

Vera Institute of Justice

Criminal Justice Issues and Prisoners' Rights

<https://www.vera.org/blog/immigrants-facing-deportation-do-not-have-the-right-to-a-publicly-funded-attorney-heres-how-to-change-that>

Public Facing Advocacy Writing

Family members separated by deportation visit through the U.S.-Mexico border fence in Tijuana, Mexico.

Many immigrants with the legal right to live in the United States are deported simply because they can't afford an attorney to help them navigate notoriously complicated immigration proceedings. Deportation can result in physical exile from home, separation from family, loss of income, and even forcible return to dangerous conditions in a person's country of origin.

This is why Vera [is calling](#) for a federal defender service for immigrants. The stakes in immigration proceedings are too high for any immigrant to face alone, and the time to act is now.

Immigrants facing deportation may hire an attorney, but they are not provided with one if they can't afford it themselves. Although the Sixth Amendment guarantees counsel for the accused in all criminal prosecutions, those protections do not apply to immigrants facing deportation, which are considered civil proceedings. Because very few can afford to hire a lawyer, most immigrants face deportation proceedings alone and without any legal defense. But the consequences of a ruling from an immigration court—namely, family separation and exile from one's home—can be more serious than many criminal sentences. Though immigrants may hire their own attorneys, many are held in detention facilities in locations where it is difficult to access counsel. There are other barriers to justice too: biased and unaccountable judges, prolonged detention without bond, and even summary deportation without any hearing.

A federal defender service for immigrants would use government funds to provide legal representation to all people in immigration proceedings who can't afford an attorney. Think of it as a public defender system for immigrants who are facing deportation.

Because our immigration laws are complicated and harsh, it's very difficult to get a fair hearing without legal representation. Imagine if you had to defend your house, your family, or your life in a complex legal process that you did not understand. That's what immigrants without legal help face, and that's why a federal defender service for immigrants is necessary.

Immigrants who are facing deportation but can't afford an attorney would benefit from these legal defense services. Of the more than 1.25 million people with pending cases in the immigration court system, 500,000 lack representation. The lack of representation is particularly staggering for people in immigration detention, where over the past five years, 70 percent have not had counsel.

Lawyers make a big difference. [Studies show](#) that immigrants with attorneys are 3.5 times more likely to be granted bond (enabling release from detention) and up to 10 times more likely to establish their right to remain in the United States than those without representation.

Black immigrants and other overpoliced immigrants of color [are at higher risk](#) of deportation as a result of any law enforcement contact, even if they are never charged with or convicted of a crime. Ensuring that immigrants have representation reduces the harmful effects of the racially biased criminal legal and deportation systems by promoting more just outcomes.

Yes. [Two in three people in the United States](#)—67 percent—support government-funded representation for immigrants facing deportation, including 67 percent of likely voters, 80 percent of Democrats, a majority of Republicans, and 66 percent of people who do not identify with either party.

Universality, zealotry, and person-centeredness. Grounded in these core values, representation would be provided to all immigrants in any immigration proceeding in which immigration status or loss of liberty and life are at stake, regardless of any other factor. Every immigrant would have representation that meets clients where they are without judgment and with empathy. Every immigrant would also have representation that presents the fullest defense ethically possible and ensures that the people most impacted are being heard and empowered.

[Vera has developed](#) further information and recommendations for a federal defender service that will ensure that all immigrants have a fair opportunity to be heard and assert their rights. Now is the time to ensure that no one is deported simply because they can't afford an attorney.

Transformative change, sent to your inbox.

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