

Support Universal Representation: SAFE Initiative 101

October 2020



What is it?

- › The **SAFE Initiative** is a unique collaboration among governments, immigration legal service providers, and advocates building a movement for **universal representation** for people facing detention and deportation.¹
- › Universal representation advances a public defender system for people facing deportation, one in which **every person facing deportation is represented by a lawyer** regardless of income, race, national origin, or history with the criminal justice system.



Why does it matter?

- › Even amid the COVID-19 pandemic, ICE and federal immigration authorities have continued to target our communities, book people into detention, and tear apart families.
- › Deportation can result in physical exile from home, separation from family, loss of employment, and even violence or death in a country of origin. Yet people in immigration court face a broken and biased system described by a federal judge as akin to hearing “**death penalty cases in a traffic court setting.**”²
- › The stakes for people in immigration detention could not be higher. In detention, people face inhumane conditions; loss of liberty; lasting trauma; increased vulnerability to contracting serious illness, including COVID-19; and barriers to accessing counsel.
- › **Immigrants facing deportation do not have the right to a public defender if they can't afford a lawyer.** This means that those who cannot afford to pay for an attorney—including an estimated 70 percent of people in detention—are left to fend for themselves while facing government attorneys.³
- › **The overwhelming majority of people in the United States believe it is important for all people, including those in immigration court, to have access to lawyers,**

highlighting that commonsense solutions are needed to ensure that everyone is treated with basic fairness.⁴



Why universal representation?

- › **Advances due process.** Everyone at risk of deportation deserves a fair day in court even if they cannot afford a lawyer. Universal representation advances shared values of due process and fairness and helps restore dignity to a system that sets immigrants up to fail. Everyone should mean everyone.⁵
- › **Helps secure release from detention.** Without zealous legal representation, release from detention is nearly impossible, including for humanitarian reasons and despite the COVID-19 pandemic. Immigrants who are represented are 3.5 times more likely to be released from detention on bond and up to 10 times more likely to establish a right to remain in the United States.⁶
- › **Defends family unity.** People facing deportation are our neighbors, our friends, and our family members. Tearing them away from their families causes harm and insecurity that radiates throughout our communities. SAFE clients are **parents to hundreds of children—82 percent of whom are United States citizens. Seventy-seven percent of SAFE clients are the primary breadwinners** for their families.⁷
- › **Stabilizes communities and economies.** People helped through the SAFE Initiative are deeply entrenched members of our workplaces and communities, **having lived in the United States for an average of 14 years.** SAFE clients are essential contributors to local economies, participating in the workforce at rates consistent with nationwide averages: **61 percent of SAFE clients have been employed within the past 12 months,** compared to 63 percent of people nationwide.⁸
- › **Advances racial justice.** Harmful myths of immigrant criminality, combined with overincarceration and overpolicing of communities of color, make Black immigrants particularly vulnerable to detention and

deportation.⁹ **As the public health and vitality of communities hang in the balance, universal representation advances a more equitable vision of justice.**



Growing momentum

- › **Significant public support.** A recent national poll conducted by Vera found that a strong majority of people in the United States, 67 percent, support government-funded lawyers for immigrants facing deportation.¹⁰
- › **A national model.** More than **40 communities in 18 states, including 21 partner sites of the SAFE Initiative, have funded deportation defense programs.** These communities are leading the way in countering the injustice and destabilization that immigration enforcement has brought to our nation. And universal representation

programs set a powerful course toward federally funded universal representation for all.

- › **Economic benefits.** Universal representation programs ensure that community resources function better. They generate practical cost savings for communities and the economy. For example, New York's publicly funded legal representation program was estimated to lead to a **\$2.7 million increase annually in tax revenue due to clients gaining or maintaining work authorization.**¹¹

Endnotes

1. SAFE Initiative partner sites include Atlanta, Georgia; Austin, Texas; Baltimore, Maryland; Chicago, Illinois; Columbus, Ohio; Dallas, Texas; Dane County, Wisconsin; Denver, Colorado; Long Beach, California; New Haven, Connecticut; Oakland/Alameda County, California; Philadelphia, Pennsylvania; Prince George's County, Maryland; Ramsey County/St. Paul, Minnesota; Sacramento, California; San Antonio, Texas; San Francisco, California; and Santa Ana, California. For additional information, see Vera Institute of Justice, "Safety and Fairness for Everyone (SAFE) Network," <https://vera.org/projects/safe-network>. For more on universal representation, see Vera Institute of Justice, *Advancing Universal Representation: A Toolkit for Advocates, Organizers, Legal Service Providers, and Policymakers* (New York: Vera Institute of Justice, 2018), <https://www.vera.org/advancing-universal-representation-toolkit>.
2. The Honorable Mark A. Dummond, "Death Penalty Cases in a Traffic Court Setting: Lessons from the Front Lines of Today's Immigration Courts," American Bar Association, January 15, 2019, <https://perma.cc/G5UB-VBKE>.
3. The representation rate in immigration court fluctuates slightly over time. Historically, 81 percent of detained immigrants have lacked representation—from October 2000 to November 2019, 81 percent of all people in detention had never been represented (1,237,252 of 1,526,419 cases). The rate has improved slightly over the past two decades, with approximately 70 percent unrepresented in recent years—from October 2012 to November 2019, 70 percent of all people in detention had never been represented (327,828 of 466,756 cases), with the exact percentage varying slightly from year to year. See Transactional Records Access Clearinghouse (TRAC), "Details on Deportation Proceedings in Immigration Court," accessed January 13, 2020, <https://trac.syr.edu/phptools/immigration/nta/>.
4. Vera Institute of Justice, *Public Support in the United States for Government-Funded Attorneys in Immigration Court* (New York: Vera Institute of Justice, 2020), <https://www.vera.org/publications/taking-the-pulse>.
5. Vera Institute of Justice, "Video: Everyone Means Everyone," <https://www.vera.org/research/everyone-means-everyone>.
6. For a summary of this research, see Karen Berberich and Nina Siulc, *Why Does Representation Matter?* (New York: Vera Institute of Justice, 2018), <https://perma.cc/NTM6-F8UN>.
7. Vera Institute of Justice, *Rising to the Moment: Advancing the National Movement for Universal Representation over Three Years of the SAFE Initiative* (New York: Vera Institute of Justice, forthcoming 2020).
8. Ibid.
9. Jeremy Raff, "The 'Double Punishment' for Black Undocumented Immigrants," *Atlantic*, December 30, 2017, <https://perma.cc/R7UZ-MKF7>.
10. Vera Institute of Justice, updated unpublished analysis of national polling results, forthcoming 2020.
11. Jennifer Stave, Peter Markowitz, Karen Berberich et al., *Evaluation of the New York Immigrant Family Unity Project: Assessing the Impact of Legal Representation on Family and Community Unity* (New York: Vera Institute of Justice, 2017), <https://perma.cc/3TKY-CLF2>.

For more information

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