... or
21 maybe it was in the large... the previous panel where
22 you can only... a case becomes limited or capped in the
23 case of a SIJ case denial and then is that part of...
24 can you... can you attach that to IOI contract today?

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2 LAUREN REIFF: Sure, so if you had taken...
3 sort of two separate issues I want to address...
4 [cross-talk]

5 CHAIRPERSON MENCHACA: Yeah, can unpack
6 that for, for us... [cross-talk]

7 LAUREN REIFF: Yeah... [cross-talk]

8 CHAIRPERSON MENCHACA: ...for me?

9 LAUREN REIFF: Absolutely. So, for SIJ
10 clients generally speaking there's two or three steps
11 to the process, right, there's the family court
12 process of, of having a guardian or a custodial
13 parent recognized and the special findings order
14 entered then there's the process of applying for the
15 status on the basis of what the family court found
16 with immigration and there may be a removal component
17 to that as well where you need to go into immigration
18 court and say this is what we're applying for and
19 advocate to not have the removal order issued pending
20 a determination on eligibility for that relief so the
21 case cap means that we... if we then also had to do an
22 appeal for that same client we would be limited out
23 on the number of cases we can bill so that would not
24 be done under IOI, we would not be able to, to get
25 payment for, for that extra work but the other issue

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2 is the fee attached that you have to submit, you have
3 to... there's a filing fee that you... in order to file
4 an appeal in many cases that immigration won't even
5 consider your appeal, they won't take it unless you
6 pay them and when the appeal comes as a result of
7 change in policy it doesn't matter you still have to
8 pay the fees so we have minor clients who are
9 needing, you know they're between the ages of 18 and
10 21, they may be working, they may be in school and in
11 order to try to advocate for them further and say
12 this policy change is the problem and just preserve
13 any further line of defense for them that filing fee
14 becomes an option, it's 675 dollars for each client
15 who wishes to make an appeal and that's just for the
16 government to even look at it.

17 CHAIRPERSON MENCHACA: And the only
18 editorial note that I want to make here is we heard
19 from the administration that they're okay giving us
20 screening, they're not okay with following up with a
21 full case for X reason... X or Y reason and then here
22 we get to a point where we're, we're saying that...
23 administration is saying yes, we'll give you a case
24 but as complicated as it can get there's a limit and
25 once someone gets connected to the city of New York

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2 they should have the entire process not only paid for
3 but cared for and, and holistically approached, it
4 just... the idea of, of someone kind of walking onto a
5 cliff and we're kind of saying sorry, bureaucratic
6 issues, budget issues, we're not committed to the.. to
7 the, the full length of case and the multiple courts
8 that we have to go to support one New Yorker, it
9 just... anyway, thank you for... [cross-talk]

10 LAUREN REIFF: Absolutely and if I..

11 [cross-talk]

12 CHAIRPERSON MENCHACA: ...for walking me..

13 [cross-talk]

14 LAUREN REIFF: ...if I may comment on that
15 we as lawyers cannot in good conscience say that well
16 we can only bill two cases so we're only going to do
17 two cases even though you qualify... [cross-talk]

18 CHAIRPERSON MENCHACA: Yeah, of course

19 not... [cross-talk]

20 LAUREN REIFF: ...for five with... you know
21 ethically that's a problem for us so basically what
22 that means is that in, in a case where someone might
23 have five individual cases and they're only one
24 participant... [cross-talk]

25 CHAIRPERSON MENCHACA: Yeah... [cross-talk]

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2 LAUREN REIFF: ...much of our work is
3 unfunded which impacts their ability to meet our
4 deliverables.

5 CHAIRPERSON MENCHACA: And ethically nor
6 should the city of New York, next.

7 FRANCO TORRES: Good afternoon, my name
8 is Franco Torres and I'm the Special Projects
9 Attorney at Catholic Charities. I just want to also
10 start by reiterating a lot of the similar concerns
11 that have already been expressed in terms of needing
12 support for federal litigation. They're making us
13 work a lot more, harder and on every single front and
14 as they... as they have, have said over and over again
15 it's hard to account for that in, in the current
16 contracts. We have people with multiple matters and
17 like we said ethically we're going to... we're going to
18 take that work on but thank you for allowing me to
19 testify today about the needs and gaps in services
20 for New York's immigrants. Catholic Charities has
21 been committed to welcoming New York... New York's
22 immigrants and this commitment is rooted in our
23 respect for human dignity of each person and the
24 value he or she brings to our community. catholic
25 Charities serves individuals in all five boroughs, 50

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2 percent of our clients are New York City residents,
3 20 percent of those are minors. Our goal... our goal is
4 to basically take some of the existing networks that
5 we have and strengthen those and then add to those in
6 the next cycle. We'd like to encourage ongoing
7 developing initiatives basically to build pro-active
8 and nuance response and referral systems through the
9 existing collaborative models that we have so
10 ActionNYC, ICARE, IOI, ICH and IARC. We also want to
11 look at enhancing the direct oral presentation
12 structures that already exist, increasing pro-bono
13 and pro se services for rapid response efforts and
14 also addressing emergent legal needs. As been
15 discussed earlier today for the past two years,
16 immigrant communities have faced countless shifts in
17 policy effecting basically pretty much every form of
18 relief and attacks on the main pillars of the
19 immigration system, family unity, safety for
20 survivors of violence, stability for communities in
21 crisis and New York City has strived to meet this
22 immigrant need through holistic responses marrying
23 local communities with respective providers. We're
24 encouraging refining and nuancing these networks to
25 increase efficacy, reduce duplicate services and grow

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2 a holistic connectivity across the different facets
3 of service delivery to meet immigrant needs.

4 Specifically, we're looking at using the ActionNYC

5 hotline as a referral conduit and as a means to

6 coordinate capacity updates between the different

7 legal service providers, so we can mitigate wait

8 times for people who are trying to come into the

9 system and seek consultations. We'd like to

10 incorporate New York City's support for the

11 immigration help desk to coordinate consultations and

12 referrals, that right now is a federally funded

13 program but basically its, it's a huge source of

14 intakes, it's through the immigration court, it

15 services ten months.. ten days a month basically doing

16 intakes and screening people at the immigration court

17 before or after their hearings and giving them

18 information... [cross-talk]

19 CHAIRPERSON MENCHACA: But the

20 teleconferencing has kind of stopped that or are we

21 talking about detained and non.. you're talking about...

