



Indigent Legal Services

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

PERFORMANCE MEASURES ANNUAL REPORT

May 28, 2021

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Introduction

The 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 reform. This report is the second of a series of annual reports providing a detailed overview of state-funded implementation between April 1, 2018 and March 31, 2021.

Pursuant to Executive Law § 832(4), ILS works with each County and New York City¹ to achieve the three main objectives of the reforms first adopted in the *Hurrell-Harring* 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 First Appearance or CAFA). Second, criminal defense 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. This report provides a summary and assessment of the information reported to ILS using data collected with the ILS Performance Measures Progress Report (Progress Report) form.

The Progress Report Data-Collection and Reporting Process

Over the past three years, ILS has worked with local officials and mandated criminal defense providers to bolster their capacity to collect and accurately report on data pertaining to implementation of the plans as outlined in Executive Law § 832(4). In February 2018, ILS began meeting with providers and county and New York City officials to negotiate a five-year contract (statewide contract), to achieve statewide expansion of the reforms adopted in the *Hurrell-Harring* settlement agreement. Each 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 A). During the negotiation process, ILS discusses the Performance Measures listed in the contract’s Workplan and the need to accurately report on them biannually.

In addition, ILS provides funding for each locality to appoint a Data Officer whose primary function is to be guided by 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.

The Performance Measures Progress Report (Progress Report) form was first developed in preparation for the initial October 1, 2019 reporting period deadline. In early 2020, ILS disseminated a new and improved Progress Report form in the form of an online survey. To that

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.

end, ILS contracted with QuestionPro, a business that sells online research and survey platforms. ILS conducted statewide training sessions in February and May 2020 with providers, local officials, and Data Officers to address any questions pertaining to the new form. While writing the first annual Performance Measures report, which was submitted to the Division of Budget on July 1, 2020, we recognized two areas for improvement in the Progress Report. These were described in the first annual report and subsequently, the Progress Report was updated resulting in the form currently used. (See Appendix B).

ILS continues to meet regularly with Data Officers and providers to address the ILS data reporting requirements. Since the May 2020 training session, ILS conducted an additional 5 training sessions, which occurred in August and December 2020, and February, March, and April 2021. Although all training sessions covered aspects of data reporting, the April 2021 training focused solely on the Progress Report that was due for submission at the end of that month. During that training, which had 100 attendees, ILS provided Data Officers and providers insight into and examples of how the information reported by them in the Progress Report is used in the annual report submitted to the Division of Budget. In addition, ILS presented a step-by-step walkthrough of the Progress Report, highlighting the specific information the questions in the Progress Report seek to elicit, and a detailed description of the instructions and definitions. ILS received many relevant questions before, during, and after the training which shows that Data Officers and providers were taking their reporting duties seriously and making every effort to report the right information.

To further assure accuracy, after receipt of each completed Performance Measure Progress Report, multiple members of the 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. A final review of the data provided was conducted by the Statewide team's Senior Researcher in consultation with ILS Counsel.

Overall, ILS has been successful in further improving the data collection and reporting practices of providers throughout New York State and in taking steps internally to assess the accuracy of the data reported. As described above, we have revised and improved our data collection instrument, the Progress Report. In addition, despite the COVID-19 pandemic, we conducted an increased number of statewide trainings on data reporting. Finally, we implemented a comprehensive protocol for reviewing the data submitted and following up with providers when we suspected inaccuracies. This multi-step, collaborative process resulted in a higher quantity and quality of questions from Data Officers and providers which bolsters our confidence that we achieved a higher quality and accuracy of the data.

This report includes information from the Progress Reports provided by 125 providers.² The list of providers who submitted a Progress Report is attached as Appendix C.

² 124 providers submitted Progress Reports via QuestionPro, while 1 provider submitted the Progress Report information to ILS via telephone and email. ILS did not require the submission of Progress Reports from two

The Covid-19 Pandemic

To fully appreciate the pace of implementing the statewide reforms in Executive Law § 832(4), it is critical to acknowledge the Covid-19 pandemic, the most unprecedented public health crisis in over 100 years, and one that had a deep impact on national, state, and local fiscal operations and court operations. The impact of the pandemic was experienced acutely starting in late-March 2020, lasting throughout the reporting period for this report.

Due to the Covid-19 pandemic and the budget crisis that ensued, many localities initiated hiring freezes. Indeed, New York State implemented both a hiring freeze and a limitation on payments state agencies could make to localities.³ Additionally, providers' and county officials' time and energy were necessarily consumed with implementing steps to protect staff and clients and pivoting to remote work and remote court appearances. Finally, even if providers were able to hire, doing so was incredibly difficult during the pandemic because of the need for social distancing, the child-care challenges many people faced, and the sheer difficulty of on-boarding new staff during a pandemic. Taken together, these realities slowed the pace of implementing the statewide public defense reforms yet surprisingly, not as much as ILS had anticipated.

For instance, we anticipated a lower rate of hiring of attorneys and non-attorneys during the reporting period for this report (April 1, 2020 – March 31, 2021) due to the Covid-19 pandemic. The 138 new attorney hires statewide over the past year was slightly lower than the average of 175 new attorney hires per year (measured over a 2-year period of April 1, 2018 – March 31, 2020, see last year's annual Performance Measures Report), though it was considerably higher than we expected. A slightly different picture emerged for the non-attorney hires in the past year. With a total of 257 non-attorney hires, the number was only 9 more than the number of non-attorney hires reported in last year's annual report (i.e., 248). Obviously, this number was not as high as we would have liked to see however, within the context of the Covid-19 pandemic it was not unexpected.

In the following assessment of the information reported in the April 2021 Performance Measures Progress Report, we will further discuss how the pandemic impacted implementation of the statewide reforms, and where the pandemic may have created some anomalies in the data reported.

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

additional providers, the Columbia County Conflict Defender and 2nd Alternate Conflict Defender, because the Statewide contract currently does not fund any positions for these providers.

