
Investigative Report:

The Rise of Deportation Defense Funds: American Taxpayers Spending Millions to Keep Immigration Violators in the U.S.

Key Takeaway: Last year IRLI published an investigation into American cities that were forming “deportation defense funds.” These funds use taxpayers’ dollars to pay for lawyers who defend visa overstayers, illegal aliens and foreign criminals against deportation. This year, IRLI re-examines the disturbing trend, finding that even more American cities are now foolishly doling out government cash to get lawyers for foreigners – and these programs are costing communities over \$66 MILLION!

INTRODUCTION/BACKGROUND

The Right to Counsel: Criminal vs. Civil Proceedings

In the United States, criminal defendants who cannot afford to pay for their own lawyer are entitled to a government-appointed lawyer. The Supreme Court imposed this obligation on the courts its 1963 *Gideon v. Wainright* decision, reasoning that the right of an indigent defendant in a criminal trial to have the

assistance of counsel is a fundamental right essential to a fair trial. However, the rule announced in *Gideon v. Wainright*, applies only to criminal proceedings.

Criminal cases involve the commission of bad acts that violate legal obligations owed to society as a whole. Hence, criminal proceedings are typically titled: *People v. Smith*, *Commonwealth v. Jones*, *State of California v. Roberts*, etc. Civil cases arise in situations where a person or entity has failed to fulfill a legal duty owed to another person or entity – for instance, when a company sues a consumer over an unpaid bill or when a state places a lien on property due to unpaid taxes. Because civil proceedings do not implicate the fundamental rights to life and liberty (*i.e.* nobody receives a prison sentence or the death penalty following a civil proceeding) a fair trial can take place even when one or both of the parties are not represented by counsel. Thus, even poverty-stricken litigants in *civil* proceedings are not entitled to a free lawyer, at government expense.

Immigration Proceedings Are Civil Not Criminal

Immigration proceedings are civil, not criminal. As the Supreme Court first held in *Fong Yue Ting v. United States*, 149 U.S. 698, 730 (1893):

The order of deportation is not a punishment for crime. It is not a banishment, in the sense in which that word is often applied to the expulsion of a citizen from his country by way of punishment. It is but a method of enforcing the return to his own country of an alien who has not complied with the conditions upon the performance of which the government of the nation . . . has determined that his continuing to reside here shall depend.

In other words, the only consequence that an alien in Immigration Court faces is being returned to the country where he/she possesses full rights of citizenship. The mere fact that the alien might prefer the U.S. to his/her own country is utterly irrelevant.

Accordingly, 8 U.S.C. § 1362 clearly states:

In any removal proceedings before an immigration judge and in any appeal proceedings before the Attorney General from any such removal proceedings, the person concerned shall have the privilege of being represented (at no expense to the Government) by such counsel, authorized to practice in such proceedings, as he shall choose.

To put that in plain English, foreign nationals in proceedings before the Immigration Court may be represented by counsel, provided that they locate, retain and pay for their own attorney. And, from a practical standpoint, this makes sense. U.S. citizens do not get free lawyers when they are facing eviction from their homes, mortgage foreclosures, tax liens or repossession of a motor vehicle – so why should U.S. citizens be forced to dole out hard earned cash in order to pay for lawyers for foreign nationals who, at worst, might get a free ride home courtesy of Uncle Sam?

DEPORTATION DEFENSE FUNDS

Crazy Anti-Borders Politicians Are Giving Immigration Violators Free Lawyers on the U.S. Taxpayer's Dime – And the Problem Is Getting Worse

Approximately 50 jurisdictions across the United States have now established publicly funded deportation defense programs. These initiatives – which are part of a broader effort to establish a federal “right” to publicly-funded counsel for anyone facing deportation from the United States – provide free or reduced cost legal services to aliens in Immigration Court, at taxpayer expense.

Due to the Biden administration’s irresponsible border management policies, the U.S. is currently facing [unprecedented](#) levels of illegal immigration. In addition, facing staggering budgetary shortfalls, states, cities and towns across America have increasingly reduced expenditures on essential services such as police protection and public transportation. Nevertheless, the number of jurisdictions establishing deportation defense funds continues to grow.

And the cost to U.S. taxpayers is staggering. Cash-strapped American families are laying out roughly \$66,145,000 for lawyers to try and keep illegal aliens, foreign criminals and other immigration violators in the United States. What’s worse, is the longer those immigration violators remain in America, the more they tend to cost us – placing a [fiscal burden](#) on public schools, the criminal justice system and our transportation infrastructure.

