# The State of Immigration Enforcement and Legal Resources in Orange County



Orange County Justice Fund May 2023



#### **Acknowledgments**



#### Acknowledgments

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In addition, OCJF would like to thank the following for their contributions to the The State of Immigration Enforcement and Legal Resources in Orange County: Annie Lai, Jennifer Koh, May Lin, Perla Ramos Arangure, Eric Dominguez, Teresa Morris, Tanya Leon, Melissa Garlick, Elizabeth Kenney, Long Beach Immigrant Rights Coalition, Tin Nguyen, Laura Hernandez, Lisa Okamoto, Talia Inlender, Ahilan Arulanantham, Demis Camacho, Lisa Ramirez, Karina Gutierrez, Melisa Castillo, Monica Glicken, Josie Roberto, Precious Odum, and Peter Espinoza. A special thanks to Sister's of St. Joseph for their partnership and to CodeSpeak Labs, Just Perspective, and Teresa Morris for designing this report.

# **About the Orange County Justice Fund Orange County Justice Fund (OCJF):**

OCJF is a nonprofit organization founded in 2017 by a collaboration of attorneys, law professors, and grassroots leaders to generate support for transformative and effective legal representation for OC immigrants defending against deportation, especially those defending against deportation while detained OCJF houses an immigration bond fund, the only one that prioritizes Orange County residents and families. OCJF is committed to publicly funded legal representation and assistance for Orange County residents and families impacted by the criminal and immigration legal systems.



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## PART I INTRODUCTION

See Appendix A: The Three Branches of U.S. Government and Immigration Legal Ecosystem

#### Introduction

Every year, Orange County (OC) families continue to face apprehension, detention, and deportation from immigration enforcement authorities. In 2021, the federal government opened the Santa Ana Immigration Court and immediately filed 2,684 new removal proceedings, also known as deportation proceedings, against mostly OC residents. As of February 2023, over 22,949 deportation cases are pending at the Santa Ana Immigration Court and over 17,000 are OC residents. Unaccounted for are the many OC residents and families facing removal proceedings outside of immigration courts, including those on appeal, those with exhausted appeals, and those already deported but who continue searching for legal options to return to the United States.

U.S. immigration enforcement is complex and enacted through multiple agencies. The Executive Branch controls federal immigration agencies responsible for the U.S. immigration system and enforcement. These agencies include the Executive Office of Immigration Review (EOIR), Customs and Border Patrol (CBP) and Immigration and Customs Enforcement (ICE). These agencies can issue and enforce deportation orders outside of immigration courts. Because immigration proceedings are civil matters, not criminal, persons facing deportation do not have the same constitutional protections as criminal defendants; most notably, they lack the right to government-appointed counsel. 4

In Orange County, ICE has invested significantly to detect and deport immigrants. Early immigration enforcement tactics included the transferring of OC immigrant youth in probation to ICE custody and OC local elected officials signing onto a federal 287(g) agreement formally allowing for local law enforcement agencies to cooperate with ICE. Estimates suggest that in California, through the 287(g) program (2009-2016), ICE deported approximately 20,000 residents and most of these immigrants had no criminal convictions.

## PART I INTRODUCTION

This report is a needed spotlight on the changing immigration enforcement conditions in Orange County which highlights that for OC families facing this threat, there are limited resources to navigate these legal complexities. Previously published reports by community partners – The State of Orange County: An Analysis of Orange County on Immigration and a Blueprint for an Immigrant Inclusive Future and Second Chances for All: Why Orange County Probation Should Stop Choosing Deportation Over Rehabilitation for Immigrant Youth – are complemented by this report. Together, these reports drew attention to how Orange County continued building on its anti-immigrant legacy. While California has recently moved towards passing protective legislation, Orange County continues placing its residents at a greater risk for deportation. Since the Trump Administration, some political anti-immigrant dynamics have shifted while others remain firmly entrenched. This report provides an updated look at how the county continues to place its immigrant residents at a greater risk for entanglement with ICE.

To complete this report, OCJF collected various forms of data and conducted multiple interviews with community members, legal service providers, private immigration attorneys, and community stakeholders. Additionally, we used data from the Transactional Records Access Clearinghouse at Syracuse University, the California Department of Social Services, and the VERA Institute to understand immigrant experiences in Orange County. This report uplifts this data to offer insight into the deportation system that continues to impact OC residents and families, and the available resources to defend against deportation. It also highlights the OC immigrants' rights movement, its victories, and challenges, and how grassroot organizations continue leading the way for social change to improve immigrant and refugee communities' socioeconomic conditions.

Finally, this report can serve as a tool for those advocating for vulnerable immigrant and refugee communities in Orange County, especially those defending against deportation without legal representation. This report invites its readers to envision empowering immigrants as a necessary step to center the OC immigrant communities' needs and strengths for the long-term.

A Brief History of
Orange County's
Relationship
with Federal
Immigration
Enforcement Agencies
Aimed to Deport
Residents



After the federal government created the Department of Homeland Security (DHS) in 2002, Orange County's efforts to implement harsh immigration enforcement policies strengthened through formal collaborations like intergovernmental agreements with ICE. These agreements, shaped by President Bush's immigration enforcement priorities, outlined how local law enforcement agencies could help ICE to detain and deport persons. Multiple formal agreements among ICE and local law enforcement agencies have resulted in the identification, detention, and deportation of thousands of OC residents.



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In Orange County, law enforcement agencies have maintained a strong relationship with the federal government immigration agencies throughout the last thirty years. In the 1990s, Immigration and & Nationality Service (INS) was responsible for enforcing immigration laws.8At the time, the federal government had moved to allow state and local government agencies to take a more central role in immigration enforcement and encouraged collaboration among law enforcement agencies? This meant that where an immigrant lived increasingly played a determinant role in whether ICE placed them in removal proceedings and even if they were detained. After the federal government created the Department of Homeland Security (DHS) in 2002, Orange County's efforts to implement harsh immigration enforcement policies strengthened through formal collaborations like intergovernmental agreements with ICE. These agreements, shaped by President Bush's immigration enforcement priorities, outlined how local law enforcement agencies could help ICE to detain and deport persons. Multiple formal agreements among ICE and local law enforcement agencies have resulted in the identification, detention, and deportation of thousands of OC residents.

In Orange County, ICE has detected immigrants through several methods, and these have varied throughout the years depending on the president's priorities at that time. Some methods are dependent on intergovernmental collaborations between local governments and ICE, that include home or work raids. For example, in 2019, ICE conducted a large workplace raid in Fullerton under the Obama Administration. At the time, the raid was touted as aligning with the administration's priority of targeting companies that hired undocumented immigrants. Notably, during the Trump administration's outlined priorities made all undocumented immigrants deportation priorities.

#### The Use of Orange County Jails for Immigrant Detention

In 2004, the Santa Ana Police Department (SAPD) began housing immigrant detainees Initiatives for Visiting Immigrants in for the federal government in the Santa Ana Confinement (CIVIC), now Freedom for Jail through an intergovernmental service agreement (IGSA) and agreed to maintain a minimum number beds exclusively for detaining immigrants. The facility could 14 detain up to 482 persons at a time for ICE.

In August 2010, Orange County's Board of Supervisors voted unanimously to enter into fought to close this pod, including protests an IGSA with ICE to detain persons in designated county jails for immigration detention including Theo Lacy Facility in Orange and James A. Musick Facility in Irvine. This provided the OC Sheriff Department (OCSD) with additional profits and income, approximately \$31 million in its first year, 2010-2011.16 Immigrant rights activists highlighted that this agreement ignored the negative consequences to OC immigrant families and communities.<sup>17</sup>

In April 2012, Santa Ana City Jail and ICE designated a special "pod" or protectivecustody unit for detained LGBT community members at the jail. At the time, ICE designated this as the only pod specifically to detain persons that identify as "gay, bisexual, and transgender." Accordingly, facility guards received specialized training, yet, immigration advocates continuously noted this pod's failures.

