

1 [Appropriation - General Reserve - Establishing a Legal Unit to Defend Immigrants from
 2 Deportation in FYs 2016-2017 and 2017-2018 - \$6,945,965]

3 **Ordinance appropriating \$6,945,965 of General Reserve to the Office of Public**
 4 **Defender, to create a legal unit to defend immigrants from deportation in FYs 2016-2017**
 5 **and 2017-2018.**

7 Note: Additions are *single-underline italics Times New Roman*;
 8 deletions are ~~*striketrough italics Times New Roman*~~.
 9 Board amendment additions are double underlined.
 Board amendment deletions are ~~striketrough normal~~.

10 Be it ordained by the People of the City and County of San Francisco:

12 Section 1. The sources of funding outlined below are herein appropriated to reflect the
 13 projected revenue for Fiscal Year 2016-17.

15 **SOURCES Appropriation**

Fund	Index/Project Code	Subobject	Description	Amount
1G AGF ACP	GENRESERVE -	098GR	General Reserve Admin	\$1,938,104
General Fund –	PGEGEN 00	Designated For	Code 10.60(B)	
Continuous Project		General		
		Reserve		
Total SOURCES Appropriation				<u>\$1,938,104</u>

24 Section 2. The uses of funding outlined below are herein appropriated in Subobject
 25 00100 Permanent Salaries, 01300 Mandatory Fringe, 03800 Community Based Organization

Services and reflects the projected use of funding to establish and support a legal unit to protect immigrants from deportation at the Office of Public Defender in FY2016-17.

Fund	Index/Project Code	Subobject	Description	Amount
1G AGF AAA	055300	00100 –Permanent	Permanent Salaries	\$688,361
General Fund		Salaries – Misc.		
1G AGF AAA	055300	01300 – Mandatory	Mandatory Fringe	\$237,158
General Fund		Fringe		
1G AGF AAA	055300	03800 – Community	Community Based	\$1,012,585
General Fund		Based Organization	Organization	
		Services	Services	
Total USES Appropriation				\$1,938,104

Section 3. The sources of funding outlined below are herein appropriated to reflect the projected revenue for Fiscal Year 2017-18.

SOURCES Appropriation

Fund	Index/Project Code	Subobject	Description	Amount
1G AGF ACP	GENRESERVE -	098GR	General Reserve Admin	\$5,007,861
General Fund –	PGEGEN 00	Designated For	Code 10.60(B)	
Continuous Project		General		
		Reserve		
Total SOURCES Appropriation				\$5,007,861

1 Section 4. The uses of funding outlined below are herein appropriated in Subobject
 2 00100 Permanent Salaries, 01300 Mandatory Fringe, 03800 Community Based Organization
 3 Services and reflects the projected use of funding to support a legal unit to protect immigrants
 4 from deportation at the Office of Public Defender in FY2017-18.

Fund	Index/Project Code	Subobject	Description	Amount
1G AGF AAA	055300	00100 –Permanent	Permanent Salaries	\$1,876,810
General Fund		Salaries – Misc.		
1G AGF AAA	055300	01300 – Mandatory	Mandatory Fringe	\$700,847
General Fund		Fringe		
1G AGF AAA	055300	03800 – Community	Community Based	\$2,430,204
General Fund		Based Organization	Organization	
		Services	Services	
Total USES Appropriation				<u>\$5,007,861</u>

19 Section 5. The Controller is authorized to record transfers between funds and adjust the
 20 accounting treatment of sources and uses appropriated in this Ordinance as necessary to
 21 conform to Generally Accepted Accounting Principles and revised wage and benefit rates.

