

RIAC2



CRIMINAL LAW

FAMILY LAW



IMMIGRATION LAW

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HAPPY NEW YEAR!

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CONTACT US!

Tel. (315)356-5794

Fax (315)356-5795

Sharon Ames, Esq.
sames@ocgov.net
(315)272-0505

Tina Hartwell, Esq.
thartwel@ocgov.net
(315)264-9217

WELCOME TO THE NYS REGIONAL IMMIGRATION ASSISTANCE CENTER, REGION 2*:

IMMIGRATION ADVICE FOR ATTORNEYS WITH NONCITIZENS IN CRIMINAL AND FAMILY COURT

Funded by the NYS Office of Indigent Legal Services (ILS), six New York Regional Immigration Assistance Centers (RIACs) were established in 2016 throughout New York State. The RIACs offer legal and technical support to attorneys who provide mandated representation to noncitizens in Criminal and Family Court. Our region, **Region 2**, covers 16 counties in the 5th and 6th Judicial Districts of the state.

The centers were established in the wake of *Padilla v. Kentucky*, 559 U.S. 356 (2010), to help attorneys obtain the information necessary to properly advise their noncitizen clients about the immigration consequences of any plea in criminal court, as required under *Padilla*. The same advice is also available to attorneys who provide mandated representation in Family Court, because the same consequences exist for nonimmigrants involving Family Court dispositions.

As language access poses a significant challenge in representing non-English speakers, RIAC2 provides referrals for interpreters and translators as needed by defense and family court attorneys.

We also conduct trainings for both attorneys and judges that offer CLE credit to participants. The RIAC is available for all public defenders and 18b assigned counsel.

*RIAC2 is administered by the Criminal Division of the Oneida County Public Defender.

“Crimmigration” practice under the new administration



UPCOMING EVENTS:

January 20, 2017: **“Immigration Consequences in Family Court”**

12:00 pm – 2:00 pm
ONVLP Conference Room, 221
So. Warren St., Syracuse, NY
13202

To register, send email to
dstrange@ocgov.net

January 24, 2017:
“Know Your Rights”

(community event)
12:00 pm – 1:00 pm
Refugee Center Auditorium,
309 Genesee St., Utica, NY

February 28, 2017:
“Immigration Consequences in Criminal Court”

12:00pm – 1:00 pm
Jefferson County Bar
Association, Watertown, NY

March, 2017:
CLE, Broome County Public
Library, Binghamton, NY
Time & location TBA

TBA: CLEs in Cortland,
Tompkins and Delaware
Counties

ALL TRAININGS ARE **FREE OF CHARGE**



Many people have asked, “What is going to happen with Immigration after the inauguration of the new President?” This most poignant question cannot be answered with any certainty. There are segments of the Immigration law, after all, that can only be amended through congressional action, and that takes time. More problematic are the possible actions that can be taken immediately without Congress’ approval.

Executive Orders, issued by the President, are used to implement policy changes in an expedited manner. By its very nature, however, an Executive Order can be rescinded as quickly as it is implemented, especially under a new President, depending on the source for the President’s authority to issue the order. Many Executive Orders do not carry the force of law and can be eliminated by a new administration.

Presidential *Memoranda* likewise do not carry the force of law. These policy directives can also be rescinded or changed under a new President, as well as agency directives and guidance implementing various policies. None of these actions require Congressional approval, and actions taken by the Obama administration, for better or worse, in the area of Immigration, may disappear after inauguration day.

The current Immigration laws, codified in the Immigration and Nationality Act (INA), will continue to apply to noncitizens until any change is made by Congress. For example, eligible noncitizens may still apply for a green card based on a marriage to a U.S. citizen or other eligible family relationships; and employers may continue to apply for work visas and/or a green card on behalf of an eligible employee. Regulations implementing the INA, promulgated by the Department of Homeland Security, cannot be changed absent notice and comment procedures under the Administrative Procedure Act. Any proposed changes to the INA or its regulations thus will not be immediate, and it is not clear what direction the new administration will take in terms of changing existing immigration laws.

There is one area of Immigration Law whose future appears clear, and that is “crimmigration.” Although the removal of noncitizens with criminal convictions escalated under the Obama administration, ICE (Immigration and Customs Enforcement) has, in recent years, operated under a “Priority Enforcement Program” (PEP), with three priority categories for removal of



noncitizens. Those with convictions that made them deportable fell into these categories, which recognized that not all with criminal convictions should be a top priority for removal. Under the new administration, PEP may be dismantled. At the very least, this program could be toughened and expanded, so that noncitizens convicted of even minor offenses may be arrested, detained and subjected to removal proceedings in Immigration Court.

The immigration consequences for noncitizens with criminal convictions will be serious and far-reaching in the upcoming administration. Vigorous, aggressive defense of noncitizens in criminal court will be more important than ever. Counsel for noncitizens in criminal and family court will need to provide competent and thorough advice for their clients to provide effective representation.

The Regional Immigration Assistance Centers are committed to serving the attorneys who provide mandated representation to noncitizens in criminal and family court. In addition to providing immigration advice, the **RIAC2** will be available throughout every county in this Region for trainings and support to help attorneys meet their increasing responsibilities to their clients under the new administration. Attorneys can contact the office at any time for case assistance, to request a training and/or informal meeting, or to seek a referral for language services on behalf of their clients.