

December 2020

# Rising to the Moment:

Advancing the National Movement for Universal Representation

Years 1-3 of the SAFE Initiative





IMMIGRANTS  
MUST BE PART  
OF THIS  
CONVERSATION

NEVER  
SETTLE!

MAKE CHANGE  
ON THE  
FEDERAL  
LEVEL

BUILD an  
UNSTOPPABLE  
MOVEMENT

TAKING  
ACTION

# SAFE initiation

COMMUNITIES

are UNDER

ATTACK!

BLACK  
PEOPLE

LGBTQ+

WOMEN

IMMIGRANTS

LET'S GROW  
& WIN  
TOGETHER!

"DEMAND  
SOMETHING  
BIGGER"

IMMIGRA

IMMIGRANTS  
REVITALIZE  
CITIES

WE  
REPA

live

ATION

NEED  
ARATIONS

INVEST in FUTURE GENERATIONS

TELL OUR STORIES

BUILD COMMUNITY

RIGHT to COUNSEL

FORM a LINK BETWEEN POLICY & ACTIVISM

EVERYONE DESERVES REPRESENTATION



COVID-19

RACIAL INJUSTICE

IMMIGRANTS FACING TWIN CRISES



WE NEED CREATIVITY!

WE'RE HUNGRY for CHANGE

ICE is EVERYWHERE

ADVOCATES: FILL SPACES!

JUSTICE is LINKED to SYSTEMIC CHANGE



HOPE

THIS FIGHT STARTS AT HOME

RISE UP DESPITE CIRCUMSTANCE



## From the Director

The Vera Institute of Justice (Vera) launched the SAFE Network, now the SAFE Initiative, in the aftermath of the 2016 election amid a climate of heightened anti-immigrant rhetoric, enforcement, and fear in immigrant communities. Leaders from cities and counties around the country joined with Vera in Columbus, Ohio, to announce a national network of publicly funded deportation defense programs—a last line of defense for immigrants facing detention and deportation—sending a powerful message of solidarity to their communities. Three years and 21 partner sites later, SAFE’s network of government leaders, lawyers, and organizers has helped catalyze a national movement for universal representation, working toward a future where every person facing deportation is entitled to legal representation regardless of income, race, national origin, or history with the criminal legal system.

As immigrant communities have been the target of relentless policies criminalizing them, depriving them of basic protections, and making people increasingly vulnerable to deportation, this network and this movement have risen to help meet that challenge.

Unlike in our criminal legal system, there is no public defender system for people facing the devastating consequences of detention and deportation in immigration court. As a result, most people—including an estimated 70 percent of people in detention—must fend for themselves while facing highly trained government attorneys. 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.

This report details SAFE’s work, building compelling evidence of the need, impact, and public support for

deportation defense programs. Universal representation makes a difference: immigrants who are represented by lawyers are 3.5 times more likely to be granted bond and up to 10 times more likely to establish their right to remain in the United States. And support for universal representation is widespread, with 67 percent of people in the United States supporting government-funded lawyers for people facing deportation. Most importantly, immigrants who have been detained and faced deportation and their family members tell us that having a lawyer is critical as they face judges and government attorneys. We’ve also seen that universal representation for all—including those criminalized by the system—counters the systems that perpetuate racial inequities once immigrants are pulled into the deportation machinery.

SAFE’s collective impact in the past three years reminds us of the importance and power of creating national change by starting the fight from the ground up.

Representation alone is not enough to undo the systemic racism and criminalization facing immigrants in the United States, but publicly funded deportation defense serves as a necessary check on an unjust system. And as we work toward a better system, everyone facing deportation deserves representation.

Now, on the heels of another historic election, we are in a moment of optimism and hope for the future. At this moment of change and opportunity and fueled by growing activism and advocacy, we are hopeful that leaders across all levels of government will renew and double down on their commitment to protect immigrants and move forward the solutions our communities need.

Since November, we have already seen two major victories for the universal representation movement in Harris County, Texas, and the City of Denver. This comes in addition to cities and states across the country sustaining and increasing FY21 funding for deportation defense amid the COVID-19 pandemic.

Yet SAFE's work remains urgent.