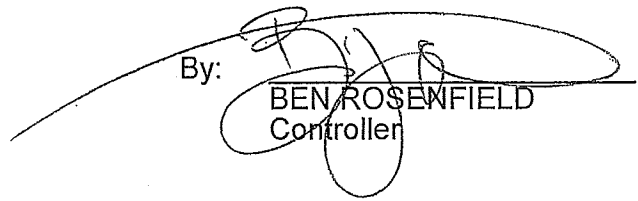
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APPROVED AS TO FORM:
DENNIS J. HERRERA, City Attorney

FUNDS AVAILABLE
BEN ROSENFELD, Controller

By: 

THOMAS OWEN
Deputy City Attorney

By: 

BEN ROSENFELD
Controller

<p>Items 4 and 5 Files 16-1288 and 16-1289</p>	<p>Department: Office of the Public Defender (OPD)</p>
<p>EXECUTIVE SUMMARY</p>	
<p style="text-align: center;">Legislative Objectives</p>	
<ul style="list-style-type: none"> • <u>File 16-1288</u> would appropriate \$6,945,965 of General Reserve to the Public Defender’s Office to create a legal unit to defend immigrants from deportation in FY 2016-17 and FY 2017-18; and <u>File 16-1289</u> would amend the Annual Salary Ordinance to create 17 new positions in the Public Defender’s Office for the new immigrant defense unit. 	
<p style="text-align: center;">Key Points</p>	
<ul style="list-style-type: none"> • The Board of Supervisors previously approved an appropriation of \$1.5 million to fund legal services to immigrants provided by community based organizations in FY 2016-17. • The Public Defender is requesting 17 new positions to process an estimated 400 to 600 cases annually, providing legal services to immigrants facing detention and deportation. 	
<p style="text-align: center;">Fiscal Impact</p>	
<ul style="list-style-type: none"> • Because initial caseload will likely be less than estimated by the Public Defender’s Office, the requested number of positions should be reduced from 17 to 13 in FY 2016-17; and to 15 in FY 2017-18. • Because the Board of Supervisors previously appropriated funding of \$1.5 million, the proposed ordinance should be amended to delete \$3,442,789 allocated to community based organizations in FY 2016-17 and FY 2017-18. 	
<p style="text-align: center;">Policy Consideration</p>	
<ul style="list-style-type: none"> • The Administrative Code provides for a General Reserve equal to 2.25 percent of General Fund revenues in FY 2017-18. According to the Five-Year Plan Update, projected deposits to the General Reserve are \$14.6 million in FY 2017-18. • The Board of Supervisors previously appropriated \$1.5 million from the General Reserve in FY 2016-17 to fund community based organizations to provide legal services to immigrants, and the proposed ordinance would appropriate \$2.4 million from the General Reserve in FY 2016-17 and FY 2017-18, totaling \$3.9 million. In order to comply with requirements of the Administrative Code, the City will need to increase the FY 2017-18 deposit to the General Reserve by \$3.9 million, from \$14.6 million to \$18.5 million. The City will need to identify revenue increases or expenditure savings in order to increase the deposit to the General Reserve by \$3.9 million in FY 2017-18. 	
<p style="text-align: center;">Recommendations</p>	
<ul style="list-style-type: none"> • Amend File 16-1288 to reduce the appropriation by \$4,504,168, from \$6,945,965 to \$2,441,797. • Amend File 16-1289 to reduce the FY 2016-17 FTE by 3.83, from 7.08 FTE to 3.25 FTE; and the FY 2017-18 FTE by 2.0, from 17.0 FTE to 15.0 FTE. • Approval of the proposed ordinances, as amended, is a policy matter for the Board of Supervisors. 	

MANDATE STATEMENT

City Charter Section 9.105 states that amendments to the Annual Appropriations Ordinance, after the Controller certifies the availability of funds, are subject to Board of Supervisors approval by ordinance.

BACKGROUND

There are approximately 115,000 non-citizen residents of San Francisco¹ of which 44,000 are estimated to be undocumented immigrants². Based on Immigration Customs Enforcement (ICE) fingerprint data, since 2010, an average of approximately 7,000 immigrants were deported each year from the San Francisco Immigration Court, which falls under the jurisdiction of the Executive Office for Immigration Review under the U.S. Department of Justice. The numbers of individuals who actually appear before the San Francisco Immigration Court are lower because many deportations occur without due process and without an opportunity to appear before a judge at a hearing in order to defend against removal. Based on the stated intent of the administration of President Trump, detentions and deportations are expected to expand in 2017.

Over the past year, approximately 1,500 immigrants were detained during their deportation proceedings in San Francisco. While in detention, individuals are separated from their families and unable to access materials and evidence to prepare for their cases.

