



January 23, 2021

**The Center for Popular Democracy’s Testimony in Support of  
Maryland’s SB317 Right to Counsel in Immigration Proceedings Bill**

Dear Honorable Chairman William Smith and Members of the Judicial Proceedings Committee:

We are writing to express our enthusiastic support for SB317, Maryland’s Right to Counsel in Immigration Proceedings bill. The Center for Popular Democracy (CPD) works to create equity, opportunity, and a dynamic democracy in partnership with high-impact base-building organizations, national organizations and progressive unions. CASA is one of the most impactful affiliate organizations in the CPD network.

For over five years, CPD has worked in partnership with the Vera Institute of Justice (Vera) and the National Immigration Law Center (NILC) to launch and support universal representation programs for immigrants facing detention and deportation. There are now 42 publicly-funded local and state deportation defense programs nationwide.<sup>1</sup> In 2017, CPD worked with CASA to advocate for and launch local programs in Maryland and Virginia.<sup>2</sup> However, a high percentage of detained Marylanders remain unrepresented.<sup>3</sup>

**What’s At Stake for Detained Marylanders**

It is difficult to overstate how important it is to provide publicly-funded deportation defense. Detained community members face a broken and biased system described by a judge as akin to hearing “death penalty cases in a traffic court setting.”<sup>4</sup> Many community members face this system without legal representation, while there is always a lawyer on the other side arguing against their release from detention and ability to remain in the United States. In detention, people face inhumane conditions, loss of liberty, lasting trauma, and barriers to accessing counsel. In these times of COVID-19, the risks of detention are even more dire. Immigration and Customs Enforcement (ICE) reports that as of January 15th, there have been a total of 8,991 confirmed cases of COVID-19 amongst detained community members since the onset of the

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<sup>1</sup> See “Publicly Funded Deportation Defense Programs” last updated October 2020, *available at* <https://www.vera.org/initiatives/safe-initiative>.

<sup>2</sup> See Maggie Corser, “Access to Justice: Ensuring Counsel for Immigrants Facing Deportation in the D.C. Metropolitan Area,” Center for Popular Democracy (Mar. 2017), *available at* [https://populardemocracy.org/sites/default/files/DC\\_Access\\_to\\_Counsel\\_rev4\\_033117%20%281%29.pdf](https://populardemocracy.org/sites/default/files/DC_Access_to_Counsel_rev4_033117%20%281%29.pdf).

<sup>3</sup> See “Individuals in Immigration Court by Their Address,” TRAC Immigration (Feb. 2019), *available at* <https://trac.syr.edu/phptools/immigration/addressrep/>.

<sup>4</sup> The Honorable Mark A. Dummond, “‘Death Penalty Cases in a Traffic Court Setting’: Lessons from the Front Lines of Today’s Immigration Courts,” American Bar Association, January 15, 2019, <https://perma.cc/G5UB-VBKE>.

pandemic,<sup>5</sup> but advocates and experts argue the rate of transmission in detention is likely much higher.<sup>6</sup> In the 2020 fiscal year, 21 people died in ICE custody — the highest death toll in 15 years.<sup>7</sup> Meanwhile, the stakes of deportation are high, as it can result in physical exile from home, separation from family, loss of employment, and even violence or death in a country of origin.

## **How Harms of Detention and Deportation Reverberate Throughout Maryland**

The effects of detention and deportation extend far beyond those detained and radiate throughout our communities. An evaluation of the New York Immigrant Family Unity Project (NYIFUP) pilot program in New York City revealed that clients served through the program had lived an average of 16 years in the United States and were projected to contribute \$2.7 million in tax revenue each year.<sup>8</sup> Nearly half of the clients were parents to thousands of U.S. children.<sup>9</sup> Data from the localities that are part of Vera’s SAFE Network reveal that clients of the program are parents to hundreds of children--82% of whom are U.S. citizens--and have lived in the U.S. for an average of 14 years.<sup>10</sup> Seventy-seven percent of SAFE clients with families are breadwinners responsible for at least half of their family’s income.<sup>11</sup>

The COVID-19 risks detained community members face reverberate throughout communities. A recent report released by the Detention Watch Network found that between May and August of 2020, ICE detention facilities were responsible not only for thousands of COVID-19 cases in detention centers, but contributed to more than 245,000 additional COVID-19 cases in communities throughout the country.<sup>12</sup>

## **How Universal Representation Programs Impact Communities**

In the face of the deep harms caused by the federal immigration enforcement system, local and state governments have stepped up and invested in deportation defense programs. An investment in these programs is a critical investment in the stability of families, communities, and the economy. 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

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<sup>5</sup> “ICE Guidance on COVID-19,” available at <https://www.ice.gov/coronavirus> (last visited on Jan. 20, 2021).