This Is a Complete Waste of Taxpayer Money

Moreover, prior to the Biden administration’s deliberate attempts to dismantle America’s immigration enforcement mechanisms, roughly [75 percent](#) of people who appeared in Immigration Court wound up either being ordered removed or granted “voluntary departure” – an alternative to removal that permits people to leave the U.S. without a deportation order being entered against them. And those

folks were ordered removed because they had no valid claim to any form of relief that would have permitted them to remain in the United States – not because they didn't have lawyers. In fact, many *were* represented by counsel and were still ordered removed.

The End Game – Keep Illegal Aliens in the United States

So, what's the end game? Advocates for illegal aliens and other immigration law breakers know that even when lawyers can't win a case in Immigration Court, they can often delay the proceedings. And the longer a foreign national tends to remain in the United States, the lower the likelihood that he/she will ultimately be removed from the United States. The fact is that our system rewards people for breaking our immigration laws – and the longer they get away with breaking the law, the greater the reward.

Take for example, [Cancellation of Removal for Certain Nonpermanent Residents](#). This form of relief allows illegal aliens who have been physically present in the United States for a minimum of 10 years and have been of “good moral character” to go instantly from immigration violator to green-card-holder. Eligibility for Cancellation of Removal is typically established by demonstrating “positive equities,” like home ownership, work history and ties to the community – all of which are direct results of the alien's choice to enter and remain in the U.S. without authorization. In other words, enter the country illegally, avoid detection, and America will reward you for violating the Immigration and Nationality Act.

THE VERA INSTITUTE AND ITS PLOT TO SPEND YOUR TAXES ON KEEPING FOREIGN LAWBREAKERS IN THE UNITED STATES

The Vera Institute of Justice: Anti-Borders, Pro-Illegal-Alien

There are a number of anti-borders organizations that support taxpayer-funded legal representation for foreigners facing deportation. However, a progressive, non-profit called the [Vera Institute of Justice](#) is the primary architect of the nationwide plot to force American taxpayers to bankroll defense lawyers for aliens in Immigration Court.

Vera was “founded in 1961 to advocate for alternatives to money bail in New York City.” The organization is based in New York City but has offices in New Orleans, LA, Los Angeles, CA and Washington, DC. And it boasts an annual budget of well over \$100 million. Furthermore it is unabashedly left-leaning and progressive.

Vera believes that both the American criminal justice system and America's immigration framework are racist and unjust. The group's website claims, "The criminal legal and immigration systems inflict devastating long-term personal, social, and economic harms on communities across America." Vera's literature is also rife with descriptions of the deportation process as "inequitable" and "dehumanizing."

Of course, apart from pointing out the obvious facts that criminals typically don't enjoy prison and non-citizens generally don't like being deported, Vera provides absolutely zero evidence in support of its claims. In fact, its website is shockingly bereft of any data that would support its claims that American immigration policies are in any way unjust – much less "inequitable" or "dehumanizing." Vera's assertions appear particularly spurious and misleading when one takes into account the fact that the U.S. has the world's [largest cohort of immigrants](#), approximately 51 million individuals, constituting approximately 19 percent of the world's total migrant population. The second, third and fourth largest migrant populations are found in Germany, Saudi Arabia and Russia. Each of these three nations houses roughly 4.5 percent of the world's migrant population or roughly 12 million individual immigrants – or about one-fifth of America's total share of the world migrant population and less than one-fourth of the actual number of individual immigrants who live in the U.S.

Also notably absent from Vera's website is any attempt to address negatives associated with unchecked mass migration, such as wage depression, increases in crime, or burdens on communal infrastructure like public transportation systems and public schools. Like most similar organizations, Vera appears to accept as an article of faith the premise that all migrants are good and any immigration laws that inhibit the desire of any foreign national to enter and remain in the U.S. are bad.

Vera's Strategy: Expand Deportation Defense Fund Programs Nationwide and Create a "Right" to Court-Appointed Counsel in Immigration Court

Vera uses a simple, straightforward strategy. It targets liberal cities and counties, lobbying them to establish funds to pay for lawyers to represent foreigners in deportation proceedings. Interested localities are encouraged by Vera to join its SAFE ([Safety and Fairness for Everyone](#)) Network. This is an association of city and county governments across the country that spend public funds on lawyers to represent non-citizens contesting their deportation orders.

Vera entices local governments by offering matching grants to a portion of the costs associated with the first year of a deportation defense fund. For example, a city may decide to join the SAFE Network and accept a \$100,000 donation from Vera, but city officials must fork over \$100,000 of taxpayer money in order to receive that grant. Accordingly, for the initial year, the participating city will effectively double the funds available to it. (In our hypothetical, \$100,000 becomes \$200,000 through Vera's matching grant.)

