

What's in a Name? CLS's "First Name Unknown" Name Change Project

by Elizabeth A. Och

The Legal Aid Foundation of Colorado kicks off its annual Associates Campaign for Justice on March 1. Now in its 13th year, the Associates Campaign is an important funding source for Colorado Legal Services (CLS), the only agency in Colorado that offers free civil legal services to underserved populations in every single county in Colorado. Nearly all CLS clients are living at or below 125% of the federal poverty guideline, which means an annual income ceiling of \$14,850 for an individual and \$30,375 for a family of four.

The Associates Campaign is exactly what the name suggests—a fundraising campaign run by associates at law firms across the state. It is a chance for associates to take on leadership roles early in their careers, but more important, it is an opportunity for young attorneys to make a direct impact in the lives of people across the state with a monetary donation. The campaign includes a friendly competition among firms that recognizes efforts such as funds raised per capita, non-associate involvement, and law firms that reached 100% associate participation. Last year, 36 firms achieved 100% associate participation. A total of 699 associates, or 86.94% of all associates at participating firms, donated to the campaign in 2016, raising a total of \$135,807.56 from 1,139 individual donors (including 440 non-associates).

CLS provides a host of services to its clients across the state, ranging from helping people with disabilities obtain public assistance to preventing evictions to helping families secure or maintain health insurance. Donations made as part of the Associates Campaign support all aspects of CLS's operations, but this article focuses on one recent addition to CLS's services: the First Name Unknown (FNU) Name Change Project.

A Thank You with a Typo

When U.S. troops were in Afghanistan, they relied on Afghan citizens as interpreters, drivers, and numerous other roles. These Afghan citizens saved countless American lives, but in doing so put their own lives and the lives of their families at risk. In 2007, Congress, recognizing this sacrifice, gave the U.S. State Department authority to grant Special Immigrant Visas (SIVs) to certain

Afghan citizens in appreciation for their service to the U.S. military, allowing them to safely move to the United States. But because of cultural confusion regarding the treatment of names on Afghan passports, the official visa for each individual was issued with the first name "FNU," which stands for "first name unknown," with the person's actual given name as his or her surname. Thus many Afghans have visas that show their first name as FNU, which, of course, is not a name at all. These Afghans and their families have settled in locations all over the United States, including a large group now residing in the Denver metropolitan area.

(If this sounds familiar and you can't quite place why, it may be because John Oliver of HBO's "Last Week Tonight" did a segment on this problem back in 2014. Yes, this problem was high-profile enough to catch the focus of the popular British television host.)

At first glance, this clerical error may seem inconsequential or even comical. But it is a very real problem for those with SIVs bearing FNU. The green card, their permanent lawful residence document, must be issued in the name of the immigrant's visa. All identity documents subsequently issued in the United States bear the same name as on the green card and so the client must go through life with a Social Security card and ID card that says "FNU." Because the incorrect name on the client's identity documents is inconsistent with the name listed on the individual's Afghan passport, it can delay and confuse applications for housing, employment, medical care, and other basic needs, as well as complicate travel and obtaining a driver's license or ID. Additionally, people are suspicious of the "name" FNU, and having it as one's legal name in the eyes of the United States is demoralizing.

The fix—a legal name change—is expensive. It costs, at minimum, \$400 without assistance, and the process can be difficult to navigate without an attorney. So although a legal name change is theoretically a simple fix, it is nearly impossible for most indigent people without legal and financial assistance, including some with limited proficiency in English. The problem compounds the longer it remains unfixed, as FNU makes its way onto more legal ID documents. And SIV holders who have children must grapple with what name to put on a child's birth certificate.



About the Author

Elizabeth A. Och is a member of the Associates Advisory Board of the Legal Aid Foundation and an associate in the Denver office of Hogan Lovells, where she serves as an Associates Campaign Representative. Her practice focuses on commercial litigation and environmental, natural resources, and energy issues—(303) 454-2469, liz.och@hoganlovells.com.

Reclaiming a Name

CLS Staff Attorney Bonnie Sarkar is the architect of the FNU Name Change Project and does most of the day-to-day work on the project, which is overseen by CLS Managing Attorney Carol Haller. Sarkar and Haller are part of CLS's ID Project, which helps anyone who qualifies for CLS's legal services gather documents necessary to obtain a state-issued ID card. Sarkar, an immigrant herself, understands the importance of the FNU Name Change Program, noting, "I would have had some peculiarities with my documentation that could have caused me lifelong headaches if my parents had not been savvy enough to fix it when I was young as many of these parents are doing."

Sarkar learned about the FNU snafu through her law school classmate Harry Budisidharta, a lawyer who works at the Asian Pacific Development Center. The two worked with Kandyce Pinckney from No One Left Behind, a national nonprofit organization dedicated to helping Afghan and Iraqi translators settle into a new life in the United States. The FNU Name Change Project began to take form at the end of 2015 and was a natural offshoot of CLS's existing ID Project, as common challenges permeate throughout any name change process. Sarkar, Budisidharta, and Pinckney first met with the U.S. Citizenship and Immigration Services to see if there was an easy system solution to the problem. After it became clear there was not, the three began planning how to help the affected population in Colorado with the necessary legal name changes.