Tellingly, in April 2017, Community Immigrants, filed an official complaint on behalf of 31 transgender and cisgender women.<sup>20</sup> CIVIC also produced a report that found guards repeatedly misgendered, verbally abused, and subjected transgendered women to full body cavity searches.21 LGBTQ advocates fiercely that risked arrest and deportation, eventually leading to the pod's closure in 2017. 22

In 2017, the California Values Act curtailed state and local law enforcement agencies from transferring immigrants and refugees from local jails and prisons to ICE, resulting in the termination of the contract between OCSD and ICE. This act explicitly carved out persons with certain criminal histories from protection. Police departments and agencies must report certain information to the state, as required by the California Values Act, if they transfer immigrants to ICE custody after their release from criminal custody. While most police departments report that they do not transfer any immigrants to ICE custody, the OCSD continues to lead in transfers every year. In 2021, the OCSD transferred 73 residents to ICE, being the top agency in California to transfer immigrants as shown in Table 1.

#### **Table 1: Top Ten Law Enforcement Agencies That Transfer to ICE** 23

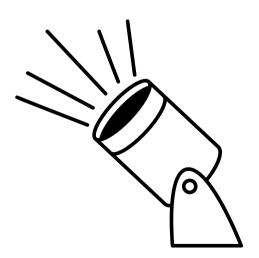
| AGENCY* TRANSFI |               | # Of ICE<br>TRANSFERS<br>(2021) ** |  |  |  |
|-----------------|---------------|------------------------------------|--|--|--|
| 1               | Orange SO     | 73                                 |  |  |  |
|                 | Fresno SO     | 44 2                               |  |  |  |
| 3               | Tulare SO     | 25                                 |  |  |  |
|                 | San Diego SO  | 18                                 |  |  |  |
|                 | Ventura SO    | 11                                 |  |  |  |
|                 | San Mateo SO  | 8                                  |  |  |  |
|                 | Kern SO       | 7                                  |  |  |  |
|                 | Kings SO      | 5                                  |  |  |  |
|                 | Riverside SO  | 3                                  |  |  |  |
|                 | Sacramento SO | 2                                  |  |  |  |

\*\*per mandatory data reported to **CA** Department of Justice

## SPOTLIGHT

#### Collaborations Among Grassroot Organizations to Assist Community Members Assert Legal Rights Under the Law

In July 2019, an Orange County resident, Kelvin Hernandez Roman, represented by UCI Law Immigrant Rights Clinic and supported by grassroot groups like the Orange County Rapid Response Network (OCRRN), filed a lawsuit against OCSD that alleges Mr. Hernandez Roman's overdetention was a violation of his Fourth Amendment right to be free from unreasonable seizure, as well as the California Values Act. In December 2021, the OCSD agreed to pay a settlement.<sup>24</sup>



# B. Orange County Terminates Three Contracts with ICE and Closes Immigration Detention Centers

In 2017, the Trump Administration's first year in office, OC community members and organizations continued advocating for the termination of local contracts with ICE.<sup>25</sup>During this time, the OCSD publicly requested the Trump Administration for help in detaining and deporting OC immigrants.<sup>26</sup> Despite California declaring itself a sanctuary for immigrants, OC officials opted for the opposite and prioritized their relations with ICE rather than their relations with communities they serve.<sup>27</sup>

The movement to close the three OC immigration detention centers began in Santa Ana. Santa Ana and OC residents advocated to end the detention of immigrants for ICE, including LGBT members housed in the Santa Ana City Jail. Within 2016 and 2020, the Santa Ana City Council voted unanimously to terminate its contract, the OCSD ended their agreement with ICE to detain immigrants at Theo Lacy and Irvine, and the OCSD no longer had a formal agreement to hold immigrant detainees.28 With the termination of contracts and the passage of state laws that halted and prevented cooperation with ICE, OC residents would no longer be detained in local jails for immigration purposes with specific exceptions.<sup>29</sup> ICE either released

or transferred individuals to other detention centers at the end of the contracts with local law enforcement agencies.<sup>30</sup>

The ending of agreements between ICE and local law enforcement agencies also meant that ICE needed alternatives to continue detaining and deporting OC residents, including Adelanto Detention Facility, a privately operated detention facility, opened in 2011 and located over 80 miles away from Santa Ana. This facility also houses an immigration court resulting in streamlined and faster deportations. Local advocacy groups, **Detention Watch Network and Freedom** for Immigrants (known previously as CIVIC), released an extensive report detailing how detainees reported experiencing prolonged detention, poor medical care, and limited access to the law library at the detention facility.<sup>31</sup>In 2017, after a third person died in the Adelanto Detention Facility, it became the deadliest immigration detention facility in the country.<sup>32</sup> Unsurprisingly, during COVID, a U.S. district court ordered the Adelanto officials to report publicly all COVID-related deaths daily after what was described as a "cover-up." 33

#### **PARTII**

A Brief History of
Orange County's
Relationship
with Federal
Immigration
Enforcement Agencies
Aimed to Deport
Residents

SEE APPENDIX B:
TIMELINE OF IMMIGRATION
ENFORCEMENT IN
ORANGE COUNTY

# C. After Closure of Immigration Detention at Local Orange County Jails, ICE Expands Reliance on Alternative To Detention Programs

Apart from formal detention, ICE also maintains control of immigrants through alternatives to detention (ATDs) and programs such as the Intensive Supervision and Assistance Program (ISAP). ICE can monitor immigrants through ATDs, defined as "any legislation, policy or practice, formal or informal, that ensures people are not detained for reasons relating to their migration status."34 The ATDs use intrusive surveillance methods such as electronic ankle shackles or mobile apps that conduct GPS monitoring, telephonic or in person appointments, arbitrary home visits, limit a person's physical autonomy and restricts them physically 24 hours a day, seven days a week.35ATDs cause harm to thousands of immigrants enrolled in ATD programs, including physical, mental, emotional, financial, and familial.<sup>36</sup>

While the federal government commonly justifies ATDs as more "humane," a growing number of studies call this claim into question. Those under this surveillance suffer from social isolation, blocked job opportunities with the stigma, and even physical harm from the ankle monitoring system.<sup>38</sup>

In the Los Angeles and Orange County areas, ICE has recently increased their reliance on ATDs to monitor and control persons facing deportation.<sup>39</sup> As of July 2022, in the Los Angeles and Orange County areas, there are over 15,322 persons on an ATD program.<sup>40</sup> ICE monitors the average OC resident for 20 months.<sup>41</sup>

Although the data ICE has been posting for months showed that the use of GPS ankle monitors has been increasing, ICE now reports this is incorrect. ICE frequently posts data, replaces it and replaces it again without any indication that changes have taken place, or which set are the "correct" numbers. 42



## **SPOTLIGHT**

Reports show that expanded ATD programs specifically impacts Black and Brown immigrant communities at high rates, reinforcing patterns of racial inequality. 37

## **DID YOU KNOW?**



#### **PARTII**

A Brief History of Orange County's Relationship with Federal Immigration Enforcement Agencies Aimed to Deport Residents

The Biden Administration continues to place migrant children (and families) in restrictive, large-scale, congregate settings, similar to adult detention centers, that harm their health and well-being. In California, the federal government partnered with local cities such as Long Beach, to run emergency intake centers or shelters. Migrant children, when detained, are placed in the custody of the Office of Refugee Resettlement (ORR) until they are released to a sponsor. The federal government initiates removal proceedings against migrant children after they are released from custody. As of 2017, California had the second highest number of migrant youth in removal proceedings, after Texas. However, it is unclear whether the federal government has the ability to meaningfully and reliably report on the migrant children it has in its custody.

# D. Advocacy Towards Building a More Welcoming and Just County for Immigrant and Refugee Residents and Families

City of Santa Ana establishes a fund for deportation defense legal services and declares itself a sanctuary city for immigrant communities

Santa Ana has often led the county in providing safety to immigrant families. In 2017, Santa Ana established a legal fund, one of the first in the country, to provide deportation defense legal services for Santa Ana residents and families. As part of the Vera Institute's Safety and Fairness for Everyone (SAFE) initiative, the legal defense fund champions "universal representation." 48 Vera defines universal representation as publicly funded representation for persons in removal proceedings irrespective of case merit. 49 The legal defense fund received \$165,000 of funding; Vera provided \$100,000 and Santa Ana provided \$65,000.50

The City of Santa Ana's memorandum of understanding (MOU) with the chosen legal service provider, Immigrant Defenders from Los Angeles, reflects various difficulties with meeting the definition of universal representation. For example, it excludes persons by setting residency requirements, sets a cap on the number of residents that could be served based on staff availability, only designated cases before immigration

court and U.S. Citizenship and Immigration Services (USCIS) would be accepted, and prioritizes residents detained in immigration detention centers.