The vast majority of individuals who are deported are not represented by an attorney in their immigration court proceedings. An analysis of immigration court records, conducted by the California Coalition for Universal Representation, found that 67 percent of detained immigrants in San Francisco lacked representation by an attorney over a three-year period from 2012 to 2015. The analysis found that only 5 percent of unrepresented detainees obtained relief (i.e., asylum, cancellation of removal, or termination of case) compared to 35 percent of represented detainees as a result of their proceedings in the San Francisco Immigration Court.

Funding to Community-Based Organizations to Provide Legal Services

In January 2017, the Board of Supervisors approved a supplemental appropriation of \$1,500,000 to the Mayor's Office of Housing and Community Development (MOHCD), the City Administrator's Office of Civic Engagement and Immigrant Affairs (OCEIA), and the Human Rights Commission (HRC) to fund legal representation, pathways to citizenship, public outreach, and rapid response social services to be provided by community-based organizations in FY 2016-17 (File No. 16-1344).

The Public Defender's Office New Legal Unit for Immigration Services

The Public Defender's Office (Public Defender) currently has one attorney dedicated to handle immigration cases, including some cases in immigration court. The Public Defender is proposing

¹ U.S. Census Bureau American Community Survey (ACS) 2014 (5-Year Estimates)

² Migration Policy Institute (MPI) analysis of 2014 ACS

to create a new legal unit staffed with 17 new positions of 10 attorneys, 5 paralegals, and 2 senior legal process clerks to handle cases of detained immigrants in immigration court. The new legal unit would also handle some impact litigation cases³. In addition to handling detained deportation cases, the Public Defender will work with community-based organizations in the following:

- Advise non-citizens of the immigration consequences of criminal convictions.
- Create a standard referral form to refer cases between the Public Defender and the collaborative community-based organization members, and refer cases where appropriate.
- Begin working on clients' immigration matters while they are still in county custody to maximize the efficiency of the immigration cases.
- Collaborate on post-conviction relief, where appropriate.
- Assist community-based organizations in obtaining criminal court documents, where relevant.

Each of the 10 attorneys is expected to handle between 40 and 60 detainee cases each year, or a total of 400 to 600 detainee cases per year. According to Ms. Angela Auyong, Public Defender Office Manager, the average time expected to be spent on each detained immigrant case will be approximately 30 attorney hours, 17 paralegal hours, and 7 legal process clerk hours. The Public Defender's Office will establish criteria to determine which cases it will take.

DETAILS OF PROPOSED LEGISLATION

File 16-1288: Supplemental Appropriation Ordinance

The proposed ordinance would appropriate \$6,945,965 of General Reserve to the Public Defender's Office to create a legal unit to defend immigrants from deportation in FY 2016-17 and FY 2017-18, including 17 new positions and grants to community based organizations. The proposed ordinance would appropriate \$1,938,104 in FY 2016-17 and \$5,007,861 in FY 2017-18, totaling \$6,945,965, shown in Table 1 below. The appropriation amount for FY 2016-17 is prorated for the final five months of the year.

³ Impact litigation cases are typically class action lawsuits or individual claims with broader significance intended to influence public policy.

Table 1: Sources and Uses of Funds

Source of Funds	FY 2016-17	FY 2017-18	Total
General Reserve	\$1,938,104	\$5,007,861	\$6,945,965
Total Sources	\$1,938,104	\$5,007,861	\$6,945,965
Uses of Funds			
<u>Public Defender Positions</u>			
Permanent Salaries	\$688,361	\$1,876,810	\$2,565,171
Fringe Benefits	<u>237,158</u>	<u>700,847</u>	<u>938,005</u>
Subtotal, Public Defender Positions	\$925,519	\$2,577,657	\$3,503,176
Community-Based Organizations	1,012,585	2,430,204	3,442,789
Total Uses	\$1,938,104	\$5,007,861	\$6,945,965

File 16-1289: Annual Salary Ordinance Amendment

The proposed ordinance would amend the Annual Salary Ordinance to add 17 new positions in the Public Defender's Office, equal to 7.08 full-time equivalent (FTE) positions in FY 2016-17 and 17.00 FTE positions in FY 2017-18, as shown in Table 2 below.