22 [cross-talk]

23 FRANCO TORRES: No, I'm talking about...

24 [cross-talk]

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CHAIRPERSON MENCHACA: ...non-detained...

[cross-talk]

FRANCO TORRES: ...non... I'm, I'm talking about non-detained because... [cross-talk]

CHAIRPERSON MENCHACA: Right... [cross-talk]

FRANCO TORRES: ...because NYIFUP, NYIFUP takes care of the detained... [cross-talk]

CHAIRPERSON MENCHACA: Got it... [cross-talk]

FRANCO TORRES: ...so, this is... [cross-talk]

CHAIRPERSON MENCHACA: Right, so non-detained... [cross-talk]

FRANCO TORRES: ...the non-detained although we've had our own challenges in them creating the courtrooms they took away the space that we were using for that so we were literally in... doing it in the hallway with like three make shift desks but in the end this in depth coordination it's going to take experience, time, thought and effort and we're looking for funding for coordination roles that allow a heightened awareness of on the ground needs, finding greater efficacy in delivering services and

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2 so in terms of broadening the legal responses we're
3 looking for help in terms of recruiting, training and
4 deploying volunteers to supplement our services,
5 address the logistical support needs for legal case
6 work so that can be anything like finding
7 psychological evaluations or assistance for survivor
8 victims, people who are in asylum, asylum proceedings
9 who can use that to support and strengthen their case
10 and basically connect and collaborate with other
11 organizations to identify community needs. And just
12 to wind down you can read in more detail in the
13 written testimony but we're looking at expanding the
14 immigration court help desk as you guys have talked,
15 it's not criminal court, you don't get... you don't get
16 a free lawyer assigned and so as a result many people
17 are navigating this process without counsel and so
18 the immigration court help desk provides an
19 orientation, it provides a tutorial and pro se
20 services and we'd also like to get into the federal
21 litigation.

22 CHAIRPERSON MENCHACA: Got it and before
23 Camille goes I want to ask this last question about
24 Catholic Charities and Rich kind of said this
25 earlier, organizations have very specific strengths

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2 about their kind of entry into this world of, of
3 legal service... legal services and I'm thinking about
4 the jails, the detention centers, where they are
5 right now and different parts of the state and across
6 the river in the other state and whether Catholic
7 Charities... I mean I'm like... I'm brainstorming out
8 loud here and maybe we should do it off, off line but
9 I'm thinking about what you do already for non-
10 detained and the kind of need for a kind of detained
11 service like NYIFUP and, and working with non... a
12 nonprofit that has... you're everywhere... [cross-talk]

13 FRANCO TORRES: Yeah... [cross-talk]

14 CHAIRPERSON MENCHACA: ...Catholic
15 Charities is everywhere to provide that service for,
16 for folks who are... who are detained and getting
17 access to them at their jails and working with you to
18 think about how we can... we can do that.

19 FRANCO TORRES: Yeah, our organization is
20 already thinking about entering into... [cross-talk]

21 CHAIRPERSON MENCHACA: Sweet... [cross-
22 talk]

23 FRANCO TORRES: ...entering into that
24 because we... [cross-talk]

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CHAIRPERSON MENCHACA: Okay, just want to... [cross-talk]

FRANCO TORRES: ...get... we get a lot of calls actually from local parishes, we'll get something from Father John out in Middle Town about a local family that has had this happen where somebody is taken to detention and... [cross-talk]

CHAIRPERSON MENCHACA: Right... [cross-talk]

FRANCO TORRES: ...we now route those, we, we route those through NYIFUP but that's, that's... [cross-talk]

CHAIRPERSON MENCHACA: Right... [cross-talk]

FRANCO TORRES: ...something that we have... we have already... [cross-talk]

CHAIRPERSON MENCHACA: It could be robust, it could be funded, it could be... [cross-talk]

FRANCO TORRES: Yeah... [cross-talk]

CHAIRPERSON MENCHACA: ...even connected... [cross-talk]

FRANCO TORRES: And unfortunately, I think this is going to continue to be a... [cross-talk]

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2 CHAIRPERSON MENCHACA: Oh yeah, I, I
3 don't... it's going to get worse.

4 FRANCO TORRES: Yeah.

5 CHAIRPERSON MENCHACA: And on that note,
6 Camille.

7 CAMILLE MACKLER: I can speak fast if
8 you... that was a joke...

9 CHAIRPERSON MENCHACA: Don't... give, give
10 us everything we need to hear.

11 CAMILLE MACKLER: I have... I... obviously
12 first of all thank you for the opportunity and I
13 obviously echo and could never say better than what
14 these providers have said today but I do want to
15 actually piggy back on some of the, the things that
16 you have mentioned and I want... New York City has to
17 my knowledge made the largest municipal investment in
18 immigration legal services anywhere in the country
19 and New York State has one of the largest state fund...
20 if you include what the city has invested has one of
21 the largest if not the largest state investment. So,
22 I think now it's time for us to start pushing
23 ourselves and think about more, how do we get to
24 universal representation, how do we think outside of
25 the box, how do we use the phenomenal energy and

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2 power and knowledge that we have here in New York
3 City and here in New York State and how do we start
4 moving the conversation on universal representation,
5 the needle on that because it's going to start... those
6 conversations, things are changing in D.C., right,
7 starting in two weeks we're going to start having
8 more oversight, we're going to start having more
9 questions being asked, there are rumblings of
10 independent immigration courts, there are rumblings
11 of access to counsel issues going on down there and
12 we want to make sure that when those start happening
13 they point the finger right here at New York City and
14 they say that's how you do, that's how we do it. We...
15 you know about our immigration lawyer army, you know
16 we get together once a month and we talk about these
17 issues, they talk about it all the time in between,
18 we're, we're constantly channeling the energy, these
19 are some of the most passionate dedicated people and
20 I think Lauren you know that it's true, we have
21 ethical obligations to see our cases through but I
22 have never seen a lawyer in this room or outside this
23 room walk away from a case and to you point about so
24 how do we do this around the state, in Albany county
25 jail this summer when they brought 300 migrants from

