

**Vermont Legislators Educational Breakfast
November 27, 2023 – Vermont Law and Graduate School**

Agenda

I. Welcome – Hon. Karen R. Carroll

II. Outline of agenda – Bob Paolini, Executive Director, VBA

**III. Overview of Vermont Bar Foundation Purpose, Structure and Goals – Jose Herrera,
Executive Director VBF**

IV. Explanation why LSV/LA funding not enough – Sam Abel-Palmer

V. Examples of Areas of Need

- a. Domestic – Laura Bierly**
- b. Consumer/Debt – Grace Pazdan**
- c. Immigration – Jill Diaz**
- d. Intellectual Disability – Susan Aranoff**
- e. Post-Adoption Contact Agreements – Mary Ashcroft**

VI. Questions/Discussion

Vermont Access to Justice Coalition Legislative Request for Funding

The Vermont Access to Justice Coalition asks the Vermont Legislature to fund an annual grant of \$525,000 to the Vermont Bar Foundation for access to justice programs; \$500,000 of this amount will be used for direct grants to qualifying organizations, and \$25,000 will fund VBF administration of its programs.

Background

The Vermont A2J Coalition consists of the Vermont Supreme Court (VSC), Vermont Legal Aid (VLA), Legal Services Vermont (LSV), Vermont Law and Graduate School (VLGS)/South Royalton Legal Clinic (SRLC), the Vermont Bar Association (VBA) and the Vermont Bar Foundation (VBF). The Coalition was created in January of 2004. Its members provide a variety of legal services to low-income Vermonters.

The 6-partner Coalition has long been aware of significant gaps in legal services to Vermonters. Most of these gaps relate to lack of funding. All A2J partners are affected when one partner's coverage is reduced by budget cuts and staffing decreases—it means more work for other A2J organizations and growing gaps in services to clients. This is occurring at the same time demand for legal services has doubled. The Coalition members have resolved to unite for the funding increases necessary to meet this demand and close the service gaps.

This request made by the Coalition is in addition to annual appropriations for Vermont Legal Aid and Legal Services Vermont, and in addition to the annual funding of the Vermont Judiciary.

Funding through the Vermont Bar Foundation, a Coalition Partner

Coalition members have agreed that annual legislative funding of \$525,000 for the Vermont Bar Foundation is necessary to address legal access service gaps in Vermont.

1. The VBF is an experienced and trusted entity well equipped to receive and fairly distribute grant funds. The VBF, a 501c3 organization, has distributed IOLTA funds for 40 years through its competitive and non-competitive grants programs. It has raised and granted more than \$27 million to more than 60 deserving organizations ranging from legal aid providers to law school clinics and domestic violence prevention programs.
2. The VBF has an active and experienced Board of Directors and grant committee. The VBF was tapped by the federal DOJ to receive and distribute BOA settlement funds to assist with foreclosure defense and community redevelopment programs. The VBF engages annually in fundraising for the Poverty Law Fellowship Program, and solicits contributions from lawyers through a link with their on-line licensing program.
3. As a member of the A2J Coalition, the VBF is well informed about legal needs of varying Vermont communities. It can and does respond to changes in those needs. For example, after the July 2023 floods, the VBF quickly funded a project to provide flood victims with advice on legal issues ranging from FEMA and SBA programs to landlord/tenant issues to insurance claims.

4. To distribute \$500,000 of the \$525,000 legislative appropriation, the VBF will invite legal access providers (including but not limited to Coalition members) to submit annual grant applications. Those applying can seek to fund existing programs (e.g., the VBA's adult inv. guardianship low bono program or LSV's family law clinics) or new initiatives (e.g., VLGS' proposed LGBTQ project.)
5. The VBF will prioritize grant-giving based upon current legal needs, legislative mandates, and numbers of Vermonters served, with goals of avoiding duplication and filling gaps in legal services.
6. The VBF will use the remaining \$25,000 of the annual legislative appropriation to fund its own on-going administrative needs. IOLTA monies and funding raising efforts does not provide long-term, reliable support for this critical organization.

For further information contact Bob Paolini, Executive Director, Vermont Bar Association at bpaolini@vtbar.org 802-775-5189.

VERMONT BAR FOUNDATION

Invest in Justice

Providing access to justice for all Vermonters since 1982

History and Impact

The Vermont Bar Foundation (VBF) is the exclusive foundation dedicated to the legal services community.

We are committed to improving access to justice for low-income Vermonters. Our mission is to swiftly allocate grants, primarily sourced from Interest on Lawyers' Trust Accounts (IOLTA), to support civil legal aid programs throughout the state.

IOLTA pools interest from lawyers' trust accounts to provide civil legal aid without taxing the public. It's a vital funding source for organizations like WomenSafe, Association of Africans Living in Vermont, Have Justice Will Travel, Circle, Vermont Legal Aid and others.

Unlike other states, Vermont doesn't have a rule making IOLTA-participating banks pay interest rates on par with non-IOLTA accounts, leading some banks to pay well below the current market rate. This absence of a rule in Vermont makes IOLTA funding less reliable.

In 2023, the Vermont Bar Foundation gave just under \$1 million in grants to 12 organizations. Although this is a significant amount, the VBF's Board of Directors regrets not fully funding all requests, which exceeded \$1.3 million.

Besides awarding grants to deserving nonprofits, the VBF also raises money to support the work of the Poverty Law Fellow.

The Poverty Law Fellowship is a competitive two-year program designed for early-career attorneys dedicated to increasing legal access for low-income individuals in Vermont.

Past Vermont Poverty Law Fellows have worked on a range of issues, including access to justice for low-wage workers and for Vermonters experiencing housing insecurity. Maya Tsukazaki is the 2022-2024 Vermont Poverty Law Fellow, focused on access to justice for Vermont's immigrant communities.

Our impact and that of the Poverty Law Fellows not only helps those in need, but it also helps boost the Vermont economy. There is an \$11 return on investment for every dollar donated to the VBF to fund low-income legal services in Vermont.

Our grants make a significant difference in the lives of low-income Vermonters by assisting them with critical legal issues affecting their families, homes, incomes, jobs, and access to essential services.

The demand for access to justice has grown exponentially over the years, particularly during the COVID-19 pandemic, but we have remained excellent stewards of our resources.

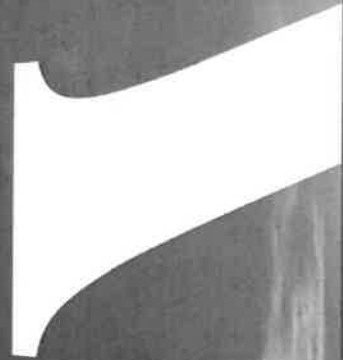
The VBF Board of Directors, committee members, and Executive Director exercise meticulous oversight of the resources entrusted to the VBF. Hundreds of volunteer hours a year are devoted toward raising, accounting for and martialing these resources in aid of those who need the rights and protections of our laws but cannot afford the legal services by which to make those rights and protections a reality.

The Board and staff take great pride in our past achievements and eagerly anticipate this year's successes and the positive influence we'll exert across Vermont.

