



**Indigent  
Legal Services**



# Ninth Annual Report

INDIGENT LEGAL SERVICES BOARD

CALENDAR YEAR 2020

# Table of Contents

DIRECTOR’S SUMMARY .....	1
I. <i>HURRELL-HARRING</i> SETTLEMENT IMPLEMENTATION .....	3
II. STATEWIDE EXPANSION .....	4
III. ASSIGNED COUNSEL PLAN SUMMITS.....	5
IV. QUALITY ENHANCEMENT: CRIMINAL DEFENSE TRIALS .....	6
V. IMMIGRATION ASSISTANCE .....	7
VI. QUALITY ENHANCEMENT: PARENTAL REPRESENTATION.....	8
VII. QUALITY ENHANCEMENT: APPELLATE REPRESENTATION .....	9
VIII. RESEARCH.....	10
IX. GRANTS UNIT AND ADMINISTRATIVE INFRASTRUCTURE .....	12
ILS Board Members.....	14
ILS Staff .....	14

## DIRECTOR'S SUMMARY

Calendar year 2020 will long be remembered as the year of the coronavirus pandemic, which imposed upon New York a nearly unprecedented public health crisis, accompanied by an extremely serious fiscal crisis. It was also a year that will long be remembered for the heroic commitment and stellar performance of the staff of the Office of Indigent Legal Services. Despite the necessity of working remotely, despite the inability to fill vacant staff positions, and despite a sharp reduction in State Aid to Localities, ILS staff kept every commitment in support of the improvement of legally mandated representation to the counties and New York City. By year's end, we could say that no voucher seeking reimbursement for locally provided representation had been reduced one iota. Indeed, we could say that payments to localities increased beyond those of any prior year.

Our payment performance was matched by steadfast adherence to policy priorities. While the statewide fiscal emergency in March frustrated our advocacy for \$5 million in Aid to Localities for the improvement of parental representation in Family Court cases, we persisted in our advocacy for this first-ever dedicated State support for the representation of parents who are without funds to pay for counsel. All through the year, our staff worked on extending the 2016 Eligibility Criteria and Procedures for criminal cases, by developing comprehensive Eligibility Standards that would apply to all cases, as recommended by Chief Judge Janet DiFiore's Commission on Parental Legal Representation in its 2019 Interim Report. In December, these new Standards were endorsed by the Board in a unanimous vote. As the year ended, we worked assiduously to achieve another key Commission recommendation: the development of parental representation caseload standards, modeled after our 2016 criminal caseload standards and, like those standards, intended to be fully funded by the State. We anticipate Board consideration and approval of these new caseload standards in 2021.

Despite the fiscal crisis, we were also successful in securing full funding in the amount of \$150 million for the third year of statewide implementation of the *Hurrell-Harring* Settlement reforms, which guarantee the assistance of counsel at arraignment, compliance with rigorous ILS caseload standards, and an array of quality enhancements in publicly funded criminal defense, pursuant to Executive Law § 832 (4). We thank our staff, our Board, Governor Cuomo, and the State Legislature for their proven commitment to ensuring high-quality representation for every person accused of crime who cannot afford to retain counsel.

In 2020, data gathering and Assigned Counsel Program (ACP) leadership development reached unprecedented heights. Most counties appointed a Data Officer charged with the responsibility to gather accurate and comprehensive data from each of the county's mandated representation providers. ILS conducted a series of trainings with the aim of ensuring the collection of accurate case numbers and information, so that the reforms we are implementing may be targeted precisely in accordance with need. Most counties also created, improved, or grew their ACPs with our assistance, with the aim that high-quality representation would be available to all clients, regardless of whether they are represented by institutional providers or 18B attorneys. In helping counties and New York City to establish or revitalize their ACP operations, we have made consistent use of the 2019 ILS Standards for Establishing and Administering Assigned Counsel Programs, which were highlighted in last year's report. In July 2020, ILS began hosting regular ACP summit

meetings at which more seasoned ACP leaders informed their peers about their challenges and successful strategies. All ACP leaders were invited to join the ILS ACP listserv, which is proving to be a valuable tool for all who use it.

We contributed importantly to the deliberations of the Raise the Age Task Force by emphasizing the unfinished business of eliminating racial disparity and upstate disparity in the operation of this generally beneficial enactment.

At its September meeting, the Board approved our budget request for FY 2021-22, which included an additional \$50 million (total of \$200 million) for the fourth year of implementation of statewide public criminal defense reform, and \$5 million to support quality improvement for parental representation. The Board also approved our request to establish a Statewide Appellate Support Center to redress the inequity in State appellate support between the prosecution and the defense and as an essential element in the fulfillment of statewide public criminal defense reform.

