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Advancing Universal Representation: A Toolkit

Module 2: Building the Movement

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THE POPULAR
CENTER FOR DEMOCRACY

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About this report

The Center for Popular Democracy (CPD), the National Immigration Law Center (NILC), and the Vera Institute of Justice (Vera) work together to expand the national movement for publicly funded universal representation. CPD and NILC provide strategic support to local and state advocacy campaigns. In 2017, Vera launched the Safety and Fairness for Everyone (SAFE) Network in partnership with a diverse group of local jurisdictions, all dedicated to providing publicly funded representation for people facing deportation. Through the SAFE Network, Vera provides strategic support to government partners, legal service providers, and advocates. Collectively, CPD, NILC, and Vera also coordinate at a national level, creating resources and space for advocates advancing universal representation to share, strategize, and learn from one another.

This report is the second component of a three-part toolkit informed by CPD, NILC, and Vera's experiences advancing the universal representation movement. (Module 1 was published in December 2018; Module 3 is forthcoming.) These experiences have been guided by the expertise of advocates, organizers, legal service providers, and policymakers across the country who have led publicly funded deportation defense efforts. The toolkit is intended to equip these same stakeholders with strategies to make the case for implementing and sustaining universal representation programs. For more information, see www.vera.org/universal-rep-toolkit.

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Introduction

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This module is the second component of a three-part toolkit aimed at supporting advocates, attorneys, community members, and others who want to advance and sustain universal representation campaigns to provide public funding for deportation defense efforts. This module focuses on tools and strategies that can help build successful advocacy campaigns for deportation defense.

Universal representation—the idea that every immigrant facing deportation should have the right to a publicly funded lawyer if they cannot afford one—has gained significant momentum nationally since 2016. Universal representation programs are emerging in politically diverse jurisdictions of all sizes in red, blue, and "purple" states; in cities and counties along the coasts; and throughout the South and Midwest.

As immigration arrests and detention have soared in recent decades, families have been systematically separated and immigrants increasingly stripped of their rights, making them more vulnerable to deportation.[1] In
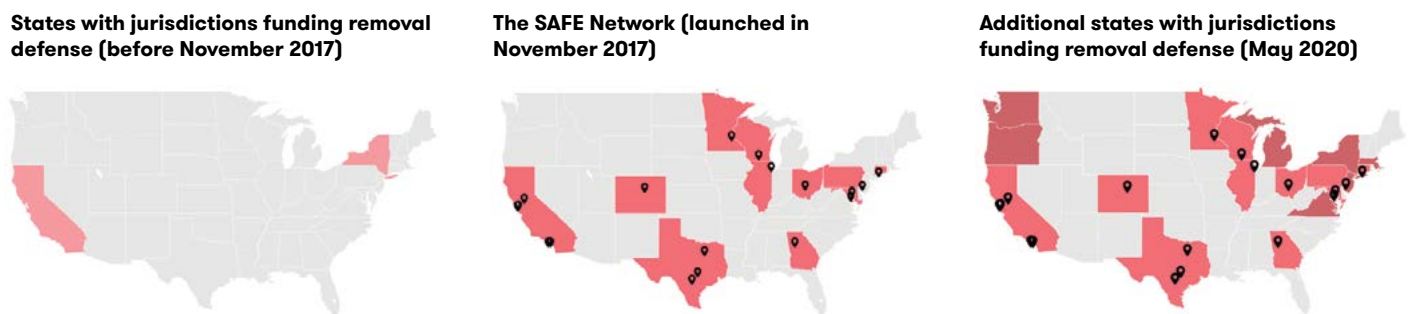
response, communities throughout the country have launched legal representation programs as a last line of defense. In an especially polarized and divisive political climate, local communities and governments have led the way in putting forth new strategies that help stabilize and unify families, protect communities, and define local values. Universal representation programs are popular commonsense policy solutions, countering the injustice and disruption that federal immigration enforcement has brought to communities and ensuring access to due process and fairness for all people.

Together with broad public support for government-funded attorneys for immigrants, local appropriation of funds for universal representation programs is growing. This support is helping build momentum nationwide toward legislative proposals that establish the right to counsel for immigrants in deportation proceedings. As of this writing, more than 35 jurisdictions in 18 states have funded deportation defense programs, including those in the SAFE Network and the New York Immigrant Family Unity Project (NYIFUP).[2] Several states, including California, Illinois, New Jersey, New York, Oregon, and Washington have allocated state funding for deportation defense.[3] These local, regional, and state programs are steadily creating a national movement toward the ultimate goal of a federal right to government-funded counsel for immigrants and a more equitable vision of justice.

Moving universal representation to the policy agendas of local and state governments depends on strategic advocacy, organizing, and communications campaigns. Because local and state budgets are facing heightened scrutiny due to the COVID-19 pandemic, holding government accountable through organized advocacy will be especially critical to this movement.

Figure 1

**The growth of universal representation, 2013–2020**

States with jurisdictions funding removal defense (before November 2017)

The SAFE Network (launched in November 2017)

Additional states with jurisdictions funding removal defense (May 2020)

Local communities and governments have led the way in putting forth new strategies that help stabilize and unify families, protect communities, and define local values.

Like any campaign, effectiveness and success will depend on a variety of unique local factors. Although no formula can prescribe the strategies that will ultimately advance universal representation programs, advocates in many jurisdictions across the country have used tactics and strategies that provide invaluable lessons.

This module aims to provide insights and tools based on lessons from local and state campaigns. Some sections of this toolkit may be more helpful or applicable than others, depending on the context of each campaign. As more campaigns gain momentum, the exchange of strategies and lessons learned will help further the longer-term goal of federally funded universal representation nationwide.
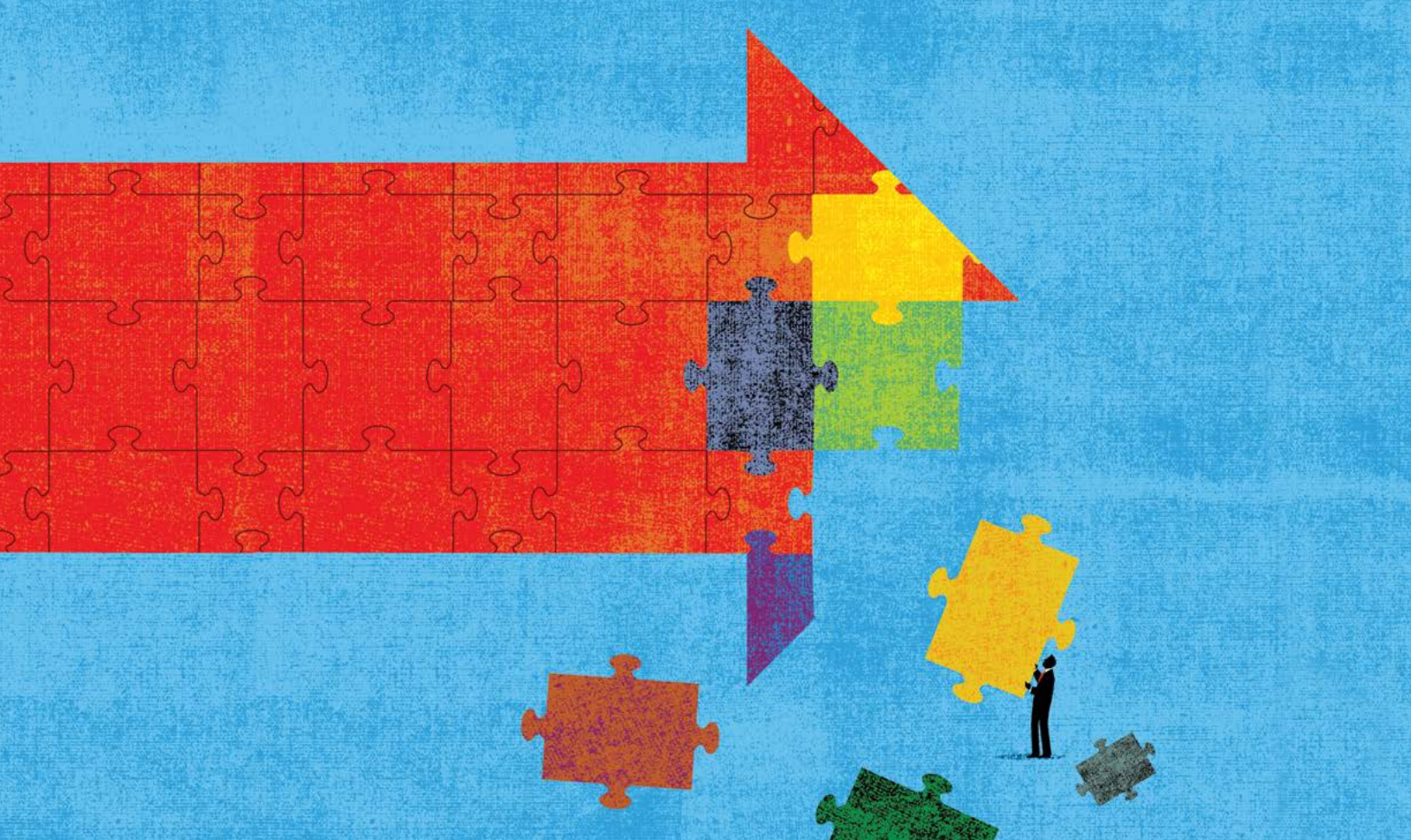
Setting Up for Success: Building a Strong Foundation

The keys to a successful campaign include a clear strategy; achievable goals; the creation of a strong, diverse coalition that centers the voices and experiences of people directly impacted by immigration policies; and the development of short- and long-term policy objectives. Although every jurisdiction is different, the following guiding principles can help launch campaigns in support of universal representation.

