



ALAMEDA COUNTY **PUBLIC DEFENDERS**

Safeguarding the Rights of Noncitizen Residents in Alameda County –
An Update from the Immigration Representation Unit of the Public
Defender's Office

Dec. 19, 2024

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Immigration Representation Unit

In 2022, 33% of Alameda County residents were Foreign Born

Immigrants contribute substantially to the economy as workers, job creators, taxpayers, homeowners, and consumers; and are integral to the social fabric of the county.

Increasing fear, anxiety, and stress about family separation, detention, and deportation are creating physical and mental health impacts that are toxic and traumatic for individuals, families, and entire communities.

Separating families, causing distress, and removing breadwinners from households and communities does not make us safer.

No Right to Appointed Counsel For Those Facing Deportation

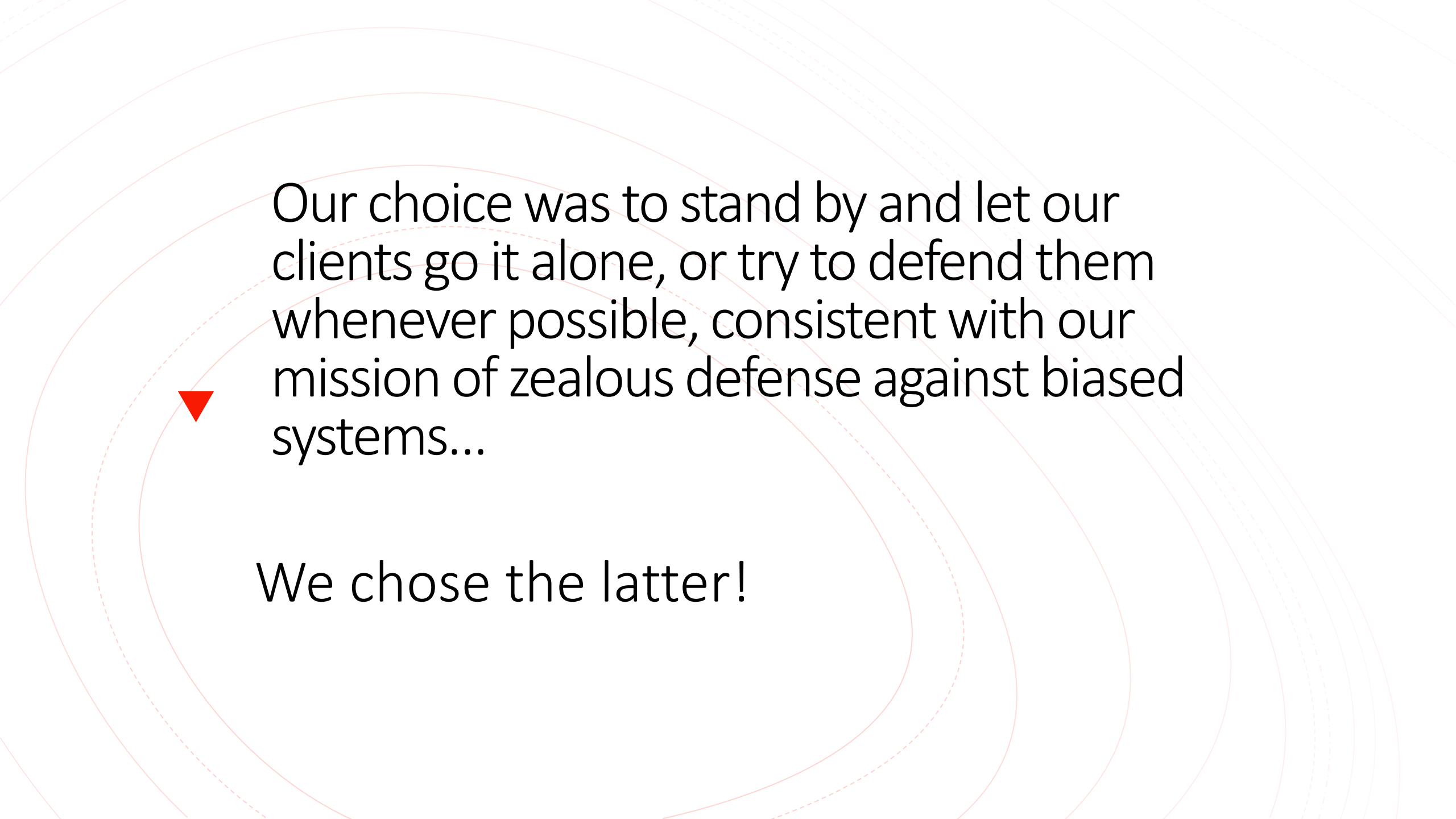
- Under federal law, there is no right to appointed counsel for indigent individuals who are facing detention and deportation. 8 U.S.C. 1229a(a)(4).
- 100% of public defender clients are indigent
- Immigration laws have been recognized as second only to the U.S. Tax Code in complexity. On top of that, many of our noncitizen clients cannot read and write in English and were expected to defend themselves against DHS lawyers.



