

Request for Letters of Interest

An Invitation to Join the SAFE (Safety and Fairness for Everyone) Network to
Keep Immigrant Families Together & Communities Safe

Due: January 17, 2019

In November 2017, the Vera Institute of Justice [launched the SAFE \(Safety and Fairness for Everyone\) Network](#) by convening a group of 11 (which has now increased to 12) diverse cities and counties that committed public funding to legal representation for immigrants in their communities facing deportation – a crucial last line of defense for those targeted by increased immigration enforcement. These local leaders are committed to keeping immigrant families together and communities safe by protecting due process for those who cannot otherwise afford an attorney and ensuring that anyone who faces the devastating consequences of deportation receives a fair day in court. To support these efforts, Vera provided catalyst funding and expert technical assistance to help design, launch, and administer these programs. Vera has also partnered with legal service providers to deliver ongoing substantive, procedural, and programmatic technical assistance to the Network; build a community of practice; and develop evidence of the impact of representation on case outcomes, families, and communities.

In its first year, [the SAFE Network has demonstrated](#) that publicly funded counsel programs are an effective and common-sense approach to protecting immigrant communities from extended detention and erroneous deportation. Building off of the success of the SAFE Network's first year and the growing national momentum toward universal representation, Vera is expanding its network. Vera now invites applications to join this growing national movement of local governments committed to safeguarding due process for their immigrant communities while keeping families together and communities safe.

In its second year, the Network will continue to:

- ☐ Support local communities in protecting the well-being and rights of all residents;
- ☐ Advance the narrative that American values support keeping communities safe by upholding the constitutional guarantee of due process for all people residing here; and
- ☐ Make the long-term case for a right to counsel in deportation proceedings.

SAFE Network Membership

Vera is introducing to its Network tiers of participation to reflect the diverse needs and interests of the jurisdictions working to protect their immigrant communities through increasing access to counsel. Applicants will be considered for one of three levels of membership– Member, Partner, or Affiliate.

Vera will award up to five jurisdictions that meet the standard of universal representation, as described in the Criteria section below, with *Member* status, which includes a catalyst grant of up to \$100,000. Many jurisdictions that are committed to SAFE Network values may not yet have implemented programs that meet the standard for Member status. Vera encourages these jurisdictions to apply to join the network as *Partners* to receive other benefits of Network

participation, including Vera's support in developing a program that protects the due process rights of all immigrants, thereby potentially qualifying the jurisdiction to receive Member status and catalyst funding in the future. *Affiliate* membership is open to local jurisdictions, advocacy groups, legal service providers, and/or legal collaboratives that are interested in participating in the national movement for universal representation, but that are in jurisdictions that have not secured public funding for deportation defense.

The criteria for each of these levels and its associated benefits is outlined below:

- **Members** (*Up to 5 jurisdictions will be selected for Member status*):

- **Criteria:** Applicants must:

- Be a *city, county, state government entity, or collaborative of jurisdictions*;
 - Demonstrate an *urgent demand* (e.g., because of a large immigrant population under threat or a large immigration detention center nearby);
 - Make a *commitment of public dollars* (public-private partnerships will also be considered) to support legal representation for immigrants in *removal proceedings* or a pathway to doing so within 6 months;
 - Prioritize serving those who are *detained*;
 - Articulate an *intent and pathway to dedicate funds after the first year*;
 - Show a strong *commitment to the following three priority values and best policy practices*:
 - 1) due process and fairness in our justice system;
 - 2) representation of immigrants in removal proceedings, with a priority for serving those who are detained; and
 - 3) a “universal representation” model that takes a “merits-blind” intake approach and does not deny services to any categories of immigrants in removal proceedings other than those based on income requirements;
 - Demonstrate an ability to launch a program in a timely manner; and
 - Ensure data collection and reporting to Vera to support the evaluation of the project.

- **Benefits:**

- **A catalyst grant of up to \$100,000 from Vera** provided directly to a selected legal service provider to augment the local funding for representation of detained immigrants under a universal representation model.
 - **In-kind infrastructure support**, including:
 - **Training and technical assistance for Network legal service providers** – Vera provides initial training and regular continuing education and skill-sharpening through peer-to-peer sharing of best practices and challenges, expert individualized case assistance, in-person legal trainings, and webinars. Vera also provides problem-solving support in capacity-building and managing detention facility and immigration court stakeholder relationships.

- ***Program performance and outcome monitoring*** – Vera collects quantitative data from legal service providers and qualitative data from regular site visits and other contact with the sites to monitor program performance, report on progress and findings to funders, and identify important trends that may inform technical assistance and program management. With an eye toward evaluation, Vera has created a secure network database targeted at measuring the impact of representation on *family unity, economic impact, court proceedings, and outcomes*.
 - ***Streamlined program administration*** – Vera can assist jurisdictions in their procurement processes by running a competitive RFP to identify qualified legal services providers, negotiating contracts with chosen providers, and administering funding to providers based on work performed.
 - ***Strategic support to jurisdictions*** – Vera can provide communications and messaging support as well as strategic guidance on securing continued funding of the program in the local jurisdiction. Vera is available to meet with local stakeholders to educate them about the program.
 - **Connection to a national movement of local jurisdictions similarly committed to ensuring fairness and safety for their communities.** As a SAFE Network Member, local jurisdictions have regular and direct access to other jurisdictions across the country implementing a variety of innovative and important protections for their communities.
- **Partners:**
 - **Criteria:** Applicants must:
 - Be a *city, county, state government entity, or collaborative of jurisdictions* (jurisdictions where the legal defense program is entirely privately funded will be considered for this level of membership if the local government is significantly involved in the program's creation or implementation); and
 - *Have a program piloting deportation defense* (this may include programs that do not fully operate within the three SAFE Network priority values, such as those that do not adhere to a merits-blind intake system).
 - **Benefits:**
 - **In-kind infrastructure support**, including:
 - ***Training and technical assistance for Network legal service providers*** – Vera provides initial training and regular continuing education and skill-sharpening through peer-to-peer sharing of best practices and challenges, expert individualized case assistance, in-person legal trainings, and

webinars. Vera also provides problem-solving support in capacity-building and managing detention facility and immigration court stakeholder relationships.