³ As discussed later in this report, because of ongoing support from the Division of Budget, unlike other state agencies, ILS did not have to withhold state funding to localities. Doubtless our ability to fully pay local expenditures is at least part of the reason that statewide implementation continued, albeit at a marginally slower pace than in 2019.

March 31, 2021. More detailed data for each specific county is outlined in Appendix D of this report.

This second annual Performance Measures report includes a total of 52 counties and New York City, covering 114 providers of mandated representation in the counties and 11 providers in New York City. As previously stated, all 125 of the providers from which we required a report provided one. The following sections present the information reported by these providers.

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 if 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 in the past year (i.e., April 1, 2020 through March 31, 2021). 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 considerable progress has been made to ensure counsel at arraignment as reported by the 52 counties. The arraignment attorneys New York City providers hired with statewide contract funding make up a significant proportion (n = 193, 49.1%) of the total number. Due to the Covid-19 pandemic, many arraignments over the past year occurred virtually to protect all individuals involved. As court functions return to normal, ILS expects that in-person arraignments will resume, as the law requires.⁵

The Numbers

- Between April 1, 2018 and March 31, 2021, **393 new attorneys who provide counsel at arraignment** have been hired.

⁴ Executive Law § 832(4)(a)(i).

⁵ Specifically, Executive Law § 832(4)(a) provides that people eligible for assigned counsel must be “represented by counsel **in person** at his or her arraignment.” (Emphasis added).

- Of these, **258 were new hires, 57 were upgrades of existing positions** (i.e., extra hours were added to existing part-time positions or contracts), **and 73 were placed on contract.**⁶
- Looking at the **last year only** (April 1, 2020 – March 31, 2021), **109 new attorneys** who provide counsel at arraignment have been hired. **The overwhelming majority of these (n = 69 or 63.3%) were placed on contract**, which is much higher than the proportion of new arraignment attorneys placed on contract in last year’s annual report (n = 4 or 1.4%). This shift in hiring type may be an accommodation to the Covid-related hiring freezes, a reflection of the need for flexibility to ensure the presence of counsel at arraignment, or a combination of both.
- In total, **an estimated 57,490 new arraignment and post-arraignment cases** were assigned to attorneys who were compensated with the State funding in the period of April 1, 2020 – March 31, 2021.
- **For an estimated 64,487 cases, representation at arraignment was provided as a result of the statewide contract funding.**

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 caseload relief, quality improvement, and counsel at first appearance. Specific questions gave providers an opportunity to describe the efforts they made with the use of the State funding to ensure the appearance of defense counsel at arraignment. Many providers reported their progress in hiring attorneys and providing stipends and/or hourly fees to increase arraignment representation. Contract funding also allowed institutional providers to contract with assigned counsel program (ACP) panel attorneys to provide arraignment coverage during off-court hours, and expanded arraignment coverage to more courts. Statewide contract funding has already begun to yield positive results in providing counsel at first appearance. Many providers indicated that since implementation began, they have achieved full arraignment coverage, 24/7, 365 days a year.

Even with improvements in arraignment coverage made during the initial years of implementation, the Covid-19 pandemic presented new and unforeseen challenges for providers. While some providers were able to purchase new laptops and digital equipment to accommodate staff as work shifted remotely and most arraignments were conducted virtually, other providers struggled to keep up with the ever-changing landscape during the pandemic.

As courts continued with video-arraignments for the duration of 2020, inconsistent wireless connectivity and a lack of coordination with courts schedules, particularly in rural areas, was a challenge. As courts shift back to in-person arraignments and some transition back with a hybrid model, these issues continue to be a challenge. The communication that occurs in court between attorneys and judges, family members, and especially with clients, is an essential part of providing quality defense representation. Providers reported that virtual arraignments made it

⁶ For 4 newly hired attorneys who provide counsel at arraignment, information about their hire type was described as “NA”, and for 1 other it was described as “re-hire”.

difficult for attorneys to effectively communicate and connect as they would in a courtroom. Their experiences in this regard emphasize the importance of resuming in-person arraignments as soon as public safety permits.

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*,⁷ ILS set forth caseload standards designed to ensure that providers of representation dedicate sufficient time to each case in which they provide advice or representation to a client. 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 746 positions are funded by the statewide contracts. By any measure, this is a significant contribution to the public criminal defense function.

The Numbers

- Between April 1, 2018 and March 31, 2021, **489 new attorneys were hired** with the funding provided by the statewide expansion of the *Hurrell-Harring* settlement. Of these, **312 were new hires, 67 were upgrades of existing positions** (i.e., extra hours were added to existing part-time contracts), **and 95 were placed on contract**.⁸
- In total, **an estimated 57,490 cases** were represented by attorneys who were hired with the State funding in the period of April 1, 2020 – March 31, 2021.
- Looking at the **last year only** (April 1, 2020 – March 31, 2021), **138 new attorneys** were hired. **The majority of these (n = 77, 55.8%) were placed on contract**, which is much higher than the proportion of new attorneys placed on contract in last year’s annual report (n = 18, 5.1%). This shift in hiring may be an accommodation to the pandemic-related hiring freeze, a reflection of the need for flexibility to ensure arraignment coverage, or a combination of both.
- Although the Covid-19 pandemic slightly slowed the hiring of new attorneys in the past year (i.e., 138 versus an average annual 175 new attorney hires), the number was

⁷ The ILS caseload standards are available here: <https://www.ils.ny.gov/files/Hurrell-Harring/Caseload%20Reduction/Caseload%20Standards%20Report%20Final%20120816.pdf>