While the nation continues to wrestle with the social, health, and economic consequences of a global pandemic and the systemic racism of its institutions, immigrant communities face continued enforcement, the spread of COVID-19 in detention centers, and the impact of a vehemently anti-immigrant agenda for the last four years. Deportation defense is needed now more than ever.

Ultimately, the federal nature of immigration enforcement and detention requires a federal system that guarantees all immigrants facing

deportation the right to zealous government-funded representation. As SAFE enters its fourth year, bold local and state leadership driven by SAFE's model of collaboration among government, legal service providers, and advocates across justice movements will continue to build the momentum toward federal action. Vera is deeply committed to moving forward our collective agenda to build a new vision of justice—centering justice, fairness, and dignity.

A handwritten signature in black ink that reads "Annie Chen". The signature is fluid and cursive, with a large initial "A" and a long, sweeping underline.

Annie Chen, Program Director  
SAFE Initiative  
Vera Institute of Justice

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# Introduction

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In 2017, the Vera Institute of Justice (Vera) launched the Safety and Fairness for Everyone Network—now known as the SAFE Initiative or “SAFE”—to counter the fundamental and urgent injustices facing immigrants caught up in the nation’s immigration enforcement system. With roots in Vera’s work for the past 15 years building the government-funded removal defense field, SAFE bridges local leadership and activism to bring about systemic change.

A unique collaboration among governments, immigration legal service providers, and advocates, SAFE is building a movement for *universal representation*—a public defender system for all immigrants facing deportation. Vera believes that every person facing deportation should be entitled to legal representation regardless of income, race, national origin, or history with the criminal legal system. This report highlights SAFE’s collective achievements over just three years.

## Confronting the injustice of the immigration system

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SAFE was launched in response to the rising tide of inequities and injustices confronting immigrant communities. In addition to a decades-long push to criminalize the immigration system, recent years have seen a dramatic increase in civil immigration detention, the result of stepped-up enforcement and anti-immigrant policies. As of mid-2020, the Trump administration had implemented more than 400 immigration-related executive actions, ranging from increased border and interior enforcement to more restrictive visa processes. Some of the more extreme executive orders have been advanced under the cover of

the COVID-19 crisis.<sup>1</sup> As part of this broader punitive trend, a record high of more than half a million people were sent to immigration detention in 2019. They join millions of others who have passed through an expansive network of public and private detention facilities—often repurposed local jail beds—as they have sought to defend themselves against the federal government’s efforts to deport them.

Despite the devastating effects of detention and deportation and the complexity of immigration law, there is no right to appointed counsel in immigration court. As a result, tens of thousands of people each year go unrepresented, including asylum seekers, longtime legal residents, immigrant parents or spouses of U.S. citizens, and even children. Most immigrants in deportation proceedings—including 70 percent of those who go to court while in detention—must therefore defend themselves against the federal government, a formidable opponent with nearly unlimited resources.

The consequences of this injustice are severe—in the past 20 years, 93 percent of people granted relief from deportation have been represented, meaning it is nearly impossible to win in immigration court without an attorney.<sup>2</sup> Hundreds of thousands have been denied a fair opportunity to exert their legal rights simply because they had no one to stand with them before a judge.

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**SAFE advocates for a more equitable vision of justice to ensure that *everyone* has access to legal representation.**

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SAFE advocates for a more equitable vision of justice to ensure that everyone, particularly those in detention who have been most criminalized and targeted by overpolicing and federal immigration enforcement, has access to legal representation. In the initiative’s first three years,



**85%**  
of clients  
were in  
**detention** when  
representation  
began.

SAFE has helped



of these detained  
clients **secure  
freedom.**

**35%**  
of SAFE clients  
have won the  
right to **remain  
in the United  
States.**

it has delivered this vision to 1,068 clients who have received direct representation and 1,340 of their immediate family members.<sup>3</sup> Eighty-five percent of clients were in detention when their representation began, and SAFE has helped 43 percent of these detained clients secure freedom, either through bonds resulting in release from immigration detention or at the conclusion of their cases. Despite increasingly steep odds in immigration court proceedings, 35 percent of SAFE clients whose cases have been completed thus far have won the right to remain in the United States. While it is too soon to estimate outcomes for all SAFE clients, these initial returns speak to the tremendous impact lawyers have in helping clients access rights and protections available to them under existing law.