- ***Program performance and outcome monitoring*** – Vera collects quantitative data from legal service providers and qualitative data from site visits and other contact with the sites to monitor program performance, report on progress and findings to funders, and identify important trends that may inform technical assistance and program management. With an eye toward evaluation, Vera has created a secure network database targeted at measuring the impact of representation on *family unity, economic impact, court proceedings, and outcomes*.
- ***Strategic support to jurisdictions*** – Through Network-wide communications, Vera can provide messaging support as well as generalized strategic guidance on securing continued funding of the program. Vera also provides a forum for government officials within the Network to share information and challenges.

- **Partnership with Vera and the SAFE Network to enhance its current program** and more comprehensively protect due process for all immigrants facing deportation. Vera welcomes on-going communication with Partners on strategy for moving forward a universal representation program.
- **Connection to a national movement of local jurisdictions similarly committed to ensuring fairness and safety for their communities.** As a SAFE Network Partner, local jurisdictions have regular and direct access to other jurisdictions across the country implementing a variety of innovative and important protections for their communities.

- **Affiliates:**

- **Criteria:** Applicants must:
 - *Demonstrate an interest in participating in the national movement for universal representation* and partnering with Vera through advocacy efforts, provision of legal services to detained immigrants in removal proceedings, and/or data collection to support a national evaluation of the project. Affiliate membership is not limited to local governments. Advocacy groups, legal service providers, and/or legal collaboratives are encouraged to apply even if there is not currently local public funding or government involvement in their efforts.

- **Benefits:**
 - **In-kind infrastructure support**, including:
 - ***Access to certain web-based training and technical assistance activities for legal service providers as availability allows.***
 - ***Potential program performance and outcome monitoring*** – With an eye toward evaluation, Vera has created a secure network database targeted at measuring the impact of representation on *family unity, economic impact, court proceedings, and outcomes.*
 - **Connection to a national movement of local jurisdictions similarly committed to ensuring fairness and safety for their communities.** SAFE Network Affiliates will have regular and direct access to other jurisdictions across the country implementing a variety of innovative and important protections for their communities.

The Competition

Local jurisdictions will be selected through a competitive application process, which will take place in two stages:

- 1) Applicants submit Letters of Interest (see below) by January 17, 2019.
- 2) After evaluation, a subset of applicants for all levels of participation in the Network will be invited to submit full proposals where we will ask for more detailed information.

Application Timeline

December 14, 2018: Vera will host a webinar at 2:00 PM EST for jurisdictions contemplating submitting a Letter of Interest. Every jurisdiction planning to attend must email SAFE@vera.org using the subject heading of “SAFE Network Webinar” no later than 6:00 PM EST on December 12, 2018, stating an intention to participate. Vera staff will send the call-in information.

January 8, 2019: Questions about the Letter of Interest process must be submitted to SAFE@vera.org no later than 2:00 PM EST on January 8, 2019.

January 17, 2019: Applicants must submit a Letter of Interest no later than 11:59 PM EST on January 17, 2019.

Letter of Interest Requirements

A Letter of Interest must address:

- 1) why the applicant is interested in joining the Network, including whether your jurisdiction has a large immigrant population or nearby detention center;
- 2) how your jurisdiction will fund deportation defense, whether through the use of public funds and/or public-private partnerships. Be specific as to amounts, timing and certainty of the funding, whether there are anticipated obstacles or challenges, and proposed solutions for addressing such challenges;
- 3) indications of the jurisdiction’s or a local government leader’s commitment to funding counsel for immigrants;

- 4) the type(s) of removal defense legal representation that your jurisdiction is funding or intends to fund. If it is known, describe (1) who will be providing the services, and (2) what, if any, the eligibility requirements for services will be; and
- 5) the type of support or technical assistance that your jurisdiction is interested in receiving from Vera.

The suggested Letter of Interest length is 2-3 pages, but may not exceed 5 pages (not including optional attachments). Please include the following contact information:

- Agency/Office Name:
- Address:
- Primary Contact Name and Title:
- Primary Contact Telephone Number:
- Primary Contact Email:
- Other Related Contacts:

Submitting the Letter of Interest

Letters of Interest must be submitted by e-mail to SAFE@vera.org. The subject of the e-mail should be "SAFE Network Letter of Interest from [Name of Jurisdiction]." Vera will send e-mail confirmations of receipt for all Letters of Interest within two business days of receipt.

Questions and More Information

This Request for Letters of Interest may be updated at any time. To be on Vera's distribution list for relevant updates (including answers to questions asked), please email SAFE@vera.org with the subject line "SAFE Network Updates Requested."

For more information, join our webinar (see above). Notes from the webinar will be sent to everyone registered for the webinar or for updates.

For other questions, please email SAFE@vera.org no later than **2:00 PM EST on January 8, 2019**. The subject line for emailed questions should be "SAFE Network Question." Answers to questions will be addressed during the webinar or circulated no fewer than three days before the January 17, 2019 deadline to everyone registered for the webinar or for updates.

