

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

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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 “blacking 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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