Fast forward to December 2020, Santa Ana declared itself a sanctuary city by a unanimous vote. The city, through a resolution, declared itself "a sanctuary for all residents, regardless of their immigration status, with some exceptions." The city eventually adopted the resolution into an ordinance that regulated Santa Ana residents' sensitive information and immigration law's enforcement. Although mostly symbolic, the resolution represented a major step towards ending their relationship with ICE. In spite of the city's declaration, data also demonstrates that the Santa Ana Police Department continues to collaborate with ICE in certain cases, with the agency continuing to list the Santa Ana Jail on their website, which demonstrates how deep the relationships are among local law enforcement and federal immigration enforcement agencies.52

#### **PARTII**

A Brief History of
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SEE APPENDIX C: TOP 20
NATIONALITIES OF PERSONS
FACING DEPORTATION AT THE
SANTA ANA IMMIGRATION
COURT

# The Establishment of an Immigration Bond Fund Available for OC Residents and Families

ICE officers and immigration judges have the discretion to set a bond for a person detained immigration custody after they determine whether a person is a "flight risk" or a "danger to community." The person is released, after bond is posted with ICE, and they can continue to defend against their deportation outside of a detention center, significantly improving their chances to obtaining legal representation and successfully defending their case. 54

According to TRAC data collected between October 2000 and February 2023, 56% of detained persons seeking release in the Adelanto Detention Facility are denied bonds with only less than 4% granted release on their own recognizance. Of those granted bond, 43% were granted bonds higher than \$10,000.55 Importantly, consistent with the documented racialized disparities, Black migrants that sought OCJF's assistance had bonds set at higher amounts than other groups.56

These high bonds left many detained OC residents and their families with the prospect of using a significant portion of their annual household income to post bond or have their family remain in lengthy detention. Recognizing these dire circumstances, in 2019, the Orange County Justice Fund (OCJF), established the county's first immigration bond fund available to detained Orange County residents that do not have financial resources to post their bonds. 57 As of March 2023, OCJF has posted bonds for 81 individuals and provided over \$336,800 in bond financial assistance, making it one of the largest ones in the country.58

According to TRAC data collected between October 2000 and February 2023, 56% of detained persons seeking release in the Adelanto Detention Facility are denied bonds...Of those granted bonds 43% were granted bonds higher than \$10,000.

Table 2: Adelanto Immigration Court Bond Hearing Case Decisions 59

| BOND AMOUNT         | PERCENTAGE |
|---------------------|------------|
| Not Granted<br>Bond | 56%        |
| \$0                 | 4%         |
| \$1-5000            | 12%        |
| 5K-10K              | 10%        |
| 10K-17.5K           | 9%         |
| 17.5K-25K           | 6%         |
| 25K or<br>more      | 2%         |

This table shows the amount range awarded for each case decision and the percentage of individuals who receive that amount.

#### E. OC Cities Immigrant-Related Policies and Procedures

OC immigrants face different vulnerabilities depending on where they live. Cities have the autonomy to protect or to undermine the well-being of the immigrant community. While some city policies leave residents more vulnerable to ICE tracking, others provide a more robust ecosystem of resources for immigrants facing deportation. The table below provides a sample of the different vulnerabilities and resources for OC immigrants depending on the city of residency.

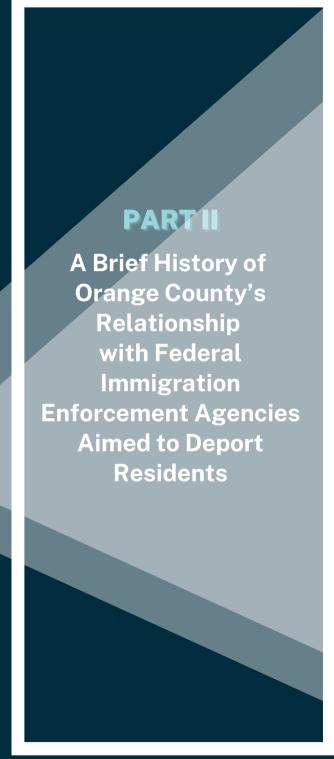
Anaheim - Immigrants make up 35% of all residents in Anaheim.<sup>60</sup> In 2017, Anaheim passed a "Welcoming City" policy.<sup>61</sup> While some language of the policy mirrored sanctuary city ordinances passed by other cities, the City of Anaheim's policy did not explicitly ban local law enforcement from cooperating with ICE.<sup>62</sup>

Irvine - According to 2020 census, almost 40% of Irvine residents are immigrants. Irvine, however, has not passed a sanctuary city ordinance status or offered a legal defense fund for immigrants in removal proceedings. In 2021, Irvine passed a resolution of commitment towards Diversity, Equity, and Inclusion

that reaffirms Irvine's commitment to creating an inclusive environment but did not explicitly ban local law enforcement cooperation with ICE. There is still a significant number of residents–1,296 to be exact–in the Irvine-Lake Forest area facing deportation.

Although there is no publicly funded-legal defense fund available to residents, the University of California, Irvine offers probono immigration legal services to students and their families, many of whom are local residents. The City also recently passed the Irvine Recovery Program, which provides \$5 million for vulnerable populations, including to organizations that provide legal assistance for immigration matters.

Garden Grove - Almost 44% of Garden Grove residents are immigrants making it one of the county's largest immigrant populations. However, unlike other cities with larger immigrant populations, it did not declare itself a sanctuary nor by offering immigration legal resources to its residents defending against deportation. The Garden Grove city council offered a supportive statement after President Obama's executive decision to create Deferred Action for Childhood Arrivals (DACA), a temporary protected status. 69



Santa Ana - Santa Ana's resident population, according to the latest census, is 43% immigrants. Santa Ana is a leading immigrant rights city in Orange County and lauded for increasing access to immigration legal assistance. After ending its contract with ICE in 2019 to hold immigrant detainees facing deportation at the Santa Ana Jail, the Santa Ana City Council declared itself a sanctuary city and allocated public funds to establish a deportation defense fund to residents facing deportation with legal services. Santa Ana residents have unique access to these resources in Orange County.

Fullerton - Almost 29 percent of residents in Fullerton are immigrants. Fullerton City Council considered signing onto a legal challenge to SB 54, also known as the Values Act. However, various city residents objected publicly against such action and ultimately, prevented this. Although there is no city public funding for a legal defense fund, California State University, Fullerton, offers immigration legal services to its students and their families, many of whom are residents.

Mission Viejo - According to the latest census, the immigrant population is almost 22%in Mission Viejo. <sup>74</sup> Despite making up part of the fabric of the Mission Viejo community, the city council has not offered much support. In fact, the city council signed onto a legal challenge to SB 54, signaling a willingness to continue cooperating with ICE. <sup>75</sup>

In what follows, the report details how local law enforcement practices and discretion have often made OC immigrant residents more vulnerable to deportation legal systems. Once caught in the systems, OC immigrants face numerous obstacles and unique barriers to disentangle from the system and regain their freedom.

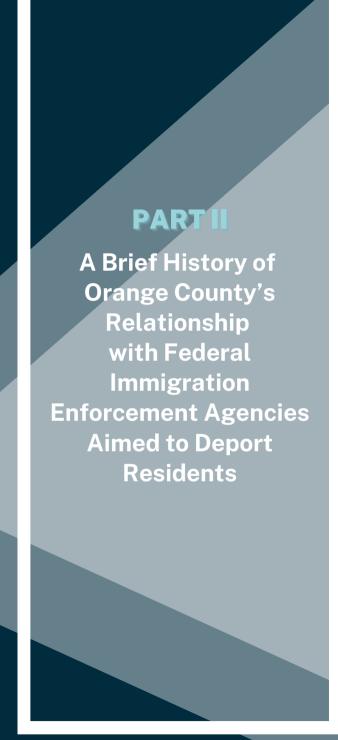


Table 3

# Immigrant Vulnerabilities and Resources Depending on City They Live In

| City          | Bans Cooperation with ICE | Welcoming or<br>Sanctuary City | Legal Defense<br>Fund |
|---------------|---------------------------|--------------------------------|-----------------------|
| Anaheim       | <b>✓</b>                  | <b>✓</b>                       | ×                     |
| Irvine        | <b>✓</b>                  | X                              | X                     |
| Garden Grove  | <b>✓</b>                  | ×                              | X                     |
| Santa Ana     | <b>✓</b>                  | <b>✓</b>                       | <b>✓</b>              |
| Fullerton     | <b>✓</b>                  | ×                              | X                     |
| Mission Viejo | <b>✓</b>                  | ×                              | X                     |



In less than a year after its introduction, Orange County's immigration court streamlined the deportations of many OC residents and became the fourth California county with the highest number of residents facing deportation with 12,039.



