

INDIGENT LEGAL SERVICES BOARD

AGENDA

**April 22, 2016
Office of the Chief Judge**

- I. Opening Remarks by the Chief Judge**
- II. Honoring Sue Sovie**
- III. Approval of Minutes from November 6, 2015 Board Meeting**
- IV. Staffing Additions and Changes in the ILS Office**
- V. Allocation of Aid to Localities Appropriations for FY 2014-15, 2015-16, and 2016-2017 (Vote Required)**
- VI. Beyond *Hurrell-Harring*: Assessing our Progress and Planning Ahead**
- VII. Presentation on the Establishment of *Padilla* Regional Immigration Assistance Centers (Joanne Macri)**
- VIII. Status of *Hurrell-Harring* Settlement Implementation**
- IX. Reminder to File JCOPE Financial Disclosures**
- X. Schedule of Remaining 2016 Board Meetings**
 - Friday, June 17
 - Friday, September 23
 - Friday, December 9
- XI. Concluding Remarks**



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Improving the Quality of Mandated Representation Throughout the State of New York

To: Members of the Indigent Legal Services Board

From: Bill Leahy

Date: April 22, 2016

Re: Honoring Sue Sovie

This is our first meeting without Sue Sovie, who, at her final meeting as a member of this Board, advocated for and moved approval of the *ILS Standards for Parental Representation in State Intervention Matters* that will inspire and guide lawyers' representation of their clients in state intervention cases henceforth.

It is fitting that we take time at the outset of this first meeting following Sue's death to remember her contributions and to share our memories of her, before we look ahead to facing new challenges and achieving further progress. Sue's time with us was tragically short, but her contributions will long endure.

The photograph we are passing amongst you today was taken at the lunch in Chief Judge Lippman's honor immediately following that Board meeting on November 6, 2015. Sue was so happy and so proud to be in attendance at that event! The photograph will be framed and will be placed on the wall of the Jonathan Lippman Conference Room at our office on the 11th floor of the Alfred E. Smith State Office Building in Albany. Long may it hang there, and long may Sue Sovie's dedication to the advancement of the right to counsel for parents and children in the Family Courts of New York be remembered and admired.

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WATERTOWN DAILY TIMES (Internet copy)
Tuesday, Feb. 9, 2016

Obituary:

Susan Sovie, attorney known for work with children, dies

By BRIAN KELLY

WATERTOWN -- A Sackets Harbor attorney known and commended for strong advocacy on behalf of children has died.

Susan A. Sovie, who died Monday, remains the only attorney in Jefferson County ever to receive the Fourth Department's Michael F. Dillon Law Guardian Award for outstanding representation of children. She was nominated for the award in 1998 by Surrogate Court Judge Peter A. Schwerzmann.

"She always focused her practice on representing children," said longtime colleague Lisa A. Proven, who is now law clerk for Family Court Judge Eugene J. Langone, Jr. "She was a person who could see the entire case from the children's point of view. She was able to focus the attorneys and the judge on how the children would be affected, even when it was inconvenient or unpopular with people."

Ms. Proven said Ms. Sovie's impact on children often outlasted her legal representation of the children. She was frequently invited to attend milestone events in the children's lives, such as graduations, birthdays or weddings, years after she was the child's attorney.

"It really is unheard of that people would keep in touch after the case was done," she said. "She had a really, really huge heart. All the children loved her."

Krystal M. Harrington, now an attorney with the Public Defender's Office, said she met Ms. Sovie about seven years ago when both were practicing in Family Court.

"She was always kind of my mentor," Mrs. Harrington said. "I really looked up to her. She was a wonderful attorney."

She said seeing troubled children adopted into good homes brought great pleasure to Ms. Sovie.

"It made her really proud when there was a neglect case and a child was later adopted by a family who was loving and wanted them," Mrs. Harrington said. "She loved all her clients, but she also loved all children. It was really important to her to help kids."

Mrs. Harrington recalled that if a child was in foster care and Ms. Sovie knew the child did not have family members able to help them celebrate their birthday or other special event, Ms. Sovie would take the child out to dinner or shopping herself.

"She really went above and beyond," she said. "She was the most generous, wonderful loving person."

In addition to receiving the Dillon Law Guardian Award in 1998, Ms. Sovie was nominated for the award in 2011 by now-retired Family Court Judge Richard V. Hunt. Judge Hunt also nominated her in 1996 to be the county's Attorneys for Children program liaison for the state's Fourth Department, advising and assisting about 35 attorneys representing children, a volunteer position she continued to hold until her death.

A 1987 graduate of Watertown High School, Ms. Sovie graduated from Hartwick College, Oneonta, and Syracuse University College of Law. She was a founding board member and former board chairwoman of the county's now-defunct Big Brothers/Big Sisters program, was a member of the state's Fifth Judicial District's attorney grievance committee and was on the board of the state's Office of Indigent Legal Services, among other community activities.