At its December meeting, Chief Judge DiFiore and other members of the Board lauded John Dunne, who died at the age of 90 in early November, for his lifetime of service in the public interest—from his courageous actions as a negotiator at the Attica Prison in 1971, through a distinguished legislative career, national service as Assistant Attorney General for Civil Rights, and as a founding and essential member of the Boards of Prisoners' Legal Services and ILS. We will miss John's contributions badly, even as we daily draw inspiration by his example.

I conclude very much as I closed my last Director's message:

Thanks to the excellent work of our staff, the stalwart support of our Board, the cooperation of every New York locality, and the funding provided by the Governor and Legislature, 2020 was a year in which very significant progress was achieved, under the most challenging circumstances. Challenges of course remain, most especially the completion of statewide public criminal defense reform under Executive Law § 832 (4), and the implementation of the comprehensive reforms recommended by Chief Judge DiFiore's Commission on Parental Legal Representation. We eagerly look forward to meeting those challenges in the years to come.

*–William J. Leahy  
May 2021*

## I. HURRELL-HARRING SETTLEMENT IMPLEMENTATION

Calendar year 2020 marked the fifth year since the March 2015 court certification of the *Hurrell-Harring v State of New York* Settlement. Despite the volatile environment caused by COVID-19, the HH Team remained resolute in their work to ensure continued progress in the five Settlement counties—Onondaga, Ontario, Schuyler, Suffolk, and Washington—and to guarantee access to counsel and quality representation via the Settlement’s historic reforms. The HH Team also welcomed new Team members in 2020: in April, Jennifer Chenu joined ILS as the new HH Caseload Standards Implementation Attorney and in June, Brendan Keller assumed the role of HH Counsel at Arraignment Implementation Attorney.

### *Hurrell-Harring Providers:* Making Progress, Prepared for Change

As part of Settlement implementation and to effectuate ILS’s overall mission, the HH Team works with the five counties to collect and report information on implementation. This year’s opportunity for evaluation revealed one common theme: the infrastructures and additional resources put in place pursuant to the Settlement, and \$23.9 million in State funding, allowed the *Hurrell-Harring* providers to effectively meet the challenges presented by COVID-19 and the changes to defense practice under new bail and discovery reforms. Public defense providers were faced with an abrupt shift to remote proceedings and a constantly changing legal landscape. As a result, much of our work in 2020 was focused on supporting their efforts and learning about these issues.

### Access to Counsel: Eligibility And Counsel at Arraignment

In April 2020, the Team issued its fourth annual update report on the implementation of the Eligibility and Criteria and Procedures in the *Hurrell-Harring* counties. The report reviewed 2019 data and practices and concluded that *Hurrell-Harring* providers continue to implement the Eligibility Standards and that structures and protocols in place because of the Settlement allowed the providers to fully prepare for potential changes resulting from the new bail laws that went into effect on January 1, 2020. Because the Eligibility Standards allow providers to fairly discern assigned counsel eligibility, eligible individuals were getting counsel without significant delay or burden, and providers were prepared for earlier eligibility screening and assignment of counsel that may be necessary as a result of bail reform. However, the report’s conclusion coincided with the curveball: the COVID-19 crisis and the need to shift to remote communication. The HH Team worked to understand the impact on eligibility screenings and to support the HH providers as they adapted their current practices to a virtual setting. The solid structures and innovative initiatives already undertaken by the HH providers to ensure access to counsel allowed them to effectively transition their screening procedures.

In November, as part of the HH Team’s annual update on implementation of counsel at arraignment in the five counties, we further learned and reported that public defenders in the five counties continued to provide full arraignment coverage despite the abrupt shift to virtual arraignment proceedings in March 2020. We concluded:

Given the unprecedented circumstances of the present reporting period, this report is...a strong endorsement of the strategy for and execution of Settlement implementation so far. Mission-driven leadership in the *Hurrell-Harring* providers, adequate funding, and thoughtful structural improvements allowed providers in the five counties to respond to this public health crisis that requires people to avoid in-person contact with others.