Typically, SAFE members will pay third-party nonprofits to represent aliens in Immigration Court, rather than directly employing attorneys. This point is rather significant. Vera's matching grants are simply seed money that is used to effectuate a mass transfer of public cash into the coffers of other organizations like the Vera Institute of Justice that are publicly committed to destroying America's borders and undermining its immigration laws. The taxpayer monies placed into deportation defense funds are used to pay attorneys who work for legal services organizations that share Vera's anti-borders, pro-illegal-alien agenda.

After the inaugural year of a deportation defense fund Vera's matching grants expire, and SAFE members are expected to pony up more taxpayer money in order to keep their programs running. In fact, Vera is quite transparent with their strategy of helping launch these funds and then encouraging government officials to carry more financial weight afterward. In an [annual report](#) concerning the status of Dallas' deportation defense program, for example, Vera explicitly encouraged Dallas leaders to not only increase its public funding of the program (since Vera was no longer providing its catalyst grant), but also suggested the program be expanded across the county.

Surprisingly, Vera has proven incredibly successful with this strategy. According to the organization's [own map](#), no SAFE Network members existed just a decade ago. Today, at least 23 members (including some of the biggest cities in the country) are touted as SAFE Network members. But why does Vera's carrot-dangling approach work? The fact is, even though illegal aliens cannot vote in the United States, the radical Left has made immigration such a contentious political issue, that it is virtually impossible for politicians in progressive jurisdictions to eliminate benefits like free immigration lawyers once they have been provided.

Vera, and progressive organizations like it, have turned illegal aliens (and other immigration violators such as visa-overstayers and alien criminals) into a proxy

constituency, and they are wielding the interests of that constituency like a blunt instrument.

DEPORTATION DEFENSE FUNDS: THEN AND NOW

IRLI's Previous Investigation of Vera-Backed Deportation Defense Funds

In 2022, IRLI looked into a number of deportation defense programs associated with Vera's SAFE Network, as well as several that were operated independently. Our [investigation](#) highlighted examples of conflicts of interest, financial impropriety, and failure to specify that immigration violators convicted of serious crimes such as rape, murder or sexual abuse of children would not be eligible for taxpayer-funded immigration defense attorneys.

At the time we conducted the study, in early 2022, there were 22 local and city governments that were formal SAFE partners. Based upon an analysis of every SAFE partner's budget, we estimated that roughly \$5.6 million dollars were spent by taxpayers living in these communities in the 2022 fiscal year – this was a conservative estimate and did not include the budgets of numerous other local governments that operate their own deportation defense programs outside of the SAFE Network.

One Year Later: What Does the SAFE Network Look Like Now? What Does it Cost?

IRLI conducted a follow-up investigation to determine what the SAFE Network looks like today. According to the current map on Vera's website, there are now 23 city and local governments that are official members of the network. While the addition of a single jurisdiction would appear to be a seemingly negligible increase, a close examination of the individual programs paints a different picture.

To begin with, it would have been reasonable to expect a few programs to have been discontinued once Vera grants dried up. However, that was not the case. In addition to adding a new program, those governments that had already established deportation defense funds increased their financial commitment. The net result is that American taxpayers are now expending even more money to keep immigration violators in the United States, even as the southern border devolves into chaos because the Biden administration is refusing to enforce the Immigration and Nationality Act.

IRLI estimates that, altogether, Americans will shell out approximately \$11,600,000 during the 2023 fiscal year in order to keep their various Vera-affiliated deportation defense programs running. This estimate is based solely on budgetary information from deportation defense funds that are part of the SAFE Network. We deem this number to be an “estimate” because SAFE members typically increase their funding every one or two years, but don’t always spell out the exact cost in their annual budgets – and these SAFE members did not respond to IRLI requests for clarity.

As the SAFE Network has expanded, many other independently run deportation defense programs have emerged across the United States. And these programs suck even more taxpayer dollars out of already strained city and county budgets.

The SAFE Network Represents Less than Half of the Deportation Defense Programs Currently in Existence

This year, IRLI expanded its investigation to include deportation defense programs that operate outside the SAFE Network. According to information published by the Vera Institute of Justice, there are currently about 30 state and local jurisdictions that operate deportation defense funds outside of Vera’s SAFE Network. These jurisdictions fund their own deportation defense programs, almost exclusively with taxpayer funds.

The price tag for operating these programs is staggering. IRLI estimates that, altogether, these independent deportation defense funds will cost the American taxpayer \$54,545,000 in the 2023 fiscal year alone. Like the other estimates listed above, this should be considered a conservative assessment, given the fact many participating localities have either increased, or plan to increase, funding for these programs during their next budgeting cycle.

How Much Is it Costing Taxpayers to Provide Immigration Violators with Free Lawyers in FY2023: Over \$66 Million!

Between the Vera-affiliated and non-affiliated programs, there are about 50 deportation defense funds operating across the United States. In total, those funds spend approximately \$66,145,000 providing illegal aliens, visa overstayers and foreign criminals with free lawyers to represent them in Immigration Court.