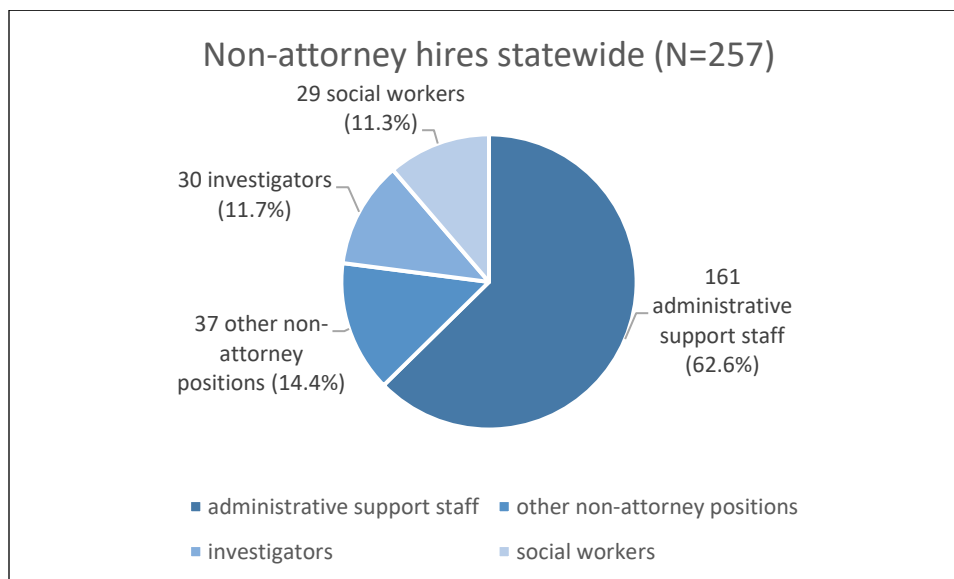
⁸ For 9 attorney positions, information on whether it concerned a new hire, an upgrade of an existing position, or someone placed on contract was missing. An additional 6 attorney positions were labeled as “re-hires” by the Legal Aid Society in New York City.

considerably higher than we expected in light of the hiring freezes many localities implemented and, even when hiring was possible, the challenges of hiring and onboarding new staff amidst a pandemic.

- Additionally, between April 1, 2018 and March 31, 2021, **257 non-attorneys were hired** with the State funding throughout the 52 counties and New York City. Of these, **157 were new hires, 35 were upgrades of existing contracts, and 46 were placed on contract.**⁹
- Of the 257 non-attorneys hired, upgraded, and placed on contract, most were **administrative support staff** (n = 161, 62.6%), followed by **other non-attorney positions** (n = 37, 14.4%), **investigators** (n = 30, 11.7%), and **social workers** (n = 29, 11.3%). See Figure 1 for an overview.
- **There were only 9 more non-attorney hires** reported compared to last year. This number was not as high as we would have liked to see. However, within the context of the Covid-19 pandemic it was not unexpected.
- **46 counties and New York City designated a Data Officer.**

For a detailed overview of attorneys and non-attorney staff for each of the 52 counties and New York City, please see Appendix D.

Figure 1



⁹ For 19 non-attorney positions, information on whether it concerned a new hire, an upgrade of an existing position, or someone placed on contract was missing.

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, to assign fewer cases to attorneys, and to enhance opportunities for the same attorneys to represent their clients continuously throughout the case (often referred to as “vertical representation”). Statewide funding allowed providers to retain experienced attorneys to handle more serious cases and provide supervision and mentoring to new attorneys.

Non-attorney hires assisted in reducing attorney workloads, and providers reported an increase in the use of investigative and expert services. Non-attorney staff are also being effectively used to help track case events and provide regular updates to attorneys. Overall, the hiring of additional attorney and non-attorney staff allowed for reduced caseloads and improved the overall quality of representation that defendants received, as attorneys had more time and staff support for each client.

Challenges associated with the ongoing Covid-19 pandemic was the main struggle reported by providers. Although many courts have now re-opened, many attorneys are struggling with a greater number of current cases (often referred to as “workloads”), which have increased due to a backlog of cases from court closures, limited appearances, and a rise in new case assignments as court activity increases. While the number of new case assignments in 2020 was lower than in 2019, providers reported that their workloads have significantly increased because cases were not being resolved as quickly during 2020 as a result of the pandemic. Providers expressed concern about their current workloads and the challenge of accommodating the expectations of their clients and the courts as courts schedule a growing number of appearances to resolve the backlog of cases created by the pandemic.

Some providers acknowledged that the concern that State funding would be reduced or eliminated as a result of the pandemic impacted Statewide implementation. This concern caused some counties to delay hiring new employees and purchasing necessary technology. More recently, however, providers and county officials have reported to ILS that for two reasons, these concerns are dissipating. First, throughout the pandemic, ILS has been able to fully reimburse localities on all claims. Second, despite the budget crisis, the Governor’s proposed FY 2021-2022 budget and the final enacted budget included full funding for Year 4 of the statewide implementation. Both these measures have helped to instill confidence in continued funding for statewide implementation of the *Hurrell-Harring* initiatives.

A common challenge for Assigned Counsel Programs is the inability to recruit panel attorneys, with ACP Administrators regularly having to rely on reaching out to attorneys outside of the county to handle cases. The statutory pay structure, along with the expansion of public defenders’ offices and the increased hours per case as a result of discovery reform has stunted recruitment efforts.

While the above numbers are impressive, they do not fully capture the enhanced access to critical non-attorney supports. The statewide contracts not only provide funding for hiring these

positions, but also funding to retain non-attorneys on a contractual/consultant basis. This is discussed further in the next section.

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 attorneys providing mandated representation receive effective supervision and training, have access to and appropriately utilize 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 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 489 attorney hires statewide since April 1, 2018, **66 are attorneys who supervise the work of others or provide training/mentoring.**¹⁰
- **350 training events were hosted, sponsored, or cosponsored** by the *Hurrell-Harring* statewide expansion funding between April 1, 2020 and March 31, 2021. Training events include, but are not limited to, professional conferences and Continuing Legal Education (CLE) courses.
- For a total of **2,768 attorneys**, their **attendance at training events** (such as registration fees, travel reimbursements, and accommodations) was supported by the State funding.
- Due to the Covid-19 pandemic almost all trainings were hosted virtually which meant that significantly fewer statewide funds were used for covering costs related to travel and accommodations. In addition, reputable CLE providers such as the New York State

¹⁰ In addition, 36 were Chief attorneys / Administrators or Attorneys in charge, and 387 were attorneys who did not supervise the work of others

Defenders Association (NYSDA) offered many of their virtual CLE-courses free of charge, resulting in less statewide funding needed for training.

