



A Matter of Justice: Cost Savings from Universal Legal Representation for All Colorado Immigration Proceedings

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Executive Summary

A three-year old child, toddling behind the hand of a stranger to appear before a judge alone.¹ A young man taken from his family and job, held in a jail for months on end—never having been charged or convicted of a crime—and left to fight for himself alone. These shocking accounts are not the opening lines of a Kafka story or the latest dystopian science fiction movie. These stories happen every day across the United States in immigration courts. Immigration proceedings are the only place in our justice system where people can be denied their liberty and face life-altering consequences without the aid of an attorney to help them navigate the complex legal system. The practice is not only inhumane and contrary to American values; it is detrimental to local economies.

Colorado alone received nearly 8,500 immigration deportation court matters in 2019, according to the most recent immigration reports. Nearly six out of ten immigrants in these cases lacked legal representation.² Unfortunately, those without representation are much more likely than their represented counterparts to be detained while awaiting their trials and eventually deported.

The negative effects of detention and deportation on individuals and their families are many: from negative emotional and mental effects on children³ to economic loss from the separation of a breadwinner. Additionally, the direct and indirect effects of detention and deportation harm employers, communities, and Colorado's economy.

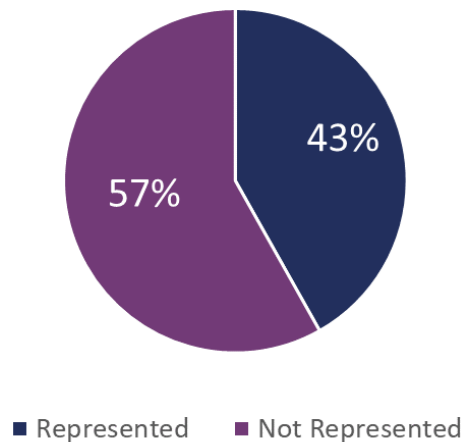
¹ <https://www.texastribune.org/2018/06/27/immigrant-toddlers-ordered-appear-court-alone/>

² TRAC Immigration Reports, Syracuse University, "State and County Details on Deportation Proceedings in Immigration Court," available at: <https://trac.syr.edu/phptools/immigration/nta>

³ See Esther Turcios, "The Impact of Deportation on Mental Health, Education Outcomes, and Economic Opportunity for Colorado Kids," The Colorado Fiscal Institute, June 2018, available at: <https://www.coloradofiscal.org/2018/06/deportation-detention-and-aggressive-immigration-enforcement-harms-children-and-families/>. A survey of Colorado immigrant families found the deportation of a parent has negative effects on the mental health of children. Of the total number of kids in the families surveyed, 51 percent of them received or were receiving mental health services after the detention and/or deportation of a parent. Similarly, parents reported they saw a decrease in their children's academic performance. In particular, they saw an increase in discipline issues as well as changes in their grades and an overall lack of desire to go to school and continue with daily routines. 72 percent of parents said their children missed at least one day of school, with one parent sharing that one of her children missed a month of school because of the deportation of their father. 68 percent of parents also saw a decline in their children's grades or achievement level in school.

Figure 1

Nearly 60% of People with Immigration Court Cases Lack Legal Representation



Source: TRAC Immigration Reports, Colorado FY 2019

Colorado immigrant families lose \$3.9 million in wages and struggle to pay for basic needs when a provider is detained. As spending power for these families drops, local spending declines and communities lose out on an estimated \$6.2 million in total economic activity. Employers shoulder nearly \$12 million in turnover costs as they struggle to replace detained or deported workers. State and local governments lose over \$350,000 in tax revenue for critical public investments. Providing universal representation to all Coloradans navigating the immigration legal system could ease the social and economic disruption caused by detention and deportation, resulting in savings to businesses and governments and helping Colorado families stay together and thrive.