A Year of Being SAFE: Insights from the SAFE Network's First Year

Nina Siulc and Karen Berberich

Fact sheet
November 2018

Overview: The SAFE Network

In the face of unprecedented and unpredictable immigration enforcement, millions of immigrants are at risk of extended detention and permanent separation from their families and communities. Expanding legal representation for immigrants facing detention and deportation has therefore become a crucial last line of defense for immigrant communities. Studies show that immigrants who are represented in court are up to 10 times more likely to establish a right to remain in the United States than those who are unrepresented.¹ However, almost no non-citizens are legally entitled to government-funded representation and many go unrepresented, facing permanent separation from their loved ones, their livelihoods, and their communities if deported.

The SAFE (Safety and Fairness for Everyone) Network is a group of 12 diverse local jurisdictions, convened by the Vera Institute of Justice (Vera), that have committed public taxpayer dollars toward legal representation for immigrants in their communities facing deportation.² Local leaders in these jurisdictions are committed to keeping immigrant families together and communities safe by protecting due process for immigrants who cannot otherwise afford an attorney. In partnership with Vera, the Network is building evidence of the impact of universal representation—a merits-blind case selection approach that views all cases as equally deserving of representation—on clients' immigration cases, as well as their families and communities. This report presents data from the first year of the Network's operations, demonstrating its early success. This is followed by a selection of clients' stories that demonstrate the ripple effect of representation and importance of universal representation to clients, their families, and communities.

Client demographics and case successes

This section of the report shares findings about the 428 clients nationally for whom representation was initiated during the program's first year (through September 30, 2018).³

SAFE clients have strong, longstanding ties to the United States.

- > Clients have resided in the United States for an average of 14 years. Eleven percent of clients have lived in the country for 30 or more years.
- > Many SAFE clients (44 percent) are part of mixed-status families, composed of family members with different citizenship statuses.
- > 349 children under the age of 18 have a parent represented by the SAFE Network, including 299 U.S. citizen children (87 percent).
- > SAFE Network clients are responsible for supporting themselves and their families financially—79 percent of clients with families are the “breadwinners,” responsible for at least half of their family's income.

SAFE clients reflect America's diversity.

- > Overall, the network has represented clients from 43 different countries who speak at least 20 different languages.
- > The majority of clients represented by the network are from Mexico (51 percent), followed by El Salvador (10 percent), Honduras (9 percent), and Guatemala (8 percent).

The SAFE Network represents clients in many different circumstances, including providing protection to the most vulnerable.

- > SAFE clients include asylum seekers, longtime legal residents, parents or spouses of U.S. citizens, and people who came to the United States as children. Twenty-two percent of clients entered or resided in the United States lawfully at the time their representation began.
- > More than a third of clients (39 percent) came to the United States as children, arriving before the age of 18. Although the average SAFE client is 34 years of age, the network has represented clients up to 88 years old.
- > A quarter of SAFE clients (25 percent) have been identified by their lawyers as possible victims of crime, domestic or intimate partner violence, or human

trafficking. For female clients, the figures are even starker, with 41 percent identified as possible victims.

- > Sixty-seven percent of SAFE Network clients who have filed an application to remain in the United States are pursuing protection-based claims (asylum, withholding of removal, or seeking relief under the Convention against Torture).

SAFE attorneys have secured clients' release from detention, allowing clients to return to their families and livelihoods.

- > Thirty-three percent of detained clients represented by SAFE have been granted bond or parole, permitting them to be released from custody during their immigration proceedings.
- > For 73 percent of clients granted bond, SAFE attorneys obtained a lower bond amount, or obtained a bond after none was set initially.
- > By the end of the program's first year, 41 percent of detained clients had been released from custody, either freed on bond or having won their cases outright. As a result, 128 children under the age of 18 have been reunited with a parent represented by the SAFE Network.
- > The work of SAFE Network attorneys extends beyond immigration court. For 4 percent of clients, attorneys have filed habeas corpus petitions in federal court to challenge the basis of their clients' detention.

Clients represented by the SAFE Network continue to appear for their court hearings following release from custody.

- > One of the primary justifications for civil detention is that it is necessary to ensure continued appearances in immigration court. However, in the program's first year, 100 percent of SAFE clients released from custody continued to appear for their court hearings. Even with high rates of release, not a single represented SAFE client has received an order of removal *in absentia*.⁴

SAFE attorneys have had substantial positive impacts on their clients' legal outcomes.

- > Despite an unprecedented national backlog of immigration court cases that leads many cases to drag on for years, by the end of year one, 28 percent of all

SAFE cases had already completed in immigration court.

- > In addition to high bond grant rates, continued appearances in immigration court, and efficient case completions, SAFE attorneys have achieved high rates of success for their clients. By the end of year one, a remarkable 38 percent of cases completed in immigration court resulted in successful outcomes permitting SAFE clients to remain in the United States. By comparison, approximately 3 percent of unrepresented cases nationwide are successful.⁵
- > Half of these successful outcomes were for people pursuing asylum, withholding of removal for fear of persecution, or protection under the Convention Against Torture.⁶

The ripple effects of universal representation

The SAFE Network model is rooted in the widespread support for due process as a fundamental value of justice. What this translates to in real life is powerful. This section of the report describes the impact of the SAFE network—through its attorneys and the universal representation model—on clients and their families, drawing on interviews Vera researchers conducted with clients around the country.⁷ Many of these clients had been released from custody and were still awaiting final decisions on their cases at the time they were interviewed. Others had already won the right to remain legally in the United States. As their stories show, the involvement of lawyers brought fairness to complex immigration proceedings, helped restore trust in local institutions, and allowed clients to return to their communities—and remain together with their families—while they awaited the judge's decision.