- Statewide, a total of **\$569,389 was spent on contracted expert services** and **\$261,895 was spent on contracted investigative services in the past year** (April 1, 2020 – March 31, 2021). Compared with the amounts reported last year (i.e., \$602,472 and \$245,563 respectively, spend over a *two-year period* of April 1, 2018 to March 31, 2020), **the average annual use of statewide funding significantly increased** with 89.0% for contracted expert services and 113.3% for contracted investigative services.
- Expert services provided as a result of statewide contract funding were utilized in a total of **1,680 cases¹¹**. This number includes expert services provided by **both salaried and contracted experts**.
- Investigative services provided as a result of statewide contract funding were utilized in a total of **5,656 cases¹²**. This number includes investigative services provided by **both salaried and contracted investigators**.

Providers' Experiences with Overall Quality Improvement

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

1) Training and Legal Expertise

Several providers mentioned that statewide funding was used for attorney training, most often in the form of Continuing Legal Education (CLE) courses, but also for attending conferences and other trainings. One provider mentioned multiple attorneys attending a comprehensive course on DWI representation. Post-training, the attorneys can bring to the office their newly developed expertise and now mentor and advise other attorneys on these matters. Another provider noted that staff attended many virtual trainings presented by various agencies, many of which were free or at very low cost.

A handful of providers mentioned that although funding was available for training, it was challenging to get staff to enroll in CLEs and other trainings. One provider mentioned that when the Covid-19 pandemic hit, the county was concerned that State reimbursement funds would not be available. As a result, attorney trainings were put on hold. When reimbursement opportunities were offered to attorneys again, they were not always quick to seek training. It was mentioned that heavy work schedules caused by the reopening of courts may have impacted attorneys' ability to set aside time for training, and that time spent dealing with emergency situations caused by the pandemic interfered with attorneys' ability to attend trainings.

Though a handful of providers experienced these forgoing challenges, on the whole, it appears that attorneys took advantage of training opportunities when possible. The New York State Defenders Association (NYSDA) has reported to ILS that having to use a virtual training

¹¹ A direct comparison to the number reported in last year's report is not possible here, as that number is likely a significant underestimate due to a data issue described in last year's report.

¹² Again, a direct comparison to the number reported in last year's report is not possible here, as that number is likely a significant underestimate due to a data issue described in last year's report.

platform allowed it to provide more training opportunities than in previous years, and that these trainings were very well-attended.

In addition, attorneys' access to legal resources and legal networks was further improved by acquiring or expanding access to electronic research platforms (i.e., Westlaw or Lexis-Nexis), the purchase of print legal resources, and paying for attorney memberships to professional organizations.

2) Supervision

Several providers commented on the supervision of less experienced staff attorneys as well as the creation of second chair programs. For instance, some providers noted that statewide funding allowed them to create additional supervisory positions to advise recently hired newly admitted attorneys. One provider mentioned that staff attorneys working with mentor attorneys who have specialized expertise provides clients with unparalleled representation. More experienced attorneys appreciate newly created opportunities to consult with another attorney, especially in programs where such consultation had not been available before. One provider specifically mentioned that "having an additional attorney with whom I work gives me another view of cases and defenses when we consult". Another provider emphasized how helpful it was to consult with another county in developing a mentoring program, which illustrates that providers are effectively collaborating and consulting with each other to effectuate public defense reform.

Several providers also described using statewide funding to provide second chair supports, especially in homicide cases. For instance, one provider mentioned having appointed second chair attorneys to each of two murder cases, which marked the first time in his almost three-decade long career as Administrator that he was able to assign two attorneys to the same case. He encourages this practice not just for murder cases but also other serious felony cases or complex cases. Another provider described that second chair attorneys not only provide support to experienced attorneys on cases but in addition, provide "on the job" training for less experienced attorneys, better preparing them to eventually handle more complex and serious cases.

3) Access to Non-Attorney Professionals

Many providers mentioned their use of statewide funding to contract with and hire a variety of non-attorney professionals including investigators, experts, social workers, non-attorney administrative support staff, grants and data managers, Data Officers, case managers, client liaisons, DNA consultants, forensic psychologists, and interpreters.

Some providers described the successes associated with the use of non-attorney professionals in promoting positive case outcomes and being able to provide a broader range of assistance to clients, including taking a more holistic approach to client representation. In addition, the availability and use of non-attorney professionals provides important support to attorneys as well, allowing attorneys to spend more time on the legal aspects of the case.

Other providers discussed the challenges related to the use of these non-attorney professional services. They mentioned the need to consistently remind staff of the resources now available to them and the importance of using them effectively. Not only the visibility and availability of

these resources, but also the willingness to utilize these resources was brought up. One provider acknowledged that attorneys are not accustomed to having access to these support services, and therefore it is important to help attorneys view these services as an integral and key component of their client representation. Other challenges involved difficulties in hiring qualified candidates interested in non-attorney positions, and resistance from some judges and magistrates (especially in local courts) over the use of support services such as investigators and experts. One provider mentioned a decreased willingness of some experts over the past year to engage in cases due to Covid-19 concerns.

4) Client Communication

The Covid-19 pandemic made client communications very difficult, especially at arraignments, which have been mostly virtual in 2020 and into 2021. Many providers reported limited communication with clients, with some attorneys only speaking with their clients on the phone since they did not have other technology capabilities. This is not an effective method of communication and attorneys are eager to resume meeting their clients in-person. Some providers reported using non-attorney staff to facilitate better and more consistent client communication. Non-attorney staff, particularly investigators, helped attorneys better understand details related to the case and their client's personal circumstance, creating better opportunities for attorneys to communicate effectively with their clients.

