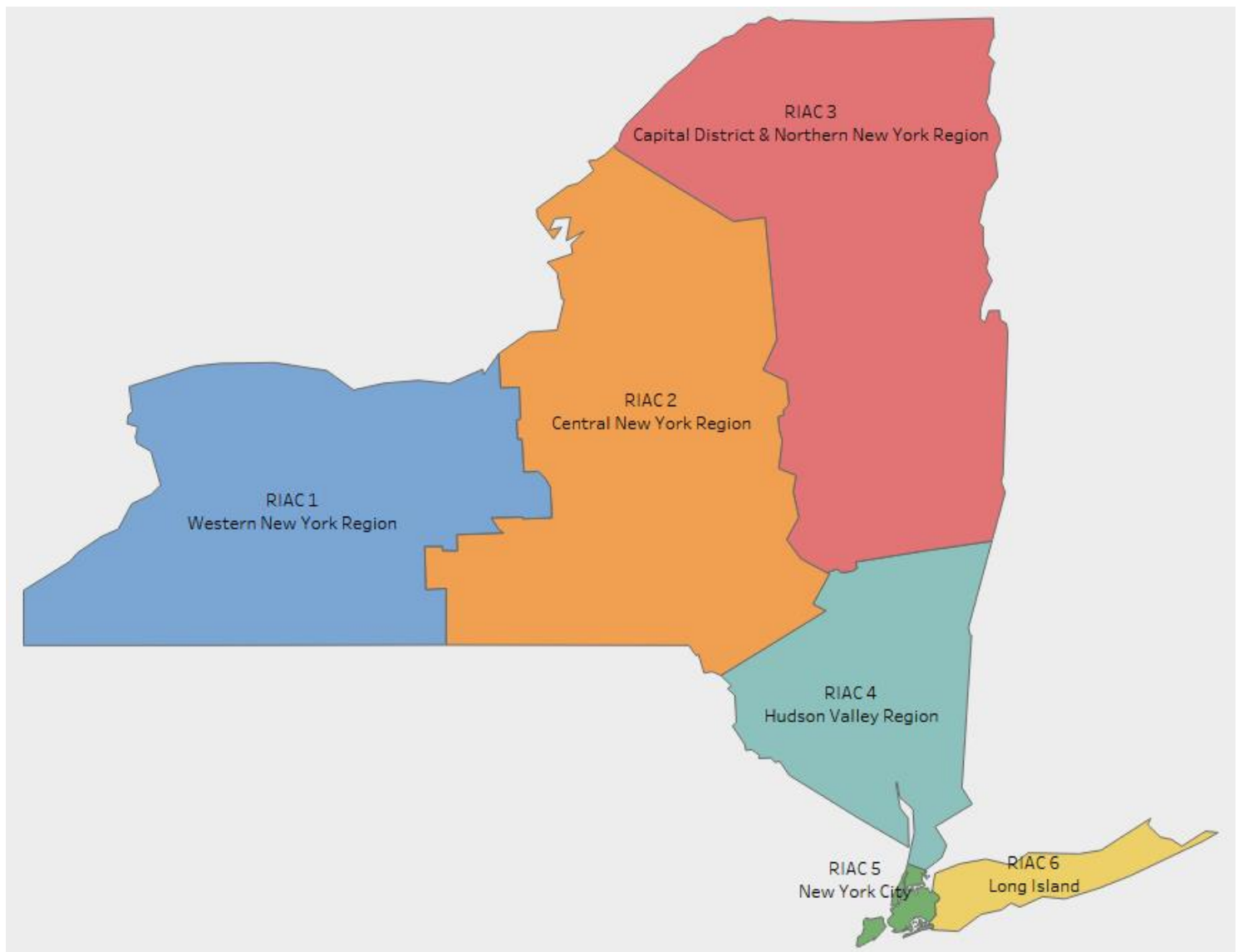


ILS Regional Immigration Assistance Centers: Protecting the Rights of Noncitizens

March 2023



New York State Office of
Indigent Legal Services

**Regional Immigration Assistance Centers:
Protecting the Rights of Noncitizens**

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I. Regional Immigration Assistance: An Innovative Statewide Network

Under the U.S. Constitution, persons accused of crimes who cannot afford an attorney have a right to have an attorney assigned to represent them. New York’s Constitution provides a similar right to counsel for parents in many Family Court proceedings. Decades ago, New York established a system to provide for such “mandated representation” that requires each county to create a plan to provide such representation—whether through an institutional office, such as a public defender office or legal aid society, or an assigned counsel program (“ACP”) by which a panel of private attorneys take assigned cases. In a 2006 report, a commission convened by then Chief Judge Judith Kaye found that this county-based system led to inconsistency, inequity, and ineffective legal representation.¹ There were calls for reforms and litigation against the State. In 2010, the New York State Office of Indigent Legal Services (“ILS”) was created to study, monitor, and make efforts to improve the quality of mandated representation.²

Noncitizens facing criminal or Family Court matters may suffer severe consequences beyond those endured by citizens. In a landmark decision, *Padilla v Kentucky*, the U.S. Supreme Court declared that, under the Constitution, defense attorneys have a duty to advise their noncitizen clients about the immigration consequences of a guilty plea.³ This decision reflects the profound impact criminal convictions can have for noncitizens. Under U.S. immigration law, a noncitizen may be deported or denied admissibility into this country if convicted of a variety of crimes; and in recent years, removals of noncitizens from the U.S. due to criminal convictions have risen sharply.

For many noncitizens, deportation or admissibility denial may be the most devastating penalty of a conviction.⁴ Major immigration repercussions may ensue not only for serious felony convictions, but also for convictions of minor, nonviolent offenses—even where the person charged is a lawful permanent resident who has long lived, worked, and raised a family here. Thus, providing sound immigration advice to noncitizen clients is a paramount concern in criminal cases. Further, negative impacts may flow from Family Court adjudications. For example, in abuse and neglect proceedings, a finding that the respondent parent violated an order of protection or neglected a child may lead directly to immigration consequences. Immigration status may also impact life-altering decisions in custody, termination of parental rights, and adoption matters. Further, the constitutional imperative for both criminal defense and family defense counsel to provide meaningful advice to their noncitizen clients implicates issues of racial justice. Persons facing such proceedings—citizens and noncitizens alike—are disproportionately persons of color.

The need for accurate legal advice on immigration consequences is particularly acute in New York, given the high number of noncitizens residing throughout the state, including in many upstate rural

¹ This report, *Commission on the Future of Indigent Defense Services: A Final Report to the Chief Judge of the State of New York*, can be found here:

https://www.nycourts/ip/indigent-defense-commission/IndigentDefenseCommssion_report06.pdf.

² See Executive Law § 832 (1).

³ *Padilla v Kentucky*, 559 US 356 (2010).