Lawyers help offset the destabilizing effects of detention for households and families: Valentina's story

Valentina's experience demonstrates how quickly household stability can deteriorate when a family member is detained. Valentina has deep ties to the United States, having lived here for 23 years. She and her husband raised a U.S. citizen daughter and two lawful permanent resident (LPR) sons here. Like her now-adult sons, who have lived here since they could barely walk, Valentina never naturalized, though she was long ago eligible and had recently started the process of becoming a citizen.

Valentina began the interview quite distressed, telling Vera researchers she was depressed and receiving mental health treatment following the recent events of her life. A few months earlier, her husband had died after battling cancer “all over his body.” Soon after, her two adult sons were arrested by immigration authorities at her home. Since then, “the rent has not been forgiving,” as her sons had been supporting her following her husband’s death. Valentina spent much of the interview in tears, describing how she has lived in the same community, her home, for decades, and was now without money, alone, and often thought about how much her sons were suffering in detention during these “ugly times” in the United States. Before her sons met their lawyer, she told us they were desperate, often saying they would just give up and return to Mexico—a country where they had not lived since they were small children. With the lawyer, Valentina’s sons had hope, and so did she, that the family would not lose everything.

The positive effects of representation have a ripple effect that extends far beyond the immigration court case: Juan and Paula’s story

Often, the hope and positive outcomes that came with representation had stabilizing effects on clients’ financial situations, physical and mental health, and the physical and mental health of their family members. Juan and Paula’s story illustrates this point.

Juan’s detention took his family by surprise, leading to what his wife Paula described as “a complete 360” overnight. Juan and Paula described a tight-knit, stable family that didn’t have financial worries and was “always together” doing activities. Paula explained they were “dumfounded” when one night, soon after speaking to his wife on his phone, Juan was pursued and apprehended by Immigration and Customs Enforcement (ICE) officers while driving home from work. He had recently decided he wanted to expand his job possibilities and applied for Deferred Action for Childhood Arrivals (DACA) after consulting with a private attorney who told him an arrest from his youth would not be an issue. Instead, it triggered a warrant for his apprehension by ICE.

After Juan was suddenly taken into detention, things became very stressful for the family. At just seven years old, one of the children took on worrying about the family’s well-being, and needed counseling to help with his stress. He was too young to understand how finances work, but was concerned

the family would not be able to afford food, so had been offering to do extra chores around the house and was saving up the money Paula paid him to give back to her. The stress of losing the family’s income affected Paula too, who described how she started “blanking out, losing focus, getting rashes.”

Juan’s ties to the community helped the family turn things around. His longtime employer helped connect them to a free lawyer. After hearing about Juan’s detention, a frequent patron of his workplace set up a fundraiser to help pay the bond Juan had been granted and support the family to rebuild financially.

At the time of the interview, Juan’s case was still pending. However, his lawyer had given Juan’s family hope that they would not lose everything simply because Juan had tried to legalize his status by pursuing DACA without realizing the impact of his youthful infraction. The lawyer, Juan says, “is like a big dad. It’s like having your dad next to you,” reassuring him as the family attempts to rebuild some stability.

Lawyers help clients navigate complex immigration laws they are unable to understand alone: Mariana’s story

Mariana recounted emotionally that immigration court was “horrible, so, so stressful ... When I was first detained with ICE there were so many thoughts in my mind ... I was so, so stressed out ... because I put my whole life right there, in their hands, my children’s lives, my family’s.” She described feeling physically ill when she went to court and tried to defend herself alone. She submitted her young children’s pictures to the judge, hoping to demonstrate the burden her detention was causing the family. Instead of helping her case, this just reinforced how little Mariana understood about the process, as “[the government attorney] was laughing at me.” She recounted, “when you’re there and you don’t have a lawyer, it’s like, you feel somehow like, like, unprotected ... because you don’t even understand what they’re telling you. You just hear them say all these court words and saying all these codes and stuff.”

Mariana’s feelings about the process changed when she received a lawyer. She reflected: “With the lawyer it’s just so much different because they understand all these things.”

Mariana underscored the impact of representation by describing the trauma her family experienced while she was detained and the loss they would experience in her

absence. Mariana's three children started having anger and behavior problems when she was detained, though her parents, who were caring for the children temporarily, tried to shield Mariana from the stress they were experiencing. While Mariana was in detention, her brother committed suicide, contributing to the family's trauma. Her parents were suffering financially with the sudden changes in their lives and Mariana felt like she had no "control on what's happening outside." She described this as the hardest part of her life and reflected that she was so lucky, and so thankful, that she got a free lawyer, noting, "there were a lot of women . . . they had simple cases and they just decided to deport themselves because of the conditions. They would just sign the papers, even though they had all their kids here, they just signed because they couldn't take the conditions and they didn't have money for a lawyer." Mariana has now been reunited with her children while she awaits a decision on her case, and the family is working to repair the damage caused by their separation.

Lawyers help restore dignity and humanity to immigrants and their families: Yusuf and Manuel's stories

Many clients felt vulnerable even before their detention, felt disrespected by immigration system actors and, without attorneys, were confused about the immigration court process. Repeatedly, clients pointed to ways in which their SAFE attorneys helped restore dignity to them and the process and put them at ease even when they did not fully understand complex immigration court proceedings.

For example, Yusuf observed that an immigration court interpreter was not enough to help him understand "the law, the Constitution, or the codes" well enough to defend himself effectively. After obtaining representation, he noted that a lawyer "can step in and just save your life." When Vera interviewers asked more about this, Yusuf explained that he came to the United States on a student visa that had recently expired. While he saw himself as someone working hard in the United States, the detention center staff told him he was a national security threat and kept him—he felt arbitrarily because of his appearance and Middle Eastern descent—in solitary confinement. This deeply affected Yusuf emotionally, who felt he had to "just take everything they doled out" and viewed the harsh treatment as "so un-American." With a SAFE lawyer's intervention, Yusuf was soon released from detention, has obtained legal work authorization, and has

returned to his community in the United States. He credits the attorney with helping him get out of detention and juxtaposed the dehumanizing experience of detention with the respect his attorney showed him.