5) Hiring and Retaining Qualified Attorneys

The inability to hire and retain qualified attorneys is one of the greatest challenges reported by institutional providers and assigned counsel programs, and a challenge that crosses all areas of implementation. For some providers, issues that pre-dated the Covid-19 pandemic, such as finding attorneys willing to relocate to rural areas and attrition due to non-competitive salaries, continued. The pandemic gave rise to additional challenges to hiring, including counties implementing hiring freezes and salary caps, and refusing to approve new hires due to the perception that case numbers are low. Providers reported that it is also a challenge to hire attorneys with relevant criminal defense experience. Some providers have effectively used statewide funding to create more supervisory level attorney positions. Doing so has two benefits. First, it facilitates the retention of more experienced attorneys. Second, it allows providers to implement mentoring programs to provide newer attorneys with foundational knowledge and ongoing support and oversight.

6) Technology

Providers reported that the Covid-19 pandemic created an immediate need for better technology. Statewide contract funding allowed some providers to quickly adapt to virtual court appearances by providing staff with laptops, cell phones, and web cameras. However, many providers reported that clients and sometimes even judges were not equipped with the right technology to allow for effective communication. Providers also reported unstable wireless and cell phone connections, especially in rural areas. Despite the challenges, some providers were still able to make improvements. Compared to last year, more providers reported purchasing a Case Management System, meaning they are better equipped to record and report data accurately.

While the pandemic created the immediate need for the technology necessary to work remotely and have virtual meetings and court appearances, discovery reform created the need for provider capacity to access, review, and store a significant amount of digital information. Providers reported that District Attorneys share discovery materials digitally, often via email, and on their older computers they experience long download times, during which they cannot work. They also identified the need for more and better printers to print and review discovery, and much enhanced digital storage capacity. Finally, they also need the resources and training that would allow them to effectively utilize discoverable information at trial, and to share discovery with their clients who have limited digital access. As we work on their statewide budgets, ILS is seeking to ensure that providers have the technology needed to effectively represent their clients in an environment that increasingly relies on technology.

Conclusion

In the past year, ILS has taken several additional steps to improve providers' data reporting practices and ensure accurate Performance Measures data. These steps included a revision of the data collection instrument, increased training of Data Officers and providers on data reporting, and a comprehensive internal data review and follow-up process conducted by the entire ILS Statewide implementation team and ILS Counsel. Because of this multi-step collaborative process, we are confident that the Performance Measure data provided this year is more accurate and of a higher quality.

Unique to the Covid-19 pandemic were the several technology issues mentioned by providers as a consequence of moving abruptly to working and communicating remotely and conducting virtual court appearances. Statewide funding allowed many providers to quickly adapt to this new virtual reality and purchase the necessary laptops, cell phones and web cameras.

Still, the Covid-19 pandemic affected providers of mandated public defense to a different extent. Assigned Counsel Programs (ACPs) and providers in rural areas experienced certain challenges at a greater magnitude than institutional providers or providers in urban areas, and the Covid-19 pandemic exacerbated these challenges. Some of the ACP programs and rural providers reported difficulties attracting and retaining qualified attorneys and non-attorneys, including Administrators to run the developing ACP programs.

However, despite the Covid-19 pandemic, providers reported several implementation successes. Given the Covid-19 budget crisis that deeply impacted national, state, and local budgets, ILS initially anticipated a significantly slower pace of statewide implementation of public defense reforms. However, the Performance Measures data in this report demonstrates that despite the pandemic, implementation continued. In fact, for some data points, such as the number of attorney hires in the past year, the numbers were considerably higher than would have been expected in light of the budget crisis and the sheer difficulty of hiring and onboarding staff in the middle of a pandemic.

As previously stated, two factors were instrumental in building local confidence that the Statewide funding would continue. First was the fact that ILS was able to fully reimburse localities for expenditures incurred, and second was the fact that Year 4 of Statewide

implementation was fully funded in the Governor's proposed FY 2021-2022 budget and the final enacted budget. ILS believes that the State's ongoing commitment to public criminal defense reform is why statewide implementation merely slowed, and did not stall, during the most unprecedented public health crisis since the early 1900s.

Overall, Statewide contract funding allowed providers of mandated criminal defense representation to not only stay afloat during a global pandemic but make real improvements in public defense reform.

APPENDICES

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

Appendix B. *Performance Measures Progress Report form*

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.*

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.



**Indigent
Legal Services**

Performance Measures Progress Report April 2021

Thank you for completing the April 2021 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 as allocated in the five-year contract supporting statewide implementation of the *Hurrell-Harring* settlement agreement reforms. The Progress Report is **due for submission by April 30, 2021**. 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 contract (Contract) supporting statewide implementation of the *Hurrell-Harring* settlement agreement 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 on April 1, 2021. Alternatively, the Progress Report form may be downloaded from the ILS website at <https://www.ils.ny.gov/content/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, 2021.

Sample of Attachment B-1

Budget Expenditure Item	Year 1 4/1/18 – 3/31/19
PUBLIC DEFENDER'S OFFICE	
CASELOAD RELIEF	
Personnel:	
Supervisor	\$80,000.00
Assistant Public Defender	\$70,000.00
Paralegal	\$44,737.00
Secretary	\$35,000.00
Fringe Benefits:	
For positions	\$43,000.00
Data Officer (stipend)	\$20,000.00
Caseload Relief - Subtotal	\$292,737.00
QUALITY IMPROVEMENT	
Contracted/Consultant:	
Expert Services	\$80,000.00
Investigator	\$15,000.00
Subtotal Contracted/Consultant	\$95,000.00
OTPS:	
Computer Equipment	\$20,000.00
Legal Reference	
Material/Books/Transcripts	\$10,000.00

This is a sample of the budget for a hypothetical Public Defender Office.