## Caseload Standards Compliance and Continued Quality Representation

April marked the first full year since the *Hurrell-Haring* providers met caseload standards in 2019, and all providers remained in compliance. In October 2020, pursuant to section IV(E) of the Settlement, the HH Team reviewed information collected and reported by the five counties to evaluate the effectiveness of the caseload standards on reducing overall caseloads and enhancing the quality of representation. The HH Team altered their research plan, which envisioned in-person interviews and court observations in the spring and summer of 2020. Together, Team attorneys and HH researchers worked to develop a new strategy. In the summer, a series of surveys were sent to attorneys, supervisors, mentors, investigators, social workers, and mitigation specialists. The Team reviewed the survey responses and followed up with targeted phone interviews. The HH Team also analyzed information collected from the five counties during Settlement implementation from a case closing form which tracks quality markers in case representation. The result of this information-gathering and research was a comprehensive window into attorney practice in the five counties, despite the inability to conduct in-person research. Although 2020 tested the HH providers, it was clear that they have made significant progress since meeting caseload standards. Overall, data showed that attorneys in the HH counties are communicating more frequently with clients, and there is increased access to, and use of, non-attorney professional supports such as investigators and experts.

## II. STATEWIDE EXPANSION

The Statewide expansion of the *Hurrell-Haring* reforms pursuant to Executive Law § 832 (4) continued with the third installment of State funding in FY 2020-21, bringing the total funding available to \$150 million to extend the Settlement's reforms statewide. As noted in last year's report, under the Executive Law, ILS developed plans in 2017 to effectuate full implementation statewide by 2023. Since then, the Statewide Implementation Team has negotiated budget proposals and developed work plans with each locality. In 2020, the Statewide Team completed the second year of negotiating budget proposals and developing work plans for each locality and then began a similar process for the third year of statewide reform. The Team also welcomed two new implementation attorneys, Claire Knittel and Kathryn Murray, who joined ILS in January 2020, and said goodbye to its first Team Chief, Joanne Macri, in July 2020 who pursued a unique opportunity in international criminal justice policy. ILS's Director of Quality Enhancement for Criminal Defense Trials, Matt Alpern, was appointed Interim Chief Statewide Implementation Attorney and led the Team's work for the second half of the year.

By March 2020, the global pandemic began to have a significant impact on county operations and budgets, resulting in many localities implementing hiring freezes, significantly limiting spending,

or both. Despite these challenges, the Statewide Team continued to make progress in achieving caseload reduction, quality improvement, and counsel at first appearance. As ILS reached the midpoint of the five-year plan, the Team was particularly focused on ensuring that the pandemic did not stall progress toward meeting ILS caseload standards. The Team’s effective collaboration with localities, combined with the ongoing availability of State funding, resulted in the continued hiring and upgrading of attorney and non-attorney positions, albeit at a slower pace than in the two previous years of Statewide implantation. To advance the quality-improvement mission, in 2020, the Statewide Team focused on the essential areas of supervision, training, access to non-attorney professional services, client communication, and attorney qualifications. The Team has also begun a unique collaboration with Gideon’s Promise—a nationally recognized nonprofit public defender organization—that will focus on the development of public defense leadership skills and improvement of office culture in a cross-section of programs throughout New York State. As a result of these efforts, localities are taking advantage of ILS resources to increase supervisory capacity; provide a wide variety of training options for attorneys; bolster their investigation, expert, and sentencing resources; ensure that attorneys have the time and resources to communicate effectively with their clients; and support providers in recruiting and retaining qualified staff.

Finally, the Statewide Team advanced the ability of localities to provide Counsel at First Appearance. Continuing into 2020, nearly all localities had programs in place to provide counsel at all clients’ initial arraignments. The lack of an attorney is the exception, rather than the unconstitutional norm that existed prior to the creation of ILS. These efforts have been aided by ILS’s partnership with the judiciary and other stakeholders, as well as by the creation of Centralized Arraignment Parts. ILS has provided funding to compensate attorneys for the extra time they must remain on call, as well as for technology and other resources to support having attorneys at a client’s initial appearance.

### III. ASSIGNED COUNSEL PLAN SUMMITS

In 2020, ILS continued to build the network of ACP leadership by expanding the *Hurrell-Harring* ACP Summits to include ACP leaders across the State. The Statewide ACP Summits, hosted quarterly by ILS, have been an invaluable bridge between ACP leadership in the *Hurrell-Harring* counties and leaders of new and developing programs throughout the State.