Manuel also described how his SAFE attorney saved him from the despair of detention and prevented him from giving up before he had a chance to present the merits of his case. He underscored this point by recounting how detention facility staff once punished him for leaving a door open in an attempt to get some fresh air when he was having an asthma attack. Ordinarily, he would just reach for an inhaler, he said, but in detention it took weeks to obtain one. Many people in detention suffered accidents because of situations like this, he noted. Detention, he explained, was difficult to endure and made one depressed. "You can't say anything because you are [regarded as] worthless," he reflected.

Like Mariana above, Manuel observed that he met many people in detention who could have fought their cases, but they could not find attorneys and often decided they should just "sign papers agreeing to be deported," even though it meant separation from their families. He spent six months in detention before he met his attorney and, though he was quick to say she has been honest about how tough the case is and has not given him false hope, she helped him achieve release so he can continue to fight his case from outside of detention. "Immigration authorities separate and destroy families," he reflected. His lawyer helped him return to his.

Immigration lawyers are often the front line of defense for immigrants who have involvement with multiple justice systems: Adom's story

Adom's experience reinforces the many issues that converge in immigration defense cases and the crucial role lawyers play in helping clients navigate multiple legal systems and issues. Adom's story began with a routine traffic stop. He said he was told he was being pulled over for a tail light being out, though he is certain the tail light wasn't out and suspects he was being racially profiled. The police officer then issued Adom a ticket for driving with a suspended license. Because Adom had never received notice he had a suspended license, he went to traffic court to challenge the ticket.

When Adom got to court, his case was put off for several hours. He had an unpleasant exchange with the police officer who had pulled him over and, as he was waiting for his case

to conclude, Adom, a black man from West Africa, began wondering, "is it anything that I did wrong, or, I mean, if there's any room for our race [in the United States]"

In the meantime, the police officer had coordinated with local ICE agents to have them apprehend Adom in the traffic court building. Adom was immediately taken to detention, leaving him unable to communicate with the babysitter caring for his young son. The babysitter had to unexpectedly stay with his son for the next several days until Adom's wife could leave her job as a live-in nanny. During this time, his son developed an infection on his head that required Adom's wife to miss more work. The family fell behind on the rent.

The financial stress Adom's family experienced was exacerbated by the emotional devastation Adom felt being away from his son and imagining what would happen if he was deported and permanently away from the little boy. While Adom was detained, his son was brought to visit him, but did not understand why he could not touch his father on the other side of the plexiglass divider in the visiting room, and Adom became emotional as he recounted the young boy kept "trying to push through the glass to come to me."

Adom met his SAFE attorney when her organization gave a presentation in the detention center. With the attorney's assistance, he was eventually released on bond and, at the time of the interview, his attorney was working to restore his expired work authorization. Adom emphasized what a big deal it was that his lawyer had helped him secure bond, reflecting, "whenever someone gets bonded, all the [detainees] are happy, they clap for you, once you're getting out, they, they're all happy for you. So when I said I got \$3,000 bond, they're like, that's the lowest they heard in this [facility] . . . all thanks to the lawyer, she did a great job." Adom noted that his attorney "tried to put herself in [his] shoes." Maybe, he reflected, he just had a good case, "but it all depends on how [the SAFE attorney] presented it."

Universal representation that is merits-blind and does not exclude people based on prior contact with the criminal justice system ensures all immigrants have access to due process: Luis's story

Luis's story demonstrates the value of merits-blind universal representation that views all clients as equally deserving of assistance. Luis explained he had spent months looking for an attorney from inside detention, but nobody would

take his case because he had a DUI charge; indeed, many immigration lawyers who offer free representation are overwhelmed with the level of need and often develop criteria that lead them to "cherry pick" the strongest cases. Most fee-based attorneys Luis reached out to from detention told him they could not even offer a consultation without a hefty fee. Desperate to get out of detention so he could continue to support his nine-year-old U.S. citizen daughter, Luis tried to navigate the process alone, seeking a bond hearing. He attended that hearing without the assistance of a lawyer and was granted a \$20,000 bond he could not afford to pay. When Luis's case was accepted for representation, he was surprised to learn that his lawyer did not expect to be paid, attempted to lower the bond amount, and even helped raise money for his bond through a local community organization, eventually helping him secure release. Luis recounted that the lawyer's dedication to his case motivated him to continue appearing in court and enabled him to return to work to support his family while fighting his case. Without a program like SAFE that offers due process to all immigrants, Luis would have continued to languish in detention unnecessarily, away from the family that needs him.

The first year of SAFE shows the importance of lawyers: Mario's reflections

The lawyer, he noted, "helps assuage the fear one has when going before a judge." Like many other SAFE clients, Mario noted a difference between his fate and that of others he knew in detention: "Many people don't know there are people that can help them. And they are resigned to their fate that they will get deported." His sister added, "There needs to be more organizations that provide more lawyers, because the truth is that one does not feel safe."

