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Project to provide legal counsel for immigrants

by Megan Fincher

Immigration and the Church

Impoverished immigrants facing deportation in New York City can now have court-appointed counsel on their side for the first time in this nation's history.

Noncitizens of the United States facing deportation -- such as green card holders, refugees, victims of trafficking, and those living in the country illegally -- have no constitutional right to representation. The New York Immigrant Family Unity Project, a pilot program funded by a \$500,000 investment from the city, is trying to change that.

"New York City has a tradition of welcoming immigrants. Its economics are driven by immigrants. Investing in immigrant families in New York City is our starting point," Brittany Saunders told *NCR*. Saunders is a senior staff attorney for immigrant rights and racial justice at the Center for Popular Democracy, an advocacy group working with the Family Unity project.

For the next year, the project will provide pro bono legal services to an estimated 20 percent of indigent noncitizens facing deportation at the Varick Street Immigration Court in New York City, according to Vera Institute of Justice, a nonpartisan, nonprofit center for justice policy and practice.

"The current state of affairs is creating real harm, really devastating immigrant families in New York City," Saunders explained.

Paula Shulman, second-year law student at Cardozo School of Law, agrees: "The New York Immigrant Family Unity Project is very aptly named. Detentions and deportations tear families apart every day."

The idea to create the New York Immigrant Family Unity Project came out of the 2010 New York Immigrant Representation Study, initiated by Judge Robert Katzmann of the Second Circuit Court of

Appeals. The study examined trends in New York City immigration courts from 2000 to 2010. During that decade, 60 percent of detained immigrants in New York City were without counsel, and subsequently, only 3 percent of that group won their case. In comparison, immigrants who were represented and released from detention or never detained experienced a 74 percent success rate.

With the support of legal nonprofits, research groups, and ultimately the city itself, the study went "from an academic model to a living, breathing program" via the New York Immigrant Family Unity Project Nov. 6, Saunders said.

"For the first time ever, anywhere in this country and our legal system, mothers, fathers, sisters and brothers who would otherwise be unable to afford an attorney have access to attorneys who can present the legal issues and handle them expeditiously," Shulman, who works at Cardozo's Immigration Justice Clinic, wrote to *NCR* in an email.

Saunders explained that immigrant families are often "mixed status," meaning citizens, permanent legal residents and undocumented persons can make up a single family.

"One study from 2005-2010 showed that U.S. Immigration and Customs Enforcement arrested parents of 13,500 children in New York City alone," Saunders said. "More than half of those children lost at least one parent to a final order of deportation."

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But what happens when primary caregivers are sentenced to deportation whose children are U.S. citizens? "If there's no other caregiver in place, children are thrust into the foster care system," Saunders said.

Shulman explained that the project is also fighting unnecessary detentions "because it can be the family breadwinner or the single mom who is held in a facility, unable to see his or her loved ones, let alone support or provide for his or her family."

Immigration detention is unlike criminal detention, because it is not "based on risk of danger to the community," and determining who gets sent to immigration detention and what bond is set is "haphazard and divorced from clear risk assessment," Shulman said.

"One of the many goals of the New York Immigrant Family Unity Project is to reduce detention time for individuals eligible for release so they can return to their families, their jobs, and their communities."

Saunders noted that in its first weeks, the project is "not just creating benefits for individuals who receive counsel, but it's also creating real benefits for the courts and the systems themselves. It's been really impressively seamless."

"We see what is happening in New York as the beginning of a change that could happen all across the country," Shulman said. "We support and anticipate replication of the model and the pilot. In fact, we have already received inquiries from five other states."

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