She ran unsuccessfully for Family Court judge in 2014.

Minutes for ILS Board Meeting

November 6, 2015

11:00 A.M.

Association of the Bar of the City of New York

Board Members Present: Chief Judge Lippman, Carmen Ciparick, Sheila DiTullio, John Dunne, Joe Mareane, Lenny Noisette, and Sue Sovie

ILS Office Attendee(s): Bill Leahy, Joseph Wierschem, Angela Burton and Andy Davies

I. Opening Remarks by the Chief Judge

The Chief Judge welcomed and thanked all for attending. He noted that this would be his last meeting given his end-of-year retirement. The Chief Judge commended the board members for their commitment and a job well done. He made special mention of Peter Kiernan from Governor Patterson's administration and Steve Acquario of NYSAC for supporting the concept that led to the legislation that created the board and the ILS Office. He thanked them and all of the pioneers in this area.

The Chief Judge noted that the *Hurrell-Harring* decision is only a part of the solution to the indigent defense crisis. "There is so much more to do," said the Chief. He also acknowledged the great work of the criminal justice community and especially Jonathan Gradess of the New York State Defenders Association (NYSDA).

He concluded his remarks by stating that he was fortunate and honored to have been part of the groundbreaking legislation that created the board and encouraged everyone to continue their good work to advance the efforts necessary to improve the delivery of services to the indigent in New York State.

II. Approval of Minutes from the September 25, 2015 Board Meeting

The Chief Judge inquired whether the board members had received copies of the minutes from the prior meeting. The board members acknowledged that they had in fact received the minutes. The Chief then asked the Board to vote to approve the minutes.

John Dunne moved to approve the minutes; his motion was seconded by Sue Sovie and unanimously approved by the board members in attendance.

III. Fourth Annual Report of the ILSB (April 1, 2014 - March 31, 2015)

Director of the ILS Office Bill Leahy previously provided the board with a copy of the Fourth Annual Report. He began his comments by recognizing the leadership of the Chief Judge and noted what an honor and privilege it has been to work with him. The Chief Judge brought the ILS Office and Board to a "true takeoff point."

Bill Leahy highlighted the main parts of the annual report which included the significant staff activity and progress and the reforms brought about by the *Hurrell-Harring* settlement. In addition, he called attention to the appendices to the report which were a tribute to the Chief Judge. They included two of the Chief Judge's recent public expressions concerning the right to counsel and indigent defense: his June 6, 2014 speech at Albany Law School and his Foreword introducing the Albany Law Review's summer 2015 publication of a series of articles applying empirical research to the field of indigent defense.

The board members in attendance signed the report and Bill Leahy stated that he would meet with the two absentee members to procure their signatures on the report.

The Chief Judge commented that this process has been a crusade in many ways. He noted that the ILS legislation was a unique concept to foster equal justice in the state and find the path to making the vision of *Gideon* real.

John Dunne agreed and called the work a pilgrimage.

Bill Leahy initiated a short discussion concerning Lenny Noisette and his inspiring speech at the 25th Anniversary celebration for the Neighborhood Defenders of Harlem (NDS). Bill recounted Lenny's long-standing commitment and his many accomplishments in the area of indigent defense.

IV. Proposed New York State Office of Indigent Legal Services Parental Representation Standards and Best Practices

Angela Burton, Director of Parental Representation for the ILS Office, presented the proposed *New York State Office of Indigent Legal Services Parental Representation Standards and Best Practices* which are the culmination of two and a half years of work. She explained that they were based upon the 2006 ABA Standards. Angela also noted that practices around the state have already begun to change based upon the conversation surrounding the creation of the standards.

Ms. Burton explained to the board that training and resources will be needed to implement the standards.

In response to the Chief Judge's inquiry on whether there is anything

controversial included in the proposed standards, Ms. Burton explained that the funding for training is a systemic issue. In addition, she noted that representing clients during the investigatory stage of a case may cause some hesitancy, but it is not mandated.

Bill Leahy interjected that the aspirational aspects of the standards are already being practiced by NYC providers and the goal was to unify the practice in the state.

The Chief Judge said that - like the other standards created by the ILS Office - the *Parental Representation Standards* are the "gold standard."

Sue Sovie, who provided tremendous support to Angela and her group, noted that if attorneys got involved at the investigatory stage, many filings would be avoided. The difficulty is that assignments by the court are generally not made until the case is filed. So, Sue questioned how this would be accomplished.

Angela said that it works in NYC because there is other funding. Her hope is that attorneys would go beyond and contribute time and resources, but ultimately legislative reform is required.

