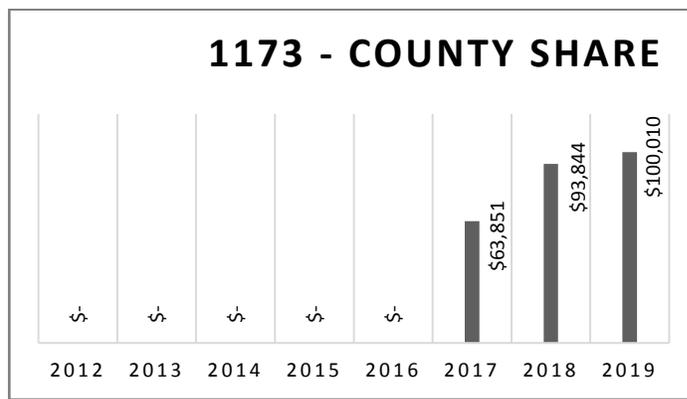


OFFICE OF
IMMIGRATION
SERVICES
1173



OVERVIEW

Changes to immigration laws have dramatically raised the stakes for noncitizens to be subjected to removal from the United States for a wide array of crimes, including many minor offences and violations. Consequently, criminal defense attorneys are now required to advise noncitizen clients regarding the potential immigration consequences of a criminal conviction pursuant to the Supreme Court decision in *Padilla v. Kentucky*, 559 U.S. 356 (2010). This advice is required to be affirmative, individualized and accurate. In 2017, the Supreme Court further emphasized the importance of this requirement in *Lee v. United States* when the potential for deportation is the determinative issue in whether a noncitizen client decides to plead guilty or go to trial.

Additionally, noncitizen clients whose immigration status may directly impact such life-altering decisions as child custody, visitation, adoption and termination of parental rights should be properly advised in family court proceedings.

In furtherance of this mandate, the New York State Office of Indigent Legal Services (ILS) and the ILS Board authorized the expenditure of \$8.3 million in grants over a three-year period to establish Regional Immigration Assistance Centers in strategic locations throughout New York State. The County of Albany submitted an application for this grant in 2015 and was selected to be one of the six regional centers. As a result of the receipt of this grant, the Office of Immigration Assistance was created to not only serve as the Regional Immigration Assistance Center for Region #3, but to also develop new methods for assisting noncitizens within Albany County. The Center, which is funded by this innovative ILS grant, is responsible for providing services to the following fourteen counties: Albany, Clinton, Essex, Franklin, Fulton, Hamilton, Montgomery, Rensselaer, Saint Lawrence, Saratoga, Schenectady, Schoharie, Warren and Washington.

The Office of Immigration Assistance also acts as a network to assist noncitizens in receiving services for which they may be entitled. For example, this Office has been asked to be a member on a Human Trafficking Task Force as well as the Capital Region Immigration Collaborative. When the dramatic and sweeping changes in immigration enforcement procedures were enacted, this Office was invited to appear at community forums, college campuses, and local immigration organizations to advise communities regarding these changes and provide assistance to those who might be affected. After the Deferred Action for Childhood Arrival (DACA) program was rescinded by the President of the United States, the Albany County Executive created a dedicated hotline in order to assist DACA recipients and their family members in obtaining guidance and to identify individuals who may still be eligible for renewal. The Office of Immigration Assistance will continue to partner with the Albany Law School, The Legal Project, the US Committee for Refugees and Immigrants, and other community organizations in order to identify and provide assistance to noncitizens.

MISSION

This Office is charged with ensuring that attorneys in the fourteen (14) counties within its designated region who are assigned to represent a noncitizen client in a criminal court proceeding will have access to the training, advice and support needed to assist their client in making informed choices regarding any adverse immigration consequences that may arise in their criminal matter in compliance with the requirements established in *Padilla*. In addition, this office will provide assistance to Judges, prosecutors and other law enforcement agencies so that all parties are aware of the potential immigration consequences.

This Office will also provide support and assistance to assigned counsel representing a noncitizen parent or other adult in family court proceedings who requires competent advice on immigration issues that may impact their parental rights.

