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Legal ID: Indigent Clients' Elusive Key to a Better Life

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While the "birther" movement continues to seek the national stage, attempting to question the legitimacy of President Obama's birth certificate, a less visible, yet nonetheless crucial, issue concerning birth certificates continues to plague poor and homeless clients served by legal services lawyers.

Possession of a birth certificate, and other important documents discussed below, is critical to enable many indigent clients to obtain employment or secure public benefits or housing. Others need such documents as a condition of parole (formerly incarcerated clients often leave prison without the ID they had when they went in). Still others need the documents to be able to open a bank account for direct deposit of Social Security benefits and to avoid having to pay high check-cashing and similar fees. Despite the crucial importance of these documents, however, a surprising number of indigent clients lack them.

While most of us would have no problem locating our birth certificate or producing a driver's license or other identification, indigent clients have often lost their documents or never had them in the first place. Loss of the documents is common among clients who are transient and constantly moving, or who suffer from mental illness or substance abuse. Sometimes clients' documents have been stolen from them. Nevertheless, to be able to get a job or to secure public benefits and housing, they need these documents.

In Pennsylvania, the state photo ID card, also known as a non-driver's ID, is the primary document most indigent clients need to pave the way to a job or public benefits. To obtain the photo ID, the client must first present a birth certificate and Social Security card (along with proof of residence). Herein lies a conundrum, a "circular trap." Obtaining a birth certificate or Social Security card requires a client to first possess a current photo ID. Clients are left to solve this puzzle, but are not equipped to do so, making assistance from lawyers or other trained professionals essential.

One option for those in the Germantown area is the Face to Face Legal Center, a not-for-profit legal clinic located there. The center has been operating in Germantown for 20 years. It has continued to see greatly increased client demand for help in obtaining birth certificates and photo ID. Roughly seven years ago, the center began to hear complaints from clients who were ineligible to obtain benefits or employment because they lacked the necessary identification.

Responding to these complaints, in 2008 the center established special birth certificate clinics, held on the first Saturday of every month, devoted exclusively to helping clients apply for birth certificates. The clinics are staffed by volunteer law students from area law schools. After receiving training from the Legal Center's director on the application requirements for Pennsylvania and several other states, the students run the clinics, conducting intake

and assisting clients in preparing applications for birth certificates. They also advise clients on the process to obtain legal ID.

Three times a year, Villanova Law School's Pro Bono Society sponsors the birth certificate clinic and disseminates word of the clinic's availability to area shelters, churches, missions and food banks. Since establishing its birth certificate program, Face to Face's legal center has represented more than 450 clients in obtaining birth certificates.

To issue birth certificates, states charge fees ranging from \$10, in Pennsylvania, to \$40, in New York. Even the modest \$10 fee is a hardship for indigent clients, particularly those who need a birth certificate to qualify for cash assistance from the Department of Public Welfare. Thanks to generous funding from the Joe Gavin Foundation, the Tithing Committee of St. Vincent de Paul Catholic Church in Germantown, and the Villanova Law School Pro Bono Society, the Face to Face Legal Center has been able to cover this cost for its clients.

Most states, including Pennsylvania, permit attorneys to order birth certificates on their clients' behalf if the attorneys furnish a copy of their own state photo ID. A client who has obtained a birth certificate and a Social Security card or printout faces yet another hurdle because he or she must next furnish PennDOT with proof of residency. Acceptable proof includes a mortgage, lease, utility bill, W-2, tax record, or weapons permit, which many of our clients do not have. Many of our clients live with friends or relatives or rent rooms on a weekly basis. In such situations they must go to PennDOT accompanied by someone with whom they live (and who possesses a photo ID), who can attest that they live with them. For some clients, this is not possible or feasible.

Proving identity and residence may soon become even more troublesome. The federal Real ID Act of 2005 is scheduled to take effect this May 11 after having been extended a few times in response to objections by many states. Implemented by the U.S. Department of Homeland Security, the Real ID Act establishes minimum standards for state driver's licenses and photo IDs. New regulations will govern what documentation will suffice to obtain an ID and how source documents must be validated. Should Pennsylvania agree to comply with this act, obtaining an ID will become more difficult for indigent clients, causing them to remain unemployed or without public benefits even longer.

Additional obstacles, such as delay, add to the frustrating process of obtaining an ID. Due to an increased demand for documentation, there is a backlog of requests for birth certificates; applications have been taking three months to process, leaving clients in limbo for that time period. The delay has been compounded by states failing to stem the tide of attrition among the state workers who process applications, and whose jobs remain unfilled due to budget cutbacks attributable to the continuing economic recession.

Achieving success is further complicated by having to "battle the bureaucracy." Even where a client's former records are still on file with the government, for instance, the government ordinarily will not simply renew a client's ID based on such records; instead, clients are required to re-prove their identity and residence. Often, workers who process applications are unduly skeptical of the documents submitted. In one instance, a PennDOT representative accused our legal center of forging a client's birth certificate because it was from out-of-state and the PennDOT representative

was not familiar with that state's format. Some states, such as New York, are ultra-particular over what proof of a client's identity and residence will be accepted before the state will issue a birth certificate, thus exacerbating the difficulties some clients face.

Then there are the practical, idiosyncratic problems facing many clients. Not uncommonly, clients lack information about their own birth, including names given to them at birth, or they possess conflicting information. Or a client might have been born at home and have no record of his birth because none was created. These situations require the creation of a birth certificate by accumulating several corroborating documents that are decades old. The process is difficult and time-consuming and can take up to a year. We have had instances where a state has required a court order before it would create a birth certificate for a client.

At times, entire families have had to apply for birth certificates simultaneously, to qualify for HUD benefits for instance. In one such case, our legal center sought nine applications for a family that became homeless when their home burned down. Even though HUD funding was available at the time the clients applied for their birth certificates, because of the delay in application processing their caseworker fears the funds may no longer be available when the birth certificates arrive.

As the foregoing illustrates, the problems confronting indigent clients in need of identification documents are legion, and in most cases could be lessened or avoided. One client — a veteran of the U.S. military who was denied his birth certificate by New York because, as a retired soldier, he had only a Veteran's Administration ID, not an active military one — aptly summarized the seeming unfairness that gave rise to his frustration: "I'm a service person. I served my country. They shouldn't make it so hard for me."

The consequences flowing from lack of critical documentation loom large in the lives of indigent clients, but because such clients are among the invisible of society, most people, even those who are part of the system, aren't aware of the stifling problems these clients face. Recently, a Department of Public Welfare case worker came to observe the legal center in action, as part of gauging his interest in attending law school and becoming a lawyer. It proved to be an eye-opening experience. He had never realized the difficulty welfare applicants experienced after he told them to "just go get" their ID. What he observed prompted the case worker, back in his office, to review the verification requirements for various welfare benefits. "You guys should keep offering the birth certificate clinics," he advised, "it's the most important piece of paper you can have." •

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