Table 2: Proposed New Positions in the Public Defender's Office

		Number of Positions	FY 2016-17 FTEs	FY 2017-18 FTEs
8182	Head Attorney	1	0.42	1.00
8177	Attorneys	9	3.75	9.00
8173	Legal Assistant	5	2.08	5.00
8108	Senior Legal Process Clerk	2	0.83	2.00
Total		17	7.08	17.00

FISCAL IMPACT**17 New Positions in the Public Defender's Office**

The supplemental appropriation ordinance appropriates \$925,519 in FY 2016-17 and \$2,577,657 in FY 2017-18, totaling \$3,503,176 to create 17 new positions in the Public Defender's Office, as shown in Table 1 above.

Timeline to Hire New Positions

Since the Public Defender's Office cannot begin the hiring process until the requested appropriation is approved by the Board of Supervisors, and approval would occur on February 28, 2017, at the earliest, the Budget and Legislative Analyst assumes that all new hires will start on April 1, 2017.

The 8177 Attorney and 8182 Head Attorney positions are at-will positions exempt from the civil service hiring process. In the past, the Public Defender's Office has reported that the department can fill vacant attorney positions within about one month. The 8173 Legal Assistant

(paralegal) and 8108 Senior Legal Process Clerk positions are civil service positions. According to Ms. Auyong, the Public Defender's Office intends to use an existing eligible list to expedite the process of filling those positions.

Immigrant Defense Caseload

As noted above, the Public Defender's Office estimates immigrant defense caseload of 400 to 600 cases per year. The Budget and Legislative Analyst projects that initial caseload will be less than estimated by the Public Defender's Office because federal policy to detain undocumented immigrants is not clear,⁴ and that the caseload of the new legal unit will take time to develop. Therefore, the Budget and Legislative Analyst recommends reducing the requested number of positions from 17 to:

- 13 positions in FY 2016-17 (based on an annual caseload of 400); and
- 15 in FY 2017-18 (based on an annual caseload of 500).

The requested number of FTEs in FY 2016-17 would be reduced from 7.08 (as shown in Table 2 above) to 3.25 FTEs to account for a start date of April 1, 2017, as shown in Table 3 below.

Table 3: Proposed Reduction in Positions

FY 2016-17 FTEs						
	Hours per Case ^a	Total Hours for 400 Cases	Hours per FTE ^b	Annual FTE for 400 Cases	Annual Positions	FY 2016-17 FTEs (3 months)
8182 Head Attorney ^c				1.00	1.00	0.25
8177 Attorney	30	12,000	1820	6.59	6.00	1.5
8173 Legal Assistant	17	6,800	1840	3.70	4.00	1
8108 Senior Legal Process Clerk	7	2,800	1840	1.52	2.00	0.5
Total FTEs				12.81	13.00	3.25
FY 2017-18 FTEs						
	Hours per Case ^a	Total Hours for 500 Cases	Hours per FTE ^b	Annual FTE for 500 Cases	Annual Positions	
8182 Head Attorney ^c				1.00	1.00	
8177 Attorney	30	15,000	1820	8.24	8.00	
8173 Legal Assistant	17	8,500	1840	4.62	4.00	
Legal Process Clerk	7	3,500	1840	1.90	2.00	
Total FTEs				15.76	15.00	

^a Hours per case are based on information provided by the Public Defender's Office

^b Based on collective bargaining agreements for the respective classifications

^c Assumes that Head Attorney has no caseload but can support the work of the Attorneys

Salaries and Fringe Benefits

⁴ New federal policy on detaining undocumented immigrants will require additional funding appropriations by Congress and may face legal challenges. Implementation of the President's Executive Order on "Border Security and Immigration Enforcement Improvement", issued on January 25, 2017, calls for the hire of 10,000 officials to enforce the order.

The supplemental appropriation ordinance appropriates \$925,519 in FY 2016-17 and \$2,577,657 in FY 2017-18, totaling \$3,503,176 to create 17 new positions in the Public Defender’s Office, as noted above. The Budget and Legislative Analyst’s recommendation would result in 13 positions (3.25 FTEs with a start date of April 1, 2017) and salary and fringe benefits of \$418,105 in FY 2016-17 and 15 positions (15.0 FTEs) and salary and fringed benefits of \$2,023,692 in FY 2017-18, as shown in Table 4 below.

