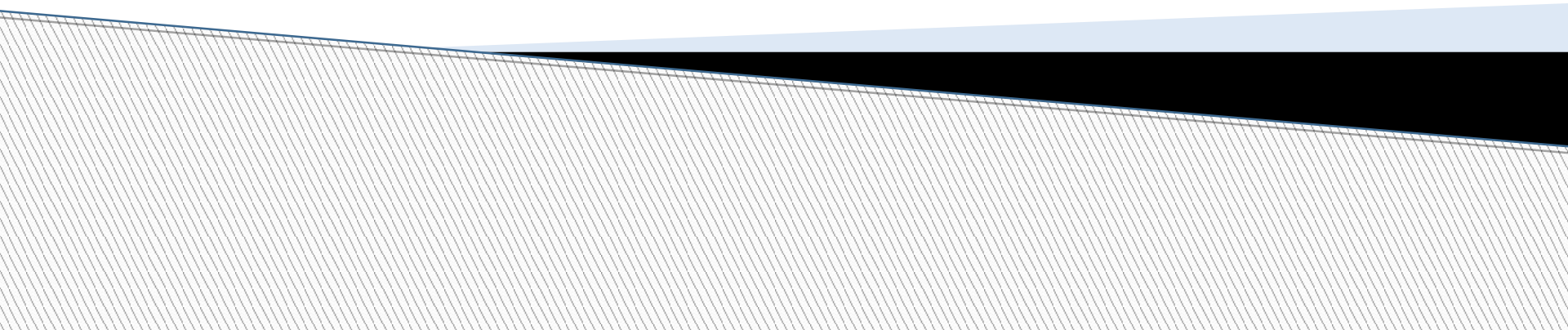


Supporting People In Immigration Detention:

A Brief Guide to Social and Legal Visiting, Correspondence, and Other Support

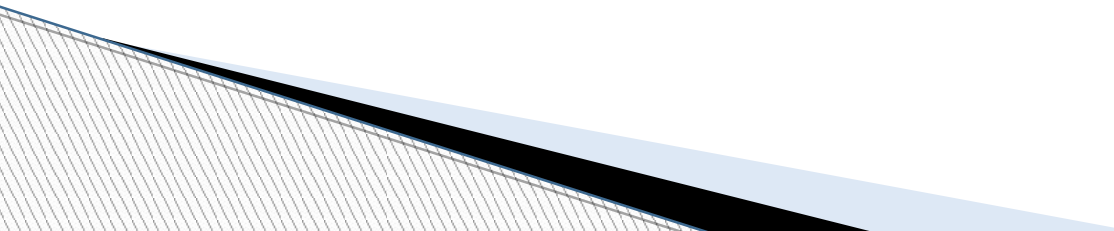
AnoopPrasad, Asian Law Caucus
Christina Mansfield, CIVIC



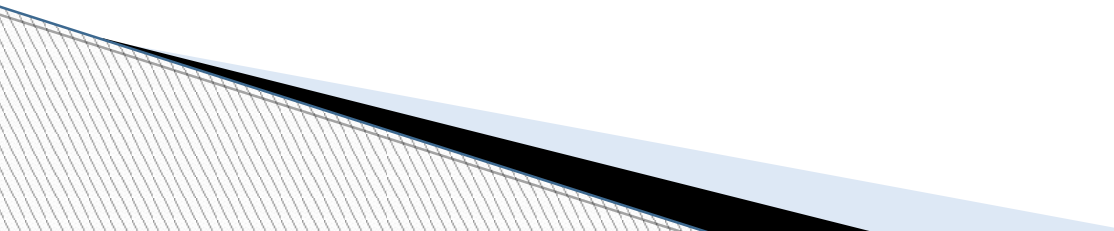
Today's Presentation

- ▶ Legal Support (Anoop)
 - How to Prepare
 - Navigating through the walls
 - Correspondence and other Important Information
 - How to visit
 - Interview Tips
 - Elimination of Bias: Client Centered Lawyering
 - How to Use the Information You Have
- ▶ General Support (Christina)
 - Why social/family visits
 - Planning and Prerequisites
- ▶ View From The Inside

