

# Restoring Due Process in Ramsey County/Saint Paul:

SAFE Initiative Annual Report (March 1, 2020 – April 30, 2021)

June 2021

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The SAFE Initiative 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.<sup>1</sup> 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.

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.”<sup>2</sup> Immigrants in detention, like those served by the Ramsey County/Saint Paul 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.<sup>3</sup> 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.<sup>4</sup> At the Fort Snelling Immigration Court, which hears the cases of SAFE’s Ramsey County/Saint Paul clients, 48 percent have gone unrepresented over the last five years. Over the past 20 years, this number is even starker, with 74 percent of cases in the Fort Snelling Immigration Court lacking representation.<sup>5</sup> In response, communities like Ramsey County and Saint Paul are advancing universal representation through the SAFE Initiative and are leading the way toward restoring fundamental fairness and dignity to everyone facing deportation.

**Figure 1. Map of the SAFE Initiative**

**Safety and Fairness for Everyone (SAFE) Initiative Members**

Alameda Co., CA  
Long Beach, CA  
Oakland, CA  
Sacramento, CA  
San Francisco, CA  
Santa Ana, CA  
New Haven Universal Representation Pilot Project CT\*  
Denver, CO  
Atlanta, GA  
Chicago, IL  
Cook Co., IL\*  
Baltimore, MD  
Prince George's Co., MD  
Ramsey Co., MN  
St. Paul, MN  
Columbus, OH  
Philadelphia, PA  
Austin, TX  
Dallas, TX  
San Antonio, TX  
Dane Co., WI  
Madison, WI

\* Denotes partners working towards a publicly funded deportation defense program



## I. Background

### The Ramsey County – Saint Paul SAFE program

Ramsey County and the City of Saint Paul joined the SAFE Initiative after the County and City allocated \$100,000 and \$50,000 of public funds respectively to establish a universal representation program that began services in March 2020. In the program's inaugural year, three legal services providers—Immigrant Law Center of Minnesota (“ILCM”), The Advocates for Human Rights (“Advocates”), and Mid-Minnesota Legal Aid (“MMLA”), altogether referred to as the Providers—were awarded an additional \$100,000 in matching catalyst funds from the Vera Institute of Justice (“Vera”) to support the start of services. Over the past year, the Providers have demonstrated how legal representation in tandem with Ramsey County's wraparound services program safeguards due process for people facing deportation, promotes safety and freedom from dangerous detention conditions, and fosters family unity and community stability. Still, at this pilot phase, the Providers' capacity is limited; thousands of people appearing before the Fort Snelling Immigration Court remain unrepresented.

Due to the Providers' collaborative infrastructure and holistic programming, SAFE clients are able to take advantage of crucial language access support, mental health assessments, post-release services, and other wraparound social services referrals through the Wilder Foundation. In addition to representing 25 clients, the Providers have conducted virtual intakes and consultations for 242 people, not limited to Ramsey County residents. Of their 25 clients, 23 (92 percent) are residents of Saint Paul, and the other two are from New Brighton and Roseville.

Under the universal representation model, the providers have engaged in creative, zealous and person-centered advocacy which has served clients who otherwise would not have had access to crucial legal representation. Further, by funding SAFE and other complimentary programs, Ramsey County and the City of Saint Paul—whose

representatives have consistently called for the protection of their immigrant communities in bold ways—reflects the localities’ commitment to immigrant justice. More recently, they reaffirmed their leadership on these issues by demanding the release of immigrants from COVID-ridden detention centers.<sup>6</sup>

**Figure 2. SAFE Initiative Program Description**

<b>Legal Service Provider:</b>	Advocates for Human Rights; Immigrant Law Center of Minnesota; Mid-Minnesota Legal Aid
<b>Community Partner:</b>	Release MN8
<b>Populations Served:</b>	Ramsey County/Saint Paul residents facing removal or those with close ties to Ramsey County/Saint Paul, with a priority for serving those who are detained
<b>Detention Centers Served:</b>	Sherburne County Jail (Elk River, MN); Carver County Jail (Chaska, MN); Freeborn County Jail (Albert Lea, MN); Kandiyohi County Jail (Willmar, MN)
<b>Method of Identifying Clients:</b>	Virtual intakes and Know Your Rights presentations at Sherburne, Carver, Freeborn, Kandiyohi, and Minnesota state correctional facilities; Providers’ Detention Hotline; referrals from the community

### First Year of Legal Services in SAFE

This program was built at the onset of the COVID-19 pandemic and has therefore seen extreme challenges exacerbating the many obstacles already faced by people caught up in the detention and deportation system. Despite these unforeseen and unique circumstances, this highly collaborative program has successfully laid a strong foundation for a lasting deportation defense program that serves the community’s needs—an enormous victory for the Minnesota community.