Although legal representation alone is not enough to undo decades of systemic injustices, these statistics make clear the stark reality: without counsel, many SAFE clients who have a right to remain in the United States would instead have been deported, separated from their families and homes, or forced to return to the very conditions from which they fled to seek protection.

## Laying the foundation for change: The SAFE model

### Piloting local programs

The SAFE Initiative is led by communities implementing publicly funded, universal representation programs. Buoyed by its growing coalition of partners—government, legal service providers, and advocates—SAFE now operates in 21 communities across 11 states.<sup>4</sup> SAFE is active in red, blue, and “purple” states and in jurisdictions of many sizes.

*Rising to the Moment: Three Years of the SAFE Initiative*

SAFE Partner sites applied to work with Vera and began with public-private partnerships in which each program received a one-time investment of funds to catalyze the initial commitment of public dollars and work toward sustainability. This approach has proven effective at mobilizing public funds for immigrant legal services: to date, the \$1,600,000 in catalyst funds have yielded a public investment of more than \$10,000,000. All jurisdictions that have had funding up for renewal have done so, and more than two-thirds of those jurisdictions have increased public commitments.

Vera provides technical assistance and one-time grants to SAFE legal service providers and community partners to assist in program piloting and implementation while developing technical expertise among its partners with the goal of institutionalizing each program. SAFE Partners engage in trainings and peer-to-peer learning opportunities; collect data and generate evidence to demonstrate program impact; foster narrative change by championing universal representation through media and communications efforts; and support local advocacy to ensure that programs are responsive to the communities they serve, reflect community demands, and are ultimately sustainable.

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### Collaboration as a tool for change



## Building the national movement for universal representation

The SAFE Initiative has set a powerful course toward national systemic change, catalyzing momentum for local- and state-funded deportation defense and support for the idea that all immigrants facing deportation should have access to a lawyer. Prior to SAFE, locally funded deportation defense programs existed in only two states. Today, including the 21 SAFE Partner sites, there are more than 40 jurisdictions across 18 states funding deportation defense programs. Leaders from many of these jurisdictions have signed on to endorse SAFE's mission of universal representation. These programs are also widely supported by the public—a 2020 national poll conducted by Vera found that 67 percent of people in the United States support government-funded lawyers for immigrants facing deportation.<sup>5</sup> Support increases substantially when framed as part of a larger system of attorneys for all, with more than three in four people expressing support.<sup>6</sup>

Vera's work through SAFE has demonstrated the need for and value of these programs and underscored the sustainability of publicly funded deportation defense over multiple years. SAFE is normalizing the idea of deportation defense, and Vera is now working with SAFE Partners to help these successful pilot programs transition into institutionalized models not dependent on ad hoc funding or annual budget advocacy.

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### 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 (November 2020)





## Supporting local advocacy and community partnerships

Through SAFE, Vera leads and supports local and state advocacy and campaign efforts for publicly funded deportation defense programs. Vera has provided research, messaging, strategic advocacy, and other support to allies across the country in furtherance of the national movement for universal representation.

In its third year, Vera launched SAFE's Community Partnership program, providing one-time grants to a cohort of community-led advocacy organizations. These organizations are joining SAFE Partner sites in working with legal service providers and governments to support local and state advocacy for universal representation programs, ensure that programs are responsive to local community needs, and center impacted community members' voices. The Community Partnership program ensures that community-based organizations and directly impacted community members are driving local campaigns so that advocacy efforts and programs are consistent with community needs and priorities.

Working together with the Center for Popular Democracy and the National Immigration Law Center, Vera has also published a key toolkit, *Advancing Universal Representation*, to guide advocates, organizers, legal service providers, and policymakers in their efforts to build, sustain, and grow programs like SAFE.

## Building an evidence base

Over the past three years, Vera has worked with SAFE Partners to build an evidence base demonstrating the need for and impact of local and state deportation defense programs. Through analysis of standardized data collected from more than 1,000 clients and dozens of interviews centering the experiences of impacted people, SAFE has demonstrated the remarkable difference attorneys can make in changing the course of an individual immigration case and the culture of immigration practice. As the work continues, Vera is now modeling the cost of sustainable full-

scale representation, analyzing the relationship between U.S. Immigration and Customs Enforcement (ICE) detention patterns and ongoing access to counsel, conducting national public opinion polling to assess support for publicly funded representation, and performing targeted analyses in support of local advocacy efforts.