In addition to bolstering individual programs, ILS recognized the need for a sense of community among ACP leaders as they transform their programs. The *Hurrell-Harring* ACP Summits in 2017-2019 brought together ACP leadership in the five Settlement counties to achieve this goal. During these Summits, leaders received advice from experienced assigned counsel leaders and supported each other. The success of the *Hurrell-Harring* ACP Summits made clear that, once ILS began implementing reforms on a statewide level, the opportunity for ACP collaboration should also be extended statewide. The original plan for the Statewide ACP Summits was to hold a multi-day in-person conference. However, the pandemic required ILS to shift to a virtual platform. The silver lining is that these virtual meetings enabled ILS to organize more frequent Summits, offering ACP leaders more consistent interactions. The *Hurrell-Harring* and Statewide Implementation Teams have worked together to develop and host an ongoing series of Summits, starting with the Inaugural Statewide ACP Summit in July 2020. During the first Summit, participants discussed the foundational experiences of the *Hurrell-Harring* Settlement county ACPs and the application

of the ILS Assigned Counsel Standards. This meeting was followed by a fall Summit on Structuring and Encouraging the Use of Non-Attorney and Expert Resources. At the end of 2020, the Teams continued with planning additional quarterly summits for 2021. The selection of Summit topics is driven by the ACP leaders, and ILS strives to make each one relevant to all ACPs, regardless of their size or stage of development.

These Summits, as well as the ILS ACP Administrator listserv established in 2020, provide a forum for the ACP leaders to share ideas, discuss common concerns, and lean on one another for support. ACP leaders are encouraged to reach out to colleagues across the State who are facing, or have faced, similar issues. At the Statewide Summits, the *Hurrell-Harring* ACP leaders have established themselves as trailblazers for reform; they are now the experienced leaders who can act as advisors, while also learning from the experiences of colleagues around the State.

Historically in New York, ACP attorneys have worked in isolation. The Statewide Summits have shown the value in bringing together ACP leadership to create a strong statewide community. ACP leaders are reassured that they are not alone in their struggles. The Administrators and their staff are working toward the same goal—improving the quality of mandated representation.

#### IV. QUALITY ENHANCEMENT: CRIMINAL DEFENSE TRIALS

As noted in the Statewide Expansion section, for much of 2020, the ILS Director of Quality Enhancement for Criminal Defense Trials, Matt Alpern, also acted as Interim Chief Statewide Implementation Attorney. The natural overlap in these two roles meant the Director could bring his experience in working with New York’s counties to the statewide work to implement public defense reforms. He also focused on maintaining progress in the development and implementation of critical plans regarding forensic practice.

Building upon work from the previous year, the Director created a statewide forensic practice work group, consisting of experienced defenders from throughout New York who have created forensic practice units or serve as regional training leaders. The mission of the group is to help improve forensic practices throughout the State by using attorneys with relevant expertise to assist public defense programs that do not possess developed forensic practice units in aggressively litigating these issues. After its initial meeting, the forensic practice group formed several subcommittees that focus upon different critical areas of forensic practice: (1) Standards and Best Practices; (2) Discovery and Experts; (3) Training; (4) Direct Support; and (5) Pleadings and Preservation of Issues. The Standards and Best Practices subcommittee has been particularly active. The subcommittee expanded its membership to include members of the Innocence Project and Law Professors and is close to completing an initial draft of black letter standards.



## V. IMMIGRATION ASSISTANCE

*Padilla v Kentucky*, 599 US 386, held that the Sixth Amendment requires defense counsel to provide clients with specific advice about clear immigration consequences of a plea bargain. But giving such advice requires knowledge of complex immigration laws, and many defender offices and ACPs cannot hire in-house experts. To ensure that counsel has access to the requisite expertise, in 2016, ILS created a statewide network of Regional Immigration Assistance Centers. In 2020, RIAC attorneys fulfilled their essential functions—providing institutional defenders and assigned counsel with advisals regarding noncitizen clients in criminal, appellate, and post-conviction matters, as well as in Family Court matters carrying potential immigration consequences.

The Centers also continued to offer extensive trainings to counsel and courts and did widespread outreach to the defense bar. Because of the pandemic, the RIACs transitioned from in-person trainings and outreach to effectively using virtual platforms. ILS's support for the Centers included the beginning of new three-year contracts and grants to fully fund the services; convening a plenary meeting of all Centers to discuss best practices; to explain the Grants process; to brainstorm about how ILS Summits for Assigned Counsel Program Administrators could expand outreach efforts; and to explore how tools created by ILS research specialists could ensure that RIAC annual reports would yield consistent data needed to measure performance.

Last year, the RIACs collectively responded to more than 2,000 requests for assistance, primarily about criminal defense, but also about family, appellate, and post-conviction matters. Each region saw certain counties emerge as the dominant source of referrals. In Region 1, covering western New York, most requests came from Erie, Monroe, and Ontario Counties. Region 2, encompassing central New York, received most referrals from Onondaga and Oneida Counties. Albany County was the source of most cases handled by Region 3, covering northern New York and the Capital Region. Last year, Region 4 in the Hudson Valley received most requests from Rockland and Putnam Counties. Since 2016, the Immigrant Defense Project has served as the New York City RIAC. Most of its 2020 referrals flowed from assigned counsel in New York, Bronx, and Kings Counties. Region 6 continued to serve Long Island's Nassau and Suffolk Counties.