Endnotes

- 1 For a summary of this research, see Karen Berberich and Nina Siulc, *Why Does Representation Matter?* (New York: Vera Institute of Justice, 2018).
- 2 The SAFE Network is active in 12 jurisdictions across eight states. The jurisdictions in the SAFE Network are: Oakland and Alameda County, CA; Sacramento, CA; Santa Ana, CA; Denver, CO; Austin, TX; San Antonio, TX; Dane County, WI; Chicago, IL; Columbus, OH; Atlanta, GA; Baltimore, MD; and Prince George's County, MD. Denver joined the network for the start of year two.
- 3 Data from cases in all SAFE jurisdictions as well as network affiliate San Francisco is included in this report.
- 4 This finding is consistent with previous research that shows that non-detained clients who have representation have high appearance rates in court. See Berberich and Siulc, *Why Does Representation Matter?* 2018.
- 5 Transactional Records Access Clearinghouse (TRAC), "Details on Deportation Proceedings in Immigration Court," accessed November 4, 2018, <http://trac.syr.edu/phptools/immigration/nta/>.
- 6 Other successes included cancellation of removal, adjustment of status, temporary protected status (TPS), and termination of proceedings. Some legal permanent residents and non-legal permanent residents can be granted the right to remain in the United States in the form of "cancellation of removal." For legal permanent residents who have committed certain crimes or acts not defined as "aggravated felonies," an immigration judge may grant cancellation if they have maintained status and continuous residency for a specified period of time and if positive equities (family ties, length of residency, evidence of rehabilitation or good moral character, employment, etc.) outweigh any adverse factors. For non-legal permanent residents, an immigration judge may grant cancellation if the person has been physically present in the United States for the last 10 years, has demonstrated good moral character during that time, has not been convicted of certain crimes, and shows that a qualifying relative would suffer "exceptional and extremely unusual hardship" if the client is removed from the United States.
- 7 All names used here are pseudonyms to protect client identities. Client interviews have so far been conducted in eight SAFE Network jurisdictions as well as other affiliate locations and are planned for the remaining jurisdictions in the next few months. Themes from the entirety of these interviews will be presented in greater detail in a report to be released in early 2019.

For more information

For more information about this report and the SAFE Network, contact SAFE@vera.org. The Vera Institute of Justice is a justice reform change agent. Vera produces ideas, analysis, and research that inspire

change in the systems people rely upon for safety and justice, and works in close partnership with government and civic leaders to implement it. Vera is currently pursuing core priorities of ending the misuse

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Why Does Representation Matter?

The Impact of Legal Representation in Immigration Court

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Fact sheet
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Who gets an attorney in immigration court?

The U.S. Constitution's Sixth Amendment established the right to counsel as an essential American value, deemed by the Supreme Court as "necessary to insure fundamental human rights of life and liberty."¹ However, the right to appointed counsel has only been applied in *criminal* proceedings. Deportation cases are *civil* proceedings. Despite the high stakes involved in removal proceedings—including permanent separation from loved ones and, sometimes, life-threatening risks in their countries of origin—immigrants are entitled to representation paid for by the government only in extremely limited circumstances.² This means that while everyone is permitted to have a lawyer, only those able to secure an attorney are represented in court. Over the past several years, almost half of all immigration court cases have gone unrepresented.³

Who doesn't have an attorney? The lack of appointed counsel means that tens of thousands of people each year go unrepresented, including asylum seekers, longtime legal residents, immigrant parents or spouses of U.S. citizens, and even children. They are left to defend themselves in an adversarial and notoriously complex system against the United States government, which is always represented by counsel. Consistent with recent efforts by immigration advocates and federal, state, and local governments to expand access to counsel for immigrants, the federal Executive Office for Immigration Review (EOIR, the immigration court agency) reports a steady increase in the percentage of noncitizens who were able to secure counsel in their deportation proceedings over the last several years. While 50 percent of detained and non-detained immigrants combined were represented in fiscal year 2012, that rate rose to 61 percent in fiscal year 2016.⁴ Notwithstanding this improvement, the total number of unrepresented immigrants facing deportation in recent years is at historic highs. In fiscal year 2016, 73,524 cases that completed in immigration court lacked representation.⁵

The likelihood of securing representation is substantially lower for several subgroups of immigrants.

- > In recent years, representation rates for people in detention have hovered around 30 percent, leaving the remaining 70 percent without the benefit of counsel.⁶
- > In 2016, 70 percent of family units (adults and accompanying children with adjointed cases) were unrepresented at the time their cases closed.⁷
- > As of August 2018, slightly more than half of all pending children's cases were unrepresented.⁸

Representation increases due process in immigration court

Many people in deportation proceedings have valid legal claims to remain in the United States, but cannot possibly argue their cases effectively for themselves absent legal expertise. Representation allows people to make the appropriate decision about whether or not to fight their cases and to exercise and access the rights afforded to them under existing U.S. law.

Lawyers help immigrants access the defenses available to them under existing law

- > It is nearly impossible to win deportation cases without the assistance of counsel. Only 5 percent of cases that won between 2007 and 2012 did so without an attorney; 95 percent of successful cases were represented.⁹
- > This is not the result of lawyers choosing to represent stronger cases; the impact of representation is substantial even in cases that may initially appear weak. In other words, merits-blind universal representation also improves chances of a successful outcome. The New York Immigrant Family Unity Project (NYIFUP), the first publicly-funded universal representation program in the nation, demonstrated a significant, causal effect

of representation on case outcomes, independent of other factors. Under NYIFUP's universal representation model, detained immigrants in New York City saw the odds of winning their cases increase from 4 percent when unrepresented to a projected 48 percent with an attorney—a 1,100 percent increase.¹⁰

- > Representation makes a fourteen-fold difference in terms of case success for family cases defined as “women with children.”¹¹

Lawyers are especially critical in detained cases

- > The physical constraints associated with detention mean unrepresented people face serious obstacles to obtaining even the most basic evidence and paperwork they need to substantiate their legal claims.¹²
- > Attorneys can make the greatest impacts in detained cases. When they are represented, detained immigrants are 10.5 times more likely to succeed in their legal cases than their unrepresented counterparts.¹³

