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Presented before

The New York City Council

Committees on Immigration and Small Business

Oversight - Preparing Asylum Seekers and Migrants for the Workforce

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My name is Dinah Foley. I am a Senior Social Worker in the Immigration Practice at Brooklyn Defender Services (BDS). BDS is a public defense office whose mission is to provide outstanding representation and advocacy free of cost to people facing loss of freedom, family separation and other serious legal harms by the government. I thank the New York City Council Committees on Immigration and Small Business, in particular Chair Avilés and Chair Feliz, for the opportunity to testify about workforce preparedness and expanding access to municipal identification for immigrant New Yorkers.

For over 25 years, BDS has worked, in and out of court, to protect and uphold the rights of individuals and to change laws and systems that perpetuate injustice and inequality. We represent approximately 22,000 people each year who are accused of a crime, facing loss of liberty, their home, their children, or deportation. Our staff consists of specialized attorneys, social workers, investigators, paralegals and administrative staff who are experts in their individual fields. BDS also provides a wide range of additional services for our clients, including civil legal advocacy, assistance with educational needs of our clients or their children, housing and benefits advocacy, as well as immigration advice and representation.

BDS' Immigration Practice protects the rights of immigrant New Yorkers by defending against ICE detention and deportation, minimizing the negative immigration consequences of criminal and family charges for non-citizens, and representing immigrants in applications for immigration benefits. We represent people who are applying for immigration relief before U.S. Citizenship and Immigration Services (USCIS), and in removal proceedings in New York's immigration courts.

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Meeting Legal Service Needs of Asylum Seekers

The City Council has long been a champion of the rights of immigrants and one of the most profound ways in which the city has demonstrated its commitment has been through the groundbreaking NYIFUP program. Brooklyn Defender Services is proud to have partnered with the City Council on this program with our co-providers, The Legal Aid Society and The Bronx Defenders for almost a decade, during which time we have assured thousands of people obtain full representation for the complicated issues they face in removal proceedings.

The support of the City Council allows us to respond to people's immediate needs—such as detained deportation defense and screening and advisals for immigration relief—and to provide education and resources to the community and other legal providers. We encounter recently arrived immigrants in both our criminal and family defense practices, many of whom are already ensnared in the immigration system. Attorneys must advise clients how to navigate filing a change of address with the immigration court while in the shelter system. Many of these clients have immigration court dates set in other cities, requiring change of venue motions. We also must step in quickly to file asylum applications. Our practice has also seen an increase in requests for assistance with family visa petitions to reunite families where children or other family members have remained in their home country and seek to reunite them (such as I-730s for derivatives of asylum seekers or I-130 visa petitions for spouses, parents, and children abroad).

We continue to expand services to meet our clients' needs and have renewed our focus on enforcing our low wage immigrant worker's rights; both as a remedy in itself and as an essential element of our immigration practice aimed at deferred action for labor-based claims for our clients. We have seen dozens of clients whose employment claims may lead to meaningful immigration relief including deferred action and work authorization, as well as the administrative closing of removal proceedings and the exercise of prosecutorial discretion where it would otherwise not be possible.

The backlog for non-detained immigration court persists; and has created unpredictability in case trajectory, inefficiencies in case management, and prejudicial consequences for the respondents left in limbo who are often separated from their families. Most affirmative immigration applications used to be considered straightforward, based on the evidence submitted with the application. Requests for evidence are now more frequent, invasive and time consuming. Changes such as these resulted in a steep increase in erroneously rejected applications, applications rejected for empty boxes on forms, or simply and most often for failing to read the applications and review the evidence submitted. While these practices frustrate practitioners and delay applications, *pro se* applicants who lack the legal skills or resources to navigate the system are left without recourse and without immigration status.