Our Indigent Clients
Were Facing Drastic
Immigration
Consequences...Alone...
Without Counsel



Impact Not Just On Individual Immigrant. Many US Citizen children live in Mixed-Status Families.



Our choice was to stand by and let our clients go it alone, or try to defend them whenever possible, consistent with our mission of zealous defense against biased systems...

We chose the latter!

Immigration
Representation
Unit

Groundbreaking Unit

Implemented January 2014

First deportation defense unit
embedded within a California
public defender office.

A red speech bubble graphic with a white outline, containing the text 'Immigration Representation Unit'. The bubble has a tail pointing downwards and to the right.

Immigration Representation Unit

- **Awarded Program of the Year Award by the California Public Defender's Association 2016**
- **Unit Currently Consists Of:**
 - **6 Immigration Defense Attorneys**
 - **1.5 Legal Secretaries**
 - **1 half-time Social Worker**
- **Unit focuses on FIVE major practice areas**

Practice Area #1:
Providing
Consultations
Required by Sixth
Amendment

- Advising defense attorneys regarding immigration consequences of criminal convictions and juvenile delinquency as mandated by *Padilla v. Kentucky*, 559 US 356 (2010).
- Failing to provide this advice constitutes Ineffective Assistance of Counsel.

Practice Area #2:

Traditional Removal Defense

- Defending individuals targeted for deportation by the Department of Homeland Security before Immigration Courts, the Board of Immigration Appeals, and the U.S. Court of Appeals for the Ninth Circuit.
- Providing zealous immigration representation to stop deportation, end detention, and help clients obtain legal status.

Practice Area #3:

Protecting Undocumented Juveniles

- Unit is committed to screening every undocumented juvenile to see if they are eligible for Special Immigrant Juvenile Status, which is only available to juveniles *while they are a ward of a juvenile court.*
- Once the juvenile case is completed, this window of opportunity closes.
- Our early SIJS work led to one of the first published CA appellate court decisions expanding the rights of undocumented juveniles. *See Israel O (2015) 233 Cal. App. 4th 279.*

Practice Area #4:

Post-Conviction Relief

- Investigating the viability of post-conviction relief for noncitizens with convictions that are either making them deportable or ineligible for status.
- Going back to state court to vacate unlawful convictions that are causing serious immigration consequences.

Practice Area #5:

Federal Litigation

- **Challenging Unlawful and Unconstitutional Practices of Immigration Courts and the Department of Homeland Security in Federal District Court**
- **Habeas Petitions seeking release of noncitizens whose detention has become unconstitutionally prolonged or is otherwise unlawful.**



MODEL
FOR
OTHER CA
COUNTIES

Including...

- San Francisco
- Contra Costa
- Santa Clara
- Marin
- Santa Barbara
- San Diego
- Sonoma
- San Mateo

Beyond
California...

We've been asked to provide consultation regarding our ALCO Public Defender Immigration Unit model from defender offices all over the country...

