



Office of  
Immigrant Affairs  
Nisha Agarwal  
Commissioner

September 29, 2014

Testimony of Commissioner Nisha Agarwal,  
NYC Mayor's Office of Immigrant Affairs

Before a joint hearing of the New York City Council

Committee on Immigration and Committee on Courts and Legal Services:

“Oversight — Crisis of Unaccompanied Immigrant Children: What is New York City Doing?”

Thank you to Speaker Mark-Viverito, Committee Chairs Menchaca and Lancman, Public Advocate James, and the members of the Committee on Immigration and Committee on Courts and Legal Services.

In my role as the Commissioner of the New York City Mayor's Office of Immigrant Affairs, I work on policies and programs to improve the lives of immigrant New Yorkers on behalf of Mayor de Blasio. My office does that work both out of the Mayor's Office directly as well as in concert with many of the City's agencies, including many who are here with me today: the Department of Education, Department of Health and Mental Hygiene, the Health and Hospitals Corporation, the Administration for Children's Services, the Department of Youth and Community Development, and the Department of Homeless Services.

Among the most important aspects of this work is to provide support to the most vulnerable immigrant residents of our city. This is a group that includes the fast-growing population of young people, largely from Central America, who recently arrived in the United States after fleeing terrible violence in their home countries and undertaking a dangerous journey to seek safety and reunification with family.

Mayor de Blasio and the entire Administration are firmly committed to supporting these children and their families and sponsors. I am pleased to be here to describe the work that the City's agencies have done, as you consider the role of the City government in responding to this crisis.

### **Children's journeys to NYC**

The majority of the population of children that we are discussing today comes from Guatemala, Honduras, and El Salvador. The reasons for this recent uptick in the number of children leaving for the United States are complex. Based on my office's interactions with the academic community, advocacy groups, and the children and families themselves, it appears that the core reason is the deterioration of public safety in those nations, which is linked closely to the presence of violent gangs that have increasingly targeted children as victims of attacks and as unwilling recruits. This breakdown in basic safety in many parts of Guatemala, Honduras, and El Salvador has led some families to send their children to seek safety and to reunify with parents or other family members in the United States.

The journey itself is fraught with danger, with *coyotes* preying on desperate families and criminals and gangs along the way. In many cases, upon reaching the United States border, children seek out federal Customs and Border Protection agents to seek the protection of the American government.

Under federal law, children who arrive unaccompanied at the border from non-contiguous countries (that is, countries besides Mexico and Canada) must be taken into custody by the

federal government and given the opportunity to appear before an Immigration Judge to assess their eligibility for a variety of legal options to allow them to remain in the United States. Those options include asylum, Special Immigrant Juvenile Status (or SIJS, for children who have been abused, abandoned, or neglected), protection under the Convention Against Torture, and special visas for victims of crime and victims of trafficking. Legal service providers working in the field estimate that at least 40% of these children may be eligible to remain in the U.S.<sup>1</sup> More recent studies on this year's group of children have placed that number as high as 63%<sup>2</sup> or even higher.

Upon reaching the border, the children receive health screening and immunizations, and are moved to temporary housing facilities operated by the federal Department of Health and Human Services. The children are held in those facilities, which are located around the country, for an average of about 30 days before being placed with family members and family friends while their federal immigration cases and legal claims are adjudicated. Because that process can take a very long time, this is a population of children who are living with us in our communities for extended periods. Accordingly, it is the responsibility of our government to ensure that the best interests of the children are protected and to support them and their families.

### **Scope of the challenge**

Of the tens of thousands of children who have arrived unaccompanied at the border so far this year, 4,799 were placed with family members or other sponsors in New York State through August 31—making New York the recipient of the second largest number of these children, behind only Texas. This number—as well as the thousands more we expect to arrive in the coming months and years and the children who arrived with a parent or other adult and have also been placed here—is a reflection of the large existing Central American communities across the state, particularly in parts of New York City and Long Island.

