A victim of sexual abuse, Laura was struggling with the physical and emotional trauma of her past when immigration removal proceedings were filed against her. Though born in Mexico, Laura had lived in the United States with her family since she was three months old. Unaware that she might have a legal case to remain in the United States, Laura languished in a detention center for months before her case was identified through the ABA Immigration Justice Project (IJP) of San Diego.

Unlike defendants in the criminal justice system, individuals involved in removal proceedings do not have a right to free legal assistance. Yet immigrants face as dire and dramatic consequences as litigants who do have a constitutional right to an attorney. Upon hearing about Laura’s story, Matthew G. Holt, an immigration lawyer and a volunteer with the IJP, was determined to help Laura remain in the United States.

In the 9th Circuit Court of Appeals, which covers San Diego and hears more than 50 percent of the nation’s immigration cases, immigration appeals have increased over 500%. Handling this caseload is vastly complicated by the fact that 60% of the immigrants seeking help from the federal courts lack an attorney. The ABA Commission on Immigration launched the IJP to help promote due process and access to justice at all levels of the immigration system by providing high-quality pro bono legal services for those in immigration proceedings.

Immigrants detained at the U.S. border are often housed in prison-like conditions in a foreign country with an unfamiliar legal system, few financial resources, and language and cultural differences that pose barriers to effective self-representation. Without government-appointed counsel, most people, like Laura, go unrepresented in removal proceedings. The ABA Immigration Justice Project and its small staff work to leverage thousands of hours of urgently needed pro bono legal services.

Partnering with the IJP are several ABA entities, the Executive Office for Immigration Review (EOIR), the federal courts, the private bar, and local legal services agencies. Through the ABA Fund for Justice and Education, the IJP received a grant from the
EOIR to implement a Legal Orientation Program that provides know-your-rights presentations to detainees and individuals facing deportation in the San Diego immigration courts. To date, the IJP has provided legal rights information to more than 5,225 individuals facing court hearings, and conducted more than 2,200 individual case assessments at the Otay Mesa detention center and downtown immigration court.

After identifying clients with viable claims, the IJP seeks to secure pro bono representation through recruitment and training of pro bono attorneys on the IJP Pro Bono Panel and referrals to other nonprofit legal providers. Mr. Holt, an attorney with the Law Offices of Leah W. Hurwitz, is one such volunteer who has handled three separate court cases with the IJP.

Diagnosed with a mental illness, which was intensified by her sexual abuse, Laura was unable to represent herself in immigration court. After participating in one of IJP’s Legal Orientation Programs, she was introduced to Mr. Holt. Through the efforts of this one attorney, Laura began the long process of proving that separation from her family would result in exceptional and extremely unusual hardship and that she was eligible for asylum in the United States.

The IJP’s goal of providing immigrants with legal representation benefits not only the immigrants – by dramatically improving the outcome of their cases – but also the court system itself, by significantly reducing the cost and length of court proceedings. Legal representation results in higher appearance rates and more fair, efficient, accurate, and consistent decision-making. Through its innovative program, the IJP aims to increase access to counsel for immigrants and, at the same time, benefit the judicial system as a whole.

In 2010, the Commission on Immigration released a report entitled Reforming the Immigration System: Proposals to Promote Independence, Fairness, Efficiency, and Professionalism in the Adjudication of Removal Cases. The nearly 300-page report examined each stage of the immigration removal adjudication system and made nearly 60 recommendations for incremental and systemic reform. The findings of the report confirmed that the immigration court system is in crisis, overburdened and under-resourced, leading to the frustration of those responsible for its administration and endangering due process for those who appear before it.

“Ensuring a fair and effective system for adjudicating immigration cases is in the interest of both the government and those individuals within the system,” stressed Karen T. Grisez, Chair of the Commission on Immigration. “Most importantly, we must not sacrifice or undermine the fundamental principles of fairness and due process that exemplify the American justice system.”

In today’s security-conscious atmosphere, the balance between protecting national security and the rights of detained immigrants has become increasingly challenging. More than ever, the responsibility falls on the pro bono efforts of lawyers and law firms to offer legal assistance to protect the rights of these individuals.

After more than a year and appearing before three separate judges, Mr. Holt was able to secure residency for Laura in the United States and reunite her with her family. “I’m grateful for the work the IJP does on behalf of the immigrant community,” stated Mr. Holt. “Hearing the immigration judge grant my client asylum, when my client’s life literally hung in the balance of the Court’s decision, was one of the most rewarding experiences of my legal career, and one I will never forget.”