Create a campaign plan

A clear campaign plan will turn the vision of universal representation into achievable strategic action. The plan will help guide a coalition in outlining strategy and tactics, including communications, legislative actions,

organizing efforts, and research and advocacy materials. (Detailed recommendations for building strong, diverse coalitions are covered on page 8.) At the outset, organizations and coalitions working together for universal representation should lay out explicit goals, assess resources, and identify the people the campaign is trying to influence ("targets"). The key components of a campaign plan are described in further detail throughout this module; activities typically overlap and do not need to be completed in a specific sequence.

Develop clear policy objectives

The political analysis for launching, sustaining, and expanding a universal representation program will vary from one jurisdiction to another. Based on the policy objectives and local landscape, a city may seek a local budget strategy for new or expanded funding, while a state may seek simultaneous legislative and budget strategies. There is no one template for success, but a number of best practices can build strong support for programs and are applicable even across politically, geographically, demographically, and economically diverse regions.

In many jurisdictions—such as Chicago, Los Angeles, New York City, and Philadelphia—working groups created to study the problem of lack of access to counsel used their findings to develop clear policy goals. Working groups can help accurately describe the scope of the problem in a particular immigration court, detention facility, or community, as well as determine the resources needed for a pilot or a fully funded universal representation program. A working group may consist of members of the legal community, legal service providers, directly impacted individuals, law clinics, researchers, and other community leaders.

Identify key decision makers and understand budget and legislative avenues

At the outset of any campaign, coalitions should have a clear understanding of the political landscape, identify the relevant decision makers and the strategies that may advance or expand universal representation, and have a realistic timeline for the process ahead. With this information and analysis,

it is important early on to identify legislative and/or other government champions who can lend support to the campaign. Anticipating barriers and ways to overcome them is often critical to a campaign's success.

To ensure that the campaign's work is strategic, timely, and effective, coalitions should work with their government champions to understand the timing of local legislative and/or appropriations processes. Government champions can help assess the feasibility and availability of various mechanisms that could be used to ensure public funds for universal representation programs, such as advocacy for stand-alone budget appropriations; administrative action; city, county, or state legislative

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action; or some combination thereof. One way to help ensure security and support throughout the process is to work toward inclusion in an executive budget proposal. But the route to funding will depend on local political support, budget priorities, and climate—as well as on timing. In any local or state budget process, it is important to be clear about a specific funding request and to build a coalition with ample time before the jurisdiction considers proposed budgets and begins budget deliberations.

As part of the advocacy strategy, campaigns may also want to identify other key decision makers and develop relationships with them early on. Although government champions of universal representation will be vital to the process of identifying decision makers and pressure points, campaigns should consider partnering with lobbyists, other local organizers, or government insiders (such as legislative staff) too. These allies can provide concrete answers to important questions and strategize about ways to engage public officials for purposes of both initial funding and long-term sustainability.

Campaigns should consider the following key questions on the budget front.

› When are proposed budgets drafted?

› When are proposed budgets released?

› When and through what forums can the public provide direct input on the budget, such as through committee hearings or legislative visits?

› When do budget negotiations take place?

› How do budget allocations actually work?

› Are there specific budget priorities or considerations (such as a deficit) during the upcoming cycle or year?

Convene diverse coalitions to build a strong foundation

The initial catalyst for a campaign may vary by location. Although some campaigns are established through community-based advocacy, others take root when government champions of publicly funded representation programs seek to protect and elevate the voices of their immigrant constituents.[4] Regardless of its origins, a ground-up community-based campaign should center the voices and experiences of those directly impacted and involve broad coalitions of legal service providers, immigration advocates, and other allies. These components are essential to a campaign's long-term sustainability and viability and can prove critical in weathering potential future opposition.

Coalition partners may include the following participants.

› **Community members** who have experienced detention and removal proceedings and can speak to the difference it made to have skilled attorneys representing them. Also consider involving the **family members and loved ones** of people who are or were once detained or were deported.[5]

› **Advocates and/or organizers** with experience working on local campaigns, established political access and relationships, communications expertise, lobbying and/or grassroots organizing

experience, and an understanding of local legislative and budget processes and political dynamics.

› **Community leaders and community-based organizations** with proven track records of established trust in local immigrant communities who can communicate the needs and potential impact of a universal representation program locally and can mobilize directly impacted community members to engage in and demonstrate support for the campaign.

› **Elected officials and their staff** who can serve as champions for the initiative, provide additional insight into the local political processes and dynamics, and help cultivate support among their colleagues.

› **Allied groups and constituencies**, such as unions, faith leaders, business leaders, education leaders, civil rights organizations, domestic violence survivors and their allies, LGBTQ+ advocates, criminal justice reform activists, racial justice activists, and diverse communities impacted by immigration enforcement that can provide broad political insight and strategy. Also consider reaching out to and working with unlikely allies and creative coalitions.

› **Legal service providers and law school professors or other personnel** who can share information, materials, and important context about local immigration court policies and practices, collect client data, and provide case studies about the difference representation makes for their clients.

Successful coalitions often have a clear strategy, unified principles, and explicit advocacy goals. Diverse coalitions involve various stakeholders and interests, so it is common that coalition members and organizations are not completely aligned in their respective goals. Although this may pose some challenges, such differences, diverse networks, and varied perspectives can ultimately strengthen a campaign by securing new or unlikely government supporters and broadening a campaign's reach.

Strong coalitions are inclusive and intersectional. They represent a wide range of voices and interests (such as labor unions, tenant organizations, criminal justice reform advocates, and gender justice groups), and include members who represent or work with people who are most directly affected

by detention and deportation (such as LGBTQ+, Latine, Black, and Southeast Asian immigrants), as well as with social justice allies.[6]

Center directly impacted community members throughout the campaign

The views of those who have personally experienced detention and navigated the complex immigration court system are essential and contribute crucial firsthand perspectives to the campaign. Directly impacted community members have the most compelling vantage point on the critical need for a universal representation program and humanize the issue for policymakers. Their participation is vital to the long-term political viability of deportation defense programs.

Community members can also speak to the difference it makes to have an experienced attorney in immigration court—not only on the legal outcome of a case, but also by providing the psychological stamina to continue to fight, particularly for people who are detained and isolated from their support networks.[7] In addition to sharing their personal experiences during legislative visits, hearings, or media interviews, directly impacted community leaders should be included and elevated in coalition leadership and decision-making.

Campaigns should also elevate the voices of directly impacted community members who have had criminal convictions. Their experiences are critical to universal representation programs and advocacy, in part because they help shift the public narrative and counter the damaging sentiment that some immigrants are more deserving of due process and representation than others. Their personal stories can help illustrate the nuanced reality of those who have been involved in the criminal legal system; they are often long-time residents with deep ties to the local community who have been subject to systemic racism and the overpolicing of people of color. This picture is at odds with the harmful, oversimplified stereotypes to which people are often reduced. Those who have experienced both the immigration and criminal legal systems—such as Alex Lora, a former client of Brooklyn Defender Services whose case helped create law in a federal court of appeals before being overturned by the U.S. Supreme Court in 2018—are powerful spokespeople who can talk about the need for those with justice-system involvement to have access to deportation defense.[8]

Building Power and Navigating Political Dynamics

A key part of navigating the political landscape is to identify people outside the process—in government and civil society—who can help persuade primary decision makers and elevate the campaign. Campaigns should research the priorities, interests, and needs of decision makers to determine who and what might motivate them to support the campaign. In addition to decision makers, campaigns should cultivate other alliances, including those with coalition members who can offer support to the campaign. Potential allies may include retired immigration judges, law enforcement officials, prosecutors, criminal justice reform advocates, faith leaders, educators, union leaders and union members, business leaders, and experts working with nonpartisan state fiscal policy groups. Engaging organizations that represent these allies, such as a police chiefs' association or a chamber of commerce, can be particularly effective. These partners can be

engaged to express support publicly—such as through testimony or sign-on letters—and/or can be engaged "behind the scenes," such as through private outreach with targeted elected officials. Whether privately or in public, this is a way to involve diverse messengers to convey support for universal representation and encourage decision makers to become more interested in the topic or address this as a key priority in their legislative agenda.

