

Restoring Due Process in Long Beach:

SAFE Network Report (May 1, 2019– April 30, 2020)

June 2020

The SAFE Network is a growing movement of communities convened by the Vera Institute of Justice (Vera) that are dedicated to publicly funded, universal representation for immigrants facing detention and deportation.¹ Universal representation advances a public defender system for people facing deportation, one in which every person facing deportation is represented by a lawyer regardless of income, race, national origin, or history with the criminal justice system. Such programs are more important now than ever.

Immigrants facing deportation do not have the right to a public defender if they cannot afford a lawyer. Yet, the government trying to deport them always has counsel.

The obstacles facing unrepresented immigrants are substantial. Immigration law is among the most complex areas of American law—it has been described by federal courts as “labyrinthine” with one former immigration judge saying that an immigration case “often involves life and death consequences [that] amount to death penalty cases heard in traffic court settings.”² Immigrants in detention, like those served by the Long Beach SAFE program, are particularly defenseless—detained immigrants are at an increased risk of contracting COVID-19, the least likely to secure representation, and the most vulnerable to deportation.³ The loss of liberty and free movement that characterize detention introduce additional obstacles into the already daunting process of an individual trying to represent themselves effectively. Especially amid the current public health crisis, the stakes for immigrants in detention could not be higher.

As a result, most people fighting for their lives in immigration court—including 70 percent of people in detention nationwide—navigate the complexities of immigration law alone.⁴ At the Adelanto Immigration Court, which hears the cases of SAFE’s Long Beach detained clients, 73 percent have gone unrepresented over the last five years. Over the past 20 years, this number is even starker, with 86 percent of cases in Adelanto lacking representation.⁵

In response, communities like Long Beach are advancing universal representation through the SAFE Network and are leading the way toward restoring fundamental fairness and dignity to everyone facing deportation.

Figure 1. Map of the SAFE Network



I. Background

The Long Beach SAFE Program

Long Beach is the first and only city in Los Angeles County—and one of only a handful of cities in California—providing legal defense to immigrants facing deportation through a merits-blind, universal representation model. A product of the hard work of Long Beach government leaders and community advocates, Long Beach voted to create a legal defense fund for immigrants in December 2018.

In April 2019, the government of Long Beach announced \$250,000 for the fund, along with a one-time catalyst grant of \$100,000 from the Vera Institute of Justice, to keep the program funded from May 2019 through April 2021. After completing a competitive and detailed application process, the Immigrant Defenders Law Center (ImmDef) was selected to provide legal services to immigrants as part of the Fund.

Immigrant Defenders Law Center’s Year in SAFE

ImmDef began accepting Long Beach clients on May 8, 2019. ImmDef has dedicated a staff attorney to focus solely on Long Beach clients and a paralegal to spend 45 percent of their time on the needs of clients served by the Fund.

ImmDef identifies prospective detained and non-detained clients in two primary ways. First, ImmDef goes to the Detained Los Angeles Immigration Court when detained clients appear at their initial “master calendar” hearings. At these hearings, the ImmDef attorney identifies immigrants from the City of Long Beach who do not have attorneys. Second, ImmDef finds Long Beach clients through a referral system where partner organizations can refer prospective clients. ImmDef has worked closely with the Long Beach Immigrants’ Rights Coalition to ensure it is responsive to the needs of the community and to help identify eligible clients who need representation through the Fund. ImmDef does not screen clients based on eligibility for legal relief nor does it exclude clients who are otherwise eligible for our services based on criminal history.

ImmDef’s priority is to provide high-quality representation and to preserve a client’s dignity in an otherwise unequal justice system. ImmDef attorneys advocate zealously on behalf of their clients, particularly so that clients can be released from detention. At times, what is considered “successful” about a case may not be a grant of relief from deportation, but rather ensuring that a client is treated with respect and allowed an opportunity to make educated decisions regarding the outcome of their case. ImmDef attorneys work to ensure that their clients’ dignity is preserved and that they and their families are informed and prepared for whatever difficult decisions they may have to make.