Lenny Noisette said we have to encourage counties to compensate and create a "model system" and not place the burden on individual lawyers.

John Dunne noted that the standards were an "extraordinary piece of work."

Sue Sovie moved to adopt the *New York State Office of Indigent Legal Services Parental Representation Standards and Best Practices*; her motion was seconded by John Dunne and unanimously approved by the board members in attendance.

Following the vote, the Chief Judge added that Angela Burton is spectacular and he endorsed the approval wholeheartedly. He thanked her for her terrific work.

Bill Leahy noted that Angela Burton and Risa Gerson were heading to an NLADA conference where the both the *Parental Representation Standards* and the *Appellate Representation Standards* (previously approved by the board) were being featured.

V. Publication of *Estimate of the Cost of Compliance with Maximum National Caseload Limits in Upstate New York - 2014 Update*

Andy Davies, ILS Director of Research, highlighted the main points in this third in a series of studies analyzing the unmet resource needs of the providers of representation in upstate New York Counties.

Mr. Davies noted that there has been some progress with respect to caseload relief that has been accomplished through increasing the number of institutional

providers and support staff.

Responding to a comment that the goal line is a long way away, the Chief Judge opined that getting there is “doable” within a rational period of time.

Bill Leahy, citing the Albany Law Review article that the Chief Judge was involved with, wondered how it can be right to have a 5-county solution.

The need for more funding was unanimously discussed. Bill noted with optimism the attention, at the Executive level, that the Fahy bill was getting.

VI. Status of *Hurrell-Harring* Settlement Implementation

Bill Leahy began by noting that just over a year ago, an emergency meeting was necessitated by the need to amend the ILS Office’s budget request to reflect the settlement in *Hurrell-Harring*. Bill once again mentioned the new employees of ILS who are an integral part of developing the settlement plans and procedures.

Bill pointed out that next week two plans are expected to be released. He noted that the plaintiffs made good suggestions and contributions upon the review of the drafts. He believes that the incorporated ideas will make the final products stronger. He also reported that the Executive delegated one hundred percent authority to ILS where content was concerned.

Bill mentioned the Request for Proposals (RFP) for the caseload study and his hope that it would bring a national response. He also noted that he was working with OCA’s Judge Coccoma and Maria Barrington regarding the eligibility standards and the training that will be needed for a smooth implementation.

On a separate note, Bill informed the board that Andy Davies co-hosted a national conference at Albany Law on how to measure quality representation. Additionally, Bill and Andy Davies will participate in a National Consortium on Right to Counsel next week. Bill and Joe Wierschem will present at the County Attorneys Association of New York. Angela Burton will also host a training next week regarding parental representation. And finally, Joanne Macri is busy working with the Statewide Network of Regional Centers which will provide *Padilla* advice training for criminal and family courts.

VII. Proposed 2016 Board Meeting Dates

- Friday, April 8
- Friday, June 17
- Friday, September 23
- Friday, November 18

It was noted that the dates would be subject to the schedule of the new Chief Judge.

VIII. Concluding Remarks

The Chief Judge again thanked everyone for their dedication and remarked that he was so proud of all of the board members and the staff of the ILS Office for their dedication and commitment.

IX. Executive Session

John Dunne moved for the meeting to go into Executive Session; his motion was seconded by Carmen Ciparick and unanimously approved by the remaining Board members.

John Dunne thereafter moved to conclude the Executive Session and for a vote to increase the salary of ILS Director Bill Leahy by 10%. His motion was seconded by Sue Sovie and unanimously approved by the board members in attendance.

In addition, a subcommittee comprised of Lenny Noisette, Sheila DiTullio and Joe Mareane was designated to investigate a structure for an annual review process of the Director concerning salary, performance, etc. The subcommittee will report their recommendations at the next board meeting.

The meeting was adjourned.

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Improving the Quality of Mandated Representation Throughout the State of New York

To: Indigent Legal Services Board

From: Bill Leahy

Re: Allocation of Aid to Localities Appropriations for FY 2014-15, 2015-16, and 2016-17

Date: April 13, 2016

As I described in my April 1 Report on the final FY 2016-2017 state budget, the deeply disappointing result of the state budget process is that there is no additional funding to extend counsel at arraignment or caseload reduction or quality improvements in any of New York's counties, save for the five counties covered by the *Hurrell-Harring* Settlement Order. This lack of funding has an immediate negative effect which requires prompt action by the Office and Board.

I have, as promised in that April 1 report, undertaken "an immediate and thorough review of all agency appropriations which might potentially be used to augment" the \$4 million annually that the Board has previously authorized for the reissuance of our three year Counsel at First Appearance (CAFA) RFP that we must release this year. I have identified two such appropriation streams, in each of two consecutive budget years.