Vera’s Ultimate Goal: Free Lawyers for Every Illegal Alien

Vera has been frank, its goal is to establish universal, publicly funded representation for foreign nationals in deportation proceedings. According to the organization's [Fairness to Freedom](#) campaign, "Vera's Advancing Universal Representation initiative is driving a national movement for universal representation. Our goal is to establish a federal right to representation for all immigrants facing deportation."

"We believe that every person facing deportation is entitled to high-quality, person-centered legal representation regardless of income, race, national origin, or history with the criminal legal system. We aim to make federally mandated universal representation a reality," their description continues.

Beyond its work to establish deportation defense funds, Vera is actively working with other progressive organizations in encouraging the federal government to pay for universal deportation defense. Vera signed [a letter](#) last year asking the Democratic-controlled Congress and the Biden administration to shell out \$50,000,000 in legal representation for indigent non-citizens.

In addition, Vera was a [vocal proponent](#) of New York's Access to Representation Act, novel legislation that, if passed, would've established the Empire State as the first in the nation to guarantee the right to free representation for foreigners facing deportation.

These efforts are totally insane. Just imagine just how much it would cost Americans if they had to pay for a free lawyer for every one of the 15-20 million foreigners who are currently estimated to be in the United States in violation of the Immigration and Nationality Act.

In addition, Vera has never effectively articulated why it believes that everyone facing removal proceedings should get a free lawyer. To begin with, why should Americans be forced to bear the cost of legal representation for foreigners – most of whom have only a short-term, tenuous connection to the United States – who have violated our immigration laws?

Furthermore, as we have already noted, neither the Constitution, nor fundamental fairness require civil litigants to be provided with counsel. Every day, across the United States, Americans involved in civil litigation make do without a lawyer and our justice system hasn't collapsed. Quite the contrary, in fact, most experts who are not wedded to some form of extreme ideology acknowledge that the U.S. court system is among the fairest in the world.

WHY DID IRLI CONDUCT THIS INVESTIGATION?

The national security and public safety of the United States depend on responsible immigration policies. Currently, however, the U.S. is being run by an administration that seems bound and determined to dismantle every mechanism by which the U.S. has protected its borders from terrorists, criminals and unauthorized visitors. The Vera Institute of Justice, and organizations like it, are attempting to seize upon the federal government's failure to meet its immigration enforcement responsibilities in order to force their vision of a borderless world on an American public that has adamantly and consistently expressed its preference for national sovereignty and robust border enforcement.

IRLI conducted this investigation to make the American public aware of the extent to which Vera has successfully co-opted state and local politicians in its quest to implement its immigration agenda.

Vera has figured out that money talks and bull-puckey walks. It has been frighteningly successful in poaching funds that city councils and county legislatures should be spending on things like highway maintenance, fire protection and public school budgets. That money is now being transferred to foreigners who were never invited into this country – so they can fight deportation.

IRLI respectfully asks you, the American taxpayer, do you think this is an acceptable use of public funds? And are you comfortable with providing free lawyers to law-breaking aliens, many of whom have criminal convictions, so they can fight deportation?

If you think that is a bit like paying someone to mug you, IRLI agrees with you. Furthermore, there isn't much evidence to suggest that the average American is on board with Vera's agenda: In New York, arguably one of the most anti-borders and illegal alien friendly states in the nation, legislators [weren't able](#) to even get the Access to Representation Act out of committee. When Tacoma, Washington leaders established their own deportation defense fund several years ago, they expected a rush of citizen donors to come forward and make the program flush with cash, but after several months, they [were dumbfounded](#) when virtually no one donated. If Empire State and Tacoma voters think that free lawyers for immigration violators is a bad idea, then the concept is definitely a bridge too far for the average American who values the rule of law.

CONCLUSION

To reiterate, immigration law is a civil matter, not a criminal one. Deportation, under the law of the U.S., is not a punitive measure, but an administrative action that restores to the status quo – placing a foreign national back into their home country where they enjoy the full slate of rights of a citizen. Vera’s view that deportation is punitive is a misinterpretation of immigration law – and a deliberate one, intended to advance Vera’s borderless-world agenda.

The public should be kept aware of just how much Vera’s bad immigration ideas - like deportation defense funds – are costing taxpayers. In addition, Americans should be aware of the potential immigration consequences that come with these types of programs. Our nation is already awash in illegal aliens because the federal government is imposing no consequences on anyone who violates the Immigration and Nationality Act. How many more uninvited foreigners will be attracted here if illegal aliens are suddenly assured that, on the off chance they do wind up in Immigration Court, the American taxpayer is providing a free lawyer to try and keep them here?