Figure 2. SAFE Network Program Description

Legal Service Provider:	Immigrant Defenders Law Center
Populations Served:	Residents of Long Beach or those employed in Long Beach; those who were residents of, or were employed in, Long Beach immediately prior to detention by ICE
Detention Centers Served:	Adelanto Detention Facility (Adelanto, CA)
Method of Identifying Clients:	Community referrals; Legal Orientation Programs (LOP) at Adelanto Detention Facility

Referrals

In addition to the Legal Orientation Program at the Adelanto Detention Facility, the Long Beach SAFE program also receives referrals from the community. The list below, although non-exhaustive, is a record of other sources of referrals:

- Long Beach Immigrant Rights Coalition (LBIRC)
- Los Angeles Justice Fund legal service providers
- Calls to Immigrant Defenders Law Center’s central phone line and walk-ins by clients or family members of clients
- Referrals from current clients, including detained individuals who may know another individual with Long Beach ties that could benefit from program
- Various stakeholders within Long Beach, including the City of Long Beach and Long Beach Community Defense Network

Figure 3 below depicts additional information regarding the status of client referrals as of April 30, 2020.

Figure 3. Source and Status of Referrals to the Long Beach SAFE Program

	Number of Clients
Accepted Cases	21 (57%)
From LBIRC	17
From Other	4
Pending Cases	2 (5%)
From LBIRC	1
From Other	1
Declined Cases¹	14 (38%)
From LBIRC	14
From Other	0
Total Cases	37 (100%)

II. SAFE by the Numbers

The statistics in this report cover clients represented under Long Beach SAFE program from May 1, 2019 (the beginning of data collection in Long Beach) to April 30, 2020. These statistics should be considered preliminary, based on just one year of data and a limited sample size.

Leveling the playing field

By advancing the universal representation model, the city of Long Beach and ImmDef help to ensure that everyone has an equal chance of being represented by an attorney, regardless of their background.

- > Since the inception of the SAFE program in Long Beach, ImmDef has represented **21 clients with Long Beach residency**, helping to level the playing field for immigrants who otherwise would have gone to court alone.

¹ These referrals were declined for a variety of reasons. For example, the individual already had an attorney, ICE transferred the individual out of Southern California, or the individual was ordered deported before the referral.

- > The 21 clients represented in Long Beach hail from 4 countries—primarily Mexico (50 percent), as well as Guatemala, Honduras, and Cambodia. Universal representation helps ensure that people from diverse backgrounds are equally eligible for representation and given the opportunity to have a fair day in court.

Long Beach clients as community members

SAFE clients and their families are part of the fabric of Long Beach communities. Representation through SAFE has radiating impacts that extend beyond those directly represented.

- > Like the nationwide trend in the SAFE Network, the 21 clients represented in Long Beach have longstanding ties to the United States.⁶ On average, clients have **lived in the country for 14 years**.
- > Many clients first came to the United States as children or young adults. Seventy nine percent of clients arrived before their 25th birthday and 64 percent arrived when they were 18 or younger.
- > Over a third (38 percent) of Long Beach’s SAFE clients are parents. Collectively, Long Beach clients are **parents to 21 children under the age of 18** living in the United States, most of whom are U.S. citizens (71 percent).
- > SAFE clients in Long Beach are a part of households that include at least 24 immediate nuclear family members living in the United States.
- > **Thirty eight percent of clients with families are the “breadwinners,”** responsible for at least half of their family’s income.

The road to freedom

Representation through the SAFE program in Long Beach helps people secure release from detention and reunite with their families and communities.

- > Since the inception of the program, **20 percent of clients whose cases began in detention were released** from custody, either on bond or at the conclusion of their legal cases. Because some people are subject to mandatory detention—meaning they are not eligible for bond and must remain in detention while removal proceedings are pending against them—this statistic should be viewed in that context and could never be 100 percent.
- > People in immigration court face steep costs to obtain release from custody, even if granted bond. Immigration court bonds are determined without clear guidelines or regard for a client’s income. For Long Beach clients granted bond, the average bond amount was \$15,000, although bonds were set as high as \$20,000. On average, ImmDef clients were asked to pay 38 percent of their annual household incomes in exchange for the right to fight their cases from outside of custody.⁷
- > Attorneys support continued appearance in immigration court. **All Long Beach 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. By contrast, those without counsel to help them navigate the process are far less likely to appear in court.⁸

The impact of due process on case outcomes

Representation ensures that clients have a chance to advance a defense and that an immigration judge can evaluate the merits of their cases.

- > Over the course of the program, 10 percent (N=2) of Long Beach SAFE client cases have completed in immigration court. Although the immigration court backlog has now surpassed one million cases

nationwide, cases involving people who are detained move more quickly. If attorneys do not intervene quickly, cases could end with people being deported without any opportunity for legal access.