Most of CLS's work functions like a legal emergency room. In conducting its triage, CLS gives priority to the poor and elderly in

greatest economic and social need, focusing on legal issues that have an impact on basic needs, including at least minimally adequate income, food, shelter, utilities, medical care, and freedom from domestic violence and abuse. In 2015 alone, CLS provided services in 13,411 legal matters to low-income Coloradans.

The FNU Name Change Project would be a little different. Because the name-change process is largely the same for all individuals, much of the work would take place over one day. No One Left Behind reached out to SIV holders in Colorado via email, text, and Facebook blasts. In July 2016, ID Project staff and volunteers, along with many Denver summer interns, and in collaboration with the Asian Pacific Development Center and No One Left Behind, completed an "FNU Intake Day" to begin the process of completing a legal name change for Denver-area FNUs. The plan was for the FNU Intake Day to be a one-stop shop, the only visit necessary before a later court date to finalize the name change. Clients came in, were assessed for eligibility for CLS services (financial and otherwise), and were then processed through the other necessary components of a legal name change petition, including a CBI/FBI background check, fingerprinting with the assistance of a retired Denver police officer, a name change petition, and other required court documents.

The CLS staff had done a few test cases already, so they had most of the logistics figured out. Most fees are automatically waived by the court for financially eligible CLS clients. A grant from the Denver Department of Human Services paid for costs that could not be waived, such as fingerprint-based criminal history reports. The FNU Name Change Project is a natural offshoot

of the ID Project, and some of the common challenges of the ID Project permeate throughout any name change process: some people have never had a birth certificate or are known by names other than their given names. Although it is typically not too difficult to get a new ID once someone is in the Colorado DMV system, that first step can be an insurmountable hurdle for many.

There were some unexpected wrinkles. For example, Sarkar, Haller, and their team had not anticipated an issue unique to SIV clients: publication. By law, all legal name changes must be published in a newspaper three times to give notice to potential creditors and others who might object or at least need to know of the legal name change. Because most newspapers are online as well, that means that the name change is also published on the Internet. “We hadn’t put together ahead of time that putting a legal notice in the newspaper would lead to it being on the Internet, which would lead to anyone in the world being able to search their name and find out they’re in Colorado,” Sarkar explained. For some SIV clients, the risk of having their location known was not worth the benefit of having their correct legal name. Fortunately, most judges understood the unique situation and were willing, in appropriate cases, to waive publication once the issue was raised and the request was supported with detailed affidavits.

FNU No More

After all the necessary paperwork was completed, the final step of the name change process was a court hearing. CLS arranged for the Denver, Arapahoe, and Adams County courts to set aside an entire day in September or October of 2016 for name changes through the FNU Name Change Project. Haller and Sarkar noted that although it is not uncommon for their clients to need to seek continuances due to scheduling conflicts, all but one of the FNU clients appeared for their court date. SIV clients took their children out of school for the day to be there. “You could tell how much they wanted to get this done,” Haller noted.

The judges and clerks worked to make it special and not just a regular court day. The judge in Arapahoe County Court, Michael

Roche, opened the proceedings by noting that “what matters is not where a person is from, but what a person’s character is. Your service to our armed forces demonstrates that character. I know all of you took extraordinary risks to do what you felt was right for your country, and for the United States.” Chief Judge Carlos Samour in the 18th Judicial District even rearranged his schedule just to be at the hearing date and addressed the entire crowd, talking of his own experience as a refugee from El Salvador in the 1970s. The judges thanked the SIV holders repeatedly for their service to our country.

The FNU Name Change Project has been successful, but there is plenty more to do. Other SIV clients in the Denver area have been referred through word of mouth. Additionally, Colorado Springs is home to a whole other population of SIV holders eligible for the FNU Name Change Project, which CLS plans to arrange for later this year.

Conclusion

Despite the invaluable work CLS does across the state as part of the FNU Name Change Project and beyond, its funding is perpetually in flux. COLTAF, which administers Colorado’s Interest on Lawyer Trust Account program, used to be CLS’s second-largest funding source, but because of a sustained period of near-zero interest rates, CLS’s COLTAF grant has decreased by nearly 80% since 2008. CLS is unable to meet the needs for legal services among the poor because of inadequate resources. For every client served, at least one income-eligible client is turned away. CLS currently has only 51 lawyers on staff to serve almost 900,000 income-eligible Coloradoans. By comparison, there are 490 public defenders in the state to serve the indigent in serious criminal matters. CLS has less than half the staff it did 30 years ago, and over three times as many clients.

Associates are encouraged to make a difference by participating in their firm’s Associates Campaign or establishing a 2017 Associates Campaign in their firm or office. To sign up, please contact Kelly Bossley, associate director of the Legal Aid Foundation, at (303) 863-9544 or kelly@legalaiddfoundation.org. ■