⁴ See *People v Peque*, 22 NY3d 168, 193 (2013).

communities.⁵ But the relevant immigration laws are complex and are constantly evolving, as are enforcement practices. Because of the need for sophisticated knowledge of immigration law and its impact on criminal and family litigation, counsel should consult an expert.⁶ ILS understands the ethical obligations and professional demands faced by providers of mandated representation who strive to provide competent immigration advice to noncitizen clients. To support counsel in protecting their noncitizen clients, in 2016, ILS established a statewide network of Regional Immigration Assistance Centers (“RIACs” or “Centers”), which advance ILS’s statutory mission to improve the quality of mandated representation. This resource is unique in the country.

Multiple elements make this statewide resource possible—the vision of New York State in fully funding grants to safeguard the rights of our noncitizen neighbors; the commitment of counties that partner with ILS in hosting initiatives that serve an entire region; the expertise and dedication of RIAC resource attorneys and support staff; and the proactive criminal and family defense counsel who reach out to the Centers on behalf of their noncitizen clients to receive relevant training, information, and advice. While the RIAC attorneys offer robust consultation services, they do not provide direct representation. Instead, they support defense counsel in the quest to provide accurate advice to their noncitizen clients facing criminal and family law litigation and achieve the best possible outcomes for these clients.

Each of the six Centers is staffed by two or more attorneys with specialized training and experience in the intersection of immigration, criminal, and family law and in cultural competency. They also have access to language services and other relevant resources. The regions are:

- Western New York, with offices in Erie and Monroe counties
- Central New York, based in Oneida County
- Northern New York, headquartered in Albany County
- Hudson Valley, with an office in Westchester County
- New York City
- Long Island, with locations in Nassau and Suffolk counties

Most Centers are housed within a legal aid society or public defender office. The RIAC in New York City is part of the Immigrant Defense Project, a leading immigrant defense nonprofit organization for more than two decades.

Each Center strives to ensure that attorneys in the region providing legally mandated representation in criminal and family law matters have access to the training and legal support necessary to competently advise and advocate for their noncitizen clients. In addition, the RIACs periodically assess providers’ needs and work with them to establish and refine systematic approaches to

⁵ New York has for centuries been one of the country’s greatest cultural hubs. Today immigrants account for an estimated 23% of the total population of this state. As neighbors, business owners, taxpayers, and workers, noncitizens are an integral part of our communities.

⁶ Rule 1.1 (a) of the Rules of Professional Conduct (22 NYCRR Part 1200) states: “A lawyer should provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness, and preparation reasonably necessary for the representation.” Comment [2] explains that, sometimes to provide competent representation, a lawyer should associate “with a lawyer of established competence in the field in question.”

representing noncitizen clients, including by developing intake protocols to provide for prompt referrals of cases in which clients may be noncitizens.

All for free, these Centers offer extensive Continuing Legal Education (“CLE”) programs, individual consultations, and written advisals to institutional providers and assigned counsel. The Centers urge counsel to reach out to a RIAC at the outset of a noncitizen client’s case so that an immigration attorney can help incorporate immigration concerns into the entire representation strategy. RIAC support is available at every stage of the proceeding, including for plea negotiations, trial proceedings, appeals, and post-conviction and post-dispositional proceedings.

II. Assistance to Attorneys Serving Thousands of Noncitizen Clients

ILS monitors and supports the activities of each Center in a variety of ways. That includes meeting with individual Centers and convening an annual plenary meeting as a platform to brainstorm about significant issues and plan for the future. Several ILS teams play a role in working with the RIACs. This includes the Grants Unit, responsible for supporting the claims and reimbursement process governing the three-year grants and the competitive process for renewed grants; the ILS teams that work closely with providers statewide in implementing quality improvement measures; and ILS staff members who serve as liaisons between the agency and the RIACs. The ILS Research Team also plays an integral role and created an instrument to facilitate the Centers’ compliance with an annual report requirement. This allows ILS to collect both quantitative and qualitative information and then produce an aggregated data analysis to help ILS and each RIAC assess achievements and challenges and plan for the future.

The impact of the RIACs is profound, as shown by the numbers. In 2021, the RIACs collectively received 2,910 requests for assistance from attorneys in 54 counties. Our analysis shows that 88% of the requests came from attorneys in 13 counties—Albany, Bronx, Erie, Kings, Monroe, Nassau, New York, Oneida, Onondaga, Putnam, Rockland, Suffolk, and Westchester. Many of these localities are home to resettled refugees from countries including Burma, Sudan, Ukraine, Afghanistan, and Syria. Roughly two-thirds of inquiries originated from attorneys who work for legal aid offices, public defender offices, or conflict defender offices. Most of the remaining requests for help flowed from private attorneys serving on assigned counsel panels. The vast majority of services—88%—related to criminal defense matters.

The contribution of the RIACs comes not only from responding to individual requests for assistance, but also from offering many free training programs on various aspects of immigration law in criminal and family defense matters. In 2021, the RIACs provided about 100 trainings and CLEs. Among the topics covered were how to identify cases in which immigration advice is necessary; immigration law in criminal defense and defense of parents in Family Court matters; appeals and post-conviction proceedings; cultural competency; and the use of mitigation reports. To continually expand providers’ understanding of the value of the RIACs, each Center also engages in aggressive outreach efforts throughout their regions. Our more detailed data analysis appears below.

III. Data Analysis for 2021: RIAC Assistance and Training

Aggregated Data Analysis

In 2021, the six RIACs received a total of 2,910 requests for assistance from 54 of the 62 New York counties. Forty-seven of the requests were conflict case referrals and requests for help from outside the designated RIAC regions. By comparison, in 2020, the six RIACs received 2,167 requests for assistance. Thus, the number of inquiries received by the RIACs increased by 34% between 2020 and 2021. Among the six RIACs, RIAC 6 received the most requests for assistance (1,277), and RIAC 3 received the fewest requests (136).