Introduction

Colorado immigrants are a crucial and growing part of the state's identity and economy. Today, one out of every ten residents in the state are immigrants, and as of 2018, over 23 percent of Colorado children have immigrant parents.⁴ Many industries rely on immigrant labor, and many immigrants are themselves entrepreneurs—bringing new businesses and jobs to the state. From 2000 to 2015, Colorado's immigrant population grew by 45 percent compared to 39 percent in the U.S. as a whole.⁵ Colorado immigrants participate in the workforce at rates similar to their native-born counterparts and own businesses at rates *higher* than native-born Coloradans. In 2018, while 10 percent of all Coloradans were foreign-born, 12 percent of Colorado entrepreneurs were foreign-born. Colorado immigrants also make critical contributions to the economy, paying approximately \$5 billion in state, local, and federal taxes in 2018 alone. In that same year, undocumented immigrants contributed nearly \$157 million in state and local taxes.⁶

Unfortunately, even though immigrants are integral to the fabric of Colorado communities, they are not treated equally with respect to due process in our legal systems. Each year, thousands of Coloradans face the immigration court system without access to legal counsel. Unlike criminal proceedings, in which individuals have a Constitutional right to appointed counsel, immigration issues are civil matters, meaning people only have access to an attorney if they can afford one. This difference in legal treatment occurs despite the complicated nature of immigration cases and the magnitude of the court decisions, which can weigh as heavily on families as criminal convictions. Roughly 60 percent of Colorado immigrants who have an immigration case have no access to legal representation.⁷

⁴ Lou, Cary, et al., "Children of Immigrants and the Future of Colorado," Urban Institute, available at: https://www.urban.org/sites/default/files/children_of_immigrants_and_the_future_of_colorado.pdf

⁵ Colorado Fiscal Institute, "Immigrant Workers are Critical to Colorado's Economy," 2017, available at: <http://www.coloradofiscal.org/wp-content/uploads/2017/06/Economic-Contribution-of-Immigrants-2017.pdf>.

⁶ American Immigration Council, "Immigrants in Colorado," 2020, available at: <https://www.americanimmigrationcouncil.org/research/immigrants-colorado>.

⁷ Figures are a result of an original CFI analysis of EOIR Case Data. U.S. Department of Justice, "EOIR Case Data," January 2020, available at <https://files.eoir.justice.gov/FOIA-TRAC-Report.zip>.

These individuals face the possibility of detention away from their families and jobs and permanent removal from the United States at much higher rates than their legally represented counterparts. According to the Vera Institute of Justice, many individuals in deportation proceedings actually have good claims for remaining in the United States but lack the legal expertise to fight their own cases. Mekela Goehring, Executive Director of the Rocky Mountain Immigrant Advocacy Network (RMIAN) shared the same finding:

[T]hat's what we see many times—even if individuals have extremely strong, meritorious cases against their removal or deportation, they may be forced to say, "I'm going to accept a deportation order because my family is struggling so much, and I'm struggling so much in detention and I can't provide the support they need." Or, "I'm separated from my very young children and there's simply no way that I can stay in here and fight my case."⁸

National research shows that cases in which immigrants have access to legal representation are associated with more successful outcomes for people, including "having their cases terminated, to seek relief from removal and to obtain the relief they sought."⁹ Immigrants who are represented by an attorney are more likely to be returned to their families, jobs, and communities while their cases move through the bureaucracy of America's immigration court system.

Recognizing the human and economic benefits of returning parents to their children and employees to their jobs, cities across the country—including Denver—have created public legal funds to provide representation to people with immigration court proceedings. This report outlines the potential cost savings to the state of establishing a similar universal representation fund and, through shared stories from directly affected community members, makes a case for its powerful importance to U.S. democracy. Universal representation expresses a deeply held American value, protected in the Constitution, that equal treatment under the law and adequate due process are human rights that should be afforded to immigrants and native-born people alike.

⁸ Goehring, Mekela. (Executive Director, Rocky Mountain Immigrant Advocacy Network). Interview by Esther Turcios. May 20, 2020.

⁹ Ingrid Eagly, Esq. and Steven Shafer, Esq., "Access to Counsel in Immigration Court," American Immigration Council, September 2016, available at <https://www.americanimmigrationcouncil.org/research/access-counsel-immigration-court#:~:text=It%20has%20long%20been%20the,been%20borne%20by%20the%20noncitizen.&text=The%20lack%20of%20appointed%20counsel,to%20receive%20a%20fair%20hearing>.

