



**BROOKLYN  
DEFENDER  
SERVICES**

**TESTIMONY OF:**

**Lindsey Buller – BIA Accredited Representative**

***BROOKLYN DEFENDER SERVICES***

**Presented before**

**The New York City Council Committee on Immigration**

**Hearing on**

**Supporting New York City’s DREAMers and “DACA-mented Youth**

**&**

**Resolution 1484-2017**

**June 19, 2017**

**Introduction**

My name is Lindsey Buller. I am a Board of Immigration Appeals Accredited Representative for the Youth and Communities Project at Brooklyn Defender Services (BDS). BDS provides innovative, multi-disciplinary, and client-centered criminal, family, and immigration defense, as well as civil legal services, social work support and advocacy, for over 30,000 clients in Brooklyn every year. The Immigrant Youth and Communities Project (YCP) has represented thousands of Brooklyn immigrants in their applications for lawful immigration status and in defending against deportation in non-detained removal proceedings. Highlights of our work include assisting more than 320 young clients in their pursuit of Special Immigrant Juvenile Status (SIJS), Adjustment of Status, U visas, Deferred Action for Childhood Arrivals (DACA) and other immigration benefits or

removal defense, and assisting more than 1,000 Haitian New Yorkers with their applications for Temporary Protected Status, work authorization, and other immigration benefits or removal defense. I thank the City Council Committee on Immigration for the opportunity to testify today about BDS's support for Resolution 1484-2017 and the challenges that our DACA youth clients face in accessing education and supporting their families.

### BDS's Provision of DACA Services

Since 2009, BDS has counseled, advised or represented more than 7,500 immigrant clients. In 2016 alone, we handled more than 1,500 immigration matters across a full spectrum of services. Our immigration practice is composed of 17 full-time immigration attorneys, two law graduates, five paralegals accredited by the Board of Immigration Appeals, one full-time and one part time social worker, two legal assistants and two Immigrant Justice Corp Legal Fellows representing more than 1,000 immigrant New Yorkers every year. We are a Board of Immigration Appeals-recognized legal service provider.

BDS recently completed a contract with the Division of Youth and Community Development (DYCD) to provide DACA services.<sup>1</sup> Through that contract we established ourselves as a well-known DACA provider in Brooklyn, and we continue to receive DACA and other immigration referrals from community-based organizations and literacy providers, as well as from former DACA clients referring their friends and family members to us. While many New Yorkers with "simple" expanded DACA cases can be helped by community based organizations and programs like Action NYC, we stand ready to help those with cases made more complicated by interactions with the criminal justice system and/or immigration enforcement.

Indeed, BDS and other public defender offices like ours are in a unique position to provide complex immigration legal services for clients who may not otherwise seek immigration assistance but come to us by way of the criminal and family court systems.

To give you an example, BDS's *Padilla* practice advises BDS clients facing criminal charges on the ramifications of any plea or conviction on their immigration status.<sup>2</sup> When our *Padilla* attorneys screen clients we frequently identify family members of our clients who are eligible for DACA. Consequently, even if the clients who we represent in our criminal defense/family defense cases are ineligible for DACA themselves (either because of a pending case, past criminal history or because they already have status), we are able to flag for clients that their family members are eligible and may call our office

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<sup>1</sup> It is our understanding that future RFPs related to DACA/DAPA services will be made through the Mayor's Office of Immigration Affairs and/or Action NYC.

<sup>2</sup> In 2010, the U.S. Supreme Court held in *Padilla v. Kentucky* that the Sixth Amendment requires defense counsel to provide affirmative, competent advice to a noncitizen defendant regarding the immigration consequences of a guilty plea. Absent such advice, a noncitizen may raise a claim of ineffective assistance of counsel. See *Padilla v. Commonwealth of Kentucky*, 559 U.S. 356 (2010).

for an intake. Other times, once we start speaking with the client about his or her immigration status, the client will ask if they can send their family members to us for help, too. Thus, through our robust *Padilla* representation, BDS attorneys and BIA Accredited Representatives earn the trust of our clients who may then actually confide in us to help their family members come out of the shadows and apply for DACA.