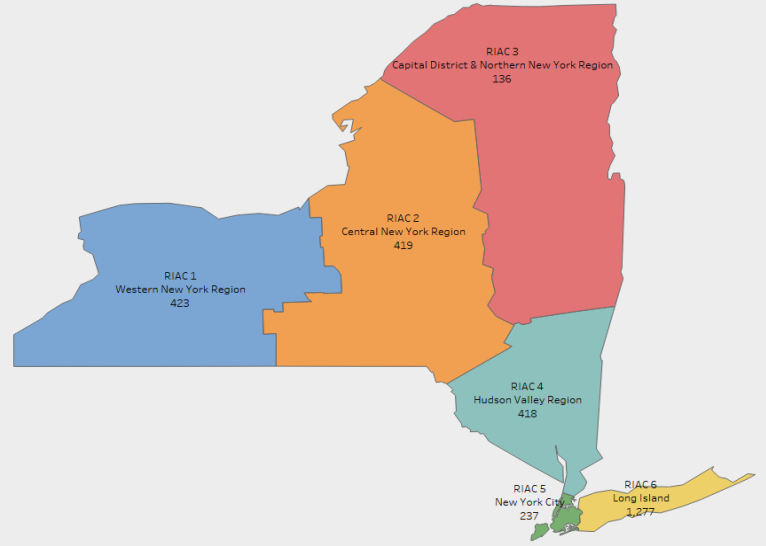
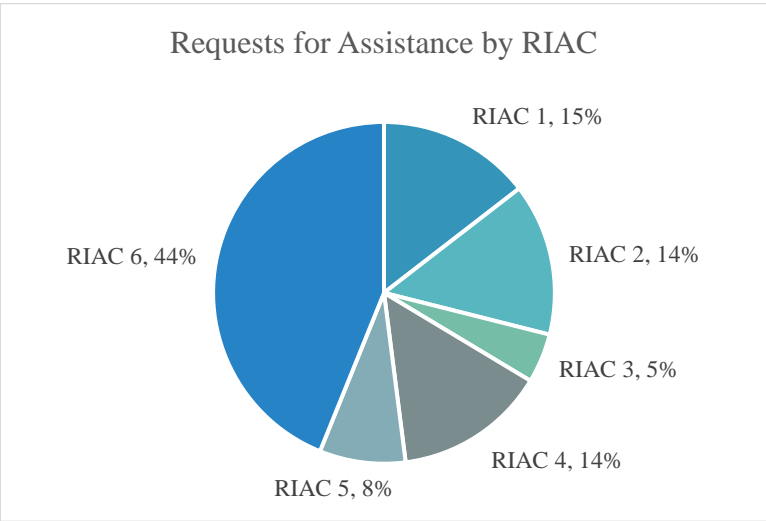


Figure 1: Number of Requests for Assistance by RIAC

In 2021, RIAC 6 received and handled around 44% of the total statewide requests for help. The other 56% of the total requests for assistance were received and handled by RIAC 1 (15%), RIAC 2 (14%), RIAC 3 (5%), RIAC 4 (14%), and RIAC 5 (8%).

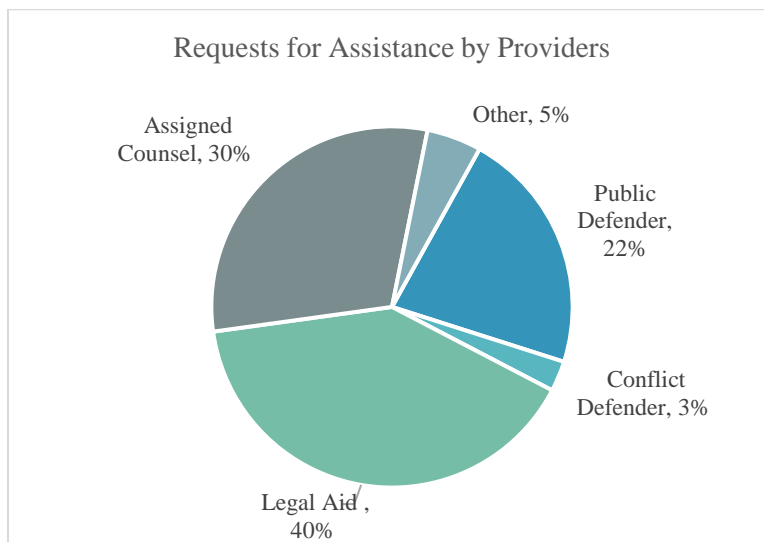


Counties with High and Low Number of Requests

According to the data reported to ILS, 2,524, or 88% of the total requests for assistance in the six RIACs came from attorneys in 13 counties: Nassau (657), Suffolk (604), Onondaga (306), Erie (199), Westchester (199), Monroe (134), Albany (74), New York (67), Oneida (63), Kings (62), Rockland (55), Putnam (54), and Bronx (50). Twelve percent, or 339 of requests for help, flowed from the other 41 counties.⁷ There were eight counties from which the six RIACs did not receive any requests for assistance—Delaware, Jefferson, Lewis, Madison, Tioga, Franklin, Hamilton, and Washington Counties.

Requests for Assistance by Provider

The figure below shows the percentage of the total requests for help received by the six RIACs by the type of provider for which the requesting attorney was associated. Forty percent of the inquiries were from attorneys who work for a legal aid society (13 legal aid societies represented); 30% of the requests for help came from attorneys who are associated with an ACP (34 ACPs represented); and 22% were from attorneys who work for a public defender’s office (37 offices represented).⁸

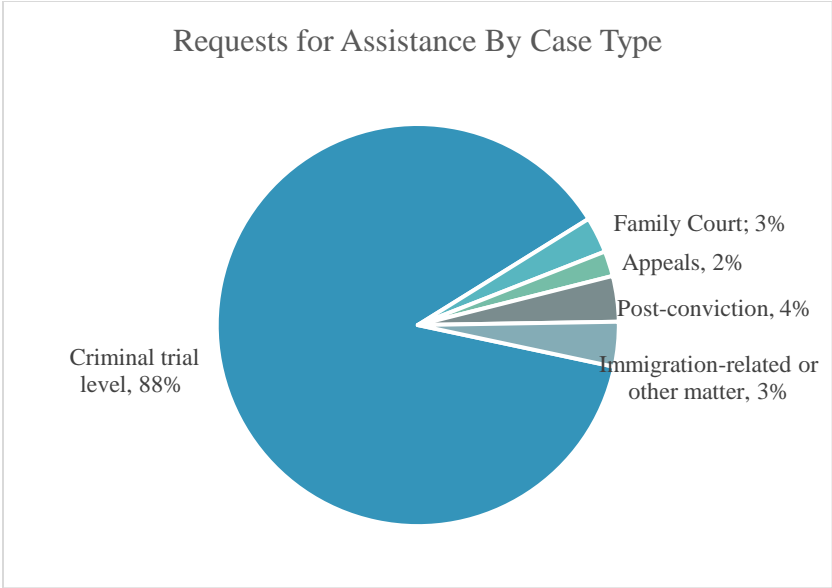


Requests for Assistance by Case Type

The pie chart below summarizes the total number of requests for help by case type. Eighty-eight percent of the total requests were sought for criminal trial level cases, while 4% of the inquiries were for post-conviction matters, and 3% were for immigration and other related matters. Three percent of requests for assistance involved Family Court cases, and 2% were for appeals.

