



New York State Office of

Indigent Legal Services

*Improving the quality of mandated representation
throughout the state of New York*

PERFORMANCE MEASURES ANNUAL REPORT

June 1, 2022

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Introduction

The New York State Office of Indigent Legal Services (ILS) presents this report consistent with its obligation under Executive Law § 832(4) to implement the statewide expansion of public criminal defense reforms. This report is the third of a series of annual reports providing a detailed overview of implementation progress, covering the time period between April 1, 2018 and March 31, 2022.

Pursuant to Executive Law § 832(4), ILS works with each county and New York City¹ to achieve the three main objectives of the public criminal defense reforms first adopted in the *Hurrell-Harring v. State of New York* settlement agreement. The first objective ensures that all people charged with a crime and financially eligible for assigned counsel are represented by an attorney when they first appear before a judge or magistrate for arraignment (i.e., “counsel at arraignment”). Second, publicly funded criminal defense providers (referred to throughout this report as “providers”) must achieve full compliance with the caseload standards ILS developed to ensure that attorneys have the time and resources needed for quality representation. Finally, efforts must be made to improve the overall quality of public criminal defense representation offered throughout New York State. To monitor the status of implementation in the counties and New York City, ILS collects data from 126 providers using the ILS Performance Measures Progress Report (“Progress Report”) form, which is attached as Appendix A. This report provides a summary and assessment of the Progress Report information reported to ILS in Spring 2022.

The Performance Measures Progress Report Data-Collection and Reporting Process

In February 2018, ILS began meeting with providers and county and New York City officials to negotiate five-year contracts (“statewide contract”) between ILS and each county and New York City to achieve statewide expansion of the reforms adopted in the *Hurrell-Harring* settlement agreement. Each statewide contract includes a budget with funded expenditure lines and a workplan that briefly details the expenditure lines. The workplan also includes a section entitled “Goals, Objectives, and Performance Measures.” (See Appendix B). These contractual Performance Measures are designed to gauge implementation of the reforms funded by the statewide contract.

The Progress Report form was first developed in preparation for the initial October 1, 2019 reporting period deadline. As described in previous reports, ILS has updated the Progress Report form twice, and has contracted with QuestionPro, a business that sells online research and survey platforms, to disseminate the report via an online survey instrument.

¹ Five New York counties – Onondaga, Ontario, Schuyler, Suffolk, and Washington remain currently engaged in implementation of reforms adopted in the *Hurrell-Harring* settlement agreement and are therefore excluded from statewide implementation procedures outlined in Executive Law §832(4) during the term of the settlement agreement.

To bolster the capacity to collect and accurately report data pertaining to the Progress Report, ILS provides funding for each locality to appoint a Data Officer whose primary function is to coordinate with ILS in prioritizing and operationalizing data reporting requirements. The Data Officers are expected to work closely with ILS, each provider, and the locality to collect and report reliable data to ILS in a timely and efficient manner. Additionally, ILS conducts periodic training sessions for Data Officers and providers to address all the ILS data reporting requirements, including the Performance Measures. For example, ILS conducted six data reporting training sessions in 2021 (in February, March, April, June, August, and November), and three so far in 2022 (February, March, and April). Two of the three sessions in 2022 specifically focused on the Progress Report. During the first session, ILS trained Data Officers and providers on how to read their county's statewide contract budget to accurately complete the Progress Report. The second session provided a more in-depth look at Questions 1 and 3 of the Progress Report, which asked providers to report the number and type of attorney and non-attorney positions funded through the statewide contract. ILS received many relevant questions before, during, and after the trainings, which shows that Data Officers and providers take their reporting duties seriously and made every effort to report accurate information.

To further assure accuracy, after receipt of each completed Progress Report, multiple members of ILS' Statewide Implementation team reviewed the data provided. When the review process identified instances of questionable data, team members followed up with providers for clarification and, in some instances, correction of the data reported. The Statewide team's Senior Researcher conducted a final review of the data reported.

This report includes information from the Progress Reports provided by 126 providers.² The list of providers who submitted a Progress Report is attached as Appendix C.

The Covid-19 Pandemic

In the early days of the Covid-19 pandemic and the associated budget crisis, New York State and local governments implemented hiring freezes and other fiscal measures to address the pandemic-related budget crisis. This slowed the pace of implementing the statewide public defense reforms during the previous fiscal year (2020-21) yet surprisingly, not as much as ILS had anticipated.³

During the reporting period of this report – State Fiscal Year 2021-22 – impacts from the Covid-19 pandemic were still present, though less acute as localities have adapted to the ebb and flow of the pandemic. Many of the hiring freezes and payment limitations experienced by localities in 2020 were undone and courts began to resume regular operations. The numbers presented in this

² 122 providers submitted Progress Reports via QuestionPro, while 4 providers (Columbia 2nd Alternative Conflict Defender, Rensselaer ACP, Ulster PD, and Wayne ACP) submitted the Progress Report information to ILS via telephone and email.

³ For examples of how the statewide implementation was affected by the Covid-19 pandemic during fiscal year 2020-21, please see the previous Annual Performance Measures Report published in May of 2021.

report reflect these developments. For instance, substantially more non-attorney positions were hired compared to last year, paired with increased spending on investigative and expert services.

In the following assessment of the information reported in the April 2022 Performance Measures Progress Reports, we will further discuss how the pandemic initially impacted implementation of the statewide reforms as well as the ongoing recovery from its consequences.

Assessment of Performance Measures Information

This section of the report provides an overview of the data and qualitative information reported in the Progress Reports provided to ILS. The analysis offered below is an aggregate view of the progress made on implementation of the Performance Measures between April 1, 2018 and March 31, 2022. More detailed data for each of the 52 counties and New York City is outlined in Appendix D.

I. Counsel at Arraignment

Pursuant to Executive Law § 832(4)(a), ILS developed a written plan to ensure that everyone charged with a criminal offense who is eligible for mandated representation is represented by counsel in person at their arraignment. “Arraignment” is defined as the “first appearance by a person charged with a crime before a judge or magistrate, with the exception of an appearance where no prosecutor appears and no action occurs other than the adjournment of the criminal process and the unconditional release of the person charged (in which event ‘arraignment’ shall mean the person’s next appearance before a judge or magistrate).”⁴

Question 1 of the Progress Report asked providers to list all the attorneys funded by the statewide contract and to identify whether the attorney is a new hire, an upgrade of an existing hire, or on contract. Additionally, providers were asked to indicate if the attorney provided arraignment representation and to report the number of cases assigned to the attorney over the reporting period of April 1, 2021 through March 31, 2022. Providers were instructed to include those assigned for arraignment as well as those assigned post-arraignment. Question 2 asked providers to estimate the total number of cases at which representation at arraignment was provided as a result of the statewide contract funding. Providers were instructed to include arraignments provided by all attorneys reported at Question 1, as well as by attorneys who are paid by the contract via hourly rates or stipends to provide representation at arraignment (including assigned counsel panel attorneys).

The data elicited from these questions reveals that localities have effectively used statewide contract funding to ensure that people arrested for a crime are represented at arraignment.

The Numbers

- Between April 1, 2018 and March 31, 2022, **425 new attorneys who provide counsel at arraignment** were hired.

⁴ Executive Law § 832(4)(a)(i).

- Of these, **270 were new hires, 36 were upgrades of existing positions⁵, and 117 were contract positions.⁶**
- In total, **an estimated 79,231 new arraignment and post-arraignment cases** were assigned to attorneys who were compensated under the statewide contract during the period of April 1, 2021 – March 31, 2022. This is 21,741 more than reported last year.
- **For an estimated 101,067 cases, representation at arraignment was provided as a result of the statewide contract funding.⁷** This is an increase of 36,580 over last year's reported cases.

Providers' Experiences with Counsel at Arraignment

The qualitative portion of the Progress Report offers providers the opportunity to summarize their successes and challenges in achieving counsel at arraignment. Similar to the last three fiscal years, many providers again reported their progress in hiring attorneys and providing stipends and/or hourly fees to ensure arraignment representation. As indicated by the significant increase in arraignment representation reported this year, statewide contract funding is yielding positive results in ensuring representation by counsel at arraignment.

Statewide contract funding has been instrumental in the development and implementation of Centralized Arraignment Programs (“CAPs”) in several counties, and funding sustainable defense attorney representation at these CAPs. But even in counties without CAPs, providers indicated that the statewide contract funding has allowed them to increase the number of attorneys available to staff arraignment shifts. Paired with attractive stipends, this contributed to a more stable arraignment staffing system with increased attorney back-up, more equitable distribution of shifts to attorneys, and more voluntary attorney assignment to arraignments occurring on weekends and holidays. A few providers mentioned that these developments led to improved office morale. Moreover, the providers reported that having more attorneys available for arraignments allows attorneys to spend more time with clients before and during this critical stage of a criminal case.

Some providers indicated that ILS' competitive Counsel at First Appearance (“CAFA”) Grants fund most of their arraignment programs, but that the statewide contract funding bolsters these programs. For example, the statewide contract funding is used by some providers for adolescent arraignments conducted by trained attorneys, to pay for arraignment attorneys' mileage, and to

⁵ For purposes of this report, upgrades of an existing position are counted only if the upgrade involves working additional hours.

⁶ For two attorneys who provide counsel at arraignment, information about their hire type was missing.