The Cost of Legal Assistance: Lorena's Story

Lorena, a mother of five, came to the United States 14 years ago from her native Mexico. She had to leave three of her children behind to try and build a life to provide for her family back home. After years of working in the hospitality sector in a mountain town in Colorado, she was able to work with her employers to bring her son to the U.S. on a work visa. After his visa expired, Lorena's son was detained by Immigration and Customs Enforcement (ICE) officials in early 2020 in the middle of his workday. In only a matter of months, the family spent more than \$20,000—their life savings—on two attorneys to fight for Lorena's son to stay in the country. From mistreatment by GEO detention officers and unanswered calls from lawyers to selling their family car and borrowing money from friends and



family, Lorena and her family endured extreme heartache throughout their legal battle. On top of dealing with their son being detained and navigating the immigration system, the COVID-19 pandemic has pushed the family further into economic crisis. Both Lorena and her husband lost

their jobs as well as their savings. They are now struggling to pay their rent and provide for their two young daughters. Meanwhile, their son struggles to get basic health care services in ICE custody.



Lorena and her family's story are not unique. Families across Colorado must face the complicated immigration system alone, without access legal counsel, which takes an emotional and economic toll on all members of a family.

The Fundamental Right to Due Process

The Sixth Amendment of the U.S. Constitution guarantees access to counsel in cases where life and liberty are at stake. Though this foundational American principle ensures that anyone going through the criminal legal system who faces possible incarceration has the right to be represented, it does not hold true with the immigration system. This legal inconsistency exists even though immigration law is complex and its consequences severe. People in deportation proceedings can be denied their liberty; many are detained in jails or jail-like facilities for lengthy periods of time—ranging from a month to even years—while they await the resolution of their case.¹⁰ Moreover, the consequences of deportation can be as “severe as those that follow a criminal conviction...including loss of job and *permanent* separation from family and community.”¹¹ The California Coalition for Universal Representation emphasizes that because immigration proceedings are so complex, “a successful defense requires the assistance of an expert well versed in the law.”¹²

Additionally, the immigration system has fewer procedural guardrails that can protect individual rights in the absence of legal representation. For instance:

Many immigrant respondents do not appear in person, but instead by video teleconferencing from the detention centers where they are held, and while wearing the detention facility’s uniforms; those who do appear in person are shackled. Additionally, detained immigrants face severe barriers to gathering evidence that would allow them to defend themselves, as they are often held hundreds or thousands of miles from their loved ones and communities, in facilities where phone calls are prohibitively expensive, and where they have at best limited access to the internet. For someone who must find a witness and ask that person to testify or assemble evidence of the conditions that prevail in her country of origin, the isolation of detention makes adequately presenting a claim for relief a Herculean task.¹³

Because Coloradans going through the immigration system are only represented by an attorney if they can afford one, most people endure this process alone. And the cost is high.

¹⁰ The California Coalition for Universal Representation, “California’s Due Process Crisis: Access to Legal Counsel for Detained Immigrants,” June 2016, available at: <https://www.nilc.org/wp-content/uploads/2016/06/access-to-counsel-Calif-coalition-report-2016-06.pdf>

¹¹ Ibid.

¹² Ibid.

¹³ Ibid.

Why Legal Representation Matters for all Colorado Communities and the Economy

The effects of detention and deportation aren't limited to immigrants and their families; they also ripple through Colorado's economy. When immigrants are detained or deported, families lose a breadwinner, children lose a parent, employers lose a worker, and communities lose consumers and taxpayers. Providing legal representation to people involved in immigration proceedings can mitigate these costs. Even before a case is decided, nationally, immigrants are 3.5 times more likely to be released on bond while awaiting trial if they have access to legal counsel.¹⁴ Individuals with legal representation are also significantly more likely to attend court hearings and to receive successful court rulings.¹⁵ Universal representation promotes due process and dignity and results in better outcomes: represented immigrants are **up to ten times more likely to establish a right to remain in the United States**.¹⁶ An equitable system, that can reduce lengthy detentions and deportations, would provide savings for Colorado.

Recognizing the economic benefits, several states and municipalities have instituted legal defense funds and shown marked success.¹⁷ For instance, the City and County of Denver implemented the Denver Immigrant Legal Services Fund, part of which provides universal representation to detained immigrants. This fund distributes grants to many immigrant legal aid clinics throughout the Denver area.¹⁸ Although Denver limits direct budget appropriations and restricts funding to Denver residents only, the fund has had a profound effect on local families.¹⁹ Thanks to these legal resources, attorney Shaleen Morales and other attorneys at RMIAN have been able to take on 53 cases over the past year. These cases involve individuals who would otherwise have to face the daunting task of presenting their cases in court alone.

