Immigration Legal Services in Orange County: The Landscape, the Landslide and the Horizon

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The Landscape
The Changing Landscape: The Historical Context – Politics

- On November 6, 1986, the Immigration Reform and Control Act of 1986 was signed into law and granted amnesty to about 3 million undocumented immigrants.
- In the mid-1990s, Barbara Coe of Huntington Beach launched Proposition 187, a ballot initiative approved by voters that sought to deny public services such as public schooling and healthcare to people in the country illegally. The measure eventually was struck down in the courts.
- In 2005, Jim Gilchrist of Aliso Viejo co-founded the Minuteman Project, a civilian militia that patrolled the U.S.–Mexico border in Arizona.
- On August 15, 2012 DACA went into effect
- In October 2017, California “Sanctuary State” Bill (SB 54) goes into law
- Changing demographics — growing Latino and Asian populations — have placed whites in the county’s minority, prompting a major political shift.
In Orange County, 31.5% of the total population is foreign born.

Orange County is home to the 4th largest foreign-born population in the country.
- Santa Ana 46.7%, Westminster 45.9%. Garden Grove 44.7%. Irvine 38.5%. Anaheim 37.2%. Buena Park 36.7%. And Tustin 34.7%.

Orange County’s foreign-born population (9/10 from Asia or Latin America):
- Asia 45.2%
- Latin America 44.8%

50.9% of Orange County’s foreign-born population are American citizens.
In September 1995, the City of Anaheim began conducting a screening process to determine the immigration status of all arrestees.

In 1996 the City of Santa Ana entered into an agreement with INS to house 10 detainees.

In 1996 a six-month Federal screening “Pilot Project” was initiated in Anaheim.

Mid 1990s Anaheim becomes the first city in the country to enter into a 287(g) agreement with INS.

On May 13, 1997, with the passage of H.R. 1493, Anaheim permanently established a federally funded INS Criminal Alien Pre-arraiement Identification program and on June 2, 1998 full time INS presence was established in the City jail.

In 2006, the City of Santa Ana entered into an agreement to house up to 200 detainees in Santa Ana Jail amounting to $5 million per year.
The Changing Landscape: The Historical Context – Detention

- In 2010 County contracted with ICE to hold roughly 900 detainees a day at two facilities.
- In May 2017, City of Santa Ana stops housing ICE detainees
- In May 2017, the County increased the number of ICE detainees in its jails which brought in an extra $5 million per year for a total of approximately $36 million.
- Summer 2017, the City of Santa Ana and the Vera Institute provide seed money for a pilot program that provides pro bono legal representation to Orange County residents facing deportation.
- In January 2018, as SB 54 took effect, the County ceased its participation in the federal 287(g).
- In 2019 Sheriff’s Department housed on average 671 ICE detainees in its jails.
The Changing Landscape (cont.)

CBP Southwest Border Total Apprehensions / Inadmissibles

https://www.cbp.gov/newsroom/stats/sw-border-migration
The Removal Defense Landscape in Orange County
Immigration Detention

- Inherently coercive; designed to criminalize immigrants and force people to give up their cases.
- Multiple clients of mine at Theo Lacy accepted deportation rather than remain detained.
- Representation key to winning cases and detained immigrants have lowest rates of representation and lowest rates of success.
- Detention also makes representation difficult – by design:
  - Remote
  - Long wait times
  - Difficult to contact clients
  - Difficult for families and community members to visit and maintain contact
  - Designed to isolate and take away hope
People who have lawyers succeed more often in their immigration cases; this is especially true for detained immigrants, who may not have other support.

Organizers and lawyers working together can spot issues for policy advocacy; important to have eyes in the courts.

Makes all the difference for the individual and can also lead to broader change.