First, at its meeting on September 26, 2014, the Board approved my recommendation to allocate \$870,139 in FY 2014-15 funds to finance the first year of a three year program to establish a Wrongful Conviction Prevention Center. At that same meeting, the Board approved my recommendation to allocate \$870,139 in FY 2014-15 funds to finance the first year of a three year program to enhance six Assigned Counsel Programs. Thus the total amount of the two allocations was \$1,540,278.

Second, at its meeting on September 25, 2015, the Board allocated identical amounts (\$870,139 per program) to finance the second year for each of these programs, again in the total amount of \$1,540,278.

I now recommend, in light of the threat to the provision of counsel at first appearance presented by the inadequate funding in the FY 2016-17 budget, that the Board reallocate \$1,540,278 in FY 2014-15 funding and \$1,540,278 in FY 2015-16 funding from its original purposes described above, and

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direct their use instead to help finance the first and second years of an RFP to provide counsel at first appearance in counties outside of New York City.

In addition, I recommend the allocation of \$1,540,278 from the FY 2016-17 Aid to Localities appropriation for the purpose of augmenting the \$4 million for the third year of the forthcoming Counsel at First Appearance RFP.

With these actions, the total amount available for the provision of counsel at first appearance would increase from \$4 million to \$5,740,278 for each of the three years of the successor CAFA RFP which we will issue in 2016.

Finally, this year's Aid to Localities budget contains an appropriation of \$800,000 for "services and expenses related to the implementation of the settlement agreement...in Ontario, Onondaga, Schuyler, Suffolk and/or Washington counties, as deemed necessary and pursuant to a plan developed by [the] office of indigent legal services and approved by the director of the budget." As we understand it, this appropriation is meant to ensure that the *Hurrell-Harring* counties which have participated in our first three year Counsel at First Appearance grant would continue to receive the same level of funding they have been receiving. Indeed, the \$800,000 appropriation in the budget would more than cover the entirety of the awards made to these counties.

I therefore ask the Board to authorize the Office to develop a plan for submission to the director of the budget whereby the \$800,000 appropriated in the budget be allocated to the *Hurrell-Harring* counties in similar amounts as were awarded to each such county under our initial CAFA grant. In doing so, not only would these *Hurrell-Harring* counties be assured of continuing to receive their same level of funding, but, for the non-lawsuit counties applying for a grant, the total amount of available funding would be effectively increased by the amount of funds allocated to the lawsuit counties from the \$800,000 appropriation.

We intend to file and seek approval of this plan in advance of the issuance of our RFP, in order to secure clarity for lawsuit and non-lawsuit counties and providers alike.



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Improving the Quality of Mandated Representation Throughout the State of New York

To: Indigent Legal Services Board

From: Bill Leahy

Re: Indicia of Progress in the 57 Counties Outside of New York City

Date: April 19, 2016

Every fall for the past three years, our Director of Research, Andrew Davies, has produced an Estimate of the Cost of Compliance with Maximum National Caseload Limits in Upstate New York. Each report covers the previous calendar year – 2012, 2013, and 2014 have been analyzed thus far, using caseload data submitted to OCA by over 130 providers of mandated representation, and spending reports required to be filed by counties with the Office of State Comptroller (OSC).

Recently I took the time to review these annual reports, in search of trends between calendar 2012 and calendar 2104 that might help us assess our progress and influence future action. A few of our most prominent findings are highlighted below.

- **Higher Spending, especially in Institutional Provider Programs:** overall spending rose by almost \$16 million, or 9.5%. Almost all of increase occurred in Institutional Provider Programs (+ 17.2%), while Assigned Counsel Program (ACP) spending rose by only 0.5%.
- **Significant staff increases in Institutional Provider Programs:** attorney staff rose from an FTE of 654 to 736, an increase of 12.5%. Support staff rose from 297 to 350 FTE, an increase of 17.8%.
- **A Reduction in Institutional Provider Weighted Caseloads:** the average weighted caseloads of attorneys in upstate institutional providers declined by 14.3%, from 719 in 2012 to 616 in 2014. Note that this number remains far in excess of national and ILS caseload limits of 367 new weighted cases per attorney per year.
- **The Amount Spent Providing Representation per Case Increased:** The amount spent on each case is one indicator of effective lawyering. While the average cost per case among upstate providers is very low, it has increased by \$46.51 (22%) among institutional providers, and by \$52.95 (16%) in Assigned Counsel Programs.

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- **Institutional Providers Spend Significantly Less per Case:** In 2014 the average spending per case was \$382.59 in Assigned Counsel programs, compared to \$255.28 in Institutional Provider Programs.
- **The Estimated Cost of Compliance with Maximum Caseload Limits Decreased:** The estimated cost of compliance declined from \$111.2 million in 2012, to \$105.2 million in 2013, to \$99.1 million in 2014; a two-year decrease of \$12.1 million or 10.9%.