¹⁴ Ryo, Emily, "Detained: A Study of Immigration Bond Hearings," Law & Society Review 50, no. 1, 2016, 117-153.

¹⁵ TRAC Immigration Reports, Syracuse University, "Outcomes of Deportation Proceedings in Immigration Court," available at: https://trac.syr.edu/phptools/immigration/court_backlog/deport_outcome_charge.php.

¹⁶ Ingrid V. Eagly and Steven Shafer, "A National Study of Access to Counsel in Immigration Court," University of Pennsylvania Law Review, 164, no. 1 (2015), 1-91, <https://perma.cc/82F5-WE2D>.

¹⁷ New York Department of State, "NYS Liberty Defense Project & Vera Expand Legal Representation to Immigrants Facing Deportation Proceedings," available at: <https://www.dos.ny.gov/press/2019/ldp-0215.html>.

¹⁸ City and County of Denver, "City Launches Denver Immigrant Legal Services Fund to Aid Immigrants in Removal Proceedings and DACA/DREAM Act Assistance," March 2018, available at <https://www.denvergov.org/content/denvergov/en/mayors-office/newsroom/2018/city-launches-denver-immigrant-legal-services-fund-to-aid-immigr.html>

¹⁹ Due to the COVID-19 pandemic, the fund's budget had dropped. On November 9, 2020 Denver City Council approved the Mayor's budget, allocating an additional \$300,000 to the fund, putting the program at a total of \$500,000 for FY2021.

The Value of Universal Legal Defense: Community Member Testimonials

Carlos

*Immigration authorities in Aurora, Colorado detained **Carlos**, a 19-year-old who came to the U.S. alone as a child, after a minor traffic infraction. Carlos fled abuse and neglect in his home country of Guatemala and was living in Colorado with his older brother, who had won asylum. At the time of his detention, Carlos had a long-pending Special Immigrant Juvenile Status application – a special visa designed to protect abused and neglected children. In detention, Carlos received a free attorney through RMIAN and the Denver Immigrant Legal Services Fund (DILSF). Carlos’s attorney asked immigration authorities to release him on humanitarian parole because he was a young survivor of abuse, but immigration authorities initially refused. Carlos was so distraught by his imprisonment that he considered accepting his deportation. Fortunately, his attorneys convinced immigration authorities to process his pending Special Immigrant Juvenile Status petition, and it was finally approved. Based on his approved petition, Carlos’s attorney again requested his release. This time, immigration authorities granted the request. Carlos was eventually released and he was able to spend the holidays with his older brother. He is excited to get back to school and focus on his English classes. Without his attorney and support through the DILSF, Carlos would not have been released and likely deported to Guatemala.*

Nancy

***Nancy** came to the United States from Mexico when she was a baby and grew up in Denver. She is a Lawful Permanent Resident (green card holder), and the mother of two U.S. citizen children. She is a survivor of multiple instances of trauma through witnessing domestic violence throughout her life. After a misdemeanor criminal infraction, immigration authorities detained Nancy in Aurora, Colorado. Nancy couldn’t afford an immigration attorney to help her fight to stay with her children in the United States. When she arrived in immigration detention, Nancy recalled that “I didn’t have a lawyer, and I lost hope. I didn’t have a date that I would get out, or a bond, or a date when I was going to see a judge or a lawyer. I kept thinking about my kids, and I knew I had to fight to stay here for them. But I felt lost and uninformed.” When Nancy received her lawyer through RMIAN and the DILSF, she “felt blessed.” With the help of her RMIAN attorney, Nancy obtained a low bond and was released from detention then reunited with her children. Nancy is “grateful” that the City of Denver “really cares about the people that need their help.”*

The Colorado Fiscal Institute estimates the implementation of a similar statewide legal defense fund, particularly one that would expand the provision of legal counsel to the high percentage of detained cases in Aurora,²⁰ would require an investment of roughly \$15.2 million.

The Value of Fair Treatment Under the Law: Legal Advocates Perspective

First and foremost, the Denver fund provides critical representation for individuals and families who otherwise would be forced to confront incredibly complex and high-stakes legal cases on their own. But another aspect of the Denver fund that has been so powerful is being able to convey that there is this fund that is comprised of public dollars that the City of Denver put forward in order to represent and protect its community members who are caught up in immigration enforcement and detention. That commitment of public funding and public support is profound and groundbreaking.

