

N.Y. pilot program offers free immigration counsel

(May 7, 2014) - A new program that provides free legal counsel to some undocumented immigrants appearing in a New York City immigration court is finding that its model works – and hopes that the program could be replicated in jurisdictions across the country.

The New York Immigrant Family Unity Project was established late last year after immigration lawyers and immigrant-rights advocates repeatedly expressed concerns that the absence of competent legal representation was resulting in shattered families and unjust outcomes in immigration court hearings.

Acting on those concerns, Judge Robert A. Katzmann of the 2nd U.S. Circuit Court of Appeals organized a study, published in 2011, that found that 60 percent of detained immigrants in the New York region did not have counsel.

The program is funded by the New York City Council, which allocated \$500,000 for the project. That money, supplemented by contributions from other organizations, will allow it to represent nearly 200 immigrants in 2014, according to the Bronx Defenders, the legal services organization that provides the representation for the program.

The report by Katzmann's task force found that immigrants who were represented and were either released from detention or never detained were successful 74 percent of the time, compared with a success rate of just 3 percent for immigrants who had no representation and were detained at the time of their court appearance.

The Immigrant Family Unity Project, based at the Varick Street immigration court in New York City, aims to help improve the chances of those in the latter group. There is no constitutional requirement that defendants in immigration hearings be given court-appointed legal representation.

"Immigration law is being compared to tax law in its complexity," said Conor Gleason, a lawyer with the program. "If you don't have a lawyer, what are your chances?"

Language barrier

The hazards of self-representation can be amplified even further when a language barrier separates the defendant from the judge or government attorneys.

According to Gleason, one of the goals of the program is to create a more just and fair immigration system for those who are going through it.

"This model is working," he said. "The data we have shows it saves people money, saves the city money, and keeps people in the U.S. who have a right to be here and who have some form of relief available."

The program has sparked interest from jurisdictions across the country.

"I have had conversations with people in Boston, Chicago, San Francisco, and Los Angeles, and I know that some of my colleagues have had conversations with people in six or eight other cities around the country," said Oren Root, director of the Vera Institute of Justice's Center on Immigration and Justice, which provided research support and is helping to administer the project.

In December, the Justice Department's Executive Office for Immigration Review, the agency in charge of the nation's immigration courts, released guidance regarding a plan to provide enhanced protection to unrepresented, detained immigrants with mental disorders. Under that guidance, the immigration court will provide a qualified representative to detained respondents who are deemed incompetent to represent themselves.

Though that program is currently limited to mentally incompetent immigrants, the agency has suggested it may be expanded to other populations.

"This is pretty significant in terms of the ground that it breaks," EOIR director Juan Osuna said April 15 at an annual conference on Hispanic law sponsored by American University's Washington College of Law. "We're looking at other populations now to see what we can do with that."

Root hopes that the data gathered as a result of the project could lead to the expansion of those federal programs.

"We hope to put together an evaluation, which we still need to raise funds for, that will show that proceedings go more efficiently with counsel at the inception," he said. "We would hope that this would induce the federal government to also invest in providing counsel for people facing deportation. They have an interest in it."

By Christina Carr, CQ Roll Call

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