### Heightened Risks for People Detained by ICE

Even amid the pandemic, federal immigration enforcement has continued to target vulnerable communities, book people into detention, and transfer individuals throughout the immigration detention system thus enabling the rapid spread of the virus in detention centers and communities.<sup>7</sup> The Providers reported a series of COVID outbreaks in the facilities they serve, with at least 40 people detained by Immigration and Customs Enforcement (“ICE”) testing positive in Kandiyohi County Jail.<sup>8</sup> On account of restrictions and social distancing protocols, the Providers’ detained clients experienced further isolation from their families and communities and saw a serious decline in mental health and morale. Through its holistic approach to representation, and in close collaboration with the County and City officials, the Providers have been able to support their clients’ needs, file lawsuits seeking release of high-risk individuals including those subjected to prolonged detention in violation of their constitutional rights, fight for access to client medical records and medical protections, and bring widespread attention to the devastating conditions in Minnesota jails.<sup>9</sup>

## Unanticipated Shift in ICE Enforcement

Around July 2020, the Providers reported difficulties in identifying eligible clients in detention due to temporarily reduced enforcement by ICE, limited capacity and residency requirements posing restrictions on their ability to represent non-residents detained in the same facilities. Nonetheless, with the support of Ramsey County and the City of Saint Paul, the Providers were able to expand their referral system to include those in Minnesota state criminal custody appearing before the Fort Snelling Immigration Court. They also expanded their scope of representation to support otherwise detained residents in their requests for release, people in the appeals stages of their cases, and those needing support to re-open their cases to challenge removal orders that were previously accepted due to the lack of legal support available then. They requested humanitarian release and filed petitions for *habeas corpus* for clients whose constitutional rights are being violated by their detention during COVID-19. Still, the Providers reported that ICE under the Biden Administration continues to stall requests for humanitarian parole. As ICE enforcement resumes and the immigration courts re-open their highly backlogged non-detained dockets, Vera anticipates a growing need under this program.

## Disrupted Communication Channels

From the start of the pandemic, legal services providers nationwide experienced further disruptions in communication channels between them and their clients, especially for those incarcerated by ICE. The Providers reported several challenges in maintaining confidentiality with their clients when doing remote representation, most notably the inability to meet with detained clients in person or in otherwise secure, confidential spaces. The Providers reported that in most facilities, they only have access to their clients via limited phone calls which makes representing those with mental health conditions especially challenging. These circumstances are particularly problematic because of the essential and confidential information that needs to be communicated and trust that must be developed between the legal team and their client. Furthermore, the Fort Snelling Immigration Court transitioned to almost exclusively hearing cases via video teleconference and telephone which has led to a series of technological issues and serious barriers to the immigration judge's ability to provide due process under the law. To overcome these barriers, the Providers have advocated for their clients on an individual basis and collectively with the Immigration Court and detention facilities to fight for more access to clients, especially those with significant mental health conditions.

## Staff Mental Health and Well-being

Working under duress during a global pandemic and at an unprecedented time in Minnesota has affected the mental health of staff and attorneys. The Providers acknowledge their shared grief posed by the murder of George Floyd in Minneapolis compounded by the anxiety, fear, and uncertainty associated with the virus, and the recognition of their own critical help needed for those in detention—which fall on the work of the legal team. These conditions have created a large amount of stress and mental exhaustion. The Providers have sought to build morale by hosting a virtual retreat to reflect on their work over the past year including project successes, areas of improvement, sustainability, needs of the community, and staff wellness.

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*"As we seek out time to grieve, protest and be present to ourselves, our families and our community, we know that the stakes could not be higher for the BIPOC clients we serve and thus we remain committed to advocate for our clients."*

- Sarah Brenes,  
Director of Refugee & Immigrant Program at  
The Advocates for Human Rights

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## II. SAFE by the Numbers

The statistics in this report cover clients represented under the Ramsey County/Saint Paul SAFE program from March 1, 2020 (the beginning of data collection in Ramsey County/Saint Paul) to April 30, 2021. 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, Ramsey County/Saint Paul and the Providers help to ensure that everyone has an equal chance of being represented by an attorney, regardless of their background.**

- > The Providers have represented **25 clients**, helping to level the playing field for immigrants who otherwise would have gone to court alone.
- > The 25 clients represented in Ramsey County/Saint Paul hail from 12 countries—primarily Burma (24 percent), Mexico (20 percent) and Laos (12 percent). The remaining clients hail from Cameroon, El Salvador, Ethiopia, the Gambia, Guatemala, Liberia, Malaysia, Somalia, and Thailand. 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.