For these statewide requests for help, defense counsel and the RIACs joined forces to protect noncitizens because they understand that the consequences of a plea bargain may mean the difference between the client maintaining a life in the United States or being permanently separated from family and banished from a country long considered home. Often a RIAC can help counsel persuade a prosecutor to use an alternative plea deal providing for a conviction of the same level for the same jail time, while avoiding an inequitable penalty of deportation or inadmissibility. Examples abound. Last year, while applying for DACA renewal, one client was initially offered a plea deal to DWAI that would have made her DACA-ineligible. With the RIAC's guidance, counsel was able to negotiate a plea to parking violations that would allow the client to stay in this country. Another client was about to be sworn in as a naturalized citizen when he received a summons for jumping a turnstile. A prompt advisal letter from the RIAC enabled counsel to negotiate an immigration-safe disposition, and the client was sworn in as a U.S. citizen the next week. Still another client was arrested on drug charges and faced the specter of deportation from the country she and her citizen daughter had lived in for 16 years. Thanks to a RIAC advisal, counsel was able negotiate a misdemeanor plea deal so the client could stay in the United States.

## VI. QUALITY ENHANCEMENT: PARENTAL REPRESENTATION

### Eligibility Standards

A central achievement in 2020 was the development of uniform financial eligibility standards for Family Court proceedings, which met a primary goal of the Interim Report issued in 2019 by Chief Judge Janet DiFiore’s Commission on Parental Legal Representation. In 2016, ILS promulgated eligibility standards for criminal defense matters. The revised Standards for Determining Financial Eligibility for Assigned Counsel, approved by the ILS Board in December 2020, expand the Standards to apply to Family Court representation, and include a presumption of eligibility for parents in child welfare proceedings. These expanded standards were the product of a comprehensive process, including public hearings, and intensive collaborations. Throughout 2020, there were meetings of the Commission, which is chaired by Hon. Karen K. Peters and receives key guidance from Jan Fink, Deputy Counsel at the Office of Court Administration (OCA), and special adviser, Angela Burton, ILS Director of Quality Enhancement for Parent Representation. In addition to Burton, ILS staff who contributed to development of the revised standards included Lucy McCarthy, ILS Assistant Counsel, Parent Representation; Lisa Joy Robertson, *Hurrell-Harring* Eligibility Standards Implementation Attorney; Senior Researcher Alyssa Clark; and Research Specialist Ummey Tabassum. Another significant accomplishment in 2020 was the development of proposed parental representation caseload standards, to be presented to the DiFiore Commission and the ILS Board in 2021. These standards are addressed in the Research section, *infra*, of this Annual Report.

### Funding

Effective January 2019, a change in federal policy created the opportunity for states to access federal matching funds under Title IV-E of the Social Security Act for public expenditures on legal representation for children and parents in child welfare litigation. These funds are “passed through” from the federal government to each state through its “Title IV-E agency.” In New York, that agency is the Office of Children and Family Services (OCFS). Throughout 2019 and 2020, ILS Director Bill Leahy, Counsel Patricia Warth, and the ILS Parental Representation Unit met with OCFS and OCA officials to craft a Memorandum of Understanding regarding how the agencies will work together to access these funds, with OCFS serving as the pass-through agency and ILS serving as the quality control agency. In December 2020, these discussions were ongoing.

Another significant funding development was the ILS Board’s approval to issue an RFP for the Second Upstate Model Family Representation Office Grant. Throughout 2020, the ILS Parental Representation Unit and ILS Research Director Melissa Mackey continued to meet with the Legal Services of Hudson Valley (LSHV) to establish protocols for the first model office, which received a grant in 2019. In 2020, the ILS Board also approved a request of \$5 million for parental representation in the State’s FY 2021-22 budget.

## Other Activities

- In 2020, during the COVID-19 pandemic, the ILS Parental Representation Unit responded to questions from Family Court attorneys and served as a liaison between OCA, OCFS, and providers regarding changes in policy and procedure for filings, hearings, and visits between parents and their children in foster care.
- Burton and McCarthy participated in the New York State Hidden Foster Care Working Group, spearheaded by the New York State Kinship Navigator and Redlich Horowitz Foundation.
- The ILS Parental Representation Unit utilized the ILS Parental Representation Advisory Council (PRAC) forum to keep members updated on important developments and to address emerging issues.
- At the invitation of Deputy Chief Administrative Judge Edwina Mendelson, Burton joined the New York State Team for Federal Administration for Children and Families, Children’s Bureau, and participated in the Child Welfare Court Improvement Project State Team Planning meeting held in Washington, D.C. in March 2020.
- Burton presented “Moving the Dial on Interdisciplinary Representation for Parents” at the NYSBA Annual Meeting, Children and the Law Committee program in January 2020.