- Ohio
- Louisiana
- Nevada
- Illinois

The District Attorney Plays a Key Role

- In 2012, Public Defender's Office worked with District Attorney's Office to create a DA Collateral Consequences Policy.
- For over a decade, the Immigration Unit has provided critical advice to defense attorneys that is then shared with district attorneys with the goal of avoiding or mitigating disproportionate immigration consequences.
- Since the enactment of Cal. Penal Code 1473.7, the Unit has been working with the DA's office to undo legally invalid convictions that have caused or have the potential to cause devastating immigration consequences.



What is Coming

In response to
question about
Family
Separation
Policies....

- **“We don’t have to separate a family...We’ll send the whole family, very humanely, back to the country where they came. That way the family’s not separated.” President-Elect Trump, NBC Interview, December 8, 2024.**

Open Disdain for Due Process

- **“Every time somebody puts two feet or even one foot on a piece of our land, it’s welcome to long-term litigation.** Other countries, every other country, when somebody walks on and they see that they’re here illegally, they walk them off, they take them back to where they came from. **We have to get rid of this system. It’s killing our country.”**

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Donald Trump has promised a closed border and mass deportations. Those affected are taking action now

By Rosa Flores, Julia Vargas Jones, Ashley Kilgough, Ed Lavender, Mark Morales, Alicia Park, Polo Samirov, Sara Westcott

8 minutes read · Updated 7:24 AM EST, Mon November 11, 2024

World Business Markets Sustainability Legal Breakingviews Technology

ers NEXT: Policymakers and business leaders discuss climate change and AI

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Trump confirms plan to declare national emergency, use military for mass deportations

Trump's "border czar" said he's going to Mar-a-Lago to discuss the plan.

By [Alexandra Hutzler](#)
November 18, 2024, 11:48 AM

PLANS ARE
BEING
REVEALED

Trump plans major reshaping of U.S. policies within hours of taking office

By Steve Holland, Gram Slattery and Alexandra Ulmer
December 11, 2024 9:04 AM PST · Updated 2 hours ago



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President-elect Trump hits back at Gov. Newsom over plans to 'Trump-proof' California

Trump's response criticized California's "insane" policies on water, homelessness and gas prices. He also said he would be demanding voter identification at the polls and proof of citizenship during the voting process.

KCRA 3

Updated: 2:39 PM PST Nov 11, 2024


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Trump calls migrants 'animals,' intensifying focus on illegal immigration

By Nathan Layne, Gram Slattery and Tim Reid
April 3, 2024 9:02 AM PDT · Updated 8 months ago



Donald Trump called immigrants who were illegally in the United States 'not human' in a speech in Michigan on Tuesday, as he intensified his focus on border issues with incendiary rhetoric on his campaign trail. The Republican presidential candidate spoke in Grand Rapids,

00:00 / 02:50

Mass Deportations & Violations of Due Process – Broad Strokes

- **Constant Changes Policy**
- **Emboldened conservative judges**
- **Emboldened DHS prosecutors**
- **Rejecting Applications Based on Irrelevant Technicalities**
- **Targeting States That Try To Protect Noncitizens**
- **Targeting Immigration Attorneys**
- **General Chaos...**

**Mass Deportations &
Violations of Due
Process – More
Specifically**

- **Vast Expansion of ICE Enforcement Priorities**
- **Changing Immigration Law/Overruling Precedential Decisions at the Agency Level**
- **Replacing Immigration & BIA Judges**
- **Denying More Affirmative Applications for Status and Referring Denied Noncitizens to Removal Proceedings**
- **Expedited Removals (without Judges)**



How Can We
Respond?

Increase Capacity of Immigration Representation Unit to Protect Current Clients and Take on New Cases



Support New Classifications for Immigration Defense Attorney Positions



Funding to Support Hiring of Additional Immigration Defense Attorneys



Funding to Support Hiring of Support Staff for Unit



Funding for Immigration Litigation Expenses

3 Things the Board of Supervisors Can Do Immediately To Protect Noncitizen Communities

Support Increased Capacity of Public Defender Immigration Unit

Ensure That Incoming District Attorney Shares the County's Commitment to Protecting Immigrants

Ensure that All County Law Enforcement Decline Cooperation with Immigration Customs Enforcement



Protecting Immigrants
Protects All of Us



THE END

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