This progress is primarily attributable, we believe, to several actions which the Office and Board have undertaken. First, we have required mandated representation providers and county officials to consult with each other, and have encouraged them to produce an annual proposal to use ILS funds to improve the quality of their representation. Many counties have done so, which has undoubtedly contributed to the staffing increases and reduced caseloads noted above. Second, by 2014 as many as 25 counties were providing representation at a defendant's first court appearance pursuant to the state funding provided under our Counsel at First Appearance grant program. And finally, a few of the 47 counties who responded to our RFP for Upstate Quality Improvement and Caseload Reduction RFP may have begun hiring before the end of 2014.

Can this progress be sustained and enhanced? Certainly it can and will be enhanced in the five counties in which we are implementing the settlement order in the *Hurrell-Harring* case. For the remaining 52 upstate counties which benefit neither from the New York City caseload reduction funding nor from the lawsuit settlement, the answer is much less certain. We have just witnessed a third consecutive state budget that contains no increase in funding for any of the 52 counties or their 120 providers of mandated representation, and we have heard concerns from some providers that the Eligibility Standards and Criteria that go into effect on October 3, 2016 may drive up costs in counties that can ill afford the additional expense. There is no question that our progress toward assuring a capable and uniform quality and availability of representation in every locality within the state of New York is in its very early stages, and faces daunting challenges. At a minimum, there remains a dire need for significant additional state funding and enhanced agency authority that the Fahy-DeFrancisco bill would provide; and for the Regional Support Centers and the statewide Appellate Resource Center that we have long proposed.

My hope is that this analysis will generate an ongoing discussion, in which Board members will be actively engaged, as to how we can best advance the day when New York will provide well-prepared and high-quality representation to every eligible client in mandated representation cases.

New York State Office of Indigent Legal Services

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New York Leads the Way on Immigrant Defense

Immigrants in criminal proceedings in the U.S. face the very real threat of deportation depending on how their cases come out, so it's imperative that they get effective legal representation. Last week, New York became the first state in the nation to set up a state-wide network of legal resource centers dedicated to ensuring that they do.

On July 6, the state's Office of Indigent Legal Services announced [\\$8.1 million in grants](#) to fund the development of six regional service centers across the state and in New York City. The centers will provide immigration legal support and training to public defense counsel throughout the state, a significant step toward realizing the promise of *Padilla v. Kentucky*, a 2010 Supreme Court ruling that criminal defense attorneys must advise non-citizen clients about the deportation risks of a guilty plea.

After decades in which U.S. lawmakers have relentlessly ratcheted up the harsh immigration consequences of past criminal convictions, New York's initiative represents a glimmer of hope. Having worked for 27 years as an immigration lawyer in New York City, I've seen first-hand how these consequences can devastate families and communities, and so I'm especially pleased to see this initiative take off.

One former client's case in particular haunts me. Among the most difficult things I have ever had to do as a lawyer was to advise this client, outside an elevator door at in 26 Federal Plaza in New York City, that if she rode up to the 13th floor to appear for her immigration hearing, she would be taken into immigration custody and might never go home again.

It was 1996. Just days before, the U.S. Congress had passed [legislation](#) mandating detention and deportation for even long-time lawful permanent residents for a wide range of past criminal convictions, regardless of any mitigating or humanitarian factors. My client, a lawful resident with young children waiting for her at home, was facing the possibility of deportation based on a past criminal conviction. Before the new laws passed, immigration detention during proceedings was not required, and the judge had wide discretion to issue a "waiver" sparing her from

But more is needed. Most important, state and federal governments must take proactive responsibility in this area as part of their general constitutional duty to afford effective counsel to those accused of crimes in their jurisdictions.

New York State can be proud of leading the way in addressing this need of its vulnerable immigrant residents. Other governmental entities must follow the state's lead and supply the resources and support to public defenders and other indigent criminal defense service providers needed to hire and train the staffing required to properly serve their immigrant defendant clients.

deportation. But now the judge's discretion was limited. Even so, desperate to preserve any possibility she might have to fight deportation, she stepped into that elevator.

My client's experience was a sign of things to come. In recent years the U.S. government has targeted immigrants on the basis of long-ago brushes with the law that often carried minor criminal consequences, and regardless of circumstances like family ties or contributions to the community. Nevertheless, government funders of indigent criminal defense services have generally not seen it as their responsibility to ensure competent advice and counsel on anything beyond the "direct" criminal law consequences of a criminal case, as opposed to so-called "collateral" consequences, such as deportation.

Consequently, many immigrants facing criminal charges had little or no awareness at the time of their criminal proceedings that they might face detention and deportation; few criminal defense lawyers were well enough versed in immigration law to supply that information. Indeed, many immigrants give up their right to a trial and plead guilty to criminal charges without receiving accurate (or any) advice regarding the possible adverse immigration consequences.