Note the lines for personnel and Contracted/Consultant entries

Subtotal OTPS	\$30,000.00
Quality Improvement - Subtotal	\$125,000.00
COUNSEL AT FIRST APPEARANCE Personnel/Contracted/Consultant/OTPS:	\$0.00
Counsel at First Appearance - Subtotal	\$0.00
PUBLIC DEFENDER'S OFFICE - TOTAL	\$417,737.00

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
-

* 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.



* 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 attorney positions** that are funded as of March 31, 2021 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, 2020 and March 31, 2021**.

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> attorney positions that were funded through the Contract on the last business day of the reporting period (i.e., March 31, 2021).</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 where they were not filling a position created by this funding.</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, 2021), 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, 2021). For example, an existing attorney whose position changed from part- to full-time would be included in this category. Salary increases 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, 2021). 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, 2020 and March 31, 2021. 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 contract), please estimate the number of additional cases they were assigned as a result of the upgraded position.

	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 --

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Attorney
Position
20

-- Select -- ▼		-- Select -- ▼	-- Select --
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Attorney
Position
21

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Attorney
Position
22

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Attorney
Position
23

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Attorney
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24

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Attorney
Position
25

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Attorney
Position
26

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Attorney
Position
27

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Attorney
Position
28

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Attorney
Position
29

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Attorney
Position
30

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Attorney
Position
31

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Attorney
Position
32

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Attorney
Position
33

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Attorney
Position
34

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Attorney
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35

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Attorney
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Attorney
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38

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Attorney
Position
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Attorney
Position
40

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Attorney
Position
41

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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

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Attorney
Position
45

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Attorney
Position
46

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Attorney
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47

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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 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 here, unless it was the defendant's first court appearance.

INSTRUCTIONS AND DEFINITIONS

General Instructions

Please include arraignments covered by:

- 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 non-attorney positions** that are funded as of March 31, 2021 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> non-attorney positions that were funded through the Contract on the last business day of the reporting period (i.e., March 31, 2021).</p> <p>Answers to this question should include non-attorneys receiving funding for improvement of 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 currently employed non-attorneys who receive stipends (e.g., a stipend issued to a currently staffed grants administrator).</p>
Type of Contract	
<i>New Hire</i>	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, 2021). It includes, when applicable, ACP administrators.
<i>Upgrade of Existing Hire</i>	refers to any non-attorney position that was filled prior to the reporting period, and that was filled on the last business day of the reporting period (i.e., March 31, 2021), and for which the number of hours worked was increased. For example, an existing social worker whose position changed from part- to full-time would be included in this category. Salary increases 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 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, 2021). It excludes contractors who did not occupy a position, such as those who received stipends.
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, 2020 and March 31, 2021. 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, 2020 and March 31, 2021. This includes money spent towards for instance 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 services** listed in the Contract (see Attachment B-1), please estimate for the period between April 1, 2020 and March 31, 2021 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 <u>actually spent</u> towards contracted expert services and contracted investigative services between April 1, 2020 and March 31, 2021. 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 <u>actual money spent</u> 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 <u>not</u> include process servers and transcript 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, 2020 and March 31, 2021 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, 2020 and March 31, 2021 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, 2020 and March 31, 2021 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 C: List of Providers in New York State who submitted a Progress Report

County	Provider	Progress Report Submission Date
Albany	Assigned Counsel Program	4/30/2021
Albany	Public Defender's Office	5/3/2021
Albany	Alternate Public Defender's Office	4/30/2021
Allegany	Assigned Counsel Program	4/30/2021
Allegany	Public Defender's Office	4/30/2021
Broome	Public Defender's Office	4/29/2021
Broome	Comptroller	4/30/2021
Cattaraugus	Assigned Counsel Program	4/15/2021
Cattaraugus	Public Defender's Office	4/29/2021
Cayuga	Assigned Counsel Program	5/4/2021
Chautauqua	Assigned Counsel Program	4/19/2021
Chautauqua	Public Defender's Office	4/30/2021
Chemung	Assigned Counsel Program	4/8/2021
Chemung	Public Defender's Office	4/30/2021
Chemung	Public Advocate's Office	4/29/2021
Chenango	Public Defender's Office	4/27/2021
Chenango	Assigned Counsel Program	4/27/2021
Clinton	Assigned Counsel Program	4/13/2021
Clinton	Public Defender's Office	4/13/2021
Columbia	Public Defender's Office	4/7/2021
Columbia	First Alternative Conflict Defender's Office	4/4/2021
Columbia	Assigned Counsel Program	5/6/2021
Cortland	Public Defender's Office	4/30/2021
Cortland	Assigned Counsel Program	4/5/2021
Delaware	Assigned Counsel Program	4/20/2021
Delaware	Public Defender's Office	4/19/2021

County	Provider	Progress Report Submission Date
Dutchess	Assigned Counsel Program	4/27/2021
Dutchess	Public Defender's Office	4/19/2021
Erie	Erie County Bar Association Aid to Indigent Prisoners Society, Inc.	4/30/2021
Erie	Legal Aid Bureau of Buffalo Inc.	4/27/2021
Essex	Assigned Counsel Program	4/21/2021
Essex	Public Defender's Office	4/21/2021
Franklin	Assigned Counsel Program	4/5/2021
Franklin	Conflict Defender's Office	5/4/2021
Franklin	Public Defender's Office	4/14/2021
Fulton	Assigned Counsel Program	4/19/2021
Fulton	Public Defender's Office	4/20/2021
Genesee	Assigned Counsel Program	5/6/2021
Genesee	Public Defender's Office	4/27/2021
Greene	Assigned Counsel Program	5/3/2021
Greene	Public Defender's Office	4/28/2021
Hamilton	Public Defender's Office	4/28/2021
Hamilton	Assigned Counsel Program	5/6/2021
Herkimer	Assigned Counsel Program	4/29/2021
Jefferson	Assigned Counsel Program	4/30/2021
Jefferson	Public Defender's Office	4/30/2021
Lewis	Public Defender's Office	4/29/2021
Lewis	Assigned Counsel Program	4/30/2021
Lewis	Conflict Defender's Office	5/11/2021
Livingston	Conflict Defender's Office	5/6/2021
Livingston	Public Defender's Office	5/4/2021
Livingston	Assigned Counsel Program	5/7/2021
Madison	Public Defender's Office	5/19/2021
Madison	Assigned Counsel Program	4/29/2021
Monroe	Public Defender's Office	4/25/2021
Monroe	Conflict Defender's Office	4/26/2021
Monroe	Assigned Counsel Program	4/26/2021
Montgomery	Public Defender's Office	4/29/2021