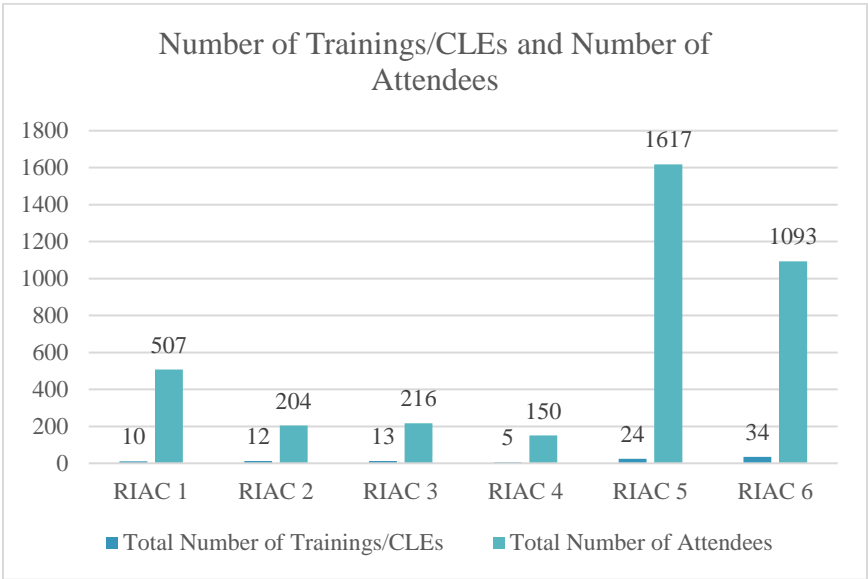
⁷ Conflict cases and cases outside of the designated RIAC region (47) are not included in these numbers.

⁸ Note: The Legal Aid number is very high due to referrals from Suffolk County and Nassau County Legal Aid Societies. Also, the ACP number is very high because of referrals from the Onondaga County ACP.



Trainings and CLEs

In 2021, the six RIACs conducted a total of 98 trainings and CLEs; and 3,787 participants attended these programs.⁹ RIAC 6 conducted 34 of the programs, and 1,093 participants attended. Similarly, 1,617 participants attended 24 trainings and CLEs conducted by RIAC 5.



RIAC 1: Western New York Region

From January through December 2021, RIAC 1 received 423 requests for assistance, 420 of which were from 16 of the RIAC 1 counties, and three of which were from Suffolk, Kings, and Chemung

⁹ In some cases, RIACs collaborated with each other. Therefore, the number of trainings/CLEs and the number of attendees are not mutually exclusive.

counties. By comparison, in 2020, RIAC 1 received 162 requests for assistance. This translates to a 161% increase in requests received by RIAC 1 between 2020 and 2021. Eighty-nine percent of the 420 inquiries that RIAC 1 received originated from these counties: Erie (47%), Monroe (32%), Ontario (6%), and Wayne (4%).

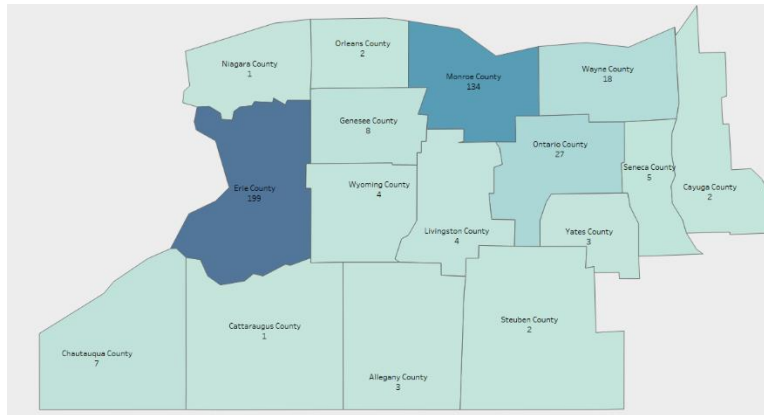
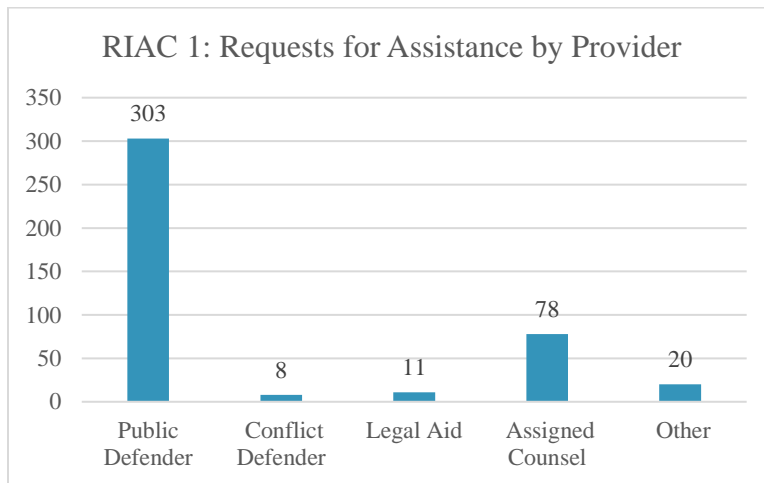
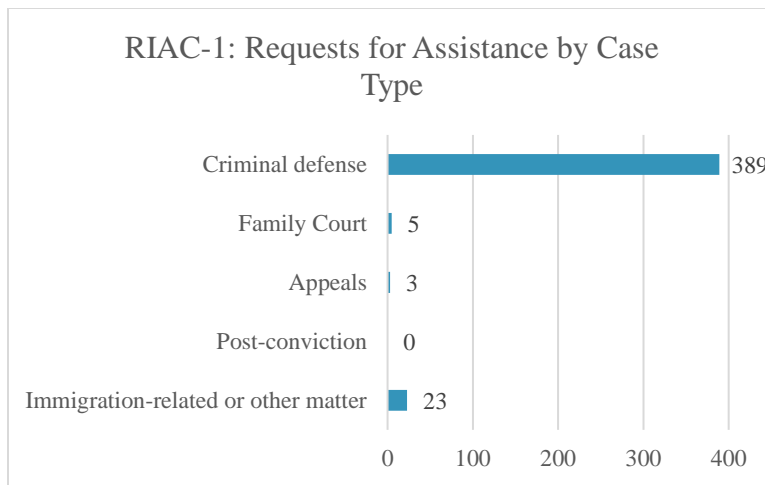


Figure 2: Number of Requests for Assistance by County in RIAC 1 Region

The data reported to ILS shows that RIAC 1 received 77% of the 420 requests from institutional provider offices and 23% from the ACPs and other organizations.



Ninety-three percent of the 420 requests for assistance were for criminal cases, while 7% were for Family Court, appeals, and immigration-related and other matters.



RIAC 2: Central New York Region

In 2021, RIAC 2 received a total of 419 inquiries, 415 of which were from 11 of the 16 RIAC 2 counties, and four additional assistance requests from Albany, Suffolk, and Rensselaer Counties. By comparison, in 2020, RIAC 2 received 407 requests for help. The number of requests received by RIAC 2 increased by 3% between 2020 and 2021. The data reported to ILS indicates that 95% of these 415 inquiries were from these three counties: Onondaga (74%), Oneida (15%), and Broome (6%). RIAC 2 did not receive any requests for assistance from these five counties: Delaware, Jefferson, Lewis, Madison, and Tioga.