Thank you!

ATJ – Consumer Law Needs

- Introduce myself and my history and practice areas at VLA
- Critical need for representation and legal assistance for low-income, elderly, disabled and other disadvantaged Vermont consumers
 - Judiciary FY22 stats – of 4681 “major civil cases” filed, 1241 or 26% were debt collection cases – including credit card and auto repossession
 - Additionally there were 3485 new small claims cases filed in FY22; historically, approximately 70% of cases filed in small claims are debt collection cases
- In the majority of these cases, we’re talking about a huge power imbalance – rich corporations that are always represented by counsel suing folks who can’t afford to pay their debts let alone hire attorneys which frequently results in judgments by default or stipulations without having to prove the underlying debt – amount, interest rate, etc.
- Why is this an access to justice issue? – because when low-income Vermonters have to pay debt collectors:
 - it means less money in their pocket to pay for other necessities, which impacts housing stability and food security - many elders and disabled clients are not aware that their disability and SSA income is exempt from collection and end up paying consumer debts out of their meager fixed incomes
 - When client’s cars get repossessed, because of our lack of public transportation infrastructure, it means clients can’t get to work, to medical appointments, to the grocery store.
 - And when client’s credit is trashed, it impacts their ability to get approved for rental housing and is a basis for denial for subsidized housing, it makes it difficult if not impossible to buy a car, making folks more susceptible to unscrupulous used auto dealers and often results in exorbitant financing costs
- Currently, VLA has no funding or capacity to represent clients in debt collection actions or other consumer issues other than those related to mortgage debt
 - LSV receives hundreds of calls per year from consumers seeking help with debt collection issues but of the thousands of debt collection cases filed each year, LSV was only able to provide legal assistance to _____
 - And there are almost no private attorneys in the state that defend debt collection cases as a regular part of their practice, so without free legal services vulnerable VT consumers are left to fend for themselves
- If time - Share story of repossession case where legal assistance resulted in life-changing settlement for client
- Reiterate need for funding to close the legal services gap for low-income consumers



VERMONT
LAW & GRADUATE SCHOOL

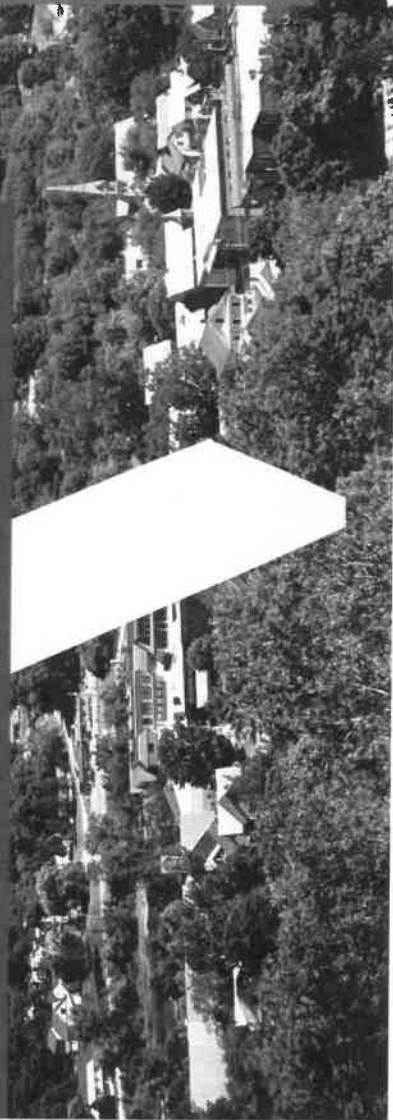
JUSTICE
REFORM
CENTER FOR
at Vermont Law & Graduate School

Immigration status as the right to have rights

A case study for upstream investment to
ensure downstream public safety

Professor Jill Martin Diaz (they/them)
Associate Director
Center for Justice Reform

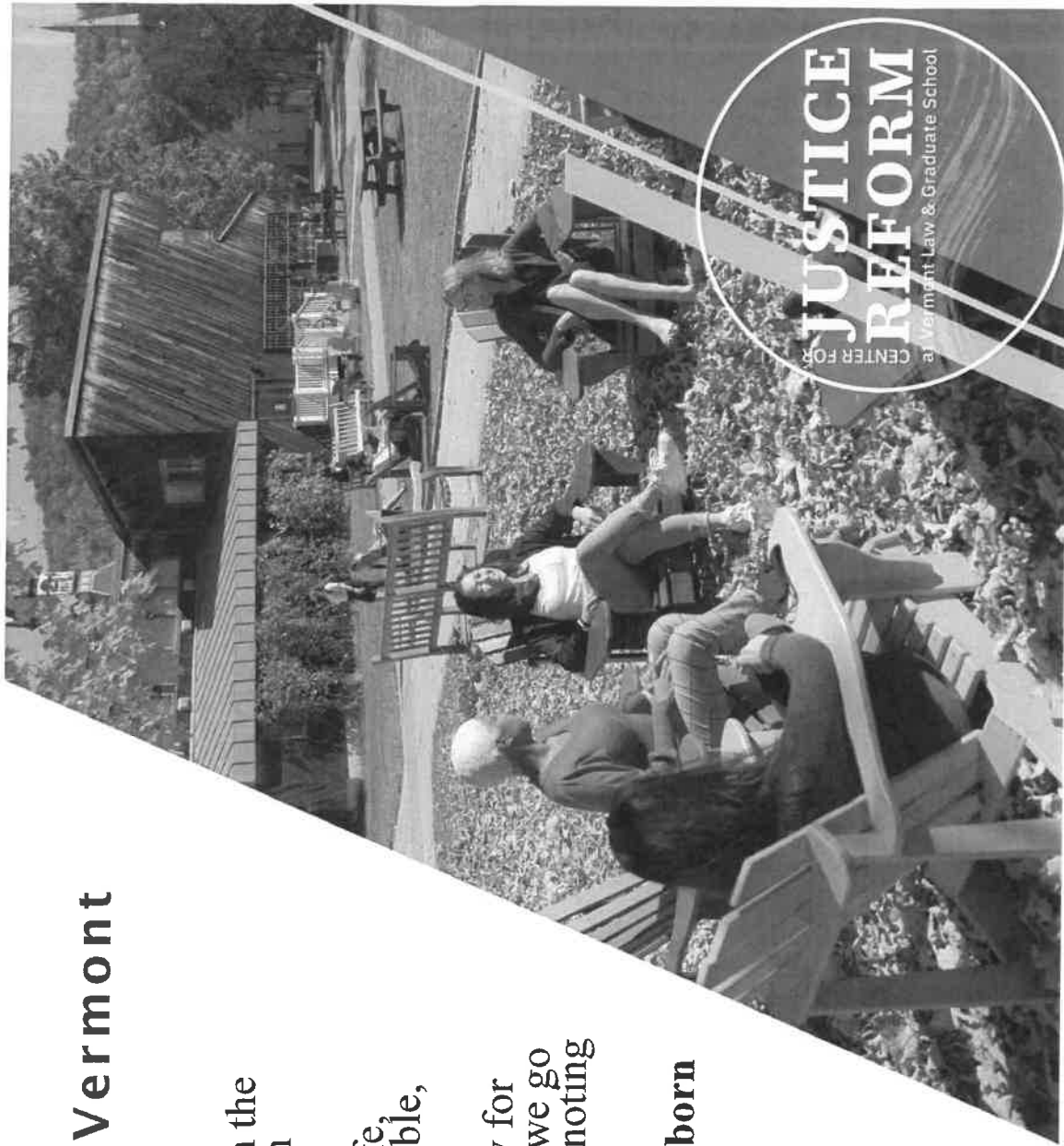
jmartindiaz@vermontlaw.edu



Immigration in Vermont

- A **restorative pause** with the Center for Justice Reform
- A **shared vision** for a welcoming, inclusive, safe, people-powered, sustainable, and connected Vermont
- **Including and especially** for diverse Vermonters who we go out of our way to attract, noting vast majority of English Learners and BIPOC communities are **foreign born**

