



**NEW YORK CITY BAR ASSOCIATION IMMIGRATION AND  
NATIONALITY LAW COMMITTEE TESTIMONY**

**April 18, 2022**

**New York City Council Subcommittee on COVID Recovery and Resiliency Hearing  
Jointly with Committee on Immigration, Committee on Health, and Committee on  
Hospitals**

My name is Mary Beth Morrissey, and I am a member of the New York City Bar Association's Immigration and Nationality Law Committee on whose behalf I present testimony today at this hearing of the New York City Council Subcommittee on COVID Recovery and Resiliency, held jointly with the Committees on Immigration, Health, and Hospitals.

First, we thank the above-referenced Committees for holding this hearing on COVID Recovery and Resiliency. We appreciate the opportunity to speak to the health and resilience of New York City's non-citizens in the COVID recovery process, and most importantly, ensuring equitable access to health, public health, and mental health services for all non-citizens and non-citizen communities. We also highlight the social and economic determinants of health, outside the traditional health sector and health delivery systems, that contribute to the poor health outcomes, suffering, and overall harm that non-citizens have experienced during the pandemic in part due to government's policy shortcomings and failures. Given New York City's heralded history of welcoming immigrants and refugees to the five boroughs, we urge the New York City Council to uphold these values at this moment in our human history when global health security and the human rights of all persons who are migrating or displaced are under threat.

**I. IDENTIFY NON-CITIZENS AS BENEFICIARIES OF PUBLIC POLICYMAKING  
AT LARGE**

As we addressed in our Transition Letter to Mayor Adams,<sup>1</sup> New York City must prioritize the health of all non-citizens in public health policymaking and identify non-citizens as beneficiaries of public policymaking more broadly. In this context, we call attention to the social

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<sup>1</sup> New York City Bar Association Transition Letter to Mayor Adams, February 24, 2022, <https://www.nycbar.org/member-and-career-services/committees/reports-listing/reports/detail/supporting-new-york-citys-non-citizen-residents-policy-recommendations-for-mayor-adams>. (All sites last visited April 15, 2022).

**About the Association**

*The mission of the New York City Bar Association, which was founded in 1870 and has approximately 24,000 members, is to equip and mobilize a diverse legal profession to practice with excellence, promote reform of the law, and uphold the rule of law and access to justice in support of a fair society and the public interest in our community, our nation, and throughout the world.*

and economic determinants of health outside the health sector and systems that have contributed substantially to the disproportionate impact of the COVID-19 pandemic (COVID) upon non-citizens, including Black and Brown communities. Such social and economic determinants include poverty, language needs, educational level, access to housing, and lack of adequate health insurance,<sup>2</sup> for example. In a recent report issued by the Center for Migration Studies, researchers have reported the following findings as applicable to the boroughs of Brooklyn and Queens:<sup>3</sup>

- Affordable housing is one of the most pressing needs facing New Yorkers today, particularly non-citizens who are much more likely than citizens to face poor housing conditions. (p. 32)
- More research is needed to determine the health status of immigrants, to assess their needs, and to devise programs to improve their health outcomes. (p. 32)
- Programs intended to serve immigrants that provide wraparound services should be promoted. (p. 32)
- Undocumented immigrants are much more likely to be at risk of adverse health outcomes described by the health determinants in this study. (p.33)
- Lack of health insurance is one of the most pressing issues facing immigrants in general and non-citizens in particular. NYC Care, a health care access program provided by the city, guarantees low-cost and no-cost services to New Yorkers who do not qualify for or cannot afford health insurance, but the program should be expanded, and its services made more comprehensive. (p. 31)

To date, a patchwork of laws and regulations applicable to non-citizens has impeded their equitable access to full health and public health protections and benefits in COVID contexts. We know also that COVID has only heightened pre-existing historical inequities in access to critical health, public health, and mental health services for non-citizens.<sup>4</sup> The public policy failures of government continue to play a major role in persistent harms to non-citizens, including undocumented immigrants,<sup>5</sup> and marginalization of their opportunities to participate meaningfully in the COVID recovery process. The U.S. Constitution protects citizens and non-citizens alike from violations of rights fundamental to our nation's concepts of liberty. The United States also has obligations under international law to respect the human rights of non-citizens, including rights related to physical and mental health and public health.<sup>6</sup>

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<sup>2</sup> Virgin & Warren Center for Migration Studies, Mapping Key Determinants of Health in Brooklyn and Queens. See <https://cmsny.org/publications/health-determinants-brooklyn-queens/>.