## VII. QUALITY ENHANCEMENT: APPELLATE REPRESENTATION

ILS’s overall appellate mission is to help effectuate the agency’s Appellate Standards and Best Practices, which set forth aspirational guidelines for mandated representation in criminal and family law appeals. Appellate efforts are guided by the Director of Quality Enhancement for Appellate and Post-Conviction Representation, Cynthia Feathers.

### Appellate Defender Council

The ILS Appellate Defender Council is a unique, statewide group devoted to quality in mandated appellate representation in New York criminal and family appeals. Many of the Council’s members lead institutional programs. Others provide appellate representation at upstate rural public defender offices (including recent hires, thanks to statewide implementation funding) and 18B appellate panels. The Council meets several times a year and seeks to address appellate issues of statewide importance. In September 2020, in partnership with the Erie County Assigned Counsel Program, the Council presented an all-day CLE program. The curriculum was developed by appellate leaders from Appellate Advocates in New York City and the Monroe County Public Defender’s Office. Timely topics included implied bias; CPL 440.10 motions (which had special resonance after the amendment of County Law § 722 to allow assigned counsel on direct appeal to file such motions and be compensated); and waivers of the right to appeal—an increasingly complex area of analysis, given recent Court of Appeals authority. Due to the pandemic, the training was offered virtually and is available on demand for credit.

## COVID-19 and Release Applications

In the days after the COVID-19 lockdown, appellate offices in New York City and elsewhere in the State did a remarkable job of advocating for the release of certain categories of clients incarcerated in jails or imprisoned in State correctional facilities and of strategizing about creative mechanisms and arguments to seek release of clients. Vehicles used included writs of habeas corpus under CPLR Article 70 (arguing Eighth Amendment violations), CPL 440.20 motions to set aside sentences, clemency petitions, CPL 460.50 motions for stays pending appeal, and parole advocacy. ILS partnered with Legal Aid Society of New York City to provide a webinar for a statewide audience on the topic and gather materials for dissemination upon request to many offices and attorneys around the State.

## DVSJA, RIACs, and Other Activities

ILS is providing ongoing support with the implementation of the Domestic Violence Survivors Justice Act (DVSJA). The Appellate Director continued to serve as a hub in providing information to pro se defendants with convictions in upstate counties and connecting them with counsel. Until COVID-19 struck, ILS partnered with a Brooklyn Law School clinic and NYC law firm in arranging for legal visits to certain Bedford Hills inmates for consultations regarding their DVSJA rights. In addition, ILS continued to provide a platform for the DVSJA Statewide Defender Task Force. In another realm—assistance to attorneys representing noncitizen clients—in 2020, the Appellate Director joined with Statewide Implementation Analyst Luchele Chisunka to serve as liaisons for ILS’s six Regional Immigration Assistance Centers. Initial efforts included a plenary meeting to foster discussions among RIACs on cutting-edge topics and on relevant ILS resources, as set forth in the Immigration Assistance section of this Annual Report, *supra*. In 2020, the ILS Board approved a proposal for a Statewide Appellate Support Center that would provide consultation on appellate and post-conviction matters, as well as litigation support. Finally, a continuing ILS appellate initiative in 2020 was the ILS DECISIONS OF INTEREST—summaries of decisions from the prior week, transmitted via the ILS appellate listserve to aid the defense bar.

## VIII. RESEARCH

In 2020, despite the challenges of the pandemic, the ILS Research Team—working closely with both the *Hurrell-Harring* and Statewide Implementation Teams—was able to ensure that ILS met statutory reporting requirements, as well as the *Hurrell-Harring* Settlement reporting requirements. The State stay-at-home order was issued less than two weeks before the April 1 deadline for quarterly and annual reports for the *Hurrell-Harring* and Statewide Implementation counties. The Research Team was in constant contact with providers through the new Data Officer listserve and other communications from Director Bill Leahy and Research Director Melissa Mackey. ILS extended the April reporting deadlines to June 1, 2020 and worked closely with providers and County Data Officers to ensure the submission of all required reports by that date.