Since effective mandated representation of a client may depend upon the attorney's ability to identify a client's immigration status and to understand how that status may impact each stage of the client's court proceeding, this Office:

- Provides real-time immigration-related legal assistance in criminal and family court proceedings to reduce or alleviate the threat of removal of a noncitizen client from the United States, and

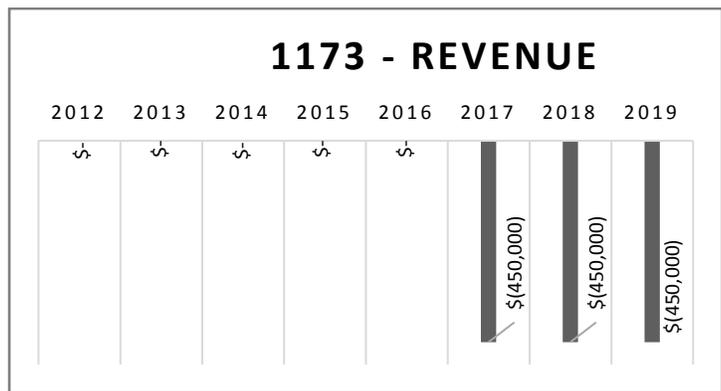
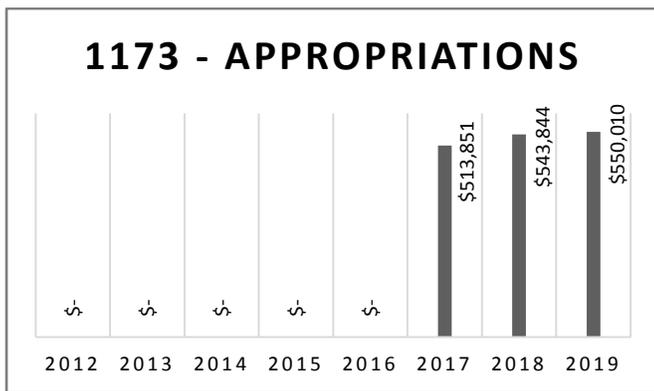
- Provides technical legal assistance as well as trainings and guidance on the development of immigration service plans and attorney best practices/protocols/procedures to be used in criminal and family court proceedings as well as post-conviction and appellate matters designed to ensure quality representation, and
- Partners with other legal service providers and government agencies to assist noncitizens living or detained in Albany County.

PROGRAM IMPLEMENTATION

This Office will assist indigent legal service providers within Region #3 to develop best practices and effective attorney protocol (i.e., screening and intake procedures) in order to ensure that each provider has an immigration service plan that provides a systematic approach to representing noncitizen clients and remains compliant with Padilla. The immigration service plan will provide, at a minimum, for the timely delivery of accurate advice regarding the immigration consequences of contemplated dispositions in ongoing cases.

In order to determine each county’s ability to provide competent legal advice regarding the immigration consequences of criminal convictions or family court dispositions, the Center will facilitate periodic needs assessments of providers, including, but not limited to the need for increased access to immigration expertise and services, specialized immigration trainings, access to language and cultural support services, and the legal support necessary to address immigration issues that may arise in court proceedings. This Office will also organize and develop Continuing Legal Education (CLE) programs with the Albany Law School, the Albany County Bar Association, the Legal Project, the US Committee for Refugees and Immigrants (USCRI), Refugee and Immigrant Support Services of Emmanuel (RISSE), Catholic Charities and other organizations to provide the specialized education and assistance that is required. Since the creation of this Office, it has assisted more than 375 individuals from 98 different countries. This Office has conducted more than 116 trainings and appearances at community and legal forums within its designated fourteen-county region. It has also assisted in the representation of several individuals who had valid constitutional claims to vacate prior criminal convictions which would have otherwise led to the noncitizen’s removal from the United States.

This Office has also been in the forefront of identifying and representing victims of human trafficking in addition to victims of crime and connecting these individuals to services which assist in providing housing and vocational skills while also helping them navigate the pathway to lawful status. Additionally, this Office will continue to implement assistance to DACA recipients who are seeking guidance following the recent announcement regarding its rescission. More specifically, it will attempt to identify individuals who may be eligible for DACA renewal and explore other legal rights that the individuals may be entitled to receive.



OTHER GOALS

This Office will continue working closely with other indigent legal service providers, bar associations and nonprofit organizations to develop and coordinate regional trainings and resource materials which address the intersections among criminal, family and immigration law.

This Office will also collaborate with ILS and the other five (5) Regional Immigration Assistance Centers to analyze regional trends, collect data, and identify attorney best practices that should be considered for possible replication throughout the State.

Finally, this Office will continue to develop a community outreach plan which informs attorneys and noncitizens of the services that it is able to provide while remaining consistent with the constant evolution of immigration policy nationwide.