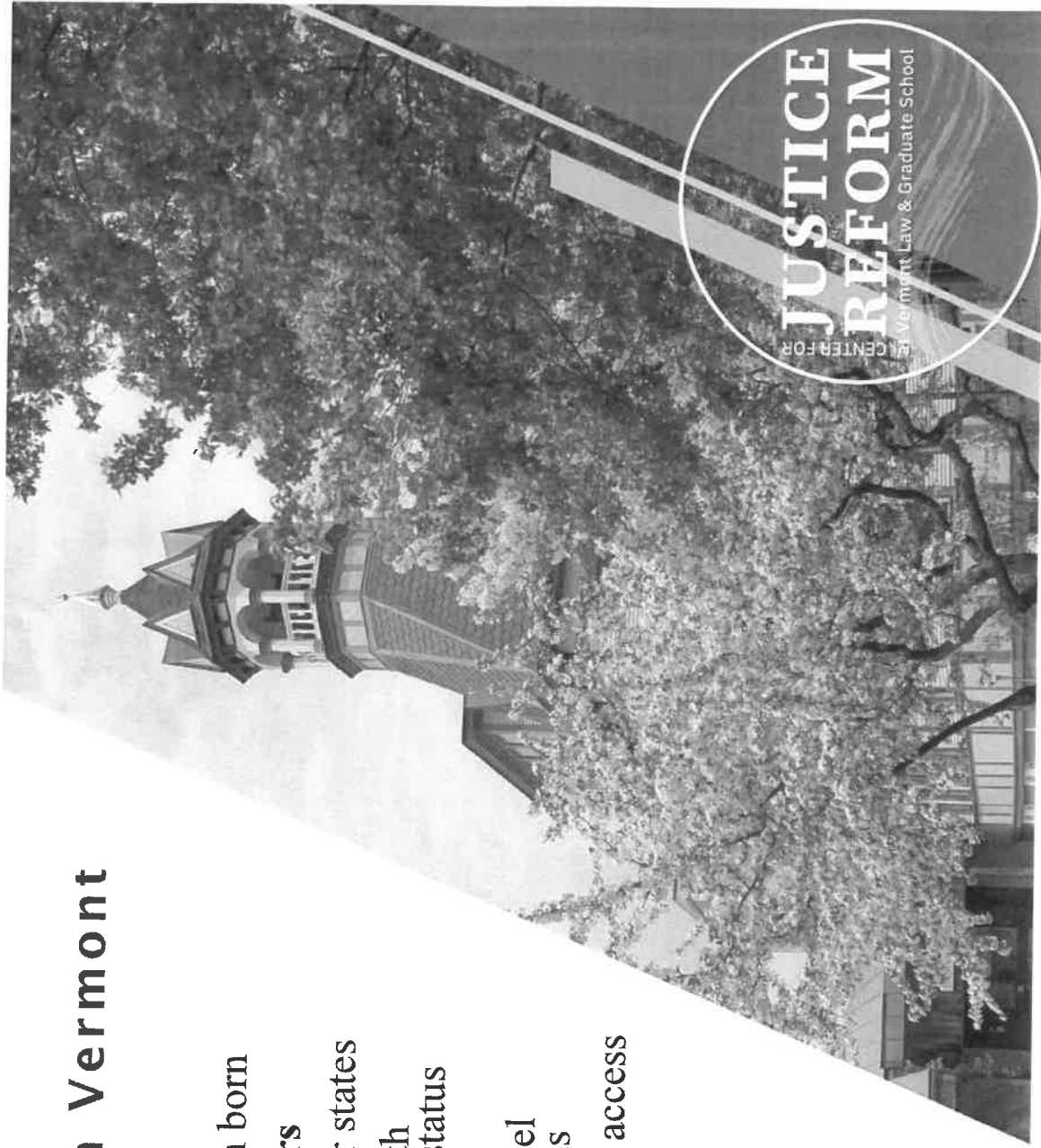
Question: What is a potential client really asking me when they call the clinic for immigration legal help?



Immigration in Vermont

- About 4.3% VT foreign born
- **10-15k noncitizen VTers**
- VT imms > dozen other states
- Innumerable people with irregular or temporary status have viable claims
- Lack of access to counsel prohibits access to status
- Lack of status prohibits access to services

