

Restoring Due Process in Dallas

ADVANCING UNIVERSAL REPRESENTATION

SAFE Network Annual Report (March 1, 2021 – February 28, 2022)

IN PARTNERSHIP WITH:



CITY OF DALLAS
OFFICE OF EQUITY & INCLUSION
WELCOMING COMMUNITIES
& IMMIGRANT AFFAIRS DIVISION

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Advancing Universal Representation: SAFE Network Annual Report
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June 2022

The Advancing Universal Representation Initiative is a national movement for 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 is represented by a lawyer regardless of income, race, national origin, or history with the criminal justice system. Within this movement, Vera has established the SAFE (Safety & Fairness for Everyone) Network—of which Dallas is a partner—a unique collaboration of government leaders, legal service providers, and community-based advocates all working with Vera to stand up and grow publicly funded, legal representation programs at state and local levels.²

The obstacles facing unrepresented immigrants are substantial. 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. Immigration law is among the most complex areas of American law—it has been described by federal courts as “labyrinthine,” and one former immigration judge said that an immigration case “often involves life and death consequences [that] amount to death penalty cases heard in traffic court settings.”³ Immigrants in detention, like those served by the Dallas 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.⁴ 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 COVID-19 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 about 70 percent of people in detention nationwide—navigate the complexities of immigration law alone.⁵ Among deportation cases that began in the last five years (FY2017 – FY2021) in the Dallas Immigration Court, which hears the cases of SAFE’s Dallas clients, 79 percent have gone unrepresented.⁶ This number is nearly just as high when looking at a longer time horizon; among cases that began in the past 20 years (FY2002 – FY2021), 71 percent of cases in the Dallas Immigration Court have gone unrepresented.⁷ In response, communities like Dallas are advancing universal representation through the SAFE Network and are leading the way toward increasing fundamental fairness and dignity to everyone facing deportation. While representation alone cannot end the entrenched harm of an unfair immigration system, universal representation programs can mitigate the dehumanizing experience of detention and immigration court and give people a fighting chance to return home to their families in the United States.

Figure 1. Map of the SAFE Network

Safety and Fairness for Everyone (SAFE) Network

- Long Beach, CA
- Santa Ana, CA
- Oakland/Alameda Co., CA
- Sacramento, CA
- California Collaborative for Immigrant Justice (San Francisco), CA
- Denver, CO
- Connecticut Coalition for Immigrant Freedom, CT
- Chicago, IL
- Cook Co., IL
- San Antonio, TX
- Austin, TX
- Dallas, TX
- Harris Co., TX
- Atlanta, GA
- Columbus, OH
- Columbus, OH
- Baltimore, MD
- Prince George's Co., MD
- Ramsey Co./St. Paul, MN
- Philadelphia, PA
- Dane Co., WI



I. The Dallas SAFE Program

The City of Dallas joined the SAFE Network in July 2019 after allocating \$100,000 of public funds to establish a universal representation pilot program, which began providing services at the start of the pandemic in March 2020. In the program’s inaugural year, the International Rescue Committee (IRC) in Dallas was awarded an additional \$100,000 in matching SAFE catalyst funds to support the start of services. Although catalyst funds are only provided for the inaugural year, the City of Dallas committed another \$100,000 in the following year to continue the program. Over the last two years, IRC Dallas has demonstrated how legal representation and social services options safeguard due process for people facing deportation, promote safety and freedom from dangerous detention conditions, and foster family unity and community stability. Still, with the current funding, IRC Dallas’s capacity is limited—as of the end of February 2022, of the 33,677 people with pending cases and with Dallas County zip codes (as listed in court records), 79 percent are subject to deportation without access to a lawyer.⁸

Vera applauds IRC Dallas for its creative, zealous, and person-centered advocacy, which has served clients under the universal representation model who otherwise would not have had access to crucial legal representation. Due to IRC’s comprehensive infrastructure and holistic programming, SAFE clients are able to take advantage of essential language access and mental health services, employment and fiscal management training, and housing and other social services referrals. Vera also celebrates the City of Dallas for its dedicated leadership in this work. The Office of Welcoming Communities and Immigrant Affairs (WCIA), overseen by now-Assistant City Manager Liz Cedillo-Pereira, played a vital role in supporting the program’s creation and building its network.