<sup>3</sup> *Id.*

<sup>4</sup> New York State Bar Association COVID Resolutions, 2020. See [https://nysba.org/app/uploads/2020/02/Final-NYSBA-COVID-19-Resolutions\\_11-7-20-with-single-link.pdf](https://nysba.org/app/uploads/2020/02/Final-NYSBA-COVID-19-Resolutions_11-7-20-with-single-link.pdf).

<sup>5</sup> Protecting Immigrants from Harm Report, American Psychological Association. Cadenas et al. December 2020. See <https://www.div17.org/connect--immigration-collaborative-advocacy-report>.

<sup>6</sup> Lance Gable & Lawrence Gostin, Mental Health as a Human Right, 3 SWISS HUMAN RIGHTS BOOK 249 (2009), <https://ssrn.com/abstract=1421901>; Transition Letter to Mayor Adams, *supra* n. 1.

## II. TERMINATE AGREEMENTS WITH ICE AND GRANT NON-CITIZENS IN ICE FACILITIES ACCESS TO COVID-19 VACCINATION AND FUNDAMENTAL PUBLIC HEALTH PROTECTIONS

We would be remiss if we did not call attention in these contexts to access to vaccination against COVID and the full range of public health protections for all non-citizens. Access to such services has been impeded in civil immigration detention in New York. We reiterate our call that access to vaccination be a condition of any contract with private contractors operating detention facilities in New York. Furthermore, we call upon New York City to terminate or not renew current immigration detention agreements with U.S. Immigration and Customs Enforcement (ICE) in New York City (or its private contractors) for purposes of civil immigration detention,<sup>77</sup> or at a minimum require that all persons currently held or detained under said agreements have access to COVID vaccination and other fundamental public health protections. We also urge the New York City Council to support the New York State Dignity Not Detention Act to close the gaping loopholes that eviscerate protections for non-citizens and model the New York City Detainer Law.

## III. EQUITABLE ACCESS TO HEALTH AND MENTAL HEALTH SERVICES

Ensuring equitable access to mental health, addiction, and bereavement services for non-citizens is also critically important considering the trauma non-citizens often experience both on their journey to and upon crossing the border of the United States, and during COVID crisis conditions. In many cases, that trauma is compounded by indefinite detention, most often separated from family members. COVID has also contributed significantly to non-citizens' distress in their experience of serious COVID illness, and for some, loss of family members and loved ones. The profound trauma experienced by non-citizens in these multiple contexts may have long-term consequences requiring appropriate mental health services and interventions that must be delivered by qualified mental health professionals, including social workers. It is imperative that non-citizens are afforded equitable and nondiscriminatory access to the full range of trauma-informed

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<https://s3.amazonaws.com/documents.nycbar.org/files/2022994-ImmigrationNonCitizenMayorAdamsTransition.pdf>; Call for Measures to Ensure Health, Human Rights and Public Health Protections for Detained Immigrant Women, New York City Bar Association, Feb. 2021, <https://www.nycbar.org/member-and-career-services/committees/reports-listing/reports/detail/medical-abuses-of-immigrant-women-at-irwin-detention>.