The Administration worked hard to acquire localized data on the placement of these children from federal government, which were made available in late August. These data show that the largest numbers of children in the state are in New York City, with about 1,550 arriving in the City the first eight months of this year alone. The largest numbers are in Queens, with 676 children this year; in Brooklyn, with 409; and in the Bronx, with 404; as well as 63 in Manhattan and fewer than 50 in Staten Island. Large numbers have also been placed in Nassau and Suffolk counties, with over 1,200 arriving in each, and several hundred children in the lower Hudson Valley.

---

<sup>1</sup> Olga Byrne and Elisa Miller, Vera Institute of Justice, *The Flow of Unaccompanied Children Through the Immigration System* (Mar. 2012).

<sup>2</sup> Letter from Jonathan D. Ryan, Refugee and Immigrant Center for Education and Legal Services (RAICES), to President Barack Obama (Jul. 18, 2014), available at <http://immigrationimpact.com/wp-content/uploads/2014/07/Letter-to-President-Obama-from-RAICES.pdf>.

The Department of Education has also performed analyses of administrative data to identify the neighborhoods in New York City with the largest numbers of these children, to help City agencies respond appropriately. Those neighborhoods are Flushing, Briarwood, Jamaica Hills, Richmond Hill, Elmhurst, Ozone Park, and Far Rockaway, in Queens; Bensonhurst, in Brooklyn; and Mott Haven, Hunts Point, Morrisania, Soundview, and Kingsbridge, in the Bronx.

### **New York City's response**

As this crisis deepened earlier this year, the Administration convened a meeting of City agencies, coordinated by the Mayor's Office of Immigrant Affairs and including representatives from the Department of Education, the Department of Health and Mental Hygiene, the Administrative for Children's Services, and the Department of Youth and Community Development, among others. The agencies first worked to determine the needs of this population of children and to assess both the range of government services that the children needed access to and the mechanisms by which the city could connect the children to those services.

In the area of education, the Department of Education has worked to ensure that no barriers exist that would prevent school enrollment by undocumented children who may lack traditional evidence of identity and residency, to vindicate children's right to school enrollment guaranteed by the federal and state constitutions and Chancellor's Regulation A-101. Also, the Department of Youth and Community Development has worked to identify after-school and literacy programs.

In the areas of health and mental health, the Department of Health and Mental Hygiene is facilitating enrollment in Child Health Plus (CHP), a state-funded public health insurance program for which all residents are eligible regardless of immigration status. In this effort we have also worked with the state Department of Health to clarify CHP identity documentation rules for this population and to share expertise on the nuances of state and federal law regarding the eligibility of immigrant children to receive public health benefits. The Department of Health and Mental Hygiene and the DOE have also worked together and with the federal Office of Refugee Resettlement to prevent redundancies in the immunization process required for school enrollment.

The Health and Hospitals Corporation has worked to ensure that these children will have access to care in the form of primary and specialist pediatric health care services, and to identify appropriate methods of providing mental health trauma screening, given the high incidence of trauma and anxiety in these children. Dr. Bassett, the Commissioner of DOHMH, and Dr. Raju, the President of HHC, are finalizing a letter to be issued soon to the City's pediatricians to provide information about immunization, mental health screening, and available medical and behavioral health resources.

The Administration for Children's Services is ensuring the availability of child and family welfare services, with the Department of Homeless Services to identify homelessness prevention services available to families, and with other agencies to prepare them to provide appropriate services and referrals to these children.

Throughout this process the Administration has endeavored to connect all of these hard-to-reach children and families to the City's services. That is why New York City has, for the first time, placed government representatives at the federal Immigration Court to provide services directly to the children. Since September 10, representatives of the Department of Education and the Department of Health and Mental Hygiene have been working at the Immigration Court priority juvenile docket every day to connect the children appearing before the Court to the school system and to help them access health insurance. We began this unprecedented program in recognition of the immense challenges these children and their families face in integrating into the community while they struggle through the newly accelerated Immigration Court procedure.