Figure 2. SAFE Network Program Description

Legal Service Provider:	International Rescue Committee in Dallas
Populations Served:	Dallas City and Dallas County residents
Detention Centers Served:	Prairieland Detention Center, Bluebonnet Detention Center, Johnson County Jail, Kay County Detention Center, and Eden Detention Center
Method of Identifying Clients:	Referrals from Catholic Charities Dallas, other legal services organizations, and community referrals via IRC hotline

II. IRC Dallas’s Year in SAFE

IRC Dallas began its work under this program at the start of the COVID-19 pandemic, which created heightened safety risks for people arrested and detained by ICE, led to several unanticipated shifts in ICE enforcement, disrupted communication channels between clients and their counsel, and exacerbated mental health challenges. Most recently, the program has seen detained persons being transferred arbitrarily and without notice to other detention centers, often outside of the Dallas Immigration Court jurisdiction, which impacts the ability to help them secure or retain representation. The City of Dallas worked closely with IRC Dallas, other Texas legal service providers, and community groups to troubleshoot these issues. This collaboration led to meaningful solutions such as shifting the scope of representation to continue to prioritize representing people in detention and also offer representation to non-detained Dallas residents consistent with the universal representation model. As a result, many recipients of DACA (Deferred Action for Childhood Arrivals) received services under the program. Shifting coverage under this program was necessary under the changing circumstances, and the City should further explore the local populations needing holistic legal representation services at this time, including non-residents arriving from the border.

Currently, the program’s biggest challenges include (a) consistent, sustainable, and expanded funding to meet the significant unmet need in Dallas, and (b) staffing changes and turnover at IRC. While the City of Dallas did fund at a continued level of \$100,000 in the program’s second year, this halved the program’s budget from year one, which included Vera’s catalyst funding. Accordingly, IRC Dallas was forced to limit its services offered, leaving many individuals in the area without the assistance of counsel or supportive social services. Later in the year, to supplement the City’s funding, IRC secured \$20,000 in funding from the Texas Bar Association to represent eligible individuals in Dallas County. Because funding predictability is a key component of supporting strong and stable universal representation programs, Vera recommends that the City of Dallas increase its investment into this program and secure multi-year commitments, where possible, to more fully meet the representation needs for Dallas City residents facing deportation.⁹ Additionally, the City can explore collaborating with Dallas County to grow the program in the long term, as Vera has observed the many benefits of cities and counties collaborating to expand the funding and services available to the local immigrant community.

IRC has worked diligently to ensure the program is a success despite the staffing challenges they have faced. The new IRC Dallas Executive Director, Shalaina Abioye, a returning IRC veteran, hit the ground running to connect with Vera and the City of Dallas Welcoming Communities and Immigrant Affairs Division and advocate for timely re-funding of this program. Additionally, Héctor Ruiz, Esq. joined the

IRC Dallas team as the Legal Program Director for Resettlement, Asylum, and Integration in December 2021. Héctor has maintained regular contact with community-based organizations— including Catholic Charities Dallas, RAICES in Dallas and Fort Worth, Mosaic Family Services, and Human Rights Initiative— and taken a strong leadership role to ensure the continuity of services as well as ongoing advocacy with Dallas County to support sustainable re-staffing and expansion of services to immigrant communities.

A major success that occurred under this program over the last year was the intentional advocacy uplifting the experiences of Black immigrants subjected to deportation proceedings. On September 14, 2021, Kayla Moore, former IRC SAFE staff attorney, participated as a panelist in a City of Dallas event on “Race, Racism, and Immigration.” During the panel, Kayla promoted the universal representation model and the SAFE program as a way to build equity in legal services and due process into the otherwise inequitable and dehumanizing process of deportation. As the immigration policy landscape continues to evolve nationwide, Vera commends IRC Dallas’s priorities to challenge systemic anti-Blackness in the immigration system as a part of its day-to-day work.

III. SAFE by the Numbers

The statistics in this report cover clients represented under the Dallas SAFE program from March 1, 2020 (the beginning of data collection in Dallas) to February 28, 2022. These statistics should be considered preliminary, based on just two years of data and a limited sample size.

