

# **Right to Civil Counsel Program for Immigrants Facing Deportation**

## **San Francisco Board of Supervisors President David Chiu**

### **–Background Information–**

#### **EXPANDING SAN FRANCISCO'S RIGHT TO CIVIL COUNSEL PROGRAM**

In 2012, the Board of Supervisors unanimously passed the Right to Civil Counsel Ordinance, making San Francisco the first city in the country to commit to providing representation for residents in civil proceedings that could deny basic human needs.

The ordinance, sponsored by Board of Supervisors President David Chiu, declared San Francisco to be the first “Right to Civil Counsel City” and mandated the creation of the San Francisco Right to Civil Counsel (RTCC) Pilot Program. The program was designed to help low-income residents involved in some of the most high-stake civil court cases obtain adequate legal representation.

The pilot program initially focused on tenant evictions, as the number of San Francisco evictions began to skyrocket and legal service organizations were unable to meet increased demand. A May 2014 Stanford report found that the program leveraged \$100,000 of initial funding to the Justice & Diversity Center of the Bar Association of San Francisco into over \$2 million worth of pro bono legal services from private attorneys. This assistance played a critical role in meeting eviction defense needs for over 1,000 tenants with full and limited scope representation.

Expanding on these RTCC efforts, the next phase of the program will focus on low-income immigrants facing deportation. The San Francisco Immigrant RTCC program will recruit, train and manage attorneys from top law firms to provide pro bono representation for San Francisco residents facing deportation. These immigrants will include the recent influx of unaccompanied children appearing in San Francisco Immigration Court. A similar effort has been launched in New York City, which became the first city in the nation to assist low-income immigrants in deportation proceedings with its Immigrant Family Unity Project. Last week, California state leaders announced their intent to provide state funding for similar programs, which would require state legislative action.

#### **THE IMMIGRANT RIGHT TO COUNSEL PROGRAM**

Supervisor Chiu led efforts to include an additional \$100,000 in the recently approved City budget. This funding has been awarded after a competitive process to the Lawyers' Committee for Civil Rights (LCCR) based on its proven track record in *pro bono* engagement. Under LCCR management, San Francisco's Right to Civil Counsel program will be the first of its kind in California to provide public funding for *pro bono* representation to immigrants facing deportation proceedings. LCCR's model of success will be used as a framework for the program, and will include:

- Careful screening of and matching of clients to *pro bono* attorneys
- Intensive training for *pro bono* attorneys
- Ongoing “Continuing Legal Education” presentations on more specialized asylum topics and other key immigration subjects
- Up-to-date materials and sample legal documents
- Mentorship, Experts and Interpreters

LCCR expects to train 300-400 attorneys each year and successfully match at least 100 clients for full-scope representation.

The program is intended to help address the immediate crisis facing unaccompanied Central American children who have come to the United States in recent months. More broadly, San Francisco continues to lead the country in closing the access to justice gap within the court system by building upon our commitment to supporting the right to civil counsel for low-income individuals.

## HELPING IMMIGRANTS GET ACCESS TO JUSTICE

The need for representation for low-income, undocumented immigrants undergoing deportation proceedings is clear:

- More than 25,500 cases are pending before the SF immigration court and a substantial percentage of these cases involve San Francisco residents. Over 30% of these cases are currently unrepresented.
- For children, a higher percentage is unrepresented by counsel. An analysis of 100,000 cases found immigrant youth represented by attorneys are deported 5 out of 10 times, while youth without attorneys are deported 9 out of 10 times.
- Compounding the situation are “mixed-status families”, where at least one member is authorized and one member is not authorized to reside in the United States. A sanctuary city, San Francisco is home to a high volume of low-income, mixed-status families. Nationwide, 4.5 million U.S. citizen children live in mixed status families; in 2012, 90,000 parents of U.S. citizen children were deported.
- The stakes in deportation cases are incredibly high and can have devastating, life-and-death consequences for deported individuals and their separated family. Separation often causes a permanent change in family structure, extreme financial hardship, loss of employment, psychological trauma and social isolation.

While the expansion of the Right to Civil Counsel Program to immigrants facing deportation has been contemplated for several years, the need for pro bono representation of immigrants has become much more compelling with the recent surge of unaccompanied Central American children crossing the border to escape horrific violence, extortion, and sexual assault in their home countries. In recent months, it is estimated that some 60,000 children from El Salvador, Honduras, and Guatemala have entered the United States. Thousands of these children have sought asylum through the immigration courts to remain in the United States.

Without representation, unaccompanied children are left in limbo at detention centers and face the possibility of being sent back to the danger they face in their home countries. Here in San Francisco, the number of unaccompanied children is rising and organizations in San Francisco have been unable to keep up with the need for legal counsel. According to the U.S. Health and Human Services Agency, there are currently 185 unaccompanied children who have been placed with sponsors here in San Francisco.

## THE RIGHT TO CIVIL COUNSEL: PAST AS PROLOGUE

In *Gideon v. Wainwright*, the Supreme Court in 1963 ruled that a person unable to afford legal representation in a criminal proceeding had the right to counsel. For over 50 years, the national legal community has considered whether the same right should be provided to those undergoing civil proceedings. While individuals charged with petty crimes like shoplifting or public drunkenness have access to counsel, countless individuals involved in civil proceedings that could deny basic human needs – such as child custody, divorce, eviction or deportation proceedings – have no right to representation.

In 1978, President Jimmy Carter reminded the legal community that 90% of American lawyers serve only the top 10% of all Americans, a statistic that has only skewed worse over in recent decades:

- Nationwide, 6 out of 10 people in the middle class and 8 out of 10 who live below the poverty line are unrepresented in civil proceedings; including proceedings with as dire circumstances as losing custody of a child.
- In California, over 4 million civil court users are self-represented, and the statistics are especially severe in family law court, where 80% of litigants do not have counsel at the time of disposition, and in domestic violence and eviction cases, where over 90% of litigants are self-represented.
- San Francisco data reinforces the urgent need for counsel in high-stakes civil cases. In 2009, 95% of child support cases and 92% of divorce actions were filed by self-represented individuals.

## OTHER RESOURCES

- [San Francisco Right to Civil Counsel Ordinance](#)
- [Board President David Chiu and Advocates Release Stanford Report on Right to Civil Counsel, Highlight Need for Eviction Defense Funding](#)

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