### Ramsey County/Saint Paul clients as community members

**SAFE clients and their families are part of the fabric of Ramsey County/Saint Paul communities.**

**Representation through SAFE has radiating impacts that extend beyond those directly represented.**

- > Like the nationwide trend in the SAFE Initiative, the 25 clients represented in Ramsey County/Saint Paul have had longstanding ties to the United States.<sup>10</sup> On average, clients have **lived in the country for 16 years**; 21 percent of clients have been lived in the United States for over 20 years.
- > Many clients first came to the United States as children or young adults. Seventy one percent of clients arrived before their 25<sup>th</sup> birthday and 46 percent arrived when they were 18 or younger.
- > Nearly a third (32 percent) of Ramsey County/Saint Paul's SAFE clients are parents. Collectively, Ramsey County/Saint Paul clients are **parents to 25 children under the age of 18** living in the United States, almost all of whom are U.S. citizens (92 percent).
- > **Fifty five 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 Ramsey County/Saint Paul helps people secure release from detention and reunite with their families and communities.**

- > Since the inception of the program, **25 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.

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*“I have lost everything. I don’t have anything.  
But I am content now because I am free...  
A thousand thanks for everything you have  
done for me.”*

-Chue\*

Client of Ramsey County/Saint Paul program

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## 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 year, 24 percent of Ramsey County/Saint Paul 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.
- > **In the last year, more than half of clients of the Ramsey County/Saint Paul SAFE program (56 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, all are pursuing protection-based claims such as asylum.
- > It is too soon to meaningfully estimate outcomes for all of Ramsey County/Saint Paul's SAFE clients. **To date, one of the six clients (17 percent) whose cases completed in immigration court has achieved an outcome that allows the client to remain in the United States.** This should not be considered representative of all SAFE Ramsey County/Saint Paul cases given the very small number of cases that have completed thus far and the fact that cases involving the pursuit of legal relief typically take longer to complete.

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*"Providing government-funded lawyers for people in immigrant court is an effective and widely supported way to ensure that everyone is treated with basic fairness and dignity."*

-Mayor Melvin Carter and Commissioner Toni Carter,  
["ICE must release immigrant detainees,"](#)  
*StarTribune, May 1, 2020*

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The figure below depicts the current case status and outcome of cases for all of Ramsey County/Saint Paul's SAFE clients.

**Figure 3. Case Status and Outcomes**

	Number of Clients
<b>Pending Cases</b>	<b>13 (52%)</b>
Currently Detained	11
Currently Released	2
Cases that began non-detained	1
Released from detention	1
<b>Closed Cases</b>	<b>12 (48%)</b>
Cases Completed in Immigration Court	6 (24%)
Relief Granted	1
Order of Removal	5
Other Closed Cases (e.g., Habeas Corpus Petitions or Other Release Requests)	6
<b>Total Cases</b>	<b>25 (100%)</b>

*\*A few of the pending cases were granted relief by the Immigration Judge but remain open because DHS filed an appeal.*

**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 or maintains 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.**

- > Obtaining legal relief 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 advancing due process and fairness—while navigating an otherwise inhumane and unjust system.
- > A zealous and person-centered defense also ensures that the government cannot exercise its incredible power and authority with impunity. Providers safeguard against the government taking away a person's freedom without meeting the burden of proof to do so.

### III. Client Stories

Rodolfo\* came to the United States seeking safety and respite after being tortured by the Zetas Cartel in Mexico for defending his community against the cartel's abuse. The Providers were able to represent him under the SAFE program and presented evidence to the immigration judge demonstrating that he would be tortured again—by either the same cartel or corrupt Mexican police—if he were to be forcibly returned to Mexico. The judge deferred his removal under the United Nations Convention Against Torture, and the Department of Homeland Security ("DHS") appealed that decision. Nonetheless, the Board of Immigration Appeals ("BIA") ruled in favor of Rodolfo. He was released from ICE custody and with the help of the Providers, was briefly housed and supported by a local church partner. Providers then referred him to their wraparound services partner, Comunidades Latinas Unidas En Servicio ("CLUES"), who connected him to longer-term housing. Free from his deportation proceedings, Rodolfo and his cousin now intend to re-build their construction company in Minnesota.