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2 the border it was New York City lawyers who showed up
3 and who helped and who got those individuals out, who
4 got them talking to their kids again who had been
5 ripped from their necks, it was... it, it all starts
6 here. So, let's start thinking about how do we
7 allocate our resources properly, let's make sure that
8 we're not having arbitrary lines as to who gets
9 services and who doesn't but let's make sure that the
10 ones who get the free services truly can't afford it,
11 let's make sure that the ones who can afford it go to
12 private bar qualified as a goal, you know vetted
13 private bar and let's make sure... and... but more
14 importantly we have a whole category of individuals
15 who fall in the middle more than the 200 percent of
16 the poverty guidelines but not enough to afford a
17 private lawyer, we've never had those conversations
18 yet in a real public setting of how do we get to low-
19 bono models, how do we get to models that don't only
20 rely on public funds but do tap into the expertise
21 and the knowledge and the energy of this field. Let's
22 talk about how we help the people who never get
23 services, the appeals, that's where you change case
24 law, look at what NYIFUP did when they went to
25 federal court and they got a decision on how long the

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2 government can actually detain individuals that was
3 Seminole, every single time that you file an appeal,
4 every single time that you challenge a federal action
5 in, in federal court you're changing the law but
6 providers can't do that right now, they can't help
7 all of the hundreds if not thousands of New Yorkers
8 who have unjust deportation orders because they went
9 to court and they didn't have good legal
10 representation and now they live with that over...
11 hanging over their head, let's make sure that we're
12 funding that, let's be using technology, let's look
13 to our neighbors to the north in Canada, the federal
14 government gives provinces money for legal services
15 and in some provinces they use a voucher system so
16 that private bar can be brought in through a vetted
17 mechanism to enhance representation and in Canada 95
18 percent of refugees or asylum seekers are represented
19 through that mechanism so who... where else can we
20 learn from, let's have those conversations, let's
21 figure out how we can network the state so that
22 everything that's happening down here can also impact
23 out of state because when one of our New York City
24 residents gets arrested at the Canadian border we
25 need somebody out there to help us too. I obviously

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2 have already started thinking about a lot of these
3 issues and I look forward to thinking about them more
4 to using the energy to, to, to talking with the
5 providers as to how we can really become an
6 innovative city where we don't... not only have the
7 largest investment but we have the best investment in
8 legal services and the last thing I want to say and I
9 have so much more to say about this but I know these
10 conversations are only beginning but I want to
11 commend you Chairman for how much you have done for
12 this and I really think that in three years, three
13 and a half years when, when you step off this
14 chairmanship we should give you a JD and make you an
15 honorary immigration lawyer for all the work you've
16 done with us in the ranks.

17 CHAIRPERSON MENCHACA: I don't think any
18 lawyer in here would approve that.

19 CAMILLE MACKLER: You've got my... [cross-
20 talk]

21 CHAIRPERSON MENCHACA: But I like... maybe
22 I'll go to law school.

23 CAMILLE MACKLER: Don't, don't do that.

24 CHAIRPERSON MENCHACA: Okay..
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CAMILLE MACKLER: We'll use you better elsewhere.

CHAIRPERSON MENCHACA: Oh, there you go. This is the partnership.

CAMILLE MACKLER: Absolutely... [cross-talk]

CHAIRPERSON MENCHACA: Thank you and before, before we leave you Camille, I want to ask a little bit about the appeals, I think... I think that's, that's incredibly a bold envision about calling out that space, the appeals is where we change the law... [cross-talk]

CAMILLE MACKLER: Uh-huh... [cross-talk]

CHAIRPERSON MENCHACA: ...and NYIFUP did it and I think we, we go back to that often and so that's connected to the previous conversation about funding lawsuits and appeals could be another piece and so if, if, if the, the New York Immigration Coalition in partnership with everyone else could come up with what, what does that look like in terms of funding to, to think about that flexibility because what we're asking the administration to do is be more flexible but also be more direct and focus where we need to do that and this could be an area

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2 where we can focus some money. Every year we're going
3 to take on three or four cases that are going to be
4 helpful to change the law and, and that's not
5 something that we constructed our programs around and
6 so if you can help us think about that as a coalition
7 that would be great both on the... on the lawsuits but
8 also on the appeals.

9 CAMILLE MACKLER: So, one thing that
10 we're working on is collecting better data and
11 actually... Hasan and I earlier in the back were
12 talking about how we need our New York City track and
13 just start doing, you know that sort of systematic
14 fora but beyond that we're thinking through IARC and
15 other mechanisms how to start collecting data so we
16 can really start identifying the needs... the gaps and
17 the needs and so that we can make that, that case for
18 that investment and I think that that falls really
19 particularly well into that, one thing we want to do
20 is start trying to figure out how to engage pro-bono
21 and volunteers into filing appeals that push back on
22 all the terrible policy that you heard about today,
23 right, the dock... the rapid docketing, the, the
24 inability of judges to make discretionary decisions
25 and all of that and then how do we start tracking

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2 those outcomes and bringing them to federal court so
3 definitely I'm, I'm way ahead of you already but...

4 CHAIRPERSON MENCHACA: Looking forward to
5 sitting down with them...

6 CAMILLE MACKLER: Yeah...

7 CHAIRPERSON MENCHACA: Thank you.

8 MARC VALINOTI: Thank you very much, my
9 name is Marc Valinoti and I'm the Managing
10 Immigration Attorney at Northern Manhattan
11 Improvement Corporation. I sincerely apologize for
12 any overlap in... on topics that my colleagues have
13 spoken about. For a very brief intro, Northern
14 Manhattan Improvement Corporation is a community-
15 based organization founded in 1979, its grown into a
16 multi service agency with a staff of over 120 serving
17 New York City with a focus in upper Manhattan and the
18 Bronx where each of our offices are located. Our
19 programs include immigration, housing, financial
20 counseling, help care services, education and career
21 services. Our immigration unit provides consultations
22 and representation primarily on USCIS applications
23 including humanitarian forms of relief for
24 undocumented clients such as U visas, VAWAs and SIJS
25 cases. Although we screen and advise clients on a

