

August, 2018

SAFE Cities Network: Quarter 3 (Year One) Report

Report of Legal Service Provider Activities from April to June, 2018

Santa Ana, CA

Vera Institute of Justice

What is SAFE Cities?

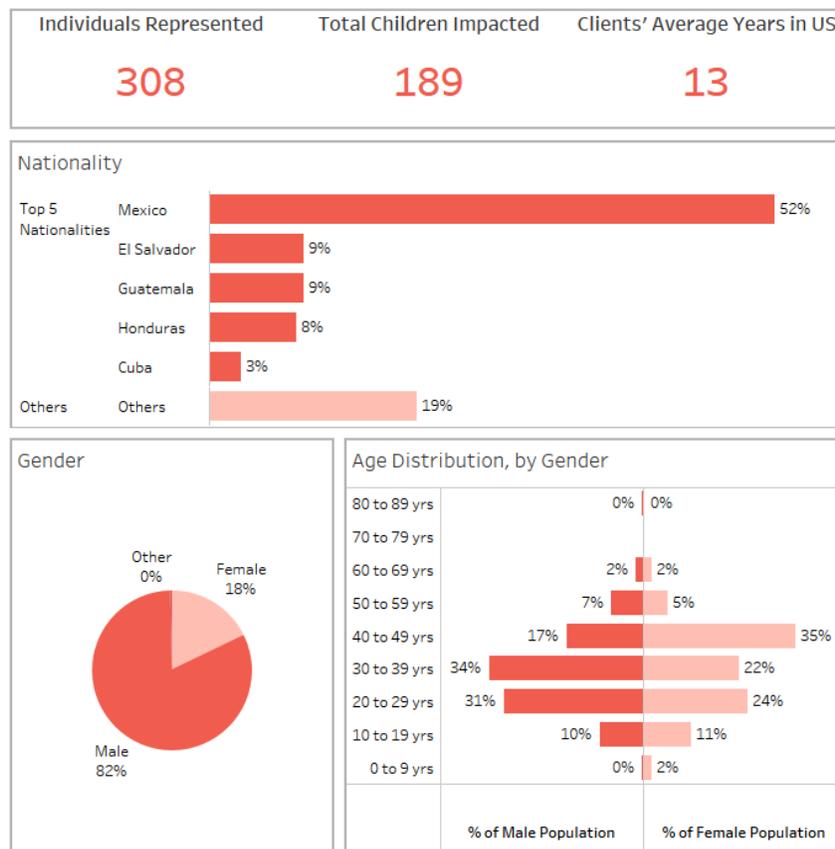
Santa Ana is one of 13 total jurisdictions in the SAFE Cities Network—a group of geographically and politically diverse local jurisdictions from around the country that are committed to keeping communities safe and strong by protecting due process and providing legal representation to immigrants facing deportation. Members of the SAFE Cities Network have dedicated public funding to removal (deportation) defense, focusing primarily on serving individuals who are detained.

This report covers cumulative data on SAFE Cities clients¹ who have been accepted for representation as of June 30, 2018.

National Network Demographics

The following describes the demographics of clients represented nationally through SAFE Cities.

Figure 1: Demographics of SAFE Cities Clients, Network-Wide (Cumulative through June 30, 2018)



¹ SAFE Cities clients are generally adults who are facing removal proceedings under Section 240 of the Immigration and Nationality Act, and whose representation is funded by either public funds or Vera’s catalyst grants. The exact requirements for representation may vary slightly across jurisdictions.

SAFE Cities Program Description: Santa Ana, California

Legal Service Provider(s):	Immigrant Defenders Law Center (ImmDef)
Populations Served:	Orange County residents with priority given to residents of the City of Santa Ana and detained individuals.
Detention Center(s) Served:	Theo Lacy Detention Facility (Orange, CA) and James M. Musick Detention Facility (Irvine, CA)
Method of Identifying Clients:	Informal Legal Orientation Program at both detention facilities and community referrals.