## **Bending toward justice: SAFE impacts over three years**

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### Mitigating the harms of an increasingly punitive system of immigration law and policy

As the federal government has worked to systematically harm immigrants and increasingly strip them of their rights, it has become even more difficult for immigrants to access justice and assert the rights that do remain.<sup>7</sup> Stepped-up enforcement has also resulted in more intense targeting of immigrants in their communities. For example, a series of executive orders have further broadened ICE's power to detain undocumented immigrants—including in courthouses and other sensitive locations—even if they have lived in the United States for many years or have U.S.-born children.<sup>8</sup> The Trump Administration has also reactivated 287(g)—the federal-local partnership through which state and local law enforcement officers are deputized to act as ICE agents—and has made attempts to retaliate against so-called “sanctuary cities” that refuse to use local resources to assist ICE enforcement efforts.<sup>9</sup>

As a result of these practices, long-time residents have been targeted in their homes and workplaces and in front of their children, immigrant families have been split apart, communities have been under significant duress, and the core principles of justice and due process for everyone in the United States have been eroded.

SAFE's universal representation model holds the government accountable for abiding by the protections that the law guarantees. The presence of SAFE attorneys helps to guard against government violations of people's constitutional rights, ensuring that procedural protections are followed and that the government meets the burden of proof necessary to deport someone. Such arguments also shift the culture of immigration court practice itself, helping to create a court that can better protect an individual's rights. SAFE's lawyers have also set precedent that will influence how subsequent cases are decided, including for people without representation.

Representation through SAFE further helps ensure immigrants in proceedings are not left waiting indefinitely for their cases to be resolved, and conversely, that people in detention are not deported before they have had a chance to make their cases. While "non-detained" cases—in which people are fighting their cases from outside immigration custody—can take years to complete, "detained" cases typically move quickly through the courts. Although many people remain in detention for months or even years, the average detained case completion time in 2018 was 40 days.<sup>10</sup> These disparities in case durations—increasingly short times for detained cases and increasingly long times for non-detained cases—reflect the realities of case processing priorities set by the federal government and an overburdened court system. As a result of the pace of detained proceedings, vulnerable immigrants in detention have little time to secure access to counsel and launch a defense before their cases are over.



# Navigating the complexity of immigration law: Marisa's story

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Marisa<sup>a</sup> is a lawful permanent resident (often referred to as a “green-card holder”) who came to the United States when she was seven years old, along with her parents and siblings. All her siblings are U.S. citizens or lawful permanent residents. Marisa has five U.S.-citizen children, one of whom has special needs, and they range in age from 12 to 31. For 25 years, Marisa was abused by her partner, suffering significant trauma as a result. During one such incident, the police were called, and Marisa herself was arrested for domestic violence. Marisa mistakenly pled guilty, thinking that by doing so she would quickly be sent home to her children and not knowing that she would suffer immigration consequences as a result of the conviction. Marisa subsequently faced possible deportation from her home to a country she had not lived in for more than 40 years as well as separation from her children and extended family. With the help of her attorney at the Immigrant Defenders Law Center funded by the Santa Ana SAFE program, Marisa won her complex deportation case. Her legal team was able to work with her to gather evidence that they helped present to the court, such as the seriousness and extent of her victimization as a survivor of domestic violence and the mental health issues she suffers as a result.

<sup>a</sup> The names of all clients have been changed to pseudonyms to protect their identities.

## Upholding due process

**Universal representation ensures people can access claims or defenses they may not have known about on their own.**



of SAFE clients have **pursued defenses** against deportation through motions alleging constitutional violations or applications for relief from removal.



of all SAFE clients are pursuing **protection-based** claims such as **asylum**.

**Universal representation ensures people who have legal claims to remain in the United States are not deported simply because they lack attorneys to help make their cases.**

Many SAFE cases remain pending (40 percent have completed in immigration court, 16 percent have closed prior to a decision by the immigration judge, and 44 percent remain open).

Of those cases that have completed thus far,



more than **1** in 3 (35 percent) have achieved outcomes that allow the client to **remain in the United States**.

Source: Vera Institute of Justice, analysis of SAFE data, 2020.

