

## SAN DIEGO COUNTY 2021 BUDGET ASK

### IMMIGRANT LEGAL DEFENSE PROGRAM

Because the right to counsel is fundamental to fairness and justice in our country

## RECOMMENDATION FOR THE SAN DIEGO COUNTY BOARD OF SUPERVISORS



### Invest \$5 million to create an ongoing Immigrant Legal Defense Program.

The program would provide direct, universal legal representation to people in immigration removal proceedings in San Diego County.

Access to direct legal representation can be a critical line of defense in keeping families and communities together.

**While our government is represented by a qualified attorney, people who can't afford an attorney are not provided legal representation by the government in immigration proceedings.<sup>1</sup>**

**"The obstacles facing unrepresented immigrants, and detained immigrants in particular, are substantial. Immigration law is among the most complex areas of American law and has been described by federal courts as 'labyrinthine.'"<sup>2</sup>**

Despite the risk of deportation, separation from their families and communities, and potential life-threatening harm in their country of origin - people who can't afford an attorney are forced to navigate our complicated immigration court system alone.

Each year, tens of thousands of people - including people seeking asylum, lawful permanent residents (green card holders), military veterans, and the parents, spouses and children of U.S. citizens - go through immigration court.<sup>3</sup> Even U.S. citizens can mistakenly be placed in deportation proceedings.<sup>4</sup>

U.S. capacity to detain immigrants has grown from about 9,000 people in 1996 to more than 50,000 people in 2019. San Diego County immigrant detention centers have the capacity to hold up to 1,100 people per day.

(1) Individuals who have serious mental health issues may be entitled to legal representation in some instances under the Franco Gonzalez settlement.

(2) <https://www.vera.org/publications/new-york-immigrant-family-unity-project-evaluation>

(3) In San Diego County, detained, unaccompanied children are represented by Casa Cornelia Law Center, but this is not the norm throughout the country.

(4) <https://www.newyorker.com/news/daily-comment/when-ice-tries-to-deport-americans-who-defends-them>

# UNIVERSAL REPRESENTATION

**Universal representation is a critical component of a removal defense program. It adds fairness and equity to the system. It allows people to access due process rights they have under U.S. law, and it allows people to make informed decisions about their case.**

Universal representation does not allow exclusions of representation based on residency or previous contact with the criminal legal system.

According to a report by the National Immigration Law Center and the Vera Institute, universal immigrant legal representation programs are highly effective at defending people against extended detention and deportation.<sup>5</sup>

**Detained immigrants are up to 10.5 times more likely to succeed in their case with legal representation.**<sup>6</sup>

Recent studies show that programs not following the universal representation model have higher per case costs and restrict the most vulnerable people from accessing services.

# MODEL OF UNIVERSAL REPRESENTATION

## New York Immigrant Family Unity Project (NYIFUP)

The NYIFUP was the nation's first public defender program for immigrants facing deportation. The program is funded by the New York City Council, and had a budget of \$16 million in 2020.

Since November 2013, NYIFUP has pioneered the universal representation model for detained immigrants in deportation proceedings.

An evaluation of the program showed that:<sup>7</sup>

- **Its clients were parents of 1,859 children; with 86% of the children having legal status in the U.S.**
- **It has reunited 750 people with their families.**
- **It has helped hundreds of people gain or maintain legal work authorization, thus contributing to federal, state and local tax revenue.**

**San Diego County should follow this example by investing in an Immigrant Legal Defense Program to ensure immigrant families and communities have a fair opportunity to stay together.**

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(5) <https://www.vera.org/downloads/publications/new-york-immigrant-family-unity-project-evaluation-summary.pdf>

(6) Eagly and Shafer, "A National Study of Access to Counsel in Immigration Court," 2015, 49. [https://scholarship.law.upenn.edu/cgi/viewcontent.cgi?article=9502&context=penn\\_law\\_review](https://scholarship.law.upenn.edu/cgi/viewcontent.cgi?article=9502&context=penn_law_review)

(7) Evaluation of the New York Immigrant Family Unity Project: Assessing the Impact of Legal Representation on Family and Community Unity, <https://www.vera.org/publications/new-york-immigrant-family-unity-project-evaluation>