

**NYC Know Your Rights Project:
Pro Bono Innovation Helping Detained Immigrants**

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Committee

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This roundtable discussion session will focus on how pro bono collaborations can address the appalling lack of counsel for detained immigrants. Representatives from the City Bar Justice Center, AILA, The Legal Aid Society, and two private law firms will discuss how to build a successful program model. There will be a mock interview and case study discussion included.

Outline

- I. Introduction -Partnering on a Large Scale Pro Bono Project and Speakers - Austin T. Fragomen, Jr.
- II. The NYC Know Your Rights Project – Legal Aid Society’s Role – Maria Navarro
 - a. Background on Need
 - i. Legal Aid History of Detainee Representation
 - ii. Unmet Need in NYC
 - b. Intake Process
 - i. Coordination with Varick Facility
 - ii. Role of Legal Aid in Clinic Model
 1. Detainee Interviews (8-10 weekly)
 2. Expert Case Assessment
 3. Authorizations and Waivers
 - iii. Follow-up
 - c. Challenges
 - i. High Demand for Services
 - ii. Limited Number of Mentors with Needed Expertise
 - iii. Transfer of Detainees
 - iv. Criminal Background Checks
- III. American Immigration Lawyers Association’s Role – Cyrus D. Mehta

- a. Description of AILA and involvement in Detainee Representation
- b. AILA at Varick
 - i. Mentors - Immigration Experts
 - ii. Mentees – Immigration Experts in Training
- c. Other AILA Representation Projects
 - i. AILA New England
 - ii. AILA Nevada
 - iii. AILA Washington
 - iv. AILA Northern California
- d. Challenges
 - i. Few Responses from Other Chapters
 - ii. Limited Reporting of New Initiatives
 - iii. Lack of Training Resources
 - iv. Proximity of Detention Centers and Immigration Courts
 - v. Limitations in Immigration Expertise
- e. Conclusion and Suggestions
 - i. Value of Forging Partnerships
 - ii. Creative Training Methods
 - iii. Importance of Logistical Support (including replicating training resources)
 - iv. Utility of Mentor Resources
 - v. Working with local pro bono Immigration Judge

IV. Local Bar Association Role – Lynn M. Kelly

- a. Background History
 - i. Petition from Varick Detainees
 - ii. Immigration Clinic Experience from other projects
- b. Needs Assessment
- c. The Right Partners
- d. Training and Recruitment
- e. The Right Structure
 - i. Importance of Pilot Project
 - ii. Commitment from Involved Parties and Feedback
- f. Communicating with Volunteers
- g. Creating Forms for the Clinic
- h. Collecting Data
- i. Making an Impact
 - i. Media Efforts
 - ii. Working with Bar Committees

V. Law Firm Volunteer and Pro Bono Counsel Perspective – Rene Kathawala

- a. Selling Attorneys on the Project
- b. Collaborating with the Participants to Ensure that Firm has Proper Comfort with Substantive Law
- c. Training the Law Firm Volunteers
- d. Mentoring for the Law Firm Volunteers
- e. Understanding the Language Issues that Arise at the Clinic
- f. Proper Scope and Safeguards for the Volunteers
- g. Impact of the Project and Rewards for the Volunteers

VI. Role of a Fellow - Kiera LoBreglio (Fragomen Fellow)

- a. Logistics – Coordination and Oversight of Weekly Clinics
 - i. Pre-Clinic
 - 1. Law firm volunteers
 - 2. AILA mentors and mentees
 - 3. General clinic information
 - ii. During Clinic
 - 1. Oversee volunteers
 - 2. Communicate and coordinate with facility staff
 - 3. Assess translation needs and resources
 - iii. Post-Clinic
 - 1. Compile data for each detainee
 - 2. Request criminal history
 - 3. Monitor volunteer follow-up
- b. Ensuring Quality of Legal Advice
- c. Case Close-out/Extended rep
 - i. Brief Services Model
 - ii. Special Circumstance Cases
- d. Activity on Detention Policy and Related Issues

VII. Role Play – Allen case

VIII. Case Study – Allen case

Mr. Allen is a citizen of Trinidad. He entered the United States without inspection through Puerto Rico in 1995. Both of Mr. Allen’s parents are naturalized United States Citizens.

In 1998, Mr. Allen’s father filed and I-130 Petition for Alien Relative on his behalf. He paid a \$1,000 fee in addition to the petition filing fees.

In 2003, Mr. Allen was the victim of an assault in New York City. He was mugged and severely beaten, and spent several weeks in the hospital. During his recovery, he met regularly with NYPD detectives, providing information about the assailant. When he was released from the hospital, he worked with the Manhattan District Attorney’s office and

testified before a grand jury. The perpetrator was indicted and later convicted of assault in the first degree.

In 2006, Mr. Allen was arrested and charged with driving without a license. He plead guilty and paid a fine. In January 2009, Mr. Allen was arrested for possession of a forged instrument. The forgery charge against Mr. Allen was eventually dismissed, but he was taken into ICE custody and placed into removal proceedings for having entered without inspection in 1996. Mr. Allen was granted a \$15,000 bond, which he was unable to pay. In March 2009, while he was in immigration detention, the I-130 Mr. Allen's father filed was approved.

IX. Questions

Bibliography

1. Kiera LoBreglio & Lynn M. Kelly, City Bar Justice Ctr., *NYC Know Your Rights Project: An Innovative Pro Bono Response to the Lack of Counsel for Indigent Immigrant Detainees* 1 (2009), http://www.nycbar.org/citybarjusticecenter/pdf/NYC_KnowYourRightsNov09.pdf.
2. Dora Schriro, Immigration and Customs Enforcement, *Immigration Detention Overview and Recommendations* 1 (2009), http://www.ice.gov/doclib/091005_ice_detention_report-final.pdf.
3. Peter L. Markowitz, *Barriers to Representation for Detained Immigrants Facing Deportation: Varick Street Detention Facility, a Case Study*, 78 FORDHAM L. REV. 541 (2009), available at http://law.fordham.edu/assets/LawReview/Markowitz_November_2009.pdf.
4. Comm. on Immigration and Nationality Law, N.Y. City Bar, *Report on the Right to Counsel for Detained Individuals in Removal Proceedings* 1 (2009), available at http://www.nycbar.org/pdf/report/uploads/20071793_ReportontheRighttoCounsel.pdf.
5. Arnold & Porter LLP, Am. Bar Ass'n Comm'n on Immigration, *Executive Summary: Reforming the Immigration System: Proposals to Promote Independence, Fairness, Efficiency, and Professionalism in the Adjudication of Removal Cases* ES-1 (2010), available at http://www.abanet.org/media/nosearch/immigration_reform_executive_summary_012510.pdf.