Use a wide range of strategies to advocate directly with elected officials

Engaging policymakers and elected officials is critical to advancing any universal representation campaign. Some key strategies for advocating with government include the following.

› **Build relationships with the staff** of elected officials and regularly engage with them about the issues of detention and the immigration court system. These staff members often play key "insider" roles and can be critical allies.

› **Demonstrate that the coalition adds value** by sharing fact sheets, resources, data, case studies, and other useful information with staff—rather than simply coming in with an immediate ask.

› **Put local elected officials in touch with government champions from other jurisdictions** who have successful programs so they can share their experiences.

› **Testify at public legislative and budget hearings**, at which coalition members can submit relevant testimony about the issue. Directly impacted individuals should be involved, to represent the community's priorities.

› **Organize briefings with a government champion** about universal representation for elected officials and their staff or for certain groups, such as Black and Latine legislative caucuses.

› **Organize a delegation of elected officials to visit immigration court and/or a detention center** and witness firsthand the court hearings of those currently detained (the "detained docket"),

exposing lawmakers to the harsh realities of what it looks like to navigate the immigration system while held in federal custody.

› **Meet with candidates** during an election cycle to make universal representation an issue that candidates feel they must take a position on or else face consequences over.

› **Elevate data and stories of client constituents** about the impact of detention and deportation in an elected official's district to make the case that universal representation would have a positive impact.

› **Use public opinion research** that points to significant support for government-funded lawyers in immigration court.[9]

› **Elevate government champions and mobilize communities by engaging in grassroots organizing tactics** that build public pressure and attention, including rallies, petitions and other digital advocacy tools, press conferences, protests, canvassing, and action days.

Analyze and understand the broader context

Campaigns for universal representation take place within a larger local, state, and national context. It is important for advocates to develop an analysis of the political context at each level of government and identify other pending priorities to help frame the campaign's political reality and strategy. Depending on the circumstance, the context may prove challenging or advantageous—or some combination thereof. For example, the election of new leadership at the local or state level may open the door to advancing a campaign much faster than anticipated, especially if the coalition has done the work before the election to encourage candidates to support universal representation as a priority issue. Similarly, harsh immigration enforcement priorities and anti-immigrant rhetoric at the federal level can sharpen the sense of urgency among advocates and lawmakers to support local initiatives that protect community members who are at risk of removal. For example, cities and states have increasingly become the front line of defense for immigrant communities since the 2016 presidential election. But even a pro-immigrant political

environment does not guarantee success, and coordination with other policy priorities for immigrant rights is essential.

Assuming that the campaign gains some momentum, the process of negotiating the shape and scope of the universal representation program with elected officials will also pick up. Stakeholders may have conflicting visions of what the program should look like, such as how much money to allocate for deportation defense, who should be eligible for the program,

Using election cycles to secure funding

In New Jersey, the 2017 gubernatorial election of a pro-immigrant candidate created a high-profile opportunity to position universal representation as a priority among lawmakers. Local advocates were able to seize the opportunity and make the case for funding a statewide program, thanks to the groundwork they had laid in previous years. In 2015, the American Friends Service Committee started a privately funded universal representation pilot program, providing a model for the local coalition to build on.[a] And in 2016, Seton Hall University School of Law released a report that included statistics demonstrating the need for a publicly funded universal representation program.[b]

Both during and after the 2017 gubernatorial election cycle, the coalition took additional action to secure funding for a universal representation program, including the following:

› establishing relationships and getting an on-the-record **public statement from the candidate** in support of allocating public dollars for deportation defense;[c]

› **advising political campaign staff and elected officials** on immigration policy; and

› engaging in **extensive advocacy** postelection, including meetings, sign-on letters, and **op-eds**.[d]

As a result of this multipronged, multiyear campaign effort, Governor Phil Murphy allocated $2.1 million in his inaugural state budget in 2018 and $3.1 million in 2019 to provide deportation defense through New Jersey's nonprofit legal service organizations.[e] A diverse and growing coalition has

continued to advocate that Governor Murphy fully fund deportation defense for detained immigrants.[f] The coalition continues to publish advocacy reports to support its ongoing efforts.[g]

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a   The Working Group on Immigrant Representation in New Jersey, *Universal Representation: Why the Garden State Should Provide Access to Counsel for Detained Immigrants* (South Orange, NJ: The Working Group on Immigrant Representation in New Jersey, 2017), 2, https://perma.cc/FZP9-MEG7.

b   Lori A. Nessel and Farrin Anello, *Deportation Without Representation: The Access-to-Justice Crisis Facing New Jersey's Immigrant Families*, (Newark, NJ: Seton Hall University, Seton Hall Law Center for Social Justice, 2016), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2805525.

c   Phil Murphy: Democrat for Governor, "Murphy Calls for State Office to Assist Immigrants Caught in Trump's Web," January 30, 2017, https://perma.cc/YN7U-ENJK.

d   Ted Sherman, "Groups Push N.J. to Provide Legal Assistance to Those Facing Deportation," January 29, 2018, NJ Advance Media for NJ.com, https://perma.cc/735T-8PVW; and Susan Roy, "Why N.J. Immigrants Aren't Getting Fair Day in Court Before Deportation," March 19, 2018, updated January 30, 2019, *Star-Ledger*, https://perma.cc/6S9L-W97N.

e   "Murphy OKs $3.1M for Immigrants Facing Deportation—$1M Boost," July 1, 2019, New Jersey 101.5–Townsquare Media, https://perma.cc/7N66-NG7V.

f   Sixty Leading NJ Faith, Community and Advocacy Organizations Send Letter to Gov. Murphy Urging Full Funding for Legal Defense for Detained Immigrants," February 7, 2020, InsiderNJ, https://perma.cc/2YB6-FA2S.

g   American Civil Liberties Union of New Jersey, American Friends Service Committee, Make the Road New Jersey, New Jersey Policy Perspective, and Seton Hall Law School Immigrants' Rights/International Human Rights Clinic, *Due Process for All: Promoting Access to Justice for Immigrants in New Jersey* (2019), https://perma.cc/S2Z8-J4A4.

and who should provide the services. Government decision makers also may disagree about these issues; for example, there could be differences between a mayor and the city council, a governor and the state legislature, or among an executive office's staff members.

> It is important for the coalition to be as unified as possible in its goals, messaging, and political bottom line.

Because navigating these interests can be complicated, it is important for the coalition to be as unified as possible in its goals, messaging, and political bottom line. Even if the coalition must ultimately make concessions, a clear and transparent decision-making process will help ensure consistent external messaging during negotiations, making it likelier that the result is an inclusive program that meets the community's long-term needs and interests. And to keep the coalition united and help its members negotiate effectively, it is critical to have a vision of a pathway to a scalable, sustainable universal representation program.

Focus on a program that is truly universal, avoids due process exclusions, and upholds an equitable vision of justice

The universal representation model of deportation defense is described in more detail in Module 1.[10] Several of the model's key tenets help ensure that representation comports with this vision for a public defender system in immigration court: that every person facing deportation has access to a government-funded attorney to represent them and that when resources are limited, representation is prioritized for people who are detained.[11]

To advance universal representation, campaigns should be prepared to advocate against *due process exclusions*—eligibility criteria that make people with certain criminal convictions ineligible to receive representation through the program. Also known as "carve-outs," such exclusions run counter to a truly universal representation model, which posits that every human being fundamentally deserves due process in a court of law.

Deportation defense programs that permit exclusions based on contact with the criminal legal system perpetuate racial discrimination and disparate outcomes, denying access to justice for people and communities of

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color.[12] As with the country's justice policies and practices, structural racism is intrinsic to its immigration system; universal representation ensures that legal services are not denied to people who may need them the most because of their involvement with the criminal legal system.[13]

It is critical that coalitions maintain a strong commitment to preserving a universal representation model and be prepared to articulate the reasons for that commitment to a variety of stakeholders. If due process exclusions are raised during the negotiation process, campaigns may consider adopting the following additional strategies.