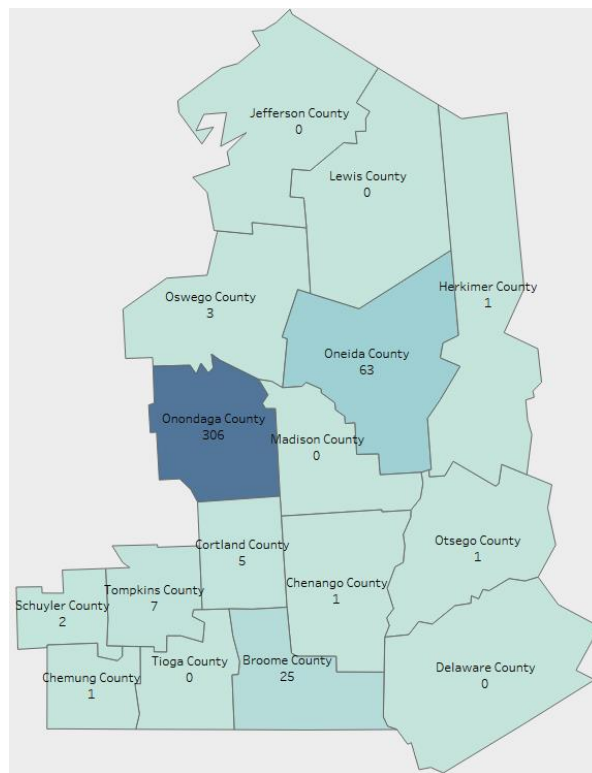
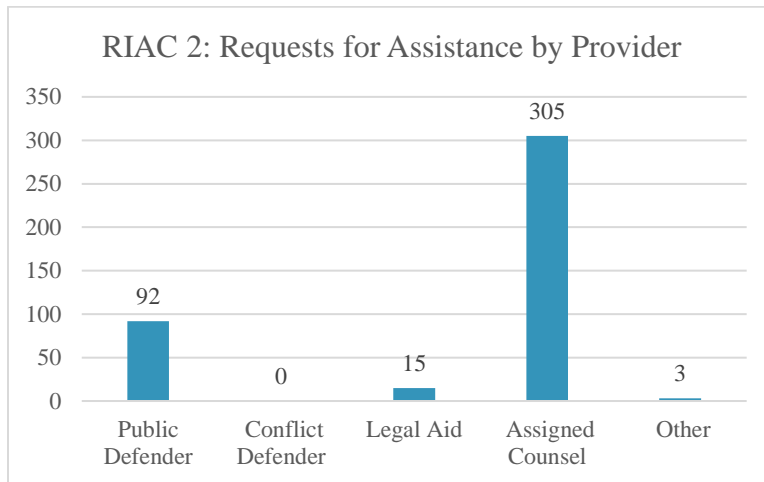
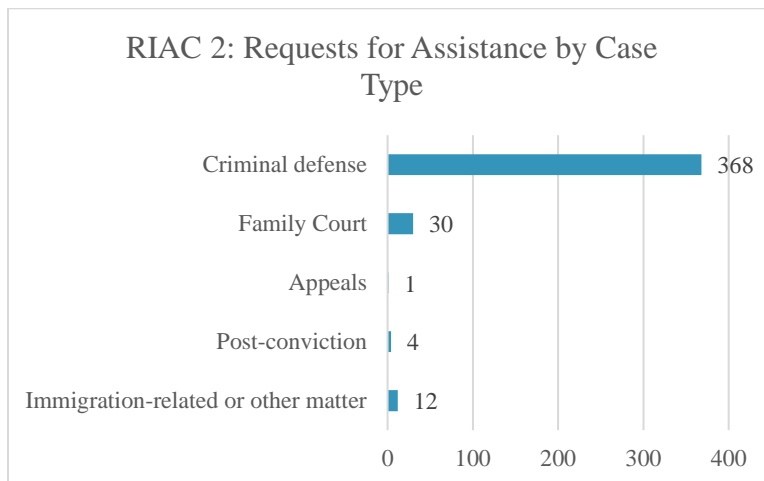


Figure 3: Number of Requests for Assistance by County in RIAC 2 Region

Seventy-three percent of the 415 requests for help were from attorneys associated with an ACP, and 26% of inquiries came from attorneys working for an institutional provider.



Eighty-nine percent of the 415 inquiries were for criminal cases, 7% involved Family Court matters, and 4% were for post-conviction, immigration-related, and other matters.



RIAC 3: Northern New York Region

In 2021, RIAC 3 received a total of 136 requests for assistance, 131 of which were from 11 of the 14 RIAC 3 counties. Five additional requests came from other counties (Bronx, Broome, Kings, and New York counties) and one from out of state (Alaska). By comparison, in 2020, RIAC 3 received 75 inquiries. The number of requests for help made to RIAC 3 increased by 81% between 2020 and 2021. Eighty percent of these 131 requests were from these three counties: Albany (56%), Schenectady (13%), and Warren (11%). Franklin, Hamilton, and Washington counties did not send any inquiries to RIAC 3 in 2021.

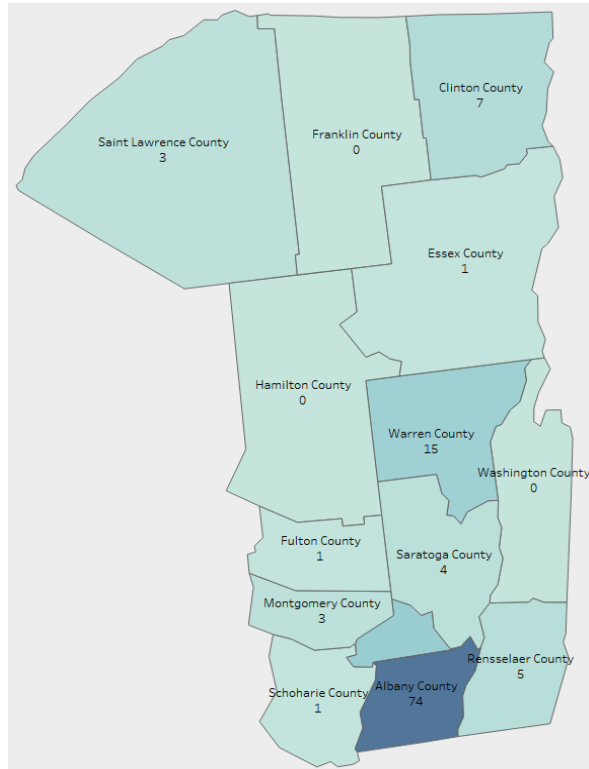
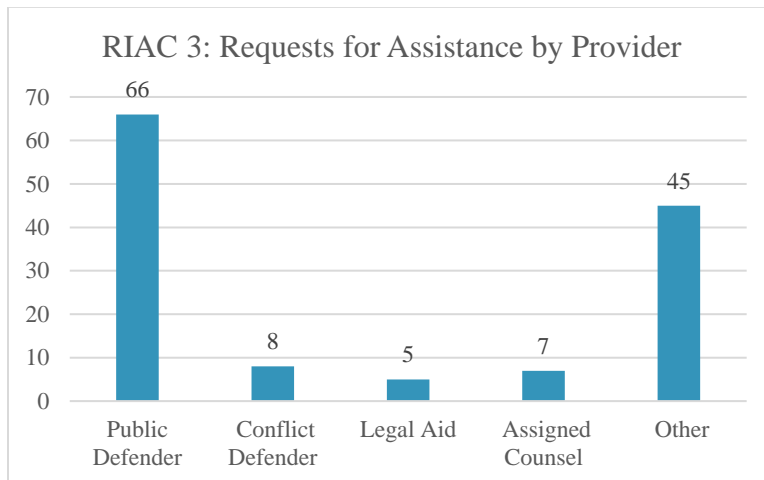
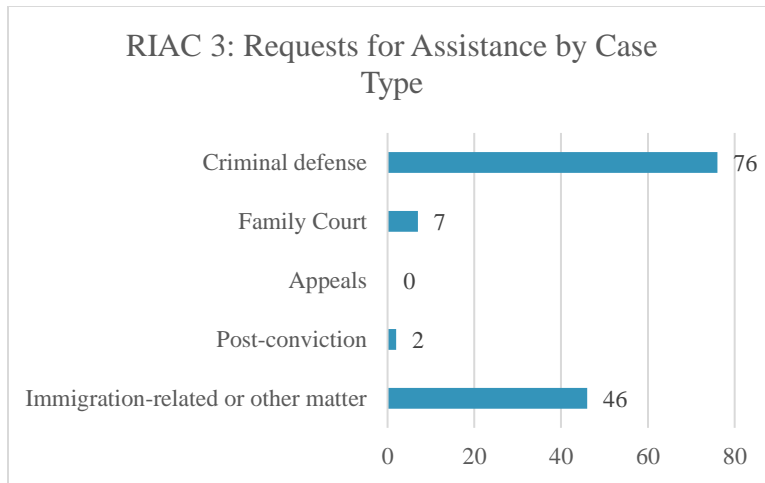