Types of Detention

- State, federal and military prisons
 - Local and county jails
 - Immigration detention
 - Juvenile justice facilities
 - Mental hospitals
 - Community confinement (i.e. probation, GPS monitoring, parole)
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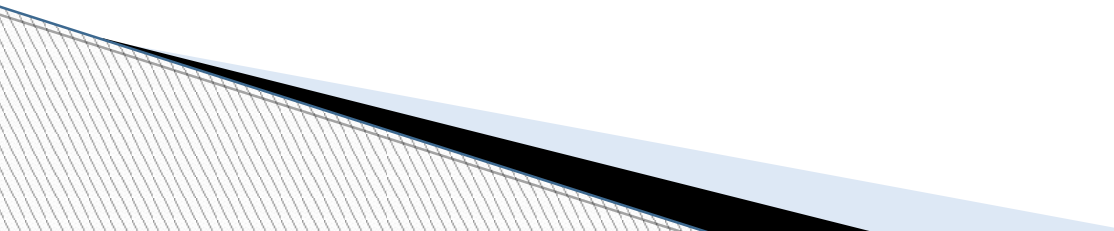
Types of Immigration Detention

- ▶ County Jails
 - ▶ Federal Correctional Institutions
 - ▶ ICE Detention Centers
 - ▶ Private Detention Centers
- 

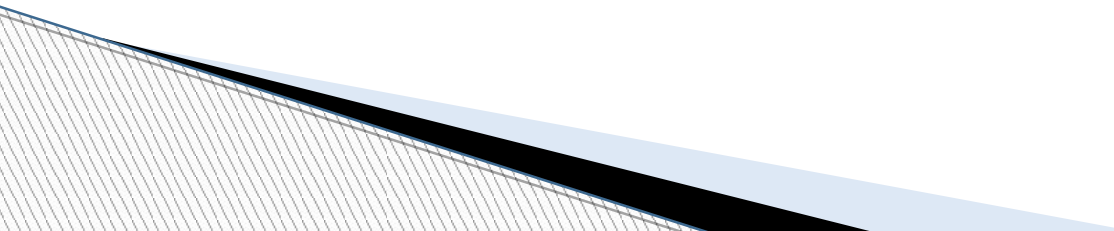
Legal/Confidential Mail

- ▶ Return address must have:
 - Attorney name and state bar number
 - Address matching address of record on CA Bar website
 - Marked clearly LEGAL CONFIDENTIAL
- ▶ Legal mail includes:
 - Correspondence about the visit, both before and after (*e.g.*, request for visit, confidentiality notice)
 - Legal research (*e.g.*, court cases or motions)
 - Correspondence about specific conditions, follow up items from visit
- ▶ Legal mail does not include:
 - Books, newspapers, or media articles
 - Correspondence from third parties
 - Money or stamps

Phone Calls

- ▶ Phone access in most detention facilities is severely limited.
 - ▶ For most detention facilities, you cannot call your clients or set up a time to talk.
 - ▶ Phone calls are extremely expensive.
 - ▶ Confidentiality Issues
- 

Don't Forget

- ▶ Call prior to departure for your visit to confirm there isn't a lockdown or other problems
 - ▶ The ID you used for your application (and bar card if lawyer)
 - ▶ Check restrictions on what can be brought into the facility.
- 

Pros and cons of legal visits

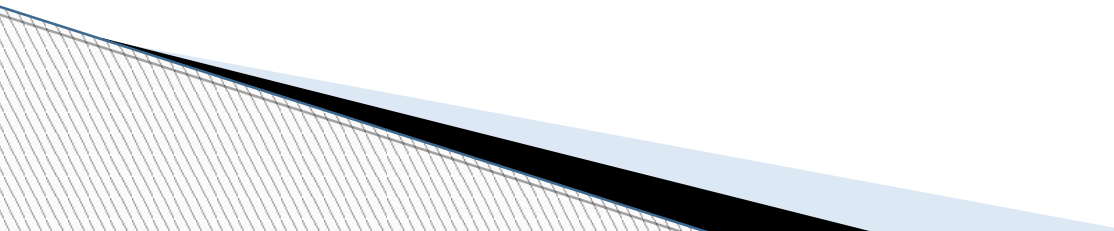
Requirements

- ▶ Legal visits must have proper purpose
- ▶ Must be an attorney or acting as attorney representative
- ▶ Typically cannot do both legal and social visits at the same institution
- ▶ No felony convictions