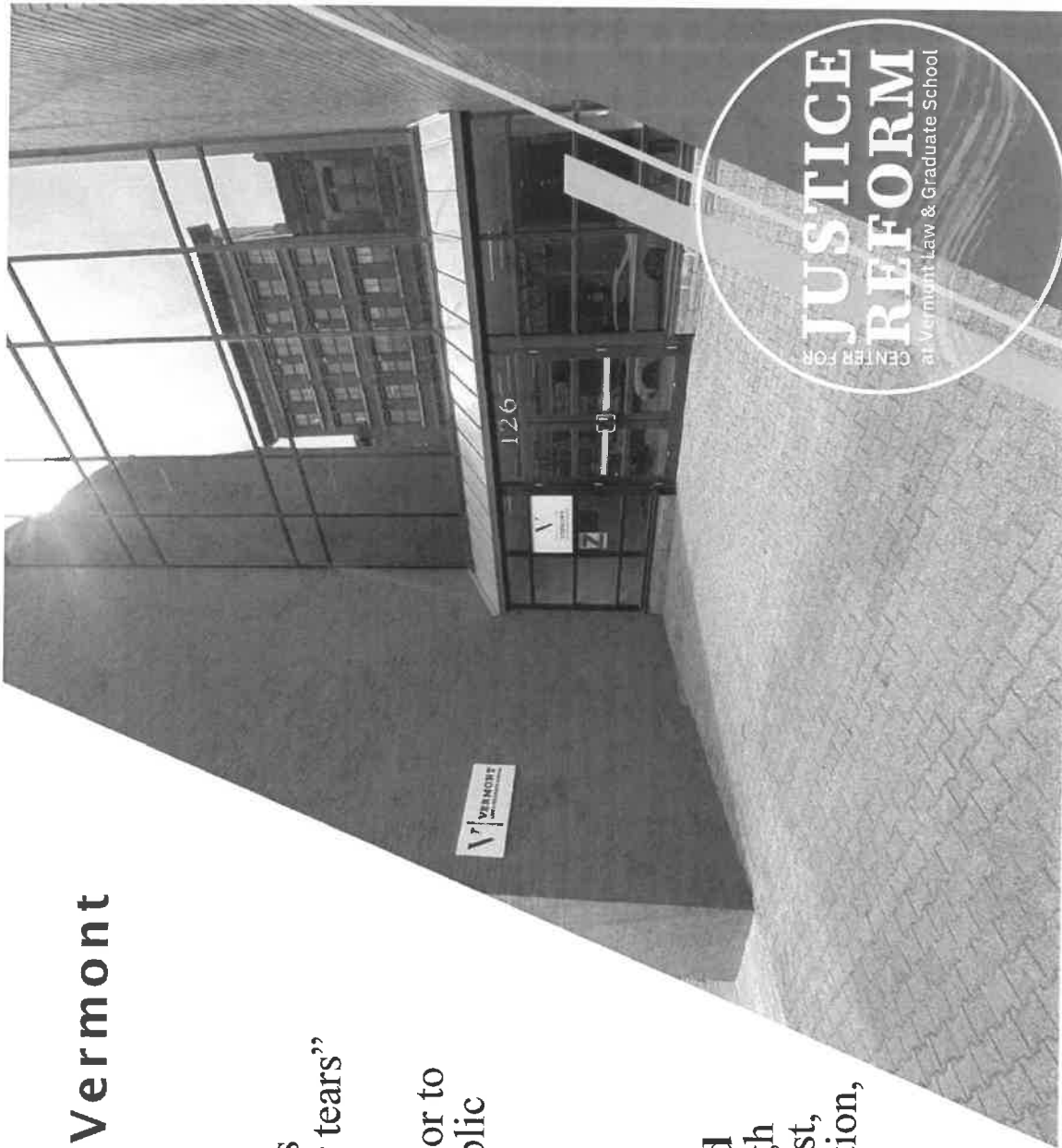
Question: Constituent calls you voicing frustration at inability to hire. What about immi pop?



Immigration in Vermont

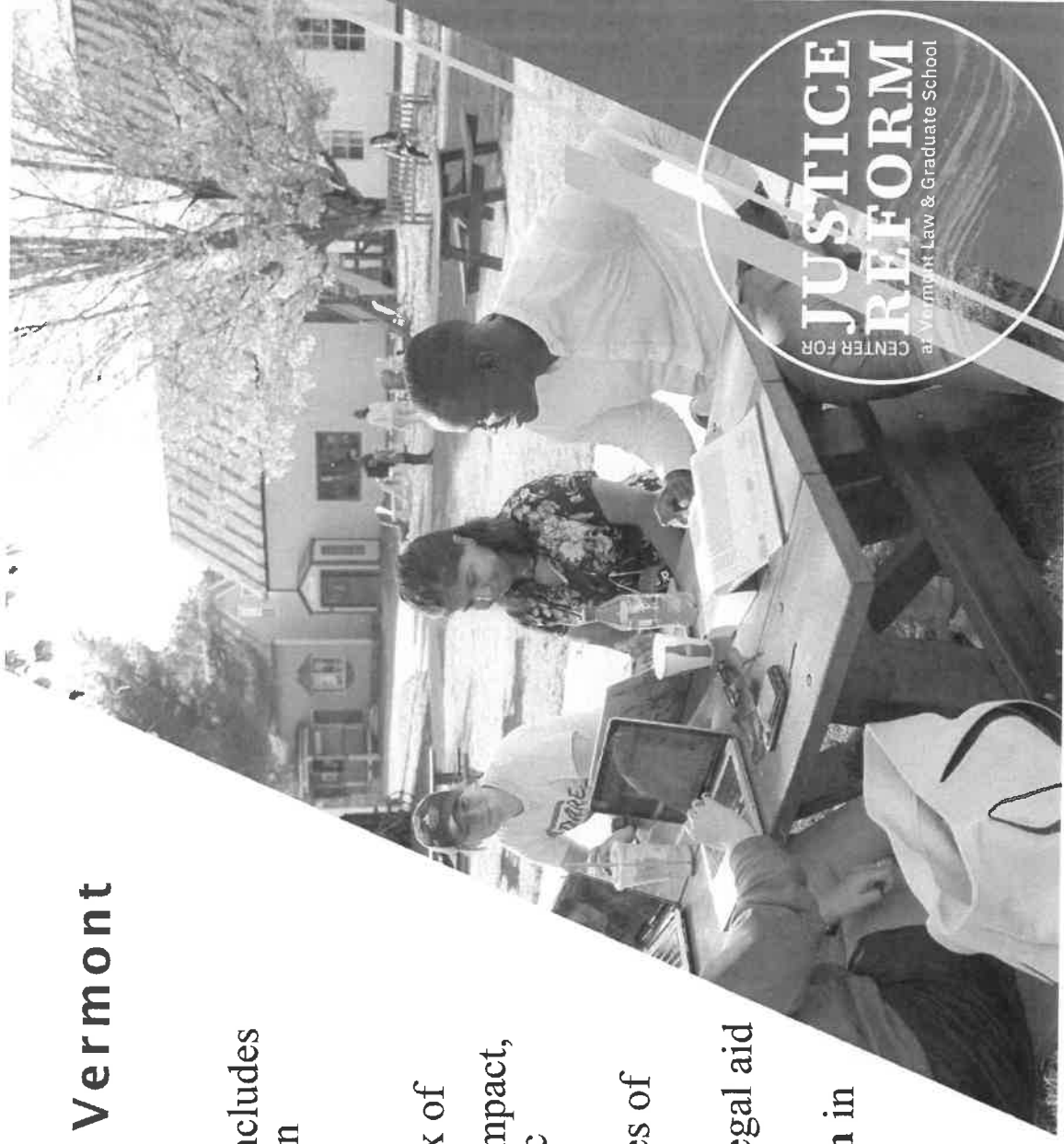
- **Work authorization** is ancillary to seeking status through “blood, sweat, or tears”
- **Work authorized social security number** precursor to social, economic, and public participation and safety
- Without it, pushed into “shadow economy”
- Without it, **risk of law enforcement contact and family separation** through emergency response, arrest, hospitalization, incarceration, and deportation

CASE EXAMPLE!