## Data Collection

The 2018 amendment to County Law § 722-f transferred to ILS the responsibility for collecting financial, workload, and other information from providers, counties, and New York City. ILS developed and implemented a new three-part ILS-195 to meet this purpose. In June 2020, providers for the first time submitted calendar year 2019 expenditure and staffing data required in Part 1 of the ILS-195. As required in Part 2, beginning January 1, 2020, providers began collecting case assignment data, utilizing the categories established in the 2016 ILS caseload standards. In preparation for providers assuming responsibility for collecting and reporting case outcome data on January 1, 2021, ILS hosted nine virtual training sessions on the ILS-195 Part 3 in fall 2020. ILS fielded numerous questions from attendees and created an internal review group to update the ILS-195 FAQs to better assist providers in the accurate completion of the form.

ILS also collects and reports data to the State via Performance Measures set forth in each Statewide contract to gauge the pace of statewide implementation of the *Hurrell-Harring* Settlement. In 2019, ILS developed a Performance Measure Progress Report Form (PMF) by which providers report Performance Measure information. In 2020, ILS updated the PMF and worked closely with County Data Officers to ensure submission of completed PMFs from each provider receiving statewide funding. ILS submitted the first Performance Measures Annual Report based on this data on July 1, 2020.

## Data Officers

The work of the County Data Officers was crucial during 2020, as providers and counties worked through difficult circumstances to meet data-reporting requirements. Due to the pandemic and its impact on local budgets, many provider offices had to suspend plans to acquire new case management systems to facilitate the collection, maintenance, and reporting of required data. In response, the ILS Research Team consulted with County Data Officers and provider staff in developing Excel spreadsheets to allow provider offices to collect the 2020 ILS-195 caseload data.

ILS hosted four virtual trainings in 2020 to assist the Data Officers in understanding their county's public defense system, including the policies and practices that guide representation in each office. Topics included specific data-collection requirements under the PMF and the ILS-195. The officers were also given an overview of the QuestionPro platform used for both reports. During the last two trainings, Data Officers were tasked with completing Data Flow Charts for each provider. These charts outlined the nature of provider practice (e.g. criminal and/or Family Court cases; trial and/or appellate cases; number of attorneys on a panel; case management system used) and the provider's data-entry practices, including documents used to collect data. This tool has been invaluable in achieving a better understanding the flow of information in provider offices, as well as gaps in data collection that could impact the ability to submit optimal information.

## Family Court Caseload Standards

The 2019 Interim Report of the Commission on Parental Legal Representation recommended that the State fund a study to determine appropriate maximum caseload standards for attorneys representing parents in Family Court proceedings. In 2020, significant progress was made on that

front. Welfare Research, Inc. (WRI) submitted its Caseload Study Final Report (WRI Report) to ILS in December 2019. Research Director Mackey sought to obtain additional data to supplement the WRI Report and to help ensure that the final caseload standards were sound. ILS sought information from the Office of Court Administration regarding Family Court petitions disposed of in calendar year 2018, including the type of petition, the filing date, the disposition date, and the filing county. In February 2020, ILS received a spreadsheet containing over 550,000 disposed petitions. ILS Research Team staff analyzed this data for filing patterns and average time-to-disposition for each petition type within each county. This data, along with the WRI Report, informed the development of proposed parental representation caseload standards to be presented to the DiFiore Commission and the ILS Board in 2021.

## IX. GRANTS UNIT AND ADMINISTRATIVE INFRASTRUCTURE

Three new staff hired by the Grants Unit in 2019 made possible extraordinary progress in eliminating a significant backlog of contracts, budget amendments, and contract extension requests. In early 2020, led by Jennifer Colvin, Manager of Grants Solicitation and Distributions, the Unit was well-positioned to continue this progress. Then the pandemic hit, abruptly changing how the Unit worked. All claims for reimbursement must be processed and sent for payment as hard copies. Further, all contracts, budget amendments, and contract extensions require a hard-copy signature to be fully executed. Thus, unlike many other ILS employees, the Grants Unit could not transition to full remote work. Instead, they developed protocols to allow staff to stagger in-person work to ensure social distancing, and they implemented a system for picking up and dropping off hard-copy claims for when staff worked from home.

On top of the pandemic, the Grants Unit experienced a significant increase in claims for reimbursement. In FY 2020-21 (April 1, 2020 to March 31, 2021), the Grants Unit processed \$30 million more in claims than in FY 2019-20—a 64% increase. Despite the pandemic and the increase in claims, the Grants Unit timely processed claims, ensuring a steady flow of quality-improvement funds to counties and providers. Upon the invitation of the Chief Defender Association of New York (CDANY), the Grants Unit also conducted two trainings for mandated providers. The first training discussed drafting budgets and budget narratives for successful quality-improvement grant applications. The second addressed the nuts and bolts of claims for reimbursement. For this training, ILS created a manual for providers and county officials—Guidelines for Claim for Payment Processing. ILS thanks CDANY for the opportunity to reach a wide audience about these important issues.