#### **PART III**

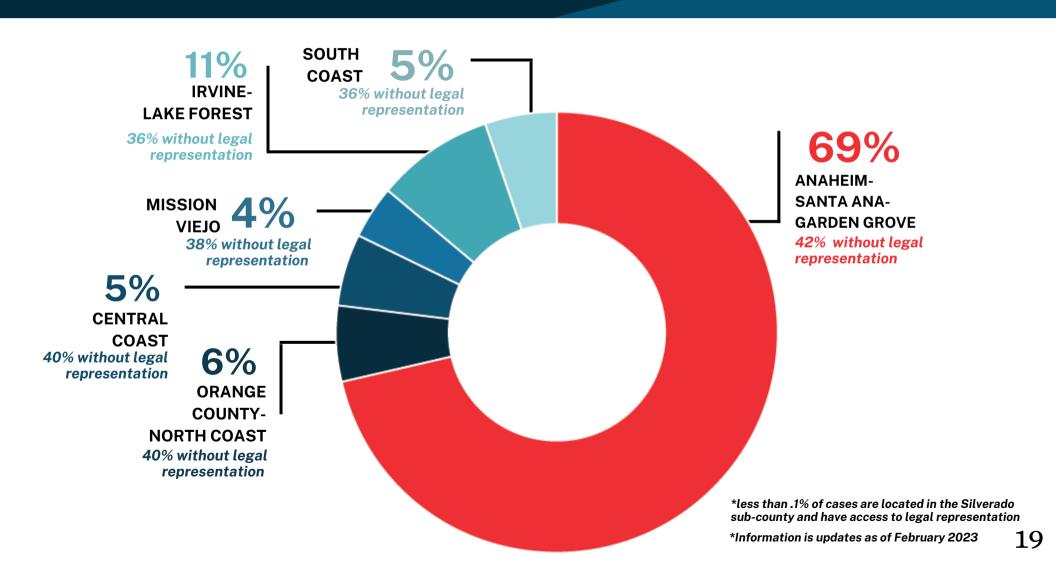
The State of Legal Resources for OC Residents Facing Deportation Today As of 2021, there are approximately 11.4 million undocumented persons living in the U.S., many of whom are unable to apply for lawful status because legal relief is often limited. According to the 2021 U.S. Census, there are 945,355 immigrant residents living in Orange County. As of 2019, of those immigrant residents, approximately 236,000 have no lawful status. Despite vast gains by the local immigrant rights advocates, the introduction of the Santa Ana Immigration Court has presented a new challenge. <sup>79</sup>

In less than a year after its introduction, Orange County's immigration court streamlined the deportations of many OC residents and became the fourth California county with the highest number of residents facing deportation with 12,039. As of January 2023, the Santa Ana Immigration Court has over 22,417 pending deportation cases with at least 23 immigration judges, almost as many as the Los Angeles Immigration Court.

Although the focus of the report is the OC residents facing deportation, it is worth noting that as of 2021 there are also over one million affirmative applications for immigration relief are pending with U.S. Citizen and Immigration Services (USCIS). USCIS is a federal agency that is responsible for adjudicating cases–citizenship, family and business visas, humanitarian relief, and DACA. Immigration officers decide affirmative cases while immigration judges decide deportation cases. Hence, seeking this protection, even among those that qualify, is a lengthy and slow process.

#### Infographic 1

# ORANGE COUNTY SUB-COUNTY SUBDIVISIONS WITH RESIDENTS & FAMILIES FACING DEPORTATION AT THE SANTA ANA IMMIGRATION COURT \*2



The State of Legal Resources for OC Residents Facing Deportation Today In the absence of options for relief from USCIS, individuals in immigration are left with limited legal defenses from deportation. The most common defenses include: cancellation of removal for permanent and non-permanent residents, asylum, adjustment of status, withholding of removal, protection under the Convention Against Torture, and voluntary departure. Failure to meet the requirements, results in a denial of benefits sought and issued a deportation order. Persons that are denied relief can file an appeal with the Board of Immigration Appeals (BIA). If the BIA dismisses their appeal, persons can file a petition for review with the Ninth Circuit Court of Appeals. Appeals of decisions by the BIA, and other executive branch agencies, continue to make up a substantial portion of the court's caseload. The appeals process can take years and can still result in a final order of deportation. Hence, individuals and their families can struggle for years to see a final resolution.

The Executive Office for Immigration Review, which oversees deportation cases, opened the Santa Ana Immigration Court, and simultaneously established the presence of the Office of the Principal Legal Advisor (OPLA). OPLA is the largest legal program at DHS, with over 1,300 attorneys across the country representing DHS in removal proceedings and providing legal services to ICE. While this influx of attorneys represents the government in removal proceedings against OC residents, there is no right to a government attorney when a person is facing deportation. This includes children who do not have legal representation and have to defend against their deportation, no matter their age.

The State of Legal Resources for OC Residents Facing Deportation Today

#### A. Orange County Immigration Legal Service Providers

Because there is no guaranteed right to counsel in deportation proceedings, OC residents who lack financial resources to pay for private attorney representation are faced with few options to prevent deportation. These include: pro bono legal service providers, private attorneys, law school clinics, or proceeding on their own and without legal representation (pro se).89

Because resources are scarce and restricted by funding sources, legal services providers are faced with the difficult decision of setting priorities on how to deliver legal assistance.90 Below we highlight immigration legal service providers that provide varying types of legal representation and assistance, such as intake, case representation, technical assistance, and referrals. We also discuss how funding restrictions determine which OC residents receive legal assistance. Because of funding restrictions and limited available legal resources for OC residents, many residents are required to defend themselves against deportation on their own and without legal representation.

#### **Legal Service Providers**

Legal service providers that provide pro bono immigration services have expanded significantly from their start in 19th century New York City where they served recently arrived immigrants with no funding for legal services.91Today, federal, state, local and private entities provide public funding for pro bono legal services to assist community members with their pending immigration cases. However, while some nearby counties like San Diego, who has established a legal defense program with a budget of \$5 million, Orange County has contributed no funds dedicated to pro bono legal services for residents and families to help them defend against deportation.

Orange County currently has two legal service providers (one state-funded and one Santa Ana-funded) that provide wideranging legal services to low-income adult residents facing detention and deportation. With several legal service providers that receive federal funding to provide immigration services to vulnerable groups such as unaccompanied minors and those with mental health conditions unable to represent themselves that may include OC residents. Because there is limited state and local funding for removal cases, OC residents are often forced to search outside of Orange County or beyond for pro bono legal service providers. 20

#### **SPOTLIGHT**

Federal & State
Funding For
Immigration Legal
Service Providers



#### Federal and State Funding Available for Immigration Legal Service Providers

The U.S. Federal Government funds legal representation in certain limited circumstances. For example, through the National Qualified Representative Program (NQRP), the Vera Institute of Justice (Vera) provides appointed legal representation to detained immigrants who an immigration judge has found incompetent to represent themselves in their immigration proceedings. This arose out of a class action lawsuit Franco Gonzalez v. Holder. The Federal Government also provides funding to Vera for the Legal Orientation Programs (LOP) that educates detained immigrants about their rights and immigration court process so they can make informed decisions about their cases.