County	Provider	Progress Report Submission Date
Montgomery	Assigned Counsel Program	5/17/2021
Nassau	Assigned Counsel Program	4/29/2021
Nassau	Legal Aid Society of Nassau County	4/22/2021
New York City	Assigned Counsel Plan, Appellate Division, First Judicial Department	4/30/2021
New York City	Assigned Counsel Plan, Appellate Division, Second Judicial Department	4/30/2021
New York City	Appellate Advocates	4/28/2021
New York City	Bronx Defenders	4/30/2021
New York City	Brooklyn Defender Services	5/2/2021
New York City	Center for Appellate Litigation	4/6/2021
New York City	The Legal Aid Society	4/30/2021
New York City	Neighborhood Defender Services	4/30/2021
New York City	New York County Defender Services	4/29/2021
New York City	Office of the Appellate Defender	4/28/2021
New York City	Queens Defenders (formerly Queens Law Associates)	4/22/2021
Niagara	Conflict Defender's Office	4/30/2021
Niagara	Assigned Counsel Program	4/30/2021
Niagara	Public Defender's Office	4/30/2021
Oneida	Assigned Counsel Program	4/27/2021
Oneida	Public Defender's Office	4/9/2021
Orange	Assigned Counsel Program	4/30/2021
Orange	Legal Aid Society of Orange County	4/28/2021
Orleans	Assigned Counsel Program	5/1/2021
Orleans	Public Defender's Office	4/23/2021
Oswego	Assigned Counsel Program	5/12/2021
Otsego	Public Defender's Office	4/26/2021
Otsego	Assigned Counsel Program	4/28/2021
Putnam	Legal Aid Society of Putnam County	4/28/2021
Putnam	Assigned Counsel Program	4/30/2021

County	Provider	Progress Report Submission Date
Rensselaer	Assigned Counsel Program	4/7/2021
Rensselaer	Conflict Defender's Office	4/15/2021
Rensselaer	Public Defender's Office	4/25/2021
Rockland	Assigned Counsel Program	4/29/2021
Rockland	Public Defender's Office	4/8/2021
Saratoga	Conflict Defender's Office	5/10/2021
Saratoga	Assigned Counsel Program	4/23/2021
Saratoga	Public Defender's Office	4/21/2021
Schenectady	Public Defender's Office	4/12/2021
Schenectady	Conflict Defender's Office	5/17/2021
Schenectady	Assigned Counsel Program	4/8/2021
Schoharie	Assigned Counsel Program	4/30/2021
Seneca	Public Defender's Office	4/27/2021
Seneca	Assigned Counsel Program	4/27/2021
St. Lawrence	Assigned Counsel Program	4/30/2021
St. Lawrence	Conflict Defender's Office	4/27/2021
St. Lawrence	Public Defender's Office	4/30/2021
Steuben	Assigned Counsel Program	4/5/2021
Steuben	Conflict Defender's Office	4/28/2021
Steuben	Public Defender's Office	4/29/2021
Sullivan	Conflict Legal Aid Bureau	4/8/2021
Sullivan	Legal Aid Panel	4/17/2021
Sullivan	Assigned Counsel Program	4/12/2021
Tioga	Assigned Counsel Program	4/19/2021
Tioga	Public Defender's Office	4/7/2021
Tompkins	Assigned Counsel Program	4/28/2021
Ulster	Assigned Counsel Program	4/27/2021
Ulster	Public Defender's Office	4/30/2021
Warren	Assigned Counsel Program	4/28/2021
Warren	Public Defender's Office	4/30/2021
Wayne	Assigned Counsel Program	5/11/2021
Wayne	Public Defender's Office	4/16/2021

County	Provider	Progress Report Submission Date
Westchester	Legal Aid Society of Westchester County	4/30/2021
Westchester	Assigned Counsel Program	4/30/2021
Wyoming	Public Defender's Office	4/27/2021
Wyoming	Assigned Counsel Program	4/30/2021
Yates	Assigned Counsel Program	4/30/2021
Yates	Conflict Defender's Office	4/30/2021
Yates	Public Defender's Office	4/29/2021
53 (includes NYC)		125 of 125 Progress Reports Submitted

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

County	Total # of attorney s 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 investigativ e services (Q5.b)	Total # of cases with expert services (Q6.a)	Total # of cases with investigat ive services (Q6.b)
Albany	18	17	3237	2675	10	13	29	\$12,530.00	\$2,907.17	31	13
Allegany	1	0	0	0	1	0	6	\$12,028.75	\$6,956.95	4	6
Broome	1	1	124	124	2	0	0	\$0.00	\$0.00	0	0
Cattaraugus	2	2	556	1749	1	0	3	\$4,725.00	\$0.00	1	0
Cayuga	0	0	0	750	2	4	12	\$5,167.00	\$17,344.00	12	30
Chautauqua	6	5	1878	3741	7	1	12	\$7,750.00	\$0.00	6	1482 ⁱ
Chemung	2	0	428	51	2	0	0	\$5,577.50	\$0.00	8	0
Chenango	1	1	262	855	5	0	0	\$0.00	\$0.00	0	0
Clinton	7	7	2149	2149	5	0	7	\$0.00	\$0.00	0	350