Grassroots organizers in Santa Ana made the city a leader in the movement for universal representation.
A movement to end detention in the OC

- Organizers have been working for years to end local jail contracts with ICE
- Goal is to end detention altogether
- ICE ended contract with Santa Ana City Jail in 2017 in response to Sanctuary City Ordinance, which included limitation on future contract
- ICE ended contract with OC Sheriff (Theo Lacy Facility and Musick Facility) in March 2019
Statewide laws also provide important context – in 2017, California passed AB 29 and AB 103. The two bills:
- Prevent local jails from entering new contracts with ICE or with private prison companies
- Prevent existing contracts from expanding bed numbers
- Increase transparency in contracting process
- Subject all detention facilities to monitoring by Attorney General

Restrictions apply where local government a party to contract:
- Adelanto also withdrew from contract in 2019

Does not apply to private prisons where local government not a party – ICE will likely expand Otay and Adelanto
Response to OC facilities’ closure

- Immediate coordination
- Collaboration between attorneys & organizers
  - Parole project
  - ACLU transfer suit
- Limitations on parole advocacy, as ICE has discretion to grant or not grant, but important for other purposes
- Most people held in Theo and Musick transferred to Adelanto
- Still need representation in Adelanto
Where we are now...

- OC residents still need detained removal defense services
- Most people detained in Adelanto, some in Otay
- Many Adelanto providers do not serve OC residents (LAJF collaborative)
- OC providers want to continue to serve detained OC community members
  - Know community best
  - Many aspects of a case are local even if client is detained elsewhere
  - Santa Ana should continue to lead in universal representation movement
- But need support to keep commitment to universal representation
Needs to serve Adelanto Population

- Funding for critical case components that CDSS does not cover
  - Travel
  - Wait times
- Funding for grassroots organizing
  - Crucial collaboration between attorneys and organizers to identify and respond to policy issues
  - Coordinate with communities and families and provide important case support
  - Keep pushing us forward on ending detention
- Detention is coercive and Adelanto is designed to make representation hard
  - Must respond by being there and by supporting grassroots efforts
The Landslide
The Changing Landscape: Then

- Resettlement of Refugees
- High volume massive processing of amnesty and late amnesty applications
- Culture integration, language capacity and citizenship
- Removal Defense
- Limited Resources for Removal Defense/Know Your Rights
- Immigration Fraud – La Guadalupana
The Changing Landscape: Now

- Enforcement Efforts Up

- More immigrants are being apprehended and deemed ineligible for bond (22.5% increase FY18)

- Crisis level court case loads and case processing delays

- Termination of TPS for Sudan, Nicaragua, Nepal, Haiti, El Salvador, and Honduras

- “Remain in Mexico” plan for asylum seekers and more stringent policies

- “Zero Tolerance Policy” resulting in family separation crisis

- Trauma resulting from persecution, violence or detention conditions

- Communication with federal immigration offices extremely difficult

- Public Charge Rule and strict application of the law
The Changing Landscape: Now

- Detained Removal Defense
- Greater need for specialized expertise, language capacity and collaboration with medical and mental health specialists
- Accompaniment, Case Management and assistance with navigating resources
- Competent Intake & Consultation
- Significant growth of BIA accredited organizations and need for technical support
Increased state and local policy focus on this issue, thanks to visionary organizing

Detention landscape may change again in 2020 if AB 32 passes

Also changing political realities in Orange County

Need to support and grow these efforts
The Horizon

- **Defend**: ongoing need for funding for detained removal defense

- **Organize**: to make universal representation a reality and to push policy makers forward

- **Coordinate**: ongoing need to manage intake, referrals, and coverage

- **Train**: across service providers in the County to better serve the needs of immigrant clients
The Horizon

- Coordinate collaborative efforts (OCOI)
  - Create fluid referral process throughout OC
  - Create database/effective way to communicate information among key players
  - Increase media attention
  - Engage more attorneys for citizenship fairs

- Training and communication among and between immigration legal services, public benefit agencies and other providers
  - Law enforcement
  - Health care agencies
  - County agencies
  - Social Workers and Therapists

- Financial resources for criminal defense resources and attorneys
  - Post– conviction release (UCI Clinic)

- A need for additional resources and “accompaniment” services
  - Trauma, transportation, gathering documents, phone support, translation, etc.

- Funding for community organizing and engagement to impact policy
The Importance of Collaboration

- There is power in numbers
- We are partners and allies not competitors
- Conversations with grantors will allow for greater resources to be shared, improved effectiveness and increased efficiencies
- We can avoid “reinventing the wheel”
- Expanded pool of resources – information, labor, perspective, expertise, etc. – will create a win-win
- Commitment to the Cause and Collaborating over Convenience and Competition is Critical
Questions?