Immigrant Defenders Law Center (ImmDef) is headquartered in the County of Los Angeles, however it opened an office in Santa Ana with the establishment of their SAFE Cities program. ImmDef began providing removal defense under various different programs in August of 2015, specifically opened intake under the SAFE Cities program in December 2017, and it became fully staffed by March 2018. Representation under the program may be offered to any resident of Orange County who is in removal proceedings, with priority given to residents of Santa Ana and those in immigration detention. Up to the conclusion of this quarter, however, all of the cases accepted have been of residents or people who have significant ties to the City of Santa Ana. ImmDef has dedicated substantial effort to establishing a presence in Orange County through intentional outreach to various community organizations including the Mexican Consulate, religious organizations, and social media outreach through various active immigrant rights groups targeting Santa Ana residents. Their primary aim has been to educate the community of the availability of their legal services.

In addition, ImmDef has developed relationships and begun collaborating with various legal services providers in the region to leverage existing relationships with the detention facilities and criminal court system in order to open avenues for referral of clients. Both of the Orange County Sheriffs facilities with ICE contracts have legal information programs with legal services providers that have been cleared to provide detained individuals with Know-Your-Rights presentations. ImmDef has been working closely with both organizations to utilize existing infrastructure to facilitate in-taking clients. An informal collaborative providing removal defense called the Orange County Removal Defense group has been formed to facilitate a referral system, increase efficiency and capacity as well as avoid multiple screenings of a single client by various organizations. They have also been working with the Orange County Public Defender's office to create a referral system for people Public Defender clients who may face removal proceedings. Finally, ImmDef has initiated conversations with the immigration court to attempt to institute a Know-Your-Rights presentation at the LA Immigration Court's detained docket, where both Orange County facilities are venued, as an additional avenue to receive referrals of detained Santa Ana and Orange County residents.