⁷ This number is even higher than the number of new arraignment and post-arraignment cases assigned to attorneys who were compensated with the statewide contract reported in the previous bullet point. Unlike the first, the second number also includes assigned counsel panel attorneys who are paid an hourly rate or a stipend funded by the statewide contract to provide representation at arraignment and attorneys whose base salaries are not funded by the statewide contract, but who are paid extra through the contract (via hourly rates or stipends) to provide representation at arraignment.

purchase and maintain laptops and cell phones for off-hour arraignments, allowing for immediate contact and increased accessibility and mobility.

One of the challenges described by several providers – particularly in the more rural parts of New York State – involves attorney hiring and retention. Providers mentioned a limited attorney pool in their region, the need for having more attorneys available to provide counsel at arraignment, and the strain this produces on current arraignment attorneys. Efforts to attract attorneys from other counties were described but not always successful as neighboring counties were often also experiencing attorney shortages. Retention issues included comparatively low salaries and difficulties in keeping a full staff of attorneys. Although the vast majority of arraignments in New York State have resumed in-person, a couple of providers noted that certain local courts still conduct virtual arraignments. Some counties without a Centralized Arraignment Program noted as a challenge the travel distance between courts, and the desire to implement a CAP.

II. Caseload Relief

Executive Law § 832(4)(b) requires localities to make good faith efforts to implement caseload standards established by ILS. In the 2016 report, *A Determination of Caseload Standards pursuant to §IV of the Hurrell-Harring v. The State of New York Settlement*,⁸ ILS set forth caseload standards designed to ensure that public defense attorneys dedicate sufficient time to all of their cases. The most important part of successful implementation of caseload standards is the recruitment and retention of new attorneys and additional support staff to fulfill the identified need for caseload relief.

As stated above, Question 1 of the Progress Report required providers to list the attorneys funded by the statewide contract, and asked providers to estimate how many cases were assigned to these attorneys. Question 3 asked providers to list all the non-attorney positions funded by the statewide contract, and as with Question 1, to identify if the position is a new hire, an upgrade of an existing position, or a contract position. Providers were also asked to indicate the type of position (i.e., investigator, social worker, non-attorney administrative staff, and “other” non-attorney positions).

As the numbers below show, a total of 906 positions are funded by the statewide contracts. This is 160 more than last year, and by any measure, a significant contribution to the public criminal defense function.

The Numbers

- Between April 1, 2018 and March 31, 2022, **565 new attorneys were hired** with the funding provided by the statewide expansion of the *Hurrell-Harring* settlement. Of these,

⁸ The ILS caseload standards are available here:
<https://www.ils.ny.gov/files/Caseload%20Standards%20Report%20Final%20120816.pdf>

340 were new hires, 46 were upgrades of existing positions (i.e., extra hours were added to existing part-time contracts), **and 178 were placed on contract.**⁹

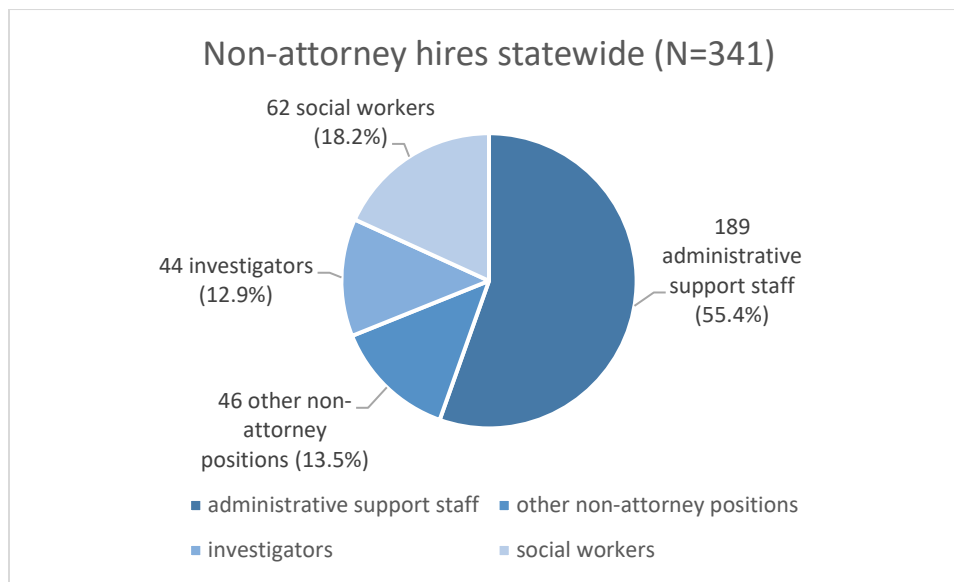
- In total, **an estimated 79,231 cases** were represented by attorneys who were hired with the statewide contract funding during the period of April 1, 2021 – March 31, 2022.
- Looking at the **last year only** (April 1, 2021 – March 31, 2022), **76 new attorneys** were hired. While fewer than the 138 new attorneys hired between April 1, 2020 – March 31, 2021, it demonstrates ongoing progress. It also reflects that the emphasis in the early years of statewide reform implementation was on hiring additional attorneys to achieve both caseload relief and ensure counsel at arraignment. More recently, reforms have increasingly focused on enhancing access to non-attorney professionals (expert services, investigative services, social work services, etc.), which contributes both to quality improvement and to caseload relief by allowing attorneys to assign non-legal tasks to other members of the defense team.¹⁰
- Additionally, between April 1, 2018 and March 31, 2022, **341 non-attorneys were hired** with the statewide contract funding throughout the 52 counties and New York City. Of these, **259 were new hires, 18 were upgrades of existing positions, and 64 were placed on contract.**
- Of the 341 non-attorneys hired, upgraded, or placed on contract, most were **administrative support staff** (n = 189, 55.4%), followed by **social workers** (n = 62, 18.2%), **other non-attorney positions** (n = 46, 13.5%), and **investigators** (n = 44, 12.9%). See Figure 1 for an overview.
- Looking at the **last year only** (April 1, 2021 – March 31, 2022), **84 new non-attorneys** were hired. This number is a substantial increase over the nine new non-attorneys hired between April 1, 2020 – March 31, 2021 and reflects the increasing focus on non-attorney supports.
- **46 counties and New York City designated a Data Officer.**

For a county-specific overview of attorney and non-attorney hiring, please see Appendix D.

⁹ For 1 attorney position, information on whether it concerned a new hire, an upgrade of an existing position, or someone placed on contract was missing.

¹⁰ Again, see for instance the substantial increase in the hiring of non-attorney positions compared to last year, as well as the increased spending and use of investigative and expert services presented in this report.

Figure 1



Providers' Experiences with Caseload Relief

Statewide contract funding allowed providers to hire more attorneys, which allowed them to better staff busier court sessions for improved client representation, assign fewer cases to attorneys, and enhance opportunities for the same attorneys to represent their clients continuously throughout the case (often referred to as “vertical representation”). In addition, statewide contract funding allowed providers to retain experienced attorneys to handle more serious cases and provide supervision and mentoring to new attorneys.

The caseload relief initiatives have been critical, as attorney workloads¹¹ have recently increased for two key reasons. First, because of the pandemic, many cases were unresolved for long periods of time. As courts have started to resume regular case scheduling, attorneys are scrambling to comply with court schedules to resolve these cases and still provide quality representation. Second, the 2019 discovery reforms, which went into effect in 2020, have significantly increased the amount of information attorneys obtain in each case. While discovery law changes are necessary for the fair administration of justice, and therefore have been welcomed by defense providers, the amount of materials disclosed to the defense can be voluminous, including both print and various forms of media information, requiring attorneys to

¹¹ “Caseload” refers to the number of new case assignments during a given time. ILS assesses caseloads on an annual basis, and submits a caseload report each October. “Workload” refers to the amount of work an attorney currently has. Generally, as new cases are assigned, old ones are resolved allowing for a steady attorney workload and an alignment of workloads and caseloads. But the Covid-19 pandemic delayed the resolution of cases, meaning that attorney workloads have increased as they have had to take new case assignments without the old cases being resolved in a consistent fashion. ILS is monitoring this situation, but it is hoped that as the courts and localities become adjusted to the ebb and flow of the pandemic, cases will be resolved in a more consistent fashion, eventually bringing attorney workloads back into alignment with their caseloads.

devote a considerable amount of time to reviewing and following up on the information disclosed via case investigation and litigation. The comments providers submitted in the Progress Reports about discovery reform mirror those described in the report entitled *The Impact of Discovery Reform Implementation in New York: Report of a Defense Attorney Survey Conducted Jointly by CDANY, NYSDA, NASACDL, and ILS*.¹²

Non-attorney hires continue to be an essential component of caseload relief. Non-attorneys assist in reducing attorney workloads, and providers reported an increase in the use of investigative and expert services. Non-attorney staff also help track case events and provide regular updates to attorneys. In addition, for some providers, non-attorneys have been invaluable in managing discovery materials. Some provider offices would not be able to keep up if not for their support staff downloading, printing, scanning, and organizing data.