› **Discuss and clarify the campaign's position on due process exclusions.** When people have disparate views about carve-outs, the coalition might host forums involving members who can discuss the campaign's position. Strive to reach consensus against exclusions and establish core principles in case these issues come

up with legislators and other government officials. The more prepared the coalition is to handle this discussion and the more unified members are about its principles, the harder it will be for lawmakers to create programs that are not truly universal.

› **Allow coalition members to express misgivings** they may have about demanding universality. If unity isn't possible, take the time to address people's concerns as a group so that the coalition goes into conversations with policymakers having agreed on its principles. If that isn't possible, coalition members should discuss beforehand how to minimize any challenges that may result from people's differing perspectives so that they don't jeopardize the campaign's goals.

› **Partner with advocates for racial justice, victims' rights, and criminal justice reform.** These leaders, organizations, and advocates can help push back against carve-outs by addressing specific concerns about public safety and promoting the importance of justice reform. Engage these allies in regular dialogue about the interconnectedness of the two systems and draw on their expertise, political acumen, and relationships. Invite them to weigh in on the campaign's strategy and messaging and offer to provide similar support to their campaigns.

› **Prepare responses to address specific reasons stakeholders may have for proposing exclusions.** The underlying concerns motivating people's support for due process exclusions are often political and stem from negative media attention and myths of immigrant criminality.[14] When this is a significant concern, it may be a good idea for a campaign to engage several elected officials and other government champions to support the program and the universal representation model.

› **Prepare influential community members to speak out** about the harms of immigration detention and the importance of due process and legal representation in immigration court. Potential validators include faith leaders, judges, public health experts, advocates for survivors of domestic violence and sexual assault, law enforcement

officers, city councillors, state legislators, members of Congress, and/
or influencers such as high-profile members of the local community.

› **Elevate the voices of people who have had criminal justice entanglement** and have been affected by the immigration system, ensuring opportunities for them to share their stories and analysis and securing public forums for them to do so. In particular, seek out spokespeople in communities where elected officials are in favor of due process exclusions to help counteract that perspective.

If it becomes evident that the coalition will have to choose between a program with some due process exclusions or no program at all, its members should consider and discuss relevant factors, including these:

› the prospect of eliminating the due process exclusion in the future (depending on political feasibility and the campaign's financial bandwidth);

› impact on local immigrants and families in need of representation;

› the priorities of directly impacted people in the jurisdiction;

› members' priorities and the need to keep the coalition intact; and

› relationships with elected officials and government champions.

A coalition may also consider ways to narrow the scope of the exclusion as much as possible, for example, by directing money from private sources to cover people who would be excluded by the publicly funded carve-out.

Using Media and Other Communications to Support Advocacy

A media and communications strategy is crucial to supporting advocacy, mobilizing supporters and the public, and motivating policymakers about the issues that matter to their constituents. Media coverage often brings visibility to the need for and impact of universal representation and increases public pressure for a program. At the same time, campaigns should be prepared for negative media coverage by developing talking points and a rapid response plan. When done effectively, communications and media advocacy help illustrate why it makes sense—as both a matter of policy and a reflection of the community's values—for jurisdictions to invest taxpayer dollars in universal deportation defense. An effective communications strategy will be in sync with—and a major

component of—the overall advocacy strategy and timeline, including the development of communications materials and engagement with media professionals to influence lawmakers and target messaging in response to particular interests and concerns.

Tailor the campaign's communication strategies to local circumstances

As with legislative and budget strategies, it is important for coalition members to know how messaging will resonate within local jurisdictions and to prepare accordingly. Although some communication strategies have a proven track record of success across a variety of circumstances, others vary in their effectiveness depending on context. In addition to baseline messaging with broad appeal, be ready with targeted messaging for specific audiences. For example, the persuasiveness of some messages can depend heavily on a jurisdiction's political leaning and local demographics—a message that generates support among progressives may prove wholly ineffective among conservatives, and vice versa. Many campaigns also take place in a busy news environment where multiple stories are competing for attention, so employing a range of strategies will help draw focus to the issues at hand.

Campaigns must be responsive to local dynamics and nimble in their communications approach. And though the messaging strategies presented in this toolkit are those demonstrated through research to have broad bipartisan appeal, the most effective campaigns should adapt their messaging based on local context and the community's needs and interests.[15]

Rely on messaging that reflects shared values

Values-based messaging is particularly effective when articulating the importance of universal representation. The results of Vera's public opinion polling on access to lawyers for immigrants underscores this point.[16] At the core of the universal representation model is a belief that everyone is entitled to due process and to be treated fairly, justly, and with dignity under the law. The same values are long-standing American principles, even though the

country has often failed to achieve these ideals. Campaign messaging should lead with and reflect these values, explaining how universal representation brings us closer to that vision and protects against violating these ideals.[17] Whenever possible, use evidence to demonstrate how heavily the scales of justice are tipped against unrepresented people in immigration court—particularly when they are detained—and the dramatic difference it makes when lawyers are involved. (For more details on using evidence in this way, see "Creating a data-driven campaign" on page 29.)

At the core of the universal representation model is a belief that everyone is entitled to due process and to be treated fairly, justly, and with dignity under the law.

By putting universal representation in the context of the shared values of due process and fundamental fairness, advocates help the public and policymakers understand how issues core to the country's democracy are at stake. Universal representation—and the broad support behind it—allows campaigns to start shifting the conversation about immigrants and immigration to fairness, justice, and investing in solutions that center people who are most affected. Campaigns can draw on data and other evidence to highlight the myriad ways that universal representation programs build collective strength, shared prosperity, family and community unity, and interconnectedness, countering the divisiveness that tends to characterize national political rhetoric about immigration.[18] Framing universal representation as a widely supported and commonsense solution based on shared values may break through the federal government's polarizing messages about immigration. It also enables the public to see how such programs can help communities thrive.[19]

Prepare to address difficult topics

Campaigns must be capable of both actively promoting the advantages of universal representation and anticipating potential opposition. When determining how and whether to respond to conflicting viewpoints, advocates should consider their audience. In any campaign, many members of the public can be persuaded to lend their support if presented with compelling evidence and messaging; others may be unrelentingly opposed. Communication strategies should primarily focus on generating support among audiences whose opinion can be changed, and campaigns should be prepared to respond to arguments that perpetuate stereotypes of immigrant criminality and are based on harmful myths.[20]

To stay on message, campaigns should develop talking points designed to counter negative coverage and opposing views that may arise without reinforcing them. Such talking points should underscore that universal representation upholds the shared values of due process and fairness, which benefit the broader community, and focus on the real human consequences of detention and deportation, particularly without access to counsel. It is important to state facts rather than repeating others' inaccuracies. For example, research shows that "myth busting"—the practice of presenting a false claim with the purpose of explaining its inaccuracy—may serve to reinforce misconceptions rather than dismantle them.[21] Instead, experts recommend leading with affirmative messages from the start (such as "Immigrants promote public safety") instead of restating the myth or raising doubts ("Do immigrants cause crime?") only to subsequently explain why a claim is false.

Reinforce the natural synergies among supporters of universal representation and other immigrant justice and social justice movements

Critics may frame their opposition to universal representation by portraying it as being at odds with other important under-resourced programs, policies, and systems, such as education, criminal justice reform, or other

pro-immigrant efforts. Use these opportunities to explain how these seemingly disparate issues are interconnected. Share evidence, for example, that illustrates how representation could offset the negative consequences experienced by the millions of school-age children with parents at risk of potential detention or deportation.[22] Draw parallels between the immigration and criminal legal systems, stressing that the immigration detention system is an extension of mass incarceration and the criminalization of communities of color in the United States.[23]

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When appropriate, the campaign's communication strategy should demonstrate how genuine universal representation—a program without exclusions—is a natural extension of the fight for racial justice and criminal justice reform. The campaign might also link universal representation with racial justice movements by describing how immigration law has historically and intentionally been used to rid the United States of immigrants of color who were seen as undesirable and unwelcome members of the country's social fabric.[24]

Keep the focus on people who are directly impacted

As mentioned earlier, campaigns should center the voices of those who would be most affected by universal representation programs.[25] Individuals and family members who have experienced detention and immigration court should be involved as the initiative's ambassadors and strategic

partners. They should also be consulted in the crafting and delivery of messages throughout a campaign—beyond the initial push for pilot funding. Their stories have a powerful impact and matter to the policymakers whose opinions campaigns are trying to influence. At the same time, it is important for these community members to be informed of any potential risks to their safety or that of their loved ones if they speak out, and campaigns should prepare a support system and contingency plan in case of retaliation from authorities.