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2 wide range of immigration issues, our ability to
3 provide robust representation before the EOIR is very
4 limited. There are two key aspects of how the lack of
5 funding for nonprofit EOIR representation impacts our
6 own ability to assist our community. The first is
7 when a screened client has an upcoming hearing,
8 lacking the capacity to place one of our own
9 attorneys on a court case that can take years to
10 complete, our current practice is to directly refer
11 the client to a partner organization. However, as has
12 been mentioned several times, other organizations
13 have similar constraints on their capacity which can
14 prevent the client from having their, their case
15 represented, this can result in the client having to
16 appear at least for a hearing or two pro se before
17 immigration judges and increasingly hostile attorney,
18 attorneys from the Department of Homeland Security.
19 Another issue arises in the decision of whether to
20 file certain affirmative cases with USCIS. Up until
21 recently a relatively narrow set of the USCIS
22 application denials would result in a notice to
23 appear at removal proceedings. This June DHS issued a
24 memo vowing to greatly expand instances where the
25 applicant for immigration benefit will be issued an

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2 NTA, this includes but isn't limited to applications
3 for adjustment of status, applications to extend
4 their changed temporary status, U visa applications
5 for crime victims and domestic violence victims,
6 applications for the abused spouse of a permanent
7 resident or US citizen and also special immigrant
8 juvenile status applications. This new policy
9 mandates an extra layer of analysis and risk
10 assessment before even deciding to file a case with
11 USCIS for a client who isn't already in removal
12 proceedings. The likelihood of a positive outcome for
13 an application which can depend on the officer's
14 individual evaluation is now weighed against the risk
15 of being issued an NTA upon denial and having to
16 fight against deportation and as with new clients who
17 are already in proceedings we will have to refer out
18 to other organizations those summoned to immigration
19 court after the USCIS case is denied. Regardless of
20 the strength of the person's removal defense without
21 an attorney the client's chances of success are very
22 limited. As a direct services provider, it is
23 especially disheartening to have to tell a retained
24 client that we must now refer them in the hope that
25 another organization has the capacity to defend them

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2 before a judge. The lack of adequate funding to take
3 on more EOIR cases is deeply frustrating and prevents
4 clients even with viable removal defense cases from
5 getting the representation they desperately need.

6 Thank you.

7 CHAIRPERSON MENCHACA: Thank you so much
8 Marc and everything that you're doing at NMIC and I
9 think one question I just want to ask, are you... are
10 you lauding that... the disheartening part where you're
11 telling a retained client we can't serve you any
12 more, we're going to move you to another
13 organization, is that something that you're
14 capturing?

15 MARC VALINOTI: Well that last issue
16 regarding the expanded list of denials resulting in
17 NTAs that hasn't hit us yet thankfully... [cross-talk]

18 CHAIRPERSON MENCHACA: But you're
19 anticipating... [cross-talk]

20 MARC VALINOTI: ...but we will keep track
21 of it... [cross-talk]

22 CHAIRPERSON MENCHACA: Great, that's,
23 that's an important part because again that's, that's
24 where we're, we're trying to figure out what, what
25 happens when a New Yorker interacts with the city of

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2 New York through our service providers and we carry
3 them through the process and, and I think that's
4 going to be the... one of the textures that we want to
5 present to the administration saying once, once
6 they're in our care we want that continuum to be... to
7 be fair, just and fueled with resources, that's,
8 that's the work, that's the... so, it would be good to
9 kind of figure out what, what that looks like for you
10 and other organizations.

11 MARC VALINOTI: Oh, we will definitely be
12 keeping track of it.

13 CHAIRPERSON MENCHACA: Great. Thank you
14 to this panel and we have one more panel and that
15 panel is Jojo Annobil, Annobil Immigrant Justice
16 Corps; Anne Pilsbury; Carol... Carlyn Cohen; Persephone
17 Tan and then Bridget Crawford if we can get you up,
18 up here and thank you for your patience on this. I'm
19 really happy that we're... that we're talking together,
20 and this is... this is a known family, all of us having
21 this conversation so I'm really happy that we're
22 doing that together here. And just make sure that you
23 press the button and it turns red.

24 ANNE PILSBURY: There we go. I'm Anne
25 Pilsbury, I'm the Director of Central American Legal

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2 Assistance. I started this work over 35 years ago
3 when there were seven judges on the immigration court
4 and now there are, I think 34 and I didn't even count
5 the ones at Varick Street so there's been a huge
6 increase obviously and its continuing. The Trump
7 Administration obviously wants to put as many judges
8 on the court as possible, so they can have cases as
9 fast as possible. So, we're, we're encountering this
10 kind of dual reality where I was in court this
11 morning with two people and their final hearings are
12 set for 2022. One of my colleagues was in court this
13 morning with, with three-year-old twins and their
14 hearing is in two months. So, the new judges have
15 been told to accelerate what they call these FAMU
16 cases, FAMU, which we think stands for Family Unit
17 and because most of the newly arrived people fleeing
18 out of Central America are for better or for worse
19 coming with children that's a huge segment of the
20 cases that are now going through the immigration
21 courts and the administration has decided to force
22 these people to have their cases litigated as fast as
23 possible, their goal seems to be within six months.
24 Now the law allows people a year to apply for asylum,
25 but the courts are actually shortening that and

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2 requiring us to do it even faster. So, we're pushing
3 back, it's hard, the new judges are on probation,
4 they're... you know they're being told by the AG that
5 they have to do this, they're being told by us that
6 it violates due process and some of them are a
7 little... you know having trouble dealing with this as
8 are we. So... [cross-talk]

9 CHAIRPERSON MENCHACA: But, but it's
10 their discretion I'm assuming... [cross-talk]

11 ANNE PILSBURY: Well technically it's
12 their discretion, I mean they, I think have been told
13 not to exercise discretion so it's, it's very hard so
14 anyway that's, that's what we're up against. Just to
15 give you an idea of the numbers, this week our office
16 had 22 hearings scheduled and we're, we're a staff of
17 about six attorneys although I think we may have the
18 biggest... one of the biggest removal defense caseloads
19 in the city; four final hearings, 19 preliminary
20 hearings. Now this is not normal, normally we have
21 eight to 12 hearings a week and so we can see the
22 trend is, is obviously shocking. We already are
23 committed to appearing for 193 final hearings
24 representing over 250 people in 2019, nevertheless
25 the new judges are scheduling on top of those cases.