Figure 4: Number of Requests for Assistance by County in RIAC 3 Region

The data reported indicates that 60% of requests for help the RIAC 3 received came from the institutional providers, and 34% from other legal service organizations, such as Prisoners’ Legal Services of New York; the Albany County Legislature; Legal Aid Society of Northeastern New York; St. Anne’s Institute; the Albany County Department for Children, Youth, and Families; The Legal Project; and individual noncitizens seeking assistance regarding their immigration status.



Fifty-eight percent of the 131 inquiries were for criminal cases, 35% were for immigration-related and other matters, and 7% involved Family Court and post-conviction cases.



RIAC 4: Hudson Valley Region

In 2021, RIAC 4 reported that the office received 418 requests for assistance, 411 of which were from nine RIAC 4 counties, and seven additional requests from four counties: New York, Kings, Otsego, and Bronx Counties. By comparison, in 2020, RIAC 4 received 275 inquiries. This is a 52% increase in requests between 2020 and 2021. Our analysis shows that 82% of the 411 requests for help received by RIAC 4 were from these four counties: Westchester (48%), Rockland (13%), Putnam (13%), and Dutchess (8%).

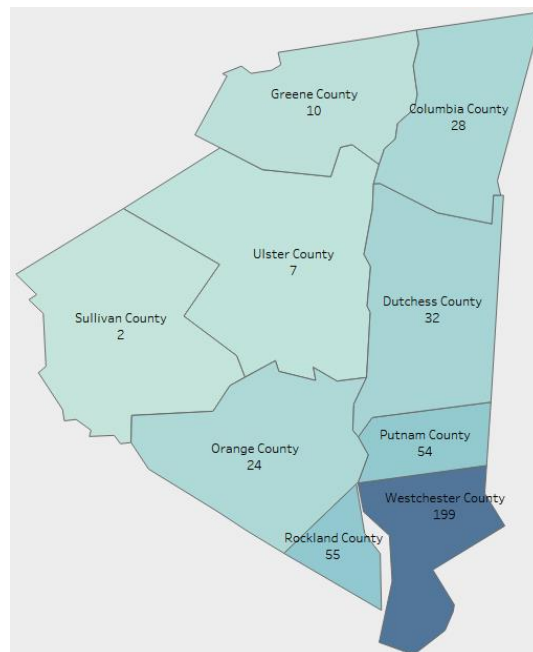
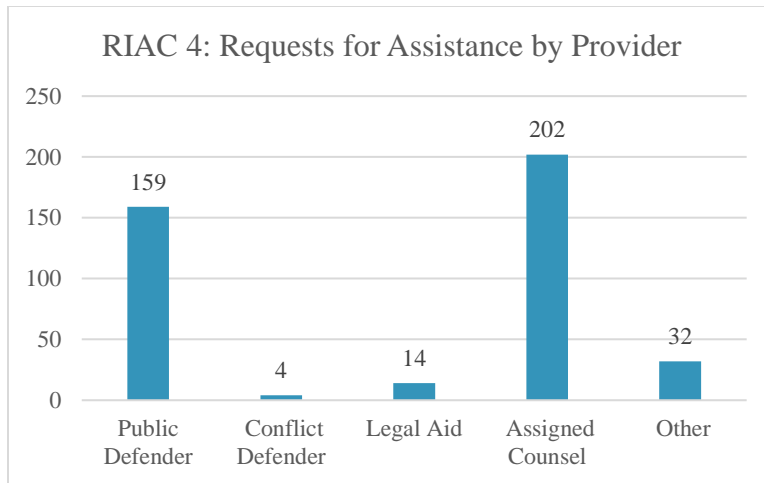
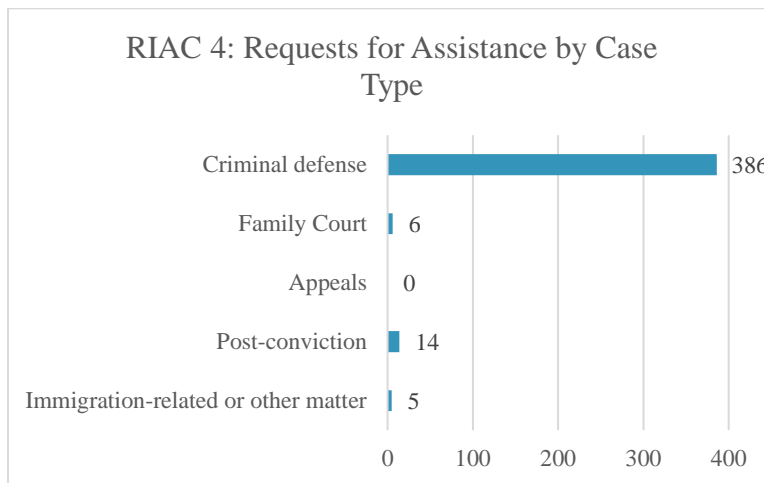


Figure 5: Number of Requests for Assistance by County in RIAC 4 Region

Forty-nine percent (49%) of the 411 inquiries were from attorneys associated with ACPs, and 43% came from attorneys who work for institutional providers.



Ninety-four percent of the 411 requests for assistance involved criminal cases, and 6% involved Family Court, post-conviction, immigration-related, and other matters.