Table 4: Budget and Legislative Analyst’s Recommendation

	FY 2016-17	FY 2017-18	Total
Ordinance (File 16-1288)	\$925,519	\$2,577,657	\$3,503,176
Budget and Legislative Analyst Recommendation	<u>418,105</u>	<u>2,023,692</u>	<u>2,441,797</u>
Recommended Reduction	\$507,414	\$553,965	\$1,061,379

The Budget and Legislative Analyst’s reduction would reduce the appropriation for salaries and fringe benefits from \$3,503,176 to \$2,441,797, a reduction of \$1,061,379.

Appropriation for Community Based Organizations

Because the Board of Supervisors previously appropriated funding of \$1.5 million in January 2017 for community based organizations to provide legal representation and other services to immigrants in FY 2016-17, the proposed ordinance should be amended to delete \$3,442,789 allocated to community based organizations in FY 2016-17 and FY 2017-18.

Summary

The Budget and Legislative Analyst recommends amending:

- Ordinance 16-1288 to reduce the appropriation amount by \$4,504,168, from \$6,945,965 to \$2,441,797 (see Table 4 above); and
- Ordinance 16-1289 to reduce the FY 2016-17 FTE by 3.83, from 7.08 FTE to 3.25 FTE; and the FY 2017-18 FTE by 2.0, from 17.0 FTE to 15.0 FTE (see Table 3 above).

POLICY CONSIDERATION

Administrative Code Section 10.60(b) provides for a General Reserve of 2.25 percent of General Fund revenues in FY 2017-18. According to the Five-Year Plan Update, prepared jointly by the Mayor’s Office, Controller’s Office, and Budget and Legislative Analyst Office in December 2016, projected deposits to the General Reserve are \$14.6 million in FY 2017-18.

The Board of Supervisors previously appropriated \$1.5 million from the General Reserve in FY 2016-17 to fund community based organizations to provide legal services to immigrants, and the proposed ordinance would appropriate \$2.4 million from the General Reserve in FY 2016-17 and FY 2017-18, totaling \$3.9 million. In order to comply with requirements of the Administrative Code, the City will need to increase the FY 2017-18 deposit to the General Reserve by \$3.9 million, from \$14.6 million to \$18.5 million. The City will need to identify revenue increases or expenditure savings in order to increase the deposit to the General Reserve by \$3.9 million in FY 2017-18.

RECOMMENDATIONS

1. Amend File 16-1288 to reduce the appropriation by \$4,504,168, from \$6,945,965 to \$2,441,797 (see Table 4 above);
2. Amend File 16-1289 to reduce the FY 2016-17 FTE by 3.83, from 7.08 FTE to 3.25 FTE; and the FY 2017-18 FTE by 2.0, from 17.0 FTE to 15.0 FTE (see Table 3 above)
3. Approval of the proposed ordinances, as amended, is a policy matter for the Board of Supervisors.

Print Form

RECEIVED
11/29/16 @
5:20 pm
[Signature]

Introduction Form

By a Member of the Board of Supervisors or the Mayor

Time stamp
or meeting date

I hereby submit the following item for introduction (select only one):

- 1. For reference to Committee.
An ordinance, resolution, motion, or charter amendment.
- 2. Request for next printed agenda without reference to Committee.
- 3. Request for hearing on a subject matter at Committee.
- 4. Request for letter beginning "Supervisor [] inquires"
- 5. City Attorney request.
- 6. Call File No. [] from Committee.
- 7. Budget Analyst request (attach written motion).
- 8. Substitute Legislation File No. []
- 9. Request for Closed Session (attach written motion).
- 10. Board to Sit as A Committee of the Whole.
- 11. Question(s) submitted for Mayoral Appearance before the BOS on []

Please check the appropriate boxes. The proposed legislation should be forwarded to the following:

Small Business Commission Youth Commission Ethics Commission

Planning Commission Building Inspection Commission

Note: For the Imperative Agenda (a resolution not on the printed agenda), use a Imperative

Sponsor(s):

Campos, Mar, Avalos, Kim

Subject:

Appropriation - \$6,945,965 of General Reserve for Establishing a Legal Unit to Defend Immigrants from Deportation in Fiscal Years 2016-2017 and 2017-18.

