

April 14, 2020

Montgomery County Council Building  
100 Maryland Avenue  
Rockville, MD 20850

Testimony of the Vera Institute of Justice Regarding Montgomery County's Immigrant Legal Services Funding

Dear Councilmembers,

On behalf of the Vera Institute of Justice (Vera), I write to urge you to continue funding immigrant legal services in the FY21 Montgomery County Budget, and include detained deportation defense, especially amid the current public health crisis. In addition, I urge that Montgomery County not limit access to critically needed legal representation for immigrants based on criminal histories, where support for the most vulnerable of our communities is needed more than ever.

The mission of Vera is to drive change and to build and improve justice systems that ensure fairness, promote safety, and strengthen communities. Since its inception in 2005, Vera's Center on Immigration and Justice has focused on increasing access to legal representation and information for low income immigrants facing deportation, who are among our society's most vulnerable and marginalized people. We do this work in partnership with government leaders, by implementing programs, and using data and research to demonstrate policy impacts. Among those facing deportation, individuals who are detained are especially vulnerable and marginalized as a result of isolation, limited access to free or low-cost attorneys, the inaccessibility of witnesses, documents, and other evidence, and lack of translation and interpretation options. In 2017, Vera convened the [SAFE Network](#), a growing movement of communities dedicated to publicly funded, universal representation for immigrants facing detention and deportation. Neighboring communities including Baltimore and Prince George's County- as members of the SAFE Network- are national leaders in advancing universal representation models of deportation defense.

We applaud the County's commitment to public funding for immigrant legal services, particularly in the face of relentless federal attacks on immigrants. However, Montgomery County limits access to legal representation for immigrants based on criminal histories. Such restrictions perpetuate the racial biases and inequities that plague our criminal legal system and misguided notions that some immigrants are more deserving of due process than others. Black immigrants, who are more likely to be stopped, arrested, and incarcerated, are disproportionately funneled into the immigration enforcement system as a result of that contact with the criminal justice system.<sup>1</sup> Carrying those biases into our immigration court system by denying legal services to those who may need them most because of history with the criminal justice system feeds into prejudices and contradicts our bedrock values of due process and fairness.

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<sup>1</sup> Jeremy Raff, "The 'Double Punishment' for Black Undocumented Immigrants" Atlantic, December 30, 2017, <https://perma.cc/R7UZ-MKF7>.

Such due process carveouts also exclude victims themselves from critical legal assistance. In the SAFE Network, Vera found that 75 percent of the women who may be carved out under such exclusions due to a prior felony conviction had also been victimized in the past. At Vera, we also know of dozens of stories of people, including U.S. citizens, who - simply because of their history with the criminal legal system - were wrongly put into deportation proceedings and locked up in immigration detention when they were never deportable in the first place. Without counsel, they would have virtually no opportunity to fight their case. The stakes for people in immigrant detention could not be higher. On top of the risk of permanent family separation and the forced return to dangerous or deadly conditions in another country, they now face a rising health risk in detention with no lawyer by their side to make their case for freedom. During this unprecedented crisis in which our core values are under attack and the health and lives of all Montgomery County residents are at stake, Montgomery County should continue its historic leadership in funding immigrant legal services but do so for all of those in need, in an equitable and inclusive manner.

It's also important that funding for services be structured so that detained immigrants can also access representation. Even in normal circumstances, people in detention face inhumane conditions, loss of liberty, lasting trauma and significant barriers to accessing counsel. Indeed, seventy percent of people in detention navigate the complexities of immigration law alone and are only able to successfully present their claims three percent of the time. Yet, immigrants who are represented are 3.5 times more likely to be released from detention on bond and up to 10 times more likely to establish a right to remain in the United States.<sup>2</sup>

Now, with the threat of COVID-19, detention may become a death sentence. Conditions inside detention facilities, where people are crowded in close quarters with limited access to soap and sanitizing agents, create high risk for rapid spread of this dangerous virus. And as more people are needlessly brought into detention, the threat to the health of immigrants, staff, and surrounding communities continues to compound, deepening the crisis and thwarting communities' impressive efforts to stem the spread of the virus. Detained immigrants need access to lawyers now more than ever. Montgomery County should advance efforts that protect the health and safety of immigrants in detention, especially now, which include publicly funded deportation defense programs for immigrants in detention, like those in Vera's SAFE Network.

A recent national poll conducted by the Vera Institute in partnership with Lucid found an overwhelming 87 percent of people in the United States support government-funded lawyers for people in immigration court. Such support is pervasive, evidenced by strong majority support found across partisan lines and even among individuals who tend to hold anti-immigrant attitudes. Additionally, 86 percent of people support government-funded lawyers for people in immigration court with criminal convictions.<sup>3</sup> These results are consistent with the premise that

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<sup>2</sup> 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>

<sup>3</sup> Based on unpublished Vera analysis of its national polling data on the subject, results forthcoming Spring 2020.

common-sense solutions grounded in shared values of due process are needed to ensure that everyone is treated with basic fairness.

By ensuring funding for detained deportation defense regardless of history with the criminal legal system, Montgomery County can stand with immigrants and bolster the County's efforts to promote health and safety. As you begin FY21 budget deliberations during this very challenging time, we urge you to ensure protection for the most vulnerable of our communities.

Thank you for your attention and consideration.

Sincerely,

A handwritten signature in cursive script that reads "Corey Lazar".

Corey Lazar  
Senior Program Associate  
Vera Institute of Justice

cc: County Executive Marc Elrich