Leveling the playing field

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

- > IRC has represented **46 clients**, helping to level the playing field for immigrants who otherwise would have gone to court alone.
- > The 46 clients represented by IRC Dallas hail from 12 countries—primarily Mexico (22 percent), followed by Honduras (18 percent) and Cuba (16 percent). The remaining clients are from Cameroon, the Democratic Republic of the Congo, El Salvador, Ethiopia, Guatemala, Kenya, Nicaragua, Nigeria, and Venezuela. 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.

Figure 3. ZIP Codes of Dallas SAFE Clients

ZIP Code	Number of Clients	ZIP Code	Number of Clients	ZIP Code	Number of Clients
75028	1	75214	1	75235	3
75038	1	75217	1	75238	1
75039	1	75218	1	75240	1
75041	1	75220	7	75241	2
75048	1	75224	1	75243	3
75061	3	75227	1	75252	1
75077	1	75228	1	75253	1
75203	2	75231	2	75287	4
75211	2	75233	1	76009	1

IRC Dallas clients as community members

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

- > On average, clients have **lived in the United States for six years**; 11 clients have lived in the country for more than 10 years.
- > Many clients first came to the United States as children or young adults. Thirty-eight percent of clients arrived before their 25th birthday and 13 percent arrived when they were 18 or younger.
- > More than a third (37 percent) of Dallas’s SAFE clients are parents. Collectively, Dallas clients are **parents to 39 children under the age of 18** living in the United States, the majority of whom are U.S. citizens (54 percent).
- > Clients have a total of **18 derivative beneficiaries**—a term for family members, usually children and spouses, whose own immigration cases hinge on the outcome of a main case to which they are attached. The legal outcomes of SAFE cases therefore have a magnifying effect, impacting the legal status of clients’ immediate family members.
- > SAFE clients in Dallas have at least 55 immediate nuclear family members (16 spouses and 39 children) living in the United States. This number does not include other nuclear family members such as siblings of clients, and data is missing for three clients regarding their spouses and/or children, so clients likely have far more than 55 close family members living in the United States).
- > **Fifty-seven percent of clients are the “breadwinners,”** responsible for at least half of their family’s income.

“I ask that the judge give me the opportunity to stay in this country, because the majority of my life I’ve spent here, and my family is here—my children and my grandchildren. My eldest granddaughter is very close to me and constantly wants to be with me. The most important thing to me is family. That is why I have worked so hard, for them.”

-IRC SAFE Client

The road to freedom

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

- > Since the inception of the program, **58 percent of clients whose cases began in detention were released** from custody, either on bond or parole.
- > People in immigration court face steep costs to obtain release from custody, even if granted bond. For Dallas clients granted bond, the average bond amount was approximately \$4,000, although bonds were set as high as \$10,000. On average, IRC Dallas clients were asked to pay 10 percent of their annual household incomes in exchange for the right to fight their cases from outside of custody.¹⁰
- > Attorneys help clients receive lower bonds. Among Dallas clients who were granted bond, **19 percent were either granted a bond when one had not originally been set or were granted a lower bond amount** after the attorney's intervention.
- > Attorneys support continued appearance in immigration court. **All Dallas 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.¹¹

"Our clients describe being in immigration detention as one of the most frightening, uncertain, and dark periods of their lives... For many, the difference between having an attorney and not having one is drastic, where access to representation means a renewed sense of hope for the future and for a fighting chance to stay [in the United States] despite the odds."

-Carlos M. Peña, DOJ Accredited Representative

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 first two years of SAFE, 19 percent of Dallas SAFE clients' 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 quickly.¹² If attorneys do not intervene quickly, cases could end with people being deported or transferred to another facility without any opportunity for legal access.
- > **In the last two years, half of Dallas SAFE program clients (50 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. Among people pursuing some legal defense, most (70 percent) are pursuing protection-based claims such as asylum. Of those who are not pursuing any form of defense, all have reviewed their options thoroughly and most have either exhausted their legal options or made informed decisions with the help of the program's legal counsel.
- > **Seventy-two percent of Dallas SAFE clients' cases remain pending**, making it too soon to meaningfully estimate outcomes for all clients. These pending cases include clients who may have received an initial outcome permitting them to remain lawfully in the US, but whose case remains open because of ongoing appeals or renewal of immigration status. The clients' cases that have closed in the early stages of the program have not resulted in outcomes permitting the client to remain lawfully in the United States. These outcomes should not be considered

representative of all SAFE Dallas cases given the small number of cases that have completed thus far and the fact that cases involving the pursuit of legal relief or release from custody generally require more time and labor to make the case. This timing has been extended by the prolonged closure of the Dallas Immigration Court for non-detained cases because of COVID-19, which only reopened in July 2021. Moreover, according to IRC, multiple hearings in the last year have been postponed, at times without any reasoning provided and with little to no prior notice to the attorney or client contributing to further delays.