The text is listed below or attached:

Please see attached ordinance. I kindly request that this be sent to the Government Audit and Oversight Committee.

Signature of Sponsoring Supervisor: *[Signature]*

For Clerk's Use Only:

Wong, Linda (BOS)

From: Carpenter, Adele
Sent: Wednesday, December 07, 2016 12:21 PM
To: Wong, Linda (BOS)
Cc: Somera, Alisa (BOS); Calvillo, Angela (BOS); Carolyn Goossen; crisplunkett@gmail.com
Subject: YC Referral Response to File Numbers 161288 and 161289
Attachments: 1617-RBM-05.pdf

Hi, Linda,

I hope that this finds you well. I am writing to share youth commissioners' attached response to the referred legislation file numbers 161288 and 161289. Please let me know if I can provide any further information.

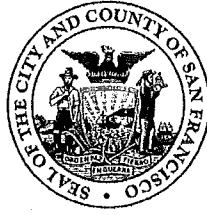
Thanks,

Adele Failes-Carpenter
Director
San Francisco Youth Commission
Office: (415) 554-7112 | Fax: (415) 554-6140

Visit the official [Youth Commission site](#) and [YC facebook page](#).
Sign up for [our newsletter](#).

Complete a Board of Supervisors [Customer Satisfaction form](#).

Youth Commission
City Hall ~ Room 345
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4532



(415) 554-6446
(415) 554-6140 FAX
www.sfgov.org/youth_commission

YOUTH COMMISSION
MEMORANDUM

TO: Linda Wong, Clerk, Budget & Finance Committee
FROM: Youth Commission
DATE: Wednesday, December 7, 2016
RE: Referral response to BOS File Nos. 161289 [Public Employment - Amendment to the Annual Salary Ordinance for the Office of Public Defender - Legal Unit to Defend Immigrants from Deportation - FYs 2016-2017 and 2017-2018] and 161288 [Appropriation - General Reserve - Establishing a Legal Unit to Defend Immigrants from Deportation in FYs 2016-2017 and 2017-2018 - \$6,945,965]

At our **Monday, December 5, 2016 meeting**, the Youth Commission voted to unanimously support the following motions:

To support BOS File No. 161289 - Ordinance amending Ordinance No. 146-16 (Annual Salary Ordinance FYs 2016-2017 and 2017-2018) to reflect the addition of 17 new positions (7.08 FTEs in FY2016-2017 and 17 FTEs in FY2017-2018) at Office of Public Defender for establishing a legal unit to defend immigrants from deportation.

To support BOS File No. 161288 - Ordinance appropriating \$6,945,965 of General Reserve to the Office of Public Defender, to create a legal unit to defend immigrants from deportation in FYs 2016-2017 and 2017-2018.

The Youth Commission's support for this legislation is based in its past support of sanctuary and due process for all policies, as well as youth commissioners' convictions that the impending threat of deportations constitute a true emergency requiring swift action to protect immigrant families and the wellbeing of 1 in 3 SFUSD students with an immigrant parent and that investments in keeping families together and parents out of detention help our City, school district, and communities avoid paying the long term costs associated with the harms of separation.

Youth Commissioners thank Mayor Lee and the Board of Supervisors for their attention to this issue. If you have any questions, please contact our office at (415) 554-6446, or your Youth Commissioner.

A handwritten signature in cursive script, appearing to read "Madeleine Matz".

Chair, Madeleine Matz
Adopted on December 5, 2016
2016-2017 San Francisco Youth Commission

Wong, Linda (BOS)

From: Board of Supervisors, (BOS)
Sent: Wednesday, December 07, 2016 9:31 AM
To: Wong, Linda (BOS)
Subject: File 161288 and 161289 FW: NYIFUP's letter in support of legal services for people in removal proceedings in San Francisco
Attachments: 2016-12-06 - Letter to SF Board of Supervisors from NYIFUP .pdf