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2 We have large caseloads for final hearings in 2020,
3 2021, and 2022 years for which we haven't a clue what
4 our funding will be. So, obviously we worry about
5 that but we don't turn down cases because we don't
6 have funding and when we take cases we take them all
7 the way up to federal court if, if the case... the
8 facts of the case and the law... the case warrant it
9 and we get no extra or special dedicated funding for
10 doing appeals but we just consider it a normal part
11 of representing somebody. So, we're very grateful of
12 the Council as everybody is. I'm a little bit of a
13 minority view on the issue of, of universal
14 representation because when people come across the
15 border, the people from the northern triangle who we
16 are the ones we mostly represent it's asylum or
17 voluntary departure, there really aren't... no room for
18 negotiations and so it's important we think to be
19 able to fully staff the cases that are legitimate
20 asylum cases.

21 CHAIRPERSON MENCHACA: And, and let me
22 just follow up with that really quick and say... and
23 ask how... I guess I'm not following the... how universal
24 representation hinders the opportunity for the asylum
25 cases that need to get... [cross-talk]

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ANNE PILSBURY: Well because there's only, you know 40 or 50 hours in the week and if, if you're going down to court with someone who has no relief except voluntary departure, you're spending hours sitting in court waiting to be called to do something that a person could do without a lawyer.

CHAIRPERSON MENCHACA: Got it..

ANNE PILSBURY: And so, I think we have to be realistic about how we marshal our resources.

CHAIRPERSON MENCHACA: Yeah, agreed..

[cross-talk]

ANNE PILSBURY: I, I think it's great to have universal screening, to have everyone talk to a lawyer..

CHAIRPERSON MENCHACA: Uh-huh..

ANNE PILSBURY: But representation to me implies you put in your notice of representation and you go to court.

CHAIRPERSON MENCHACA: Right..

ANNE PILSBURY: And I don't think that that would be a good use of public money.

CHAIRPERSON MENCHACA: Okay. Thank you for that and now I want to.. I want to follow up with you later on, on the.. I think what, what I'm calling

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2 like continuum and so, so I think your, your comment
3 and feedback can actually fit within a universal
4 model that allows for us to, to focus but allow
5 everyone to have some sense of understanding about
6 what their case is and options and.. but you'll still
7 need that... the screen will still be a legal... a legal...

8 ANNE PILSBURY: Activity...

9 CHAIRPERSON MENCHACA: Activity and again
10 I'm thinking like contracts, some of the contracts...
11 define it but a legal screening is, is something that
12 a legal person will have to do... [cross-talk]

13 ANNE PILSBURY: Yeah, absolutely and
14 we're committed to doing that and we do it now...
15 [cross-talk]

16 CHAIRPERSON MENCHACA: Yep, right...
17 [cross-talk]

18 ANNE PILSBURY: ...way beyond our contract.

19 CHAIRPERSON MENCHACA: Right, so I think
20 we might not be too far away, but I think I, I really
21 hear you when you say how do we... how do we marshal
22 our resources and really focus the intensity of an
23 asylum case which is going to be intense and a long
24 process. So, thank you, thank you Anne.

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2 PERSEPHONE TAN: Hi, thank you Chair

3 Menchaca and the Committee on Immigration for
4 convening this hearing today. I am Persephone Tan,
5 Associate Director of Immigration and Policy at Asian
6 American Federation. We are an umbrella nonprofit and
7 we have 60-member organizations that are Asian led
8 and Asian serving in New York City and as you may
9 know 70 percent of Asian New Yorkers are immigrants,
10 so immigration is a very important issue to us.

11 Currently the federation receives state funding for
12 serve... several immigration programs that we manage
13 and work on with some of our member organizations and
14 this includes the navigator program, opportunity
15 centers and delivery defense project which all fall
16 under the purview of the New York State Office for
17 New Americans or ONA and we are very thankful for all
18 the immigration attorneys and organizations that are
19 here today to testify about the importance of their
20 very crucial work that's needed for the immigrant
21 community living in New York and without them to
22 fight against the President's, xenophobic laws and
23 policies would be very hard to overcome. And my main
24 point in testifying today on behalf of the Federation
25 is to emphasize... when we talk about the need for

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2 legal representation we really need to think about
3 the role of community based organizations because
4 they are the link between the immigrant communities
5 and to legal service organizations especially when
6 the legal service organizations do not have the
7 language capacity to speak to the immigrants
8 directly. And specifically, for the Asian immigrant
9 community, our CBOs are the vital connections there
10 on the ground and they're trusted organizations where
11 clients go to when they have an issue and so we are
12 asking for investments in both CBOs and legal service
13 organizations when you're considering funding for
14 immigrant legal services. A lot of the work that our
15 member organizations do is unrecognized labor that
16 they have to deal with so, you know when a client's
17 seeking legal immigration services it's much easier
18 to find an attorney who speaks Spanish for example,
19 it is much, much harder to find Nepalese or Arabic
20 speaking attorney so the reliance on these CBOs, very
21 local CBOs who speak multiple dialects of Asian
22 languages is very crucial in that formula to make
23 sure that the client gets access to legal immigration
24 services. So, when we think about the capacity
25 building for these CBOs, we really need to make sure

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2 that there is a partnership between legal service
3 organizations and the CBOs who have direct access to
4 these immigrants, can't really provide legal
5 immigration services if you don't even have that
6 connection, right, where you... I've heard stories of
7 making a referral to a legal service organization but
8 that legal service organization still has to rely on
9 that CBO for translation services, for
10 interpretation, for them telling the clients, you
11 know you need to bring these certain documents,
12 making those appointments so it's a lot of free work
13 that they're doing, case management work that they're
14 doing that is very critical to immigrant legal
15 services.