## Advancing racial justice and systemic reform

Communities nationwide are increasingly calling for structural changes that dismantle systemic racism and seek to repair the harms of overpolicing. Publicly funded deportation defense presents an opportunity to protect against the double oppression confronting immigrants of color. Even limited contact with the criminal legal system—an arrest stemming from racial profiling, a case that gets dismissed, or participation

in diversion programs meant to reduce incarceration—can channel non-citizens into the immigration system, where they face the near certainty of deportation without the assistance of counsel. To make matters worse, migration itself is increasingly criminalized and can result in federal criminal convictions and incarceration for the mere act of crossing a border.<sup>11</sup>

As the worst inequities of the criminal legal system—those which overpolice, over-prosecute, and over-incarcerate Black people and other people of color—are replicated and compounded in the immigration system, universal deportation defense serves as a critical tool for disrupting what might otherwise be an unchallenged arrest-to-deportation pipeline.<sup>12</sup> SAFE therefore ensures that contact with the criminal legal system does not unjustly result in automatic exile. SAFE attorneys do this by scrutinizing and challenging the validity of clients' underlying criminal convictions or by proving that clients' convictions do not actually make them deportable under immigration law.

Meanwhile, SAFE government partners advance universal representation as part of their broader efforts to support their immigrant communities while advancing equity initiatives. Such initiatives include strengthening Padilla units in public defender offices to advise people of the immigration consequences of their charges and advancing policies that limit cooperation between law enforcement and ICE.<sup>13</sup> More recently, SAFE community partners have sought to advance racial justice and immigration justice together in public campaigns that call attention to the intersection of these issues.

Vera has supported SAFE Partners in bringing a racial justice perspective to universal representation efforts. This demonstrates one way to dismantle structural barriers to racial equity: by ensuring that all people facing detention and deportation have access to counsel and are given a fair opportunity to exert their rights, regardless of prior contact with the criminal legal system. More recently, Vera has supported local calls to action, as advocates and elected officials alike question the outsized role of policing in city budgets and demand that funds be diverted toward expansion of services that help communities thrive, including publicly funded deportation defense.



## Ensuring that people from diverse backgrounds have access to representation

Universal representation helps ensure that people from diverse backgrounds are equally eligible for representation and that language barriers do not present an impediment to a fair day in court.

Although most people in the immigration system—and the majority of SAFE clients—are from Mexico and the three Northern Triangle countries (El Salvador, Guatemala, and Honduras), SAFE has represented people from **64 countries** who speak **36 languages**.



**64**  
Countries  
represented



**36**  
Languages  
spoken by SAFE clients

Source: Vera Institute of Justice, analysis of SAFE data, 2020.

## Helping people in detention return home—even amidst a public health crisis

In the face of increasingly narrow federal immigration protections, SAFE attorneys have fought for their clients on the front lines in detention centers around the country and prevailed on behalf of their clients in a high number of cases. These efforts demonstrate the crucial importance of vigorous representation in immigration proceedings and the critical value of SAFE in particular. SAFE attorneys have helped secure release from custody for 43 percent of initially detained clients, either on bond or following successful case outcomes.

Programs like SAFE are more critical than ever as the harms of the coronavirus pandemic fall disproportionately on people of color, immigrant communities, and people who are detained or incarcerated.<sup>14</sup> Throughout

### SAFE clients released from custody



SAFE attorneys have helped **secure release** from custody for **43 percent** of initially **detained clients**, either on bond or following successful case outcomes.

## Demonstrating that detention is needless

**Although immigration proceedings are civil—not criminal—matters, immigrants eligible for pretrial release must pay steep costs for their freedom.** For SAFE clients granted bond, the average bond amount was \$6,661, with some set as high as \$100,000. In the immigration system, people must pay the entire bond to secure release. It is not surprising then that 15 percent of those granted bond and thus eligible to fight their cases from outside detention have been unable to pay for or secure their release.

### The price of freedom



**\$6,661**  
average bond  
amount

with some as high as  
\$100,000

Source: Vera Institute of Justice, analysis of SAFE data, 2020.