Lawyers help vulnerable people achieve protections available under U.S. law

- > Asylum seekers are at least three times more likely to win relief when represented.¹⁴
- > Children with legal representation have obtained legal outcomes that allowed them to remain in the United States 70 percent of the time, compared to just 9 percent for children without representation.¹⁵

Representation increases the likelihood of release from detention

For many people, release from detention while their case is ongoing can be as critical as the case outcome. Release from detention allows people to return to their families, work in their communities while their case is pending, and prepare their affairs should the court ultimately order them to leave the country. In recent years, U.S. Immigration Customs and Enforcement (ICE) has declined to set bond amounts in most detained immigrants' cases, requiring them to seek custody hearings in front of an immigration judge.¹⁶ As with the legal case outcome itself, representation is critical to effectively demonstrate to a judge that the detained immigrant is an appropriate candidate for release. When represented, the odds of a person being granted bond, and therefore being eligible to be released from custody, are about three times as high, even while controlling for other factors.¹⁷

Representation increases court appearances

One of the primary justifications for immigration detention is that noncitizens need to be detained throughout the duration of immigration court proceedings to ensure that they appear in court for upcoming hearings.¹⁸ Immigrants who fail to appear in court may be ordered deported “*in absentia*”—a deportation order not based on the merits of the case, but for the sole reason that the respondent was not present for the hearing. Research shows that representation has a positive effect on a person's likelihood of appearing for subsequent court appearances. When people have lawyers, they show up in court.

- > The Appearance Assistance Program, a community supervision program that connected released clients to attorneys and other support services in New York City, yielded an impressive 91 percent appearance rate.¹⁹
- > One analysis showed that only 7 percent of non-detained, represented individuals were ordered removed in *absentia*, compared to 68 percent of unrepresented people.²⁰
- > Similar trends are observed for children. Only 5 percent of non-detained, represented children have been ordered removed in *absentia* for failure to appear in court, compared to 80 percent of unrepresented children.²¹
- > Outside of full representation, even mere interactions with an attorney—who can inform people about the importance of attending court and the consequences associated with failing to appear—have been shown to improve court appearance rates. Participants who attended a “Know Your Rights” orientation through Vera's Legal Orientation Program received 7 percent fewer in *absentia* orders than those who did not attend an orientation.²²

Conclusion

Representation before any court of law is a matter of fundamental fairness. The U.S. judicial system has recognized that the Sixth Amendment requires the government to provide counsel for indigent immigrants in criminal proceedings. Given the high and often severe stakes associated with immigration proceedings and the complexity of the law, these same principles ought to govern our nation's immigration courts.²³ The significant, proven impacts of representation on immigration cases demonstrate the necessity of attorneys in navigating that complicated web.

Endnotes

- 1 Johnson v. Zerbst, 304 U.S. 458 (1938).
- 2 Under a court order in the Ninth Circuit, certain detained immigrants who have been deemed mentally incompetent to represent themselves must be provided with counsel. See Franco-Gonzalez v. Holder, 10 CV 02211 DMG (C.D. CA August 2, 2010).
- 3 Between October 2000 and August 2018, 54 percent of all cases filed had never been represented (2,156,633 of 4,013,177 cases). See Transactional Records Access Clearinghouse (TRAC), "Details on Deportation Proceedings in Immigration Court," accessed November 4, 2018, <http://trac.syr.edu/phptools/immigration/nta/>.
- 4 Executive Office for Immigration Review (EOIR), *FY 2016 Statistics Yearbook* (Falls Church, VA: EOIR, 2017), F1 and figure10, <https://perma.cc/H2S8-Q4DT>.
- 5 EOIR, *FY 2016 Statistics Yearbook*, 2017, F1.
- 6 TRAC, "Who Is Represented in Immigration Court?" October 16, 2017, <https://perma.cc/HPX7-GPF6>.
- 7 TRAC, "With the Immigration Court's Rocket Docket Many Unrepresented Families Quickly Ordered Deported," October 18, 2016, <https://perma.cc/FR3R-JSF5>.
- 8 TRAC, "Juveniles—Immigration Court Deportation Proceedings," accessed November 4, 2018, <http://trac.syr.edu/phptools/immigration/juvenile/>. Court data from fiscal year 2005 through August 2018 show 257,390 cases out of 496,129 were unrepresented.
- 9 Ingrid V. Eagly and Steven Shafer, "A National Study of Access to Counsel in Immigration Court," *University of Pennsylvania Law Review*, 164, no. 1 (2015), 1-91, 22, <https://perma.cc/82F5-WE2D>. Data from TRAC shows a similar trend, that counsel was involved in 91 percent of cases that resulted in grants of relief between 2001 and 2018. See TRAC, "Details on Deportation Proceedings in Immigration Court," accessed November 4, 2018, <http://trac.syr.edu/phptools/immigration/nta/>.
- 10 Jennifer Stave, Peter Markowitz, Karen Berberich, Tammy Cho, Danny Dubbaneh, Laura Simich, Nina Siulc, and Noelle Smart, *Assessing the Impact of Legal Representation on Family and Community Unity* (New York: Vera Institute of Justice, 2017), 28, <https://www.vera.org/publications/new-york-immigrant-family-unity-project-evaluation>.
- 11 TRAC, "Representation Makes Fourteen-Fold Difference in Outcome: Immigration Court 'Women with Children' Cases," July 15, 2015, <https://perma.cc/7NBM-BNXW>.
- 12 Stave et al., *Assessing the Impact of Legal Representation*, 2017.
- 13 Eagly and Shafer, "A National Study of Access to Counsel in Immigration Court," 2015, 49.
- 14 Andrew I. Schoenholtz and Hamutal Bernstein "Improving Immigration Adjudications through Competent Counsel," *Georgetown Journal of Legal Ethics* 21, no. 1 (2008), 55-60, 55, <https://perma.cc/A834-LCZH>.
- 15 TRAC, "Juveniles—Immigration Court Deportation Proceedings," accessed November 5, 2018, <http://trac.syr.edu/phptools/immigration/juvenile/>. Data covers all completed cases from fiscal year 2005 to September 2018.
- 16 TRAC, "What Happens When Individuals are Released on Bond in Immigration Court Proceedings?" September 14, 2016, <https://perma.cc/D4PY-CRXB>.
- 17 Emily Ryo, "Detained: A Study of Immigration Bond Hearings," *Law & Society Review* 50, no. 1 (2016), 117-153. The study found represented people to be 3.5 times more likely to be released on bond.
- 18 Matter of D-J- 23 I&N Dec. 572 (A.G. 2003).
- 19 Vera Institute of Justice, *Evaluation of the Appearance Assistance Program, Volume 1* (New York: Vera Institute of Justice, 2000), <https://perma.cc/LQ7F-NRHU>.
- 20 Eagly and Shafer, "A National Study of Access to Counsel in Immigration Court," 2015, 74.
- 21 TRAC, "Juveniles—Immigration Court Deportation Proceedings," accessed May 21, 2018, <http://trac.syr.edu/phptools/immigration/juvenile/>. Data covers all completed cases from 2005 through 2018.
- 22 Nina Siulc, Zhifen Cheng, Arnold Son, and Olga Byrne, *Legal Orientation Program: Evaluation and Performance and Outcome Measurement Report, Phase II* (New York: Vera Institute of Justice, 2008), <https://www.vera.org/publications/legal-orientation-program-evaluation-and-performance-and-outcome-measurement-report-phase-ii>.
- 23 Immigration law is often described as a "labyrinth," termed "second only to the Internal Revenue Code in complexity." *Castro-O'Ry-an v. INS* (1987)