16 CHAIRPERSON MENCHACA: Thank you and I
17 want to ask HRA, is HRA in the room, can you raise
18 your hand? Thank you. MOIA, Mayor's Office of
19 Immigrant Affairs? Thank you, awesome. So, they're
20 here and they heard that. I heard... I hope that you
21 feel confident both Council Member Dromm and I are
22 really going to focus on this concept of the, the
23 kind of wrap around resources that really think about
24 English language learners as they access services.
25 The legal services are probably the more critical

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2 ones because they're difficult to understand period
3 and, and so it's not just about having translation
4 and I think your... to your point people who understand
5 the law in a way to be able to communicate it
6 correctly and, and that's, that's a robust need that
7 requires people and that's a whole other budget line
8 that, that we have yet to find common ground with the
9 administration right now on and, and so we want to
10 work with you to figure out how, how we... how we
11 address that and whether it's, it's, it's building
12 robust nonprofit language services and translation
13 services or, or it's a whole other team that is just
14 dedicated to, to language services and the last... this
15 last election the three different proposals they... a
16 few of them really spoke to bringing those language
17 services within the community boards and so we're
18 going to be pulling that out in the budget
19 negotiations about how we... how we make sure that
20 every service has, has no barriers to, to access
21 related to language period. So, thank you, thank you
22 for that, for that voice.

23 CARLYN COHEN: Good afternoon, my name is
24 Carlyn Cohen, I'm the Chief Policy and Public Affairs
25 Officer of the Chinese American Planning Council. We

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2 are a proud member of Asian American Federation and
3 one of the CBOs that Persephone was describing so I
4 would really like to uplift the recommendations that
5 she shared but also describe a little bit of what we
6 see on the ground at CPC in our three community
7 centers where we work with over 60,000 Asian American
8 immigrant and low income New Yorkers on a variety of
9 services every year. We see community members that
10 speak 25 different languages and the need for legal
11 services has exploded over the past couple of years.
12 Because we don't have a robust in house legal service
13 or legal partnerships what happens is we really end
14 up piecing together legal services from a variety of
15 partners like NYLAG and like IJC and what happens is
16 sometimes there are linguistically appropriate legal
17 services but because we're talking 25 different
18 languages a lot of times what happens is that our
19 staff end up doing the translating especially when
20 services are then being referred out after initial
21 screenings and our staff members are already
22 overloaded with their other work but are also not
23 experts and so that goes to what you were talking
24 about, about the nuances of translation when it comes
25 to these really detailed issues so not only are our

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2 staff taking on extra labor that is unfunded but
3 they're not necessarily the best people to do it, it
4 would be best if we could provide legal services
5 directly in the language. Another thing that we see
6 that's a huge issue is because there's such a lack of
7 legal services in the Asian American community is
8 that a lot of our community members turn to less
9 reputable sources similar to Nothadeos [sp?] in the...
10 in the Latino community for legal services and then
11 they're actually coming to our community centers for
12 second opinions when they've already been told to for
13 example, apply for asylum in a case where they
14 weren't actually eligible for asylum or their broker
15 has somehow frauded them and when they get to us at
16 that point because they have already gone through
17 that there's actually very little that our legal
18 services can do to support them and it puts them in a
19 set of proceedings unnecessarily that could have been
20 avoided if we'd had more robust legal services that
21 were linguistically and culturally appropriate to
22 begin with. So, just in conclusion I'd really like to
23 share the recommendations that Persephone shared
24 making sure that we have good integration between
25 community-based organizations that have the language

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2 and cultural understanding as well as trust with
3 community members and the legal services that have
4 been sharing so many important points about the work
5 that they do today. Thank you.

6 CHAIRPERSON MENCHACA: Can I ask that... we
7 want to be creative right now and think about whether
8 or not there's an, an API initiative that can be
9 focused and I'm not saying this is the only community
10 that needs it but your, your need is very specific
11 and if you can build an initiative that allows us to
12 kind of look at, at building out what, what you need
13 and I... what I don't want to do is, is create that for
14 you and with your partners whether that's building
15 out a legal arm for CPC or other organizations or, or
16 kind of building a relationship that's singular and
17 again I'm... actually I'm not... I'm, I'm doing what I
18 said I wasn't going to do, figure out what you need
19 and, and then let us know and I think that's where we
20 need to start from, from your... from your experience
21 on the ground with your organizations to address the
22 language barrier and the unfunded labor that's
23 currently going on right now, that's not... there's no
24 efficacy at the end of the day and it's... that's

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2 unacceptable so let's figure out how we can really
3 address that from your perspective.

4 CARLYN COHEN: Absolutely, I think that's
5 a huge... [cross-talk]

6 CHAIRPERSON MENCHACA: Okay... [cross-talk]

7 CARLYN COHEN: ...need for us and other
8 organizations that work with Asian American
9 communities and we'd be happy to talk about that
10 more.

11 CHAIRPERSON MENCHACA: Good.

12 CARLYN COHEN: Thank you.

13 CHAIRPERSON MENCHACA: Thank you.

14 JOJO ANNOBIL: Chair Menchaca good
15 afternoon and thank you so much for inviting me to
16 speak today. You've asked a lot of thought-provoking
17 questions this afternoon and it's interesting that I
18 have answers to some of them. I think that what you
19 heard today is how legal service providers and
20 activists are drinking out of the fire hose because
21 of what is happening here. The only thing that keeps
22 us all going are the stories of resiliency and the
23 stories from our clients who have seen so much, keeps
24 us going but to answer some of the questions that
25 you, you answered... so, four years ago we made the

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2 largest infusion of immigration talent into this,
3 this... into the city, 25 recent law graduates very
4 committed to social justice who came in and infused
5 legal service provider organizations with energy and
6 took on so many cases. I'm proud to say that 96
7 percent of them have stayed in the immigration field
8 since they graduated. We currently, we've graduated
9 another 25 in August, 96 percent have stayed in the
10 immigration field, you're talking about capacity, we
11 are graduating folks who want to do this, folks that
12 are coming from California because there's no
13 immigration justice corps, there's no way to get
14 there for... through the door coming to New York to
15 learn and going back. If you're talking about
16 capacity, we are building a pipeline, our footprints
17 are all over the legal service providers in this
18 city, they have... they take on our staff sometimes 18
19 months into the fellowship, we are hiring them which
20 means that we are doing something good, we are... we
21 are bringing real talent into the city. We are also
22 trying different delivery models, we are capacity
23 building, we are not only dealing with the reputable
24 organizations, we're building capacity, we build
25 capacity at Arab American Association in New York