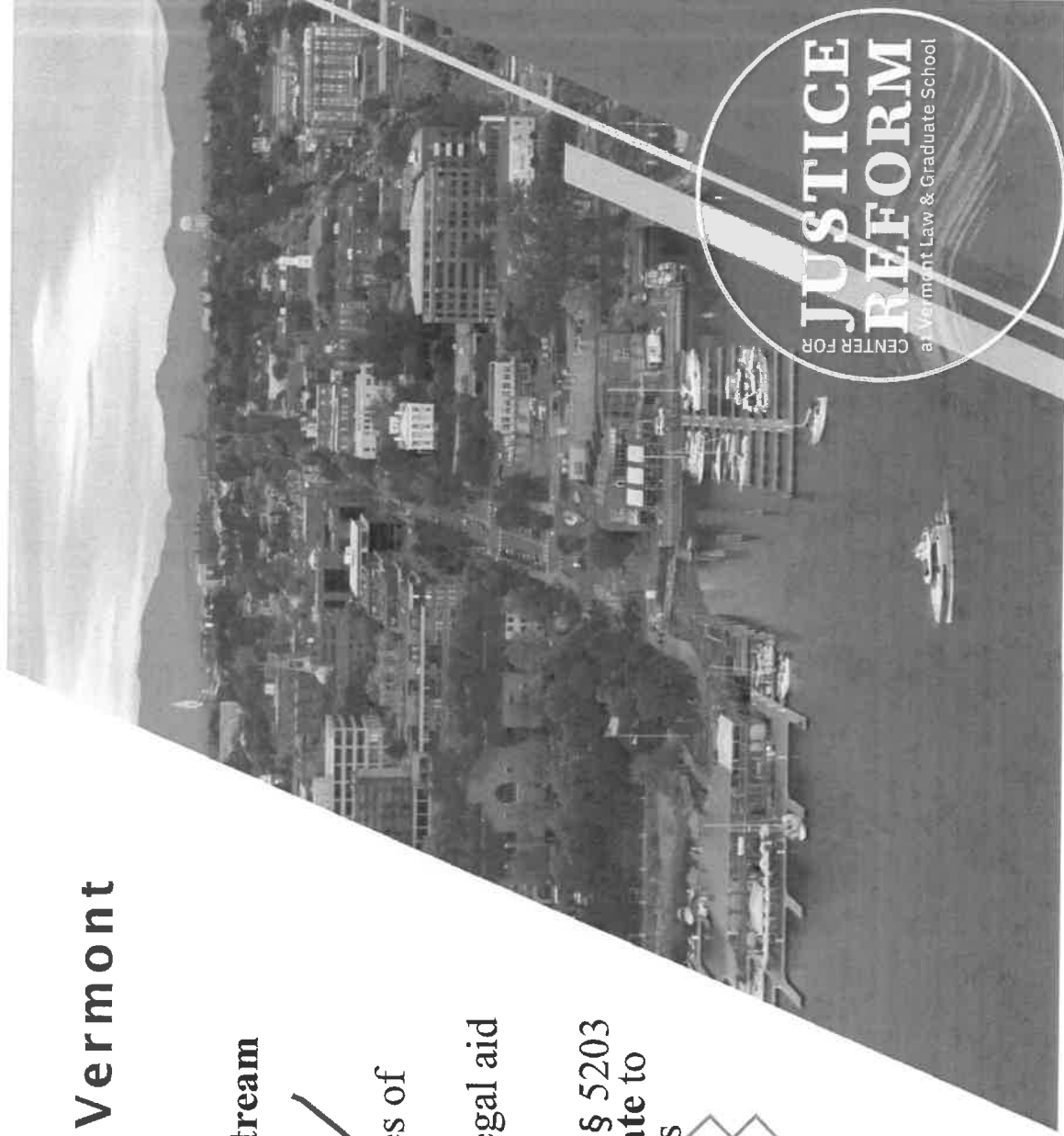
Immigration in Vermont

- National best practice includes a **balanced investment** in upstream services and downstream defense
- **Upstream** includes a mix of
 - **Low volume**, high impact, like law school clinic
 - **Medium volume**, maximizing resources of pro bono bar
 - **High volume**, like legal aid
- **Downstream** includes **universal representation** in removal proceedings in Immigration Court



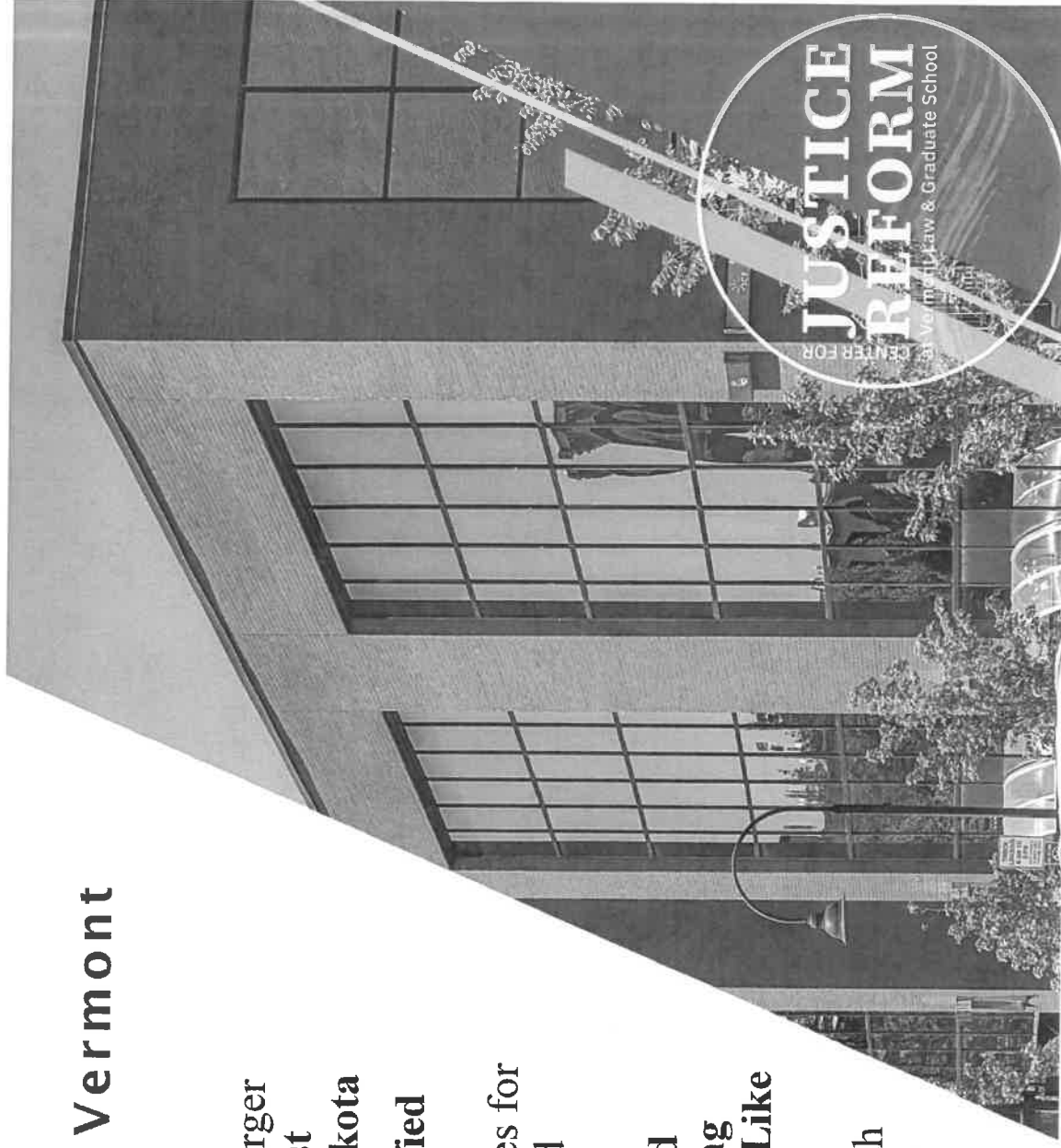
Immigration in Vermont

- In Vermont, limited **upstream**
 - **Low volume** ✓
 - **Medium volume**, ✓ maximizing resources of pro bono bar
 - **High volume**, like legal aid ✗
- **Downstream**, 13 V.S.A. § 5203 creates **unfunded mandate** to offer rep to needy persons concerning immi matters (2018's Act 177). ✗



Immigration in Vermont

- VT's foreign born pop larger than **Wyoming and West Virginia**; like **South Dakota**
- ALL have **more diversified and better resourced** immigration legal services for people who cannot afford counsel
- **Exponentially decreased chance of success seeking status without counsel. Like nearly impossible**
- \$90-150k pa 1.0FTE; with entry level fellowships to leverage!



