

## YOU BUILD: NATIONAL COALITION FOR A CIVIL RIGHT TO COUNSEL



The Public Justice Center leads and staffs the National Coalition for a Civil Right to Counsel (NCCRC), which has grown to include nearly 300 participants working in their states and local jurisdictions to establish a right to counsel for indigent litigants in basic needs cases. Attorney John Pollock staffs this project and draws on many tools to advance the cause.

## LEGISLATIVE ADVOCACY

This year, the NCCRC continued to support legislative efforts to enact a right to counsel. In response to a New York City bill that would provide a right to counsel in housing cases, we helped organize a NYC-based coalition of legal aid and grassroots groups to support the bill and worked with Stout Risius Ross, an independent financial analysis company, to produce a cost-benefit analysis of the bill. **SRR's stunning report found that the City would save \$320 million by passing legislation that would provide a right to counsel for low-income tenants in eviction cases.** The report concluded that the entire cost of providing lawyers to tenants up to 200% of the poverty level would be more than offset by reductions in shelter expenditures, preservation of affordable housing units, and avoidance of homelessness-related taxpayer expenses like law enforcement and emergency medical care.

**In Mississippi,** we gave input and support to advocates working on legislation that authorizes courts to appoint counsel for parents in child welfare cases. The bill, which passed in 2016, ended Mississippi's status as the only state not to authorize appointment of counsel for such cases.

**In Maryland,** we worked with Delegate Samuel I. Rosenberg and others to introduce legislation that would create a limited pilot in two counties to study the implementation of a right to counsel and the effectiveness of representation for indigent parties in domestic violence protection order proceedings. The bill was unsuccessful in the 2016 Maryland General Assembly.

The NCCRC also spent significant time identifying problems with right to counsel statutes in other states, including Arkansas, Georgia, Hawaii, Minnesota, Nevada, Texas and Wyoming. As a result, one identified problem in Georgia led to the filing of a bill, and bills in some of the other states are likely to be filed in 2017. The NCCRC also assisted a successful effort to establish a civil right to counsel legislative task force in Connecticut.

In 2016, the NCCRC created a page on its website to track all civil right to counsel legislation nationwide. The site attracted the attention of the Associated Press, which wrote a story on the uptick in legislation that was picked up by over 200 media outlets across the country.

"[T]he best solution to homelessness is preventing it before it even occurs. **More than two-thirds of the people in our shelters are families with vulnerable children, and the most common cause of their homelessness isn't drug dependency or mental illness. It's eviction.** If we can slow the pace of evictions, we will make a major dent in the homelessness crisis. ...The sky-high pace of evictions is exacerbated by our profoundly unequal judicial system. Unlike those in criminal cases, New Yorkers in housing court have no right to counsel. The result: **Only 10 percent of New York City tenants who appear in court have attorneys to help protect their rights. In stark contrast, close to 100 percent of landlords do. It's hard to overstate just how badly this skews the results of eviction proceedings in favor of owners.**"

—Mark D. Levine, New York City Council member, 7th District, and Mary Brosnahan, President and Chief Executive, Coalition for the Homeless, in "How to Fight Homelessness," *New York Times* October 19, 2015

**"To become the country we perceive ourselves to be, we must make access to justice a reality by providing a right to counsel for civil cases where basic human needs are at stake."**

—John Pollock, Coordinator, National Coalition for a Civil Right to Counsel, in an op-ed in *American Lawyer*, October 1, 2015

## LITIGATION

State courts continue to be leading the recognition of the right to counsel and the NCCRC assisted litigants and organizations submitting amicus briefs in a number of cases across the country. Two notable victories include:

**The Supreme Court of New Jersey held in *Adoption of J.E.V. that parents have a right to counsel in adoption cases under the due process clause of the New Jersey Constitution.*** The NCCRC supported counsel for the mother as well as a number of amici. The success of the case is due in part to terrific work done by many amici, including Legal Services of New Jersey, the ACLU of New Jersey, the New Jersey State Bar, Advocates for Children, and the New Jersey Association for Justice. We also applaud Sean Marotta of Hogan Lovells, who did a powerful job in briefing and in oral argument.