<sup>6</sup> Noelle Smart and Adam Garcia, “Tracking COVID-19 in Immigration Detention: A Dashboard on ICE Data,” Vera Institute of Justice, available at <https://www.vera.org/tracking-covid-19-in-immigration-detention>.

<sup>7</sup> Catherine E. Shoichet, “The death toll in ICE custody is the highest it’s been in 15 years,” CNN (Sept. 30, 2020), available at <https://www.cnn.com/2020/09/30/us/ice-deaths-detention-2020/index.html>.

<sup>8</sup> J. Stave et al, “Evaluation of the New York Immigrant Family Unity Project: Assessing the Impact of Legal Representation on Family and Community Unity,” Vera Institute of Justice (Nov. 2017), available at <https://www.vera.org/publications/new-york-immigrant-family-unity-project-evaluation>, 5-6.

<sup>9</sup> *Id.*

<sup>10</sup> Vera Institute of Justice, “Rising to the Moment: Advancing the National Movement for Universal Representation over Three Years of the SAFE Initiative” (Dec. 2020), available at <https://www.vera.org/downloads/publications/rising-to-the-moment.pdf>, 22.

<sup>11</sup> *Id.*

<sup>12</sup> Gregory Hooks and Bob Libal, “Hotbeds of Infection: How ICE Detention Contributed to the Spread of COVID-19 in the United States (Dec. 2020), available at [https://www.detentionwatchnetwork.org/sites/default/files/reports/DWN\\_Hotbeds%20of%20Infection\\_2020\\_FOR%20WEB.pdf](https://www.detentionwatchnetwork.org/sites/default/files/reports/DWN_Hotbeds%20of%20Infection_2020_FOR%20WEB.pdf), 9.

States.<sup>13</sup> When community members are released from immigration detention and allowed to remain in the United States, families can be reunited and communities and local economies are made whole.

### **Why Recent Changes in the Federal Immigration Landscape Do Not Obviate the Need for Universal Representation Programs**

The immigration detention infrastructure has been ballooning for the past few decades and it will not be undone by a new administration overnight. In fiscal year 2019, the Department of Homeland Security (DHS)--which includes ICE--had an average daily population of 50,165, a total of 510,854 people detained for the year, 215 detention facilities, and a detention budget of \$3.2 billion.<sup>14</sup> A recent memorandum issued by DHS instituting a temporary, 100-day pause on many deportations--meaning physical removal from the United States--does not suspend ICE arrests and detentions, which will continue during this period.<sup>15</sup> Local and state investments in universal representation programs continue to be crucial to protect communities and blunt the devastating harms of ICE raids, detentions, and deportations. We hope Maryland will choose to invest in protecting its immigrant communities by passing SB317.

Sincerely,

/s/ Natalia Renta

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<sup>13</sup> Vera Institute of Justice, “Rising to the Moment: Advancing the National Movement for Universal Representation over Three Years of the SAFE Initiative” (Dec. 2020), *available at* <https://www.vera.org/downloads/publications/rising-to-the-moment.pdf>, 4.

<sup>14</sup> Detention Watch Network, “Detention 101,” *available at* <https://www.detentionwatchnetwork.org/issues/detention-101>.

<sup>15</sup> David Pekoske, Acting Secretary of Homeland Security, “Review of and Interim Revision to Civil Immigration Enforcement and Removal Policies and Priorities” (Jan. 20, 2021), *available at* [https://www.dhs.gov/sites/default/files/publications/21\\_0120\\_enforcement-memo\\_signed.pdf](https://www.dhs.gov/sites/default/files/publications/21_0120_enforcement-memo_signed.pdf).