From: Luis Mancheno [mailto:luis.mancheno@yu.edu]
Sent: Tuesday, December 06, 2016 7:29 AM
To: Board of Supervisors, (BOS) <board.of.supervisors@sfgov.org>
Cc: Niloufar Khonsari <nilou@pangealegal.org>; Ugarte, Francisco (PDR) <francisco.ugarte@sfgov.org>; Adachi, Jeff (PDR) <jeff.adachi@sfgov.org>; FKreimer@dscs.org; Peter L Markowitz <peter.markowitz@yu.edu>
Subject: NYIFUP's letter in support of legal services for people in removal proceedings in San Francisco

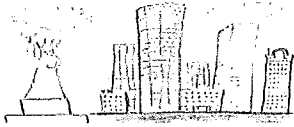
Dear San Francisco Board of Supervisors,

Attached to this email you will find a letter from the New York Immigrant Family Unity Project (NYIFUP) coalition in New York City in support of Supervisor Campos's proposal to provide legal services to people in removal proceedings in San Francisco.

Sincerely,

The NYIFUP Coalition

Luis Mancheno
Clinical Teaching Fellow
Kathryn O. Greenberg Immigration Justice Clinic
Benjamin N. Cardozo School of Law
55 Fifth Avenue, rm 1137
New York, NY 10003
Tel: (212) 790-0870
Fax: (212) 790-0256



THE NEW YORK IMMIGRANT FAMILY UNITY PROJECT

December 6, 2016

San Francisco Board of Supervisors
1 Dr. Carlton B. Goodlett Place
City Hall, Room 244
San Francisco, CA 94102-4689

via email: Board.of.Supervisors@sfgov.org

All of us, members of the New York Immigrant Family Unity Project (NYIFUP) coalition, congratulate the San Francisco Board of Supervisors for your recent reaffirmation of your commitment to stand up for the rights and welfare of all San Francisco residents. In particular, we applaud your promise that San Francisco will remain a sanctuary city, continuing to protect immigrant communities from unjust deportation.

Last week, the Board of Supervisors demonstrated their commitment to justice by proposing to allocate \$5 million to establish a program to provide legal representation to detained immigrants facing deportation in San Francisco. In New York, we have been able to establish the first public defender system for detained immigrants in the nation—NYIFUP. As a result, New Yorkers no longer face deportation without counsel by their side. We speak from experience when we say that providing lawyers for people who face permanent separation from their families and exile from their communities is the most basic way to help them achieve justice.

Unlike criminal proceedings, in which the right to counsel is a recognized constitutional right, indigent immigrants in deportation proceedings appear in immigration court without the right to any legal representation. Many face permanent exile from their families and deportation to countries where they will face extreme hardship and, in many cases, life-threatening persecution. A significant proportion of NYIFUP clients have a legal right to stay in the United States, but they would be unable to defend their rights without a lawyer. The data from a study we conducted in New York demonstrate that, without counsel, it is virtually impossible for detained immigrants to avoid deportation, even when they have a strong claim for relief.

During the past three years, thanks to our strong partnership with the New York City Council, we have successfully designed and implemented the first-in-the-nation public defense system for indigent non-citizens facing deportation: NYIFUP. Today, NYIFUP provides lawyers to every detained immigrant facing deportation in New York City who cannot afford private counsel. NYIFUP has had a dramatic impact, improving immigrants' chance of success in immigration court by as much as 1000%. As a result,

countless New York families have been spared from the devastation of losing a loved one to deportation. We believe that, in the coming years, NYIFUP and initiatives like the one proposed by Supervisor Campos, will play a more important role in preserving immigrant families than ever before.

The New York City NYIFUP Coalition is hopeful, however, that as the federal government transitions into a new administration that has vowed to deport millions of our community and family members, affected communities and their advocates across the country can come together and stand up for what we believe is fair and just. We have learned many lessons as we implemented NYIFUP in New York City during these years and are ready to provide your office with any support you need that builds on those lessons.

Housing the NYIFUP program in existing public defender offices has been the key to the program's rapid success. NYIFUP's experienced attorneys were able to hit the ground running, rapidly turning NYIFUP into a sustainable program because of existing in-house infrastructure and the ability of public defenders to deal with a high volume of cases involving custody and other complex issues. We strongly believe that the San Francisco Board of Supervisors' plan to build a model of immigration court representation that relies in part on public defenders will ensure similar results in your city.