The figure below depicts Dallas SAFE clients’ current case status and outcomes.

Figure 4. Case Status and Outcomes

	Number of Clients	Percent of All Cases
Pending Cases	33	71.7%
Currently Detained	2	4.3%
Currently Released	31	67.4%
<i>Cases that began non-detained</i>	20	
<i>Released from detention</i>	11	
Closed Cases	13	28.3%
Cases Completed in Immigration Court	9	19.6%
<i>Voluntary Departure</i>	1	
<i>Order of Removal</i>	8	
Other Closed Cases (e.g., Attorney Withdrawal)	4	8.7%
Total Cases	46	100.0%

Zealous representation enhances due process and fairness for people facing an unbalanced and unjust system. The result of the legal case—whether the client wins the right to remain in the United States or not—is just one of many important factors in measuring the impact of programs like SAFE.

- > As important as “winning” is, 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.
- > Attorneys matter even when clients are unable to remain in the United States. In Dallas, one client accepted voluntary departure. Although voluntary departure does not allow for a person to remain in the country, it is a more favorable outcome than receiving a removal order because it does not carry the same penalties and leaves opportunities for the person to return to the United States with authorization in the future. The Dallas SAFE client who accepted voluntary departure determined that it was preferable to fighting their case after an informed conversation with their attorney regarding the options available to them.¹³
- > Clients who receive free universal representation through SAFE and similar programs report that their attorneys treat them with respect and dignity advancing due process and fairness—while navigating an otherwise inhumane and unjust system.

IV. Client Stories

Lisette* is a citizen of Mexico who has resided in the United States since 1990. She is undocumented and has four children and six grandchildren, all of whom are U.S. citizens. Her oldest son was tragically killed soon after his nineteenth birthday in 2010. In March 2020, Lisette was arrested for alleged criminal conduct that she did not commit. Despite her innocence, ICE arrested and detained Lisette, and the immigration judge ordered her removed. However, through collaboration and communication between the IRC and her criminal defense attorney, authorities confirmed that the criminal case would not be moving forward. Soon thereafter, all criminal charges against Lisette were dropped. Based on these developments, the IRC managed to secure a bond for Lisette that she and her family were able to afford. She has since been reunited with her family. IRC is now working with *pro bono* counsel to continue to appeal the immigration judge's removal order, which is pending before the Board of Immigration Appeals.

Juan* is a citizen of El Salvador who was threatened multiple times by gangs in his home country during his childhood and was left with no choice but to flee to survive. He arrived in the United States under the age of 18 and alone, presented himself at a port of entry, and made known his fear of returning to El Salvador. He was placed in a shelter for minors and then released to the custody of his father, who has lived in the United States for more than 20 years with Temporary Protected Status (TPS), a temporary immigration status afforded to thousands of Salvadorans due to the severe political, economic, and environmental conditions there. Out of fear of being deported, Juan failed to appear to his next immigration court hearing and was ordered deported *in absentia*. Years later, ICE arrested Juan, which is when IRC staff met him. The legal team hit the ground running to request that the immigration judge halt his deportation and re-open his proceedings to allow him to apply for asylum, which he was unable to do when he first entered the United States as a minor because he did not have an attorney. The judge agreed with IRC's analysis and stopped Juan's deportation. Thanks to IRC's strong and expeditious advocacy, Juan is currently safe and receiving the legal and social services support he needs to continue to adjudicate his asylum claim.

* *The names in this section have been changed to pseudonyms to protect clients' identities.*

Endnotes

¹ For additional information, see Vera Institute of Justice, "Advancing Universal Representation Initiative," <https://www.vera.org/ending-mass-incarceration/reducing-incarceration/detention-of-immigrants/advancing-universal-representation-initiative>.