Benefits

- ▶ Can visit more than one person in a single day
- ▶ More flexibility in visiting hours
- ▶ Can visit those with limited visitation rights (e.g., people in solitary confinement) and those who have had visitation revoked

Security Clearance Process

- ▶ Each facility has different clearance form and process
 - ▶ Visits with interpreters or mental health experts
 - ▶ Court orders from Immigration Judges
 - ▶ Visits before/after court hearings
- 

Planning Ahead

- ▶ Go with a partner
- ▶ Compile list of people to visit and apply for security clearance in advance
- ▶ Determine which days the facility allows legal visits
- ▶ Correspond with interviewees so they know you will be coming

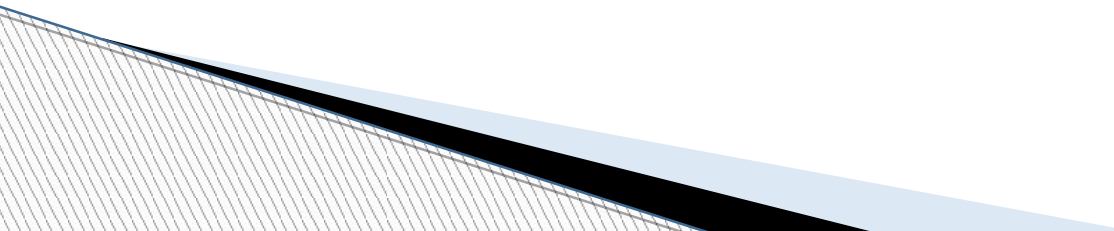
Interacting with Prison Staff

- ▶ Searches
- ▶ Bring list of people visiting and confirmation letter
- ▶ Insist on confidential visits
 - As an attorney representative, you are entitled to confidential legal visits
- ▶ Dealing with arbitrary rules
- ▶ Pay attention to your surroundings
- ▶ Pick your battles
- ▶ For more information on California Jails, see CDCR Title 15, §3178 Attorney Visitation and Consultation

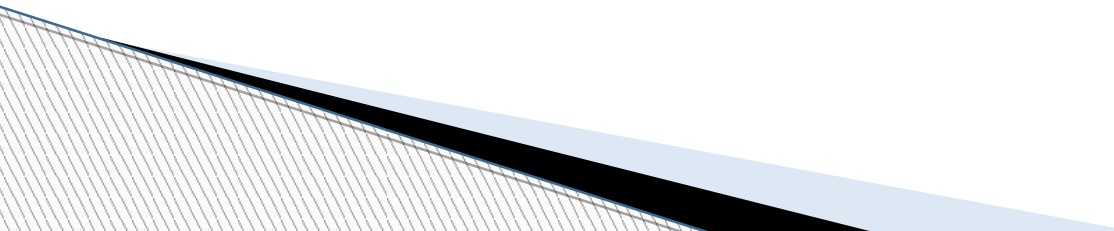
Elimination of Bias: Practicing Client Centered Lawyering



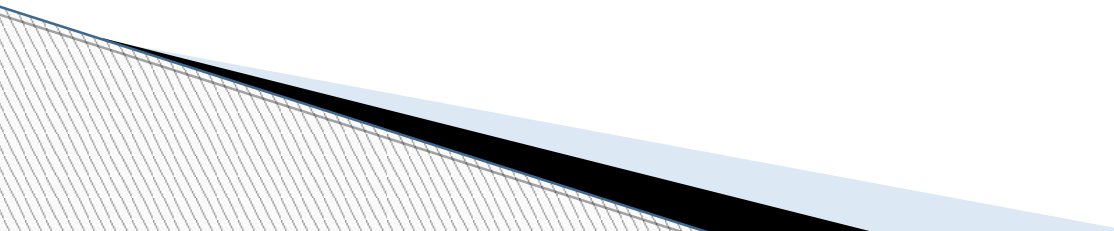
Goals

- ▶ Cultural Awareness/Literacy
 - ▶ Recognizing Bias
 - Personal
 - Societal
 - Structural
 - ▶ Navigating Bias Through Client Centered Lawyering
- 