While any advocates across the country endorse a federally funded universal representation model, that is zealous and person-centered model. A federal public defender system in immigration court may help ensure that individuals facing deportation have access to legal representation, it will not address the larger systemic issues that lead to the majority of individuals ordered deported, especially Black and Brown migrants, and often outside of immigration courts. Perhaps of greatest concern is that immigration courts are not independent as they are under the power of the Executive Branch making them susceptible to each presidential administration's immigration enforcement policies and priorities, as demonstrated most recently under the Trump Administration's anti-immigrant policies. Some advocates believe that the federal funding model will ultimately fall short of confronting mass deportations, and in some ways, may serve to reinforce it. Property of the server of th

"The city has a responsibility to protect these immigrant communities as we continue to see federal policies that undermine due process and target immigrant communities. While the federal government is not stepping up yet to provide these services, we really need city and state governments to continue to make sure that nobody is exempt from due process and so that is happening you know in the community. I think it is really important for the city government to look at the gaps and address them." -Melissa Garlick, Vera Institute

# SPOTLIGHT Federal & State Funding For Immigration Legal Service Providers

See Appendix D: How Orange County's Investment in Deportation Defense for OC Residents Compares to Others in the Region Historically, immigration services funding from the State of California has targeted affirmative services, leaving out services for residents facing imminent deportation, especially those that are detained. In 2018, the California Department of Social Services (CDSS) began funding OC nonprofit legal service providers to provide legal assistance for removal defense for the first time. In FY 2020-2021, CDSS provided funding for eight OC non-profit organizations with \$1,627,270 to offer affirmative immigration services (ISF). This amount represents 4% of the total state funding for affirmative services.

In the FY 2021-2022, of the eight funded non-profit organizations, CDSS reports funding only one organization to provide removal defense legal services, Public Law Center (\$322,500). The CDSS Removal Defense priorities include providing legal representation for detained individuals. This represents approximately 22 percent of the total funding given in California, an increase from the previous fiscal year. In total, CDSS invested almost 2 million dollars in OC immigration legal services (\$1,908,770).



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Table 4

# Organizations That Received CDSS <u>Funding in 2020-2021 and 2021 - 2022</u>100

| Organization   | ISF Award<br>(2020 - 2021) | ISF Award<br>(2021 - 2022) | Removal Defense<br>(2020 - 2021) | Removal Defense<br>(2021 - 2022) |
|--|----------------------------|----------------------------|----------------------------------|----------------------------------|
| Access California Services   | 252,550                    | 253,300                    | 0                                | 0                                |
| Boat People SOS  | 124,000                    | 114,000                    | 0                                | 0                                |
| Community Legal Aid SoCal  | 80,750                     | 103,500                    | 0                                | 0                                |
| Gay and Lesbian Community<br>Service Center of Orange County<br>(dba LGBT center OC) | 172,000                    | 163,140                    | 0                                | 0                                |
| Orange Country Labor Federation  | 60,000                     | 58,710                     | 0                                | 0                                |
| Public Law Center  | 217,870                    | 217,120                    | 0                                | 322,500                          |
| Solidarity- Camino Immigration<br>Services   | 101,800                    | 67,800                     | 0                                | 0                                |
| World Relief   | 618,700                    | 608,700                    | 0                                | 0                                |
| TOTAL  | 1,627,270                  | 1,586,270                  | 0                                | 322,500                          |

#### Table 5

# How Orange County's Investment in Deportation Defense for OC Residents Compares to Others in the Region

| Fund Name                                | Year<br>Approved | Total Amount of Investment (First Year) | Legal Service<br>Provider(s) or<br>other Fund<br>Grantees<br>(First Year) | Cases<br>Represented<br>(Various<br>Periods) |
|--|------------------|---|---|--|
| Santa Ana<br>Deportation<br>Defense Fund | 2017             | \$165,000                               | Immigrant<br>Defenders<br>Law Center                                      | <b>59</b> <sup>102</sup>                     |
| Long Beach<br>Justice Fund               | 2019             | \$350,000                               | Immigrant<br>Defender Law<br>Center                                       | <b>47</b> <sup>103</sup>                     |
| Los Angeles<br>Justice Fund              | 2017             | \$7.9 <sup>104</sup><br>million         | 16 partner <sup>105</sup><br>organizations                                | <b>742</b> <sup>106</sup>                    |

A recent trend in policy intervention at the local level has been investing in deportation defense funds that specifically finance deportation cases, especially for persons that are detained at an immigration detention center. Orange County only has one local deportation defense fund, the Santa Ana Deportation Defense Fund. Below is a table describing how the Santa Ana Deportation Defense Fund compares to others in the region.



"When I was finally released from [immigration] custody, I tried to find an immigration attorney to help me fight for the ability to remain in the only country I have ever known. I called, left messages, and called back. Everyone was at capacity. This is the same thing that continues to happen to community members throughout the county. We need help!" - Laura Hernandez, Coordinator, Orange County Rapid Response Network

# **PART III** The State of Legal **Resources for OC Residents Facing Deportation Today**

There are also several Los Angeles based organizations with offices and projects in OC that provide legal services to OC residents. For instance, the City of Santa Ana funds Immigrant Defenders to provide services to Santa Ana residents. 107 Additionally, CDSS funds legal service providers like the Central American Resource Center of Los Angeles (CARECEN-LA) and the Coalition for Humane Immigrant Rights (CHIRLA) to provide OC UC, Cal State University and community college campuses with direct legal immigration services to their students, faculty, and family.<sup>108</sup> The legal services are funded through a partnership between their respective educational systems and CDSS, but remain unlisted from their website. <sup>109</sup> The UC Immigrant Legal Services Center, based at UC Davis, provides services for University of California Irvine, to their students, faculty and family. 110 Through this patchwork of non-profit legal service providers, OC residents have some access to pro bono legal services, but with individuals outside of designated groups left without an avenue for representation.

#### Law School Clinics

Another avenue for pro bono immigration legal services in Orange County has been law school clinics. Historically this has included the UCI Law Immigrant Rights Clinic, Chapman University Family Justice Center and Western State College of Law's

Immigration Clinic.<sup>111</sup> These law clinics allow law students to collaborate with clients under close faculty supervision in a range of matters from direct representation to collaborating with grassroots organizations. As of 2022, there is only one OC law school clinic that currently provides removal defense services.<sup>112</sup>

Law school clinics have unique constraints on their work compared to other pro bono service providers. They are limited by the number of individuals they can represent, and their capacity is greatly dependent on the number of enrolled students in the clinic at the given academic period. However, similar to private attorneys, law school clinics may have less restrictions on their services. Law school clinics are also unique in that they work in teams, collaborate with other attorneys, and have resources that strengthen their cases, such as additional time to work on the case given the lower volume on their docket compared to other legal service providers, and can hire a social work team to address the nonlegal needs of the person and that provide interdisciplinary expertise if required. 113

The State of Legal Resources for OC Residents Facing Deportation Today

#### **Private Immigration Attorneys**

When non-profit attorneys are unable to provide direct legal representation, OC residents can turn to private immigration attorneys, who have discretion over selecting cases and are not restricted by funder requirements. However, private immigration attorneys that provide removal defense services to OC residents are limited. The American Immigration Lawyers Association's (AILA), the leading voluntary bar association for immigration attorney, directory lists 48 immigration attorneys working within Orange County.<sup>114</sup> Of those 48 attorneys, 29, or about 60% of all listed Orange County immigration attorneys offer removal defense services. It is important to note that private immigration attorneys' fees for removal defense services can be beyond what many Orange County residents in removal proceedings can afford. Nearly 38% of noncitizen workers live in households earning less than a living wage and face severe housing and food insecurity.<sup>115</sup> For noncitizens who regularly face these economic hardships, hiring an immigration attorney may be outside their financial means. Generally, private immigration attorneys do not post their fees publicly, and fees are set between the attorney and the client through an agreement.<sup>116</sup> Like other private attorneys, immigration attorneys' fees are usually set by a number of factors, including case complexity and attorney expertise. Deportation defense cases are known to be set in the thousands depending on the person's circumstances. 117



"Due to our pedagogical mission, we are unable to offer representation at scale. It can be a real challenge for community members to find legal resources, particularly legal resources free of charge. The landscape is bleaker in Orange County than in LA. However, we have tried to compensate for this by taking on more challenging cases, applying an interdisciplinary approach and pursuing a wider range of strategies when we do take a case (including postconviction advocacy), and more generally, trying to amplify the impact of the limited number of cases we handle." -Annie Lai, Clinical Professor of Law at University of California, Irvine



The State of Legal Resources for OC Residents Facing Deportation Today



#### B. Persons Defending Against Deportation Without Legal Representation

When persons are unable to find representation, they can also continue to defend against their deportation on their own and without legal representation. Without intricate legal knowledge to prepare a legal argument against deportation, these individuals' cases are often fast-tracked.