² The Safety and Fairness for Everyone (SAFE) Network includes Alameda County, CA; Atlanta, GA; Austin, TX; Baltimore, MD; Chicago, IL; Columbus, OH; Cook County, IL; Dallas, TX; Dane County, WI; Denver, CO; Harris County, TX; Long Beach, CA; Madison, WI; New Haven, CT; Oakland, CA; Philadelphia, PA; Prince George's County, MD; Ramsey County, MN; Sacramento, CA; San Antonio, TX; San Francisco, CA; Santa Ana, CA; and St. Paul, MN. Vera Institute of Justice, "Advancing Universal Representation Initiative," <https://www.vera.org/ending-mass-incarceration/reducing-incarceration/detention-of-immigrants/advancing-universal-representation-initiative>.

³ 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, <https://ir.lawnet.fordham.edu/cgi/viewcontent.cgi?referer=&httpsredir=1&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>.

⁴ 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>.

⁵ The representation rate in immigration court fluctuates slightly over time. Historically, 81 percent of detained immigrants have lacked representation—between October 2000 and February 2022, 81 percent of all people in detention never had legal representation (1,301,883 of 1,606,068 cases). The rate has improved slightly over the past decade, with approximately 70 percent unrepresented in recent years—between October 2012 and February 2022, 71 percent of all people in detention never had legal representation (323,952 of 459,402 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 May 16, 2022, <https://trac.syr.edu/phptools/immigration/nta/>.

⁶ Of the over 82,000 cases (N=81,910) heard before the Dallas Immigration Courts over the previous five fiscal years (FY17 through FY21), over 17,200 (21 percent) have/had access to legal representation (N=17,259), while 79 percent (N=64,651) is lacking/lacked legal representation. See Transactional Records Access Clearinghouse (TRAC), “Details on Deportation Proceedings in Immigration Court,” accessed March 24, 2022, <https://trac.syr.edu/phptools/immigration/nta/>.

⁷ Of the over 184,000 cases (N=184,869) heard before the Dallas Immigration Courts over the previous 20 fiscal years (FY02 through FY21), over 53,000 (29 percent) have/had access to legal representation (N=53,152), while 71 percent (N=131,717) is lacking/lacked legal representation. See Transactional Records Access Clearinghouse (TRAC), “Details on Deportation Proceedings in Immigration Court,” accessed March 24, 2022, <https://trac.syr.edu/phptools/immigration/nta/>.

⁸ Of the 33,677 people with pending cases whose zip codes in court records are in Dallas County, Texas, 7,168 (21 percent) have access to legal representation, while 26,509 (79 percent) lack legal representation. See Transactional Records Access Clearinghouse (TRAC), “Details on Deportation Proceedings in Immigration Court,” accessed June 1, 2022, <https://trac.syr.edu/phptools/immigration/nta/>. Many people’s complete addresses are not populated in immigration court records. Additionally, if the individual is detained, the zip code listed in court records may refer to where the detention facility is located. As such, these numbers serve as a point of reference to help gauge an approximate number of local residents in immigration court.

⁹ As of the end of the SAFE Network’s third year, all jurisdictions that had funding up for renewal had done so, and more than two-thirds of those jurisdictions had increased public commitments. Vera Institute of Justice, “Rising to the Moment: Advancing the National Movement for Universal Representation,” <https://www.vera.org/downloads/publications/rising-to-the-moment.pdf>.

¹⁰ To be eligible for representation under SAFE, a client’s household income cannot exceed 200 percent of the federal poverty level.

¹¹ Nina Siulc and Noelle Smart, *Evidence Shows That Most Immigrants Appear for Immigration Court Hearings* (New York: Vera Institute of Justice, 2020), <https://www.vera.org/publications/immigrant-court-appearance-fact-sheet>.

¹² Detained cases move quickly, as the median case completion time for non-review detained cases in FY2021 was only 43 days in US immigration courts. Non-review cases refer to removal, deportation, exclusion, asylum-only, and withholding-only cases. See United States Department of Justice, “Executive Office for Immigration Review Adjudication Statistics: Median Completion Time for Detained Cases,” accessed May 26, 2022, <https://www.justice.gov/eoir/page/file/1163621/download>.

¹³ Vera learned about the client's impression of the outcome from narrative reports and conversations with IRC directly and collected information about client cases without revealing the clients' identities.