- > **Almost half of clients of the Long Beach SAFE program (43 percent), have pursued some legal defense against deportation** through motions or applications. Several of these cases remain pending. Other clients have either opted to pursue voluntary departure or accept an order of removal or may be preparing applications that have not yet been filed. Of those clients who are pursuing some legal defense, the vast majority (89 percent) are pursuing protection-based claims such as asylum.

The figure below depicts the current case status and outcome of cases for each of Long Beach’s SAFE clients.

Figure 4. Case Status and Outcomes

	Number of Clients
Pending Cases	18 (86%)
Currently Detained	5
Currently Non-Detained	13
<i>Cases that Began Non-Detained</i>	<i>11</i>
<i>Released from Detention</i>	<i>2</i>
Closed Cases	3 (14%)
Cases Completed in Immigration Court	2 (10%)
<i>Voluntary Departure</i>	<i>1</i>
<i>Order of Removal</i>	<i>1</i>
Other Closed Cases (e.g., Attorney Withdrawal)	1
Total Cases	(100%)

Zealous representation enhances due process and fairness for people facing a system that is unbalanced and unjust. The result of the legal case—whether the client wins the right to remain in the United States or must return to their country—is just one of many important factors in measuring the impact of programs like SAFE.

- > As important as “winning” can be for clients, it is not the only goal of representation. An important goal is to level the playing field so that everyone has equal access to justice, regardless of their background. When measuring the impact of representation through a due process lens, universal representation achieves success for everyone by ensuring justice is equally available to all.
- > Clients who receive free universal representation through SAFE and similar programs report that their attorneys treat them with respect and dignity, help them regain trust in public institutions, and restore fairness to an inhumane and unjust system.

III. Client Stories

Andres* is the father of a U.S. citizen child and a caretaker for his long-time partner and her children. They lived as a family for over a decade in Long Beach, and Andres took care of all the children as his own. He was also the main breadwinner for the family. One day, Andres entered a women’s restroom by mistake and was subsequently arrested. This arrest brought Andres to ICE’s attention, and ICE came to his home and arrested him. In March, Andres was detained at Adelanto Detention Facility—which houses approximately 2,000 people—right as the number of COVID-19 cases was exploding in Southern California. Due to the inability to socially distance and the lack of protective gear or necessities (like soap) at Adelanto, it was critical for Andres to be released. An ImmDef attorney provided by the Long Beach Justice Fund, together with organizers from Long Beach Immigrant Rights Coalition, worked hard to assemble the evidence required to convince an immigration judge to release Andres while his immigration case is pending. They were successful, and Andres was granted bond, paid for through community support. Now Andres can safely shelter-in-place at home with his partner and children in Long Beach as he awaits the outcome of his immigration case.

Marco* is a long-time resident of Long Beach. He was brought to the United States as a child and does not know any other home. Growing up, he struggled with poverty and substance abuse, and he got caught up in the criminal justice system. However, he made great efforts to improve his life and completed both anger management and substance abuse programs. Before he had an attorney, he studied immigration law and filed his own motions in his criminal proceedings. Marco’s attorney reports that he is attentive, cooperative, and has sincere remorse for the mistakes he made. Although Marco was detained for six months and not initially eligible for a bond hearing, his Long Beach Justice Fund attorney at the Immigrant Defenders Law Center fought for him and succeeded in getting him released on bond.

Cristofer* worked as a gardener in Long Beach for 15 years. Due to a conviction for driving under the influence, ICE placed him in ICE detention after completion of his criminal sentence. Because of his DUI conviction, an immigration judge denied Cristofer’s bond request. Cristofer is an introvert and struggled immensely in ICE detention. In Long Beach, he led a quiet life with his partner and avoided extensive social contact. Cristofer did not have a pathway to legal status at the time of detention. He had no family members in the United States that could petition for him, nor any claim to asylum. Cristofer was about to be deported, but with zealous representation from his Long Beach Justice Fund attorney at the Immigrant Defenders Law Center, he was granted his request for voluntary departure. With a lawful exit from the United States, Cristofer preserved a pathway to return to the United States lawfully in the future.