-Mekela Goehring, Executive Director Rocky Mountain Immigrant Advocacy Network (RMIAN)

Immigration is super complicated, I can't imagine not having the knowledge that I do and being in a detainee's position where you're in front of the judge and next to the government, no one is on your side. Personally, the connections that I make with my clients is the best thing that can happen for me, knowing someone is going to fight for you is something that I've heard from clients like 'thank you for at least fighting for me and helping me.'

-Shaleen Morales, Detained Representation Attorney Fellow Rocky Mountain Immigrant Advocacy Network (RMIAN)

Cost of Universal Representation

Although each person's situation is different and the duration of each case varies, attorneys at RMIAN find it costs between \$5,000 and \$7,000 to represent detained individuals. Lawyers estimate that non-detained cases cost far less. For instance, California provides \$100 for a legal consultation, \$1,500 for a bond hearing, and \$5,000 for a more complex non-detained removal proceeding.²¹ Applying the higher cost figure to the number of unrepresented immigrants likely to be detained means the state could invest as little as \$5.7 million. That investment would begin providing a critical level of access to due process for those with the most risk of detention and deportation. To expand services to include all matters, including for those not detained, would cost an estimated \$9.5 million.

²⁰ U.S. Department of Justice Executive Office for Immigration Review, "Statistics Yearbook," Fiscal Year 2018.

²¹ State of California Health and Human Services Agency, Department of Social Services. "Immigration Services Programs Update." March 2020.

The number and type of matters received in immigration courts in Colorado vary from year to year as policies and priorities change. For this analysis, we examined data from the most recently completed year. In 2019, there were 8,490 cases statewide and 4,848 of those people lacked representation. Of the total cases in 2019, 1,255 people were detained and 811 of those people were not represented by an attorney. People who are detained and lack representation face the greatest barriers to pursuing their case—for instance, filing appropriate paperwork and seeking witnesses—and are least likely to achieve a fair or positive outcome. We estimate that guaranteeing legal representation for these most vulnerable people would have a nearly 300 percent return on investment as those people could continue to work, provide for their families, and participate in their communities.

Table 1. State Investment Needed for Legal Representation in Priority Cases		
Estimated Cost of Representation for Priority Detained Case	Number of Unrepresented Coloradans in Detained Cases in 2019	Estimated Investment Needed for Representation in Priority Detained Cases
\$5,000-\$7,000	811	\$4 million - \$5.7 million
Note: \$5,000-\$7,000 are average costs as reported by attorneys who represent Denver residents through the Denver Immigrant Legal Services Fund for detained cases. Source: TRAC Immigration, “State and County Details on Deportation Proceedings in Immigration Court,” available at: https://trac.syr.edu/phptools/immigration/nta/		

Table 2. State Investment Needed for Non-Detained Cases

Estimated Cost of Representation for Non-Detained Cases	Number of Unrepresented Coloradans in Never-Detained Cases (2019)	Estimated Investment Needed to Provide Representation for Non-Detained Cases
\$2,500	3,807	\$9.5 million
Note: Non-detained cases are estimated to cost much less and are handled by a number of providers in the Denver area. California provides \$100-\$5,000 for a range of legal services. For this estimate, we used the mid-point, recognizing that this likely overestimates the cost.		

Reducing the Economic Burden

We compare the estimated cost of the universal representation fund to the potential savings by reducing detention and deportation. The burden of the current immigration legal system is not only felt directly through detention and deportation, but also indirectly through lost wages while individuals are detained, increased costs to employers of replacing detained or deported workers, lost state and local tax revenue, and reduced economic activity. CFI estimates that by providing universal representation, Coloradans can forgo about \$18.6 million in economic loss, which includes about \$350,000 in state and local tax revenue.

Reduced Household Income

The lack of legal representation places a large burden on the families of those detained and deported as those workers lose wages and family incomes drop. With the immigration legal system as it stands currently, individuals and families who are detained during immigration proceedings lose nearly 30 percent of their annual income. For families making ends meet on low wages, a 30 percent drop in income can mean the difference between just getting by and falling into poverty. Combined, Colorado immigrants who are detained lose approximately \$3.9 million in earnings due to their inability to work.