THANK YOU

JUSTICE REFORM

at Vermont Law & Graduate School

V VERMONT
LAW & GRADUATE SCHOOL

Center for Justice Reform Clinic

Case studies: upstream immigration legal services as downstream public safety investment Fall 2024

This document collates a series of case studies illustrating some of the immediate and long-term economic and public safety impacts of noncitizens' access to immigration legal services. It begins with a series of cases highlighted by Maya Tsukazaki, 2022-24 Vermont Poverty Law Fellow at the law school's Center for Justice Reform Clinic (CJR Clinic; formerly known as Vermont Immigrant Assistance). It concludes with two high profile cases unfolding in November 2023, one concerning an ICE arrest of a longtime farmworker advocate just before Thanksgiving, and the other concerning a Somali teen's murder charges in the tragic shooting of another teen in Bristol.

VPLF CASE STUDIES 2022-23

Maya Tsukazaki has kindly prepared the following case studies from her first four quarters addressing barriers to migrant justice in Vermont. For more information about her fellowship work, see <https://vtbarfoundation.org/programs/poverty-law-fellowship/maya-tsukazaki/>.

“Anita”

“Anita (name changed for anonymity) is an asylum seeker in Vermont. Anita, her parents, and her husband were heavily involved in protesting corruption and state violence in their home country. Anita, following protest participation, experienced torture at the hands of the police in her home country, culminating in her husband's murder by political opponents. Anita made the decision to flee with her young daughter and make the harrowing journey to safety in the United States. After arriving, Anita first went to another New England state, but found Vermont to be a more welcoming environment for her and her daughter. Anita had previously sought support from the other pro bono immigration attorneys in Vermont, U.S. Committee for Refugees and Immigrants and Association of Africans Living in Vermont. However, as other agencies have been at capacity providing necessary legal services to Afghan evacuees, she was unable to receive their assistance. Anita first came to our clinic with approximately six weeks left to file her asylum application. Maya filed an initial asylum application for Anita and her child before the deadline to ensure that their case will be fairly and fully adjudicated. Additionally, U.S. Citizenship and Immigration Services (USCIS) only allows individuals to apply for work authorization permits 150 days after filing an asylum application, so the timely filing also ensures Anita, who is eager to support herself and her daughter, will be able to seek work authorization earlier. Anita's story of struggling to find legal support is similar to the story of several others Maya consulted with this quarter, demonstrating the immense need for increasing capacity of immigration legal service providers in the state.” Tsukazaki, *VPLF Q1 Report*, Vermont Bar Foundation (2022), available at https://vtbarfoundation.org/wp-content/uploads/2022/12/Tsukazaki_VPLF-Q1-Report.pdf.

Key takeaways: Work authorization brings recently arrived immigrants—often highly traumatized, English Learning, and BIPOC populations—out of the shadow economy. In other words, work authorization ameliorates the poverty conditions that make and keep people in cycles of housing instability, emergency services, and harmful and expensive institutionalization. Work authorization is not a stand-alone immigration benefit, but an ancillary benefit offered to

individuals who are in the process of regularizing their status, an exceedingly complex process that is nearly impossible without the assistance of legal counsel.

“Daniela”

“Maya current represents an individual named “Daniela” (name changed for anonymity). Daniela first came to Vermont from her country of origin several years ago for a work opportunity. While working in Vermont, Daniela met and fell in love with “Tim,” a U.S. citizen Vermonter. The couple dated, married, and moved in together in a small Vermont town. As the COVID-19 pandemic began, unfortunately, Tim became more and more manipulative and abusive to Daniela. Even though abuse worsened, Daniela’s immigration status expired, so she felt too vulnerable to leave the situation. However, an incident of physical abuse culminated in law enforcement involvement. This led Daniela to make the difficult decision to leave the relationship. Healing after surviving domestic violence is difficult, and since her immigration status had expired, Daniela was also faced with the added concern of her uncertain status. Daniela came to Vermont Immigrant Assistance to discuss her options for immigration relief. Maya identified her as eligible for immigration relief under the Violence Against Women Act (VAWA). During this quarter of her fellowship, Maya began working with Daniela to document the abuse as well as the physical and emotional harm Daniela experienced. Maya will be submitting Daniela’s immigration petition soon. This will help Daniela obtain stability in her status and relieve a significant burden as she continues to heal from the abuse she experienced while building a better life in Vermont. Maya is currently representing individuals or providing pro se assistance in a diverse range of immigration matters that include several individuals who have been the victims of violent crimes or domestic violence. Vermont Immigrant Assistance is currently the only pro bono legal services provider providing representation in immigration matters like VAWA-based relief, T visas for victims of trafficking, and U visas for victims of certain crimes.” Tsukazaki, *VPLF Q2 Report*, Vermont Bar Foundation (2022), available at https://vtbarfoundation.org/wp-content/uploads/2023/03/Tsukazaki_VPLF-Q2-Report.pdf.

Key takeaways: The media’s outsized focused on asylum-seekers, and asylum-seekers from certain politicized countries at that, distracts from the myriad other pathways available to noncitizens to regularize their immigration status and become work authorized. These other pathways are often faster and easier to navigate than asylum but nevertheless require specialized legal knowledge for success. Currently, the state does not provide any funding for this type of legal assistance and the employment authorization that flows therefrom. This dearth of investment in these pathways undermine the efficacy of Vermont laws combating national origin-based discrimination and ensuring victims’ rights, as well.

“Fatema”

“Maya represents several special immigrant juveniles, including a young woman named Fatema. Fatema, who lost one of her parents at a young age, came to the United States as a high school exchange student and lived with a host mother. Her host mother and community provided such a welcoming environment that Fatema felt comfortable enough to open up about a family friend who had abused her over a period of many years while growing up. Her family had not protected her from this person, and Fatema was scared to return home and be subjected to further manipulation

and abuse. Fatema is also from a country where women who speak out about abuse and sexual violence may be ostracized or punished. Fatema came to our clinic interested in a way to remain in the United States to avoid returning to her unsafe home. We identified her as being eligible for Special Immigrant Juvenile Status and began working with her and her host mother to obtain the order of special findings we need from a Vermont court. A Vermont judge signed the necessary order of special findings, and Maya submitted an application for special immigrant juvenile status with U.S. Citizenship and Immigration Services. Fatema now has a chance to remain in the United States and pursue an education without fear of her abuser. Fatema dreams of becoming a doctor and providing medical services for people living in poverty, a dream that will now be more achievable with a path to permanent, stable status.”