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2 City, we've built capacity at Min Quan, we've built
3 capacity at... which works with African women, we've
4 provided them with lawyers. The fellows we are
5 bringing in are immigrants or first-generation
6 immigrants, they speak multi languages, we are not
7 bringing in folks in where organizations also need to
8 hire translators for them, we can do a lot. The model
9 we have especially with our college graduates who are
10 embedded in all five boroughs, we are all... we, we, we
11 working out of libraries, these are folks who we have
12 first years and second years, we've paired them, you
13 talk about supervision, after a year our second year
14 community fellow is able to supervise the first year
15 with little supervision from an attorney, right, even
16 though we need that oversight. We built enough that
17 our fellows who started this program are currently
18 supervisors at organizations all because of the staff
19 development we put in. We have a lot to offer, we...
20 our numbers have remained stagnant but we are ready
21 to add more people, I have 60 recent law graduates or
22 law, law students who are about to graduate who are
23 vying for 25 spots, I wish I could give all of them
24 those spots but we are at the precipice of being able
25 to do this, we want to work with you to make sure

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2 this can happen, we could build a pipeline for you if
3 you give us a chance and... [cross-talk]

4 CHAIRPERSON MENCHACA: And by chance we
5 mean... do we mean money?

6 JOJO ANNOBIL: Well money is a factor,
7 right, because... [cross-talk]

8 CHAIRPERSON MENCHACA: Yeah... [cross-talk]

9 JOJO ANNOBIL: ...most of the work... [cross-
10 talk]

11 CHAIRPERSON MENCHACA: That's what I want
12 to understand what, what... [cross-talk]

13 JOJO ANNOBIL: Yes... [cross-talk]

14 CHAIRPERSON MENCHACA: ...what is that,
15 that pipeline because you're right I think you're,
16 you're answering a lot of the questions actually of
17 the kind of need for lawyers that speak multiple
18 languages and you know I love the, the justice
19 courts, incredible and an idea that, that lawyers are
20 coming from states to, to do the work here through
21 the fellowship is really exciting and, and figuring
22 out how we take it to the next level for the pipeline
23 to be larger, how do we do that?

24 JOJO ANNOBIL: So, we, we do that... so, a
25 lot of our funding, 70 percent to 80 percent of, of

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2 our funding is from foundations and individuals,
3 right and we can continue to rely, rely on
4 foundations, right and so we have diversify our
5 funding streams, yes, thank you so much you give us
6 some money to do U visas, you give us some monies to
7 do other things but all we're saying is that if we're
8 talking about capacity and we are bringing these
9 folks... these fellow... young lawyers in and training
10 them we can train them to build that, build them at...
11 the community base level, we are talking about
12 Chinese Planning Council, we have two fellows there,
13 we've had fellows there for the past three years, is
14 it a matter of adding a lawyer, we could do that if
15 we are going to get funding to, to be able to place
16 someone there, right but I think... [cross-talk]

17 CHAIRPERSON MENCHACA: And, and the
18 funding right now relationship is funding is funding
19 for case load..

20 JOJO ANNOBIL: Uh-huh...

21 CHAIRPERSON MENCHACA: ...and that's...
22 you're saying that's good and that's okay and the
23 diversification is more about expanding caseload,
24 paying for caseload through the justice corps?
25

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2 JOJO ANNOBIL: Yes, because I, I think
3 you're investing... I, I think... when you talk about
4 money you should look at it in terms of investment, I
5 mean investment in the career of a young lawyer and
6 investment in the lives of immigrants that you're
7 going to work with, that's two... [cross-talk]

8 CHAIRPERSON MENCHACA: And I wonder, you
9 know De Blasio wants to create 100,000 jobs... [cross-
10 talk]

11 JOJO ANNOBIL: Uh-huh... [cross-talk]

12 CHAIRPERSON MENCHACA: ...in the city of
13 New York and I wonder if he's capturing this number
14 and whether or not we can redefine that 100,000 jobs
15 with lawyers that we can help... [cross-talk]

16 JOJO ANNOBIL: And, and... [cross-talk]

17 CHAIRPERSON MENCHACA: ...bring into, into
18 the field.

19 JOJO ANNOBIL: Exactly and my last... my,
20 my last... my last point also is that we're also
21 looking and I think we should all look at this
22 because you've talked about invest on representation,
23 right, invest on representation is on different
24 levels, we should really look at how college
25 graduates who come in and be basically accredited

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2 reps, partial can become full accredited reps at some
3 point and be able to do some of the work that is in...
4 being done in court, we should look at that. We've
5 talked about low-bono, we've just started, opened a
6 low-bono practice in Jersey City, we are trying that
7 model, we are bringing in fellows who are interested
8 in going into the private sector about who want to be
9 able to do that charging low fees, we just started
10 this in October so we are trying different delivery
11 models and we really want to talk to you... the city
12 about some of these things because we've tried them,
13 we've seen that they've been successful and we can
14 build on it. Thank you so much.

15 CHAIRPERSON MENCHACA: Thank you, really
16 helpful Jojo and keep doing the good work, let's,
17 let's keep doing it together.