Table 3. Universal Representation Would Save \$3.9 million In Lost Wages

Number of Unrepresented Coloradans in Detained Cases in 2019 ⁽¹⁾	811
Likelihood of Being Granted Bond During Immigration Trial Proceeding (Unrepresented) ⁽²⁾	22%
Likelihood of Being Granted Bond During Immigration Trial Proceeding (Represented) ⁽³⁾	77%
Average Additional Length of Stay During Trial Proceedings Between Bond and No Bond ⁽⁴⁾	153 days
Cost of Lost Labor Income While Detained ⁽⁵⁾	\$80/day
Number of Additional Cases that Would Receive Bond with Universal Representation ⁽⁶⁾	446
Cost of Lost Income of Families of Detained Individuals ⁽⁷⁾	\$3,889,120
<p>(1) TRAC Immigration Reports, Syracuse University, "Details on Deportation Proceedings in Immigration Court", available at: https://trac.syr.edu/phptools/immigration/nta</p> <p>(2) Vera Institute of Justice, "Evaluation of the New York Immigrant Family Unity Project", 2017, p. 50.</p> <p>(3) Ryo, Emily, "Detained: A Study of Immigration Bond Hearings," Law & Society Review 50, no. 1 (2016), 117-153.</p> <p>(4) Figures are a result of an original CFI analysis of EOIR Case Data. U.S. Department of Justice, "EOIR Case Data," January 2020, available at https://files.share.eoir.justice.gov/FOIA-TRAC-Report.zip</p> <p>(5) Average Annual Wage of immigrants of \$29,486 is calculated as the Median Household Income for Colorado from 2014 - 2018 multiplied by the difference in earnings between undocumented US immigrants and permanent US residents as calculated in Borjas (2017) as 57.15%. Annual figure was used to extrapolate \$80/day.</p> <p>(6) 811 multiplied by 55% (the difference between likelihood of bond unrepresented and likelihood of bond represented).</p> <p>(7) 446 multiplied by \$80 multiplied by 109 days (assumes 5 workdays out of 7 days detained).</p>	

Universal representation resulting in lower detention rates would mean that more Colorado immigrant workers would be allowed to remain on the job, able to support themselves and their families as their cases wind to resolution. We estimate that universal representation would allow 446 individuals to get bond and spend on average 153 fewer days detained. Assuming they would only work five out of every seven days they are detained; this means 109 workdays are lost for each individual who doesn't receive bond. Multiplying 446 by 109 days by \$80 per day means \$3.9 million lost to families of detained individuals who would be less likely to be detained with legal representation.

Gladis Casas Ibarra, Campaign and Hotline Manager at the Colorado Immigrant Rights Coalition, puts the costs to families into real-life context:

When people have an attorney, they are maybe able to bond and fight their deportation from the comfort of their home, whatever comfort means, but at least they get to see their children, they get to continue providing, working, and then helping pay for those legal fees. When they're detained, they're deprived of all of that.

Lost Taxes and Economic Activity

Lost wages mean lost state and local taxes paid on those earnings and less economic activity in local communities. Immigrant workers with annual incomes of roughly \$30,000 pay nine percent of their incomes to state and local taxes, according estimates from the Institute on Taxation and Economic Policy. When immigrant workers lose \$3.9 million in wages, state and local governments lose \$350,000 in tax revenue that would have supported community priorities such as schools and emergency services.

A survey of consumer expenditure data demonstrates that families with incomes in this range spend nearly all of their income on basic needs—rent, food, utilities, and gas. These workers spend the bulk of their paychecks in the communities where they live. In these cases, wages act like other payments or income that support basic needs, including unemployment insurance or Supplemental Nutrition Assistance Program (SNAP) benefits. CFI estimates conservatively that every dollar spent by immigrant families generates \$1.60 in local economic activity.²² That means \$3.9 million in lost wages translates into a total \$6.2 million loss for Colorado's local economies.

Increased Costs to Colorado Employers

Colorado employers take a particularly large economic hit from the current immigration legal system as it is extremely costly for employers to replace immigrant workers with little to no notice. Employers of workers earning an annual salary less than \$30,000 expend roughly 16 percent of the employee's wages to replace them.²³ Providing universal legal representation would allow more immigrants to remain in Colorado and on the job, thereby reducing costly disruption and expense for employers.