Assigned Counsel Program (“ACP”) leaders commonly noted that the statutory compensation rate for attorneys has not increased in nearly twenty years, and the insufficient compensation has created challenges for ACPs to recruit panel attorneys, with ACP Administrators regularly having to rely on reaching out to attorneys outside of the county to handle cases. The low rates also result in current panel attorneys taking more cases than they should to be in compliance with ILS caseload standards, jeopardizing the quality of representation provided to their clients. In this regard, the provider Progress Report comments are aligned with what ILS has learned in the five *Hurrell-Harring* settlement counties about the looming crisis that will ensue due to failure to increase the rates.¹³

III. Overall Quality Improvement

When the *Hurrell-Harring* statewide expansion began, pursuant to Executive Law § 832(4)(c), ILS developed written plans for all 52 counties and New York City to improve the quality of indigent defense by ensuring that public defense attorneys receive effective supervision and training, have access to and appropriately use investigators, interpreters, experts, and other non-attorney professionals, communicate effectively with their clients, and have the necessary qualifications and experience to handle the types of cases assigned to them.

The Performance Measures require providers to report, via the Progress Report, information about supervision, training, and access to and use of non-attorney professionals. To obtain information about supervision, Question 1 asked providers to indicate if the funded position was a supervisory position. To obtain information about training, Question 4(a) asked providers to estimate the total number of training events funded by the statewide contract, and Question 4(b) asked providers to estimate the total number of attorneys whose attendance at a training event was supported by the statewide contract. For the use of experts and investigators, Question 5(a) asked providers to estimate the expenditures for expert services paid for by the statewide contract, while Question 5(b) asked providers to do the same for investigators. Of note, providers

¹² For the full report, please see <https://www.ils.ny.gov/files/Discovery-Reform-Survey-Report-03.28.22.pdf>

¹³ See ILS report entitled *Evaluation the Effectiveness of Caseload Standards in the Hurrell-Harring Settlement Counties, October 2021*, pages 48-49, available at: [Hurrell-Harring Settlement Plans and Reports - ILS \(ny.gov\)](#).

were instructed to *exclude* the *salaries* of experts or investigators, since the question focused on *contracted* expert and investigative services only. For both 6(a) and 6(b), providers were asked to identify the total number of cases in which expert or investigator services were used. Here, they were specifically instructed to include *all* cases in which expert or investigative services were provided, including those of both salaried and contracted experts compensated by the statewide contract funding.

Below is the aggregate information reported:

The Numbers

- Of the 565 attorney hires statewide since April 1, 2018, **73 are attorneys who supervise the work of others or provide training/mentoring.**¹⁴
- **304 training events were hosted, sponsored, or cosponsored** by the statewide contract funding between April 1, 2021 and March 31, 2022. Training events include, but are not limited to, professional conferences and Continuing Legal Education (CLE) courses.
- For a total of **1,146 attorneys**, their **attendance at training events** (such as registration fees, travel reimbursements, and accommodations) was supported by the statewide contract funding.
- Statewide, a total of **\$830,521 was spent on contracted expert services** and **\$367,235 was spent on contracted investigative services in the past year** (April 1, 2021 – March 31, 2022). Compared to the amounts spent in the year before (i.e., \$569,389 and \$261,895 respectively, from April 1, 2020 to March 31, 2021), **the average annual use of statewide contract funding significantly increased** (a 45.9% increase for contracted expert services and 40.2% for contracted investigative services).
- Expert services provided as a result of statewide contract funding were used in a total of **4,011 cases**. This number includes expert services provided by **both salaried and contracted experts** and is an **increase of 2,331 cases or 138.8%** compared to the year before (April 1, 2020 to March 31, 2021).
- Investigative services provided as a result of statewide contract funding were used in a total of **8,936 cases**. This number includes investigative services provided by **both salaried and contracted investigators** and is an **increase of 3,280 cases or 58.0%** compared to the year before (April 1, 2020 to March 31, 2021).

Providers' Experiences with Overall Quality Improvement

Providers shared their efforts and successes in these six general areas:

1) Training and Legal Expertise

Many providers commented on how the statewide contract funding helped them to make training opportunities available to their attorneys, mostly in the form of Continuing Legal Education

¹⁴ In addition, 45 were Chief Attorneys / Administrators or Attorneys-in-Charge, and 447 were attorneys who did not supervise the work of others.

(CLE) courses. Of note, Warren and Washington Counties developed a shared CLE program. Moreover, the Assigned Counsel Programs (ACPs) in Albany, Saratoga, Schenectady, and Warren Counties have formed a collaborative ACP group which conducted a series of free CLEs over the past six months. One provider commented that the increased access to training has now become a normalized expectation within the office. Another provider mentioned that statewide contract funding is used to provide an in-house training program for new legal hires and to organize a training for all staff (including non-attorneys) on client-centered representation.

Several providers described how funding is being used to employ staff who are specifically contributing to the office's legal expertise. Examples include longer hours for a legal secretary to focus on the new discovery laws, a part-time research assistant who is responsible for legal research, and the funding of attorneys specialized in substantive areas such as plea appeals, the Domestic Violence Survivor Justice Act, the Sex Offender Registration Act, and the collateral consequences of a criminal conviction.

In addition, multiple providers mentioned the benefits of having a mentoring program or mentors available to assist their less experienced attorneys. Providers also noted that using statewide contract funding to enhance access to electronic research platforms (such as Westlaw and Lexis), purchase of print materials (such as legal treatises), and pay for memberships to professional organizations has improved attorney professionalism and substantive legal knowledge.

2) Supervision

Supervision and the creation of second chair programs emerged as another theme in providers' comments. Providers described how the statewide contract funding enabled them to create more supervisory positions and – by being able to hire for other positions that took over some administrative tasks – free up senior attorneys' time for supervision. One ACP provider mentioned how promoting staff to provide supervision improved efficiency and accuracy when assigning counsel. Another provider commented that the hiring of an additional supervisor decreased the attorney-to-supervisor ratio which allowed for better supervision of cases. In addition, statewide contract funding helped to create and bolster providers' second chair programs which assist their attorneys in providing quality representation.

Some ACP leaders noted that the shrinking number of attorneys on the panel (caused by the stagnant compensation rates for assigned attorneys) has created some challenges to implementing their second chair program. For example, one provider mentioned that attracting attorneys to participate in their second chair programs has been challenging. Another described the county's concern with having a second chair attorney on cases because of a general attorney shortage in that county. Attorneys covering evening courts was perceived as a more immediate need than attorneys acting as a second chair on cases.

3) Access to Non-Attorney Professionals

Many providers reported that the statewide contract funding has been instrumental in increasing attorneys' and clients' access to non-attorney professionals including experts, investigators, social workers, forensic psychologists and other mental health professionals, DNA consultants,

interpreters, and substance abuse services. Several providers noted that their use of non-attorney professional services “had tripled” in the past year and was “more than ever.” One provider stated that without statewide contract funding this support would not have been possible and the outcomes of their cases would not have been nearly as favorable. Another mentioned that the funding available for attorneys to secure experts has led to a marked improvement in quality representation. In addition, providers use statewide contract funding to hire non-attorney administrative support staff such as secretaries and paralegals to bolster work capacity and reduce the workload. Moreover, in several offices, statewide contract funding contributes to greater holistic representation through the hiring of caseworkers, social work advocates, and independent investigators.

Providers discussed a couple of challenges regarding the access to non-attorney professionals. Providers noted that finding qualified and local non-attorney professional can be difficult, and that there is a lack of local experts and investigators. One provider mentioned the challenge of convincing attorneys to use the various resources and services to assist them and enhance their ability to better represent clients, as some attorneys have historically been accustomed to representing criminal defendants without such assistance. Another provider noted that while criminal attorneys’ caseloads had decreased, this was not true for the caseloads of social workers and investigators in their office.

4) Client Communication

Several providers reported that the availability of statewide contract funding for the use of expert and investigative services and non-attorney professional services has increased the quality of representation and allowed attorneys more time to focus on client communication. Providers also noted that non-attorney professionals can facilitate communication. For example, one provider mentioned that they hired an Interpreter Paralegal, which has improved the office’s ability to communicate with clients who do not speak English fluently. Another provider shared that the Data Officer maintains the database for all contact information for clients and assists attorneys in up-to-date communications with clients.

A challenge to client communication that providers shared was a lack of communication from justice courts. Many justice courts are part-time and contacting the court on non-court days is virtually impossible. There are times that the courts do not notify defense attorneys in advance of scheduled court appearances for their clients, which means that are unable to tell their clients of the court appearance, which has resulted in clients missing court appearances.

5) Hiring and Retaining Qualified Attorneys

Hiring and retaining qualified attorneys remains a challenge statewide. The combination of the “Great Resignation” and the Covid-19 pandemic has exacerbated pre-pandemic hiring and retention challenges. Several providers reported that the experienced attorneys they hire do not stay in the position, resulting in high turnover rates. Some providers have addressed this problem by hiring newly admitted attorneys who need training and support to acquire the foundational knowledge needed for quality representation. To fill the gap in foundational knowledge,

providers mentioned using statewide contract funding to create additional supervisory positions and increasing salaries to retain experienced attorneys.

Some providers reported receiving a fraction of the job applications that they have in the past. One provider reported attending job fairs and expanding job posting to attract more applicants. However, few applicants are willing to relocate to rural areas, and some county policies have impeded hiring. For example, some county laws and policies restrict providers from paying competitive salaries and cap salaries to prevent competition for attorneys with other departments. These policies have resulted in providers losing attorneys to surrounding counties not constrained by such limitations.