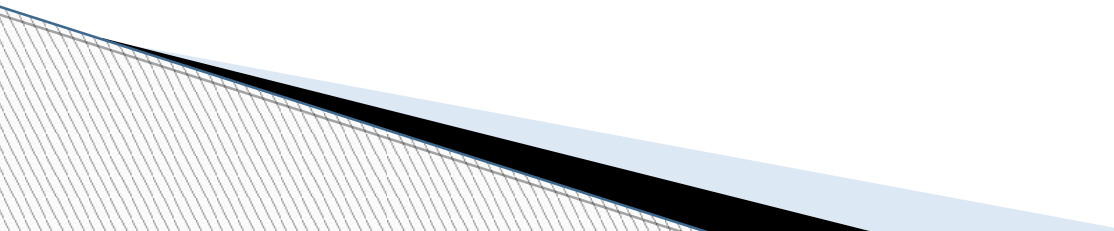
What identities intersect in detention?

- ▶ Immigration Status
 - ▶ LGBTQ
 - ▶ Race
 - ▶ Gender
 - ▶ Culture
 - ▶ Formerly Incarcerated
 - ▶ Class
 - ▶ Disability
- 

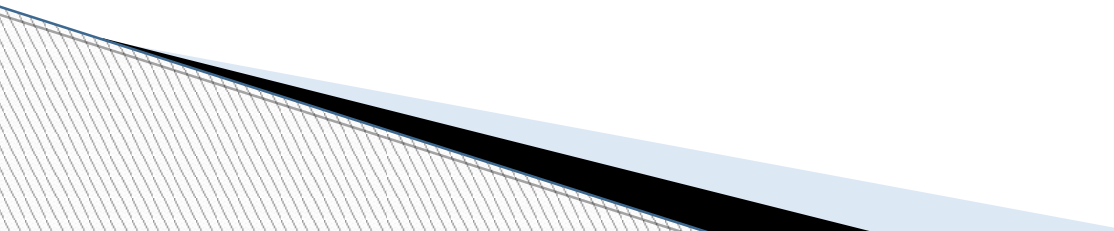
Reflection Exercise on Identity

- ▶ Visible
 - ▶ Perceptible
 - ▶ Invisible
 - ▶ Implications
- 

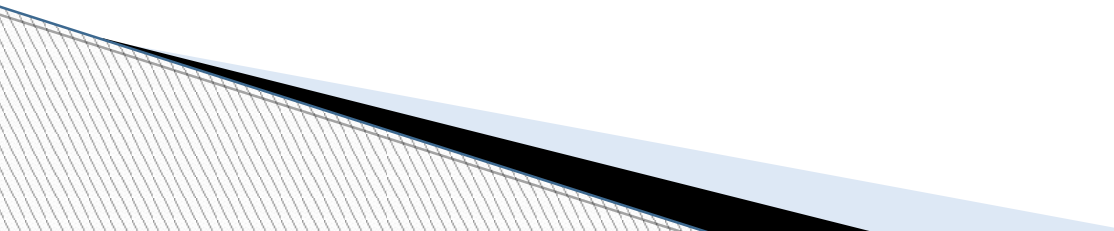
Exercising Humility

- ▶ Clients make choices based on identities that may not be visible
 - ▶ You cannot know your client's motivations and needs without building a relationship and centering the client in the attorney-client relationship.
 - ▶ Your client knows themselves better than you do.
- 

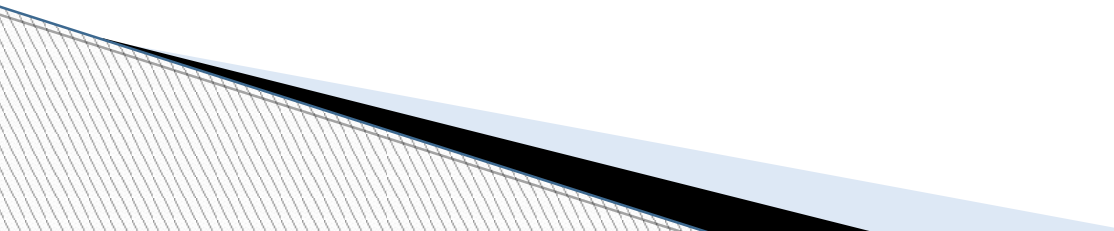
Self-Awareness and Reflection

- ▶ What are you asking of your clients?
 - ▶ How can you build trust?
 - ▶ What are the power dynamics in play with the attorney-client relationship?
 - ▶ Noticing and Struggling with Suspending Judgment
- 