Making an Impact in Santa Ana – A Case Study

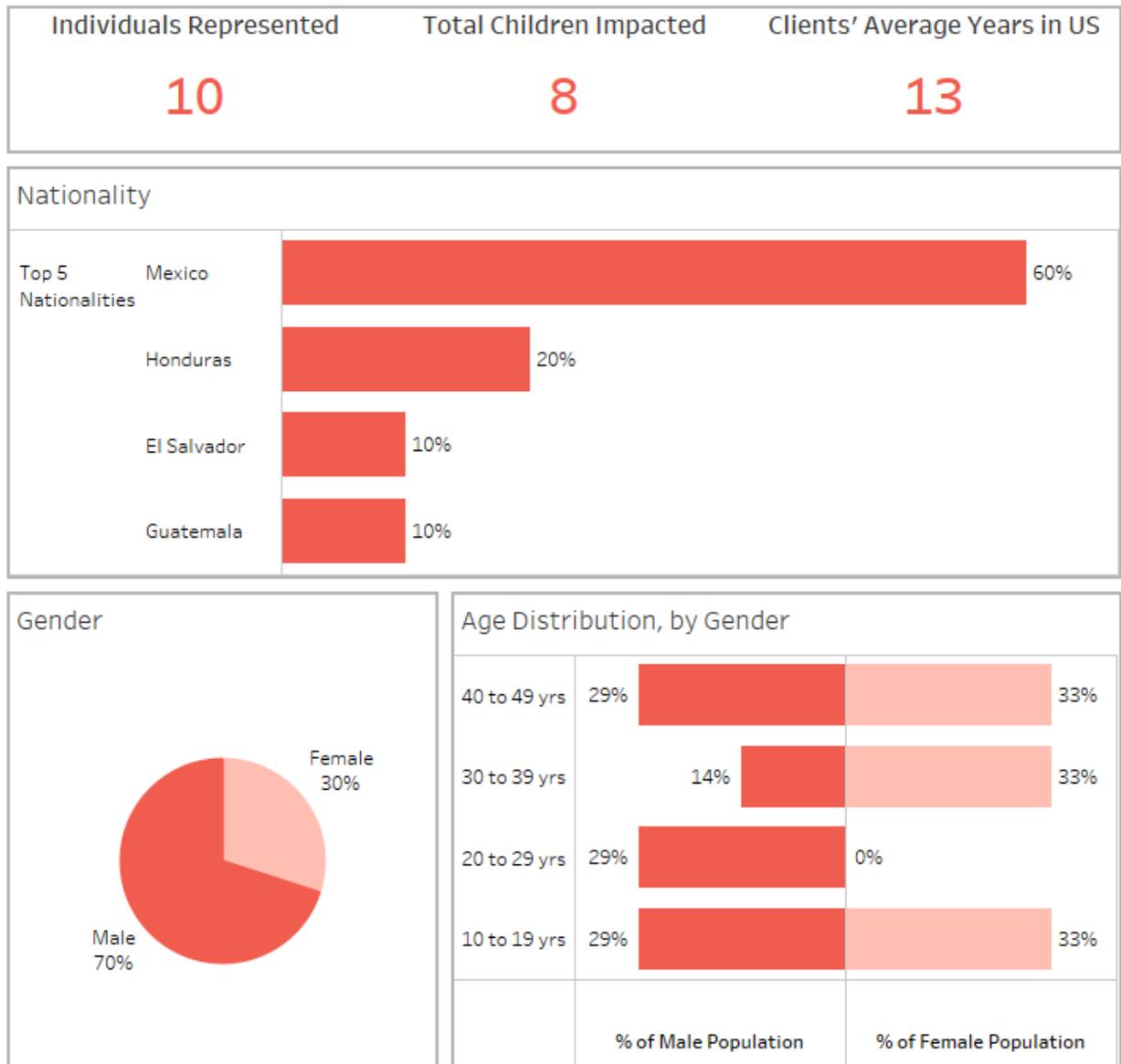


Marta is a legal permanent resident and the single mother of five US Citizen children. For over 25 years, she has been the victim of serious domestic violence at the hands of the father of her children, who has been convicted various times for his assaults against her. As a result of the long and traumatic history of violence she has endured, Marta suffers from Post-Traumatic Stress Disorder. She was transferred to immigration detention after serving an eight day sentence for a misdemeanor conviction of domestic violence against the father of her children, the same man who has repeatedly assaulted her. According to her SAFE Cities attorney, Marta never actually struck him and appears to have been suffering a psychotic episode during the incident that lead to her arrest. Marta has no other criminal history and qualifies for multiple forms of relief in her immigration case. An ImmDef attorney is working with Marta to get her out on bond and back with her children, and to connect her with services for victims of domestic violence. Once Marta is released, ImmDef will work with her to gather the documentation and evidence necessary for her immigration case in front of the immigration judge.

Demographics of Santa Ana’s SAFE Cities Clients

The following describes the demographics of clients represented through Santa Ana’s SAFE Cities program.

Figure 2: Demographics of SAFE Cities Clients in Santa Ana (Cumulative through June 30, 2018)



Legal Case Activities for Santa Ana’s SAFE Cities Clients

Current Case Status

As seen below, almost all (90 percent) cases in Santa Ana remain open as of June 30, 2018. This is unsurprising given the amount of time it can take for cases to complete in immigration court, particularly if relief is being pursued (see: Figure 4). Further, non-detained cases take longer to complete because cases on the non-detained docket do not move as quickly as those on the detained docket.²

² Source: http://trac.syr.edu/phptools/immigration/court_backlog/court_proctime_outcome.php

Table 1 depicts the total number of cases accepted for representation by case status (whether the case is currently open or closed) and the case’s initial custody status (detained or non-detained).³

Table 1: Case Status, by Initial Case Custody (Cumulative through June 30, 2018)

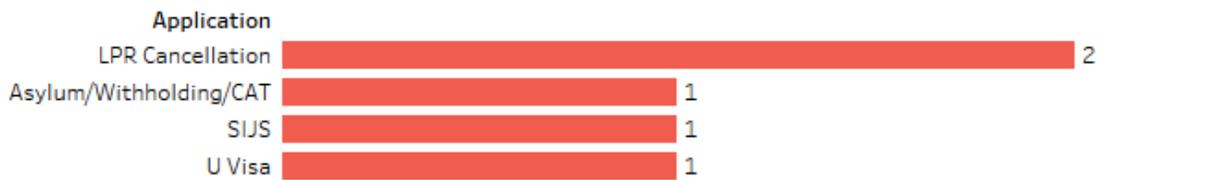
	Detained	Non-Detained	TOTAL	
			N	%
Open	5	4	9	90%
Closed	1	0	1	10%
TOTAL	6	4	10	100%

NOTE: “Non-Detained” cases include cases in which the client was recently detained and released from detention before securing representation, as well as cases in which the client was never previously detained.