While the challenge of hiring and retaining attorneys remains statewide, a few providers reported that statewide contract funding has allowed them to have a fully staffed office for the first time in several years. In addition, hiring experienced attorneys has allowed for better attorney caseload management, allowing attorneys more time to devote to individual cases.

As previously stated, Assigned Counsel Program leaders reported that the failure to increase the assigned counsel compensation rates has created difficulties in retaining panel attorneys willing to accept criminal case assignments. Assigned Counsel Programs are losing qualified attorneys due to retirement, medical issues, the low rates, and being unable to take additional cases because of their current caseload. The stagnant compensation rates make it nearly impossible for them to recruit new attorneys to the panel.

6) Technology

Many providers reported that they maintained and continued to benefit from the technological improvements established during the Covid-19 pandemic, expanding their IT capacity to bridge the technology gaps exposed during the pandemic. Institutional providers reported using statewide contract funding to purchase and maintain cell phones for off-hours, which has been an asset in providing an immediate contact to provide representation at arraignments at all hours. They also reported purchasing laptops, allowing effortless mobility and accessibility for continued legal representation at all arraignments and court proceedings. In addition, one provider noted obtaining a portable battery-operated printer for their investigator (a statewide contract-funded position) to prepare and print statements for witnesses to review and sign at off-site locations. Providers were also able to purchase scanning equipment to digitize records for their case management system and store closed files more efficiently. Other equipment purchased includes additional computer monitors, video conferencing equipment, and software licenses.

An assigned counsel provider shared that they developed a program to store laptops at the local jail for use by detained clients to view electronic discovery materials privately. Another assigned counsel provider mentioned that they purchased a case management system for electronic vouchering. Other providers used statewide contract funding to purchase laptops for non-attorneys, so staff can work remotely when necessary to accommodate the pandemic's ebb and flow.

A challenge mentioned by several providers is that technological advancements have not been complete or uniform in the courts. Casework is increasingly digital rather than paper-based, but attorneys often spend time coordinating and catching up on paperwork due to inconsistent and uncoordinated town and village court IT systems. The discrepancies in technology between the courts and providers has impacted the provider offices' ability to manage the load across attorneys and also affects individual attorneys' caseloads. Additionally, a provider noted that access to stable internet connection remains a challenge in rural areas.

The biggest challenge shared by most providers has been keeping up with the technology requirements necessitated by discovery reform. The prosecution tends to use several different types of software applications for digital discovery, and the provider offices have struggled to keep up with the different types of software applications needed to download and open files, particularly videos. Providers have also had to work with case management system vendors to expand their capacity to store information, whether on in-house servers or the cloud, and to bolster their data management systems.

Statewide funded non-attorney professional support staff have been essential to several providers to keep up with the technological demands of discovery reform. One provider reported that without their Data Officer, they would not have the capacity to download, print, preserve and review discovery. Another provider noted that their Confidential Secretary has significantly improved the flow of information in the office, managing the increased demands of downloading and printing discovery materials.

Conclusion

Similar to previous years, substantial progress in implementing the statewide reforms has been made by providers of mandated criminal defense in New York State. Compared to last year, this year saw a marked increase in statewide contract funded arraignments at which defense counsel provided representation. Moreover, the increased use of statewide contract funded non-attorney professional services was most remarkable. The number of cases receiving expert and investigative services through statewide contract funding increased by 138.8% (for expert services) and 58.0% (for investigative services) compared to the year before. In addition, the number of non-attorney hires – including investigators, social workers, non-attorney administrative support staff, and other non-attorney professionals – increased substantially.

The data presented in this report reflect that the emphasis in the early years of statewide reform implementation was on hiring additional attorneys to achieve both caseload relief and ensure counsel at arraignment. More recently, reforms have increasingly focused on enhancing access to non-attorney professionals, which contributes both to quality improvement and to caseload relief by allowing attorneys to assign non-legal tasks to other members of the defense team.

Appendix A. *Performance Measures Progress Report form*

Appendix B. *Attachment C of the County Contract entitled, “Work Plan: Goals, Objectives, and Performance Measures.”*

Appendix C. *List of providers in New York State who submitted a Progress Report*

Appendix D. *Key Performance Measures information as reported by the 52 counties and New York City*

APPENDIX A:
*Performance Measures Progress Report
form*



**Indigent
Legal Services**

Performance Measures Progress Report April 2022

Thank you for completing the April 2022 Performance Measures Progress Report (Progress Report). Each County's criminal defense providers, (i.e., other than the five counties currently engaged in the *Hurrell-Harring* settlement agreement) and each of the eleven criminal defense providers in New York City are expected to file a completed Progress Report with ILS twice a year (i.e., by October 30th and April 30th of each year). The Progress Report form outlined in this survey is intended to gather information on the use of funding for implementation of the counsel at first appearance, caseload relief, and quality improvement reforms introduced in the *Hurrell-Harring* settlement agreement and subsequently extended to the rest of the state via Executive Law § 832 (4).

When possible, the information provided in the Progress Report should **ONLY** reflect the use of funding allocated in the five-year Statewide Expansion of the *Hurrell-Harring* Contract. The Progress Report is **due for submission by April 30, 2022**. Subsequent Progress Reports will be due for submission to ILS on a semi-annual basis thereafter.

INSTRUCTIONS

Please review the following instructions before completing the Progress Report.

Review the County's Budget Items Approved in the Five-Year Contract: The budget items, as outlined in Attachment B-1 of your county's five-year Statewide Expansion Contract (Contract) should be used as a reference to complete the Progress Report form. Please email ILS at performance@ils.ny.gov if Attachment

B-1 is unavailable to you when completing the Progress Report form. See below for a sample of Attachment B-1.

Print and/or Save the Progress Report form for future reference: It may be useful to print and/or save the Progress Report form for future reference. The form is attached as a PDF document to the email ILS sent early April, 2022. Alternatively, the Progress Report form may be downloaded from the ILS website at <https://www.ils.ny.gov/node/53/annual-data-reporting>

Any questions and/or concerns on the Progress Report form should be emailed to performance@ils.ny.gov prior to April 30, 2022.

Sample of Attachment B-1

<i>This is the sample of the budget for a hypothetical Public Defender's Office. Note the lines for personnel and Contracted/Consultant entries.</i>					
Budget Expenditure Item	Year 1 4/1/18 - 3/31/19	Year 2 4/1/19 - 3/31/20	Year 3 4/1/20 - 3/31/21	Year 4 4/1/21 - 3/31/22	Year 5 4/1/22 - 3/31/23
PUBLIC DEFENDER'S OFFICE					
CASELOAD RELIEF					
Personnel:					
Attorney Supervisor - Salary	\$80,000.00	\$81,600.00	\$83,232.00	\$84,897.00	
(2) Assistant Public Defenders - Salary	\$140,000.00	\$142,800.00	\$145,656.00	\$148,570.00	
Paralegal - Salary	\$44,737.00	\$45,632.00	\$46,545.00	\$47,476.00	
Secretary - Salary	\$35,000.00	\$35,700.00	\$36,414.00	\$37,142.00	
Fringe for above positions	\$43,000.00	\$46,000.00	\$49,500.00	\$52,000.00	
Data Officer (Stipend)	\$20,000.00	\$20,000.00	\$20,000.00	\$20,000.00	
Caseload Relief - Subtotal	\$362,737.00	\$371,732.00	\$381,347.00	\$390,085.00	\$0.00
QUALITY IMPROVEMENT					
Contracted/Consultant:					
Expert Services	\$80,000.00	\$95,000.00	\$102,500.00	\$103,500.00	
Investigator	\$15,000.00	\$17,000.00	\$19,000.00	\$21,000.00	
Subtotal Contracted/Consultant	\$95,000.00	\$95,000.00	\$102,500.00	\$103,500.00	\$0.00
OTPS:					
Computer Equipment	\$20,000.00	\$20,000.00	\$0.00	\$0.00	
Legal Reference Material/Books/Transcripts	\$10,000.00	\$15,000.00	\$15,000.00	\$15,000.00	
Subtotal OTPS	\$30,000.00	\$35,000.00	\$15,000.00	\$15,000.00	\$0.00
Quality Improvement - Subtotal	\$125,000.00	\$130,000.00	\$117,500.00	\$118,500.00	\$0.00
COUNSEL AT FIRST APPEARANCE					
Personnel:					
Assistant Public Defender - Salary	\$70,000.00	\$71,400.00	\$72,828.00	\$74,285.00	
Assistant Public Defender - Fringe	\$8,600.00	\$8,782.00	\$8,958.00	\$9,137.00	
Subtotal Personnel	\$78,600.00	\$80,182.00	\$81,786.00	\$83,422.00	
Contracted/Consultant/OTPS:					
Counsel at First Appearance - Subtotal	\$78,600.00	\$80,182.00	\$81,786.00	\$83,422.00	\$0.00
PUBLIC DEFENDER'S OFFICE - TOTAL	\$566,337.00	\$581,914.00	\$580,633.00	\$592,007.00	\$0.00

As the preparer of this form, please provide your name and contact information. Even if you are preparing this form on behalf of someone else, we would like you to provide your name and your contact information so we can reach out to you in case we have any questions about the data you reported.