<sup>77</sup> To review prior City Bar letters and testimony in support of ending ICE civil detainers, *see* Letter to Speaker Christine Quinn, Feb. 2011, <https://www.nycbar.org/pdf/report/uploads/20072056-LettertoSpeakerQuinnRePorposaltoLimitCollaborationBetweenDOCandICE.pdf>; Report on Int. 656-211, Sept. 2011, [https://www2.nycbar.org/pdf/report/uploads/1\\_20072182-Int.656-2011amendingcitycoderegardingdetention.pdf](https://www2.nycbar.org/pdf/report/uploads/1_20072182-Int.656-2011amendingcitycoderegardingdetention.pdf); Testimony on Int. 656-211, Oct. 2011, <https://www2.nycbar.org/pdf/report/uploads/20072186-CriminalCourttestimonyinsupportofInt.656-2011.pdf>; Letter to City Council, Jan. 2013, <https://www2.nycbar.org/pdf/report/uploads/20072375-PersonsNottoBeDetainedICECollaboration.pdf>; Testimony on Int. 982 and 989, Jan. 2013, <https://www2.nycbar.org/pdf/report/uploads/20072385-TestimonyonICEDetainmentpolicy.pdf>; Testimony before City Council, Oct. 2014, <https://www.nycbar.org/member-and-career-services/committees/reports-listing/reports/detail/testimony-before-the-new-york-city-council-in-support-of-legislation-to-further-limit-the-constitutional-violations-arising-from-current-detainer-practices-between-the-us-immigration-and-customs-enforcement-ice-the-department-of-correction-and-the-new-york-police-department>; Letter to Mayor Bill de Blasio, May 2019, <https://www.nycbar.org/member-and-career-services/committees/reports-listing/reports/detail/opposition-to-an-expansion-of-the-criminal-carve-out-for-cooperation-with-ice>.

mental health, addiction, and bereavement services as appropriate. We issue a call for action to allocate funding at levels appropriate to the provision of trauma-informed mental health, addiction, and bereavement services to all non-citizens on a nondiscriminatory basis. We also call for workforce education and training for all those workers, including attorneys, social workers, psychologists, and health care and essential workers, who are providing services to non-citizens to address cultural competence and their risks for vicarious trauma, secondary stress, and compassion fatigue.

In sum, we make the following recommendations to the New York City Council as the Council considers policy changes that would support COVID recovery for all non-citizens:

- Require reporting of comprehensive health data for all non-citizens, with appropriate safeguards for protecting confidentiality as required by applicable laws and regulations.
- Expand New York City Care’s Health Care Access program that guarantees services offered by NYC Health and Hospitals to New Yorkers who do not qualify for or are unable to afford insurance.
- Expand access to culturally- and trauma-informed mental health, addiction, and bereavement services for all non-citizens, including all non-citizen children placed in foster care. Services for children must address trauma related both to family separation and reunification.<sup>8</sup>
- Ensure access to public health protections for all non-citizens in all settings, including detention and correctional settings.
- Allocate funding to non-citizens who were not eligible to receive unemployment benefits or pandemic relief funds and would have been covered by the Excluded Workers Fund, now depleted and not included under the current New York State budget.<sup>9</sup>
- Allocate funding to ensure that affordable housing is available to non-citizens.
- Prioritize access to workforce education and training to provide services and supports to workers in all sectors at risk for vicarious trauma, secondary stress, and compassion fatigue.<sup>10</sup>
- Allocate funding for legal services for non-citizens in order to improve their ability to access health, public health, and mental health services.

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<sup>8</sup> Family Reunification Brochure, Rosenberg et al. 2018.

<sup>9</sup> See Josefa Velasquez, Hundreds Halt Bridges to Renew Excluded Workers Fund, but an Uphill Battle Lies Ahead. The City, April 11, 2022.

<sup>10</sup> See New York City Bar Association Program on Vicarious Trauma, <https://services.nycbar.org/EventDetail?EventKey=IMM060922&WebsiteKey=f71e12f3-524e-4f8c-a5f7-0d16ce7b3314>.

Thank you for your consideration of the recommendations of the New York City Bar Association Immigration and Nationality Law Committee. We remain available for further consultation.

Danny Alicea, Chair  
Immigration and Nationality Law Committee

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