County	Total # of attorney s 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 investigativ e services (Q5.b)	Total # of cases with expert services (Q6.a)	Total # of cases with investigat ive services (Q6.b)
Columbia	2	2	507	682	2	0	3	\$3,207.50	\$9,362.10	6	2
Cortland	3	3	398	501	2	0	11	\$13,976.00	\$3,083.00	6	3
Delaware	3	3	619	619	2	4	3	\$5,415.20	\$4,711.83	1	14
Dutchess	9	7	527	527	9	15	47	\$0.00	0.00	0	0
Erie	22	18	1625	9934	21	39	1411	\$85,059.10	\$0.00	258	1045
Essex	1	1	43	271	1	0	0	\$0.00	\$0.00	0	89
Franklin ⁱⁱ	2	1	13	0	4	0	0	\$0.00	\$0.00	0	0
Fulton	3	3	431	666	4	0	0	\$0.00	\$0.00	0	0
Genesee	3	2	268	233	1	0	8	\$750.00	\$0.00	3	0

County	Total # of attorney s 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 investigativ e services (Q5.b)	Total # of cases with expert services (Q6.a)	Total # of cases with investigat ive services (Q6.b)
Greene	2	2	146	1066	1	0	0	\$0.00	\$0.00	0	0
Hamilton	3	3	76	76	1	0	0	\$0.00	\$0.00	0	0
Herkimer	0	0	0	0	0	0	0	\$0.00	\$0.00	0	0
Jefferson	0	0	0	0	3	8	0	\$600.00	\$225.00	1	26
Lewis	9	7	754	239	4	0	0	\$0.00	\$0.00	0	0
Livingston	8	8	459	979	4	0	6	\$36,606.00	\$13,121.00	32	14
Madison	4	4	731	196	4	0	0	\$1,000.00	\$3,000.00	2	4
Monroe	23	22	3266	3817	14	21	125	\$60,004.00	\$72,509.00	32	89
Montgomery iii	1	1	370	650	2	0	1	\$9,250.00	\$8,518.60	4	13

County	Total # of attorney s 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 investigativ e services (Q5.b)	Total # of cases with expert services (Q6.a)	Total # of cases with investigat ive services (Q6.b)
Nassau	7	5	1786	627	1	0	0	\$0.00	\$0.00	0	0
New York City	249	193	24656	18901	88	209	887	\$105,984.00	\$86,622.00	857	2368
Niagara	11	10	921	570	6	1	12	\$2,250.00	\$0.00	1	0
Oneida	4	3	824	1523	7	0	0	\$5,233.55	\$0.00	74	1
Orange	9	7	1188	1188	2	0	0	\$0.00	\$0.00	0	0
Orleans	3	3	176	340	4	0	1	\$0.00	\$0.00	0	0
Oswego	2	0	0	420	2	0	0	\$15,000.00	\$500.00	10	1
Otsego	2	2	94	94	2	0	0	\$28,132.05	\$12,149.15	17	12
Putnam	7	7	1173	606	4	0	4	\$21,645.25	\$1,253.00	10	4

County	Total # of attorney s 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 investigativ e services (Q5.b)	Total # of cases with expert services (Q6.a)	Total # of cases with investigat ive services (Q6.b)
Rensselaer	1	1	224	160	1	0	0	\$0.00	\$0.00	0	0
Rockland	11	10	1413	595	2	3	65	\$5,000.00	\$0.00	2	0
Saratoga	5	3	833	112	0	1	9	\$7,433.43	\$4,583.38	2	5
Schenectady	4	3	1092	888	2	1	16	\$3,000.00	\$1,500.00	7	5
Schoharie	1	0	0	143	1	0	0	\$0.00	\$962.50	0	1
Seneca	2	0	223	243	0	0	0	\$0.00	\$50.00	0	1
St. Lawrence	4	4	1050	823	0	0	13	\$0.00	\$1,903.75	0	3
Steuben	5	2	521	332	4	4	26	\$0.00	\$504.00	0	2
Sullivan	7	5	660	926	0	0	9	\$0.00	\$2,600.00	0	5

County	Total # of attorney s 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 investigativ e services (Q5.b)	Total # of cases with expert services (Q6.a)	Total # of cases with investigat ive services (Q6.b)
Tioga	4	4	383	383	3	24	12	\$9,875.00	\$1,905.00	2	2
Tompkins	1	0	0	962	0	0	0	\$11,723.75	\$1,525.86	6	2
Ulster	6	4	555	492	2	0	0	\$1,771.25	\$0.00	14	0
Warren	1	1	263	665	6	0	13	\$18,015.00	\$550.00	86	1
Wayne	2	2	173	752	2	1	11	\$18,049.77	\$1,500.00	35	1
Westchester	2	1	128	18	1	1	6	\$30,000.00	\$0.00	85	61
Wyoming	1	1	7	34	3	0	0	\$0.00	\$0.00	63	0
Yates	2	2	280	117	0	0	0	\$22,630.00	\$2,047.50	2	1
TOTAL	489	393	57,490	64,487	257	350	2768	\$569,389.10	\$261,894.79	1,680	5,656

ⁱ The number reported reflects every case that was touched by the investigator hired with statewide funding, including those where the involvement was limited to an intake interview.

ⁱⁱ Please note that the reported number of cases receiving counsel at arraignment for the providers in Franklin County is zero. In fact, statewide funding is used to compensate for *a portion* of the off-hour arraignment handled by the Chief of the Public Defender's Office: The "on-call stipend" paid for the Chief to be on call, regardless of whether there are arraignments that take place. The other portion of the off-hour arraignment compensation – a compensation fee paid for each arraignment that takes place – is paid from a different funding source.

ⁱⁱⁱ Please note that Madison County used to have a Public Defender's Office, however, it was defunded as of January 1, 2021. The data reported for the Public Defender's Office therefore do not include the year 2021.