**Attorneys help reduce bond amounts, lowering barriers to release.**

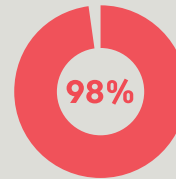
Among SAFE clients who were granted bond,



were granted either a bond when **one had not originally been set** or a **lower bond amount** after the attorney's intervention.

**Attorneys support continued appearance in court.**

Ninety-eight percent of SAFE clients released from custody have continued to appear for their scheduled court hearings, underscoring the senselessness of civil detention, particularly for those who have legal counsel.



of released SAFE clients have **appeared** for their **court hearings**.

the COVID-19 crisis, the federal government has continued to target immigrants, carry out enforcement, and needlessly detain people. Once in detention, immigrants are imprisoned in crowded conditions without access to personal protective equipment or basic necessities including soap, sanitizer, and disinfectant wipes, and they are at risk of the spread of COVID-19 not only in a single detention center, but also throughout a national system connected by frequent transfers.<sup>15</sup> In fact, a recent

epidemiological model built by Vera researchers demonstrates how ICE's continued practice of new book-ins to—and frequent transfers between—detention centers may be contributing to the rapid spread of the virus at rates far beyond those reported to the public by ICE.<sup>16</sup>

Throughout the unprecedented COVID-19 crisis, SAFE attorneys have fought tirelessly to secure humanitarian release from custody for at-risk clients. SAFE lawyers have brought federal lawsuits challenging the detention of those with preexisting conditions in locations such as Denver and San Francisco—where a class action lawsuit helped reduce the local detention center population by nearly two-thirds as clients were released from custody.<sup>17</sup>

### Standing up for immigrants during unprecedented times



During the coronavirus pandemic and amidst a national movement calling for police reform and government accountability to communities of color, local leaders across the SAFE Initiative have recognized the even greater need

for communities to come together to ensure the protection, well-being, and safety of their most vulnerable members. At the local level, SAFE has worked with government leaders to support best practices to counter the effects of the pandemic on immigrant communities and to use their voices to call attention to unjust federal immigration policies. Vera worked with SAFE Partner sites to develop and issue a joint public statement calling for a halt to immigration enforcement and the urgent release of people

in immigration detention, where the risk of COVID-19 infection has been high.

Harsh federal immigration policies continue unabated as the country faces the impacts of the COVID-19 pandemic. SAFE government partners in jurisdictions including Atlanta, Baltimore, Denver, Long Beach, Philadelphia, and Prince George's County, Maryland, have continued to recognize the need for bold local leadership for immigrant communities by preserving and renewing funding for this work for fiscal year 2021. Collectively, SAFE Partners have called attention to the life-or-death consequences of detention and deportation, particularly in light of the coronavirus pandemic, and have only furthered their commitment to protect immigrant communities.

# Protecting health and safety amidst a pandemic: Jenifer's story

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Jenifer is a 38-year-old mother of three U.S. citizen children. She has lived in the United States for more than 15 years and made her living working in the southern Georgia fields and northern Georgia poultry processing plants. Despite her regular employment, Jenifer struggled financially. A misdemeanor resulted in her detention by ICE for more than one year, during which she faced the prospect of losing parental rights and the fear of contracting COVID-19 given that she suffers from an underlying medical condition. The City of Atlanta's immigration defense unit—a SAFE site—took Jenifer's case and advocated for her urgent release. By the end of March 2020, Jenifer had been released from detention. Just one week after her release, Jenifer again secured a job and an apartment. She now has a significant opportunity to work toward reunification with her children and gain lawful status thanks to the efforts of the SAFE Atlanta program.



## Impacting community members

**SAFE clients have deep ties to the United States.** Clients have **been in the United States an average of 14 years** and nearly a quarter of clients have lived in the country for more than 20 years. Ninety-six percent of clients with lawful permanent residence (LPR) have resided in the United States past the five-year mark that triggers eligibility for citizenship.



of **LPR clients** have resided in the United States long enough to be **eligible for citizenship.**

**SAFE is helping to protect young people impacted by immigration.** Forty-four percent of SAFE clients were under age 18 when they first entered the United States. SAFE clients are also parents to 942 children under the age of 18 living in the United States, 82 percent of whom are U.S. citizens.