Manuel,* a long-time Long Beach resident, has lived with his partner and worked in construction in Long Beach for almost two decades. After he was arrested by ICE, he obtained a lawyer from the Immigrant Defenders Law Center through Long Beach’s SAFE program. At his very first immigration court hearing, that lawyer denied all the government’s allegations against Manuel, holding the government to its burden of proving he is not a U.S. citizen. Since the government could not produce evidence in support of its case, the immigration judge immediately terminated immigration proceedings against Manuel. Because his case was initially terminated, ICE has subsequently tried to place Manuel in immigration proceedings again. However, Manuel knew his rights and refused to sign any documents without the presence of his attorney at Immigrant Defenders Law Center. Although Manuel’s second case is currently pending, Manuel’s attorney—provided to him by the City of Long Beach—allowed him to terminate his initial immigration proceedings and assert his rights under the law.

**The names in this report have been changed to protect the clients’ identities.*

Endnotes

¹ The Safety and Fairness for Everyone (SAFE) Network includes Atlanta, Georgia; Austin, Texas; Baltimore, Maryland; Chicago, Illinois; Columbus, Ohio; Dallas, Texas; Dane County, Wisconsin; Long Beach, Colorado; Long Beach, California; New Haven, Connecticut; Oakland/Alameda County, California; Philadelphia, Pennsylvania; Prince George’s County, Maryland; Ramsey County/St. Paul, Minnesota; Sacramento, California; San Antonio, Texas; San Francisco, California; and Long Beach, California; Chicago, Illinois. For additional information, see Vera Institute of Justice, “Safety and Fairness for Everyone (SAFE) Network,” vera.org/projects/safe-network. For more on universal representation, see Vera Institute of Justice, “Advancing Universal Representation: A Toolkit for Advocates, Organizers, Legal Service Providers, and Policymakers,” <https://www.vera.org/advancing-universal-representation-toolkit>.

² On the labyrinthine nature of immigration law, see *Drax v. Reno*, 338 F.3d 98, 99 (2d Cir. 2003). See also Noel Brennan, “A View from the Immigration Bench,” *Fordham Law Review* 78, no. 2 (2009), 623-31, 624, <http://ir.lawnet.fordham.edu/cgi/viewcontent.cgi?article=4479&context=flr>. To read the remarks from Immigration Judge Dana Leigh Marks, see Dana Leigh Marks, “Immigration judge: Death penalty cases in a traffic court setting,” *CNN* (June 26, 2014), <https://perma.cc/SXV6-BKZN>.

³ Ingrid V. Eagly and Steven Shafer, “A National Study of Access to Counsel in Immigration Court,” *University of Pennsylvania Law Review*, 164, no. 1 (2015), 1-91, 22, <https://perma.cc/82F5-WE2D>

⁴ The representation rate in immigration court fluctuates slightly over time. Historically, 81 percent of detained immigrants have lacked representation—between October 2000 and November 2019, 81 percent of all people in detention had never been represented (1,237,252 of 1,526,419 cases). The rate has improved slightly over the past two decades, with approximately 70 percent unrepresented in recent years—between October 2012 and November 2019, 70 percent of all people in detention had never been represented (327,828 of 466,756 cases), with the exact percentage varying slightly from year to year. See Transactional Records Access Clearinghouse (TRAC), “Details on Deportation Proceedings in Immigration Court,” accessed January 13, 2020, <https://trac.syr.edu/phptools/immigration/nta/>.

⁵ Of the more than 9,000 detained cases (N=9,019) heard before the Adelanto Immigration Court over the previous five fiscal years (FY14 through FY18), over 6,600 (or 73 percent) were without the assistance of counsel (N=6,606). These numbers do not include individuals whose cases have been re-categorized as “released” after being granted bond. See Transactional Records Access Clearinghouse (TRAC), “Details on Deportation Proceedings in Immigration Court,” accessed April 22, 2020, <https://trac.syr.edu/phptools/immigration/nta/>.

⁶ For nationwide statistics and success stories from the most recent year of the SAFE Network, *Due Process for All: Evidence from Year 2 of Being SAFE* (New York: Vera Institute of Justice, 2019), <https://www.vera.org/publications/a-year-of-being-safe>.

⁷ To be eligible for representation under SAFE, a client’s household income cannot exceed 200 percent of the federal poverty level. Assuming that each client makes the maximum amount permitted under these guidelines based on their family size, the average bond is 12 percent of a person’s total income.

⁸ For a summary of this research, see Karen Berberich and Nina Siulc, *Why Does Representation Matter?* (New York: Vera Institute of Justice, 2018), <https://www.vera.org/publications/why-does-representation-matter>.