²² See Fiscal Policy Institute, "Only Wealthy Immigrants Need Apply." October 2018, p. 8. And conversation with Josh Biven, Economic Policy Institute, economic benefits of unemployment insurance during the COVID19 pandemic. Available at: <http://fiscalspolicy.org/wp-content/uploads/2018/10/NY-Impact-of-Public-Charge.pdf>.

²³ Boushey, Heather & Glynn, Sarah Jane, "There are Significant Business Costs to Replacing Employees," Washington, DC: Center for American Progress, November 2012, p. 2.

CFI estimates that universal representation would result in 3,905 fewer deportations. If we applied a labor force participation rate to those 3,905 deportations, we estimate that 2,530 workers wouldn't be deported under universal representation. To estimate the lost economic impact we multiply those 2,530 workers by the average annual household income of defendants of \$29,486 multiplied by 16 percent to estimate the cost to employers of employee turnover from losing a worker who no longer gets deported under universal representation, which comes out to \$11.9 million.

Table 4. Universal Representation Would Save Colorado Businesses \$12 Million In Reduced Turnover	
2019 Deportation Proceedings ⁽¹⁾	8,490
Likelihood of Deportation in All Cases ⁽²⁾	73%
Likelihood of Deportation in Represented Cases ⁽³⁾	27%
Less Deportations Under Universal Representation ⁽⁴⁾	3,905
Cost to Employer of Employee Turnover (percent of employee's salary) ⁽⁵⁾	16%
Average Annual Household Income of Defendants ⁽⁶⁾	\$29,486
Cost of Employee Turnover from Deportation ⁽⁷⁾	\$11,974,448
<p>(1) TRAC Immigration Reports, Syracuse University, "Details on Deportation Proceedings in Immigration Court", available at: https://trac.syr.edu/phptools/immigration/nta</p> <p>(2) TRAC Immigration Reports, Syracuse University, "Outcomes of Deportation Proceedings in Immigration Court", available at: https://trac.syr.edu/phptools/immigration/court_backlog/deport_outcome_charge.php.</p> <p>(3) Vera Institute, "Due Process for All Evidence from Year 2 of the SAFE Network", November 2019, p. 3.</p> <p>(4) 8,490 multiplied by 46 percent (difference in 73 percent and 27 percent).</p> <p>(5) Boushey, Heather & Glynn, Sarah Jane, "There are Significant Business Costs to Replacing Employees," Washington, DC: Center for American Progress, November 2012, p. 2.</p> <p>(6) Average Annual Wage of Immigrants of \$29,486 is calculated as the Median Household Income for Colorado from 2014 - 2018 multiplied by the difference in earnings between undocumented US immigrants and permanent US residents as calculated in Borjas (2017) as 57.15%.</p> <p>(7) 65 percent of 3,905 to take out unemployed and not in labor force then multiplied by 16 percent multiplied by \$29,485</p>	

Reduced Overall Employment for Citizens and Non-Citizens Alike

Moreover, the effect of detention and deportation lowers employment not only for individual immigrants who are detained, but for all Coloradans. Researchers at the University of Colorado Denver and University of California Davis quantify these results and find programs that increase rates of deportation and detention result in decreased employment of non-citizen males in low- and middle-skill occupations, as would be expected.²⁴ However, they also find a decrease among employment of *citizens* in higher skill occupations in industries that *employ* low- or middle-skill immigrant workers, so a decrease in employment for construction managers, farmers and ranchers, restaurant and hotel managers. This literature demonstrates that aggressive deportation and detention practices have a negative effect on *all* employees, regardless of their citizenship status.

Summary

Coloradans face higher rates of deportation and detention simply because they are unable to secure legal counsel. The current system not only denies all Coloradans equal treatment under the law and adequate due process—Constitutional rights that should be afforded to immigrants and native-born people alike—but the economic fallout hurts individuals, their families, and all of Colorado’s communities.

State lawmakers can protect immigrant families and strengthen local economies by providing access to universal representation through a statewide legal defense fund that is as cost-effective as it is rooted in our country’s democratic values. The cost of providing universal legal representation to Coloradans navigating the complex immigration system would be \$15.2 million, but the savings of \$18.6 million in family income, employer turnover costs, state and local taxes, and overall economic activity makes the investment in a statewide legal defense fund a net benefit. Ensuring due process and keeping families together are important Colorado values. This public investment would help Colorado live those values while protecting local economies, and that is a value to us all.