The following tactics require time and resources, but are well worth the investment.

› **Identify clients and community members who can be spokespeople.** There is no better way to understand the human impact of detention and the benefits of representation than to hear it from those who have been most directly affected. Reporters will always want to speak with people about what legal representation meant to them personally. Campaigns should consider partnering with clients and former clients who are interested in participating in advocacy efforts and may be willing to support the program publicly. Clients who have pending immigration cases should consult with their attorneys before interacting with media professionals; attorneys can advise people of any potential risks that may come with sharing their stories publicly.

› **Provide media training** to prepare spokespeople for media opportunities and strategize about how to answer difficult questions. Before interviews or any kind of engagement with the press, support spokespeople by briefing them on the context of the interview and accompanying them if necessary or desired.

› **Connect individual stories to systemic problems and solutions** to keep the focus on the root causes of the issue and the long-term vision of universal representation.[26] Clients and former clients are often well positioned to do this, as they have experienced the intersection of the criminal legal and immigration systems.

› **Explore ways for affected people to tell their stories on their own terms.** Whenever possible, campaigns should consider providing resources that allow community members to share their own stories

through written or visual media (such as personal essays, artwork, or video). By putting the power of content creation in the hands of those who are most directly impacted, community members gain agency and depend less on how others may tell their stories.

Develop relationships with local media professionals and keep them engaged

Favorable national media attention on universal representation can help build momentum for campaigns, but local reporters are more likely to provide coverage and help the campaign thrive. Local media outlets provide direct avenues to influence community members, key decision makers, and elected officials in the jurisdiction where the campaign is underway.

> Those who have experienced detention and immigration court should be involved as the initiative's ambassadors and strategic partners throughout a campaign and beyond.

From the onset of a campaign, identify which coalition members have media contacts and the capacity to engage in communications outreach. Develop relationships with reporters even before there is specific news to share, building mutual trust by getting to know their interests and offering to show them around immigration court. Tell trusted reporters about upcoming hearings, provide them with an advance on a report, and invest the time to educate them on immigration enforcement, detention, and immigration law. Whenever possible, provide concrete examples through stories and data to describe how people experience immigration enforcement locally. Consider setting up editorial board meetings and

organizing press events at strategic moments during the campaign. By taking the time to educate and engage media professionals, advocates can lay the groundwork for the most informed and accurate reporting possible. Campaigns should also try to devote resources toward drafting and placing op-eds by key stakeholders and/or influential voices to promote the messages of the campaign directly. The resulting news coverage is also an opportunity to push elected officials and candidates to take a public position on the issue, something that can be used later as a tactic to help ensure their accountability.

Engage community and ethnic media outlets

Communications strategies should not be limited to mainstream English-language media organizations. Whenever possible, engage community-based and ethnic media outlets that provide coverage in areas that have large populations locally. Research the outlets and the reporters who are most popular, respected, and credible among communities the campaign is trying to reach. The campaign may also need to establish an explicit strategy for these types of media outreach that includes creating materials in the community's native language, identifying spokespeople who are fluent in it, and developing plans to hold either bilingual or separate press conferences.

Embrace the value of social media platforms and their multiplier effect

Social media can be a significant asset for campaigns, serving as another means to actively engage and mobilize the public to support universal representation.

Communication via social media should follow many of the same principles that more traditional media strategies do. In addition, take the following steps.

> › **Identify the influencers, validators, and other allies** whose social media presence can help bring visibility to the campaign.

Although influencers may be high profile, they do not need to be.[27] Anyone with perceived authority or persuasive power over key local decision makers is an influencer. For example, think of the entities previously identified as important coalition members—community members, advocates, organizers, and ally groups—as influencers who may have their own social media presence.

› **Invest the time to plan a social media strategy as early as possible.** As with any other element of the campaign, plan ahead. Invest the time well in advance of important moments—such as crucial hearings or the release of an article, op-ed, or advocacy

Strategies for communications and media advocacy

Campaigns can use the messaging techniques presented in this module and in the following list as part of various strategies to generate media coverage.

› **Draft brief talking points** for lawmakers and allies.[a]

› **Write op-eds** making the case for universal representation and place them in publications (in print or online) that may influence key stakeholders.

› **Create or share short videos** featuring directly impacted immigrant community members.

› **Host press conferences** featuring a variety of stakeholders.

› **Use social media tools** such as creating Twitter campaigns, a "tweetstorm," or Facebook Live events.

› **Develop fact sheets or share existing resources** that lay out the problem and show how universal representation is one key solution.[b]

› **Organize sign-on letters** directed at policymakers.[c]

› **Generate action alerts and call-in days** targeting key decision makers.

› **Seek more resources** to maximize the effectiveness of the campaign's media advocacy.

Organizations such as The Opportunity Agenda (www. opportunityagenda.org) and the FrameWorks Institute (www. frameworksinstitute.org) provide evidence-based resources for those looking to bring about social change concerning immigration, racial justice, and other related issues.[d]

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a   As an example, see New York Immigrant Family Unity Project, "Criminal Convictions Screening – Bad in Policy and Bad Practice: Talking Points," 2018, https://perma.cc/R32J-EPCT.

b   As examples, see *Support Universal Representation: SAFE Network 101* (New York: Vera Institute of Justice, 2020), www.vera.org/safe-network-101; and the Boston Immigrant Justice Initiative fact sheet "An Overview of the Problem and How We Can Solve It Together," 2016, https://hub. winninginthestates.org/wp-content/uploads/2018/02/IJI-pilot-fact-sheet-ecoonomic-impact-without-raw-data-citations_Nov-2016.docx.

c   As an example, see a coalition letter to New Jersey Governor Phil Murphy, January 26, 2018, https://perma.cc/2Q3P-XMXH.

d   For a more detailed discussion about many of the issues raised in this chapter, see The Opportunity Agenda, *Vision, Values, and Voice: A Communication Toolkit* (New York: The Opportunity Agenda, 2019), https://perma.cc/T229-SBV3.

brief—to think through the messaging strategy and build a relationship with influencers, validators, and allies early on, well before asking them to promote the campaign's messages.

› **Use any and all of the coalition's social media platforms to lift up the work of others.** The strongest relationships are mutually beneficial. Be a good ally to influencers and related campaigns by amplifying their messages. When appropriate, view these as opportunities to reinforce the interconnectedness between universal representation and other issues of importance.

Creating a
Data-Driven Campaign

Evidence comes in many forms. Although the experiences of directly impacted people should set the tone and direction of any universal representation campaign, the campaign can supplement their perspectives with other types of evidence that may be persuasive to certain audiences. Research and data—both qualitative and quantitative—are crucial for demonstrating the need, scope, and importance of legal representation in immigration court. Even though more research is necessary to form a truly comprehensive understanding of the wide array of short- and long-term effects that universal representation has on people and their families—and on communities, courts, and the immigration system as a whole—a variety of publicly available data sources, described in further detail below, can help advance the campaign's mission.[28]

Notably, researchers have approached the study of representation's impact in two ways. Some studies examine the effect of *any* representation on a bond proceeding or immigration court case, whereas other research (such as that derived from NYIFUP or the SAFE Network) analyzes the effects of *universal* representation in particular.[29] Although most audiences may not be interested in these distinctions when it comes to prior research, on some occasions—such as when referencing legal outcome rates—it may make sense to be explicit about the model of representation studied in order to avoid setting unrealistic or inaccurate expectations. But although most available data does not distinguish among the models of representation, any evidence that speaks to the impact of counsel can be used to highlight the potential benefits of universal representation.

Evidence from studies that relied on social science and statistical methods is often important to help government officials and other stakeholders advocate for public investment in a program. Over the long term, relevant research—along with original data collected by programs that receive funding to represent clients—can help ensure sustainability and programmatic growth once initial funding is secured. This combination can help illustrate the individual and system effects of representation using national social science research and local findings. And because different stakeholders will respond to different arguments in support of universal representation, it can also help to provide stories that demonstrate clients' and other community members' experiences and perspectives. Such stories give salient examples that may prove more memorable and more persuasive than statistics alone. Together with the data, the campaign can turn these stories into research reports or fact sheets that support local advocacy.[30]

Educate stakeholders about the immigration system and demonstrate the need for representation

Research shows that most people in the United States lack understanding about how the immigration system really works, making it difficult for them to evaluate the efficacy of various policies.[31] Lacking the requisite knowledge, people will fill in gaps in their understanding by making assumptions—implicitly or explicitly—that may be untrue and even

harmful. Advocates can cite credible research and data to help educate stakeholders about the realities of the immigration system. For example, many stakeholders may be surprised to learn how many people—even those with lawful immigration status—are still vulnerable to deportation.[32] Others may need to hear about the potentially dire consequences to understand the life and liberty interests at stake in deportation proceedings. Taking the time to educate stakeholders about these key issues helps shift the public narrative and decreases the likelihood that people will make inaccurate assumptions or draw ill-informed conclusions.