For more information

For more information about this report, contact Nina Siulc, research director, Center on Immigration and Justice, at nsiulc@vera.org. The Vera Institute of Justice is a justice reform change agent. Vera produces ideas, analysis, and research that inspire

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The United States

Immigrant population

The foreign-born population in the United States represents an important and diverse share of the country, many of whom live in mixed-status families.



326 million people reside in the United States.



45 million immigrants reside in the United States, making up **14 percent** of the total U.S. population.

Population at risk of deportation

23M

23 million non-citizens, or 51 percent of all immigrants residing in the United States, are potentially at risk of deportation.

22M

22 million of the United States' immigrants are **naturalized citizens**, not at risk of deportation.

Children and families

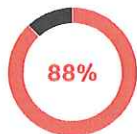
18M children

There are **18 million children** in the United States with at least one **immigrant parent**.



1 in 4

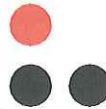
One in four children in the United States has at least one **immigrant parent**.



The **vast majority of children** in the United States with at least one immigrant parent are **U.S. citizens**.

5.8M

There are **5.8 million U.S. citizen children** with a **non-citizen immigrant parent**.



1 in 3

One in three U.S. citizen children has a **non-citizen immigrant parent**.



The **majority of immigrants with children born in the United States** lived in the country for **more than five years** before their child was born.

Local community ties



24 million immigrants have lived in the United States for **more than 15 years**.



6 million immigrants in the United States are **students** enrolled in pre-K through college or graduate school.



9 million immigrants in the United States are **homeowners**.



73 percent of immigrants in the United States are **high school graduates**, and most have pursued higher education.

Economic and labor force contributions

Immigrants in the United States contribute critical tax dollars to the local economy and are indispensable members of the workforce.

\$1.4T immigrant-led households **earned \$1.4 trillion.**

\$118B immigrants contributed **\$118 billion** in combined **state and local taxes.**

\$262B immigrants contributed **\$262 billion** in **federal taxes.**

3M **3 million** immigrants in the United States are **entrepreneurs.**

8M **8 million** people in the United States are **employed by immigrant-owned firms.**

44% **44 percent** of U.S. Fortune 500 companies were **founded by immigrants or their children.**

\$1T This means immigrant-led households have an estimated **\$1 trillion** in **spending power.**

\$73B Immigrant-owned firms earned **\$73 billion** in **business income.**

Labor force participation

155M
workers

155 million workers comprise the United States' labor force.

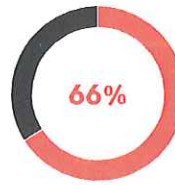


1 in 6

27 million immigrant workers comprise 17 percent of the country's labor force, or **one in six.**



63 percent of the country's residents **participate in the labor force.**



66 percent of the country's immigrants **participate in the labor force**, higher than the share among the country's native-born population (63 percent).

Sources

U.S. Census Bureau:

"Selected Characteristics of the Native and Foreign-Born Populations," 2016 American Community Survey (ACS) 1-Year Estimates, available through factfinder.census.gov.

U.S. Census Bureau:

"Age and Nativity of Own Children under 18 Years in Families and Subfamilies by Nativity of Parents," 2016 ACS 1-Year Estimates, available through factfinder.census.gov.

U.S. Census Bureau:

"Selected Characteristics of the Foreign-Born Population by Period of Entry into the United States," 2016 ACS 1-Year Estimates, available through factfinder.census.gov.

New American Economy (NAE):

"Immigrants and the Economy in . . .," by jurisdiction, in "Cities, States, and Districts," available through <https://www.newamericaneconomy.org>.

The Urban Institute:

"Children of Immigrants Data Tool," 2018. Data from the Integrated Public Use Microdata Series datasets drawn from the 2005-2015 American Community Survey, <http://webapp.urban.org/charts/datatool/pages.cfm>.