Defenses to Removal

Attorneys assess whether their clients have any viable defenses to removal, either by filing motions demonstrating that the government’s allegations against their client are insufficient or inaccurate, or by filing applications demonstrating that their clients qualify for legal relief that will allow them to remain legally in the country. Figure 4 shows the number of applications filed and substantive motions made, by type (See Appendix A for a description of the most common applications and motion). Through the end of June, **50 percent of Santa Ana’s caseload (5 clients) have pursued a claim to remain in the United States legally.**

Figure 4: Applications and Substantive Motions Pursued, by Type (Cumulative through June 30, 2018)



NOTE: One client can pursue multiple applications or substantive motions. The above figure displays the total number of applications or motions pursued, which may differ from the unique number of clients pursuing relief. For a detailed description of these applications, please see Appendix A.

These numbers show that despite the SAFE Cities universal representation model— in which representation is offered to all residents regardless of the strength of their case—the legal service providers have identified viable defenses to removal for many of their clients.

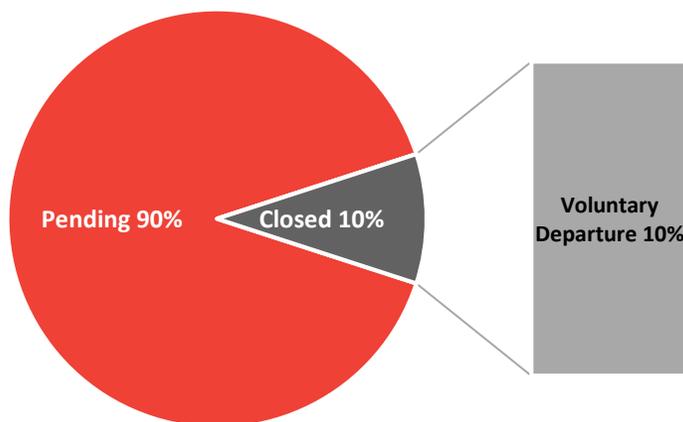
³ Cases are considered open if the legal service provider is still working on the case, either because it has not yet concluded in immigration court or because it is being appealed by either party following an initial disposition. The Initial Case Custody corresponds to the client’s detention status when representation began, and does not necessarily reflect the client’s current custodial status.

Achieving Due Process and Fairness in Santa Ana

SAFE Cities Santa Ana has provided 10 Santa Ana residents with due process through their representation in removal proceedings. Final case outcomes are not the sole indicator of the overall success of the program. Cases ending in removal are to be expected under a universal representation model that seeks to provide all clients with due process, regardless of whether they have “strong” or “weak” cases. Even a client who does not “win” their case and is ultimately removed from the United States is nevertheless a success for the program because the attorney’s presence helped ensure due process for their client—due process that they would have otherwise been denied without competent counsel.

Figure 5 depicts the legal case outcomes obtained thus far in Santa Ana. By the end of June 2018, 10 percent (one case) had reached a final outcome in immigration court.⁴

Figure 5: Outcomes, by Type (Cumulative through June 30, 2018)



Vera expects that the proportion of negative and positive outcomes from the perspective of the client will shift between the short and long term. In the beginning of the program, a greater proportion of cases will likely result in negative outcomes (such as removal and voluntary departure) because these cases often take less time to process. Favorable outcomes take longer to achieve, particularly once clients are released from detention and the docket slows down, as previously mentioned.

⁴ Although voluntary departure results in the client’s departure from the United States, it is a more favorable outcome than receiving a removal order because it does not carry the same penalties and leaves opportunities for the client to more easily return to the United States lawfully in the future. Administrative closure is a favorable outcome in which the case is removed from the immigration court’s active docket to, among other reasons, allow the individual to pursue an application for relief with U.S. Citizenship and Immigration Services.