One crucial starting point for stakeholder education is explaining the current landscape and need for legal representation. Vera's fact sheet on the importance of representation, its *Evaluation of the New York Immigrant Family Unity Project*, and the numerous research studies cited in Module 1 of this series articulate the myriad reasons that representation is so

> Many stakeholders may be surprised to learn how many people—even those with lawful immigration status—are still vulnerable to deportation.

urgently needed, particularly for people who are detained.[33] Campaigns seeking more localized information can visit the website for Syracuse University's Transactional Records Access Clearinghouse (TRAC), which regularly receives data on all removal cases processed through the nation's immigration courts.[34] TRAC's series of interactive data tools and short reports is useful for accessing immigration court data, including representation rates and case volume, at the local or national level. Its website makes immigration court data accessible to people who do not have training in statistics or social science research methods.

Others may look to partner with a university or reputable research institution to conduct original statistical analysis of immigration court

data, which the Executive Office for Immigration Review (EOIR) now makes available on its website.[35] Several campaigns, for example, those in California and the Washington, D.C., metropolitan area, have produced original analyses in partnership with such institutions.[36] Although such partnerships will probably not be feasible for many campaigns, they can prove fruitful when circumstances permit.

Present practical solutions that reflect the positive impact of representation

Once stakeholders have the information they need to more fully understand the scope of the challenges people face in the immigration court system, direct their attention toward concrete ways to resolve the problems that exist. It may be helpful to frame these problems as challenges, then offer pragmatic solutions that can bring about meaningful change, rather than fueling a sense of doubt or pessimism that the situation is too great to be overcome.[37]

Research can go a long way toward demonstrating that universal representation is a practical, feasible way to empower clients, enhance due process, and counter the injustices of immigration court. For example, qualitative data collected through client interviews can highlight the value of representation in bringing dignity and a sense of empowerment to

Research tip: Data on case outcomes

TRAC's Details on Deportation Proceedings tool allows users to examine court outcomes by representation status and customize the data locally.[a] For example, advocates seeking information on rates of representation among detained people in a specific state may select an "Immigration Court State" from the left column, "Custody" from the middle column, and "Represented" from the right column. For all TRAC tools, consult the page's "About the Data" section for important notes about how to correctly interpret the data.

Notably, differences in outcome rates alone are insufficient to claim that legal representation *caused* positive outcomes, and more sophisticated statistical techniques would be

needed to eliminate alternative explanations. The data can, however, be combined with findings from research studies that have shown evidence of a causal effect (such as Vera's NYIFUP evaluation) to demonstrate the positive impact of representation on case outcomes.[b]

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a See the tool at https://trac.syr.edu/phptools/immigration/nta.

b Jennifer Stave, Peter Markowitz, Karen Berberich, et al., *Evaluation of the New York Immigrant Family Unity Project: Assessing the Impact of Legal Representation* (New York: Vera Institute of Justice, 2017), https://perma.cc/B69M-E6ET.

clients—key tenets of due process. The aforementioned research also consistently demonstrates the effectiveness and practicality of representation by showing that it helps clients remain in the United States and access the rights afforded to them under the law.

But although representation is inextricably connected to "wins" in legal cases, court outcomes alone do not fully or adequately measure the genuine importance of representation. Rather, the true "success" of universal representation is the advancement of due process and justice, and empowering clients to actively and meaningfully participate in their own legal cases, regardless of the end result. Although the impact of representation on legal outcomes will remain important for lobbying and advocacy, campaigns should consistently emphasize its critical role in restoring due process and human dignity.

Refer to data that supports shared core values and demonstrates impacts beyond the courtroom

Research from the social sciences provides lessons for communicating effectively about issues of social change. As mentioned previously, research suggests that invoking shared core values such as fairness, justice, and dignity helps bring about change.[38] Public opinion polling shows overwhelming support for government-funded counsel in immigration court across party lines and political ideologies, suggesting that universal representation and the values it encompasses are core beliefs.[39] As an example, Oregon's Defend Everyone report uses a similar framing technique, putting these shared values at the center of the authors' argument for universal representation.[40]

Similarly, advocates can rely on several data sources to convey the myriad ways in which immigrants are integral to communities and society. For example, advocacy reports from New Jersey and New York State demonstrate these points well, referencing research studies and statistics to make projections about the economic benefits of legal representation.[41] Advocates looking to tailor their information locally can turn to other publicly available data sources, such as the Migration Policy Institute's (MPI) Migration Data Hub and New American Economy's research.[42] For example, Vera's profiles of the foreign-born population in each SAFE Network

> Research suggests that invoking shared core values such as fairness, justice, and dignity helps bring about change.

jurisdiction illustrate several ways that immigrants are woven into the fabric of local communities.[43] Taken together, the kinds of statistics these organizations gather and analyze help convey that everyone in the country is negatively affected by policies and practices that harm immigrants.

Although the data sources referenced throughout this module may not always be directly compatible with one another—for example, many cover different time periods, populations, and jurisdictions—they share themes and similar findings that collectively speak to the wide array of proven and potential impacts associated with representation.

Research tip: Data on immigrants as community members

MPI's Migration Data Hub provides access to several informative data tools about immigrants in the United States.[a] For example, the State Immigration Data Profiles are a particularly rich source of data on the importance of immigrants to a state's demographic, cultural, and economic makeup.[b] The tool provides detailed statistics about language, education, familial ties, and more. Information about U.S. citizen children may be especially compelling to some stakeholders.

New American Economy, a bipartisan consortium of U.S. political and business leaders, also provides detailed economic estimates relating to immigration at the city and congressional district level through its Map the Impact tool.[c] The website includes jurisdiction-specific infographics and prepared social media posts that may further aid advocacy campaigns. Their data suggests that representation may generate substantial economic benefits by helping

immigrants remain in the country, information that may be of particular interest to government officials.

The State Priorities Partnership also provides information about state-by-state fiscal policy groups, which may be able to provide third-party support for economic analyses about the projected impact of universal representation.[d]

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a   Migration Policy Institute, "Migration Data Hub," www.migrationpolicy.org/programs/migration-data-hub.

b   Migration Policy Institute, "State Immigration Data Profiles," www.migrationpolicy.org/programs/data-hub/state-immigration-data-profiles.

c   New American Economy, "Map the Impact," www.newamericaneconomy.org/locations.

d   See the State Priorities Partnership website at http://statepriorities.org.

Collect original data once the program starts as evidence to sustain and expand funding

Although the use of publicly available information may be sufficient to obtain funding for universal representation initially, it is often important to collect original data once the program begins. It is best to establish a plan for data collection as soon as possible, ideally before representation has begun, because it can prove challenging to backtrack later to gather client data. Such data, often including statistics and client stories, is useful for articulating the program's successes locally and ensuring accountability to funding bodies and other stakeholders.

Although some funding entities may require only basic data reporting (such as the number of clients served), campaigns should consider whether those minimum requirements will be adequate to sustain or expand the program over time. The same kinds of arguments that helped secure funding in the first place—those referenced throughout this chapter—often help reinforce the value of a program once it is operational. In New York City, for example, quantitative data and compelling client stories helped a small NYIFUP pilot to grow incrementally into a fully funded, multimillion-dollar statewide program. Although the NYIFUP program likely benefited from a comprehensive evaluation report, campaigns of all sizes can use evidence to promote their program's successes without using significant resources.

As previously mentioned, some campaigns may seek to partner with universities or other research institutions that can study this subject, identify the types of data to gather, and establish protocols for data collection. These institutions will often be helpful in generating the kind of reliable, comprehensive research findings that can most credibly and effectively withstand opposition. But given that research partnerships are often unfeasible, even basic information can go a long way toward generating evidence of need and program impact.

Research tip: Collecting original data

It can be helpful for advocates and legal service providers to track at least some essential data points on all immigration cases represented through their programs. The specific data gathered may vary depending on the issues that matter most to a local campaign and advocacy strategy, but data collection should adhere to the principles established throughout this module. Legal service providers and advocates should consider the following recommendations when collecting original data about clients who have contact with the program.