Immigration Hypothetical

- ▶ Client is a young woman from Samoa facing deportation for armed robbery.
 - ▶ How do you build a client relationship?
 - ▶ How do you tell your client's story? Do you tell your client's story?
- 

Challenges to Client Centered Lawyering in Detention

- ▶ Building a relationship in a dehumanizing environment
 - ▶ Serving one client well or twenty poorly?
 - ▶ Navigating your own trauma
- 

ICE Visitation Directive

In September 2011, ICE announced the creation of a new policy the Stakeholder Procedures for Requesting a Detention Facility Tour and/or Visitation, also commonly referred to as the Visitation Directive.

The Visitation Directive provides access to detention facilities for any organization or group of individuals that wishes to tour a facility and interview individuals in immigration detention.

The Visitation Directive was designed for organizations that monitor conditions in detention facilities. Its original intent was to streamline the process for gaining access to a detention facility on a specific day for a specific purpose. It was not designed for community groups, such as CVPs, looking to establish a more permanent presence at an individual detention facility. Nevertheless, through conversation with CVPs across the country and meetings with ICE, CIVIC believes the Visitation Directive can be used as a first step to starting a consistent Community Visitation Program.

Detention center/jail staff often do not understand the difference between organizations and community groups that use the Visitation Directive for monitoring purposes on an infrequent basis and CVPs that operate inside of detention facilities on a weekly basis.

Where are immigrants detained?

Immigration and Customs Enforcement (ICE) contracts with local county jails and private prison corporations to hold immigrants in detention in 250 facilities across the country.

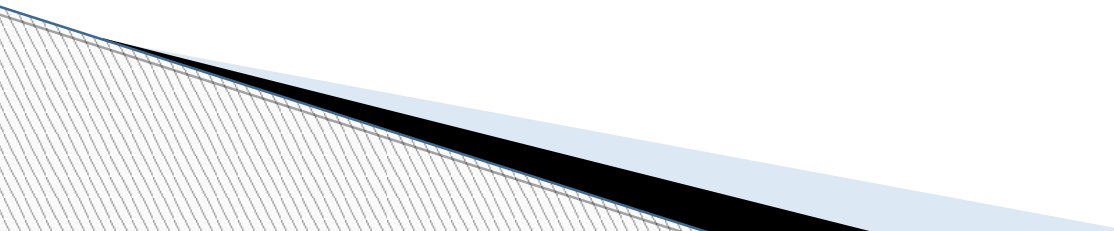
For a full list and geographic locations for these detention facilities and where CIVIC-affiliated visitation programs are operating see our interactive map.

<http://www.endisolation.org/about/immigration-detention/>

In Northern California, immigrants are detained in three county jail facilities that contract with ICE:

- 1.) The West County Detention Facility in Richmond, CA
- 2.) The RioConsumnesFacility in Elk Grove, CA
- 3.) The Yuba County Jail in Marysville, CA

What is needed to set up a visit?

- ▶ Each detention facility has different visitation policies and procedures. Some allow for community and family visits without prior notification, and others are extremely restrictive - like the policy at the West County Detention Facility.
 - ▶ Review visitation policies for each of the three detention facilities in Northern California.
 - ▶ What are the challenges of connecting with and visiting someone you do not know is currently detained in the immigration detention system?
 - ▶ How do policies differ for visitors who are part of the general public and visitors with CIVIC-affiliated programs?
 - ▶ What is the difference between formal and informal visitation programs and what are the benefits and burdens of each?
- 

The Visitor Volunteer Role & The Practice of Law

Distinguish what visitor volunteers can and cannot do with regards to supporting someone in their immigration case and understand what is BIA accreditation.

In our society many people distinguish the work lawyers do from the work of non-lawyers. What lawyers do is called practicing law. When non-lawyers practice law, it is called unauthorized practice of law.