EOIR recently encouraged individuals or organizations' participation in friends-of-the-court programs, to increase information access in the courtroom. Through this model, unrepresented persons facing deportation may have non-attorneys appear with them in their hearings. Though it is often assumed that an attorney will represent an immigrant throughout the duration of their case, there has been experimentation with limited-scope representation. These include information clinics, limited-scope advice, or lawyers-for-a-day programs. While often less effective, these can be more cost-efficient.

Recently, the federal government agreed to fund Esperanza Immigrants Rights Project, a Los Angeles based organization who has provided services to Orange County residents in the past, to provide pro se assistance at the Santa Ana Immigration Court through the Immigration Court Helpdesk. The Federal Government has found these programs are similar to LOP, providing benefits such as time and cost savings because persons appearing before court were better prepared and equipped to meaningfully participate in their proceedings. While some studies find that limited-scope representation is less effective than full-scale representation, it is generally agreed that limited-scope representation is better than no representation at all. 120

The State of Legal Resources for OC Residents Facing Deportation Today



#### C. Funding Restrictions Determines Who Does Not Receive Legal Assistance

Pro bono legal services are significantly impacted by funding limitations that shape how services are delivered to the most in need and vulnerable community members. In Orange County, many residents are not offered legal representation because funding to legal service providers is limited and restricted. The prior sections demonstrate that to avoid this issue, supplemental funding is required to provide additional legal services to those facing deportation, and that case selection factors (or criteria) of legal service organizations are reflected by the funding restrictions, such as, income of person seeking services, residency location, immigration and criminal legal history, available relief in immigration court, and others, that leave many residents defending against deportations on their own and without legal representation.

Although Orange County has made great strides to reach vulnerable persons facing deportation, there are still many residents that are left out with funding restrictions. Some examples include:

- The National Qualified Representative Program, federally funded, is limited to persons with mental health conditions that are detained. 121
- CDSS, state-funding, provides a list of criminal convictions that disqualify a person from receiving pro bono legal services from CDSS funded organizations.<sup>122</sup>
- The City of Santa Ana deportation defense funds are limited to persons with ties to Santa Ana.<sup>123</sup>

Many Orange County legal service organizations, including those who participated in the interviews, shared that they are not funded to provide critical removal defense legal services (even if funding is available) such as:

- Appeal of removal orders, or other related relief, before the BIA or federal court,
- Post-conviction relief to obtain immigration relief, 124
- Required check-ins and electronic monitoring accountability with ICE,
- Technical assistance to persons defending themselves,
- Representation in summary removal proceedings with agencies such as ICE and CBP,
- California State Bar complaints against attorneys that may have committed malpractice that resulted in a removal order or other detrimental consequences or,
- Extradition defense.

28

These funding restrictions significantly impacted OC residents with immigration cases transferred from the Los Angeles Immigration Court to the Santa Ana Immigration Court. Although the new immigration court is closer to OC residents, most LA legal service providers. who provide representation to Los Angeles residents with cases at the Los Angeles Immigration Court, do not have funding to provide legal representation to OC residents whose cases were moved from the LA Immigration Court to the Santa Ana Immigration Court.. The attorneys interviewed for this report stated that they could no longer serve some of their previous OC clients because of funding limitations. Hence, this change of court venue meant that many individuals lost their non-profit legal representation. The reality for most OC residents facing deportation at the Santa Ana Immigration Court is that they will proceed alone because of the limited available legal resources in the county.

Recently, CDSS announced changes to its removal defense program for the upcoming FY 2022-2024 that will address some historically unfunded areas of removal defense services. that could address this shortfall in legal services available to OC residents. The funded organizations will now be able to provide representation to every substantive stage in a removal defense case. This includes representation when a person is on appeal at the BIA or in federal court and in state court proceedings related to removal defense, such as proceedings regarding post-conviction relief allowing individuals facing deportation with the opportunity to exhaust all reasonable legal options. Persons with certain criminal histories will remain disqualified from services and technical assistance for pro se litigants will remain unfunded.



## **SPOTLIGHT**

In 2020, Orange County resident and Vietnamese refugee, Tin Nguyen, was transferred to ICE custody after being released from prison and being granted a sentence commutation from Governor Jerry Brown. Tin defended against his transfer from criminal custody to ICE custody on his own because he was disqualified from receiving legal services from a CDSS funded nonprofit legal organization due to his criminal history. Tin could not afford to hire a private immigration attorney. Eventually, Tin retained pro bono representation from attorneys at O'Melveny & Myers LLP (OMM) in northern California, to prevent his deportation to Vietnam. Tin and his attorneys partnered with groups like VietRISE, Asian Americans Justice, CARECEN and others to advocate for Tin's discretionary release from ICE. Tin was granted release in 2020 and is currently defending against his deportation.

#### D. How Other Cities and Groups Approach Legal Aid Programs That Provide Legal Aid to Community Members Without Legal Representation

Many groups continue to advocate for legal aid programs that will provide legal representation to every person defending against deportation. For example, Grantmakers Concerned with Immigrants and Refugees, an immigrant-focused philanthropy mobilization organization, created a proposal for Los Angeles County to establish a legal defense program that would cost \$39.7 million over four years (\$9.5 million in its first year and increases incrementally). At the core of this program are legal service providers that primarily rely on attorney positions. The budget would include resources to support a select group of community and grassroots organizations that complement funding allocated to legal service providers, such as conducting outreach and making referrals. The proposal includes a recommendation that the funding becomes an annual structural line item in the city and county budgets. This model can be a challenge for counties that do not have the same number of immigration legal service providers that bigger cities often do or who have a majority county board of supervisors that would vote for an expensive immigration legal defense program.

Other groups, such as Beyond Legal Aid, have advocated for alternative legal aid service models, called legal empowerment strategies, which unites lawyers -including nonprofit legal service providers, private attorneys, legal clinics – and activists through the process of building locally-owned legal aid programs. These programs include: community-driven litigation, community paralegals, hotlines, pro se clinics, know your rights programs and more. Lawyers collaborate with community and grassroot organizations, to build the programs within their own organizations, regardless of whether an attorney can provide direct representation. The impacted person would take lead in seeking information to move their case forward, as opposed to being a recipient of transactional legal services, and work with the community and grassroot organizations in responding to their legal (and non-legal) needs, which is likely to change given the nature of immigration cases. Alexander of the services of the services

#### **PART III**

The State of Legal Resources for OC Residents Facing Deportation Today This section focuses on the needs of the vulnerable populations identified above. Orange County immigrant residents, like others across the country, may have to wait years before they see an outcome in their case. Nationwide, most immigrants with pending immigration cases will wait an average of 795 days or more than two years. Unfortunately, statistics show that most will be ineligible for relief. Individuals waiting for the outcome of their immigration cases can face other challenges that are directly connected to their immigration circumstances.

Orange County's local socioeconomic conditions shape how immigrants can fight their case, their wellbeing throughout this process, and how they bear the impact of immigration enforcement. In the following sections, we present three areas where OC immigrants and their families need support during the removal process: (1) poverty, (2) housing, and (3) mental health. These areas have a direct impact on a person's ability to effectively fight their deportation case.



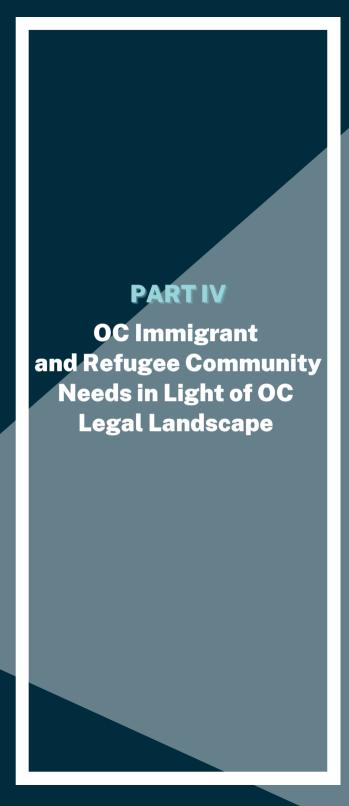
"I think one of the most important needs was mental health services. It was really hard to find referrals for these people who didn't have any documentation and didn't have status. They were not eligible for medical...I found that it was very hard to get mental services in Orange County. The main thing they had to do was to call the general information line for the county. But a lot of clients have difficulty even doing that they did not speak English. So, they also needed translation services."