A Case Study of Due Process

Jesus, a client of ImmDef, had lived in the United States since he was five years old and received Deferred Action For Childhood Arrival (DACA) as a teenager. He graduated high school in Santa Ana last spring and was working full time in Santa Ana while living with his parents. Earlier this year, he was involved in a traffic accident and initially fled the scene before returning minutes later. This incident resulted in a conviction which caused him to lose DACA-status and be detained by ICE. Jesus did not qualify for any other forms relief except for voluntary departure. Despite opposition from the government attorney, Jesus’ attorney was able to obtain voluntary departure for him, which may enable him to reapply to return to the US in the future. The attorney was able to explain all legal options to both Jesus and his family, which empowered him to make an informed decision and afforded him a measure of dignity and humanity in the courtroom. In addition, the attorney also coordinated with the Mexican Consulate to organize help for Jesus once he arrived in Mexico, thus extending peace of mind to Jesus’ family, who were concerned about his safety upon return to Mexico.*

**Name changed to protect confidentiality*

Appendix A

Common Forms of Relief

Cancellation for Certain Permanent Residents: A lawful permanent resident (LPR) who has committed certain crimes or acts can be removed. However, depending on the crime or act, some people who have lived in the US for a certain number of years can qualify for a pardon from removal. People who have been convicted of an “aggravated felony” do not qualify. An immigration judge must find that the person’s positive equities (family ties, length of residency, evidence of rehabilitation or good moral character, employment, etc.) outweigh any adverse factors.

Cancellation for Non-Legal Permanent Residents (10 Year Cancellation): A pardon from removal available to people who are not LPRs. The person must have been physically present in the US for the last ten years, have had good moral character during that time, not have been convicted of certain crimes and show that a qualifying relative (US Citizen or LPR spouse or parent) would suffer “exceptional and extremely unusual hardship” if he/she was removed from the US.

VAWA Cancellation of Removal: A person who has been abused by an US Citizen or LPR spouse or parent and has been in the US for three years may be able to qualify for a pardon from removal. They must demonstrate good moral character and that they are not subject to any applicable inadmissibility grounds (criminal convictions, etc.). In addition the respondent will have to establish that their removal would cause extreme hardship to themselves, their children or parents.

Adjustment of Status: Certain people who have approved visa petitions filed by certain US citizen or LPRs relatives may be able to adjust their status to that of an LPR if they can demonstrate that they were admitted into the US or they qualify for an exception. They must also demonstrate that they are not subject to any applicable inadmissibility grounds.

Asylum/Withholding of Removal: A person may be able to qualify if they can demonstrate that they are unable to return to their home country because they have been persecuted there in the past or have a well-founded fear that they will be persecuted if they return. The reason for the persecution must be connected to their race, religion, nationality, political opinion or membership in a particular social group.

Convention Against Torture (CAT): CAT is similar to asylum however the requirements are higher than those for asylum (a person has a higher burden of proof) and provide more limited benefits. The benefit of CAT is that certain bars that would disqualify a person from asylum would not apply to a CAT eligible individual and therefore it is an alternative for those people who would not be able to avail themselves of asylum.

U Visa: Victims of certain crimes who have suffered mental or physical abuse and have been helpful to law enforcement in the investigation of the crime can apply with US Citizenship and Immigration

Services (USCIS) –a component of DHS – for U nonimmigrant status which may then be converted to LPR status.

T Visa: Victims of human trafficking who are in the US on account of their trafficking and comply with any reasonable requests from law enforcement for assistance in the investigation can apply with USCIS for T nonimmigrant status which can then be converted to LPR status.

Special Immigrant Juvenile Status (SIJS): A person under 21 years old who has been declared by a state court to not be able to reunify with one or both parents due to abuse, abandonment, neglect or similar reason under state law may qualify for SIJS status which can then be converted to LPR status.

Deferred Action for Childhood Arrivals (DACA): This is a specific program under prosecutorial discretion. DACA is no longer available to new applicants nor renewing applicants. However, individuals may be able to close her cases in immigration court if they have an approved DACA application that is still valid. In the alternative, he or she may qualify for other forms of relief listed here.

Voluntary Departure (VD): An individual in removal proceedings may be able to choose to return their home country in lieu of being ordered removed from the US by an immigration judge. A grant of VD allows the individual to stay in the US until the expiration of the VD period (generally up to 120 days) which may allow the individual to make necessary arrangements for their departure. In addition, by accepting voluntary departure, the person may be able to avoid certain bars and therefore be able to migrate legally to the US in the future.

Motion to Terminate: A termination of the proceedings occurs when the government is not able to sustain its burden of proof of the charges against an individual or when the government failed to follow regulations in the prosecution of the case.