› **Track data that shows the program's immediate practical implications**—such as impacts on legal outcomes, time spent in detention, release rates, and related factors.

› **Collect basic demographic information,** when applicable, that illustrates clients' connections to their broader communities and families. Such data highlights how the impacts of representation radiate beyond the legal case and extend to people other than those directly served.

› **Work with clients and directly impacted people** to ensure that their stories are shared to help describe the program's effects. Clients' stories and qualitative information contextualize the rest of the data and describe impacts that statistics alone cannot convey.

› **Be upfront about the fact that immigration cases can take a while to complete,** and therefore the program data

generated early on should be considered preliminary. This is one of the many reasons it can be helpful to measure early benchmarks, such as grants of bond or release from detention while cases are otherwise pending.

› **Whenever possible, establish baselines**—such as statistics from before and after a program was implemented—as points of comparison.

› **Whenever applicable, be prepared to celebrate the successes of the program, while also describing how the existing level of funding is insufficient to serve all of those who are in need.** For example, consider collecting basic information about how many people a program must turn away from representation after capacity has been met. This can be valuable data to demonstrate the need to expand the program.

Advocates may find it useful to reference Vera's reports on the SAFE Network and its evaluation of NYIFUP as examples of how to use data to measure the impact of universal representation.[a]

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[a] Vera Institute of Justice, *Due Process for All: Evidence from Year 2 of the SAFE Network* (New York: Vera Institute of Justice, 2019), 2, https://perma. cc/DL8E-J7NM; and Jennifer Stave, Peter Markowitz, Karen Berberich, et al., *Evaluation of the New York Immigrant Family Unity Project: Assessing the Impact of Legal Representation* (New York: Vera Institute of Justice, 2017), https://perma.cc/8S9R-XCEE.

Situating Universal Representation Within the Broader Immigrants' Rights Movement

Universal representation campaigns are part of the larger immigrants' rights movement and should be grounded in shared values and goals. From the outset, coalition members should have an understanding of core allies' other advocacy priorities. Key stakeholders may be working to advance other long-standing pro-immigrant policy goals—such as abolishing detention, eliminating collaboration between immigration authorities and local law enforcement, workers' rights, or equal access to driver's licenses—and will want to gauge how and when to prioritize

resources for universal representation without compromising momentum on other initiatives. Assessing the viability and timing of a universal representation campaign will depend on this broader understanding, something that will strengthen the effort by aligning interests from the start.

With few exceptions, building a grassroots effort led by those who are most impacted—in working toward *any* immigration policy goal—will help build power in the community and lay the groundwork for future

> Consider framing universal representation not only as an end goal, but also as an important objective to help achieve the longer-term goal of ending detention.

campaigns. Advocates for universal representation can promote the critical importance of legal counsel while recognizing opportunities for collaboration with movements that also seek to foster due process and achieve other justice-related goals.

Because many political leaders on the local level have committed to protecting immigrant communities, it is important to think strategically and long term about how to make the most of opportunities to bring about broader change. Some advocates who have successfully demonstrated the harmful, inequitable, and often insurmountable repercussions of detention—on individuals, families, and communities—have made two demands: they have called for local funding for deportation defense and an end to local governments' contracts with Immigration and Customs Enforcement to house detainees.[44] These are complementary and important goals that are potentially difficult to achieve contemporaneously in the same jurisdiction.

Although there is no one-size-fits-all solution to this dilemma, local coalitions working toward each objective should maintain open dialogue with one another, commit to taking direction from those most directly

impacted, have clear decision-making processes in place, and work to find areas of alignment. Consider framing universal representation not only as an end goal in and of itself, but also as an important short- or medium-term objective to help achieve the longer-term goal of ending detention. For example, because legal representation is so strongly associated with high court-appearance rates, a system of genuine universal representation may help significantly reduce or entirely eliminate the perceived need for immigration detention.[45]

Ultimately, it is best to coordinate the fights to abolish immigration detention and to guarantee universal representation at the local, state, and national levels. The collective struggle for immigrants' rights should strive to honor and achieve the visions of both movements, resulting in the right to counsel for immigrants facing deportation and the end of detention altogether. Achieving these outcomes can help shape an immigration system that is grounded in values of fairness and human dignity. The shared goal is to end an unjust mass enforcement and incarceration system.

Identifying the best path forward in jurisdictions with intersecting campaigns for immigration reform

When a jurisdiction has campaigns for both universal representation and abolishing detention, the following questions may help identify the best path forward.

› What do the people who are or were locked up in the detention center—and their loved ones—think about closing the facility and the impact that would have?

› On average, how many people are held in this detention center and for how long? How robust are the legal services people receive while they are detained?

› What are the conditions inside this detention center?

› Where are the people held here likely to be transferred? What kind of access to counsel exists at that facility?

› If this detention center closes, what can be done to provide continuity of legal representation to people who end up being transferred?

› Are there legal avenues through which to argue for release—rather than transfer—of the people detained at the facility?

› If the detention center exists within a local jail, are there other organized initiatives (beyond the immigrant rights context) to close the jail itself? What is the likely impact on those initiatives if there is a push to keep the jail open?

› What are the potential longer-term political consequences of closing this detention center, locally, but also for the broader immigrant rights movement?
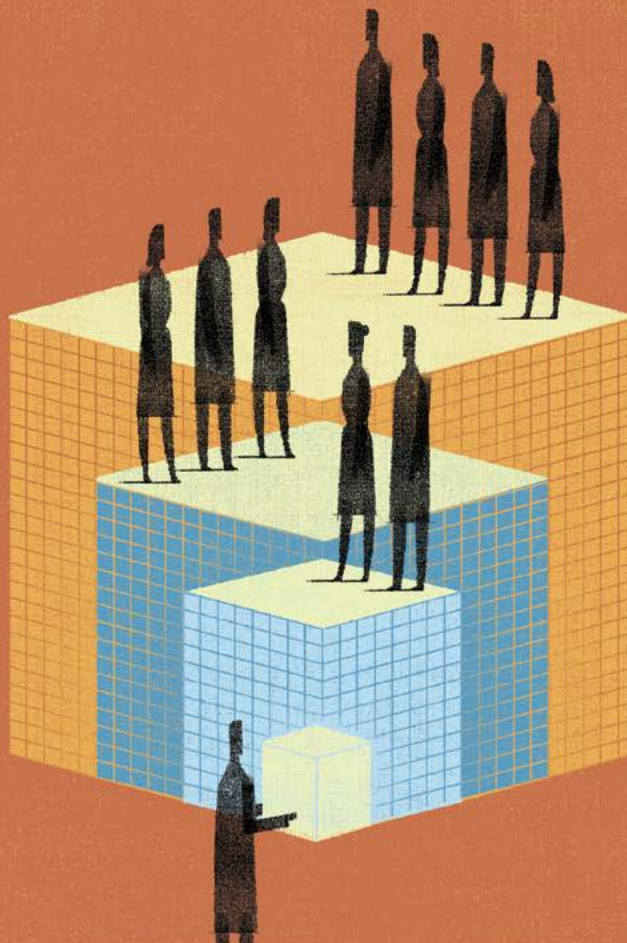
Making the Case for a Full-Scale Sustainable Program

I n jurisdictions that have successfully secured funding for a pilot project, the immediate focus becomes implementation and ensuring that legal service providers have the resources to begin the crucial work of providing legal representation. (The forthcoming Module 3 of this toolkit will focus on program design considerations.[46]) Equally important at this nascent stage is developing a plan to ensure that the success (and limitations) of the program are thoroughly documented and communicated for purposes of longer-term sustainability.

To build a program from a pilot into a fully funded initiative, stakeholders—prospective or new ones, as well as longtime allies—need to be reminded why an investment in universal representation is a humane, fair, and fiscally sound policy.[47] Elected officials' commitment to universal representation needs to be renewed with every legislative season, demonstrating

why and how a program works can motivate them to continue to be champions of the issue. Beyond lawmakers, coalitions should communicate with the community members who fought hard to secure funding for the pilot, particularly about the amount of time necessary for the program to become operational and the projected number of people who will be served. Small-scale pilot programs mean that not everyone will receive representation right away, and this must be made explicit from the start.