That's why, in 1997, I partnered with the New York State Defenders Association to start what is today known as the Immigrant Defense Project (IDP), to provide legal resources, training and support to criminal defense lawyers representing immigrants in New York criminal cases. Since then, IDP (now independent but still collaborating with NYSDA) has provided written resources for New York defense lawyers, such as the manual *Representing Immigrant Defendants in New York*, now in its fifth edition, hundreds of trainings, and thousands of individual case consults through IDP's criminal/immigration telephone hotline.

Our efforts got a major boost when U.S. Supreme Court, in *Padilla v. Kentucky*, recognized that the right to counsel as guaranteed by the U.S. Constitution must include advice regarding the deportation consequences of criminal convictions, and endorsed the notion that defense counsel has a responsibility to seek to minimize these consequences for a noncitizen client. As the Court aptly observed, "preserving the client's right to remain in the United States may be more important to the client than any potential jail sentence."

Improving the quality of mandated representation throughout the 7th and 8th Judicial Districts.

PLACE
STAMP
HERE

Funded by the NYS Office of Indigent Legal Services (ILS) to improve the quality of mandated representation. The WNY Immigration Assistance Center is a joint project of the Erie County Bar Association Volunteer Lawyers Project, Inc. (VLP) and The Legal Aid Society of Rochester, New York (LAS). The ILS funding is by contract with the County of Erie which has subcontracted with VLP and LAS.

WNY Immigration Assistance Center

237 Main Street, Suite 1000, Buffalo, NY 14203

WNY Immigration Assistance Center

Providing legal support to attorneys who provide mandated representation to noncitizens in the 7th and 8th Judicial Districts of New York.

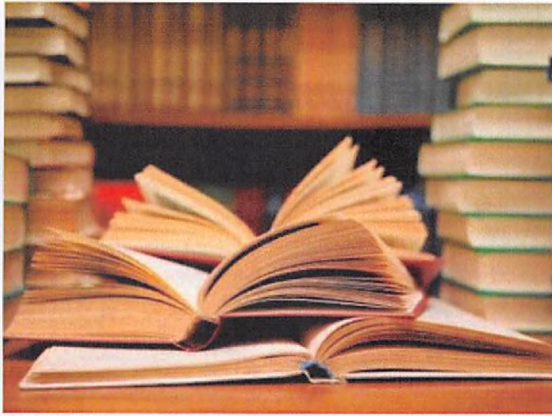


THE UNITED BAR ASSOCIATION

**VOLUNTEER LAWYERS
PROJECT, INC.**



The Legal Aid Society
of ROCHESTER, NEW YORK



Who We Are

The Eric County Bar Association Volunteer Lawyers Project, Inc., in collaboration with The Legal Aid Society of Rochester, New York, has been awarded a grant from the New York State Office of Indigent Legal Services (through Eric County) to establish the Western New York Immigration Assistance Center.

Why We Exist

Changes to immigration laws have dramatically raised the stakes of a noncitizen's criminal conviction. The importance of accurate legal advice for noncitizens accused of crimes has never been more important.

Deportation is an integral part — indeed, sometimes the most important part — of the penalty that may be imposed on noncitizen defendants who plead guilty to specified crimes.

As such, the Supreme Court ruling in *Padilla v. Kentucky*, 559 U.S. 356 (2010), now requires criminal defense attorneys to advise noncitizen clients as to the potential immigration consequences of a criminal conviction before taking a plea.

Our Goal

To provide training, technical assistance and other legal support to attorneys in the 7th and 8th Judicial Districts of New York who provide mandated representation to noncitizens in criminal and family court proceedings so they can fully advise their noncitizen clients as to the immigration consequences of their particular case.

When to Call Us

Representatives of criminal defendants should contact us as soon as possible following arraignment so that we can help you determine the immigration consequences of your client's plea.

With regard to mandated Family Court representation, please contact us anytime to discuss the possible consequences of an adverse finding or potential settlement.

We offer free CLE trainings. Call us to schedule one in your office or to find out about already scheduled dates.



What You'll Need

Please have as much of the following information available as possible at the time of your initial contact:

- Client's Name and Date of Birth
- Client's Country of Birth
- Client's Immigration Status
- Client's Date of Admission/Entry to U.S.
- Penal Law Section Charged
- Is there a Domestic Violence element involved?
- Penal Law Section in Plea Negotiation
- Prior History of Convictions
- Any Removal Proceeding pending?
- Any Family Court case pending?