Key takeaways: Regularized immigration status is nothing short of the right to have rights. Upstream, status unlocks access to financial aid; preventative health insurance; professional licensure; interstate travel; borrowing and credit; and public assistance such as first-time homebuyer assistance. Downstream, status improves public safety by removing barriers to seeking emergency protection, reducing the risk of worker exploitation, and mitigating access to the health services and social participation that relieves cyclical poverty. Work authorization can mean the difference between a marginalized life in the shadows and full workforce development and associated community wellbeing.

https://vtbarfoundation.org/wp-content/uploads/2023/06/Tsukazaki_VPLF-Q3-Report.pdf

“Graciela”

“Maya represents several members of the Vermont farmworker community, including “Graciela.” Graciela, a mother and grandmother, has lived in Vermont with family and worked hard in the Vermont agricultural industry for a number of years undocumented. Within the last two years, Graciela was violently attacked by a supervisor at the farm she worked at. Some time later, the same supervisor later threatened Graciela and her family with a machete in their home. While hiding from the violent supervisor in a locked bedroom, Graciela was still nervous to contact law enforcement because she was undocumented, but her son eventually convinced her to contact the police. When law enforcement did arrive, Graciela was able to share her testimony and describe the violence the supervisor subjected her to. Some months later, community partner Migrant Justice identified that Graciela might be eligible for a U visa, a visa for victims of certain crimes who have cooperated with law enforcement. After an intake with the clinic, Maya identified Graciela as eligible for a U visa and began working with her to prepare the necessary evidence. This summer, Maya and Graciela finalized her application and submitted it. Because a U visa requires certification from a law enforcement agency and an analysis of how the definition of crimes under state law match the federal definitions, it is extremely difficult to prepare and submit an application without an attorney. Thankfully, after living in Vermont for close to a decade and her recent harrowing experiences, Graciela now has a possible pathway to a work permit, a visa, and eventually, permanent residency.”

Key takeaways: Vermont’s noncitizen population is large, diverse, and anything but monolithic. Farmworker communities, resettled refugee communities, and other recently arrived asylum seekers alike have latent pathways to regularizing status just waiting to be uncovered by a

discerning immigration legal eye. Regularizing our noncitizen workforce's status benefits individuals, families, community safety, and Vermont's economy writ large. It makes good on our commitment to providing a more equitable and inclusive environment for the diverse populations we work so intentionally to welcome to Vermont.

https://vtbarfoundation.org/wp-content/uploads/2023/09/Tsukazaki_VPLF-Q4-Report.pdf

RECENT CASE STUDIES 2023-24

Two recent and high profile cases help illustrate the downstream economic and public safety costs posed by noncitizens' lack of access to immigration legal services upstream.

H.M.

Most pressing on most Vermonters' minds is the recent arrest of H.M., reportedly Somalian refugee child, for the tragic shooting death of another child. That said, we at the Center for Justice Reform were disappointed in the media's piecemeal coverage of this case, for example *Seven Days' A 14-Year-Old's Murder Arrest Draws Attention to Vermont's Lack of a Juvenile Facility* (November 8, 2023), available at <https://www.sevendaysvt.com/news/a-14-year-olds-murder-arrest-draws-attention-to-vermonts-lack-of-a-juvenile-facility-39468636>. Specifically, we were disappointed in the Addison County State's Attorney's and *Seven Days'* characterization of 14-year-old H.M. as a "violent" offender in this tragedy, as well as the immediate focus on the most restrictive, harmful, and costly institutional responses to the problem of Adverse Childhood Experiences, rather than looking upstream to early, preventative interventions.

When we first read H.M.'s story, we thought about how the resolution of this case, however seemingly favorable to H.M., will bar this 14-year-old child from ever becoming a citizen and will also likely cost him his green card. Vermont goes out of its way to welcome a disparate number of refugees to foster the State's own social and cultural diversification and economic sustainability, but utterly fails these populations by failing to provide them with – at an absolute minimum – counsel needed to ensure they can adjust their status to Lawful Permanent Resident and then naturalize as citizens as soon as practicable. Not only does regularized status ensure they can remain in this relatively safe but still often hostile environment, it also ensures access to mental and physical health care, social services, and affordable housing, food, and education along the way.

"Beto"

Last week, while most families were off work and preparing to celebrate Thanksgiving together, our Clinic was representing a longtime Vermont resident and 20-something migrant farmworker at a routine administrative check in with ICE. Shockingly, against ICE's own policies, they detained Beto at this check in and removed him to an interstate facility, forcing him to fight his removal proceedings from detention. Years have passed since ICE has detained a longtime Vermont resident, and their choice to do so here, and during Thanksgiving of all weeks, was a miscarriage of justice and utter waste of resources. Beto is *prima facie* eligible for U Nonimmigrant Status as a cooperating victim in the prosecution of a crime committed against him. He is not going

to be deported because of this detention and removal proceeding in Boston Immigration Court. Instead, Beto is dealing with the trauma of incarceration, family separation and impeded access to the Clinic as counsel. Thankfully, Clinic advocates heroically filed a request for prosecutorial discretion and inspired Senator Welch to provide a letter of support. After a brief rest on Thanksgiving Day, we reconvened the next day and divided into two teams, one focused on moving for a custody redetermination hearing before the immigration judge and one focused on getting the predicate U certification Beto needs to petition for U status and resolve his deportation proceedings. It's all-hands-on-deck for operation Bring Beto Home By Christmas.



Vermont Developmental Disabilities Council

100 State Street, suite 342
Montpelier, Vermont 05633-0206

(802) 828-1310
vtddc@vermont.gov
www.ddc.vermont.gov

Outline for Comments on the Legal Needs of Vermonters with Disabilities

Introduction:

I am speaking on behalf of the Vermont Developmental Disabilities Council. The Council was created by the federal developmental disabilities act. All 50 states and territories have a developmental disabilities council. Councils exist to advocate for people with disabilities to be included in all aspects of American life- to be included in their communities everywhere where people live, work, learn, and play.

The majority of Council members are required to be people with disabilities or their family members. In Vermont, the Council is housed in the Agency of Human Services. While I am a state employee, I do not speak for the Agency of Human Services. The Council and AHS operate under a memorandum of understanding that provides for independence and non-interference in our Advocacy.

The Vermont Developmental Disabilities Council Supports the Appropriation of \$525,000 to the Vermont Bar Foundation to Support Access to Justice Grants

Disabilities impact people across the life span, from birth to death, cradle to grave, people can experience one or more disabilities. Disabilities can be temporary or permanent- caused by car accidents or genetic conditions.

No one knows if or when they or a loved one will experience life with a disability.