First Name

Last Name

Phone

Email Address

Position / Job Title

Name of your employer

* Please indicate if you are preparing this form for a / an

- ☐ Public Defender's Office
- ☐ Conflict Defender
- ☐ Assigned Counsel Program
- ☐ Other

* Please indicate in which county this provider is located (for any borough in New York City, please select the "New York City" option)

- ☐ Albany County
- ☐ Allegany County
- ☐ Broome County
- ☐ Cattaraugus County
- ☐ Cayuga County
- ☐ Chautauqua County
- ☐ Chemung County
- ☐ Chenango County
- ☐ Clinton County
- ☐ Columbia County
- ☐ Cortland County
- ☐ Delaware County
- ☐ Dutchess County
- ☐ Erie County
- ☐ Essex County
- ☐ Franklin County
- ☐ Fulton County
- ☐ Genesee County
- ☐ Greene County
- ☐ Hamilton County
- ☐ Herkimer County

- ☐ Jefferson County
- ☐ Lewis County
- ☐ Livingston County
- ☐ Madison County
- ☐ Monroe County
- ☐ Montgomery County
- ☐ Nassau County
- ☐ New York City
- ☐ Niagara County
- ☐ Oneida County
- ☐ Onondaga County
- ☐ Ontario County
- ☐ Orange County
- ☐ Orleans County
- ☐ Oswego County
- ☐ Otsego County
- ☐ Putnam County
- ☐ Rensselaer County
- ☐ Rockland County
- ☐ Saint Lawrence County
- ☐ Saratoga County
- ☐ Schenectady County
- ☐ Schoharie County

- ☐ Schuyler County
 - ☐ Seneca County
 - ☐ Steuben County
 - ☐ Suffolk County
 - ☐ Sullivan County
 - ☐ Tioga County
 - ☐ Tompkins County
 - ☐ Ulster County
 - ☐ Warren County
 - ☐ Washington County
 - ☐ Wayne County
 - ☐ Westchester County
 - ☐ Wyoming County
 - ☐ Yates County
 - ☐ Option 59
-

*** Are you the designated ILS Data Officer for your county?**

- ☐ Yes
 - ☐ No
-

*** Has the county designated an ILS Data Officer?**

- ☐ Yes
 - ☐ No
-

* Please provide the name of the ILS Data Officer:

Please provide the starting date (mm/dd/yyyy) of his/her position. If the exact starting day is unknown, please report the first of the month as the starting date.

MM/DD/YYYY



* Please provide a description of the progress toward the designation of an ILS Data Officer. If unknown, please type "Unknown" in the text box below.

* Does your institution / organization use an electronic case management system?

☐ Yes

☐ No

* What case management system does your institution / organization use?

- ☐ defenderData
 - ☐ IntelLinx
 - ☐ LaserFiche
 - ☐ Law Manager
 - ☐ LegalServer
 - ☐ Logis
 - ☐ PDCMS
 - ☐ PIKA
 - ☐ Tecana
 - ☐ Other
-

- * 1. Please report the **number of filled attorney positions** that are funded as of March 31, 2022 by budget expenditure items listed in the “Caseload Relief,” “Quality Improvement,” and “Counsel at First Appearance” categories of the contract (see Attachment B-1). For each attorney position, please provide the **type, starting date**, indicate if it was a **new hire, an upgrade of an existing hire** (i.e., an increase in hours), or an attorney position placed **on contract**, and select if the attorney **provides representation at arraignment**. Then, enter the **total number of cases assigned** to the attorney **between April 1, 2021 and March 31, 2022**.

INSTRUCTIONS AND DEFINITIONS	
General Instructions	<p>As this question tries to get a cumulative overview of attorney positions <u>since the implementation of the statewide reforms</u>, answers to this question should include <u>all</u> filled attorney positions that are funded through the Contract on the last business day of the reporting period (i.e., March 31, 2022).</p> <p>Answers to this question should not include attorneys who received stipends or were paid as assigned counsel pursuant to NY County Law § 722-b (1). Attorneys receiving funding for mentoring programs, second-chair programs, or litigation support also should not be included unless they were filling a position created by the Statewide Contract.</p>
Type of Contract	
<i>New Hire</i>	refers to any new attorney position, part- or full-time, that was filled on the last business day of the reporting period (i.e., March 31, 2022), including, but not limited to, ACP attorney-administrators and other ACP attorney staff.
<i>Upgrade of Existing Hire</i>	refers to any attorney position that existed prior to the reporting period, and for which the number of hours worked was increased as of the last business day of the reporting period (i.e., March 31, 2022). For example, an existing attorney whose position changed from part- to full-time would be included in this category. Positions that received a salary increase that are not accompanied by an increase in the number of hours worked should not be included.
<i>On Contract</i>	refers to any individual attorney who occupies a position through a contract to provide services under this funding, and who was working under that contract on the last business day of the reporting period (i.e., March 31, 2022). It excludes contractors who did not occupy a position, such as those who received stipends, were paid as assigned counsel pursuant to NY County Law § 722-b-1, or who received funding for mentoring programs, second-chair programs, or litigation support.
Re-hire within the same position	If a position was filled by an individual, the individual left, and another individual was hired (i.e., a re-hire within the same position), please count this as one hire and only report the starting date for the first individual.
Number of Cases	
<i>Total Number of Cases</i>	This should include cases assigned between April 1, 2021 and March 31, 2022. Please include all cases, including cases at which representation was provided just for arraignment. For attorneys whose positions were upgraded (i.e., hours were added to their position), please estimate the number of additional cases they were assigned as a result of the increase in hours.

	Type of Position	Starting Date (mm/yyyy)	New Hire, Upgrade of Existing Hire, or On Contract	Provides representation at arraignment
Attorney Position 1	-- Select -- ▼		-- Select -- ▼	-- Select --
* Attorney Position 2	-- Select -- ▼		-- Select -- ▼	-- Select --
* Attorney Position 3	-- Select -- ▼		-- Select -- ▼	-- Select --
* Attorney Position 4	-- Select -- ▼		-- Select -- ▼	-- Select --
* Attorney Position 5	-- Select -- ▼		-- Select -- ▼	-- Select --
* Attorney Position 6	-- Select -- ▼		-- Select -- ▼	-- Select --
* Attorney Position 7	-- Select -- ▼		-- Select -- ▼	-- Select --
* Attorney Position 8	-- Select -- ▼		-- Select -- ▼	-- Select --
* Attorney Position 9	-- Select -- ▼		-- Select -- ▼	-- Select --

* Attorney Position 10	-- Select -- ▼		-- Select -- ▼	-- Select --
* Attorney Position 11	-- Select -- ▼		-- Select -- ▼	-- Select --
* Attorney Position 12	-- Select -- ▼		-- Select -- ▼	-- Select --
* Attorney Position 13	-- Select -- ▼		-- Select -- ▼	-- Select --
* Attorney Position 14	-- Select -- ▼		-- Select -- ▼	-- Select --
* Attorney Position 15	-- Select -- ▼		-- Select -- ▼	-- Select --
* Attorney Position 16	-- Select -- ▼		-- Select -- ▼	-- Select --
* Attorney Position 17	-- Select -- ▼		-- Select -- ▼	-- Select --
* Attorney Position 18	-- Select -- ▼		-- Select -- ▼	-- Select --
* Attorney Position 19	-- Select -- ▼		-- Select -- ▼	-- Select --

*	Attorney Position 20	-- Select -- ▼		-- Select -- ▼	-- Select --
*	Attorney Position 21	-- Select -- ▼		-- Select -- ▼	-- Select --
*	Attorney Position 22	-- Select -- ▼		-- Select -- ▼	-- Select --
*	Attorney Position 23	-- Select -- ▼		-- Select -- ▼	-- Select --
*	Attorney Position 24	-- Select -- ▼		-- Select -- ▼	-- Select --
*	Attorney Position 25	-- Select -- ▼		-- Select -- ▼	-- Select --
*	Attorney Position 26	-- Select -- ▼		-- Select -- ▼	-- Select --
*	Attorney Position 27	-- Select -- ▼		-- Select -- ▼	-- Select --
*	Attorney Position 28	-- Select -- ▼		-- Select -- ▼	-- Select --

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Attorney
Position
29

-- Select -- ▼		-- Select -- ▼	-- Select --
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Attorney
Position
30

-- Select -- ▼		-- Select -- ▼	-- Select --
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Attorney
Position
31

-- Select -- ▼		-- Select -- ▼	-- Select --
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Attorney
Position
32

-- Select -- ▼		-- Select -- ▼	-- Select --
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Attorney
Position
33

-- Select -- ▼		-- Select -- ▼	-- Select --
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Attorney
Position
34

-- Select -- ▼		-- Select -- ▼	-- Select --
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Attorney
Position
35

-- Select -- ▼		-- Select -- ▼	-- Select --
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Attorney
Position
36

-- Select -- ▼		-- Select -- ▼	-- Select --
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Attorney
Position
37

-- Select -- ▼		-- Select -- ▼	-- Select --
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Attorney
Position
38

-- Select -- ▼		-- Select -- ▼	-- Select -- ▼
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Attorney
Position
39

-- Select -- ▼		-- Select -- ▼	-- Select -- ▼
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Attorney
Position
40

-- Select -- ▼		-- Select -- ▼	-- Select -- ▼
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Attorney
Position
41

-- Select -- ▼		-- Select -- ▼	-- Select -- ▼
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Attorney
Position
42

-- Select -- ▼		-- Select -- ▼	-- Select -- ▼
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Attorney
Position
43

-- Select -- ▼		-- Select -- ▼	-- Select -- ▼
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Attorney
Position
44

-- Select -- ▼		-- Select -- ▼	-- Select -- ▼
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Attorney
Position
45

-- Select -- ▼		-- Select -- ▼	-- Select -- ▼
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Attorney
Position
46

-- Select -- ▼		-- Select -- ▼	-- Select -- ▼
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Attorney
Position
47

-- Select -- ▼		-- Select -- ▼	-- Select --
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Attorney
Position
48

-- Select -- ▼		-- Select -- ▼	-- Select --
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*

Attorney
Position
49

-- Select -- ▼		-- Select -- ▼	-- Select --
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*

Attorney
Position
50

-- Select -- ▼		-- Select -- ▼	-- Select --
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- * 2. Please estimate the **total number of cases** at which **representation at arraignment** was provided as a result of the Statewide Contract funding. Include cases represented by hired attorneys, contracted attorneys, and attorneys receiving stipends for arraignment representation. Do not include arraignments on the felony indictment, unless it was the defendant's first court appearance.