Contact Us

In the 7th Judicial District:

Wedade Abdallah, Esq.
(585) 295-6066
wabdallah@lasroc.org
Loraine Ortiz Suarez, Paralegal
(585) 295-6068

In the 8th Judicial District:

Sophie I. Feal, Esq.
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**IMMIGRANT
DEFENSE
PROJECT**

**PABILLA
SUPPORT
CENTER**



40 W 39th Street, Fifth Floor, New York NY 10018

Do you have a client born outside the U.S.?

Contact us!



By online form (preferred):

Visit www.immdefense.org/psc



By phone:

Call 212-725-6422. Leave a detailed voicemail.

**FREE Immigration Consults
For NYC Appointed Criminal & Family Attorneys**

**IMMIGRATION ASSISTANCE RESOURCE CENTERS
UPDATES ON TRAININGS/PRESENTATIONS**

DATED: As of April 18, 2016

CENTER LOCATION	TRAININGS/PRESENTATIONS
<p>REGION 1 Western New York Region</p> <p>WESTERN NEW YORK IMMIGRATION ASSISTANCE CENTER</p> <p>OFFICE LOCATIONS: Erie County Bar Association, Volunteer Lawyers Project 237 Main St., Ste 1000 Buffalo, NY 14203</p> <p>Legal Aid Society of Rochester One West Main St., Suite 800 Rochester, NY 14614</p>	<p>Feb. 25, 2016 – CLE for Monroe County Magistrates</p> <p>Feb. 29, 2016 and March 2, 2016 – ACP meeting in Monroe County</p> <p>March 18, 2016 – 7th Judicial District Chief Defenders Meeting (Center update)</p> <p>March 31, 2016 and April 1, 2016 – 7th JD Magistrate’s trainings</p> <p>April 6, 2016 – Defender Training (Wyoming County)</p> <p>April 16, 2016 – NYSDA CLE – Rochester, NY</p> <p>April 18, 2016 – CLE for Wayne County Magistrates</p> <p>April 22, 2016 – 8th Judicial District Town and Village Courts Training – Buffalo, NY</p> <p>May 27, 2016 – Erie Co. CLE for 18B attorneys – Buffalo, NY</p>
<p>REGION 2 Central New York Region</p> <p>OFFICE LOCATION: Oneida County Courthouse 302 N. James Street Rome 13440</p>	<p>April 12, 2016 – AILA CLE - Syracuse University, School of Law</p> <p>April 23, 2016 – Oneida County Bar Association</p> <p>April 28, 2016 – NYSBA CLE – Syracuse, NY (on language access & immigration consequences)</p> <p>Week of June 20, 2016 (TBA) – Broome County Bar Association CLE (family (SIJS) and criminal/immigration) – Binghamton, NY</p>

<p>REGION 3 Capital & Northern NY Region</p> <p>OFFICE LOCATION:</p> <p>Albany County Offices 112 State Street, 7th Floor Albany, NY 12207-2004</p>	<p>March 25, 2016 – Regional Task Force on Human Trafficking for the Capital Region (US DOL Office)</p> <p>March 29, 2016 – Capital Region Immigration Collaborative</p> <p>April 12, 2016 – NYS Judicial Committee on Women in the Courts DV/IDV Judicial Training CLE – Castleton, NY (invitation by Judge Kaplan)</p> <p>June 6, 2016 – Third Judicial Dept. Supreme Court Judicial Training (invitation by Judge Breslin – To Be Confirmed)</p>
<p>REGION 4 Mid-Hudson Region</p> <p>OFFICE LOCATION:</p> <p>Legal Aid Society of Westchester County 150 Grand Street, 1st Floor White Plains, NY 10601</p>	<p>May 26, 2016 - Judicial Institute – Criminal/Family Law Training (To Be Confirmed)</p>
<p>REGION 5 New York City Region</p> <p>PADILLA SUPPORT CENTER</p> <p>OFFICE LOCATION:</p> <p>Immigrant Defense Project 40 W 39th Street, 5th Floor New York, NY 10018</p>	<p>March 2016 – Center For Family Representation – Family Law/Immigration Training – NYC, NY</p> <p>March 2016 - Brooklyn Family Court Assigned Counsel CLE – Brooklyn, NY</p>

REGION 6
Long Island Region

OFFICE LOCATION:

Legal Aid Society of Suffolk County,
Inc.
Cohalan Court Complex
400 Carleton Ave., 4th Floor
Central Islip, NY 11722-4504

Legal Aid Society of Nassau County
40 Main St., 3rd Floor
Hempstead, NY 11550

Leahy, Bill (ILS)

To: Indigent Legal Services Board; Chief Defenders; Family Court Providers; County Contacts
Cc: ils.dl.all.users
Subject: Criteria and Procedures for Determining Assigned Counsel Eligibility
Attachments: ILS Eligibility Criteria and Procedures April 2016.pdf