Lis\* is a Hmong refugee from Laos who was arrested by ICE in 2018 based on a single, decade-old conviction. The Providers helped him adjust his status to that of a lawful permanent resident through his U.S. citizen wife, a common avenue for relief from deportation. However, DHS appealed the decision, and the BIA incorrectly ruled in favor of the government based on an error of law that the legal team is continuing to contest. Lis languished in ICE detention while the BIA sat on the appeal for over a year. The Providers, with the support of *pro bono* attorneys through the American Immigration Lawyers Association ("AILA"), filed a petition for *habeas corpus* based on his unconstitutionally lengthy detention and forced DHS to agree to a bond hearing. The Providers successfully secured Lis' release on a low bond, and the immigration judge deferred his removal under the U.N. Convention Against Torture based on the dangers he faced in Laos. While Lis is protected from imminent deportation, the Providers are working with the immigration law clinic at the University of Minnesota Law School to continue to challenge the Board's original legal errors.

Ama\* was born in Malaysia and has lived in the United States for over a decade. She and her husband care for their two U.S. citizen children, ages 5 and 8. She was moved into ICE custody following a criminal matter for which she served her full sentence. Due to the significant hardships of incarceration, Ama lost hope and accepted an order of removal without the support of counsel. However, ICE was



unable to remove her to Malaysia during the COVID-19 pandemic. After nine months in ICE custody, the Providers were able to represent her in a petition for habeas corpus based on her lengthy detention being unconstitutional which led to her release from custody in early 2021. She now lives safely in Saint Paul with her family.

*\*Names have been changed to protect client privacy.*

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## Endnotes

<sup>1</sup> The Safety and Fairness for Everyone (SAFE) Initiative includes Alameda County, CA; Atlanta, GA; Austin, TX; Baltimore, MD; Chicago, IL; Columbus, OH; Dallas, TX; Dane County, WI; Denver, CO; Long Beach, CA; Madison, WI; 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. Cook County, IL and New Haven, CT are also partnered with SAFE and striving towards public funding for removal defense. For additional information, see Vera Institute of Justice, "Safety and Fairness for Everyone (SAFE) Initiative," [vera.org/safe-initiative](https://www.vera.org/safe-initiative). 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>.

<sup>2</sup> 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>.

<sup>3</sup> 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>.

<sup>4</sup> 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/>.

<sup>5</sup> In TRAC's immigration court data, the Fort Snelling Immigration Court is listed under Bloomington Immigration Court, and of the over 4,700 detained cases (N=4,749) heard before the Fort Snelling Immigration Court over the previous five fiscal years (FY16 through FY20), over 2,400 or (52 percent) have/had access to legal representation (N=2,472), while 48 percent (N=2,277) is lacking/lacked legal representation. 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 June 7, 2021, <https://trac.syr.edu/phptools/immigration/nta/>.

<sup>6</sup> Saint Paul Mayor Melvin Carter and Ramsey County Commissioner Chair Toni Carter, "ICE must release immigrant detainees," *Star Tribune*, May 1, 2020, <https://www.startribune.com/ice-must-release-immigrant-detainees/570128702/>.

<sup>7</sup> Nick Miroff and Devlin Barrett, "ICE preparing targeted arrests in 'sanctuary cities,' amplifying president's campaign theme," *Washington Post*, September 29, 2020, [https://www.washingtonpost.com/immigration/trump-ice-raids-sanctuary-cities/2020/09/29/99aa17f0-0274-11eb-8879-7663b816bfa5\\_story.html](https://www.washingtonpost.com/immigration/trump-ice-raids-sanctuary-cities/2020/09/29/99aa17f0-0274-11eb-8879-7663b816bfa5_story.html).

<sup>8</sup> Mark Wasson, "Advocates push for ICE detainees to be released from Kandiyohi County Jail due to COVID-19 concerns, sheriff says he doesn't have that power," *West Central Tribune*, January 9, 2021, <https://www.wctrib.com/news/crime-and-courts/6815868-Advocates-push-for-ICE-detainees-to-be-released-from-Kandiyohi-County-Jail-due-to-COVID-19-concerns-sheriff-says-he-doesnt-have-that-power>.



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<sup>9</sup> The Advocates for Human Rights, James H. Binger Center for New Americans, and Minnesota Immigrant Health Alliance, “Immigration Detention and COVID-19: Illuminating Human Rights Concerns in Minnesota Jails,” March 2021, [https://www.theadvocatesforhumanrights.org/uploads/ice\\_detention\\_covid-19\\_and\\_mn\\_jails\\_final.pdf](https://www.theadvocatesforhumanrights.org/uploads/ice_detention_covid-19_and_mn_jails_final.pdf).

<sup>10</sup> For nationwide statistics and success stories from the most recent year of the SAFE Initiative, *Rising to the Moment: Advancing the National Movement for Universal Representation* (New York: Vera Institute of Justice, 2020), <https://www.vera.org/publications/rising-to-the-moment-for-universal-representation>.