INSTRUCTIONS AND DEFINITIONS	
General Instructions	Please include arraignments covered by: <ul style="list-style-type: none">- Assigned counsel panel attorneys who are paid an hourly rate or a stipend funded by the Contract to provide representation at arraignment.- Attorneys who are hired with Contract funding (i.e., any attorney listed in Question 1)- Attorneys whose base salaries are not funded by the Contract, but who are paid extra through the Contract (via hourly rates or stipends) to provide representation at arraignment.

- * 3. Please report **the number of filled non-attorney positions** that are funded as of March 31, 2022 by budget expenditure items listed in the “Caseload Relief,” “Quality Improvement,” and “Counsel at First Appearance” categories of the contract (see Attachment B-1). For each non-attorney position, please provide the **type, starting date**, and indicate if it was a **new hire, an upgrade of an existing hire** (i.e., an increase in hours), or a non-attorney position placed **on contract**.

INSTRUCTIONS AND DEFINITIONS	
General Instructions	<p>As this question tries to get a cumulative overview of non-attorney positions <u>since the implementation of the statewide reforms</u>, answers to this question should include <u>all</u> filled non-attorney positions that were funded through the Contract on the last business day of the reporting period (i.e., March 31, 2022).</p> <p>Answers to this question should include non-attorneys receiving funding to deliver specialized services (e.g., investigators, social workers, and others such as experts, stenographers, interpreters, etc.) and non-attorney administrative support staff (e.g., secretaries, paralegals, case managers, grants managers, data officers, etc.). It should not include previously employed non-attorneys who receive stipends under this Contract (e.g., a stipend issued to a previously staffed grants administrator).</p>
Type of Contract	
New Hire	refers to any new non-attorney position, part- or full-time, that was filled on the last business day of the reporting period (i.e., March 31, 2022). It includes, when applicable, ACP administrators.
Upgrade of Existing Hire	refers to any non-attorney position that was filled on the last business day of the reporting period (i.e., March 31, 2022), and for which the number of hours worked was increased. For example, an existing social worker whose position changed from part- to full-time as a result of this Contract would be included in this category. Positions that received salary increases not accompanied by an increase in the number of hours worked should not be included.
On Contract	refers to any individual non-attorney who occupies a position through a contract to provide services under this funding, and who was working under that contract on the last business day of the reporting period (i.e., March 31, 2022). It excludes contractors who did not occupy a position, such as those who received stipends or those who are retained on a case-by-case basis and paid an hourly fee or a fee per case.
Re-hire within the same position	If a position was filled by an individual, the individual left, and another individual was hired (i.e., a re-hire within the same position), please count this as one hire and only report the starting date for the first individual.

	Type of Position	Starting Date (mm/yyyy)	New Hire, Upgrade of Existing Hire, or On Contract
Non-attorney Position 1	-- Select --		-- Select --
* Non-attorney Position 2	-- Select --		-- Select --
* Non-attorney Position 3	-- Select --		-- Select --
* Non-attorney Position 4	-- Select --		-- Select --
* Non-attorney Position 5	-- Select --		-- Select --
* Non-attorney Position 6	-- Select --		-- Select --
* Non-attorney Position 7	-- Select --		-- Select --
* Non-attorney Position 8	-- Select --		-- Select --
* Non-attorney Position 9	-- Select --		-- Select --
* Non-attorney Position 10	-- Select --		-- Select --
* Non-attorney Position 11	-- Select --		-- Select --
* Non-attorney Position 12	-- Select --		-- Select --

* Non-attorney Position 13	-- Select -- ▼		-- Select -- ▼
* Non-attorney Position 14	-- Select -- ▼		-- Select -- ▼
* Non-attorney Position 15	-- Select -- ▼		-- Select -- ▼
* Non-attorney Position 16	-- Select -- ▼		-- Select -- ▼
* Non-attorney Position 17	-- Select -- ▼		-- Select -- ▼
* Non-attorney Position 18	-- Select -- ▼		-- Select -- ▼
* Non-attorney Position 19	-- Select -- ▼		-- Select -- ▼
* Non-attorney Position 20	-- Select -- ▼		-- Select -- ▼

* 4. a. Please estimate the **total number of training events** hosted, sponsored, or co-sponsored by the Contract funding between April 1, 2021 and March 31, 2022. Training events include, but are not limited to, professional conferences and Continuing Legal Education (CLE) and non-CLE programs.

- * 4. b. Please estimate **the total number of attorneys** whose attendance at training events was supported by the funding provided in the Contract between April 1, 2021 and March 31, 2022. This includes money spent towards registration costs, mileage, flights, accommodations, etc., associated with the attorney attending the training. The training itself does not necessarily have to be hosted, sponsored or co-sponsored by the Contract funding.

- * 5. a. For the expenditures on **expert/specialized services** listed in the Contract (see Attachment B-1), please estimate for the period between April 1, 2021 and March 31, 2022 the total amount spent in US dollars. This estimate should not include the salaries of experts; we are asking for an estimate of contracted expert services only.

INSTRUCTIONS AND DEFINITIONS

General Instructions

Question 5 asks to report how much of the Contract funding was **actually spent** towards contracted expert services and contracted investigative services between April 1, 2021 and March 31, 2022. In the county's budget (Attachment B-1) you can see how much funding is allocated to each of these items. However, we ask you to report the **actual money spent** towards these goals. For instance, if \$5,000 was allocated in the Contract towards expert services but no money has yet been spent towards this goal, please fill in "0".

Expert Services

Expert services should include non-attorney professional services, such as consulting and testifying experts, as well as interpreters, social workers, case managers, mitigation specialists, and other expert services. It does not include process servers, transcript services, or investigative services (Question 5.b. asks about investigative services).

- * 5. b. For the expenditures on **investigative services** listed in the Contract (see Attachment B-1), please estimate for the period between April 1, 2021 and March 31, 2022 the total amount spent in US dollars. This estimate should not include the salaries of investigators; we are asking for an estimate of **contracted investigative services** only.

- * 6. a. Please estimate for the period between April 1, 2021 and March 31, 2022 the **total number of cases** in which **expert services** were used. Include all cases in which expert services were provided as a result of Contract funding made available to contract with experts and Contract funding made available to hire experts as salaried employees.

INSTRUCTIONS AND DEFINITIONS	
Expert Services	Expert services should include non-attorney professional services, such as consulting and testifying experts, as well as interpreters, social workers, case managers, mitigation specialists, and other expert services. It does <u>not</u> include process servers and transcript services.

- * 6. b. Please estimate for the period between April 1, 2021 and March 31, 2022 the **total number of cases** in which **investigative services** were used. Include all cases in which investigative services were provided as a result of Contract funding made available to contract with investigators and Contract funding made available to hire investigators as salaried employees.

7. a. Please provide a brief description (i.e., including any applicable examples) of how the Contract funding has been used to reduce the number of cases assigned to attorneys.

7. b. Please provide a brief description (i.e., including any applicable examples) of any challenges currently being addressed in supporting caseload relief.

8. a. Please provide a brief description (i.e., including any applicable examples) of efforts made with the use of the Contract funds to ensure the appearance of defense counsel at arraignment.

8. b. Please provide a brief description (i.e., including any applicable examples) of any challenges currently being addressed in ensuring countywide arraignment coverage.

9. a. Please provide a brief description (i.e., including any applicable examples) of how the Contract funding has been used to improve the overall quality of mandated criminal defense representation. Only include information that has not already been provided in your answers to questions 7 and 8.

9. b. Please provide a brief description (i.e., including any applicable examples) of any challenges currently being addressed in ensuring the overall quality improvement of mandated criminal defense representation. Only include information that has not already been provided in your answers to questions 7 and 8.

10. What assistance, if any, can be provided by the Office of Indigent Legal Services to support your county's efforts in resolving any of the challenges reported in Questions 7.b., 8.b., and 9.b. regarding caseload relief, counsel at first arraignment, and overall quality improvement of mandated criminal defense representation?

11. Please use this section to provide any additional information to further clarify or explain, or to provide additional comments to any of the questions in the Progress Report form.