Dear Board Members, Chief Defenders, Parental Representation Providers, County and City Officials:

I am pleased to share with you the attached **Criteria and Procedures for Determining Assigned Counsel Eligibility**. They are the product of public hearings and surveys we conducted, in which many of you participated. These Criteria and Procedures are an important step toward the goal of having a uniform and legally acceptable eligibility standard in New York for people who are entitled by law to the assistance of counsel but “who are financially unable to obtain counsel.” County Law §722. They are issued in accordance with Section VI of the Stipulation and Order of Settlement in *Hurrell-Harring v. The State of New York* and the authority granted to ILS under Executive Law §832 (3) (c). Their effective date is **October 3, 2016**. During this six-month period, judges and eligibility screeners will receive training in their implementation.

I would like to emphasize a few points about these Criteria and Procedures:

- Both the statute and the settlement order state that the Criteria and Procedures are intended “to guide courts...in determining whether a person is eligible for” publicly funded representation.
- The Criteria and Procedures do not require any change in current practice whereby some judges determine eligibility directly, while others delegate eligibility recommendation responsibility to a screening entity.
- The Criteria and Procedures respond to decades of criticism of New York’s failure to have a consistent set of criteria and procedures for determining eligibility for assigned counsel. In particular, they address the 2006 Kaye Commission critique that “guidelines for the appointment of counsel exist only in a few counties and that even in those counties, the guidelines were not uniformly applied.” Therefore, “a defendant may be deemed eligible for the appointment of counsel in one county and ineligible in a neighboring county or even in a different court within the same county.”
- The process that we used to develop these Criteria and Procedures is explained at pp. 6-10. I emphasize here that an important resource discovered at one of our eight public hearings was the 1977 Memorandum by the then-Director of the Third Judicial Department, Richard J. Comiskey, prepared at the direction of then-Presidenting Justice Koreman and entitled “Assignment of Attorneys to Represent Individuals who are Financially Unable to Obtain Counsel.” Our Criteria and Procedures build upon that early effort, which may be found at <https://www.ils.ny.gov/files/Hurrell-Harring/Eligibility/Written%20Submissions/6th%20JD/Murphy/1977%20Third%20Department%20Memo.pdf>.
- We have heard and we respect the concerns that the implementation of these Criteria and Procedures may, in some localities, increase the number of persons who are eligible for the appointment of counsel. The data collection procedures described at pp. 50-51 are designed to measure that potential fiscal impact. Even in advance of implementation, during this six-month period of preparation, we will attempt to estimate the potential fiscal impact in particular localities; and we will seek additional state funding to pay for any increase in local costs which is attributable to their implementation.
- A comprehensive study that we undertook to inform our establishment of these Criteria and Procedures is available for review on our website, <https://www.ils.ny.gov>. That report is entitled Determining Eligibility for

Assignment of Counsel in New York: A Study of Current Criteria and Procedures and Recommendations for Improvement (Final Report: February 12, 2016). The Criteria and Procedures themselves are also accessible on our website.

- As explained at page six, second paragraph, these Criteria and Procedures apply to criminal court proceedings in the counties outside of New York City. However, we hope that they will provide guidance also to judges making eligibility determinations in criminal cases in New York City, and to Family Court judges statewide.

Thank you all for your efforts to improve the quality of legally mandated representation in New York.

Bill

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LAWRENCE K. MARKS
Chief Administrative Judge

Memorandum

MICHAEL V. COCCOMA
Deputy Chief Administrative Judge
Courts Outside New York City

April 7, 2016

TO: Administrative Judges (Districts 3 - 10)
Acting Presiding Judge, NYS Court of Claims

FROM: Hon. Michael V. Coccoma ^{MVC} sm
Deputy Chief Administrative Judge, Courts Outside New York City

SUBJECT: Criteria and Procedures for Determining Assigned Counsel Eligibility

Attached please find Criteria and Procedures for Determining Assigned Counsel Eligibility from the Office of Indigent Legal Services (ILS). Please distribute these Criteria and Procedures to your judges handling criminal jurisdiction.

Please also note the following additional information:

- The effective date for the Criteria and Procedures is October 3, 2016.
- Training will be developed for judges and eligibility screeners in the implementation of the guidelines.
- A bench card will be created to assist judges with the guidelines.
- The Office of Justice Court Support will distribute this material to Town & Village Judges.

Please contact me if you have any questions regarding these guidelines. Thank you.

MVC:smm
Attachment

c: Hon. Lawrence K. Marks
Ronald P. Younkens, Esq.
William J. Leahy, Director, ILS
Paul Lewis, Esq.
Barry Clarke, Esq.
Paul McDonnell, Esq.
Nancy Sunukjian, Esq.
Anthony Rossi, Esq.
District Executives
Eileen Fazzone, Esq.