### Current Climate for Potential DACA Applicants

Since the new administration took office in January, we have had to be far more cautious about submitting DACA applications, especially for young people who have had contact with the criminal justice system. We were happy to hear the news just this past Friday that DACA is apparently safe, at least for the moment.<sup>3</sup> We hope to see more qualified individuals interested in applying for the program.

Until recently, we had a pretty steady stream of referrals from adult education programs funded by the city. Students would be identified by their teachers as being possibly DACA eligible and referred to us for legal assistance. Recently, however, we have noticed a bit of a downtick in these types of referrals. This may also be attributable to the general chill within immigrant communities after the presidential election.

### BDS DACA Client Story

Sophia is a 19-year-old young woman from Mexico who has been living in the U.S. since she was 9 years old. She submitted a DACA application with the assistance of an unqualified tax preparer and was denied. Fortunately I picked up her case through the Youth and Communities Project and we were able to submit a second application on her behalf, which was approved just before she graduated from high school.

Sophia was an exemplary student in the New York City public school system. A letter of support from her high school social studies teacher states: “While many of our American-born students may take their education for granted, Sophia does not. The reality of her circumstances does not allow for this because she knows she has the most to gain from the American education system, but also, the most to lose if she is not able to continue her studies.”

Sophia just finished her first year at Guttman Community College in Manhattan and hopes to transfer to John Jay or Hunter College. She is pursuing an Associate's degree in Liberal arts & Humanities. While this is a very positive development for Sophia, her lack of immigration status means she is ineligible for financial aid. In her words, *“Scholarships are hard to get, which makes it ten times harder for me since many require community service, and I already work 3-4 days a week. I am a full time student so it is very challenging. My parents have been saving money and I am*

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<sup>3</sup> See, e.g., Michael D. Shear & Vivian Yee, ‘Dreamers’ to Stay in U.S. for Now, but Long-Term Fate is Unclear, N.Y. TIMES, June 16, 2017, available at [https://www.nytimes.com/2017/06/16/us/politics/trump-will-allow-dreamers-to-stay-in-us-reversing-campaign-promise.html?\\_r=0](https://www.nytimes.com/2017/06/16/us/politics/trump-will-allow-dreamers-to-stay-in-us-reversing-campaign-promise.html?_r=0).

*enrolled in payment plans in order to pay the tuition. I work in order to buy books, use the money for tuition and any other expenses that come across.”*

Sophia is representative of many of our young clients who suddenly find themselves the only members of their family with employment authorization. They struggle to balance the desire to help support their families financially with their desire to pursue higher education. Young people in New York should not be forced into the role of primary breadwinners for their families, and we encourage City Council to do everything you can to help support students like Sophia who want nothing more than to pursue their dreams in this country.

### Resolution 1484-2017

Sophia’s story, and that of dozens of other BDS clients, exemplify why the City Council should adopt Resolution 1484-2017 calling on the state and federal government to extend protections for undocumented youth by passing the New York State DREAM Act of 2017 at the state level, as well as the Bar Removal of Individuals who Dream and Grow our Economy (BRIDGE) Act of 2017 at the federal level.

New York City does not set federal immigration policy or determine statewide funding for higher education. However, the City Council can use its moral authority as a sanctuary city to call for improved opportunities for all New York residents, no matter where they were born. We will all be stronger and safer if our young people have the opportunity to work and go to school. We strongly urge you to support this resolution to send a powerful message to the state and federal legislatures that New York City believes in the strength and possibility of our immigrant communities.

### Questions?

Please feel free to contact me at [lbuller@bds.org](mailto:lbuller@bds.org) or 718-254-0700 ext. 309.