**Last year, the Supreme Judicial Court of Massachusetts ruled in *Guardianship of V.V.*, a case assisted by the NCCRC, that parents have a constitutional right to counsel in cases establishing private guardianship of their children.** This year, the Court took another step to protect parents' rights, unanimously holding in *L.B. v. Chief Justice of the Probate* that parents have a right to counsel when seeking Family Court modification or termination of such a guardianship as long as the parents have a colorable claim. The Court said that the right to counsel was necessary at this stage because parents need counsel just as much as they do when the guardianship is first established. We provided assistance to the petitioner and amici in both cases, and great work was done by the Community Legal Aid (petitioner's counsel), Mass Law Reform Institute, the Committee for Public Counsel Services, and others.

The NCCRC supported other litigation in Alaska, Massachusetts, Georgia, New Jersey, Wisconsin, Washington State, South Carolina, California, Mississippi and in the 9<sup>th</sup> Circuit Court of Appeals on issues that included parents and children in custody cases, housing, incarceration for fees/ fines or child support, suspension of drivers' licenses, and rights of people with disabilities.

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At the same time we're changing bail and fine practices, we also have to work to expand low-income Americans' access to legal aid. **Every day, countless Americans are in court grappling with life-altering challenges like foreclosure, eviction, debt and family instability—far too often, doing so without counsel.** In eviction cases, for instance, 90 percent of landlords have counsel, whereas 95 percent of tenants represent themselves. **In 85 percent of cases dealing with child custody and child support, literally the heart of the family, at least one parent is self-represented.**

— US Attorney General Loretta E. Lynch

Attorney General Loretta E. Lynch Delivers Keynote Address at the Urban Institute Economic Mobility Conference.  
<https://www.justice.gov/opa/speech/attorney-general-loretta-e-lynch-delivers-keynote-address-urban-institute-economic>

#### National Media Attention

The Coalition enjoyed significant media attention this year. This is an important strategy as more states explore access to justice for people within their borders.

One article in the Associated Press that featured the NCCRC and the civil right to counsel movement was picked up by over 200 news outlets, including the *New York Times* and the *Washington Post*.

The NCCRC's work on the New York City housing right to counsel bill also received significant attention, including in *The Observer*, *Bloomberg*, and in a Letter to the Editor in the *New York Times*.

#### Presentations

NCCRC coordinator and PJC attorney John Pollock presented at and participated in high-profile events across the country, including at an invitation-only meeting held by the Department of Justice and the White House on the jailing of low-income people for failure to pay fees and fines. John also presented at the 2015 Equal Justice Conference, the Housing Justice Network Conference, the annual conference of the National Center for Homelessness and Poverty, the Tennessee Alliance for Legal Services' "Equal Justice University" (where he served as keynote speaker), the California Legal Services Funders Network Conference, the Southern Poverty Law Center's summit on fees and fines, and Maryland Legal Aid's Human Rights meeting.

#### UNDERSTANDING A CIVIL RIGHT TO COUNSEL

The Public Justice Center challenged the young artists of Access Art to create a public service campaign that illustrates the fact that a lawyer can make the difference between keeping a home or losing it, obtaining protection from domestic violence or risking injury, having sufficient food or going hungry, keeping children with their family or being separated.

The students studied our legal system and reviewed how artists advocate for change. Their images help us understand the real impact of our legal system on those who do not have access to legal counsel.



## YOU DEFEND: PRISONERS' RIGHTS

### Sometimes true, enforceable reform takes decades to achieve.

Because of your steadfast support, detainees at the Baltimore City Detention Center will finally receive constitutionally adequate, timely medical and mental health care. This year, the federal court approved a settlement in the class action *Duvall v. Hogan*, requiring the state to overhaul the jail's health care system and make major improvements to the facilities that remain open, including accommodations for people with disabilities. To ensure compliance with the settlement, the jail's progress will be assessed by independent monitors. The settlement comes after the Public Justice Center, the Law Offices of Elizabeth Alexander, and the American Civil Liberties Union National Prison Project moved to reopen the case in June 2015, following years of failure to comply with a 2009 settlement and court orders dating back to 1993. These settlements had failed to eliminate inhumane conditions at the Baltimore City Detention Center. The reopening of the case also led directly to the Governor's decision to close the four oldest buildings in the facility.



**"Debra Gardner, legal director at the Public Justice Center, said the agreement would 'at last ... provide adequate, timely medical care to detainees instead of abandoning those with injuries and illnesses. ... After years of litigation, the jail will meet its constitutional and ethical responsibilities to those inside its walls.'"**

"State agrees to overhaul health care services at Baltimore jail"  
*Baltimore Sun*, November 18, 2015

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