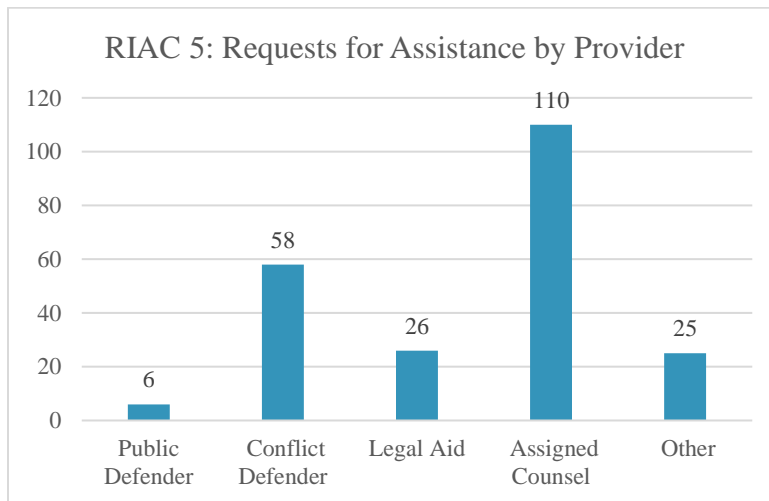
RIAC 5: New York City

In 2021, RIAC 5 received 237 requests for assistance, 225 of which came from the five RIAC 5 counties, and 12 additional requests from Essex, Nassau, Schenectady, Suffolk, and Westchester Counties. By comparison, in 2020 RIAC 5 received 168 inquiries. The number of requests increased by approximately 41% between 2020 and 2021. RIAC 5 received 225 requests for help from these five counties: New York (30%), Bronx (22%), Kings (28%), Queens (16%), and Richmond (4%).

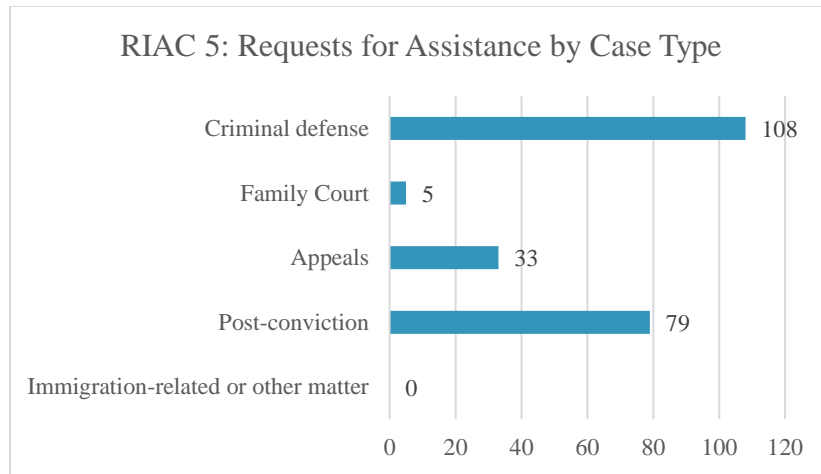


Figure 6: Number of Requests for Assistance by County in RIAC 5 Region

Forty-nine percent of the requests for help were from attorneys associated with an ACP, and 40% from attorneys who work for an institutional provider.



Forty-eight percent of the requests for assistance involved criminal cases, 35% were for post-conviction cases, 15% for appeals cases, and 2% for Family Court cases.



RIAC 6: Long Island

In 2021, RIAC 6 reported a total of 1,277 requests for assistance, with 1,261 of these requests coming from the two counties in the RIAC 6 (Nassau and Suffolk) and 16 additional requests from other counties such as Kings, New York, and Albany. By comparison, in 2020, RIAC 6 received 1,080 requests for assistance. The number of inquiries received by RIAC 6 increased by 18% between 2020 and 2021. The data indicates that RIAC 6 received 52% of the 1,261 requests for help from Nassau County and 48% from Suffolk County.

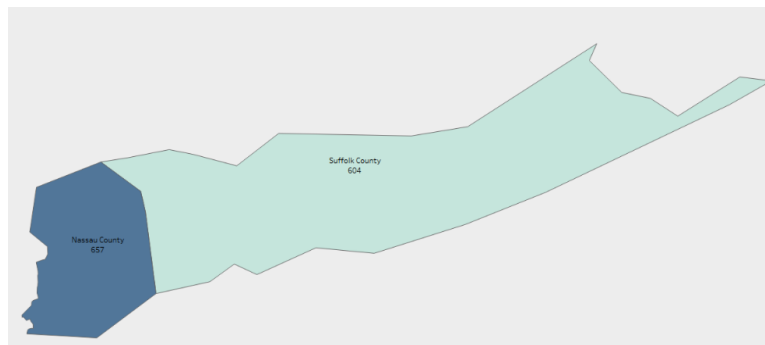
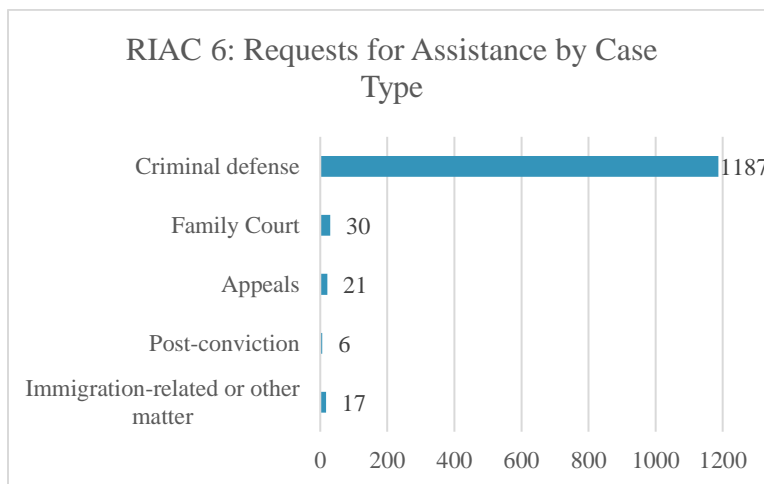
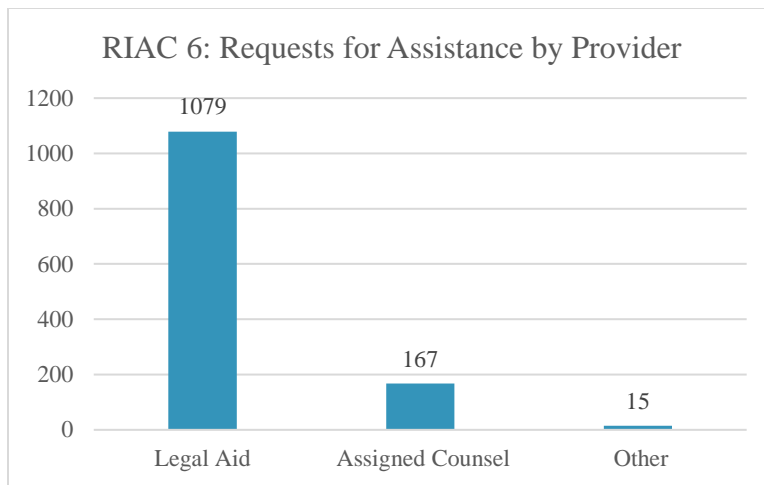


Figure 7: Number of Requests for Assistance by County in RIAC 6 Region

Eighty-six percent of the 1,261 inquiries were sent by attorneys who work for an institutional provider and 13% attorneys associated with an ACP. Ninety-four percent were for criminal cases.



