

DONNA PATALANO

Middlesex • District Attorney

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Contact

Margie Pullo

774-955-8145

Patalano Announces Immigration Counsel Proposal

ICE arrests at courthouses demand action

CAMBRIDGE -- Donna Patalano, Democratic candidate for Middlesex District Attorney, announced today her plan to create an Immigration Counsel in the office to protect the rights of immigrants.

Recent federal immigration enforcement activity at Massachusetts' courthouses has resulted in a chilling effect, preventing victims from seeking help from police and courts and deterring witnesses from appearing and testifying in criminal cases. The pursuit of justice is further frustrated by defendants who are federally seized and detained, thus unavailable to appear in state court. Federal Immigration and Customs Enforcement (ICE) arrests people on the steps of, or even inside, courthouses.

"We are a community of immigrants. We must be intentional and proactive in Middlesex County to treat every member of our community with dignity and empathy, particularly in the face of cruel and callous treatment of immigrants by the President and federal government," Patalano explained. "Aggressive and excessive ICE policies target immigrants, creating fear and tearing families apart. Victims are afraid to seek relief and protection from the courts, and witnesses are reluctant to testify for fear of being picked up by ICE. Immigrants who have cases in Middlesex County courts may default on judge's orders, violate probation, or fail to receive court-ordered drug and mental health services because they fear being placed in, or have already been placed, in ICE custody."

In response to the climate of hostility created by federal immigration enforcement, the position of Immigration Counsel will be dedicated to four primary duties:

1. Building stronger relationships with immigrant communities, including direct collaboration and community engagement.
2. Providing assistance to victims who meet the requirements for two types of federal immigration relief, each of which allows non-citizens who are victims of a crime to remain in the country legally for a period of time. The Immigration Counsel will facilitate the completion of T Nonimmigrant Status and U Nonimmigrant Status applications, commonly referred to as a T Visa and U Visa, respectively. A T Visa provides immigration protection to a victim of trafficking; a U Visa provides immigration protection to a victim who has suffered mental or physical abuse due to a crime.

3. Training all staff on immigration issues, to advise prosecutors who make plea offers and sentencing recommendations on cases of non-citizen defendants, in an effort to avoid disproportionate collateral consequences such as deportation and to maintain and enhance public safety.
4. Working to find case resolutions that will not lead to excessive immigration penalties, particularly for low-level offenders such as those with minor drug convictions. Those persons who work with Immigration Counsel will face the same criminal consequence as any defendant without necessarily having the adverse immigration consequence that accompanies some of these charges. Consideration of the defendant's immigration status will occur on a case-by-case basis (including on post-conviction pleadings) and will be in accordance with federal regulations.

"When people trust that they can come to law enforcement as a witness or a victim without fear that they or their friends or family will get arrested and deported for doing so, we can better fight crime and successfully prosecute cases," Patalano said.

The Immigration Counsel will also work to ensure conviction integrity for those cases involving defendants who could potentially face collateral consequences flowing from guilty pleas. The proposed position reflects a directive of the Supreme Judicial Court, which in a 2017 decision held that ICE detainers do not provide local police authority to arrest, and there is no other law that authorizes such an arrest based on immigration status. Patalano will also advocate for state legislation that will provide the return of any bail money if the only reason a person has defaulted was because of an ICE detainer. Under current law, any bail posted would be forfeited and lost, even if posted just minutes before ICE arrests the defendant.

In Massachusetts, 1 in 6 residents is foreign-born (1.1 million people), or 16% percent of the population. Additionally, 1 in 7 residents are U.S.-born but have at least one foreign-born parent. Nearly half of our state's immigrants and refugees (48%) have arrived since 2000 – and 1 in 5 since 2010. More than half (52%) are naturalized U.S. citizens.

In her most recent position as the Chief of Professional Ethics and Integrity at the Suffolk County District Attorney's Office, Patalano oversaw the development and implementation of training programs for all Assistant District Attorneys. She has been counsel of record for more than 120 Appeals Court cases and appeared more than 20 times in front of the Supreme Judicial Court. Patalano is challenging incumbent Middlesex District Attorney Marian Ryan in the September 4th primary.

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