Practice of law defined: “the act or acts of any person appearing in any case, either in person or through the preparation or filing of any brief or other document, paper, application, or petition on behalf of another person or client before or with the Service, or any officer of the Service, or the Board.” 8 CFR § 1.1(i) □ According to the federal government, even just advising people on whether they should file an immigration application and which immigration forms to complete would be practicing law for federal purposes.

http://www.endisolation.org/wp-content/uploads/2013/03/Unauthorized_Law_Practice_Overview1

The Visitor Volunteer Role & The Practice of Law

If visitor volunteers engage in the unauthorized practice of law, what can happen?

The unauthorized practice of immigration law endangers the integrity of our immigration system and victimizes members of the immigrant community, whether or not the person engaged in the unauthorized practice of law has good intentions.

As in many other jurisdictions, the unauthorized practice of law in California is a crime. Business and Professions Code section 6126, subdivision (a) makes it a misdemeanor for any nonlawyer to advertise or hold himself or herself out as practicing or entitled to practice law or otherwise engage in the practice of law, unless the nonlawyer is otherwise authorized.

A second conviction requires a minimum jail sentence of 90 days.

http://www.endisolation.org/wp-content/uploads/2013/03/Unauthorized_Law_Practice_Overview1

The Visitor Volunteer Role & The Practice of Law

Three types of nonlawyers can represent clients under immigration regulations:

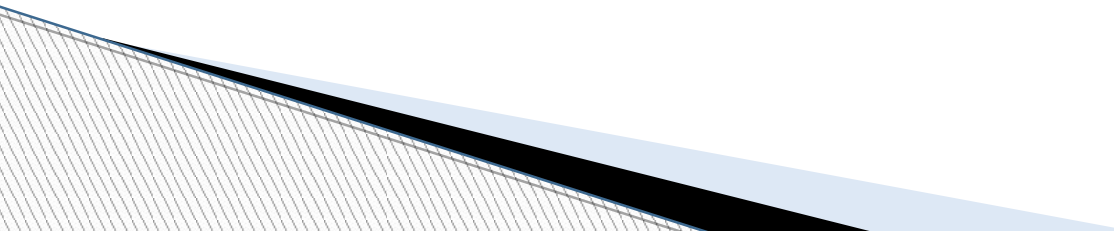
- BIA accredited representatives
- law school graduates and supervised law students;
- and “reputable individuals” who help a friend or family member.

The Visitor Volunteer Role & The Practice of Law

Good hypothetical questions that differentiate whether an interaction is providing legal advice or constitutes “the practice of law”.

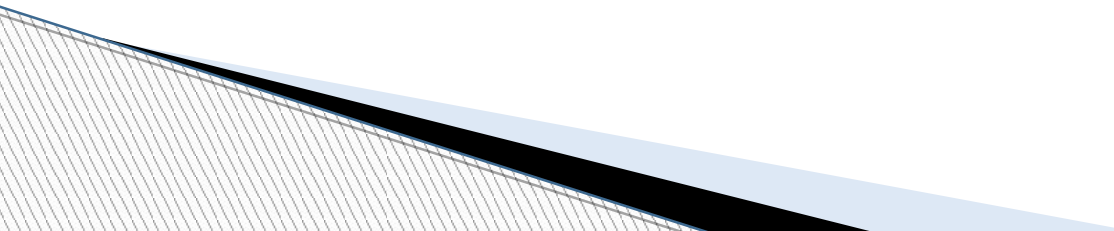
▶ http://www.endisolation.org/wp-content/uploads/2013/03/Unauthorized_Law_Practice_Overview1

How CIVIC volunteers support

- Visitor volunteers can provide “non-legal advice” on immigration matters.
 - CIVIC visitor volunteers are able to assist people in detention that do not have legal representation and must represent themselves.
 - Detained pro se litigants must amass documentation to aid their case, and this is impossible for them to do without the support of someone on the outside.
 - CIVIC volunteers are able to make calls to administrative offices, former employers and family members to help people in detention collect the documentation that is essential to winning their legal cases.
 - CIVIC visitor volunteers also write affidavits of support to attest to a person's good moral character, which is a factor in many immigration cases
- 

How CIVIC volunteers support

CIVIC and its affiliated groups also play a direct role in securing the release of individuals in detention in a number of ways.