- Demis Camacho, Former OC Non-Profit Immigration Attorney that provided deportation defense and affirmative services



#### **PART IV**

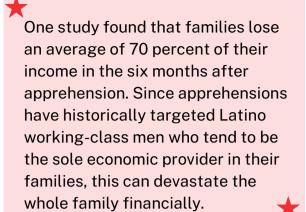
OC Immigrant
and Refugee Community
Needs in Light of OC
Legal Landscape



#### **Poverty Rates**

A pending immigration case can be financially costly to the individual and their family. For individuals who are caught up in immigration—their multiple court hearings, and if applicable, enduring detention—make it difficult or impossible to continue their employment. One study found that families lose an average of 70 percent of their income in the six months after apprehension. Since apprehensions have historically targeted Latino working-class men who tend to be the sole economic provider in their families, this can devastate the whole family financially.

Enduring a deportation process takes further financial tolls on immigration populations who are already disproportionately facing economic struggles. A disaggregated analysis of data by nativity in 2019 shows that immigrants in Orange County tend to face disproportionate financial burdens. According to the National Equity Atlas, 30% of immigrants are living below 200% of the poverty level, compared to 26% of all residents in Orange County. The Latino immigrant population has the highest share of people living in poverty (43%), followed by Black immigrants (34%) and Asian Pacific Islander immigrants (27%). The financial impacts of a deportation process thus likely impact immigrants who are already disproportionately financially disadvantaged.



In similar vein, because of the financial difficulties, families may also face difficulties securing food. Families with undocumented family members already face higher rates of food insecurity. This is particularly true in regions with ongoing cooperation between immigration enforcement and local law enforcement. According to OC Healthier Together analysis of 2019, there is an 8.3% food insecurity rate in OC.

Thus, Orange County immigrants who face removal proceedings may already be in financially difficult positions. removal proceedings exacerbate these conditions, including food security, further pushing financial hardship onto these families.

#### **PART IV**

**OC Immigrant and Refugee Community Needs in Light of OC Legal Landscape** 

#### Housing

The removal process also impacts whether or not a family can afford housing. It is known that in areas with higher deportations, immigrant families experience higher housing instability. These effects are more profound in Latino households and mixed-status families. While these studies are from national data sources, their conditions are also likely among Orange County residents.<sup>136</sup>

Like many other California counties. housing affordability is an issue in Orange County. Immigrants, especially Latinos, have higher rates of bearing housing burden. Housing burden is defined as those spending 30 percent of their income on housing costs. According to the National Equity Atlas, in Orange County, sixty-five percent of Latino immigrants face housing burden compared to 62 percent of all immigrants in OC while 56 percent of all residents in OC experience housing burden. 137

Having a stable home is crucial for navigating an immigration case, an especially complicated civil area of law, as it allows the individual to concentrate on the immigration case. Yet in Orange County it is difficult to secure a stable housing particularly if one is from an immigrant family. Undocumented immigrants typically do not qualify for housing vouchers or other federal housing programs and even when

they qualify for assistance-such as the California rent relief program-experience obstacles like language barriers persist and make it difficult for immigrants to access housing.138

#### Mental Health

A pending immigration case often takes an emotional and psychological toll on immigrants and their families. Studies find that families who are in removal proceedings, face a range of psychological issues, including anxiety, post-traumatic stress disorder, and depression. Providing support for families, therefore, is crucial and necessary, when attempting to put together a legal defense in removal proceedings.

Fear of deportation in families with undocumented family members is associated with poor general health, and increased risk of mental health issues.<sup>140</sup> ICE apprehension and the toll of the immigration process compounds these negative health impacts. 141 Yet multiple studies based on national contexts find that immigrants, particularly Latino and Asian immigrants, face challenges obtaining mental health services due to a lack of insurance, high costs, and language costs. Orange County faces similar issues. OC Health Agency's Orange County Needs and Gaps Analysis report additional barriers such as a culture of secrecy.



concerns stemming from the public charge issues, and stigma.<sup>143</sup>

Given both specific needs for mental health services during mentally trying court processes and barriers to accessing services for immigrants, it is especially important to provide mental health support both during and after an immigration process. These processes are highly consequential causing stress, anxiety, and often times, a toll on mental health, to individuals and their families. Even if an individual obtains relief from deportation, it is crucial that mental health support is provided to minimize the harm done to OC residents and families.

#### Conclusion

Supporting a person as they defend against deportation in immigration court requires more than providing legal support. Immigration enforcement systems take a toll on immigrant communities even before direct legal contact as persistent threats of deportation can affect their daily lives. Once detected and entangled in the immigration legal system, a local community's resources and institutional support can make a key difference in how successful immigrants as a whole can navigate this bureaucratically complex system. In Orange County, economic inequalities in housing, the labor market, and mental health assistance all can either assist or add additional obstacles to any person

trying to mount a legal defense in immigration court. These non-legal needs are important for any member of the Orange County community, but they are especially important for immigrants facing an immigration enforcement system where the odds are stacked against them. Given that a deportation case affects not only the individual facing deportation but also the family, friends, and communities to which they are connected.

These non-legal needs are important for any member of the Orange County community, but they are especially important for immigrants facing an immigration enforcement system where the odds are stacked against them. Given that a deportation case affects not only the individual facing deportation but also the family, friends, and communities to which they are connected.

# PART VI Recommendations



This report highlights that despite the closure of three immigration detention centers in Orange County, deportations of OC residents continue. More alarming, OC residents' deportations are now primarily streamlined at the Santa Ana Immigration Court and assisted by ATD programs. Although the Santa Ana immigration court is new, immigration laws' harshness is not. The reality is that most migrants seeking refuge in and making home in the United States will be ordered deported both inside and outside the courts, with no exception for OC residents. OC residents defending against their deportations face many challenges, including limited available legal resources in OC to defend against deportation successfully.

- 1. Unrestricted funding for legal service providers and grassroots organizations is necessary, especially for those that advocate for systems change.
- Funding should empower partnerships among legal service providers and grassroot
  organizations to address the needs of the immigrant and refugee communities. Funding
  for legal services alone does not challenge immigration enforcement laws that are aimed
  at deporting persons and limiting relief. Any funding restrictions add to harm created by
  the immigration and criminal legal systems that already limit relief options for persons
  facing deportation. Funders should remove any carve outs and restrictions to legal
  services funding, especially restrictions that leave out community members with certain
  immigration and criminal histories.
- For example, in Orange County, some funders launched the Orange County Opportunity Initiative (OCOI) aimed at strengthening the immigrant and refugee serving organizations by enhancing direct services and system change capacity in order to achieve collective impact. This framework encourages collaborations that support partnerships among legal service providers and grassroot organizations aimed to defend against deportations of OC residents and families, especially those without legal representation and that may not have relief to remain in the U.S. 139

- 2. Legal service provider models aimed to serve community members defending against detention and deportation should partner with local grassroot organizations to build legal programs that directly respond to community needs.
  - To strengthen the effectiveness of legal service programs, it is important to be transparent about the limits of legal services and the rationale for those limits. Data shows that with the current immigration legal system, most persons will have to defend against their own deportation without legal representation. This is especially true for people with previous deportation orders outside of immigration court or people with certain criminal histories. Programs such as the Immigration Court Help Desk that provide pro se assistance to persons required to appear at the Santa Ana Immigration Court excludes OC residents whose immigration matters are before other federal agencies, like USCIS, ICE, Board of Immigration Appeals, or in federal courts.
  - Legal aid service models should prioritize partnerships with grassroots organizations that can help build legal empowerment programs that can assist community members through the immigration legal process. These programs are especially helpful for community members with no immigration relief and no legal representation. Grassroots organizations can also lead campaigns that may lead to relief outside of the courts, such as policy or legislative advocacy. These collaborations build trust and communication within immigrant communities, making individuals more likely to seek help and support when facing deportation.
  - Further, immigrants facing this system need various levels of support beyond legal aid. In order to ensure that immigrants can effectively fight during their removal proceedings it is important to have a full range of support that considers the social, financial, and psychological implications of the removal process.<sup>142</sup> Legal service provider models that have a more holistic and interdisciplinary approach have demonstrated to be successful and demonstrate why legal aid service models should include partnerships with grassroot organizations.<sup>143</sup>