From September 10, when DOE and DOHMH began this work at the Court, through this morning, about 400 children plus about 100 parents and relatives have passed through the Court, about 40% of whom are New York City residents. Agency representatives have provided assistance and referrals to all those with education and health needs. Initial DOHMH data show that about three-quarters lack health insurance, and we have provided information and referrals for CHP enrollment in those cases. For children living in New York City, the DOE has found that the majority are already enrolled or in the process of enrolling in school, and is providing assistance connecting children to appropriate English Language Learners programs and other resources. For children living outside of New York City, the DOE is assisting children connect to and navigate the enrollment processes in their school districts. The DOE and DOHMH employees at the Court are making remarkable efforts to assist all the children who come before them, both City residents as well as residents of other counties.

MOIA is also working closely with our agency partners to produce a Resource and Referral Guide and a public website to share information with families and providers about City government and non-governmental assistance in the areas of legal services, healthcare, mental health, education, and child and family welfare. This information will be available this week, and will be accessible online on the website of the Mayor's Office of Immigrant Affairs and via 311. We look forward to working with the City Council to help us distribute this information in their districts across the City.

In a similar vein to our effort to connect with this hard-to-reach population at the Immigration Court, the City will soon be launching community-based clinics to provide services directly to these children in the communities where they live. We have also been supporting non-profit-

organized community events for immigrant youth, including an event at P.S. 24 in Sunset Park yesterday.

The Administration and the agencies' work to support these unaccompanied children and their families is of a piece with our deep commitment to supporting all children in New York City—regardless of immigration status and background. This Administration has already overseen a historic expansion of services for all children and young adults, including the establishment of universal access to free pre-kindergarten, an expansion of middle school after-school programs, the creation of a new Community Schools program to match high-needs schools with community-based social services, and the creation of a new Center for Health Equity to reduce health disparities, among others. The City's work to help these newly arriving immigrants is entirely consistent with our overall approach to the advancement of young New Yorkers.

### **Legal assistance**

Concerning the children's need for legal assistance, it is crucial to acknowledge the hugely valuable and difficult legal work undertaken by a number of legal services providers, community-based organizations, religious institutions, law firms, and volunteers to provide legal screening to all of the children who lack representation, and to work to connect them with attorneys who can take their cases before the federal Immigration Court and the state family courts. The Administration has been working closely with the legal providers, and they have done incredible work in difficult circumstances despite being stretched far beyond their normal capacity. Their ability to do this work going forward would be impossible without support from the City Council. I would like to thank Speaker Mark-Viverito, Chair Menchaca, the City Council, the Robin Hood Foundation, and New York Community Trust for recently awarding \$1.9 million in grants to an excellent group of nonprofit organizations to provide legal and other services to these children.

As I mentioned earlier, two-thirds or more of these children are eligible under federal immigration law to remain in the United States as a result of the persecution they would face upon return, the abuse they suffered, or the crimes committed against them. However, these children will be largely unable to avail themselves of their legal rights without the help of an experienced attorney. Based on our analysis of data in New York State deportation cases over the last ten years, 70% of represented children were successful in claiming legal relief to remain or in gaining prosecutorial discretion or having their proceedings terminated.<sup>3</sup> That number plummets to just 18% for unrepresented children.<sup>4</sup> The need for representation is great, and the

---

<sup>3</sup> Mayor's Office of Immigrant Affairs analysis of federal data compiled by the Transactional Records Access Clearinghouse (TRAC), Syracuse University, *Juveniles—Immigration Court Deportation Proceedings* (Court Data through June 2014), available at <http://trac.syr.edu/phptools/immigration/juvenile/>.

<sup>4</sup> *Id.*

Council and its private partners' new funding is an immensely important step towards meeting that need.

### **Conclusion**

In closing, I simply want to recognize the incredible efforts by New York City's agencies, the City Council, as well as private funders, community-based organizations, legal service providers, healthcare providers, and others. In the face of a heartbreaking situation that has been politically charged in much of the rest of the country, we have appropriately recognized this as an issue of child protection and humanitarian need, and reacted accordingly.

These children need our help, and the de Blasio Administration and others are here to help them.