Indigent Legal Services

APPENDIX B:
Attachment C of the County Contract

ATTACHMENT C
WORK PLAN
OFFICE OF INDIGENT LEGAL SERVICES
STATEWIDE EXPANSION OF HURRELL-HARRING
APRIL 1, 2018 – MARCH 31, 2023

Goals, Objectives, and Performance Measures

On a semi-annual basis, each grantee/contractor shall provide the Office of Indigent Legal Services with a written progress report summarizing the work performed during each such semi-annual period. The reports shall detail the grantee/contractor's progress toward attaining the specific goals, objectives and key performance measures as outlined below along with any additional information that may be required by the Office. These program progress reports must be submitted October 31st for the period starting April 1st and ending September 30th and April 30th for the period starting October 1st and ending March 31st.

Program progress reports will continue until such time as the funds subject to this contract are no longer available, have been accounted for, and/or throughout the contract period. The first progress report may be waived if the final approval of the grantee/contractor's contract by the Office of the State Comptroller is within two months of the date such progress report would be due. **(See Attachment D ["Payment and Reporting Schedule"] for written progress report reporting requirements in their entirety.)**

Goal

Implement the provisions of Chapter 59 of the Laws of 2017, Part VVV, sections 11-13, providing that the Office of Indigent Legal Services shall implement a plan to extend statewide the benefits of the Hurrell-Harring settlement reforms.

First Objective

Ensure all eligible criminal defendants are represented by counsel at arraignment, provided that timely arraignment with counsel is not delayed pending a determination of a defendant's eligibility.

Key Performance Measures

1. The number of attorneys hired with this funding who provide representation at arraignment;
2. The number of arraignments handled by each attorney compensated with this funding; and
3. A brief description of all activities funded by this grant under this objective and how those activities have improved the provision of counsel at first appearance.

Second Objective

Full compliance with the caseload standards issued by the Office of Indigent Legal Services.

Key Performance Measures

1. The number of attorneys hired with this funding and the dates of such hires;
2. The number of new cases opened by attorneys compensated with this funding;
3. The number of non-attorneys hired with this funding and the dates of such hires;
4. The name, and date of appointment, of the Data Officer or a description of progress toward appointment of a Data Officer; and
5. A brief description of all activities funded by this grant under this objective and how those activities have reduced caseloads.

Third Objective

Implement initiatives to improve the quality of indigent defense such that attorneys receive effective supervision and training, have access to and appropriately utilize investigators, interpreters and expert witnesses on behalf of clients, communicate effectively with their clients, have the necessary qualifications and experience, and, in the case of assigned counsel attorneys, are assigned to cases in accordance with article 18-b of the county law and in a manner that accounts for the attorney's level of experience and caseload/workload.

Key Performance Measures

1. The number of training events supported by this funding;
2. The number of attorneys whose attendance at training events was supported by this funding;
3. The number of cases in which expert services supported by this funding was used, and the dollar amount, both total and hourly rate, spent on such services;
4. The number of cases where investigative services supported by this funding was used, and the dollar amount, both total and hourly rate, spent on such services; and
5. A brief description of all activities funded by this grant under this objective and how those activities have improved the quality of representation provided to clients.

APPENDIX C:
*List of Providers in New
York who submitted a
Progress Report*

County	Provider	Progress Report Submission Date
Albany	Assigned Counsel Program	04/29/2022
Albany	Public Defender's Office	04/28/2022
Albany	Alternate Public Defender's Office	04/28/2022
Allegany	Assigned Counsel Program	04/30/2022
Allegany	Public Defender's Office	04/29/2022
Broome	Public Defender's Office	04/28/2022
Broome	Comptroller	04/28/2022
Cattaraugus	Assigned Counsel Program	05/09/2022
Cattaraugus	Public Defender's Office	04/21/2022
Cayuga	Assigned Counsel Program	05/09/2022
Chautauqua	Assigned Counsel Program	04/28/2022
Chautauqua	Public Defender's Office	04/29/2022
Chemung	Assigned Counsel Program	04/13/2022
Chemung	Public Defender's Office	04/28/2022
Chemung	Public Advocate's Office	04/19/2022
Chenango	Public Defender's Office	04/28/2022
Chenango	Assigned Counsel Program	04/28/2022
Clinton	Assigned Counsel Program	04/11/2022
Clinton	Public Defender's Office	04/08/2022
Columbia	Public Defender's Office	04/15/2022
Columbia	First Alternative Conflict Defender's Office	05/05/2022
Columbia	Assigned Counsel Program	04/11/2022
Cortland	Public Defender's Office	04/27/2022
Cortland	Assigned Counsel Program	04/11/2022
Delaware	Assigned Counsel Program	04/27/2022
Delaware	Public Defender's Office	04/26/2022

County	Provider	Progress Report Submission Date
Dutchess	Assigned Counsel Program	04/27/2022
Dutchess	Public Defender's Office	04/29/2022
Erie	Erie County Bar Association Aid to Indigent Prisoners Society, Inc.	04/28/2022
Erie	Legal Aid Bureau of Buffalo Inc.	04/29/2022
Essex	Assigned Counsel Program	04/29/2022
Essex	Conflict Defender's Office	04/29/2022
Essex	Public Defender's Office	04/26/2022
Franklin	Assigned Counsel Program	04/29/2022
Franklin	Conflict Defender's Office	04/26/2022
Franklin	Public Defender's Office	05/03/2022
Fulton	Assigned Counsel Program	04/28/2022
Fulton	Public Defender's Office	04/11/2022
Genesee	Assigned Counsel Program	04/20/2022
Genesee	Public Defender's Office	04/16/2022
Greene	Assigned Counsel Program	04/27/2022
Greene	Public Defender's Office	04/26/2022
Hamilton	Public Defender's Office	04/08/2022
Hamilton	Assigned Counsel Program	04/08/2022
Herkimer	Assigned Counsel Program	04/27/2022
Jefferson	Assigned Counsel Program	04/28/2022
Jefferson	Public Defender's Office	04/29/2022
Lewis	Public Defender's Office	05/04/2022
Lewis	Assigned Counsel Program	05/05/2022
Lewis	Conflict Defender's Office	05/18/2022
Livingston	Conflict Defender's Office	04/26/2022
Livingston	Public Defender's Office	04/25/2022
Livingston	Assigned Counsel Program	04/26/2022
Madison	Assigned Counsel Program	04/13/2022
Monroe	Public Defender's Office	04/25/2022
Monroe	Conflict Defender's Office	04/20/2022
Monroe	Assigned Counsel Program	04/25/2022
Montgomery	Public Defender's Office	04/25/2022

County	Provider	Progress Report Submission Date
Montgomery	Assigned Counsel Program	05/09/2022
Nassau	Assigned Counsel Program	04/26/2022
Nassau	Legal Aid Society of Nassau County	04/26/2022
New York City	Assigned Counsel Plan, Appellate Division, First Judicial Department	04/28/2022
New York City	Assigned Counsel Plan, Appellate Division, Second Judicial Department	04/28/2022
New York City	Appellate Advocates	04/29/2022
New York City	Bronx Defenders	04/30/2022
New York City	Brooklyn Defender Services	05/10/2022
New York City	Center for Appellate Litigation	04/07/2022
New York City	The Legal Aid Society	04/29/2022
New York City	Neighborhood Defender Services	04/27/2022
New York City	New York County Defender Services	04/29/2022
New York City	Office of the Appellate Defender	04/25/2022
New York City	Queens Defenders (formerly Queens Law Associates)	04/25/2022
Niagara	Conflict Defender's Office	04/29/2022
Niagara	Assigned Counsel Program	04/29/2022
Niagara	Public Defender's Office	04/29/2022
Oneida	Assigned Counsel Program	04/16/2022
Oneida	Public Defender's Office	04/05/2022
Orange	Assigned Counsel Program	04/27/2022
Orange	Legal Aid Society of Orange County	04/26/2022
Orleans	Assigned Counsel Program	04/27/2022
Orleans	Public Defender's Office	05/18/2022
Oswego	Assigned Counsel Program	04/18/2022
Otsego	Public Defender's Office	04/11/2022
Otsego	Assigned Counsel Program	04/11/2022
Putnam	Legal Aid Society of Putnam County	04/29/2022
Putnam	Assigned Counsel Program	05/25/2022

County	Provider	Progress Report Submission Date
Rensselaer	Assigned Counsel Program	05/19/2022
Rensselaer	Conflict Defender's Office	05/04/2022
Rensselaer	Public Defender's Office	04/29/2022
Rockland	Assigned Counsel Program	04/27/2022
Rockland	Public Defender's Office	04/29/2022
Saratoga	Conflict Defender's Office	04/28/2022
Saratoga	Assigned Counsel Program	04/26/2022
Saratoga	Public Defender's Office	04/20/2022
Schenectady	Public Defender's Office	04/25/2022
Schenectady	Conflict Defender's Office	04/29/2022
Schenectady	Assigned Counsel Program	04/28/2022
Schoharie	Assigned Counsel Program	04/30/2022
Seneca	Public Defender's Office	04/19/2022
Seneca	Assigned Counsel Program	04/30/2022
St. Lawrence	Assigned Counsel Program	04/27/2022
St. Lawrence	Conflict Defender's Office	04/29/2022
St. Lawrence	Public Defender's Office	04/25/2022
Steuben	Assigned Counsel Program	04/15/2022
Steuben	Conflict Defender's Office	04/11/2022
Steuben	Public Defender's Office	04/11/2022
Sullivan	Conflict Legal Aid Bureau	04/04/2022
Sullivan	Legal Aid Panel	04/06/2022
Sullivan	Assigned Counsel Program	04/13/2022
Tioga	Assigned Counsel Program	04/22/2022
Tioga	Public Defender's Office	04/08/2022
Tompkins	Assigned Counsel Program	05/06/2022
Ulster	Assigned Counsel Program	04/04/2022
Ulster	Public Defender's Office	05/19/2022
Warren	Assigned Counsel Program	04/29/2022
Warren	Public Defender's Office	04/29/2022
Wayne	Assigned Counsel Program	05/02/2022
Wayne	Public Defender's Office	04/18/2022