²⁴ Mansour, Hani, et. al., “The Labor Market Effects of Immigration Enforcement,” IZA Discussion Paper No. 11486, May 2018.

Appendix – Methodology

Similarly, all calculations (except deportation) rely on the estimate of the percent of legally unrepresented and represented immigration cases. These figures are the result of an original analysis by CFI of case-level data from the Executive Office for Immigration Review. We calculate this figure as the total of 2018 cases in the Aurora court system that registered an EOIR-28 form as a fraction of all 2018 Aurora immigration cases. All calculations that consider costs for universal representation assume all individuals have access to legal counsel and would receive similar trial outcomes to those currently represented.

Detention

Detention costs are assumed to only be applicable for case matters received in the Aurora immigration court, as no individuals are detained during their trial and appearing before the Denver immigration court.²⁵ To calculate the cost of detention without the implementation of universal representation, the Aurora case matter total is divided into two separate groups, those with legal representation and those without.

The number of cases with legal representation is calculated as the case total multiplied by the percentage of legally represented cases in 2018 for the Aurora court system as calculated in our analysis of EOIR case level data. This total is then multiplied by the likelihood of detention while awaiting trial for represented cases, which is calculated by taking the likelihood of detention while awaiting trial for unrepresented cases, as calculated in a Vera Institute study of the New York Family Unity Project, and adjusting it according to a 2016 Law & Society Review study discussing the outcomes of immigration bond hearings.²⁶ The study finds that individuals who obtained legal counsel were 3.5 times more likely to be released on bond while awaiting trial than those without representation. Likelihood of detention while awaiting trial for represented cases is therefore calculated as 1 minus the likelihood of detention while awaiting trial for unrepresented cases multiplied by 3.5. This product is considered to be the number of represented

²⁵ Conversation with Mekela Goehring, Esq., Executive Director of the Rocky Mountain Immigrant Advocacy Network.

²⁶ Vera Institute, "Evaluation of the New York Immigrant Family Unity Project," 2017, p. 50; Ryo, Emily, "Detained: A Study of Immigration Bond Hearings," Law & Society Review 50, no. 1, 2016, 117-153.

individuals who are subject to detainment. This total is then multiplied by the daily bed rate for detained immigrants, as identified by Department of Homeland Security for the Denver Area of Responsibility, as well as the nationwide average length of stay for immigrants awaiting hearing as calculated by Immigration and Customs Enforcement.

For the second group calculation, individuals without legal representation, an identical calculation is made, except different figures are used for the likelihood of detention while awaiting their hearing.

Lost Income of Families and Individuals

To calculate the lost income of families and individuals due to detention during the immigration trial process in the instance of no universal representation, we multiply the likelihood of detention for represented individuals and non-represented individuals by the number of unrepresented detained cases in 2019. We then multiply this figure by the average daily wage of Colorado immigrants and, further, by the average length of detention for immigrants in immigration trial proceedings assuming they'd work 5 out of 7 days detained.

Cost of Employee Turnover from Deportation

To calculate the total cost to employers of employee turnover from deportation, we apply the difference between the likelihood of being deported with representation compared to the likelihood without representation to the 2019 deportation proceeding cases. That figure is multiplied by the labor force participation rate and 1 minus the unemployment rate to estimate the number of deported individuals with employment. This employment total is then multiplied by the average undocumented immigrant salary to calculate total wage earnings for deported individuals. This total is further multiplied by the cost to employers of replacing an employee as a percent of total employee salary. This figure is estimated by a 2012 Center for American Progress study to be 16 percent.

²⁷ Department of Homeland Security, "U.S. Immigration and Customs Enforcement: Budget Overview," 2019, p. O&S – 110; Immigration and Customs Enforcement, "ICE Average Length of Stay (ALOS) – FY2020 YTD," 2019, available at: <https://www.ice.gov/detention-management>.

²⁸ Boushey, Heather & Glynn, Sarah Jane, "There are Significant Business Costs to Replacing Employees," Washington, DC: Center for American Progress, November 2012, p. 2.

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