18 BRIDGET CRAWFORD: Thank you so much.
19 Last but hopefully not least. Thank you so much for
20 the opportunity to testify. My name is Bridget
21 Crawford and I'm the Legal Director for Immigration
22 Equality. Immigration Equality is one of the leading
23 LGBTQ immigrant rights organizations in the country
24 and since 1993 we have advocated for and represented
25 thousands of LGBTQ and HIV positive immigrants. I

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2 will try not to be too repetitive, I'll say that we
3 echo many of the sentiments of the other
4 organizations that have already testified but in
5 nearly 80 countries it's a crime to be LGBTQ. Many
6 more countries are fundamentally unsafe for our
7 population, many of our clients have faced the most
8 horrific persecution imaginable and our clients flood
9 to New York City in search of a life that they cannot
10 have anywhere else but when they reach the United
11 States as many of the other organizations have
12 pointed out they're often met with near
13 unsurmountable obstacles when interacting with our
14 immigration system. I won't repeat some of the issues
15 that have come up as of late under the Trump
16 Administration. I think in particular the quota
17 systems and the lack of access to due process for our
18 clients and immigration proceedings are problematic.
19 I think the... that the situation is particularly dire
20 for LGBTQ and HIV positive immigrants in immigration
21 court. We regularly find that judges require
22 additional briefing and education in order to make
23 fair decisions on an LGBTQ person's case. For
24 example, judges are often unfamiliar with transgender
25 identity, they conflate it with a person being gay,

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2 wrongly finding that for example a transgender woman
3 does not qualify for asylum because it is relatively
4 safe for a gay man in her country of origin. This is
5 simply wrong, and it puts our client at grave risk.
6 The Obama Administration had planned to address such
7 issues with LGBTQ competencies trainings for
8 immigration judges similar to what our organization
9 does for asylum and refugee officers. However, no
10 such trainings have taken place and we don't see that
11 happening in the near future and I think it's
12 extremely challenging for experienced counsel to be
13 able to convey these important concepts to judges
14 under time constraints. It is nearly impossible for a
15 lot of pro se litigants especially English language
16 learners who do not know the law, may not have the
17 vocabulary to explain these nuances especially in an
18 adversarial proceeding. For those LGBTQ and HIV
19 positive immigrants in detention justice is regularly
20 denied, involuntary transfers to open beds rip New
21 Yorkers away from their communities, their families
22 and their attorneys. For LGBTQ and HIV positive
23 immigrants' detention is exceptionally dangerous. A
24 recent... a recent study by the Center for American
25 Progress found that LGBTQ people in immigration

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2 detention are 97 percent more likely to experience
3 sexual assault in detention than non-LGBTQ people.
4 And in our experience, this bears out roughly half of
5 our transgender clients who have been in immigration
6 detention report physical and sexual... and or sexual
7 violence. In short, legal representation is more
8 critical than ever now and asylum seekers five times
9 more likely to win her case if she's represented by
10 an attorney. Having an attorney raises the asylum
11 seekers odds by a thousand percent and we know this
12 is true, we regularly win cases, we have a 99 percent
13 success rate but unfortunately, we cannot meet the
14 need. We have seen a significant uptick in the number
15 of LGBTQ and HIV positive immigrants that are calling
16 our hotline that are reaching out to us through web
17 inquiries and we just cannot meet the need right now.
18 With additional support and funding, we're hoping
19 that we can expand the services that we provide and
20 meet more of the need, but I think as everyone else
21 has voiced the floodgates have opened and, and
22 everybody is, is desperately trying to help the most
23 vulnerable population.

24 CHAIRPERSON MENCHACA: Thank you Bridget
25 for your, your testimony and the work that you do at

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2 Immigration Equality and the people that you serve
3 are important too not just me but the Speaker as well
4 and so this is how... this is how we get there by
5 understanding the need and so it's really important
6 to understand the, the kind of impact that a LGBTQ,
7 gender nonconforming person is going through the
8 court system and detention, it's important to, to
9 hear these, these voices and it, it just accelerates
10 the need for us to work together to figure out what
11 you need as an organization and what the whole system
12 needs and so what, what I want to do and end... and end
13 here is say that, you know we started... we started
14 this hearing with, with some big topic items and the,
15 the topic here was how do we get to a place where
16 everyone who needs a lawyer, who needs a lawyer,
17 you're right, who needs a lawyer get a lawyer and,
18 and live with dignity and respect the system that due
19 process is the, the goal that a court system can
20 offer justice to the person that's going to a judge
21 and it is getting plagued with so much political
22 forces, negative, evil policies that support white
23 supremacy and a, a whitening of America and that is
24 what we are... we are dealing with and the deportation
25 machine is an... is an active tool to remove people

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2 from our counties and you all represent people that
3 deserve to be here and deserve the dignity of an
4 immigration reform plan that allows them to create
5 status to stay here, to work here, to be here, to
6 live here, to love here and that is... that is our
7 goal. Now the federal government refuses to
8 acknowledge this ability to have legal representation
9 and we're not there yet but we got to create it first
10 and that's, that's the... that's the goal here because
11 we can't... we can create it and there's nothing
12 removing us from that except for political leadership
13 and you all hold us to that fire and we... and we feel
14 it and so we're going to keep pushing for that and
15 while we do that we're going to get the state to do
16 it and then we're found... we're, we're soon going to
17 get the federal government because congress will
18 turn, it's already turning, all the women who have
19 been elected from communities that represent the kind
20 of values that we're talking about here will continue
21 to grow and so that's the vision that we hear... that
22 we see already and that's what we're, we're feeling
23 right now and the burden on us is to get it right
24 here in the city of New York because that is our
25 world and that's what we can do and impact the rest

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2 of the nation and so thank you for your work, your
3 diligent work, your thoughtful work and your feedback
4 to us and so all these initiatives I'm hoping we can
5 really follow through and come back with a real
6 robust budget request and some legislation that
7 really defines our actual commitment to
8 representation that, that is universal in terms of
9 getting lawyers to people who need it and, and that
10 is... that is... that is our work and, and I think what,
11 what's really beautiful too is... and what I'm hearing
12 is all these different pieces like a justice corps
13 that's training the next generation look like the
14 people that they're serving and that... that's the...
15 that's the, the beauty of a system when the
16 government can represent... be represented by the
17 people that they're serving, that, that is... that is
18 the gold here and that's what we're going to get to
19 and whether I go to, to law school or not, that'll be
20 something else we can talk about Camille you're
21 saying no... you're saying no but this might be my
22 next... my next avenue for, for work but I want to
23 thank you from the bottom of my heart and this is
24 just the beginning, it's the end of 2018 but next
25 year we're going to come out fighting for the things

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2 that we need in this next budget and you're going to
3 be there to support us. Thank you, thank you. And now
4 this meeting is adjourned, and I want to say thank
5 you to the HRA team and MOIA for being here as well,
6 thank you.

7 [gavel]

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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 that there is no relation to any of the parties to this action by blood or marriage, and that there is interest in the outcome of this matter.



Date

January 21, 2019