The Mission of the Vermont Department for Disabilities, Aging, and Independent Living is to make Vermont the best state in which to grow old or live with a disability. Sadly, Vermont is not known as a great state to live in when one has a disability.

Disability-based Discrimination is a Problem in Vermont

The Vermont Human Rights Commission (HRC) receives complaints of discrimination on the basis of more than 8 major protected categories including sex, race, age, religion, sexual orientation, national origin, and disability. Disability discrimination is the most frequently cited type of discrimination in the complaints received by the HRC. For at least the 6th year in a row, the HRC received twice as many disability-related complaints as any other protected category.

Where's the rub?

Because disabilities are experienced across the lifespan, disability-based discrimination or other legal issues arise across the lifespan.

I am going to use the lived experience of a couple of my Council members to illustrate the kinds of legal issues that come up in daily life in Vermont.

Medicaid provides infants and children under age 21 with the comprehensive Early Periodic Screening, Diagnostic, and Treatment (EPSDT) benefit. Created in 1967 and required in every state, EPSDT finances various appropriate and necessary pediatric services.

Since Medicaid covers one-third of children age 1–6, and more than 40% of school-age children and adolescents, EPSDT offers a way to ensure that children birth to age 21 receive appropriate physical, dental, developmental, and mental health services—from prevention to treatment.

In Vermont, parents of children with complex health needs frequently need advocates to help them access the supports and services their children need.

Many of my Council members are parents of children who are being denied EPSDT and other services they are legally entitled to in Vermont. The health care workforce shortage – especially the shortage of evaluator and high tech nurses, is especially challenging for families of children with disabilities in Vermont.

School-age children with disabilities are excluded from classrooms at higher rates than students without disabilities. Vermont's Agency of Education is under supervision because our students with special educational needs are grossly underperforming on grade level reading and math tests.

Dire need for Advocates for Special Education: Children can't wait 6-9 months to be evaluated by speech-language pathologists, applied behavior analysts, or any other type of evaluator. Parents of students with learning disabilities depend on Vermont legal aid and other advocates to get their children the services and evaluations they need to succeed in school.

Transition-age youth – students with disabilities to age 21- entitled to explore careers, education – system struggled to fulfill requirements pre-covid since Covid it has been nearly impossible. Other states have extended transition services to account for the covid-era losses.

Other issues:

Consumer Debt: One of my Council members with an intellectual disability has been taken advantage of by landlords and car dealers.

Social Security and employment: This same Council member needed the intervention of Bernie Sanders Office to straighten out an issue he was having with social security that even his staff at Howard services could not resolve. This young man is always at risk of losing his benefits if he earns too much money. When his employer wants to give him a raise he needs support managing his funds so he is not penalized.

Guardianship: Historically, adults with disabilities have had guardians who manage their financial and other affairs. Alternatives to guardianship are on the rise and people under existing guardianships often need legal advocates to help them regain their personal autonomy and legal agency.

Housing Discrimination

Inaccessible Housing

Inaccessible Emergency Services

Susan Aranoff, J.D. (VLS Class of 1988)

Senior Planner and Policy Analyst, Vermont Developmental Disabilities Council

POST ADOPTION CONTACT AGREEMENTS

State Funding needed

Vermont Bar Association

The Vermont Bar Association supports the Access to Justice Coalition request for state funding through the Vermont Bar Foundation for legal services projects. The VBA would seek continued funding for its low bono project to provide PACA assistance to foster/adoptive parents.

The Need

In 2015, the Vermont Legislature created a means by which relinquishing parents and adopting parents could enter into post adoption contact agreements.¹ These PACAs are voluntary agreements intended to allow relinquishing parents some contact with their children after the parents' rights are voluntarily terminated and the adoption process is complete. The PACAs are enforceable through a process in Vermont Probate Division², and can extend as an obligation on adopting parents throughout the minority of their children—for up to 18 years.

Because PACAs must be entered into when the child is in DCF custody prior to any termination of parental rights, and because the relinquishing parents must agree to a voluntary termination of parental rights, PACAs are often negotiated as a way of settling contested TPR cases.

Termination of parental rights cases are a time-consuming and significant component of the Family Division docket. In FY 21, 248 new TPR cases were filed. While the number of new filings has eased, down from 307 new TPR in FY'17, these cases are resource-intensive, often demanding several days of hearing time and many hours of preparation from judges, court staff and attorneys.³

In TPR cases, the Vermont Department of Children and Families, bio-parents, and children all have party status, and all have attorneys representing them. Adoptive parents have neither party status nor legal representation. But enormous pressure is brought on foster parents to enter into a post adoption agreement which will impact their new family for many years to come.

This is a highly emotional time for biological/relinquishing parents and for foster parents. The bio-parents love their children but struggle with feelings that they have failed them. These parents face hours of courtroom testimony about how their children will be better off without them. Many want some way of staying in touch, but understand that if the contested hearing goes against them, they will lose all rights to see or hear from their children again. A PACA offers a possible solution. But these parents will have to give up their right to a hearing and voluntarily give up their parental rights to stay in touch with their children.

Foster parents have come to love these children, too, in the months, sometimes years, that they have cared for them. Foster parents are apprehensive about a contested TPR hearing—what if the

¹ 33 V.S.A. Sec. 5124.

² 15A V.S.A. Sec. 9-101.

³ Vermont Judiciary Annual Statistical report for FY21, pages 8-12

<https://www.vermontjudiciary.org/sites/default/files/documents/FY2021%20Annual%20Statistical%20Report%20-%20FINAL.pdf>

judge rules that parental rights are not terminated, and sends children back to their bio parents? A PACA would eliminate that risk, but create a new one. Are the foster parents comfortable with allowing their children to remain in contact with bio parents who have let them down? What terms of contact are fair, and what terms will also protect the children? A PACA might offer a solution, but the foster parents need a lawyer to help them, and they can't afford one.

Low Bono Project Meets the Need

Recognizing this legal need, the Vermont Bar Association extended its County Low Bono Project to include low bono PACA representation to low-income foster/adopting parents.

This VBA "low bono" project uses grant funds to pay private attorneys a stipend of \$75 per hour for up to 3 hours for PACA representation. This is a cost-effective way of providing legal representation for a targeted, needy population.

In FY 2022-23, the VBA's Project received 21 requests from foster parents for PACA representation, and placed all 21 with private attorneys. These requests for representation are sometimes made with very short notice—just days before the TPR hearing is to begin. The foster parents are relieved to have assistance.

In one case complete last year, a grateful foster/adoptive mom wrote this note to the VBA:

"[My lawyer] jumped on this case the day before the hearing and made magic happen. It was clear she had experience with PACAs. She heard my concerns/ideas and created a PACA with both bio parents that outlined my asks. The PACAs were both accepted!"

Please support funding for the Vermont Bar Foundation so that legal magic can happen in courts throughout Vermont. Thank you.

Contact:

Mary C. Ashcroft, Esq.
Vermont Bar Association
Legal Access Coordinator
PO Box 100
Montpelier, VT 05601-0100
(802) 775-5189
mashcroft@vtbar.org