The New York City Council's goal of universal immigration representation in New York was ambitious from the start. However, providing representation for every indigent detained immigrant in deportation proceedings in New York has not only allowed our program to stay true to this ideal, but has also allowed it to create stronger partnerships with the immigration courts, other stakeholders, and has ignited similar initiatives across the country. Without universal representation, so many of our community members who would have been turned back after a too-brief assessment of the merits of their claims were actually able to fight their cases and prevail in them. Immigration laws are extremely complex, and only by offering an attorney to every person facing deportation can we ensure that all claims are fully assessed.

Universal representation in our immigration courts has both protected the due process rights of our community members and provided significant cost-savings to our city, to the benefit of our local economy. Employers bear the burden of replacing employees who are detained and deported. Children are forced to drop out of school and often become part of the foster care system because a parent is detained or deported. The city bears the costs of decreased economic activity and reduced tax revenue when longtime community members—workers, business owners, customers, mortgage- and lease-payers—are locked up and deported, and denied the opportunity to regularize their immigration status and continue making long-term contributions to the local economy. When households lose breadwinners to deportation, previously stable self-sufficient families become reliant on government safety-net programs.

The benefits of the initiative that Supervisor Campos has put forward will quickly become evident as the program is implemented in San Francisco. Thousands of New Yorkers have benefited from NYIFUP and we are confident that thousands of families will also benefit in San Francisco once universal representation is provided to every detained indigent immigrant facing deportation. Examples of the success of NYIFUP include Daniel, a gay man from Jamaica who was put into deportation proceedings in New York after fleeing his home country due to his sexual orientation. Thanks to the work of a NYIFUP attorney, Daniel was able to remain in this country and was protected from being deported to Jamaica where he faced likely persecution, including possible torture.¹

A study conducted from 2002 to 2014 found that nationally, only 37% of people fighting deportation have legal representation. This due process crisis will likely get worse under the new administration. That makes programs like the one San Francisco has proposed even more urgently necessary than ever. We are grateful that San Francisco has taken steps toward joining New York in providing universal representation for detained immigrants facing deportation and we offer our full support in the implementation of this initiative. Only legal representation will allow community members to successfully fight for the chance to challenge separation from their families and communities and remain in this country.

Sincerely,

NYIFUP Coalition

Brooklyn Defender Services
The Bronx Defenders
Cardozo Immigration Justice Clinic
Center for Popular Democracy
The Legal Aid Society
Make the Road New York
Northern Manhattan Coalition for Immigrant Rights
Vera Institute for Justice's Center on Immigration and Justice

¹ See Brooklyn Defender Services testimony to New York City Council Committee on Immigration on Oct. 21, 2016, available at <http://bds.org/wp-content/uploads/2016.10.21-BDS-testimony-on-Multi-Agency-Support-for-Immigrant-Families.pdf>.

BOARD of SUPERVISORS



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MEMORANDUM

TO: Adele Carpenter, Director
Youth Commission

FROM: Angela Calvillo, Clerk of the Board

DATE: December 2, 2016

SUBJECT: REFERRAL FROM BOARD OF SUPERVISORS

The Board of Supervisors has received the following proposed legislation which is being referred to the Youth Commission as per Charter Section 4.124 for comment and recommendation. The Commission may provide any response it deems appropriate within 12 days from the date of this referral.

File No. 161288

Ordinance appropriating \$6,945,965 of General Reserve to the Office of Public Defender, to create a legal unit to defend immigrants from deportation in FYs 2016-2017 and 2017-2018.

Please return this cover sheet with the Commission's response to **Linda Wong, Assistant Clerk, Budget and Finance Committee.**

RESPONSE FROM YOUTH COMMISSION Date: _____

_____ No Comment

_____ Recommendation Attached

Chairperson, Youth Commission

Wong, Linda (BOS)

From: Pagoulatos, Nickolas (BOS)
Sent: Friday, January 13, 2017 2:54 PM
To: BOS-Legislative Services
Subject: Fwd: Adding Supervisor Fewer As Primary Sponsor

Hello Everyone,

Supervisor Fewer would like to be added as the primary sponsor for the following files:

161288,
161289,
161346 and
170004

Please let me know if you have any questions. Thank you!

Sent from my iPhone