Prioritizing funding for full representation means ensuring we can continue to provide multidisciplinary services for our immigrant clients and their families. Our expertise lies in the complex legal issues that arise in an immigration case, issues such as contact with the criminal legal system or the Administration for Children’s Services, prior deportation orders, mental health concerns, and the coordination of pursuing multiple forms of immigration relief for any given individual or family are spaces where our unique expertise comes into play.

IDNYC Access and Expansion

New York City’s municipal identification card program, IDNYC, was created by this Council to ensure that more members of our community are able to access identification. The people we serve often face significant & numerous barriers to economic survival—and enhancing access to IDNYC presents an opportunity for our city to remove one of these barriers. ID access is vital for New Yorkers seeking to access city benefits, employment, health care, for immigration applications, to open bank accounts, and the ability to travel the city safely without fear of being penalized by law enforcement for lack of ID.

For asylum seekers, some form of photo ID is a requirement to apply for an Employment Authorization Document. ID is also needed to attend the biometrics appointment required for an EAD. We have seen instances of the ability to work delayed due to issues accessing IDNYC. The consequences of delaying access to work are expansive—deepening food insecurity and housing instability, preventing access to healthcare and basic hygiene items, and making it harder for people to leave relationships that are harmful to them. **BDS strongly supports Int. 216 which would require the City to provide walk-in appointments, additional training for staff, and an appeal of a denial at the time of application.**

Restore Walk-In Appointments

When we last appeared before the Council to discuss IDNYC, DSS was piloting walk-in appointments, but this practice was quickly discontinued as the city was unable to meet the demand for ID appointments. The current process of obtaining an IDNYC appointment through the website is difficult and time consuming. Our staff and clients are often unable to find an appointment through the portal, which is needlessly complicated to use. Appointments difficult to search for in the existing system—one cannot search for the soonest available appointment, but must enter each individual date and time, usually to find that there are no appointments available.

We see the high demand for and interest in IDNYC as an indicator of the program’s success. The program is so important that people are willing to wait in line, sometimes for hours. We urge the City Council to work with MOIA and DSS to develop a walk-in system that meets the needs of the program. Other city and state agencies *are* able to accommodate walk-ins, and have built systems that provide a blueprint for how IDNYC can create an effective and efficient walk-in program.



Expand Appeals of IDNYC Applications

Additionally, the ability to appeal an application or document's denial on site is critical. Too often, the people we represent are wrongfully turned away because the IDNYC staff declines to accept a document listed on the ID calculator. These individuals do not receive a formal denial, so are not able to access the secondary review process. Additionally, those who present with incomplete or missing documents should be provided a follow up appointment to return for another opportunity to apply.

Training for IDNYC Staff

Last year, the City Council passed legislation expanding documents accepted as proof of identity and allowing the administration to continually review and add documents. We recognize that reviewing documents from around the world is challenging, and may lead to improper denial of applications. In addition to establishing an on-site review and appeal process to address potential errors, BDS supports the increase in training for IDNYC workers required by Int. 216. As the bill ages, we respectfully request an amendment of the language to require training twice annually, instead of every two years.

Conclusion

We urge the City Council to prioritize meeting the needs of our newest neighbors. This should include incorporating future funding for full legal representation for immigrant New Yorkers into the city budget, as opposed to funding the programs through discretionary annual funding. We require baseline funding to give providers the stability to build robust programs that can respond to large influxes of people from other countries. Organizations that are stable and well-staffed can step in when a crisis occurs and assist immigrants and address a particular situation as it arises. Unlike other types of legal work that can be fairly stable over time, we have seen that the needs of immigrants in New York City do not follow a pattern. There is always a new situation that needs to be addressed and legal services providers need to be properly funded and staffed with experienced attorneys, paralegals, and other staff to perform critical work on a short timeline. A deep commitment to funding our services over time would allow us to be nimble and provide flexibility for the city to meet the needs of its residents and their families.

We look forward to continued conversations and collaborations on building up systems to meet the needs of our city's immigrant community. If you have any questions, please reach out to Kathleen McKenna, Senior Policy Social Worker, at kmckenna@gmail.com