IV. Protecting Rights, Improving Lives: Emblematic RIAC Success Stories

The impact of the RIACs is measured not only in numbers but also in success stories the Centers provide in their annual reports. These stories exemplify how complicated the relevant law is and how crucial immigration counsel’s expertise can be in protecting noncitizen clients. Here are a few of the myriad of success stories, with names changed to honor the confidentiality of each client.

Success story #1 – Amir was an Afghan national who had served the U.S. Armed Forces as an English translator and had received one of only 100 visas made available to such people for their service. He immigrated to the United States with his wife and family and feared for his life if he was deported to Afghanistan. Amir was a lawful permanent resident who had been in this country for many years when he faced a pornography charge that would render him deportable. The RIAC’s social worker prepared a comprehensive mitigation report that described Amir’s life in Afghanistan, his service to the United States, and his fears. Based on such report, the District

Attorney's Special Victim's unit agreed to a suggested plea that would avoid any deportation consequences.

Success story #2 – In 1997, at age 14, Jean entered the United States from Haiti with a green card. Because of mental health issues, between 2006 and 2010, he was convicted of several crimes that rendered him deportable. After an involuntary commitment, he was given access to medication that stabilized his mental health condition. If deported to Haiti, he would have experienced serious persecution and a lack of access to medication. He sought help from a Center, which worked with an institutional defender to vacate all of Jean's problematical convictions and make him safe from deportation. Afterward, Jean wanted to become a naturalized citizen, but his prior involuntary commitment complicated that process. So the RIAC placed his case with a specialized unit at a legal services organization, which helped with his naturalization application.

Success story #3 – Ismael came to the United States from Mozambique in 2018 as a conditional permanent resident. He entered as a fiancé of a U.S. citizen. In 2020, he became a lawful permanent resident as the spouse of a U.S. citizen. When Ismael and his wife separated, she obtained an ex parte order of protection against him from Family Court. The order of protection was not explained to Ismael, who went to his wife's workplace to talk things over. The police were summoned, and he was charged with criminal contempt in the 2nd degree and trespass. Early in the case, the assigned attorney reached out to the local RIAC. The Center provided guidance on producing a mitigation report, which showed Ismael in a very favorable light. Still, the assigned assistant district attorney resisted offering anything other than a criminal contempt disposition—which would have resulted in deportation proceedings. Ultimately, a supervisor in the prosecutor's office offered a favorable plea to a simple trespass.

Success story #4 – Ana, a 21-year-old woman from Mexico, was arrested on charges of felony aggravated unlicensed operation of a motor vehicle and misdemeanor driving while intoxicated. She had entered the United States in 2003 when she was only four years old. Ana received Special Immigrant Juvenile Status and adjusted her status as a Lawful Permanent Resident in 2015. Her assigned attorney contacted the RIAC for assistance. The felony offense was committed in 2020, within five years of Ana being admitted to this country. Pleading guilty to the felony would have triggered inadmissibility and deportability for her. The RIAC worked closely with Ana's assigned attorney during plea negotiations and provided a letter explaining the severe immigration consequences—information that defense counsel shared with the assistant district attorney. Ultimately, Ana pled to an offense that did not trigger inadmissibility and deportability.

Success story #5 – Kungawo was a native of South Africa. He entered the United States as a lawful permanent resident in 2016. Thereafter, he was charged with endangering the welfare of a child. A conviction of such crime would have rendered him deportable and subject to removal from this country. Since Kungawo had not yet accrued the requisite seven years of continuous residence, if rendered deportable, he would not have been eligible for cancellation of removal and would have been subject to removal from the U.S. unless eligible for some other relief from removal. The RIAC provided an advisal regarding immigration consequences and recommendations as to immigration-safe alternatives. Ultimately, defense counsel was able to negotiate a plea to disorderly conduct. As a result, Kungawo was not rendered deportable, he remained eligible for naturalization, and he could travel internationally with his family.

V. New York State Office of Indigent Legal Services Regional Immigration Assistance Centers

Region 1 – Western NY

<https://legalaidbuffalo.org/regional-immigration-assistance-center>

Serving these counties: Allegany, Cattaraugus, Cayuga, Chautauqua, Erie, Genesee, Livingston, Monroe, Niagara, Ontario, Orleans, Seneca, Steuben, Wayne, Wyoming, and Yates.

In the 7th Judicial District

Ontario County Public Defender's Office
20 Ontario St., Ground Floor
Canandaigua, NY 14424
(585) 396-4645

In the 8th Judicial District

Legal Aid Bureau of Buffalo
290 Main Street, Suite 400
Buffalo, NY 14202
(716) 853-9555

Region 2 – Central NY

Serving these counties: Broome, Chemung, Chenango, Cortland, Delaware, Herkimer, Jefferson, Lewis, Madison, Oneida, Onondaga, Oswego, Otsego, Schuyler, Tioga, and Tompkins.

Oneida County Public Defender
321 Main Street, 3rd Floor
Utica, NY 13501
(315) 798-5870

Region 3 – Northern NY

<https://www.albanycounty.com/government/immigration-services>

Serving these counties: Albany, Clinton, Essex, Franklin, Fulton, Hamilton, Montgomery, Rensselaer, St. Lawrence, Saratoga, Schenectady, Schoharie, Warren, and Washington.

112 State Street, Suite 900
Albany, NY 12207
(518) 447-4890

Region 4 – Hudson Valley

<https://www.hudsonvalleyriac.com>

Serving these counties: Columbia, Dutchess, Greene, Orange, Putnam, Rockland, Sullivan, Ulster, and Westchester.

Legal Aid Society of Westchester County
50 Grand Street
White Plains, NY 10601
(914) 286-3408

Region 5 – New York City

<https://www.immigrantdefenseproject.org/what-we-do/padilla-support-center/>

Serving these counties: Bronx, Kings, New York, Queens, and Richmond.

Immigrant Defense Project
Padilla Support Center
40 West 39th Street, 5th Floor
New York, NY 10018
(212) 725-6422

Region 6 – Long Island

<http://www.longislandriac.com>

Serving these counties: Nassau and Suffolk.

Legal Aid Society of Nassau County
40 Main Street, 3rd Floor
Hempstead, NY 11550
(929) 279-3628

Legal Aid Society of Suffolk County
Cohalan Court Complex
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