SAFE clients are parents to



**942 children**

under 18 years old,



of whom are **U.S. citizens.**

**SAFE representation is contributing to the financial stability of clients' households and their communities.**

Adults represented by SAFE participate in the workforce at rates consistent with nationwide averages: 61 percent of SAFE clients have been employed within the 12 months prior to being detained, as compared to 63 percent of people nationwide. Seventy-seven percent of clients with families are breadwinners responsible for at least half of their family's income.



of SAFE clients were **employed** within 12 months prior to being **detained.**



**77%**

of SAFE clients are **responsible** for at least half of their **family's income.**

Sources: Vera Institute of Justice, analysis of SAFE data, 2020; and U.S. Census Bureau, "Selected Characteristics of the Native and Foreign-Born Populations," 2017 ACS 5-Year Estimates, <https://data.census.gov/cedsci/table?q=selected%20characteristics%20of%20native%20and%20foreign%20born%20population&tid=ACSS5Y2017.S05018hidePreview=true>.

## Strengthening the safety net

With 22 million non-citizens at risk of deportation nationwide, locally funded universal representation can play a critical role in helping to strengthen communities and keep families together, shielding community members from the vast array of negative consequences associated with detention and deportation.<sup>18</sup> For example, families who lose a loved one to either circumstance, even if temporarily, often suffer financial loss and instability, while children may experience trauma or other mental health concerns due to family separation.<sup>19</sup> The impacts of SAFE therefore reach well beyond the clients themselves.

# Looking to the future

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Over the past three years, the SAFE Initiative has demonstrated the critical importance of representation in immigration court for individuals, their families, and communities. Working in coalition with governments, legal service providers, and advocates, SAFE has been uniquely positioned to advance solutions locally while establishing momentum for states and laying the groundwork necessary to make federal systemic change a reality. SAFE shows that government leaders who are willing to stand up for their immigrant residents and invest in communities of color can offer a necessary and powerful counternarrative in solidarity with communities to relentless anti-immigrant policies and messages. As SAFE has demonstrated why it is the government's responsibility to protect the fundamental rights, health, and security of everyone, it also normalizes government programs that protect the basic right of due process as a public duty.

As the devastating impacts of a public health crisis meet the harms inflicted by systemic racism and decades of anti-immigrant attacks, the accumulation of injustices facing immigrant communities has reached a tipping point. Its consequences will continue, outlasting any federal administration, unless urgent action is taken at the local, state, and federal levels. While the need for deportation defense programs like those in SAFE has always been immense, it is greater now than ever. SAFE will continue to meet that critical need through its national impact and also build the momentum for federal systemic change through its unique model of collaboration. At this moment of change and opportunity, we are hopeful that leaders across all levels of government will renew and expand their commitment to universal representation and move forward the solutions communities need by centering justice, fairness, and dignity.