- 1.** First, we launch localized advocacy campaigns where we call on the local field office to release people who do not fit into one of the federal government's deportation priorities.
 - 2.** Second, we raise funds and pay the immigration bonds for people who are granted an immigration bond.
 - 3.** Third, volunteers who are part of the Post Release Accompaniment Program (PRAP) assist newly released asylum seekers in safely reuniting with their families or communities of support in the U.S. Some volunteers even open up their homes for asylum seekers who pass their credible fear interview and need a place to live in order to be released from immigration detention.
- 

In-Custody Preparation for Support

- CIVIC volunteers are able to bring a pencil, paper, and contact cards into the visitation room each Friday when visiting at the West County Detention Facility
- CIVIC volunteers are able to ask a series of questions that screen people in detention for what forms of non-legal advocacy, or advocacy in partnership with legal service providers, may be viable options
- Visitation provides an opportunity for people in detention and visitors to plan and prepare advocacy initiatives like pressure or bond fund campaigns. It also allows visitors to help the person who is detained to connect with their families so that they can prepare for a safe release or make preparations for deportation.

How CIVIC Volunteers Support

Here are some additional examples of how visitor volunteers can provide “non-legal advice”:

- Provide general information (e.g. “Know Your Rights” packets created by the Florence Project) without identifying for what the individual might qualify;
- Translate a person’s supporting documents: All documents submitted to immigration court must be in English, yet sometimes people receive letters of support or other important documents in other languages. At the end, identify the document, state that you understand both languages and translated the documents to the best of your ability, sign it, and date it;
- Obtain the supporting documents, (e.g. birth or marriage certificates);
- Ask the person questions about their case to provide this information to an attorney for referral: CIVIC strongly advises against asking questions in the visitation room about the person in detention’s case because the conversations are monitored and anything said in that setting can be used against the person in court. People around you might also hear, which can lead to problems for the person who is detained (i.e. discrimination, poor treatment by inmates or other people in immigration detention). While general calls to people in immigration detention are monitored, calls made on ICE’s pro bono telephone system are supposedly unmonitored and cannot be used against the person in court;
- Refer the person to someone who can legally represent the client in an immigration matter.

Writing A Letter of Support

Write a letter of support for someone's bond hearing or immigration case?

Checkout this letter of support checklist and sample letters.

- ▶ http://www.endisolation.org/wp-content/uploads/2013/03/Affidavit_Support_ChecklistSamples_reduced.pdf

Cultural Competency

Cultural Competency is at the heart of CIVIC's trainings about how to support immigrants in detention and their families, especially when visitors are often from different ethnic groups, socio-economic backgrounds, and may not share the same first language as the person they are visiting.

Our trainings focus on the inequitable power dynamics between a person in detention and a visitor on the outside and how to navigate this relationship ethically. The following are some of the topics covered:

- Volunteer must clearly articulate their role, why they are visiting with CIVIC, and what things they may and may not do to help the person who is detained
- Invite the person in detention to guide the conversation
- Importance of confidentiality
- Facilitate open conversations about making cultural assumptions and its relationship to racism, however well-intentioned

Resources

▶ CIVIC

- <http://www.endisolation.org/resources/for-visitors/>
<http://www.endisolation.org/visitation/>
- Volunteer Recruitment & Screening For Detention Visitation Program
https://www.youtube.com/watch?feature=player_embedded&v=unxWVFyFSTk
- Strategies and Stories on Starting an ICE Approved Visitation Program (story about Richmond Detention Center)
http://www.detentionwatchnetwork.org/sites/detentionwatchnetwork.org/files/04-20-2012_Strategies&Stories.pdf
- Immigration Detention & Mass Incarceration (1hr22min long)
<https://www.youtube.com/watch?v=X9n8rw6XT4g#t=1324>

Forms

- ▶ Civic's volunteer form for legal professionals who want to perform non-legal visits http://www.endisolation.org/wp-content/uploads/2013/03/CIVIC_Policy_Procedure_Legal_Professionals.pdf

Legal Professionals - Those individuals who by their education, profession and/or licensure are considered to be officers of the court and bound by oath or ethical consideration to the Rules of Professional Conduct. This would include but is not limited to Attorneys, Board of Immigration Appeals (BIA) accredited representatives, paralegals, some law students, court appointed advocates and others who operate within the judicial system