# PART VI Recommendations

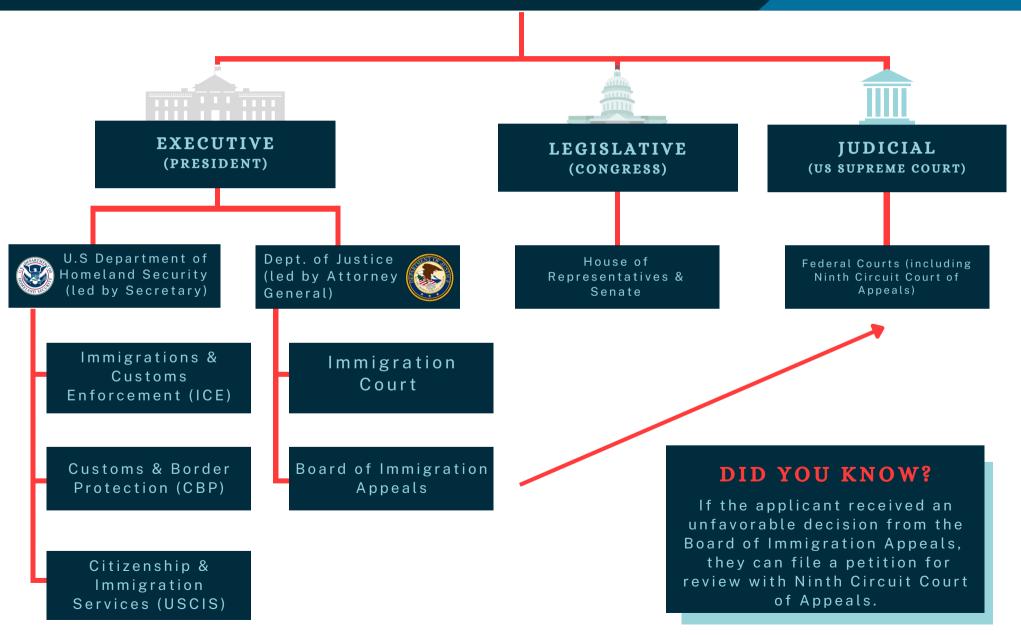
# PART VI Recommendations



# 3. OC elected officials should do more to protect, support, and empower immigrant residents.

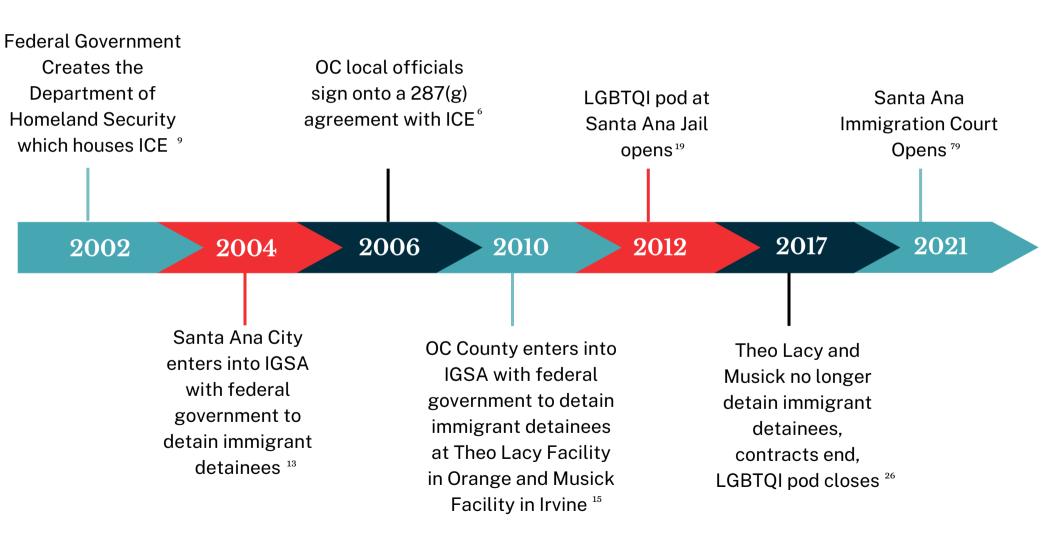
- Some strategies include local policies, resolutions, and public funding that disentangles immigration enforcement from state and local government agencies. This requires transparency from local law enforcement agencies. The level of support available to OC residents fighting deportation varies by the city in which they reside. Elected officials can fund community programs and services to ensure their immigrant residents are supported before ever making contact with ICE. Furthermore, if a person is placed in removal proceedings, elected officials can ensure they are supported with legal assistance. For example, the city of Irvine allocated \$5 million of the American Rescue Plan Act Local Fiscal Recovery Funds to address the needs of vulnerable Irvine residents that allowed for funded organizations to provide legal assistance, including to Irvine residents with immigration cases at the Santa Ana Immigration Court.<sup>144</sup>
- It is crucial for O.C. elected officials to protect, support, and empower immigrant and refugee communities, especially those vulnerable to detention and deportation. Elected officials can ensure that all residents, regardless of immigration status or what city they live in, have equal access to justice and are treated with dignity. Immigrants and refugees contribute to the cultural, economic, and social fabric of society. Their contributions should be recognized and valued. By protecting, supporting, and empowering immigrants and refugees facing deportation, elected officials in Orange County can work towards creating a more just and inclusive society.

# Appendix A: The Three Branches of U.S. Government and Immigration Legal Ecosystem <sup>°</sup>



# Appendix B:

# Timeline of Immigration Enforcement in Orange County





Appendix C: Top 20
Nationalities of Persons
Facing Deportation at the
Santa Ana Immigration Court

MEXICO 4,982

NICARAGUA 3,075

**GUATEMALA** 2,858

COLOMBIA 2,376

EL SALVADOR 1,396

**INDIA** 1,366

1,301

HONDURAS 1,024 PERU 842

VENEZUELA 758

> RUSSIA 649

ROMANIA 536

> CUBA 335

INDONESIA 128

> IRAN 127

TURKEY 105

> EGYPT 97

VIETNAM 79

PHILIPPINES 74

BELARUS 58

## Appendix D:

How Orange County's Investment in Deportation Defense for OC Residents Compares to Others in the Region

Santa Ana Deportation Defense Fund \$165,000 \*

Funded **59** cases \*per year

Long Beach Justice Fund

**\$350,000** Funded **47** cases \*per year

A recent trend in policy intervention at the local level has been investing in deportation defense funds that specifically finance deportation cases, especially for persons that are detained at an immigration detention center. Orange County only has one local deportation defense fund, the Santa Ana Deportation Defense Fund. Below is a table describing how the Santa Ana Deportation Defense Fund compares to others in the region.

Los Angeles Justice Fund \$7.9 MILLION

Funded **742** cases \*per year



#### **FOOTNOTES**

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- Proposition 187, known as Save Our State, perhaps best exemplifies the height of not only Orange County's antiimmigrant positions but also the state of California's xenophobic fervor. This proposition was born in Orange County and created by an anti-immigrant group. California Coalition for Immigration Reform, in Huntington Beach, aimed to exclude undocumented residents from healthcare, education, and other public services. California voters agreed with the proposition and voted for it to be enacted but were later overturned by the federal court because it found the law violated the United States Constitution; American Civil Liberties Union of Southern California. "CA's Anti-Immigrant Proposition 187 Is Voided, Ending State's Five-Year Battle with ACLU, Rights Groups," American Civil Liberties Union, July 1999, https://www.aclu.org/pressreleases/cas-anti-immigrant-proposition-187-voidedending-states-five-year-battle-aclu-rights; Jennifer Delson, "Top Minuteman Rousted in N.Y.," Los Angeles Times, October 6, 2006. https://www.latimes.com/archives/la-xpm-2006-oct-06me-minuteman6-story.html.
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### **FOOTNOTES**

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