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## Endnotes

- 1 Sarah Pierce and Jessica Bolter, *Dismantling and Reconstructing the U.S. Immigration System: A Catalog of Changes under the Trump Presidency* (Washington, DC: Migration Policy Institute, 2020), <https://perma.cc/87X4-W8T6>.
- 2 From October 2000 to June 2020, 453,223 people nationwide were granted relief from deportation on their immigration court cases. Of these, 421,363 (93 percent) were represented. See Transactional Records Access Clearinghouse (TRAC), “State and County Details on Deportation Proceedings in Immigration Court by Hearing Location and Attendance, Representation, Nationality, Custody, Month and Year of NTA, Outcome, and Current Status,” database, accessed August 20, 2020, <https://trac.syr.edu/phptools/immigration/nta/>. This information is refreshed monthly and may change as new data is added.
- 3 SAFE statistics in this report include clients represented from November 1, 2017, to July 31, 2020.
- 4 Previous publications have named 18 SAFE locations, not 21. Although there are 18 distinct programs, three are jointly funded by multiple jurisdictions—the City of Oakland and Alameda County, California; the City of St. Paul and Ramsey County, Minnesota; and the City of Madison and Dane County, Wisconsin, for a total of 21 jurisdictions operating as SAFE partner sites.
- 5 Vera Institute of Justice, *Taking the Pulse: Public Support for Government-Funded Attorneys in Immigration Court* (New York: Vera Institute of Justice, 2020), <https://www.vera.org/publications/taking-the-pulse>.
- 6 *Ibid.*
- 7 For a summary of the research on the impact of representation in immigration court, see Karen Berberich and Nina Siulc, *Why Does Representation Matter?* (New York: Vera Institute of Justice, 2018), <https://perma.cc/NTM6-F8UN>.
- 8 See U.S. Immigration and Customs Enforcement, “Delegation of Immigration Authority Section 287(g) Immigration and Nationality Act,” <https://www.ice.gov/287g>; U.S. Immigration and Customs Enforcement, “Directive Number 11072.1: Civil Immigration Enforcement Actions Inside Courthouses,” effective date January 20, 2018, <https://perma.cc/8WEG-VDH7>; and The White House, “Executive Order: Enhancing Public Safety in the Interior of the United States,” January 25, 2017, <https://perma.cc/58HV-4HBT>. Among other aspects, this order reinstated a program known as “Secure Communities.”
- 9 The White House, “Executive Order: Enhancing Public Safety in the Interior of the United States,” 2017.
- 10 See TRAC, “Immigration Court Processing Time by Outcome,” database, accessed August 20, 2020, [https://trac.syr.edu/phptools/immigration/court\\_backlog/court\\_proctime\\_outcome.php](https://trac.syr.edu/phptools/immigration/court_backlog/court_proctime_outcome.php). This information is refreshed monthly and may change as new data is added.
- 11 For example, the “zero-tolerance” policy enacted by Attorney General Jeff Sessions in April 2018 directed federal prosecutors to criminally prosecute all immigrants found entering the country without authorization, resulting in the separation of thousands of families at the border. See Memorandum from U.S. Attorney General Jeff Sessions to Federal Prosecutors Along the Southwest Border, “Zero-Tolerance for Offenses under 8 U.S.C. §1325(a)” (Washington, DC: Office of the Attorney General, April 6, 2018), <https://perma.cc/P7XN-V27G>.
- 12 Juliana Morgan-Trostle and Kexin Zheng, *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>.
- 13 Under *Padilla v. Kentucky*, 559 U.S. 356 (2010), <https://perma.cc/VD3E-CQWY>, the U.S. Supreme Court ruled that defense attorneys must convey to their clients the immigration consequences of a conviction, such as possible deportation. Public defenders offices with *Padilla* units have attorneys who specialize in advising on these matters.
- 14 Additional resources and guidance on immigrant justice and the COVID-19 pandemic are accessible at <https://www.vera.org/spotlights/covid-19-immigration>.
- 15 Erica Bryant, “Detention May Become Death Sentence for Vulnerable Detainees,” Vera Institute of Justice, March 25, 2020, <https://perma.cc/2534-U9UR>.
- 16 Dennis Kuo, Noelle Smart, Zachary Lawrence, and Adam Garcia, *The Hidden Curve: Estimating the Spread of COVID-19 among People in ICE Detention* (New York: Vera Institute of Justice, 2020), <https://perma.cc/2TT2-32GA>.
- 17 Nuala Bishari, “S.F. Immigration Lawyers Cut ICE Detention Centers Population by Two-Thirds,” *San Francisco Public Press*, July 5, 2020, <https://perma.cc/X9UX-7CZL>.
- 18 For data about the immigrant population with the United States, see U.S. Census Bureau, “Selected Characteristics of the Native and Foreign-Born Populations,” 2018 American Community Survey (ACS) 5-Year Estimates, <https://data.census.gov/cedsci/table?q=selected%20characteristics%20of%20the%20native%20and%20foreign%20born%20populations&tid=ACST5Y2018.S0501&hidePreview=true>. There are an estimated 22,289,490 foreign-born people in the United States who are not naturalized U.S. citizens. For a summary of how universal representation helps offset the negative impacts of detention and deportation, see Karen Berberich, Annie Chen, Corey Lazar, and Emily Tucker, *Advancing Universal Representation: A Toolkit: Module 1—The Case for Universal Representation* (New York: Vera Institute of Justice, 2018), 14-15, <https://perma.cc/W6WT-VBYT>.



<sup>19</sup> See for example Randy Capps, Heather Koball, Andrea Campetella et al., *Implications of Immigration Enforcement Activities for the Well-being of Children in Immigrant Families* (Washington, DC: Urban Institute and Migration Policy Institute, 2015), <https://perma.cc/Z8V9-H6MK>.

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