County	Provider	Progress Report Submission Date
Westchester	Legal Aid Society of Westchester County	04/28/2022
Westchester	Assigned Counsel Program	04/28/2022
Wyoming	Public Defender's Office	04/26/2022
Wyoming	Assigned Counsel Program	04/22/2022
Yates	Assigned Counsel Program	04/29/2022
Yates	Public Defender's Office	04/06/2022
53 (includes NYC)		126 of 126 Progress Reports Submitted

APPENDIX D:
*Key Performance Measures
information as reported by the 52
Counties and New York City*

County	Total # of attorneys funded (Q1)	Total # of funded attorneys providing CAFA (Q1)	Total # of cases represented by funded attorneys (Q1)	Total # of cases receiving counsel at arraignment (Q2)	Total # of non-attorney positions funded (Q3)	Total # of training events funded (Q4.a)	Total # of attorneys attending training events funded (Q4.b)	USD spent on expert services (Q5.a.)	USD spent on investigative services (Q5.b)	Total # of cases with expert services (Q6.a)	Total # of cases with investigative services (Q6.b)
Albany	23	20	3991	5506	10	59	57	\$28,298.00	\$19,789.44	50	56
Allegany	1	0	0	0	2	0	5	\$21,667.18	\$15,696.13	6	22
Broome	3	2	567	567	7	0	0	\$0.00	\$0.00	261	233
Cattaraugus	6	5	409	565	7	0	7	\$6,888.00	\$318.00	6	1
Cayuga	0	0	0	0	0	1	5	\$0.00	\$11,333.15	0	10
Chautauqua	6	5	1813	5444	16	0	14	\$6,750.00	\$0.00	5	1673
Chemung	3	2	629	343	4	0	20	\$13,157.71	\$0.00	6	483
Chenango	1	1	219	50	2	0	0	\$8,212.50	\$0.00	2	0
Clinton	7	7	2511	1455	7	9	8	\$17,834.72	\$0.00	3	803

County	Total # of attorneys funded (Q1)	Total # of funded attorneys providing CAFA (Q1)	Total # of cases represented by funded attorneys (Q1)	Total # of cases receiving counsel at arraignment (Q2)	Total # of non-attorney positions funded (Q3)	Total # of training events funded (Q4.a)	Total # of attorneys attending training events funded (Q4.b)	USD spent on expert services (Q5.a.)	USD spent on investigative services (Q5.b)	Total # of cases with expert services (Q6.a)	Total # of cases with investigative services (Q6.b)
Columbia	1	1	459	314	1	0	0	\$34,580.33	\$14,644.41	4	1
Cortland	3	3	247	567	3	0	5	\$1,250.00	\$9,322.00	75	5
Delaware	3	3	1033	767	2	0	3	\$500.00	\$2,557.50	1	1
Dutchess	13	11	1298	974	12	1	54	\$44,235.00	\$1,000.00	16	18
Erie	19	0	2419	15,140	27	31	238	\$80,767.00	\$0.00	306	2416
Essex	3	2	235	229	3	0	1	\$0.00	\$0.00	0	0
Franklin	1	0	0	298	3	0	0	\$0.00	\$0.00	0	0
Fulton	3	3	435	224	2	0	4	\$17,000.00	\$256.50	4	1
Genesee	3	2	347	759	1	0	8	\$2,210.50	\$1,003.75	6	67

County	Total # of attorneys funded (Q1)	Total # of funded attorneys providing CAFA (Q1)	Total # of cases represented by funded attorneys (Q1)	Total # of cases receiving counsel at arraignment (Q2)	Total # of non-attorney positions funded (Q3)	Total # of training events funded (Q4.a)	Total # of attorneys attending training events funded (Q4.b)	USD spent on expert services (Q5.a.)	USD spent on investigative services (Q5.b)	Total # of cases with expert services (Q6.a)	Total # of cases with investigative services (Q6.b)
Greene	3	3	1167	1813	2	0	0	\$3,206.39	\$378.41	2	2
Hamilton	3	2	40	40	2	0	0	\$0.00	\$0.00	0	0
Herkimer	1	0	0	400	1	0	0	\$7,500.00	\$1,500.00	1	2
Jefferson	2	2	78	1681	2	0	5	\$0.00	\$250.00	0	5
Lewis	8	5	449	274	1	0	0	\$3,500.00	\$0.00	1	0
Livingston	6	6	709	1017	2	0	3	\$3,798.00	\$12,151.00	5	18
Madison	1	1	0	1574	0	0	0	\$5,248.75	\$6,360.14	3	3
Monroe	34	31	3848	5902	22	6	56	\$71,594.18	\$104,468.88	101	195
Montgomery	3	3	478	308	1	0	0	\$13,438.95	\$1,166.40	7	2

County	Total # of attorneys funded (Q1)	Total # of funded attorneys providing CAFA (Q1)	Total # of cases represented by funded attorneys (Q1)	Total # of cases receiving counsel at arraignment (Q2)	Total # of non-attorney positions funded (Q3)	Total # of training events funded (Q4.a)	Total # of attorneys attending training events funded (Q4.b)	USD spent on expert services (Q5.a.)	USD spent on investigative services (Q5.b)	Total # of cases with expert services (Q6.a)	Total # of cases with investigative services (Q6.b)
Nassau	12	8	3878	5471	4	0	2	\$38,383.48	\$0.00	1226	575
New York City	282	214	33,606	26,608	130	119	411	\$185,895.00	\$72,783.50	1386	2018
Niagara	14	14	3489	2187	6	2	24	\$14,586.00	\$6,365.70	7	3
Oneida	4	4	3216	4273	8	0	0	\$4932.95	\$0.00	17	0
Orange	2	0	0	862	4	7	5	\$8,520.00	\$5,100.00	3	1
Orleans	7	6	485	474	3	0	1	\$0.00	\$0.00	0	0
Oswego	2	0	0	1756	1	0	3	\$15,000.00	\$500.00	3	3
Otsego	3	2	208	725	1	0	0	\$14,762.00	\$6,461.00	4	14
Putnam	1	1	129	199	2	0	4	\$2,413.50	\$3,585.50	18	11

County	Total # of attorneys funded (Q1)	Total # of funded attorneys providing CAFA (Q1)	Total # of cases represented by funded attorneys (Q1)	Total # of cases receiving counsel at arraignment (Q2)	Total # of non-attorney positions funded (Q3)	Total # of training events funded (Q4.a)	Total # of attorneys attending training events funded (Q4.b)	USD spent on expert services (Q5.a.)	USD spent on investigative services (Q5.b)	Total # of cases with expert services (Q6.a)	Total # of cases with investigative services (Q6.b)
Rensselaer	1	1	312	356	2	0	0	\$0.00	\$0.00	0	0
Rockland	12	11	1005	785	4	3	27	\$2,811.93	\$2,106.93	3	1
Saratoga	7	4	1053	151	2	0	12	\$16,470.00	\$8,872.56	4	12
Schenectady	5	4	1259	1601	5	13	17	\$500.00	\$0.00	166	0
Schoharie	1	0	0	220	1	0	5	\$3,825.00	\$1,000.00	1	1
Seneca	3	0	405	387	1	2	1	\$137.00	\$5,190.36	2	6
St. Lawrence	4	4	1100	2017	1	0	9	\$8,020.90	\$6,222.12	2	5
Steuben	1	1	238	870	3	1	4	\$0.00	\$12,802.00	0	30
Sullivan	12	8	1711	1402	0	8	20	\$0.00	\$3,200.00	0	4

County	Total # of attorneys funded (Q1)	Total # of funded attorneys providing CAFA (Q1)	Total # of cases represented by funded attorneys (Q1)	Total # of cases receiving counsel at arraignment (Q2)	Total # of non-attorney positions funded (Q3)	Total # of training events funded (Q4.a)	Total # of attorneys attending training events funded (Q4.b)	USD spent on expert services (Q5.a.)	USD spent on investigative services (Q5.b)	Total # of cases with expert services (Q6.a)	Total # of cases with investigative services (Q6.b)
Tioga	6	4	634	607	3	8	3	\$15,577.50	\$18,612.50	5	7
Tompkins	1	0	0	691	1	0	0	\$39,294.28	\$3,076.26	5	7
Ulster	10	7	1053	544	4	0	20	\$13,428.40	\$0.00	5	72
Warren	3	2	818	1105	5	0	12	\$23,225.30	\$1,828.35	101	32
Wayne	5	4	599	151	3	1	20	\$9,465.00	\$5,135.00	12	33
Westchester	3	3	271	781	2	33	51	\$13,000.00	\$0.00	56	82
Wyoming	1	1	64	524	3	0	0	\$0.00	\$150.00	113	1
Yates	3	2	317	109	0	0	2	\$8,635.00	\$2,047.50	1	1
TOTAL	565	425	79,231	101,067	341	304	1,146	\$830,520.75	\$367,234.99	4,011	8,936