From the program's onset, communicate to all stakeholders what a pilot entails and the importance of continuing to develop more funding and/or more secure funding sources, including multiyear funding; funding allocated through executive budgets; or statutory changes guaranteeing the right to counsel. Throughout the program, discuss successes, challenges, and strategies for growth with coalition and movement allies. Strategies

> Beyond lawmakers, coalitions should communicate with the community members who fought hard to secure funding for the pilot.

for expansion include many of the same elements that go into starting a program, as described previously, along with ongoing education of stakeholders to share updates on the program's impact and highlights of the work; an evaluation process that closely tracks relevant data points, such as client demographics and outcomes; public events where people directly affected by the program are encouraged to share their experiences; and media coverage highlighting the stories of clients.[48] It was through these strategies, and more, that the universal representation program in New York transformed from a $500,000 city-based pilot in 2013 to a fully funded program with more than $20 million in combined funding from the city and state by 2020.

Conclusion

The strategies necessary to build state and local universal representation campaigns will vary based on the region's demographics, politics, social justice nonprofit infrastructure, and other characteristics. Each campaign should map out its local context from the inception and be prepared to face its share of challenges as it moves forward.

Strong campaigns have several common building blocks, which may include the following:

› designing a campaign strategy that includes core elements of grassroots organizing, advocacy, communications, policy advocacy, research, and lobbying;

› convening a diverse intersectional coalition that centers the voices and experiences of directly impacted community members;

› grounding the campaign in principles such as due process and dignity for all;

› leading with values-based messaging;

› maintaining clear, direct communication among members of the coalition;

› working in conjunction with other connected campaigns for immigrant rights and racial justice;

› engaging with media—including the use of social media—to shape the public narrative; and

› using data, research, and personal stories to demonstrate the need for and impact of universal representation.

By using these tools strategically, coalitions can build the power needed to achieve—and eventually expand—universal representation programs while broadly advancing immigrant and racial justice.

Endnotes

1   See Module 1 of this toolkit for a description of how a series of federal immigration policies enacted since 1996 have increasingly criminalized immigration; Karen Berberich, Annie Chen, Corey Lazar, et al., *Advancing Universal Representation: A Toolkit, Module 1: The Case for Universal Representation* (New York: Vera Institute of Justice, National Immigration Law Center, and Center for Popular Democracy, 2018), 3-4, https://perma.cc/DX38-5XND.

2   For more information about the SAFE Network, see Vera Institute of Justice, "SAFE Network: Local Leaders Keeping Families Together and Communities Safe," www.vera.org/safe-network. For more information about the New York Immigrant Family Unity Project (NYIFUP), see "The New York Immigrant Family Unity Project: Universal Representation for Detained Immigrants Facing Deportation in Upstate New York," www.vera.org/projects/new-york-immigrant-family-unity-project.

3   For more information about New Jersey, see State of New Jersey, Governor Phil Murphy, "Murphy Administration Delivers on Promise to Provide Legal Representation for Immigrants Facing Detention and Deportation," press release (Trenton, NJ: State of New Jersey, November 19, 2018), https://perma.cc/HA3D-F33E. For more on Illinois, see Sophia Tareen, "Groups Launch $10M Legal Aid Plan for Immigrants, Ex-Inmates," Associated Press, February 2, 2020, https://apnews.com/2b537f21460191e1b0d78be54c574c83. For more on New York, see State of New York, "Liberty Defense Project," https://perma.cc/Y7GJ-RLZB. For more on California, see California Immigrant Policy Center, "One California: Immigrant Services Funding—Providing Immigration Assistance, Services for Citizenship and Support for Remedies from Deportation," https://perma.cc/XJL6-A3QC. For more on Oregon, see Erika Bolstad, "Oregon Funds Program to Help Immigrants with Legal Aid," *Oregon Live*, November 23, 2019, https://perma.cc/LBJ4-WMUX. For more on Washington, see State of Washington Governor Jay Inslee, "Inslee Announces $1.2 Million for Civil Legal Aid Funding to Northwest Immigrant Rights Project," press release (Olympia, WA: Washington Governor Jay Inslee, June 20, 2018), https://perma.cc/GZF4-9XWW.

4   Examples of government-initiated programs—including those in Baltimore and Columbus, Ohio—illustrate the success that campaigns can achieve when elected officials advocate for universal representation along with legal service providers and community groups.

5   If they speak out, U.S. citizen family members may feel less at risk of retaliation from U.S. Immigration and Customs Enforcement than other community members do. And loved ones of people in the community who have already been deported without representation may also speak about the impact of having versus not having counsel.

6   This report uses the word "Latine" as a gender-neutral alternative to the term "Latinx" that is easier for all Spanish speakers to pronounce, regardless of dialect. For more information, see Andrea Merodeadora, "Latino, Latinx, Latine," Medium, August 7, 2017, https://perma.cc/3Q82-7F5L.

7   The "Using Media and Other Communications to Support Advocacy" section on page 19 offers more ideas about how coalitions can center the voices and perspectives of directly impacted community members in local campaigns.

8   For more about Alex Lora's case, see Brooklyn Defender Services, "Prolonged Detention: A Short Documentary on Our Landmark "Lora" Case," November 23, 2016, https://perma.cc/ZG5G-SGYJ. The precedent established in Mr. Lora's case was appealed to the U.S. Supreme Court and overturned. See *Jennings v. Rodriguez*, 138 S. Ct. 830 (2018).

9   To see the results of public opinion polling in select U.S. jurisdictions, visit Vera Institute of Justice, "Taking the Pulse," March 2020, https://www.vera.org/publications/taking-the-pulse.

10 See Module 1 of this toolkit for more information about the importance of avoiding due process exclusions and for a description of how a truly universal representation model seeks to achieve racial equity. Berberich, Chen, Lazar, et al., *Advancing Universal Representation, Module 1*, 2018. Continue reading this module for more recommendations about how to communicate with policymakers and members of the public about these issues.

11 Ibid., 6.

12 Ibid., 16-17.

13 For a description of systemic racism in the criminal legal system, see Elizabeth Hinton, LeShae Henderson, and Cindy Reed, *An Unjust Burden: The Disparate Treatment of Black Americans in the Criminal Justice System* (New York: Vera Institute of Justice, 2018), https://perma.cc/5RW5-QYYS. For information about systemic racism in the immigration system, see Juliana Morgan-Trostle, Kexin Zheng, and Carl Lipscombe, *The State of Black Immigrants—Part II: Black Immigrants in the Mass Criminalization System* (New York: Black Alliance for Just Immigration and NYU School of Law Immigrant Rights Clinic, 2016), https://perma.cc/NHM8-CFFZ.

14 Anna Flagg, "Is There a Connection Between Undocumented Immigrants and Crime?" May 13, 2019, The Marshall Project, https://perma.cc/WK44-HA5P.

15 For example, as the COVID-19 pandemic took hold in New York State, messaging about continued funding for NYIFUP and other immigrant legal services stressed that the need for representation was even more urgent in light of the dire public health risks for those who cannot socially distance in detention. See Vera Institute

of Justice, "Amid COVID-19 Crisis, Vera Institute of Justice & Coalition for Immigrant Defense Appeal for Protections in State Budget for New York's Most Vulnerable Immigrants," press release (New York: Vera Institute of Justice, March 31, 2020), https://perma.cc/93E6-ZDUL.

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17   The Opportunity Agenda, "Tips for Talking Due Process & Immigration," 2018, https://perma.cc/7TYL-9TDJ.

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28   To see examples of publications that use data to demonstrate the impact of universal representation programs, visit the SAFE Network's website at https://www.vera.org/safe-network#publications-videos.

29   Examples of studies that analyze the effect of *any* representation include 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, https://perma.cc/7J65-CZCM; and Emily Ryo, "Detained: A Study of Immigration Bond Hearings," *Law & Society Review* 50, no. 1 (2016), 117-153, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2628962. Examples of research on universal representation, in particular, include Jennifer Stave, Peter Markowitz, Karen Berberich, et al., *Evaluation of the New York Immigrant Family Unity Project: Assessing the Impact of Legal Representation* (New York: Vera Institute of Justice, 2017), https://perma.cc/BAB5-JFKG; and Vera Institute of Justice, *Due Process for All: Evidence from Year 2 of the SAFE Network* (New York: Vera Institute of Justice, 2019), 2, https://perma.cc/ACC7-4JRS. Other studies have explored the impact of legal information programs that do not provide full-scope representation, including Nina Siulc, Zhifen Cheng, Arnold Son, et al., *Legal Orientation Program: Evaluation and Performance and Outcome Measurement Report, Phase II* (New York: Vera Institute of Justice, 2008), https://perma.cc/ZL8P-VBG9; and Eileen Sullivan, Felinda Mottino, Ajay Khashu, et al., *Testing Community Supervision for the INS: An Evaluation of the Appearance Assistance Program* (New York: Vera Institute of Justice, 2000), https://perma.cc/K4NT-KSPY.

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Acknowledgments

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