The pandemic posed many office-wide administrative challenges. ILS had to quickly amend its policy on remote work to allow staff to work electronically. The abrupt transition from in-person to remote work was made possible by the indefatigable and talented Manager of Information Services, Peter Avery. He ensured that every staff person had the equipment and technical support needed to work from home. And he patiently answered questions, creatively problem-solved, resolved glitches in remote access, guided staff in doing virtual meetings, hosted several statewide virtual meetings, and edited recordings to post on ILS's website. Avery did all this while continuing the development of a new ILS website to be launched in early 2021.

Because some staff (such as the Grants Unit) had to report to the office throughout the pandemic, ILS developed relevant safety protocols. In addition, budget restrictions required ILS to scrupulously monitor, and seek advance approval for, all spending for State Operations and some spending for Aid to Localities. Administrative Officer Christine Becker played a pivotal role in developing and implementing protocols and meeting State reporting requirements. In 2020, these administrative challenges were also successfully met thanks to a collaboration among ILS Counsel Patricia Warth, Assistant Counsel Jami Blair, Executive Assistant Tammeka Freeman, Colvin, and Avery.

## ILS Board Members\*

**Hon. Janet DiFiore, Chairperson**  
*Chief Judge, New York Court of Appeals*

**Michael G. Breslin**  
*Former Albany County Executive*

**Hon. Carmen Ciparick**  
*Greenberg, Traurig LLP; Former Senior Associate Judge of the New York State Court of Appeals*

**Hon. Sheila DiTullio**  
*Judge of Erie County Court, Buffalo*

**Vincent E. Doyle III**  
*Partner, Connors LLP, Buffalo*

**Joseph C. Mareane**  
*Former Tompkins County Admin.*

**Suzette M. Melendez**  
*Asst. Prof. & Director of Children's Rights & Family Law Clinic, Syracuse University College of Law*

**Leonard Noisette**  
*Program Director, Criminal Justice Fund, Open Society Foundations, U.S. Programs; Executive Director, Neighborhood Defender Service of Harlem (1995-2008)*

## ILS Staff\*

**William J. Leahy, Director**  
**Patricia Warth, Counsel**

**Jennifer Aguila**  
*Statewide Implementation Paralegal*

**Matthew Alpern**  
*Director of Quality Enhancement for Criminal Defense Trials; Chief Statewide Implementation Attorney*

**Peter W. Avery**  
*Manager of Information Systems*

**Christine Becker**  
*Administrative Officer*

**Jami Blair**  
*Assistant Counsel*

**Jessica Bogan**  
*Hurrell-Harring Implementation Analyst*

**Angela Olivia Burton**  
*Director of Quality Enhancement for Parent Representation*

**Marian Bush**  
*Auditor*

**Patricia Cadrette**  
*Assistant Grants Manager 1*

**Jennifer Chenu**  
*Hurrell-Harring Implementation Attorney–Caseload Standards*

**Luchele Chisunka**  
*Statewide Implementation Analyst*

**Nora Christenson**  
*Chief Hurrell-Harring Implementation Attorney*

**Alyssa Clark**  
*Hurrell-Harring Senior Research Associate*

**Lisa Coleman**  
*Assistant Grants Manager 1*

**Jennifer Colvin**  
*Manager of Grant Solicitation and Distribution*

**Cynthia Feathers**  
*Director of Quality Enhancement for Appellate and Post-Conviction Representation*

**Dana Ferris**  
*Assistant Grants Manager 2*

**Tammeka Freeman**  
*Executive Assistant*

**Brendan Keller**  
*Hurrell-Harring Implementation Attorney–Counsel at First Appearance*

**Claire Knittel**  
*Statewide Implementation Attorney–Caseload Standards*

**Karlijn Kuijpers**  
*Statewide Implementation Senior Research Associate*

**Melissa Mackey**  
*Director of Research*

**Lucy McCarthy**  
*Assistant Counsel, Parent Representation*

**Kathryn Murray**  
*Statewide Implementation Attorney–New York City*

**Hannah Andrews O'Hara**  
*Grants Administrator 2*

**Lisa Joy Robertson**  
*Hurrell-Harring Implementation Attorney–Eligibility Standards*

**Ummey Tabassum**  
*Hurrell-Harring Implementation Research Specialist*

**Claire Zartarian**  
*Statewide Implementation Attorney–Counsel at First Appearance*

*\*as of December 31, 2020*